

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 14, 2017

1:02 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."

- MOVED HB 208 OUT OF COMMITTEE

HOUSE BILL NO. 1

"An Act relating to absentee voting, voting, and voter registration; relating to early voting locations at which

persons may vote absentee ballots; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 13

"An Act prohibiting the expenditure of state or municipal assets to create a registry based on race or religion."

- 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
04/10/17	(H)	Heard & Held
04/10/17	(H)	MINUTE(JUD)
04/12/17	(H)	JUD AT 1:00 PM GRUENBERG 120
04/12/17	(H)	<Bill Hearing Canceled>
04/14/17	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 208

SHORT TITLE: TRUSTS; COMM PROP TRUSTS; POWERS OF APPT

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

03/31/17	(H)	READ THE FIRST TIME - REFERRALS
03/31/17	(H)	JUD
04/10/17	(H)	JUD AT 1:00 PM GRUENBERG 120
04/10/17	(H)	Scheduled but Not Heard
04/12/17	(H)	JUD AT 1:00 PM GRUENBERG 120
04/12/17	(H)	Heard & Held
04/12/17	(H)	MINUTE(JUD)
04/14/17	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 1

SHORT TITLE: ELECTION REGISTRATION AND VOTING

SPONSOR(S): REPRESENTATIVE(S) TUCK

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	STA, JUD
02/23/17	(H)	STA AT 3:00 PM GRUENBERG 120

02/23/17	(H)	Heard & Held
02/23/17	(H)	MINUTE(STA)
02/28/17	(H)	STA AT 3:00 PM GRUENBERG 120
02/28/17	(H)	Heard & Held
02/28/17	(H)	MINUTE(STA)
03/07/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/07/17	(H)	Heard & Held
03/07/17	(H)	MINUTE(STA)
03/09/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/09/17	(H)	Heard & Held
03/09/17	(H)	MINUTE(STA)
03/14/17	(H)	STA AT 5:30 PM GRUENBERG 120
03/14/17	(H)	-- MEETING CANCELED --
03/16/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/16/17	(H)	Heard & Held
03/16/17	(H)	MINUTE(STA)
03/21/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/21/17	(H)	Moved CSHB 1(STA) Out of Committee
03/21/17	(H)	MINUTE(STA)
03/28/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/28/17	(H)	Moved CSHB 1(STA) Out of Committee
03/28/17	(H)	MINUTE(STA)
03/29/17	(H)	STA RPT CS(STA) NT 4DP 3NR
03/29/17	(H)	DP: WOOL, LEDOUX, TUCK, KREISS-TOMKINS
03/29/17	(H)	NR: JOHNSON, KNOPP, BIRCH
04/14/17	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

WILLIAM HARRINGTON
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 200, offered testimony.

DANIEL LYNCH
Soldatna, Alaska

POSITION STATEMENT: During the hearing of HB 200, offered opposition to the legislation.

GEORGE PIERCE
Kasilof, Alaska

POSITION STATEMENT: During the hearing of HB 200, offered opposition to the legislation.

EUGENE CARL HABERMAN
Unincorporated Area of the Matanuska-Susitna Borough, Alaska

POSITION STATEMENT: During the hearing of HB 200, offered testimony.

KEN JACOBUS, Attorney
Kenneth P Jacobus Law Office
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 200, offered testimony.

ANDREW SINCLAIR
Clinical Assistant Professor
NYU Robert F. Wagner Graduate School of Public Service
New York, New York

POSITION STATEMENT: During the hearing of HB 200, offered research findings.

JASON OLSON, Director
National Organizing for Open Primaries
New York, New York

POSITION STATEMENT: During the hearing of HB 200, testified in support of the legislation.

RENEE WARDLAW, Assistant Attorney General
Commercial and Fair Business Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 208, answered questions.

REPRESENTATIVE CHRIS TUCK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 1 as prime sponsor.

KENDRA KLOSTER, Staff
Representative Chris Tuck
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 1, offered a sectional analysis on behalf of Representative Tuck.

EUGENE Carl HABERMAN
Unincorporated Area of the Matanuska-Susitna Borough, Alaska

POSITION STATEMENT: During the hearing of HB 1, offered testimony.

MICHAEL HAWFIELD

Homer, Alaska

POSITION STATEMENT: During the hearing of HB 1, offered support for the legislation.

CAROL THOMPSON, Absentee & Petition Manager
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

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

ACTION NARRATIVE

[1:02:24 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:02 p.m. Representatives Claman, Fansler, and Kopp were present at the call to order. Representatives Eastman, LeDoux, Reinbold, and Kreiss-Tomkins arrived as the meeting was in progress.

HB 200-NONPARTISAN OPEN PRIMARY ELECTIONS

[1:02:57 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.'"

CHAIR CLAMAN opened public testimony on HB 200.

[1:03:34 PM](#)

WILLIAM HARRINGTON said "If it ain't broke, don't fix it." He described himself as a private sector retiree as opposed to a public sector employee which, he stressed, is important while discussing (audio difficulties). He offered surprise that with

all the crises the legislature faces this year, this bill was given the time of day. He asked whether this bill fixes a problem that had been festering for years. (Audio difficulties) for the last ten years. He referred to Sec. 11 of the bill, (audio difficulties) that no party affiliations are listed on the ballot, just named in alphabetical order, and offered that in that manner, no party can complain of trademark infringement or a "wolf in sheep's clothing." Drop the labels, drop the problem, he said. He asked that this bill be passed so he could watch in amazement as the unintended consequences for both major political parties unfold going forward, or as people from the past say, "in the future."

[1:06:20 PM](#)

DANIEL LYNCH said he was testifying for himself "and independent neighbors," and described himself as a non-partisan super-voter, as are 53 percent of registered voters in the state. He suggested an amendment or a companion bill simply ending any government spending on primary elections or state funding for a "beauty contest" for private political parties. During the last 15 years, he said he has studied this issue and statewide primaries "cost between \$6 and \$2.5 million per cycle." The state is in a financial strain, he described, and the question is "where to cut." He said, "Here's an easy button for you," and referred to the Constitution of the State of Alaska, Article V, which read as follows:

Section 1. Qualified Voters. Every citizen of the United States who is at least eighteen years of age, who meets registration residency requirements which may be prescribed by law, and who is qualified to vote under this article, may vote in any state or local election. A voter shall have been, immediately preceding the election, a thirty day resident of the election district in which he seeks to vote, except that for purposes of voting for President and Vice President of the United States other residency requirements may be prescribed by law. Additional voting qualifications may be prescribed by law for bond issue elections of political subdivisions.

Section 2. Disqualifications. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined

to be of unsound mind unless the disability has been removed.

Section 3. Methods of Voting; Election Contests.

Methods of voting, including absentee voting, shall be prescribed by law. Secrecy of voting shall be preserved. The procedure for determining election contests, with right of appeal to the courts, shall be prescribed by law.

Section 4. Voting Precincts; Registration.

The legislature may provide a system of permanent registration of voters, and may establish voting precincts within election districts.

Section 5. General Elections.

General elections shall be held on the second Tuesday in October of every even-numbered year, but the month and day may be changed by law.

[1:07:27 PM](#)

MR. LYNCH advised that Section 5 does not say anything about state funding a primary election, and for the citizens who choose to belong to any political party or political group can fund their own "beauty contest." He commented that last year the republicans organized and funded its "PPP," the democrats organized and funded its caucus, and the other parties and groups had conventions and member mail-ins. Those efforts help the state's economy and doesn't cost state funds which are better spent elsewhere, perhaps on the Pioneer Homes, education, or any constitutional requirement. Locally and statewide, all other groups, such as the "HEA Co-Op," the Veterans of Foreign Wars (VFW), the International Brotherhood of Electrical Workers (IBEW), Teamsters, and others, finance their own elections for leaders, boards, rules, and decisions, and do not come to the state for funding. He related that in his 20 plus years in the state, he could offer many examples of primary blunders and waste, all at state government expense. Recently, in District 40, two democratic candidates results were challenged by Republican [Tuckerman] Babcock, and the state had to pay for judges and court expenses in trying to hash it out, and yet it should have been left up to the Democratic Party to choose their candidate. For example, District 29, regarding one unopposed candidate race costing the state dollars, and District 30, wherein four republican candidates were trying to "be the man" when the Republican Party could have (coughing) guy and one in

Soldotna to determine by their members their choice for the general election, with no state funds. In 2014, there was an August referendum on SB 21 ...

CHAIR CLAMAN advised Mr. Lynch that he needed to conclude his comments and asked whether he does or does not support the bill.

