

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

January 28, 2022

1:30 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative James Kaufman

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 19

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

- HEARD & HELD

SENATE BILL NO. 129

"An Act relating to information on judicial officers provided in election pamphlets."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3 (JUD)

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

- HEARD & HELD

HOUSE BILL NO. 155

"An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SJR 19

SHORT TITLE: CONST. AM: APPROP LIMIT

SPONSOR(s): SENATOR(s) MYERS

01/18/22 (S) PREFILE RELEASED 1/7/22
01/18/22 (S) READ THE FIRST TIME - REFERRALS
01/18/22 (S) JUD, FIN
01/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 129

SHORT TITLE: ELECTION PAMPHLET INFORMATION RE: JUDGES

SPONSOR(s): SENATOR(s) MYERS

04/21/21 (S) READ THE FIRST TIME - REFERRALS
04/21/21 (S) JUD, STA
05/05/21 (S) JUD AT 1:30 PM BUTROVICH 205
05/05/21 (S) Heard & Held
05/05/21 (S) MINUTE(JUD)
05/12/21 (S) JUD AT 1:30 PM BUTROVICH 205
05/12/21 (S) Scheduled but Not Heard
05/14/21 (S) JUD AT 1:30 PM BUTROVICH 205
05/14/21 (S) -- MEETING CANCELED --
01/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

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
03/10/21	(H)	MINUTE(JUD)
03/15/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/15/21	(H)	Heard & Held
03/15/21	(H)	MINUTE(JUD)
03/17/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/17/21	(H)	Moved CSHB 3(JUD) Out of Committee
03/17/21	(H)	MINUTE(JUD)
03/19/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/19/21	(H)	<Bill Hearing Canceled>
03/20/21	(H)	JUD RPT CS(JUD) 5DP 2AM
03/20/21	(H)	DP: VANCE, DRUMMOND, KREISS-TOMKINS, SNYDER, CLAMAN
03/20/21	(H)	AM: EASTMAN, KURKA
04/19/21	(H)	TRANSMITTED TO (S)
04/19/21	(H)	VERSION: CSHB 3(JUD)
04/21/21	(S)	READ THE FIRST TIME - REFERRALS
04/21/21	(S)	STA, JUD
04/26/21	(S)	MOTION TO WAIVE PUBLICATION NOTICE, RULE 23 FAILED Y12 N7 E1
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Heard & Held
05/04/21	(S)	MINUTE(STA)
05/06/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/06/21	(S)	Moved CSHB 3(JUD) Out of Committee
05/06/21	(S)	MINUTE(STA)
05/07/21	(S)	STA RPT 2DP 1NR 1AM
05/07/21	(S)	NR: SHOWER
05/07/21	(S)	DP: HOLLAND, COSTELLO
05/07/21	(S)	AM: REINBOLD
05/12/21	(S)	JUD AT 1:30 PM BUTROVICH 205
05/12/21	(S)	Scheduled but Not Heard
05/14/21	(S)	JUD AT 1:30 PM BUTROVICH 205
05/14/21	(S)	-- MEETING CANCELED --
01/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

MICHAELLA ANDERSON, Staff
 Senator Robert Myers
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented SJR 19 on behalf of the sponsor.

THERESA WOLSTAD, Staff
 Senator Robert Myers
 Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented SB 129 on behalf of the sponsor.

DAVID IGNELL, representing self

Juneau, Alaska

POSITION STATEMENT: Testified that Alaska Natives are underrepresented in the judicial branch during the hearing on SB 129.

SUSANNE DIPIETRO, Executive Director

Alaska Judicial Council

Alaska Court System

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 129.

MICHAELA THOMPSON, Administrative Operations Manager

Division of Elections

Office of the Lieutenant Governor

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 129.

REPRESENTATIVE DELENA JOHNSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 3.

ERICK CORDERO, Staff

Representative Delena Johnson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis on HB 3 on behalf of the sponsor.

PAULA VRANA, Commissioner Designee

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3 on behalf of the administration.

BRYAN FISHER, Director

Alaska Division of Homeland Security and Emergency Management

Department of Military and Veterans Affairs

Joint Base Elmendorf-Richardson (JBER), Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3.

CHRIS LETTERMAN
Chief Information Security Officer
Office of Information Technology
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3.

PETER HOUSE, IT Security Expert
Deeptree, Inc.
Palmer, Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3.

ERIK WYATT, IT Director
Matanuska-Susitna Borough (MSB)
Palmer, Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3.

NILS ANDREASSEN, Executive Director
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony in support of HB 3.

ACTION NARRATIVE

[1:30:45 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Kiehl, Myers, Hughes, Shower, and Chair Holland.

