

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 21, 2012

1:12 p.m.

MEMBERS PRESENT

Representative Steve Thompson, Vice Chair
Representative Wes Keller
Representative Bob Lynn
Representative Lance Pruitt
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Carl Gatto, Chair
Representative Mike Hawker (alternate)

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 89(JUD)

"An Act clarifying that a legislator or legislative employee is allowed to accept certain compassionate gifts; allowing legislators and legislative employees who are representing persons in an administrative hearing to contact hearing officers and attempt to influence the outcome of the hearing if they are professionals licensed in the state, and allowing legislators and legislative employees who are not professionals licensed in the state to contact hearing officers for the purpose of influencing the outcome of the hearing in certain instances; requiring the Select Committee on Legislative Ethics to maintain a refrain from disclosure under the Legislative Ethics Act; relating to the applicability of certain provisions of the Legislative Ethics Act to certain legislative employees, volunteers, and interns; establishing a seat for an alternate public member on the Select Committee on Legislative Ethics; clarifying the requirements related to participation by alternate public members and alternate legislative members in the proceedings of the committee; amending the definition of 'legislative employee' in the Legislative Ethics Act; and repealing a procedure for appointment of alternate legislative members."

- MOVED HCS CSSB 89(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 292

"An Act relating to property exemptions for retirement plans; relating to pleadings, orders, liability, and notices under the Uniform Probate Code; relating to the Alaska Principal and Income Act; relating to the Alaska Uniform Transfers to Minors Act; relating to the disposition of human remains; relating to insurable interests for life insurance policies; relating to transfers of individual retirement plans; relating to the community property of married persons; and amending Rule 301(a), Alaska Rules of Evidence."

- MOVED CSHB 292(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 89

SHORT TITLE: LEGISLATIVE ETHICS ACT

SPONSOR(S): SENATOR(S) COGHILL

02/16/11	(S)	READ THE FIRST TIME - REFERRALS
02/16/11	(S)	STA, JUD
03/15/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/15/11	(S)	Heard & Held
03/15/11	(S)	MINUTE(STA)
03/31/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/31/11	(S)	Moved CSSB 89(STA) Out of Committee
03/31/11	(S)	MINUTE(STA)
04/01/11	(S)	STA RPT CS 1DP 4NR NEW TITLE
04/01/11	(S)	DP: MEYER
04/01/11	(S)	NR: WIELECHOWSKI, KOOKESH, PASKVAN, GIESSEL
04/11/11	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/11/11	(S)	Scheduled But Not Heard
04/13/11	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/13/11	(S)	Scheduled But Not Heard
04/15/11	(S)	JUD AT 1:30 PM BUTROVICH 205
04/15/11	(S)	Heard & Held
04/15/11	(S)	MINUTE(JUD)
01/18/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/18/12	(S)	Heard & Held
01/18/12	(S)	MINUTE(JUD)
01/27/12	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/27/12	(S)	Moved CSSB 89(JUD) Out of Committee
01/27/12	(S)	MINUTE(JUD)
01/30/12	(S)	JUD RPT CS 3DP NEW TITLE
01/30/12	(S)	DP: FRENCH, COGHILL, PASKVAN
02/08/12	(S)	TRANSMITTED TO (H)
02/08/12	(S)	VERSION: CSSB 89(JUD)

02/09/12 (H) STA AT 8:00 AM CAPITOL 106
02/09/12 (H) <Bill Hearing Rescheduled to 02/16/12>
02/10/12 (H) READ THE FIRST TIME - REFERRALS
02/10/12 (H) STA, JUD
02/16/12 (H) STA AT 8:00 AM CAPITOL 106
02/16/12 (H) Heard & Held
02/16/12 (H) MINUTE(STA)
03/06/12 (H) STA AT 8:00 AM CAPITOL 106
03/06/12 (H) Moved HCS CSSB 89(STA) Out of Committee
03/06/12 (H) MINUTE(STA)
03/08/12 (H) STA RPT HCS(STA) 3DP 1NR
03/08/12 (H) DP: P.WILSON, SEATON, PETERSEN
03/08/12 (H) NR: KELLER
03/19/12 (H) JUD AT 1:00 PM CAPITOL 120
03/19/12 (H) Heard & Held
03/19/12 (H) MINUTE(JUD)
03/21/12 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 292

SHORT TITLE: PRINCIP.& INC/PROBATE/UTMA/RETIREMT/ETC.

