

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 3, 2017

1:36 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

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."

- MOVED SSHB 44 OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 1

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

- MOVED HCR 1 OUT OF COMMITTEE

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) 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 --
01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
01/30/17 (H) Heard & Held
01/30/17 (H) MINUTE(JUD)
02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120

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
01/25/17 (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 --
01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
01/30/17 (H) Heard & Held
01/30/17 (H) MINUTE(JUD)
02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

JAKE JACOBSEN
Kodiak, Alaska

POSITION STATEMENT: During the hearing of SSHB 44 and HCR 1,
offered support for HB 44.

REPRESENTATIVE JASON GRENN
Alaska State Legislature
Juneau, Alaska

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

DAN WAYNE, Attorney
Legislative Legal Counsel

Legislative Affairs Agency
Juneau, Alaska

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

ACTION NARRATIVE

[1:36:51 PM](#)

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

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

[1:37:34 PM](#)

CHAIR CLAMAN announced that the only order of business would be 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." **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.

[SSHB 44, Version O, and HCR 1, Version J, were before the committee jointly.]

CHAIR CLAMAN advised this is the third hearing on SSHB 44 and HCR 1, and that his intention is to hear amendments from committee members and move the legislation out of committee today. He said he will re-open public testimony on the legislation.

CHAIR CLAMAN opened public testimony on SSHB 44 and HCR 1.

[1:38:44 PM](#)

JAKE JACOBSEN said he represents himself and his family of 38 Alaskans. He turned to SSHB 44, and explained that the bottom

line on this important effort is to put some teeth into the legislature's ethics rules and prevent an "800 pound gorilla" from corrupting the process because Alaska has a "Tyrannosaurus Rex" in the form of big oil. He referred to the passage of Senate Bill 21, and pointed out that the deciding votes were cast by two senators employed by ConocoPhillips Alaska, Inc., who are still holding seats in the Senate. He described that that massive miscarriage of justice is the main reason Alaska has such a huge fiscal problem today, and has had for the past several years. Alaska lost approximately \$2 billion in oil revenues beginning the first year, and continuing on, since the enactment of Senate Bill 21, because Alaska pays more in oil tax credits than received from the oil [revenues], he stressed. In that regard, Alaskans would not have had more than one-half of their permanent fund dividend (PFD) confiscated in 2016. The current legislative ethics rules require that a person declaring a conflict of interest be forced to vote when a single member of the body objects to [the abstention], he explained, and the objecting person's name is not made public, absolving that person of all accountability. This is reprehensible, he expressed. [Indisc.] conflicts of interest potentially cripple legislative action, but other states have such laws [indisc.] issues of crime. He suggested that legislators get together "and clean up this mess. You are the law makers, but the power of your office is borne with privilege granted to you by voting Alaskans." He stated that the "plain clothes patriots, like myself" expect legislators to honor their oath of office and do their duty. He urged the committee to get this bill to the floor and pass it.

[1:41:21 PM](#)

CHAIR CLAMAN, after ascertaining no one further wished to testify, closed public testimony on SSHB 44 and HCR 1.

CHAIR CLAMAN explained to the new committee members that when amendments are moved for adoption, sometimes people will object for purposes of discussion, in the event there is no objection the amendment is adopted.

[1:42:54 PM](#)

REPRESENTATIVE KOPP moved to adopt Amendment [2], Version 30-LS0208\0.3, which read:

Page 2, line 19, following "Unless":
Insert "otherwise"

Page 2, line 20:

Delete "may not vote"

Insert "shall declare a conflict of interest before voting [MAY NOT VOTE]"

CHAIR CLAMAN said there being no objection to SSHB 44, Amendment [2], Amendment [2] was adopted.

[The committee then turned to HCR 1.]

[1:43:20 PM](#)

REPRESENTATIVE REINBOLD moved to adopt HCR 1, Amendment [3], Version 30-LS0209\J.1, which read as follows:

Page 2, line 6:

Delete "a majority of the membership"

Insert "two-thirds of the full membership of the house"

REPRESENTATIVE LEDOUX objected.

[1:43:44 PM](#)

REPRESENTATIVE FANSLER explained that his objection to Amendment [3] is based upon his research of Mason's Manual, Sections 401 and 398, which essentially read that if an amendment is the same as a previously failed amendment within the committee, it should not be brought forth again.

REPRESENTATIVE FANSLER opined that this amendment is essentially the same as [failed Amendment 1 moved by Representative Eastman, on 1/30/17], which read as follows:

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."

REPRESENTATIVE REINBOLD argued that [Amendment 1] had "a lot more wording" with it and the committee focused primarily on the five minutes." She continued that this is "just a couple word amendment."

