

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 27, 2019

1:32 p.m.

MEMBERS PRESENT

Senator Shelley Hughes, Chair
Senator Lora Reinbold, Vice Chair
Senator Mike Shower
Senator Peter Micciche
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 6

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; relating to the budget reserve fund and establishing the savings reserve fund; and relating to the permanent fund.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 6

SHORT TITLE: CONST AM:APPROP. LIMIT; RESERVE FUND

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/30/19	(S)	READ THE FIRST TIME - REFERRALS
01/30/19	(S)	STA, JUD, FIN
03/21/19	(S)	STA AT 1:30 PM BUTROVICH 205
03/21/19	(S)	Heard & Held
03/21/19	(S)	MINUTE(STA)
03/25/19	(S)	STA AT 5:00 PM BUTROVICH 205
03/25/19	(S)	Heard & Held
03/25/19	(S)	MINUTE(STA)
03/26/19	(S)	STA AT 1:30 PM BUTROVICH 205
03/26/19	(S)	Moved SJR 6 Out of Committee
03/26/19	(S)	MINUTE(STA)
03/27/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

MIKE BARNHILL, Policy Director
Office of Management and Budget
Office of the Governor
Juneau Alaska

POSITION STATEMENT: Participated in the presentation of SJR 6.

ED KING, Chief Economist
Office of Management and Budget
Office of the Governor
Juneau Alaska

POSITION STATEMENT: Participated in the presentation of SJR 6.

CORI MILLS, Senior Assistant Attorney General
Civil Division
Labor and State Affairs Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Participated in the presentation of SJR 6.

ACTION NARRATIVE

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CHAIR SHELLY HUGHES called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Micciche, Reinbold, Shower, Kiehl and Chair Hughes.

SJR 6-CONST AM:APPROP. LIMIT; RESERVE FUND

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CHAIR HUGHES announced that the only order of business would be SENATE JOINT RESOLUTION NO. 6, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; relating to the budget reserve fund and establishing the savings reserve fund; and relating to the permanent fund.

CHAIR HUGHES made opening remarks.

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CORI MILLS, Senior Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Juneau, introduced herself.

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MIKE BARNHILL, Policy Director, Office of Management and Budget, Office of the Governor, Juneau, said SJR 6 is one of three resolutions the governor has introduced seeking to amend the Constitution of the State of Alaska. Each one is a critical piece for the governor's plan for fiscal sustainability for the State of Alaska, he said.

MR. BARNHILL reviewed slide 2, "Current Constitutional Spending Limit (Article 9, Section 16)."

- Limit set at \$2.5 billion, plus inflation and population growth since 1982
- Calculation for FY20 would be about \$10.5 billion
- Spending subject to cap includes all UGF operating and capital expenditures, most statewide items, plus some DGF items
- Excludes PFDs, bond proceeds, debt service payments, non-State sources of revenue, public corporation revenues, and disaster declarations
- At least 1/3 of limit reserved for capital projects and loans
- Can break the limit for capital projects, if approved by the voters.

MR. BARNHILL said that SJR 6 seeks to amend Article IX, Section 16. He offered to introduce the current proposal and to defer to Mr. King and Ms. Mills for more detail.

He provided a brief history that led up to the legislature's consideration of a spending limit in 1981. Oil had been discovered, the Trans-Alaska Pipeline System (TAPS) had been built, and oil began to flow in 1977. The state budget had increased over 9,000 percent from 1960-1982. During the same time period, inflation had almost tripled and the population had nearly doubled. Even when combined, the effects of population and inflation did not come close to the 9,000 percent increase in the budget.

MR. BARNHILL continued. By this time other states were considering adopting constitutional spending limits. The Alaska legislature found it was an appropriate time to get spending under control as it attempted to manage the influx of

substantial new revenues. The legislature passed a resolution to limit spending, which came before the voters and passed by a wide margin. One provision in the resolution required it to be resubmitted to the voters in 1986. That vote passed by an even larger margin, he said.

He stated that the current spending limit has not been an effective means to control spending. The calculation was based on \$2.5 billion plus inflation and population growth. In FY 2020 this would be about \$10.5 billion, he said. The population and adjustment for inflation has produced a budget substantially larger than any budget from 1982 until today, so it has not been an effective means to limit government spending.

MR. BARNHILL explained that SJR 6 would limit the growth of allowable appropriations. He reviewed the bullet points on slide 2 that supported the need to change the appropriation limit.

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ED KING, Chief Economist for the State of Alaska, Office of Management and Budget, Office of the Governor, reviewed historical state spending on slide 4, a line graph depicting unrestricted general fund spending (UGF) adjusted for inflation and population. He characterized it as the "per capita" inflation adjusted government spending from FY 1975 to FY 2019. This data was generated by legislative finance and it represents unrestricted general fund monies, including agency operations, statewide items and capital items, but not transfers between accounts.

He explained that spending increased from FY 1975 to FY 1982 as revenues increased such that the state was spending over \$16,000 per person by 1982. The constitutional amendment was pegged to the highest level of spending the state had ever experienced. Following the 1982 constitutional limit, the administration was seeking ways to limit spending during the state's oil bust and boom phase so downward pressure was occurring. This created a gap between what the state was allowed to spend and what it needed to spend, he said.

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MR. KING reviewed slide 5, "UGF Spending History and Different Limits." This slide presents five spending scenarios to provide a visual line graph comparison. The black dotted line at the top of the slide represents the spending limit under current law, based on the 1982 constitutional amendment. The spending limit was pegged to growth and limited to a fixed number in the

Constitution of the State of Alaska of \$2.5 billion. In doing so, it allowed the limit to grow from the previous limit, even if the state actually spent money to the limit. For example, in 1991 the limit was allowed to grow from the previous year's limit, not from the previous year's spending. That continued to allow the spending limit to grow, he said. The administration considered that the rate of growth was generous when it developed SJR 6.

He directed attention to the dotted [black] line in the middle of the slide that depicts the 1982 spending limit based on half of inflation and population growth. The red dotted line on the slide represents what the current constitutional limit would have done had it been pegged to a pre oil level of spending rather than \$2.5 billion. That line shows how spending would have been allowed to increase just with inflation and population, irrespective of the amount of revenue being generated, he said. He reviewed the red line, noting it was a smaller number through the 80s but caught up in the early 2000s to a figure that is basically where agency operations are today. He said the blue layer on the slide represents agency operations, the orange represents statewide items, including contributions to retirement, unfunded liability, debt service payments, and oil tax credit purchases. He said that the gray portion represents the capital budget. Finally, the dashed [black] line in the middle represents what the current language in SJR 6 would have done had it been in place in 1982, he said. It tracks the actual rate of spending fairly well, updated based on actual spending rather than on a fixed amount, he said.

