

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

February 2, 2022

1:33 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

**COMMITTEE CALENDAR**

SENATE BILL NO. 119

"An Act relating to oaths of office; and requiring public officers to read the state constitution, the Declaration of Independence, and the United States Constitution."

- 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."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3 (JUD)

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

- MOVED SCS CSHB 3 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 31

"An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

- HEARD & HELD

SENATE BILL NO. 129

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

- HEARD & HELD

SENATE BILL NO. 118

"An Act establishing the committee on nullification of federal laws; and providing a directive to the lieutenant governor."

- HEARD & HELD

#### PREVIOUS COMMITTEE ACTION

BILL: SB 119

SHORT TITLE: OATH OF OFFICE

SPONSOR(S): SENATOR(S) REINBOLD

04/07/21	(S)	READ THE FIRST TIME - REFERRALS
04/07/21	(S)	EDC, JUD, STA, FIN
04/23/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/23/21	(S)	Heard & Held
04/23/21	(S)	MINUTE(EDC)
04/28/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/28/21	(S)	Moved CSSB 119(EDC) Out of Committee
04/28/21	(S)	MINUTE(EDC)
04/30/21	(S)	EDC RPT CS 4DP 1NR SAME TITLE
04/30/21	(S)	DP: HOLLAND, HUGHES, STEVENS, MICCICHE
04/30/21	(S)	NR: BEGICH
04/30/21	(S)	FIN REFERRAL REMOVED
04/30/21	(S)	CRA REFERRAL ADDED AFTER EDC
05/11/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
05/11/21	(S)	-- MEETING CANCELED --
05/13/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
05/13/21	(S)	Moved CSSB 119(EDC) Out of Committee
05/13/21	(S)	MINUTE(CRA)
05/14/21	(S)	CRA RPT 1DP 1DNP 2NR
05/14/21	(S)	DP: HUGHES
05/14/21	(S)	DNP: GRAY-JACKSON
05/14/21	(S)	NR: MYERS, WILSON
01/31/22	(S)	JUD AT 1:30 PM BUTROVICH 205
01/31/22	(S)	Heard & Held
01/31/22	(S)	MINUTE(JUD)
02/02/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: HB 155

SHORT TITLE: COURT SYSTEM PROVIDE VISITORS & EXPERTS

SPONSOR(S): REPRESENTATIVE(S) TUCK

03/29/21 (H) READ THE FIRST TIME - REFERRALS  
 03/29/21 (H) JUD, FIN  
 04/05/21 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/05/21 (H) Heard & Held  
 04/05/21 (H) MINUTE(JUD)  
 04/07/21 (H) JUD AT 1:00 PM GRUENBERG 120  
 04/07/21 (H) Moved HB 155 Out of Committee  
 04/07/21 (H) MINUTE(JUD)  
 04/09/21 (H) JUD RPT 4DP 3NR  
 04/09/21 (H) DP: KREISS-TOMKINS, DRUMMOND, SNYDER,  
 CLAMAN  
 04/09/21 (H) NR: EASTMAN, VANCE, KURKA  
 05/05/21 (H) FIN AT 9:00 AM ADAMS 519  
 05/05/21 (H) Heard & Held  
 05/05/21 (H) MINUTE(FIN)  
 05/06/21 (H) FIN AT 1:30 PM ADAMS 519  
 05/06/21 (H) Moved HB 155 Out of Committee  
 05/06/21 (H) MINUTE(FIN)  
 05/07/21 (H) FIN RPT 7DP 2NR  
 05/07/21 (H) DP: ORTIZ, EDGMON, LEBON, THOMPSON,  
 WOOL, JOSEPHSON, MERRICK  
 05/07/21 (H) NR: CARPENTER, RASMUSSEN  
 05/13/21 (H) TRANSMITTED TO (S)  
 05/13/21 (H) VERSION: HB 155  
 05/14/21 (S) READ THE FIRST TIME - REFERRALS  
 05/14/21 (S) JUD, FIN  
 01/28/22 (S) JUD AT 1:30 PM BUTROVICH 205  
 01/28/22 (S) Scheduled but Not Heard  
 01/31/22 (S) JUD AT 1:30 PM BUTROVICH 205  
 01/31/22 (S) Heard & Held  
 01/31/22 (S) MINUTE(JUD)  
 02/02/22 (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  
 01/28/22 (S) Heard & Held  
 01/28/22 (S) MINUTE(JUD)  
 02/02/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 31

