

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

April 4, 2019

1:35 p.m.

DRAFT

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator John Coghill, Vice Chair
Senator Peter Micciche

MEMBERS ABSENT

Senator Lora Reinbold
Senator Scott Kawasaki

COMMITTEE CALENDAR

SENATE BILL NO. 78

"An Act establishing May 31 of each year as Katie John Day."

- MOVED SB 78 OUT OF COMMITTEE

SENATE BILL NO. 92

"An Act relating to contributions from permanent fund dividends to the general fund."

- HEARD & HELD

SENATE BILL NO. 40

"An Act establishing the month of February as Black History Month."

- MOVED SB 40 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.

- MOVED CSSJR 5(STA) OUT OF COMMITTEE

SENATE BILL NO. 32

"An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to

sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 78

SHORT TITLE: ESTABLISH MAY 31 AS KATIE JOHN DAY

SPONSOR(s): SENATOR(s) BISHOP

03/06/19 (S) READ THE FIRST TIME - REFERRALS
03/06/19 (S) STA
03/29/19 (S) STA WAIVED PUBLIC HEARING NOTICE, RULE
23
04/04/19 (S) STA AT 1:30 PM BUTROVICH 205

BILL: SB 92

SHORT TITLE: PFD CONTRIBUTIONS TO GENERAL FUND

SPONSOR(s): SENATOR(s) WILSON

03/18/19 (S) READ THE FIRST TIME - REFERRALS
03/18/19 (S) STA, FIN
03/29/19 (S) STA WAIVED PUBLIC HEARING NOTICE, RULE
23
04/04/19 (S) STA AT 1:30 PM BUTROVICH 205

BILL: SB 40

SHORT TITLE: BLACK HISTORY MONTH

SPONSOR(s): SENATOR(s) GRAY-JACKSON

01/28/19 (S) READ THE FIRST TIME - REFERRALS
01/28/19 (S) STA
04/03/19 (S) STA WAIVED PUBLIC HEARING NOTICE, RULE
23
04/04/19 (S) STA AT 1:30 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
03/28/19 (S) Heard & Held
03/28/19 (S) MINUTE(STA)

04/02/19 (S) STA AT 3:30 PM BUTROVICH 205
 04/02/19 (S) Scheduled but Not Heard
 04/03/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/03/19 (S) <Bill Hearing Canceled>
 04/03/19 (S) JUD AT 6:00 PM BELTZ 105 (TSBldg)
 04/03/19 (S) <Bill Hearing Canceled>
 04/04/19 (S) STA AT 1:30 PM BUTROVICH 205

BILL: SB 32

SHORT TITLE: CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE
 SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/23/19 (S) READ THE FIRST TIME - REFERRALS
 01/23/19 (S) JUD, FIN
 02/06/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/06/19 (S) Heard & Held
 02/06/19 (S) MINUTE(JUD)
 02/08/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/08/19 (S) Heard & Held
 02/08/19 (S) MINUTE(JUD)
 02/09/19 (S) JUD AT 1:00 PM BELTZ 105 (TSBldg)
 02/09/19 (S) Heard & Held
 02/09/19 (S) MINUTE(JUD)
 02/11/19 (S) MOTION TO DISCHARGE FROM JUD COMMITTEE
 02/11/19 (S) DISCHARGED FROM JUD COMMITTEE U/C
 02/11/19 (S) STA REFERRAL ADDED
 02/11/19 (S) STA REPLACES JUD REFERRAL
 02/11/19 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/11/19 (S) <Bill Hearing Canceled>
 03/05/19 (S) STA AT 3:30 PM BUTROVICH 205
 03/05/19 (S) Heard & Held
 03/05/19 (S) MINUTE(STA)
 04/04/19 (S) STA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

DARWIN PETERSON, Staff
 Senator Click Bishop
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced SB 78 on behalf of the sponsor.

