

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 1, 2016

2:07 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Chair
Representative Wes Keller, Vice Chair
Representative Neal Foster
Representative Bob Lynn
Representative Charisse Millett
Representative Matt Claman
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 236

"An Act relating to marriage solemnization."

- MOVED HB 236 OUT OF COMMITTEE

CONFIRMATION HEARING(S):

BOARD OF GOVERNORS OF THE ALASKA BAR

Adam Trombley - Anchorage

-CONFIRMATION(S) ADVANCED

COMMISSION ON JUDICIAL CONDUCT

Amy Gurton Mead - Juneau

Robert Sheldon - Anchorage

Karla Taylor-Welch - Fairbanks

-CONFIRMATION(S) ADVANCED

ALASKA JUDICIAL COUNCIL

Loretta M. Bullard - Nome

-CONFIRMATION(S) ADVANCED

VIOLENT CRIMES COMPENSATION BOARD

Gerad Godfrey - Anchorage

-CONFIRMATION(S) ADVANCED

COMMITTEE ON LEGISLATIVE ETHICS

H. Conner Thomas - Nome

Gary J. Turner - Kenai

-CONFIRMATION(S) ADVANCED

HOUSE JOINT RESOLUTION NO. 29

Requesting the United States Congress to call a convention of the states to propose an amendment to the Constitution of the United States to set a limit on the number of terms that a person may be elected as a member of the United States House of Representatives and as a member of the United States Senate; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states.

- HEARD & HELD

HOUSE BILL NO. 339

"An Act relating to arson in the third degree."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 236

SHORT TITLE: RIGHT TO REFUSE TO SOLEMNIZE MARRIAGE

SPONSOR(S): REPRESENTATIVE(S) TALERICO

01/19/16	(H)	PREFILE RELEASED 1/8/16
01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	JUD
03/30/16	(H)	JUD AT 1:00 PM GRUENBERG 120
03/30/16	(H)	Scheduled but Not Heard
03/31/16	(H)	JUD AT 1:00 PM GRUENBERG 120
03/31/16	(H)	-- Will be Continued from 3/30/16 --
04/01/16	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HJR 29

SHORT TITLE: CALL FED. CONSTITUTIONAL CONV: TERM LIMITS

SPONSOR(S): REPRESENTATIVE(S) KELLER

01/27/16 (H) READ THE FIRST TIME - REFERRALS
01/27/16 (H) JUD
03/25/16 (H) JUD AT 1:00 PM GRUENBERG 120
03/25/16 (H) -- MEETING CANCELED --
04/01/16 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

JOSHUA DECKER, Executive Director
American Civil Liberties Union of Alaska (ACLU)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 236, testified regarding balance.

PAMELA SAMASH
Nenana, Alaska

POSITION STATEMENT: During the hearing of HB 236, offered support.

JOSHUA BANKS, Staff
Representative Dave Talerico
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 236, answered questions.

ADAM TROMBLEY
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Governors of the Alaska State Bar.

LORETTA BULLARD
Nome, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Judicial Council.

NICK TOMBULETES, Executive Director
U.S. Term Limits
Melburn, Florida

POSITION STATEMENT: During the hearing of HJR 29 discussed term limits for the U.S. Congress.

ACTION NARRATIVE

[2:07:56 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 2:07 p.m. Representatives Keller, Lynn, Claman, Kreiss-Tomkins, and LeDoux were present at the call to order. Representatives Foster and Millett arrived as the meeting was in progress.

HB 236-RIGHT TO REFUSE TO SOLEMNIZE MARRIAGE

[2:08:46 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 236, "An Act relating to marriage solemnization."

CHAIR LEDOUX opened public testimony.

[2:09:11 PM](#)

JOSHUA DECKER, Executive Director, American Civil Liberties Union of Alaska (ACLU), said that the bill offers something good as well as inadvertently dramatically changes the balance between religious freedom and sex non-discrimination laws that have existed in the country for 62 years. On the frontend, he advised, the ACLU strongly supports the First Amendment right of clergy to choose to solemnize or not solemnize marriages comporting with their faith, and that the ACLU's letter (directed to the committee) cited examples of the ACLU going to court to vindicate one's practice of religion which it averages approximately one lawsuit per month. He related that concerns of the ACLU are that the bill disturbs a long-standing balance point between the right of individuals to pray and practice their faith with the right of the public to be treated fairly and free from discrimination in public spaces. He explained that since the original Civil Rights Act, society struck a balance between private spaces and public spaces and when organizations open themselves up to the public, it has to treat all comers fairly, and HB 236 undoes this carefully constructed balance. He commented that there is no less of a defender of freedom of religion than United States Supreme Court Justice Antonin Scalia, who 26 years ago wrote about this balance. Mr. Decker paraphrased the following, "we want to ensure that laws of general applicability that apply to everyone equally should in fact apply to everyone equally -- and that we should not lose this equilibrium point away from religious organizations." Mr. Decker then referred to his letter pages 4-5, that its suggestions would allow the bill to "pass muster," in clarifying the right of clergy and religious organizations to practice

their faith when it is not open to the public, and when they are open to the public they should treat all comers equally.

2:13:00 PM

REPRESENTATIVE LYNN requested his definition of a church being "open to the public." Obviously, he offered people are members of a church and it is open to membership, and he could not think of any churches that wouldn't welcome a visitor.

2:13:45 PM

MR. DECKER, in response to Representative Lynn, said that by open to the public, the American Civil Liberties Union of Alaska (ACLU) means open to the public in the secular space. Churches open to anyone who would like to participate in the religious service are exempt from non-discrimination laws in that capacity. He referred to yesterday's testimony regarding the Shrine of St. Therese in Juneau wherein it rents out event space open to the public for secular purposes. For example, a Lutheran couple renting out part of the banquet hall space for a secular wedding reception. He explained that that is the ACLU's definition of "open to the public," such that being open to all comers in the secular non-religious sphere.

2:14:53 PM

CHAIR LEDOUX referred to open to the public and offered a scenario of a synagogue with an area it rents out to the public for various functions, and the Klu Klux Klan or the American Nazi Party want to have a celebration of Nazi-ism in that event space of the Jewish community. She asked whether current law forces the Jewish community to rent to the Klu Klux Klan or the Nazi party.