SHORT TITLE: PROHIBITING BINDING CAUCUSES

SPONSOR (s) : SENATOR (s) SHOWER

01/25/21 (S) PREFILE RELEASED 1/8/21  
01/25/21 (S) READ THE FIRST TIME - REFERRALS  
01/25/21 (S) STA, JUD  
03/18/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/18/21 (S) Heard & Held  
03/18/21 (S) MINUTE(STA)  
05/04/21 (S) STA AT 3:30 PM BUTROVICH 205  
05/04/21 (S) Moved CSSB 31(STA) Out of Committee  
05/04/21 (S) MINUTE(STA)  
05/07/21 (S) STA RPT CS 2DP 2NR 1AM SAME TITLE  
05/07/21 (S) DP: SHOWER, REINBOLD  
05/07/21 (S) NR: COSTELLO, HOLLAND  
05/07/21 (S) AM: KAWASAKI  
05/10/21 (S) JUD AT 1:30 PM BUTROVICH 205  
05/10/21 (S) Heard & Held  
05/10/21 (S) MINUTE(JUD)  
02/02/22 (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  
01/28/22 (S) Heard & Held  
01/28/22 (S) MINUTE(JUD)  
01/31/22 (S) JUD AT 1:30 PM BUTROVICH 205  
01/31/22 (S) Scheduled but Not Heard  
02/02/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 118

SHORT TITLE: CMTE ON NULLIFICATION OF FEDERAL LAWS  
SPONSOR (s) : SENATOR (s) REINBOLD

04/07/21 (S) READ THE FIRST TIME - REFERRALS  
04/07/21 (S) STA, JUD  
04/13/21 (S) STA AT 3:30 PM BUTROVICH 205

04/13/21	(S)	Heard & Held
04/13/21	(S)	MINUTE(STA)
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Moved SB 118 Out of Committee
05/04/21	(S)	MINUTE(STA)
05/07/21	(S)	STA RPT 1DP 4NR
05/07/21	(S)	NR: SHOWER, COSTELLO, KAWASAKI, HOLLAND
05/07/21	(S)	DP: REINBOLD
05/14/21	(S)	JUD AT 1:30 PM BUTROVICH 205
05/14/21	(S)	-- Testimony <Invitation Only> --
02/02/22	(S)	JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

GREGG BRELSFORD, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 3.

REPRESENTATIVE DELENA JOHNSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 3.

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

**POSITION STATEMENT:** Answered questions on Amendment 1 to HB 3 defining "serious cyber incident."

MIKE COONS, representing self  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of SB 31 because a binding caucus disenfranchised voters in his district.

CLAIRE RADFORD, Attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on the title change for SB 129.

KELLI TOTH, Staff  
Senator Lora Reinbold  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 118 and the sectional analysis on behalf of the sponsor.

## **ACTION NARRATIVE**

[1:33:13 PM](#)

**CHAIR ROGER HOLLAND** called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Kiehl, Myers, Hughes, and Chair Holland. Senator Shower arrived shortly thereafter.

### **SB 119-OATH OF OFFICE**

[1:34:06 PM](#)

**CHAIR HOLLAND** announced the consideration of SENATE BILL NO. 119 "An Act relating to oaths of office; and requiring public officers to read the state constitution, the Declaration of Independence, and the United States Constitution."

[CS FOR SENATE BILL NO. 119(EDC) was before the committee. The committee previously heard SB 119 on January 31, 2022.]

[1:34:26 PM](#)

**CHAIR HOLLAND** opened public testimony on SB 119; finding none, he closed public testimony on SB 119.

**SENATOR SHOWER** joined the committee.

[1:34:54 PM](#)

**CHAIR HOLLAND** held SB 119 in committee.

### **HB 155-COURT SYSTEM PROVIDE VISITORS & EXPERTS**

[1:34:59 PM](#)

**CHAIR HOLLAND** announced the consideration of 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."

[The committee previously heard HB 155 on January 31, 2022.]

[1:35:20 PM](#)

**CHAIR HOLLAND** opened public testimony; finding none, he closed public testimony on HB 155.

[1:36:04 PM](#)

**CHAIR HOLLAND** held HB 155 in committee.

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

[1:36:08 PM](#)

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

[The committee previously heard HB 3 on January 28, 2022.]

[1:36:21 PM](#)

CHAIR HOLLAND opened public testimony on HB 3.

