

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 20, 2022

1:07 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers (via Teams)
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 39

"An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

- MOVED CSSB 39(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 39

SHORT TITLE: BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL

SPONSOR(s): SENATOR(s) SHOWER

01/25/21	(S)	PREFILE RELEASED 1/15/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, JUD
01/26/21	(S)	STA AT 3:30 PM BUTROVICH 205
01/26/21	(S)	-- MEETING CANCELED --
01/28/21	(S)	STA AT 3:30 PM BUTROVICH 205
01/28/21	(S)	Heard & Held
01/28/21	(S)	MINUTE(STA)
02/02/21	(S)	STA AT 3:30 PM BUTROVICH 205

02/02/21	(S)	Heard & Held
02/02/21	(S)	MINUTE(STA)
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/09/21	(S)	Scheduled but Not Heard
02/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/11/21	(S)	Heard & Held
02/11/21	(S)	MINUTE(STA)
02/16/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/16/21	(S)	Heard & Held
02/16/21	(S)	MINUTE(STA)
02/18/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/18/21	(S)	-- MEETING CANCELED --
02/25/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/25/21	(S)	Heard & Held
02/25/21	(S)	MINUTE(STA)
03/16/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/16/21	(S)	Heard & Held
03/16/21	(S)	MINUTE(STA)
03/18/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/18/21	(S)	Scheduled but Not Heard
03/30/21	(S)	STA AT 3:30 PM BUTROVICH 205
03/30/21	(S)	Scheduled but Not Heard
04/01/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/01/21	(S)	-- MEETING CANCELED --
04/08/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/08/21	(S)	Scheduled but Not Heard
04/15/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/15/21	(S)	Heard & Held
04/15/21	(S)	MINUTE(STA)
04/20/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/20/21	(S)	-- MEETING CANCELED --
04/21/21	(S)	STA WAIVED PUBLIC HEARING NOTICE, RULE 23
04/22/21	(S)	STA AT 3:30 PM BUTROVICH 205
04/22/21	(S)	Heard & Held
04/22/21	(S)	MINUTE(STA)
04/22/21	(S)	STA AT 6:00 PM BUTROVICH 205
04/22/21	(S)	Heard & Held
04/22/21	(S)	MINUTE(STA)
05/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
05/04/21	(S)	Moved CSSB 39(STA) Out of Committee
05/04/21	(S)	MINUTE(STA)
05/07/21	(S)	STA RPT CS 1DP 1DNP 2NR 1AM NEW TITLE
05/07/21	(S)	DP: SHOWER
05/07/21	(S)	DNP: KAWASAKI
05/07/21	(S)	NR: COSTELLO, REINBOLD
05/07/21	(S)	AM: HOLLAND

05/07/21 (S) JUD AT 1:30 PM BUTROVICH 205
 05/07/21 (S) Heard & Held
 05/07/21 (S) MINUTE(JUD)
 05/08/21 (S) JUD AT 10:00 AM BUTROVICH 205
 05/08/21 (S) Heard & Held
 05/08/21 (S) MINUTE(JUD)
 04/08/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/08/22 (S) Heard & Held
 04/08/22 (S) MINUTE(JUD)
 04/11/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/11/22 (S) Heard & Held
 04/11/22 (S) MINUTE(JUD)
 04/13/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/13/22 (S) Heard & Held
 04/13/22 (S) MINUTE(JUD)
 04/18/22 (S) JUD AT 1:30 PM BUTROVICH 205
 04/18/22 (S) Heard & Held
 04/18/22 (S) MINUTE(JUD)
 04/19/22 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23
 04/20/22 (S) JUD AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

MICHAELA THOMPSON, Administrative Operations Manager
 Absentee & Petition Office
 Division of Elections
 Anchorage, Alaska

POSITION STATEMENT: Answered questions on amendments to SB 39.

ED KING, Staff
 Senator Roger Holland
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained amendments to SB 39 on behalf of the committee.

MATT ROE, Customer Development Lead
 VotingWorks
 Oakland, California

POSITION STATEMENT: Answered questions on commercial software during the discussion of SB 39.

THOMAS FLYNN, Assistant Attorney General
 Labor & State Affairs Section
 Civil Division
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Answered legal questions on SB 39.

NOAH KLEIN, Attorney
Legislature Legal Counsel
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered legislative legal drafting questions on SB 39.

ACTION NARRATIVE

[1:07:36 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:07 p.m. Present at the call to order were Senators Myers (via Teams), Hughes, Shower, and Kiehl and Chair Holland.

SB 39-BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL

[1:08:18 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 39 "An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

He noted that this was the seventh hearing in this committee; a committee substitute (CS), Version D was adopted; and there were several more amendments for the committee to consider. He asked Senator Kiehl to offer Amendment 27, D.30.

[1:08:48 PM](#)

SENATOR KIEHL moved to adopt Amendment 27, work order 32-LS0204\D.30.

32-LS0204\D.30
Ambrose/Klein
4/11/22

AMENDMENT 27

Page 24, line 22, through page 25, line 2:

Delete all material and insert:

"* **Sec. 50.** AS 15.56.080(a) is amended to read:

(a) A person commits the crime of election official misconduct in the second degree if while an election official, and while the polls are open, the person

(1) opens a ballot received from a voter at an election, unless permitted by ordinance in a local election;

(2) marks a ballot by folding or otherwise so as to be able to recognize it;

(3) otherwise attempts to learn how a voter marked a ballot; [OR]

(4) allows a person to do one of the acts prescribed by (1), (2), or (3) of this subsection; or

(5) knowingly discloses, shares, or reports to a person who is not an election official election results, returns, or any confidential election data before the polls close on election day."

Page 26, line 17:

Delete "AS 15.56.070(a)"

Insert "AS 15.56.080(a)"

[1:08:51 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:08:54 PM](#)

SENATOR KIEHL explained that Amendment 27 would adjust the level of the crime of election official misconduct in the second degree from a class C felony to a class A misdemeanor for disclosing election results or confidential election data. He characterized this as similar to opening a ballot the official was not allowed to open and less akin to making a false count.

[1:09:50 PM](#)

SENATOR SHOWER understood the intent of Amendment 27. However, he stated he cannot support Amendment 27. He recalled that the Division of Elections specifically stated that it would take 15 days to obtain the election results using ranked-choice voting. He envisioned that maintaining confidentiality of election data will be more important because it may take up to two weeks before the election results are released. He emphasized the need

for stronger enforcement. He suggested not making the changes incorporated in Amendment 27 until after the state sees how ranked-choice voting works.

[1:10:53 PM](#)

SENATOR MYERS explained that the state will have early voting for 15 days prior to the election. He recalled that when he voted early, he placed his ballot into the envelope and dropped it in a lock box. The Division of Elections subsequently unlocks the lockbox.

He offered his view that the risks for disclosing ballots was reduced because the absentee ballots wouldn't be counted a week prior to the election date. However, he expressed concern that someone will have access to these ballots.

[1:11:46 PM](#)

SENATOR SHOWER maintained his concern and the need for strong penalties if anyone were to share this information.

[1:12:22 PM](#)

SENATOR HUGHES asked how this would work. She recalled that preliminary results are reported on Election Day, once the polls close. The Division of Elections subsequently provides updates as absentee votes are counted. She asked if voters would get an initial result on election night but no further updates until 15 days after the election.

[1:12:51 PM](#)

SENATOR SHOWER responded that the director briefed the State Affairs Committee that the final election results would not be issued until all absentee ballots are counted. He surmised that the division might release some results after the ranked-choice voting round.

CHAIR HOLLAND recalled that the initial results would be issued on election night, but the final results would not be released until about two weeks later.

SENATOR SHOWER reiterated that changes would occur after each round of ranked-choice voting. He characterized it as in-flux.

[1:13:52 PM](#)

SENATOR HUGHES noted that people could no longer vote once the polls closed, so updates won't influence future voters.

[1:14:29 PM](#)

SENATOR KIEHL related that the delta between the felony in the bill being reduced to a misdemeanor was because with this amendment there was no opportunity for the leaked information to influence voters.