2:16:19 PM

MR. DECKER answered no. In the event a synagogue or any institution is opening up space to the public they are allowed to turn away members of the Klu Klux Klan or members of the American Nazi Party because the nation, as a society, has not said that membership in the Klu Klux Klan or American Nazi Party falls under what the law calls a "protected class." He explained, there are certain categories the law has carved out because society said "when one is open to the public, one should not treat people on the basis of race, sex, national origin, or physical disability, differently." Therefore, he said, it would

be within their rights to refuse to rent that space to a member of the American Nazi Party or the Klu Klux Klan.

CHAIR LEDOUX asked whether religion is a protected category.

MR. DECKER answered that religion is a protected category and one is not allowed ...

[2:18:04 PM](#)

CHAIR LEDOUX surmised that in other words, the Catholic Church would have to rent out space under current law to a group that identified themselves as witches.

[2:18:23 PM](#)

MR. DECKER answered that it would depend upon how that church treated the space, and it would be perfectly fine if the Catholic Church made the decision on the frontend that it will only rent that space out to Catholics. The Catholic Church is allowed to treat its spaces as private; however, if the church says on certain days it will rent the to the Girl Scouts of America and the Senior Citizens group, then the church made the decision to treat that particular space as part of the public. Therefore, he said, the church would have to be open to the public. He added that churches have the ability to decide whether it wants to be open to the public because the law gives a church complete freedom to restrict the uses of that space in accordance with its faith. Although, he reiterated, for the past 62 years when religious entities have decided to open space to the public on the frontend and be open to all comers, they must in fact be open to all comers.

[2:19:36 PM](#)

CHAIR LEDOUX asked "including witches?"

MR. DECKER responded that if, in the hypothetical, a church has decided to open the space to the public then it would have to be open to the public and it could not discriminate on the basis of religions in the same it way it cannot discriminate on the basis of race, national origin. He explained that it is in the same way employers cannot tell an employee they are fired based upon their religion, and those same protected classes apply to spaces of public accommodation. Although, in the event the church desires to control who is able to use their spaces, "they should

make the eminently reasonable choice to keep those spaces public and not, in fact, open to all comers," he said.

[2:20:26 PM](#)

CHAIR LEDOUX asked whether he was saying that the bill in its current form is unconstitutional, or rather that he disagrees with the policy.

[2:20:52 PM](#)

MR. DECKER extended there are no constitutional cases on point, but if this bill is passed in its current form it would dramatically rewrite the balance the country and the state struck for 62 years ...

CHAIR LEDOUX interjected "in your opinion."

[2:21:15 PM](#)

MR. DECKER explained that it is in the opinions of the United States Supreme Court and the Alaska Supreme Court. He offered that their letter cites both the U.S. Supreme Court Justice Scalia's case of Employment Div., Dept. of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990); and the Alaska Supreme Court under Swanner v. Anchorage Equal Rights Cornmn., 874 P.2d 274 (Alaska 1994). He offered that both clearly enunciate the principle of the equilibrium point between the public's freedom to be free from discrimination in public spaces, and religion's freedom to exercise its religion and define it in private spaces.

[2:22:00 PM](#)

REPRESENTATIVE KELLER noted that under AS 18.80, [State Commission For Human Rights], if a church makes a property available for leasing for whatever purpose, potentially there is a problem because someone could allege that the church is discriminating simply for denying access to the facility, and this bill moves toward clarifying that issue.

MR. DECKER related that he did not understand his question.

REPRESENTATIVE KELLER surmised that what Mr. Decker is saying, under the recently enacted Alaska law, if a piece of property is not leased, the owner becomes vulnerable due to denial for

access under the new "Human Rights Act." He asked whether he was correct, that is what the law tries to clarify.

MR. DECKER advised that as the ACLU reads the bill in its current form, it is trying to carve out, from existing non-discrimination law, places of public accommodation that religious organizations own and are renting out to the public for wedding receptions and celebrations of marriages. He apologized if he was not entirely following Representative Keller's question.

MR. DECKER offered that the concern animating this bill in many ways is a solution in search of a problem. Non-discrimination protections are not new in Alaska or the United States. In Anchorage, for example, in terms of protections of individuals who are gay and transgender, Anchorage has had these protections for the past six months, and neither for the past 62 years, or in the past six months, the sky has not fallen, he said. The ACLU is unaware of any churches that have been unable to practice their religion as their faith teaches it on the basis of civil rights, non-discrimination laws. He pointed out that because this is a solution in search of a problem in a bill that dramatically rewrites a balance the nation has had for over one-half century. It is for these reasons the ACLU made suggestions in its letter to reiterate the constitutional right of churches to practice their faith as they see fit, as well as to clarify that this bill should not undertake such a dramatic change.

[2:25:17 PM](#)

REPRESENTATIVE KELLER asked Mr. Decker to abandon that question for now and referred to the balance Mr. Decker said has existed for 50 years, and asked whether he is using case law to form his opinion, and asked for a list.

MR. DECKER reiterated that the ACLU's letter cites two cases, one was authored by U.S. Supreme Court Justice Scalia in an eight to one decision, Employment Div., Dept. of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990), and Swanner v. Anchorage Equal Rights Cornmn., 874 P.2d 274 (Alaska 1994)].

[2:26:24 PM](#)

REPRESENTATIVE KELLER referred to Mr. Decker's statement that the balance was to protect the rights of people that were in that public space. He requested an illustration because it is a

balance he had never considered, and asked what the balance was between what and what.

MR. DECKER explained that, as a first principle, the nation as a society decided, beginning 1964, that when a place is open to all comers they cannot turn people away because of their race, sex, physical disability, national origin or religion. Both the United States Supreme Court and Alaska Supreme Court, he pointed out, decided that when there are laws of general applicability that apply to everyone equally, the balance that society struck is that when religious organizations want to fully practice their faith and shield out a space that is not open to all comers, it should keep that space private. Although, he said, when the decision is made on the frontend to open up a banquet hall, it should be available to all comers. He reiterated that the balance has worked well for the public as well as the churches for 62 years.

[2:29:30 PM](#)

REPRESENTATIVE CLAMAN referred to a question he had asked Bishop Edward Burns, and asked whether the Catholic Church would rent the Shrine of St. Therese to a Lutheran couple who wanted their wedding reception there, and a Catholic priest had not performed the ceremony. He said he was advised that unless the Lutheran couple converted just before their wedding they couldn't get the priest to marry them.

