

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 28, 2019

3:38 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator John Coghill, Vice Chair
Senator Lora Reinbold
Senator Peter Micciche
Senator Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 4

Proposing amendments to the Constitution of the State of Alaska prohibiting the establishment of, or increase to, a state tax without the approval of the voters of the state; and relating to the initiative process.

- MOVED CSSJR 4(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 5

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 4

SHORT TITLE: CONST. AM: STATE TAX; INTIATIVE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/30/19	(S)	READ THE FIRST TIME - REFERRALS
01/30/19	(S)	STA, JUD, FIN
03/26/19	(S)	STA AT 1:30 PM BUTROVICH 205
03/26/19	(S)	Heard & Held
03/26/19	(S)	MINUTE(STA)

03/27/19 (S) STA AT 6:00 PM BUTROVICH 205
03/27/19 (S) Heard & Held
03/27/19 (S) MINUTE (STA)
03/28/19 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SJR 5

SHORT TITLE: CONST. AM.:PERMANENT FUND & DIVIDEND
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/30/19 (S) READ THE FIRST TIME - REFERRALS
01/30/19 (S) STA, JUD, FIN
03/28/19 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SUZANNE CUNNINGHAM, Legislative Director
Office of the Governor
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SJR 4.

CORI MILLS, Assistant Attorney General
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SJR 4.

BRUCE TANGEMAN, Commissioner
Department of Revenue
Fairbanks, Alaska

POSITION STATEMENT: Introduced SJR 5.

BILL MILKS, Assistant Attorney General
Civil Division
Labor and State Affairs Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SJR 5.

LYNETTE CLARK, representing self
Fox, Alaska

POSITION STATEMENT: Stated support for SJR 5.

MIKE COONS, President
Alaska Chapter of Association of Mature American Citizens (AMAC),
Palmer, Alaska

POSITION STATEMENT: Stated full support for SJR 5.

JEB STUART, representing self
Deadhorse, Alaska
POSITION STATEMENT: Stated support for SJR 5.

JIM CLARK, representing self
Fairbanks, Alaska
POSITION STATEMENT: Stated support for SJR 5.

KAREN PERRY, representing self
Chugiak, Alaska
POSITION STATEMENT: Stated that she is on the fence on SJR 5.

GARY MCDONALD, representing self
Anchorage, Alaska
POSITION STATEMENT: Stated support for SJR 5.

WILLIAM TOPEL, representing self
Anchorage, Alaska
POSITION STATEMENT: Stated support for SJR 5.

KYLER DIAS, representing self
Wasilla, Alaska
POSITION STATEMENT: Testified in support of SJR 5.

VIKKI JO KENNEDY, representing self
Kodiak, Alaska
POSITION STATEMENT: Testified in support of SJR 5.

RANDY FINCH, representing self
Nikiski, Alaska
POSITION STATEMENT: Stated support for SJR 5.

JACK JOHNSON, representing self
North Pole, Alaska
POSITION STATEMENT: Stated support for SJR 5.

FREDLAIN ELLIS, representing self
Wasilla, Alaska
POSITION STATEMENT: Stated support for SJR 5.

SUSAN JOHNSON, representing self
North Pole, Alaska
POSITION STATEMENT: Stated support for SJR 5.

MATTHEW HELLER, representing self
Fairbanks, Alaska
POSITION STATEMENT: Stated support for SJR 5.

MARK SESLER, representing self
Soldotna, Alaska
POSITION STATEMENT: Stated support for SJR 5.

SALLY JOHNSON, representing self
Palmer, Alaska
POSITION STATEMENT: Stated support for SJR 5.

DEBORAH HOLLAND, representing self
Anchorage, Alaska
POSITION STATEMENT: Stated support for SJR 5

TANIA KITKA, representing self
Kodiak, Alaska
POSITION STATEMENT: Stated support for SJR 5.

JOHN MOROPOULOS, representing self
Anchorage, Alaska
POSITION STATEMENT: Stated support for SJR 5.

SANDRA ST. JOHN, representing self,
Sutton, Alaska
POSITION STATEMENT: Stated support for SJR 5.

MELANIE GLATT, representing self
Palmer, Alaska
POSITION STATEMENT: Stated support for SJR 5

LAWRENCE SALZMAN, representing self
Fairbanks, Alaska
POSITION STATEMENT: Stated that he currently supports SJR 5

DENISE BOGUE-SKONIECZKI
Anchorage, Alaska
POSITION STATEMENT: Stated support for SJR 5.

SHERRY PARSONS, representing self
Wasilla, Alaska
POSITION STATEMENT: Stated support for SJR 5.

CHERYL SHUPE, representing self
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SJR 5.

KEN BROWN, representing self
Soldotna, Alaska

POSITION STATEMENT: Stated support for SJR 5 to constitutionalize the PFD.

GREG PARSONS, representing self
Wasilla, Alaska

POSITION STATEMENT: Stated support for SJR 5.

ALBERT NINGEULOOK, representing self
Shishmaref, Alaska

POSITION STATEMENT: Couldn't say whether he supports SJR 5, but he is in favor of saving the PFD and using it wisely.

KIM BERGEY, representing self
Palmer, Alaska

POSITION STATEMENT: Stated support for SJR 5

GEORGE PIERCE, representing self
Kasilof, Alaska

POSITION STATEMENT: Stated support for SJR 5.

