

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

May 13, 2003

1:40 p.m.

**MEMBERS PRESENT**

Senator Gary Stevens, Chair  
Senator John Cowdery, Vice Chair  
Senator Fred Dyson  
Senator Gretchen Guess

**MEMBERS ABSENT**

Senator Lyman Hoffman

**COMMITTEE CALENDAR**

SENATE BILL NO. 215

"An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date."

MOVED SB 215(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 19

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund.

MOVED SJR 19 OUT OF COMMITTEE

SENATE BILL NO. 211

"An Act relating to the publishing and furnishing of certain public notices regarding regulations or rules of certain state agencies; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

MOVED SB 211 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 22(RLS)

Relating to the USA PATRIOT Act, the Bill of Rights, the Constitution of the State of Alaska, and the civil liberties, peace, and security of the citizens of our country.

MOVED HJR 22 OUT OF COMMITTEE

#SJR 15

SENATE JOINT RESOLUTION NO. 15

Relating to the USA PATRIOT Act and to defending the Bill of Rights, the Constitution of the State of Alaska, and civil liberties.

SCHEDULED BUT NOT HEARD

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**PREVIOUS ACTION**

SB 215 - No previous action to record.  
SJR 19 - No previous action to record.  
SB 211 - See State Affairs minutes dated 5/8/03.  
HJR 22 - No previous action to record.

**WITNESS REGISTER**

Ernesta Ballard  
Commissioner, Department of Environmental Conservation  
410 Willoughby  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Testified on SB 215

Deven Mitchell  
Debt Manager, Treasury Division  
Department of Revenue  
PO Box 110400  
Juneau, AK 99811-0400  
**POSITION STATEMENT:** Testified on SB 215

Kristin Ryan  
Director, Division of Environmental Health  
Department of Environmental Conservation  
410 Willoughby  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Testified on SB 215

John MacKinnon  
Deputy Commissioner, Highways and Public Facilities  
Department of Transportation &  
Public Facilities  
3132 Channel Dr.  
Juneau, AK 99801-7898  
**POSITION STATEMENT:** Testified on SB 215

Tom Livingston  
No address provided  
**POSITION STATEMENT:** Testified on SB 215

Roger Painter  
Alaskan Shellfish Growers Association  
No address provided  
**POSITION STATEMENT:** Testified on SB 215

Julie Decker  
Executive Director, South East Regional Dive Association  
No address provided  
**POSITION STATEMENT:** Testified on SB 215

Senator Georgianna Lincoln  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor SJR 19

Mark Gnadt  
Aide to Representative Eric Croft  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Testified on SJR 19

Bob Bartholomew  
Chief Operating Officer  
Alaska Permanent Fund Corporation  
P.O. Box 25500  
Juneau, AK 99801  
**POSITION STATEMENT:** Testified on SJR 19

Petria Falkenberg  
Box 3293  
Kenai, AK 99611  
**POSITION STATEMENT:** Testified on SJR 19

James Price  
P.O. Box 7043  
Nikiski, AK 99635  
**POSITION STATEMENT:** Testified on SJR 19

Fred Sturman  
Box 513  
Soldotna, AK 99669  
**POSITION STATEMENT:** Testified on SJR 19

Roger Shannon  
11823 Kenai Spur Highway  
Kenai, AK 99611  
**POSITION STATEMENT:** Testified on SJR 19

Lori Churchill  
Box 7043  
Nikiski, AK 99635  
**POSITION STATEMENT:** Testified on SJR 19

Ruby Kime  
Box 334  
Ninilchik, AK 99639  
**POSITION STATEMENT:** Testified on SJR 19

Craig Tillery  
Assistant Attorney General, Environmental Section  
1031 W. 4<sup>th</sup> Ave, Suite 200  
Anchorage, AK 99501  
**POSITION STATEMENT:** Testified on SB 211

Senator Johnny Ellis  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Co-Sponsor SJR 15 and testified on HJR 22

