

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 17, 2017

1:03 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative Gabrielle LeDoux
Representative David Eastman
Representative Lora Reinbold
Representative Charisse Millett (alternate)

MEMBERS ABSENT

Representative Chuck Kopp
Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

SENATE BILL NO. 100
"An Act relating to municipal liens."

- MOVED SB 100 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."

- MOVED CSHB 1(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 100

SHORT TITLE: MUNICIPAL LIENS: AUTHORITY FOR & PRIORITY

SPONSOR(s): SENATOR(s) EGAN BY REQUEST

03/29/17	(S)	READ THE FIRST TIME - REFERRALS
03/29/17	(S)	JUD
04/07/17	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/07/17	(S)	Heard & Held
04/07/17	(S)	MINUTE(JUD)
04/10/17	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

04/10/17 (S) Moved SB 100 Out of Committee
 04/10/17 (S) MINUTE(JUD)
 04/11/17 (S) JUD RPT 3DP 2NR
 04/11/17 (S) NR: COGHILL, KELLY
 04/11/17 (S) DP: WIELECHOWSKI, COSTELLO, MEYER
 04/11/17 (S) TRANSMITTED TO (H)
 04/11/17 (S) VERSION: SB 100
 04/12/17 (H) READ THE FIRST TIME - REFERRALS
 04/12/17 (H) JUD
 04/17/17 (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
 04/14/17 (H) Heard & Held
 04/14/17 (H) MINUTE(JUD)

WITNESS REGISTER

SENATOR DENNIS EGAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented SB 100 as prime sponsor.

JESSE KIEHL, Staff

Senator Dennis Egan

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 100, explained provisions within the legislation.

AMY MEAD, Municipal Attorney

City and Borough of Juneau (CBJ), Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 100, offered testimony and answered questions.

WILLIAM D. FALSEY, Municipal Attorney

Municipality of Anchorage

Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 100, offered testimony.

JOSIE BAHNKE, Director

Division of Elections

Office of the Lieutenant Governor

Juneau, Alaska

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

CAROL THOMPSON, Absentee & Petition Manager

Absentee & Petition Office

Office of the Lieutenant Governor

Juneau, Alaska

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

LIBBY BAKALAR, Assistant Attorney General

Transportation Section

Department of Law

Juneau, Alaska

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

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

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

REPRESENTATIVE CHRIS TUCK
Alaska State Legislature
Juneau, Alaska

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

BRIAN JACKSON, Elections Program Manager
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

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

ACTION NARRATIVE

[1:03:34 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:03 p.m. Representatives Claman, Fansler, Eastman, Reinbold, and Millett (alternate) for Representative Kopp were present at the call to order. Representatives Kreiss-Tomkins and LeDoux arrived as the meeting was in progress.

SB 100-MUNICIPAL LIENS: AUTHORITY FOR & PRIORITY

[1:04:14 PM](#)

CHAIR CLAMAN announced that the first order of business would be SENATE BILL NO. 100, "An Act relating to municipal liens."

[1:04:46 PM](#)

SENATOR DENNIS EGAN, Alaska State Legislature, explained that he was asked by city attorneys throughout the state to introduce SB 100 because it fixes an unintended consequence of a "really good 1998 bill" wherein Senator Tim Kelley had stopped people from using bogus liens to go after elected officials and judges. At that time, he explained, no one realized it also stopped

municipalities from using liens to collect against debts people owed the city. Not tax liens, he pointed out, because those are covered elsewhere in statute. Senator Egan offered that when a city runs a utility or must abate a hazard, it may need to record a lien. Importantly, he noted, these liens do not jump the line because, unlike tax liens that move in front of everyone else, these liens get in line by date only, similar to a private business. Senate Bill 100 puts the tool back into the municipalities' hands and gives liens under municipal law the same authority as state and federal law.

[1:06:35 PM](#)

JESSE KIEHL, Staff, Senator Dennis Egan, Alaska State Legislature, referred to the detailed sectional analysis contained in the committee packets, and advised he was available to take any detailed questions.

REPRESENTATIVE MILLETT referred to Sec. 3, [AS 29.35.010], page [2], lines 27-28, which read as follows:

(4) to require periodic and special reports from a municipal department to be submitted through the mayor;

REPRESENTATIVE MILLETT surmised that the language required a municipality to put some type of policy in place before the lien takes place.

MR. KIEHL answered in the affirmative and explained that the municipality must act by ordinance; therefore, full public process comes first. Once that policy was in place, if a debt needed to be secured, it would be available but not before the policy was in place. The bill does not have a retroactive or retrospective effect, it is strictly going forward, he noted.

[1:07:59 PM](#)

REPRESENTATIVE EASTMAN referred to page 4, [lines 2-10], and the different types of liens. He paraphrased line 1, "**this paragraph has priority over all other liens except**" and asked why this language chosen because earlier [Senator Egan] had advised that these liens are not placed in front of other liens and are in line according to date.

MR. KIEHL responded that this priority language was copied from elsewhere in the state's lien statute and that there are many

different flavors of lien in statute. When working through this logic chain, the result is what Senator Egan described, these liens are in line on equal terms with everyone else. He said he could walk through that in a couple of pieces, but this is existing statute language that has that effect, it places these liens basically in front of everything that isn't in front of these liens. It is interesting language, but that is its net effect, he remarked.

[1:09:50 PM](#)

REPRESENTATIVE EASTMAN asked the sponsor's thoughts about including a proviso in the language on page 3, wherein under this bill, if the state does give municipalities the opportunity to have liens, that there be required "a sort of opt-out" [provision]. For example, an Alaska resident preferring to rely entirely on clean energy or sustainable power could opt-out of a particular utility. In that manner, he said, the resident would not use that utility and would not run the risk of a lien being placed on their property for not paying for a utility they were not using.

MR. KIEHL answered that the bill is fundamentally a local control bill, and the question of whether any given municipality has mandatory use of its utilities, assuming a municipality runs the utilities, is actually an issue best left to that municipality and its voters to decide. Home rule municipalities, he explained, under its home rule powers could require hook-up to a utility. Currently, there is a statute elsewhere allowing t any municipality to have mandatory garbage service, not all municipalities use that option which is something between those municipalities and their voters to determine on a local level.

[1:11:36 PM](#)

CHAIR CLAMAN opened public testimony on SB 100.

[1:12:06 PM](#)

AMY MEAD, Municipal Attorney, City and Borough of Juneau, offered an example of why this bill would be useful to municipalities, such that, in 2012, a large historic structure burned in downtown Juneau. Within a few days the building official declared the building a public nuisance and issued an order requiring the property owners to perform certain repairs. The property owners failed to comply, the building sat for three

years, and a second fire occurred in March 2015. The City and Borough of Juneau (CBJ) official who inspected the building found that the property had significantly deteriorated. In May 2015, he declared the building had deteriorated to the point it was a public hazard and needed to be demolished, and required that the property owners demolish the building. Consequently, she explained, the property owners failed to comply with that order and the CBJ demolished the building at a cost of over \$1.6 million. She pointed out that the CBJ had previously adopted the International Property Management Code allowing a municipality to abate a public nuisance at the owners' expense. Unfortunately, due to current state law, the CBJ could not secure that debt with a lien, meaning that a prospective buyer of that now flat piece of buildable property would have no notice of the debt the CBJ incurred in abating the public nuisance despite the fact it was a legally permissible debt. Ms. Mead described that similar to a municipality that provides for utility services, the CBJ had no way of using that placeholder to secure its place in line if that property were to be sold. Consequently, the CBJ had to file a lawsuit for the right to recover those funds, and this legislation would have provided an avenue for the CBJ to secure its right in line should the property have been sold. Ms. Mead advised that a municipality is not allowed to immediately foreclose on that debt so the property owner would still have another process to object to the foreclosure, and object to the placement of the lien.