KATHERINE MARTIN, Senior Vice President
 Ahtna, Inc.
 Glennallen, Alaska

POSITION STATEMENT: Testified from Mentasta Village in support of SB 78.

MICHELLE ANDERSON, President
Ahtna, Inc.,
Glennallen, Alaska

POSITION STATEMENT: Testified from Mentasta Village in support of SB 78.

NICHOLAS OSTROVSKY, Managing Counsel
Ahtna, Inc.
Glennallen, Alaska

POSITION STATEMENT: Testified from Mentasta Village in support of SB 78.

EILEEN EWAN, President
Gulkana Village Council
Gulkana Village, Alaska

POSITION STATEMENT: Testified from Mentasta Village in support of SB 78.

NICOLE BORROMEO, General Counsel
Alaska Federation of Natives
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 78.

KIM REITMEIER, Executive Director
ANCSA Regional Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 78.

SENATOR DAVID WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 92.

ANNE WESKE, Director
Permanent Fund Dividend Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 92.

EMILY NAUMAN, Deputy Director
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 92.

MIKE PRAX, representing self
Fairbanks, Alaska

POSITION STATEMENT: Encouraged the committee to pass SB 92.

SENATOR ELVI GRAY-JACKSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 40.

JAYDEN HODGSON, Intern
Senator Grey-Jackson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information about SB 40 on behalf of the sponsor.

CELESTE HODGE GROUWDEN, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 40.

WILLIAM MILKS, Assistant Attorney General
Civil Division
Labor & State Affairs Section
Juneau, Alaska

POSITION STATEMENT: Responded to questions raised in an earlier hearing on SJR 5.

ROBERT HENDERSON, Deputy Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Provided an overview of the drug classifications under SB 32.

ACTION NARRATIVE

[1:35:46 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Coghill, Kawasaki, and Chair Shower. Senator Reinbold was tending to a family matter and Senator Micciche joined the committee as the meeting was in progress.

SB 78-ESTABLISH MAY 31 AS KATIE JOHN DAY

[1:37:08 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 78, "An Act establishing May 31 of each year as Katie John Day."

[1:37:28 PM](#)

DARWIN PETERSON, Staff, Senator Click Bishop, Alaska State Legislature, Juneau, Alaska, introduced SB 78 reading the following:

- Senate Bill 78 proposes to amend Alaska Statutes - Title 44, Chapter 12, by adding a new section designating May 31st as Katie John Day in honor of her legacy.
- Katie John was a highly respected Athabascan elder from Mentasta Lake. She passed away on May 31, 2013. She was 97 years old.
- Katie John grew up on the banks of the Copper River near the present day community of Slana and the seasonal fishing village of Batzulnetas. Her parents were Ahtna Chief Charley Sanford and Sarah Sanford.
- Katie John was raised off the land like her ancestors.
 - She was a consummate teacher of her ancestral traditions, culture and history.
 - She was a member of the Ahtna Regional Native Corporation.
 - She was very passionate about preserving the Athabascan culture.
 - She was also very involved in the preservation and teaching of her Athabascan language and helped create the first alphabet for the Ahtna dialect.
- Katie John became well known throughout Alaska starting in 1985 when she and another Athabascan elder, Doris Charles, filed suit against the State of Alaska in federal Court to resolve a longstanding quarrel over customary and traditional fishing rights.
- The dispute arose in 1964 after the State Board of Fish banned subsistence fishing at Batzulnetas which is located on the Copper River at the confluence of Tanada Creek. This village site had been used for

hundreds of years by the Ahtna people to harvest sockeye salmon.

