

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 17, 2021

1:33 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Liz Snyder, Vice Chair (via Teams video)  
Representative Harriet Drummond  
Representative Jonathan Kreiss-Tomkins  
Representative David Eastman  
Representative Christopher Kurka  
Representative Sarah Vance

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Alaska Police Standards Council

Gregory "Scott" Campbell - Palmer  
Justin Dahl - Anchorage  
Ed Mercer - Juneau  
Jennifer Winkelman - Juneau

- CONFIRMATION(S) ADVANCED

Select Committee on Legislative Ethics

Dennis "Skip" Cook - Fairbanks  
Gerald "Jerry" McBeath - Fairbanks

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 3

"An Act relating to the definition of 'disaster.'"

- MOVED CSHB 3(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 57

"An Act relating to the budget reserve fund established under art. IX, sec. 17(d), Constitution of the State of Alaska;

relating to money available for appropriation for purposes of applying art. IX, sec. 17, Constitution of the State of Alaska; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 3

SHORT TITLE: DEFINITION OF "DISASTER": CYBERSECURITY

SPONSOR(s): REPRESENTATIVE(s) JOHNSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, JUD
02/23/21	(H)	STA AT 3:00 PM GRUENBERG 120
02/23/21	(H)	Heard & Held
02/23/21	(H)	MINUTE(STA)
03/02/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/02/21	(H)	Moved CSHB 3(STA) Out of Committee
03/02/21	(H)	MINUTE(STA)
03/08/21	(H)	STA RPT CS(STA) 1DP 1NR 5AM
03/08/21	(H)	DP: KREISS-TOMKINS
03/08/21	(H)	NR: TARR
03/08/21	(H)	AM: CLAMAN, STORY, EASTMAN, VANCE, KAUFMAN
03/10/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/10/21	(H)	Heard & Held
03/15/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/15/21	(H)	Heard & Held
03/17/21	(H)	JUD AT 1:30 PM GRUENBERG 120

BILL: HB 57

SHORT TITLE: FUNDS SUBJECT TO CBR SWEEP PROVISION

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/18/21	(H)	PREFILE RELEASED 1/15/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	JUD, FIN
03/10/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/10/21	(H)	Scheduled but Not Heard
03/17/21	(H)	JUD AT 1:30 PM GRUENBERG 120

**WITNESS REGISTER**

GREGORY "SCOTT" CAMPBELL, Appointee  
Alaska Police Standards Council

Palmer, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Police Standards Council.

JUSTIN DAHL, Appointee  
Alaska Police Standards Council  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Police Standards Council.

ED MERCER, Appointee  
Alaska Police Standards Council  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Police Standards Council.

JENNIFER WINKLEMAN, Appointee  
Alaska Police Standards Council  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Police Standards Council.

DENNIS "SKIP" COOK, Appointee  
Select Committee on Legislative Ethics  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified as appointee to the Select Committee on Legislative Ethics.

GERALD "JERRY" MACBETH, Appointee  
Select Committee on Legislative Ethics  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified as appointee to the Select Committee on Legislative Ethics.

REPRESENTATIVE DELENA JOHNSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor of HB 3, offered feedback regarding proposed amendments.

MARK BREUNIG, Chief Information Security Officer  
State Security Office  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Offered his opinion on Amendments 5 and 6 to CSHB 3(STA).

ELISE THORNBERG, Staff  
Representative Andy Josephson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 57 on behalf of Representative Josephson, prime sponsor.

REPRESENTATIVE ANDY JOSEPHSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 57.

#### **ACTION NARRATIVE**

[1:33:17 PM](#)

**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 1:33 p.m. Representatives Eastman, Vance, Drummond, Kreiss-Tomkins, Kurka, Snyder (via Teams video), and Claman were present at the call to order.

CHAIR CLAMAN stated that if a committee member is in the Capitol, in his/her office participating "by Teams, with the video running," then he/she will be allowed to participate as if in the committee room. This means being allowed to vote to move a bill out of committee and sign the committee report. The same will not be allowed for a committee member participating from outside the Capitol building; those members would be allowed to ask questions, but not allowed to vote to move a bill out of committee. Chair Claman said these are instructions from the Speaker of the House that have been confirmed by Legislative Legal Services. In response to Representative Eastman, he clarified that he was making an announcement rather than bringing up a topic for discussion.

#### **CONFIRMATION HEARING(S) :** **ALASKA POLICE STANDARDS COUNCIL**

[1:35:25 PM](#)

CHAIR CLAMAN announced that the first order of business would be the confirmation hearing on the governor's appointees to the Alaska Police Standards Council.