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

01/20/12 (H) READ THE FIRST TIME - REFERRALS
01/20/12 (H) L&C, JUD, FIN
02/29/12 (H) L&C AT 3:15 PM BARNES 124
02/29/12 (H) Heard & Held
02/29/12 (H) MINUTE(L&C)
03/14/12 (H) L&C AT 3:15 PM BARNES 124
03/14/12 (H) Moved CSHB 292(L&C) Out of Committee
03/14/12 (H) MINUTE(L&C)
03/15/12 (H) L&C RPT CS(L&C) NT 6NR
03/15/12 (H) NR: CHENAULT, SADDLER, JOHNSON, HOLMES,
MILLER, OLSON
03/21/12 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of SB 89, provided comments and responded to questions on behalf of the sponsor, Senator Coghill.

JOYCE ANDERSON, Ethics Committee Administrator
Select Committee on Legislative Ethics

Alaska State Legislature
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 89.

TERRY L. THURBON, Chief Administrative Law Judge
Office of Administrative Hearings
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 89.

JANE W. PIERSON, Staff
Representative Steve Thompson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 292 on behalf of the sponsor, Representative Thompson.

DAVID G. SHAFTEL, Attorney at Law
Anchorage, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 292.

DOUGLAS J. BLATTMACHR, President and CEO
Alaska Trust Company
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 292.

ACTION NARRATIVE

[1:12:41 PM](#)

VICE CHAIR STEVE THOMPSON called the House Judiciary Standing Committee meeting to order at [1:12] p.m. Representatives Thompson, Holmes, Keller, and Pruitt were present at the call to order. Representatives Gruenberg and Lynn arrived as the meeting was in progress. Representative Gatto was excused.

SB 89 - LEGISLATIVE ETHICS ACT

[1:13:16 PM](#)

VICE CHAIR THOMPSON announced that the first order of business would be CS FOR SENATE BILL NO. 89(JUD), "An Act clarifying that a legislator or legislative employee is allowed to accept certain compassionate gifts; allowing legislators and legislative employees who are representing persons in an

administrative hearing to contact hearing officers and attempt to influence the outcome of the hearing if they are professionals licensed in the state, and allowing legislators and legislative employees who are not professionals licensed in the state to contact hearing officers for the purpose of influencing the outcome of the hearing in certain instances; requiring the Select Committee on Legislative Ethics to maintain a public record of certain ethics disclosures made by legislators and legislative employees; prohibiting a public member of the Select Committee on Legislative Ethics from disclosing confidential information without authorization; clarifying the ethics disclosure requirements for tickets to or gifts in connection with charity events; amending disclosure deadlines under the Legislative Ethics Act; relating to requests to refrain from disclosure under the Legislative Ethics Act; relating to the applicability of certain provisions of the Legislative Ethics Act to certain legislative employees, volunteers, and interns; establishing a seat for an alternate public member on the Select Committee on Legislative Ethics; clarifying the requirements related to participation by alternate public members and alternate legislative members in the proceedings of the committee; amending the definition of 'legislative employee' in the Legislative Ethics Act; and repealing a procedure for appointment of alternate legislative members."

[Before the committee was HCS CSSB 89(STA), as amended on 3/19/12; on 3/19/12 the motion to adopt Amendment 2 was tabled.]

VICE CHAIR THOMPSON indicated that Amendment 2 - addressing Section 11's proposed AS 24.60.112, pertaining to the applicability of certain provisions of the Legislative Ethics Act to legislative interns - was before the committee, and that Amendment 2's adoption would result in legislative volunteers also being subject to certain provisions of the Legislative Ethics Act; Amendment 2, labeled 27-LS0452\0.2, Wayne, 3/14/12, read:

Page 11, line 8:

Following "**interns**":

Insert "**and volunteers**"

Following "intern":

Insert "or legislative volunteer"

Page 11, line 11, following "intern":

Insert "or legislative volunteer"

VICE CHAIR THOMPSON mentioned that forthcoming amendments in members' packets would be addressing the issue of legislative volunteers further.

[1:14:10 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, on behalf of the sponsor, Senator Coghill, concurred with Vice Chair Thompson's summarization of Amendment 2, adding that one of the aforementioned forthcoming amendments would address the length of time a legislative volunteer or legislative intern would have to be providing services before he/she would be required to take legislative ethics training.

REPRESENTATIVE KELLER [remade the] motion to adopt Amendment 2 [text provided previously].

