

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 10, 2017

4:06 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 Charisse Millett (alternate)
Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 200

"An Act establishing a top two nonpartisan open primary election system for elective state executive and state and national legislative offices; repealing the special runoff election for the office of United States senator or United States representative; changing appointment procedures relating to precinct watchers and members of precinct election boards, election district absentee and questioned ballot counting boards, and the Alaska Public Offices Commission; requiring certain written notices to appear in election pamphlets and polling places; relating to declarations of candidacy and letters of intent; and amending the definition of 'political party.'"

- HEARD & HELD

HOUSE BILL NO. 208

"An Act relating to trusts and powers of appointment; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 200

SHORT TITLE: NONPARTISAN OPEN PRIMARY ELECTIONS
SPONSOR(s): REPRESENTATIVE(s) LEDOUX

03/29/17 (H) READ THE FIRST TIME - REFERRALS
03/29/17 (H) JUD, STA
04/10/17 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

COURTNEY ENRIGHT, Staff
Representative Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the presentation of HB 200, offered a brief sectional analysis and answered questions.

ALPHEUS BULLARD, Legislative Legal Counsel
Legislative Legal and Research Services
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 200, answered questions.

JOSE BAHNKE, Director
Division of Elections
Lieutenant Governor's Office
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 200, answered questions.

LIBBY BAKALAR, Assistant Attorney General
Transportation Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 200, answered questions.

ACTION NARRATIVE

[4:06:08 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 4:06 p.m. Representatives Fansler, LeDoux, Eastman, Reinbold, Kopp and Claman were present at the call to order. Representative Kreiss-Tomkins arrived as the meeting was in progress.

HB 200-NONPARTISAN OPEN PRIMARY ELECTIONS

[4:06:48 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 200, "An Act establishing a top two nonpartisan open primary election system for elective state executive and state and national legislative offices; repealing the special runoff election for the office of United States senator or United States representative; changing appointment procedures relating to precinct watchers and members of precinct election boards, election district absentee and questioned ballot counting boards, and the Alaska Public Offices Commission; requiring certain written notices to appear in election pamphlets and polling places; relating to declarations of candidacy and letters of intent; and amending the definition of 'political party.'"

[4:07:13 PM](#)

REPRESENTATIVE LEDOUX advised that she and her staff would present HB 200 today and advised that she is pleased to bring forward the "Top Two Nonpartisan Primary" bill because this idea takes the State of Alaska out of the business of running primaries for private political parties. She explained that rather than a party nomination process which serves to nominate candidates for each party, it would serve as a winnowing process wherein the candidates, in the primary, are narrowed down to the top two vote receivers. She explained that while walking door-to-door and speaking with her constituents, she consistently heard complaints regarding the semi-closed primary system in place in Alaska. The State of Alaska benefited from open primaries from 1946 until 2000, when the United States Supreme Court ruled under California Democratic Party v. Jones, [530 US 567 (2000)] that private parties could not be forced to open up their primaries, and this bill brings the will of the people back to a more open primary system, she explained.

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COURTNEY ENRIGHT, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, advised she would focus on the bill's highlights, noted four substantive changes, and paraphrased as follows [original punctuation provided]:

Section 8. Establishes a top two nonpartisan open primary that allows any voter regardless of party

affiliation, to vote for any candidate, regardless of party affiliation.

Section 21. The primary election does not serve to determine the political party nominee, but rather serves as a winnowing process. Note, however, that nothing in this bill prohibits political parties from establishing an alternative nominating process (i.e. conventions, preferential poll, etc.).

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MS. ENRIGHT offered that under current statute, Alaska's primaries serve as a nominating process for political parties, and this section is a key change to the current primary system.

Section 9. Candidates may list either their party of affiliation or may opt to be listed as nonpartisan or undeclared. However, note that this does not give a candidate the option to list their party affiliation as a different political group or party than the one they are currently registered as. For example, under HB 200 a Republican could not be listed as Democrat or Green Party candidate on the ballot.

Section 6. Eliminates the requirement for a nominating petition for nonpartisan or unaffiliated candidates. Under HB 200 no candidate is "nominated" through the primary election.