MR. LYNCH said he does not support the bill.

[1:10:15 PM](#)

GEORGE PIERCE said he represents the community of Kasilof, and noted that legislators have more important things to do than waste time with this legislation. He stressed that he does not like the effective date in the explanation of changes and it needs to be changed from 2020 to 2018. That's a (indisc.) funding everything that goes on in this state, he said. In the event people want to do this, they need to step up to the plate and spend their money instead of the state's money, and it's not the legislature's responsibility to continue the funding. He asked that adjustments be made to this bill.

[1:11:31 PM](#)

EUGENE CARL HABERMAN, Unincorporated Area of the Matanuska-Susitna Borough, said he represents himself, noting that he follows the public process, and the public process (audio difficulties) decision made by the governing body (audio difficulties) the public interest. He commented that some legislators are aware that he has observed local and state elections, and offered "deep concern" because he was not going to be appointed by a party, and his ability to observe a state election was denied. Yet, he related, a member of a given party can be appointed and observe. He referred to the 2012 election in Anchorage when he was denied his right to observe the state election, and commented that the ability to observe an election is key to ensuring an election is valid. He added that the more complex and complicated issues should require more notice to the public with more opportunities for the public to be heard. He then referenced HB 200, and commented that there had been changes in the schedules as to when this bill would be before the committee, and that moving the schedule around ensures the public would not be heard. He stressed that if any legislator expects to hear from the public on any legislation, a fair schedule and opportunity is necessary for the public to speak to any bill and be heard.

[1:15:07 PM](#)

REPRESENTATIVE REINBOLD thanked Mr. Haberman for attending meetings and paying attention, and then explained that many bills are in play and acknowledged that public testimony did get switched. She described it as disingenuous to the public to change their opportunity to speak to a bill around to different times, and asked that he forward his written testimony to Chair Claman's office.

CHAIR CLAMAN advised Mr. Haberman that he could email his testimony to his office and he would distribute it to the members of the House Judiciary Standing Committee.

[1:16:15 PM](#)

REPRESENTATIVE EASTMAN noted that Mr. Haberman described this current proposal as lacking in transparency and that it lacks the ability to verify what happens after an election. He asked that Mr. Haberman recommend a good fix because he was trying to understand Mr. Haberman's exact problem.

MR. HABERMAN reiterated the situation he spoke of initially regarding not being appointed by a party and being denied his right.

[1:18:13 PM](#)

CHAIR CLAMAN explained to Mr. Haberman that Representative Eastman had requested a specific amendment to change the bill to the manner in which Mr. Haberman believed would be satisfactory, but Mr. Haberman had not answered that question, and asked that Mr. Haberman answer Representative Eastman's question.

MR. HABERMAN said the process should not be limited in the way the bill is written because it has the appearance of self-interest by giving [a watcher] to a local party whether democrat or republican, rather than having a neutral observer such as himself.

[1:18:51 PM](#)

KEN JACOBUS, Attorney, Kenneth P Jacobus Law Office, after being advised by Chair Claman that his emails were received, said he would not take time to discuss the content of those two emails. He then described this as the "jungle primary" similar to a "demolition derby" because everyone crashes into everyone else

and the last two candidates standing are on the general election ballot. He then speculated that the minor parties in Alaska were not available to testify today because they were unaware of the meeting, and noted that those minor parties will be destroyed by the "jungle primary." He pointed out there has never been a top two election for state or federal office in California or Washington in which a major party was able to qualify for the general election ballot unless there was only one candidate of a major party running for that office. The minor parties, he warned, would never be able to meet the 3 percent requirement to retain qualified party status. In addition, political science research and experience demonstrates that the system in California and Washington does not (audio difficulties) polarization, (audio difficulties) officeholders, and depresses voter turnout. The article by Richard Winger, he had submitted demonstrated that the depression of voter turnout had been taking place in California since the adoption of the jungle primary. [Mr. Jacobus offered examples fraught with audio difficulties.] In the event there was a jungle primary with an extreme left and an extreme right candidate, and two centrist's candidates, it works. In the event there were many candidates, the extreme candidates would win the primary, the centrists wouldn't because they would split the "mish-mash" in the center. The jungle primary is simply a bad idea, he described, and then asked that the committee receive input from the minor parties "because they are the ones that are going to be killed by this."

[1:23:06 PM](#)

ANDREW SINCLAIR, Clinical Assistant Professor, New York University Robert F. Wagner Graduate School of Public Service, said he works on issues of public policy and quantitative research methodology in the United States and Great Britain. In 2015, he co-authored "Nonpartisan Primary Election Reform Mitigating Mischief," published through the Cambridge University Press, which focused on the nonpartisan "top two primary" in California. He said he holds a Ph.D., in Social Science from the California Institute of Technology, and a B.A. in mathematics.

MR. SINCLAIR advised that California used a nonpartisan primary election rule during the years 2012, 2014, and 2016, which was enough information to report something about it, but there was still considerable disagreement among political scientists as to what to look at, and what to make of the new rules. California's version of the top two is fairly simple, and

described that the two candidates with the most votes advance to the general election, and voters can choose any candidate in the primary. He explained that this version was also used in Washington, and a few other places with similar rules, and approximately 15 percent of the time, two candidates from the same party face each other in the general election. Although, he commented, most of the time the general elections are similar to what would be seen under the old system. From his own research, he said, it appears the general elections between candidates of the same party are more competitive, and those more competitive elections do happen in the very places where you would typically see uncompetitive elections. People may take participation and moderation under consideration, except it is a little less clear how the top two primary works in California and how that experience would translate to Alaska. He noted that his team looked for evidence regarding disadvantaged people, minorities, and other unrepresented groups, and they did not see any compelling evidence in his 2015 book. Most of what happens, he explained, appears to happen through pairing candidates in a different manner, rather than vastly changing the way voters behave in a primary. In general, he said they found that voters still pick the candidate they know something about and they like the most, rather than behaving in some promulgated strategic way. Overall, they found that some voters like the new rules and other do not, but many voters echo the uncertainty of political scientists about exactly what to expect. Any reform comes with some advantages and disadvantages, and he pointed out that his job is only to assess how, and not to make recommendations so he wouldn't make recommendations one way or the other.

[1:26:00 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked whether Mr. Sinclair had observed any change before and after California adopted the top two primary system. He pointed out that California, on the whole, leans left so for districts of either political character solidly democratic or solidly republican, whether he observed there was a race to the ideological extremes prior to, and after, the adoption of the top two primary system.

MR. SINCLAIR responded there is a lot of academic interest in changes in ideology, and current research suggested that democrats in the legislature may have moderated slightly without a huge changes on the republican side. He offered that he performed a study in a very republican district, California Assembly District 5, represented by Assemblyman Frank Bigelow

wherein the 2012 election was between two republican candidates in the general election. During the campaign Assemblyman Bigelow declined to sign the "No Tax Increase Pledge" and the other candidate did sign the pledge, and yet, Assemblyman Bigelow still won the election, "which is likely a different outcome than would have been obtained under the other rule."

[1:27:46 PM](#)

CHAIR CLAMAN referred to prior testimony indicating that the top two primary system in California actually showed a reduction in voter participation, and asked Mr. Sinclair's perspective as to what effect it had on voter participation.

MR. SINCLAIR answered that it is important to keep voter participation in context such that, California has been experiencing declining voter participation over time.

MR. SINCLAIR, in response to Chair Claman, agreed that voter participation is declining in California as it is in other states in the country. He said he hesitates to make a strong claim as to how this would translate to Alaska simply because the scale of politics in California is very different. He pointed out that statewide office in Alaska is roughly equivalent to a single California state senate seat by population, so the campaign technologies are very different. He related that in the work he has performed, there is preliminary evidence that Alaska may see a "very, very, small decrease" in participation when there are two candidates of the same party. Except, he stated, that is still ongoing research and it is hard to establish the factual of what would happen if using the old system given the decline in participation across the country.

[1:29:23 PM](#)

REPRESENTATIVE LEDOUX said she assumed that when discussing voter participation decline it was for the general election, and she then asked about voter participation regarding primary elections.

MR. SINCLAIR responded that he was most familiar with the California patterns in 2012, 2014, which was actually quite different, and so it worked differently in the 2012 presidential year. He explained that the way voter choice works in presidential years might be quite different than in non-presidential years, but he said he hesitates to make "too big of claims" as to the voter participation side and especially

translating that into the Alaska experience. Although, he commented, the differences were not nearly as large as he expected, one way or the other.

