

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

May 8, 2003

8:07 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 157

"An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

- MOVED CSHB 157(STA) OUT OF COMMITTEE

HOUSE BILL NO. 230

"An Act relating to political signs on private property."

- HEARD AND HELD

HOUSE BILL NO. 149

"An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 9

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

- MOVED CSHJR 9(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 14

Relating to urging that the 2006 National Veterans Wheelchair Games be held in Anchorage, Alaska.

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 157

SHORT TITLE:ELIMINATE APOC

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0426	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0426	(H)	STA, JUD, FIN
03/05/03	0426	(H)	FN(S): FORTHCOMING
03/05/03	0426	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
03/12/03	0522	(H)	FN1: ZERO(GOV) RECEIVED
03/12/03	0522	(H)	FN2: (ADM) RECEIVED
03/12/03	0522	(H)	FN3: (ADM) RECEIVED
04/22/03		(H)	STA AT 8:00 AM CAPITOL 102
04/22/03		(H)	Heard & Held MINUTE(STA)
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Heard & Held MINUTE(STA)
04/29/03		(H)	STA AT 8:00 AM CAPITOL 102
04/29/03		(H)	Heard & Held MINUTE(STA)
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Heard & Held -- Recessed to Mon. 5/5 8:00 AM -- MINUTE(STA)
05/05/03		(H)	STA AT 8:00 AM CAPITOL 102
05/05/03		(H)	Heard & Held <Meeting Continued at 7:54 PM Tonight> MINUTE(STA)

05/07/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/07/03		(H)	<Bill Hearing Postponed> -- Recessed to a call of the Chair --
05/08/03	1474	(H)	STA RPT CS(STA) FORTHCOMING 3DP 3NR 1AM
05/08/03	1474	(H)	DP: SEATON, LYNN, WEYHRAUCH; NR: HOLM,
05/08/03	1474	(H)	DAHLSTROM, GRUENBERG; AM: BERKOWITZ
05/08/03	1474	(H)	FN1: ZERO(GOV)
05/08/03	1474	(H)	FN2: (ADM)
05/08/03	1474	(H)	FN3: (ADM)
05/08/03	1479	(H)	JUD REFERRAL WAIVED
05/08/03	1479	(H)	REFERRED TO FINANCE
05/08/03		(H)	JUD AT 3:30 PM CAPITOL 120
05/08/03		(H)	<Bill Hearing Postponed> -- Recessed to a call of the Chair --
05/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 230

SHORT TITLE: POLITICAL SIGNS ON PRIVATE PROPERTY

SPONSOR(S): REPRESENTATIVE(S) HOLM

Jrn-Date	Jrn-Page		Action
03/31/03	0713	(H)	READ THE FIRST TIME - REFERRALS
03/31/03	0713	(H)	TRA, STA
04/29/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/29/03		(H)	Heard & Held MINUTE(TRA)
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102
05/06/03		(H)	Scheduled But Not Heard -- Recessed to 5:30 PM --
05/06/03		(H)	TRA AT 1:30 PM CAPITOL 17
05/06/03		(H)	Moved CSHB 230(TRA) Out of Committee -- Recessed to a call of the Chair --
05/06/03		(H)	MINUTE(TRA)
05/07/03	1386	(H)	TRA RPT CS(TRA) 4DP 2NR
05/07/03	1386	(H)	DP: OGG, KOOKESH, FATE, HOLM;
05/07/03	1386	(H)	NR: KOHRING, MASEK
05/07/03	1387	(H)	FN1: ZERO(DOT)
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Scheduled But Not Heard
05/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 149

SHORT TITLE: LOBBYING BY NONPROFITS

SPONSOR(S): REPRESENTATIVE(S) WOLF

Jrn-Date	Jrn-Page		Action
03/05/03	0395	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0395	(H)	STA, JUD, FIN
03/05/03	0395	(H)	REFERRED TO STATE AFFAIRS
04/17/03		(H)	STA AT 8:00 AM CAPITOL 102
04/17/03		(H)	<Bill Hearing Postponed to 4/24/03>
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Scheduled But Not Heard
04/29/03		(H)	STA AT 8:00 AM CAPITOL 102
04/29/03		(H)	Scheduled But Not Heard
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Heard & Held -- Recessed to Mon. 5/5 8:00 AM -- MINUTE(STA)
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Heard & Held MINUTE(STA)
05/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 9

SHORT TITLE: CONST AM: APPROPRIATION/SPENDING LIMIT

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

Jrn-Date	Jrn-Page		Action
01/31/03	0102	(H)	READ THE FIRST TIME - REFERRALS
01/31/03	0102	(H)	STA, JUD, FIN
02/11/03		(H)	STA AT 8:00 AM CAPITOL 102
02/11/03		(H)	Heard & Held MINUTE(STA)
03/28/03	0687	(H)	COSPONSOR(S): ROKEBERG
04/04/03	0797	(H)	W&M REFERRAL ADDED BEFORE STA
04/09/03		(H)	W&M AT 7:00 AM HOUSE FINANCE 519
04/09/03		(H)	Heard & Held
04/09/03		(H)	MINUTE(W&M)
04/17/03		(H)	W&M AT 7:00 AM HOUSE FINANCE 519
04/17/03		(H)	Heard & Held
04/17/03		(H)	MINUTE(W&M)

04/24/03		(H)	W&M AT 7:00 AM HOUSE FINANCE 519
04/24/03		(H)	Heard & Held
04/24/03		(H)	MINUTE(W&M)
04/29/03		(H)	W&M AT 7:00 AM HOUSE FINANCE 519
04/29/03		(H)	Heard & Held -- Location Change --
04/29/03		(H)	MINUTE(W&M)
04/30/03		(H)	W&M AT 8:00 AM HOUSE FINANCE 519
04/30/03		(H)	Heard & Held
04/30/03		(H)	MINUTE(W&M)
05/02/03	1271	(H)	W&M RPT CS(W&M) NT 3DP 2NR 2AM
05/02/03	1271	(H)	DP: HEINZE, WHITAKER, HAWKER;
05/02/03	1271	(H)	NR: MOSES, GRUENBERG; AM: KOHRING,
05/02/03	1271	(H)	WILSON
05/02/03	1271	(H)	FN1: (GOV)
05/02/03		(H)	W&M AT 7:00 AM HOUSE FINANCE 519
05/02/03		(H)	Moved CSHJR 9(W&M) Out of Committee MINUTE(W&M)
05/06/03		(H)	JUD AT 5:30 PM CAPITOL 120
05/06/03		(H)	<Pending Referral> -- Meeting Canceled --
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102
05/06/03		(H)	Scheduled But Not Heard -- Recessed to 5:30 PM --
05/06/03		(H)	STA AT 5:30 PM CAPITOL 102
05/06/03		(H)	Scheduled But Not Heard
05/07/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/07/03		(H)	<Bill Hearing Postponed> -- Recessed to a call of the Chair --
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Heard & Held MINUTE(STA)
05/08/03	1465	(H)	STA RPT CS(STA) NT 3DP 3NR
05/08/03	1465	(H)	DP: SEATON, LYNN, DAHLSTROM;
05/08/03	1465	(H)	NR: GRUENBERG, HOLM, WEYHRAUCH
05/08/03	1466	(H)	FN1: (GOV)
05/08/03	1466	(H)	REFERRED TO JUDICIARY
05/08/03		(H)	JUD AT 3:30 PM CAPITOL 120

05/08/03 (H) <Bill Hearing Postponed> --
Recessed to a call of the
Chair --
05/08/03 (H) STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

TODD LARKIN, Staff
to Representative Jim Holm
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 230.

ANDREE McLEOD

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 230, expressed concern with regard to the enforcement provisions for vandalism to political signs on private property.

MICHAEL DOWNING, Director/Chief Engineer
Division of Statewide Design & Engineering Services
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Offered the department's perspective on HB 230.

REPRESENTATIVE KELLY WOLF

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 149.

GINGER BLAISDELL, Staff

to Representative John Stoltze
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke on behalf of the sponsor of HJR 9.

TAMMY KEMPTON, Regulation of Lobbying
Alaska Public Offices Commission (APOC),
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 157.

DAVID FINKELSTEIN, Volunteer
Campaign Finance Reform Now
Anchorage, Alaska

POSITION STATEMENT: Commented on HB 157.

ANDREE McLEOD

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 157.

JAMES CANTOR, Assistant Attorney General

Transportation Section

Civil Division (Anchorage)

Department of Law

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 230, answered questions.

ACTION NARRATIVE

TAPE 03-57, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Weyhrauch, Holm, Seaton, Dahlstrom, and Gruenberg were present at the call to order. Representatives Lynn and Berkowitz arrived as the meeting was in progress.

HB 157-ELIMINATE APOC

CHAIR WEYHRAUCH announced that the first order of business would be HOUSE BILL NO. 157, "An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

Number 0264

REPRESENTATIVE GRUENBERG moved to adopt CSHB 157, Version 23-GH1090\H, Craver, 5/7/03, as the working document. There being no objection, Version H was before the committee.

CHAIR WEYHRAUCH announced that HB 157 would be set aside.

[HB 157 was taken up again later in this meeting.]