CHAIR HOLLAND noted that boxes of ballots will be stored prior to the polls closing, so there could be a potential leak of information.

[1:15:29 PM](#)

SENATOR KIEHL explained that Senator Myers raised an existing issue. Nothing in the bill or Amendment 27 changes the criminal penalties for opening ballots and counting them before it is legal to do so.

[1:15:46 PM](#)

CHAIR HOLLAND maintained his objection.

[1:15:54 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Amendment 27 and Senators Shower, Hughes, Myers, and Holland voted against it. Therefore, Amendment 27 failed on a 1:4 vote.

CHAIR HOLLAND stated that Amendment 27 failed on a vote of 1 ye and 4 nays.

[1:16:28 PM](#)

SENATOR SHOWER moved to adopt Amendment 28, work order 32-LS0204\D.6.

32-LS0204\D.6
Klein
4/12/22

AMENDMENT 28

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 25, line 7, following "**Cybersecurity.**":
Insert "(a)"

Page 25, following line 11:
Insert a new subsection to read:
"(b) The director shall develop a list of registered voters whose numerical identifiers have

been released in a breach of data maintained by the division. Upon request, the director shall provide the list to a poll watcher."

[1:16:31 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:16:33 PM](#)

SENATOR SHOWER explained Amendment 28 would require the Division of Elections to compile a list of registered voters whose data has been breached. These lists must be provided to poll watchers upon request.

[1:17:22 PM](#)

SENATOR KIEHL moved to adopt Amendment 1 to Amendment 28, work order 32-LS0204\D.48.

32-LS0204\D.48
Klein
4/19/22

AMENDMENT 1 to AMENDMENT 28

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: Amendment D.6 to CSSB 39(JUD), Draft Version "D"

Page 1, lines 6 - 8 of the amendment:

Delete all material and insert:

"(b) The director shall develop a nonpublic list of registered voters whose numerical identifiers have been released in a breach of data maintained by the division and shall exercise caution to protect election integrity."

[1:17:30 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:17:33 PM](#)

SENATOR KIEHL explained Amendment 1 to Amendment 28 would clarify that the list of those whose data was breached is not public. It would instruct the department to exercise caution and protect the integrity of the election. It would also remove the requirement to release the information to poll watchers to avoid providing an opportunity for identity theft.

[1:18:09 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 1 to Amendment 28 was adopted.

[18:37 PMC](#)

CHAIR HOLLAND stated that Amendment 28, as amended, was before the committee.

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 28, as amended, was adopted.

[1:19:00 PM](#)

SENATOR KIEHL moved to adopt Amendment 29, work order 32-LS0204\D.27.

32-LS0204\D.27
Nauman/Klein
4/12/22

AMENDMENT 29

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: CSSB 39(JUD), Draft Version "D"

Page 25, line 15:

Delete "\$15.00 an hour"

Insert "\$4.66 more an hour than the minimum wage required by AS 23.10.065"

Page 25, line 17:

Delete "\$15.50 an hour"

Insert "\$5.16 more an hour than the minimum wage required by AS 23.10.065"

Page 25, line 19:

Delete "\$15.00 an hour"

Insert "\$4.66 more an hour than the minimum wage required by AS 23.10.065"

Page 25, line 22:

Delete "\$15.50 an hour"

Insert "\$5.16 more an hour than the minimum wage required by AS 23.10.065"

Page 25, line 24:

Delete "\$15.00 an hour"

Insert "\$4.66 more an hour than the minimum wage required by AS 23.10.065"

Page 25, line 27:

Delete "\$12.50 an hour"

Insert "\$2.16 more an hour than the minimum wage required by AS 23.10.065"

[1:19:02 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:19:07 PM](#)

SENATOR KIEHL explained that Amendment 29 would tie the poll worker's pay to the minimum wage, which is adjusted based on inflation, so it will increase as the minimum wage rises.

[1:19:53 PM](#)

CHAIR HUGHES asked for the previous pay for an election worker compared to minimum wage.

[1:20:23 PM](#)

MICHAELA THOMPSON, Administrative Operations Manager, Absentee & Petition Office, Division of Elections, Anchorage, Alaska, responded that currently election worker pay is set by regulation. Election board workers are paid \$12 per hour. In 2020, the division used emergency regulations to access COVID-19 funds.

[1:20:56 PM](#)

SENATOR HUGHES asked for the election worker pay for 2020.

MS. THOMPSON said she did not recall the exact amount, but it was approximately \$15 per hour.

SENATOR HUGHES asked what the minimum wage was currently.

SENATOR KIEHL recalled that it was \$10.34 per hour.

[1:21:47 PM](#)

SENATOR SHOWER stated that he was neutral on Amendment 29.

CHAIR HOLLAND said he was unsure about putting the election worker pay amounts in statute.

[1:22:28 PM](#)

CHAIR HOLLAND maintained his objection.

[1:22:34 PM](#)

At ease

[1:23:23 PM](#)

CHAIR HOLLAND reconvened the meeting.

[1:23:32 PM](#)

SENATOR HUGHES noted that the pay amounts were currently listed in the bill. She said the proposed changes were in line with the current poll worker pay.

[1:23:51 PM](#)

CHAIR HOLLAND maintained his objection.

[1:24:03 PM](#)

A roll call vote was taken. Senators Kiehl, Shower, and Hughes voted in favor of Amendment 29 and Senator Myers and Holland voted against it. Therefore, Amendment 29 was adopted on a 3:2 vote.

CHAIR HOLLAND stated that Amendment 29 was adopted on a vote of 3 yeas and 2 nays.

[1:24:42 PM](#)

SENATOR SHOWER moved to adopt Amendment 30, work order 32-LS0204\D.40.

32-LS0204\D.40
Klein
4/13/22

AMENDMENT 30

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 26, line 26:
Delete "2028"
Insert "2024"

[1:24:46 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:24:49 PM](#)

SENATOR SHOWER explained that Amendment 30 would set the deadline for implementing open-source to January 1, 2024, instead of January 1, 2028. He related his understanding that multiple companies were certified or close to certification.

[1:25:40 PM](#)

SENATOR KIEHL wondered what the Division of Elections would do if they could not meet the deadline because the vendors were not yet certified.

MS. THOMPSON responded that she was unsure. She stated that it would take time to implement an entirely new ballot tabulation system. She further stated that the division would need to disperse equipment to the regional offices and conduct rigorous testing.

SENATOR SHOWER offered his view that the division would indicate they did not meet the deadline.

SENATOR MYERS asked how many vendors would be ready by that date.

[1:27:39 PM](#)

MR. OGAN recalled that one vendor indicated that three vendors would be ready by that deadline.

[1:28:19 PM](#)

SENATOR SHOWER recalled the division director stated that if the current qualified and certified companies decided to open-source, they could do so.

[1:28:43 PM](#)

MR. OGAN stated it was plausible that one of the established voting machine vendors might decide to enter the open-source market.

[1:29:21 PM](#)

SENATOR MYERS stated that he would be comfortable if three vendors were ready by that timeline.

[1:29:28 PM](#)

At ease

[1:30:06 PM](#)

CHAIR HOLLAND reconvened the meeting. [The committee treated Chair Holland's objection to Amendment 30 as though it had been removed.]

[1:30:18 PM](#)

SENATOR KIEHL expressed concern that it would be a disservice to voters if the legislature set a deadline for the Division of Elections, knowing that it was unlikely they could meet it.

[1:30:26 PM](#)

SENATOR KIEHL objected.

[1:30:59 PM](#)

A roll call vote was taken. Senators Shower, Hughes, Myers, and Holland voted in favor of Amendment 30 and Senator Kiehl voted against it. Therefore, Amendment 30 was adopted on a 4:1 vote.

[1:31:30 PM](#)

CHAIR HOLLAND moved to adopt Amendment 31, work order 32-LS0204\D.46.

