

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 4, 2022  
9:00 a.m.

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Ivy Spohnholz, Co-Chair  
Representative Calvin Schrage  
Representative Liz Snyder  
Representative David Nelson  
Representative James Kaufman  
Representative Ken McCarty

**MEMBERS ABSENT**

All members present

**OTHER MEMBERS PRESENT**

Representative Geran Tarr

**COMMITTEE CALENDAR**

OVERVIEW: INFRASTRUCTURE INVESTMENT AND JOBS ACT

- HEARD

HOUSE BILL NO. 159

"An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

- MOVED CSHB 159(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 159

SHORT TITLE: CONSUMER DATA PRIVACY ACT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/31/21	(H)	READ THE FIRST TIME - REFERRALS
03/31/21	(H)	L&C, JUD, FIN
04/23/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/23/21	(H)	Heard & Held

04/23/21	(H)	MINUTE (L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124
05/05/21	(H)	Heard & Held
05/05/21	(H)	MINUTE (L&C)
05/12/21	(H)	L&C AT 3:15 PM BARNES 124
05/12/21	(H)	Heard & Held
05/12/21	(H)	MINUTE (L&C)
12/06/21	(H)	L&C AT 1:00 PM ANCH LIO DENALI Rm
12/06/21	(H)	Heard & Held
12/06/21	(H)	MINUTE (L&C)
01/21/22	(H)	L&C AT 3:15 PM BARNES 124
01/21/22	(H)	Heard & Held
01/21/22	(H)	MINUTE (L&C)
01/26/22	(H)	L&C AT 5:15 PM BARNES 124
01/26/22	(H)	Heard & Held
01/26/22	(H)	MINUTE (L&C)
01/28/22	(H)	L&C AT 9:00 AM BARNES 124
01/28/22	(H)	Scheduled but Not Heard
01/31/22	(H)	L&C AT 4:30 PM BARNES 124
01/31/22	(H)	-- MEETING CANCELED --
02/02/22	(H)	JUD AT 1:30 PM GRUENBERG 120
02/02/22	(H)	-- MEETING CANCELED --
02/04/22	(H)	L&C AT 9:00 AM DAVIS 106

#### **WITNESS REGISTER**

CONGRESSMAN DON YOUNG  
 US House of Representatives  
 Washington, DC

**POSITION STATEMENT:** Spoke about the importance of the Infrastructure Investment and Jobs Act.

SENATOR DAN SULLIVAN  
 US Senate  
 Washington, DC

**POSITION STATEMENT:** Discussed issues related to the Infrastructure Investment and Jobs Act.

SENATOR LISA MURKOWSKI  
 US Senate  
 Washington, DC

**POSITION STATEMENT:** Spoke about the importance and benefits of the Infrastructure Investment and Jobs Act.

GARRETT BOYLE, Federal Co-Chair  
 Denali Commission  
 Anchorage, Alaska

**POSITION STATEMENT:** Discussed issues related to the Infrastructure Investment and Jobs Act.

MILES BAKER, Infrastructure Investment Coordinator  
Office of the Governor  
Juneau, Alaska

**POSITION STATEMENT:** Discussed issues related to the Infrastructure Investment and Jobs Act.

TRISTAN WALSH, Staff  
Representative Zack Fields  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 159, reviewed the 11 changes included in the proposed committee substitute, Version G.

#### **ACTION NARRATIVE**

[9:00:51 AM](#)

**CO-CHAIR ZACK FIELDS** called the House Labor and Commerce Standing Committee meeting to order at 9:00 a.m. Representatives Kaufman, McCarty, Nelson, Schrage, Snyder, Spohnholz, and Fields were present at the call to order. Representative Tarr was present in the audience.

#### **OVERVIEW: Infrastructure Investment and Jobs Act**

[9:01:22 AM](#)

CO-CHAIR FIELDS announced that the first order of business would be an overview on the Infrastructure Investment and Jobs Act.