[1:14:35 PM](#)

REPRESENTATIVE MILLETT surmised that the demolished property was still being held by the private owner of the building, and asked why there was a legal avenue for the CBJ to force the property owner to sell the property allowing the CBJ to receive payment of the debt.

MS. MEAD responded that the CBJ initiated a lis pendens, a notice of the lawsuit, to recover those costs because it could not file a lien. Subsequent to the CBJ recording the lis pendens, there was an objection to that recording, and the court ordered the CBJ to withdraw the lis pendens. Consequently, she advised, in the event the property owner decided today to try to sell that property there would be no manner in which the title search would uncover the [\$1.6 million] debt. She remarked that the CBJ has been engaged in that lawsuit for one year and it would probably be close to another year before the case was resolved and hopefully, she expressed, the CBJ will ultimately

recover that debt. Initially and ironically, the defendants filed a Motion to Dismiss arguing that the CBJ should simply file a lien to secure the debt, and of course, the CBJ was prohibited to filing a lien due to current state law, she pointed out.

1:16:04 PM

REPRESENTATIVE LEDOUX asked upon what grounds the court ordered the CBJ to withdraw the lis pendens.

MS. MEAD responded that the court ordered that the title to the property was not at issue and not at stake; therefore, the lis pendens was not an appropriate mechanism.

1:16:58 PM

WILLIAM D. FALSEY, Municipal Attorney, Municipality of Anchorage, advised that during the Anchorage Assembly's official legislative program [meeting] a priority items was the issue of changes to state law state law restoring the traditionally understood ability of municipalities to protect their law abiding citizens and taxpayers by recording liens. He offered that SB 100 would accomplish that goal and the Municipality of Anchorage transmitted letters of support. He explained that in some ways this is a clean-up measure designed to address an overdue maintenance and plumbing problem with the way "our government is structured" that is coming out of a well-intended fix to an entirely different problem in the 1990s. He explained that Anchorage had an instance of several citizens not entirely happy with its public officials filing liens against their personal property "so something like 43 liens have been filed against the mayor and every Anch -- every member of the Anchorage Assembly." To its credit, the legislature corrected that problem but did so in a manner that swept up the municipal liens within its ambit. Moving forward to 2012, the Alaska Supreme Court found that another jurisdiction could not record a lien to secure its unpaid utility bills. He added that it would be somewhat surprising for the legislature to leave municipalities out of the lien framework because in thumbing through Title 34.35, the legislature had authorize a whole bevy of liens to be filed by a whole variety of characters including, mechanics, those who are performing services on mines and oil wells, common carriers, folks performing private property storage, cattle grazers, fish packers, fish processors, fishermen, attorneys, hospitals, physicians and nurses, hotels and boarding rooms, lumberjacks and those who work with other

timber operations, common labors of all stripes for their wages, and even night watchman.

1:19:30 PM

CHAIR CLAMAN, after ascertaining no one wished to testify, closed public testimony on SB 100.

1:19:59 PM

VICE CHAIR FANSLER thanked Senator Egan for bringing this legislation forward because it cleans up an issue that offered true unintended consequences and hurt the state's municipalities. He commented that anything the legislature could do to help municipalities help themselves is a good thing and this bill squarely accomplishes that goal. He said he supports SB 100.

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REPRESENTATIVE EASTMAN commented that he would like time to draft an amendment related to his earlier, opt-out provision before placing a lien on someone's property, suggestion. The sponsor statement specifically referred to municipalities using a means to collect from people who use services but do not pay, which is fair. His concern, he said, is that municipalities may use this to force people to pay and possibly give up their property for services the people never intended to use.

CHAIR CLAMAN pointed out to Representative Eastman that his office had forwarded a notice on Saturday that amendments for this bill were due at 10:00 this morning. While, he said, he appreciates Representative Eastman's interest, he would not hold the bill another day to take amendments.

1:21:30 PM

REPRESENTATIVE LEDOUX remarked she did not understand Representative Eastman's request because, what person would opt-in to a lien. In the event a person was faced with a lien because they failed to pay for something, they would not agree to a lien being issued on their property.

REPRESENTATIVE EASTMAN explained that currently, a person has an opportunity to use utility services from a municipality, except not everyone uses sewage services and in some places it is not even an option. The opt-out provision, he explained, would

allow Alaskans not using and never plan to use, a way to prevent a lien being placed on their property for utilities they are not using. He noted this was the first committee hearing on this bill and there hadn't been an opportunity for discussion on this topic.

[1:23:14 PM](#)

CHAIR CLAMAN surmised that Representative Eastman's concern was to prevent a lien being put on their property for utilities a person didn't use, similar to a mechanic's lien or timber lien, except a utility would not issue a lien if the person did not actually use the utility. Therefore, he said, if the utility delivered electricity for two months and a person advised they did not want to use the electricity any longer and would not pay for the past two months, that instance would be appropriate to issue a lien to collect the two months of provided electricity.

[1:24:06 PM](#)

REPRESENTATIVE FANSLER moved to report SB 100, Version 30-LS0709\J, out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE EASTMAN objected.

A roll call vote was taken. Representatives Kreiss-Tomkins, LeDoux, Fansler, Millett, and Claman voted in favor of the passage of SB 100. Representative Eastman voted against it. Therefore, SB 100 was reported out of the House Judiciary Standing Committee by a vote of 5-1.

HB 1-ELECTION REGISTRATION AND VOTING

[1:25:04 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."

[CHAIR CLAMAN passed the gavel to Vice Chair Fansler.]

[1:25:37 PM](#)

CHAIR CLAMAN moved to adopt Amendment 1, Version 30-LS0070\U.3, Bullard, 4/17/17, which read as follows:

Page 2, following line 27:

Insert a new bill section to read:

"* **Sec. 3.** AS 15.07.060(b) is amended to read:

(b) Every registration form must include space for an applicant who is registered in another jurisdiction to specify that jurisdiction and a notice that the director will notify the chief elections officer in that jurisdiction. If the applicant has been previously registered to vote in another jurisdiction, the director shall notify the chief elections officer in that jurisdiction that the applicant has registered to vote in Alaska and request that that jurisdiction cancel the applicant's voter registration there."

REPRESENTATIVE LEDOUX objected for purposes of discussion.

[1:25:51 PM](#)

CHAIR CLAMAN explained that the purpose of Amendment 1 is to make certain a space was provided for an applicant who may have moved to Alaska from another state to indicate on their registration form their previously registered jurisdiction, with the understanding the jurisdiction would be notified that the individual had now moved to Alaska and no longer wished to participate in elections in that jurisdiction. Amendment 1, he reiterated, allows people who have moved from another state to Alaska to express their intent to solely vote in Alaska and not elsewhere.

[1:27:08 PM](#)

REPRESENTATIVE LEDOUX pointed to the voter registration application form and noted that question 14, read as follows:

14. I am registered to vote in another state, cancel my registration in ..."

REPRESENTATIVE LEDOUX said she looked for the same language on the absentee in-person ballot and the language was not included. Yet interestingly, HB 1, Sec. 2. AS 15.07.060(a)(5), page 2, lines 12-14, read as follows:

(5) a statement of whether the applicant has previously been registered to vote in another jurisdiction, and, if so, the jurisdiction and the address of the previous registration;

REPRESENTATIVE LEDOUX surmised that the language was already required, and yet it was not included on the absentee in-person ballot.

[1:28:30 PM](#)

CHAIR CLAMAN answered that currently the absentee in-person ballot does not register a person to vote, and wouldn't be required. Although, he pointed out, with the same day registration it would need to be incorporated.