[1:36:32 PM](#)

GREGORY "SCOTT" CAMPBELL, Appointee, Alaska Police Standards Council, offered his biographical information [on his resume in the committee packet], including his 25 years as a police officer and previous service on the Alaska Police Standards Council. He expressed interest in maintaining the standards, recruitment, background checks, and regulations that are the responsibility of the council. In response to a question from Chair Claman, he clarified that he is not currently serving on the council.

[1:37:55 PM](#)

REPRESENTATIVE EASTMAN noted those with homeschool diplomas are facing obstacles when seeking to work in law enforcement. He asked Mr. Campbell for his thoughts on the issue.

MR. CAMPBELL answered that that is the first time he has heard of that issue, and he thinks there should be no obstacles in that regard.

CHAIR CLAMAN expressed that this seems to be a policy issue for the legislature rather than a topic to broach with the appointee.

REPRESENTATIVE EASTMAN explained the policy had been instituted by the council; therefore, he expressed his desire for the council to reverse or improve upon that decision.

[1:40:48 PM](#)

JUSTIN DAHL, Appointee, Alaska Police Standards Council, testified as appointee to the Alaska Police Standards Council. He said he has been serving with the Anchorage Police Department for the last 25 years, currently as chief of police, and has been serving on the Alaska Police Standards Council for the last three to four years.

CHAIR CLAMAN noted that Mr. Dahl would be retiring from his position as chief of police with APD and had applied for "similar positions in other locales." He asked Mr. Dahl how his retirement and subsequent work either in Alaska or Outside would affect his ability to serve on the council.

MR. DAHL stated, "When my retirement takes effect, even if I were willing to continue to serve and remain an Alaska resident, it would need to pass on to another chief of police." He said he spoke with the Office of the Governor about this when he

announced his retirement and was asked to continue with the appointment process. He said he is currently chair of the council and would continue to serve in that role until he retires and is no longer eligible. In response to Chair Claman, he confirmed that, if confirmed, his appointed term on the council would end June 30, [2021], and if he is hired as chief of police somewhere else within Alaska, he would not need to retire from the council.

[1:42:52 PM](#)

REPRESENTATIVE EASTMAN asked Mr. Dahl to comment on how to improve recruitment in law enforcement.

MR. DAHL answered that "we" need to continue doing what has been done, and he emphasized the importance of "getting the word out." He said he thinks [recruitment] is challenging because currently law enforcement is under a lot of scrutiny nationwide, which can make it challenging to convince young people to choose it as a career field. He said APD has had a lot of success, with staff "bumped up" to 100 percent for the academy. He indicated that outreach, education, and encouragement are key.

[1:44:13 PM](#)

ED MERCER, Appointee, Alaska Police Standards Council, testified as appointee to the Alaska Police Standards Council. He said he has worked in law enforcement for approximately 28 years and is currently the chief of police in the Juneau Police Department (JPD). He noted other experience as listed on his resume [in the committee packet], including an FBI Academy graduate and service on several boards. He estimated he has served on the council for at least a year and a half. He said he serves on the FBI Criminal Justice Information System Northwest Group and is a member of the High Intensity Drug Trafficking (HIDA) Board.

[1:46:00 PM](#)

REPRESENTATIVE EASTMAN asked about a three-year bar to making a transition from military law enforcement to civilian law enforcement, and asked Mr. Mercer for his thoughts or ideas for change in that regard.

MR. MERCER echoed Chief Dahl's remark that this is a tough time for recruitment and retention of personnel. He said APD has several members who transferred from military to civilian law enforcement. He said APD encourages all who are interested in

law enforcement. Currently APD participates with the National Guard and U.S. Army to get current military members interested in law enforcement and direct them to those agencies open to accepting applicants with a military background. He expressed the need to "take a broad approach" and said, "I'm open to that."

[1:48:17 PM](#)

JENNIFER WINKLEMAN, Appointee, Alaska Police Standards Council, shared her biographical and educational information as shown on her resume [in the committee packet], including that she has worked with the Department of Corrections (DOC) for just over 20 years, with current service as the director of Pretrial Probation and Parole. She said she considers it a privilege to be given the opportunity to serve on the council, and she said her work has helped her recognize the challenges endured by Alaska law enforcement. She said being on the council allows her a voice to ensure best practices in certification and training are being followed, as well as affording her the opportunity to try to restore lost faith in law enforcement resulting from cases of misconduct. She said she has served on the council for a little over two years and feels her experience and personality continue to be an asset to the council. She said she has been fair and impartial in making decisions that impact officers and communities.

[1:50:28 PM](#)

REPRESENTATIVE EASTMAN brought up the topic of reserve police officers and mentioned a limitation in recruitment, and he asked Ms. Winkleman whether she had any comments on the topic based on her experience on the council.

MS. WINKLEMAN answered that she does not, but said her curiosity has been peaked to look into the topic.