DEAN KASISCHKE, representing self
Seward, Alaska

POSITION STATEMENT: Stated support for SJR 5.

RODERICK PERRY, representing self
Chugiak, Alaska

POSITION STATEMENT: Stated support for SJR 5 to enshrine the PFD in the constitution by a vote of Alaskans.

RON GILLHAM, representing self
Soldotna, Alaska

POSITION STATEMENT: Stated support for SJR 5.

DEBRA KIRK, representing self
Kodiak, Alaska

POSITION STATEMENT: Stated opposition to SJR 5

JANET FAURE, representing self
Juneau, Alaska

POSITION STATEMENT: Stated opposition to SJR 5.

WILLIAM WARREN, representing self
Nikiski, Alaska

POSITION STATEMENT: Stated support for SJR 5.

MARY FORBES, representing self
Kodiak, Alaska

POSITION STATEMENT: Stated opposition to SJR 5.

CAROL CARMAN, representing self
Palmer, Alaska

POSITION STATEMENT: Stated support for SJR 5

KACI GILLHAM, representing self and family
Sterling, Alaska

POSITION STATEMENT: Stated support for SJR 5

NEVA MILLS, representing self
Chatanika, Alaska

POSITION STATEMENT: Stated support for SJR 5

SIRELEI KAORI, representing self
Anchorage, Alaska

POSITION STATEMENT: Stated support for SJR 5.

JAMES SQUIRES, representing self
Gulkana, Alaska

POSITION STATEMENT: Stated support for SJR 5.

MARK GLATT, representing self
Palmer, Alaska

POSITION STATEMENT: Stated support for SJR 5.

DONNA WILMOT, representing self and her family
Kasilof, Alaska

POSITION STATEMENT: Stated support for SJR 5 to enshrine the PFD in the constitution.

BRETT WILMOT, representing self
Kasilof, Alaska

POSITION STATEMENT: Stated support for SJR 5 to enshrine the PFD in the constitution.

LARRY PANNELL, representing self and family
Soldotna, Alaska

POSITION STATEMENT: Stated support for SJR 5.

STACEY WRIGHT, representing self
Kenai, Alaska

POSITION STATEMENT: Stated support for SJR 5

BILL MILKS, Assistant Attorney General
Civil Division
Labor and State Affairs Section

Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided answers to questions that were raised about SJR 4 during the first hearing and delivered a sectional analysis for SJR 5.

ACTION NARRATIVE

[3:38:02 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:38 p.m. Present at the call to order were Senators Coghill, Kawasaki, Reinbold, and Chair Shower. Senator Micciche joined the committee soon thereafter.

SJR 4-CONST. AM: STATE TAX; INITIATIVE

[3:38:42 PM](#)

CHAIR SHOWER announced the consideration of SENATE JOINT RESOLUTION NO. 4, Proposing amendments to the Constitution of the State of Alaska prohibiting the establishment of, or increase to, a state tax without the approval of the voters of the state; and relating to the initiative process.

He advised that the bill was last heard on 3/27/19 when public testimony was opened and closed. Written testimony may be submitted to senate.state.affairs@akleg.gov until 6:00 p.m. this evening. He invited Mr. Milks to the witness table to respond to the questions that were raised during the first hearing.

[3:39:18 PM](#)

BILL MILKS, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Juneau, said the first question asked why any new state tax or increase in an existing state tax would take effect "in a statewide election held more than one hundred twenty days from enactment of the proposed law." He explained that one hundred twenty days aligns with the initiative provision in art XI, sec. 4, of the Constitution of the State of Alaska.

[3:40:48 PM](#)

SENATOR COGHILL related that he asked for the rationale because he wondered if it was arbitrary. He asked if the fiscal note would be affected.

MR. MILKS said he didn't believe so.

Mr. MILKS said Senator Coghill also asked if any changes to existing tax exemptions would trigger a vote. The answer is no, changing an existing tax would neither create a new tax nor change a tax rate. He reminded the committee that this legislation is patterned after the Colorado model and the Colorado Supreme Court considered a case about exemptions and held that changing a tax exemption would not trigger a vote.

[3:42:13 PM](#)

SENATOR MICCICHE joined the committee.

SENATOR COGHILL suggested Mr. Milks and the committee look into that a little further because he believes it would be challenged if changing an exemption increases the tax. For example, "if you remove an exemption and their tax payment goes up, is that going to be a rate increase?"

MR. MILKS said he appreciates that but the intent is that exemptions are not subject to this legislation and therefore do not trigger a vote.

MR. MILKS turned to Senator Coghill's that asked about special assessments referred to in art IV, sec. 11, Constitution of the State of Alaska. He explained that those special assessments are exceptions from a debt prohibition. The intent is that kind of special assessment is not covered by this legislation and therefore would not trigger a vote.

SENATOR COGHILL suggested the next committee of referral explore that further and get a better definition because it talks about state or political subdivisions and the pipeline, for example, has an assessment that's been litigated repeatedly.

[3:46:32 PM](#)

SENATOR KAWASAKI read: "an initiative can't be used to dedicate revenues, make or repeal appropriations". He asked what the cure is for that because it's been used quite often to strike initiatives from the ballot.