1:30:31 PM

JASON OLSON, Director, National Organizing for Open Primaries, explained that his organization is a non-profit national nonpartisan organization with the singular mission of ensuring that no American citizen was required to join a political party in order to vote in a primary. While offering background, he explained that he founded a group of independent voters in California that partnered with a coalition led by former Governor Arnold Schwarzenegger to bring a top two open primary to California, as well as reform the districting process. Restoring Alaska's open primary is worth the support of the Alaska State Legislature because its citizens, together with those in California, and Washington State, had their open primary stolen by a "terrible court decision" in 2000. In that case, he explained, the California Democratic Party sued the State of California as the State of California had adopted Alaska's open primary system in 1996, and the plaintiff's sued in order to close the primary elections. He described that in one of the "worst Supreme Court decisions" in a generation, the court sided with the political establishment of both parties against each citizens' basic freedom to vote for the elected representative of their choice. This decision, despite the fact that primary elections are taxpayer funded, run by government employees, and conducted on publically owned voting machines. Therefore, Alaska, California, and Washington State, all of which have the same open primary system, were forced to return to the semi-closed primary that voters in each state had previously rejected, which is the system Alaska is using to this day. This put all of the states in a difficult position, he described, so the voters in those other states fought back and passed new open primaries through ballot initiatives, and for this they looked to Nebraska which has used the top two open primary system since 1934 for its legislative races.

MR. OLSON explained that under a top two open primary, voters are free to vote for whoever they want, legislators are free to do what they think is right for their constituents rather than having to tow the party line, and most of the voters in these states absolutely love it. He offered that the impact in California has been tremendous and its legislature's approval rating has risen from a low of 14 percent before the change, back to 45 percent today. Budgets are passed on time, voter

participation and registration has begun to rebound, and he agrees with Mr. Sinclair that initially it continued to decline but has rebounded over time. The voter turnout in the 2016 State of California primary election was 48 percent, and HB 200 is Alaska's chance to finally win back its open primary. He urged the committee to support this legislation.

[1:34:31 PM](#)

CHAIR CLAMAN, after ascertaining no one wished to testify, closed public testimony on HB 200.

CHAIR CLAMAN, in response to Representative Reinbold, advised the bill would be held in committee today with amendments due by 5:00 p.m. this afternoon, and the bill would be heard and moved out of committee during tomorrow's hearing.

[1:35:05 PM](#)

REPRESENTATIVE REINBOLD referred to a 3/18/2008, Legislative Research Report prepared for former Representative Max Gruenberg [located in the committee packets] who had requested documents pertinent to the U.S. Supreme Court's consideration of consolidated cases wherein representatives of Washington's republican, democratic, and libertarian parties challenged the modified blanket primary, claiming that the law, on its face, violate a party's associated rights. She encouraged the committee to read the report, and noted that in California and Washington this has been challenged "and has headed up to the Supreme Court." Representative Reinbold then paraphrased from page 7 of the decision attached to the report, as follows:

CHIEF JUSTICE ROBERTS, with whom JUSTICE ALITO joins, concurring.

I share JUSTICE SCALIA's concern that permitting a candidate to identify his political party preference on an official election ballot -- regardless of whether the candidate is endorsed by the party or is even a member -- may effectively force parties to accept candidates they do not want, amounting to forced association of the First Amendment.

REPRESENTATIVE REINBOLD said the issue of a violation of First Amendment rights of political parties is serious and there is opposition in the democratic and republican parties. She noted that Justice Antonin Scalia and Justice Anthony Kennedy had important comments and said that one of their key points was

that this impairs the parties' advocacy of its standard bearer for their candidate. She paraphrased the decision, page 9, 4th paragraph, as follows:

Among the First Amendment rights that political parties possess is the right to associate with the persons whom they choose and refrain from associating with the person they reject.

REPRESENTATIVE REINBOLD advised she does not support HB 200.

[1:37:11 PM](#)

REPRESENTATIVE LEDOUX asked Representative Reinbold to confirm that she was reading from a "Dissent Opinion" as opposed to the majority opinion which is actually the law of the land.

CHAIR CLAMAN asked Representative Reinbold to cite the decision she was reading.

REPRESENTATIVE REINBOLD advised that it was a Washington case and a California case, and paraphrased from the [consolidated] decision as follows:

WASHINGTON STATE GRANGE, PETITIONER 06-730 v.
WASHINGTON STATE REPUBLICAN PARTY, ET AL. WASHINGTON,
ET AL., PETITIONERS 06-730 v. WASHINGTON STATE
REPUBLICAN PARTY, ET AL. (2008 U.S. LEXIS 2707)

REPRESENTATIVE REINBOLD said that the second one was the one in California, and she spoke to the concurrence and the dissent.

[1:37:29 PM](#)

CHAIR CLAMAN asked that Representative Reinbold pass the papers to him so he could cite the decision for the record. He then commented that only the [consolidated] Washington State Grange and Washington State Republican Party cases under 2008 U.S. LEXIS 2707, were cited.

CHAIR CLAMAN, in response to Representative Reinbold, advised that there may be other cases cited within the decision but she was quoting from only the one case.

[1:39:12 PM](#)

REPRESENTATIVE EASTMAN referred to the document "Explanation of Changes - Version O to CS Version U" Section 12, Criminalization of Ballot Marking, and commented that it was a good change as it is important there are clean applications allowing the voters to make their choice without having those choices made for them in advance.

REPRESENTATIVE EASTMAN referred to the issue of the top two primary system, and noted that the City of Anchorage decided to go away from the 50 percent model to the 45 [percent model], and asked whether Representative LeDoux had taken that into consideration.

REPRESENTATIVE LEDOUX said she could not follow his question, and noted that Anchorage has a 45 percent model and if a person receives 45 percent [of the votes] there is not a run-off for the mayoral position. She questioned whether his suggestion was that if one candidate received 45 percent in a primary election, it canceled out the general election.

[1:41:04 PM](#)

REPRESENTATIVE EASTMAN said he was looking at the fact that the bill opens up changing the primary and general elections and how they are all working, and of the various options out there that is certainly one option. He opined that Anchorage is the only place that has tried it, and asked whether Representative LeDoux had compared that process when drafting this bill.

CHAIR CLAMAN interjected that Representative Eastman was getting some of the details of the Anchorage election system confused with the state system. Anchorage, many years ago, adopted a nonpartisan election and; therefore, parties are never listed, and only the mayoral election allows a run-off, and that is only if someone doesn't prevail by a certain percentage of the votes. At the assembly level, he explained, there has never been that 45 percent requirement, and in recent years it has been a plurality. He described Senator Lisa Murkowski's write-in campaign as a perfect example on the state level and, including the gubernatorial election, plurality prevails in all of the state general elections. He noted that he, too, was a bit confused by Representative Eastman's question.

[1:42:46 PM](#)

REPRESENTATIVE LEDOUX responded that she was unclear as to whether Representative Eastman was referring to a candidate who

received 45 percent of the votes in a primary would then not move on into the general election, or whether it was the idea that a person would need to collect 45 percent in the general election. She expressed that she was hopeful the language was clear and in the event it was not, she would bring forth an amendment clarifying there would be only two candidates actually on the ballot, and the candidate with 50 percent plus one vote would win the election, except in the case of a write-in candidate. She pointed out that the intention of this bill in the general election is whoever wins the plurality of the votes.

[1:44:14 PM](#)

REPRESENTATIVE REINBOLD acknowledged that Chair Claman had cited the decision within the 3/18/2008 Legislative Research Report, and cited three cases within that decision.

REPRESENTATIVE EASTMAN noted that he had submitted a request for an amendment a while ago and still had not received the amendment, and was unsure it would be submitted timely.

CHAIR CLAMAN, in response to Representative Eastman and his timely efforts with Legislative Legal and Research Services to draft his amendment, answered that he would certainly consider the circumstances. He commented that, according to his staff, Representative LeDoux had already drafted an amendment on the same topic as Representative Eastman.

CHAIR CLAMAN, in response to Representative Kopp, advised there would be an opportunity for committee members to comment on HB 200.

[1:46:34 PM](#)

REPRESENTATIVE REINBOLD complained about the difficulty in turning in timely amendments.

CHAIR CLAMAN noted to Representative Reinbold that during the hearing last night he had advised amendments to this bill would be due at 5:00 tonight. He stressed that throughout this session, he has consistently given appropriate deadlines for amendments in this committee.

[1:47:31 PM](#)

REPRESENTATIVE REINBOLD commented that things are happening quickly and, as Chair Claman knows in being a member of the

minority last year, many times the minority's requests are rolled to the bottom at Legislative Legal and Research Services.