32-LS0204\D.46
Klein
4/18/22

AMENDMENT 31

OFFERED IN THE SENATE BY SENATOR HOLLAND
TO: CSSB 39(JUD), Draft Version "D"

Page 8, line 26:
Delete "absentee"
Insert "early"

Page 25, line 19:
Delete "boards"
Insert "board members"

Page 25, line 20:
Delete "boards"
Insert "board members"

Page 25, line 22:
Delete the first occurrence of "absentee"
Insert "early"
Delete the second occurrence of "absentee"
Insert "early voting"

[1:31:38 PM](#)

SENATOR SHOWER objected for discussion purposes.

[1:31:48 PM](#).

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, stated that Amendment 31 was a cleanup amendment. The references to change from absentee to early voting polls was made in some places but not in others.

[1:32:15 PM](#)

CHAIR HOLLAND added that Amendment 31 was a cleanup amendment to create consistency throughout the bill.

[1:32:29 PM](#)

SENATOR SHOWER removed his objection.

CHAIR HOLLAND found no further objection and Amendment 31 was adopted.

[1:32:47 PM](#)

CHAIR HOLLAND moved to adopt Amendment 32, work order 32-LS0204\D.47.

32-LS0204\D.47
Klein
4/18/22

AMENDMENT 32

OFFERED IN THE SENATE BY SENATOR HOLLAND
TO: CSSB 39(JUD), Draft Version "D"

Page 1, line 1, following "of":
Insert "**voter misconduct**,"

[1:32:55 PM](#)

SENATOR SHOWER objected for discussion purposes.

[1:32:59 PM](#)

MR. KING explained that Amendment 32 was a technical cleanup to incorporate the voter misconduct in the title of the bill.

[1:33:11 PM](#)

SENATOR SHOWER removed his objection.

[1:33:14 PM](#)

CHAIR HOLLAND found no further objection and Amendment 32 was adopted.

[1:33:31 PM](#)

SENATOR SHOWER said he would not offer Amendment 33, work order 32-LS0204\D.44. He stated another amendment in member's packets would address the issue.

[1:33:56 PM](#)

SENATOR SHOWER moved to adopt Amendment 34, work order 32-LS0204\D.44.

32-LS0204\D.44
Klein
4/18/22

AMENDMENT 34

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 5, following line 18:

Insert a new bill section to read:

"* **Sec. 9.** AS 15.07 is amended by adding a new section to read:

Sec. 15.07.128. Voter fraud mitigation policy. It is the policy of the state to reduce voting fraud by using reasonable and affordable tools and technology to mitigate the potential for voting fraud, including for the reviews of voter registration applications and the master register for the names of the deceased, felons ineligible to vote, non-citizens, and individuals voting unlawfully."

Renumber the following bill sections accordingly.

Page 26, line 15:

Delete "sec. 46"

Insert "sec. 47"

Page 26, line 16:

Delete "sec. 47"

Insert "sec. 48"

Delete "sec. 48"

Insert "sec. 49"

Page 26, line 17:
Delete "sec. 49"
Insert "sec. 50"

Page 26, line 18:
Delete "sec. 50"
Insert "sec. 51"

Page 26, lines 18 - 19:
Delete "secs. 46 - 50"
Insert "secs. 47 - 51"

Page 26, line 26:
Delete "Section 45"
Insert "Section 46"

Page 26, line 27:
Delete "Section 58"
Insert "Section 59"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 60 and 61"

[1:33:58 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:34:01 PM](#)

SENATOR SHOWER explained that Amendment 34 resulted from discussions with some members in the other body who would like automatic PFD registration passed by voter initiative some years ago. He related that the lieutenant governor's office had found auto-registration somewhat problematic because it would allow people to register to vote who should not be allowed to do so, including felons. Amendment 34 adds the best-practice language in Section 9 of the bill.

[1:35:14 PM](#)

MR. OGAN stated this amendment also includes a report on the voter roll maintenance efforts.

[1:35:34 PM](#)

SENATOR SHOWER clarified that Amendment 34 would add intent language for best practices. He noted that the next amendment will require the report.

MR. OGAN said he stands corrected.

[1:35:58 PM](#)

SENATOR KIEHL pointed out that this would put in place the current practices.

[1:36:14 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 34 was adopted.

[1:36:35 PM](#)

SENATOR SHOWER moved to adopt Amendment 35, work order 32-LS0204\D.45.

32-LS0204\D.45
Klein
4/18/22

AMENDMENT 35

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 5, following line 18:

Insert a new bill section to read:

"* Sec. 9. AS 15.07.130(a) is amended to read:

(a) Periodically, at times of the director's choosing, but **not** [NO] less frequently than in January of each calendar year, the director shall examine the master register maintained under AS 15.07.120 and shall send, by nonforwardable mail to the voter's registration mailing address, a notice requesting address confirmation or correction to each voter

(1) whose mail from the division has been returned to the division in the two years immediately preceding the examination of the register;

(2) who has not contacted the division in the two years immediately preceding the examination of the register; [OR]

(3) who has not voted or appeared to vote in the two general elections immediately preceding the examination of the register; **or**

(4) who does not live in the state."

Renumber the following bill sections accordingly.

Page 5, line 27:

Delete "a new subsection"
Insert "new subsections"

Page 6, line 8, following "system,":

Insert "municipal assessor databases, the United States Social Security Administration death index, an alien database maintained by the United States Department of Homeland Security,"

Page 6, following line 8:

Insert new subsections to read:

"(h) The director shall adopt a best practice voter registration system to improve identity matching when comparing voter registration lists with the records and databases used to review the master register. The director shall develop a written maintenance schedule and guideline manual for the system and provide a report on the system to the senate secretary and the chief clerk of the house of representatives on or before the first day of the first regular session of each legislature and shall notify the legislature that the report is available.

(i) The director shall, in a notice sent under (a) of this section, inform a voter of the criteria to qualify as a voter and the penalties for voter fraud and voter misconduct."

Page 26, line 15:

Delete "sec. 46"
Insert "sec. 47"

Page 26, line 16:

Delete "sec. 47"
Insert "sec. 48"
Delete "sec. 48"
Insert "sec. 49"

Page 26, line 17:

Delete "sec. 49"
Insert "sec. 50"

Page 26, line 18:

Delete "sec. 50"
Insert "sec. 51"

Page 26, lines 18 - 19:

Delete "secs. 46 - 50"

Insert "secs. 47 - 51"

Page 26, line 26:
Delete "Section 45"
Insert "Section 46"

Page 26, line 27:
Delete "Section 58"
Insert "Section 59"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 60 and 61"

[1:36:37 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:36:39 PM](#)

SENATOR SHOWER explained Amendment 35 would require the Division of Elections to send an address confirmation notice to voters who do not currently live in the state. As discussed in previous committees, the division doesn't inform people how to remove themselves from the voter rolls. Second, it would require the director to adopt best practice voter-registration protocols to improve identity matching when comparing registration lists with databases for list maintenance. Finally, it would require the division to provide a report to the legislature, which could be helpful to identify other legislative policy changes.

[1:38:11 PM](#)

SENATOR MYERS wondered about the timeline. Current statute states that no less frequently than January of each calendar year the division would begin cleaning the voter rolls. However, the bill would require the division to submit a report by the first day of the first regular session of each legislature. He suggested the reporting requirement should be changed to March 15th if the division cleans up the voter rolls in January.

[1:39:13 PM](#)

SENATOR SHOWER responded that he had not received any pushback from the division. He related his understanding that the division cleans up the voter rolls several times throughout the year. The report does not specify the date of the data used. The intent was to ensure that the legislature receives an annual report with an update at least once annually.

[1:40:16 PM](#)

MS. THOMPSON reported that the division performs list maintenance work throughout the year, but the bulk of it is done in January. She agreed with Senator Shower that the division would report the information it had available and update it thereafter.

[1:40:58 PM](#)

CHAIR HOLLAND asked how long it takes to perform list maintenance.

MS. THOMPSON answered that the division sends out the first notice in January. Voters are given time to reply, followed by a second notice, with time to respond. She stated that there was a 45-day trigger for those notices, followed by status updates for voters.

