

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

March 28, 2022

1:34 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. 34

"An Act providing for the establishment of public schools through state-tribal compacts."

- MOVED CSSB 34(JUD) OUT OF COMMITTEE

SENATE BILL NO. 214

"An Act relating to civil liability for censorship of speech by a social media platform."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 157(FIN)

"An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to an application filed for a state referendum or recall election; relating to the location of offices for the Alaska Public Offices Commission and the locations at which certain statements and reports filed with the commission are made available; relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain groups; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to

contribution limits and recall campaigns; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 34

SHORT TITLE: STATE-TRIBAL EDUCATION COMPACT SCHOOLS

SPONSOR(S): SENATOR(S) STEVENS

01/25/21	(S)	PREFILE RELEASED 1/8/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	EDC, JUD
04/21/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/21/21	(S)	Heard & Held
04/21/21	(S)	MINUTE(EDC)
04/23/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/23/21	(S)	<Bill Hearing Canceled>
04/28/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/28/21	(S)	Heard & Held
04/28/21	(S)	MINUTE(EDC)
02/11/22	(S)	EDC AT 9:00 AM BUTROVICH 205
02/11/22	(S)	Heard & Held
02/11/22	(S)	MINUTE(EDC)
02/16/22	(S)	EDC AT 9:00 AM BUTROVICH 205
02/16/22	(S)	Heard & Held
02/16/22	(S)	MINUTE(EDC)
02/23/22	(S)	EDC AT 9:00 AM BUTROVICH 205
02/23/22	(S)	Heard & Held
02/23/22	(S)	MINUTE(EDC)
03/03/22	(S)	EDC AT 10:00 AM BUTROVICH 205
03/03/22	(S)	Heard & Held
03/03/22	(S)	MINUTE(EDC)
03/11/22	(S)	EDC AT 9:00 AM BUTROVICH 205
03/11/22	(S)	<Above Item Removed from Agenda>
03/11/22	(S)	MINUTE(EDC)
03/17/22	(S)	EDC AT 10:00 AM BUTROVICH 205
03/17/22	(S)	Moved CSSB 34(EDC) Out of Committee
03/17/22	(S)	MINUTE(EDC)
03/18/22	(S)	EDC RPT CS 4DP NEW TITLE
03/18/22	(S)	DP: HOLLAND, MICCICHE, STEVENS, BEGICH
03/23/22	(S)	JUD AT 1:30 PM BUTROVICH 205
03/23/22	(S)	Heard & Held
03/23/22	(S)	MINUTE(JUD)
03/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 214

SHORT TITLE: LIABILITY: SOCIAL MEDIA CENSORSHIP

SPONSOR(s): SENATOR(s) REINBOLD

02/22/22 (S) READ THE FIRST TIME - REFERRALS  
02/22/22 (S) STA, JUD  
03/10/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/10/22 (S) -- MEETING CANCELED --  
03/17/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/17/22 (S) Heard & Held  
03/17/22 (S) MINUTE(STA)  
03/22/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/22/22 (S) Moved CSSB 214(STA) Out of Committee  
03/22/22 (S) MINUTE(STA)  
03/23/22 (S) STA RPT CS 4DP 1AM SAME TITLE  
03/23/22 (S) DP: SHOWER, HOLLAND, COSTELLO, REINBOLD  
03/23/22 (S) AM: KAWASAKI  
03/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: HB 157

SHORT TITLE: APOC; REPORT REFERENDA/RECALL CONTRIBUTOR

SPONSOR(s): REPRESENTATIVE(s) RASMUSSEN

03/31/21 (H) READ THE FIRST TIME - REFERRALS  
03/31/21 (H) STA, JUD  
04/17/21 (H) STA AT 3:00 PM GRUENBERG 120  
04/17/21 (H) Heard & Held  
04/17/21 (H) MINUTE(STA)  
04/27/21 (H) STA AT 3:00 PM GRUENBERG 120  
04/27/21 (H) Moved HB 157 Out of Committee  
04/27/21 (H) MINUTE(STA)  
04/28/21 (H) FIN REPLACES JUD REFERRAL  
04/28/21 (H) BILL REPRINTED  
04/28/21 (H) STA RPT 1DP 1NR 5AM  
04/28/21 (H) DP: KREISS-TOMKINS  
04/28/21 (H) NR: TARR  
04/28/21 (H) AM: CLAMAN, STORY, EASTMAN, KAUFMAN,  
VANCE  
05/03/21 (H) FIN AT 1:30 PM ADAMS 519  
05/03/21 (H) Heard & Held  
05/03/21 (H) MINUTE(FIN)  
05/04/21 (H) FIN AT 9:00 AM ADAMS 519  
05/04/21 (H) Heard & Held  
05/04/21 (H) MINUTE(FIN)  
05/13/21 (H) FIN AT 9:00 AM ADAMS 519  
05/13/21 (H) Moved CSHB 157(FIN) Out of Committee  
05/13/21 (H) MINUTE(FIN)