[1:52:26 PM](#)

REPRESENTATIVE KREISS-TOMKINS expressed his appreciation of Ms. Winkleman's service within DOC, and he opined that the state would be well represented with her on the council.

[1:52:43 PM](#)

CHAIR CLAMAN opened public testimony on the confirmation hearing on the governor's appointees to the Alaska Police Standards

Council. There being no one who wished to testify, he closed public testimony.

CHAIR CLAMAN invited final comments from the committee.

[1:53:37 PM](#)

REPRESENTATIVE DRUMMOND remarked that Mr. Dahl will be missed in Anchorage. She said it is frustrating that the governor has not instead appointed someone who is not retiring in a few months, but she said she knows Mr. Dahl will serve well in the brief time he is on the council.

[1:54:06 PM](#)

REPRESENTATIVE EASTMAN expressed appreciation for each of the appointees willing to serve on the council and asked them to focus on recruitment and retention.

[1:54:23 PM](#)

CHAIR CLAMAN acknowledged the work some of the appointees had done while serving previous terms.

[1:54:54 PM](#)

REPRESENTATIVE SNYDER stated that the House Judiciary Standing Committee has reviewed the qualifications of the governor's appointees and recommends that the following names be forwarded to a joint session for consideration: Gregory "Scott" Campbell, Justin Dahl, Ed Mercer, and Jennifer Winkleman to the Alaska Police Standards Council. She said this does not reflect any intent by any of the members to vote for or against these individuals during further sessions for the purposes of confirmation.

CHAIR CLAMAN announced that the names of Gregory "Scott" Campbell, Justin Dahl, Ed Mercer, and Jennifer Winkleman, appointees to the Alaska Police Standards Council, would be forwarded to the joint session.

**CONFIRMATION HEARING(S)**  
**SELECT COMMITTEE ON LEGISLATIVE ETHICS**

[1:55:45 PM](#)

CHAIR CLAMAN announced that the next order of business would be the confirmation hearing on the governor's appointees to the Select Committee on Legislative Ethics.

[1:56:30 PM](#)

DENNIS "SKIP" COOK, Appointee, Select Committee on Legislative Ethics, gave his biographical experience, as noted on the resume [included in the committee packet], including 43 years practicing law before his retirement in 1970. During that time he was appointed to the Select Committee on Legislative Ethics by Chief Justice Matthews. He said he enjoyed training and advisory work and has participated in suggesting legislative changes. He remarked that in the 27 years he has served on the committee, there has been considerable turnover, and he expressed the value of having some continuity. He asked that he be allowed to continue this service.

[1:58:12 PM](#)

REPRESENTATIVE EASTMAN offered his understanding that Mr. Cook had not confirmed last year, and he inquired whether there is any limitation on members of the Select Committee on Legislative Ethics being put forward by the courts.

CHAIR CLAMAN noted Representative Eastman was asking a legal question and gave Mr. Cook the leeway to answer if he was comfortable doing so.

MR. COOK responded that he does not believe he was on the schedule for confirmation last year or that he has ever not been confirmed. He said he does not think there is a limitation regarding someone coming back on the committee if he/she had not been confirmed.

[1:59:41 PM](#)

GERALD "JERRY" MACBETH, Appointee, Select Committee on Legislative Ethics, gave his resume information [in the committee packet], sharing his background in Political Science, his study of Alaska politics, and his former work as a teacher. He called himself "the veteran political scientist in the state of Alaska." He noted he had developed an Ethics course as part of University of Alaska's core curriculum and taught the course for 25 years. He emphasized his belief in the legislature as the heart of democratic governance. He said people's trust in legislatures is essential and has been declining overall. He

said the Select Committee on Legislative Ethics ensures the public knows the legislature is doing business in an ethical manner. He said he wants to reinforce the public's faith in democratic institutions and has the time to do that now that he is no longer teaching. He said he applied because he thinks he has something to add that other public members of the committee may not have. Further, he said he may learn a great deal.

[2:03:03 PM](#)

REPRESENTATIVE EASTMAN asked Mr. Macbeth how he will go about improving the public's trust.

MR. MACBETH answered that is one of the purposes of AS 24.60, which is the Act establishing the Select Committee on Legislative Ethics. The statute allows anyone to submit complaints to the committee about operations of the legislature and legislative members that any individual believes are wrongful and unethical. He pointed out that unlike the executive and judicial branch ethics, in the legislative branch there is "the problem of focusing attention on a legislative complaint while having, as legislatures to work with, a member of the legislative body who is under a cloud." He noted that the Alaska Public Offices Commission (APOC) as an increasingly rigorous disclosure requirement, which he said has to be considered in connection with legislative ethics. In response to a follow-up question, he described his work with former Senator Frank Murkowski.