MR. MILKS pointed out that voters have the initiative power on taxes but not appropriations. He explained that SJR 4 would create an automatic review process by the legislature and the voters of any new [state] tax or change in tax rate. The voters already have the constitutional authority to review a tax passed by the legislature such as the Senate Bill 21 initiative and vice versa through the referendum process, he said.

SENATOR KAWASAKI observed that subsection (c) in Section 1 gives the legislature the power to veto whatever an initiative did.

MR. MILKS agreed and added that an existing constitutional provision gives the legislature the same authority, but not for two years.

SENATOR KAWASAKI commented that this would establish another weird power dynamic between the people and legislature.

CHAIR SHOWER emphasized that this would be further vetted in the next committee of referral.

SENATOR KAWASAKI asked for an explanation of the genesis of the Colorado law, which is the model for SJR 4.

MR. MILKS responded that Colorado adopted a similar provision called the Tabor Amendment. It provides that new state taxes must be reviewed by the voters.

[3:51:21 PM](#)

SENATOR COGHILL recalled that Tabor was an initiative to amend the Constitution of the State of Colorado.

MR. MILKS said he believes that's correct.

SENATOR COGHILL asked how many articles are in the Colorado constitution.

MR. MILKS said he did not know.

SENATOR COGHILL advised that the Colorado constitution is much more complex and the Constitution of the State of Alaska has significant barriers to protect the rights of the people of Alaska that differ from the Colorado constitution. He suggested the administration look at the interplay between the two constitutions because Colorado provides voters much more prescriptive authority.

MR. MILKS said he'd look at that but he ultimately believes that the tax restrictions are the same and the Alaska Supreme Court would look at that and the intent of the legislature as this legislation goes through the process.

SENATOR COGHILL requested the committee members who are also on the Judiciary Committee ensure that the language is as clear as possible so the intent is not open to interpretation.

3:55:01 PM

SENATOR REINBOLD asked him to clarify his comment about the barriers in the Alaska constitution to protect the rights of the people.

SENATOR COGHILL said the barriers he was referring to in the Alaska constitution are unique among all the states. He referenced [Article VIII] that treats fish, game, and land management differently than Colorado or any other state. He explained that he used the term "barriers" because the legislature is barred from writing laws that don't respect the rights of the people.

SENATOR KAWASAKI reiterated his earlier question about the genesis of the legislation. "Is this something that the Department of Law boiled down from the state constitution or is this something that was boiled down from the Colorado constitution to fit the state Constitution?"

MR. MILKS replied the policy comes from the Colorado legislation that deals with state tax but the legislation was drafted based on the Alaska Constitution. For example, the one hundred twenty day provision is based on the timeframes in the Alaska constitution.

CHAIR SHOWER asked for clarification that SJR 4 is modeled on the concept of that provision in the Colorado constitution, but it is not an exact copy.

MR. MILK confirmed that the concepts are the same but SJR 4 was drafted to fit the Alaska constitution.

3:59:28 PM

SENATOR KAWASAKI noted that in Colorado the second iteration of the Tabor Amendment dealt with the contracting of state debt. He asked if the Dunleavy Administration considered that as well.

MR. MILKS replied, "A tax amendment was the Administration's choice here, not a wholesale following other states approach to all fiscal issues."

SENATOR KAWASAKI asked if there was consideration given to also limiting the state's ability to collect fees.

MR. MILKS replied SJR 4 was drafted to amend art. IX, sec. 1, which deals with taxes. It is not intended to include fees.

CHAIR SHOWER cautioned against asking the presenter to give the Governor's opinion.

SENATOR KAWASAKI asked if the request for this proposal from the Administration to the Department of Law included a request to look at fees and state debt.

MR. MILKS replied the communications between attorneys at the Department of Law and the Governor are confidential.

[4:02:28 PM](#)

SENATOR KAWASAKI asked if any special advisors were consulted to discuss the proposed constitutional amendment and how it would match state law.

MR. MILKS replied the Department of Law advised the Governor's Office and drafted a constitutional amendment. The Administration made the policy decisions. He added, "I'm a lawyer for the Administration."

SENATOR KAWASAKI said he was trying to find out if the nonprofit organization, Americans for Prosperity, had any influence over the constitutional amendment proposed in SJR 4. The organization is based in Colorado and has advocated for the Tabor Amendment in other states.

MR. MILKS replied he worked on SJR 4 as a Department of Law attorney and he believes that the Administration's representatives have explained that this is one of three proposed constitutional amendments that reflect the policy of the Administration.

CHAIR SHOWER said these questions should go to the Governor or his representatives.

[4:04:38 PM](#)

SUZANNE CUNNINGHAM, Legislative Director, Office of the Governor, Anchorage, stated that no outside organization was involved in creating or drafting this policy. "It was a concept he was interested in that he was aware of and we started working with the Department of Law and how to draft a constitutional amendment to the Alaska state constitution."

SENATOR REINBOLD asked Senator Kawasaki his intent for asking the question.

CHAIR SHOWER stopped the line of questioning.

He solicited a motion for the first of the two amendments he wanted the committee to consider.

[4:06:17 PM](#)

SENATOR COGHILL motioned to adopt Amendment 1, work order 31-GS1070\A.1, Nauman, 3/28/19.