REPRESENTATIVE LEDOUX disagreed and she explained that a person can actually register to vote through an absentee in-person ballot because a person would not complete a registration first and then have to complete an absentee in-person ballot. She described it as a "one meal deal."

[1:28:56 PM](#)

CHAIR CLAMAN offered concern that it appeared [the division] was "doing it" but no one could point to the authorizing statute. The reason for Amendment 1 was the authority should be in statute in order to have statutorily required consistency. Rather, he said, than a department regulation and the current appearance the language to be included was provided inconsistently.

[1:29:38 PM](#)

REPRESENTATIVE LEDOUX pointed out that the language was not included in the absentee in-person ballot, and that the ballot can serve as a voter registration application form. Yet, she noted, the information requirement is included in AS 15.07.060(a), page 2, lines 4-5, which read as follows:

(a) Each applicant who requests registration or reregistration shall supply the following information:

REPRESENTATIVE LEDOUX referred to AS 15.07.060(a)(5), page 2, lines 12-14, which read as follows:

(5) a statement of whether the applicant has previously been registered to vote in another jurisdiction, and, if so, the jurisdiction and the address of the previous registration;

REPRESENTATIVE LEDOUX pointed out that AS 15.07.060(a)(5) is current language in statute and she was unsure whether this amendment was necessary. Although her concern, she remarked, was why the law wasn't being followed.

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CHAIR CLAMAN referred to Sec. 2, AS 15.07.060, and reiterated that the provision discusses the applicant and what they are supposed to do, and yet clearly it was not being performed consistently because it was not included on the absentee in-person ballot application but it was included on the voter registration application. The intent of Amendment 1, he advised, was to be certain the language was included in all of the [relevant] forms and that the requirement was in statute.

REPRESENTATIVE LEDOUX pointed to Sec. 2, AS 15.07.060(a)(5), and argued that it is currently required in statute. Although, she advised, she was having difficulty understanding, if the division had not bothered to follow current law, why it would follow the law any better with the adoption of Amendment 1. She said she would like to hear from the Division of Elections.

CHAIR CLAMAN argued that Sec. 2, AS 15.07.060 in the bill applies to each applicant because the applicant provides the information, not the division. The requirement for the division, under Amendment 1 would require the division, is to the forms it provides, he explained.

[1:32:46 PM](#)

REPRESENTATIVE MILLETT said she agreed with Representative LeDoux in that the requirement was in statute and the Division of Elections had not followed the statute related to the absentee in-person ballot application serving as the voter registration application.

REPRESENTATIVE EASTMAN referred to Amendment 1, page 1, lines 5-6, which read as follows:

(b) ... notice that the director will notify the chief elections officer in that jurisdiction.

REPRESENTATIVE EASTMAN asked the amount of the fiscal note and the impact to the Division of Elections in notifying those jurisdictions.

[1:34:34 PM](#)

JOSIE BAHNKE, Director, Division of Elections, Office of the Lieutenant Governor, responded to Representative LeDoux's question regarding the voter qualification, under AS 15.05.010, which read as follows:

AS 15.05.010. Voter Qualification. A person may vote at any election who

- (1) is a citizen of the United States;
- (2) is 18 years of age or older;
- (3) has been a resident of the state and of the house district in which the person seeks to vote for at least 30 days just before the election; and
- (4) has registered before the election as required under AS 15.07 and is not registered to vote in another jurisdiction.

MS. BAHNKE explained that these absentee voters must be registered voters in order to apply for an absentee ballot, under voter qualification in statute.

[1:35:21 PM](#)

REPRESENTATIVE LEDOUX advised that she had registered people with "this" application, and she had been assured by the division on numerous occasions that an absentee in-person ballot application suffices as a voter registration application. She asked whether Ms. Bahnke was speaking to the contrary of her understanding.

MS. BAHNKE responded "No."

[1:36:08 PM](#)

REPRESENTATIVE LEDOUX advised that her question then become as follows, according to AS 15.07.060(a), on voter registration

forms there is to be a statement of whether the voter was registered to vote in another jurisdiction, and, if so, what jurisdiction and the address. Representative LeDoux then pointed to the State of Alaska Voter Registration Application form question 14, and paraphrased as follows, "I am registered to vote in another state, cancel my registration in: ... " and she said that it lists the city, state, country, and zip code. She said she had always been told the Division of Elections provides that information to the other state in which the person was registered, and the person could no longer vote in the other jurisdiction once the person registered in Alaska. Representative LeDoux asked why the form did not follow the AS 15.07.060(a) requirement, and pointed out that this was a problem long before Ms. Bahnke became the director of the Division of Elections.

[1:38:40 PM](#)

MS. BAHNKE deferred to Carol Thompson, Absentee Petition Manager, and surmised that Representative LeDoux's concern was regarding the inconsistency across the different application forms.

REPRESENTATIVE LEDOUX stressed concern that while the language was correctly included on the voter registration application form, it did not appear on the absentee in-person ballot application form. Her concern, she expressed, was that the language was not included correctly and consistently on both forms.

[1:39:29 PM](#)

CAROL THOMPSON, Absentee & Petition Manager, Absentee & Petition Office, Office of the Lieutenant Governor, responded to Representative LeDoux and advised that in accordance with AS 15.20.081, a person applying for an absentee by mail ballot must be a qualified registered voter at the time they apply, and the division does use the absentee in-person ballot application as a form of voter registration. However, she explained, the issue becomes that the language relies upon the voter to also step forward and cancel their registration, and the amendment could clarify if Representative LeDoux saw this as an issue.

[1:40:16 PM](#)

REPRESENTATIVE LEDOUX commented, if that is the position the Division of Elections was taking, that the division would not

think there was any obligation now that this issue had been pointed out to the division, the amendment was necessary.

MS. THOMPSON related that it would be the director's decision as to whether she wanted to add that language to the form in the future.

[1:40:45 PM](#)

REPRESENTATIVE MILLETT surmised that every voter application form has a space where the person swears and affirms their information was current, and so forth. She asked whether that language was included on the absentee in-person ballot, and whether that works in the same manner in which Amendment 1 and the statute requires.

MS. THOMPSON answered "Yes."

REPRESENTATIVE MILLETT noted that she just looked at the absentee in-person ballot language and the person must sign an oath, which read as follows: "... I am not registered to vote in another state, or I have taken the necessary steps to cancel that registration. ..." and that they fit all of the requirements to be a qualified Alaska voter. She asked whether that was on the absentee in-person ballot.

REPRESENTATIVE LEDOUX responded that the certification is on both forms. Whereas, the traditional voter registration application had a space that clearly set out that the person was canceling their registration, and it is included in "super small print" on the absentee application.

[1:42:26 PM](#)

REPRESENTATIVE MILLETT surmised that Amendment 1 required that that specific language be included on every form permitting someone to provide information as to their other voter jurisdiction, rather than swearing the oath. In the event the amendment passed, she asked whether the language to disclose where a person was last registered would be included on every single voter application and ballot. She asked whether Amendment 1 would add an additional space on every single form and application to self-disclose.

MS. BAHNKE answered in the affirmative, and offered that the division is currently reviewing all of its forms, and understanding Representative LeDoux's concern, the division

would certainly take a look at the consistency issue throughout. She advised that the forms are changed in off-numbered years to address concerns and whether the amendment passes or not, the division would take a look at this issue and take it under advisement.

1:44:02 PM

REPRESENTATIVE EASTMAN noted that Ms. Thompson's testimony ended with the statement that it was up to the division director as to whether the form would be changed, and said he would like a commitment from the director that the form would be changed because that was what the law required.

MS. BAHNKE answered in the affirmative.

1:44:37 PM

REPRESENTATIVE EASTMAN noted that the legislature would be giving the newly registered people the option of putting this information on the form, and asked whether that was an optional or mandatory requirement, and to explain any consequences.