[2:08:32 PM](#)

CHAIR CLAMAN offered clarification on the subject of term lengths.

[2:09:48 PM](#)

CHAIR CLAMAN [opened public testimony on the confirmation hearings for the governor's appointees to the Select Committee on Legislative Ethics.] There being no one who wished to testify, he closed public testimony.

CHAIR CLAMAN invited final comments from the committee.

[2:10:31 PM](#)

REPRESENTATIVE EASTMAN thanked the appointees and asked them to keep in mind his understanding that there is a lot about the

Select Committee on Legislative Ethics that legislators "aren't necessarily familiar with."

[2:11:02 PM](#)

CHAIR CLAMAN thanked both appointees for their service and for the work Mr. Macbeth has done in the review of the work of the legislature in Alaska and other states.

[2:11:34 PM](#)

REPRESENTATIVE SNYDER stated that the House Judiciary Standing Committee has reviewed the qualifications of the governor's appointees and recommends that the following names be forwarded to a joint session for consideration: Dennis "Skip" Cook and Gerald "Jerry" Macbeth to the Select Committee on Legislative Ethics. She said this does not reflect any intent by any of the members to vote for or against the individuals during further sessions for the purposes of confirmation.

CHAIR CLAMAN announced that the names of Dennis "Skip" Cook and Gerald "Jerry" Macbeth, appointees to the Select Committee on Legislative Ethics would be forwarded to the [joint session for confirmation].

[2:12:18 PM](#)

The committee took an at-ease from 2:12 p.m. to 2:16 p.m.

**HB 3-DEFINITION OF "DISASTER": CYBERSECURITY**

[2:16:20 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 3, "An Act relating to the definition of 'disaster.'" [Before the committee was CSHB 3(STA).]

[2:17:17 PM](#)

CHAIR CLAMAN passed the gavel to Vice Chair Snyder [who transitioned from Teams video participation to in-room presence during this part of the meeting].

[2:17:28 PM](#)

CHAIR CLAMAN moved to adopt Amendment 1 to CSHB 3(STA), labeled 32-LS0041\G.5, Dunmire, 3/16/21, which read as follows:

Page 2, line 30, following "affected;":

Insert "in this subparagraph, "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of the systems and assets would have a debilitating effect on security, state economic security, state public health or safety, or any combination of those matters;"

[2:17:30 PM](#)

REPRESENTATIVE DRUMMOND objected for the purpose of discussion.

CHAIR CLAMAN spoke to Amendment 1. He said it would add a definition of critical infrastructure based on the federal definition, changing the reference to the United States to "the state".

[2:18:30 PM](#)

REPRESENTATIVE DELENA JOHNSON, Alaska State Legislature, as prime sponsor of HB 3, said she is fine with Amendment 1.

[2:18:53 PM](#)

REPRESENTATIVE EASTMAN asked for a definitions showing the difference between "security" and "state economic security".

REPRESENTATIVE CLAMAN proffered that an example of security is public security, such as a threat to the public safety database, while a threat to the transportation of oil would be directly related to economic security. In response to a follow-up question, he said he thinks under the proposed legislation, the governor would have the authority to declare an emergency if there was a threat to the pipeline. To a further follow-up regarding web sites, he said the answer depends on the specific situation; a massive web site with a tremendous amount of use that is getting threatened is different from a personal web site. He said Amendment 1 "doesn't propose to provide that level of definition."

[2:22:47 PM](#)

REPRESENTATIVE VANCE said she likes the effort to define critical infrastructure in terms of cybersecurity; however, she said all the lines in Amendment 1 that reference security,

economic security, and public health and safety may be limiting what can be done. She suggested ending the sentence following "**have a debilitating effect**". She expressed concern that there may be things that would fall under that definition that are not listed in Amendment 1.

[2:24:36 PM](#)

CHAIR CLAMAN responded that he would not support that change because the definition in Amendment 1 is patterned on the federal definition and he would like the two to align so that the federal standard informs how the state standard is applied.

[2:25:41 PM](#)

REPRESENTATIVE EASTMAN expressed concern that making the definition as broad as it is would authorize the declaration of disaster for anything.

[2:26:43 PM](#)

REPRESENTATIVE DRUMMOND noted that Amendment 1 would amend [paragraph (2), subparagraph] (F), [which is a subparagraph added under CSHB 3(STA)]. She highlighted the following in subparagraph (F):

**(F) a cybersecurity attack that affects critical infrastructure in the state, an information system owned or operated by the state**

REPRESENTATIVE DRUMMOND opined that an information system includes any web site and data storage. She gave the example of "My Alaska," which includes not only the permanent fund dividend (PFD) application process, but also public official financial disclosures and campaign disclosures. She said she thinks Amendment 1 strengthens the definition of cyber infrastructure and "is fine as is."