[1:41:47 PM](#)

SENATOR MYERS asked whether it would be easier for the division to report to the legislature later in the legislative session. He noted that the data at the beginning of the legislative session might be months old.

MR. OGAN explained that during his tenure in the administration, the agency would begin drafting its report in October of each year. He surmised that the Division of Elections would report on data from the prior year in its January report.

CHAIR HOLLAND suggested that even if the division delayed its reporting until March or April, it could still take weeks to provide the information.

[1:43:00 PM](#)

MS. THOMPSON agreed that Chair Holland outlined it correctly since the Division of Elections would need time to prepare the report. She stated that so long as the legislature understood the time period being reported, the division could meet the reporting requirements.

[1:43:31 PM](#)

CHAIR HOLLAND said he was comfortable with Amendment 35.

[1:43:39 PM](#)

SENATOR KIEHL related his understanding that people who do not live in Alaska would receive notices. He asked whether the division interpreted that to mean every voter who has a non-Alaska mailing address on their voter registration would receive

the notice, or if it was specific to voters the division compiled based on various databases.

MS. THOMPSON replied that she was unsure. She deferred to the Department of Law. Typically, voter maintenance results from voters returning mail informing them they no longer live in Alaska. She noted it was very difficult to tell if someone is out temporarily for medical care or military assignment temporarily.

[1:45:03 PM](#)

SENATOR SHOWER stated the intent was to create one step of an ongoing effort to clean up the voter rolls. He offered his willingness to consider the best way to accomplish it. He noted he had held discussions with the Division of Elections on updating the voter rolls. He indicated he did not want to get too prescriptive with the division, but rather to allow the agency to clean up the voter rolls.

[1:45:36 PM](#)

SENATOR HUGHES reviewed the process the division uses for voter list maintenance. She asked whether the division would enclose a prepaid envelope that the voter would return or if the voter will be given an online link to update their address. She asked how that process will work.

MS. THOMPSON answered that the division would use prepaid envelopes if funding was available and encourage people to update their address on the division's website.

[1:46:54 PM](#)

SENATOR SHOWER asked the record to reflect that on average 40,000 people move in and out of the state. He acknowledged that updating the voter rolls might be costly but it is necessary to do so.

[1:47:35 PM](#)

SENATOR HUGHES asked whether the division would only be charged if the person mails the envelope to the division.

MS. THOMPSON answered that the division would only be charged if the voter mailed in the update.

[1:48:30 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 35 was adopted.

[1:49:00 PM](#)

At ease

[1:50:00 PM](#)

CHAIR HOLLAND reconvened the meeting

[1:50:04 PM](#)

SENATOR SHOWER withdrew Amendment 36, work order 32-LS0204\D.49 due to some drafting issues.

[1:50:27 PM](#)

SENATOR SHOWER moved to adopt Amendment 37, work order 32-LS0204\D.50.

32-LS0204\D.50
Klein
4/19/22

AMENDMENT 37

OFFERED IN THE SENATE

BY SENATOR SHOWER

TO: CSSB 39(JUD), Draft Version "D"

Page 14, line 19:

Delete "**shall** [MAY NOT]"

Insert "may not"

[1:50:32 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:50:38 PM](#)

SENATOR SHOWER explained Amendment 37 would remove the language allowing people to register to vote at the same time they were requesting an absentee ballot online or by electronic means. He indicated he held discussions with some members in the other body who agreed that it would not be a good idea to combine the requests.

CHAIR HOLLAND related his understanding that Amendment 37 would revert to current statute.

SENATOR SHOWER agreed.

[1:51:23 PM](#)

SENATOR KIEHL stated he had a different interpretation. Current law allows a person to register to vote by requesting an

absentee ballot application and an electronic ballot by mail. Amendment 37 would state that a person may not register when a person sends in a request for an electronic ballot. He noted that a person can register to vote when they apply for a permanent fund dividend.

[1:52:22 PM](#)

SENATOR SHOWER deferred to Mr. Ogan.

[1:52:26 PM](#)

MR. OGAN stated that Amendment 37 would address the concern about fraud associated with electronic voting. He stated that people have adequate opportunities to register to vote. Amendment 37 would not allow people to register to vote on the same day that they vote electronically, although a person could register to vote, then vote in person on the same day.

[1:53:41 PM](#)

SENATOR HUGHES referred to page 14, line 19 of Version D. She stated that this provision references applying for a ballot, not voting. Currently, a person could fill out an application to request a ballot and register to vote. This would allow the person to send the request in electronically rather than putting their application for a ballot in the mail. She asked whether it was the sponsor's intent to allow the request by mail but not electronically.

[1:54:38 PM](#)

MR. OGAN answered yes. He explained that Amendment 37 would revert to existing law, AS 15.07.070, which does not allow a person to request an absentee ballot on the same day that the person votes.

[1:55:29 PM](#)

SENATOR HUGHES stated that she could submit her application electronically to obtain a ballot, fill out another form, and submit it electronically to vote, just not on the same form.

[1:55:48 PM](#)

MR. OGAN said he believes that is correct. The law says submit by electronic transmission may not include a provision that permits a person to register to vote under 15.07.070.

[1:56:15 PM](#)

SENATOR HUGHES stated that a person could register to vote and vote in the same day by filling out two different forms. She asked whether that would be better.

SENATOR SHOWER agreed. The intent was to keep things as separate as possible, including registering to vote and receiving a ballot.

[1:57:39 PM](#)

SENATOR HUGHES asked if the application to register to vote and the application to vote could be dated the same day or if that will create some issue.

[1:58:29 PM](#)

MS. THOMPSON stated the Division of Elections already had a process in place for registering to vote on Election Day due to same day registration for presidential elections. If someone isn't registered to vote they can fill out a registration application and an electronic transmission application form.

[1:59:01 PM](#)

SENATOR HUGHES asked if a person applied for a ballot and five minutes later registered to vote whether it would be acceptable.

MS. THOMPSON answered yes; that would work.

[1:59:23 PM](#)

SENATOR KIEHL asked what was done differently to verify voter eligibility. He asked whether one process was less rigorous than the other.

[1:59:49 PM](#)

MS. THOMPSON related that the registration application has more information than the electronic transmission application. She stated that when someone first registers to vote the division checks the person's identification. The electronic application has identifying information to ensure that the voter filled out the form, but it is a separate form.

[2:00:23 PM](#)

SENATOR KIEHL asked if Amendment 37 did not pass, whether a person would use the same process to apply for an electronic application as for registering to vote by mail.

[2:00:44 PM](#)

MS. THOMPSON asked him to repeat his question.

[2:00:48 PM](#)

SENATOR KIEHL asked if SB 39 passed without Amendment 37, the language would read, "An absentee ballot application submitted

by electronic transmission under this section shall include a provision that permits a person to register to vote under AS 15.07.070." He said it appears as though the division would use the same process to verify the voter's identity as it does when a registration form arrives by mail.

[2:01:24 PM](#)

MS. THOMPSON responded that the division would develop a form that combined the voter registration and the absentee ballot application.

SENATOR KIEHL stated that he opposed Amendment 37, and if it doesn't pass the division will use the same process to register voters whether the request is made by electronic means or by mail. He offered his view that this should be the focus since it provides election security. It is not relevant whether the application has a US postage stamp or an electronic timestamp.

SENATOR HUGHES offered her view that there could be a difference. A person applying by mail would do so earlier whereas someone applying electronically could apply at the last minute and if there was a flurry of activity, the division might be under pressure. The verification process is the same, but she was more comfortable with ones trickling in rather than a rush of them coming in all at once. She offered her support for Amendment 37.

[2:03:34 PM](#)

CHAIR HOLLAND removed his objection.

[2:03:40 PM](#)

SENATOR KIEHL objected.

[2:03:54 PM](#)

A roll call vote was taken. Senators Myers, Shower, Hughes, and Holland voted in favor of Amendment 37 and Senator Kiehl voted against it. Therefore, Amendment 37 was adopted on a 4:1 vote.

CHAIR HOLLAND stated that Amendment 39 was adopted on a vote of 4 yeas and 1 nay.