05/14/21 (H) FIN RPT CS(FIN) NEW TITLE 4DP 5NR  
05/14/21 (H) DP: LEBON, JOSEPHSON, RASMUSSEN,  
MERRICK  
05/14/21 (H) NR: ORTIZ, CARPENTER, THOMPSON, WOOL,  
FOSTER  
05/19/21 (H) LIMIT ALL DEBATE TO 2 MIN EACH Y23 N16  
E1  
05/19/21 (H) TRANSMITTED TO (S)  
05/19/21 (H) VERSION: CSHB 157(FIN)  
01/18/22 (S) READ THE FIRST TIME - REFERRALS  
01/18/22 (S) STA, JUD  
01/21/22 (S) FIN REFERRAL ADDED AFTER JUD  
02/17/22 (S) STA AT 3:30 PM BUTROVICH 205  
02/17/22 (S) Scheduled but Not Heard  
03/01/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/01/22 (S) -- MEETING CANCELED --  
03/03/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/03/22 (S) Heard & Held  
03/03/22 (S) MINUTE(STA)  
03/24/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/24/22 (S) Moved CSHB 157(FIN) Out of Committee  
03/24/22 (S) MINUTE(STA)  
03/25/22 (S) STA RPT 3DP  
03/25/22 (S) DP: SHOWER, HOLLAND, COSTELLO  
03/28/22 (S) JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

TIM LAMKIN, Staff  
Senator Gary Stevens  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on behalf of the sponsor of SB 34.

SENATOR LORA REINBOLD  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 214.

JAMES TAYLOR, President  
Heartland Institute  
Chicago, Illinois

**POSITION STATEMENT:** Provided invited testimony in support of SB 214.

REPRESENTATIVE SARA RASMUSSEN

Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Sponsor of HB 157.

CRYSTAL KOENEMAN, Staff  
Representative Sara Rasmussen  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 157 on behalf of the sponsor.

**ACTION NARRATIVE**

[1:34:35 PM](#)

**CHAIR ROGER HOLLAND** called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, and Chair Holland. Senator Shower arrived as the meeting was in progress.

**SB 34-STATE-TRIBAL EDUCATION COMPACT SCHOOLS**

[1:35:08 PM](#)

**CHAIR HOLLAND** announced the consideration of SENATE BILL NO. 34 "An Act providing for the establishment of public schools through state-tribal compacts."

[CSSB 34(EDC) was before the committee. SB 34 was previously heard on 3/23/22.]

[1:35:42 PM](#)

**CHAIR HOLLAND** opened public testimony on SB 34; finding none, he closed public testimony on SB 34.

[1:36:19 PM](#)

**CHAIR HOLLAND** moved to adopt Amendment 1, work order 32-LS0390\G.1.

32-LS0309\G.1  
Marx  
3/24/22

**AMENDMENT 1**

OFFERED IN THE SENATE  
TO: CSSB 34(EDC)

BY SENATOR HOLLAND

Page 2, line 23:  
Delete "January 31, 2029"  
Insert "June 30, 2026"

[1:36:25 PM](#)

SENATOR MYERS objected for discussion purposes.

CHAIR HOLLAND explained that Amendment 1 would change the deadline for the legislature to pass enabling legislation from January 31, 2029, to June 30, 2026. He stated that this would still allow an entire legislative cycle for the legislature to consider the recommendations of the state-tribal education compact. However, it would set an expectation that the legislature should not delay enacting legislation for five years.

SENATOR MYERS removed his objection.

[1:37:07 PM](#)

CHAIR HOLLAND found no further objection, and Amendment 1 was adopted.

[1:37:18 PM](#)

CHAIR HOLLAND moved to adopt Amendment 2, work order 32-LS0309\G.2.

32-LS0309\G.2  
Marx  
3/24/22

## **AMENDMENT 2**

OFFERED IN THE SENATE  
TO: CSSB 34 (EDC)

BY SENATOR HOLLAND

Page 2, lines 1 - 3:

Delete "all other federally recognized tribes and tribal organizations that will be a party to the demonstration state-tribal education compact"

Insert "the tribal organizations, if any, that will participate in the negotiation on behalf of or in conjunction with the federally recognized tribe"

[1:37:22 PM](#)

SENATOR MYERS objected for discussion purposes.

[1:37:25 PM](#)

CHAIR HOLLAND explained that Amendment 2 was a technical fix. The current version of the bill makes it sound as though the federally recognized tribe must know every other tribe participating in the negotiation. This language initially referenced a joint application, but it is no longer relevant under the more open negotiation process included in the current version of the bill.

[1:37:52 PM](#)

SENATOR MYERS removed his objection.

CHAIR HOLLAND heard no further objection, and Amendment 2 was adopted.

[1:38:04 PM](#)

SENATOR KIEHL moved to adopt Amendment 3, work order 32-LS0309\G.3

32-LS0309\G.3  
Klein  
3/25/22

### **AMENDMENT 3**

OFFERED IN THE SENATE BY SENATOR KIEHL  
TO: CSSB 34(EDC)

Page 2, line 7, following "compact.":

Insert "The board shall consult with the governing body of each school district that will have a demonstration state-tribal education compact school located within the district boundaries."

[1:38:09 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:38:13 PM](#)

SENATOR KIEHL explained that Amendment 3 would place the obligation on the Department of Education and Early Development (DEED) to involve school districts that have a demonstration site within their district boundaries early in the negotiation process.

CHAIR HOLLAND stated that he did not see any issue with Amendment 3 but would maintain his objection for discussion purposes.

[1:38:44 PM](#)

SENATOR HUGHES asked whether "consult" means that the school districts will be at the table for the discussions but would not participate in the negotiations.

SENATOR KIEHL responded that this does not give school districts a veto. The negotiating parties would be the Department of Education and Early Development (DEED) and the federally recognized tribes and tribal organizations. He suggested that because the negotiated state-tribal education compact will come back to the legislature for enactment, it would be essential to have the local school district involved.

[1:39:40 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 3 was adopted.