REPRESENTATIVE LEDOUX pointed out that Legislative Legal and Research Services is a nonpartisan agency and it does not roll minority bills, amendments, or questions, to the bottom of the pile. She said that an attack on Legislative Legal and Research Services by suggesting it is anything other than nonpartisan was not appropriate.

REPRESENTATIVE KOPP agreed that Legislative Legal and Research Services is nonpartisan, but it only has a finite amount of human resources, and it had put out a detailed memorandum advising of its priorities and the minority was at the bottom. He reiterated that resources are limited and that Legislative Legal and Research Services is nonpartisan.

REPRESENTATIVE LEDOUX requested a copy of the memorandum.

REPRESENTATIVE REINBOLD said "It was a zero attack on leg legal at all," because she was attacking the process.

HB 208-TRUSTS; COMM PROP TRUSTS; POWERS OF APPT

[1:51:20 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 208, "An Act relating to trusts and powers of appointment; and providing for an effective date."

CHAIR CLAMAN advised that Representative Kopp had previously requested that the Department of Law (DOL) offer an analysis of its fiscal note.

[1:51:53 PM](#)

RENEE WARDLAW, Assistant Attorney General, Commercial and Fair Business Section, Department of Law, said she was available to answer questions regarding the fiscal note.

CHAIR CLAMAN reiterated that during a previous committee hearing, Representative Kopp had requested a brief analysis of the fiscal note, and that questions may be prompted from her analysis.

MS. WARDLAW responded that this bill does not necessarily affect the Department of Law (DOL), and as such the DOL had requested,

prior to this hearing, that Legislative Legal and Research Services have someone online to speak to a summary of the fiscal note. She said the only information she could offer is limited to what is contained in the fiscal note.

[1:53:11 PM](#)

REPRESENTATIVE KOPP noted that the DOL fiscal note was detailed and due to the technical nature of the bill asked whether it was legally sound.

MS. WARDLAW asserted that this bill is legally sound based upon DOL's review. She explained there are two sections within DOL relating to trusts, and she is more familiar with Title 26. Therefore, she said she was hesitant to offer information with regard to Title 13, as opposed to information regarding Title 26.

[1:54:04 PM](#)

CHAIR CLAMAN noted that the bill sponsor did contact all committee members to determine whether anyone was interested in offering an amendment. He related that no one was interest and thus did not previously notice amendments.

[1:55:29 PM](#)

REPRESENTATIVE KOPP referred to a spreadsheet by Peak Trust Company, titled "Reasons to Decant a Trust," and related that it offers five different scenarios as to why this bill is important. This legislation, he commented, will update Alaska's trust statutes, and keep Alaska in a leadership role for estate planning and investments to continue in Alaska.

[1:56:21 PM](#)

REPRESENTATIVE EASTMAN commented that there were a number of letters of support.

REPRESENTATIVE REINBOLD commented that she appreciated the explanation of the bill from the Peak Trust Company, the multiple letters of support, and the bill sponsor visiting each office, which was a good example of how the committee process should work and how it was handled in this committee. She said she supports the legislation.

REPRESENTATIVE FANSLER thanked the bill sponsor for bringing it forward, and related that he is extremely leery anytime there are changes in trust and estate laws, especially at the request of the industry. He pointed out that Alaska has well established and longstanding trust and estate laws and any time the legislature starts to fiddle with something it creates great pause for him, and requires the highest level of review at all times.

REPRESENTATIVE KREISS-TOMKINS noted that the subject is Greek to him and he doesn't really understand what is being passed out of committee. He pointed to the lack of opposition and commented that it would have been helpful for him to have a third party assess the nature of the modernization of trust laws, explain consumer protection, revenue to the state, and whether this was purely a modernization process.

[2:00:05 PM](#)

REPRESENTATIVE EASTMAN agreed that modernization was part of this legislation and said he echoes Representative Fansler in that anytime someone offers a bill and says not to worry about the bill because it is just modernizing things, he worries. Another aspect, he said, is that each state has its own laws and depending upon the quality and flexibility of those laws there would be migrations of professions and capital. Therefore, it is not just modernization that is taking place in a bill such as this, it is also looking at how competitive Alaska can be against other states for market share in order to attract investment into Alaska.

[2:01:16 PM](#)

REPRESENTATIVE LEDOUX commented that she could see where Representative Fansler was coming from, and noted that "this trust law stuff" is not generally a matter of hugely rich people on one side and hugely poor people on the other side. Perhaps, she commented, the hugely rich people may have lawyers, lobbyists, and so forth; therefore, it is the legislature's obligation to be certain the legislation is not skewed against poor people. The whole trust field is made up of fairly affluent sophisticated people, and while trust law is complicated, there is the fact that the committee did not receive one single letter of opposition.

[2:02:49 PM](#)

CHAIR CLAMAN said he supports the bill, and referred to a previous question regarding how this bill fit with the other states which, he said, gets to the competitiveness question. There certainly are areas of the law where the legislature is well served to wait until the movement of an issue starts coming in from all of the states. For example, the revised Uniform Fiduciary Access to Digital Assets Act, from the Uniform Law Commission, was a response to people bringing forward issues of people having access to information on the internet. In those types of instances, the legislature is asked that the laws keep up with society, rather than the laws leading society. The folks involved in trusts have an interest in Alaska being at the forefront of the most modern laws because that brings in opportunities for the state, investment companies, and individuals who set up trusts. For example, the State of Delaware made a point of becoming the leader in corporate law, and has gotten on a cycle of being at the head of the curve in being a good place for corporations to operate. This bill, he explained, is an instance in which legislators are trying to make it possible for the Alaska trust laws to draw in more trusts to incorporate in Alaska, thereby bringing opportunities to Alaskans they wouldn't have had if Alaska was in 49th place in terms of sophistication of trust laws.

CHAIR CLAMAN agreed with Representative LeDoux that he, too, was struck by the fact there were zero letters of opposition. He said he was also struck when the practicing attorney from the Law Offices of Faulkner Banfield discussed her work in this area, and how Alaska's ability to stay in the top two or three states has helped her business and her ability to provide service to Alaskans looking for this type of work. For all those reasons, he said he supports this bill.

[2:05:21 PM](#)

REPRESENTATIVE KOPP moved to report HB 208, Version 30-LS0770\A out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 208 passed out of committee.

HB 1-ELECTION REGISTRATION AND VOTING

[2:05:57 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 1, "An Act relating to absentee voting, voting, and voter registration; relating to early voting locations at

which persons may vote absentee ballots; and providing for an effective date."

[2:06:22 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, pointed out the importance of every Alaskan having the opportunity to have their voices heard in an election process, and paraphrased the sponsor statement as follows [original punctuation provided]:

The right to vote embodies the spirit of American democracy. Casting a vote is the most discretely effective way to have one's voice heard in the political process. When we exercise our right to vote we impact our community far beyond an election: we are able to elect individuals who will make decisions on our behalf about how our government will be run, set the policies that will guide our state, and how resources, both national and local, are distributed.

Unfortunately, a surprising number of Americans don't exercise their right to vote. On average, only about half of eligible US voters cast ballots. Although, Alaska is one of a handful of states which exceeded 50 percent voter turnout in 2014, almost half of Alaskan voters are effectively not being heard.

House Bill 1 includes a series of changes designed to increase voter participation and access to voting across the state by improving and clarifying the voting process. These changes include:

Providing same day voter registration to allow all eligible Alaskans the opportunity to vote;

Enhancing online voter registration with electronic signatures to make the registration process quicker and easier;

Ensuring the same early voting locations are available during every election;

Creating an option for permanent absentee voting for individuals that plan to vote by mail every year; and

Clarifying and unifying terminology for early voting to remove confusion between early voting and absentee in-person voting.

By adopting the changes in House Bill 1, we can take a step forward to increase the voice of all Alaskans.

REPRESENTATIVE TUCK explained that the House State Affairs Standing Committee hearings received feedback from the Division of Elections seeking to clean-up and basically update Title 15, which had not been updated since the 1960s. He pointed out that part of the clean-up language was bringing Alaska's statutes up-to-date with the current procedures of the Division of Elections.

[2:08:47 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, explained that Section 1 removes language requiring a voter to register before an election within 30 days, as a voter can register to vote the same day they vote but they must have lived in their district for 30 days.

MS. KLOSTER advised that Sec. 2 permits a person, registering or reregistering as a voter, to apply using an electronic signature.

[2:10:39 PM](#)

REPRESENTATIVE REINBOLD asked the sponsor to describe any concerns or feedback from the public as to registering and voting the same day versus the 30 day requirement.

