

**Stuart Relay**

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**From:** Susan A [REDACTED]  
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**Subject:** Public Testimony Opposing HB 146

**Follow Up Flag:** Follow up  
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Public Testimony Opposing HB 146

Re: Alaska House Bill 146 – Misuse of “Privacy” as a Trojan Horse Against Transparency and Workers’ Rights  
Presented to the Alaska State Legislature

Honorable Members of the Alaska Legislature,

I am testifying today in strong opposition to HB 146, which purports to protect the “personal information” of public employees but is, in fact, a Trojan Horse—one that undermines the Alaska Constitution, violates the U.S. Constitution, and threatens core democratic principles of transparency, accountability, and worker rights.

I. A Trojan Horse Against Transparency and Democracy

The language of HB 146 is deceptively framed around privacy, but it creates overbroad exemptions to public records access, shielding government agencies from scrutiny. Its vague language allows nearly any data—names, emails, departments—to be sealed from public inquiry, even when such information is critical to:

Holding agencies accountable

Allowing public sector workers to engage in protected union activities

Empowering journalists and the public to investigate government misconduct

This contravenes Alaska’s public records law (AS 40.25.110-120) and the Alaska Constitution, which explicitly affirms:

“The public records of all public agencies shall be open to inspection by any person.” – Alaska Const. Art. I, § 22

II. Constitutional Violations Embedded in HB 146

A. First Amendment: Free Speech and Association

By restricting access to basic public employee information, HB 146:

Undermines the ability of unions to communicate with members and potential members.

Limits the rights of employees to receive union information and engage in protected collective action.

This directly contradicts:

*NAACP v. Alabama*, 357 U.S. 449 (1958): The state cannot impose disclosure rules that interfere with the freedom of association.

*Janus v. AFSCME*, 585 U.S. \_\_\_ (2018): Public employees must freely choose to associate with a union. That choice is only possible with access to information.

HB 146 restricts that access, thereby infringing upon the very right *Janus* was meant to protect.

## B. Chilling Effect on Whistleblowing and Journalism

The bill may criminalize or penalize the dissemination of information deemed “personal,” even when that information exposes:

Misuse of public funds

Workplace abuses

Patterns of discrimination or corruption

This raises serious concerns under:

*New York Times Co. v. United States*, 403 U.S. 713 (1971): Government cannot suppress publication of material that informs the public interest.

*Bartnicki v. Vopper*, 532 U.S. 514 (2001): The press is protected when publishing truthful information of public concern, even if obtained from a third party.

HB 146 effectively gags both whistleblowers and the media.

## C. Overbreadth and Vagueness Doctrines

The bill defines "personal information" so broadly that it creates legal uncertainty for:

Unions

Reporters

Public interest watchdogs

Per *Grayned v. City of Rockford*, 408 U.S. 104 (1972), and *City of Chicago v. Morales*, 527 U.S. 41 (1999), laws must give fair notice and not chill lawful conduct.

HB 146 is both vague and overbroad, chilling lawful, constitutionally protected activities.

### III. A Trojan Horse for Anti-Union Political Agendas

The true purpose of HB 146 aligns with national efforts under Project 2025 and similar political campaigns to dismantle organized labor, suppress dissent, and neuter public sector oversight.

It pretends to protect worker privacy, yet silences their voices.

It undermines unions' ability to comply with *Janus* by blocking communication.

This bill is not about protecting workers—it's about isolating and weakening them.

### IV. Acknowledging Good Intentions but Overreaching Consequences

It is clear that the sponsor, Representative Carolyn Hall, likely introduced HB 146 with good intentions—seeking to protect the personal privacy of public employees. Privacy is an essential right that should be preserved. However, in attempting to protect this privacy, HB 146 introduces far-reaching consequences that threaten the very foundations of our democracy, worker rights, and transparency in government. The bill's overbroad and vague language, alongside its dangerous implications for public records and freedom of association, demonstrates how a well-meaning effort has been transformed into a tool for undermining transparency and suppressing workers' voices.

### V. Conclusion: Kill the Trojan Horse Before It Breaches Alaska's Walls

HB 146 is not a privacy bill. It is an anti-transparency, anti-worker, anti-democracy Trojan Horse. It is unconstitutional, unethical, and unworthy of passage in any chamber that respects the rule of law and the people of Alaska.