[1:37:05 PM](#)

GREGG BRELSFORD, representing self, Anchorage, Alaska, spoke in support of HB 3. He provided his background, including that he previously served as the borough manager for the Bristol Bay Borough (BBB) from 2018 to 2020 and as the interim city manager for the City of Dillingham in 2021. He emphasized the importance of HB 3 since it would expand the existing state law definition of disaster to include cyber attacks.

[1:38:44 PM](#)

Mr. BRELSFORD related that he was BBB's manager when cyber terrorists made ransom demands against the Matanuska-Susitna Borough (MSB) and the City of Valdez. This was a wake-up call to Alaskan communities and the Alaska Municipal League due to the potential harm cyber attacks could cause. The Department of Health and Social Services (DHSS) and the Alaska Court System (ACS) also suffered damaging cyber attacks last year. He said increases in cyber attacks represent a serious concern throughout the state. HB 3 would provide a reasonable and timely response by recognizing the scope and seriousness of cyber attack risks and threats. The bill would allow the state's system to respond to cyber attacks quickly.

[1:39:53 PM](#)

MR. BRELSFORD suggested the committee consider adding the language "or a political subdivision of the state" to line to subparagraph (F) on page 2, line 31. He stated that the language beginning on line 29 would read:

"...; in this subparagraph, "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the state or a political subdivision of 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;

[1:40:43 PM](#)

MR. BRELSFORD explained that all of the proposed preceding language explicitly reads "or a political subdivision of the state." He said adding this language to subparagraph (F) would provide continuity and clarity.

MR. BRELSFORD acknowledged that some people might be concerned that adding "cyber attack" to the definition of disaster would expand the governor's power. First, he opined that HB 3 would not do so because it would merely clarify that the state could exercise its power to address one of the newest threats to governmental operations. Second, as borough manager, he served as the COVID-19 incident commander of the two largest municipal governments in Bristol Bay during the first two years of COVID-19. For one month, about 10,000 fishery workers and fishermen descended into Bristol Bay from all over the world for the commercial sockeye salmon fishery.

MR. BRELSFORD related that for two summers, Bristol Bay became the hottest COVID-19 risk zone in the state. His staff worked with the executive branch's disaster policy cabinet, including the Alaska Department of Military & Veterans Affairs (DMVA) Division of Homeland Security and Emergency Management. He characterized the executive branch's efforts as competent, tireless, and working in good faith with the BBB and others in the state to jointly mitigate COVID-19 risks and threats. Based on his first-hand experience, he was not concerned that the executive branch might misuse its already existing disaster response capabilities.

[1:43:43 PM](#)

SENATOR HUGHES referred to page 2, line 31 of HB 3, Version W, and asked if his suggestion was to add "or political subdivision" after "state."

MR. BRELSFORD restated his suggested language. On page 2, line 31 of HB 3, Version W, after state, add, "or a political subdivision of the state ...."

SENATOR HUGHES noted the language uses the phrase "or a political subdivision of the state ...." She asked whether this language should also be added to the last page of the bill regarding the debilitating effect. She noted that Mr. Brelsford

mentioned the Valdez cyber security attack was an attack of a political subdivision rather than the state.

MR. BRELSFORD agreed with Senator Hughes. He acknowledged that he considered it, decided that adding the language on page 2, line 31 would cover it, but now he was unsure. He emphasized that the goal was to ensure the expanded definition in the bill would apply to the state and to a political subdivision of the state.

SENATOR HUGHES suggested that the sponsor or cybersecurity expert might help the committee sort through this issue.

[1:46:00 PM](#)

SENATOR KIEHL recalled speaking with Legislative Legal attorneys and perhaps the sponsor when the committee considered the bill last year. He explained that the mentioned provisions relate to a cyber attack's effect on the state. He referred to the language on page 2, line 3, "in or against the state ...." Subsequent language in subparagraph (F) refers to the systems owned or operated by the state. Thus, subparagraph (F) speaks not to state systems but to the cyber attack's effect on those systems. Since subparagraph (F) refers to the broader use of state, it is comparable to the language on page 2, line [3]. Therefore, he said he believes the language is acceptable.

[1:47:16 PM](#)

CHAIR HOLLAND closed public testimony on HB 3.

[1:47:20 PM](#)

At ease

[1:48:17 PM](#)

CHAIR HOLLAND reconvened the meeting. He related that Senator Kiehl explained that the language in the bill refers to the all-encompassing state, so it would not be necessary to add language to have it apply to a political subdivision.