[9:01:47 AM](#)

CONGRESSMAN DON YOUNG, US House of Representatives, gave an overview of the Infrastructure Investment and Jobs Act. He began his portion of the overview of the Infrastructure Investment and Jobs Act of 2021 (IIJA) by describing the impact that it would have on the state. He detailed the work that was put into the legislation and explained how it would inject federal money into Alaska's dated and expensive infrastructure. He spoke to specific examples of funding necessity that the legislation would address and described how the IIJA would create jobs in Alaska for years to come.

[9:09:07 AM](#)

SENATOR DAN SULLIVAN, US Senate, gave an overview of the Infrastructure Investment and Jobs Act. He began his testimony by describing Alaska as a "resource rich, infrastructure poor" state and compared Connecticut's greater overall road mileage as an example of Alaska's lack of transportation infrastructure. He explained how the bill would strategically infuse federal dollars to allow for the state to create a long-term fiscal plan with its infrastructure. He emphasized the large dollar amount of funding for the expansion of broadband internet service and detailed the imminent funding already making its way to the state after the legislation became law. He spoke to certain permitting reforms that the IIJA would enact and explained how it would allow for the United States to work towards its own energy independence. He highlighted three challenges that Alaska would face in the implementation of the IIJA and emphasized the legislature be dedicated in the utilization of the IIJA.

[9:21:23 AM](#)

SENATOR LISA MURKOWSKI, US Senate, gave an overview of the Infrastructure Investment and Jobs Act. She spoke to the unprecedented nature of having Alaska's entire delegation in one room with local, tribal, and state leaders to coordinate the implementation of the IIJA and detailed the various ways that the legislation would positively impact Alaska's infrastructure and jobs economy. She spoke to interactions with various constituents and the impact that they had on her work in improving the IIJA. She detailed the positive impacts that it would have on rural communities not on the road system in Alaska and highlighted the redirection of Federal Highway Administration (FHA) funding to the State of Alaska. She spoke to the jobs that the IIJA would create in Alaska through its investment in workforce development and shared her excitement in the prospects that it presented to young workers looking to move their careers forward in Alaska.

[9:33:38 AM](#)

SENATOR SULLIVAN commented that a significant portion of the funds dedication to the improvement of broadband internet service in Alaska will be delegated to the State of Alaska for further distribution.

[9:34:40 AM](#)

CO-CHAIR SPOHNHOLZ thanked the members of Alaska's congressional delegation for their work on the legislation and asked how the Alaska State Legislature could leverage the funds from the IIJA to "hit the ground running" in the implementation of its federal dollars.

SENATOR MURKOWSKI referred to a website called "infrastructure.gov" for any information concerning IIJA timelines.

CONGRESSMAN YOUNG added that the committee should also refer to a website called "grants.gov" for any information concerning IIJA grant funding.

[9:41:49 AM](#)

CO-CHAIR FIELDS asked the congressional delegation to elaborate on the importance of the energy investments made by the IIJA.

SENATOR MURKOWSKI spoke to the historical significance of the appropriations made to Alaska's energy infrastructure by the IIJA.

SENATOR SULLIVAN added that the IIJA was "truly an all of the above" piece of legislation that would cover many different sectors of infrastructure in Alaska.

[9:48:58 AM](#)

REPRESENTATIVE SNYDER asked how the Alaska State Legislature could most practicably plan for the maintenance costs that new infrastructure would inevitably incur.

SENATOR MURKOWSKI spoke to the creation of an essential marine system that would allow for federal highway dollars to flow to the Alaska Marine Highway System (AMHS).

[9:53:20 AM](#)

REPRESENTATIVE NELSON asked if the IIJA dedicated any funding to repair the Port of Alaska.

CONGRESSMAN YOUNG assured the committee that he would work to secure funding to allow the Port of Alaska to flourish.

SENATOR MURKOWSKI spoke to the importance of the Port of Alaska and emphasized the congressional delegation's work in ensuring that the federal government provide it funding for its continued operation.

SENATOR SULLIVAN also spoke to the strategic significance of the Port of Alaska and highlighted that as a reason for its continued funding and upkeep.

[10:01:04 AM](#)

REPRESENTATIVE MCCARTHY asked how the federal delegation would work to undo federal regulations imposed by the Occupational Health and Safety Administration (OSHA).