Joe Stewart  
Aide to Representative David Guttenberg  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Testified on HJR 22

John Brading  
No address provided  
**POSITION STATEMENT:** Testified on HJR 22

Frank Turney  
No address provided  
**POSITION STATEMENT:** Testified on HJR 22

Scott Calder  
No address provided  
**POSITION STATEMENT:** Testified on HJR 22

Jodi Olmstead  
No address provided  
**POSITION STATEMENT:** Testified on HJR 22

Graham Storey  
Nome Chamber of Commerce  
No address provided

**POSITION STATEMENT:** Testified on HJR 22

Jennifer Ruddinger  
Executive Director ACLU  
No address provided

**POSITION STATEMENT:** Testified on HJR 22

Tim Burgess  
U.S. Department of Justice  
No address provided

**POSITION STATEMENT:** Testified on HJR 22

Rynniewa Moss  
Aide to Representative John Coghill  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Testified on HJR 22

**ACTION NARRATIVE**

**TAPE 03-30, SIDE A**

**CHAIR GARY STEVENS** called the Senate State Affairs Standing Committee meeting to order at 1:40 p.m. Present were Senators Fred Dyson, John Cowdery, Gretchen Guess and Chair Gary Stevens. The first order of business to come before the committee was SB 215.

#SB 215

**SB 215-SEAFOOD AND FOOD SAFETY LABORATORY**

ERNESTA BALLARD, Commissioner of the Department of Environmental Conservation, said she would testify to the program aspects of the bill. She gave the following testimony:

Imagine it is 5:00 pm on Friday, you are a dairy processor and your pasteurization equipment breaks down. The scenario is not uncommon. To fulfill your school and military contracts, FDA requires that a state lab certify your equipment is operating correctly again and test the product to make sure. Milk can't wait until Monday morning. The Seafood and Food Safety Laboratory staff is there to make sure your product is safe for consumption and makes it to market while it's fresh. Ours is the only lab certified in Alaska to test dairy products to ensure

successful pasteurization so they can be sold to the military and schools.

SB 215 provides the funding mechanism to build a new Seafood and Food Safety Lab. The expense is already in our proposed capital budget. The facility we have leased for 34 years will not be available after 2006. It is overcrowded and not fully compliant with safety codes and laboratory design standards. It was developed in Palmer when the principal lab business was agriculture and dairy. In recent years entrepreneurs in coastal Alaska have developed a wide variety of value added seafood products adding a significant and time sensitive testing responsibility for our lab. Our proposed new lab will be in Anchorage where valuable hours can be saved between sample collection and test results for raw and live seafood industries.

A core function of government is protection of human health and the environment. Government must be prepared to respond to unanticipated outbreaks of disease or the presence of contamination in food, water and animals. The Alaska seafood and food safety laboratory fulfills these functions. We analyze raw, finished, and value-added food products for bacteria, chemicals, and toxic contaminants.

The laboratory protects Alaskans by monitoring animals for zoonotic diseases—transferred from animals to humans—such as brucellosis. Lab technicians test food products for botulism, salmonella, listeria and fecal coliforms and also test public drinking water for giardia, a common contaminant found in surface water, and cryptosporidium.

The laboratory supports the seafood, dairy and shellfish industries.

To successfully market Alaska's high quality shellfish and seafood, the public must be assured they are safe. Federal requirements for shellfish are very strict because the health risks are great. Through monitoring and testing the lab assures the safety of Alaska's growing shellfish industry, including geoducks, mussels and oysters. Through new PSP sampling and testing procedures, live geoduck sales have begun to enable the industry to ship approximately 50-60

percent of its geoduck quota live, increasing its value three fold. When the industry reaches its goal of 85 percent live shipment, the industry's value will be worth approximately \$2.5 million.