AMENDMENT 1

OFFERED IN THE SENATE
TO: SJR 4

BY SENATOR SHOWER

Page 1, line 13, following "effective":
Insert "on the later of"

Page 1, line 14, following "governor":
Insert "or an effective date provided for by
concurrence of two-thirds of the membership of each
house"

CHAIR SHOWER explained that both amendments clarify language to ensure the intent is clear. He asked Mr. Milks to comment on the process and what the clarification does.

[4:07:04 PM](#)

MR. MILKS explained that Amendment 1 clarifies the effective date of a law enacted by the legislature and approved by the voters. It also provides flexibility for the legislature to set a different effective date.

SENATOR KAWASAKI questioned the reason for requiring concurrence of two-thirds of the membership of each house.

MR. MILKS replied that aligns with the effective date in the Constitution of the State of Alaska.

[4:09:55 PM](#)

SENATOR MICCICHE asked if the legislature should be able to extend the effective date of ninety days after the certification of the election to accommodate situations where the vote was on an initiative and it took longer than ninety days to execute the tax.

MR. MILKS said the ninety day provision is also in subsection (c) and it aligns with the way an initiative works now.

SENATOR MICCICHE clarified that he was asking about extending the ninety-day window to enact a very complicated tax law that the voters approved by initiative. His understanding is it would likely take longer than ninety days to enact an income tax or a sales tax.

[4:12:12 PM](#)

CORI MILLS, Assistant Attorney General, Civil Division, Department of Law, Juneau, said the proposed resolution could be amended to provide a process to extend that timeline, but the legislature could also pass a bill to extend the effective date as it considers approval of an initiative enacted by the voters.

SENATOR MICCICHE asked if the same would apply for a bill passed by the legislature. He clarified that he was supportive of the amendment, he was just looking at how it would work both ways.

MR. MILLS said the difference is one of timing. Something the legislature passes is placed on the next statewide ballot and goes into effect ninety days after that if it's approved. Anything the voters approve in an election can't be approved by the legislature until the next session.

SENATOR MICCICHE expressed satisfaction with the answer.

[4:14:51 PM](#)

SENATOR REINBOLD highlighted that initiating new or increased taxes is not an issue in her district.

SENATOR MICCICHE clarified that the intention here is to responsibly evaluate all the potential effects of the proposed law.

[4:15:34 PM](#)

CHAIR SHOWER removed his objection. Finding no further objection or discussion, he stated that Amendment 1 passes.

[4:16:10 PM](#)

SENATOR COGHILL motioned to adopt Amendment 2, work order 31-GS1070\A.2, Nauman, 3/28/19.

AMENDMENT 2

OFFERED IN THE SENATE
TO: SJR 4

BY SENATOR SHOWER

Page 1, line 7:

Delete "Any"

Insert "Notwithstanding Section 18 of Article II, a"

Delete "Sections 14 - 18"

Insert "Sections 14 - 17"

Page 1, line 10:

Delete "proposed"

Page 1, line 11:

Delete "proposed"

Page 1, line 15:

Delete "proposed"

CHAIR SHOWER objected for discussion purposes and asked Mr. Milks to discuss the clarification.

MR. MILKS explained that Amendment 2 clarifies that any law to amend art. II, secs. 14-17 of the constitution is only effective on a vote of the people. He described the amendment as further clarification of a contingency provision. "The legislature is passing a law, but the law is contingent on a future act and that future act is the vote of the people."

SENATOR MICCICHE asked why it was important to remove the term "proposed."

MR. MILKS replied notwithstanding the effective date clause, a law enacted under art. II, secs 14 and 17, is no longer proposed law. It is a law with the contingency provision, a vote of the people.

SENATOR MICCICHE asked, "Can a law become law without passage?"

MR. MILKS replied there are contingency provisions in some of the bills the legislature passes. This further clarifies that this is a two-part process. The legislature enacts a law and it is contingent it its effectiveness.

SENATOR COGHILL directed attention to art. XII, sec. 11, that deals with law-making powers. These powers generally refer to the legislature but it also refers to the people through

initiative. He said it's interesting that the legislature could pass a law that couldn't be ratified and it would therefore become ineffective. He opined that it's not necessarily a proposed law, it's a law that needs to be ratified. He admitted he was looking for a loophole but he didn't find one.

[4:20:51 PM](#)

CHAIR SHOWER removed his objection. Finding no further discussion or objection, he stated that Amendment 2 passes.

CHAIR SHOWER asked for final discussion on SJR 4, as amended.

[4:21:22 PM](#)

SENATOR COGHILL expressed concern about the definition of "tax" and the sliding scale within the tax codes. He said he will look for clarity on this issue as the legislation moves forward. He said he'll offer the motion to move the resolution from committee but he has reservations.

CHAIR SHOWER suggested he provide a list of questions he'd like to have vetted in the Judiciary Committee.

SENATOR MICCICHE said he, too, will support moving the resolution along, but his worry is that his conservative district will be giving up power to less conservative districts that would be more likely to support a tax they view as necessary but his district does not support. He opined that when more control is given to the voters, detailed discussions like the one today may be lost in the process.

CHAIR SHOWER found no further discussion and solicited a motion.

[4:24:31 PM](#)

SENATOR COGHILL moved to report SJR 4, work draft 31-GS1070|A as amended, from committee with individual recommendations and attached fiscal note(s) and authorization for Legislative Legal Services to make any appropriate technical and conforming changes.