SENATOR SULLIVAN shared his agreement that a rework of the OSHA regulations would be a "real critical issue" for the future of Alaska's young workforce.

[10:03:47 AM](#)

REPRESENTATIVE SCHRAGE asked how the Alaska State Legislature could best position itself to competitively direct funds from the IIJA that do not have any specific allocation or guidance for their implementation.

SENATOR SULLIVAN emphasized that the IIJA would allow for five years to utilize any unallocated funds and said that it would be "essential" for the state to create a guidance document to help it implement the funds from the IIJA.

[10:07:41 AM](#)

REPRESENTATIVE KAUFMAN commented the importance that the Alaska State Legislature work to "create value" with the influx of federal funding from the IIJA.

SENATOR SULLIVAN shared his concern for certain portions of the IIJA that might fall victim to an uncoordinated spending effort that could lead to wasted money.

[10:14:43 AM](#)

CO-CHAIR FIELDS thanked Senator Sullivan and the Alaska Delegation for their work on the IIJA and thanked various other members of the delegation's staff.

[10:16:57 AM](#)

JARED BOYLE, Federal Co-Chair, Denali Commission, provided further testimony on the IIJA and its impacts on Alaska. He spoke to specific projects in Alaska that would be affected by the IIJA and detailed various ways that the legislature could leverage funds from the federal legislation to ensure that they create a sustainable investment for future generations of Alaskans.

[10:21:18 AM](#)

CO-CHAIR FIELDS thanked Mr. Boyle and spoke to the need for more effective workforce recruitment tactics in Alaska.

[10:22:55 AM](#)

REPRESENTATIVE MCCARTHY asked Mr. Boyle about the expected actual outcomes of the IIJA.

MR. BOYLE answered that the Denali Commission would focus on finishing infrastructure projects.<sup>4</sup>

[10:23:35 AM](#)

CO-CHAIR SPOHNHOLZ asked if the Denali Commission had set aside any money towards workforce development.

MR. BOYLE explained that the Denali Commission had set aside \$2 Million in fiscal year 2022 for workforce development.

[10:24:33 AM](#)

MILES BAKER, Infrastructure Investment Coordinator, Office of the Governor, provided a brief testimony on the impacts of the IIJA on Alaska. He spoke to the broad work done on the IIJA by many different parties in Alaska and emphasized the importance of coordination between local, state, and federal agencies to efficiently and effectively implement IIJA funding.

[10:29:57 AM](#)

**ADJOURNMENT**

CO-CHAIR FIELDS recessed the meeting to a call of the chair.

[12:18:41 PM](#)

CO-CHAIR FIELDS called the House Labor and Commerce Standing Committee meeting back to order at 12:18 p.m. Representatives Schrage, Kaufman, Snyder, and Fields were present at the call back to order. Representatives Spohnholz and McCarty arrived as the meeting was in progress.

**HB 159-CONSUMER DATA PRIVACY ACT**

[12:18:47 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 159, "An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

[12:18:54 PM](#)

REPRESENTATIVE SCHRAGE moved to adopt the proposed committee substitute (CS) for HB 159, Version 32-GH1573\G, Bannister, 2/3/22, as the working document. There being no objection, Version G was before the committee.

[12:19:11 PM](#)

CO-CHAIR FIELDS reported that since the bill's last hearing work has been done with insurance companies, the Alaska Bankers Association, Lynden Inc., and Lynden's attorney to make sure that a couple of negative unintended consequences would not happen from the bill. The intended target of the bill is online companies that sell consumers information without their knowledge or understanding of what the impact of that might be. The intention of the bill was never to affect a logistics company, a bank, or an insurance company. Work was done with these stakeholders to make sure that these companies are not affected. An important example is private right of action to protect consumers information in the online environment.

[12:20:26 PM](#)

The committee took an at-ease at 12:20 p.m.

[12:21:59 PM](#)

CO-CHAIR FIELDS explained that one important change in the proposed CS for HB 159 is the language worked on with Lynden to

make sure that the private right of action to protect consumers in an online environment is not wielded by an unscrupulous attorney against a business that doesn't buy and sell consumers information. A look was taken at other states. Version G sets parameters around the private right of action to prevent small businesses from being targeted by plaintiff-side lawsuits and sort of bullied into settling at great expense. However, preserving the private right of action in the online environment is important.