MS. BAHNKE replied that it is not illegal to be registered to vote in two different states, but it is illegal to actually vote in two different states. She commented that the Division of Elections recently completed its annual search through the division's membership with the Electronic Registration Information Center (ERIC), and explained that ERIC matches searches with 21 other states to identify dual registrations and then contacts those voters.

1:46:03 PM

REPRESENTATIVE EASTMAN referred to the statement that it was not illegal to be registered in two states, and pointing to the oath the person signed when filling out the application, asked whether it was optional for the person to indicate whether they were currently registered in another state.

MS. BAHNKE responded that the division would not accept a voter registration without a signature, if that was his question.

REPRESENTATIVE EASTMAN asked whether it was a person's choice to include information regarding their other voter jurisdiction, or was it that no one would check the information.

MS. BAHNKE said she did not understand his question.

[1:47:33 PM](#)

VICE CHAIR FANSLER asked whether there was a penalty for people who fill out the form but do not declare they are registered in another state.

REPRESENTATIVE EASTMAN said Vice Chair Fansler was not quite correct, and said he would like to know whether it was optional or mandatory, and in the event it was mandatory, to explain mandatory.

[1:47:59 PM](#)

REPRESENTATIVE LEDOUX said she could possibly assist, referred to AS 15.07.060(a) and paraphrased as follows: "Each applicant who requests registration or reregistration **SHALL** supply the following information." Therefore, she pointed out, "shall" means that it is mandatory that people disclose the information as to whether or not they were registered to vote in another jurisdiction. Nothing on the form states that it is mandatory, she explained, except the statute states that it is mandatory.

[1:49:24 PM](#)

REPRESENTATIVE MILLETT referred to the statement that it was not illegal to be registered in two different states, it was illegal to vote in two different states. She offered a scenario of a person believing they were not registered in another state yet they were registered, and asked whether that was illegal because she is registered in Texas and Alaska.

[1:50:07 PM](#)

LIBBY BAKALAR, Assistant Attorney General, Transportation Section, Department of Law, noted that the discussion relates to the interaction between the following two statutes, AS 15.05.010(4) and AS 15.07.030 voter qualification and who may register, respectively. She explained that AS 15.05.010(4) voter qualification provides, and paraphrased, "A person may vote at any election who is a citizen of the United States, is 18 years or older, has been a resident of the state ... and, (4) has registered before the election as required under AS 15.07, and is not registered to vote in another jurisdiction." Therefore, she explained, in order to be a qualified voter in this state, the person must not be registered in another

jurisdiction, currently provided under voter qualification. She opined that when Ms. Bahnke stated it was not illegal to be registered in two states but was illegal to double vote, Ms. Bahnke referred to AS 15.07.030(a), which read as follows:

(a) A person who has the qualifications of a voter as set out in AS 15.05.010(1) - (3) or who will have the qualifications at the succeeding primary or general election is entitled to be registered as a voter in the precinct in which the person resides.

[1:51:35 PM](#)

MS. BAKALAR indicated that was an order to not criminalize the act of failing to un-register in the other state. Duplicate voting is not permissible and requires a level of intentionality and a mindset contemplated in the criminal portions of the election code dealing with election crimes, she explained. The reason paragraph (4) was left out of AS 15.07.030, the registration statute, was to prevent accidentally criminalizing a mistake or a clerical issue. The administrative purpose of the match is to make certain the voter roll list maintenance is maintained so that people do not remain registered in two different states. A person is not considered a qualified voter in Alaska if the person is also registered in another jurisdiction, she said.

[1:52:38 PM](#)

REPRESENTATIVE MILLETT surmised that this bill would make it same day voter registration and voting.

MS. BAKALAR said that was her understanding.

REPRESENTATIVE MILLETT surmised that in doing so, this would allow someone to same day register and vote, "and that's your -- that's your timestamp," but the person may still be registered to vote in another jurisdiction with no penalty even though the statute read "shall." Representative Millett commented there was confusion in the process because "before a person had to register within 30 days" with the opportunity to cancel their registration in another jurisdiction, but now the person was same day registering and voting while registered to vote in another jurisdiction.

MS. BAKALAR said she could see the gap Representative Millet referred, and deferred to the sponsor.

[1:54:27 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, said the piece being discussed is the attestation, signing and dating that the person's information on the form is true and correct. She said, that as she reads this, the person certifies under the penalty of perjury, and if the information was untrue the person broke the law, and that piece is not being changed. She referred to the State of Alaska Voter Registration Application, which read as follows:

Voter Certificate. Read and sign: I certify, under penalty of perjury, that the above information I provided on this document is true and correct. I am not registered to vote in another state, or I have provided information to cancel that registration. I further certify that I am a resident of Alaska and I have not been convicted of a felony, or having been so convicted, have been unconditionally discharged from incarceration, probation and/or parole.

Warning: If you provide false information on this application you can be convicted of a misdemeanor AS 15.56.050.

[1:55:38 PM](#)

REPRESENTATIVE MILLETT offered a scenario of someone forgetting to un-register in Texas and votes in Alaska, she asked the consequences after the person signed the attestation and the Division of Elections found out they were registered in another state. She asked, which state would prosecute for perjury and whether their vote counted.

[1:56:10 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, answered that most likely the Department of Law would pursue the perjury allegation. Under this bill, he explained, regarding same day voter registration, that ballot would not be verified until the time of counting votes. Under a bill passed last year, he said, at the time of counting ballots, the Division of Elections has avenues to verify whether or not someone was registered to vote in another jurisdiction. Therefore, prior to the ballot being counted, he explained, the division will verify whether or not that person -- "so that ballot will not get counted down

ballot." However, he pointed out, if the person is a United States citizen and registered to vote in the State of Texas, for example, they will still be able to vote the "top of the ballot" for the presidency of the United States. Nevertheless, he continued, if they are an Alaska resident and moved from Bethel to Fairbanks outside of a senate district, they would be able to vote for the presidency of the United States, governor of Alaska, and any other statewide election, whether U.S. Senate or the U.S. House of Representatives. He reiterated, that the ballot will be verified at the time the ballot is reviewed, there is a process for questioned ballots and absentee ballots, and that process will remain the same.

[1:58:10 PM](#)

REPRESENTATIVE MILLETT surmised that every questioned ballot or absentee ballot goes through the review process of checking databases of other states to ascertain whether the person was registered in another jurisdiction. She asked whether all states are checked.

REPRESENTATIVE TUCK responded that he was unclear as to how long the process had been ongoing, but the process is currently happening under a bill passed last year. For example, he said, when a person votes at one of the six early voting locations, the ballot can be verified "real time" as those locations have the capability to verify. Although, he pointed out, those capabilities are not available [at the locations] for early voting in-person absentee voting, and those ballots would be verified prior to being counted.

[1:59:30 PM](#)

VICE CHAIR FANSLER commented to Representative Millett that her questions actually pertained to the main bill and not necessarily the amendment.

REPRESENTATIVE MILLETT commented that no one had answered her question as to whether the ballot was valid if the person was registered [in another state], and whether that ballot counts. The whole idea here, she opined, is that Alaska does not want people voting in Alaska and registered to vote in another state because the form asks the person to verify they had canceled their voter registration in the other jurisdiction. How many times that had happened, she asked, and what happened to the ballot of the person still registered in another state.

[2:00:32 PM](#)

REPRESENTATIVE TUCK reiterated that that ballot would not be counted completely. He referred to his earlier explanation that the ballot would be a partial ballot count depending upon all of the conditions the division was able to verify, so it would be conditional.