[1:44:36 PM](#)

REPRESENTATIVE EASTMAN explained that as the maker of [Amendment 1], he agreed that he "did have quite a bit more in my original amendment than appears here."

[1:44:45 PM](#)

CHAIR CLAMAN reminded Representative Eastman that he had previously asked Representative Eastman whether the gist of this amendment was the two-thirds vote rather than a majority vote, and Representative Eastman advised that that was really the gist of the amendment.

REPRESENTATIVE LEDOUX suggested that it would be appropriate to rule whether the amendment is procedurally in order.

CHAIR CLAMAN said he would rule on the objection after hearing any comments or questions from the committee on the procedural question.

REPRESENTATIVE KOPP recalled that when [Amendment 1] was before the committee, the discussion regarding the minutes issue lasted a while, and he could not recall focusing on the two-thirds question. He said, he personally did not focus on that provision of the amendment.

[1:46:19 PM](#)

CHAIR CLAMAN referred to Mason's Manual, Sec. 401(5), which read as follows:

Sec. 401. Frivolous and Improper Amendments

5. The presiding officer should never rule an amendment out of order unless certain that it is. In cases of doubt the presiding officer should entertain the amendment, subject to the right of a member to raise a point of order, or the presiding officer should submit to the house the question of whether the amendment is in order.

CHAIR CLAMAN reminded the committee that the committee should be careful to not go down the road repeatedly, and while he believes there is an argument that this is going down the road repeatedly, the committee will vote on Amendment [3].

REPRESENTATIVE LEDOUX continued to maintain her objection.

[1:46:59 PM](#)

REPRESENTATIVE REINBOLD pointed out that this is a subjective bill, and the amendment is to have a more objective two-thirds vote. In that manner, it would not pit the minority against the majority this year or in future years. She said she is absolutely about transparency and some legislators declare conflicts far more than others.

REPRESENTATIVE LEDOUX related that she does not see this bill as necessarily a partisan political issue and, consequently, she does not understand how [the amendment] helps to not pit the majority against the minority. She explained that she can see the requirement for abstentions sometimes hindering union people just as much as hindering oil company people because the bill is not geared to any particular party. Therefore, she stated, the bill does not need to read two-thirds vote rather than the usual 21 votes.

REPRESENTATIVE KREISS-TOMKINS said he would benefit from more information and particularly looking at other precedent and political behaviors from other states with different thresholds. He advised he is on the next committee of referral, he will vote against the amendment, but he is sympathetic to its intent and would like to further examine the amendment.

REPRESENTATIVE EASTMAN commented that in a legislative setting it can be "very tried and true to, all too easily, fall into the habit of voting with one's party," and that is not right or wrong in particular instances. He asked the sponsor whether he had comments regarding the amendment.

[1:51:15 PM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, responded that when drafting the bill he included the language of the bill based upon Alaska's statutes, and asking other municipalities and other local governments to "do themselves." For consistency sake, he related, that is where he started and he feels comfortable with leaving that language as is. Sometimes gamesmanship is in the minds of people and sometimes there is a thought to protect against that, he acknowledged, but this bill was not drafted with that in mind. The intent of the bill is that all 60 legislators are trusted to rise and declare conflicts of interest based upon the guidelines in the bill. Thus, he pointed out, it is not to be a partisan matter, but rather outlines what the law would be.

[1:52:40 PM](#)

REPRESENTATIVE REINBOLD noted that each legislator represents roughly 18,000 people, and to not allow [constituently] vetted elected legislator [to vote] is disingenuous for many of the districts, especially for a simple whim vote without performing a thorough investigation of every single immediate family member, and every single financial report. She extended that it is reasonable to have a two-thirds threshold "because what we do in this legislature is in a little body back -- back, you know - - on a lower level that impacts just the community, it impacts statewide 750,000 people." The actions taken by the legislature are serious and it requires a reasonable threshold, she said.

CHAIR CLAMAN referred to the current practice of using one objection to make sure someone votes, and pointed out that under the two-thirds amendment, the legislature would move from simply one person objecting, to two-thirds of the legislature excusing someone from voting. Therefore, without the amendment, the legislation would require a majority of those present to excuse someone from voting.

REPRESENTATIVE LEDOUX maintained her objection.

[1:54:35 PM](#)

The committee took a brief at ease.

[1:54:45 PM](#)

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

[The committee returned to SSHB 44.]

[1:55:23 PM](#)

REPRESENTATIVE FANSLER moved to adopt Amendment [4], a handwritten amendment, which read as follows [original punctuation provided]:

Page 2, line 25-27

Delete "a substantial class of persons to which the legislator or the family member who has the financial interest belongs as a member of a profession, occupation, industry, or region."