HB 230-POLITICAL SIGNS ON PRIVATE PROPERTY

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 230, "An Act relating to political signs on private property."

Number 0409

REPRESENTATIVE HOLM moved to adopt CSHB 230(TRA) as the working document. There being no objection, it was before the committee.

REPRESENTATIVE HOLM, speaking as the sponsor of HB 230, provided the following testimony:

The ability of citizens to express their political opinion, even to advocate for the same, is a fundamental right. This basic right has become even more pronounced when the expression is made on one's own private property. Currently, the state law prohibits the posting of campaign or political signs within road view or 660 feet, whichever is greater. This applies to federally funded roads and state roads. The restriction includes private property and if you and I were to erect a "No War in Iraq" or "Support Our Troops" sign today, within the distance limits, we would be in violation of state law even though we're electing to utilize our own private words and political free speech. It has been interpreted to say that without sign restriction, political or otherwise, that Alaska may lose federal highway funds by being out of compliance with the restrictions that the Federal Highway [Administration (FHWA)] program puts upon the state of Alaska. The [FHWA] ... on this subject, however, shows that this untrue. We had a letter in the packet that is from the FHWA and relates to that misinformation.

REPRESENTATIVE HOLM explained that he introduced HB 230 because during the last campaign and prior campaigns, the Department of Transportation & Public Facilities (DOT&PF) wasn't consistent with its application of rulings or decisions regarding whether it was inappropriate for folks to have political signs on their private property. Those who placed a political sign on their private property that could be seen from public property were considered to be in violation. However, the accusations were that the candidate was breaking the law in these cases. Representative Holm said he felt that it was inappropriate that

folks were getting their First Amendment rights trampled on by DOT&PF. He noted that in the House Transportation Standing Committee the legislation was changed in order to help DOT&PF be capable of taking care of problems so as not to clutter Alaska's landscape.

Number 0719

CHAIR WEYHRAUCH directed attention to page 2, lines 16-17. He surmised that this legislation is talking about political signs for which most candidates would use a 4X8 piece of plywood, which would amount to 32 feet.

REPRESENTATIVE HOLM pointed out that he didn't want tons of signs to be put together to make one large billboard, which lead to the definition specifying that co-joined signs can't be greater than 32 feet.

REPRESENTATIVE LYNN commented that one might as well not put up a sign 600 feet from public view, depending upon the configuration of the lot. Representative Lynn turned attention to the letter from Andree McLeod, which is included in the committee, and asked if HB 230 addresses sign vandalism.

REPRESENTATIVE HOLM replied no.

Number 0893

TODD LARKIN, Staff to Representative Jim Holm, Alaska State Legislature, explained that sign vandalism wasn't addressed in HB 230, although the civil remedy for sign vandalism already exists. Therefore, to give DOT&PF enforcement of sign vandalism seemed redundant.

REPRESENTATIVE HOLM told the committee that one of the difficulties in making the choice to enter politics is choosing to go against the opponent who is in power. If the ability of people to, in a less costly manner, get their message out is hindered, the incumbent has a large advantage. Therefore, in order to encourage folks to enter the system and be part of the process, it should be as easy as possible.

Number 1045

REPRESENTATIVE SEATON pointed out that one can have private property in a right-of-way, but the individual still owns the property. He noted that in his area great care has been taken

to keep everything out of the state right-of-way. Therefore, he asked if Representative Holm would accept a friendly amendment specifying that signs may not be in the state right-of-way.

REPRESENTATIVE HOLM directed attention to page 2, line 19. He noted that he has rights-of-way that go over his property, for which he has given easements to various portions of the government; however, that only means he must allow access to the property. Furthermore, the aforementioned shouldn't deny his ability for political free speech with political signs so long as those signs don't obstruct traffic.

REPRESENTATIVE SEATON expressed concern with using a subjective definition regarding whether a political sign obstructs, interferes, or confuses [traffic] versus not allowing signs in the known distance of a right-of-way.

REPRESENTATIVE HOLM recalled the recent passage of the legislation dealing with memorials and the consideration given regarding whether memorials should be allowed in the public right-of-way. The majority who voted for the memorial legislation determined that it was appropriate [to allow memorials in the public right-of-way]. Since the signs being discussed today would only be in place during the political season, he said he believes it's appropriate to allow political free speech.

MR. LARKIN commented that this legislation is quite timid in asking the state to recognize this right on private property. He pointed out that the committee packet should include a supreme court case that addresses "traditional forums." The court found that it's unconstitutional to prohibit this type of [political] free speech in many types of public rights-of-way such as public sidewalks. However, HB 230 only speaks to the use of signs on private property. With regard to the 50 foot right-of-way, DOT&PF already views that as owned property and as this legislation stands a sign can't be placed in that 50 feet of right-of-way. Therefore, he didn't believe there would be the desire to include something that specifically prohibits a [constitutional] right.

Number 1399

REPRESENTATIVE GRUENBERG remarked that he likes HB 230, which addresses a really important issue. He asked whether the [committee] should "beef up" the findings to discuss free expression or whether the legislation should be expanded. He

related his belief that many Alaskans strongly agree with the right of free speech and protecting it constitutionally as well as statutorily.

REPRESENTATIVE SEATON expressed concern that the language speaking to the right-of-way isn't clear. Although on page 1, line 13, the legislation specifies that outdoor advertising may not be erected within 660 feet of the nearest right-of-way, the "added sections" aren't clear. He emphasized that he wanted the provision to be clear in order to avoid each individual candidate approaching DOT&PF to understand the provision.

Number 1624

ANDREE McLEOD paraphrased from her written testimony, which read as follows:

I've been a victim of political campaign sign vandalism. Fortunately, one of my perpetrators was caught and his accomplice is still officially unidentified. Justice has yet failed to penalize these people and I'm left to wonder how someone can be caught vandalizing campaign signs without remedy to the victim.

So, can you please explain where the enforcement provisions are relating to violations of these new political signs on private property laws you're about to put on the books? There's no objection to this bill, but where are the safeguards and protections? What are the fines for violating the political signs on private property laws? If you have basic and inherent laws, you also have to have penalties in place to deter the miscreants in our society from violating those laws. Could you please clarify as to the whereabouts of these remedies.

MS. McLEOD acknowledged the previous testimony specifying that civil remedies already exist. However, she informed the committee that she has been going through the process that is available to her and her case has languished in the municipal prosecutor's office. She said she wasn't sure if her case has to do with the mutual support between the perpetrators and the current mayor of Anchorage, as evidenced by their APOC reports. Currently, the ombudsman is reviewing whether there are remedies because it seems the municipal prosecutor can't find any.

"What's the sense in putting laws on the books when you can't enforce them," she asked.

Number 1789

MICHAEL DOWNING, Director/Chief Engineer, Division of Statewide Design & Engineering Services, Department of Transportation & Public Facilities, explained that the right-of-way functions fall under the division he supervises. He turned to the issue regarding how DOT&PF manages the right-of-way and how it would treat a sign in the right-of-way if the right-of-way included an easement on private property and the underlying fee owner was a private property owner. Mr. Downing explained that DOT&PF holds that all of the highway right-of-way is managed in the same way; that is, DOT&PF has management and control of those lands. The aforementioned has been contested and it has been supported. Therefore, Mr. Downing related that DOT&PF feels it is in a position to manage the highway right-of-way and these signs would be prohibited in the highway right-of-way, under the current language of the legislation. He specified that the department would treat anything within the boundaries of a right-of-way the same. He noted that the state's right-of-way is a patchwork quilt of ownership.

REPRESENTATIVE HOLM said that HB 230 was drafted in the hope that it was in concert with the department because there was no intent to effect the department's ability to protect the public. Representative Holm surmised that the department doesn't have any problem with a sign that is within 50 feet or 660 feet [of the right-of-way] unless federal funding is impacted.

MR. DOWNING answered that is correct. The department sees a distinction between the highway right-of-way and the private property that is adjacent. The federal Outdoor Advertising Ban and the Federal Highway Beautification Act of 1965 do address the lands that are adjacent out to 660 feet. That prohibition on outdoor advertising in that area extends to signs farther out that are intended to be read from the highway. However, the area beyond the 660 feet gets into private property and [the department] views it differently as does the statutes.

REPRESENTATIVE SEATON surmised, "Well, I'm hearing that ... the federal law encompasses this further difference that ... DOT is working within the right-of-way and management within the right-of-way." However, Representative Seaton said he wanted to ensure that the legislation is clear so that when the statute is read the same answer will be apparent to all.

Number 2040

REPRESENTATIVE SEATON asked if DOT would have a problem if signs were permitted in the right-of-way.

MR. DOWNING answered, "It would be a much greater concern to us." Furthermore, he related his belief that the FHWA would change its position if advertising was allowed within the right-of-way. He suggested that perhaps the addition of a provision specifying "private property exclusive of rights-of-way granted for transportation." Although the department thinks the matter is clear now, he recommended speaking with Jim Cantor, Assistant Attorney General, because he has dealt with a case directly related to this issue.

REPRESENTATIVE SEATON interjected that his problem is that he called three different folks in DOT&PF and received three different answers. Therefore, the matter isn't clear.

CHAIR WEYHRAUCH related that [political] signs along the [right-of-way] in Juneau are taken down by the state within 24-hours. However, in Anchorage there are many signs in the right-of-way.