[1:48:42 PM](#)

SENATOR HUGHES asked whether the sponsor was comfortable that the language in the bill would ensure that the state's economic security or state's public health or safety would also apply to a political subdivision.

[1:49:18 PM](#)

REPRESENTATIVE DELENA JOHNSON, Alaska State Legislature, Juneau, Alaska, speaking as sponsor of HB 3, stated that she worked with

the Alaska Municipal League on the language related to a political subdivision. She related her understanding that when the bill refers to the state, it means the all-encompassing state. When the bill refers to political subdivisions, it means the state's oversight and administration of the political subdivisions, including cities or municipalities.

[1:50:22 PM](#)

SENATOR HUGHES referred to page 2, line 31, to the language "vital to the state ..." She referred to the language on page 3, line 1, "would have a debilitating effect" and interpreted it to mean that it could specifically refer to one borough of the state being affected. She asked if HB 3 had been in effect when MSB experienced the cybersecurity attack, whether it would have allowed a disaster declaration to move forward.

REPRESENTATIVE JOHNSON answered yes. She explained that if a cyber attack were widespread and critical, it would apply. Even though the cyber attack affecting the Mat-Su Borough was widespread and debilitating, lasting for months, the borough could not independently ask the FBI to investigate the cybersecurity attack. Eventually, the FBI became involved. Still, suppose the disaster declaration statute had referred to a political subdivision. In that case, MSB could have worked directly with the FBI instead of resorting to a much more complicated process to get assistance.

[1:52:50 PM](#)

SENATOR HUGHES stated that based on the discussion, she understood that the language on page 2, line 31, and page 3, line 1 included a political subdivision of the state.

REPRESENTATIVE JOHNSON reiterated that she worked with the legislative drafters and the Alaska Municipal League to develop this language. She said she was unsure whether it would be harmful to add the language but decided that as long as the record reflects that this language would apply to a political subdivision of the state, the committee has done its due diligence.

[1:54:23 PM](#)

CHAIR HOLLAND solicited amendments on HB 3.

[1:54:30 PM](#)

SENATOR KIEHL moved to adopt Amendment 1, work order 32-LS20041.W.8.

AMENDMENT 1

OFFERED IN THE SENATE  
TO: CSHB 3 (JUD)

BY SENATOR KIEHL

Page 2, line 17, following "attack":  
Insert "or serious cyber incident"

Page 2, line 22:  
Delete "cyber event"  
Insert "serious cyber incident"

Page 2, line 29, through page 3, line 2:  
Delete "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;"  
Insert "(i) 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;  
(ii) serious cyber incident means an incident that has a confirmed effect on the confidentiality, integrity, or availability of systems and data, has legal or privacy implications, affects other agencies, or requires security experience or resources not otherwise available;"

CHAIR HOLLAND objected for discussion purposes.

[1:55:00 PM](#)

SENATOR KIEHL related that the bill addresses cyber attacks and cyber events. Amendment 1 would delete "cyber event" and replace it with "serious cyber incident" and define it. He explained that the National Institute for Standards and Technology and the federal General Services Administration have definitions for "serious cyber incidents." He related that the bill would define

both terms, consistent with federal agency definitions. He said the sponsor did not object. He reminded members that a cyber attack or serious incident must meet the current statutory definition of a disaster. He referred to page 1, lines 4-5 of HB 3, 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 ...." He said the definition of "cyber incident" means "an incident that has a confirmed effect on the confidentiality, integrity, or availability of systems and data ...." He cautioned that this definition would not apply to a personal account being hacked or if BASIS were to go down and the legislature could not use it.

[1:56:29 PM](#)

SENATOR SHOWER asked the sponsor to state their view of Amendment 1.

REPRESENTATIVE D. JOHNSON said that she was "okay" with Amendment 1; the definition would add clarification.

[1:57:52 PM](#)

CHRIS LETTERMAN, Chief Information Security Officer, Department of Administration, Juneau, Alaska, stated that the administration reviewed Amendment 1 and did not have any concerns. He said Amendment 1 provides helpful, clarifying language.

[1:58:42 PM](#)

CHAIR HOLLAND removed his objection; heard no further objection, and Amendment 1 was adopted.

