

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 30, 2017

1:36 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Gabrielle LeDoux
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold

MEMBERS ABSENT

Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

ORGANIZATIONAL DISCUSSION

- HEARD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

- HEARD AND HELD

HOUSE CONCURRENT RESOLUTION NO. 1

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 44

SHORT TITLE: LEGISLATIVE ETHICS: VOTING & CONFLICTS

SPONSOR(s): REPRESENTATIVE(s) GRENN

01/18/17 (H) PREFILE RELEASED 1/13/17
 01/18/17 (H) READ THE FIRST TIME - REFERRALS
 01/18/17 (H) JUD, FIN
 01/23/17 (H) SPONSOR SUBSTITUTE INTRODUCED -REFERRALS
 01/23/17 (H) READ THE FIRST TIME - REFERRALS
 01/23/17 (H) JUD, FIN
 01/25/17 (H) STA REPLACES FIN REFERRAL
 01/25/17 (H) BILL REPRINTED 1/25/17
 01/25/17 (H) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23 FOR SSHB 44
 01/25/17 (H) COSPONSOR(S): GARA
 01/25/17 (H) JUDICIARY at 01:00 PM GRUENBERG 120
 01/25/17 (H) -- Meeting Postponed to 1/27/17
 01/27/17 (H) COSPONSOR(S): ORTIZ
 01/27/17 (H) JUDICIARY at 01:00 PM GRUENBERG 120
 01/27/17 (H) -- Meeting Rescheduled from 1/25/17
 01/27/17 (H) MINUTES (HJUD)
 01/30/17 (H) JUDICIARY at 01:30 PM GRUENBERG 120
 01/30/17 (H) --Please Note Time Change --
 02/03/17 (H) JUDICIARY at 01:30 PM GRUENBERG 120
 02/03/17 (H) -- Please Note Time Change --
 02/08/17 (H) JUD RPT CS(JUD) 1DP 3DNP 3AM
 02/08/17 (H) DP: LEDOUX
 02/08/17 (H) DNP: KOPP, EASTMAN REINBOLD
 02/08/17 (H) AM: KREISS-TOMKINS, FANSLER, CLAMAN
 02/08/17 (H) FN1: ZERO(LEG)
 02/08/17 (H) REFERRED TO STATE AFFAIRS

BILL: HCR 1

SHORT TITLE: AMEND UNIFORM RULES: ABSTAIN FROM VOTING
 SPONSOR(S): REPRESENTATIVE(S) GRENN

01/20/17 (H) READ THE FIRST TIME - REFERRALS
 01/20/17 (H) STA, JUD
 01/20/17 (H) JUD REFERRAL REMOVED
 01/20/17 (H) JUD REFERRAL ADDED BEFORE STA
 01/23/17 (H) COSPONSOR(S): TARR
 01/25/17 (H) JUD at 1:00 PM GRUENBERG 120
 01/25/17 (H) -- Meeting Postponed to 1/27/17 --
 01/27/17 (H) JUD at 1:00 PM GRUENBERG 120
 01/27/17 (H) -- Meeting Rescheduled from 1/25/17 --
 01/27/17 (H) MINUTES
 01/30/17 (H) JUD at 1:30 PM GRUENBERG 120
 01/30/17 (H) -- Please Note Time Change --
 02/01/17 (H) COSPONSOR(S): ORTIZ
 02/03/17 (H) JUD at 1:30 PM GRUENBERG 120

02/03/17 (H) -- Please Note Time Change --
 02/08/17 (H) JUD at 1:30 PM GRUENBERG 120
 02/08/17 (H) -- Delayed to 15 Minutes After JSC
 Concludes --
 02/10/17 (H) JUD RPT 1DP 3DNP 2AM
 02/10/17 (H) DP: CLAMAN
 02/10/17 (H) DNP: EASTMAN, KOPP, REINBOLD
 02/10/17 (H) AM: KREISS-TOMKINS, FANSLER
 02/10/17 (H) FN1: ZERO(LEG)
 02/10/17 (H) REFERRED TO STATE AFFAIRS

WITNESS REGISTER

REPRESENTATIVE JASON GRENN
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 44 and HCR 1,
 testified and answered questions.