Presently, in the Alaska State Legislature Statutes, we provide that all nonpartisan candidates have to collect a certain number of signatures as all candidates would be running, effectively, not to be nominated in this process. Every candidate would apply to be on the primary the same way. So, it would eliminate that nominating petition piece.

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REPRESENTATIVE FANSLER referred to Sec. 6, and surmised that in a general election there would never be more than two names on the ballot for any state office.

MS. ENRIGHT answered that he was mostly correct and explained that there is a provision regarding a general election wherein a candidate could still elect to be a write-in candidate. There

would only be two names on the ballot, except technically speaking, there could be a third candidate as a write-in, she said.

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REPRESENTATIVE FANSLER asked that Ms. Enright explain the history of the primary system, its purpose, and when it became part of the election process.

MS. ENRIGHT explained that in 1945, during Alaska's Territorial Days, Alaska implemented a ballot initiative for open primaries, and unfortunately, was unable to locate information regarding the system prior to 1945. She offered that in reviewing the federal election process, it appears that primaries in different capacities existed during the second national presidential election.

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REPRESENTATIVE FANSLER offered a scenario of a candidate coming from an area that was heavily one party or the other, and asked whether the bill adds a second layer wherein one person wins the primary with no one running from the other party, that person wins unless there is a write-in candidate. Suddenly, HB 200 adds a second bite of the apple and he paraphrased that it reads "Now we get to go at this again for another -- another four months -- or, three."

MS. ENRIGHT responded that from a strictly statutory perspective, currently all candidates participate unless they are nonpartisan in both the primary and the general elections. There is not an additional layer added in terms of the actual application, she explained, and deferred to Representative LeDoux regarding Representative Fansler's specific scenario.

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REPRESENTATIVE LEDOUX explained that everyone still runs in the general election and what this does, in general, is that more people vote in the general election than in the primary election. She acknowledged, that for a specific candidate it may be inconvenient to have to run in the general election when that candidate believed everything was completed in the primary. She offered her belief that from the perspective of governing and the philosophy of having people buy into who is their representative, to have someone picked by a majority of the

voters in the general election where the vast majority of people vote, outweighs that inconvenience compared to a great governing principle.

REPRESENTATIVE FANSLER requested statistics of other jurisdictions operating in the same manner as the bill, whether there are any trends wherein it encourages more participation in the elections, whether it drives voter turnout for primaries, and whether more candidates generally run for offices. He noted that his requested information could wait until the next bill hearing.

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REPRESENTATIVE EASTMAN said that during the last few years in Alaska there has been a high percentage of candidates who [win] the primary and end up not running in the general election for whatever reason.

CHAIR CLAMAN asked whether Representative Eastman said that candidates withdraw after winning the primary.

REPRESENTATIVE EASTMAN answered that candidates do withdraw, and offered a scenario wherein someone withdraws or is coerced into withdrawing after the primary election, and asked what happens in that situation under this bill.

MS. ENRIGHT differed to Alpheus Bullard, Legislative Legal and Research Services.

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ALPHEUS BULLARD, Legislative Legal Counsel, Legislative Legal and Research Services, answered that, currently, if someone withdraws after the primary election, there is a petition process wherein the party can have that candidate replaced. That process is eliminated in this bill because only the two most successful candidates for each office can appear on the general election ballot. In the event a candidate were to withdraw, there would still be the potential for someone to run as the write-in against that candidate, he explained.

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REPRESENTATIVE EASTMAN commented that in other parts of the world a candidate could be the subject of coercion and pressure to withdraw because if the person withdraws the other person

wins and there is no one to "take up the banner." He said he was hopeful that type of situation was taken into account and the state doesn't end up in a situation where there is greater incentive to put pressure on a person's opponent to resign because now it would be easier to get them to resign. Whereas, currently in the party system, he said, "you talk to somebody, they resign, the parties replaces them with somebody else, you - - I mean, you still have to run against them. It's not really an incentive for you," and questioned the impact of the bill in that regard.