CHAIR HOLLAND recognized Representative Kaufman was in the audience.

SJR 19-CONST. AM: APPROP LIMIT

[1:31:36 PM](#)

CHAIR HOLLAND announced the consideration of SENATE JOINT RESOLUTION NO. 19, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

[1:32:09 PM](#)

SENATOR MYERS, speaking as the sponsor, stated that the committee heard Senate Joint Resolution 301 during the third special session. He noted that SJR 19 incorporated the identical language from that resolution.

[1:32:26 PM](#)

MICHAELLA ANDERSON, Staff, Senator Robert Myers, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, stated that as SJR 19 is identical to the language in committee substitute (CS) Senate Joint Resolution 301 (JUD) that passed out of committee in the third special session.

MS. ANDERSON summarized SJR 19. This appropriation limit would effectively be 14 percent of the five-year rolling average of the personal income of Alaskan private employees. The income of state and local government employees would not contribute to the calculation, nor would the limit include permanent fund dividend income.

MS. ANDERSON stated the exceptions to the limit:

Exceptions to the limit would include appropriations for payment of permanent fund dividends, appropriations to the Alaska Permanent Fund, appropriations from federal funds, appropriations from other nonstate sources and trusts such as corporate receipts, appropriations to oblige a disaster declaration, appropriations to pay off revenue bonds, appropriations to state accounts or funds that have subsequent appropriations from the accounts, such as the constitutional or statutory budget reserve accounts, and general obligation bonds. The limit could be exceeded to fund capital projects with a 2/3 vote of each body.

[1:33:54 PM](#)

MS. ANDERSON explained that the spending cap would need to pass by constitutional amendment standards in both bodies and subsequently require voter approval. If approved by the voters, the legislature could approve the spending cap by a simple majority vote of the legislature. However, the spending limit could never exceed 14 percent.

MS. ANDERSON stated that the purpose of the spending limit is not to ratchet down current spending but rather to create a meaningful spending cap when the state has additional revenue, such as oil revenue. It would smooth out future spending to

prevent overspending and save those excess funds for a rainy day. It would also smooth out capital budget expenditures and prevent spikes for infrastructure maintenance when the state may not have the funds to do so. SJR 19 would also help create predictability for the construction industry.

MS. ANDERSON noted that Alexei Painter was online to answer any technical questions.

[1:34:49 PM](#)

CHAIR HOLLAND stated his intention to set aside SJR 19 until next week after committee discussions.

[1:35:03 PM](#)

SENATOR SHOWER noted that three Fiscal Policy Working Group (FPWG) members also serve on this committee. He asked him to compare the proposed constitutional spending limit in SJR 19 to the Fiscal Policy Working Group's recommendations for a spending cap.

[1:36:04 PM](#)

SENATOR MYERS said he did not have the FPWG report in front of him. Still, he recalled that the report recommended the state institute a reasonable spending cap without specifying details. He stated that Representative Kaufman suggested the original concept. He expressed his preference for SJR 19's approach for a spending cap because it would not immediately put pressure on the state's budget. He noted the legislature has appropriating authority for the budget. The point of the cap is to avoid a run-up in future spending. He said if the state experienced another boom similar to the one from 2006 to 2014, it would force the state to save more revenue and constrain spending to diminish issues when the boom is over. He highlighted that the state's economy has been based on oil revenue historically. Since that industry tends to be boom or bust, it has resulted in boom or bust state spending, with the bust portion challenging to navigate.

[1:37:31 PM](#)

SENATOR MYERS explained that the state's constitutional appropriation limit or spending cap was initially based on Gross Domestic Product (GDP). He stated that this proposal uses personal income tied directly to the state's economy. He predicted the state will face a dilemma because a substantial amount of the state's budget would be based on Alaska Permanent Fund income. However, the state no longer has a direct tie to the states' economy. Other states' tax revenue provides links to

their economies. If these states suffer a downturn, their tax revenue diminishes. This provides these states with an incentive to ensure that their economies do well. As Alaska becomes more removed from any ties to its economy, the state's spending correlates more with what is happening in the stock market. He and Representative Kaufman wanted to ensure that Alaska has incentives to ensure that state government finances are doing well and that Alaskans prosper.

[1:38:59 PM](#)

SENATOR MYERS explained that under SJR 19, if the state's economy does not grow, it will limit state government spending. As the state's economy grows, the state can grow with it. As Alaska's economy grows, especially during resource booms, the state could add state services such as more police and schools needed because of population growth. Thus, the tie between personal income and the state's economy is necessary.