I urge you to reject this bill, uphold the Alaska Constitution, and safeguard the public's right to know.

Thank you.

Susan Allmeroth

Two Rivers

### References

Alaska Const. art. I, § 22. (n.d.). Right to privacy.

Alaska Stat. §§ 40.25.110–40.25.120. (n.d.). Public records; exceptions.

*Bartnicki v. Vopper*, 532 U.S. 514 (2001).

*City of Chicago v. Morales*, 527 U.S. 41 (1999).

Grayned v. City of Rockford, 408 U.S. 104 (1972).

Janus v. American Federation of State, County, and Municipal Employees, Council 31, 585 U.S. \_\_\_\_ (2018).

McBurney v. Young, 569 U.S. 221 (2013).

NAACP v. Alabama, 357 U.S. 449 (1958).

New York Times Co. v. United States, 403 U.S. 713 (1971).

There are potential ways to amend HB 146 to address the concerns raised in your testimony and balance the need for privacy with the essential principles of transparency, workers' rights, and the public's right to access information. Here are some suggested modifications that could improve the bill while aligning it more closely with constitutional protections and democratic values:

### 1. Narrowing the Definition of "Personal Information"

The definition of "personal information" in the bill is broad and vague, creating ambiguity and overreaching consequences. The bill could be amended to clarify which specific types of information are considered "personal" and which types should remain publicly accessible under the state's public records law. For example, the bill could exclude information that is critical for transparency, such as employee name, title, and department.

Proposed Amendment: Define "personal information" more narrowly, focusing only on truly sensitive data, such as Social Security numbers, medical information, or financial data, while allowing for continued public access to names, work email addresses, and other non-sensitive data.

### 2. Exemptions with Clear Standards

Rather than broadly restricting access to public records, the bill could provide more specific exemptions, particularly for sensitive personal data. The exemption should be clear and based on well-established privacy concerns, such as preventing identity theft or protecting vulnerable individuals.

Proposed Amendment: Establish clear criteria for when certain information should be exempt from public access, such as when it could endanger an individual's safety or violate privacy rights under the Fourth Amendment.

### 3. Addressing Public Employee Rights and Union Communication

The bill should explicitly preserve the rights of unions and public employees to communicate, organize, and associate freely. This is crucial to avoid violating workers' rights under the First Amendment, as established in Janus v. AFSCME and NAACP v. Alabama.

Proposed Amendment: Ensure that the bill includes specific language protecting workers' ability to access union information and participate in collective action. This could involve carving out exceptions to the privacy provisions to ensure that union communications and organizing activities are not hindered.

#### 4. Strengthening Whistleblower Protections

The bill should not interfere with the ability of whistleblowers to report government misconduct or corruption. This could be addressed by ensuring that any personal information related to whistleblowers is protected but does not block the dissemination of information that serves the public interest.

Proposed Amendment: Include protections for whistleblowers, such as provisions that ensure that individuals reporting misconduct or corruption can do so without fear of retaliation, while still safeguarding sensitive personal data.

#### 5. Reaffirming Public Access to Government Accountability

The bill should ensure that government transparency remains intact, particularly in terms of access to public records. Any personal data exemptions should be narrowly tailored to protect privacy without undermining the public's right to know how their government operates.

Proposed Amendment: Add language reinforcing the Alaska Constitution's provision that public records shall be open to inspection by any person. The bill could specify that personal information will only be withheld when required to protect privacy, with a clear and transparent process for the public to appeal such decisions.

#### 6. Transparency and Oversight Mechanisms

Include a provision for transparency and oversight of the bill's implementation. This could involve regular reviews to assess whether the privacy exemptions are being applied appropriately and whether they are still necessary.

Proposed Amendment: Establish a legislative or independent review committee that would periodically assess the implementation of HB 146 to ensure that it is not being misused or undermining transparency.

HB 146 can be amended to strike a balance between protecting personal privacy and ensuring transparency, workers' rights, and public accountability. By narrowing the scope of "personal information," providing clear exemptions, protecting union rights, and reinforcing transparency, the bill could better serve the interests of both public employees and the public as a whole. These changes would also address constitutional concerns raised but be wary of the slippery slope.