CO-CHAIR FIELDS said another important change is an entity level exemption related to the Gramm-Leach-Bliley Act which affects insurers and banks. This was language requested by the bankers and insurance companies. There are federal protections around consumers information in the Gramm-Leach-Bliley Act, and entity level protection ensures that the provisions of this bill do affect buyers and sellers of data online but are not unintentionally and inappropriately wielded for a "gotcha" lawsuit against a bank or insurance company; that was never an intent of the bill. Co-Chair Fields offered his appreciation to stakeholders for working to ensure that the bill's language is as tight as possible to fulfill the intent of the bill.

[12:23:32 PM](#)

TRISTAN WALSH, Staff, Representative Zack Fields, Alaska State Legislature, reviewed the 11 changes included in the proposed committee substitute, Version G. He explained that the first change is the deletion of [sections 1-5 of Version I] regarding biometric information. This is to avoid unintentionally sweeping businesses that are using day-to-day items such as a company phone with a thumb print scanner or face identification.

MR. WALSH said the second change, [page 10, lines 2-4, AS 45.48.840(c)], is the addition of language to make sure that employers using things such as just-in-time delivery, locations, and things that are within the scope of service that a consumer requested and are in the course of business, would be exempt from the bill.

MR. WALSH stated that the third change, (page 14, lines 25-27) [AS 45.48.865(5)], is the federal pre-emption regarding the Gramm-Leach-Bliley Act. A conforming change, the term "person" is used rather than "covered entity" because it is an Alaska legislative drafting standard, but it is within the intent and scope of the amendment.

MR. WALSH related that the fourth change, (pages 14-15, lines 28-8)[AS 45.48.865(6)(A)-(C)], is a clarifying exemption for employers, contractors, and their employees on the use of personal information related to job applications. Someone sending in their information to apply for a job would not be swept up in the bill. Also, the use of personal information of an employee during the course of business would not be covered.

MR. WALSH conveyed that the fifth change, (page 17, lines 15-31)[adds AS 45.48.865(g)(1) and (2)], clarifies exemption for consumers requesting services, consumers using a global opt-out signal, and businesses using or sharing personal information with proper notice and within business purpose.

MR. WALSH specified that the sixth change, (page 19, lines 11-21)[adds AS 45.48.875(b) and (c)], adds additional protections for businesses undergoing mergers and acquisitions. In part, the intent here is that when a business is working with a third party, such as a consultant, to understand the scope of a merger or an acquisition, any consumer personal data that is shared will be held confidential and cannot be used for additional business purposes of which the consumer is unaware.

MR. WALSH stated that the seventh change, (page 21, line 22), is a conforming change that replaces "buys" with "collects" under the definitions section at the end of the bill.

MR. WALSH addressed the eighth change, (pages 26-27)[AS 45.48.940(13)], which is under the section regarding consumers employers. He said this change [expands the definition of consumer] to exclude the employer-employee relationship if it is being used in the context of business.

MR. WALSH turned to the ninth change, (page 30, line 24)[AS 45.48.940(25)], and said it includes language to exclude employer-employee relationship from geolocation data. This would be something like the employer using a company phone or geolocation device to track a product.

MR. WALSH explained that the tenth change, (page 32, lines 12-14)[AS 45.48.940(31)(a)], is a conforming change. It adds two more definitions to the government identifications that should be covered for various aspects of industry and business - "known traveler number" and "unique identification number issued on".

MR. WALSH said the eleventh change, (page 33, lines 4-14)[AS 45.48.940(33)], adds the definition of "share".

[12:29:42 PM](#)

REPRESENTATIVE MCCARTY, regarding the tenth change, requested clarification on what constitutes the unique identification number and what is being addressed in that.

MR. WALSH replied that this was suggested by Lynden. He offered his understanding that it's something truckers and people in the shipping industry need for crossing borders. It's a government issued identification, but it wasn't captured in the original scope of the bill.