Number 2169

REPRESENTATIVE HOLM corrected Mr. Downing's testimony by pointing out that there is a difference between free speech and advertising. He said he didn't want free speech and advertising to be treated the same, and therefore this legislation arose. He noted that the two are treated the same under the Federal Highway Beautification Act of 1965.

REPRESENTATIVE GRUENBERG characterized this as "constitutionally, a real moving target issue." In fact, a very important case, the "Nike shoe case", was recently argued in the U.S. Supreme Court and is under advisory. This case deals with commercial free speech and the extent of protection there. He predicted that the ramifications of that case will spill over into the [political signage] issues.

REPRESENTATIVE SEATON requested that Mr. Downing contact the attorney he mentioned in order to pursue some sort of clarifying language similar to what he suggested.

MR. DOWNING answered yes.

Number 2265

REPRESENTATIVE GRUENBERG directed attention to AS 19.25.075, which was the result of a 1998 ballot measure. He pointed out that the statutory findings are there, although normally statutory findings are placed in the uncodified law. Therefore, it seems that the findings in HB 230 would be placed in [AS 19.25].075 in order to illustrate that they are as important.

REPRESENTATIVE HOLM said that would be fine.

REPRESENTATIVE GRUENBERG expressed interest in visiting with Representative Holm and his staff to explore whether this legislation would be used as a reaffirmation of free expression.

Number 2389

REPRESENTATIVE LYNN noted that he didn't want to abandon the concern brought up regarding vandalism. He related his view that there are different types of vandalism and that vandalism on a political sign is vandalism against free speech. He expressed the need to address the issue of vandalism before this legislation moves from the committee.

MR. DOWNING pointed out that [CSHB 230(TRA)] still has some items that are somewhat undefined, and therefore there will need to be some definition for them eventually. Therefore, he requested some refinement with the terms "temporary" and "currently relevant". Although there is some reluctance to become too specific in statute, eventually there has to be a specific [definition] that will either be made with the department's policy and regulation or in statute. He indicated that placing the [definition] in statute would provide consistency.

REPRESENTATIVE HOLM highlighted that in the court cases referenced in the committee packet one can see that there are some specific regulations put in place by various cities and those regulations speak to the lack of constitutionality of placing time limits. The aforementioned is why the legislation was written as it is.

CHAIR WEYHRAUCH summarized that three issues have arisen: enforcement issues, free speech, and right-of-way issues. He requested that Representative Holm work with the members on these issues. He then set aside HB 230.

REPRESENTATIVE GRUENBERG requested a copy of the opinion [from the department's attorney] as well as any suggested amendments.

[HB 230 was taken up later in the meeting.]

HB 149-LOBBYING BY NONPROFITS

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 149, "An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date." [Before the committee is Version 23-LS0354\H, which had been amended at the previous meeting. Although this document is entitled and referred to as a sponsor substitute, it was not officially such and thus the document only exists in the committee packet.]

CHAIR WEYHRAUCH reminded the committee that at the last hearing Mr. Briggs with the Disability Law Center of Alaska had offered an amendment for the committee to consider.

Number 2648

REPRESENTATIVE KELLY WOLF, Alaska State Legislature, spoke as the sponsor of HB 149. With regard to the amendment proposed at the previous hearing, Representative Wolf related that the amendment would [achieve the intent of the legislation] save one matter. Therefore, he suggested an amendment to Mr. Briggs' amendment such that the change of "\$500" to "\$2,000" on page 2, line 1, would not be changed and thus the amount would remain at "\$500". Representative Wolf explained that Mr. Briggs' amendment would still result in [the requirement] for lobbying efforts of 501(c)(3) nonprofit organizations to be published in a newspaper. Furthermore, these organizations would still provide disclosure for their contributors.

CHAIR WEYHRAUCH clarified that at the prior hearing two amendments to Version H were adopted. Now, Mr. Briggs' amendment, Amendment 3, is before the committee.

REPRESENTATIVE GRUENBERG surmised that Representative Wolf had no problem with the first page of Amendment 3.

REPRESENTATIVE WOLF replied no.

CHAIR WEYHRAUCH clarified that Amendment 3 is the handwritten amendment.

Number 2792

REPRESENTATIVE GRUENBERG moved that the committee adopt the first page of Amendment 3, which read as follows [original punctuation provided]:

At page 1, line 2:
Delete "public"

At page 1, lines 2-3:
Delete "and an annual report of lobbying expenditure to the Department of Revenue"

At page 1, line 8:
Delete ", annual report"

At page 1, line 9:
Delete "public"

At page 1, lines 11-13:
Delete "a copy of the newspaper's certificate of publication with a copy of the notice published and the dates of publication within seven days after the last publication of the notice"
and
Insert "written evidence of satisfaction of this section."

At page 1, line 13:
Delete "public"

There being no objection, it was so ordered.

REPRESENTATIVE GRUENBERG moved that the committee adopt the first item [on the second page] of Amendment 3, which read:

At page 1, lines 13-14:
Delete "is required to" and "publication"

CHAIR WEYHRAUCH said he didn't believe there is any objection to that. [Therefore, the above amendment to Amendment 3 was treated as adopted.]

REPRESENTATIVE GRUENBERG asked if Representative Wolf would be willing to change the "\$500" to "\$1,000".

TAPE 03-57, SIDE B

Number 2979

REPRESENTATIVE GRUENBERG related that he is trying to make this reasonable from the nonprofits' point of view.

REPRESENTATIVE WOLF said that the last thing he wants to do is inhibit 501(3)(c) [nonprofits], and therefore he announced that he would accept "\$1,000" as a friendly amendment.

REPRESENTATIVE GRUENBERG offered an amendment [to the second item on page 2 of Amendment 3], which would change the "\$500" to "\$1,000" rather than "\$2,000". Therefore, it would read as follows:

Page 2, line 1,
Delete "\$500"
Insert "\$1,000"

There being no objection, it was so ordered.

REPRESENTATIVE GRUENBERG offered the remainder of page 2 [of Amendment 3], which read as follows [original punctuation provided]:

At page 2, line 4; after "specificity, the"
Insert "lobbying"

At page 2, lines 4-5:
Delete "proposed, the proposed budget, the location, and the time period in which the lobbying activity has occurred or will occur;"
Insert "conducted, that has been either"

At page 2, line 6:
Delete "(2) of the notice"
Insert "(i) published"

At page 2, lines 6-7:
Delete "; (3)"

REPRESENTATIVE GRUENBERG then directed attention to the following portion of the remainder of page 2 of Amendment 3:

Page 2, lines 4-5:

Delete "proposed, the proposed budget, the location, and time period in which the lobbying activity has occurred or will occur;"

Insert "conducted, that has been either"

REPRESENTATIVE GRUENBERG said that the language being inserted doesn't make sense in the sentence.

REPRESENTATIVE WOLF pointed out that it would read "that has been either published not fewer than [two] times in eight days".

REPRESENTATIVE GRUENBERG said that he had no objection to that, but he asked if Representative Wolf would accept changing the language to refer to once in eight days.

REPRESENTATIVE WOLF noted his agreement to once in eight days.

REPRESENTATIVE GRUENBERG moved that the committee adopt another amendment [to Amendment 3, which replaces the portion of page 2 of Amendment 3 that refers to page 2, lines 4-5], as follows:

Page 2, lines 4-6:

Delete "proposed, the proposed budget, the location, and time period in which the lobbying activity has occurred or will occur;

(2) of the notice not fewer than two times in eight days;"

Insert "the lobbying activity that has been published"

There being no objection, the above amendment [to Amendment 3] was adopted.

CHAIR WEYHRAUCH announced that HB 149 would be set aside.

[HB 149 was taken up later in this meeting.]

HJR 9-CONST AM: APPROPRIATION/SPENDING LIMIT

[Contains discussion of HJR 26.]

Number 2720

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 9, Proposing amendments to the

Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

CHAIR WEYHRAUCH noted that before the committee is CSHJR 9(W&M). He further noted that two amendments have been offered to the committee.

REPRESENTATIVE SEATON moved that the committee adopt Amendment 1, which read as follows:

Page 1, line 2, following "limit":
Insert "and a spending limit"

Page 2, add a new section to read:

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by the executive branch for its operations and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) and (b) of this section."

CHAIR WEYHRAUCH pointed out that the first change encompassed in Amendment 1 is a title change.

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE SEATON explained that this resolution would implement a constitutional spending cap. However, the problem is that the legislature appropriates and can, and consistently does ignore the constitution in its appropriations. For example, the legislature is supposed to appropriate one-third of all its expenditures for capital projects, but the legislature has consistently ignored that. Therefore, in order to have a true spending limit, a mechanism must be built in. The new subsection (c) that Amendment 1 would add directs the governor to use the line item veto to reduce spending within the administrative branch in order to maintain the appropriation cap. This language merely directs the governor to use the authority that he/she already has.

Number 2578

REPRESENTATIVE HOLM asked whether it's appropriate for the legislature to demand, in statute, that the governor use power that he already has and can use at his/her prerogative.