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MR. KING reviewed slide 6, "Considerations."

- Not all government spending needs to grow with population
 - Teachers and troopers, maybe
 - Regulators and auditors, maybe not
- For 20 years, the state did not need inflation adjustments, even when they were allowed
- A high allowed rate of growth from a record high spending level leads to an ineffective limit

MR. KING said that slide 5 shows that the current constitutional language is very generous in its allowance. He reviewed the bullet points, adding that during the 1990s, the state

experienced a period when inflation-adjustments were allowed but not taken advantage of. It may call into question whether full inflation adjustments are actually necessary, he said. Finally, the level at which the appropriation limit would be pegged is important. That level should be reset according to actual needs of the state rather than a fixed point in time or a fixed reference, he said.

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MR. KING reviewed slide 8, "Where does the current Path Lead?" This bar graph shows that using the PFDs to balance the budget would lead to turning to savings and eventually to taxes to fund the state budget. This chart means to say that without a check in spending, any or all of those tools will become necessary, he said.

MR. KING reviewed slide 9, "UGF Spending History."

He said that as revenues increased in 2005-2013 as oil prices spiked, the budget rose alongside those revenues. The current limit did not limit spending growth when revenues rose.

MR. KING reviewed slide 10, "UGF Spending History." He said that this slide provides an historical timeline. The impetus of the 1982 constitutional amendment was a 264 percent increase in UGF spending. Although government spending was not restricted by the constitutional amendment, it was restricted until 2005, when oil prices rose. In 1999, oil prices were at the lowest point at \$9 per barrel and were at their highest in 2008 at \$147 per barrel. That rapid increase in oil prices led to a tremendous amount of money flowing into the treasury, leading to a 261 percent increase in UGF spending from FY 2005-2014. At that point, oil prices crashed again. Once again, this put pressure on the state to reduce the budget. However, current government spending is still \$2 billion above what it was before oil prices spiked, he said.

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MR. KING reviewed slide 11, "What if the Proposed Spending Cap Passed before Oil Prices Spiked?" He suggested that slide 11 shows that a lot of the growth would not have been allowed if SJR 6 had passed in 2000. A. The financial consequences of those decisions equaled \$29 billion in spending instead of going into savings accounts to generate additional earnings. If that \$29 billion had not been spent, the state would be facing a very different situation, he said.

MR. KING reviewed slide 12, "Size of Permanent Fund if Proposed Spending Limit was in Place before Oil Prices Spiked?" He said that it would have nearly \$140 billion versus the current \$65-67 billion balance.

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MR. KING reviewed slide 13, "What Actually Happened?" Instead, expenditures have not been reduced to align with revenues and the state has depleted its savings accounts. The current constitutional budget reserve account (CBR) balance is \$1.7 billion, with the statutory budget reserve account (SBR) at \$172 million. He pointed out that the Office of Management and Budget expects about \$300 million to return to the CBR by the end of 2019. Currently the reserves will be \$2 billion, whereas in 2013 the state had over \$16 billion in savings, he said.

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MR. BARNHILL reviewed slide 15, "Governor's Constitutional Amendments."

Three constitutional amendments were introduced to provide sustainability, predictability, and affordability for Alaska:

- SJR 6: Set an annual spending and savings rule to stabilize spending and grow the Permanent Fund.
- SJR 5: Changes to the current PFD formula would require a vote of the people - Alaska is an owner state.
- SJR 4: Require a vote of the people before the implementation or increase of any tax.

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MR. KING reviewed slide 16, "Where Does Governor Dunleavy's Plan Lead?"

He said that the permanent fiscal plan in SJR 4, 5, and 6 will achieve goals the governor can build on. One of the primary and most important aspects is to restrict government growth. SJR 6 may or may not allow the government to grow in the future.

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SENATOR SHOWER said the fiscal plan was previously discussed in the Senate State Affairs Standing Committee. The Senate Finance Committee today indicated it could not stay within the

governor's proposed budget. He asked whether OMB could model several alternative plans to illustrate the variables.

MR. KING offered to model alternate scenarios and compare them to the governor's plan. He pointed out that an infinite number of combinations of tools could be highlighted. He said that SJR 6 would limit future growth, but the chart also assumes that the full budget reductions will occur. He cautioned that with increased budgets, government growth would also be higher, and savings will be drawn to cover it.

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SENATOR KIEHL asked if he could model an estimated period of economic growth, such as one in which the gas line was built or if the state decided on greater economic development. He asked how that would affect services. He noted that earlier Mr. King posited the services that need to rise with population growth and those that do not. He suggested it might be helpful to consider the impact [SJR 6] would have on the Article VIII obligations.

MR. KING answered that he would be happy to discuss the relationship between economic growth and government growth and what restrictions SJR 6 would place on the ability of the economy to grow when restricting government growth. Besides economic questions, a number of philosophical questions would need to be answered as well, he said. He offered to use different assumptions for inflation and population growth to demonstrate the divergence between those levels of population and inflation adjusted figures as compared to what would be allowed under SJR 6.

SENATOR KIEHL said that would be helpful. He recalled that Senator Sullivan once suggested that the state ought to be able to sustain 3-3.5 percent economic growth over the long term. Obviously economic growth and population growth tends to be closely related, he said. He said that he had questions about what effect SJR 6 would have on the state's ability to meet its other constitutional obligations under normal inflation. He said that the crux of the Judiciary Committee is to assess what impact SJR 6 would have on the state's responsibility to meet its other constitutional obligations.

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CHAIR HUGHES said she too would be interested. She referred to slide 6, that shows that numbers of troopers and teachers may need to increase, but not the auditors. She asked whether he

could review the budget and tease out a rough estimate of the percentage that would need to move along with population growth and inflation and how much could stay static. She referred to page 2, to the per capita spending in 2008.

MR. KING answered that in 2008, it was \$16,000 per person in 2019 dollars whereas today it is about \$8,000 per person.

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CHAIR HUGHES asked whether the chart on slide 8 accounts for the effects the pension liability would have on the PFDs or if the PFDs would run out earlier.

MR. KING said the obligation will increase next year and as a result the POMV would be completely consumed in FY 2022 with no remaining funds available for distribution.

CHAIR HUGHES asked for further clarification that there would be a PFD this year and next year but nothing after that.

MR. KING answered that is an accurate statement in this scenario based on the only tool the legislature was using to fill the \$1.6 billion budget gap.

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CHAIR HUGHES asked how many states have constitutional spending caps.

MR. BARNHILL answered that the National Conference of State Legislatures reported in 2010 that 30 states had some form of spending, appropriation, or revenue limit in their constitution or in statute.