[2:00:51 PM](#)

REPRESENTATIVE MILLETT referred to Ms. Kloster's comment that the person would be committing perjury and the person did not realize they were still registered, what agency prosecutes the person.

REPRESENTATIVE TUCK reiterated that the ballot would still be counted because the person was still allowed to vote. He reiterated that the Department of Law would have to pursue the issue, except due to the state's fiscal crisis, and the fact that no fraud was committed other than the perjury, he was unsure whether the Department of Law would actively pursue that perjury prosecution.

[2:02:35 PM](#)

MS. BAKALAR responded to Representative Millet's question regarding perjury prosecutions and advised that all prosecutions for suspected election fraud are referred to the Office of Special Prosecutions and Appeals in the Criminal Division of the Department of Law (DOL). She said that within the division's list maintenance process, it attempts to determine to what extent [perjury may have been committed]. For example, an elderly person may forget they voted absentee and then go to the polling place and vote again, and it is caught later. She explained the ballots go through a fairly rigorous audit during by ballot counting process, and the State Review Board also performs a rigorous audit. She further explained the process in that a determination, such as duplicate voting or a potential perjury registration, was made, the Division of Elections then advises the Civil Division of the Department of Law representing the Division of Elections as to the suspected fraud, it is then referred to the Office of Special Prosecutions and Appeals for follow up.

[2:04:10 PM](#)

REPRESENTATIVE MILLETT asked how the number of voters involved in suspected perjury due to the certification and registration in another jurisdiction issue.

MS. BAKALAR answered that there have not been very many as it is not a common prosecution nor is it a common allegation or concern. Although, she said she would have to speak with the Criminal Division, and reiterated that it is not common.

2:05:00 PM

CHAIR CLAMAN reiterated that the current forms used by the Division of Elections are inconsistent because the [attestation] on the [voter registration application] form specifically read: "I am not registered to vote in another state, or I have provided information to cancel that registration," question 14 on that form read, "I am registered to vote in another state, cancel my registration in: ..." and the person indicates their other jurisdiction.

CHAIR CLAMAN then referred to the [attestation] on the special needs ballot, absentee in-person ballot, and questioned ballot, and said they have slightly different language, and he read, "I am not registered to vote in another state, or I have taken the necessary steps to cancel that registration."

2:06:00 PM

CHAIR CLAMAN offered that during the preparation of Amendment 1, he had a long discussion with Legislative Legal and Research Services who advised that "We, in Alaska, cannot force another state to un-register somebody," and that Alaska could only offer the address of the person previously living in that jurisdiction. Also, he pointed out, most people would not know how to un-register from a state. His concern, he said, was that the legislature put honest and diligent people who wanted to vote in Alaska in a place where they were arguably committing perjury by stating they had taken the necessary steps to cancel their registration. The intent of Amendment 1 is to make abundantly clear, on any division form with the effect of registering a person, to have a space to fill in information regarding their other jurisdiction, which then allows those voters to believe they had taken the steps to cancel their registration in the other jurisdiction. As to the question of whether or not filling in the information would result in canceling, he said he could not say for sure because he did not know how often the division would call a person advising to

"cancel this and cancel that." Chair Claman stressed he does not want Alaska's legitimate voters to be prosecuted for perjury or anything else because the process of canceling a registration from one state to the next state was imperfect.

[2:08:24 PM](#)

CHAIR CLAMAN explained that the second part of the amendment emphasizes that the division must be certain this language is included on every form, recognizing that currently when a voter completes the information regarding their other jurisdiction, the division can provide the information to the other jurisdiction, but it does not have authority to actually cancel that registration.

[2:09:04 PM](#)

CHAIR CLAMAN pointed to the criminal penalties, recognizing the notion that people have a right to register in all of the states, but can vote in only one state. Those folks, he commented, are on the margins of engaging in criminal behavior and there is no need to have some form that protects their ability to register, and this amendment re-enforces that issue.

[2:09:43 PM](#)

REPRESENTATIVE EASTMAN referred to military families and the fact that they move often, and advised that the legislature should make clear Alaska's expectation of the voter, especially when discussing perjury.

Under current statute, a person "shall" provide information and that language needs to be reflected consistently on the registration forms. He then paraphrased, "that the director shall notify the chief election's officer in that jurisdiction" and noted that in some instances only 21 states were involved. He asked whether the division consistently contacted chief election officers in all 50 states.

MS. BAHNKE responded in the affirmative, and she advised that when the division receives notification from a registration form, it contacts that state regardless of its affiliation with the ERIC program.

[2:12:35 PM](#)

REPRESENTATIVE LEDOUX related that this amendment basically clears up the confusion, and the committee could stay here until August and argue about what the division should do, and what the language means, but this amendment is clarifying language. She referred to the statement that a person "You can be registered in two jurisdictions, that you can't just vote, and that's perfectly legal" and commented that all of these forms state that the person must report that they are not registered in another jurisdiction. Representative Ledoux pointed out a certain amount of mens rea is involved here and simply because a voter forgot to fill out the cancelation or tried to cancel and it didn't work out, that they would be prosecuted for fraud, and it doesn't necessarily mean it is legal.

[2:14:13 PM](#)

MS. BAKALAR responded that this statute was written in a manner that "tries to walk that line." AS 15.07.030 seems to intentionally exempt AS 15.05.010(4) from its scope, and she paraphrased as follows: "or will have the qualifications at the succeeding election is entitled to be registered." She opined that these two statutes are trying to walk that line between prosecuting real instances of fraud, and not capturing in that net those who just forgot to un-register or do not have any fraudulent intent behind their voting practices. She explained that the overall theme of the statutes are as follows: residency in the state, have an investment in this state to vote in this state, and a person cannot duplicate vote. She remarked that due to the tight schedules and timing issues around the elections, it is impossible to capture a perfect snapshot in the statute of every moment in time leading up to the election, to the act of voting, and to the act of ballot counting. She said she does not think it is clearly illegal to be dual registered for the reasons she just discussed, but she also thought the statutes clearly did not contemplate a person registered in another state voting in this state, and having that ballot count.

[2:15:46 PM](#)

REPRESENTATIVE LEDOUX offered a scenario of someone retaining their voter registration in Florida and also registered to vote in Alaska, and the person then decides to vote in the Florida primary because it was a more important state in the primary election, and then votes in Alaska in the general election. She asked whether that was legal.

[2:16:22 PM](#)

MS. BAKALAR answered that she did not think that was exactly legal and commented that this is getting a bit complicated. Essentially, she reiterated, the statutes currently read under AS 15.05.010, and paraphrased as follows: "a person may vote at any election who is a citizen of the United States, is 18 years or older, has been a resident of this state and the house district in which the person seeks to vote for at least 30 days just before the election." She commented that this bill would change that, and continued paraphrasing, "and (4) has registered before the election as required under AS 15.07, and is not registered to vote in another jurisdiction." This, she pointed out is the issue of timing she had previously discussed and, presumably, if they meet these qualifications at the time they cast their ballot, they have cast a valid ballot. Not every statute, she pointed out, can perfectly catch up with every moment in time, but the overall requirement of the statute is that a person is not supposed to game the system and vote from state to state within the same election. She reiterated that the voter is supposed to meet certain constitutional and statutory residency requirements, and of course a person is not ever supposed to duplicate vote in the same election. Essentially, she remarked, the overall theme here is the retention of an investment in Alaska, and an intent to remain here under the residency statute.

[2:17:54 PM](#)

MS. BAKALAR referred to Representative Eastman's question regarding residency and explained that a reason the statute under AS 15.05.020, rules for determining residence of voter, is flexible is because Alaska does have many transient folks moving in and out including many military families, and the person must have an intent to remain in Alaska. She described that the Alaska has one of the "looser residency requirements" for voter residency for that reason. The bottom line is that the person must meet constitutional and statutory qualifications to legally vote and have their vote count, and the statutes do a fair job of that already.