[4:24:57 PM](#)

CHAIR SHOWER found no objection and CSSJR 4(STA) moved from the Senate State Affairs Standing Committee.

[4:25:00 PM](#)

At ease

SJR 5-CONST. AM.:PERMANENT FUND & DIVIDEND

[4:27:46 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE JOINT RESOLUTION NO. 5, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and the permanent fund dividend.

[4:28:30 PM](#)

BRUCE TANGEMAN, Commissioner, Department of Revenue, Fairbanks, reported that for over three decades the permanent fund dividend calculation and the amount of the dividend was never questioned. This because an issue when the dividend was politicized and it created mistrust for many Alaskans. He explained that SJR 5 does three things. First, the dividends would be guaranteed by initiating an automatic transfer rather than being subject to appropriation. Second, the PFD could not be reduced by the legislature or a governor's veto. Third, any changes to the statutory PFD formula would require a vote of the people. Finally, he said, SJR 5 is just one part of Governor Dunleavy's fiscal plan that seeks to ensure that Alaskans are included in deciding the size and scope of their government.

[4:30:03 PM](#)

BILL MILKS, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Juneau, delivered the following sectional analysis for SJR 5.

Section 1: This would provide a conforming amendment to the existing language in order to authorize a portion of permanent fund income to be used for dividends as set forth in Section 2.

Section 2: This section would create two new subsections in the permanent fund amendment.

Subsection (b) would require that a portion of the permanent fund income be used, without an appropriation, solely for the purpose of paying permanent fund dividends to state residents. Those payments would occur according to the dividend program and formula currently set forth in statute. Subsection (b) would also allow the legislature to change the dividend program, including amount and eligibility, subject to the approval of the voters in subsection (c).

Subsection (c) would require that any law passed by the legislature to amend the permanent fund dividend program, including the amount and the eligibility requirements, would not take effect unless the voters approved the proposed law at the next statewide election. If approved by the voters, it would take effect 90 days after certification of the election.

Section 3: This transition provision specifies that the dividend program in place on January 1, 2019 would remain in place until the legislature and the voters approved a change to the program.

Section 4: This section would require that the constitutional amendment be placed on the general election ballot in 2020.

[4:33:19 PM](#)

CHAIR SHOWER reminded everyone that SJR 5 will also be vetted in both the judiciary and finance committees. This committee will address the policies but because some members will only hear the bill in this committee, he'll allow more latitude in the questions.

SENATOR REINBOLD said she didn't realize initially that the voters would determine who is and is not eligible for a PFD. She asked if the voters will be making policy decisions about military families, prisoners, restitution, hold harmless clauses, and garnishments.

MR. MILKS answered yes; the voters will make decisions about eligibility and the amount of the dividend.

SENATOR REINBOLD asked if the voters will be involved in decisions about garnishing a dividend for child support.

MR. MILKS replied SJR 5 would not change the existing law that provides for that so garnishment procedures would continue.

SENATOR REINBOLD commented that there's conflicting information because eligibility is also in existing law and that's changing whereas garnishing is not changing.

MR. MILKS said the intent is that the existing eligibility rules will continue.

SENATOR REINBOLD asked if the voters would weigh in on the hold-harmless clause.

MR. MILKS asked for clarification of the question.

SENATOR REINBOLD explained that the state will pay the federal government about \$17 million [this year] because of the PFD hold-harmless statutes that allow low income Alaskans to receive their PFD and also continue to receive their welfare benefits. She highlighted that this annual payment to the federal government results in a lower PFD for all Alaskans.

MR. MILKS said the existing statutory eligibility requirements will remain. He added that this is the first hearing and he would review all the questions on that subject to ensure he fully understood what she asked.

4:39:32 PM

SENATOR COGHILL observed that this puts the concept of a fundamental right of the dividend and the fundamental right of the legislature to act in tension by sweeping in four Articles of legislative power pertaining to things like effective dates and veto powers. He said it's something to think about because this appears to touch a live wire of changing our constitutional structure for an individual fundamental right. He said another wrinkle is that this would assume a constitutional right for some statutory provisions outside of a ratification, but it's not quite an initiative and it's not quite legislative authority. He said he might start by asking if this is a revision to constitutionalize existing statutory language.

MR. MILKS responded that there is always a question about whether a proposed change to the constitution is an amendment or a revision. SJR 5 was drafted to be a constitutional amendment. He cited a recent court case where the Alaska Supreme Court said that absent another constitutional amendment, the Permanent Fund Dividend Program must compete for annual legislative funding just like other state programs. He said the Department of Law sees the issues that Senator Coghill identified, but their view is that this is not so sweeping as to be a revision. It's an effort to provide a program that has an automatic dividend payment.

SENATOR COGHILL said he understands that, but he struggles with changing the "legislature act of law" for a single issue, which is the dividend. He stated his intent to review the documents related to the founding of the constitution and the

conversations surrounding the statements that all power resides with the people and all lawmaking power resides in the legislature. SJR 5 says those powers are tied so instead of a check and balance it's become a way to addressing a fundamental right. He said that's a fundamental change that he'll think about very carefully.

4:49:01 PM

CHAIR SHOWER asked Mr. Milks to explain the legal difference between an amendment to the constitution and a revision of the constitution.