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REPRESENTATIVE KOPP surmised that all candidates for a specific race will be compete in an open primary, and that a person could self-designate their own party without any party endorsement, or support. He asked whether he understood the bill correctly.

MS. ENRIGHT replied that he was correct to an extent, for example, under this bill, the Division of Elections would prohibit someone who is, for example, a democrat from saying they are a republican, but it wouldn't prohibit that person from saying they were nonpartisan. The person can either choose the party they are registered or affiliated with, or they can choose to be nonpartisan, she said.

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REPRESENTATIVE KOPP offered that it would "kill the purpose" of members of a party to vote in a primary as far as a process of identifying a person's specific candidate to advance to a general election. On the face of it, he noted, it appears the purpose of the bill is to ..., and if that is the purpose, whether the sponsor's office had heard from the various parties because much of the bill changes the entire foundation of the current election process.

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REPRESENTATIVE LEDOUX commented that the committee heard loud and clear from Tuckerman Babcock in a press interview that the Republican Party does not support HB 200, and she was unaware whether Mr. Babcock bothered to forward a letter. She opined that she had not heard officially from the Democratic Party, and that she unsure whether the Democratic Party liked this bill any more than the Republican Party. She pointed out that this bill

is open for public testimony, and all entities have the option to submit letters.

REPRESENTATIVE REINBOLD commented that she believed former Representative Max Gruenberg was working on a bill similar to HB 200, and it was her understanding that both parties were opposed this bill.

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REPRESENTATIVE EASTMAN offered a scenario wherein candidates running for governor and lieutenant governor support each other, except the governor receives fewer votes than their opponent. Under this bill, the other gubernatorial candidate has the "option to grab" that lieutenant governor candidate and bring them onto the ticket, and whether the lieutenant governor candidate has the option to decline to be chosen.

MS. ENRIGHT answered, not in the statute, it could possibly fall under regulation, or possibly something the sponsor could consider as an alternative approach. She offered that "In the current manner it's written -- statute -- the gubernatorial candidate with the highest number of votes gets to select."

CHAIR CLAMAN asked whether the current statute is such that if gubernatorial candidate "Smith" had been campaigning with candidate "A" for lieutenant governor, and in the actual election, gubernatorial candidate "Jones" wins the gubernatorial election and candidate "A" wins the lieutenant governor's election. Under current statute, "they are lumped together, it's not like on the presidential election where you get to choose your vice-president there, that's who they get and they could always resign and then somebody else get picked." He noted that in that sense, it would be the same as the process is today. Under current statute, there is a separate campaign for lieutenant governor, a separate campaign for governor, and the governor lives with whoever the party picked for lieutenant governor.

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REPRESENTATIVE EASTMAN opined that the difference is where both the governor and lieutenant candidate make it through the winnowing process and both are on the general election ballot. The bill gives the person with even just one more vote the opportunity to reach down and choose which lieutenant governor

candidate they are going to run with, so there is a multi-ballot, except now they are obliged to run against each other.

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REPRESENTATIVE LEDOUX questioned that comment "running against each other," and explained it will be the top two gubernatorial candidates, and it's not that the candidate coming second gets to be lieutenant governor. She explained the process as follows: there is an open primary for governor, and an open primary for lieutenant governor; whoever comes in first as governor in the gubernatorial primary gets to choose which one of the top two candidates they want as lieutenant governor. Actually, she described, it offers the governor slightly more choice than currently, and acknowledged that she struggled with this and would prefer that no one ran as lieutenant governor and the governor could simply choose their lieutenant governor candidate, such as in the national presidential elections. Except, she remarked, Legislative Legal and Research Services pointed out that the constitution requires that the election for lieutenant governor be performed in the same manner as governor.

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REPRESENTATIVE EASTMAN noted that the restraints of the constitution puts a wrinkle in this arrangement such that there is almost a perverse incentive for a person to choose the opponent's former running mate as lieutenant governor, thereby, forcing that team to run against each other.

REPRESENTATIVE LEDOUX offered that Representative Eastman described the current problem because a gubernatorial candidate could end up with a lieutenant governor they don't like or get along with, which has actually happened in this state. She remarked that the current system is not exactly perfect.