[2:18:49 PM](#)

REPRESENTATIVE LEDOUX asked the length of time between the voter turning in their registration form, and the time it took to cancel their registration.

MS. BAHNKE replied that it depends upon the time of year because the division receives a high volume of applications at the 30 day cutoff date, and the division's priority at that time is registering people to vote. She estimated that it would be within 30 days for the process.

[2:20:24 PM](#)

REPRESENTATIVE LEDOUX asked Ms. Bahnke to affirm that it is always within 30 days.

MS. BAHNKE related that she was unaware of any instances when it was longer than 30 days, but she would have to research that question.

[2:20:54 PM](#)

BRIAN JACKSON, Elections Program Manager, Division of Elections, Office of the Lieutenant Governor, advised that the division runs a report every month for the voters identified as registered in another state, and the division then sends notifications to the various states. The process is run usually around the third day of the month, each month, he explained.

[2:21:22 PM](#)

REPRESENTATIVE LEDOUX referred to a person registering to vote 30 days before the election, and said that if the report was run once a month, there was a good chance the time it would take for the division to send the information to the other jurisdiction and the other jurisdiction to un-register that person, the time period may be longer than 30 days.

MR. JACKSON acknowledged there was the possibility of that delay for the un-registration in the other jurisdiction.

[2:22:43 PM](#)

REPRESENTATIVE REINBOLD offered concern that the fear of a misdemeanor and perjury for oil and gas employees, transient people, and snowbirds was "freaking me out," and requested an explanation of the perjury situation and whether the misdemeanor was a class A or B.

MS. BAKALAR reiterated that would be a determination for the Criminal Division of the Department of Law to make upon referral by the Division of Elections when it suspects fraudulent

conduct. Again, she said, these prosecutions are rare and she could think of possibly two or three times a year when the division had contacted the Civil Division of the Department of Law advising that something may be up with duplicate registration or voter, or petition of fraud, so forth, and the information forwarded to Criminal Division to investigate. Under Title 15.56 there are a series of election crimes, and in addition to the standard perjury there is voter misconduct in the first and second degree. She opined that first degree misconduct is a class C felony and second degree voter misconduct is a class A misdemeanor. She explained that, relevant to this discussion, the statute provides that a person commits the crime of voter misconduct in the second degree if the person registers to vote without being entitled to register under AS 15.07.030, and the statute goes on to include a couple of other things as well. Registering to vote when a person is not entitled to register is a class A misdemeanor, but the Criminal Division should verify this information. Again, she said, there must be a mens rea intent element as opposed to a forgetful senior having accidentally voted twice, especially due to the absentee ballot and the time lapse between absentee and poll voting, or a neglected registration, duplicate registration or something similar. Again, she said, an element of malice must be present for a criminal prosecution under this scenario.

[2:26:51 PM](#)

REPRESENTATIVE REINBOLD said she definitely believes that the committee should include "with the intention to commit perjury" or something similar so people do not accidentally end up in trouble. She referred to Amendment 1, page 1, lines 5-6, which read as follows:

(b) ... the director will notify the chief elections officer in that jurisdiction. If the applicant has been previously registered to vote in another jurisdiction, the director shall notify the chief elections officer in that jurisdiction that the applicant has registered to vote in Alaska and request that that jurisdiction cancel the applicant's voter registration there."

REPRESENTATIVE REINBOLD commented that this language may produce a labor intensive workload because one thousand people in her district move in and out every election, and her district has a high turnout. She related that she would think this would cause

a significant fiscal note, either for the Department of Law for the prosecutions or the Division of Elections.

MS. BAKALAR responded that without consulting the Criminal Division she could not speak to the fiscal note that could attach. Again, she said, prosecutions in this area are infrequent, and based upon past experience she wouldn't imagine it would be a large Department of Law fiscal note. As far as the division's fiscal note she deferred to Mr. Jackson.

[2:28:58 PM](#)

MR. JACKSON referred to the amendment and said he was unsure it would be "a whole lot more work on the division," since the division already notifies the chief elections officers in other jurisdictions for those applicants who indicated they were registered in another jurisdiction.

REPRESENTATIVE REINBOLD said "So, don't come back with a supplemental."

[2:30:25 PM](#)

MS. BAHNKE pointed out that the division did not receive the amendment until arriving at the meeting this afternoon and it had not had an opportunity to fully vet the fiscal note, although, the committee does have a second version, draft fiscal note. Within the original version of HB 1, explained in the fiscal note, there were programming costs to change the voter registration and election management system to accommodate for electronic signatures. The fiscal note was zeroed out, she explained, due to resolving the electronic signature issue. She advised that the division worked closely with the sponsor of this bill, it provided a detailed bill analysis, there were several internal meetings within the division, and it continues to work with the sponsor and staff in moving through this process. She pointed to Amendment 1, and reiterated they had not had a chance to fully evaluate whether it would require a fiscal note, but as Mr. Jackson indicated it would probably not if it was in line with the division's current process in its course of business.

[2:31:51 PM](#)

REPRESENTATIVE EASTMAN asked how voters were able to un-register when moving out-of-state.

MS. BAHNKE explained that a voter can go to voterregistration.Alaska.gov and change their information.

REPRESENTATIVE EASTMAN surmised there was a place on the website to mark which would un-register them from the State of Alaska.

MS. BAHNKE answered in the affirmative.

[2:32:39 PM](#)

REPRESENTATIVE EASTMAN asked the process of the Division of Elections to communicate that information to other states.

MS. BAHNKE answered that letters are directed to the other states that include the name of the voter, and other identifiers that were provided by the voter, and the division also receives letters from other states.

MS. BAHNKE, in response to Representative Eastman, pointed out that as Mr. Jackson had previously indicated, the division forwards correspondence on a monthly basis, and the division receives information from other states approximately once per week to once per month, it varies.

[2:34:10 PM](#)

REPRESENTATIVE REINBOLD asked whether the division needed time to vet the fiscal note.

MS. BAHNKE replied that, currently, it did not appear that additional time was necessary.

REPRESENTATIVE REINBOLD asked whether the DOL and Division of Elections supports this amendment.

MS. BAHNKE responded, "We have no objection to the amendment."

[2:34:35 PM](#)

REPRESENTATIVE MILLETT surmised that with Chair Claman's amendment, the language would read, "I am registered to vote in another state, cancel my registration" on every form.

[No audible response.]

[2:34:52 PM](#)

REPRESENTATIVE EASTMAN offered a conceptual amendment that he said would speak to the form itself, wherein currently information was required if a person was registered in Texas, for example. Although, he commented, in the event the person did not fill out that information, the division would still process the information and registration as though the person had a Texas voter registration. He then referred to Amendment 1, page 1, lines 4-5, and suggested deleting the word "for" and inserting the word "requiring," which would then read as follows:

(b) Every registration form must include space requiring an applicant who is registered in another jurisdiction to specify ...

REPRESENTATIVE EASTMAN opined that the language would put it in line with current statutes requiring that information, and it would signal to the division that the legislature clearly required that information, and that it was not an optional question due to legal implications and perjury.

[2:36:49 PM](#)

VICE CHAIR FANSLER asked Chair Claman's thoughts as to Conceptual Amendment 1 to Amendment 1.

CHAIR CLAMAN said that while he appreciates the spirit within which Representative Eastman proposed this amendment, except part of his intent in creating the amendment was to not add more requirements onto Alaska's citizens. He related that any rational citizens would provide that information, the word "for" gets us there.

REPRESENTATIVE EASTMAN explained that he was not interested in adding any new requirements, this conceptual amendment would make clear that within current statute the division is already required to provide that information. He opined that by leaving the word "for" it left the question open to interpretation, and if voters had not read the other requiring statutes, they may think it was optional, and it is not optional.