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SENATOR KIEHL referred to the historical charts. He said that significant spending reductions happened from FY 1985-1989, and from FY 1994-2000 gradual reductions occurred. He asked what constitutional provision forced those spending cuts.

MR. KING responded that a constitutional provision did not force the cuts. He said an economic reality happened in all three cases as the financial strength of the state deteriorated. In the 1980s the state faced the greatest recession it had ever experienced, which drove reductions. In the late 1990s and early 2000s, and again in 2014 to the present, the state had a significant reduction in oil prices, he said.

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CHAIR HUGHES said she agreed that economic realities caused the budget reductions. There probably was not the same connection to the legislature because of the lack of technology, she said. She was unsure of the level of outreach or communication the legislature had with Alaskans or the number of protests against budget reductions in the 1980s as compared to now. She said she understands that people currently track the legislature via GavelAlaska. Further, the legislature now holds many meetings throughout the state.

MR. BARNHILL agreed that in the 1980s and 1990s Alaskans did not have the same technology, but he felt they have always been well informed. He said the level of reaction is higher today, but this administration's approach to the budget is also unprecedented.

CHAIR HUGHES recalled reading the daily newspaper and the nightly news years ago, but she did not recall a constant connection to the legislature. She said it makes it more difficult to make changes with the current pushback the legislature is experiencing. She pointed out that Senator Kiehl related that years ago, the budget cuts naturally occurred when the economics called for it. She did not wish to speak for Senator Kiehl, but she thought his point was that if it took care of itself then, it should take care of itself now. However, she does not think it can because people have become dependent on certain services and spending and it is so much easier to organize groups to oppose the cuts. She did not think the response to cut the budget would happen as readily as it did in the 1980s.

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SENATOR SHOWER asked the record to reflect his belief that if the state continues down the path of passing larger budgets, the permanent fund will be gone in a few years. Some people think that the current budget level is acceptable and that it could increase, he said. He related his understanding that if SJR 6 were to start on that baseline, the charts in today's presentation on SJR 6 show that outcome. He remarked that he saw some nods of assent in the audience. He said he did not think people understand the urgency of the situation. In the last five years, the state has depleted the permanent fund's earnings reserve account. Essentially, the legislature has maintained a higher standard of living in Alaska by drawing down its savings accounts, he said. The legislature and administration did not hold the hard discussions it is currently having, he said. He

argued that [past] budget reductions were not naturally occurring ones. Instead, the legislature ran out of options [in the 1980s]. Currently the legislature has an option to protect the permanent fund savings or to use them. In recent years the legislature chose to use them, he said. Now the legislature must do something different.

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MR. KING responded that Senator Shower's comments were accurate, and that if the state continues to spend at the current level of the FY 2019 budget, it would require a reduction in the permanent fund dividend, implementation of some form of tax, or withdrawal from savings [to fund the budget]. Those "tools" or options would eventually run out. He predicted that the option to cut the PFD would run out next year and the spending option would run out within the next eight years. At that point, in order to maintain its current level of budget spending, the legislature would need to pass a tax to raise revenues because there is no other option. The legislature has proactively reduced spending in the last five years to counter reduced state revenues.

He said that SJR 6 would seek to prevent increases in spending in the first place, so that reductions would not be necessary. He characterized it as the difference between allowing the situation to solve itself versus proactively managing the long-term fiscal situation by adopting a permanent fiscal plan.

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CHAIR HUGHES summarized Mr. King's comments, that if the legislature stays on the current trajectory and does not reduce spending, that the PFD will run out in two years and the legislature would need to implement taxes in eight years. She asked if that was an accurate summary.

MR. KING verified the information on the slide. He said that using a combination approach, the PFD would be gone in two years. However, because of the timing, he predicted that it would take about 20 years before the state ran out of savings. If the legislature only leaned on the permanent fund savings and did not cut the PFD, the savings would be depleted in about eight years, he said.

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SENATOR MICCICHE commented, "There's a lot of semantics in that question" and it's a misleading answer because of the choices that are given. He said that the previous committee discussed

this at length as did the Finance committee, but he would not get into those discussions today.

He offered his belief that slide 8 represents the worst-case scenario, which no one was talking about implementing. Conversely, slide 16 represents "the best of the best." Nothing would go wrong and everything would go perfectly. The legislature would support full budget cuts, people would not rise up against cuts to government services, and oil prices would not drop. He posited that the state was probably somewhere in the middle. Aside from these scenarios, what is imperative about passing SJR 6, with some slight adjustments, is that if the legislature had reset spending to a reasonable curve, it would have shaved off billions in excess spending from FY 2008-2010 and FY 2011-2015. The state would have been over any conservative measure of a reasonable spending slope, he said.

SENATOR MICCICHE said that passing the resolution is imperative. He offered his support for SJR 6 because it would set an appropriation limit, one that must also use a reasonable level of inflation. He acknowledged that the committee could continue to argue about when savings would run out or on the price of oil. However, the details are less important than the overall picture, he said. He said that the current constitutional spending limit is inadequate. Further, what happened was that during times of high revenues, constituents demanded that legislators overspend, so they did. Some of these same people are now asking the legislature to "slash and burn," he said. Adopting an adequate appropriation limit could avoid the tension that occurs during times of high or low state revenues and it would regulate a long-term sustainable budget. He asked whether the administration agreed with his high-level assessment.

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MR. KING said he agreed that the two scenarios highlight what would happen if the legislature does nothing or if it does everything. The presentation provides the bookends to show what the future may look like, but as Senator Micciche stated the reality might be somewhere in the middle, he said.

CHAIR HUGHES said it was important for people to realize what could happen if the state does not do anything. The two scenarios presented as bookends were important to understand, she said.

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CORI MILLS, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division, Department of Law, presented the sectional analysis of SJR 6.

MS. MILLS reviewed slide 18, "Appropriation Limit (SJR 6/HJR 7)."

Big picture:

- Current appropriation limit is so high that the limit is never met

- Constitutional Amendment changes the current appropriation limit to be more meaningful and impactful over time

- Deposits excess revenues annually into savings

- Changes the Constitutional Budget Reserve Fund to the Savings Reserve Fund and limits spending and fund size

She said that the current appropriation limit was never effective. She explained the point of SJR 6 is that the administration seeks to bring the appropriation limit down to an effective level. It would also create a different savings rule than the current Constitutional Budget Reserve Fund (CBR) and change the name of the CBR to a Savings Reserve Fund. It would also limit the spending from the fund in certain ways, she said.

MS. MILLS reviewed slide 19, "Appropriation Limit: Section 1(a)."

- Appropriation Limit -- "Appropriations made for a fiscal year shall not exceed the average of the appropriations made in the previous three fiscal years by more than fifty percent of the cumulative change in population and inflation since January 1 of the previous calendar year, derived from federal indices as prescribed by law, or two percent, whichever is less."