[2:28:15 PM](#)

CHAIR CLAMAN, in response to a question from Representative Kurka, offered his view that Amendment 1 would affect only [subparagraph] (F).

[2:30:28 PM](#)

REPRESENTATIVE DRUMMOND removed her objection to the motion to adopt Amendment 1.

[2:30:30 PM](#)

REPRESENTATIVE EASTMAN objected.

[2:30:35 PM](#)

A roll call vote was taken. Representatives Drummond, Snyder, Kreiss-Tomkins, Vance, and Claman voted in favor of the motion to adopt Amendment 1. Representatives Eastman and Kurka voted against it. Therefore, Amendment 1 was adopted by a vote of 5-2.

VICE CHAIR SNYDER passed the gavel back to Chair Claman.

[2:31:37 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 2, labeled 32-LS0041\G.2, Marx/Dunmire, 3/16/21, which read as follows:

Page 1, line 1, following "to":

Insert **"a declaration of a disaster emergency; and relating to"**

Page 1, following line 2:

Insert new bill sections to read:

**"\* Section 1.** AS 26.23.020(c) is amended to read:

(c) If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency. The disaster emergency remains in effect until the governor finds that the danger has passed or the disaster has been dealt with so that the emergency no longer exists. The governor may terminate the disaster emergency by proclamation. A proclamation of disaster emergency may not remain in effect longer than 30 days unless extended by **a majority of the members of** the legislature **in joint session** [BY A CONCURRENT RESOLUTION]. The proclamation must indicate the nature of the disaster, the area threatened or affected, and the conditions that have brought it about or that make possible the termination of the disaster emergency. A proclamation to declare a condition of disaster emergency must also state whether the governor

proposes to expend state funds to respond to the disaster under (i) or (j) of this section. Unless authorized by a majority of the members of the legislature in joint session,

(1) the governor may not declare a condition of disaster emergency while a declared condition of disaster emergency remains in effect; and

(2) the governor may not declare a condition of disaster emergency related to a condition of disaster emergency previously declared by that governor.

\* **Sec. 2.** AS 26.23.210(a) is amended to read:

(a) In the event of a conflict between this chapter and AS 26.20, including in the event the governor declares a disaster under this chapter due to an attack or credible threat of imminent enemy or terrorist attack [AS DESCRIBED IN AS 26.23.900(2)], the provisions of this chapter shall govern."

Page 1, line 3:

Delete "**Section 1**"

Insert "**Sec. 3**"

Page 1, line 6:

Delete "resulting from"

Insert "[RESULTING FROM"

Page 1, line 7, through page 2, line 30:

Delete all material and insert:

"(A) AN INCIDENT SUCH AS STORM, HIGH WATER, WIND-DRIVEN WATER, TIDAL WAVE, TSUNAMI, EARTHQUAKE, VOLCANIC ERUPTION, LANDSLIDE, MUDSLIDE, AVALANCHE, SNOWSTORM, PROLONGED EXTREME COLD, DROUGHT, FIRE, FLOOD, EPIDEMIC, EXPLOSION, OR RIOT;

(B) THE RELEASE OF OIL OR A HAZARDOUS SUBSTANCE IF THE RELEASE REQUIRES PROMPT ACTION TO AVERT ENVIRONMENTAL DANGER OR MITIGATE ENVIRONMENTAL DAMAGE;

(C) EQUIPMENT FAILURE IF THE FAILURE IS NOT A PREDICTABLY FREQUENT OR RECURRING EVENT OR PREVENTABLE BY ADEQUATE EQUIPMENT MAINTENANCE OR OPERATION;

(D) ENEMY OR TERRORIST ATTACK OR A CREDIBLE THREAT OF IMMINENT ENEMY OR TERRORIST ATTACK IN OR AGAINST THE STATE THAT THE ADJUTANT GENERAL OF THE DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS OR A DESIGNEE OF THE ADJUTANT GENERAL, IN CONSULTATION WITH

THE COMMISSIONER OF PUBLIC SAFETY OR A DESIGNEE OF THE COMMISSIONER OF PUBLIC SAFETY, CERTIFIES TO THE GOVERNOR HAS A HIGH PROBABILITY OF OCCURRING IN THE NEAR FUTURE; THE CERTIFICATION MUST MEET THE STANDARDS OF AS 26.20.040(C); IN THIS SUBPARAGRAPH, "ATTACK" HAS THE MEANING GIVEN UNDER AS 26.20.200; OR

(E) AN OUTBREAK OF DISEASE OR A CREDIBLE THREAT OF AN IMMINENT OUTBREAK OF DISEASE THAT THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES OR A DESIGNEE OF THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES CERTIFIES TO THE GOVERNOR HAS A HIGH PROBABILITY OF OCCURRING IN THE NEAR FUTURE; THE CERTIFICATION MUST BE BASED ON SPECIFIC INFORMATION RECEIVED FROM A LOCAL, STATE, FEDERAL, OR INTERNATIONAL AGENCY, OR ANOTHER SOURCE THAT THE COMMISSIONER OR THE DESIGNEE DETERMINES IS RELIABLE];"

[2:31:40 PM](#)

REPRESENTATIVE SNYDER objected for the purpose of discussion.