- The case against the State went through many iterations and ultimately, another lawsuit (Katie John vs. United States of America) was filed in 1990 on behalf of Katie John, Doris Charles and the Mentasta Village Council.
- The Katie John Case as it became widely known was brought forward in the hopes of broadening the definition of "public lands" in Section 102 of ANILCA to include navigable waters. ANILCA is the Alaska National Interest Lands Conservation Act which was passed by Congress and signed into law by President Carter in 1980. The Katie John Case also sought the creation of a federal subsistence fishery in the Batzulnetas area which was included in the Wrangell-St. Elias National Park through the passage of ANILCA.
- This case also went through many iterations and appeals but ultimately it was resolved on July 3, 2013, when the Ninth Circuit Court of Appeals issued a decision that during times of shortage, the federal government may provide a rural subsistence fishing priority on navigable waters in Alaska.
- Finally, on March 31st, 2014, the U.S. Supreme Court ultimately decided to reject a petition filed by the State of Alaska to overturn Katie John, bringing to a close almost three decades of litigation.
- Sadly, Katie John didn't live long enough to witness the final resolution of her peaceful struggle to preserve the traditional way of life for her people. With the passage of SB 78, we can do our part to honor her memory and to recognize the accomplishments of her life's work.
- Katie John and her husband, Chief Fred John (who passed away in 2000), raised 14 children and 6 foster children. Together, they leave behind approximately 250 grandchildren, great-grandchildren and great-great-grandchildren.

- In your packets, we have letters and resolutions of support from the Mentasta Traditional Council and the Alaska Federation of Natives.

[1:41:46 PM](#)

SENATOR KAWASAKI asked why the bill honors Katie John on the day of her passing rather than the day of her birth.

MR. PETERSON answered that the Alaska Federation of Natives passed a resolution requesting that date. It not only honors her passing but also recognizes the final resolution of her life-long battle.

SENATOR COGHILL noted that he signed on as a co-sponsor in recognition of Katie John's tenacity. Her name is famous and worthy of honor, regardless of where you stand on the issue, he said.

[1:43:53 PM](#)

CHAIR SHOWER opened public testimony on SB 78.

[1:44:15 PM](#)

KATHERINE MARTIN, Senior Vice President, Ahtna, Inc., Glennallen, stated that as one of Katy John's granddaughters she wants to recognize Grandma Katie and honor what she has done for all Native people of Alaska for subsistence. She related that another reason that May 31 was chosen as the date to honor Katie John is that it is the first day that fishwheels can be placed in the river in the Ahtna region.

[1:45:26 PM](#)

MICHELLE ANDERSON, President, Ahtna, Inc., Glennallen, stated that it might not be a coincidence that the corporation is in Mentasta Village on the day of this hearing. She said she feels that Grandma Katie is part of this. She reported that Ahtna, Inc. and a number of other Native corporations have been trying to get May 31 designated as Katie John Day since a year after she passed. She thanked Representative Neil Foster and Senator Click Bishop for their support and for realizing the importance of recognizing Alaska Native leaders. She continued to say:

We have a huge history in Alaska and it's pretty rare to find any day where our people are recognized. Katie John is a Civil Rights leader in my mind, not just to Alaska Natives but to all Alaskans. She stood her ground. She stood for fighting for traditional fishing rights and she is known by her name. Very few Alaskans

have that prestige and honor. Not just for those of us who are alive today, I want people for generations down the road to know who she was, how important she was to all of us and that she deserves her day of recognition.

[1:47:20 PM](#)

NICHOLAS OSTROVSKY, Managing Counsel, Ahtna, Inc., Glennallen, stated that Katie John spearheaded the most significant legislation about subsistence and cultural rights in the history of Alaska. Her tenacity and willingness to stand up for her people helped to protect the customary and traditional way of life for all Alaska Natives. It is fitting to mark a specific day to honor that she effectively changed how subsistence hunting and fishing is defined in Alaska today.

[1:48:14 PM](#)

EILEEN EWAN, President, Gulkana Village Council, Gulkana Village, stated that on behalf of GVC she supports May 31 as Katie John Day to recognize her fight for traditional rights for the people of Alaska. It is also a way to pay respect to a forceful leader "who stood her ground till the end of her days."