[1:39:49 PM](#)

SENATOR SHOWER asked how closely he had followed the Fiscal Policy Work Group (FPWG). He offered to talk offline with the sponsor to tie the structure in SJR 19 to the FPWG's recommendations.

[1:41:03 PM](#)

SENATOR HUGHES acknowledged that the FPWG's recommendations included adopting a meaningful spending cap. She said that "meaningful" meant that the spending cap would need to endure over time. She appreciated that this proposal was a constitutional amendment rather than a statutory change. She noted some colleagues were leaning towards a statutory fix. She expressed concern that allowing the legislature to change the percentage may conflict with the Alaska Constitution's express authority for legislative appropriation. She asked whether the sponsor consulted with Legislative Legal Services or the Department of Law on whether the legislature would need to adhere to the 14 percent if SJR 19 were to pass, and that it could not veer away from it.

SENATOR MYERS said the committee addressed that issue last fall in Senate Joint Resolution 301. The committee passed an amendment to ensure that the legislature could adjust the percentage under two conditions. First, it would need to pass a bill that is not an appropriation bill. This would prevent the legislature from overriding the spending limit by passing the budget. Second, the current 14 percent in SJR 14 creates an

upper limit. The legislature could ratchet it down, but it could never exceed the 14 percent limit.

[1:43:35 PM](#)

SENATOR HUGHES asked how he arrived at the 14 percent limit.

[1:43:52 PM](#)

SENATOR MYERS referred to a PowerPoint, slide 2, Proposed Constitutional Appropriation Limits Based on State Private Personal Income. He explained that Representative Kaufman originally suggested tying the 14 percent limit to the Gross Domestic Product (GDP). He offered his view that using 14 percent gave the state a fair amount of headroom. However, the vast majority of the headroom disappeared when SJR 19 was based on personal income. Although the spending limit was tighter than initially planned, it is still above last year's spending and this year's proposed spending.

[1:44:31 PM](#)

SENATOR KIEHL stated that he compromised on the spending cap during the FPWG deliberations when the committee changed the proposed state spending limit in the third special session when discussing Senate Joint Resolution 301. He characterized the amendments adopted in that legislation as putting the state in a "not debilitating" position. That language was incorporated into SJR 19. He recalled the overall effect would give the legislature an estimated "headroom" of \$600,000 to \$700,000. He asked if that was correct.

[1:46:19 PM](#)

SENATOR MYERS responded that it sounded right, but he offered to double-check the figures.

SENATOR KIEHL suggested that the committee tweak it a little since the spending cap could never exceed the 14 percent upper limit.

[1:46:47 PM](#)

CHAIR HOLLAND held SJR 19 in committee.

SB 129-ELECTION PAMPHLET INFORMATION RE: JUDGES

[1:47:07 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 129, "An Act relating to information on judicial officers provided in election pamphlets."

[The committee previously heard SB 129 on 5/5/21.]

[1:47:27 PM](#)

SENATOR MYERS, speaking as the sponsor, stated that the committee heard SB 129 last year. He asked his staff to present the bill.

[1:47:51 PM](#)

THERESA WOLSTAD, Staff, Senator Robert Myers, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, stated that based on input from the initial hearing and working with the Alaska Judicial Council, the sponsor developed a committee substitute (CS) for SB 129, Version O, [not yet before the committee as a working document].

[1:48:38 PM](#)

MS. WOLSTAD refreshed the committee's recall of SB 129, paraphrasing the sponsor statement. It read as follows:

[Original punctuation provided]:

The framers of the Alaska Constitution established a three-part judicial merit selection retention system. Version O focuses on the third phase of that system.

The Judicial Council conducts extensive performance evaluations, interviews, public hearings, and surveys to assess judicial integrity, diligence, impartiality, legal ability, and administrative skills. Given the wealth of public information collected by the Judicial Council, it is the goal of this proposed legislation to increase the information readily available to the public to foster informed and knowledgeable voters in terms of judicial retention elections.

The judicial retention election provides the electorate critical information to make informed decisions regarding judicial retention. This will provide accountability of judicial officers as well as strength public trust.

CHAIR HOLLAND asked Ms. Wolstad to explain the changes from the original language in Version B of SB 129 to Version O, [not yet before the committee].

[1:49:59 PM](#)

MS. WOLSTAD paraphrased the changes from SB 129 Version B to Version O.

[Original punctuation provided.]

**Section 1 Adds a new section to AS 15.58.030(g).
Material filed by a candidate for election pamphlet.**

New section broadens information that may be filed by a person seeking retention in office as a justice or judge. Clarifies information that may be filed by a person seeking retention in office as a justice or judge and establishes a 300-word limit.