REPRESENTATIVE CLAMAN asked, in the context of the public accommodations questions raised in the ACLU's letter and proposed amendments, Mr. Decker's perspective about the Catholic Church if it is renting to the Lutheran couple for a reception after being married in the Lutheran Church. He further asked whether that means they are now becoming public for purposes of renting to a gay couple that wants to have their wedding reception at the Shrine of St. Terese.

MR. DECKER responded that if the Catholic Church has taken the position it will not marry this couple because they are Lutheran that is certainly within its rights under the First Amendment. He reiterated that separate from the religious ceremony, the church made the decision that it is willing to rent to these individuals, irrespective of the fact they are Lutheran and not Catholic, then its decision to rent the secular reception space to that couple makes it a place of public accommodation.

[2:31:56 PM](#)

REPRESENTATIVE CLAMAN surmised that on the one hand it is a solution in search of a problem, and on the other hand even if the legislature passes the current bill, a potential lawsuit is lurking for the Catholic Church if it is renting the Shrine of St. Therese to a non-member of the church for a reception.

[2:32:26 PM](#)

MR. DECKER reiterated that if the Catholic Church decided to rent part of the Shrine of St. Therese for secular purposes, such as secular wedding receptions, then it is open to all comers. A problem would arise if the Catholic Church then decided to not rent that space to someone of the protected class. In the event the Catholic Church is concerned about that, and it does want to maintain its ability to choose to rent or not rent that space on the basis of protected class, the wiser course of action would be for the Catholic Church to decide to not make that space open to the public and keep it private and available to Catholic individuals.

[2:33:42 PM](#)

REPRESENTATIVE CLAMAN surmised that from Mr. Decker's perspective, even if the bill is passed as written without either of his proposed amendments, the statute wouldn't protect the church and he would still have the same public accommodation arguments regardless of what the statute says.

MR. DECKER agreed, and he said, "Certainly under federal non-discrimination law."

REPRESENTATIVE CLAMAN referred to Mr. Decker's two suggested amendments and asked how they solve the problems he raised.

MR. DECKER pointed to the robust constitutional freedoms of clergy and religious organizations in that they do not have to solemnize marriages if their faith teaches that a certain type of marriage is outside the boundary of that faith. He added, that freedom has existed under the First Amendment for over 200 years. Mr. Decker continued that the second proposed amendment clarifies this public/private distinction and, he reiterated, if churches want to continue unfettered discretion, the wiser course of action is to designate spaces as private, thereby, making it unavailable to all comers and the non-discrimination laws do not apply, such as private places, private clubs, private organizations and religious organizations. He

reiterated that once the decision is made to be open to the public, it must be open to the public. He explained that the two amendments focus on the constitutional right to choose which marriages to solemnize, and clarifies that it is in private spaces that they have unfettered discretion about whom to admit and serve.

[2:36:27 PM](#)

REPRESENTATIVE MILLETT offered a scenario of the Catholic Church deciding to make the Shrine of St. Therese a private club, and a person submitted an application, met all of the criteria of that club, and was granted access for a fee, she asked whether that would be acceptable.

MR. DECKER responded that the Catholic Church wouldn't need to go that far because it is a religious organization and it could simply choose to rent the space only to Catholic individuals and there would be no administrative hoops to go through.

CHAIR LEDOUX asked whether the Catholic Church could decide to rent the space only to Christians, such as groups similar to Catholicism.

MR. DECKER answered that in both federal and state constitutional law there is a well-established principle that courts cannot interrogate the nuances of religious belief; therefore, if the Catholic Church takes the position that consistent with their religious faith, they only want to make the space available to other individuals who believe that Jesus is the Messiah they would have a strong argument that the space is in fact private because the test in terms of public accommodation is whether it is open to all comers. In the event it is not open to all comers and if the reason the church decided not to make it open to all comers is grounded in its religious belief, it would have a strong argument that the space is private and not public.

CHAIR LEDOUX asked why the church couldn't set out that one of the tenets in the church is that it will rent the space to all people who believe that marriage is between one man and one woman.

[2:39:41 PM](#)

MR. DECKER replied that he does not want to get to the nuances of

CHAIR LEDOUX expressed, that is exactly what the committee is getting into, the nuances.

[2:39:57 PM](#)

MR. DECKER related that he does not want to get into the nuances of Catholic doctrine because he is not an expert. The test in terms of public accommodation is whether it is open to all comers; therefore, if the Shrine of St. Therese is open to all comers to rent for a secular reception space, it needs to be open to all comers. The church can decide to open it up to the private members of its community in which case ...

CHAIR LEDOUX interjected that she did not believe Mr. Decker was answering her question.

CHAIR LEDOUX restated her question and asked why the church couldn't simply say that it would rent the space out to all people who believe that marriage is between one man and one woman. She pointed out that Mr. Decker said that the church could only rent to people who accepted Jesus as the Messiah, so why couldn't the church say it would only rent to people who believe that marriage is between one man and one woman. She expressed that that is a fundamental doctrine of the faith, and then asked whether the Supreme Court actually said that sexual orientation is a protected class.

MR. DECKER responded no, the United States Supreme Court has ...

CHAIR LEDOUX said, thank you.

[2:42:08 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether Mr. Decker is aware of an instance in Alaska where this legislation would enable an organization that wants to change its policies but thus far has declined due to fear of exposing itself to liability.

MR. DECKER replied that he was not aware of any organization that, but for the fear of liability, has been inhibited from changing its policies. As the ACLU sees it, there are no problems out there that this bill would solve, he said

[2:43:29 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Mr. Decker's statement that the United States Supreme Court has not defined sexual orientation as a protected class, and commented that the basic discussion here is gay marriages. With regard to the protected class, where does a gay couple, that is getting married, fall into this area of non-discrimination given that gay couples and sexual orientation has not been defined as a protected class.

MR. DECKER reiterated that no couple, whether same sex or opposite sex, has a constitutional right to have a particular religious individual marry them, and there is nothing in Alaska law or nationwide that obligates any religious person or clergy to officiate any wedding. He explained that the intersection between a same sex couple wishing to celebrate their marriage in a secular wedding reception would interact with this law in communities such as Anchorage, which decided to include sexual orientation as part of its existing non-discrimination law. That couple, if a space is open to the public, has the same rights as everyone else to use the space, he said.