REPRESENTATIVE TUCK responded that the only concerns received were with regard to verification at the time the ballot was counted. He noted that, similar to Alaska's early voting or in-person absentee voting, the ballots are always under review prior to being counted.

REPRESENTATIVE REINBOLD commented that she had heard opposition with regard to the 30 day versus "the no requirement for a 30 day election."

REPRESENTATIVE TUCK clarified that currently a person can vote in-person absentee and change their voter registration within 10 days of the election. He explained that the first section of the legislation allows a first time voter to change their voter

registration within 10 days of the election as well as a person previously allowed to vote. He further explained that the questioned ballot and absentee ballot serves the dual purpose of being a ballot, and also a place to indicate any changes. He further explained that Section 1 allows a voter to vote down the ballot, and not just the top of the ballot.

[2:12:40 PM](#)

REPRESENTATIVE REINBOLD asked whether the voter still had to register 30 days prior, but they could change their registration.

REPRESENTATIVE TUCK disagreed, and clarified that Section 1 requires a voter to be a resident 30 days prior to voting, the residency requirement remains in statute and in the Constitution of the State of Alaska. Section 1 allows a voter who has been a resident [of a district] longer than 30 days to register to vote and vote up to the same day of the election, he said.

[2:13:18 PM](#)

REPRESENTATIVE EASTMAN referred to page 2, line 2, of the bill and asked whether "jurisdiction" represented another state or country.

REPRESENTATIVE TUCK pointed out that the language currently exists under AS 15.07, and paraphrased from page 2, line 2, "and is not registered to vote in another jurisdiction outside of the State of Alaska."

REPRESENTATIVE EASTMAN referred to the bill, page 2, line 2, and paraphrased "is not registered to vote in another jurisdiction." He asked whether there was a mechanism by which someone registered in another state could unregister before the election day. He commented that in the event the legislation announces to Alaskans they can register without waiting the 30 days, he said he would hate for someone to show up to vote but could not vote because this language says they cannot have registered to vote previously.

REPRESENTATIVE TUCK deferred to the Division of Elections to speak to how the division currently deals with that issue. He advised that last year Alaska joined the Electronic Registration Information Center (ERIC) system, which is a manner in which to verify a person's voter registration in another state. He commented that Representative Eastman's question was whether or

not someone could unregister from another state to be certain they were not in violation of this statute, and deferred to Ms. Kloster.

MS. KLOSTER advised that when registering to vote in Alaska, there is a box to mark on the ballot indicating whether the person is registered to vote in another state, and when that box is marked the person is removed from the voter rolls in the other state. Currently, she said, in order to vote in the election the person must have lived in Alaska for 30 days, with the exception that they could vote for the president of the United States. However, this reads that Alaska's same day voter registration allows the person to vote down ballot, but it does not change the requirement that the person must have lived in the state or district for 30 days.

[2:15:57 PM](#)

REPRESENTATIVE EASTMAN surmised that the registration and un-registration is automatic on the day the person fills out the form, which could be the day of the election. He asked why this bill maintained that language because the statute says, "You know, you can do this as long you're not registered." He opined that the un-registration process was not automatic and it would not allow him to un-register from another state, then register to vote in Alaska, and then vote all on the same day.

MS. KLOSTER deferred to the Division of Elections, and said that currently, in order for the division to be certain the person was not voting in two separate states and was within the 30 day mark, the person would vote a questioned ballot allowing the information to be authenticated before the vote was actually counted.

[2:17:17 PM](#)

MS. KLOSTER, continuing the sectional analysis, advised that Sec. 2, permits a person registering or reregistering as a voter to apply using an electronic signature, such as "My Alaska" and in the manner in which a person registers for the permanent fund dividend. She advised that Sec. 3, allows that the director of the Division of Elections determine the form of the electronic signature and a definition that works best for the division. Ms. Kloster said that Sec. 4, allows a qualified voter to register on the same day of the election or within 30 days of residency. She explained that Sec. 5, amends the section referring to the form of the voter's certificate [used for

voting an absentee in-person, special needs, or questioned ballot] and the person can include any information they would like to change. The section also adds the language "special needs." Sec. 6, she advised, makes certain the absentee or questioned ballot includes a "special needs ballot" under that definition. Sec. 7, clarifies that a voter registering or reregistering would vote a questioned ballot, which would then be reviewed to make certain the person was a qualified voter, she said.

[Ms. Kloster skipped Sec. 8 in the sectional analysis.]

[2:18:57 PM](#)

MS. KLOSTER noted that Sec. 9, is clean-up language referring to voting absentee or questioned ballot. Sec. 10, she said, "Again the same thing." Sec. 11, clarifies the terminology for early voting, rather than absentee or absentee in-person voting, she explained.

[2:19:21 PM](#)

REPRESENTATIVE REINBOLD referred to Secs. 10 and 11, and asked Ms. Kloster to explain the sections and the new language.

MS. KLOSTER responded that the current terminology is "absentee or absentee in-person" voting, meaning early voting two weeks prior to the election. There was some confusion, she noted, as to what absentee in-person voting actually meant so the sponsor changed the terminology to say that it is all called "early voting."

REPRESENTATIVE REINBOLD surmised that under Sec. 11, in the event a person votes absentee by mail, or votes at an early voting station and votes in-person, the terminology would now be "early voting."

MS. KLOSTER answered that Representative Reinbold was correct and explained that none of the procedures were changed within the Division of Elections, the bill simply changes the terminology.

[2:21:31 PM](#)

CHAIR CLAMAN referred to the bill, page 4, and noted that Ms. Kloster advised that the goal was to change the terminology to "early voting" and do away with [the current terminology]. Yet,

he pointed out, absentee voting was listed three to four times on the page. He then asked that if the goal was to change the terminology to early voting, why does the bill still call it absentee voting.

REPRESENTATIVE TUCK responded that the reason was due to current statutes. Sec. 9, he explained, relates to a person claiming to be a registered voter but for whom no evidence of registration could be located in the precinct, that person would then vote absentee or questioned ballot. In that manner, he further explained, verification would happen after the person voted and prior to the ballot being counted.

REPRESENTATIVE TUCK, in response to Representative Reinbold's question, answered that the State of Alaska has only six actual early voting locations. At those locations information can be immediately verified as to where a person currently lived, their exact precinct number, and their vote would be counted without any question. There are 181 locations where a person can vote absentee in-person up to 15 days prior to the election. It was discovered during the 2014 election that many people were turned away and told they couldn't vote absentee because they were present to vote, he advised. The intent of this legislation is clarification and the committee will continue to see absentee and questioned ballots listed through the statutes. The presentation would get to the sections calling it "early voting," he advised.

[2:23:32 PM](#)

REPRESENTATIVE REINBOLD referred to Sec. 9, and asked the sponsor to drill down as to his goal in changing the language.

REPRESENTATIVE TUCK reiterated that in the event a person's information could not be verified at the time of voting, they could vote absentee or questioned ballot and their eligibility would be verified during the time it was necessary to count that ballot.

[2:24:25 PM-](#)

REPRESENTATIVE LEDOUX described the legislation as attempting to make the process consistent, which was a good thing. She asked whether the division had shared the reason for the somewhat convoluted and arcane manner of early voting and then absentee in-person voting terminology.

REPRESENTATIVE TUCK described the evolutionary process as follows: initially, there was absentee voting because the person could not make it to their polling location or was out-of-state; it then evolved to an absentee mail-in ballot for the convenience of voting and not leaving home; it then evolved into opening stations for those who preferred to vote early and called it absentee in-person voting; and the intent of the legislation is consistency throughout. He added there are also special needs voting and other voting methods to keep consistent. He related that this bill turned into a cleanup bill for Title 15.

[2:26:07 PM](#)

MS. KLOSTER, in continuing the sectional analysis, advised that Sec. 12, clarifies the privileges of poll watchers and brings the statutes up-to-date while clarifying the current practice of allowing individuals to watch what is going on while people are voting. The language changes an "initiative or referendum" to "ballot proposition" to include both initiative and referendum. This section also clarifies in statute that the candidate, a group, or an organization is allowed one or more poll watchers, which is the division's current practice, she advised.

[2:27:19 PM](#)

REPRESENTATIVE EASTMAN asked the definition of "party" for this section because the statewide definition of what constitute a party is that it must have a certain number of voters. He commented that this discussion has been at the precinct level and that a precinct could have 90 percent to 100 percent of its voters belonging to a party that was not large enough to be considered a statewide party. Under the current language, he opined that party would not be qualified to have a poll watcher.