REPRESENTATIVE EASTMAN spoke to Amendment 2. He said it would remove all the reasons for the damage and focus instead on there being damage; therefore, any widespread damage would qualify as a disaster. Further, he said Amendment 2 would prevent there being two disasters declared when the legislature had not addressed the first one.

[2:34:33 PM](#)

CHAIR CLAMAN observed that Amendment 2 would require a title change to the purpose of the bill. Further, he stated that the proposed amendment would delve into "a whole new area about declarations of disaster," which he said has never been the subject of the proposed legislation. Therefore, he ruled Amendment 2 out of order.

[2:34:55 PM](#)

REPRESENTATIVE VANCE objected. She observed that Amendment 2 applies to Section 1 of CSHB 3(STA); therefore, she questioned how it would be out of order.

CHAIR CLAMAN explained that part of Amendment 2 proposes a new section not part of AS 26.23.900; it goes into AS 26.23.020, which addresses the declaration itself as opposed to the cybersecurity issue. He said, "This is the sort of thing we

should spend a lot more time reviewing than taking it up as an amendment to an existing bill."

[2:35:56 PM](#)

REPRESENTATIVE EASTMAN asked if it was Chair Claman's intention to rule all amendments that change the bill title out of order.

CHAIR CLAMAN said this is not a blanket rule. He explained that under Rule 1 in Mason's Manual, the committee is allowed to control the debate and "not spend excessive time on things that aren't really relevant to the matter at hand." He suggested Representative Eastman's proper venue is to introduce a bill taking up these issues.

[2:36:47 PM](#)

REPRESENTATIVE EASTMAN objected.

[2:36:53 PM](#)

A roll call vote was taken. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted in favor of the ruling of the chair on Amendment 2. Representatives Vance, Eastman, and Kurka voted against it. Therefore, the ruling of the chair was upheld by a vote of 4-3.

[2:37:57 PM](#)

CHAIR CLAMAN ruled Amendment 3, [included in the committee packet but never moved for adoption] out of order. He said it brings up the subject of martial law, which had not been discussed previously, and which he opined is well beyond the bounds of what the committee would be discussing today.

[2:38:17 PM](#)

REPRESENTATIVE EASTMAN asked whether Amendment 3 had been "entered into the record."

CHAIR CLAMAN offered his understanding that Amendment 3 had been entered into the record, since it was "circulated on [the Bill Action & Status Inquiry System] (BASIS)."

[2:38:33 PM](#)

REPRESENTATIVE EASTMAN objected to the ruling of the chair. He said CSHB 3(STA) deals with disaster emergencies, and he opined there is confusion on at what point an emergency becomes martial law.

[2:39:07 PM](#)

A roll call vote was taken. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted in favor of upholding the ruling of the chair on Amendment 3. Representatives Kurka, Vance, and Eastman voted against it. Therefore, the ruling of the chair was upheld by a vote of 4-3.

[2:39:50 PM](#)

CHAIR CLAMAN ruled Amendment 4, [in the committee packet but never moved for adoption], out of order.

[2:39:57 PM](#)

REPRESENTATIVE EASTMAN objected and spoke to his objection. He indicated the Chair Claman, through his ruling, was denying his constituents their right to speak through the committee process.

CHAIR CLAMAN welcomed a bill from Representative Eastman addressing these issues. He maintained that he thinks [Amendment 4] would not be a wise use of the committee's time; therefore, he said he would not change his ruling.

[2:40:40 PM](#)

A roll call vote was taken. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman voted in favor of the ruling of the chair on Amendment 4. Representatives Eastman, Kurka, and Vance voted against it. Therefore, by a vote of 4-3, the ruling of the chair was upheld.

[2:41:33 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 5, labeled 32-LS0041\G.6, Dunmire, 3/17/21, which read as follows:

Page 2, line 17:

Delete "cybersecurity"

Insert "cyber"

Page 2, line 22:

Delete "cybersecurity attack or cybersecurity"  
Insert "cyber attack or cyber"

[2:41:41 PM](#)

REPRESENTATIVE KREISS-TOMKINS objected.