[2:45:47 PM](#)

REPRESENTATIVE KREISS-TOMKINS surmised there isn't a protected class on the federal or state level, but this law would trump the definition of protected classes on a municipal level in communities, such as Anchorage, that have defined sexual orientation as a protected class. Therefore, protections that exist for this protected class, on a municipal level, would be trumped by this law, he asked.

MR. DECKER said that Representative Kreiss-Tomkins was entirely accurate as it would trump municipal protections, and it is also accurate to say that both federally and statewide, sexual orientation is not a protected class.

REPRESENTATIVE KREISS-TOMKINS asked whether sexual orientation is a protected class in the City and Borough of Juneau.

MR. DECKER advised sexual orientation is not a protected class in the City and Borough of Juneau.

REPRESENTATIVE KREISS-TOMKINS asked whether it is accurate to say that the Catholic Church in Juneau could decline to rent out the Shrine of St. Therese to a gay couple that is having a secular non-religious celebration because gay couples and sexual orientation is not a protected class.

MR. DECKER responded that Representative Kreiss-Tomkins was correct in that sexual orientation is not a protected class in the City and Borough of Juneau, the Catholic Church has the legal ability to choose to rent or not rent space to individuals based upon their sexual orientation.

[2:47:37 PM](#)

PAMELA SAMASH, asked whether she could ask questions of the committee

CHAIR LEDOUX explained that testimony does not include questions.

MS. SAMASH offered testimony, as follows:

Alrighty, thank you for your time and hearing our testimonies today. Please vote yes on HB 236. I believe this bill should pass because we as Christians are being targeted and singled out and we need protection. As a Christian myself, I cannot participate in certain clubs or activities contradicting to the Bible. And that's my right as an American citizen to believe and serve any god I feel is best for me. The Christian church, like me, cannot support or participate in those organizations or activities against the Bible either. It's important that we have a law that keeps us from persecution and from those who feel offended if we deny access to our buildings or services for anti-Christian events. The church's financial status is generally fragile and that's because we are trying to help people in our communities that have needs. Like those with addictions, or single moms, homeless people, orphans in other countries, et cetra. One lawsuit can shut down not only the church but all of the services they provide to those in dire need. This is America and it makes me really sad that we need to testify to protect our own Christian rights.

I'm asking, please, that you vote yes on HB 236 and protect our religious freedoms. And since I can't ask you a question, all I can respond to my interpretation of the bill is when you were asking about ... does people that believe in Jesus or believe in sex of one man and one woman only allowed to use the church, you know, like facility. And I thought that was a really

good question and I can't -- I'm not his lawyer and I'm not Talerico, so if I'm messing this up, forgive me. I feel like the answer to that question isn't like everybody that walks through the door has to take a quiz on if they believe the doctrine of church as much as does the activity that they're participating in support or contradict the doctrine of the church. In other words, if you have 10 people in there that want to participate in some homosexual event and the doctrine says that homosexuality is wrong, you could ask those 10 people and maybe 8 out of 10 of them would say, we believe Jesus is the Son of God. But, you know, the Bible says, and I'm not calling homosexuals' demons okay, not sayin that. But the Bible says even demons believe Jesus Christ is the Son of God. Believing Jesus Christ is the Son of God isn't -- is -- is not -- is wonderful, but the thing is, does the activity support or go against the Christian church's doctrine. That's, to me, the real point, you know. So, I just wanna clarify that that's my interpretation of what it means and it would be sad to see a church, you know, that has strong religious beliefs in certain areas, not just homosexuality but any area, you know. Like you said Klu Klux Kan somebody mentioned, you know. Nobody believes in hurting somebody just cause of the color of their skin, that's ridiculous, you know. And fer sure we wouldn't -- I know my church wouldn't want the Klu Klux Klan to do a ceremony because they're hurting people no matter of their protected class or whatever, by law or not, because they go against our doctrine of love for each other and killing people is not love. So, that's what I wanted to share with you. Thank you.

[2:53:25 PM](#)

REPRESENTATIVE KREISS-TOMKIN offered a scenario of the NWACP having a hall and it decided to open that hall in a non-private manner beyond the functions of the NWACP chapter and rent it to all comers. He asked whether the Klu Klux Klan could rent that space in the category of "all comers" and would they have grounds to do so and appeal for a non-discrimination in asking to rent that facility.

MR. DECKER reiterated his previous testimony that the Klu Klux Klan is not a protected class and if the NWACP does have a space

open to all comers it is still able to turn people away as long as that decision is not based upon a protected class. The NWACP is well within its rights to refuse to rent the space, he said.

[2:55:08 PM](#)

CHAIR LEDOUX offered a scenario of a religion and one of its tenets was anti-miscegenation law, and she asked whether the NWACP must rent its space to an organization with a tenet that white people can't marry black people.

MR. DECKER related that religion is a protected class and for over one-half century the nation decided that public spaces cannot decline to serve people simply based on the customer's religion. He noted that the hypothetical is interesting, and there may be a problem if the NWACP's decision not to rent a public space, otherwise was made available to all comers, simply based on the religion of a specific applicant. Although, this hypothetical is unlikely to occur, but if it does the safer course of action for the NWACP would be to decide it will not rent the space to all comers and keep it private, he said.

CHAIR LEDOUX, after ascertaining no one wished to testify, closed public testimony.

[2:58:15 PM](#)

JOSHUA BANKS, Staff, Representative Dave Talerico, Alaska State Legislature, advised he is available.

REPRESENTATIVE KREISS-TOMKINS asked the names of local governments in Alaska that have defined sexual orientation as a protected class.

MR. DECKER responded he was unaware of all of the communities that have labeled sexual orientation as a protected class, but this legislation is not targeted toward same sex marriages. Although, the U.S. Supreme Court's ruling on same sex marriage was the start of laws similar to HB 236, it is not identical. The intention of the bill is not to target same sex marriage, but to allow any religious organization to officiate weddings based upon their religious views, he said.

[3:00:21 PM](#)

REPRESENTATIVE KREISS-TOMKINS offered that he was unsure whether the solemnization of marriage is the crux here, but everyone

including the ACLU agreed that that is a "cumbiyah" point. He opined that the crux of the differing perspectives is the accommodation of a facility that could be related to the solemnization formation or celebration of a wedding reception. He asked, if this is not related to same sex marriage, what class, besides sexual orientation and same sex marriages, is out there that is creating a quandary for religious institutions.