[2:04:30 PM](#)

SENATOR SHOWER moved to adopt Amendment 38, work order 32-LS0204\D.52.

32-LS0204\D.52
Klein
4/19/22

AMENDMENT 38

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 8, line 16, following "title.":

Insert "A signed ballot chain-of-custody document must accompany a ballot or group of ballots in the division's possession. An election official shall sign the document immediately upon receiving or releasing a ballot or group of ballots."

[2:04:34 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[2:04:44 PM](#)

SENATOR SHOWER explained that Amendment 38 would create a signed ballot chain-of-custody, which is a portion of the process to provide a paper trail.

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 38 was adopted.

[2:05:35 PM](#)

SENATOR SHOWER moved to adopt Amendment 39, work order 32-LS0204\D.53.

32-LS0204\D.53
Klein
4/19/22

AMENDMENT 39

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 10, line 8, following "or":

Insert "for perjury under"

[2:05:38 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[2:05:50 PM](#)

SENATOR SHOWER explained Amendment 39 would clarify that a false statement on a questioned ballot declaration is perjury.

[2:05:59 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 39 was adopted.

[2:06:26 PM](#)

SENATOR SHOWER moved to adopt Amendment 40, work order 32-LS0204\D.54.

32-LS0204\D.54
Klein
4/19/22

AMENDMENT 40

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 19, line 1, following "establish":
Insert "or procure"

Page 19, line 2:
Delete ", available through the division's
Internet website,"

Page 19, line 17, following "established":
Insert "or procured"

Page 19, line 24, following "establishing":
Insert "or procuring"

[2:06:29 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[2:06:32 PM](#)

SENATOR SHOWER explained that Amendment 40 was primarily cleanup language since the director shall establish or procure an online system. Second, the intent of deleting ", available through the division's Internet website," was to provide the vendor flexibility and not be overly restrictive. He stated that the online system could be accessed through the division's website but it isn't required. He noted that other states contract with the vendor for ballot tracking.

[2:07:47 PM](#)

SENATOR KIEHL referred to lines 7-8 of Amendment 40 and said this refers to something that was deleted by a previous amendment. He offered his view that Legislative Legal Services could make conforming and technical changes.

CHAIR HOLLAND stated he would allow Legislative Legal Services to do so.

SENATOR KIEHL stated that as long as everyone agreed that someone could go the Division of Election's website and track their ballot or find a link to it, he was comfortable with Amendment 40.

[2:08:39 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 40 was adopted.

[2:08:57 PM](#)

SENATOR SHOWER moved to adopt Amendment 41, work order 32-LS0204\D.59.

32-LS0204\D.59
Klein
4/20/22

AMENDMENT 41

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 22, lines 1 - 13:

Delete all material and insert:

"* **Sec. 45.** AS 15.20.910 is amended to read:

Sec. 15.20.910. Standards for voting machines and vote tally systems. The director may approve a voting machine or vote tally system for use in an election in the state upon consideration of factors relevant to the administration of state elections. **A** [, INCLUDING WHETHER THE FEDERAL ELECTION COMMISSION HAS CERTIFIED THE VOTING MACHINE OR VOTE TALLY SYSTEM TO BE IN COMPLIANCE WITH THE VOTING SYSTEM STANDARDS APPROVED BY THE FEDERAL ELECTION COMMISSION AS REQUIRED BY 42 U.S.C. 15481(a)(5) (HELP AMERICA VOTE ACT OF 2002). THE DIRECTOR MAY ONLY APPROVE A] voting machine or vote tally system **must meet the United States Election**

Assistance Commission's voluntary voting system guidelines and be certified by the commission, use only open-source software technology or commercial off-the-shelf software and firmware, and satisfy [IF THE MACHINE OR SYSTEM SATISFIES] the requirements of AS 15.15.032(c).

* **Sec. 46.** AS 15.20.910 is amended by adding a new subsection to read:

(b) In this section,

(1) "commercial off-the-shelf" means mass-produced, commercially available hardware devices, including card readers, printers, scanners, or personal computers, and the firmware or software products of the hardware devices, including operating systems or database management systems;

(2) "open-source software technology" means the complete source code for the software is available to the public, under the terms of a license, to use, modify, or distribute freely without payment of royalties or other consideration."

Page 26, line 15:

Delete "sec. 46"

Insert "sec. 47"

Page 26, line 16:

Delete "sec. 47"

Insert "sec. 48"

Delete "sec. 48"

Insert "sec. 49"

Page 26, line 17:

Delete "sec. 49"

Insert "sec. 50"

Page 26, line 18:

Delete "sec. 50"

Insert "sec. 51"

Page 26, lines 18 - 19:

Delete "secs. 46 - 50"

Insert "secs. 47 - 51"

Page 26, line 26:

Delete "2028"

Insert "2024"

Page 26, line 27:
Delete "Section 58"
Insert "Section 59"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 60 and 61"

2:08:58 PM

CHAIR HOLLAND objected for discussion purposes.

2:09:00 PM

SENATOR SHOWER explained that Amendment 41 was crafted after the robust discussion on open-source software technology. He said he also invited Mr. Roe from VotingWorks to explain open-source technology. Amendment 41 updates the oversight agency since it is no longer the Federal Election Commission, but the US Election Assistance Commission (EAC). Amendment 41 would require that a voting machine or vote tally system be certified by the EAC and meet their voting system guidelines (VVSG), in addition to using open-source software technology and commercial off-the-shelf software and firmware. He recalled previous committee discussion on the difference between having or using open-source technology. Amendment 41 would require vendors must use open-source technology. Finally, it would add definitions for commercial off-the-shelf and open-source software technology.

2:10:37 PM

SENATOR MYERS stated that he discussed with Senator Shower the necessity to use commercial off-the-shelf software. While open-source software technology performs ballot tabulating, it could be running on a laptop that is not using open-source software technology. He emphasized that the point was to make the software and hardware easily accessible to the public. Unfortunately, the public can't access the specialty use machine software, but by requiring vendors to use the software, it means that the public can easily access it and verify the division's election results.

2:11:56 PM

SENATOR HUGHES referred to the definition section of Amendment 41. She said open-source software technology means it is available to the public; however, the commercial off-the-shelf designation does not necessarily mean it is available to the public. For example, the Dominion vendor's website states that it is available for government purchase. She asked whether the sponsor is confident the public can obtain it.

SENATOR SHOWER said he was comfortable it would but deferred to Senator Myers.

CHAIR HOLLAND stated that he would turn to invited testimony first.

[2:13:19 PM](#)

MATT ROE, Customer Development Lead, VotingWorks, Oakland, California, related his understanding that the committee wondered whether the Dominion equipment would fall under the definition of commercial off-the-shelf software.

[2:13:45 PM](#)

SENATOR HUGHES clarified that the committee was interested in whether Dominion's commercial off-the-shelf software would be available to the public.

MR. ROE responded that he wasn't familiar with the company's inner workings. He stated that the intention of the exception for commercial off-the-shelf software and firmware was to require that the state's voting system uses open-source software technology. However, a voting system that uses open-source software technology relies on equipment that may not necessarily be open-sourced. For example, card readers, printers, scanners, personal computers, and laptops may not be open-sourced. Still, the commercial off-the-shelf and open-source definitions are important because it allows any voting system to also open-source their voting system even if the system is closed-source today. For example, lots of voting systems use a Windows operating system, which is closed-source software, but if Dominion wanted to open-source its voting system, even if it relies on a closed-source operating system, it could do so.

[2:15:34 PM](#)

SENATOR HUGHES asked if the the definition for commercial off-the-shelf allows a constituent to verify the Division of Elections results as a check and balance.

MR. ROE answered yes.

[2:16:31 PM](#)

SENATOR KIEHL characterized Amendment 41 as a cleanup amendment, so he does not object to it. He remarked that no matter what, when someone's candidate is not winning, conspiracy theorists will claim the scanner or the card reader was hacked or malware was in the off-the-shelf laptop. He doubted that these

precautions designed to provide transparency will put anything to rest.

[2:17:29 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection and Amendment 41 was adopted.