A perfect example of how this lab has and will continue to help Alaska's economy grow is the farmed oyster industry. As I'm sure you all know, Alaskan oysters are top quality and easily merit their good wholesale price. In the recent past, this industry did not exist. DEC lab staff are some of the experts who helped oyster farmers get started. With our assistance, farmers set up operations that met National Shellfish Sanitation standards, which must be met to sell raw product. Those standards require that DEC sample the growing water to ensure it is free from contamination. As the industry grew, it became more difficult for our staff to travel to remote locations for the collection of water samples. We developed a method for harvesters to collect their own water samples thereby increasing the opportunity for growing areas to be approved. The laboratory is also providing proof that Alaska's commercial fish species are of the highest quality and free of contaminants by monitoring commercially caught species for pollutants. Over 600 samples were collected last year and the results will be available next month.

The laboratory supports Alaska's private labs by certifying them to conduct drinking water analysis. We train 190 private lab staff a year on how to test drinking water according to EPA standards, and assist private laboratories in obtaining certification and approval to perform federally regulated tests.

We cannot depend on private laboratories to maintain testing and analytical capabilities for situations when there is no profit margin. When private markets develop, our laboratories get out of the business. For example, the Seafood and Food Safety Laboratory does not test drinking water for fecal coliform because private labs are capable of conducting those tests. The DEC laboratory only conducts tests that are federally required to be done by a state lab or are not provided elsewhere in the state.

The health of Alaskans and the success of Alaska's seafood, shellfish and dairy industries are contingent upon the smooth and continued operation of the seafood and food safety laboratory. Through our testing, monitoring, and technical support, the laboratory assures the health of Alaskans and our environment, and supports the development of our abundant resources.

CHAIR GARY STEVENS announced he had a memo from legal counsel suggesting an amendment to change the title. He asked for a motion to adopt the committee substitute (CS).

SENATOR JOHN COWDERY made a motion to adopt CSSB 215 \D version. There being no objection, it was so ordered.

SENATOR COWDERY asked why certificate of participation bonds (COPs) rather than general obligation bonds were suggested as the financing mechanism.

DEVEN MITCHELL, Treasury Division Debt Manager with the Department of Revenue, explained that COPs are a type of financing tool that are used for specific projects that don't warrant a statewide election. The Legislature authorizes the appropriation of the lease payment on an annual basis. They are a lower obligation than general obligation bonds (GO), which carry the full faith and credit of the state.

SENATOR COWDERY referred to the fees listed on page 2 and asked whether they were typical for this type of funding and where the fees go.

MR. MITCHELL explained the costs associated with COPs are the project itself and the cost of issuing the bonds. [Balance indiscernible due to background noise.]

SENATOR COWDERY asked if the fees would go directly to the lab.

MR. MITCHELL said the fees on page 2, lines 12-17 are interrelated. They are the sizing of the COPs and anticipate the reinvestment of bond proceeds over the course of the project period. There is a \$140,000 estimate on earnings on those proceeds so the issuance amount is \$14,145,000 identified on line 9. That is added to the \$140,000 in anticipated earnings for a project total size of \$14,285,000. The \$1,391,000 on line 15 is the anticipated principal and interest payments for the COPs that would be paid on an annual basis. The \$20,862,000 on

line 16 is the total principal and interest repayment that would occur over the 15 year life of the certificates.

SENATOR COWDERY asked whether any pass-through federal funding was available.

COMMISSIONER BALLARD said they were not aware of any.

SENATOR COWDERY asked how many employees were in the existing lab and how many would be in the new lab.

KRISTIN RYAN, Director for the Division of Environmental Health, replied there are 25 employees in the Palmer lab. Eleven positions are specifically lab related and would move to the new facility. Fourteen would remain in the Palmer facility and one additional wastewater specialist would join that facility.

SENATOR COWDERY said he thought the lease was due to expire at the Palmer lab.

MS. RYAN replied the current lease expires in 2006. Some non-lab related personnel have already moved to another facility and more would do so.