REPRESENTATIVE HOLMES objected for the purpose of discussion, and noted that the motion had been tabled during the bill's last hearing in order to provide members time to consider the issue of length of service.

[1:16:29 PM](#)

JOYCE ANDERSON, Ethics Committee Administrator, Select Committee on Legislative Ethics, Alaska State Legislature, in response to comments and questions, explained that under existing law, neither legislative trainees - legislative interns as they would be statutorily referred to upon passage of the SB 89 - nor legislative volunteers are required to take legislative ethics training, but the Select Committee on Legislative Ethics has recommended that they be required to do so, hence Section 11's proposal to additionally reference AS 24.60.155 in AS 24.60.112. She, too, referred to the aforementioned forthcoming amendment, and indicated that under it, only those legislative interns and legislative volunteers who work at least 30 days [in one legislature] would be required to take legislative ethics training.

REPRESENTATIVE HOLMES removed her objection to the motion to adopt Amendment 2.

VICE CHAIR THOMPSON ascertained that there were no further objections, and announced that Amendment 2 was adopted.

[1:19:58 PM](#)

REPRESENTATIVE KELLER made a motion to adopt Amendment 3, labeled 27-LS0452\O.3, Wayne, 3/20/12, which read:

Page 11, line 10:

Delete "24.60.155,"

Page 13, following line 16:

Insert a new bill section to read:

"* **Sec. 15.** AS 24.60.155 is repealed and reenacted to read:

Sec. 24.60.155. Legislative ethics course. (a) A person who is a legislator, legislative employee, public member of the committee, legislative intern, or legislative volunteer shall complete a legislative ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days of the first day of the first regular session of each legislature or, if the person first takes office or begins service after the 10th day of that session, within 30 days after the person takes office or begins service. The committee may grant a person additional time to complete the course required by this section.

(b) A legislative intern or legislative volunteer who serves fewer than 30 days in one legislature is not subject to the requirements under (a) of this section."

Renumber the following bill sections accordingly.

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MS. MOSS indicated that under Amendment 3, AS 24.60.155 would be repealed and reenacted so as to provide legislative interns and legislative volunteers with the same deadlines for completing required legislative ethics training as it provides legislators, legislative employees, [and public members of the Select Committee on Legislative Ethics,] and so as to provide that legislative interns and legislative volunteers serving fewer than 30 days aggregate during a two-year legislature would not be required to take legislative ethics training. In response to a question and comments, she pointed out that under the bill as amended thus far, except for completing legislative ethics training within stipulated timeframes, all legislative interns and legislative volunteers would be required to comply with [certain provisions of] the Legislative Ethics Act from the very first day of service.

MS. ANDERSON added that a legislative intern or legislative volunteer wouldn't have to wait until he/she had served 30 days before taking legislative ethics training; pointed out that being nescient of the laws with which one must comply isn't an excuse for not complying with those laws; and acknowledged that Alaska's existing statutory disclosure requirements for legislative employees/interns/volunteers are different than they are for legislators.

REPRESENTATIVE HOLMES removed her objection.

VICE CHAIR THOMPSON, after ascertaining that there were no further objections, announced that Amendment 3 was adopted.

[1:34:05 PM](#)

REPRESENTATIVE KELLER made a motion to adopt Amendment 4, labeled 27-LS0452\0.4, Wayne, 3/20/12, which read:

Page 5, line 25, following "hearing":
Insert "whose names are public"

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE HOLMES referred to Section 2's proposed exception to the prohibition against being involved in an administrative hearing so long as one's contact is inadvertent and ex parte and its fact and substance are promptly disclosed to all parties and made part of the record, and indicated that Amendment 4 - by modifying who such contact must be disclosed to - would address a concern about how one could comply with the disclosure requirements of that provision as currently written when not all the names of the parties have been made public.

MS. MOSS concurred, and offered as an example a situation involving minor children.

The committee took an at-ease from 1:37 p.m. to 1:40 p.m.

REPRESENTATIVE KELLER, in response to comments, withdrew Amendment 4.

[1:40:41 PM](#)

REPRESENTATIVE GRUENBERG made a motion to [instead] adopt [handwritten] Conceptual Amendment 5, which read [bold

formatting applied to underlined text, all other punctuation as provided]:

page 5 lines 25-26 strike all language and insert "employee to all parties to the hearing whose names are public and to the hearing officer for transmittal to all parties whose names are not public; and the contact is made a part of the record."

[Members objected for the purpose of discussion.]