[2:17:50 PM](#)

SENATOR SHOWER asked for an at ease to review additional amendments from Legislative Legal Services.

[2:17:58 PM](#)

At ease

[2:24:13 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:24:29 PM](#)

SENATOR SHOWER stated he would not offer Amendment 42, work order 32-LS0204\D.60 because this language will be offered in Amendment 44.

[2:24:45 PM](#)

CHAIR HOLLAND stated that Amendment 42 was withdrawn.

[2:24:48 PM](#)

CHAIR HOLLAND move to adopt Amendment 43, work order 32-LS0204\D.61.

32-LS0204\D.61
Klein
4/20/22

AMENDMENT 43

OFFERED IN THE SENATE BY SENATOR HOLLAND
TO: CSSB 39(JUD), Draft Version "D"

Page 1, line 1, following "of":

Insert **"unlawful interference with voting, voter misconduct,"**

Page 23, following line 10:

Insert new bill sections to read:

"* Sec. 47. AS 15.56.035(a) is amended to read:

(a) A person commits the crime of unlawful interference with voting in the second degree if the person

(1) has an official ballot in possession outside of the voting room unless the person is an election official or other person authorized by law or local ordinance, or by the director or chief municipal elections official in a local election;

(2) makes, or knowingly has in possession, a counterfeit of an official election ballot;

(3) knowingly solicits or encourages, directly or indirectly, a registered voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

(4) as a registration official

(A) knowingly refuses to register a person who is entitled to register under AS 15.07.030; or

(B) accepts a fee from an applicant applying for registration;

(5) violates AS 15.20.081(a) by knowingly supplying or encouraging or assisting another person to supply to a voter an absentee ballot application form with a political party or group affiliation indicated if the voter is not already registered as affiliated with that political party or group;

(6) knowingly designs, marks, or encourages or assists another person to design or mark an absentee ballot application in a manner that suggests choice of one ballot over another as prohibited by AS 15.20.081(a); [OR]

(7) knowingly submits or encourages or assists another person to submit an absentee ballot application to an intermediary who could control or delay the submission of the application to the division of elections or who could gather data from the application form as prohibited by AS 15.20.081(a); or

(8) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person who is not an election official to collect a voter's ballot.

* **Sec. 48.** AS 15.56.035 is amended by adding a new subsection to read:

(d) In this section,

(1) "collect" means to gain possession or control of a ballot;

(2) "other valuable thing"
(A) includes
(i) an entry in a game of chance in which a prize of money or other present or future pecuniary gain or advantage may be awarded to a participant wherein the total of the prizes offered is greater than \$2 for a participant with a maximum of \$100; and
(ii) government employment or benefits;
(B) does not include
(i) materials having a nominal value bearing the name, likeness, or other identification of a candidate, political party, political group, party district committee, or organization, or stating a position on a ballot proposition or question;
(ii) food and refreshments provided incidental to an activity that is nonpartisan in nature and directed at encouraging persons to vote, or incidental to a gathering in support of or in opposition to a candidate, political party, political group, party district committee, organization, or ballot question or proposition;
(iii) care of a person's dependents provided in connection with the absence of the person from home for the purpose of collecting a ballot; and
(iv) services provided by a person acting as a representative under AS 15.20.072."

Renumber the following bill sections accordingly.

Page 26, line 15, following "Act,":

Insert "AS 15.56.035(a), as amended by sec. 47 of this Act,"

Page 26, line 16:

Delete "sec. 47"

Insert "sec. 49"

Delete "sec. 48"

Insert "sec. 50"

Page 26, line 17:

Delete "sec. 49"

Insert "sec. 51"

Page 26, line 18:

Delete "sec. 50"

Insert "sec. 52"

Page 26, lines 18 - 19:
Delete "secs. 46 - 50"
Insert "secs. 46, 47, and 49 - 52"

Page 26, line 27:
Delete "Section 58"
Insert "Section 60"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 61 and 62"

[2:25:09 PM](#)

SENATOR KIEHL objected for discussion purposes.

[2:25:17 PM](#)

MR. KING explained that Amendment 43 would address the issue members raised at a previous hearing regarding compensation for collecting ballots. Amendment 43 attempts to address the issues by better defining pay. It also would expand the language to say, "knowingly pays, offers to pay, or causes to be paid money or other valuable thing," which is more consistent with other statutes. He stated that paragraph (8) excludes an election official from the crime of unlawful interference with voting in the second degree. Section 48 defines "other valuable thing," including an entry in a game of chance, and government employment or benefits. It does not include material having a nominal value, such as election swag, food and refreshments, or caring for the volunteer's children. He pointed out that the committee may wish to consider adding "or mail carrier" on page 2, line 9.

[2:26:59 PM](#)

SENATOR SHOWER added that this was a concession based on the committee's robust discussion on whether to make "ballot harvesting" illegal.

[2:28:26 PM](#)

SENATOR HUGHES recalled a previous amendment that changed a portion of the bill title to, " ... relating to crimes of voter conduct, unlawful interference" but Amendment 43 changes a portion of the title to read "... unlawful interference with voting, voter misconduct," She pointed out that it might need a correction since the bill drafter reversed the language.

[2:29:02 PM](#)

SENATOR KIEHL questioned how helping someone with a disability applies to the language on page 3, lines 3 and 4 because a "valuable thing" doesn't include acting as a representative for special needs voting assistance. For example, he did not believe someone would pay a third party to act as their personal representative. He expressed concern that the language might inadvertently criminalize someone assisting a special needs person to vote. This might include someone who works for a disability services organization or a voting nonpartisan nonprofit group that provides special needs services under this bill.

[2:30:27 PM](#)

SENATOR SHOWER responded that they should be exempt from paragraph (8). He offered his view that Senator Kiehl was misreading the provision.

[2:31:09 PM](#)

THOMAS FLYNN, Assistant Attorney General, Labor & State Affairs Section, Department of Law, Anchorage, Alaska, stated that he was inclined to agree that Senator Kiehl interprets the language as he did. This would define "other valuable thing." He related his understanding that the committee was concerned about someone getting paid to collect a ballot. The "thing" that someone provides when they provide services is not the "thing" they receive to collect the ballot, which is something separate. He opined that sub-subparagraph (iii) and (iv) doesn't seem to line up with the definition of "other valuable thing."

[2:32:06 PM](#)

SENATOR SHOWER directed attention to page 2, line 21, to subparagraph (B). He said "does not include" seems to exclude those sub-subparagraphs. He asked Mr. Flynn to suggest another subcategory to define that further.

MR. FLYNN related his understanding that the committee's goal was to exempt certain people rather than certain things. He suggested relocating the language to paragraph (8), which would exempt people providing care and people providing special needs services.

[2:33:10 PM](#)

CHAIR HOLLAND related his understanding that it would include sub-subparagraphs (i) and (ii) but not sub-subparagraphs (iii) and (iv).

[2:33:40 PM](#)

SENATOR HUGHES expressed concern about allowing people who provide services to the elderly and disabled to assist them to vote. She pointed out disabled and elderly people have guardians. She suggested that this language could allow people to harvest ballots in communities or pioneer homes. Since the law already provides them with assistance. Amendment 43 might create a loophole and allow nonprofits to form for the purpose of collecting ballots.

[2:35:08 PM](#)

SENATOR KIEHL stated that many of those concerns are addressed by the special needs voting statute, which applies to those under guardianship and voters with a physical or cognitive disability who cannot go to a polling place. He indicated the statute has restrictions and limitations. He further stated as Mr. Flynn suggested that the special needs voting should be under the definition of "collect" in subsection (d)(1) instead of under paragraph (8) since it appears to be a drafting error.

SENATOR SHOWER wondered if there was any relevant case law pertaining to nonprofits.

MR. KLEIN responded that he was unaware of any nonprofits that were established to collect ballots.

[2:37:22 PM](#)

MR. OGAN recalled some state jurisdictions made it illegal to harvest ballots. He asked if he was familiar with any cases, and if so, the basis the courts used for upholding these laws.