MS. KLOSTER replied that the bill does not change the definition and pointed out that the bill read "a candidate" and a candidate would be able to have a poll watcher. In speaking with the division, she said it had advised it "doesn't really turn away people that want to come and poll watch." She remarked that the division had not run into any issues at this point, and clarified that "anyone that is running and they want to be there, whether it be a ballot proposition or a candidate that's running, no matter what party they are in, they can have someone there."

[2:28:45 PM](#)

REPRESENTATIVE EASTMAN asked whether it was her understanding that a group not large enough to be a party could qualify under this language.

MS. KLOSTER answered that the sponsor envisioned this was inclusive of everyone of any group.

[2:29:04 PM](#)

REPRESENTATIVE LEDOUX commented that many years ago she was in a situation where the division would not let her have an individual poll watcher in the general election because it wanted to leave that totally to the party. She stated that if this is what the division is doing currently, it is a good idea to clarify the intent.

MS. KLOSTER said the sponsor wanted the intent in the statute to avoid issues in the future.

[2:30:04 PM](#)

REPRESENTATIVE EASTMAN referred to the bill, page 5, line 7, and described the language as distinguishing candidates representing a political party from candidates who do not represent a political party. In the event the idea is to be inclusive to all candidates, possibly the limiting language should be removed.

REPRESENTATIVE TUCK advised that the language does not allow just any public member to be a poll watcher, and referred to [Sec. 15.10.170(a)] page 5, lines 1-6], which read as follows:

(a) In a general election, special election, or special runoff election under AS 15.40.141, a [THE] precinct party committee, where an organized precinct committee exists, or the party district committee where no organized precinct committee exists, or the state party chair [CHAIRPERSON] where neither a precinct nor a party district committee exists, ...

REPRESENTATIVE TUCK referred to page 6, where, he said, the language allows it to be opened up for others, and opined the language is all inclusive. He acknowledged that the language does not include "just anyone who wants to be a poll watcher that's not sanctioned by a party, or a candidate, or a ballot initiative, or one way or the other."

[2:32:05 PM](#)

REPRESENTATIVE REINBOLD asked that staff provide the "exact, what it does versus the comparison" of what the bill changes. She asked Representative Tuck whether he had said the language opens it up to almost anyone that wants to be a poll watcher.

REPRESENTATIVE TUCK answered that the language opens it up to almost anyone, but there are conditions. Basically, he explained, any organization or organized group that sponsors or poses a ballot proposition or recall, may appoint one or more watchers at each precinct or counting centers for each individual candidate rather than solely a party.

CHAIR CLAMAN referred to Representative Reinbold's request [for staff to prepare a comparison] of the previous process versus the current process, and reminded her that the capitalized letters in brackets depict the language being removed from statute, and the bolded underlined language depicts the language being added. Therefore, he remarked, Representative Reinbold already has the information as to how the language was being changed from existing statute.

REPRESENTATIVE REINBOLD commented that she must email to inquiring constituents, and she was happy to do that, but sometimes constituents have a difficult time with the brackets and underlining.

MS. KLOSTER advised that she had prepared a document identifying what each section depicted on one line and she could send it to Representative Reinbold. It was important to the sponsor, she described, "that we didn't just let a whole bunch of people in there into the poll watching" in order to keep the area clear for people voting.

REPRESENTATIVE REINBOLD said that was her exact concern as she has several people in her district "doing this for a long, long, long time" who want a thorough explanation, especially regarding Secs. 12 and 13.

[2:34:49 PM](#)

REPRESENTATIVE EASTMAN referred to the bill, page 5, line 16, wherein language was being removed that dealt with citizenship requirements, and he did not see that language coming back up in other areas of the bill. He asked whether there was concern

that not enough foreign poll watchers were allowed at the polling places.

REPRESENTATIVE TUCK referred to Sec. 13, and explained that Title 15 was being reorganized and cleaned-up to make certain it read well, and page 6, lines 17-18, read, "A watcher must be a United States citizen."

CHAIR CLAMAN explained to Representative Eastman that there are instances where a sponsor starts with a bill and people start thinking of amendments to try to make it bigger and better, thereby making a small bill into a big bill. This is an instance where the sponsor started with a small bill long enough ago that someone decided to make it into a big bill before it came to the House Judiciary Standing Committee, he further explained.

[2:36:08 PM](#)

MS. KLOSTER, in continuing the sectional analysis, advised that in moving things around, the language deleted from Sec. 12 was placed into Sec. 13. She said that Sec. 14 added a declaration attesting to the truth and accuracy of the information offered as to the same day voter registration questioned ballot.

MS. KLOSTER advised that Secs. 15-17, relates to the declaration added to all questioned ballots that the Division of Elections had requested. Sec. 18, changes the terminology of early voting and adds the designation of an early voting station.

MS. KLOSTER advised that in approximately 2014, there was an effort by a number of organizations such as, "Get Out the Native Vote, AFN" to have early voting stations in a number of the state's rural areas offering everyone access to early voting. Under this section, the language keeps those early voting stations consistent every single year so every Alaskan has the opportunity to early vote. Secs. 19-22, relates to early voting terminology updates. Sec. 23, allows for voter registration updates. Currently, when a person votes and includes their information, they update their voter registration on the day they are voting. However, she pointed out, under the current practice, the voter registration is not updated if the person voted by facsimile or email, and this is one of the clean-up areas the division requested. Therefore, if a person votes by facsimile or email, all of their information would be updated.

[2:38:58 PM](#)

REPRESENTATIVE REINBOLD referred to Sec. 21, and asked Ms. Kloster to focus on any major changes in the section, and the intent of the sponsor.

MS. KLOSTER reiterated that AS 15.20.064 is related to early voting and if a voter's eligibility to vote could not be verified by the election official during the early voting process, they would vote an absentee questioned ballot. The ballot would then go through an additional review process by the Division of Elections to ensure the person was eligible before the vote was counted, she explained.

[2:40:07 PM](#)

REPRESENTATIVE REINBOLD asked how that process was different from the current process.

MS. KLOSTER answered that it is additional language to clarify in statute that in the event a voter was voting a questioned ballot this is the review process to follow. She deferred to the Division of Elections.

[2:41:14 PM](#)

REPRESENTATIVE REINBOLD referred to Sec. 21, and offered concern that the results of the election may be delayed and asked whether that issue had been addressed.

MS. KLOSTER deferred to the Division of Elections, and referred to the PFD voter initiative, wherein when signing up for the permanent fund dividend (PFD), the person would be registered to vote. She pointed out that there should not be a huge impact because more people will be registered to vote after signing up for the PFD.

[2:42:36 PM](#)

MS. KLOSTER, in continuing the sectional analysis, explained as follows: Sec. 22 changes terminology to early voting; Sec. 23 relates to updating voter registration via email and facsimile; and Sec. 24 is a new subsection. Current absentee ballot language read that if a person preferred an absentee ballot each year they had to fill out an application. This language requests permanent absentee voting such that a person signing up could stipulate they preferred to receive an absentee ballot to their home every single year without the necessity of applying.

However, she said, should the mail be returned, the person would fall off the list of voters automatically receiving an absentee ballot each year. Also, she explained, the person receiving the absentee ballot must vote every year, and if they have not voted within four years the absentee ballot would not continue to be sent to the person and they would be required to re-apply in order to participate, and they do not, at all, fall off the voter rolls.

[2:43:45 PM](#)

MS. KLOSTER advised that Sec. 25 relates to [a voter changing party affiliation within 30 days before the primary election] wherein they vote an absentee in-person, special, or questioned ballot [with the voter's new affiliation indicated on the voter's certificate attesting that the information is true and correct], which appears on the envelope. Sec. 26, she said, offers that "electronic signature" has the meaning given in existing AS 09.80.190.

[2:44:23 PM](#)

REPRESENTATIVE EASTMAN referred to Sec. 25 of the bill, page 11, lines 11-12, and the "30th day" references designating an individual's party affiliation. Although, he said, the next few lines read that if a person changed their party, the new party kicks in. He asked why it was necessary to designate both because it's whatever party they are a member of on election day, and also it's whatever party at the 30th day. He asked whether that language was required to tell the Division of Elections what absentee ballots to mail, and asked the significance of keeping those two contradictory pieces of language.