REPRESENTATIVE GRUENBERG explained that under Conceptual Amendment 5, all parties would be notified of the inadvertent ex parte contact regardless of whether their names have been made public, and confidentiality would be maintained.

VICE CHAIR THOMPSON noted that Section 2 of the bill is proposing to delete from existing AS 24.60.030(i) its last use of the words, "the contact is", and asked Representative Gruenberg whether he is intending for Conceptual Amendment 5 to instead retain that wording in Section 2's proposed paragraph (3).

REPRESENTATIVE GRUENBERG said yes, and indicated that that language would provide clarity regarding what must be made part of the record, that being the fact and substance of the inadvertent ex parte contact.

[1:43:00 PM](#)

TERRY L. THURBON, Chief Administrative Law Judge, Office of Administrative Hearings, Department of Administration (DOA), relayed that Conceptual Amendment 5 would provide for a process that would have to be undertaken anyway, as a practical matter, in situations where the names of the parties are being kept confidential. She, too, offered as examples situations involving minor children, and surmised that even without the adoption of Conceptual Amendment 5, an adjudicating authority would forward the required disclosure on to any unnamed parties.

REPRESENTATIVE GRUENBERG, in response to comments, characterized disclosure of contact by a legislator or legislative employee as "super" important - dealing with the very integrity of the process - regardless that making such disclosure might place a small burden on the legislator or legislative employee. He expressed a preference for establishing the proposed disclosure process in statute.

MS. MOSS characterized the adoption of Amendment 5 as appropriate, adding her belief that it wouldn't hurt to clarify the process in statute.

VICE CHAIR THOMPSON removed his objection to the motion, ascertained that there were no longer any other objections, and announced that Conceptual Amendment 5 was adopted.

[1:49:33 PM](#)

VICE CHAIR THOMPSON made a motion to adopt Amendment 6, which read [original punctuation provided]:

Page 5, line 30:

Delete:

"or a rate-making proceeding"

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MS. MOSS explained that Amendment 6 would address a concern raised during the bill's last hearing regarding Section 3's proposed definition of the term, "administrative hearing" - specifically its proposed stipulation that a rate-making proceeding is not an administrative hearing for purposes of AS 24.60.030, the Legislative Ethics Act's provision addressing prohibited conduct and conflicts of interest. Under Amendment 6, a rate-making proceeding would be considered an administrative hearing for purposes of AS 24.60.030, subsection (i) of which stipulates that a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the adjudicating authority. In other words, under Amendment 6, a legislator or legislative employee would be prohibited from trying to influence a rate-making proceeding via any such contact or attempted contact.

MS. THURBON, characterizing rate-making proceedings themselves as being more quasi-legislative than quasi-judicial, indicated that that's why the statute pertaining to administrative hearing officers and the office of administrative hearings excludes rate-making proceedings as being administrative hearings, just as informal conferences/reviews are also excluded - neither are classic adjudications.

REPRESENTATIVE HOLMES remarked that that argues for not adopting the Amendment 6, offering her belief that the statutory

definitions of what constitutes an administrative hearing ought to be consistent.

REPRESENTATIVE GRUENBERG suggested that Amendment 6 be withdrawn.

REPRESENTATIVE HOLMES removed her objection to the motion to adopt it.

VICE CHAIR THOMPSON withdrew Amendment 6.

[1:54:48 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 7, labeled 27-LS0452\0.5, Wayne, 3/21/12, which read:

Page 13, lines 22 - 23:

Delete "are hourly employees who"

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG referred to Section 15's proposed AS 24.60.990(a)(11) - defining the term, "legislative employee" for purposes of AS 24.60, the Legislative Ethics Act - specifically its proposal to use the term, "hourly employees" in place of the list of certain employees who are not considered to be legislative employees in that they perform functions that are only incidental to legislative functions. He opined that whether a person is an hourly employee is irrelevant for purposes of requiring him/her to comply with the provisions of AS 24.60.

MS. MOSS indicated that the change proposed by Amendment 7 is acceptable because proposed AS 24.60.990(a)(11) would continue to stipulate that the term "legislative employee" does not include individuals who perform functions that are incidental to legislative functions.

MS. ANDERSON, in response to comments, relayed that the Select Committee on Legislative Ethics could further define the term, "legislative employee", perhaps via an advisory opinion.

VICE CHAIR THOMPSON removed his objection, ascertained that there were no further objections, and announced that Amendment 7 was adopted.