- Adds information regarding residency of the justice or judge.
- Adds information regarding military service of the justice or judge.
- Adds information regarding professional activities of the justice or judge, including public outreach and administrative activities.
- Adds any additional information that the justice or judge would like to publish to support the justice or judge's candidacy.

[1:50:56 PM](#)

Section 2: AS 15.58.050. Information and recommendations on judicial officers.

Section is amended to distinguishes information requirements for justices and judges that are subject to retention election for the first time and individuals seeking continued retention.

Information requirements for judges seeking continued retention.

- Added information requirements.
 - (A) "Statement describing the professional philosophy not exceeding 150 words."
 - (E) "Rating of justice or judge by law enforcement officers, attorneys, court employees, jurors."
 - (F) "Number of decisions that were appealed and the rate at which the decisions of the justice or judge were affirmed."
 - (G) "a description of any public disciplinary proceedings against the justice or judge."
 - (H) "Self-assessment evaluating the individual's judicial performance, not to exceed 250 words."

[1:51:53 PM](#)

MS. WOLSTAD continued to paraphrase the changes from SB 129 to Version O.

- Amended information requirements include:
 - Amend (A), "law school from which the justice or judge graduated" to (B) "a description of the judicial, legal, or other education."
 - Amend (B), "primary practices areas of the justice or judge before appointment" to (C) "description of professional business experience and positions in the preceding 10 years."
 - Amend (G) "organizations in which the justice or judge is a current member" to (D) "a list of service organization with which the justice or judge is affiliated."
- Removed information requirements included pro bono work.
 - Remove (D), "pro bono work has been removed for justices or judges."

[1:52:50 PM](#)

- Information requirements for justices seeking continued retention.
 - Information required includes material described for a judge that is subject to a retention election except the number of decisions that were appealed and the rate at which the decisions that were affirmed.
- Information requirements for justice or judge standing for retention for the first time.
 - Amended and merged (E) "elected offices held by the justice or judge" and (F) "political party offices held by justices or judge" to (A) "previous political and governmental positions held, including any political office held."
 - Amends (B) "the primary practice areas of the justice or judge before appointment, including the percentage of the justice's or judge's pre-appointment career spent as a trial lawyer" to (B) "the justice's or judge's primary practice areas before appointment, including the approximate percentage of the justice's or judge's pre-appointment career spent as a trial lawyer."

- Amend (H) "clients and employers of members of the justices' or judge's household" to "types of clients the justice or judge represented before appointment"

MS. WOLSTAD observed that there was a significant difference between the original of SB 129 and Version O.

[1:54:46 PM](#)

At ease

[1:55:08 PM](#)

CHAIR HOLLAND reconvened the meeting and opened public testimony on SB 129.

[1:55:58 PM](#)

DAVID IGNELL, representing self, Juneau, Alaska, stated that he started the website "Powered by Justice." He offered his view that Alaska Natives are underrepresented in Alaska's administrative and judicial branches. In the past 18 months, he has tried to get the Alaska Judicial Council (AJC) to expand the scope of judicial evaluations for the same reasons the committee mentioned. The AJC currently solicits responses to their survey from police officers and social services workers. He recommended that the AJC survey the 230 federally-recognized tribes and publish their responses on judges, but the council declined. It troubles him that Alaska Natives represent 40 percent of the prison population. The AJC heard testimony in November 2020 from an Alaskan Native woman who testified that she would like to see more people who look like her when she walks into a courtroom. The council did not address her concern. When he is in Hoonah, where he owns a home, he hears the resentment from residents. In closing, he said he would like Alaska Native voices to be heard.

[1:59:28 PM](#)

SENATOR HOLLAND found no one else wished to testify, and closed public testimony on SB 129.

[2:00:01 PM](#)

SENATOR HUGHES asked why the bill title no longer contained the language "election pamphlet." She wondered if Legislative Legal Services was online to respond.

[Legislative Legal services was not online.]

[2:00:27 PM](#)

SENATOR MYERS answered he was unsure why Legislative Legal drafters removed that language. He stated that the bill

addresses the judicial retention elections and additional biographical information that should be included in the election pamphlet.

SENATOR HUGHES surmised that the phrase wasn't needed because Sections 1 and 2 related to judicial candidate information were tied to the requirements for the election pamphlet. She asked if that was an accurate statement.

[2:01:33 PM](#)

SENATOR MYERS agreed that was effectively the case. The statute generally addresses information in the election pamphlet. It covers legislative candidates, ballot initiatives, and judges seeking judicial retention. Section 1 would codify what the Division of Election already asks judges. Since the language reads "may" and not "shall," judicial candidates do not have to submit photographs or a short biographical statement for the election pamphlet. Section 2 relates to the Alaska Judicial Council's (AJC) information provided to the Division of Elections. SB 129 would require information from the AJC.