[1:49:04 PM](#)

SENATOR MICCICHE joined the committee.

[1:49:12 PM](#)

NICOLE BORROMEO, General Counsel, Alaska Federation of Natives, Anchorage, stated that members had copies of the AFN resolution in their packets and said she wanted to echo the comments in strong support of SB 78, particularly the comments of Senator Coghill and Nicholas Ostrovsky. She emphasized that Katie John was an extraordinary Alaska Native who made significant contributions to the state. Her spirit should be honored by declaring May 31 as Katie John Day.

[1:50:27 PM](#)

KIM REITMEIER, Executive Director, ANCSA Regional Association, Anchorage, stated that the association represents the presidents and CEOs of the 12 land-based Alaska regional Native corporations. Their mission is to promote and foster the continued growth and economic strength of Alaska Native corporations on behalf of more than 130,000 shareholders. She said Alaskans respected Katie John for her tireless leadership in protecting traditional hunting and fishing rights. Ensuring these protections continue is a policy priority of the association. "Our members have an acute understanding that our

traditional Alaska Native way of life [is] the thread that binds us to our land and to our culture." She said the many sacrifices she made to ensure that future generations of Alaska Natives would not be denied the right she fought so hard to defend is the reason the association supports SB 78. She noted the association also submitted written testimony.

[1:51:54 PM](#)

CHAIR SHOWER closed public testimony on SB 78. He advised that written testimony could be submitted to senate.state.affairs@akleg.gov.

[1:52:16 PM](#)

At ease

[1:56:10 PM](#)

CHAIR SHOWER reconvened the meeting and asked the will of the committee.

[1:56:26 PM](#)

SENATOR COGHILL moved to report SB 78, version U, from committee with individual recommendations and attached zero fiscal note(s).

CHAIR SHOWER found no objection and SB 78 was reported from the Senate State Affairs Standing Committee.

[1:56:40 PM](#)

At ease

SB 92-PFD CONTRIBUTIONS TO GENERAL FUND

[1:57:40 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE BILL NO. 92, "An Act relating to contributions from permanent fund dividends to the general fund."

[1:57:53 PM](#)

SENATOR DAVID WILSON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 92, introduced the legislation speaking to the following sponsor statement: [Original punctuation provided.]

Senate Bill 92 would give Alaskans the option of donating all or a portion of their Permanent Fund dividends (PFDs) directly to the state's general fund.

Many Alaskans have told me they wouldn't mind giving up a portion of their dividends to pay for state government. This bill creates a simple mechanism for them to do so. If you want to donate your dividend, that's your choice. If you want to keep your dividend, you're free to do so. Senate Bill 92 is about the freedom to make your own decision.

Participants will be able to contribute \$25, \$50, \$75, \$100, or more, in increments of \$50, up the total amount of the PFD.

A donation to the state's general fund, in some cases, can be counted as a charitable donation for federal tax purposes. It's advised, however, that Alaskans consult with a tax professional to verify how this may apply [to] them individually.

PFD donations are subject to a seven percent administrative fee paid to the Permanent Fund Dividend Division.

Currently, PFD applicants can donate directly to the Crime Victim Compensation Fund, the Peace Officer and Firefighter Survivors' Fund, or one or more of the educational organizations, community foundations, or charitable organizations that appear on the contribution list contained in the application. The bill would add the state's general fund to that list.

Thank you for your consideration of Senate Bill 92.

[1:59:04 PM](#)

SENATOR WILSON delivered the following sectional analysis for SB 92.