RYAN JOHNSTON, Staff
 Representative Jason Grenn
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 44 and HCR 1,
 testified and answered questions.

JERRY ANDERSON, Legislative Ethics Committee Administrator
 Select Committee on Legislative Ethics
 Alaska State Legislature Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 44 and HCR 1,
 answered questions.

ACTION NARRATIVE

[1:36:00 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:36 p.m. Representatives Fansler, Eastman, Reinbold, Kopp, Kreiss-Tomkins, LeDoux, and Claman were present at the call to order.

ORGANIZATIONAL DISCUSSION

[1:36:42 PM](#)

CHAIR CLAMAN announced that the first order of business would be a motion regarding AS 24.08.060(a).

[1:36:53 PM](#)

REPRESENTATIVE FANSLER moved that Representative Claman, Chair of the House Judiciary Standing Committee, be delegated the duties and responsibilities in AS 24.08.060(a) during regular and special sessions of the 30th Alaska State Legislature; this delegation remains in effect until withdrawn by the committee.

[1:37:20 PM](#)

The committee took an at-ease from 1:37 p.m. to 1:38 p.m.

[1:38:22 PM](#)

REPRESENTATIVE REINBOLD objected.

[Technical difficulties 1:38:22 - 1:38:45]

[1:38:45 PM](#)

CHAIR CLAMAN explained that AS 24.08.060(a) gives the chair the authority to introduce committee

[Technical difficulties 1:38:51 - 1:39:35]

[1:39:35 PM](#)

REPRESENTATIVE LEDOUX explained that [as chair of the House Judiciary Standing Committee, 29th Alaska State Legislature] she was asked why she had not been required to obtain permission [from the committee] when she had introduced a committee sponsored bill. She said her response was that committee sponsored bills had, routinely, been introduced as committee sponsored bills simply by the chair of the committee introducing the bill. She explained that simply because it is a committee sponsored bill does not mean that everyone in the committee necessarily supports the bill. She advised that at one point, Representative Keller advised her that he did not have any problems with the bill, although he thought he should have been consulted. The issue was discussed last year, she explained, when Representative Reinbold was not part of the House Majority Caucus. Wherein, she continued, Representative Keller had provided her with a Legislative Legal and Research Services opinion that said the chair is to seek the permission of the

committee each time a committee sponsored bill is introduced, with a majority of consenting members - unanimous consent is not necessary. Therefore, the chair simply needs a majority of the members present, or in the alternative, a chair can receive a delegation of authority from the committee to introduce a committee sponsored bill, which is how the opinion came about, she explained.

[1:41:13 PM](#)

REPRESENTATIVE KOPP asked whether there is anything in the delegation of authority that would inhibit a member of the House Judiciary Standing Committee's informed discussion of the bill, or voting in favor or against a bill, and it being on the record.

CHAIR CLAMAN responded that it would never prevent a member of the committee from stating whether they support or oppose it as a committee sponsored bill. He advised that his general approach as the chair would be to talk with the members of the committee about making it a committee sponsored bill. He related that if he had a sense the majority of the committee did not support the bill, he would not introduce it as a committee sponsored bill because that would be over-exercising his authority. As an aside, he reminded the members that he spoke with everyone on the committee in advance of this motion to explain it.

REPRESENTATIVE KOPP expressed his appreciation, and asked whether the committee would still vote on moving the bill [out of committee] if there was an objection.

CHAIR CLAMAN agreed. He said that to the extent the bill is introduced as a committee sponsored bill, everyone on the committee would still have the opportunity to move to amend that bill, and as amended it would still be a committee sponsored bill.

[1:42:43 PM](#)

REPRESENTATIVE EASTMAN requested an example of circumstances wherein Chair Claman would exercise that [authority], and asked whether it would be when a majority of the committee supported a piece of legislation. He said he was trying to distinguish between a simple majority of one vote versus the consensus of most of the committee.

1:43:23 PM

CHAIR CLAMAN replied, there is not a simple answer to that because it depends upon the circumstances. For example, he said, the committee heard Representative Wilson's bill and people had many questions, including the Department of Law (DOL). In that regard, he explained, to the extent a majority of the members supported a different version, he would potentially consider introducing a committee substitute rather than a sponsor substitute. There are too many hypotheticals to try to answer, but his intent would be to discuss the legislation with the members of the committee to get a sense of their thoughts, he related.