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REPRESENTATIVE KOPP referred to Representative Eastman's scenario as to what would happen if someone resigned after the open primary and asked whether he had heard correctly, that the other candidate would basically win the election by default.

MS. ENRIGHT answered in the affirmative.

REPRESENTATIVE KOPP then offered a scenario that one of the top two vote getters, for whatever reason, was unable to serve in

public office, currently the party can get together and come up with another nominee. This language appears to be a deficit in its current structure, he said.

REPRESENTATIVE LEDOUX agreed with Representative Kopp's concern, and pointed out that that is the wonderful thing about the committee process. She remarked that she will discuss the issue with Legislative Legal and Research Services whether the person with third place votes could advance to second place.

REPRESENTATIVE KOPP noted that if he was a member of the other party, he would be concerned that someone, such as himself, would move out of their district and into the other party's district, become an independent candidate, and compete in an open primary. There is professional honesty and courtesy in knowing that "we're tied to a set of beliefs and a platform" and can agree to disagree on issues. Although, he pointed out, erasing all distinction becomes a lethal threat to the integrity of the process, and integrity is lost when the candidate can self-identify with the intent of winning a seat and deceiving voters.

REPRESENTATIVE LEDOUX responded that under the current system, someone who affiliated with one party all of their lives can self-identify as an independent and win the election as an independent. In addition, she said, the considerations [Representative Kopp] set forth are part of the current system because someone who has been a member of one party all of their lives, with a stroke of the pen, can become a member of another party.

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REPRESENTATIVE KOPP argued there were huge differences because in an open primary a person can hide behind the enormous obfuscation of multiple people running and it's hard to hit one bee in a beehive. There may be a good turnout, but the chances of surviving on bad behavior go up enormously in that type of environment. He referred to the primary system with multiple party candidates, and said that people are more focused, the candidate is more accountable, and if he was a voter, he would want the primary system.

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REPRESENTATIVE FANSLER noted concern in situations where three people run, and there is a hypothetical 34 percent vote

candidate, 33 percent vote candidate, and 32 percent vote candidate split. The 34 percent vote candidate, and the 33 percent vote candidate go on, they then make a collusion to drop someone out and the 32 percent vote candidate can't get up into it. He said he was interested in the possibility of the third place candidate moving up into position. He then referred to Representative Kopp's scenario, and offered the scenario wherein both the first and second place candidates became incapacitated, and questioned whether it suddenly became a large write-in campaign with no power to get any names on the ballot.

MS. ENRIGHT answered that Representative Fansler had found an oversight in the bill because there must be a process to replace candidates if they drop out before the general election.

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REPRESENTATIVE FANSLER opined that the bill "takes a way a little of the parties' powers" because it would no longer orchestrate a closed primary, essentially, for a party. In the event the goal is strip these powers away from parties, he asked whether thought had been given to having people run with no party affiliation with everyone just a name on a list, as in a municipality election.

MS. ENRIGHT responded that in 1936, by ballot initiative, the State of Nebraska put in place a nonpartisan primary system and the system runs all candidates without party affiliation on its ballot. She offered that consideration was given to that issue, and as to the final decision, she deferred to Representative LeDoux.

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REPRESENTATIVE LEDOUX answered that consideration was given to that issue and it appeared to be too big of a jump because this bill, in and of itself, was a big enough step. She asked Ms. Enright whether or not, within the State of Nebraska, its governor runs in the open primary as a nonpartisan, or whether it solely refers to the state's legislature.

MS. ENRIGHT advised that she would have to double-check, but as she recalled it was all state candidates, and not federal candidates.

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REPRESENTATIVE FANSLER further requested information as to the current system, and asked the thresholds for multiple parties, whether every party receives a primary, whether an independent or the Alaska Constitution Party receives a primary put on by the state.

MS. ENRIGHT deferred to Jose Bahnke, Division of Elections.