[2:03:17 PM](#)

SENATOR SHOWER commented that the Alaska Constitutional Convention consisted of 55 delegates: 49 men and six women, with one Alaska Native. He stated that underrepresentation of Alaska Native is also present in the Village Police Safety Officer program (VPSO). He spoke in support of having more Alaska Native representation in Alaska. He viewed the bill's focus on the judicial branch as an effort to provide a better balance.

[2:05:36 PM](#)

SENATOR HUGHES referenced Section 2 and asked why the bill limits biographical information on judges to 10 rather than 20 years.

[2:05:53 PM](#)

SENATOR MYERS answered that the original draft of the bill did not have a time limit. After holding discussions with the AJC and the Alaska Court System, it seemed that after a judge served in office for a significant time, their law school or work experience did not appear relevant. The point was to give voters relevant information, so it did not seem to matter what happened 30 years ago.

[2:07:21 PM](#)

At ease

[2:08:18 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:08:21 PM](#)

SENATOR HUGHES expressed concern that the biographical information and work experience section would be left blank for those judges with lengthy service. It may give the impression that these judges had no professional service.

[2:09:14 PM](#)

SENATOR SHOWER made a motion to adopt the committee substitute (CS) for SB 129, work order 32-LS0751\O, as the working document.

CHAIR HOLLAND heard no objection, and Version O was adopted.

CHAIR HOLLAND turned to invited testimony.

[2:10:28 PM](#)

At ease

[2:10:43 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:11:02 PM](#)

SENATOR SHOWER asked if the Alaska Court System or the Division of Elections could state their position on the bill.

[2:11:45 PM](#)

SUSANNE DIPIETRO, Executive Director, Alaska Judicial Council, Alaska Court System, Anchorage, Alaska, via Teams, stated that the Alaska Judicial Council (AJC) does not have a position on SB 129.

[2:12:08 PM](#)

MICHAELA THOMPSON, Administrative Operations Manager, Division of Elections, Anchorage, Alaska, via teleconference, responded that the Division of Elections does not have a position on SB 129. The division would continue to implement the statutes related to publishing the election pamphlet.

[2:12:34 PM](#)

SENATOR HUGHES asked whether the election pamphlet would have a category heading left blank if judges with 15 years of service did not list their biographical experience on their application. She pointed out that legislative candidates could decide to skip a question. She recalled that the question would appear in the

election pamphlet as a category, but it would be left blank. If so, the voter may think the judicial candidate lacked work experience.

MS. THOMPSON answered that the heading would not appear if the judicial candidate did not answer a question, in part, as a space-saving measure the division uses since the election pamphlet is lengthy.

[2:13:49 PM](#)

SENATOR HUGHES asked if headings for legislative candidates were included and left blank.

MS. THOMPSON answered no. She stated that some candidates do not follow the election pamphlet format but submit a biographical statement instead. In those instances, the division would publish the candidates' statements.

[2:14:30 PM](#)

CHAIR HOLLAND held SB 129 in committee.

HB 3-DEFINITION OF "DISASTER": CYBERSECURITY

[2:14:42 PM](#)

CHAIR HOLLAND announced consideration of CS FOR HOUSE BILL NO. 3(JUD) "An Act relating to the definition of 'disaster.'"

[2:15:14 PM](#)

REPRESENTATIVE DELANA JOHNSON, Alaska State Legislature, Juneau, Alaska, speaking as sponsor, stated that HB 3 would add cyber attacks to the Alaska Disaster Act. She said Alaska's disaster statutes are vague and need updating. She stated that cyberattacks are increasing; the state has had several attacks in the past year. She noted that under the bill, a declaration must meet two tests to be considered a disaster. First, the incident must be widespread and must cause damage. Second, each incident must be assessed on a case-by-case basis. Last year, a cyber attack disrupted services at the Alaska Court System for several weeks. In addition, a cyber attack disrupted services at the Department of Health and Social Services (DHSS) for a significant time in 2021. The state still does not know the extent of the monetary damage or quantify other effects from the cyber attack. Further, a cyber attack shut down the Mat-Su Borough (MSB), disrupting critical services and causing damages exceeding \$25 million. The City of Valdez experienced a ransomware attack requiring substantial payments to regain access to their systems. She related a more significant cyber

attack that occurred in Florida in 2020. Cyber attackers gained access to the industrial controls of a water treatment facility and attempted to increase the levels of toxic chemicals in the water system. Although the authorities contained the attack, it raises concerns about what could happen if critical infrastructure disrupts critical services.