SENATOR FRED DYSON referred to the 1997 Department of Administration (DOA) determination regarding long-term leases and statutory rent reduction requirements and asked for an explanation.

COMMISSIONER BALLARD admitted there was no one present that could provide an explanation.

SENATOR DYSON remarked it would be easier to change the statutes than to move to a new facility. He reviewed the Department of Revenue (DOR) fiscal note and asked if it was correct that \$200,000 per year would pay back the COPs.

MR. MITCHELL admitted the numbers in the fiscal note from DOR and those in the bill differ slightly. The fiscal note shows \$1,362,800 being paid annually for debt service.

SENATOR DYSON asked where that money would come from.

MR. MITCHELL said it would come from the general fund.

SENATOR DYSON asked what the annual total would be for operating expenses, including debt reduction, utilities and other costs.

MS. RYAN explained it would be a combination of the operating costs and the debt servicing costs.

SENATOR DYSON noted that would amount to roughly \$1.6 million per year. He asked where the public health lab is located.

COMMISSIONER BALLARD replied it is next door to the proposed lab.

SENATOR DYSON asked how much is paid for the current lease at the Palmer facility.

COMMISSIONER BALLARD said it is considerably less.

MS. RYAN estimated current payments were closer to \$100,000 per year.

SENATOR DYSON asked when the state would finish principal payments for the COPS.

COMMISSIONER BALLARD advised the term is 15 years.

CHAIR GARY STEVENS thanked Senator Dyson for comparing the projected \$200,000 payment to the current \$100,000 lease payment.

SENATOR GRETCHEN GUESS said the department was speaking of \$200,000 per year in utilities and maintenance, but they said the lease purchase was \$100,000, not the utilities and maintenance.

She asked why there was such a difference between the current operating costs and the projected costs.

MS. RYAN explained that the new facility meets all codes for heating, ventilation and air handling and includes an auxiliary power source. All of which accounts for the cost differential.

SENATOR GUESS stated she was surprised that only half the employees would move from the Palmer facility and asked which jobs would stay.

MS. RYAN said there are two food safety inspectors, four pesticide program employees, a state and a federal veterinarian and a variety of indirectly related DEC positions that don't necessarily rely on the lab services.

SENATOR GUESS asked about the resolution to examine a facility near the airport for the lab.

CHAIR GARY STEVENS said Mr. Mitchell's letter addresses the ASI consideration [SCR 6]. He asked the commissioner to comment on the status of that resolution.

COMMISSIONER BALLARD explained that the department conducted a side-by-side analysis of remodeling some of the facility occupied by Alaska Seafood International that is located by the airport versus the stand-alone facility that is on state owned property at Tudor and Boniface and next to the public health lab. Upon reviewing the analysis, the governor recommended that DEC proceed with the stand-alone facility.

SENATOR GUESS requested a copy of the analysis and asked if there was a reason to set the amount in statute rather than an giving an "up to" figure. She then asked what assurance the public has that the cost would be at or below the projection.

MR. MITCHELL said that, from his perspective, the "sum certain" is the requirement, by law, that the Legislature approves an amount. It could be expressed as a "not to exceed amount" but the Legislature has preferred to know more definitively how much they would spend. This bill has had a lot of effort expended to accomplish the new facility and to help that DOR provided an estimate of investment earnings on the proceeds while they are being drawn down. Although it's only \$140,000, current budgetary conditions make it desirable to make sure that the authorizing body of the Legislature is aware of where the money would go.

COMMISSIONER BALLARD informed the committee the site is prepared, the utilities are stubbed to the site, and the drawings are at 70 percent completion. The project has been in the works for seven years so many of the design and construction uncertainties have already been addressed.

JOHN MACKINNON, Deputy Commissioner with the Department of Transportation & Public Facilities, said the state health lab was recently completed and is a similar facility with regard to code and laboratory requirements. They have accurate numbers on the cost of that facility and the proposed lab would likely be similar in square foot costs. There are contingency pockets in the overall budget process to take up any unforeseen circumstances.