[1:59:05 PM](#)

SENATOR MYERS stated that he was initially skeptical when HB 3 was brought to the committee, since the Alaska Disaster Act has such broad powers. He wondered how to constrain the language to ensure that it only applies to events that warranted a disaster declaration, including a pipeline, electrical grid, or a bank attack that disabled those systems. In the past 24 months, the Division of Elections and the Alaska Court System suffered terrible attacks but they did not rise to a disaster declaration level. He acknowledged that his concerns were not related to HB 3 but to the Alaska Disaster Act, which should be updated. He recognized that such an undertaking would likely not happen this year. Still, he said it was important to remember that disaster declarations must be applied appropriately.

[2:01:20 PM](#)

CHAIR HOLLAND solicited the will of the committee.

[2:01:29 PM](#)

SENATOR SHOWER moved to report HB 3, work order 31-LS0041\W, as amended, from committee with individual recommendations and attached fiscal notes.

CHAIR HOLLAND heard no objection, and SCS CSHB 3(JUD) was reported from the Senate Judiciary Standing Committee.

[2:01:51 PM](#)

At ease

### **SB 31-PROHIBITING BINDING CAUCUSES**

[2:04:08 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 31 "An Act relating to binding votes by or for a legislator under the Legislative Ethics Act."

[The committee substitute (CS) for SB 31(STA) was before the committee. SB 31 was previously heard on May 10, 2021.]

[2:04:31 PM](#)

SENATOR SHOWER stated that he introduced SB 31 because he and several legislators suffered painful experiences in this body. He explained that the Alaska legislature has a binding caucus rule. Members who wish to join a caucus must agree to vote for all budgets and procedural rulings by the presiding officer or be punished. He said procedural votes can be used to shut down political opponents. For example, he said he was punished for his debate speech when he chose to represent his constituents instead of the caucus or leadership team. He argued that this happened even though freedom of speech is a protected right.

SENATOR SHOWER related that Alaska statutes established felony penalties for anyone who causes an elected official to vote for something or to withhold their vote. Surprisingly, Alaska has had a binding caucus for decades, which does not make sense to him since legislators should only be accountable to their constituents.

SENATOR SHOWER said he spoke to legislators in every state about his experience with the binding caucus, except one state that responded by email. He found that every legislator thought binding caucuses were unconstitutional or objectionable. He

wondered if Alaska's system was unethical, immoral, or illegal. He recalled that Mississippi or Missouri's oath of office states that "they will not vote for or against" certain things. He said he believes that the binding caucus forces legislators to make a choice, even a wrong choice, if they must vote against their constituents to fulfill the binding caucus. He introduced SB 31 so legislators could not be coerced into agreeing to vote in exchange for something. Instead, Alaska will operate as other states do. It would codify in statute that binding caucuses are prohibited, and legislators cannot be forced into these agreements.

[2:09:58 PM](#)

SENATOR HUGHES recalled from a previous hearing on SB 31 that violations would be considered violations against the Ethic's Act. Since the language states "may not commit or bind," she asked if this meant legislators who joined a caucus were binding other legislators. She wondered whether there could be multiple Ethic's Act violations occurring, and if so, what penalties would apply for legislators joining a caucus.

SENATOR SHOWER said he initially thought the bill should impose a felony since penalties for bribery or coercion of a public official in Alaska are felonies. He characterized the repercussions for not adhering to the binding caucus as stressful. Not only did it affect legislators, but staff could lose their positions since leadership allots personal and committee staff. Furthermore, the legislature cannot bind a future legislature, yet binding caucuses bind legislators. He offered his view that a bad person could abuse that power. Although he is not locked into specific penalties, he thought consequences should be imposed, and he was open to the committee's suggestions.

[2:12:27 PM](#)

SENATOR HUGHES asked for the current penalties related to violations of the ethics statutes to help determine the penalty provisions in SB 31.

[2:12:57 PM](#)

SENATOR SHOWER said he was unsure. He noted that he had encountered some resistance to imposing a felony or other criminal penalty. Others thought it might hamper the legislature's ability to conduct business. Further, the courts have ruled that the legislature does not need to follow the statutes. He emphasized the importance of having some penalty;

otherwise, he thought people would continue to require binding caucuses.

[2:13:58 PM](#)

SENATOR HUGHES expressed an interest in the short answer on punishment for violating the Ethics Act.