REPRESENTATIVE SEATON related his belief that it is appropriate. He explained that the legislature isn't saying it wants a spending cap, it's the people of the state who want a spending cap, one that is real and enforceable. Therefore, this [resolution] would require that the legislature not appropriate more than a certain amount of money and if it does, then the governor would be directed to lower those expenditures with the line item veto power the governor already has.

REPRESENTATIVE HOLM noted his agreement with the premise of [the amendment]. He acknowledged that this has grown from the fact that former legislatures and governors haven't lived up to the constitutional mandates of balanced budgets. However, he questioned why one would believe it would happen by merely adding this provision to the constitution.

REPRESENTATIVE SEATON explained that the requirement to spend one-third of the budget on capital projects is a requirement on the legislature. He said if the people of Alaska want to direct the governor to exercise authority, that's different than leaving it to the governor to decide whether he/she should override the legislature when the legislature fails to do its job.

Number 2434

CHAIR WEYHRAUCH pointed out that there is clearly tension between the legislative and executive branches, which is the nature of the system. Currently, the legislature is binding itself to appropriations. Without proposed subsection (c), the governor would still be able to exercise his/her line item veto prerogative to maintain the governor's constitutional responsibility to uphold the constitution. In so doing the governor could specify that the veto is mandated by the restrictions on the legislature and its appropriations. Therefore, the proposed subsection (c) wouldn't be necessary because [the line item veto] would be inherent in the governor's constitutional responsibility to uphold and defend the constitution.

REPRESENTATIVE SEATON said that the above would mean that the governor is taking over and the governor, in lieu of the legislature, is going to be the appropriating authority. Representative Seaton highlighted that this resolution deals with appropriations and it attempts to create a spending limit on the legislature. However, the governor has the authority to actually make expenditures. Representative Seaton specified

that he didn't want the governor to have to delve into the appropriation business, which is the section that the resolution addresses. The intent, he related, is to specify that the governor is to exercise his/her spending authority to stay within the appropriation limit placed on the legislature.

CHAIR WEYHRAUCH asked whether Representative Seaton believes Amendment 1 would give the governor more authority over the legislature than currently exists in the constitution.

REPRESENTATIVE SEATON replied no. Although Representative Seaton acknowledged that the governor has line item veto power without the adoption of Amendment 1, he specified that the governor doesn't have direction to have a spending limit. Without Amendment 1, the governor would have to determine that the legislature violated its appropriation limit and would have to enter into an appropriations process rather than being directed by the people to exercise the governor's veto authority to the extent a spending cap is desired.

CHAIR WEYHRAUCH surmised that Representative Seaton viewed [the proposed subsection (c)] as the "hammer."

REPRESENTATIVE SEATON agreed. Without [the proposed subsection (c)], the legislature, if it so desires, will ignore the spending cap. With this language, the legislature will know that it will have to constrain the appropriations into the constitutional limit put in place or the governor will use the line item veto authority to [cap] spending.

Number 2225

GINGER BLAISDELL, Staff to Representative John Stoltze, Alaska State Legislature, spoke on behalf of the sponsor of HJR 9. Ms. Blaisdell said she may be able to provide a practical example in which the legislature may intend to keep their appropriations within the appropriation limit, but when the accountants read the language and interpret how the money is used, it may actually exceed the appropriation limit. She pointed out that this happens every year in the difference between the inactive budget in the fiscal summary and the authorized number, which is typically the larger number. In fiscal year (FY03), the enacted budget is \$3,399.4 million while the FY03 actual authorized budget, which is done on July 1st after everything has been interpreted and balances of funds have carried forward, was \$3,495.9 million. Therefore, there was a \$90 million

difference. The aforementioned may be an instance in which this instruction to adjust the appropriation would come into effect.

REPRESENTATIVE GRUENBERG remarked that the difference in the amounts may have been because of previously appropriated funds that hadn't lapsed.

MS. BLAISDELL replied no and explained that there has to be specific language in each fiscal year's appropriation measure that would allow lapsing money to carry forward, remain in a fund, or be deposited back into the general fund.

REPRESENTATIVE GRUENBERG interjected that he was referring to capital projects that go for five years, which may be in the [actual authorized budget] figure.

MS. BLAISDELL replied no and explained that capital projects are only accounted for at the time of appropriation. She said that the \$90 million difference could be due to [anti-lapse] language in the bill.

Number 2080

REPRESENTATIVE GRUENBERG returned to [Amendment 1] with which he saw two different problems. As written, this might be read by a court to give the governor the authority to unilaterally reduce [the budget] without the legislature being able to override a line item veto. Therefore, in order to preserve the balance of power, Representative Gruenberg said [Amendment 1] would have to be amended to state that "using his line item veto he shall reduce". Without the aforementioned language, the legislature would have no right to override [the governor's line item veto]. Furthermore, these constitutional provisions are read differently than statute; constitutional provisions are written very sparingly. Representative Gruenberg recommended that a letter of intent from the legislature specifying the legislature's intent that specific language appear in the voter pamphlet would be appropriate because it would become a key part of the legislative history of the constitutional amendment. The courts almost always look to the language that's in the voter pamphlet as the main legislative history of a constitutional amendment. He asked if Representative Seaton would consider the aforementioned approach.

Number 1899

CHAIR WEYHRAUCH inquired as to Representative Seaton's thoughts if subsection (c) read as follows:

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by line item veto."

REPRESENTATIVE SEATON said the problem with the above language is that [the legislature] doesn't want to tell the governor to reduce the judiciary or the legislative branch. There could be a problem with budgetary crossover between the three branches of government.

CHAIR WEYHRAUCH pointed out, "If you don't want to do the legislative branch, you're binding them to the executive branch."

REPRESENTATIVE SEATON specified that it means everything within the state that's not in the executive or legislative branch.

CHAIR WEYHRAUCH proposed then that subsection (c) read as follows:

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures in the executive branch by line item veto."

REPRESENTATIVE GRUENBERG remarked that he believes this will cause more problems than it will solve.

Number 1820

MS. BLAISDELL recalled this being brought up in the House Special Committee on Ways and Means when Tam Cook, Director, Legislative Research and Services, was asked whether the legislature would maintain the power of veto. Ms. Cook said that this is clearly direction to the governor to not spend money that hasn't been appropriated. Therefore, she didn't believe this would be interpreted as a veto issue.

REPRESENTATIVE GRUENBERG noted agreement, and related that the way [Amendment 1] is written now, it would divest the legislature of any right to override.

MS. BLAISDELL corrected Representative Gruenberg by saying that was the response to adding this language back. Ms. Blaisdell recalled that Ms. Cook had suggested that if HJR 9 or a version of it were to pass, the legislature may need to introduce statutory language setting legislative standards with regard to how the governor would reduce spending.

Number 1735

REPRESENTATIVE DAHLSTROM asked if Representative Stoltze is comfortable with Amendment 1.

MS. BLAISDELL replied yes.

REPRESENTATIVE GRUENBERG recalled that Ms. Cook said the legislature would set the standards. However, Ms. Cook didn't directly say whether the legislature, under this, would retain any authority to veto. Representative Gruenberg said that he didn't believe the legislature would retain any authority to veto. If the legislature doesn't have any authority to veto, he noted that he would have serious legal questions regarding whether the legislature would have any authority to set standards.

Number 1639

REPRESENTATIVE SEATON announced that he would accept, as a friendly amendment, Chair Weyhrauch's suggestion that subsection (c) read as follows:

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by the executive branch by line item veto."

REPRESENTATIVE LYNN related his understanding that the governor could do a line item veto for anything.

CHAIR WEYHRAUCH agreed and pointed out that the proposed subsection (c) eliminates a lot of language.

REPRESENTATIVE SEATON interjected that with the approval of this [constitutional] amendment the people would direct the governor to use the line item veto to keep within the spending limit.

Number 1516

REPRESENTATIVE GRUENBERG continued to urge that the intent [expressed in Chair Weyhrauch's friendly amendment] be related in a letter of intent. Politically, if this is in the constitution, those who don't like the [friendly] amendment will seize on this portion. These folks will make the argument that this language will insulate the [legislature] from charges of excessive spending. Under current constitutional law, the governor can veto some legislative expenditures if the governor feels the legislature is spending too much. However, this [friendly amendment] wouldn't allow the governor to [veto those]. On the one hand, one doesn't want to upset the balance of power, but on the other hand one doesn't want to leave it open for the argument that the legislature has exempted itself again.

REPRESENTATIVE HOLM surmised that this [resolution] attempts to solve the difference between an enacted versus an authorized budget. He asked if this directive to the governor helps solve that.

MS. BLAISDELL pointed out that with the friendly amendment the language referring to spending is eliminated. Spending is different than appropriating, she noted. For example, with Medicaid spending the governor has been allowed to spend at a rate greater than the administration knows it has appropriation authority and thus supplemental spending is requested. The aforementioned is a spending issue and has nothing to do with legislative appropriations. Ms. Blaisdell also pointed out that two different directives are given depending upon which language is used from [the friendly amendments].

REPRESENTATIVE HOLM related that he is interested in ensuring that when appropriations are made the spending matches the appropriation. Representative Holm remarked that he didn't know what language is necessary to make this constitutionally mandated.

CHAIR WEYHRAUCH said [this resolution] is making it constitutionally mandated.