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JOSE BAHNKE, Director, Division of Elections, Lieutenant Governor's Office, advised that currently, in the state's primary, the Independent Party and Democratic Party can all run on one ballot. She explained that for the purpose of conducting a primary, the Division of Elections produces "three separate ballots" as follows: republican ballot, is for republicans, undeclared, and nonpartisans; the democratic ballot, is for democrats, Alaska Independents, the Green party, and anyone can select that ballot.

REPRESENTATIVE FANSLER questioned that, for instance, if he was a member of the Green party and wanted to get on the general election ballot, would he run in the primary election against the democrat on their ballot, or how would he get his name on the ballot, otherwise.

MS. BAHNKE deferred to Libby Bakalar, Department of Law.

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LIBBY BAKALAR, Assistant Attorney General, Transportation Section, Department of Law, asked that Representative Fansler to repeat his question

CHAIR CLAMAN restated Representative Fansler's question and asked that in the event a candidate was in the Green party and was on the open primary ballot, what happens next.

MS. BAKALAR offered her understanding that there is the "R Ballot" for the Republican Party; the "ADL Ballot" is the Alaska Democratic and Libertarian Party ballot; and the "Combined Ballot" is the Alaska Independent, Democratic, Libertarian Party ballot. They are essentially, she explained, separate primaries on one piece of paper, it is not that the libertarian and the democrat are running against each other on that combined ballot, the libertarian runs against whatever other libertarian candidates are on that ballot, and the democrat runs against

other democrats on the ballot. Those then proceed to the general election, and oftentimes are uncontested races. She noted that she was unaware whether the Green Party had party status at the moment, because parties lose and gain party status depending upon the amount of votes it gains in the previous election. Essentially, she explained, it is not one party pitted against another on that ADL Combined Ballot, but rather they are separate primary races of parties that chose to associate, and under their bylaws chose to appear on a joint ballot together.

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REPRESENTATIVE FANSLER noted that that was his understanding, and there are mechanisms in place that essentially say that "if you are a recognized party that you can even go into the ballot system at all." In other words, he explained, if he goes out and creates the Representative Fansler Party, he can't get on the ballots because he has to be a recognized political party.

MS. BAKALAR agreed, and she noted that currently there are two routes to the general election ballot in Alaska, the primary system, and the petition nominating system for independent candidates. When affiliated with a political party, the person has the party apparatus behind them to advance from the primary to the general election, and in the event a person is a sole candidate, they go through the nominating petition process. The political party status is a creature of statute and certain criteria must be met to become a political party or a political group, and it depends on the modicum of public support accorded to each of those entities by statute. She further explained that some of the smaller political parties may gain or lose political party status over time depending upon votes secured in prior elections. Whereas, the more established parties do not gain or lose status regularly, she said.

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REPRESENTATIVE FANSLER surmised that currently, the general election ballot could have a republican, democrat, libertarian, or anyone with a petition, on the ballot. Under this new method, there could only be, for instance, republicans, democrats, and libertarians, and he asked whether two out of those three parties and the independent candidate can still do the petition process to get on the ballot.

REPRESENTATIVE LEDOUX shook her head no.

REPRESENTATIVE FANSLER surmised there could be ten names on the primary election ballot down to just two names in the general election ballot.

MS. BAKALAR opined that he was correct as the system envisioned by this bill, Top Two Primary was, in theory, held to be constitutional by the United States Supreme Court under Washington State Grange v. Washington State Republican Party, 552 US 442 (2008). She offered her belief that Representative Fansler's characterization of how that would look is correct, there would no longer be this distinction in the way those two parallel routes to the ballot are envisioned under current law, between independent candidates and party candidates,

[4:46:46 PM](#)

REPRESENTATIVE LEDOUX advised that she, and all republican legislators, received a fascinating memorandum today from a gentleman involved in the Republican Party advising that the party is looking into nominating its candidates through a state convention, and requested feedback. She referred to the idea of any party choosing its candidates through a convention process, and asked how that would gel with current statute relating to primaries.