MR. MILKS said the basic difference is that an amendment is a small change and a revision is a more sweeping structural change. However, the Alaska Supreme Court has said it is possible for an amendment to change the basic constitutional rules to such an extent that it should be considered a revision. A revision of the constitution requires a constitutional convention. He said that in *Bess vs. Ulmer*, the Alaska Supreme Court looked at the California constitutional framework on the amendment versus revision piece and came up with an Alaska test that looks at the balance between the quantitative and the qualitative changes. He acknowledged the limitation of having just one Alaska case.

CHAIR SHOWER asked him to clarify whether this is about enshrining an individual right to a dividend or the program but not necessarily the amount of the dividend in the constitution.

MR. MILKS said SJR 5 seeks to respond to the issue that came out of having a statutory dividend program that many people thought would occur automatically but is actually subject to appropriation and is therefore also subject to governor veto in full or part. He said he believes that, as written, SJR 5 does not give anybody a lifetime fundamental right to a dividend of a certain dollar amount, but it does say that there is going to be a dividend program and some of the permanent fund income is going to provide for a dividend.

CHAIR SHOWER asked what would happen if this becomes part of the constitution and there isn't enough income to pay a dividend in 5-10 years. He specifically asked if the legislature would be forced to initiate a tax to pay the dividend.

MR. MILKS responded that SJR 5 only talks about using a portion of the income of the Alaska Permanent Fund for a dividend. It does not talk about any other income stream.

CHAIR SHOWER said he'd need to think about this a little more because this sets the legislature up to be at odds with the people.

[4:59:17 PM](#)

SENATOR REINBOLD stated for the record that she did not support either the taking of the dividend or the POMV. She went on to say there are two schools of thought on this issue, the first of which is to tax all resources and put the revenue in the permanent fund so there will be a long-term permanent fund. The second aspect is to tax just oil. However, with that approach she, too, questions what will happen if oil revenue drops to nothing and there's no money going into the permanent fund. "Where do we go with that?" she asked.

MR. MILKS said the proposed constitutional amendment provides that dividends will only be paid if there is permanent fund income.

CHAIR SHOWER commented that this brings up interesting things to think about.

SENATOR MICCICHE said the reality is that there is no relief valve if the oil and gas infrastructure fails, and that should be part of the discussion.

[5:03:57 PM](#)

CHAIR SHOWER recessed the meeting until 6:00 p.m.

[6:05:40 PM](#)

CHAIR SHOWER reconvened the meeting and opened public testimony on SJR 5.

[6:06:26 PM](#)

LYNETTE CLARK, representing self, Fox, stated support for SJR 5. She said this constitutional amendment is needed to restore the peoples' trust in government. The previous administration destroyed that trust when the governor cut the dividend and the next year the legislature reduced the dividend. Enshrining the dividend in the constitution will help to restore that trust.

[6:09:01 PM](#)

MIKE COONS, President, Alaska Chapter of Association of Mature American Citizens (AMAC), Palmer, stated full support for SJR 5. He said the Governor's clear intent in this constitutional amendment is for the people to control their money. He said

legislators serve at the consent of the governed and last year they took away the peoples' money without their consent. Through SJR 5 and the other proposed constitutional amendments the people are taking back their government. He echoed the previous speaker about restoring the peoples' trust.

[6:11:03 PM](#)

JEB STUART, representing self, Deadhorse, said the people voted for Governor Dunleavy because he said he would restore the dividends and cut spending and he'd like to see that happen. Responding to a question from the Chair, he said he supports SJR 5.

[6:11:48 PM](#)

At ease

[6:13:45 PM](#)

CHAIR SHOWER reconvened the meeting.

[6:13:54 PM](#)

JIM CLARK, representing self, Fairbanks, stated that he was standing up to say that the government needs to learn to live within its means. Governor Dunleavy is trying to draw the line. Responding to a question from the Chair, he said he supports SJR 5.

[6:14:22 PM](#)

SENATOR MICCICHE joined the committee.

[6:15:47 PM](#)

KAREN PERRY, representing self, Chugiak, said she struggles with SJR 5 because everyone knows that legislators ignore the statutes and she wonders if there should be a constitutional amendment that would require legislators to go to prison for that. She opined that legislators need to go on the record and let their constituents know where they stand on this and other issues. She also commented on her lack of faith in the election process. Responding to a question from the Chair, she said she couldn't decide whether or not she supports SJR 5.

[6:17:42 PM](#)

GARY MCDONALD, representing self, Anchorage, stated support for SJR 5. He singled out Senator Reinbold for special recognition.

[6:18:20 PM](#)

WILLIAM TOPEL, representing self, Anchorage, stated support for SJR 5.

[6:18:36 PM](#)

KYLER DIAS, representing self, Wasilla, testified in support of SJR 5. He described the way people are approaching the permanent fund as crazy nonsense. He said he supports SJR 5 if it protects the principal of the PFD. He spoke in support of cutting waste, reducing the size of government, and capping the PFD for people who make more than \$100,000 a year. He also questioned continuing to put money into the PFD because it's in the stock market and is self-sustaining. He favors guaranteeing a PFD for generations to come.