[1:40:00 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, said Senator Stevens agrees to the amendments since they align with the overall inclusivity of the bill. In addition, the sponsor believes that the amendments would tighten up the state-tribal education compact timeline.

[1:40:29 PM](#)

SENATOR HUGHES moved to report CSSB 34(EDC), work order 32-LS0309\G, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND heard no objection, and CSSB 34(JUD) was reported from the Senate Judiciary Standing Committee.

[1:40:53 PM](#)

At ease

**SB 214-LIABILITY: SOCIAL MEDIA CENSORSHIP**

[1:43:15 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 214 "An Act relating to civil liability for censorship of speech by a social media platform."

[CSSB 214 (STA) was before the committee.]

[1:43:39 PM](#)

SENATOR LORA REINBOLD, Alaska State Legislature, Juneau, Alaska, sponsor of SB 214, paraphrased the sponsor statement.

[Original punctuation provided.]

SB 214 may also be known as the Stop Social Media Censorship Act. This bill ensures that the legislature is opposed to censorship of online content, has a compelling interest in holding certain social media platforms to higher standards for having established a digital public square, and has an interest in helping its residents regardless of religious or political affiliations enjoy their free exercise of rights in certain semipublic forum commonly used for religious or political speech, and has an interest, and has an interest in preventing social media platforms that have substantially created a digital public square from malicious interference in state elections.

Social media platforms may not intentionally fact check, delete, or use an algorithm to disfavor, shadow ban or otherwise censor the religious or political speech of a platform user. SB 214 includes civil liability for censorship of speech by a social media platform.

[1:44:15 PM](#)

SENATOR REINBOLD stated that many people on social media have been restricted or had misinformation stickers placed on their social media pages. She related that an invited testifier would speak to a court case related to this issue. She indicated she wanted to discourage large social media platforms from adversely impacting social media platform users by censoring them.

SENATOR REINBOLD highlighted that this is an emerging area of law that could impact political and religious speech.

[1:46:40 PM](#)

SENATOR REINBOLD provided a sectional analysis for SB 214. She stated that Section 1 would refer to the Act as the Stop Social Media Censorship Act.

[Original punctuation provided.]

[1:46:49 PM](#)

SENATOR REINBOLD paraphrased Section 2 of SB 214, which read:

[Original punctuation provided.]

(1) is opposed to censorship of online content, unless the content is harmful to minors or promotes human trafficking;

(2) has a compelling interest in holding certain social media platforms to higher standards for having substantially created a digital public square;

(3) has an interest in helping its residents, regardless of religious or political affiliation, enjoy their free exercise of rights in certain semipublic forums commonly used for religious and political speech; and

4) has an interest in preventing social media platforms that have substantially created a digital public square from malicious interference in state elections.

[1:47:44 PM](#)

SENATOR REINBOLD stated that Section 3 relates to civil liability for censorship of speech by a social media platform. She paraphrased subsection (a).

Except as provided in (g) of this section, the owner or operator of a social media platform may not intentionally fact check, delete, or use an algorithm to disfavor, shadow ban, or otherwise censor the religious or political speech of a platform user.

[1:48:04 PM](#)

SENATOR REINBOLD noted that subsection (b), (c), and (d) establishes liability for a social media platform that violates subsection (a).

[1:48:19 PM](#)

SENATOR REINBOLD paraphrased subsection (f), which lists exceptions to civil liability for censorship of speech by a social media platform.

f) This section does not apply to deletion or censorship of a platform user's speech on a social media platform when that speech

(1) calls for immediate acts of violence;

(2) calls for a user to engage in self harm;

(3) is pornographic;

(4) is the result of operational error;

(5) is the result of a court order;

(6) comes from an inauthentic source or involves impersonation;

(7) entices criminal conduct;

(8) is harmful to minors; or

(9) involves bullying of minors

[1:48:42 PM](#)

SENATOR REINBOLD paraphrased subsection (g).

(g) Notwithstanding (a) - (f) of this section, bullying and harassing behavior are prohibited on social media platforms. A social media platform shall take steps to prevent bullying and harassing behavior and shall provide a platform user who hosts a page a mechanism to establish and enforce rules of decorum to prevent bullying and harassing behavior on the platform user's page.

[1:49:07 PM](#)

SENATOR REINBOLD stated that subsection (h) provides definitions for algorithm, hate speech, platform user, and social media platform.

[1:49:22 PM](#)

SENATOR REINBOLD noted that the State Affairs Committee amended the bill to redefine "religious."

[1:49:57 PM](#)

SENATOR MYERS referred to fact checking in Section 3. He stated that the Alaska Constitution protects the freedom to publish. He expressed concern that prohibiting a social media platform from

fact checking would appear to prevent the owners from publishing on their own website. He asked whether that would raise any constitutional issues.

SENATOR REINBOLD responded that she interpreted the court case to determine that the "fact checking" was actually "opinion checking," which would essentially be expressing an opinion about an opinion that was posted.

[1:51:16 PM](#)

SENATOR MYERS responded that the issue wasn't whether the action taken was based on a fact check or an opinion, but if the social media platform owner was allowed to publish on their own site. This bill would prohibit them from doing so.

SENATOR REINBOLD asked whether he was referring to a social media platform, such as Facebook, or the user being prohibited from publishing.

SENATOR MYERS responded that he was addressing social media platforms, including Facebook. For example, if he were to post something on Facebook and Facebook decided to fact check his posting, the bill would not allow Facebook to publish comments that the platform user's posting was inaccurate or proven wrong.