REPRESENTATIVE HOLM pointed out that the constitution also mandates that there should be a balanced budget, but that hasn't been done.

REPRESENTATIVE GRUENBERG informed the committee that he has been researching this matter and has been told that Alaska doesn't

have a constitutional balanced budget amendment, although there is a statute that requires it.

REPRESENTATIVE SEATON reminded members that there is a constitutionally mandated capital expenditure provision that has been consistently ignored.

REPRESENTATIVE GRUENBERG acknowledged that, but pointed out that the constitutionally mandated capital expenditure is too high.

REPRESENTATIVE SEATON reminded everyone that this only occurs if the legislature's budget increases by 2 percent twice. Hopefully, this year's budget will decrease.

MS. BLAISDELL mentioned that even with all the decreases and reductions there is an increase of \$124 million [in this year's budget].

CHAIR WEYHRAUCH reminded the committee that before it is the earlier mentioned friendly amendment to Amendment 1.

REPRESENTATIVE DAHLSTROM objected.

REPRESENTATIVE SEATON asked if printing the intent language in the voter pamphlet would suffice in instructing the executive branch.

Number 0999

CHAIR WEYHRAUCH pointed out that the court always looks to what the constitution says as well as the legislative history. The first interpreter will be the attorney general when he/she advises the governor. If the matter is challenged by a court, then the court will probably review what the legislature did in adopting the language. If the legislature adopts a letter to accompany this resolution and indicates the intent of the legislature, it would, he believes, have great weight with respect to the court's ultimate decision.

REPRESENTATIVE HOLM remarked that without an elected attorney general it becomes a "sticky wicket" because an appointed attorney general is being asked by the individual who appointed him/her to render a decision.

CHAIR WEYHRAUCH commented that folks have to be intellectually honest. Furthermore, there is always the court system and the legislature can sue the governor as well.

Number 0912

REPRESENTATIVE GRUENBERG highlighted that constitutional amendments are voted on by the people, and therefore ultimately the court reviews the wording of the constitution. In the aforementioned it becomes a legislature of the number of people who vote. The court would say that the people were voting on the amendment as it was specifically presented in the voter pamphlet. Therefore, Representative Gruenberg again recommended passing a letter of intent along with the resolution.

REPRESENTATIVE SEATON requested that Chair Weyhrauch withdraw his friendly amendment to Amendment 1.

CHAIR WEYHRAUCH withdrew his friendly amendment to Amendment 1.

REPRESENTATIVE SEATON clarified the friendly amendment to Amendment 1.

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by line item veto to avoid spending more than the amount that may be appropriated under (a) and (b) of this section."

REPRESENTATIVE DAHLSTROM inquired as to why the language "operation and administration" need to be left out.

REPRESENTATIVE SEATON answered:

It's just words. What we're doing is also taking out "the executive branch" because once we put in "line item veto" that gets us out of this problem ... that we're going to get beat up because we're insulating ourselves and putting it off on somebody else. But we could always come back into special session to override line item vetoes. ... This means that he has the same authority he does for appropriating that reduction between legislative, judicial, and executive branch. And most of it's going to be in the executive branch because that's what he controls.

REPRESENTATIVE DAHLSTROM inquired as to how the legislature can come back into session without the governor calling the legislature back.

CHAIR WEYHRAUCH explained that the legislature can call itself back. He posed the following scenario:

If the legislature exceeds the amount of appropriations under [subsections] (a) and (b), the governor exercises the line item veto to get ... appropriations below [subsections] (a) and (b), the legislature doesn't like what the governor did, [the legislature] comes back into session to override line item vetoes, puts it back above the spending limit (indisc. - coughing) never ending thing. So, what I suppose is ... we'll have to decide it politically where we're deciding to cut and where to spend because the governor said I'm going to keep doing this until we reach the limit. ... And we'll just be back here for special session after special session arguing about where the line item veto should or shouldn't be.

MS. BLAISDELL remarked that she believes the above possibility is why there was the recommendation to enact statute that would instruct the governor on how to reduce spending.

Number 0522

REPRESENTATIVE GRUENBERG clarified that the legislature can come back into [special] session by the governor calling it back into session, which is the most common matter. The legislature can call itself back into [special] session if the majority of each house so desires, which is rare.

CHAIR WEYHRAUCH referred Representative Dahlstrom to Article II, Section 9, which specifies the parameters of special sessions.

REPRESENTATIVE GRUENBERG interjected that an override of a line item veto requires a three-quarters vote. In the past, leaders have been polled.

REPRESENTATIVE SEATON reminded everyone that a three-quarter vote must be obtained in order to tap that second 2 percent. Therefore, this is a high bar because [the legislature] has difficulty in controlling spending. He pointed out that just acting on appropriations and not on spending is problematic.

Number 0335

REPRESENTATIVE DAHLSTROM recalled that certain items didn't need to be mentioned because clarification was provided in the voter pamphlet. Therefore, she asked if anything a candidate says in the voter pamphlet would hold up in court.

CHAIR WEYHRAUCH responded that it was probably different because when one is voting on a person, one isn't binding anyone to what the candidate says, save the candidate. Candidate's comments in the voter pamphlet are different than a constitutional [amendment] or statute [in which the pamphlet] is treated like legislative history.

REPRESENTATIVE GRUENBERG clarified that what he has said holds true to initiatives or referendums. However, because it's a collective statement that goes to all the voters, it would be more carefully reviewed than a candidate's statements.

CHAIR WEYHRAUCH referred to Article II, Section 16, and highlighted the following language: "Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two-thirds of the membership of the legislature."

CHAIR WEYHRAUCH reminded the committee that there was no objection to Representative Seaton's friendly amendment to Amendment 1. There being no objection, the friendly amendment to Amendment 1 was adopted. After the adoption of this friendly amendment to Amendment 1, Amendment 1 as amended read:

Page 1, line 2, following, "limit":
Insert "and a spending limit"

Page 2, add a new section to read:

"(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) and (b) of this section, the governor shall reduce expenditures by line item veto to avoid spending more than the amount that may be appropriated under (a) and (b) of this section."

CHAIR WEYHRAUCH clarified that now Amendment 1 as amended is before the committee.

REPRESENTATIVE GRUENBERG objected.

TAPE 03-58, SIDE A

Number 0031

MS. BLAISDELL, in response to Representative Holm, said that she didn't have an opinion on the friendly amendment to Amendment 1. Including "spending" [on page 1, line 2] does support the change in the title. Therefore, she said she believes [Amendment 1 as amended] is fine. In response to Representative Lynn, Ms. Blaisdell agreed that she sees no problem with Amendment 1 [as amended].

REPRESENTATIVE SEATON added that he has spoken with Representative Stoltze who is in favor of Amendment 1, although he hadn't spoken with him regarding Amendment 1 as amended.

A roll call vote was taken. Representatives Holm, Seaton, Dahlstrom, and Lynn voted in favor of Amendment 1, as amended. Representatives Gruenberg and Weyhrauch voted against it. Therefore, Amendment 1, as amended, was adopted by a vote of 4-2.

Number 0240

CHAIR WEYHRAUCH, in explanation of his vote on the amendment, directed attention to Article IX, Section 16, which he characterized as one of the most obtuse, confusing, and poorly worded amendments he has ever read. He expressed his desire to keep Alaska's constitution as clean and simple as possible. Although he is going to err on the side of simplicity, he noted that he reserved the right to change his vote on this matter later.

Number 0395

REPRESENTATIVE DAHLSTROM moved that the committee adopt Amendment 2, which read:

Page 2, beginning on line 19 (changes as follows):

Section 30. Application, [Repeal] **Reconsideration** of Appropriation **and Spending** Limit. (a) The 2004 amendment relating to an appropriation limit (art.IX, sec. 16) first applies to appropriations made for fiscal year 2006 and applies [each fiscal year] thereafter [until fiscal year 2013].

(b) [Section 16 of Article IX is repealed July 1, 2012] **The lieutenant governor shall place the ballot**

title and proposition for the 2004 amendment relating to an appropriation and spending limit (art. IX, Sec. 16) on the ballot again at the general election in 2010 and every six years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, Section 16 of Article IX is repealed on the date the election is certified.

REPRESENTATIVE GRUENBERG objected for purposes of discussion.

Number 0510

MS. BLAISDELL explained that under the current language [in the resolution] the constitutional appropriation and spending limit would be repealed after six years, with no further consideration required. Amendment 2 removes the language "Repeal" and asks for reconsideration. She informed the committee that she had assumed that Amendment 1 would pass, and therefore she reinserted the language "and spending" as well as Representative Stoltze's original language that would instruct the constitutional appropriation spending limit to be placed on the ballot every six years. Therefore, the public would vote on whether it wanted to continue it as is, or choose to change it, or repeal it.

REPRESENTATIVE SEATON related his understanding that [Amendment 2] would mean that this constitutional provision would be placed on the ballot every six years for reconfirmation.

MS. BLAISDELL highlighted that page 14 of her handout entitled, "HJR 9 Constitutional Appropriation and Spending Limit," provides a simplified explanation of Amendment 2. If Amendment 2 isn't adopted, the constitutional appropriation spending limit would be repealed at the end of 2012, at which point there would be no limit.