1:44:11 PM

REPRESENTATIVE KREISS-TOMKINS commented that when the deadline for personal legislation comes and goes, committee sponsored legislation has traditionally been a means to address outstanding problems requiring the bill to be expedited and having that standing authority. He opined that is the most common instance in which he has seen committee sponsored legislation used relatively infrequently. He added that he had no idea there was a statute because during his four years committee sponsored legislation had always appeared like magic. He commented that this process appears more forthright and transparent, and he is good with it as long as it is used judiciously and conservatively.

1:45:14 PM

REPRESENTATIVE REINBOLD advised that her preference is to seek permission from members before introducing legislation, especially from the House Judiciary Standing Committee. She said it appears the chair will only introduce bills in the event this motion passes, and he will not introduce legislation without majority support.

CHAIR CLAMAN clarified that it is the majority of the committee.

REPRESENTATIVE REINBOLD said she was unsure how the chair would know the thoughts of the members without speaking with everyone. She asked why, as Chair of the House Judiciary Standing Committee, he would not put his name so everyone would know the movement behind the bill. For example, she pointed to Senate Bill 91, and advised that she and Chair Claman are on opposite planets on that bill and that she does not want look like she is

supportive of something she is adamantly opposed to. She said she intends to maintain her objection to the motion, and offered to clarify any questions Chair Claman may have about her testimony.

[1:46:30 PM](#)

REPRESENTATIVE CLAMAN stated that additional questions were not necessary because she articulated her objection, "wherever you are now." He said he anticipates that Representative Reinbold will voice her objection to a bill she disagrees with from any member of "our body" or a committee bill, and he has no intention of limiting her ability to do so.

[1:46:53 PM](#)

A roll call vote was taken. Representatives Fansler, Eastman, Kopp, Kreiss-Tomkins, LeDoux, and Claman voted in favor of the motion to delegate the duties and responsibilities in AS 24.08.060(a) to Chair Claman. Representative Reinbold voted against it. Therefore, the motion was adopted by a vote of 6-1.

HB 44-LEGISLATIVE ETHICS: VOTING & CONFLICTS
HCR 1-AMEND UNIFORM RULES: ABSTAIN FROM VOTING

[1:47:32 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 44, "An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an employer or to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date," **AND** HOUSE CONCURRENT RESOLUTION NO. 1, Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting.

[HB 44 and HCR 1 were before the committee together.]

CHAIR CLAMAN advised this is the second hearing on HB 44 and HCR 1, the sponsor previously presented the legislation, the committee listened to public testimony, and public testimony is closed.

[1:48:36 PM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, introduced himself.

[1:48:44 PM](#)

RYAN JOHNSTON, Staff, Representative Jason Grenn, Alaska State Legislature, said that HB 44 provides a concise outline for the standards a legislator can review to determine whether they have a conflict of interest. He moved to HCR 1, and advised it is an amendment to Uniform Rule 34(b), changing it from unanimous consent to a majority consent for an abstention for a legislator.

MR. JOHNSTON, referring to a previous request, advised Representative Fansler that the sponsor was still waiting to hear from the other states regarding their journal records on abstention.

MR. JOHNSTON, referring to a previous question, advised Representative Eastman that the sponsor spoke with the Chief Clerk and, currently, there is an ability to withdraw the motion once a representative has asked for a motion to abstain, and under this legislation, that ability would still be allowed before a vote on the abstention.

[1:50:24 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 1, Version 30-LS0209\J.3, Gardner/Wayne, 1/26/17, which read:

Page 1, line 4, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** Rule 34(b), Uniform Rules of the Alaska State Legislature, is amended to read:

(b) Abstention. Every member present in the house shall vote unless the house for special reasons permits a member to abstain. All motions excusing a member from voting shall be made before the house divides or before the call for the yeas and nays is commenced. A member requesting to be excused from voting **shall have up to five minutes to explain the member's request to be excused from voting,** [MAY MAKE A BRIEF ORAL STATEMENT OF THE REASONS FOR THE REQUEST] and the question of granting permission to abstain shall be taken without further debate. A member may not explain a vote, may not discuss the question while the yeas and nays are being called, and may not change

a vote after the roll call result has been announced. Upon division and count of the house of any question, a member who is not within the chamber may not be counted. A member may not be permitted to abstain except upon an affirmative vote of two-thirds of the full [UNANIMOUS CONSENT OF THE] membership of the house."