REPRESENTATIVE TUCK answered that currently, the language is 30 days before the primary election, and "then we have this condition," and paraphrased as follows: "If a voter changes party affiliation within 30 days then the voter shall vote an absentee, in-person, special needs, or questioned ballot at the primary election with the voter's new party ...". He explained that within 10 days of the election a person can change their party affiliation "as you early vote," and this was added to keep everything consistent up to the same day voting. He reiterated that a person can use that ballot envelope to update any information they would like to update, including changing party affiliation. Although, he said, he was unsure why the

language was drafted in this manner and that Legislative Legal and Research Services may discuss this issue at a later time.

REPRESENTATIVE REINBOLD commented that she has concerns regarding Sec. 25, and she would speak with the sponsor's office.

[2:46:54 PM](#)

MS. KLOSTER referred to Sec. 27 and advised it refers to the early voting change in terminology; Sec. 28 is conforming language for same day voter registration; Sec. 29 repeals information dealing with the same day voter registration of a 30 day requirement; Sec. 30 relates to Transitional Provisions: Regulations; and Sec. 31 is the effective date.

CHAIR CLAMAN opened public testimony on HB 1.

[2:48:18 PM](#)

EUGENE HABERMAN, Unincorporated Area of the Matanuska-Susitna Borough, said he represents himself and added that the comments he made earlier today on HB 200 reflect his comments on this bill. He referred to the phrase "poll watcher" in HB 1, and asked what happens after the election when dealing with the ballots. He said he is denied his right to observe counting the ballots and verifying they are legitimate before opening the envelopes, and so forth. In the past, he said, Anchorage sent out letters advising it had rejected the ballot envelope and the person had an opportunity to appeal, but last night there was the situation in which it did not provide that opportunity. He referred to the lower voter turnout in the local and state elections and noted there were occasions where there were differences of a few votes as to who won the election. He said, "when you do not have an opportunity for a party to be told beforehand that their ballot is not going to be counted and their right to appeal" creates a situation where someone would say the elections weren't legitimate, and that's what's going on at the state level. He reminded the committee of the last state primary election where there was a court proceeding, and what stood out was that the "head of elections" went on record advising "that she's going to do on the job training." He expressed that the person in charge of election should not be learning on the job, and the lack of education of the party responsible for state elections leads the situation to where legitimacy cannot be shown to be valid.

[2:51:30 PM](#)

REPRESENTATIVE REINBOLD asked that Mr. Haberman e-mail his testimony to Chair Claman's office or her office.

CHAIR CLAMAN, in response to Representative Reinbold, advised that Eugene Carl Haberman was testifying.

[2:52:03 PM](#)

REPRESENTATIVE EASTMAN commented that he appreciated Mr. Haberman's concern with regard to someone's vote not being counted with no opportunity to appeal, and noted that if that is the case in current state law it should be reviewed. He related that he knows of an individual who received that letter in mail advising that their vote did not count, and when the person tried to figure out why, the division could not find any reason why it would have not let the person vote.

[2:53:05 PM](#)

MICHAEL HAWFIELD said he represents himself, he agrees with Mr. Haberman's concerns, and he looks forward to Representative Chris Tuck pursuing some of those issues. He expressed strong support for HB 1, and noted that during the last election while assisting new voters regarding how the process worked, he particularly noted that voters who wanted to vote early but didn't know much about registration. He remarked that this effort to clarify and streamline the whole process of registration, and especially early voting is very important. He stressed that there are so many younger people turned off to the whole process of voting, which is a significant part of the depression of voter response in Alaska's elections. The sanctity of elections is paramount and he related that he applauds the work by Representative Tuck in creating a bill that will help immensely.

[2:55:12 PM](#)

CHAIR CLAMAN listed the people available for questions. After ascertaining that no one wished to testify, closed public testimony on HB 1.

[2:55:43 PM](#)

CAROL THOMPSON, Absentee & Petition Manager, Division of Elections, Office of the Lieutenant Governor, in response to

Chair Claman, said she was unsure she should address whether the administration supported HB 1 because it was a question for the director of the division, and she was not prepared to answer the question.

[2:56:40 PM](#)

REPRESENTATIVE EASTMAN referred to a previous question regarding page 2, lines 1-2 of the bill, and asked why the bill retains lines 1-2 as is, and paraphrased: "(4) ... as required under AS 15.07 and is not registered to vote in another jurisdiction." He asked whether this bill provides for automatic un-registration in another jurisdiction when the person registers to vote, whether that process was relatively instantaneous, and if that was the case, why does the stipulation remain that the person cannot be registered in another jurisdiction.

[2:57:34 PM](#)

MS. THOMPSON explained that within current voter registration, a person must be registered 30 days prior to an election. This particular language speaks to the fact that a person cannot be registered to vote in another jurisdiction or another state, and people would have been able to notify those states of the person's cancellation through Alaska's voter registration application, or they could contact the state itself and request cancellation. As far as the intention of the bill, at this point, how that would be addressed at the same day registration level would have to be determined. She remarked that at this point, with regard to a person not on a precinct register, if they go to a polling place on election day and vote a questioned ballot, the question of whether the person was registered in another state is not on that particular envelope and would have to be addressed in some manner through the sponsor's bill.

[2:58:40 PM](#)

REPRESENTATIVE EASTMAN noted this is not new language being added, and asked whether there was a discrepancy.

MS. THOMPSON reiterated that, at this point, the question was not on the envelope, although, it is part of the voter oath in the declaration at the bottom of the ballot, which read as follows:

... I am not registered to vote in another state, or I have taken the necessary steps to cancel that registration. ...

[2:59:23 PM](#)

REPRESENTATIVE LEDOUX pointed out that currently it is not necessary for a voter to be registered within 30 days of an election when voting for a presidential candidate. Therefore, she said, if there is any language or anything that needs to be done to un-register oneself from another jurisdiction it presumably should be performed by the Division of Elections, or this bill can take care of it, hopefully.

[3:00:13 PM](#)

REPRESENTATIVE KOPP referred to Secs. 1 and 8 of the bill, noting that Sec. 1 addressed voting in a house district indirectly, and Sec. 8 addressed that issue directly. He asked whether a person could vote the down ballot for a house district representative if they moved into the house district that same day.

MS. THOMPSON responded that currently, a person would go to their polling place on election day and if their name does not appear on the precinct register, they are afforded the opportunity to vote the questioned ballot. Or, in the event they indicated they no longer live in that particular district, they are afforded the opportunity to vote a questioned ballot. The questioned ballot envelope, she explained, allows the voter to list their current address and when those questioned ballots come back from the polling place to the Division of Elections it performs a review of their information on the database system. In the event there is a conflict of districts, the division does not count the house district portion and it works its way up the ballot. The process, she explained, is that the division would start with the house district and whether the person was registered at the same senate district, and in the event they are registered in the same senate district the division would count that race. She related that should the voter not be registered in the house or senate districts; the division would count all of the statewide races.

[3:01:55 PM](#)

REPRESENTATIVE KOPP questioned whether it was current law that a person must be registered in a house district for 30 days to vote that particular seat on the ballot.

MS. THOMPSON answered in the affirmative.

[3:02:16 PM](#)

REPRESENTATIVE KOPP referred to Senate Bill 9 [passed in the Twenty-Ninth Alaska State Legislature] and described it as a significant elections reform bill. He noted that part of the bill was to encourage voter notification and updating state voter registration rolls through an ability to partner with nonprofit cooperative efforts lead by states rather than the federal government. He asked whether the program had been implemented.

MS. THOMPSON responded that in 2016, the division performed outreach using the Electronic Registration Information Center (ERIC) program. The division performed outreach to all 2016 un-registered voters advising they could register to vote. This year, she offered, the division will work to match Alaska's list against other state lists to determine whether voters may be registered in more than one state, and the division will continue to work that process.

[3:03:31 PM](#)

REPRESENTATIVE LEDOUX offered a scenario that someone moved into House District A from House District B, and had not changed their registration until they arrived at the polling place, or they changed their registration through an absentee ballot they received while living in House District B. Except, she said, they voted when they were in House District A, indicating a different address. She asked whether their vote for either House District A or B counted.

MS. THOMPSON answered that voters have only one ballot, the division would determine which house district they resided in and compare it with the house district they voted and if they were not registered in the same house district as the ballot, that portion of the ballot would not count and it is considered a partially counted ballot.

[3:04:53 PM](#)

REPRESENTATIVE LEDOUX explained that she was talking about a voter receiving their [absentee] ballot before they moved, but hadn't yet voted their ballot. Then, on election day the voter decides they don't want to go to the polls and votes the ballot they lugged from their prior address. The voter then fills out the [absentee ballot] with all of the statewide candidates, the senate, and House District B, and the voter also lists on their absentee ballot an affirmation of their address. When the division looks at the address it realizes the person was no longer living in House District B, and was actually living in House District A. She said she assumed the ballot where they voted for the candidate running in House District B, yet showing an address in House District A, doesn't count. She asked whether she was correct.