REPRESENTATIVE KREISS-TOMKINS further asked whether there is an institution in Anchorage that has definitively changed its practices, such that instead of opening its facilities to the public and all comers, has made itself private to avoid this quandary in response to the Anchorage Assembly defining sexual orientation as a protected class.

[3:01:51 PM](#)

MR. BANKS, in response to the first question, advised that to his knowledge in the State of Alaska there are not any instances of a pastor or any religious organization being forced to officiate a wedding or have a reception at their church facility. Although, he pointed out, Representative Talerico received concerns from pastors and clergy that the U.S. Supreme Court ruling would potentially put them in a position where they would have to refuse to officiate the wedding or refuse to allow a reception at their facility which would possibly lead to civil litigation.

[3:03:00 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked for clarification that these are Anchorage clergy that currently make space available to rent to the public and all comers.

MR. BANKS clarified that the pastors are constituents and live within District 6. He added that they spoke directly to Representative Talerico and he was unaware of their locations and whether they do open their facilities to the public, but he would follow up on the question.

[3:03:42 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether any community, within District 6, has defined sexual orientation as a protected class; therefore, creating this problem for religious institutions.

MR. BANKS opined that he did not believe so.

[3:04:13 PM](#)

REPRESENTATIVE CLAMAN referred to the two proposed amendments within the letter from the American Civil Liberties Union of Alaska and asked whether he had reviewed those amendments with Representative Talerico prior to this hearing.

MR. BANKS responded that this bill was pre-filed in January and the sponsor did not reach out to the ACLU of Alaska regarding this. He added that outside of the quote from Mr. Decker in the Alaska Dispatch News, the sponsor's office has not heard any comments or had any contacts from the ACLU regarding this bill and this is completely new to the sponsor.

REPRESENTATIVE CLAMAN restated his question and asked whether Mr. Banks had an opportunity to show the sponsor this letter prior to this hearing.

MR. BANKS responded, no.

[3:05:11 PM](#)

REPRESENTATIVE MILLETT commented that Fundamentalist Mormons believe in polygamy and performing a marriage is something a religious organization wouldn't have to perform, as an example of something outside of same sex marriage, that doesn't fit into the doctrine of the Catholic Church.

REPRESENTATIVE CLAMAN noted that before passing this bill out he would be curious to see what Representative Talerico thinks of either of the two proposed amendments.

[3:06:12 PM](#)

CHAIR LEDOUX advised she had reviewed the amendments and that that issue will not hold up the bill.

REPRESENTATIVE LYNN related that this is a good bill and he supports it because it is common sense.

[3:06:30 PM](#)

REPRESENTATIVE KELLER moved to report HB 236, labeled 29-LS1290\A out of committee with individual recommendations and

the accompanying fiscal notes. There being no objection, HB 236 passed from the House Judiciary Standing Committee.

[3:06:58 PM](#)

The committee took an at-ease from 3:06 p.m., to 3:10 p.m.

CONFIRMATION HEARING(S):
BOARD OF GOVERNORS OF THE ALASKA BAR
COMMISSION ON JUDICIAL CONDUCT
ALASKA JUDICIAL COUNCIL
VIOLENT CRIMES COMPENSATION BOARD
COMMITTEE ON LEGISLATIVE ETHICS

[3:10:13 PM](#)

CHAIR LEDOUX announced that the next order of business would be the confirmation hearings on various boards, commissions, and committees for Governor Bill Walker's eight appointees.

[3:10:54 PM](#)

CHAIR LEDOUX remarked that the committee members have had an opportunity to review resumes from all of the appointees as follows: Board of Governors of the Alaska Bar, Adam Trombley; Commission on Judicial Conduct, Karla Taylor-Welch, Amy Gurton Mead, and Robert Sheldon; Alaska Judicial Council, Loretta M. Bullard; Violent Crimes Compensation Board, Gerad Godfrey; and Committee on Legislative Ethics, H. Connor Thomas and Gary J. Turner. She advised that the following appointees are online to testify and/or answer questions: Adam Trombley, Karla Taylor-Welch, Amy Gurton Mead, Loretta M. Bullard, Robert Sheldon, Gerad Godfrey, and H. Connor Thomas.

REPRESENTATIVE CLAMAN noted he would like to ask Adam Trombley a question.

[3:12:03 PM](#)

ADAM TROMBLEY, said he was available.

REPRESENTATIVE CLAMAN asked how he has found being a public member on the Board of Governor of the Alaska State Bar because it appears he is interested enough to continue serving on the board.

MR. TROMBLEY responded that he has enjoyed the disciplinary component and he is impressed with how hard attorneys are on each other for those who break bar rules, and how stringent they hold them to it. He described that as the best part and, speaking as one of the public members, there are discussions about changes to the bar rules, or how to address an issue, or what to pass on to the Alaska Supreme Court because the Board of Governor of the Alaska State Bar does a lot of the leg work for the Alaska Supreme Court. He said he tries to bring it back to how a non-attorney would view what the board is doing which is how he views his role.

[3:13:47 PM](#)

REPRESENTATIVE CLAMAN related there are three public members and they are outnumbered by the lawyers, and he asked whether he ever feels his concerns as a public member are not weighed carefully by the entire board.

MR. TROMBLEY replied no, he has never felt that way because the attorneys are always judicious about listening to the public members' concerns.

[3:14:21 PM](#)

REPRESENTATIVE FOSTER thanked Conner Thomas for his continued service on the Committee on Legislative Ethics and stated that he believes the House Judiciary Standing Committee is familiar with Mr. Thomas. He then turned to Loretta Bullard who would be a new member on the Alaska Judicial Council, and said he has known her for many years. He related he is excited for someone to bring a rural perspective and asked her to speak to her rural experience.

[3:15:18 PM](#)

LORETTA BULLARD advised that she lives in Nome, was raised in Alaska, and retired four years ago as president of a regional non-profit for 21 years. She advised she was appointed to the Alaska Judicial Council in October, 2015, and has attended meetings since that time. During that time they have considered applicants for the Superior Court in Anchorage and also applicants for the Alaska Supreme Court which is a very good process.

REPRESENTATIVE FOSTER pointed out that Ms. Bullard has been active with many different organizations, such as the regional

Native non-profit in Nome, AFN, and other organizations both Native and non-Native throughout the state, and that she is a fair and smart person.