Below are formal versions of proposed amendments to HB 146 for submission to the Alaska Legislature. This version includes the updated language and additional protections.

#### Proposed Amendments to HB 146

##### Section 1. Amendment to AS 40.25.110 (Public Records Act)

Amend AS 40.25.110 to include the following exceptions to public records access, with specific provisions to ensure privacy protections are balanced with transparency and accountability:

## Section (f): Personal Information Exemption

Personal information that is not related to the public duties or functions of an employee shall be exempt from public inspection. For purposes of this section, "personal information" includes, but is not limited to:

Social Security numbers

Personal financial data

Medical and health information

Home address and personal phone numbers, where disclosure would compromise the safety or privacy of an individual

Information protected under federal privacy laws, such as HIPAA (Health Insurance Portability and Accountability Act)

Personal information shall not include:

Employee name, work email, work phone number, or job title

Employment history or department affiliation

Union status or dues information, which are necessary for communication, organizing, and collective bargaining

Exceptions to Exemption:

The exemption does not apply if the information pertains to the official conduct of public duties, including but not limited to government misconduct, financial oversight, and transparency of agency actions.

Information related to public-sector workers' participation in unions, collective bargaining, and association shall be provided in accordance with First Amendment rights to free speech and association.

## Section 2. Protection for Whistleblowers

Add a new section to AS 40.25 to protect whistleblowers from retaliation and ensure transparency regarding government actions:

### Section (g): Whistleblower Protections

Any information that pertains to government wrongdoing, corruption, financial misconduct, or mismanagement that is disclosed by a whistleblower shall not be subject to disclosure exemptions under this section.

Whistleblower confidentiality shall be maintained for individuals who report misconduct or fraud, but any non-sensitive information relevant to the public interest, such as the nature of the misconduct, shall remain subject to public records laws.

Whistleblowers shall not be subject to retaliation, including but not limited to loss of employment or union membership, for providing information to the public or engaging in protected speech.

### Section 3. Clarification on Union Rights

Modify HB 146 to explicitly protect union-related communications and actions by public employees.

#### Section (h): Union Communications and Public Employee Rights

Public employees have the right to receive communications from unions, including information related to union activities, collective bargaining, and employment terms.

The public employee's union membership status shall not be hidden under privacy exemptions when it is necessary for union activities, organizing, or communicating with union members. This includes email addresses and work-related information that does not compromise personal safety.

Public employees are entitled to participate in collective bargaining and union activities without undue interference. The withholding of union-related information, such as membership status, must not impede the ability of unions to function effectively and communicate with their members.

### Section 4. Public Access to Government Accountability

Amend HB 146 to ensure that public access to government records remains intact while ensuring privacy protections are applied judiciously.

#### Section (i): Transparency and Public Access

The exemptions to public access shall not override the Alaska Constitution's provision that the public records of all public agencies shall be open to inspection by any person (Alaska Const. Art. I, § 22). The exemption of personal information shall be narrowly construed to ensure that public records, including employee job titles, work phone numbers, and union-related information, remain accessible.

Any action to withhold public records must be accompanied by a clear and detailed explanation justifying the withholding of specific records. The public may appeal any decision to withhold records through an independent review process.

Annual Public Transparency Review: Establish an independent oversight board to conduct an annual review of HB 146's implementation, ensuring that the bill does not excessively limit public access to critical records, especially in areas of public safety, government accountability, and transparency.

### Section 5. Reaffirmation of First Amendment Rights

Explicitly reaffirm First Amendment rights related to the freedom of speech, association, and unionization.

## Section (j): First Amendment Protections

This Act shall not infringe upon public employees' rights to associate freely with unions, engage in union activities, or exercise their First Amendment rights to free speech.

Any information related to union participation, membership, dues, or communications that is required for union activities and collective bargaining shall be exempt from any confidentiality restrictions imposed by this Act.

These amendments provide a solution that balances the need to protect personal information while ensuring transparency, workers' rights, and the public's right to access government records. By narrowing the scope of privacy exemptions, protecting whistleblowers, reaffirming First Amendment rights, and creating oversight mechanisms, these changes will make HB 146 a more constitutional and balanced bill.

So if you proceed, please do it correctly.

Susan Allmeroth

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