Number 0699

REPRESENTATIVE HOLM said that he has a real problem with [Amendment 2] because theoretically, the constitution is already revisited every 10 years. Representative Holm remarked that the reliance on the constitution is at a different level than statutes. He asked Ms. Blaisdell if any other constitution has a proviso similar to the one being proposed here.

MS. BLAISDELL noted that she worked with the National Conference of State Legislatures (NCSL) on this and found that there are no other states or territories that have any type of constitutional sunset clause. Therefore, were this to pass, Alaska would be the first. Ms. Blaisdell related that the intent of this sunset clause is so that [the appropriation cap] doesn't become exponentially out of control as is the case with the original constitutional appropriation limit. This [sunset clause] would probably mean that reviewing the constitutional appropriation limit would become a priority.

REPRESENTATIVE HOLM said that he thinks of the constitution in terms of being almost unchangeable versus the volatility of the statutes. Therefore, he viewed this notion as problematic.

REPRESENTATIVE SEATON noted that he didn't view Amendment 2 or Sections 2 and 3 as being necessary. If [the appropriation cap] isn't working, the legislature has the ability to propose a new constitutional amendment at any time. He said he wasn't in favor of [Amendment 2].

Number 0989

MS. BLAISDELL, in response to Representative Dahlstrom, answered that Representative Stoltze isn't in favor of a repeal clause in which the appropriation limit would go away. Ms. Blaisdell mentioned that timing of an appropriation and spending limit is critical. If the Arctic National Wildlife Refuge (ANWR) were to open and the [appropriation] limit ended in eight years, there would be an enormous spike [in spending] similar to that in 1980, which caused some of the failure in 1985 and 1986. Therefore, Ms. Blaisdell didn't believe Representative Stoltze would be in favor of the appropriation limit merely being repealed. However, Representative Stoltze might be more favorable to the removal of the entire section, although she recalled that he was in favor of the sunset provision.

REPRESENTATIVE GRUENBERG recalled his prior experience in the legislature when there was more money. At that time, money that isn't available today was available for operating capital and social projects. As a result, when that money was available it benefited the state, a state that needs to develop itself. If ANWR and a gas pipeline were in place, Representative Gruenberg said he wouldn't want to have to amend the constitution to do what is necessary.

CHAIR WEYHRAUCH directed the committee's attention to the motion to adopt Amendment 2.

REPRESENTATIVE GRUENBERG maintained his objection to Amendment 2.

A roll call vote was taken. Representative Lynn voted in favor of Amendment 2. Representatives Seaton, Gruenberg, Holm, Dahlstrom, and Weyhrauch voted against it. Therefore, Amendment 2 failed by a vote of 1-5.

REPRESENTATIVE LYNN remarked that when the state is flushed with money, perhaps that is the time when the coffers of the bank should be filled.

REPRESENTATIVE GRUENBERG pointed out that the state does have a spending limit of sorts in the permanent fund because the [state] is prohibited from spending all of the money and at least 25 percent has to be placed in the permanent fund.

Number 1440

REPRESENTATIVE SEATON moved that the committee adopt Conceptual Amendment 3, as follows:

Page 2:

Delete lines 17-23.

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE SEATON said that this automatic repeal of the appropriation limit seems inappropriate because if the constitutional amendment doesn't have any more term than a statute, it isn't worth it. Therefore, he recommended implementing the constitutional amendment and if it doesn't work, the matter can be revisited.

REPRESENTATIVE GRUENBERG pointed out that the legislature doesn't know the state of the economy in 2012. He explained that [Section 2] basically says that if the [legislature] wishes to continue with this spending limit it should be put before the voters in or before 2012. Therefore, there would be another review of the matter by the voters. He reiterated that he is opposed to Conceptual Amendment 3.

Number 1610

CHAIR WEYHRAUCH announced that he supported Conceptual Amendment 3 simply because this should look more like a constitutional amendment than a statute. As a body, the legislature has the ability to [call itself] into session and the people have the ability to petition to call the legislature back in to session. Furthermore, this is making a policy decision and the legislature ought to live with it or not adopt it.

REPRESENTATIVE GRUENBERG pointed out that currently there is an unintelligible, unenforceable spending limit in the constitution, Article IX, Section 16. "If we had had this kind of thing in, we might have amended it before now," he remarked.

MS. BLAISDELL informed the committee that if Representative Seaton's amendment doesn't pass, a small technical amendment changing the title of Section 30 to "Repeal of Appropriation and Spending Limit" would be required.

Number 1700

A roll call vote was taken. Representatives Dahlstrom, Holm, Seaton, and Weyhrauch voted in favor of Conceptual Amendment 3. Representatives Lynn and Gruenberg voted against it. Therefore, Conceptual Amendment 3 passed by a vote of 4-2.

CHAIR WEYHRAUCH directed attention to page 1, line 6, which encompasses a 10-point spending plan. He asked if paragraph (2) could be deleted.

MS. BLAISDELL directed the committee to page 10 of her handout, which specifies that paragraph (1) refers to an appropriation into the Alaska Permanent Fund. There have been times in which revenues were above the 25 percent or 50 percent mandated deposit and thus, at those times, more money has been placed into the principle of the fund. She explained that paragraph (2) refers to expenditures out of the Alaska Permanent Fund.

Number 1840

CHAIR WEYHRAUCH pointed out that under HJR 26 and the accompanying statutory scheme there would be a 60:40 split. He inquired as to the synergy between HJR 26 and the statutory scheme implementing it and paragraphs (1) and (2) of HJR 9.

MS. BLAISDELL explained that HJR 9 instructs how the base will be calculated for the 2 percent growth while HJR 26 instructs the use of permanent fund money to become available for

expenditure. Therefore, it's the difference between a revenue source and an expenditure source. If the permanent fund appropriations or deposits aren't excluded from the base, fluctuations in the permanent fund may not be reflective of an appropriation limit. For example, if the permanent fund dropped this year to \$500, it could adjust the base spending limit by a little over \$750 million. She pointed out that HJR 26 is the revenue stream and HJR 9 is the appropriation limit.

REPRESENTATIVE GRUENBERG posed a situation in which HJR 9 and HJR 26 go before the voters. He pointed out that HJR 26 eliminates the difference between principle and income in the permanent fund. Therefore, the concept of income from the fund, particularly with the possibility of HB 298, is going to potentially change to include unrealized income. He related his belief that [HJR 9] may have to be drafted such that it would accommodate the passage or failure of HJR 26. Furthermore, if there is a balanced budget constitutional amendment, it will interplay with HJR 9 as well. He indicated that there may be a time at which there will have to be a decision made regarding whether to combine some of these amendments into a single ballot measure.

Number 2069

REPRESENTATIVE SEATON posed a scenario in which the percent of market value (POMV) proposal goes into effect and 60 percent of that is used for state funds. He asked if that is covered in paragraph (2) of CSHJR 9(W&M). He also asked if the section dealing with government is included in paragraph (1).

MS. BLAISDELL clarified that HJR 26 isn't incorporated into either of these two scenarios. One is a specific deposit into the permanent fund while the other is a specific payment out of the permanent fund or a dividend to the people.

REPRESENTATIVE SEATON surmised then that any other appropriation out of the permanent fund, on a POMV basis, for state government would [be calculated in the base].

MS. BLAISDELL agreed.

REPRESENTATIVE GRUENBERG inquired as to how to deal with inflation as well as unforeseen crises that aren't "disasters".

CHAIR WEYHRAUCH remarked that he wanted those to be dealt with in the House Judiciary Standing Committee. He then turned

attention to page 2, lines 11-16, of CSHJR 9(W&M), particularly the language excluding the appropriations listed in (a)(1)-(10) and pointed out that paragraph (8) is a reappropriation. He asked if the language on page 2, lines 11-16, should also refer to reappropriation.

MS. BLAISDELL informed the committee that currently a reappropriation hasn't been counted in the fiscal summary, but is basically shown as a zero appropriation amount because it was accounted for in a prior fiscal year.

CHAIR WEYHRAUCH inquired as to why this [constitutional] amendment even needs reappropriation addressed at all.

MS. BLAISDELL answered, clarification, because technically the legislature is appropriating that money.

CHAIR WEYHRAUCH asked if the language specified that appropriations and reappropriations are being excluded in (a)(1)-(10) would provide more clarity.

MS. BLAISDELL replied no because reappropriations are appropriated each year. She related her belief that it's an issue of semantics.

CHAIR WEYHRAUCH suggested moving the language in paragraph (8) to after "to" on page 1, line 9, to be followed by the language "and to an appropriation" and then list the paragraphs. The paragraphs would no longer need to say "an appropriation". He explained that he was seeking to wordsmith this resolution to make it as simple as possible.

MS. BLAISDELL said that would make total sense.

CHAIR WEYHRAUCH moved that the committee adopt Conceptual Amendment 4, which would on page 1, line 9, after "to", insert, "a reappropriation of money already appropriated under an unobligated appropriation that is not void under Section 13 of this article and to an appropriation" and on page 1, lines 10 - page 2, line 7, delete "an appropriation" at the beginning of paragraphs (1)-(10). There being no objection, Conceptual Amendment 4 was adopted.