[2:17:22 PM](#)

REPRESENTATIVE D. JOHNSON said adding "cyber attacks" to the definition of disaster would clarify the seriousness of the problem and allow access to resources.

[2:17:55 PM](#)

ERICK CORDERO, Staff, Representative Delena Johnson, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, said the intent of HB 3 was to update Alaska's statutes. He stated that many states have updated or are in the process of updating their disaster laws related to cyber attacks.

[2:18:18 PM](#)

MR. CORDERO said the bill consists of one section. Page 1, line 4, provides the current definition for a disaster, which read:

(2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from

MR. CORDERO stated that categories were listed beginning on page 1, line 7 of HB 3, including natural disasters, environmental dangers, equipment failures, and terrorist attacks. The definition does not list cyber attacks. In 2000, the statute included "man-made" disasters, but that language was removed. The Mat-Su Borough and other political subdivisions requested a definition for a disaster declaration. He explained that declaring a disaster could result in the state or communities achieving access to resources faster. It also would provide the authority to contact agencies for assistance.

[2:19:49 PM](#)

MR. CORDERO said the state responded to the Mat-Su Borough's request for assistance by saying that the statutes were vague. He referred to the Legal Services memo in members' packet dated February 10, 2020, from Megan Wallace, Director, who advised that equipment failure could qualify as a "disaster" under AS 26.23.900(2)(C). Still, it should be defined to provide

certainty. HB 3 would clarify that cybersecurity is a problem and define cyber attacks in statute.

[2:20:23 PM](#)

MR. CORDERO said the language on page 2 line 17, subparagraph (F) would add cyberattacks to the definition, specifically if it affects critical infrastructure. He characterized critical infrastructure as key. It is a term typically used by the federal government. It also identified information systems owned or operated by the state or a political subdivision of the state.

[2:21:08 PM](#)

MR. CORDERO stated that during the committee process, the sponsor decided to define critical infrastructure using the federal definition to provide further clarity, which read:

"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;

MR. CORDERO said he stated "Alaska" instead of "state" for emphasis.

[2:21:43 PM](#)

MR. CORDERO said a previous US President signed an order a few years ago citing the different areas for critical infrastructure, including chemicals, utilities, transportation, and telecommunications. The Department of Military & Veterans Affairs (DMVA) plans mitigation strategies and supports state agencies once a disaster is declared. According to the Alaska Disaster Act, part of the role includes advance planning. Last year, DMVA testified that cybersecurity is not in their guidelines because the term is not in statute.

[2:23:06 PM](#)

SENATOR MYERS said the definition states the critical infrastructure must be "owned or operated by the state." He asked how it would affect the electrical grid owned by various cooperatives throughout the state since it is critical infrastructure.

MR. CORDERO said the bill reads critical infrastructure "or" so the definition would include the electrical grid.

[2:23:54 PM](#)

CHAIR HOLLAND read [subparagraph (F) a cyber attack that affects] "critical infrastructure in the state, an information system owned or operated by the state" He stated that language would cover the electrical grid.

MR. CORDERO said the Department of Administration determines what is included in critical infrastructure.

[2:24:44 PM](#)

SENATOR HUGHES referred to page 2, lines 23-24 of HB 3. She said this language refers to cyber attacks that have not happened but that could potentially happen. She surmised that if the department knew ahead of time, it could possibly stop an attack, but probably not. She wondered why it would be necessary to declare a disaster.

[2:25:28 PM](#)

MR. CORDERO answered that the intelligence community typically reaches out to government agencies about imminent cyber attacks. If it is not contained and becomes widespread, the department would need to take steps to issue a disaster declaration. Often, the state identifies a vulnerability and the presence of a bad actor. The department would determine if it warranted using resources to ensure a cyber attack doesn't happen. He deferred to the experts at DMVA to answer the question more fully.

[2:26:31 PM](#)

SENATOR HUGHES related her understanding that critical infrastructure does not require state ownership. For example, suppose banks were attacked and their infrastructure was infiltrated or dismantled. The critical infrastructure would not necessarily be a port or power line. She asked if HB 3 would apply to private sector infrastructure.

MR. CORDERO answered that she was correct. He stated that critical infrastructure could involve economic loss, lack of food, medicine, or fuel.

[2:27:47 PM](#)

SENATOR SHOWER echoed Mr. Cordero's comments. He explained that the intelligence community might indicate a cyber attack happening somewhere in the world that potentially could happen in Alaska. He surmised that the state could declare a disaster in advance to prevent it.

[2:28:16 PM](#)

SENATOR MYERS noted that Mr. Fisher from DMVA was available to answer questions.