[1:57:28 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 8, labeled 27-LS0452\O.6, Wayne, 3/21/12, which read:

Page 5, line 28, following "quasi-judicial hearing":
Insert ", "

Page 5, line 29, following "agency":
Insert ", that formulates issues of law and fact in terms of specific parties and specific transactions and that is conducted according to procedures that provide to parties who may be bound by the outcome adequate notice and the right to argue and present evidence;"

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG referred to Section 3's proposed definition of the term, "administrative hearing", and explained that Amendment 8 would add language [elaborating] the phrase, "quasi-judicial hearing" as that phrase is used to define the term, "administrative hearing" for purposes of AS 24.60.030. Amendment 8's proposed additional language, he relayed, was taken from the 2006 Alaska Supreme Court case, City of Saint Paul v. State Department of Natural Resources [in which the court referenced its description of the essential elements of an administrative adjudication from its 1991 case, Johnson v. Alaska State Department of Fish and Game]. Amendment 8, he added, is intended to codify the court's [description] - which he characterized as well-accepted - and clarify the term, "quasi-judicial hearing" as it's used in [proposed AS 24.60.030(j)].

MS. MOSS expressed concern that Amendment 8 would cause confusion, rather than provide clarity.

MS. THURBON declined to address that issue.

REPRESENTATIVE HOLMES and VICE CHAIR THOMPSON expressed disfavor with adopting Amendment 8.

REPRESENTATIVE GRUENBERG withdrew Amendment 8.

[2:05:12 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 9, labeled 27-LS0452\O.7, Wayne, 3/21/12, which read:

Page 1, line 2, following "gifts;":

Insert "**specifying that a Legislative Ethics Act restriction on legislative voting applies to committee hearings and floor sessions;**"

Page 5, following line 3:

Insert a new bill section to read:

"* **Sec. 2.** AS 24.60.030(g) is amended to read:

(g) Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question, in a committee hearing or during a floor session, if the legislator has an equity or ownership interest in a business, investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region.

Renumber the following bill sections accordingly.

REPRESENTATIVE PRUITT objected.

REPRESENTATIVE GRUENBERG explained that Amendment 9 - adding a new Section 2, renumbering the remaining sections, and providing for a conforming title change - would alter AS 24.60.030(g) such that it's stipulation that a legislator may not vote on certain questions would apply during both committee hearings and floor sessions. Mentioning that an advisory opinion issued by the Select Committee on Legislative Ethics indicates that existing subsection (g)'s stipulation only applies to questions voted on during floor sessions, he expressed a preference for ensuring that that same stipulation also applies to questions voted on during committee hearings.

MS. MOSS indicated that the sponsor believes that Amendment 9's proposed change ought to be addressed as a change to the Uniform Rules, which requires [passage of a concurrent resolution requiring] an affirmative two-thirds vote of each body.

REPRESENTATIVE KELLER said he thinks Amendment 9 is unnecessary.

REPRESENTATIVE GRUENBERG withdrew Amendment 9.

[2:09:19 PM](#)

REPRESENTATIVE KELLER moved to report HCS CSSB 89(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 89(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 2:10 p.m. to 2:13 p.m.

HB 292 - PRINCIP.& INC/PROBATE/UTMA/RETIREMT/ETC.

[2:13:36 PM](#)

VICE CHAIR THOMPSON announced that the final order of business would be HOUSE BILL NO. 292, "An Act relating to property exemptions for retirement plans; relating to pleadings, orders, liability, and notices under the Uniform Probate Code; relating to the Alaska Principal and Income Act; relating to the Alaska Uniform Transfers to Minors Act; relating to the disposition of human remains; relating to insurable interests for life insurance policies; relating to transfers of individual retirement plans; relating to the community property of married persons; and amending Rule 301(a), Alaska Rules of Evidence." [Before the committee was CSHB 292(L&C).]

[2:13:49 PM](#)

JANE W. PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, on behalf of the sponsor, Representative Thompson, explained that HB 292 would extend protection for retirement-plan assets to the beneficiaries of retirement plans - often the surviving spouse; would provide means of representation for minors and incapacitated persons in dealing with settlements of accounts or settlement agreements; would amend the Alaska Principal and Income Act - AS 13.38 - to conform with current Internal Revenue Service (IRS) regulations; would provide rules concerning who may control the disposition of decedents' remains; would make conforming amendments to Alaska law regarding insurable interests in order to align with changes to the federal Uniform Trust Code (UTC); would provide that individual retirement account (IRA) interest can be voluntarily transferred to a family member or trust; would update and clarify provisions of the Alaska Community Property Act - AS 34.77 - regarding ownership of community property; and would allow a beneficiary to extend the time funds would be held in [an account under the Alaska Uniform Transfers to Minors Act].