[3:17:27 PM](#)

CHAIR LEDOUX asked whether any of the appointees would like to offer testimony themselves, there being no response she opened public testimony. After ascertaining no one wished to testify closed public testimony.

[3:18:16 PM](#)

REPRESENTATIVE KELLER moved to advance the confirmations of the [eight] appointees referred to the House Judiciary Standing Committee to a joint session of the House of Representatives and Senate with the understanding that the committee's vote is not approval or disapproval. It is a vote to move the names forward to the full body as follows: Adam Trombley to the Board of Governors of the Alaska State Bar; Amy Gurton Mead, Robert Sheldon, and Karla Taylor-Welch to the Commission on Judicial Conduct; Loretta M. Bullard to the Alaska Judicial Council; Gerad Godfrey to the Violent Crimes Compensation Board; H. Conner Thomas, and Gary J. Turner to the Committee on Legislative Ethics.

CHAIR LEDOUX announced that there being no objection and in accordance with AS 24.60.130 the House Judiciary Standing Committee has reviewed the qualifications of the governor's appointees and recommends that the names be forwarded to the joint session for consideration. She advised that moving these names forward does not reflect the intent of any member to vote either for or against these individuals during any further sessions for the purposes of ratification of their appointment.

[3:19:53 PM](#)

The committee took an at-ease from 3:19 p.m., to 3:19 p.m.

HJR 29-CALL FED. CONSTITUTIONAL CONV: TERM LIMITS

[3:19:58 PM](#)

CHAIR LEDOUX announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 29, Requesting the United States Congress to call a convention of the states to propose an amendment to the Constitution of the United States to set a

limit on the number of terms that a person may be elected as a member of the United States House of Representatives and as a member of the United States Senate; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states.

3:24:20 PM

REPRESENTATIVE KELLER presented HJR 29 and advised it is a resolution that makes an appeal to Congress to call for a convention for an amendment to have term limits on the United States Senate and United State House of Representatives. Representative Keller referred to the Constitution of the United States, Article V, which read as follows:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

REPRESENTATIVE KELLER commented that Article V is part of the original Constitution of the United States, and the founders, foreseeing a time there may be a need for adjustments, included Article V, and provided two ways to make an amendment to change the constitution. One of the methods is that the U.S. Congress must have a two-thirds vote and, he opined, that 33 of those have been put forward. He then referred HJR 29, and advised it is the second Article V process in which to have a convention of the states. Two-thirds of the states make an application to the U.S. Congress to have a convention, Congress calls the convention, and three-fourths of the states must ratify. He noted that it is sometimes forgotten that is a high bar because only 27 of the 33 offered by Congress were ratified by three-fourths of the states. He pointed to the growing interest to

get two-thirds of the states to put forward language to Congress, and advised the U.S. Term Limits group is coordinating this effort.

[3:27:45 PM](#)

NICK TOMBULETES, Executive Director, U.S. Term Limits, said that U.S. Term Limits is the only full-time organization dedicated to placing term limits on the U.S. Congress. He offered testimony as follows:

In the 1990s our organization helped citizens in 23 states put term limits on their members of Congress using a ballot measures, including right here in Alaska, and it passed in 23 states at that point it was just shy of 50 percent of the entire Congress that would have had a term limit. And it looked like it was going to be inevitable that that would impel the Congress itself to propose an amendment that would apply to everyone. But, it was not to be because the Supreme Court stepped in in the decision U.S. Term Limits v. Thornton of which our organization was a part, and ruled that the list of qualifications for office to the Congress in the Constitution is exhaustive. That the states cannot utilize the ballot measure, state statutes, or state constitutional amendments to add onto it. So, while they foreclosed on that possibility, I guess you could say the silver lining was that they opened up the possibility to get this done using a constitutional amendment. And so, the U.S. Constitution says, as Representative Keller mentioned, that upon application from two-thirds of the states, so that would be 34 at this point, Congress shall call a convention for the purpose of proposing amendments. And so, the convention that Alaska would call for in this resolution is exclusive to the subject of Congressional term limits, and it would not go active until 33 other states have passed similar or the same resolution. So far my home state of Florida was the first to pass the resolution back in February.

Now, we think that HJR 29 should be adopted because there is a very real concern that members of Congress are removed from their constituents and they rely too heavily on incumbency to deflect challenges at the ballot box. And the latest average from

"RealClearPolitics", Congress had a 13 percent approval rating but a 95 percent re-election rating for the incumbents. And I think that evidence suggests that you have a broken system. There was also a study done by Princeton and Northwestern Universities in 2014 where they analyzed over 2,000 public opinion surveys on almost all national issues. And they compared those public opinions to the policies that became law from Congress and the researchers concluded that the preferences of the average American have a minimal near zero, statistically non-significant impact upon Congressional policy. But when they looked at, you know, the perceptions and views of the upper 10 percent of voters in the country, the ones that were funding the packs and the re-elections of the Congressmen, there was a correlation. So, I think most people feel disconnected from Congress in this way, they feel that their voices are not being heard at the federal level. And that's part of what term limits are intended to address.

Congress was not intended to be a -- Congress was intended to be citizen legislature whose members were very close to their constituents and would come home to spend time around them, much in the way you all do it here in Alaska. But, the mentality was lost as the population grew, the size and the complexity of government grew and so did the needs that it had to address. You know, Alaska is noted for having a small state legislature, but in terms of the actual representation ratio and the size of the districts, you know how powerful each individual voters and constituent of yours is, you're one of the best in the country. And when you compare that to Congress with an average House district size of 700,000 people, you are looking at great difficulty in holding members of Congress accountable. And, that's when special interests tend to step into the vacuum and really decide who can get elected because the cost of unseating a U.S. House incumbent is pegged at \$2.5 million by the Foundation for Government Accountability. And so, we view that as sort of a barrier to entry for the average person, you know, the farmer, the school teacher, the union member who wants to get elected and have their voice heard in Washington.

So, term limits would reduce those barriers to entry and it's important to note the amendment is not aimed at any one member of Congress, nor is it guaranteed to affect the current membership. In fact, at a convention the delegates that you all select, and that the other states select, would be in charge of deciding how long and what the appropriate term limit is, whether the current members are grandfathered in, whether it is prospective or retro-active. That's not something that comes mandated from this resolution.