Section 1: Amends AS 43.23.130(a) to include "the general fund" in the list of funds and organizations who electronic Alaska permanent fund dividend applicants may direct contributions to. (page 1, lines 3-15 continuing on page 2, lines 1-6)

Section 2: Amends AS 43.23.130(b) to add "the general fund" to the list of organizations, community foundations, or charitable organizations eligible to be added to the contributions list. (page 2, lines 8-17)

Section 3: Amends AS 43.23.130(j) to include "and funds" to the contributions report. (page 2, lines 19-22)

Section 4: Amends AS 43.23.130(m) by adding "the general fund" to the list of funds which the department may not withhold a coordination fee. (page 2, lines 24-31 continuing on page 3, lines 1-6)

Section 1: Amends AS 43.23.130(a) to include "the general fund" in the list of funds and organizations who electronic Alaska permanent fund dividend applicants may direct contributions to. (page 1, lines 3-15 continuing on page 2, lines 1-6)

SENATOR WILSON stated that he would like the committee to adopt an amendment or clarify the intent to have a separate button from the Pick.Click.Give. button and that there would be a seven percent administrative fee to implement the online application process. He noted that a revised fiscal note was forthcoming.

He summarized that SB 92 gives the people of Alaska the opportunity to support the services they want and need with all or part of their dividend. "Before we plan to cut the dividend, let's see how many Alaskans are willing to put forth their contribution to the State of Alaska." He noted who was available to answer questions.

[2:04:15 PM](#)

SENATOR COGHILL commented that he thought about starting a nonprofit called the "general fund." He asked if the bill should specify the general fund of the State of Alaska.

SENATOR WILSON answered no; the intent is for the state general fund and there is also the statement that the donations are subject to a seven percent administrative fee.

SENATOR COGHILL asked what the current process is to return a dividend.

SENATOR WILSON offered his understanding that Alaskans can write a check to the Division of the Treasury. More importantly, when somebody decides not to apply for a dividend, their share does not go back to the general fund. Instead, the dividend is recalculated and all applicants receive a little larger dividend.

[2:05:58 PM](#)

ANNE WESKE, Director, Permanent Fund Dividend Division, Department of Revenue, Juneau, explained that when people ask how they can return their dividend to the state, the division suggests they write a check to the Department of Revenue and it will then be routed to the general fund. This option isn't well known and SB 92 will help get the word out.

CHAIR SHOWER asked if not filing for a dividend at all would be a better way.

MS. WESKE clarified that opting not to file a dividend application does not benefit the state. It would increase everyone else's dividend a little.

[2:07:32 PM](#)

SENATOR MICCICHE asked if the portion an individual donates back to the state would be exempt from taxation.

SENATOR WILSON answered that tax would be due. He also recommended consulting a tax professional.

SENATOR MICCICHE asked Ms. Weske to research whether or not it would be possible to contribute the entire dividend to the state tax free since the money never leaves state control. He acknowledged that donations through Pick.Click.Give. are not tax free.

MS. WESKE said she'll look into whether a contribution that never reaches your bank account would be tax free.

SENATOR WILSON recalled a discussion in Senate Finance last year on this topic and there didn't seem to be a way around paying the tax on the contribution.

[2:12:10 PM](#)

CHAIR SHOWER asked the sponsor or Ms. Weske to talk about the constitutional and legal issues associated with designating all or part of the dividend to a specific department or division.

SENATOR WILSON confirmed that there is a constitutional prohibition against designating funds that are donated to the state. He said he also looked for a mechanism for that within the Pick.Click.Give. program but the programing was cost prohibitive.

CHAIR SHOWER asked what the difference is between an individual donating for a specific purpose and the legislature appropriating for a specific purpose.

MS. WESKE said she'd need to research it more before giving an answer.

SENATOR WILSON said he believes the dedicated funds prohibition is the same for a person and the legislature, but the legislature has the power of appropriation.

2:15:20 PM

SENATOR KAWASAKI said he looks forward to receiving more information from DOR about the tax implications about donating all or part of the dividend. He then asked Ms. Weske how much the state received from the education [raffle] and if it diluted the amount of money for charitable giving.