- o Provides a list of exceptions for spending that falls outside the appropriation limit cap
- o Examples: permanent fund dividends and money placed in the fund; money for disasters; obligations and proceeds from G.O. bonds and revenue bonds
- o Most substantial change from existing exceptions-- capital spending is not an exception and falls within the appropriation limit cap

MS. MILLS characterized the appropriation limit as the crux of SJR 6, since it would determine the glide path moving forward. It would start with a baseline of \$2.5 billion and add in population and inflation [adjustments]. It would take the average of the last three fiscal year appropriations to create the baseline. Appropriations shall not exceed 50 percent of population growth and inflation over the previous year or two percent, whichever is less, she said. This means the appropriation would never exceed two percent growth rate in any given year. Those are the two main changes in Section 1(a), she said.

SJR 6 would capture the exceptions in the current constitutional appropriation limit, but enumerate them for clarity

MS. MILLS said that the most substantial change from existing exceptions is for capital spending. Under the current appropriation limit, one-third must be for capital spending and the legislature can go outside the appropriation cap with voter approval and if the projects are of a similar scope and purpose. That exception was not included in the appropriation limit. Instead, the administration's approach was to use General Obligation (GO) bonds for capital projects since that process requires voter approval, she said.

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SENATOR KIEHL asked for the size of the state's current deferred maintenance backlog.

MR. KING said he recalls it is in the \$2 billion range, but he would need to confirm that and report back to the committee.

SENATOR KIEHL said that unless the state incurred bonding costs and bond interest payments, that any [appropriations for] deferred maintenance would need to fall under the cap.

MS. MILLS answered that is correct.

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MR. KING reviewed slide 20, "Illustration of Total Budget Appropriation Limit." He explained that the graphic listed on the slide highlights that the state's budget is in excess of the general fund spending commonly discussed. He said that the total state budget is \$11-12 billion, which includes federal funds and several other items that would not be considered part of the spending limit.

He directed attention to the blue bars, which illustrate what would be subject to the cap while the orange bars illustrate what would be excluded from the cap. These include all federal funds, the permanent fund dividend payment, some designated general funds (DGF), and specifically those designated funds that are program receipts generated from public corporations, including revenue bond proceeds. He said some other items in the budget would be excluded from the cap. For example, debt service payments, capital items issued by general obligation (GO) bonds and transfers between accounts would be outside the cap. He said the spending limit did not mean that the state was reduced from \$12 billion to \$5 billion. Instead, those items subject to the cap would need to remain under the cap.

CHAIR HUGHES referred to the DGF not subject to the cap. She said some discussion has occurred with respect to how the state could continue Alaska Marine Highway System services. For example, one option would be to move it to a public corporation. She asked whether charges to customers traveling on the ferries would fall under the cap. She further asked whether tuition increases at the University of Alaska would fall under the cap as DGF monies.

MS. MILLS answered that the exceptions were specific to revenue bonds, that is the obligations and proceeds on revenue bonds or the debt service as well as the proceeds received. State revenues received in other ways, such as fees or tuition would fall under the cap.

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MR. KING reviewed slide 21, Calculation of Appropriation Limit." He stated that this slide provides a mathematical calculation for the spending cap. Effectively, over time given the population and inflation assumptions, over time there would be a growth rate of approximately 0.8 percent. The population assumption used is one percent growth and the inflation assumption used is 2.25 percent, he said.

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MR. KING reviewed slide 22, "Comparison of Current Limit to Proposed Limit."

He said that this illustrates visually the legislative finance data set for unrestricted general funds (UGF). He said that the red bars represent the next three budgets assuming that the legislature were to pass something in line with the budget the

governor proposed. The first year would be the FY 2022 budget. The calculation for the spending limit would include the FY 2019 budget, which is higher than the proposed budgets, while the FY 2022 budget would be below the cap. The allowable spending growth converges to less than one percent growth.

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MS. MILLS, in response to an earlier question from Chair Hughes, said she was remiss in not pointing out an exception under the current constitutional appropriation limit. She said it was a little broader than revenue bonds. She read, "appropriations of money received from a non-state source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the state that issues revenue bonds." She said an argument could be made that the language is a little broader, so if the state created a public corporation for the Alaska Marine Highway System, it may fall outside the cap. She specified that SJR 6 only speaks to revenue bonds.

CHAIR HUGHES asked if the University of Alaska would be considered a public enterprise.

MS. MILLS answered that she was unsure, but she would think about it and respond back to the committee. She said that that the university is in a special status in the Constitution of the State of Alaska but still part of the executive branch. She thought that it might fall under a specific status as a public enterprise, but she wanted to confirm that.

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CHAIR HUGHES reviewed paragraph (7), on page 2, lines 10-12, which read "of money received by the State from a source other than the State or federal government that is restricted to a specific use by the terms of a gift, grant, bequest, or contract; and". She said that dedicated funds are not allowed per the Constitution of the State of Alaska. She asked for an example of when this provision would apply.

MS. MILLS pointed out that this pertained to determining what would be calculated, not whether it was subject to appropriation. In fact, that was the reason it would be outside the cap, she said. For example, someone could donate money to the state or through "Pick.Click.Give." She noted that some options allow the person to donate to a state fund. These funds must be used for a specific purpose but that does not mean that the funds would not still be subject to appropriation by the

legislature. The funds just cannot be used for any other purpose, she said.

CHAIR HUGHES asked if the legislature could use funds elsewhere if the funds were donated for a specific purpose.

MS. MILLS responded that if the state were to do so, it would probably be in violation of the purpose the donor put forward. She agreed that this could get complicated. She added that it would fall under a non-state source.

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MR. BARNHILL stated that a number of small funds currently exist in statute, including the Arctic Winter Games Fund and the Veterans Memorial Fund. He said that anyone is permitted to donate to those funds. When the state receives the funds, it receives them in trust, and it would be placed in the fund for that purpose. He said that those types of revenue sources would be excluded from the cap.

MS. MILLS recalled that "Killed in the Line of Duty" was another fund.

SENATOR KIEHL said he would like follow-up on the University of Alaska because it is explicit in the Constitution of the State of Alaska that it is the state university. He asked for further clarification on whether the Alaska Mental Health Trust Fund or the Public School Trust Fund would be subject to the cap.

MS. MILLS referred to page 2, lines 8-9, to paragraph (6), which read, "of money held in trust by the State or received from the federal government for a particular purpose;". She said that the Alaska Mental Health Trust Fund would be outside the cap.

MR. BARNHILL answered that the Public School Trust Fund was a trust fund established in state law that predates statehood. He said that it was money held in trust by the state for a particular purpose.