Insert "[THE GENERAL PUBLIC OF THE STATE]"

Page 3, lines 7-9: "a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region."

Insert "[OF THE GENERAL PUBLIC OF THE STATE]"

REPRESENTATIVE LEDOUX objected for purposes of discussion.

[1:55:38 PM](#)

REPRESENTATIVE FANSLER related that he is highly in favor of this bill, and explained his original concern was that the current language regarding a "substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region" would actually lead to conflicts of interests being suppressed. He opined that rarely, especially in policy, does a bill come forward affecting one sector of a profession or industry over another sector of a profession or industry. It was his understanding, he related, that "with that in there" as long as it was affecting a good portion of the industry as a whole, a person would not have to rise and declare a conflict of interest. He offered that the applicable group should be the general public of Alaska, such that the public would be the group of people a legislator [would

ask themselves] "Will I have a conflict of interest because I will benefit substantially from the general person that is our constituent and that lives in the state."

[1:57:49 PM](#)

REPRESENTATIVE REINBOLD requested examples of what the amendment does in the real life of Alaskans.

REPRESENTATIVE FANSLER used the example of a right-to-work bill, and advised that during the last 12 months he worked in a union as a faculty member. In the event the right-to-work bill affects all unions, under the current language, he would not rise and declare a conflict of interest because it substantially affects the whole class of unions. However, [under his amendment] if comparing this to the whole class of the general public, he rightly should rise and put on the record that within the last 12 months he was in a union, and the vote be taken.

[1:59:17 PM](#)

REPRESENTATIVE REINBOLD asked Representative Fansler to describe himself working for an oil company or in the private sector.

REPRESENTATIVE FANSLER responded that it would be the same situation, a bill comes forward that substantially affects his financial interests, he rises and declares that he works for an oil company, and the vote is taken.

[1:59:49 PM](#)

REPRESENTATIVE LEDOUX asked whether Legislative Legal and Research Services was online because she was unsure the amendment [accomplishes the intent of the sponsor]. Under this amendment, if Representative Fansler had an financial ownership interest in a company it would be included, but simply to be an employee of a company or a union ... The intent of the amendment, she opined, is if a person is working for a company, union, or other entity, that is significantly impacted by a bill, it would be up to a vote as to whether or not it is appropriate for the person to vote. She reiterated that she was unsure whether this amendment accomplishes the intent.

[2:01:50 PM](#)

REPRESENTATIVE EASTMAN referred to the example of having been previously unionized a year or so ago, and asked Representative

Fansler to define "financial interest." He said he could see how an argument could be made that if a person previously had an occupation that paid their salary and the person gained an amount of wealth through that occupation, it could be said that the person had a financial interest. He offered that his first reading was that it had to be more of a present tense financial interest, such as stocks or bonds, and posited that if it does go back into history, how far back does it go.

[2:03:04 PM](#)

CHAIR CLAMAN interjected that Representative Fansler described a situation where he was employed by the university and a member of the faculty union, which meant he was paid by the university and not the union. In contrast, he related that he was aware of examples, including some legislators today, who are actually employees of the union in their job, which may create a variance.

REPRESENTATIVE FANSLER referred to [Section 1, AS 24.60.030(e)(3)(D)] page 2, lines [15-17, Version 0], which read as follows:

(D) from whom the legislator or a member of the legislator's immediate family has, in the immediately preceding 12-month period, received more than \$10,000 of income.

REPRESENTATIVE FANSLER explained that "was where I was forming that." Perhaps, he extended, he should have gone with the easier example of working directly for a union, wherein he rises and declares that he currently works for a union and is paid by the union. He stressed that his intention with this amendment is something where, once again, his utter belief is to get these things on the record. He pointed out that he would always error on the side of caution even if he wasn't being paid directly by the union, he would declare that he did have a financial interest because [the union] negotiated his contract. The intent behind the amendment is to be as broad as possible, and have conflicts of interest recorded so the public can have the transparency it deserves, he expressed.

[2:05:26 PM](#)

REPRESENTATIVE REINBOLD commented that the committee wants to be certain this is never a private industry versus the public

sector, or union people versus non-union people, and to be certain this is not another internal conflict that is going on. She related that even if a legislator had to disclose they worked for a union, some people would ask whether the legislator is voting on behalf of their interests, or the legislator's interest, she said. Therefore, it could be argued that "you having to vote on a right-to-work issue would even be more transparent because now you're on public record." Possibly, she pointed out, the legislator's constituents would want the legislator to push the button "yes or no" on a right-to-work bill.