[2:14:18 PM](#)

At ease

[2:21:51 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:15:23 PM](#)

SENATOR KIEHL said he was torn because he was not a fan of binding caucuses and did not join one. He indicated he would like a deeper understanding of the binding caucus. He wondered if it meant that Senator X could not speak to the Senate State Affairs Standing Committee chair and say that if their amendment passed, they would vote for it on the floor, but if not, they would vote no. He asked whether that would be illegal.

SENATOR SHOWER offered his view that what he described was already illegal.

SENATOR KIEHL related his understanding that that was not the case since his scenario discussed the policy implication of an amendment regarding where a member stands on a piece of legislation.

[2:16:27 PM](#)

SENATOR SHOWER posited that this was splitting hairs.

CHAIR HOLLAND agreed.

SENATOR SHOWER offered to research it further. He agreed that Senator Kiehl's scenario would not apply. He stated that the bill does not limit discussion between members on bills since bills do not fall under binding caucuses. Instead, binding caucuses are limited to budget appropriations and procedural votes on the floor.

[2:17:24 PM](#)

SENATOR KIEHL was unsure that the language on page 1, lines 8-10 related to a binding caucus. He turned to violations. He agreed that a handshake in advance of session about voting for the budget or on a procedural motion would be a violation under this

bill. He asked about consequences afterwards that are understood. He related that in other states, the understanding is implicit that if a majority member votes against the budget, and there wasn't a handshake, repercussions would still occur. For example, these member's offices will be moved across the street, and some staff will get pink slips. It just happens that way. He asked how SB 31 will work if tradition determines the outcome.

[2:18:48 PM](#)

SENATOR SHOWER acknowledged that unintended consequences could happen. He said one thing he was attempting was to prevent the formation of a caucus. He admitted it isn't possible to stop humans from bad behavior. For example, murder is outlawed, yet people are routinely murdered. However, he spoke against having an organization that dictates how someone must vote. He explained that SB 31 would ban binding caucuses for organizational purposes, making it more difficult for a Senate President or Rules Chair to punish a senator since leadership would need to garner enough votes to expel or punish the senator. Currently, the Senate President can make those decisions, and legislators who join a binding caucus but do not adhere to procedural votes or vote for the budget have no recourse.

[2:21:59 PM](#)

SENATOR HUGHES stated that during the at-ease, the committee agreed to have an attorney answer questions, including identifying penalties for violations of the Ethics Act at a subsequent hearing.

[2:22:55 PM](#)

SENATOR SHOWER solicited questions from members. He expressed a willingness to work with members on the bill.

[2:23:31 PM](#)

CHAIR HOLLAND opened public testimony on SB 31.

[2:23:59 PM](#)

MIKE COONS, representing self, Palmer, Alaska, spoke in support of SB 31 because a binding caucus disenfranchised the voters in his district. He stated that Senators Shower, Hughes, and Reinbold's constituents had their voices suppressed due to the binding caucus. As a result, tens of thousands of voices in the community were not heard. He offered his support for SB 31. It reminded him of the reaction when a bill was before the legislature that allowed for concealed carry weapons. Some

people thought it would create the Wild West, but it has not. Some arguments for retaining a binding caucus were cohesiveness when passing the budget or a procedural vote because otherwise, Alaska would be like the Wild West. However, that hasn't happened. He said the current Senate does not have a binding caucus, and while dissent and disagreement occur, people are not silenced by a binding caucus. The House majority has a binding caucus, and he has heard some members fear they will lose their leadership positions if they don't abide by the caucus. He offered his view that the Senate was exemplary. He stated that SB 31 would create a clear means for all members to vote their consciences and support their constituents without anyone punishing them. He offered his support for establishing penalty provisions, and if the legislature decided to institute felony penalties, violators could be indicted and prosecuted.

[2:27:51 PM](#)

CHAIR HOLLAND closed public testimony on SB 31.

[2:28:00 PM](#)

CHAIR HOLLAND held SB 31 in committee.

**SB 129-ELECTION PAMPHLET INFORMATION RE: JUDGES**

[2:28:05 PM](#)

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

[This was the third hearing for SB 129. The committee previously heard SB 129 on May 5, 2021 and January 28, 2022. The committee adopted a committee substitute (CS) for SB 129, Version 0; and public testimony was opened and closed on January 28, 2022.]