MS. BAKALAR referred to AS 15.25.010, Provision For Primary Election, which read as follows:

Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by this chapter. The director shall prepare and provide a primary election ballot for each political party. A voter registered as affiliated with a political party may vote that party's ballot. A voter registered as nonpartisan or undeclared rather than as affiliated with a particular political party may vote the political party ballot of the voter's choice unless prohibited from doing so under AS 15.25.014 . A voter registered as affiliated with a political party may not vote the ballot of a different political party unless permitted to do so under AS 15.25.014 .

MS. BAKALAR opined that that system would require a statutory amendment because the statute currently reads that the state holds a primary election.

[4:48:43 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to earlier comments regarding the State of Nebraska, and advised the committee that all of its statewide offices are still party specific. He commented that a scenario exists wherein there are lifelong nonaffiliated or nonpartisan people who feel the call to serve, get to the state level and realize that only dogs, generally speaking, that hunt are the Democratic or Republican Parties. Therefore, even though a person doesn't strongly feel an affiliation, they kind of have to get pigeon holed into one or the other [party] even if that isn't quite square with the person's self-identity. He asked the sponsor's staff to research information regarding a scenario wherein the two leading candidates somehow are incapacitated, and to include how that scenario would be handled in the states of California and Washington. He referred to Nick Begich's 1992 airplane crash, and noted that it wasn't as though he was replace on the ballot.

[4:51:20 PM](#)

CHAIR CLAMAN offered his understanding that the constitution requires a separate election for the lieutenant governor, at least at the primary level. Although, he said, assuming a third party had not made it into the top two names moving forward, what happens under the bill when the top two primary candidates are both from the same party.

MS. ENRIGHT replied that under HB 200 and the open primary, they would not necessarily be running with members of the same party. She explained, it would be irrelevant as to what party they were affiliated because their moving forward was irrelevant to their party status, rather, it would be the number of votes received. Therefore, in the scenario where two republicans move forward and there is a democrat and republican for lieutenant governor, one of those candidates for governor would be running with a democrat, she said.

[4:53:00 PM](#)

CHAIR CLAMAN surmised that under the bill, the governor is essentially left with whoever receives the most votes for lieutenant governor. He offered a scenario of a gubernatorial

race in which there was one democrat and one republican, and the top two in the lieutenant governor's race was one democrat and one republican. In the event the voters so chose, under the bill, people could vote for a democratic governor and a republican lieutenant governor.

MS. ENRIGHT asked Chair Claman to clarify whether he was speaking as to whether they are elected separately because they do run together on the ticket in the general election. She answered that in the event the republican governor that moved forward chose to run with the democratic lieutenant governor, it was possible they could be elected with separate parties.

[4:54:25 PM](#)

CHAIR CLAMAN surmised that if there are two republican candidates that make it out of the primary, such as with Senator Lisa Murkowski's election, when looking at the number of votes it may have been Joe Miller and Lisa Murkowski as top two coming out of the primary, and then they would have another battle against each other in the general election. He offered that in this scenario two republicans are the top vote getters in the lieutenant governor's race and that candidates for governor choose from those two who they want to be their lieutenant governor. Today, he commented, that is a choice made by the voters, whereas, under this scenario, the candidate would just get to say that they choose candidate A or B.

MS. ENRIGHT answered that Chair Claman's statement was accurate.

[4:55:30 PM](#)

REPRESENTATIVE EASTMAN disagreed that the statement was entirely accurate because he was unsure it was always the people choosing as sometimes the candidates themselves choose. He referred to recent history and said he wanted to incorporate those types of situations into the conversation, where there is a change in the pairing coming out of the primary election.

CHAIR CLAMAN explained that those situations occur when someone resigns from the voters' choice. Under current law, for example, the current governor selected a person to be his lieutenant governor candidate, that person stepped down and someone took their place, and the democratic candidate for governor elected not to stay on the ballot and the party didn't replace them.

There certainly have been times when someone withdrew, but he opined that when the voters choose who they want for lieutenant governor, that's the person who goes with the republican, and that's the person who goes with the democratic candidate. In the event "they could convince" that person to step down, the party would have the ability to nominate another candidate. In theory, he said, as of today absent a resignation, the voter's get to foist upon their party's candidate the lieutenant governor they choose, and historically there have been changes after the primary, but that's different.