Number 2507

REPRESENTATIVE GRUENBERG moved that the committee adopt Conceptual Amendment 5 as follows:

Page 1, line 7 and page 2, line 14, after "two percent":

Insert "(excluding inflation)"

REPRESENTATIVE SEATON objected.

REPRESENTATIVE GRUENBERG explained that he is trying to say that there is a concept of inflation, but no one knows how much it will be in any year. However, the inflation could considerably reduce the 2 percent and thus there would be no ability to even keep pace with inflation. Therefore, he wanted to be sure that if there is inflation that it's considered.

REPRESENTATIVE HOLM offered a friendly amendment to Conceptual Amendment 5 such that it would insert "(including inflation)" rather than "(excluding inflation)". He explained that he believes this [resolution] attempts to formulate a way in which to limit the growth of government. He indicated that he was trying to [accomplish what Representative Gruenberg described] while keeping the lid down on the ability of government to grow. He pointed out that 2 percent plus 5 percent inflation sums 7 percent growth. However, 2 percent, including inflation means that it can be 5 percent and maintain 2 percent as the upper limit.

CHAIR WEYHRAUCH announced that he was going to vote against Conceptual Amendment 5 because he believes it should be brought up in the House Finance Committee where the full ramifications can be considered.

REPRESENTATIVE GRUENBERG withdrew Conceptual Amendment 5.

[The friendly amendment to Conceptual Amendment 5 was considered withdrawn.]

REPRESENTATIVE HOLM moved to report CSHJR 9(W&M), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 9(STA) was reported from the House State Affairs Standing Committee.

Number 2745

CHAIR WEYHRAUCH, at 10:25 a.m., recessed the House State Affairs Standing Committee to a call of the chair.

TAPE 03-59, SIDE A

Number 0001

CHAIR WEYHRAUCH called the meeting of the House State Affairs Standing Committee back to order at 3:06 p.m. Representatives Weyhrauch, Holm, Seaton, and Dahlstrom were present at the call back to order. Representatives Lynn and Gruenberg arrived as the meeting was in progress.

HB 149-LOBBYING BY NONPROFITS

CHAIR WEYHRAUCH returned to HOUSE BILL NO. 149, "An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

CHAIR WEYHRAUCH reminded the committee that it was going through the handwritten Amendment 3 earlier in the meeting when the committee left off on page 3 of Amendment 3. He asked if Representative Wolf is amenable to page 3 and page 4 of Amendment 3, which read [original punctuation provided]:

At page 2, line 10:

Delete "and"

Insert "(ii) delivered by mail or electronic means to the members of the corporation or, if the corporation is not a membership organization, to its board of directors

(2) for lobbying expenditures incurred between January 1 and June 30 of a calendar year, the notice provided under subsection (1) shall be published or delivered no less than thirty (30) days after July 1 of the same calendar year. For lobbying expenditures incurred between July 1 and December 31 of a calendar year, the notice provided under subsection (1) shall be published or delivered no less than thirty (30) days after January 1 of the succeeding calendar year.

(3) Each corporation subject to this Act shall maintain in its corporate headquarters a true and correct copy of each notice provided under subsection (1) for a period of not less than two calendar years after publication or delivery.

At page 2, lines 17-23:
Delete all.

REPRESENTATIVE WOLF replied yes.

CHAIR WEYHRAUCH clarified that Amendment 3 [in its entirety] is before the committee. He recalled that it had been moved. He expressed interest in adopting Amendment 3 and incorporating it into a committee substitute (CS) so that the committee can have a clean version with all the changes.

Number 0200

REPRESENTATIVE DAHLSTROM informed the committee that she and Representative Wolf had a conversation regarding her proposed conceptual amendment to change the yearly gross revenue to at least \$10 million.

REPRESENTATIVE WOLF said that [\$10 million] is an excessive amount. In response to Representative Dahlstrom, Representative Wolf announced that he was comfortable with revenues of \$1 million.

CHAIR WEYHRAUCH asked if there was any objection to Amendment 3 as amended.

REPRESENTATIVE SEATON objected. He directed attention to page 3 of Amendment 3 and commented that sub-subparagraph (ii) is an expensive requirement to which he is opposed.

REPRESENTATIVE WOLF pointed out that sub-subparagraph (ii) specifies that information can be "delivered by mail or electronic means".

REPRESENTATIVE SEATON related his belief that this is excessive interference with a 501(c)(3) for a purpose that he hasn't been able to define yet. Representative Seaton announced his opposition to [Amendment 3 as amended].

REPRESENTATIVE WOLF specified that his biggest concern with this matter is the public's trust with regard to disclosure of 501(c)(3) nonprofits.

Number 0535

CHAIR WEYHRAUCH noted that one of the biggest questions about this legislation is whether this is already covered by federal law.

REPRESENTATIVE WOLF explained that the IRS has a mandate to manage 501(c)(3) nonprofit organizations to maintain insubstantial lobbying efforts. The IRS has openly stated that it doesn't have the means or the time to police 850,000 nonprofits nationwide. This legislation would merely return the public's trust in the 501(c)(3) nonprofits in Alaska.

CHAIR WEYHRAUCH said that he hasn't heard of any problem in this arena at the state level. He asked, "Is there an issue that this bill is in search of?"

REPRESENTATIVE WOLF answered that nonprofit organizations step into Alaska on the issue of predator control. He charged that such nonprofits enter Alaska and line their accounts with soft money [under the guise] of killing wolves. The intent with this legislation is to implement something that when a local resident makes a contribution to a nonprofit, there will be an attempt [made by the nonprofit] to relate to the contributor where the contributions were used.

REPRESENTATIVE LYNN asked if this would include those groups lobbying against the Arctic National Wildlife Refuge (ANWR).

REPRESENTATIVE WOLF replied yes, if those groups are lobbying.

CHAIR WEYHRAUCH, upon reviewing the third page of Amendment 3, said that he had a problem with it because its burdensome.

REPRESENTATIVE WOLF related that he has no problem with the deletion of page 3 of Amendment 3 if that's the committee's wish.

Number 0968

CHAIR WEYHRAUCH asked if there is objection to removing page three of Amendment 3. There being no objection, it was so ordered.

REPRESENTATIVE DAHLSTROM moved that the committee adopt the following amendment [Amendment 4]:

Page 1, line 9, after "501(c)(3)"

Insert ", which has yearly gross revenues of at least \$1 million,"

There being no objection, [Amendment 4] was adopted.

CHAIR WEYHRAUCH announced that there's a motion to adopt Amendment 3 as amended, as follows:

At page 1, line 2:
Delete "public"

At page 1, lines 2-3:
Delete "and an annual report of lobbying expenditure to the Department of Revenue"

At page 1, line 8:
Delete ", annual report"

At page 1, line 9:
Delete "public"

At page 1, lines 11-13:
Delete "a copy of the newspaper's certificate of publication with a copy of the notice published and the dates of publication within seven days after the last publication of the notice"
and
Insert "written evidence of satisfaction of this section."

At page 1, line 13:
Delete "public"

At page 1, lines 13-14:
Delete "is required to" and "publication"

Page 2, line 1,
Delete "\$500"
Insert "\$1,000"

At page 2, line 4; after "specificity, the"
Insert "lobbying"

Page 2, lines 4-6:
Delete "proposed, the proposed budget, the location, and time period in which the lobbying activity has occurred or will occur;"

(2) of the notice not fewer than two times in eight days;"

Insert "the lobbying activity that has been published"

At page 2, line 6:

Delete "(2) of the notice"

Insert "(i) published"

At page 2, lines 6-7:

Delete "; (3)"

At page 2, lines 17-23:

Delete all.

There being no objection, Amendment 3, as amended, was adopted.

[HB 149 was held over.]

The committee took an at-ease from 3:22 p.m. to 3:25 p.m.

HB 157-ELIMINATE APOC

CHAIR WEYHRAUCH returned the committee's attention to HOUSE BILL NO. 157, "An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

REPRESENTATIVE HOLM moved to adopt CSHB 157, Version 23-GH1090\H, Craver, 5/7/03, as the working document. There still being no objection, Version H was before the committee. [This motion was made earlier in the meeting by Representative Gruenberg.

Number 1382

TAMMY KEMPTON, Regulation of Lobbying, Alaska Public Offices Commission (APOC), Department of Administration, explained that the reason for the amendment being proposed by APOC is that in Version H there were some changes to the title. One of the changes to the title says, "Allowing a candidate to make a loan to the candidate's own campaign without notifying the

commission." However, APOC still needs to be notified, although the notification provisions have been changed not eliminated.

REPRESENTATIVE LYNN surmised, "But that doesn't change the fact that notification we have to make to get our loan paid back."

MS. KEMPTON agreed, but pointed out that the title makes it sound as if the candidate no longer needs to notify APOC at all.

REPRESENTATIVE LYNN related his understanding then that if he makes a loan to his campaign and subject to the limits he could be repaid from his campaign contributions later on without turning in a piece of paper to APOC.

MS. KEMPTON agreed and specified that the candidate would notify APOC on the candidate's next due report.

Number 1493

REPRESENTATIVE HOLM informed the committee that when he filed [for candidacy] he didn't realize he had to do this. Therefore, when he filed he put money in to start his campaign and because he didn't notify APOC, the money was considered a campaign contribution and he couldn't reimburse himself. He said that such requirements should be made apparent during filing.