CHAIR CLAMAN objected for purposes of discussion.

[1:50:51 PM](#)

REPRESENTATIVE EASTMAN explained that the amendment amends HCR 1 and allows members up to five minutes to explain their conflict of interest on the floor of the House of Representatives. A member may not be committed to abstain from a vote except upon an affirmative vote of two-thirds of the full membership of the House of Representatives.

[1:51:28 PM](#)

REPRESENTATIVE GRENN related that research indicated that a vast majority of other states have the same language contained within the bill regarding a majority vote, and that his intention was to put the vote on the record. He said his main goal was consistency with the statute regarding municipalities which puts this conflict of interest vote to a majority vote. He related that this legislation was drafted with the hope that pragmatic logic would be the approach legislators would use when voting on an abstention, and said he is willing to discuss the amendment from Representative Eastman.

[1:52:57 PM](#)

REPRESENTATIVE KREISS-TOMKINS related that there are two substantive components to the amendment, raising the threshold from two-thirds vote from a mere majority, and five minutes of discussion related to the abstention. He said he can infer the logic in raising the threshold, and asked Representative Eastman to expound on the five minutes of discussion on the conflict of interest.

REPRESENTATIVE EASTMAN responded that, currently, the verbiage within the uniform rules is "brief," and the amendment asks a bit more of someone when rising to speak to a conflict of interest. The five minutes was designed to give the legislator sufficient opportunity to explain the conflict, with the

expectation that it is unlikely everyone would use the full five minutes. He related that the intent was to be certain everyone participating in a vote had sufficient time to understand the conflict of interest, and were confident they had a good understanding of what they were about to vote on.

[1:55:10 PM](#)

REPRESENTATIVE KREISS-TOMKINS said he noticed that the language toggles from "may" to "shall," and asked whether the language should be "may have" as opposed to the more imperative "shall."

REPRESENTATIVE EASTMAN said that as long as the person making a request for an abstention has that opportunity, the spirit of the amendment is satisfied.

[1:56:12 PM](#)

REPRESENTATIVE LEDOUX advised that if the language was "may" rather than "shall have up to five minutes," that would give the Speaker of the House of Representatives the discretion not to give someone five minutes. She explained that "may make a brief oral statement of the reasons for the request" leaves it up to the person whether or not they want to make any sort of statement.

REPRESENTATIVE KOPP said he appreciates the intent of the amendment and said, currently, it appears there are no limits because it reads "a brief oral statement of the reasons for the request." He asked whether this amendment would be inadvertently limiting the speaker to five minutes whereas currently there are no limits.

[1:58:04 PM](#)

REPRESENTATIVE LEDOUX commented that possibly the better part of valor would be that if someone was concerned with either the Speaker of the House of Representative or the Rules Committee Chair cutting someone off based upon their understanding of the term "brief," she suggested "they make an oral statement ... for the reasons of the request," and it doesn't include "brief" because people may argue the definition of "brief" depending upon the context of its usage.

REPRESENTATIVE FANSLER asked, previously, how long a legislator had spoken to their conflict. He offered that in serving on a municipality council, typically, it has been the person's name

and where they work. He asked whether an open dialogue is allowed during the declaration of a conflict because it would be helpful to sometimes ask follow up questions before voting

[2:00:08 PM](#)

REPRESENTATIVE LEDOUX responded that, generally, a representative will rise and say they work for the University of Alaska, for example. There will be no discussion whatsoever because between the time someone rises to declare a conflict and toward the end of their sentence, someone will yell out "objection" and the Speaker of the House will say, "Representative Fansler, there has been an objection, you are required to vote." Although, she commented that in the event this bill passes, she imagines it would change somewhat because a legislator would actually have to rise and enunciate further than what has been done in the past because it will have some real consequences. She advised that questions are permitted on the floor of the House of Representatives, but she has never seen a basic conversation in the chambers, it is all formalized.