[2:37:51 PM](#)

MR. FLYNN acknowledged that he was aware of a US Supreme Court case related to ballot harvesting, but he had not reviewed it.

[2:38:11 PM](#)

SENATOR SHOWER suggested the committee should pass the amendment and allow Legislative Legal Services to fix the drafting error. He acknowledged that the committee would need to review the case law before addressing this issue.

[2:38:53 PM](#)

At ease

[2:41:39 PM](#)

CHAIR HOLLAND reconvened the meeting. He asked Senator Shower if he wanted to pose a hypothetical situation to Noah Klein.

[2:42:01 PM](#)

SENATOR SHOWER deferred to Senator Hughes.

[2:42:22 PM](#)

SENATOR HUGHES expressed concern that Amendment 43 would create a loophole to allow a nonprofit to form whose purpose was to collect ballots. She related her understanding that the elderly or disabled could have a friend or relative mail their ballot for them, so nonprofit agencies would not need to assist them.

[2:43:36 PM](#)

NOAH KLEIN, Attorney, Legislature Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, Juneau, Alaska, answered that Amendment 43 would allow a nonprofit to collect people's ballots as long as the staff person did not receive money or "another valuable thing."

MR. KLEIN turned to the discussion of sub-subparagraphs (iii) and (iv). He related his understanding that the committee's intent was to allow a person acting as a representative under AS 15.20.072 to receive money or "another valuable thing." He agreed with Senator Kiehl's suggestion to relocate that language to paragraph (8) and remove sub-subparagraph (iv). He offered his view that sub-subparagraph (iii) still works as drafted in subsection (d)(2) because collecting ballots would not be considered "another valuable thing." For example, it would allow someone to babysit someone else's child while the parent picked up a ballot for a family member.

[2:45:20 PM](#)

SENATOR SHOWER asked whether the language in sub-subparagraph (iv) should be relocated to paragraph (8), adding the language "or services provided by a person acting as a representative." The second part of the amendment would add "or mail carrier."

MR. KLEIN responded that he did not recommend putting the language in a sub-subparagraph of paragraph (8), but it could say, "who is not an election official, a mail carrier, or a person acting as a representative under AS 15.20.072;" and then move on to collect a voter's ballot.

CHAIR HOLLAND agreed.

[2:46:36 PM](#)

SENATOR HUGHES asked whether a nonprofit could round up volunteers to collect ballots so long as the agency did not use paid employees.

MR. KLEIN answered yes.

[2:47:05 PM](#)

MR. KING pointed out that the underlying bill would accomplish it since it is not a product of the amendment.

[2:47:30 PM](#)

CHAIR HOLLAND suggested adopting Conceptual Amendment 1 to Amendment 43, on page 2, line 9, after official, add ", a mail carrier or a person acting as a representative under AS 15.20.072," and delete lines 3-4 on page 3.

MR. KING clarified that the first part of Conceptual Amendment 1 to Amendment 43 was correct. He said the second part is a policy call.

CHAIR HOLLAND asked whether the language on page 3, lines 3-4 should be left in or stricken.

[2:48:37 PM](#)

SENATOR KIEHL offered his view that Chair Holland's spoken amendment that would strike lines 3-4 was clearest.

[2:48:48 PM](#)

CHAIR HOLLAND moved to adopt Conceptual Amendment 1 to Amendment 43.

CONCEPTUAL AMENDMENT 1 TO AMENDMENT 43

on page 2, line 9, after "official" to add ", a mail carrier, or a person acting as a representative under AS 15.20.072 and to delete lines 3-4 on page 3.

[2:49:27 PM](#)

SENATOR HUGHES objected.

SENATOR HUGHES stated that Mr. Flynn and Mr. Klein agreed that on page 3, lines 3-4, that the services provided by a person would be considered a "valuable thing."

CHAIR HOLLAND asked whether she would like to retain lines 3-4.

[2:50:22 PM](#)

SENATOR HUGHES said she did not think the language on page 3, lines 3-4, was problematic. She stated that the nonprofit would use unpaid volunteers to collect ballots. They may offer to cook

dinner or clean the kitchen in exchange for helping the person vote, including making suggestions on voting. Thus, she suggested leaving in services since it represents a thing of value being exchanged for the person filling out their ballot.

[2:51:08 PM](#)

CHAIR HOLLAND withdrew Conceptual Amendment 1 to Amendment 43.

[2:51:18 PM](#)

CHAIR HOLLAND moved to adopt Conceptual Amendment 2 to Amendment 43.

CONCEPTUAL AMENDMENT 2 TO AMENDMENT 43

On page 2, line 9, after "official" add ", a mail carrier, or a person acting as a representative under AS 15.20.072."

[2:52:05 PM](#)

SENATOR MYERS offered his belief that Conceptual Amendment 1 to Amendment 43 better addressed the issue. He referred to lines 3-4 to sub-subparagraph (iv), which falls under subparagraph (B) "does not include." Conceptual Amendment 2 to Amendment 43 would say that the person acting as the representative could cook dinner, and it would not be counted as a valuable thing. However, Conceptual Amendment 1 strikes lines the language on page 3, lines 3-4, which would address Senator Hughes' concern.

[2:53:28 PM](#)

CHAIR HOLLAND read page 1, line 7:

- (a) A person commits the crime of unlawful interference with voting in the second degree if the person

CHAIR HOLLAND read page 2, lines 8-10:

- (B)(8) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person who is not an election official to collect a voter's ballot.

CHAIR HOLLAND stated the concern was whether the person would commit a crime by offering a valuable thing to collect a ballot.

[2:54:20 PM](#)

SENATOR HUGHES added that since the person was acting as a representative, it wouldn't mean the disabled person was having dinner cooked by the nonprofit representative.

[2:54:43 PM](#)

At ease

[2:55:19 PM](#)

CHAIR HOLLAND reconvened the meeting. He asked Mr. Klein if retaining page 3, lines 3-4, would accomplish the committee's goal.

[2:56:13 PM](#)

MR. KLEIN explained that the language on page 3, lines 3-4, takes the services provided by the person acting as a representative under AS 15.20.072 out of the definition of "other valuable thing." The first part of Conceptual Amendment 1 and Conceptual Amendment 2 clarified that providing those services by acting as a representative under AS 15.20.072 and collecting the ballot is not a crime; even paying someone to do that is not a crime. He said he was not clear on the question. He asked Chair Holland to repeat the question.

CHAIR HOLLAND deferred to Senator Kiehl.

[2:57:35 PM](#)

SENATOR KIEHL referred to page 3, lines 3-4. They were part of a carve-out, which is an exception. He related his understanding that generally a more restrictive law would have fewer exceptions and more deleted language, and a less restrictive law would have more carve-outs and retain the language.

[2:58:11 PM](#)

MR. KLEIN agreed that was correct. However, Mr. Flynn described an exception for "A person acting as a representative." Essentially that would exclude someone acting as a representative for someone by collecting their ballot. However, he was unsure that lines 3-4 would fulfill any intent in a real-world application.

[2:59:08 PM](#)

MR. FLYNN stated that the committee's intent was to prevent people from ballot harvesting. He stated that the language on page 3, lines 3-4, was allowing people to be paid in services provided to someone else acting as a special needs representative. Essentially, there are three lines of payment. Someone is getting paid for providing services for a third

person to collect a ballot. Unfortunately, it doesn't line up with the thing the committee is trying to exempt from an "other valuable thing." Further, "other valuable thing" in subsection (a) further defines "other valuable things" by including some things listed in sub-subparagraphs (A)(i) and (ii) and excluding others listed in (B)(iii) and (iv). However, none of these are exhaustive lists. For example, Senator Hughes mentioned providing dinner could be a "valuable thing." Still, these lists don't need to include every possible permutation.

MR. FLYNN acknowledged that Mr. Klein was correct. He admitted that he had misread sub-subparagraph (iii). He opined that it seemed that sub-subparagraph (iii) should be retained. However, sub-subparagraph (iv) in conjunction with Conceptual Amendment 1 to Amendment 43 doesn't add anything and would prevent an impossible situation.