SENATOR COWDERY asked if there were private sector facilities that could meet the need.

DEPUTY COMMISSIONER MACKINNON said he would compare leasing a facility to use as a food lab to taking a warehouse and turning it into a hospital. It would be a tremendous amount of work to meet the code requirements.

SENATOR COWDERY asked if anyone had approached the private sector.

TOM LIVINGSTON, project architect, said his company did a feasibility study for leasing versus building several years ago and they determined they would be faced with constructing a building within a building if they were to lease space. Overall, lease costs were higher than ownership costs.

SENATOR COWDERY said he supported the need for the facility.

SENATOR GUESS asked how lab use would differ in the proposed facility because the operating expenses are projected to be ten times higher.

MS. RYAN explained the current laboratory does not meet laboratory or OSHA standards, which means their results are at risk and could be refuted. Although there might be an increase in samples tested at the new lab, the main thing the public is getting for the increased cost is knowledge that the results are accurate.

ROGER PAINTER, representative of the Alaska Shellfish Growers Association, spoke in support of SB 215. With regard to contracting services to the private sector, he said that there are no private labs in the country that conduct paralytic shellfish poison tests or that can process water quality samples for marine waters.

Since the lab facilities were originally leased in Palmer, the clientele has shifted from agriculture to seafood. Because seafood samples must be in the lab within 30 hours from the time they are collected, having the lab in Anchorage rather than Palmer would make it easier for businesses such as his to fit within the time constraints.

He commented that the current lab was hopelessly antiquated when he visited it last 15 years ago.

ROGER SHANNON from Kenai asserted that the lab should be placed in the ASI [Alaska Seafood International] building.

JULIE DECKER, executive officer from the Southeast Regional Dive Fishers Association, testified via teleconference in support of the bill. She said the proposed lab is economically vital to the dive fishery and the current lab staff does excellent work.

SENATOR COWDERY made a motion to move CSSB 215(STA) and attached fiscal notes from committee with individual recommendations and asked for unanimous consent.

CHAIR GARY STEVENS asked for a roll call.

SENATOR DYSON asked to speak to the issue and stated it almost defies logic to build a new stand-alone lab rather than placing it in the state owned building that houses ASI. Second, he said he is intimidated by the 15 year obligation and has trouble with the engineering estimates that make it almost as expensive to put the lab in the existing building as it is to build a new free standing building. In his view, the ASI building is a monument to how poorly government does when it gets involved in areas that should be left to the private sector.

SENATOR GUESS asked what the design costs were for the state owned building.

MR. MACKINNON said about \$1 million was spent in design costs for the stand alone building and those design costs aren't adaptable to putting the facility in the ASI building.

SENATOR GUESS asked if a true analysis would show that one would be about \$15 million and the other about \$13.3.

MR. MACKINNON agreed if you were to start from ground zero.

SENATOR GUESS said, sunk costs are sunk costs, but from the marginal cost perspective the ASI building looks to be a better long term option. She questioned why the Administration decided on the stand-alone building.

CHAIR GARY STEVENS asked Senator Cowdery to remove his motion so Mr. MacKinnon could answer the question.

SENATOR COWDERY removed his motion to move the bill from committee.

MR. MACKINNON stated that the ASI building would be a better option if the seafood lab were needed for just 15 years, but at the end of 15 years there would be operating costs to consider.

SENATOR COWDERY commented placing the lab in the ASI building would limit future tenants.

CHAIR GARY STEVENS noted Mr. Mitchell wrote a memo on March 28, 2003 that said the seafood lab would use just five percent of the ASI building and locating the lab there would make it difficult to find a tenant for the rest of the space.

SENATOR DYSON asked what portion of the operating costs would be recovered through customer fees.

COMMISSIONER BALLARD replied they might recover between 25 and 30 percent in fees by next year. They are raising fees as quickly as possible, but some of the projected increases require statutory change. Current fee income is about \$100,000 per year and with statutory changes they hope to increase it to about \$300,000.