[2:01:46 PM](#)

REPRESENTATIVE EASTMAN requested input from the sponsor on this discussion.

REPRESENTATIVE GRENN answered that the time limit is somewhat common in other states, and within his conversations with other ethics committees, there is an anti-filibuster type feeling to it. Also, he said, it gives the legislator time to enunciate their conflict if they are trying to rise to their conflict and advise they would like to vote or abstain from the vote.

[2:02:58 PM](#)

CHAIR CLAMAN noted that Amendment 1 is not an amendment to HCR 1, Version J, but rather an amendment to the uniform rules. He asked whether his intention with the amendment is to change the existing Uniform Rule 34(b), and reject everything that's changed in HCR 1, Version J.

REPRESENTATIVE EASTMAN answered that Amendment 1 is a replacement, and it basically makes it a committee substitute.

CHAIR CLAMAN said he wanted to verify that was Representative Eastman's intent.

[2:03:57 PM](#)

MR. JOHNSTON clarified that the motion is not debatable, which is in the uniform rules and this legislation.

[2:04:24 PM](#)

REPRESENTATIVE LEDOUX referred to Version J and the current uniform rules, and asked whether the motion as to whether or not someone can abstain is not debatable at all.

REPRESENTATIVE GRENN replied that it is not debatable, and offered that the legislator requesting to abstain may rise, make their brief oral statement, and the motion is then taken up for a vote with no debate.

REPRESENTATIVE LEDOUX commented that she wondered whether any discussion or debate was allowed in any of the other municipalities where they actually vote on whether it's appropriate to abstain. For example, she said, the Municipality of Anchorage and whether any discussion or debate is allowed.

[2:05:54 PM](#)

REPRESENTATIVE GRENN referred to AS 29.20.010. Conflict of Interest, which read:

(a) Each municipality shall adopt a conflict of interest ordinance that provides that

(1) a member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;

(2) the presiding officer shall rule on a request by a member of the governing body to be excused from a vote;

(3) the decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body; and

(4) a municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance by June 30, 1986, the provisions

of this section are automatically applicable to and binding upon that municipality.

(c) This section applies to home rule and general law municipalities.

REPRESENTATIVE GRENN answered that it does not appear to allow for debate.

CHAIR CLAMAN referred to Amendment 1, and opined that the real question, among other voiced questions, is whether it should be two-thirds or a majority of the body. Chair Claman advised that he will not remove his objection.

[2:06:57 PM](#)

A roll call vote was taken. Representatives Eastman, Reinbold, and Kopp voted in favor of Amendment 1. Representatives Kreiss-Tomkins, LeDoux, Fansler, and Claman voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 3-4.

[2:07:26 PM](#)

REPRESENTATIVE KOPP referred to a conceptual amendment he may propose for HB 44, Version 0, page 2, lines 19-20, [Sec. 2, AS 24.60.030(g)]. The amended language would read as follows:

(g) ... a legislator shall request to be excused from voting on a question before a house of the legislature if the legislator or a member of the legislator's immediate family has a financial interest in a business

REPRESENTATIVE KOPP explained that the conceptual amendment gets to the heart of the matter in that there would be full disclosure on the floor of the House of Representatives so the full body can hear it and call for the vote. He continued that it would take out the unnecessary obstacle of a legislator not being allowed to vote because the legislator may believe they have a conflict. The legislator would rise and declare the conflict and still have the option of voting depending upon the vote of the body. Although, in a House of Representatives or especially a Senate committee it may be difficult to have a quorum and that one denied vote has a much greater impact in committee than before the body as a whole. He argued that it is within the spirit of the legislation and does not take away the committee work, and that he hoped a member who felt they were conflicted would say so, even in committee. Currently, he

noted, the legislation reads "may not vote" and that may be something that goes beyond what is needed when the House of Representatives floor issue is covered.

[2:10:17 PM](#)

CHAIR CLAMAN reminded the committee of the policy which requests amendments by 5:00 p.m. the day before the bill is heard, and advised the committee it would not be voting on this conceptual amendment today. Although, the committee could discuss it during this meeting.