REPRESENTATIVE FANSLER responded that he completely agrees that his constituents may want him to vote, which is why there is the vote, thereby, becoming the will of the people through their elected legislative officials to determine. He said he likes the ability to rise and the vote in part because this is the way to accomplish the transparency people want. Legislators will certainly hear if someone makes a wrong decision and excludes someone, the public will be there and this gives them the ability to have their voices heard, he said.

CHAIR CLAMAN advised that Dan Wayne, Legislative Legal and Research Services was online.

[2:07:45 PM](#)

REPRESENTATIVE LEDOUX restated her question and asked whether the passage of Amendment [4] would prevent someone from voting on something they had no financial interest in themselves, but worked for a corporation, union, or any other entity impacted by a bill before the legislature.

[2:08:42 PM](#)

DAN WAYNE, Attorney, Legislative Legal Counsel, Legislative Affairs Agency, explained that he was just now joining the meeting, asked which amendment was being discussed, and to please restate the question.

CHAIR CLAMAN advised it is Amendment [4], relating to page 2, lines 25-27, and page 3, lines 7-9.

REPRESENTATIVE LEDOUX asked, with this amendment, would SSHB 44 preclude someone from voting on a bill for which their employer had an interest, unless 21 representatives voted that the person needed to vote.

MR. WAYNER opined that the amendment is mostly dealing with financial interests in the context of Sec. 2, of the bill, because Sec. 2, relates to "substantial class of persons," and so forth. Section 1 of the bill relates to employers. He further opined that Sec. 2 could be related somehow to the employment relationship a person has, but it has more to do with their financial interests in a business.

[2:12:52 PM](#)

REPRESENTATIVE LEDOUX surmised that he was saying that the bill, as amended, would not accomplish that goal.

MR. WAYNE said with regard to voting, the answer to the question is yes.

MR. WAYNE, in response to Representative LeDoux, advised that he was asked whether it does not accomplish the goal, and his response to that question was yes, it does not.

[2:14:37 PM](#)

REPRESENTATIVE LEDOUX asked Mr. Wayne for suggested language he could offer, on the fly, as an amendment that might accomplish what the committee is trying to do on Amendment [4].

MR. WAYNE advised he was unable to provide any language on the fly that would solve that problem at this time.

[2:15:28 PM](#)

REPRESENTATIVE REINBOLD asked Mr. Wayne to explain what he believes this amendment does.

MR. WAYNE answered that he did not draft the [handwritten] amendment, he is just now looking at it, and he does not really know what it does. He suggested asking the drafter of the amendment.

CHAIR CLAMAN then asked the name of the drafter in Legislative Legal and Research Services.

MR. WAYNE advised that the [handwritten] Amendment [4] was not drafted by Legislative Legal and Research Services.

REPRESENTATIVE FANSLER stated his belief that it was.

[2:16:31 PM](#)

CHAIR CLAMAN noted that a question had been raised as to whether the committee prefers to proceed, or hold off on acting on this handwritten amendment to let the next committee of referral take up this question. He acknowledged that he saw several heads nodding, and asked Representative Fansler his pleasure.

[2:16:59 PM](#)

The committee took an at-ease from 2:16 p.m. to 2:17 p.m.

[2:17:59 PM](#)

REPRESENTATIVE FANSLER withdrew Amendment [4], a handwritten amendment.

[2:18:26 PM](#)

CHAIR CLAMAN brought Sponsor Substitute to HB 44 and HCR 1 before the committee and asked for a motion.

REPRESENTATIVE EASTMAN remarked that, under the definitions of the statute and within the bill, there was not a definition of "official action," and asked how the term "official action" was to be construed.

CHAIR CLAMAN suggested that Legislative Legal and Research Services and others would probably say that "official action" is defined in different parts throughout the Alaska Statutes, and that he was fairly certain the courts have had more than one occasion to make a determination as to what constitutes an "official action." He opined they would say it is a combination of statutory and common law interpreting the statutes, and that the notion of "official action" relates to action on behalf of the state or governmental body, and in this case it would be the state.

[2:20:08 PM](#)

MR. WAYNE advised there is not a definition of "official action" within the ethics act. The ethics act does define legislative action to mean "conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law amendment, resolution, report, nomination, or other matter affected by legislative action or

inaction." He explained that the Select Committee on Legislative Ethics sometimes writes advisory opinions, and subcommittees of the Select Committee on Legislative Ethics sometimes write complaint decisions. When those complaint decisions are written, he explained, it interprets the ethics act, and if there is a word in the ethics act that isn't defined in the definition and the meaning isn't clear from common usage then, if necessary, it assigns some meaning to it. He opined, if memory serves, it has said that "official action" and the ethics act includes legislative action, and he could not recall whether it had defined it any more broadly than that. He further opined that what it has done is suggest that it may include more things besides legislative action, but that it does include legislative action.