4:58:38 PM

REPRESENTATIVE REINBOLD noted that she supports Representative Kopp's position with regard to the clearer choice as it does cause a candidate to grill down and work hard to win over the hearts and minds of their constituents, and that the primary election is an important process. She referred to Representative LeDoux's comment that "with the stroke of a pen you can change your party," and asked Representative LeDoux why it is okay for a person, at a stroke of a pen, to change their party affiliation.

REPRESENTATIVE LEDOUX advised Representative Reinbold that under current law, a person can switched their party affiliation. She stressed that she will not speak to Representative Reinbold's question because that is not her bill.

CHAIR CLAMAN added that when she was married, by the stroke of a pen she was allowed to change her name, so too can a person change their party affiliation.

5:00:33 PM

REPRESENTATIVE REINBOLD commented that people work hard in creating platforms in the different parties and candidates need to support those platforms. She offered that she received information from the National Conference of State Legislatures (NCSL) through Legislative Legal and Research Services regarding the Top Two Primary, and paraphrased as follows: "The top two format uses a common ballot listing all candidates on the same ballot, advocates for the top two primary argue that it increases the likelihood of moderate candidates advancing to the general election ballot. Opponents of the Top Two Primary maintain that it reduces voter choice by making it possible that two candidates of the same party may face off in the general

election. They also contend that it is tilted against minor parties who will face slim odds of earning one of only two spots on the general election ballot. And, it does say that there's several states that use these, California, Louisiana, Nebraska, and Washington."

[5:02:39 PM](#)

REPRESENTATIVE EASTMAN commented that he finds it "American" that any person, at any time, can be humble and recognize they may have been part of the wrong party, found a better party, or decided not to be a member of any party. President Ronald Reagan, for example, was a member of the Democratic Party, and he switched that, and most republicans don't hold that against him, he said.

[5:03:03 PM](#)

REPRESENTATIVE FANSLER thanked Representative LeDoux for bringing this bill forward as he has a similar election style bill, and finds this to be an excellent discussion so that society continues to have these discussions to determine what does not work and what does work. He expressed that he is now, more than ever, worried about the governor/lieutenant governor situation where candidates were vehemently opposed to each other and work to compromise the campaigns. He offered a situation wherein someone became incapacitated and now the governor did not have that person on the ballot with no avenue to obtain another candidate. He requested information regarding the states that have enacted Top Two Primary, whether any have the same constitutional requirement as Alaska, and whether they run everything as a ticket at the primary level.

MS. ENRIGHT advised that none of those states have Alaska's constitutional provision.

REPRESENTATIVE FANSLER surmised that they all run as a ticket at the primary level.

CHAIR CLAMAN commented that that creates this unique situation in Alaska.

[5:04:57 PM](#)

REPRESENTATIVE FANSLER moved to adopt CSHB 200, Version 30-LS0038\U, Bullard, 4/917, as the working document. There being no objection, Version U was before the committee.

REPRESENTATIVE REINBOLD requested public testimony notice, and asked that the committee slowly move through the bill section-by-section.

[5:06:15 PM](#)

CHAIR CLAMAN advised that he expects public hearing testimony to take place on Wednesday, [April 12, 2017], on CSHB 200.

REPRESENTATIVE LEDOUX commented that she welcomes moving through this bill thoroughly, which is the purpose of these committee hearings. The concern expressed regarding what avenue to take in the event a candidate becomes incapacitated is an excellent point that was probably not considered because the other states adopting Top Two Primary, have gone through the initiative process but, she pointed out, the initiative process does not vet bills.

REPRESENTATIVE EASTMAN referred to the provision regarding "a vacancy in office after the election" specifying that the parties can dictate who is replaced in the event of a vacancy of a legislator or other official. Under this bill, he commented there is now a situation "for you to have a personal registration with one party, but refer something -- you know, refer to something else, nonpartisan or something, on the ballot. Which of the two is going -- you know, is going to be controlling when it comes time to replace a -- deceased legislator and why."

[HB 200 was held over.]

[5:09:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 5:09 p.m.