[2:37:53 PM](#)

CHAIR CLAMAN referred to the current form, and paraphrased as follows: "They are swearing that they are not registered to vote in another state, or they have provided information to cancel that registration." Therefore, he said, with the word

"required," the forms would have to be changed even more in addition to the asterisks depicting confidential information, it would require another signal advising, "This is required." He related that the current form works well, and his intent was to simply keep the language uniform across the various forms. He offered concern that "requiring" ups the ante in some manner that would result in an unintended consequence, and he does not support Conceptual Amendment 1 to Amendment 1.

[2:39:15 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Conceptual Amendment 1 to Amendment 1.

[CHAIR CLAMAN objected within his explanation of non-support.]

[2:39:29 PM](#)

REPRESENTATIVE MILLETT opined that this conceptual amendment would be a requirement for the people registered in another jurisdiction to un-register. People are confused, she opined, because they do not read the statutes, and this conceptual amendment advises the voters they fulfilled a statutory requirement. The language would be included in all of the relevant forms so every voter understands that a requirement of Alaska is that a person not be registered in another jurisdiction, she said.

[2:40:45 PM](#)

REPRESENTATIVE LEDOUX pointed out that the language within Amendment 1 already states that requirement, and simply requires that the division include language on every relevant form that states: "I'm registered to vote in another state, cancel my registration" and that the voter certification states "That I provided -- that I'm not registered to vote in another state, or I've provided information to cancel that registration." She described that this discussion was arguing about how Legislative Legal and Research Services should draft this amendment, and commented that she was happy with its current drafting. Amendment 1 requires the division to put the language previously discussed on the ballots, she pointed out, and the committee was at the place it wanted to be because it requires the division to put "all of this stuff" on the ballots.

[2:41:51 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked Ms. Bakalar, in the event this conceptual amendment potentially made the language and understanding of current laws more parallel and consistent, whether the Department of Law shared that perspective.

MS. BAKALAR agreed that this is a draftsmanship question and the manner in which Legislative Legal and Research Services goes about creating consistency in the statutes. The statute does state, "Every registration form must include space for an applicant who is registered in another jurisdiction to specify that jurisdiction." [Ms. Bakalar emphasized the word "must."] In the event the committee changed the language from "for" to "requiring," it may imply that the form could or should be rejected by the division for failure to have that piece filled out. As far as consistency, for example, "director will notify" rather than "shall" but then the next sentence has "shall" - these are draftsmanship questions. She noted that each time there is an effort to implement a statute, no matter how many times the bill was heard and discussed, often there was misinterpretation, and the goal here is to minimize that and not eliminate it entirely. She then deferred to Legislative Legal and Research Services as to how that happens in a manner consistent with drafting conventions.

[2:43:44 PM](#)

REPRESENTATIVE REINBOLD said she supports Conceptual Amendment 1 to Amendment 1 because the state needs to do its part to make certain that citizens are informed they may be at risk of a misdemeanor or committing perjury. She asked whether this conceptual amendment would have a fiscal impact due to forms being changed.

MS. BAHNKE reiterated that the division is currently in the process of revising its forms, and the effective date of HB 1 is 1/1/2018. Therefore, she said, the division could make this change to make it consistent across the board which is an administrative activity which would not require a fiscal note.

[2:46:04 PM](#)

REPRESENTATIVE REINBOLD asked for verification that Ms. Bahnke would require zero money.

MS. BAHNKE reiterated that the division has no opposition to this amendment, however, division will evaluate the amendment and revise it prior to the next committee of referral. She said

that in receiving the amendment at this hearing and not having an opportunity to thoroughly evaluate she was not willing to definitively state the fiscal note would not be revised.

[2:48:24 PM](#)

CHAIR CLAMAN maintained his objection.

REPRESENTATIVE EASTMAN said that in his capacity as a voter registrar, people have asked what information on the form was required. This conceptual amendment adds clarity on the voter registration application form, question 14, by making clear that the information is required, with an identifier to indicate that a certain question was optional, which the division could accomplish during its next iteration of forms. He said he would like to hear from the director that "that's what's going to happen."

[2:50:11 PM](#)

MS. BAHNKE answered that everything included on the voter registration application is required, and each asterisk indicates the items to be kept confidential. Under current law, the only confidential information that may not be necessarily included on the form is the person's entire social security number because the division requires only the last four numbers, she said.

VICE CHAIR FANSLER urged Representative Eastman to work with the Division of Elections during its revision process.

[2:51:09 PM](#)

REPRESENTATIVE MILLETT referred to the voter registration application, question 8, noting that the following was not required and paraphrased as follows: "I am interested in serving as an election official. And, question 9, to add your daytime phone number, evening phone number, and email." She said that she guessed that was the confusion of what is required and not required. However, "not being not registered in another state" is required, and Representative Eastman's point was to indicate what is and is not required, she reiterated, and the conceptual amendment adds clarity to the voter registration application.

VICE CHAIR FANSLER reiterated that many of these good ideas could be worked out with the Division of Elections.

REPRESENTATIVE MILLETT commented that this is a good time to have these conversations.

REPRESENTATIVE REINBOLD said she had a ten second comment.

[2:53:38 PM](#)

CHAIR CLAMAN called for the question.

REPRESENTATIVE EASTMAN objected.

VICE CHAIR FANSLER called for a roll call vote on the call for the question.

[2:54:02 PM](#)

A roll call vote was taken. Representatives Kreiss-Tomkins, LeDoux, Fansler, and Claman voted in favor of the call to question. Representatives Eastman, Reinbold, and Millett voted against it. Therefore, the call for the question passed by a vote of 4-3.

[2:54:28 PM](#)

VICE CHAIR FANSLER advised that the next vote was whether Conceptual Amendment 1 to Amendment 1 should be adopted, and that the committee was under a call for the question.

[2:54:44 PM](#)

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

VICE CHAIR FANSLER, in response to Representative Millett's previous comment, agreed this is the appropriate time to discuss amendments and that it is fully appropriate to discuss revisions with the division during its revision process, he guaranteed that every member would have an opportunity to speak.

[2:55:44 PM](#)

REPRESENTATIVE REINBOLD called for a point of order, and advised that Mason's Manual specifically states that members have the

ability to have their voices heard and to sway other members. She said that if the legislature requires the email and address [during the registration process], the division would more likely be able to contact the voters. She stated that this was an important point and she was denied making her comment out of rushing, and "hurry up and waste time."

[2:56:31 PM](#)

VICE CHAIR FANSLER ruled on the point of order and explained to Representative Reinbold that when she had asked to comment there was an immediate "call to question," which the committee voted in favor, thereby cutting off debate. He stressed that the committee followed proper Mason's Manual procedure by moving straight to the call for the question and voting, he explained.

[2:57:05 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Conceptual Amendment 2 to Amendment 1, and explained that it clarified the expectation that Alaska perform its part in providing voter registration information to the other states. He explained that Conceptual Amendment 2 adds the last sentence to Amendment 1, page 1, line 10, to read as follows:

The director shall solicit information from other jurisdictions concerning registered Alaskan voters who have registered as voters in those jurisdictions.

REPRESENTATIVE EASTMAN explained that the conceptual amendment speaks to the fact that the legislature is aware Alaska is a transit state and this conceptual amendment makes that situation clear and places it in the same statute that discusses "those other jurisdictions," and what the legislature expects of the Alaska Division of Elections.