[2:28:31 PM](#)

SENATOR HUGHES stated that the first time a judge is up for a retention election, the election pamphlet must include a list of items. Currently, all judges must submit their business, professional, and educational backgrounds. These judges do not need to submit certain items during subsequent retention elections. She recalled that the Alaska Judicial Council (AJC) found that the relevancy of the experience diminishes over time. However, if it is good to have the information initially, it remains relevant because the voters may forget details about them. She related her understanding that the voter turnover rate is high. Thus, some voters may never have reviewed the biographical information on judges seeking retention. Further,

it would standardize the information required. She asked the sponsor to consider requiring the exact biographical details for subsequent judicial retention elections.

[2:31:00 PM](#)

SENATOR MYERS responded that he made this change based on advice from AJC. For example, judges are prohibited from participating in partisan political events and running for political office. He related that other things would still apply, including education or continuing education. He explained that he was balancing the applicability, relevant information, and space available in election pamphlets. He wants to provide sufficient, relevant information to allow voters to make decisions. Still, providing too much information in the voter pamphlet could lead to voters tuning out the information. For example, time spent as a trial lawyer might not be relevant once a judge has spent considerable time on the bench.

[2:33:05 PM](#)

SENATOR HUGHES offered her view that it is a fairness issue for voters since they should view the same pertinent information.

SENATOR MYERS suggested that some voters might be prompted to search for additional information. He noted that AJC retains that information, maintains a website, and he hoped that the election pamphlet would direct voters to the specific judicial background information on AJC's website.

[2:35:16 PM](#)

At ease

[2:35:42 PM](#)

CHAIR HOLLAND reconvened the meeting. He asked about the reason for the title change.

[2:36:25 PM](#)

CLAIRE RADFORD, Attorney, Legislative Legal Services, Legislative Affairs Agency Juneau, Alaska, responded that the title was amended because Section 1 was added related to AS 15.58.030(g). This differs from the original version of the bill.

[2:36:59 PM](#)

SENATOR HUGHES said she was still unsure why the title change was necessary.

[2:37:16 PM](#)

MS. RADFORD read the previous title of SB 129, work order 32-LS0751\B, "An Act relating to information on judicial officers provided in election pamphlets." Section 1, AS 15.58.030(g) was amended in Version O, related to the information a judge files. The title was changed to "An Act relating to information on judicial officers seeking retention in office." She stated that the title change reflects the broader title.

[2:38:35 PM](#)

CHAIR HOLLAND held SB 129 in committee.

### **SB 118-CMTE ON NULLIFICATION OF FEDERAL LAWS**

[2:38:48 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 118 "An Act establishing the committee on nullification of federal laws; and providing a directive to the lieutenant governor."

[2:39:09 PM](#)

KELLI TOTH, Staff, Senator Lora Reinbold, Alaska State Legislature, Juneau, Alaska, presented SB 118 on behalf of the sponsor. She stated that this bill was previously heard in the Senate State Affairs Committee, so some members may be familiar with SB 118.

[2:39:43 PM](#)

MS. TOTH expressed concern about federal executive branch overreach, putting the state's rights, state sovereignty, and individual rights at risk. SB 118 would establish a committee on Nullification of Federal Laws and provide a directive to the lieutenant governor. She said upon receipt, the committee would consider federal statutes, regulations, and executive orders and recommend whether to nullify them in their entirety. The committee shall consider whether the statute, regulation or executive order is outside the scope of the powers delegated to the federal government in the Constitution of the United States. The committee may review existing federal statutes, regulations, and executive orders and determine constitutionality and recommend whether to nullify in its entirety specific federal statutes, regulations, or executive orders. The committee would recommend that the legislature nullify the federal action by concurrent resolution.

[2:40:59 PM](#)

MS. TOTH related that if the legislature adopted a concurrent resolution to nullify a federal statute, regulation, or

executive order based on constitutionality by a majority of the membership of each house, the state and the citizens of the state may not recognize or be obligated to abide by the federal law or executive order.

[2:41:25 PM](#)

MS. TOTH stated that SB 118 would provide a directive to the lieutenant governor to forward a copy of the enrolled version of the bill to "the President of the United States, the president of the United States Senate, the speaker of the United States House of Representatives, and each member of the Alaska congressional delegation."

[2:41:54 PM](#)

MS. TOTH, on behalf of the sponsor, paraphrased the sectional analysis.

[Original punctuation provided.]