And the most important thing, I think, is that this would really honor the views of a vast majority of Alaskans. In 1994 the vote from the people of Alaska for Congressional term limits was 63 percent in favor of a statute limiting Congressional terms and that's actually still on the books today in Title 15, Chapter 30 of Alaska Statutes. Of course, this was nullified by the Supreme Court in the Thornton case, but that's what left the door open to do it with constitutional amendments. And then, recent polling done by McLaughlin & Associates, which is a respected polling firm, found that 78 percent of Alaskans today now support an Article V Amendment Convention to put term limits on Congress. And you can slice that every age, race, gender, party demographic group, and they're all equally supportive of it.

So, you know, in closing as the Vice-Chair said, the history of Article V really makes it the perfect tool for the states to use at a time like this. It was written into the Constitution specifically so that the states could bypass Congress and obtain amendments that might not be in Congress's best interests. And there's never been a better moment for the states to take action and kind of re-establish this balance with Congress. Give Congress back to the American people who are obviously disillusioned by the performance. So thank you for your time and I'll be happy to answer any questions you have.

[3:34:37 PM](#)

REPRESENTATIVE KELLER asked why term limits were not included in the original Constitution, the provision for amendment is there but no term limits.

MR. TOMBULETES explained that the founding fathers were divided on the issue of term limits and obviously they had greater concerns of preserving the union at that point and making sure there was a new constitution that could endure. The issue did come up and several of the founders were in favor of a term limit. He said, it was Benjamin Franklin who wrote a term limit into the Constitution of Pennsylvania, Thomas Jefferson was not at the Philadelphia convention but upon seeing it for the first time after coming back from France, he noted that the absence of rotation in office which was a term limit would end in abuse for the U.S. Senate and for the President of the United States. He opined that a reason why it wasn't included was that they didn't think it would be necessary because the average tenure in Congress did not rise above two terms until the beginning of the Twentieth Century. There was rapid turnover and Washington D.C., was not so much a place of profit and power as it is today and, he noted, people actually wanted to leave Washington rather than go there.

[3:36:28 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether it is accurate that each state would determine its own election process for delegates attending the convention.

MR. TOMBULETES answered that he was correct.

REPRESENTATIVE KREISS-TOMKINS asked how active is an application for a constitutional convention, how much time is the window open to get to the two-thirds of states threshold.

MR. TOMBULETES explained that if there is no termination date within the applying resolution, then it is indefinitely active. It is recommended that if an application goes too long without being renewed, it should be renewed due to the way the language has to conform to resolutions coming from other states across the country. He added that it could present a problem for this effort because at the end, while Congress has very limited authority in this process, it does decide whether the applications are on the same subject and can choose to decline a convention on that basis.

REPRESENTATIVE KREISS-TOMKINS inquired as to whether there is a possible scenario that if every resolution from every state calling for an Article V Constitutional Convention is not verbatim identical that Congress theoretically could strike down

or decline to call the convention on the basis of those technical and trivial differentiations.

[3:38:31 PM](#)

MR. TOMBULETES answered that it is theoretically possible, some of the case law suggests that the courts would be empowered to step in and resolve Article V disputes. It could step in and compel Congress to call the convention if the court deems the applications are on the same subject. He offered that it is critically important for the states not to give Congress excuses to deny the convention, so the greater variation a state has in the resolution, the more likely Congress will simply ignore them. In fact, he pointed out, there have been 400 plus applications sent by the states to Congress for an Article V convention, but it has still never been done because they are not on the same topic. He reiterated that it is critically important that they are similar in language which is part of what U.S. Term Limits does in going around the country to work with legislatures for that level of conformity.

[3:39:31 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the last point and asked how many states thus far have called for a convention on this subject, and what is the closest the United States has come to an Article V convention on another subject with the largest amount of states.

MR. TOMBULETES responded that Florida is the only state that has passed the applying resolution for this particular convention thus far. Although, he offered, U.S. Term Limits has only recently begun canvassing the country to generate support from the grassroots. Consequently, in the current year session is upwards of ten states that are considering similar resolutions. He turned to Representative Kreiss-Tomkins' second question and advised it was the 1913 amendment for direct election of senators in that they were one state short of the two-thirds states when Congress pre-empted the states and the Senate finally caved in after years of trying and proposed that amendment on its own. Historically, Article V has worked to endeavor to get to a convention but also to put pressure on Congress to propose amendments it wouldn't otherwise propose. He commented that that is how the Bill of Rights was actually proposed, with the threat of a second convention, James Madison promised a Bill of Rights and that threat went away.

[3:41:25 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that he finds this process fascinating and there is merit to this because the federal system is broken. He remarked that state legislatures, in a roundabout way, have their hands on the levers which frightens him somewhat but in this instance he is pleased to see it coming through.

[3:42:20 PM](#)

REPRESENTATIVE KELLER offered to Representative Kreiss-Tompkins that Rob Natelson of "Conventional Studies," is a respected constitutional law attorney who prepared a fascinating "Legislative Compendium" and he would provide a copy if desired. He pointed out that the in compendium discusses the level that conventions have held as part of the history of the United States of America. It has only been in the last 40-60 years that conventions have been diminished and, he advised, there is good case law, good history, and viable policy.

[3:43:27 PM](#)

REPRESENTATIVE CLAMAN pointed to the death of United States Supreme Court Justice Antonin Scalia and noted that the framers originally rejected the idea of term limits as part of their original intent allows one to change the intent of the constitution by amending it.

MR. TOMBULETES surmised that Representative was asking him to affirm his statement.

MR. TOMBULETES explained that the framers knew they were crafting a document they intended to endure for a long time. It was not for one particular period in history, but hopefully to last as long as this Republic could last. The framers knew that a constitution like ours needed an assessable means of amendment, and in reading the writing of the framers they were open about the fact that some of their work might need correcting and expressed no shame over that fact.

[3:44:38 PM](#)

CHAIR LEDOUX turned to Representative Claman and asked whether he was suggesting that because the founders allowed for a mechanism for change of the constitution that that somehow is at odds with Justice Scalia's reading of the strict

constructionist. She opined that the strict constructionist would say that the constitution isn't supposed to be changed through judicial interpretation, but there is a difference between judicial interpretation and an actual amendment to change something.

[3:45:35 PM](#)

REPRESENTATIVE CLAMAN agreed, and noted that after reading Justice Scalia's opinion and places where he thought original intent had a place, and when it wasn't convenient it didn't seem to be part of his analysis, he said. It was more of an observation to the extent one looks at the constitution, he noted that one could easily say that the original intent was to not have term limits, but because ...