CHAIR CLAMAN asked for a motion to move the bill.

[2:22:22 PM](#)

REPRESENTATIVE FANSLER moved to report SSHB 44, Version 30-LS0208\0 out of committee, as amended, with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE REINBOLD objected.

CHAIR CLAMAN asked for discussion of SSHB 44.

[2:22:49 PM](#)

REPRESENTATIVE REINBOLD opined that all legislators want open, honest, transparent government and many wish they could abstain. Currently, the only option is walking out or obtaining an excused absence. However, she stated, her constituents want her to make hard decision on the floor of the House of Representatives and be accountable for her votes. This bill is based on the honor system and there have been many times she believed people should have stood up and they didn't, she remarked.

REPRESENTATIVE REINBOLD advised that if this legislation is to pass, the committee must specifically define "immediate family," and once there is a definition, she will put the burden on the sponsor to request the financial records of all because objective information is needed. This is not a fair and equitable bill, she advised, because possibly a person has more wealth, or they may have many children versus those without children, and it will be an undue burden for them to come up

with the financial records of all of the children. The word "conflict" must be defined exactly and who it applies to because it doesn't seem fair that it may apply to someone in the private sector but not to someone in the public sector, she said. In the event this legislation moves forward, at a minimum, everyone must declare conflicts in full for all of their family members on the appropriations bill because that is direct expenditures from the state to individuals, she reminded the committee.

[2:27:31 PM](#)

REPRESENTATIVE LEDOUX pointed out that this bill does not include voting on an appropriation bill, and pointed to [Sec. 2. AS 24.60.030(g)], page 2, lines [27-30, Version 0], which read as follows:

(g) ... However, notwithstanding (e)(3) of this section and the limitations of this subsection, a legislator may vote on an appropriation bill that meets the requirements of AS 37.07.020(a) or 37.07.100 (Executive Budget Act).

REPRESENTATIVE LEDOUX noted that Representative Reinbold made a good point about the definition of "immediate family." She remarked that, assuming one's immediate family is defined as children living with the legislator, domestic partners or spouses living with the legislator, that information is already included on the financial disclosure statements.

[2:28:25 PM](#)

REPRESENTATIVE KREISS-TOMKINS said he supports the bill, and commented that he was unsure he shares Representative LeDoux's optimism about the lack of gamesmanship in the legislature. Unfortunately, he said, there have been small examples here and there throughout the legislature, which speaks to comments and amendments offered by Representatives Reinbold and Eastman. In anticipation of the political cultural trends in this country, he said he increasing sees various tenents of small "d" democracy imperiled and questioned in ways he finds deeply troubling and deeply unreasonable. He expressed that gerrymandering is a great example of gamesmanship to a "T" on both sides. Democrats gerrymandering the Republicans in the State of Maryland, and Republicans gerrymandering Democrats out of any notion of electoral competitiveness in the State of Ohio or Michigan.

REPRESENTATIVE KREISS-TOMKINSS explained that during this last election cycle the governor's mansion of North Carolina transferred from one party to another. The governor, who was defeated in his re-election bid, together with the legislature which was controlled by one party, systematically neutered the Office of the Governor of executive branch powers and passed those powers to the legislature. Thereby, allowing [the executive powers] to remain within the party opposite of the newly elected governor. He described that as completely wrong and undemocratic, and it is a virus spreading around the country. While he does not see the virus having infected Alaska in a meaningful way, he opined it is worth anticipating and thinking about policies acknowledging this trend in the country. He suggested it would be intelligent to keep [the virus] in mind, and to the best extent possible for legislators to inoculate themselves against that type of gamesmanship. There is a tremendous precedent of this type of behavior in this country, and Alaska is not invulnerable in any manner. He remarked that he wanted his thoughts on the record because it presents his perspective wherein more than anything he is an Alaskan and an American, and he has no tolerance for partisanship and gamesmanship.

[2:31:40 PM](#)

REPRESENTATIVE KREISS-TOMKINS related that beyond his comments of appreciation to the sponsor, this bill is moving in the right direction. He offered his willing and interest in working with all parties, including members of this committee who may not be on the next committee of referral, to find as much consensus as possible. He said he supports moving this bill out of committee.