MS. WESKE reported that the education raffle received just under \$1 million and the Pick.Click.Give program received just under \$3 million. Everyone was pleased and probably a little surprised that the education raffle didn't affect the number of donors or the dollar amount of the Pick.Click.Give program. It seemed to be a different audience that gave to the education raffle, she said.

SENATOR MICCICHE asked, if breaking it out by department isn't possible, why does AS 43.23.130 specifically talk about contributions from dividends to the crime victim compensation fund and the peace officer and firefighter survivors' fund.

2:17:36 PM

EMILY NAUMAN, Deputy Director, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, related her understanding that while the legislature retains the power of appropriation the amount of those funds are considered designated program receipts. They are among the long list of things that the legislature considers to be designated and while they are subject to appropriation, they usually do go to those sources.

SENATOR MICCICHE commented that means you probably could designate to a department. He said he asked about the tax because it makes a difference. If he didn't have to pay tax on his donation, he'd probably donate through the state program. If he did have to pay tax on his donation, he'd give the money to the PTA in his kid's school. He added that he didn't believe the

question about dedicated funds fits here but it would be interesting to know the cost if other departments were included.

CHAIR SHOWER asked Ms. Nauman to respond.

MS. NAUMAN asked Senator Micciche to repeat the question.

SENATOR MICCICHE asked if she agrees that since donations to the crime victim compensation fund and the peace officer and firefighter survivors' fund is in statute, it would be possible to expand the scope of donations to other departments without compromising the dedicated fund clause.

MS. NAUMAN replied her current understanding is that it would be possible to attempt to direct a donation to a specific purpose. It would be subject to appropriation but the money would likely be earmarked in a certain way like the other program receipts.

[2:20:31 PM](#)

CHAIR SHOWER asked Senator Wilson if he wanted to talk about the cost and what he found out last year.

SENATOR WILSON responded that he was trying to get a bill passed that wouldn't be challenged in court.

CHAIR SHOWER asked if he had any information on costs.

SENATOR WILSON said he dealt with Ms. Weske last year when he introduced a similar bill. At that time he learned that changes in programing and adding features to the website is costly.

MS. WESKE advised that startup for each program is about \$10,000 per year plus between \$1,200 and \$1,800 for upkeep, which includes reporting and updates to the application.

SENATOR WILSON said he wanted the record to reflect that according to AS 47.10.115, kids in state custody have their dividends held in trust until they either leave state custody or reach age 18.

[2:22:47 PM](#)

CHAIR SHOWER found no further questions and opened public testimony on SB 92.

[2:23:05 PM](#)

MIKE PRAX, representing self, Fairbanks, encouraged the committee to pass SB 92. He said it should be as easy as

possible for people to return their dividend to the state if that's what they want to do. It's important to get the program going and fix any issues that arise next year, he said.

[2:24:18 PM](#)

CHAIR SHOWER found no one else who wished to comment and closed public testimony on SB 92.

[2:24:39 PM](#)

CHAIR SHOWER held SB 92 in committee.

SB 40-BLACK HISTORY MONTH

[2:24:57 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 40, "An Act establishing the month of February as Black History Month."

[2:25:21 PM](#)

SENATOR ELVI GRAY-JACKSON, Alaska State Legislature, Juneau, sponsor of SB 40, introduced the legislation stating the following:

Alaska continues to face monumental challenges. We all recognize that and there are more important issues this legislature has been working through this session. But, at the same time we can't forget matters that recognize our citizens within the many diverse communities that exist throughout our state.

Anchorage happens to be one of the most diverse communities in the nation. When I was growing up in New Jersey, Black history was not taught in schools. Fortunately, it is now and our children are discovering that many household and other items were invented by a Black person. For example, Sarah Boone - ironing board, Richard Spikes - automatic gear shift, George T Sampson - clothes drier, Alexander Miles - automatic elevator doors, Alice Parker - gas heating furnace, Dr. George Grant - golf tee, Philip Downing - mailbox, Washington Martin - modern toilet, Otis Boykin - pacemaker, George Crumb - potato chips, Garrett Morgan - traffic light.