[6:20:54 PM](#)

VIKKI JO KENNEDY, representing self, Kodiak, testified in support of SJR 5. She drew an analogy between SJR 5 and the Distant Early Warning (DEW) line. They were both designed to protect Alaskans, she said.

[6:23:01 PM](#)

RANDY FINCH, representing self, Nikiski, stated support for SJR 5. He said the people should vote on this; the burden should not be on the legislature.

[6:23:52 PM](#)

JACK JOHNSON, representing self, North Pole, stated support for SJR 5. He is a senior on a fixed income and the dividend is more than just a little helpful.

[6:24:51 PM](#)

FREDLAIN ELLIS, representing self, Wasilla, stated support for SJR 5. She wants to vote on this issue. "It means too much to too many of us whether we're seniors or not," she said.

[6:25:46 PM](#)

SUSAN JOHNSON, representing self, North Pole, stated support for SJR 5.

[6:26:23 PM](#)

MATTHEW HELLER, representing self, Fairbanks, stated support for SJR 5. "That's it; I support it," he said.

[6:27:22 PM](#)

MARK SESLER, representing self, Soldotna, stated support for SJR 5. "Put it into the constitution," he said.

[6:27:48 PM](#)

SALLY JOHNSON, representing self, Palmer, stated, "Put SJR 5 in the constitution as it was [written] by Jay Hammond." She shared that she is on a very limited income and she believes the legislature needs to tighten its belt.

[6:28:53 PM](#)

DEBORAH HOLLAND, representing self, Anchorage, said she was calling in support of SJR 5. She said she wants it in the constitution so legislators can't get their hands on the people's money.

[6:29:42 PM](#)

TANIA KITKA, representing self, Kodiak, stated support for SJR 5.

[6:30:06 PM](#)

At ease

[6:32:33 PM](#)

CHAIR SHOWER reconvened

[6:32:47 PM](#)

JOHN MOROPOULOS, representing self, Anchorage, stated support for SJR 5. He believes that expenditures of the permanent fund should be in the hands of Alaskans.

[6:33:23 PM](#)

At ease

[6:36:43 PM](#)

CHAIR SHOWER reconvened the meeting.

[6:36:49 PM](#)

SANDRA ST. JOHN, representing self, Sutton, stated support for SJR 5 and having the PFD added to the constitution.

[6:37:13 PM](#)

MELANIE GLATT, representing self, Palmer, stated support for SJR 5 and expressed disappointment that the legislature has failed to deliver a gas line. That could have solved many problems, she said.

[6:37:50 PM](#)

LAWRENCE SALZMAN, representing self, Fairbanks, stated that he currently supports SJR 5. He believes it is a beginning to protect the permanent fund and he believes the \$12 billion from the Constitutional Budget Reserve should be repaid. His views

are similar to a majority of Alaskans who voted for Governor Dunleavy.

[6:38:52 PM](#)

At ease

[6:41:47 PM](#)

CHAIR SHOWER reconvened the meeting.

[6:41:56 PM](#)

DENISE BOGUE-SKONIECZKI, representing self and her husband, Anchorage, said leave our PFDs alone and return what has been taken. She opined that legislators should not be paid for any special sessions and schools can cut management positions. Responding to a question from Senator Micciche, she said she supports SJR 5.

[6:43:42 PM](#)

SHERRY PARSONS, representing self, Wasilla, said the people need a say in how the permanent fund is distributed. She believes the government should stay out of it because the money belongs to the people who will spend it wisely. Responding to a question from the Chair, she said she supports SJR 5.

[6:45:22 PM](#)

At ease

[6:49:04 PM](#)

CHAIR SHOWER reconvened the meeting.

[6:49:09 PM](#)

CHERYL SHUPE, representing self, Fairbanks, said she believes that the PFD should be constitutionally protected and restored to its original form. The state should live within its means.

[6:49:46 PM](#)

KEN BROWN, representing self, Soldotna, stated support for SJR 5 to constitutionalize the PFD. The state needs to downsize and keep money in the private sector, he said.

[6:50:20 PM](#)

GREG PARSONS, representing self, Wasilla, stated support for SJR 5. The legislature needs to figure out how to pay for government without using the dividend, he said.

[6:51:12 PM](#)

At ease

[7:00:15 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:00:19 PM](#)

ALBERT NINGEULOOK, representing self, Shishmaref, said he hopes the Governor keeps the PFD intact and does not use it for the state budget. The people in rural areas need their money. Responding to a question from the Chair, he said he couldn't say whether he supports SJR 5, but he is in favor of saving the PFD and using it wisely.

[7:01:45 PM](#)

KIM BERGEY, representing self, Palmer, said she is calling to state support for SJR 5 to enshrine the PFD in the constitution and not use it for government spending. She said, "I know that we the people can use it diligently and wisely for our needs."

[7:02:21 PM](#)

At ease

[7:07:01 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:07:09 PM](#)

GEORGE PIERCE, representing self, Kasilof, stated support for SJR 5. The PFD should be enshrined in the constitution and not be used by government.

[7:08:03 PM](#)

DEAN KASISCHKE, representing self, Seward, said he supports SJR 5, full constitutional protection of the PFD, and no change to the PFD without a public vote.

[7:08:39 PM](#)

At ease

[7:11:24 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:11:29 PM](#)

RODERICK PERRY, representing self, Chugiak, stated support for SJR 5 to enshrine the PFD in the constitution by a vote of Alaskans. "Stop ignoring the rule of law and follow the statutes," he said.