She added that AIDEA (Alaska Industrial Development and Export Authority) only considered housing the lab in the ASI building in the last year and by that time the \$1 million to design the stand-alone building was already spent, which is why there isn't a true side-by-side comparison.

CHAIR GARY STEVENS said the current questions were of a financial nature and he would like the Finance Committee to address them.

SENATOR COWDERY made a motion to move CSSB 215(STA) and attached fiscal notes from committee and asked for unanimous consent.

CHAIR GARY STEVENS asked if there was any objection. There being no stated objection, CSSB 215(STA) moved from committee.

#

#SJR 19

**SJR 19-CONST. AM: PERMANENT FUND INCOME**

SENATOR GEORGIANNA LINCOLN, bill sponsor, advised that HJR 3 was the companion bill and she had aide Mark Gnadt with her to answer technical questions. She paraphrased from the sponsor statement.

SJR 19 proposes a constitutional amendment that would give constitutional protection to the dividend program of the Alaska Permanent Fund. It ensures the Permanent Fund Dividend will endure.

This resolution is a reiteration of the popular initiative proposed by former Governor Jay Hammond late last year. SJR 19 would require a majority vote by Alaskans before the Legislature could spend any of the Permanent Fund earnings that currently go to the dividend or to inflation proof the fund.

The Resolution would also maintain the distribution formulas used to calculate the dividend that were in place on July 21, 2002. This will further guarantee the Permanent Fund Dividend Program will remain intact.

It has been said that permanently protecting the dividend program might make the fund susceptible to federal taxation. Section 3 of SJR 19 will immediately repeal Sections 1 and 2 if the IRS determines the fund is taxable.

The Permanent Fund dividend represents approximately one-eighth of Alaska's economy, and is the most direct link between the people of Alaska and the resources they own. With the ongoing budget deficit, it is in the interest of Alaskans to constitutionally protect our dividend on which many people depend and with which they contribute to a healthy economy.

She noted the fiscal note from the Division of Elections shows an expenditure of \$1,500 in 2005 to add the information to the Official Election Pamphlet. She discussed the sectional analysis prepared by Tamara Cook. [Copy in bill file.]

CHAIR GARY STEVENS asked her to comment on the IRS issues.

MARK GNADT, aide to Representative Eric Croft, explained that certain people are concerned that if the dividend were placed in statute thereby removing the appropriation power from the Legislature, then the dividend would become more like a corporate dividend as opposed to a dividend for the public good. The IRS has made no specific findings in that regard and although there is some history that substantiates both sides, none are closely related to the Alaska Permanent Fund. The sponsors believe the IRS is waiting for the state to make a move

before they make any determination. That's why they put the provision in Section 3, which would suspend the amendments immediately if the IRS were to initially determine that any or all of the fund is taxable. If the final judgment finds that the fund is not taxable, the suspension terminates. If it finds that the fund is taxable, the suspension remains in effect.

SENATOR JOHN COWDERY said the dividend was never considered an entitlement to the fund and should never be considered as such. He asked whether a tax attorney had been consulted.

SENATOR LINCOLN replied they asked legislative legal to respond.

SENATOR COWDERY advised this is a high-risk gamble and there are other options that would assure a dividend and not risk taxation.

SENATOR LINCOLN said the point is well taken.

BOB BARTHOLOMEW, Chief Operating Officer with the Alaska Permanent Fund Corporation, advised he had three comments.