[2:32:11 PM](#)

REPRESENTATIVE EASTMAN responded to earlier comments regarding appropriations and stated that his understanding of this legislation is that the exception is to the budget; therefore, the exception is limited to the governor's appropriation, but it would not encompass any other appropriation bill that came before both chambers. Generally, he noted, while he applauds the bill sponsor for his efforts in credibly wanting to put responsibility where it needs to be, he reiterated his comments regarding the current practice related to conflict of interests and putting personal responsibility back into the process so those voting on these types of issues feel it acutely. Although, he commented, if the process would be such that a

simple majority of members can overrule nearly one-half of the representatives in that body, it occurred to him that a majority of Alaskans may say "this is something that should be voted upon by the representative in question," but simply 21 representatives can say "No it's not" and under this law, that representative would not be able to vote. Legislators are empowered to speak on behalf of their constituents, "it's their vote, and not ours" which is, in this case, silent and perhaps by not even a majority of Alaskans represented in the legislature, he said. While the legislation is pursuing personal responsibility for votes, he noted, the committee can agree that this bill is not ready for final passage. Yet, he commented, there is a strong temptation to pass all personal responsibility onto another committee or onto the floor of the House of Representatives to do the final work that needs to be done, and he sees that irony. In the bills present form, he said, he is not willing to pass that responsibility on, and believes it is the committee of first referral's responsibility to do the heavy work of getting the legislation into the form the committee believes it should be.

[2:37:03 PM](#)

REPRESENTATIVE KOPP said he shares the same thoughts as the other speakers, and specifically highlighted Representative Kreiss-Tomkins comments in being concerned that sometimes the best of intentions are not realized in practice. He stated that something like this makes it a hard policy call, and commented as follows:

When the testimony is often focused on a former piece of legislation that was in front of this body, it muddies the waters because we can do -- we can do the right thing but maybe have the wrong motives driving it sometimes. So, that previous piece of legislation always gets brought up, and there's been a lot of misinformation about, you know, how that benefited Alaska, but um, it, you know. So to make something like this not be about that, I think discussion going forward needs to really focus on what all possible conflicts we're talking about.

REPRESENTATIVE KOPP related there is a lack of understanding of all of the possible conflicts that could come under this bill, such as, what the penalty is that applies. There should be a better definition about "immediate family," and what it means to insert this into the judiciary branch to be the decision maker,

and bringing it out from the uniform rules, which is the legislature's prerogative. He said this committee is leaving the next committee of referral with a lot of work to do. He concluded his comments as follows:

But I -- I think as a sendoff note the more we can keep this discussion away from oil tax credits and just on the general discussion of ethics, it would be a more healthy discussion and um, and -- and I think more consistent with what we all want to drive at, is a good transparent process.

[2:39:20 PM](#)

CHAIR CLAMAN, after seeing Representative Reinbold's hand raised, advised her that she previously spoke to this [bill], and unless she had something very different to say, she has had her chance to speak. He related that he is not inclined to hear Representative Reinbold a second time in that the rules limit comments and debate, he pointed out.

REPRESENTATIVE REINBOLD interrupted that "we've never ever limited discussion in a committee, ever." The committee is moving a piece of legislation ...

CHAIR CLAMAN stopped Representative Reinbold and advised her that it is Representative Fansler's opportunity to speak, and he would think about it.

[2:39:52 PM](#)

REPRESENTATIVE FANSLER said everyone's comments are well taken and he appreciates all of the work offered with the best interests of the state in mind, hard as it may be sometimes for all to come together. He specifically thanked and applauded Representative Grenn for bringing this issue forward and that Alaska is a better state for it even being in the discussion stage. He then urged Representative Grenn to provide the statistics he had previously requested regarding other states that had this type of language and all of the language. He said it was refreshing for him to see that this language wasn't something wherein people were not allowed to vote time and again. In fact, he noted, there were only three times it happened over a course of a couple of years, and it is not something that is ever intended to be used as a weapon.

[2:41:31 PM](#)

REPRESENTATIVE FANSLER said he would speak to a comment brought up as to the lower legislative bodies, and municipalities, and that they are not doing what the legislature is doing. He said he disagrees, coming from a municipality city council, and while it may not be to the same scale, municipalities are struggling with the exact fiscal crisis because the state's budget reflects their budgets, it's a ripple effect. He expressed that he wanted to give a shout out to all of Alaska's municipalities because they are doing the best they can, and that's where it comes to the idea of leading by example. He further expressed that he finds it sad the legislature would deign itself so much better than municipalities in that municipalities are held to a higher standard, while the legislature says "What's good for you is not good us." He stressed that he wants to be certain the legislature is doing what's best for the state and is also held to the same standards expected from others. He advised that this amendment is headed to the House State Affairs Standing Committee and it will be refined in a manner that addresses this issue.

REPRESENTATIVE FANSLER, in speaking to Representative Reinbold's comments, related that this bill is to be comprehensive and not target one group with equal investment, putting it on the record with the transparency the two bodies deserve, and reinvesting the public's faith in their government.