REPRESENTATIVE EASTMAN spoke to Amendment 5. He recalled there had been testimony supporting a broader scope to include all cyber incidents and events, not just those where someone is "going through the guard tower and causing the damage or injury." He said he does not have a position on [Amendment 5], but he explained that "it does seem to clarify the intent of the sponsor." In response to a question from Chair Claman, he clarified that he is offering Amendment 5 for the benefit of the committee, not for his constituents.

[2:42:44 PM](#)

CHAIR CLAMAN noted Mark Breunig, an information security officer, was available for questions.

[2:43:05 PM](#)

REPRESENTATIVE SNYDER asked to hear Mark Breunig's thoughts on Amendment 5.

[2:43:26 PM](#)

MARK BREUNIG, Chief Information Security Officer, State Security Office, Department of Administration, said he does not have an issue with the change proposed under Amendment 5. He said he thinks the intent of [CSHB 3(STA)] would be maintained.

[2:43:52 PM](#)

REPRESENTATIVE KREISS-TOMKINS removed his objection. There being no further objection, Amendment 5 was [adopted].

[2:44:09 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 6, labeled 32-LS0041\G.7, Dunmire, 3/17/21, which read as follows:

Page 2, line 22:  
Delete "vulnerability"  
Insert "event"

[2:44:16 PM](#)

REPRESENTATIVE SNYDER objected for the purpose of discussion.

REPRESENTATIVE EASTMAN spoke to Amendment 6. He said the reason is that the bill sponsor had said that "event" was what was originally intended. He said he was offering the amendment but taking no position on it. In response to a question from Chair Claman, he explained the reason he had not combined Amendments 5 and 6 was for the purpose of clarity.

[2:45:10 PM](#)

MR. BREUNIG, in response to Chair Claman, said he thinks "vulnerability" speaks to potential outcomes. He said "event" is broader but does not damage "the integrity and intent of this change."

[2:45:40 PM](#)

REPRESENTATIVE JOHNSON, in response to Chair Claman, said she is fine with Amendment 6 because she does not think it changes the outcome of CSHB 3(STA).

[2:46:04 PM](#)

REPRESENTATIVE SNYDER removed her objection to Amendment 6. There being no further objection, Amendment 6 was [adopted].

CHAIR CLAMAN invited final comments on CSHB 3(STA), as amended.

[2:46:30 PM](#)

REPRESENTATIVE DRUMMOND commented that her prior concern regarding political subdivisions of the state had been addressed, and they would be protected under CSHB 3(STA), as amended.

[2:47:28 PM](#)

REPRESENTATIVE VANCE expressed thanks to the bill sponsor for bringing the proposed legislation forward to provide "more opportunities to protect our systems in the future."

[2:47:43 PM](#)

REPRESENTATIVE EASTMAN expressed appreciation for the proposed bill and said he would not object to its moving forward, but he said he has concerns with the direction it takes the state, since it would broaden the degree to which a disaster can be declared during a time in which "we are declaring an awful lot more disasters than we have in the past." He opined, "... if we're going to continue to declare these disasters going forward, I think that points to the need for some substantive changes in our laws, so we don't have to get around the laws by declaring the disasters as frequently as we do."

[2:48:31 PM](#)

CHAIR CLAMAN said he appreciates the sponsor's legislation, since it addresses concerns that have arisen since the state has experienced cybersecurity issues and attacks in the last few years in Alaska, and he appreciates the sponsor working with his office on the definition of critical infrastructure. He further expressed appreciation for the amendments brought by Representative Eastman that offered clarity on cyber versus cybersecurity. For those reasons, he said, he encouraged support of CSHB 3(STA), as amended.

[2:49:43 PM](#)

REPRESENTATIVE SNYDER moved to report CSHB 3(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 3(JUD) was reported out of the House Judiciary Standing Committee.

[REPRESENTATIVE SNYDER returned to her office to participate during the final portion of the meeting via Teams.]

**HB 57-FUNDS SUBJECT TO CBR SWEEP PROVISION**

[2:50:36 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 57, "An Act relating to the budget reserve fund established under art. IX, sec. 17(d), Constitution of the State of Alaska; relating to money available for appropriation for purposes of applying art. IX, sec. 17, Constitution of the State of Alaska; and providing for an effective date."

[2:51:00 PM](#)

The committee took an at-ease from 2:51 p.m. to 2:52 p.m.

2:52:15 PM

ELISE THORNBERG, Staff, Representative Andy Josephson, Alaska State Legislature, presented the sectional analysis for HB 57 on behalf of Representative Josephson, prime sponsor. The sectional analysis read as follows [original punctuation provided]:

Section 1: Outlines legislative intent and findings. This section expounds on the principles outlined in the Alaska Supreme Court ruling *Hickel v Cowper* as to how the constitutional budget reserve (CBR) sweep provision should be interpreted and also summarizes the historic disagreement between different governmental branches and agencies about the interpretation of the sweep provision. In short, this section outlines the logic behind and legal need for this bill.