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SENATOR KIEHL asked if this language includes moving the corpus of these trusts or if it covers the earnings of these trusts being spent for the purposes of the trusts.

MR. BARNHILL referred to page 1, line 12, and read "an appropriation". He referred to page 2, lines 8-9 of SJR 6, to paragraph (6), which read, "of money held in trust by the State

or received from the federal government for a particular purpose;". He said that when the legislature appropriates money from the Public School Trust, it is appropriating from money held in trust so it would be excluded from the cap. In response to the question on the University of Alaska, Article VII, [Section 2] reads:

Section 2. State University

The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

He said that the university is a public corporation that is established in the Constitution of the State of Alaska.

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SENATOR KIEHL referred to the lands of the Alaska Railroad Corporation (ARRC) governed by federal rules. He said it has been likened to trust responsibility. He asked for the status of the Alaska Railroad Corporation (ARRC) in terms of SJR 6.

MS. MILLS explained that the Alaska Railroad Corporation (ARRC) is a public corporation that received lands in a land grant, and it manages those lands. The ARRC has been seen as an exception since it does not come to the legislature for an appropriation unless the corporation has a specific item that cannot be funded by its own revenue. The appropriation limit wouldn't have any effect because it specifically speaks to making an appropriation.

SENATOR KIEHL suggested that if the ARRC was not specifically exempted, the constitutional amendment could raise a significant question about whether a state corporation must fall under the cap.

MS. MILLS said that SJR 6 would not fundamentally change what requires an appropriation under the Constitution of the State of Alaska. This language would require the legislature to follow the guidelines when an appropriation is made. The calculation would consider everything that is appropriated and subtract the enumerated items. She related her understanding that the ARRC does not typically receive appropriations. The ARRC's revenues

are not part of the appropriation bill, so the limit would not apply.

SENATOR KIEHL offered his belief that it would create a loophole to work around funds not being subject to future appropriations.

[2:28:22 PM](#)

CHAIR HUGHES recalled work being done on the Canada rail link from Alberta to Alaska, which could be a gamechanger. She said if the ARRC earned substantial revenue, it is possible the legislature could make adjustments to allow those revenues to assist the state. She asked whether that would change anything since the state would not be appropriating funds to the ARRC.

MS. MILLS answered that SJR 6 would not affect revenues. If the state created another line of revenue, it would not increase the appropriation limit. It would just be mixed in with general funds to be spent. She said she would have to examine whether it would change how the ARRC is treated. The Department of Law does not currently represent the railroad. She said she was unsure because it is very complicated corporation due to the historical impact of federal laws.

CHAIR HUGHES said she wanted to be sure the committee thinks that through.

[2:30:13 PM](#)

MS. MILLS reviewed slide 23, "Appropriation Limit: Section 1(b) and (c)."

Section 1(b) and (c) • Excess revenues would automatically be deposited into savings accounts in priority order

Total amount in general fund that is "unexpended, unobligated, and unappropriated" (i.e., excess revenues)

Priority 1: Pay back the permanent fund principal 50% of the income that was deposited into the ERA that fiscal year

Priority 2: [if money remains after priority 1] Get savings reserve fund balance up to appropriation limit (formerly the CBR)

Priority 3: [if money remains after priority 2] Put money into permanent fund principal to continue growing the fund

MS. MILLS said that Section 1(b) and (c) are new subsections added to the appropriation limit. Excess revenues would be deposited into savings accounts in priority order. She explained that using priority number 1, money would be moved into the permanent fund principal equal to 50 percent of the income that was deposited into the Earnings Reserve Account for that year. This would basically mean paying back the principal for money that was earned in income about equal to what was usually expended for dividends.

She explained that the second priority would be to the savings reserve fund, currently the constitutional budget reserve, up to the appropriation limit. The idea is to always have enough money in the savings account to pay for a full year of government expenditures. The third priority would be to deposit any remaining money into the principal of the permanent fund to continue to grow the fund.

[2:31:54 PM](#)

CHAIR HUGHES asked for further clarification on the recommended amount of savings to have in a reserve balance.

MR. BARNHILL said he was unsure if there is a best practices on reserve funds. He offered to check with the National Council of State Legislatures (NCSL) for recommendations.

CHAIR HUGHES said it would be helpful to know if the recommendation is to have more than one year in reserves.

[2:32:30 PM](#)

MR. KING said the amount of funds needed in the savings account to ensure sufficient liquidity to meet cash flow needs is a function of several things. First, it would depend on the amount of money flowing into the account. Second, it would depend on the volatility of other revenues. Third, it would also depend on the balance of the fund. If ways to stabilize revenues could be found, such as the ones that Senate Bill 26 provided last year, or if oil revenues could be stabilized, a smaller balance could be held in the reserve account. Further, if additional ways to refill the fund were found, the account balance could be lower. This proposal makes the savings reserve fund a second priority. Given the current volatility of revenue streams, his analysis showed that the CBR would not satisfy the requirement for

liquidity and it would be necessary to use the ERA to balance the budget. This was especially true, he said, in his modeling through 2009 and again in 2016. He said that this issue has a lot of moving pieces and it isn't possible to provide an in-depth review today, but he would do so in the future.

[2:33:58 PM](#)

SENATOR MICCICHE pointed out that SJR 6 would limit the ability to spend to 1.9 percent below projected inflation. This would mean that the state would spend more money addressing the \$2 billion in deferred maintenance at times when available cash could allow it to catch up, such as during the spending spikes shown in the past. The state would need to bond, but it would no longer be able to bond, and it could no longer spend its earnings or revenue, even when excess revenue could allow it to catch up. Even though the building and roofing material costs continue to rise due to inflation, the state would be stuck at 1.9 percent below that inflation. However, the state would be saving at the permanent fund growth rate of 6.7 percent. It doesn't make sense, he said.

He argued that the state should strive to have an adequately growing permanent fund and healthy PFDs, but SJR 6 would exacerbate and accelerate the growth of the permanent fund while it would "choke" the ability to respond to inflation. At some point the savings would become unusable. The [permanent fund] is perpetually and adequately funded through a POMV with a growth rate that would allow it to pay all future bills. However, the state would not be able to keep up with needs it must deliver per the Constitution of the State of Alaska.

SENATOR MICCICHE said he strongly supports the appropriation limit, but the trick would be to find the right slope to meet those requirements and have an adequate level of savings growth, but limit excess spending when earnings are high. He did not think that SJR 6 built in the right balance. However, he agreed with the overall philosophy, he said.

[2:36:41 PM](#)

CHAIR HUGHES said the volatility of oil prices is one reason she wondered whether the savings would be adequate because during low prices when savings were not adequate, it would mean using the earnings reserve. She said her question is whether it is the right order or amount.