[1:52:06 PM](#)

SENATOR REINBOLD disagreed. She offered her view that social media platform owners could post on their site, but the bill would not allow them to post their opinion on a platform user.

[1:52:37 PM](#)

CHAIR HOLLAND understood the sponsor to say that a social media platform, such as Facebook, could not "opinion check" on the platform user postings but could provide "fact check" information on their web page.

[1:53:37 PM](#)

JAMES TAYLOR, President, Heartland Institute, Chicago, Illinois, related that the institute is a nonprofit public policy organization focusing primarily on policy issues before state legislatures. He stated that they have been following this bill because many people feel constrained in sharing information on social media with their friends, family, and colleagues. He offered his belief that three corporations control 97 percent of social media traffic in this country. Although he did not have any issue with them competing for market share, he expressed

concern that they use their power to stifle people's free speech rights.

[1:55:14 PM](#)

MR. TAYLOR characterized Facebook as a great platform, so people use it. However, more than 20 million Americans have had their social media posts about COVID-19 blocked, banned, and censored.

MR. TAYLOR said Heartland Institute addresses numerous public policy issues, including global warming, school, choice, and health care. He receives feedback from people who attend his lectures, who say that when they post their views on social media, the platform owners block them. They demand action be taken.

[1:56:18 PM](#)

MR. TAYLOR noted that legislatures throughout the country had recognized the importance of this topic. He recalled that approximately 37 state legislators had introduced legislation on this topic, and several bills have passed.

MR. TAYLOR said the founding fathers recognized the importance of protecting free speech. The Declaration of Independence states, "We hold these truths to be self-evident, that we are endowed by our Creator with certain unalienable rights, among them are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men." He said the First Amendment affirms this.

MR. TAYLOR related that sometimes government threatens these rights, but some government is necessary to protect unalienable rights, including free speech. He offered his belief that three corporations controlling social media speech are using their power to stifle unalienable free speech rights. He pointed out that social media platforms or "big tech" have gone on record asking the state and federal government to take action. For example, during the Superbowl, Facebook called for new laws and regulations to tell them what lines to draw. He commented that he had quotes that he could share.

MR. TAYLOR stated that social media platforms had also published papers that find government has not taken enough action to address antiquated laws. Further, the platform owners explained that because government does not take action, they are forced to restrict some platform user posts. Social media platform owners indicated that if people want things changed, they must go to their legislators or government.

MR. TAYLOR offered his view that SB 214 was one of the better bills before legislatures, so the institute contacted the sponsor to testify in support of the bill.

[1:58:58 PM](#)

SENATOR HOLLAND asked what he specifically liked about the bill.

[1:59:16 PM](#)

MR. TAYLOR responded that three things stood out to him. First, the bill establishes statutory damages if social media platforms stifle free speech. He noted that some legislatures took the approach that people can file a lawsuit. However, attorney costs can be expensive for individuals, but corporations can absorb those costs. Instead, this bill would provide real consequences for violations. Second, SB 214 would allow for a private cause of action. He said only the attorney general can initiate a lawsuit on a constituent's behalf in some states. He pointed out that an attorney general might decide not to enforce this law due to limited resources. Thus, allowing individual citizens to present their own cases is powerful. Finally, he offered his view that the bill was concise and precise so that individuals could understand it.

[2:00:59 PM](#)

SENATOR MYERS pointed out that the Alaska Constitution provides the freedom to publish, unlike the First Amendment. For example, suppose Mark Zuckerberg published a fact check under a post, and the bill prohibits it. He offered his view that appears to interfere with his constitutional right to publish.

MR. TAYLOR acknowledged that he had not studied the Alaska Constitution, but he surmised that the right to publish is not absolute. A person would not have the right to publish defamatory materials or something saying the theater is on fire, so context is important. He said people communicate on social media platforms similar to when people communicated at the public town square, so Facebook as a platform should respect that. He noted that there were many places and ways that Facebook could publish. Further, when Facebook provides fact checks, it argues that it is a platform, not a publisher and that the media corporation is held to a different standard. He stated that if Facebook were a publisher, it could be held more liable for defamation or slander. He referred to a lawsuit, *Stossel v. Facebook*, which alleges that when Facebook "fact checks," it is issuing an opinion.

2:04:30 PM

SENATOR REINBOLD referred to art. I, sec. 5 of the Alaska Constitution, relating to freedom of speech. She read, "Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right." The stated goal of SB 214 is to protect the users who are publishing by posting on Facebook or some other online social networking service. She reminded members that legislators swear to uphold and defend individual liberties, not corporate rights. Corporations have created social networking platforms to allow users to publish. She expressed concern that some posts on social media are flagged because the opinion posted differs from the fact checker's view.

2:06:24 PM

SENATOR KIEHL understood him to say that the social media platform owners can publish in many places and ways. However, the bill would prohibit social media platform owners, such as Facebook, from publishing on their platforms. He asked why Facebook's ability to publish their opinions outside their platform is a sufficient remedy to the government's restriction of their ability to post their opinions on the platform itself.

MR. TAYLOR stated a significant distinction exists between posting on a user-oriented social media platform and someone publishing information in a newspaper, blog, or website. Internet technology has changed how people interact. It's moved from meeting in town squares, pubs, bars, and saloons to sharing ideas online via social media. He reiterated that there are small of media corporations. He alleged that these corporations not only fact check but censor, block, and ban posts, which stifles users from sharing their ideas on social media.