Section One: Establishes a committee on Nullification of Federal Laws as a permanent interim committee of the legislature composed of:

a. President of the senate, or the President's designee

b. Six members of the senate appointed by the president of the senate with no more than four members being of the same political party.

c. The Speaker of the House of Representatives or the speakers designee

d. Six members of the house of representatives appointed by the speaker with not more than four members being of the same political party. Section Two: Adds a new section, Directive, the Lt. Governor shall forward a copy of the enrolled version of this bill to the President of the United Sates, the President of the United States Senate, the Speaker of the United States House of Representatives , and each member of the Alaska congressional delegation.

[2:42:49 PM](#)

Section Two: Adds a new section, Directive, the Lt. Governor shall forward a copy of the enrolled version of this bill to the President of the United Sates, the

President of the United States Senate, the Speaker of the United States House of Representatives , and each member of the Alaska congressional delegation.

MS. TOTH, in closing, stated that the bill would preserve state sovereignty.

[2:43:03 PM](#)

CHAIR HOLLAND asked if she would like to discuss the fiscal notes.

MS. TOTH declined to review the fiscal notes at this time.

[2:43:19 PM](#)

SENATOR MYERS noted the membership of the proposed Committee on Nullification of Federal Laws. He related that the legislature is organized by coalitions rather than majority parties. He asked why the bill uses political parties instead of majority and minority caucuses as the Uniform Rules uses.

CHAIR HOLLAND related his understanding that she would like to collect questions for the sponsor. He noted that she was welcome to respond.

[2:44:07 PM](#)

MR. TOTH offered to collect questions for the sponsor.

[2:44:13 PM](#)

SENATOR SHOWER related that the Senate State Affairs Standing Committee would be considering a bill that speaks to that point. He related that [SB 66], sponsored by Senator Begich, would require committee membership of at least one member of the minority of each house. He explained that the bill's essence is to ensure that the minority has a voice.

[2:44:51 PM](#)

SENATOR KIEHL stated that he had several questions for the sponsor. He directed attention to the task and scope of the task for the bill. He explained that since WW II, Congress had passed an average of 2 million words of new federal law each year. He expressed concern about the Committee on Nullification of Federal Law's ability to read all of the laws and regulations and make recommendations. Further, he reported that the federal government issues 3,000 to 4,000 new regulations published in the Federal Register each year. He asked how many people would need to be hired to accomplish it.

[2:45:52 PM](#)

SENATOR KIEHL referred to page 2, line 9, to subsection (f), which read "Upon receipt of a federal statute ...." He was unsure who would be submitting the documents and what it means to process them.

[2:46:33 PM](#)

SENATOR KIEHL turned to policy questions. First, the US Constitution has a supremacy clause. He was unsure how SB 118 would purport to bypass the supremacy clause. He noted that members swore an oath to uphold and defend the US Constitution. Second, language on page 2, line 21, subsection (i) states that if the legislature adopts a concurrent resolution to nullify a federal statute, regulation, or executive order, the citizens of the state may not recognize or be obligated to abide by the federal law. He offered his view that the legislature would be overstepping its authority.

[2:48:01 PM](#)

SENATOR MYERS pointed out that state and federal policy differs regarding marijuana. He offered his belief that marijuana has been legal in Alaska since 2014. The state has not been challenged because the federal government has declined to prosecute violations. However, if that changed and the federal government decided to prosecute, he wondered how that would affect Alaskans. The bill indicates that citizens could ignore federal law, yet a federal agency, such as the Drug Enforcement Agency (DEA), could still take action. He asked whether the state would defend citizens in court or have a showdown between the DEA and the Alaska State Troopers.

[2:49:44 PM](#)

SENATOR SHOWER offered his view that the federal government did not have the resources to enforce laws, such as the marijuana laws. One thing for the sponsor to consider is that the state would decline to assist federal agents in enforcing federal laws. He said the easiest way to address this would be to refuse to provide funding.

[2:51:09 PM](#)

CHAIR HOLLAND agreed that other states have already taken that approach.

[2:51:17 PM](#)

SENATOR HUGHES said she worked with then-Representative Gruenberg, now deceased, on countermand amendment language. At the time, the state questioned federal overreach and state's

rights when the federal government violated the 10th Amendment. She recalled that approach required multiple states to agree on federal overreach. She stated that the legislature would pass resolutions related to overreach on resource development. She asked how other states have addressed federal overreach.

SENATOR HUGHES asked whether the Committee on Nullification of Federal Law would meet during the interim, identify overreach issues, and put their recommendation into a concurrent resolution for consideration by the full body.

[2:53:40 PM](#)

CHAIR HOLLAND held SB 118 in committee.

[2:53:54 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:53 p.m.