[2:28:35 PM](#)

SENATOR HUGHES said she was initially concerned about the language on page 3 defining "critical infrastructure" that read "would have a debilitating effect on security ..." She wondered if "debilitating" might be subjective but was reassured when she read the existing language in statute includes "... widespread or severe damage, injury, loss of life or property,"

CHAIR HOLLAND turned to invited testifiers.

[2:30:22 PM](#)

PAULA VRANA, Commissioner Designee, Department of Administration, Juneau, Alaska, stated that the administration supports HB 3 since it does not change the structure of the current Alaska Disaster Act statutes but will update the statutes to address Alaska's current needs. She stated that Chris Letterman, Chief Information Officer, Department of Administration, could answer any technical questions.

[2:31:55 PM](#)

BRYAN FISHER, Director, Alaska Division of Homeland Security and Emergency Management, Department of Military and Veterans Affairs, Joint Base Elmendorf-Richardson Alaska, via Teams, stated that the administration supports HB 3. He said he was involved in the Mat-Su Borough (MSB) response to the cyber attack that affected the borough and the City of Valdez.

MR. FISHER highlighted that the governor's cabinet has a subset known as the governor's disaster cabinet that reviews a cyber event, analyses it, and makes recommendations to the governor based on the statutory definition on whether an event rises to the level of a disaster emergency. He said the disaster cabinet met three times and held six hours of discussions on this definition. The division fully supports adding cyber attacks and cyber events to the definition of "disaster".

[2:33:17 PM](#)

MR. FISHER, in response to Senator Hughes' earlier questions, referred to a handout in members' packets from the Federal Cybersecurity & Infrastructure Security Agency that identifies 16 critical infrastructure sectors. The State of Alaska Emergency Operations Plan addresses cyber events. He stated that a cyber attack that affects the economic sector is one measure.

However, the division has other programs and policies it must consider. He said private businesses generally do not benefit from state or federal disaster funds after an emergency is declared.

MR. FISHER highlighted that a hurricane might fall into "the credible threat of an imminent cyber attack or cyber event" because weathermen can forecast hurricanes. Thus, communities may need additional resources to prepare for one. He related that the state deployed the US Army National Guard to remove snow from roofs of critical infrastructure in Yakutat to prevent damage. He suggested that any "imminent threat or credible threat" as certified by the Department of Administration would be similar.

[2:35:13 PM](#)

SENATOR KIEHL asked about "cyber event" as a term in the bill that was not defined.

MR. FISHER emphasized the distinction between a cyber attack and a cyber event. He highlighted instances of natural, man-made or cyber attacks to infrastructure that are not necessarily cyber attacks. These cyber events lack criminal, human, or terrorist intent. However, these events could lead to system failures that could compromise the security, availability, integrity and assurance of systems. For example, some years ago, lightning struck the State Office Building causing damage to the telecommunications infrastructure.

[2:37:30 PM](#)

CHRIS LETTERMAN, Chief Information Security Officer, Office of Information Technology, Department of Administration, Juneau, Alaska, read prepared remarks.

The cyber threats that are facing the public sector continue to evolve in terms of speed, volume, and their impacts. Malicious cyber actors ranging from novice to nation-state sponsored, are principally motivated by financial gain and political ends. Cyber threat to political sector critical infrastructure has expanded the conversation beyond the digital into the physical realm with the potential to impact life, safety, and public health.

This legislation would support the state and political subdivisions should critical infrastructure systems be impacted by a cyber attack or a cyber event. It will

bring about a needed maturity to enable support activities and timeliness of resources necessary for recovery.

[2:39:20 PM](#)

PETER HOUSE, IT Security Expert, Deeptree, Inc., Palmer, Alaska, via teleconference, said he was testifying from Utqiagvik. He advised that he is a cybersecurity professional who worked on the Mat-Su Borough during their cyber attack. He was surprised at the number of departments that needed to restore services. He reported that the cyber attack disrupted work throughout the entire borough, so staff scrambled to find ways to do their jobs without digital technology. He wondered what would happen if a cyber event created life threatening events. He offered his view that HB 3 will go a long way towards allowing a rapid response to these cyber events and accelerate the state's ability to ensure that critical services are available to the public with minimal disruption. He said there are many metrics this bill will help address.

MR. HOUSE reported that he has noticed an overall increase in cyber attacks on organizations throughout Alaska from his vantage point in the security operation center. He offered his belief that HB 3 will go a long way to help the state respond to cyber attacks or events.

[2:42:13 PM](#)

SENATOR SHOWER reported that the state receives an average of over one million attempted cyber attacks per day.