2:08:40 PM

SENATOR KIEHL pointed out that the for-profit corporations' goal is to make money. He highlighted that people still gather in bars and restaurants to share their opinions. Some small communities only have one bar and restaurant. He asked whether the owner should no longer have the right to tell patrons to take their offensive ideas outside.

MR. TAYLOR responded that this bill addresses online social media platforms. The purpose of online social media is to share ideas. He agreed people still fight over the Thanksgiving dinner, meet in bars and have discussions. However, social media has become the primary way people share ideas and information.

He agreed that the bartender or owner could tell patrons to stop arguing about political discussions.

[2:11:21 PM](#)

MR. TAYLOR turned to the comments regarding a social media corporation's goal to earn profits. He acknowledged that legislatures should consider whether the government was placing too many checks on individuals and businesses. In this case, the US Constitution provides people with unalienable free speech rights. Currently, people share those ideas via online social media. Suppose corporations capture the market share and decide they have the power to advance their political philosophy and become de facto governments by limiting speech. He argued they could not do so. For example, an online media platform like Facebook could potentially buy up companies that start to threaten them and their market share, or they may counter complaints by telling people to create their own online social media company. Yet very few people have the resources to do so, he said.

[2:13:11 PM](#)

MR. TAYLOR offered his belief that corporations act in concert to strike down competition, which happened when [the conservative social media website] Parler was banned from using Apple's App for hate speech, and Amazon and Google subsequently banned it.

[2:14:04 PM](#)

SENATOR HUGHES indicated that she, her husband, and her friends had been temporarily banned from social media. She wondered what remedy would hold up in the courts. She pointed out that newspapers publish people's opinions and letters, but the editor could write an editorial to state their position on an issue. She wondered if multinational technology companies could have a webpage to do something similar instead of posting on the user's page, stamping it, or making the content unavailable when there is a difference in opinion. She related scenarios illustrating differences of opinion regarding COVID-19 treatment. Instead of blocking users' views, she envisioned that big tech, such as Facebook, could post on their own web pages and use their algorithm. In doing so, platform users could read Facebook's comments, and readers could make up their own minds. She mentioned several social media platforms that were not part of the top three tech companies. She wondered if someone was pushing Chinese propaganda or denial of the Holocaust, those editors could warn users by posting on their own webpage. She asked if doing so would help mitigate it so courts wouldn't

strike down the suspensions, blocks, or censures. She envisioned that this was something social media companies could do so it would not require a bill.

[2:17:43 PM](#)

MR. TAYLOR responded that the short answer is yes. Corporations such as Facebook and Twitter could use algorithms and their platform to state their opinion. However, he related his understanding that this bill aims to prevent a large monopolistic entity from stifling users by banning or blocking, or fact checking, which is why it sets a minimum threshold for the number of subscribers. The bill aims to prevent the suppression of speech. He noted that a social media platform owner's fact check or opinion could be wrong. He said some allies who operate news outlets and internet media reported that when they post anything on Facebook about global warming that does not comport with a certain viewpoint, it will be labeled misinformation or partially false. Further, big tech companies will punish them by downgrading everything these allies publish because their material is considered misleading.

SENATOR HUGHES thanked him for information about big tech companies changing algorithms. She reiterated that nothing would stop technology corporations like Facebook from having a post showing the other side of the issue. She suggested that conservative sites, like Rumble or Truth Social, could counter Chinese propaganda by cautioning readers to beware. She asked whether her solution would be permissible and if it would address Senator Myers' concern about state constitutional issues.

[2:21:50 PM](#)

MR. TAYLOR agreed that members should be cognizant, mindful, and attentive to constitutional protections and guidance. He deferred to Senator Reinbold. He offered his view that the bill would not prohibit Facebook from presenting its point of view.

[2:22:31 PM](#)

SENATOR REINBOLD stated that she drafted the bill in 2019 to prevent the courts from setting policy since the legislative branch sets policy. She referred to a memo from Legislative Legal Services [from Noah Klein dated February 17, 2022]. She read, "...it is not clear that an Alaska Court would have personal jurisdiction over the social media website." She said the memo says an Alaska court may dismiss a case. She referred to another section of the memo to a sentence related to First Amendment issues and read, "Because social media websites are

private entities and not government actors, they are entitled to freedom of speech protections."

[2:24:23 PM](#)

SENATOR REINBOLD stated that a webpage on a social media platform is the publisher and is responsible for publishing. She explained that social media platforms could advertise and publish their opinions and potentially make billions selling data, have free speech protections, but turn around and crush individual users from having free speech.

SENATOR HUGHES stated that this bill says "big tech" platforms cannot censor users, not that the legislature will indicate what social media platform owners can say, except on user posts. She offered her view that the bill would work.

[2:25:51 PM](#)

SENATOR KIEHL directed attention to language in the bill [page 2, lines 5-7] that specifies that using an algorithm to disfavor a user is prohibited. He said this appears to view social media as free speech, based on a percentage of use as to whether a person can compel a publisher to speak or refrain from speaking in their own business.

SENATOR KIEHL stated that in the 50s and 60s, American members of the Communist Party were distraught because they couldn't get their viewpoints published in mainstream newspapers because the owners of mainstream newspapers had no interest.

[2:26:46 PM](#)

SENATOR KIEHL wondered if the Juneau Empire, the local newspaper, should be compelled to print a letter to the editor from one of his constituents if it said scurrilous things about his opinions and parentage.

MR. TAYLOR answered that this bill applies to user-oriented postings on media platforms, not newspapers. He offered his view that federal law provides protections for social media platforms to censure, block, and ban sexually obscene, excessively violent, or personally harassing material. Thus, if someone were to harass him on social media, a platform would have the ability to stop them.