[3:46:11 PM](#)

CHAIR LEDOUX expressed that of course the original intent was not to have term limits, but the Constitution of the United States also allowed for changes through the amendment process.

[3:46:23 PM](#)

REPRESENTATIVE KELLER opined that the part about the states making the call for Congress was added after they changed the Article V to include that. He could not recall the name of the person insisting.

MR. TOMBULETES offered that it was George Mason who insisted on this approach, and Mr. Tombuletes paraphrased Mr. Mason to say, "No amendments of the proper kind would ever be obtained, you know, if only Congress had the sole authority of proposing."

[3:47:09 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that it strikes him as analogous to the Alaska State Constitution's safety valve where you have entrenched self-interest. He referred to the referendum process allowed in the Alaska State Constitution, of which there have been four instances of referenda, and two were successful. He pointed to the 1980 a referenda that was "wildly" successful was when the legislature decided to create its own Cadillac retirement system for legislators. The people of Alaska were not excited about that idea and it was repealed by a four to one margin. In this case, where there are people in Congress who have entrenched self-interest, which is to keep

their seats and be protected by the overwhelming and prolific power of incumbency. Just with the direct election of senators and that history must be fascinating for 100 years ago and this seems like another example, he said.

[3:48:22 PM](#)

CHAIR LEDOUX surmised that this makes a lot of sense on a national level but wondered how it would affect a small state, such as Alaska, wherein the power it has comes from seniority and if a person can only have a couple of terms there is not much seniority. She queried whether Alaska ends up on the losing end of this bill.

MR. TOMBULETES opined that Alaska does not end up on the losing end of the deal because the seniority question cuts both ways. In that, it is advantageous in the seniority driven current system when a person is a long term member of Congress. Although, he pointed out, the moment that member decides to retire that state is immediately at a counter-acting disadvantage in that the state has to jump back to the front of the line. It depends upon which point you are on, but it's not always a positive thing for a small state, and it would be good for Alaska if Congress were made less about seniority and more about the merits of the issues because the arguments Alaska has with the federal government are sound. He argued that seniority should not be necessary to be able to push back against the federal government, it should just be common sense for the majority of Congress.

CHAIR LEDOUX argued that if the bill abolishes the seniority system wouldn't there be a tendency for a small state like Alaska to get lost if everyone from New York, or everyone from California voted their regional ways and there would be no way to counter balance that.

MR. TOMBULETES opined that there is not much of a dispute over the fact that most members of Congress under the status quo are voting primarily for their region and primarily voting for power to be more concentrated in Washington D.C. He related that under a term limit system, with a larger portion of the citizenry sent to Washington, there would be more skepticism to Washington being the solution to every problem. He was unsure, he said, whether it would create a regional bend but it would certainly create a bend in favor of the citizens, which is rather than those of the Washington political climate.

[3:50:36 PM](#)

CHAIR LEDOUX agreed that people are voting on a regional basis, but the seniority system in which a member from a small state can rise up in seniority and chair a powerful committee based upon seniority, that can be sometimes used to counter-balance the regionalism.

[3:51:02 PM](#)

MR. TOMBULETES asked her to restate the question.

CHAIR LEDOUX suggested that even though people tend to vote on a regional basis, that that can be countered by a member from a small state rising through the seniority system to be in a powerful position to counter the regional votes.

MR. TOMBULETES opined that is accurate to an extent in the current system but, he asked whether Chair LeDoux wants them being on an island of that view even if they have a powerful spot on a committee. He questioned whether it is necessarily a good thing that the rest of Congress is not so sympathetic to the interests of an individual state because the rest of Congress has become so rooted in Washington that every solution needs to be solved in Washington. He opined that if there were term limits, the members from other states even though they would subscribe to a regionalist view which can never be disposed of, they would be more sympathetic to Alaska's position as a sovereign with regard to the federal government. The other states would be more respecting and deferring to Alaska's rights to control its own land and kind of push back against what Washington is doing, he commented.

[3:53:56 PM](#)

CHAIR LEDOUX asked what evidence he has of that. She questioned why, without the power of a member from a small state to hold a bill or to otherwise make members who are antithetical to the interests of the state, other states would just decide to be nice.

MR. TOMBULETES related his belief that if term limits are implemented on Congress it would automatically make elections more competitive and level the playing field for these districts. There would be a Congress that is more responsive to the needs of the people of Alaska and to the entire country. He opined that the people of the country are smarter than the

permanent political class in Washington. Therefore, he pointed to the Princeton and Northwestern Universities' study and said that the bottom 90 percent of people in the country do not have their public policy opinions reflected in Congress at all. He described that as greatly damaging to the Republic, and the ideas, the public would generate if it was able to have better access to Congress, would be good ideas.

[3:55:25 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the discussion of small states being disenfranchised through term limits, and said there are two responses: the U.S. Senate and small states are already enfranchised with proportionate power; and this state would only be disenfranchised, when discussing a proportionality of power in Congress, if there is a correlation between greater seniority and a small state. He related that while it is true that Don Young has been a Congressmen for Alaska for many years. States such as Montana, Hawaii, or Maine have had a lot of turnover in Congress and have had disproportionately less power due to their high turnover within their congressional delegation. He said, on the bigger perspective, he was uncertain whether this would have a prejudicial effect on the amount of power that small states have in Congress.

[3:57:21 PM](#)

CHAIR LEDOUX responded that it might not have a lot of impact on other small states, but it might have on our small state.

REPRESENTATIVE CLAMAN noted that in theory, if term limits were in effect it would benefit states that were electing the more qualified and skilled people to start serving in Congress and if the states made a wise choice of those they picked, then those states with terms limits would do better than those that gain from seniority. He pointed out that Senator Ted Stevens was effective early in his career and stayed that way for many years, and with term limits his power would not have been able to grow.

[4:00:00 PM](#)

CHAIR LEDOUX opened public testimony and, after ascertaining no one wished to testify, closed public testimony.

CHAIR LEDOUX advised her intention is not to move the bill today and asked for committee comments. She remarked that she has not

had a session on constitutional law like this since she finished constitutional law in law school when dinosaurs roamed the earth.

[HJR 29 was held over.]

[4:01:08 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:01 p.m.