[12:30:24 PM](#)

CO-CHAIR FIELDS added that the Alaska constitution protects the right to privacy but was written before the existence of the internet and the centrality of the internet to how people socialize and conduct commerce. He stated it could be left to the courts to figure out what protecting the right to privacy means in the context of the internet; however, he opined that that isn't the best solution. If [the legislature] has the ability to provide some definition around that, it is to the public benefit and the benefit of business to minimize the risk of collateral damage to businesses that don't engage in this kind of activity. The goal of the bill is to protect both consumers and Alaska businesses. He thanked the many people who put in significant time to make sure that the bill is targeted and accomplishes its purpose without unintended negative consequences.

[12:31:44 PM](#)

REPRESENTATIVE MCCARTY recalled Virginia and Colorado being referenced as examples of this. He asked what has happened in this evolution of development in referring to those.

CO-CHAIR FIELDS responded that California, Florida, Virginia, Colorado, and Illinois have passed seminal data privacy laws. Elements of each of those state's laws are included in this bill, along with elements that are stronger, particularly around enforcement. This bill is also different in that it's as strong as possible in protecting local businesses from unintended negative consequences. For example, some of the strong biometric provisions passed by Illinois may have to be clarified because those were used against businesses that weren't actually focused on the sale of data. Therefore, the language in this

bill has been made as narrow as possible to ensure that local businesses are not targeted for "gotcha" lawsuits. This bill is not precisely the same as what any other state has passed but builds on the experience of those other states.

REPRESENTATIVE MCCARTY recalled it being stated in testimony that Virginia and Colorado have done the next step of making it cleaner. He asked where this bill is in reflection of that.

CO-CHAIR FIELDS answered that he doesn't think 50 states are going to pass the exact same law. He deferred to Mr. Walsh to answer further.

[12:33:49 PM](#)

MR. WALSH explained that use of a global privacy signal is being adopted more by industry and becoming more prevalent as technology moves forward. It is a toggle on a phone that can be switched to request to all applications on the phone and the web sites visited that the consumer's information not be shared beyond the service for which the consumer is immediately using that device. Then, to use the consumer's information for an additional service the company must get the consumer's consent. There are some protections built into this bill against the "Dark Web practice" of a company using attrition and making somebody click through to get to the service they are expecting to use, such as watching a video or ordering a pizza. There are many efforts to ensure that the use of a global privacy signal is something that is seen in other states where a consumer can easily with one function opt-out of the sale of their personal information, and that is in Colorado's law. In Virginia, one major difference is the lack of a private right to action.

[12:35:27 PM](#)

The committee took a brief at-ease.

[12:36:23 PM](#)

CO-CHAIR FIELDS pointed out that many other states have worked on this. California's bill was groundbreaking at the time it was passed, but it didn't have a global privacy control because the technology hadn't gotten there. So, iteration will continue by the states. This is a complicated bill and it likely will not get to the House floor this year or become law this year. It is important for other states to work on this legislation and learn from one another. He said his interest is to advance as

strong a product as possible and continue to learn from other states and arrive at a consensus in the not-too-distant future.

[12:37:33 PM](#)

REPRESENTATIVE KAUFMAN said each piece of legislation that is done tries to bring benefit while doing no harm, but all the potential areas of harm may not have been polished out. He expressed his concern with trying to do at a state level what needs to happen nationally, but he respects the comments about the need to act as a laboratory. He questioned whether the bill is there yet given that which is unknown. He said he respects the need for privacy. He noted the growth of the digital sector of the global economy, all the hazards that it brings with it in terms of privacy, monitoring, surveillance, and on the flip side the bias imposed on who is allowed on and who is not. This is an area to put partisanship aside, he opined. There are great concerns with the way the system performs, what it does, and what its capabilities are, especially going forward.

[12:39:35 PM](#)

CO-CHAIR SPOHNHOLZ moved to report CSHB 159, Version 32-GH1573\G, Bannister, 2/3/22, out of committee [with individual recommendations and the accompanying fiscal notes]. There being no objection, CSHB 159(L&C) was reported from the House Labor and Commerce Standing Committee.

[12:40:11 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 12:40 p.m.