Section 2: Repeals and reenacts AS 37.10.420 (a). This section updates the statutory definitions on "the amount available for appropriation," "funds available for appropriation," and "amount appropriated for the previous fiscal year" to align with the principles outlined in *Hickel v Cowper*. Funds "available for appropriation" in these definitions are those that are immediately usable and over which the legislature has retained appropriation authority. Additionally, the actual amounts of appropriations of trust receipts (such as federal funds) and certain monies explicitly appropriated for fund administration are included in the calculation of "available for appropriation". Monies not considered "available for appropriation" are: illiquid assets, funds already validly appropriated by the legislature or funds that do not require further appropriation prior to expenditure.

Section 3: Codifies a list of the funds already determined by Legislative Finance to not be subject to the CBR sweep.

Section 4: Creates a new section, AS 37.10.420(c), that defines "general fund" and outlines fund types explicitly not considered to be part of the general fund. The general fund, as defined in this section, is

the state's main operating fund and is composed of all money the state receives not legally required to be held separately. Funds excluded from the general fund include: funds held by the University or state corporations, enterprise funds, debt service funds, special revenue funds, the permanent fund, agency funds and certain internal service funds.

Section 5: Provides an effective date of Jun 30, 2021 to ensure that this legislation would be in effect prior to the FY 2021 CBR sweep occurring.

[2:55:52 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor, presented HB 57. He said the catalyst for HB 57 occurred June 13, 2019, when the legislature adjourned before getting a "reverse sweep" - making the accounts vulnerable - and before doing a capital budget; therefore, the legislature knew it would have to return. He relayed that on June 28, 2019, Governor Mike Dunleavy issued "the largest vetoes in Alaska history" - totaling \$440 million. Then came the dispute on whether the legislature would meet in Wasilla or Juneau. The legislature came to Juneau that summer to finish its work. Because it had not had the reverse sweep by 11:59 p.m. on June 30, 2019, all the accounts were swept into the capital budget reserve (CBR). He offered his understanding that the general fund (GF) was swept into the CBR. He spoke of a general fund within the GF. He said on July 19, 2019, hearings were held in Senate Finance to discuss what was "swept" and what should have been swept. He offered his understanding that in 26 years there has not been "a real effort to do the thing the court and the law allows us to do."

[2:58:53 PM](#)

REPRESENTATIVE JOSEPHSON explained that in 1994, the legislature laid out the rules as to how the sweep would work, "to sort out what was meant by this new constitutional provision." He stated that the court, in Hickel v. Cowper, told the legislature it got it "mostly" wrong, but invited the legislature "to take another stab at it," with guideposts provided by the court. The Constitution of the State of Alaska allows [the legislature] to explain what is meant by the CBR. He said he wanted "to write a bill that required us to do what the [Alaska] Supreme Court said," but no more than that. He remarked on the suffering and anxiety "that came from sweeping everything away" and on the

administration, which appeared to be saying that everything is sweepable. He indicated that the administration wanted all the funds to compete, and he said in most cases they do; however, there is a presumption that those funds will be used as designated.

REPRESENTATIVE JOSEPHSON said the language in the early part of HB 57 is unique and helpful; it is the uncodified language that he and Ms. Thornberg, with the aid of Megan Wallace in Legislative Legal Services, drafted to express to those reading it what the Alaska Supreme Court said. He said he found that a lot, but not all, has to be swept. He noted involvement by the Division of Legislative Finance and the Division of Legislative Audit. He said there can be a road map to outline those things that cannot be swept because "to sweep them would violate trust principles" or terminate or "threaten a revolving loan fund." He said all this information is in Hickel v. Cowper.

[3:02:44 PM](#)

REPRESENTATIVE JOSEPHSON said uncodified language shows there are funds for which no further appropriation is needed, and agencies can spend them as needed. He gave the example of spill prevention response, a fund available for something that could happen, such as the Exxon Valdez Oil Spill of March 1989. He said there are revolving loan funds that require there always be funds available. He said there are discussions in Hickel v. Cowper about trust principles, where logically no one would spend the entire funds, and the only amount that would be available for appropriation is a reasonable sum that may be appropriated every year, while the rest remains capitalized and acts as "the mini corpus for that account." The court said it did not want to disrupt the basic fiscal principles or funding sources that are used traditionally. He stated, "Remarkably, Hickel v. Cowper, while it certainly says something is going to go in the CBR, it's not all of it." Representative Josephson concluded by invited the committee "to read and re-read the uncodified language."

[3:04:37 PM](#)

REPRESENTATIVE CLAMAN announced that HB 57 was held over.

[3:05:49 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:06 p.m.