[2:16:03 PM](#)

DAVID G. SHAFTEL, Attorney at Law - after mentioning that he practices in the field of estate planning and estate and trust administration, and is a member of an informal group of trust and estate planning attorneys and trust officers that periodically recommends updates to Alaska's trust and estate laws - characterized HB 292 as having a lot of very solid and important provisions. Section 1 of CSHB 292(L&C), he explained, addresses asset protection for inherited retirement plans; federal case law extends protection from creditors to beneficiaries of retirement plans, and Section 1 would codify that protection in Alaska statute. Sections 2 and 3 provide conforming and definition changes related to Section 1. [Sections 4 and 5 together] clarify that AS 13.06.120 - the statute pertaining to pleadings, to when parties are bound by orders, and to notice - also applies to "settlements that occur outside of court."

MR. SHAFTEL explained that Sections 6-8 of CSHB 292(L&C) would update Alaska's statutes pertaining to modifying an existing trust, so that they closely track New York's recently-revised statutes, which have many built-in safeguards for beneficiaries; Alaska's statutes addressing such trust modifications were originally copied from New York's statutes, and currently 13 states have such provisions, and 3 more states are considering adding them. Sections 9-25 would update the Alaska Principal and Income Act to take advantage of new federal regulations pertaining to unitrusts, wherein a certain percentage of income is distributed annually to a current beneficiary. This update would provide trustees with more flexibility, provide a definition of unitrust income, provide for "ordering of distributions among the different types of income and principal," provide a five-year period for averaging assets, and clarify how the unitrust rules apply to retirement benefits.

[2:25:57 PM](#)

MR. SHAFTEL explained that Sections 26-28 would update the Alaska Uniform Transfers to Minors Act - AS 13.46 - so that under certain circumstances, the age of distribution of assets could be extended; this update would address situations in which the beneficiary doesn't want, or isn't ready or able to manage his/her assets upon reaching the age of 18 or 21. He proffered that allowing for such extensions would be very helpful to many families. Section 29 adds a new Chapter 75 to Title 13

addressing the disposition of human remains; the proposed new chapter is necessary because existing state law doesn't address this issue and thus disputes over a decedent's remains have resulted. The bill's proposed AS 13.75 includes, among other things, provisions addressing directions by the decedent, persons authorized to control disposition, and the form of a disposition document; the need for proposed AS 13.75 was brought forth by Alaska's funeral parlor industry.

MR. SHAFTEL indicated that Section 30 [clarifies that a person with an insurable interest may form a business entity for the purpose of purchasing, holding, and administering life insurance contracts]; Section 30's proposed changes reflect amendments made to the federal Uniform Trust Code (UTC) by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in response to a federal case, Chawla, ex rel Giesinger v. Transamerica Occidental Life Ins. Co., [in which the court found that the law lacked provision specifying that trusts and business entities could have an insurable interest in the life or body of the insured]. Section 31 adds a new section 113 to AS 34.40 clarifying that a person may voluntarily transfer or assign his/her interest in an IRA.

[2:34:38 PM](#)

MR. SHAFTEL explained that Sections 32-36 would update the Alaska Community Property Act by adding references to community property trusts; providing a new statute of limitations for beginning action based on a claim of wrongful transfer of community property; clarifying that property which both spouses agree is community property [shall be treated as such] regardless of the form of title to the property; providing a rebuttable presumption that beneficiary designations or survivor-ownerships were made or provided for with the consent of both spouses, and that beneficiary designations are effective for only the half interest that is being designated; and providing remedies and limitation periods to address improper transfers.

MR. SHAFTEL, in conclusion, stated that [HB 292's] proposed changes constitute very important improvements that will impact a large number of Alaskans.

[2:38:27 PM](#)

DOUGLAS J. BLATTMACHR, President and CEO, Alaska Trust Company, characterized HB 292 as a good piece of legislation that would

modernize Alaska's trust laws, and stated that the Alaska Trust Company strongly supports HB 292.

[2:39:22 PM](#)

REPRESENTATIVE KELLER moved to report CSHB 292(L&C) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 292(L&C) was reported from the House Judiciary Standing Committee.

[2:39:55 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:40 p.m.