MS. THOMPSON explained that the person requesting an absentee ballot by mail must submit their absentee ballot application first. The division receives the voter's application, processes the application with their residence address, and the ballot sent to the person is based upon their residence address. The voter then receives the absentee ballot envelope with the signature, witnessing, and identifier requirements. In that situation, she explained, if the person was registered in the district 30 days before the election and that is the residence address the division has on file, that is the ballot the division sends to them and that ballot would be counted in full. Although, she said, if the person provided the division with their application after the 30 day registration deadline with the new residence address, the division would send them the ballot for that district; however, it would not count because they did not register in the district timely.

[3:07:26 PM](#)

CHAIR CLAMAN offered a scenario of a person living in Representative LeDoux's district 30 days before the election, but they move to Chair Claman's district 15 days before the election, and the person receives an early ballot in the mail listing Chair Claman's district. Under HB 1, the division would send the person the ballot for the new district because they would be re-registered in Chair Claman's district and receive that ballot, he asked.

MS. THOMPSON answered that the intention of the bill is to allow for same day registration so long as the person had been a resident of the district for 30 days. She related that there would have to be some type of process, or some sort of

notification on the envelope itself that read "I've been a resident of a district for 30 days," that the sponsor may consider. It would still come back to that 30 day requirement of being a resident in that district, to determine whether or not the person would be eligible to vote that house or senate district ballot, she explained.

[3:08:59 PM](#)

REPRESENTATIVE LEDOUX opined that when she voted an absentee ballot it asked for her address.

MS. THOMPSON interjected that in the event Representative LeDoux was discussing absentee ballot by mail, there is not a question on the ballot as to the person's residence address. The person simply signs the ballot, has it witnessed, and provides an identifier because under state law those three items are required. The person must first apply in order to receive the ballot, which is where the application states that the person must provide a residence address.

[3:09:36 PM](#)

REPRESENTATIVE TUCK referred to Chair Claman's scenario regarding someone moving into his district and voting by mail, and said that it would be an absentee ballot for Representative LeDoux's district because the requirement is that they must live in Chair Claman's district within the 30 day time requirement. In that situation, he explained, the division would not even have known to change the ballot to Chair Claman's district until the person changed their voter registration to Chair Claman's district.

[3:10:28 PM](#)

CHAIR CLAMAN, in response to Representative Reinbold, advised he did not plan to put HB 1 on the calendar tomorrow and the Division of Elections would be available when the bill was next heard.

[3:11:22 PM](#)

REPRESENTATIVE EASTMAN referred to Sec. 15.10.170, page 5 of the bill, and opined that a person, as a member of a ballot group or party, or a candidate, is allowed a poll watcher. Although, he noted, if they are a member of a group trying to become a party they do not receive a poll watcher.

MS. THOMPSON responded that it is the interpretation of the Division of Elections that it does allow for a person affiliated with a small minor party, or a political group. She then referred to [Sec. 15.10.170, page 5, lines 2-6] and paraphrased as follows:

(a) In a general election, special election, or special runoff election under AS 15.40.141, a [THE] precinct party committee, where an organized precinct committee exists, or the party district committee where no organized precinct committee exists, or the state party chair [CHAIRPERSON] ...

MS. THOMPSON explained those would be the four recognized political parties of the State of Alaska at this time, Democrat, Republican, Alaska Independent, and Libertarian Parties. She continued paraphrasing the section as follows:

(a)... where neither a precinct nor a party district committee exists, may appoint one or more [PERSONS AS] watchers in each precinct and counting center.

MS. THOMPSON further explained that that allows for watchers. She continued paraphrasing the section as follows:

(a)... A [FOR ANY ELECTION. EACH] candidate not representing a political party may appoint one or more watcher for each precinct or counting center in the candidate's respective district of the state [FOR ANY ELECTION].

MS. THOMPSON explained that any other candidate appearing on the ballot is allowed to have [one or more] watcher.

[3:13:23 PM](#)

REPRESENTATIVE EASTMAN restated his question and referred to the un-recognized Veterans' Party that does not have candidates in all of the different precincts and districts. In the districts where the Veterans' Party does not have a candidate to grab a poll watcher, and the candidate was not a member of a state recognized party to receive a poll watcher, he asked how they would receive a poll watcher.

MS. THOMPSON paraphrased that it read: "a candidate not representing a political party." The Veterans' Group, she

explained, would be a political group that had not met political party status, and opined that the Veterans' Group would fall under that definition.

[3:14:32 PM](#)

REPRESENTATIVE EASTMAN commented that he would have had the same thoughts, except in a couple places in the statute when discussing groups, "we specifically limit the group" receiving a poll watcher to a group dealing with a ballot measure, for example. In the event the group does not have that caveat, he offered his belief that they did not qualify.

MS. THOMPSON commented that this may be an area for the sponsor to specifically add "political groups."

REPRESENTATIVE TUCK responded that the only way a political group would have a poll watcher, for example the "Veterans' Group" is if it had a candidate in that district. In order to have poll watchers outside of that district, he explained, they would have to have someone at a higher level statewide candidate or a senate candidate if they just wanted to look at poll watchers. He said he agrees there is a limit in the language to prevent poll watchers that do not necessarily have a candidate in that election. However, in describing limitations put on poll watchers, he offered the example that the Veterans' Group having a candidate, referendum, proposition, initiative, or was weighing in on an issue as a group, would be allowed a poll watcher.

[3:16:17 PM](#)

REPRESENTATIVE EASTMAN asked whether, currently, there is a manner in which a person could appeal their vote not being counted.

MS. THOMPSON answered there are specific Alaska statutes advising the Division of Elections how to handle ballots missing information, and the division is to reject those ballots under a particular statute at this time.

[3:17:00 PM](#)

MS. THOMPSON, in response to Representative Eastman, agreed there is no appeal process.

REPRESENTATIVE TUCK opined that "when it does not affect the outcome then it doesn't go to a higher level," but it does go to a higher level if it can affect the outcome, and the Division of Elections would contact those people individually. In the cases where someone may have received a letter advising their ballot didn't count, the person's ballot may not have had any effect on the outcome of the election. For example, he offered, if there were 50 of those uncounted votes with a 100 vote spread, those ballots would not have an effect on the outcome. However, if the vote spread was 25 votes, the Division of Elections would contact people as there would be that additional layer, he explained.

MS. THOMPSON explained that ballots are looked at again through the recount process, but the division still has to follow the guidelines of statute advising how to count or not count a ballot. She further explained that a vote can be challenged through the recount process, or even the observation process, because during the division's process of reviewing ballots candidates can have a person there to observe. In the event the validity of the count of a ballot, or even the rejection of a ballot, was challenged, the division would look at that challenge and go back to the law, she said.

[3:19:02 PM](#)

REPRESENTATIVE EASTMAN commented that during the last election he personally went to his local Division of Elections to observe the count in his own race, and he was told he could not observe because the local office needed permission from the higher office, and the higher office hadn't provided that permission so he did not have that opportunity. He asked whether those policies had changed since the last election.

MS. THOMPSON related that she was unaware of the exact circumstances and was unable to address his question.

[3:20:16 PM](#)

CHAIR CLAMAN described the idea of cancelling a voter registration in another state as akin to cancelling a driver's license from another state. He related that a good part of the bill is that when registering in Alaska, the person un-registers in another state because the average public person probably doesn't even know where to write to un-register. The states are communicating with each other and it makes sense to check a box

and unregister in another jurisdiction. To the extent that is lacking in the bill he encouraged a provision in that regard.

CHAIR CLAMAN referred to the effort to call all early voting ballots "early voting" ballots, and that a questioned ballot puts the ballot on hold in order to verify the information. He opined that trying to define all the early and absentee and other ballots as just early ballot is good. Although, he said, in looking through the bill "you didn't do it very well" as there should be a definition explaining that "early ballot includes absentee and all the others, and then call them early ballots throughout" because even though the goal is to say "early and absentee," the bill has people showing up on election day and receiving an absentee ballot. He surmised that the people should either receive the actual ballot because it is election day, or receive a questioned ballot, and then any ballot prior to election day is called an early ballot. He commented that he applauds the idea of simplifying the name so people are not so confused, but it appears many absentee ballots are still referenced in the bill and it would be useful to clean-up that language.

[HB 1 was held over.]

[3:25:10 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:25 p.m.