[2:59:19 PM](#)

CHAIR CLAMAN objected to Conceptual Amendment 2 to Amendment 1, and explained that this is an instance in which he 100 percent agrees with Representative Reinbold's comment about unintended financial consequences. Chair Claman disagreed that the legislature should require the Division of Elections, in these fiscal times, to go forward and solicit information without advising exactly what information, how much time, how much money, how many resources, and how many employees to hire to solicit this information from other jurisdictions. Especially,

he advised, with no knowledge as to whether or not those jurisdictions would even give the division any of the information. The framework under which the division would be compelled and the language, may even suggest that this language requires the department to go forth and file lawsuits in other states and require that the other states provide information. Thereby, he pointed out, costing millions of dollars for Alaskans because under this conceptual amendment, the word "shall" is unclear how it would be applied. He stated that he strongly objects to Conceptual Amendment 2 to Amendment 1 because it puts both a workload burden on the division, and likely a financial burden in performing what this conceptual amendment suggests.

[3:00:41 PM](#)

REPRESENTATIVE LEDOUX commented that she doesn't follow this conceptual amendment, and surmised that a person is registered in Alaska but was registered in Texas, and the legislature is supposed to be asking the Division of Elections to find out what information from these other jurisdictions.

REPRESENTATIVE EASTMAN responded that the director had advised that the division receives information from other jurisdictions regarding registered voters who leave Alaska and register in another state. This conceptual amendment would not change the current process, rather it puts into statute that the legislature expects that process to continue, and it expects the division to continue to collaborate in the sharing of information with other states in removing the names of voters who have left the state.

[3:02:16 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked the director to respond to the marginal value of the potential additional statutory language relative to the division's current process. Alaska is a member of the ERIC project involving information sharing, and he asked whether Conceptual Amendment 2 would prompt the division to do anything it is not already accomplishing, would it merely enshrine and codify the division's current process, and what would be the impact of this conceptual amendment on the division.

MS. BAHNKE noted that Conceptual Amendment 2 implies that the director would directly solicit information from other jurisdictions, and she asked the definition of "jurisdictions."

She explained that for the purpose of conducting elections, the State of Alaska is divided into four different jurisdictions, and asked whether jurisdiction means across regions or across states.

[3:03:46 PM](#)

REPRESENTATIVE KREISS-TOMKINS said that perhaps the greater clarity on the meaning of jurisdiction would be helpful, and asked whether the intent of this conceptual amendment would prompt the division into doing anything beyond its current process.

MS. BAHNKE commented that the language, "The director shall solicit the information," is unclear as to whether it meant the division would instigate some sort of mailing to other states on an annual or bi-annual basis. Currently, she said, that takes place on a per occurrence basis such that when the division hears from a voter, it then contacts the affected state on an as needed schedule.

[3:05:02 PM](#)

REPRESENTATIVE EASTMAN answered that "jurisdictions" means other states, and matches the voter registration application question 14. He requested an explanation of the current process to invite other states to advise when Alaskan voters have registered in their state, thereby taking them off the Alaska voter registration list.

MS. BAKALAR responded that in addition to the ERIC project matching with other states, and the once a month check Mr. Jackson previously referred, the division has a voter registration list maintenance process under AS 15.07.130. The statute provides that periodically, during the times of the year the director so chooses but not less than January of each year, the director will examine the master list and notify the various voters who have returned mail, or who have not contacted the division. Contact, she explained, is defined in various ways, those who have not voted or appeared to vote, or signed a petition, and such. Periodically, the division looks into death notices, new registrations, and it then sends out various postcards, and performs voter roll clean-up in that manner. Therefore, she pointed out, in addition to the once monthly check with the other states, there is this minimum annual voter registration maintenance list under current statute.

[3:07:23 PM](#)

The committee recessed to a call of the chair 3:07 p.m. to 4:33 p.m.

[4:33:02 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting back to order at 4:33 p.m. Representatives Eastman, Kreiss-Tomkins, Fansler, and Claman were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

[4:33:18 PM](#)

CHAIR CLAMAN returned the committee to the motion to adopt Conceptual Amendment 2 to Amendment 1, and passed the gavel to Vice Chair Fansler.

[4:33:36 PM](#)

REPRESENTATIVE FANSLER reminded the committee that Conceptual Amendment 2 to Amendment 1, page 1, line 10, inserts a sentence as follows:

The director shall solicit information from other jurisdictions concerning registered Alaskan voters who have registered as voters in those jurisdictions.

[4:34:20 PM](#)

REPRESENTATIVE EASTMAN reminded the committee that his question to the division asked the division's current practice [in contacting other states] with his goal that the state continue to perform its part [with other jurisdictions]. He opined this would be the best place in the statutes to instruct the division to continue [its process].

CHAIR CLAMAN maintained his objection.

[4:35:15 PM](#)

A roll call vote was taken. Representative Eastman voted in favor of the adoption of Conceptual Amendment 2 to Amendment 1. Representatives Fansler, Kreiss-Tomkins, Claman voted against it. Therefore, Conceptual Amendment 2 to Amendment 1 failed by a vote of 1-3.

[4:35:58 PM](#)

VICE CHAIR FANSLER returned the committee to the motion to adopt unamended Amendment 1.

[4:36:38 PM](#)

REPRESENTATIVE EASTMAN referred to Amendment 1, and described that the language being put into statute advises every registering voter that the director will notify the chief elections officer in their relevant jurisdiction [that the voter was now registered in Alaska]. He opined that is the current practice and the language would not necessarily lead to any particular changes.

CHAIR CLAMAN referred to previous testimony, and answered that Amendment 1, directs the Division of Elections and not the voters, to make minor changes in the current division forms, consistent with its current efforts so that the forms are appropriately adjusted to reflect current reality. Amendment 1 would not reinforce the status quo because areas have been identified in which the status quo was not adequate, he explained.

[4:37:47 PM](#)

REPRESENTATIVE EASTMAN referred to Amendment 1, page 1, lines 5-6, which read as follows:

(b) ... registered in another jurisdiction to specify that jurisdiction and a notice that the director will notify the chief elections officer in that jurisdiction.

REPRESENTATIVE EASTMAN remarked the language on the form puts forward a notice to voters that the director will notify chief election officers in other states, and he asked for verification that the language was new language.

[4:38:08 PM](#)

CHAIR CLAMAN reminded Representative Eastman, as discussed extensively prior to the recess to a call of the chair, the goal is to place the language contained in voter registration application question 14 into all relevant forms. He added that

the division testified that the manner in which the language is phrased in question 14, would appear on all relevant forms.

REPRESENTATIVE EASTMAN argued that all he saw on the current registration form was, "I am registered to vote in another state, cancel my registration," and Amendment 1 includes a notice that the director will notify the chief elections officer in that jurisdiction. Therefore, if this amendment passed, he expected there would be new language in question 14, as to the chief elections officer for whatever state being notified that the voter is "doing this act or something similar."

CHAIR CLAMAN said that the questions were asked of the division, it answered his questions completely, he would not speak for the division, and said, "I can't add more."

[4:40:06 PM](#)

REPRESENTATIVE LEDOUX withdrew her objection. There being no objection, Amendment 1 was adopted.

[VICE CHAIR FANSLER passed the gavel back to Chair Claman.]

[4:41:10 PM](#)

CHAIR CLAMAN brought amended HB 1 before the committee commenting there had been a tremendous amount of discussion, and asked for final comments.

[4:41:49 PM](#)

REPRESENTATIVE FANSLER moved to report HB 1, Version 30-LS0070\U.3, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE EASTMAN objected.

[4:42:11 PM](#)

A roll call vote was taken. Representatives Kreiss-Tomkins, LeDoux, Fansler, and Claman voted in favor of the passage of HB 1, as amended. Representative Eastman voted against it. Therefore, HB 1(JUD) was reported out of the House Judiciary Standing Committee by a vote of 4-1.

[4:43:49 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:43 p.m.