- Historically, the trustees have been concerned about the tax-exempt status of the fund. Enclosed in the committee packets is the 1998 opinion from the Attorney General's Office related to the tax-exempt status of the fund. With regard to the clause to repeal the amendment, he cautioned that once the process is started there is no guarantee the IRS wouldn't look at the current status of the fund and current issues unrelated to the constitutional amendment.
- They appreciate that SJR 19 is a proposal that is separate from the Board of Trustee proposal that deals with modernizing distribution of the fund related to the investment management perspective. They encourage continued separation of the issues.
- As the policy debate continues regarding protecting the dividend, they encourage looking at the best way to do that mechanically. This proposal is to use existing statutory language, but the corporation believes the existing statutes cause problems because they were designed for an investment fund of 20 years ago, which is completely different than the fund they guide today. Part of the board's recommendation is to update the statutes.

SENATOR GRETCHEN GUESS asked for verification that changing the constitution to POMV [percent of market value] doesn't guarantee the dividend program it is simply a different management payout.

MR. BARTHOLOMEW explained that the current proposal in the Senate and House would guarantee an annual distribution from the permanent fund, not what the distribution would be used for.

SENATOR GUESS asked if there had been any communication with the IRS.

MR. BARTHOLOMEW said it is his understanding that they have had no direct communication with the IRS.

PETRIA FALKENBERG from Kenai testified via teleconference in support of SJR 19 because it protects the PFD. The PFD belongs to the people and they should have a say in how the government spends its resources.

JAMES PRICE testified via teleconference in support of SJR 19. He said it's important to give the people a chance to vote on this important issue.

FRED STURMAN, testified via teleconference that this would take money out of legislators hands and he was in favor of that.

ROGER SHANNON testified via teleconference and said he agreed with the other speakers and urged passage of SJR 19.

LORI CHURCHILL testified via teleconference to urge passage of SJR 19. She advised she was sending written testimony as well.

RUBY KIME from Ninilchik testified via teleconference in support of SJR 19. She said she favored restricting the amount of money available to the Legislature.

SENATOR COWDERY asked that information regarding how far back the IRS would look if they decided the fund was taxable be passed to the Judiciary Committee.

SENATOR LINCOLN said she would look for that information.

SENATOR GUESS made a motion to move SJR 19 and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

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#SB 211

**SB 211-REGULATIONS: NOTICE AND DISTRIBUTION**

CRAIG TILLERY, Assistant Attorney General, stated he was available for questions.

CHAIR GARY STEVENS asked Mr. Tillery if passage of the bill would result in substantial savings.

MR. TILLERY advised they expected the savings to be in the range of \$215,000.

SENATOR GRETCHEN GUESS asked how general circulation of a newspaper would be judged.

MR. TILLERY advised the current rule is that notices are placed in just one newspaper that has general circulation, which is judged by the extent to which they reach the public. They look at where likely interest would be for a particular bill and have determined that Anchorage, Fairbanks and Juneau newspapers would all technically qualify under the provision.

SENATOR GUESS asked if a department head would make the judgment on general circulation.

MR. TILLERY said that was correct.

SENATOR GUESS asked if they knew how many Alaskan households have Internet access and what computer requirements there would be to use the web site.

MR. TILLERY said any computer connection would work and people have access to the Internet at home, at work and at the public library. He said access is pervasive, but he didn't have data on the number of people with Internet access.

SENATOR GUESS asked whether the bill would alter DOT [Department of Transportation & Public Facilities] notices to communities regarding traffic issues.

MR. TILLERY said this bill deals only with regulations.

SENATOR GUESS asked if there was a reason that only the pipeline regulations were mentioned and not other RCA regulations.

MR. TILLERY said they took out the regulations that are technical and almost exclusively of interest to industry and not of general public interest.

SENATOR GUESS advised they might want to rethink the pipeline act because it is becoming more consumer based and of greater interest.

SENATOR JOHN COWDERY made a motion to move SB 211 and attached fiscal note from committee and asked for unanimous consent.

SENATOR GUESS objected.

CHAIR GARY STEVENS called for a roll call. Senators Cowdery, Dyson and Chair Gary Stevens voted yea and Senator Guess voted nay. SB 211 moved from committee.