[2:11:01 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that it makes sense to him.

REPRESENTATIVE GRENN agreed that the conceptual amendment helps get to the heart of the intent of the legislation, allowing for a vote to take place on the floor of the House of Representatives and not to feel like the legislation is automatically eliminating someone's representation of their district by a vote in a small place like a committee. He said he would accept this friendly conceptual amendment.

[2:11:42 PM](#)

REPRESENTATIVE FANSLER opined that a key reason for the legislation is to be certain the [votes] are on the record. He asked whether Representative Kopp would accept language such that it is recognized there is a possible conflict of interest on the committee record and the legislator is still allowed to vote. Therefore, the conflict would be out there and the legislator could declare they have a conflict of interest but the rule being [indisc.] the legislator is allowed to participate in discussion and amendments.

REPRESENTATIVE KOPP responded that Representative Fansler's suggestion is consistent with his thoughts in that he hopes the legislator would disclose, but that the legislation wouldn't be to stop the legislator from voting at that point.

[2:13:07 PM](#)

REPRESENTATIVE GRENN advised that, currently, within the uniform rules there is nothing to say that a legislator needs to declare a conflict of interest in committee.

CHAIR CLAMAN offered that a bill was before the House Judiciary Standing Committee that created a basis for Chair Claman to declare a conflict because he owned stock in some company. He would still count for purposes of reaching the quorum, and he had announced he would be rise on the floor of the House of Representatives regarding the conflict. He related that the public is concerned about people with an interest voting on the legislation, so the bill passes out of committee by a 4 to 3 vote with Chair Claman having disclosed this conflict, and is the fourth vote that gets it out of committee. Therefore, he said, those in the public that would object to legislators voting on bills in which they have an interest, would say that the bill made it out of committee, yet Chair Claman had this conflict. He referred to this example and asked whether this makes the public any happier if having reached the quorum, the person with the conflict is nevertheless allowed to vote on whether the bill moves out of committee, rather than abstaining in committee and leaving it to the remainder of the committee to gather their votes to move the bill forward. He noted that the example reflects the Senate committees more so than the House of Representative committees. He said he offered that example for purposes of discussion which reflects a certain concern with the public's perception.

[2:15:37 PM](#)

REPRESENTATIVE LEDOUX agreed that the uniform rules are silent on this issue, and opined there may be a Legislative Legal and Research Services opinion as to whether or not a legislator is required to declare a conflict within the committee process. She suggested there may be something in Mason's Manual, which is where legislators look to when the uniform rules do not specifically cover an issue.

[2:16:34 PM](#)

REPRESENTATIVE KOPP pointed to the issue of smaller committees in the other body wherein there may be three members on a committee of which one member has a conflict, and if there are differing opinions between the other two legislators, the bill fails to get out of committee. He related that the problem with full public transparency is that the bill never really gets to the floor of the House of Representatives where all members, and the public, hear a detailed explanation because the body, as a whole, would be voting. The problem is with the smaller committees in the other body, he reiterated.

[2:17:38 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether Doug Gardner, Director of Legislative Legal and Research Services, was on line and could offer insight into Representative LeDoux's recollection.

CHAIR CLAMAN advised that Mr. Garner was not on line.

[2:18:13 PM](#)

JERRY ANDERSON, Legislative Ethics Committee Administrator, Select Committee on Legislative Ethics, stated that Representative LeDoux is correct, and that Advisory Opinion 2004-02 contains that specific provision wherein it does not apply to voting in a committee, and subsequent opinions have also stated that same fact.

REPRESENTATIVE LEDOUX asked whether any of the advisory opinions say whether or not a legislator is supposed to identify the conflict and then vote anyway.

MR. ANDERSON explained that the advisory opinions specifically state that a legislator is not required, under the current rules and statutes, to extend that [requirement] to the committee, including chairing a committee, debating in a committee, and voting in a committee.

REPRESENTATIVE LEDOUX asked whether the ethics rules parallel state criminal law and federal law because she could recall cases in federal court dealing with "honest services," and she thought people got into trouble for not declaring a potential or actual conflict throughout the process, possibly in this state or other states,

[2:21:17 PM](#)

CHAIR CLAMAN said he has a similar memory that it was either a statute or common law doctrine regarding "honest services," but he could not recall the details.