[2:37:14 PM](#)

SENATOR KIEHL asked for the rationale behind only dropping windfalls to the permanent fund and not to other funds that generate investment earnings that would offset state spending, reduce the need for general fund revenues, and the potential tax on resources or Alaskans. He said the Public School Trust Fund came up earlier, and there is a Higher Education Fund, which are used to fund the state program. Earnings from the Power Cost Equalization Fund are used instead of Alaska's dollars.

MS. MILLS said the funds he mentioned were statutory funds and could change. She said it would be constitutionalizing another fund if they were specifically identified. She cautioned against constitutional language that includes statutory references.

MR. KING pointed out that SJR 6 was an introductory proposal. The administration would expect it to change as it goes throughout the legislative process.

[2:39:20 PM](#)

CHAIR HUGHES asked if it was possible to identify another fund that has not been constitutionalized or if a separate constitutional amendment would be necessary.

MS. MILLS said she thought Chair Hughes was referencing the Bess v. Ulmer case and the question of whether it would be considered an amendment or a revision and if a new fund would create more risk. She offered her belief that it would be permitted, but the legislature must be careful about how it is done. The legislature must also decide if it was something that should be memorialized forever in the Constitution of the State of Alaska.

[2:40:13 PM](#)

SENATOR KIEHL said that the existing limit mentions permanent fund dividends. The PFD is not in the Constitution of the State of Alaska either, he said. He said he was unsure that the argument would apply. He suggested considering language related to trust funds but not to mention them explicitly. He pointed out that they are funds that generate investment earnings and there was a lot of "DFMH" in the Mental Health Trust appropriation that could be offset by more Mental Health Trust receipts.

MS. MILLS agreed that it was possible. She cautioned the committee to avoid referencing the statutes. She said Senator Kiehl is correct that the current appropriation limit mentions the PFD. It does not guarantee the permanent fund dividend, or constitutionalizing it, but it does mention it as an exception.

SENATOR REINBOLD said she loves the limitations in SJR 6. She was unsure why the current constitutional spending limit did not work. She said the state does not need to spend billions on education, the university, or medical care. She supports a spending limit and would like to pass SJR 6 so the voters can decide. She offered her belief that government spending is out of control and needs restraint and limitations.

[2:43:21 PM](#)

MS. MILLS reviewed the flowcharts on slide 24, "Appropriation Limit: Sections 2,3, and 5. She said that this would replace the existing CBR with a new Savings Reserve Fund with limits. Tax and royalty settlements would flow in the Savings Reserve Fund (SRF) based on the priorities to fill up the SRF to the appropriation limit. It would change how funds could be spent. The CBR can be accessed by a three-fourth vote for any public purpose, but it has not been done because of Hickel v. Cowper, that determined that the amount available for an appropriation included the Earnings Reserve Account (ERA). Since the ERA contains so much money, it was not possible to reach the level where the amount available for appropriation was under the previous year's budget.

[2:44:51 PM](#)

CHAIR HUGHES said that since Senate Bill 26 passed, she wanted clarification on whether it related to the entire Earnings Reserve Account and not just the earnings reserve Percent of Market Value (POMV) draw.

MS. MILLS answered yes. The court ruled that the entire amount in the ERA must be counted. Therefore, the legislature was restricted to use the three-fourths vote. Under the resolution, the Savings Reserve Fund (SRF), would eliminate the need for the three-fourths vote. It would repeal that provision and allow spending by majority vote, taking into account the amount available for appropriations from the general fund, but not the CBR. Thus, if revenues were much lower, the legislature could use a majority vote only to fill the gap between revenues in the general fund and the appropriation limit. Lastly, because of the excess savings rule created in the appropriation limit, it would remove the repayment provision. Instead of repaying the CBR, the legislature would use excess revenues to fill the permanent fund and the CBR. The remaining provisions are transition provisions for applicability and to place it on the ballot.

[2:46:33 PM](#)

CHAIR HUGHES asked whether she would discuss the legal memos from the Department of Law and Legislative Legal Services.

[2:46:57 PM](#)

MS. MILLS said that when amending the Constitution of the State of Alaska, language is added so constitutional issues do not typically arise. One legal question that arose was whether the change can be made by amendment, such as SJR 6. The amendment would go through the legislature and must pass by a two-thirds vote of both houses. It would then be placed on the ballot for a vote. A majority vote of the people would approve it. Another way the Constitution of the State of Alaska could be amended is by revision. Revision must be done by a constitutional convention. The Alaska Supreme Court has only ruled on one case to determine the difference between an amendment and a revision. This relates to which process must be used to change the constitution, either the legislative process to amend it or the constitutional convention to revise it, she said. The Alaska Supreme Court ruled on three different constitutional amendments that passed the legislature in one year under *Bess v. Ulmer*. This ruling provides some guidance on how the court applies this test. The court ultimately determined that it would focus on the qualitative aspects or "how it changes the substance" and quantitative or "how many times it touches it."

[2:48:44 PM](#)

MS. MILLS said she found it helpful to frame the issue the way the court did, such as whether the proposed amendment was changing the powers, the authorities, the relationships created by the original framers by fundamentally changing the organic whole of the Constitution of the State of Alaska and the way it works. The court found it to be a hybrid approach, a balancing test, so something may quantitatively be minimal. This would mean the qualitative effect would need to be higher or vice versa. If the qualitative effect was minimal, the quantitative would need to be higher in order for it to be considered a revision.

[2:49:26 PM](#)

MS. MILLS reviewed the three other constitutional amendments that the court considered under *Bess v. Ulmer*. First, the court considered the rights of prisoners and ruled that the proposed constitutional change would be a revision. Thus, it could not go on the ballot, she said. Basically, the court found that the rights of prisoners in Alaska would always be the same as those under the U.S. Constitution. This meant that any case law under the U.S. Constitution would also apply in Alaska. The court's

logic was that the proposed constitutional amendment would substantially alter the substance and the integrity of the Constitution of the State of Alaska. The court said that the Constitution of the State of Alaska is a document of independent force and effect. The court also considered other provisions and determined it would alter as many as 11 separate sections of the Constitution of the State of Alaska.

[2:50:27 PM](#)

MS. MILLS explained that the Alaska Supreme Court also considered the marriage amendment, which was later found unconstitutional under the U.S. Constitution, but at the time the court allowed it to go to a vote of the people. The court considered that the proposed constitutional change was limited in both its scope and effect, so it allowed this measure to be placed on the ballot for a public vote.