#

#HJR 22

**HJR 22-PATRIOT ACT AND DEFENDING CIVIL LIBERTIES**

SENATOR JOHNNY ELLIS, sponsor of SJR 15, stated his resolution was superceded by action in the House. He described this as a bi-partisan effort that makes a strong statement.

JOMO STEWART, staff to Representative David Guttenberg, said the original resolution was put through quickly after September 11 and a number of the provisions seriously undermine liberties and civil rights. There is a growing groundswell throughout the country to have the Act reviewed and perhaps amended. Currently there is a move to take out some of the sunset provisions that are in the Act and there is also a Patriot Act II that would expand on some of the surveillance provisions. This would support Representative Don Young in his effort to amend the legislation.

CHAIR GARY STEVENS announced it was his intention to move the resolution out of the committee that day.

JOHN BRADING testified via teleconference in support of HJR 22.

FRANK TURNEY testified via teleconference in support of HJR 22.

**TAPE 03-31, SIDE A**

**5:10 pm**

SCOTT CALDER testified via teleconference in support of HJR 22 although he noted he didn't agree with removing the term "probable cause" as the criteria and replacing it with the term "reasonable suspicion."

JODI OLMSTEAD testified via teleconference in support of HJR 22.

GRAHAM STOREY from Nome testified via teleconference to say he did not support HJR 22. Citizens may gather in groups and they may criticize their government. He urged Alaska to pass a resolution in support of the right not to be attacked by terrorists.

JENNIFER RUDDINGER, Executive Director of the Alaska Civil Liberties Union (ACLU), testified via teleconference that the ACLU supports HJR 22 including the words "reasonable suspicion."

MR. TIMOTHY BURGESS, U.S. Department of Justice attorney for Alaska said he found out about the hearing the previous evening from Senator Guess. He stated:

One of the responsibilities of my office is to enforce federal law, including the Patriot Act, so I was a little concerned to make sure that both sides of the story in regard to this act and what the federal government is doing in conjunction with our state and local colleagues is brought before your committee before this resolution is passed. I think there are a lot of misconceptions being offered about what the Patriot Act does or doesn't do and that is part of the concern I have. I think, for instance, there is concern that under the Patriot Act federal agents are now able to review library records and books checked out by U.S. citizens. If you read the act, that's absolutely not true. In order to do that, agents have to get a court order approving their looking for those records. It can't be for U.S. citizens. It can't even be for domestic crimes or domestic terrorism. It has to be in regard to an international terrorism investigation after a court approves us seeking those records. So, that just highlights some of the misconceptions that are being, I think, used in order to support resolutions such as this.

I'm also concerned, for instance, with the suggestion, as I read it, from this proposed resolution, that state employees can't cooperate with federal

authorities unless there is a reasonable suspicion of a violation of Alaska law. Well there are a number of differences between Alaska law and federal law but there may well be criminal activity that concerns a federal law related to terrorism and I think one reading of this proposed resolution might chill state employees from cooperating with their federal colleagues in trying to prevent another terrorism incident. So, those are a few of the concerns I have and if, Mr. Chairman, if you or the other Senators at some point would like additional information from me I'd be happy to provide that. I didn't prepare any formal testimony today because I wasn't really aware that this was going to be considered today. But, I am concerned that the Senate reach out to the law enforcement community, which is charged with the responsibility for preventing another terrorism incident like happened in September of 2001.

RYNNIEVA MOSS, aide to Representative John Coghill, said she wanted to address several issues:

- The resolution says state resources would not be used to enforce federal law, but that doesn't mean the state couldn't or wouldn't cooperate in an investigation.
- Congressman Don Young is planning to introduce legislation to remove some of the provisions of the Patriot Act.
- During the Revolutionary War, Benjamin Franklin said, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

SENATOR DYSON made a motion to move CSHJR 22(RLS) and attached fiscal note from committee with individual recommendations. There being no objection, it was so ordered.

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There being no further business to come before the committee, Chair Gary Stevens adjourned the meeting at 5:25 pm.