[2:42:34 PM](#)

SENATOR HUGHES appreciated Mr. House's insight. She indicated that the legislature is concerned about keeping all communities in the state safe.

[2:43:30 PM](#)

ERIK WYATT, IT Director, Matanuska-Susitna Borough (MSB), Palmer, Alaska, via Teams, stated that the legislature was aware of the MSB's cyber attack that occurred three years ago. He highlighted that the cost of recovery from the cyber attack was \$2.5 million. Cyber attacks directed at critical infrastructure adversely impacted the MSB and other political subdivisions' ability to serve the public. He reported that the cyber attack disrupted the borough for 60 days. MSB's critical infrastructure affected included its emergency services (EMS), fire and rescue services, and GIS resources that support them. The Kenai Peninsula Borough (KPB) experienced a cyber attack that

adversely affected its 911 communications. Cyber attacks can destroy or disrupt emergency operations and communications. The MSB also provides water and sewer services to Talkeetna. During the winter cyber attacks could halt transportation by disrupting the borough's ability to plow roads.

[2:46:04 PM](#)

SENATOR MYERS asked what systems were affected in the Mat-Su Borough cyber attack.

MR. WYATT answered that all MSB's IT systems were affected, including email and servers. One exception was the separate network that provides a land mobile radio system that supports MSB's emergency services. He said that system was not affected.

[2:46:55 PM](#)

SENATOR HUGHES asked what precautions the Mat-Su Borough has taken since the cyber attack.

MR. WYATT answered that the Mat-Su Borough (MSB) added a cybersecurity analyst position and converted another position to a part-time chief information security officer. The borough also added some IT security systems to create layered security that will allow MSB to identify and isolate cyber threats. MSB also issued contracts to allow the borough to reach out more quickly to consultants and improve cybersecurity responses.

[2:48:24 PM](#)

NILS ANDREASSEN, Executive Director, Alaska Municipal League (AML), Juneau, Alaska, spoke in support of HB 3. He stated that he agreed with the previous testifiers. He said AML supports the language in the bill that includes political subdivisions. He emphasized the importance of maintaining the relationship between the state and its political subdivisions. Ambiguity is the last thing needed during a cyber attack. AML supports efforts to strengthen the state's Disaster Act. He characterized it as critically important to ensure that state support and resources are on hand for deploying efficiently and effectively when a local government is overwhelmed by a cyber attack. He said he appreciated the sponsor bringing this bill forward.

[2:49:38 PM](#)

SENATOR HUGHES commented that prevention is less expensive than treatment. She asked if communities were acquiring expertise and information to bring them current on cybersecurity measures.

[2:50:11 PM](#)

MR. ANDREASSEN answered that AML has prioritized cybersecurity. Last year, AML implemented a shared service program for local governments that focuses on in-point protection. This helps to ensure that all systems have the appropriate hygiene and communities perform updates to ensure their systems are protected. He remarked that federal infrastructure funding is available to support that effort. He said that many local governments have already added layers of protection to their systems.

[2:51:35 PM](#)

SENATOR KIEHL said HB 3 would add language to the front of the Disaster Act. However, the statutes provide powers once a disaster is declared. He asked if the committee should narrow it down to limit triggering these powers.

MR. FISHER answered that AS 26.23.020 of the Alaska Disaster Act enumerates the governor's powers when a disaster emergency is declared. He offered his view that narrowing these powers should not be done. For example, Mr. Letterman stated how cyber threats cross over from the virtual to the physical world. Suppose the state had a cyber attack that caused water and electrical distribution. There might be powers at the front end of these statutes the governor has such as controlling access to a disaster area if a kinetic or physical disruption occurred. Mr. Wyatt stated that systems were in place for MSB to conduct business electronically that had to change. Local ordinances and the borough's charter allowed MSB to use some local flexibilities. He envisioned the state might need the flexibility to suspend regulations to enable the community to conduct business in another way if their systems were compromised, disrupting regular business functions.

[2:54:20 PM](#)

SENATOR SHOWER asked if the Alaska Disaster Act has a nexus to federal funds.

MR. FISHER answered yes. Just as the state can declare an emergency, it can request federal disaster funds.

[2:55:34 PM](#)

SENATOR HUGHES said she had the same concern. She advocated for the legislature to revise the Alaska Disaster Act and to create a separate section for health disasters. She expressed concern about the checks and balances between governmental branches. It might make sense for the legislature to decide if some executive orders should continue. She acknowledged that this bill was not

the appropriate vehicle for a rewrite since it could delay passage of HB 3.

[2:57:22 PM](#)

CHAIR HOLLAND held HB 3 in committee.

[2:57:45 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:57 p.m.