[7:12:04 PM](#)

RON GILLHAM, representing self, Soldotna, stated support for SJR 5. He believes the permanent fund should be in the constitution so his kids and grandkids can have it for the future.

CHAIR SHOWER advised that Senator Coghill and Senator Micciche were attending other meetings.

[7:13:05 PM](#)

At ease

[7:17:36 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:17:40 PM](#)

DEBRA KIRK, representing self, Kodiak, stated opposition to SJR 5 because she is pleased with the infrastructure that has built up around the state the last 40-50 years and she'd hate it to go backwards.

[7:18:14 PM](#)

JANET FAURE, representing self, Juneau, stated opposition to SJR 5. She and her husband appreciate the services and infrastructure the state has provided for its citizens.

[7:18:55 PM](#)

At ease

[7:25:15 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:25:19 PM](#)

WILLIAM WARREN, representing self, Nikiski, stated support for SJR 5. He said he is amazed at the "hard and fast grab" for the permanent fund dividend and he believes putting it in the constitution is the only way to protect it. He highlighted that the Alaska LNG pipeline will eventually be built and provide revenue to the state but in the meantime the dividend should be enshrined.

[7:27:24 PM](#)

At ease

[7:29:39 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:29:52 PM](#)

MARY FORBES, representing self, Kodiak, stated opposition to SJR 5. She disagreed with the previous caller and related her belief that the permanent fund dividend is not a God-given right to the citizens of Alaska. Rather, the permanent fund was intended to be partially used to fund government once the oil ran out. She said her research indicates that was Jay Hammond's intention. She doesn't want to see Alaskans' quality of life to deteriorate to the point that they leave the state and Governor Dunleavy opens the state to the highest bidder to "rape and pillage" Alaska's resources. Responding to a question from the Chair, she confirmed that she opposes SJR 5.

[7:30:57 PM](#)

CAROL CARMAN, representing self, Palmer, stated support for SJR 5 and complete disagreement with the last caller. The research she's done on the permanent fund and the dividend itself demonstrates that the dividend was intended to give the royalty share to Alaskans for their [loss of] mineral rights. She explained that once Alaska became a state the people as a whole assumed ownership of the minerals rights and received royalty payments in lieu of individual ownership rights. Her belief is that it is necessary to enshrine the PFD in the constitution to keep government from taking what is the people's portion.

[7:32:22 PM](#)

At ease

[7:34:47 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:34:54 PM](#)

KACI GILLHAM, representing self and family, Sterling, stated support for SJR 5 to enshrine the PFD in the constitution.

[7:35:34 PM](#)

NEVA MILLS, representing self, Chatanika, stated support for SJR 5 to protect the permanent fund. She highlighted the waste in the budget and opined that the dividend should never have been stolen from the people. She said, "it's been stated in research papers" that about 7,000 jobs would be eliminated if Governor Dunleavy's budget is adopted. Her understanding is that departments are receiving money for vacant positions. She said she knows that the university wastes several hundred thousand dollars at the end of the fiscal year just to qualify for the same amount of money the next fiscal year. That needs to stop. She emphasized that parents, not teachers, need to step up and raise their children so teachers have time to teach. She warned

that if the permanent fund [dividend] is cut, over 9,000 private sector jobs will be lost and low income seniors such as herself may be forced to leave Alaska. She said she prays every day that legislators will have the wisdom and knowledge to fix this problem.

SENATOR KAWASAKI asked for the source of the report or study she mentioned at the beginning of her testimony.

MS. MILLS said she didn't recall but she would email the information to the committee.

CHAIR SHOWER asked her to send the information to senate.state.affairs@akleg.gov.

[7:41:34 PM](#)

SIRELEI KAORI, representing self, Anchorage, stated support for SJR 5.

[7:41:44 PM](#)

JAMES SQUIRES, representing self, Gulkana, stated support for SJR 5.

[7:41:56 PM](#)

At ease

[7:46:54 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:46:58 PM](#)

MARK GLATT, representing self, Palmer, stated support for SJR 5. He opined that the dividend should be constitutionally protected.

[7:47:40 PM](#)

At ease

[7:51:26 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:51:30 PM](#)

DONNA WILMOT, representing self and her family, Kasilof, stated support for SJR 5 to enshrine the PFD in the constitution.

[7:52:01 PM](#)

BRETT WILMOT, representing self, Kasilof, stated support for SJR 5 to enshrine the PFD in the constitution.

[7:52:26 PM](#)

At ease

[7:56:08 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:56:11 PM](#)

LARRY PANNELL, representing self and family, Soldotna, stated support for SJR 5. He believes the PFD needs to be enshrined in the constitution to protect it now and for future generations.

[7:56:51 PM](#)

At ease

[7:58:45 PM](#)

CHAIR SHOWER reconvened the meeting.

[7:58:50 PM](#)

STACEY WRIGHT, representing self, Kenai, stated support for SJR 5 to enshrine the PFD in the constitution.

[7:59:12 PM](#)

CHAIR SHOWER closed public testimony on SJR 5 and advised that written testimony could be submitted to senate.state.affairs@akleg.gov.

[SJR 5 was held in committee.]

[7:59:58 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 7:59 pm.