[2:28:24 PM](#)

SENATOR KIEHL asked for definitions of harmful content to minors, bullying, and harassing behavior.

SENATOR REINBOLD responded that bullying and harassing already are in statute. She offered her belief that some terms were defined in the federal Communications Decency Act (CDA) of 1996. She deferred to Legislative Legal Services to respond.

CHAIR HOLLAND confirmed that Legislative Legal Services was not online.

[2:29:33 PM](#)

SENATOR KIEHL asked why there are no protections for speech for those under the age of 18 if the intent is to treat private for-profit social media as public squares and allow them to take over social media.

SENATOR REINBOLD asked him to restate the question.

SENATOR KIEHL stated that the bill places more restrictions on speech for a 17-year-old than a 19-year-old. He wondered why minors under 18 years of age are not protected in the bill.

CHAIR HOLLAND asked him to identify the bill section.

[2:30:40 PM](#)

SENATOR KIEHL directed attention to the definition of a platform user, page 3, line 14, to paragraph (3) "platform user" means an individual over 18 years of age who resides in the state and contracts with a social media platform;".

MR. TAYLOR related his understanding that minors must have parental consent to have a Facebook page. He hoped the issue would be worked on in the committee process. He recalled Senator Kiehl referred to a public takeover of social media. Instead, he offered his view that the bill says social media platforms cannot restrict or stifle anyone's free unalienable speech rights.

[2:32:29 PM](#)

SENATOR REINBOLD recalled that she agreed to Facebook's broad terms of use when she set up her Facebook page. She wondered if the terms of use were limited to adults so that minors couldn't agree to the terms. She offered to research it and report to the committee.

[2:33:18 PM](#)

SENATOR MYERS related his understanding that the sponsor viewed the social media postings as the new public square discussions.

He asked whether the sponsor considered it wrong for somebody to stifle speech in the new public square.

MR. TAYLOR agreed it was largely so.

SENATOR REINBOLD interjected that it would have parameters.

[2:33:56 PM](#)

SENATOR MYERS asked whether a comment section also qualifies as the new public square.

MR. TAYLOR responded that social media platforms, by definition, have comment sections. People can comment back and forth on the topic when someone posts something unless the platform user blocks that person from posting on their page. For example, sometimes, he posts about public policy issues on platforms such as Facebook. Occasionally, a longtime friend will disagree with his political opinion, and that friend can choose to block them; any user can choose to block someone.

[2:34:32 PM](#)

MR. TAYLOR noted that Section 230 of the Federal Communications Decency Act gave social media platforms the ability to censor postings containing sexually obscene material, excessively violent, or other material. Congress mentioned in its findings that the purpose of the law is to protect and encourage user decisions as to what information would be shared and received so that the platform user would have as much control over that process as possible. That's why it's important to ensure that social media platform corporations don't use their power nefariously to prevent people from sharing opinions.

[2:36:47 PM](#)

SENATOR REINBOLD offered her view that whoever publishes comments must be responsible for disseminating them. She noted that Facebook encourages political figures to provide rules and guidelines that users must abide by to prevent users from harassing or posting hate messages. She related that Facebook advised her that they would shut down her political Facebook page unless she followed their rules.

[2:38:12 PM](#)

SENATOR MYERS offered his view that the comments just made helped eliminate the problem. He related his understanding that Senator Reinbold didn't want to be responsible for comments made on her Facebook page. Facebook doesn't want to be accountable for platform user postings. He questioned why the bill would

allow users to delete comments, including inappropriate or offensive ones, but not allow the social media platforms to do so.

[2:39:07 PM](#)

SENATOR REINBOLD clarified that there is a difference between the social media platform and the platform user or publisher. She agreed that rules must be in place to avoid hate speech and that users must have decorum. She noted that the Facebook platform allows people to avoid hate speech by unfriending or blocking someone's posting on their page.

[2:39:54 PM](#)

SENATOR SHOWER joined the meeting.

[2:39:55 PM](#)

SENATOR REINBOLD said social media issues are continually emerging, but this bill specifically relates to the platform. She characterized the social media platform rules as similar to rules in a courtroom that allow people to exchange ideas but maintain decorum.

[2:40:49 PM](#)

MR. TAYLOR offered his view that social media platform owners have been inconsistent. For example, sometimes they define themselves as platforms, and at other times they describe themselves as publishers. He stated that social media platforms are user-oriented. He maintained that Facebook allows users to operate platforms to share information, and platform users control their own space. He clarified that platform user postings are not Facebook's opinions because the social media platform owner has its publisher business model. He acknowledged that intricacies exist with social media platforms.

[2:42:03 PM](#)

SENATOR KIEHL noted that under SB 214, the comment section on the New York Times and What's App would fit the definition of "social media platform" because they are internet websites or applications that enable users to communicate with each other by posting comments, and they have more than 5,000,000 subscribers. He offered his view that today's discussion has shifted from describing social media platform activities and what's written in the bill.

SENATOR KIEHL referred to page 2, [lines 5-6] of the bill that states "the owner or operator of a social media platform may not intentionally fact check ...." He said he was unclear about the

definition of an unintentional fact check. It further states that this section does not apply when something comes from an inauthentic source. He asked how the social media platform would determine inauthentic sources if it could not fact check.

[2:43:18 PM](#)

SENATOR REINBOLD read the definition of "social media platform" in paragraph (8), beginning on page 3, line 31 through page 4, line 6, which read:

(8) "social media platform" means an Internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that

(A) is open to the public;

(B) has more than 5,000,000 subscribers; and

(C) has not been specifically associated with any single religion or political party since the inception of the Internet website or application.