MS. MILLS turned to the last one, which was Legislative Resolve 74. Prior to this constitutional amendment, the executive branch had the sole authority to set the legislative district boundaries. This constitutional amendment changed it to a neutral board, appointed by the governor, the legislature, and the chief justice. Thus, the board consisted of all three branches of government, she said. The court ruled that it would only be an amendment despite that it changed most of Article VI of the Constitution of the State of Alaska. The court considered it to be quantitatively minimal, stating that it would not fundamentally change the constitutional role of any branch of the governmental process.

MS. MILLS said that the Department of Law was very comfortable that SJR 6 would constitute an amendment and not a revision. She said that the spending limit is already an amendment to the Constitution of the State of Alaska. This would merely change existing amendments and furthering the original intent of those amendments.

[2:52:21 PM](#)

MS. MILLS explained that the people voted on an appropriation limit because they wanted spending to be capped in some way. The spending limit was not effective and SJR 6 aimed to put in a meaningful and impactful appropriation limit, which is very much in line with the amendment voters originally voted on when they passed the constitutional spending limit. This could be said about the constitutional budget reserve (CBR) fund. She characterized it as a reaction and desire to save during any state windfalls. It would ensure that revenues were removed from

the general fund and locked away in a manner that allowed for spending with a higher vote, but it would primarily be deposited as savings.

The department used the same purpose and goal in constructing SJR 6, so the department views SJR 6, when taken as a whole, to make neither quantitative nor qualitative changes. It touches on just two sections and it furthers the impact and intent of amendments already in place in the Constitution of the State of Alaska. In its current form, the department believes the court would likely deem SJR 6 as an amendment, she said.

[2:53:57 PM](#)

MS. MILLS said she cannot speak for Legislative Legal Services who issued a differing opinion, but she would point out that the court's test cites to a Florida Supreme Court test. The court was citing it to show how the states distinguish between amendments and revisions. She said that Florida uses a four-part test, but ultimately the Alaska Supreme Court did not adopt that test. Instead, it adopted the qualitative and quantitative test as a hybrid approach, she said

CHAIR HUGHES pointed out the Legislative Legal services memo [of March 29, 2019] refers to four best factors. She asked for further clarification that Ms. Mills considers them as four Florida factors.

MS. MILLS stated that in her opinion she did not view them as best factors, or Alaska Supreme Court factors, but as ones related to Florida Supreme Court factors that apply to the Florida constitution.

[2:55:06 PM](#)

CHAIR HUGHES referred to the DOL memorandum on reapportionment. She viewed it as a considerable change since it changed reapportionment from being solely assigned to the executive branch to a board that encompassed all three branches of government. She suggested that seemed to be a much higher qualitative level than the amendments in SJR 6.

[2:55:41 PM](#)

SENATOR KIEHL asked whether Legislative Legal Services could provide a response.

CHAIR HUGHES said that the committee could ask Meghan Wallace, Director, Legislative Legal Services to respond to questions.

SENATOR KIEHL pointed out that he would like a response to the idea that the memorandum does not cover the Bess v. Ulmer test. He said he thought it would be relevant to understand what test was being applied and the relevance. He characterized them as dueling memos.

[2:56:46 PM](#)

SENATOR MICCICHE said that the four-part test in 1999 seemed to set precedent. He asked for further clarification on why it was not being used in Alaska law.

MS. MILLS said she would be interested in hearing the reasoning for Ms. Wallace citing it. In Bess v. Ulmer, the court discussed the difference between an amendment and a revision. The court cited a number of treatises and provided a general discussion. She read, "The case law of other states, which have similar constitutional provisions that distinguish between amendments and revisions, is in accord with the scholarly writing." She said that the scholarly writing basically acknowledged the fundamental difference so they must be treated differently.

She read, "The Supreme Court of Florida described one aspect of the distinction by stating ..." It goes on to say, "The same court later held that the power to amend the constitution as distinct from the power to revise it includes ..." The decision lists the four-factor test, but not because the Alaska Supreme Court wanted to adopt it as its test. The court was just showing what other states had done, she said. The court speaks to how California's test was applied. One section in the decision was identified as "The Alaska Rule and its application to the three challenged ballot measures." Under Section C of the opinion, the court said, "In deciding whether the proposal is an Amendment or a revision, we must consider both the quantity and quality of the proposed constitutional changes. We agree with the reasoning of the California Supreme Court ..." It then listed three California cases, but it never cited the Florida case again. She said she was unsure of the import given to the Florida case because she did not view the Alaska Supreme Court as adopting it, she said.

[2:59:18 PM](#)

SENATOR MICCICHE pointed out that the Senate State Affairs had a different focus than the Senate Judiciary Committee when it considered SJR 6. He referred to the qualitative aspect in SJR 6. For example, if it plotted out what would happen to an interest rate of .08 percent over 30 years, it would result in life changing outcomes. He did not agree with Ms. Mills, he

said. He suggested that taking that amount of dollars and locking away revenue earned in boom years with a flat growth rate would change the very fabric of how the state would operate. He predicted it would have a more dramatic effect than any change in the state, even pre-oil. He said he was unsure it was possible to operate with a 1.9 percent inflation rate for forty years. He heard the analysis and took it at face value, but he thought that the impact over time crossed over to a very different place. It would be one that would impact the state's ability to meet constitutionally required services, he said.

[3:01:33 PM](#)

MS. MILLS agreed that significant policy questions arise especially given the impact and growth curve the legislature would like to see over time. *Bess v. Ulmer* relates to the Constitution of the State of Alaska as a whole and the powers and authorities, she said. It does not mean that changing those won't have a significant impact, but the state already has a constitutional appropriation limit, which was meant to limit government. She said it is important to consider how it would impact government spending and government overall.

CHAIR HUGHES also agreed. As Senator Reinbold indicated, it was important to have a spending limit, so she would like to see it hold up constitutionally.

[3:02:55 PM](#)

SENATOR KIEHL referred to her memo of March 25, 2019. He said he did not see much discussion of the court decision in *Bess v. Ulmer*, despite the second half of the proposed marriage amendment. He said that it was one sentence but qualitatively colossal.

MS. MILLS agreed. She said that the court struck the language. In terms of the analysis, the [marriage amendment] was something that could be reviewed and considered. It just did not seem foundational to the test the court adopted. She said it also demonstrated that the court has the power to strike certain portions. She said she had no other comment. She said it is difficult to look into a crystal ball and determine what the court would do to a specific amendment, in terms of striking language. She commented that she may have missed his point.

[3:04:23 PM](#)

SENATOR KIEHL said it is important to the analysis. As she previously stated, *Bess v. Ulmer* addressed three proposed amendments. He said he was trying to assess how important this

is to the administration. He stated that the constitutional framers put on the popular direct election of representatives in a participatory government. Constraints on the power of appropriation are pretty different than changing the decennial redrawing of lines. In fact, given the number of cases related to the power of appropriation, he would be surprised if the court did not think so, too.