MS. KEMPTON noted that the requirement of notifying APOC within five days has been eliminated.

Number 1586

REPRESENTATIVE SEATON moved that the committee adopt Amendment 1, which read:

Page 1, lines 5-6

Delete "allowing a candidate to make a loan to the candidate's own campaign without notifying the commission;"

Insert "amendment the notice provision when a candidate makes a loan to the candidate's own campaign;"

There being no objection, Amendment 1 was adopted.

Number 1640

REPRESENTATIVE HOLM moved to report CSHB 157, Version 23-GH1090\H, Craver, 5/7/03, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG objected for the purposes of discussion. He noted that [the committee] recently received the memorandum dated May 7, 2003, from Barbara Craver, the drafting attorney for HB 157. He asked if Ms. Craver found any problem.

REPRESENTATIVE BERKOWITZ related his understanding that Ms. Craver's memorandum says that everything is okay.

REPRESENTATIVE GRUENBERG related his understanding that Ms. Craver is making a suggestion to change Section 8.

REPRESENTATIVE BERKOWITZ requested Representative Gruenberg's indulgence on this matter [indicating the need to forward the legislation from committee] because there are two other committees of referral in which any concerns could be raised.

REPRESENTATIVE GRUENBERG obliged and withdrew his objection.

CHAIR WEYHRAUCH [indicated that there were no further objections to the motion to report Version H, as amended from committee]. Therefore, CSHB 157(STA) was reported from the House State Affairs Standing Committee.

DAVID FINKELSTEIN, Volunteer, Campaign Finance Reform Now, noted his appreciation to the committee for its previous action on some of the amendments.

Number 1941

ANDREE McLEOD provided the following testimony. She recalled the beginning of this legislature when, at a Chamber of Commerce meeting, the House Minority leader expressed his desire to hold the legislature to a higher standard as Alaskans expect and demand more from the legislature. "And I come to you with that in mind," she said. She highlighted that the legislature is present to legislate, to appropriate, and to advocate. However, this legislation allows lobbyists to contribute to candidates as well as to engage in campaigns. Permitting lobbyists to again engage in campaign activities goes back to the time Mr. Finkelstein spoke of when, prior to 1996, lobbyists gave out directly and indirectly between \$25,000-\$100,000 each election cycle. Therefore, there will be a large influx of money from

special interest [groups], she predicted. This will occur at a time when state resources are limited. Ms. McLeod said, "The way you advocate and whom you advocate for will be circumspect by removing the prohibition." She charged that [this legislation] is breaking down the integrity of the political process. She expressed concern that once the control of disallowing candidates to give money to candidates outside their district is eliminated, the control that keeps things running smoothly is being eliminated.

MS. McLEOD recalled that this morning Chair Weyhrauch correlated free speech of HB 230 with HB 157. However, she pointed out that free speech is only free speech if no one is paying for that speech. On one end of the lobbyists, businesses and special interests are paying for that speech and thus it's not free. When that free speech is influencing and impacting public policy, it's not free speech because people end up paying for the costs of whatever the special interest [groups] want. Ms. McLeod pleaded with the committee to not increase the number of hours for lobbyist activity from 4 to 16. She indicated that [passage of this legislation] means that those in the legislature will now be influenced by special interest [groups] and advocate for them, and therefore legislation and appropriations for special interest groups will follow.

Number 2210

REPRESENTATIVE GRUENBERG directed attention to page 18, lines 23, 27, and 30, where there seems to be a drafting error. He said the figures should refer to "\$5,000" per one of the amendments the committee adopted.

[CSHB 157(STA) was reported from the committee.]

The committee took an at-ease from 3:43 p.m. to 3:47 p.m.

HB 230-POLITICAL SIGNS ON PRIVATE PROPERTY

CHAIR WEYHRAUCH returned the committee's attention to HOUSE BILL NO. 230, "An Act relating to political signs on private property."

Number 2292

REPRESENTATIVE GRUENBERG said that he was going to suggest that the findings of HB 230 be placed in statute AS 19.25.075 like the other legislative findings, as was discussed this morning.

REPRESENTATIVE HOLM characterized the above as a friendly amendment.

JAMES CANTOR, Assistant Attorney General, Transportation Section, Civil Division (Anchorage), Department of Law, said Representative Gruenberg's suggestion makes sense.

CHAIR WEYHRAUCH recalled that AS 19.25.075 was adopted by the people of the state pursuant to a referendum.

MR. CANTOR replied yes.

CHAIR WEYHRAUCH pointed out that AS 19.25.075 is entitled, "Findings and intent of the people of the State of Alaska." Therefore, he asked if the legislature does this, would it be different than the people.

REPRESENTATIVE GRUENBERG clarified that the [findings of HB 230] would be a subsection (c). Conceptually, Representative Gruenberg suggested changing the title of AS 19.25.075 such that it would be entitled, "Findings and intent" and subsections (a) and (b) would remain the same with subsection (c) and paragraphs (1) and (2) under Section 1 of CSHB 230(TRA).

CHAIR WEYHRAUCH said that this is partly a policy question [for] Representative Holm and a legal question [for] Mr. Cantor.

MR. CANTOR said this is a bit outside his expertise. However, he recalled that there is a period of time after which the legislature can revise referendums.

REPRESENTATIVE GRUENBERG clarified his conceptual amendment as follows. He explained that the title of AS 19.25.075 would be changed to read, "Findings and intent". Under AS 19.25.075 subsections (a) and (b) would remain as is while a subsection (c) would be inserted. Therefore Section 1 of CSHB 230(TRA) would read:

***Section 1.** AS 19.25.075 is amended to read:

(c) The Alaska State Legislature finds that
(1) the right to advocate for or against those individuals who would occupy public office and issues of public interest is an inherent right that has been repeatedly affirmed by the courts; and

(2) the right to advocate for or against those individuals who would occupy public office and issues of public interest must be subject to only the minimum of restrictions necessary to address a compelling public or government interest.

CHAIR WEYHRAUCH announced, "Without objection, that amendment has been made conceptually."

Number 2600

MR. CANTOR recalled that this morning there was a question regarding what happens when the Department of Transportation & Public Facilities (DOT&PF) has an easement and a private property owner owns that land underneath that easement. Currently, that is being litigated with commercial signs. Mr. Cantor related that DOT&PF would suggest that the committee include language specifying that private property doesn't include that portion of property subject to an easement for public transportation. Also, Mr. Cantor said that the definitions of "current relevance" and "date of decision" may allow commercial speech and thus he suggested the following:

Page 2, line 25, before "matter":
Insert "noncommercial"

Page 2, line 25:
Delete "or"
Insert "and"

MR. CANTOR turned to the Nike case related to indirect advertising for commercial products and noted that the committee could consider adding in language that prohibits indirect advertising for commercial products. Mr. Cantor moved to page 2, line 18, and related that [the "date of decision" definition] leaves DOT&PF with an uncomfortable decision to try to decide when a public matter is terminated. Therefore, he suggested specifying a time limit for temporary signs and requiring that signs be dated when erected.

CHAIR WEYHRAUCH related his understanding that political signs have to be taken down right after the election or there is a fine.

MR. CANTOR said no and pointed out that such signs aren't allowed on private property. This legislation may handle the election issue, there are "issues" that this could address.

Number 2779

REPRESENTATIVE HOLM emphasized that there is a difference between commercial speech and political free speech constitutionally. He agreed with Mr. Cantor that commercial speech has its place to be regulated. However, to assert that political free speech has a time limit is inappropriate. Representative Holm inquired as to the widest right-of-way that the state takes of private property in the state.

MR. CANTOR clarified that many of the widths were established by public land orders. He noted that he could think of some rights-of-way that are 300 feet. In further response to Representative Holm, Mr. Cantor said that the distance from the center line to the edge of the right-of-way would depend upon the type of roadway. He recalled that the Old Seward Highway in Anchorage is 150 feet on either side of the center line. However, in a number of locations the state holds easements.

REPRESENTATIVE GRUENBERG, upon determining that this is the last committee of referral, offered to work with Representative Holm in handling [Mr. Cantor's suggestions].

Number 2951

TODD LARKIN, Staff to Representative Jim Holm, Alaska State Legislature, expressed the need to be ready for the next election season. If this first step is put on the books, then any problems could be addressed [as they come up].

TAPE 03-59, SIDE B

Number 2985

REPRESENTATIVE GRUENBERG indicated that this could be worked on during the interim.

REPRESENTATIVE HOLM emphasized that this [legislation] is very important to him because this is a First Amendment right that has been poorly and inconsistently handled over time. Therefore, he expressed the need to deal with this matter before the next election season. He suspected that this legislation will be worked on in the Senate, which will take some time.

REPRESENTATIVE GRUENBERG remarked that seldom has the legislature had legislation dealing with freedom of expression.

REPRESENTATIVE LYNN mentioned that perhaps [Representative Gruenberg's idea of dealing with freedom of expression] could be dealt with in another piece of legislation over the interim.

REPRESENTATIVE GRUENBERG requested that Mr. Cantor's suggestions be reviewed and asked if the legislation could be held over night.

REPRESENTATIVE HOLM noted he was amenable to the above.

[HB 230 was held over.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:07 p.m.