[2:43:43 PM](#)

CHAIR CLAMAN advised Representative Reinbold, with regard to continuing to debate over a pending motion, the uniform rules specifically say that when a motion is before the committee everyone, except the person moving the legislation or introducing the legislation, speaks once. He pointed out that HCR 1 is before the committee today, pertaining to the exact topic, and Representative Reinbold will have an opportunity to express exactly what she wants to say [at this moment] during the discussion of HCR 1. He remarked that he will review this issue further because Representative Reinbold's point is well taken that the committee tends to have open debate. He then ruled that, for today, he will not hear Representative Reinbold a second time as to SSHB 44.

[2:45:04 PM](#)

CHAIR CLAMAN noted that the bill presents an interesting question because there is a sense that, as a legislator, to

always be there voting for their constituents. The notion that a legislator would advise their constituents that they have a conflict of interest and couldn't vote on a certain bill, there is a feeling that somehow the legislator is not doing their job. He recalled serving on the Anchorage Assembly and occasions he was not permitted to vote wherein constituents asked why he hadn't debated. Chair Claman related that he'd explain he had a conflict of interest, and "every single time" the constituent would thank him for removing himself from that discussion, and that they didn't feel cheated he didn't vote on something. He noted that he understands Representative Reinbold's sentiments that legislators represent their constituents, but this is a citizen legislature and this bill is about public perception. The question the committee is attempting to address is how the legislature can show the public it is being responsible to its duties as legislators, and to the duties as citizen legislators with real lives, he remarked.

[2:47:36 PM](#)

[After beginning the roll call vote, Representative Kopp interrupted the roll call vote with a question.]

REPRESENTATIVE KOPP asked whether the committee is voting to move SSHB 44 from committee.

CHAIR CLAMAN advised he was correct, it is a vote to move SSHB 44 from committee, and Representative Kopp will have the option to fill in the box "do pass, do not pass, or amend" and move the bill on to the House State Affairs Standing Committee.

[2:48:22 PM](#)

A roll call vote was taken. Representatives LeDoux, Fansler, Kopp, Kreiss-Tomkins, Claman voted in favor of passing SSHB 44 out of committee, as amended. Representatives Eastman and Reinbold voted against it. Therefore, SSHB 44(JUD) was reported out of the House Judiciary Standing Committee by a vote of 5-2.

[The committee turned to HCR 1.]

[2:48:59 PM](#)

REPRESENTATIVE FANSLER moved to report HCR 1, Version 30-LS0209\J out of committee, with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE REINBOLD objected.

[2:49:12 PM](#)

CHAIR CLAMAN asked Representative Reinbold whether she preferred to speak first or last.

REPRESENTATIVE REINBOLD, in response to Chair Claman's inquiry, asked whether Chair Claman will limit the discussion on the legislation.

CHAIR CLAMAN responded "As to this pending motion, yes, one time."

REPRESENTATIVE REINBOLD argued that usually when legislation is discussed, the committee goes "round and round," and she further argued "but you are going to be hindering us from -- from speaking to one another after another issue, when we're passing key legislation."

[2:49:43 PM](#)

CHAIR CLAMAN explained that his perspective on it is that often there is a lot of discussion about a bill ...

REPRESENTATIVE REINBOLD interrupted Chair Claman and said "We're in a hurry, in other words. Getting this outta here fast."

CHAIR CLAMAN pointed out that part of the courtesy of the chair is that he doesn't interrupt her, and she doesn't interrupt him. In the event she wanted to hear him finish what he has to say, he would be happy to finish, and in the event she wants to interrupt him, he can work differently.

[2:50:13 PM](#)

CHAIR CLAMAN explained that when the committee is having a discussion of a bill before a motion is on the floor, there is a lot of back and forth discussion and comments. The uniform rules, he stated, are fairly clear that when a motion is on the floor, everyone speaks once, which is how he is ruling today. He remarked that because he is aware Representative Reinbold would like to respond to what others have said, he was specifically offering her the opportunity to speak last as to this particular motion. He said he will review the issue further after today's meeting.

2:50:57 PM

REPRESENTATIVE KREISS-TOMKINS opined that Representative Reinbold said she has more thoughts to put on the record, and he then reiterated Chair Claman's perspective to have a full airing of thoughts and committee discussion before a motion is made and once the motion is made, everyone speaks once.

CHAIR CLAMAN pointed out that that is the perspective he was trying to communicate, although not as artfully as he would like.

REPRESENTATIVE EASTMAN commented that if there are those constraints after a motion has been made, it would be valuable to give as much heads up on any motions as far in advance as practicable. In the event that limitation will be there, he said he would like to have a copy of the script in advance so he knows what is happening and has the opportunity for discussion before that motion is made.