3:05:51 PM

MR. BARNHILL related his understanding that SJR 6 was the most important piece of legislation in Governor Dunleavy's plan for fiscal stability for the state. He offered his belief that the attorney general stated that yesterday. He reiterated that it is of paramount importance. He suggested members review the historical slides that demonstrate a distinct correlation between the price of oil and the amount of government spending. He highlighted that the problem is that the state ends up in spending traps created by a high price of oil. The whole point of SJR 6 is to help the state to avoid [overspending]. If oil prices were to rise above \$100, a spending limit in this form would force the state to save for when oil prices go down again. It would help the legislature avoid these very disruptive legislative sessions when the price of oil drops and it becomes very difficult to cut spending.

SENATOR KIEHL said that the substantive effect on four different provisions of Article XI, along with the significant impact on the Article II powers of the legislature, and Mr. Barnhill's statement that this was critically important, fails the best test, because it is an attempt at a revision.

3:08:04 PM

SENATOR REINBOLD said she did not think that Court of Appeals Judge Burgess had the authority to do what he did at the federal level. She disagreed with the decision. She said the constitutional amendment was the will of the people. She offered her belief that the decision undermined Alaskans and the Constitution of the State of Alaska.

She offered her belief that every dime for state government comes from the private sector. In FY 2016, the legislature spent \$16 billion, of which \$3 billion was for capital projects and \$3 billion was for the Public Employees Retirement System and the Teachers Retirement System. She said it was the largest budget in the state's history. She acknowledged the Constitution of the State of Alaska prohibits dedicated funds, except Section 15 and for a federal government program. She reiterated that government

needs to be restrained. She said that she thinks SJR 6 is good for the private sector and for government since it may result in innovation.

[3:10:58 PM](#)

CHAIR HUGHES referred to the Legislative Legal Services memorandum [of March 23, 2019], in which four factors were not adopted in *Bess v. Ulmer*. She asked whether the sweeping change was referring to the qualitative test. She noted that Senator Kiehl mentioned reapportionment and redrawing of district lines, which has huge ramifications. She referred to Ms. Wallace's statement that read, "The Court also suggested in *Bess*, that if a fundamental power of one of the branches of state government is significantly altered, this could result in the type of 'sweeping change' that is not permitted to be accomplished in an amendment to the state constitution." After reading that, she wondered if the constitutional amendment related to reapportionment should have been a revision. It did alter the fundamental power of all three branches, she said.

MS. MILLS said one of the quotes that she found most helpful was, "We conclude that a revision is a change which alters the substance and integrity of our constitution in a manner measured both qualitatively and quantitatively." She said that the sweeping change could be one way to think of it qualitatively and quantitatively. The court went on to develop a hybrid approach but considering how many sections it touched and the types of fundamental changes it made. She identified these as all factors, that sweeping change could be one way to describe it, but in going back to the court's language, it found that there were two amendments. These concepts of having an appropriation limit and the Constitutional Budget Reserve (CBR) were adopted by a majority vote. That never really materialized due to the good savings in the ERA, she said. She characterized her comments as a global comment on how *Bess v. Ulmer* approached these issues.

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CHAIR HUGHES said that Ms. Mill's presentation indicates that she does not believe SJR 6 makes any "sweeping changes." She said that she does not think so either. She acknowledged that SJR 6 would make some considerable tweaks. She said she thought back to when the [original spending limit] amendment was put forward and voters passed it. It was a matter of what was more important, people's immediate gratification or putting away for Alaskans' grandchildren. She said that she laments that the state does not have the \$29 billion it spent. She wondered

whether in 20-30 years if the state will have frittered away billions of dollars that could alleviate a serious bind her granddaughter could face as an adult. She said that she does not think it passes a "sweeping change" but rather that it would just adjust the existing spending limit.

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SENATOR MICCICHE remarked that he normally would agree, but he totally disagrees that this would not be a "sweeping change." In fact, the changes in SJR 6 would be a major revision, he said. He offered his support for an appropriation limit. However, noting it would go from an appropriation limit that has almost no effect to one that would severely limit almost anything, especially using a 1.9 percent below projected inflation rate, was not a mathematically reasonable approach. He remarked that SJR 6 would make sweeping changes and dramatically change the legislature's ability to appropriate, even when those changes were requested by the people.

He offered his belief that SJR 6 would not pass the legislature in its current form. He would like a spending limit, but without a reasonable rate and approach the legislature would not pass an appropriation limit. He reminded members that last year a resolution was introduced for a spending limit using a reasonable approach, but it did not receive a single hearing in the other body. He said he would like to see a very strict appropriation limit that could pass the legislature. Further, it should be based on math that works, that could pass constitutional muster and limit future growth and spending. He remarked that he may have a couple of amendments to offer.

[3:16:36 PM](#)

CHAIR HUGHES said she has some concerns, but when she was speaking in general about tweaking amendments, it was at the 30,000-foot level. She said she also wants a constitutional amendment that could pass the legislature. She acknowledged that a robust economy requires a certain amount of infrastructure. She expressed concern that the capital budget was so low at the same time that the legislature cannot reduce the operating budget. She has wondered about the calculation on the inflation rate growth.

[3:17:22 PM](#)

SENATOR REINBOLD argued that SJR 6 would pass based on the support the State Affairs Standing Committee heard when it took public testimony. She said she thought that the committee would be defying the people by saying it would not pass and the

legislature would not be representing them fairly to say it won't pass. She said she thinks the voters would pass it because the majority of people support it.

[3:17:52 PM](#)

SENATOR MICCICHE said he refuses to make statements like that one. He said that he was very interested in limiting government growth. However, it would require a two-thirds vote of both bodies to get to a vote of the people. He offered his belief that SJR 6 was the most important bill to pass since it will define the economic future of Alaska.

CHAIR HUGHES said she thought if it were to go to voters it would pass. However, the legislature has a process. She said that the legislature must obtain two-thirds of the votes in the building. She said she firmly believes in infrastructure for economic growth, so she has concerns about that piece.

[3:18:59 PM](#)

SENATOR REINBOLD said the Constitution of the State of Alaska does prioritize one-third of the permanent fund for capital projects.

MR. BARNHILL said that would refer to the existing spending limit, which provides a one-third reservation for capital projects. This proposal would eliminate that provision.

SENATOR REINBOLD said she would like to hold further discussions on the one-third provision for capital projects in the current spending limit.

[SJR 6 was held in committee.]

[3:20:24 PM](#)

CHAIR HUGHES reviewed upcoming committee announcements.

[3:21:13 PM](#)

There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 3:21 p.m.