[3:00:54 PM](#)

SENATOR HUGHES related a scenario involving Pete, Joe, and Frank, with Pete being a disabled person, Joe was his paid helper or representative, and Frank was a bad actor wanting to vote for Pete and deliver his ballot. She stated that by retaining the language on page 3, lines 3-4; Joe can cook dinner and take the ballot to the mailbox, which is fine. The committee doesn't want Frank coming to the door offering something valuable to Joe to allow Frank to fill out a ballot with Pete, which would be allowable in Conceptual Amendment 2. She expressed concern that allowing a person acting as a representative would allow Frank to commit a crime by giving something valuable to Joe. She suggested that creates an unacceptable situation.

[3:02:11 PM](#)

SENATOR KIEHL pointed out that she had described something that a personal representative cannot do under AS 15.20.072, the special needs voting law. A personal representative must fill out a form for each voter they assist and swear an oath that the voter will fill out the ballot in secret without coercing them. The statute lists numerous things a personal representative could not do. He said that is not what Conceptual Amendment 2 to Amendment 43 will fix.

[3:02:50 PM](#)

SENATOR HUGHES responded that the language on page 2, line 9, reads, "a valuable thing to a person." She suggested that using her scenario that could be Joe, not the voter.

[3:03:17 PM](#)

MR. KING explained that the provision in sub-subparagraph (iv), the services provided by a person acting as a representative under AS 15.20.072, are carve-outs [or exceptions] for the volunteer who collects the ballots. The idea was that if one of these people needed these services, the services shouldn't be considered pay. He referred to AS 15.20.072, "A qualified voter with a disability who because of that disability is unable to go to the polling place." If the person is unable to go to the polling place, they will be unable to collect ballots. He suggested that this language could be deleted.

[3:04:31 PM](#)

MR. FLYNN said he heard Mr. King indicate that sub-subparagraph (iv) was essentially empty. He acknowledged that these are policy calls for the committee, but he agreed with Mr. King.

[3:05:02 PM](#)

CHAIR HOLLAND withdrew Conceptual Amendment 2 to Amendment 43.

[3:05:13 PM](#)

CHAIR HOLLAND indicated he would adopt the language in Conceptual Amendment 1, which was offered and withdrawn.

CHAIR HOLLAND moved to adopt Conceptual Amendment [3] to Amendment 43.

CONCEPTUAL AMENDMENT 3 TO AMENDMENT 43

On page 2, line 9, after "official" add ", a mail carrier, or a person acting as a representative under AS 15.20.072," delete lines 3-4 on page 3, and on line 2, delete "; and"

CHAIR HOLLAND found no objection, and Conceptual Amendment [3] to Amendment 43 was adopted

[3:06:41 PM](#)

CHAIR HOLLAND stated that Amendment 43, as amended, was before the committee.

SENATOR KIEHL removed his objection.

CHAIR HOLLAND found no further objection, and Amendment 43, as amended, was adopted.

3:07:24 PM

SENATOR SHOWER moved to adopt Amendment 44, work order 32-LS0204\D.62.

32-LS0204\D.62

Klein

4/20/22

AMENDMENT 44

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 13, following line 16:

Insert a new bill section to read:

"* Sec. 30. AS 15.20.066(a) is amended to read:

(a) The director shall adopt regulations applicable to the delivery of absentee ballots by electronic transmission in a state election and to the **return by mail of ballots delivered by** [USE OF] electronic transmission [ABSENTEE VOTING IN A STATE ELECTION BY QUALIFIED VOTERS]. The regulations must **create a system to verify a voter's identity, include procedures for return by mail of ballots delivered by electronic transmission that, at a minimum, require that a voter casting a ballot meet the applicable requirements of AS 15.20.081(d) - (f), and**

[(1) REQUIRE THE VOTER TO COMPLY WITH THE SAME TIME DEADLINES AS FOR VOTING IN PERSON ON OR BEFORE THE CLOSING HOUR OF THE POLLS;

(2)] ensure the accuracy and, to the greatest degree possible, the **security,** integrity, and secrecy of the ballot process."

Re-number the following bill sections accordingly.

Page 18, line 2:

Delete "or electronic transmission"

Insert "[OR ELECTRONIC TRANSMISSION]"

Page 26, line 11, following "**Sec. 56.**":

Insert "AS 15.20.066(b);"

Page 26, line 15:

Delete "sec. 46"

Insert "sec. 47"

Page 26, line 16:
Delete "sec. 47"
Insert "sec. 48"
Delete "sec. 48"
Insert "sec. 49"

Page 26, line 17:
Delete "sec. 49"
Insert "sec. 50"

Page 26, line 18:
Delete "sec. 50"
Insert "sec. 51"

Page 26, lines 18 - 19:
Delete "secs. 46 - 50"
Insert "secs. 47 - 51"

Page 26, line 26:
Delete "Section 45"
Insert "Section 46"

Page 26, line 27:
Delete "Section 58"
Insert "Section 59"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 60 and 61"

[3:07:30 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[3:07:34 PM](#)

SENATOR SHOWER explained that Amendment 44 would address the vulnerability of electronic mailing ballots. He stated that faxing was considered more secure than electronic transmission. Amendment 44 would end electronic voting and require ballots received by electronic transmission be returned by mail. Amendment 44 would provide the Division of Elections' director the authority to develop a system to verify a voter's identity and develop procedures for returning ballots by mail, such as returning the ballot in person or to a drop box.

[3:08:18 PM](#)

SENATOR SHOWER referred to page 1, lines 12-14, that deleted the time requirement for submitting electronic transmittal because those ballots would be returned by mail.

SENATOR SHOWER stated that "security" was added [on line 16] to provide a more complete description of the things the Division of Elections should ensure for the ballot process.

SENATOR SHOWER noted the remaining changes were technical and conforming ones.

3:10:14 PM

SENATOR KIEHL related his understanding that the intent of Amendment 44 was to eliminate electronic submittal of ballots. He expressed concern since some Alaskans use this, especially on Election Day. He stated that he receives calls from constituents. One might call saying they ordered their absentee ballot but never received it and wondered what to do.

SENATOR KIEHL said that voters must sign a line on their ballot acknowledging that their ballot would not be fully confidential. Once the division receives these ballots, they are sequestered and examined by the Division of Elections to ensure that no one would be voting twice. It might be possible for someone to mail their ballot, which arrived ten days after the polls closed. If the person ordered an absentee ballot and came to a polling place to vote, they would need to vote a questioned ballot. Division of Elections would research the questioned ballots to ensure that duplicate voting didn't occur. The division conducts this same identification verification for an absentee-by-mail ballot. He expressed concern that Amendment 44 would remove one easy method for voters to vote.

3:12:05 PM

SENATOR SHOWER disagreed. He emphasized that electronic voting was identified as a high-vulnerability process. He pointed out that the Division of Elections had experienced a data breach for 103,000 Alaskans, and that data potentially could be used to obtain a ballot, and they could vote electronically. He stated that Amendment 44 would prevent someone from submitting their ballot electronically. He acknowledged that voters should have more options to return these ballots than by mail, and Amendment 44 gives the director the authority to develop procedures to do so.

3:13:25 PM

CHAIR HOLLAND withdrew his objection.

3:13:31 PM

SENATOR KIEHL objected.

3:13:37 PM

A roll call vote was taken. Senators Hughes, Myers, Shower, and Holland voted in favor of Amendment 44, and Senator Kiehl voted against it. Therefore, Amendment 44 was adopted on a 4:1 vote.

CHAIR HOLLAND stated that Amendment 44 was adopted on a vote of 4 yeas and 1 nay.

3:14:40 PM

SENATOR SHOWER moved to report the committee substitute (CS) for SB 39, work order 32-LS0204\D, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND found no objection and CSSB 39(JUD) was reported from the Senate Judiciary Standing Committee.

3:15:06 PM

CHAIR HOLLAND asked the record to reflect that Legislative Legal Services was authorized to make technical and conforming changes to meet the intent of the committee.

3:15:24 PM

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 3:15 p.m.