2:52:57 PM

REPRESENTATIVE LEDOUX recalled that Chair Claman reopened public testimony and Jake Jacobsen testified, Chair Claman then closed public testimony. Subsequently, she said, she could not recall whether Chair Claman asked if there was any further discussion on this bill.

CHAIR CLAMAN said that after closing public testimony, he is fairly confident he did not ask whether there was any further discussion.

REPRESENTATIVE LEDOUX opined that is the cause of the concern.

CHAIR CLAMAN offered appreciation for Representative LeDoux's comments, and stated he will make clear the time for open discussion, and that once the motion is made "we need to move it along."

REPRESENTATIVE REINBOLD noted that courtesy has always been shown, although, when using gamesmanship a rule can be pulled out, or shut someone out by using the gavel. The bottom line is that courtesy needs to rule, she opined.

CHAIR CLAMAN explained that the legislative rules create a framework for courtesy, orderly discussion, and debate.

2:54:59 PM

CHAIR CLAMAN turned the committee to the pending motion to move HCR 1 from the House Judiciary Standing Committee.

REPRESENTATIVE LEDOUX commented that she understands the concerns about gamesmanship and caucuses voting solely with their caucus, and she would still like it to be 21 votes as opposed to the two-thirds votes being discussed in the amendment. Gamesmanship, she related, appears to come into play more often on issues that are either a budget bill, or ruled as a procedural motion. She explained that within her previous caucus, a representative had to vote with the caucus on the budget or uphold the Speaker of the House of Representatives as to a procedural ruling. She offered that she was unsure whether there is any manner in which to state that this vote is not procedural, within HCR 1. In the event it was procedural, she said she could see that it would come down to caucus versus caucus, but when it's not procedural, people are all over the place, as was seen today on the floor of the House of Representatives and in this committee, she pointed out. Representative LeDoux suggested giving more thought to how it can be done so there is never a chance this would be considered a procedural vote when it gets to the next committee of referral.

2:58:11 PM

REPRESENTATIVE EASTMAN said the comments on procedural votes are well taken. He then used the example of downloading software that requires a person to read pages and pages of text. As a practical matter, he assumed, people probably do not read all of the text of things they've agreed to because there is a cost-benefit analysis that people take when recognizing they don't have an extra hour to read it. He questioned whether the committee is in a parallel situation because legislators are being asked to make a decision on a conflict of interest involving family members, financial disclosure statements, "and the whole nine yards." He described it as an unfunded mandate because new time is not created for each legislator to accomplish the leg work in untold situations where someone will have to rise and declare a conflict. He stated "We're going to have to turn to someone else for their recommendation on how to vote." The procedural aspect of caucus discipline is one thing but, he said, he was unsure it gets to the point of a formal disciplined scenario wherein someone tells the representatives how to vote for the sake of the party or caucus. He added that

it will happen by default, because individual citizen legislators do not have unlimited time to delve into all of the nuances of a particular legislator's family or professional history in a situation, he remarked. "We're still going to have to defer the responsibility, in some number of cases, for whether or not someone should be permitted to vote on behalf of their district to someone else. And so, I think it's going to be very likely that someone else is going to be making that decision," he related. The irony is that it defeats the noble purpose behind the ethic disclosure process of making it a legislator's responsibility as to whether or not to let someone vote on a particular issue. He acknowledged he doesn't know an easy way to fix it.

[3:02:46 PM](#)

REPRESENTATIVE REINBOLD commented that her "no vote" on the previous bill was because it needs work, nonetheless, she believes it is a good idea and an issue the public wants the legislature to address. She stressed her belief that legislators should be able to completely abstain on the floor of the House of Representatives, and she will be "voting no" on HCR 1 because it needs more work. Her concern, she noted, includes the billions and billions of dollars that move from the state's savings account to "out there in the community," and that the real conflict is when that money exchanges hands. She remarked that a minimal expectation would be that people are able to abstain on a budget bill, and that there be a definition of "immediate family" together with all records, in order to make an informed decision on the floor of the House of Representatives where gamesmanship may or may not be taking place.

[3:06:34 PM](#)

A roll call vote was taken. Representatives LeDoux, Fansler, Kreiss-Tomkins, and Claman voted in favor of passing HCR 1 from committee. Representatives Eastman, Reinbold, and Kopp voted against it. Therefore, HCR 1 was reported out of the House Judiciary Standing Committee by a vote of 4-3.

[3:07:35 PM](#)

The committee took an at-ease from 3:07 p.m. to 3:12 p.m.

[3:12:25 PM](#)

CHAIR CLAMAN brought the committee back to order and adjourned the meeting.

3:12:29 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:12 p.m.