REPRESENTATIVE KOPP explained that within Alaska's statutes, three statutes discuss misuse of public office or abuse of public office regarding taking or failing to take an action that a public officer should have or should not have taken. He

opined that conflicts are addressed, but it would probably need to be a fairly egregious act to be applied against a legislator.

REPRESENTATIVE LEDOUX commented "You never know." She opined there is a federal doctrine that talks in terms of "honest services."

CHAIR CLAMAN, after asking for further committee questions regarding the conceptual amendment and hearing none, moved to comments on the legislation before the committee.

[2:24:48 PM](#)

REPRESENTATIVE REINBOLD related that she was trying to understand the intent of the legislation because currently legislators have the opportunity to declare a conflict, and the conflict is listed on the legislative financial disclosures. Historically, she said, the legislature has allowed all members to vote to make sure that "18,000 members that we represent are not disenfranchised" because this is a citizen legislature. She said that any member of the legislature making greater than \$10,000 from a client or spouse's client or company, owns stock, works in public schools, is a state employee, et cetera, the legislator needs to recuse themselves from a committee vote or a vote on the floor of the House of Representatives. She pointed out that she was unsure whether retirement benefits were encompassed in the legislation if they receive more than \$10,000 of benefits.

[2:26:00 PM](#)

REPRESENTATIVE GRENN responded that she was incorrect.

MR. JOHNSTON clarified that each of these situations would require a fact based inquiry; therefore, under the bill more details on each situation would be necessary to determine whether or not a legislator fell under the substantial benefit provision and had a conflict of interest.

[2:26:47 PM](#)

REPRESENTATIVE REINBOLD said that [the language] is clear in that if a legislator received \$10,000 from the University of Alaska, from public schools, as a state employee, from unions, stocks, private sector, and retirement and benefits [there would be a conflict of interest]. She asked whether the legislation is targeting individuals working in the private sector, or

whether it is discussing a smaller group than those she mentioned.

MR. JOHNSTON answered the legislation dictates that in the event a legislator has an income of \$10,000, it could be public, private, or a sole proprietor, and this business made a substantial benefit from the passage of certain legislation, more so than the rest of that class, business, or industry, a legislator could determine they have a conflict of interest.

REPRESENTATIVE REINBOLD offered concern that the legislation is subjective because "how are we supposed to know on everybody - we don't get to see everybody's income tax" to determine whether they make more than \$10,000 from a certain bill related entity. She said it is hard for legislators to see all of that information before every single committee vote and noted that incomes can change. Legislators would have to spend a lot of time studying other people's financial records before voting before the committee or the legislature as a whole, she said.

REPRESENTATIVE GRENN pointed out that legislators honor each legislator to have the integrity and wherewithal to know when to rise and declare a conflict of interest, and the legislation does not change that. The legislation offers a measure for legislators to stand on to recognize when they have a conflict based upon the legislation, he said.

[2:29:17 PM](#)

REPRESENTATIVE EASTMAN noted that, currently, the Select Committee on Legislative Ethics deals with issues such as conflicts. He asked how these types of situations would be handled if this legislation had never been filed, and what the legislature would revert to.

MR. JOHNSTON reiterated that, currently, a legislator can ask to abstain, but if a legislator feels that another legislator did not declare a conflict of interest, an anonymous complaint can be made to the Select Committee on Legislative Ethics and the committee conducts an investigation.

REPRESENTATIVE EASTMAN surmised that, currently, a legislator would pursue a complaint through the Select Committee on Legislative Ethics. By putting this legislation into statute it takes it out of the realm of the Select Committee on Legislative Ethics, and now the legislator would be prosecuted by a district attorney.

MR. JOHNSTON argued that the legislation provides a better standard for the Select Committee on Legislative Ethics to actually refer back to AS 24.60.030 and regard it as another standard it could use. Currently, AS 24.60.030 does deal with legislative ethics, and it falls under the purview of the Select Committee on Legislative Ethics to deal with that complaint.

[HB 44 was held over.]

[HCR 1 was held over.]

[2:32:13 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:32 p.m.