[2:43:51 PM](#)

SENATOR REINBOLD asked him to repeat the second part of his question.

[2:44:03 PM](#)

SENATOR KIEHL stated that the bill prohibits the platform from fact checking, but it doesn't apply if what's at issue comes from an inauthentic source. He asked how social media platforms would determine an inauthentic source without fact checking.

SENATOR REINBOLD asked him to cite the language in the bill.

SENATOR KIEHL directed attention to the interplay on page 2, line 6, and page 2, line 31.

[2:44:34 PM](#)

CHAIR HOLLAND noted that line 21 read "(6) comes from an inauthentic source or involves impersonation."

[2:44:47 PM](#)

SENATOR SHOWER stated that the language [on page 2, lines 5-6] that prohibits intentional fact check confines it to a platform

user's religious or political speech, so it would not broadly apply.

[2:45:15 PM](#)

MR. TAYLOR related his understanding of an inauthentic source would be someone impersonating someone else. He argued that the New York Times was not a social media platform but a newspaper or publication. Its website wasn't established to allow people to communicate with one another in the same way as Facebook or Twitter. He read a portion of Sec. 09.68.055 (a) on page 2, lines 6-8.

... may not intentionally fact check, delete, or use an algorithm to disfavor, shadow ban, or otherwise censor the religious or political speech of a platform user.

[2:46:29 PM](#)

MR. TAYLOR envisioned that a social media platform owner could not label something "partially false" and then downgrade the person's account because it would limit the platform user from sharing information. He related his understanding that the bill would address those issues.

[2:47:14 PM](#)

SENATOR REINBOLD noted that the language on page 2, line 6 differed from page 2, line 31. She referred to Sec. 09.68.055, and read:

Sec. 09.68.055. Civil liability for censorship of speech by a social media platform. (a) Except as provided in (g) of this section, the owner or operator of a social media platform may not intentionally fact check, delete, or use an algorithm to disfavor, shadow ban, or otherwise censor the religious or political speech of a platform user.

[2:47:44 PM](#)

SENATOR REINBOLD cautioned members to consider the difference between the social media platform operator from the platform user. She directed attention to subsection (f), which she read earlier in the meeting.

[2:48:03 PM](#)

SENATOR REINBOLD noted that the social media platform owner could ban, delete, or censor platform users if they engage in any of the speech in subsection (f), paragraphs (1)-(9), such as

encouraging users to engage in self-harm. She emphasized distinguishing between the social media platform owner and the platform user.

[2:48:53 PM](#)

SENATOR HUGHES directed attention to page 1, line 6 of Version I, and suggested that the committee probably would need to define "fact check." It would be important to investigate whether someone was impersonating a political figure, so that type of fact checking would be permissible.

[2:49:23 PM](#)

SENATOR HUGHES directed attention to page 4, lines 1-6 of the definition of "social media platform," which should be better defined to clarify as Senator Kiehl pointed out that an online newspaper, such as the New York Times, could fit under the current definition because of their prolific commenters. She suggested that fixing that would be by adding language that identifies the primary purpose of internet websites or applications to enable users to communicate with each other. She offered her view that online newspapers' primary purpose was to provide news, not enable platform users to hold conversations.

[2:50:32 PM](#)

MR. TAYLOR applauded the committee for taking up this topic because the platform users would like something to be done. He said he hoped that committee discussions would solve the issues raised today.

[2:51:06 PM](#)

SENATOR REINBOLD referred to page 2, line 31, to paragraph (6), which read, "...comes from an inauthentic source or involves impersonation." She noted that inauthentic could also include bots or trolls, some type of non-person response. One of the reasons she brought this bill up was to put something in place before the election. She read a portion of the legislative findings and social media platform algorithms to illustrate her belief that SB 214 will protect religious and political speech and prevent malicious interference in state elections.

[2:53:10 PM](#)

CHAIR HOLLAND held SB 214 in committee.

**HB 157-APOC; REPORT REFERENDA/RECALL CONTRIBUTOR**

[2:53:17 PM](#)

CHAIR HOLLAND announced the consideration of CS FOR HOUSE BILL NO. 157(FIN) "An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to an application filed for a state referendum or recall election; relating to the location of offices for the Alaska Public Offices Commission and the locations at which certain statements and reports filed with the commission are made available; relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain groups; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to contribution limits and recall campaigns; and providing for an effective date."

[2:53:59 PM](#)

REPRESENTATIVE SARA RASMUSSEN, Alaska State Legislature, Juneau, Alaska, paraphrased the sponsor statement.

[Original punctuation provided.]

House Bill 157 moves the statutory boundary for disclosing certain contributions and expenditures from those made to influence a referendum or recall election to an earlier point in the statutory process. It will require the reporting of certain campaign finance activity prior to the collection of signatures. This will align both the recall/referendum reporting requirements with reporting requirements for ballot initiatives.

Aligning reporting requirements will help the electorate make informed decisions, impose varying requirements based on type and level of advocacy, and otherwise embody the features that the Ninth Circuit identified in electioneering disclosure laws that survive exacting scrutiny under the First Amendment.

According to Legislative Legal, "this bill's expansion of disclosure requirements in the recall and referendum context will likely survive a First Amendment challenge."

House Bill 157 will streamline reporting requirements to regain and maintain the public's trust in our election process.

[2:55:11 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sara Rasmussen, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for HB 157 on behalf of the sponsor.

[Original punctuation provided.]

Section 1: AS 15.13.010(b) - Applicability related to State Election Campaigns. Adds language to the applicability section that state the chapter applies to contributions, expenditures, and communications that are made to influence the nomination or election of a candidate. And for the purpose of influencing a ballot proposition or question or for supporting or opposing and initiative proposal, recall, or referendum.

Section 2: AS 15.13.020(j) - Alaska Public Offices Commission. Removes the requirement for an APOC office to be located in each Senate District.

[2:56:11 PM](#)

Section 3: AS 15.13.030 - Duties of the commission. Removes the word "ALL" from the phrase "examine, investigate, and compare [all] reports, statements, and actions required by this chapter."

Sections 4-8: AS 15.13.040(b), 15.13.072(b), and 15.13.074(e). Clarifies that contributions and expenditures are in a calendar year instead of left open ended.

Section 5: AS 15.13.050(a) - Registration before expenditure. Adds language regarding referendums or recalls to the statute that requires persons to register with APOC prior to making an expenditure.

Section 6: AS 15.13.065(c) - Contributions. Adds language related to referendum and recall applications to what is included in the definition of proposition.

[2:57:22 PM](#)

Section 9: AS 15.13.110(e) - Filing of Reports. Rewrites the language related to those receiving or making expenditures to support or oppose referendums. This language is identical to the language contained in AS 15.13.040(k) for ballot proposition reporting requirements and AS 15.13.110(g) for ballot initiative reporting requirements.

Section 10: AS 15.13.110 - Filing of Reports. Adds a new subsection (k) for those receiving or making expenditures to support or oppose a recall. This language is similar to Section 4 of this bill and AS 15.13.040(k) for ballot proposition reporting requirements and AS 15.13.110(g) for ballot initiative reporting requirements.

(This is the conforming language to align the recall/referendum reporting requirement with the ballot props and initiatives. Section 12 - 14 are modify definitions to include the new language for recall and referendums.)

[2:58:09 PM](#)

Sections 12-14: AS 15.13.400(4), and (7) - Definitions. Modifies the definition of "contributions" to include groups and referendum and recall applications, modifies the definition of "expenditures" to include referendum and recall applications, and modifies the definition of "group" to include referendum and recall applications.

Sections 15-16: AS 24.45.091 Publication of reports. Provides for publication of reports and archives of statements and reports to be posted on their website as well as have copies available at the central office.

Section 17: Repeals AS 15.13.040(k). Provides that recall applications are subject to group contribution limitations whereas referendum applications are not.

Section 18: Uncodified law. States that this Act applies only to referendums or recalls that are filed on or after the effective date of this Act.

Sections 19: Provides for a January 1, 2022 effective date.

[2:59:47 PM](#)

SENATOR MYERS referred to Section 6, page 4, lines 29-30, which would exclude recall applications and recall questions from the reporting requirements. He asked why the bill treats initiatives and referenda differently from recall petitions.

MS. KOENEMAN responded that this section deals with propositions, so there is a difference between ballot propositions, initiatives, and recall petitions. It clearly states what is included within that ballot proposition.

[3:00:36 PM](#)

SENATOR KIEHL offered his view that it was a good bill on the whole. He referred to Section 8 on page 5. He recalled that before the bill, the maximum amount for a cash contribution to a campaign was \$100 in the last 18 months, and this changed it to a calendar year. He asked whether, hypothetically, a campaign could take in twice as much cash from an individual.

REPRESENTATIVE RASMUSSEN answered that this lines it up with what was previously the \$100 cash limit to keep parity between candidates on the cash rule. Obviously, that may have been challenged by recent APOC and Judiciary announcements. She anticipated that Ms. Koeneman could expand on that ruling.

[3:02:00 PM](#)

MS. KOENEMAN related her understanding that APOC has interpreted the statutes as a calendar year because the statutes don't identify a date, so APOC's practice will not change under the bill.

[3:02:33 PM](#)

SENATOR KIEHL noted that while limits on cash contributions are important, he did not believe the difference between \$100 and \$200 increases the risk for corruption. He directed attention to Section 10, lines 24-25, related to a committee or group supporting or opposing a recall of a public official in a statewide election, or a recall application filed under AS 15.45.480. He asked why it would apply to both because AS 15.45.480 includes the governor and lieutenant governor in statewide elections.

[3:03:31 PM](#)

REPRESENTATIVE RASMUSSEN offered her belief that this would apply to legislative candidates and statewide elections. She recalled that the House floor debated about whether to apply

this to statewide elections but decided all statewide and legislative candidates should have similar reporting rules.

[3:04:03 PM](#)

SENATOR KIEHL acknowledged that he had missed that aspect.

[3:04:16 PM](#)

SENATOR SHOWER stated that he would review the bill to ensure that nothing was missed in terms of reporting requirements. He echoed Senator Kiehl's assessment that HB 157 is a good bill.

[3:05:47 PM](#)

REPRESENTATIVE RASMUSSEN offered her willingness to examine the bill to identify any provisions that need to be updated. For example, it might be appropriate to consider some reporting requirement dates. Currently, individual campaigns must file reports in the middle of the legislative session. However, these reporting requirements coincide with the budget process. After discussing this with APOC, the commission agreed that some of those reporting dates could be adjusted to achieve transparency but not interfere with legislative budget deliberations.

[3:05:55 PM](#)

CHAIR HOLLAND held HB 157 in committee.

[3:06:11 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 3:06 p.m.