In January we celebrated Dr. Martin Luther King Jr. Day of service. Dr. King was my personal hero and he paved the way for me to be here today, serving in the

Alaska State Senate. There are also many other African American leaders that continue to shape this nation and Alaska. One of those leaders was the late Senator Bettye Davis. She devoted her life to helping the poor and the disenfranchised. She was a staunch public health advocate while also doing everything in her power to develop a strong public education system where everyone, no matter your background, would have an opportunity to succeed. She was awesome and she was someone we all knew and respected. For me to follow in the legacy of the late Senator Bettye Davis, the first African American woman to serve in the Senate, it is truly an honor.

Mr. Chairman and members of the committee, please join me in recognizing the many accomplishments of African Americans throughout Alaska by enshrining in statute, Black History Month.

[2:27:44 PM](#)

JAYDEN HODGSON, Intern, Senator Grey-Jackson, Alaska State Legislature, Juneau, stated that Black History Month is currently recognized by resolution, not state statute. SB 40 would change that. Nationally, February has been celebrated as Black History Month since 1976. He noted the zero fiscal note.

[2:28:55 PM](#)

SENATOR COGHILL asked the sponsor if she sees any value in continuing to introduce a resolution every year to keep more attention on the topic. He warned that once this is in statute it might be largely forgotten.

MS. GREY-JACKSON replied she brought a resolution forward for Black History Month each of the nine years she was on the Anchorage Assembly and she decided that if she ever became a legislator, she would introduce a bill to place it in state statute. She noted that in Anchorage there is a full month of activities that recognize Black History Month and she can guarantee the month will be similarly recognized if this becomes statute.

SENATOR COGHILL commented that your tenacity will probably prevail.

[2:30:47 PM](#)

SENATOR KAWASAKI asked if the month is recognized nationally as African American Heritage Month or Black History Month.

MR. HODGSON related his understanding that the annual observance is called Black History Month.

CHAIR SHOWER said he does not oppose the bill but he's always cautious about anything that could serve to divide people. But celebrating the history of what a culture has brought to the overall culture is a different matter. He related that he looks at everyone as American first and everything else is just a qualifier.

SENATOR GREY-JACKSON said she agrees but the fact is that everyone has not always been the same.

CHAIR SHOWER said he understands racism and he realizes that it exists worldwide, but he is cognizant of trying to keep the nation united.

[2:33:58 PM](#)

CHAIR SHOWER opened public testimony on SB 40.

[2:34:13 PM](#)

CELESTE HODGE GROUWDEN, representing self, Anchorage, stated that she has served as the president of NAACP for about a decade and most recently as the president of the Shiloh Community Development Inc. (SCDI). It is a 501(c)(3) nonprofit organization that empowers youth, minorities, and the disadvantaged to improve lives. Their goal is to enhance the quality of life of the less fortunate by providing transitional assistance, economic and educational opportunities, job search support, health education, prevention and wellness programs, and youth mentorships. The major emphasis of SCDI is to develop programs for this population. She highlighted that in February in celebration of Black History Month. Through community support they raised enough money to pay for the day-long program. SCDI also received a \$10,000 grant to support their media justice project that is designed to communicate throughout the state the contributions of local African Americans. She emphasized that the vignettes aired statewide throughout the month of February and provided learning experiences about the accomplishments of 10 African American individuals, including the late Senator Bettye Davis. She urged the passage of SB 40.

CHAIR SHOWER related the conversations he had with several of the Tuskegee airmen and commented on the divides some people have had to overcome.

[2:38:29 PM](#)

CHAIR SHOWER found no one else who wished to comment and closed public testimony on SB 40.

[2:38:40 PM](#)

At ease

[2:38:54 PM](#)

CHAIR SHOWER reconvened the meeting. Finding no further questions or discussion, he asked the will of the committee.

[2:39:01 PM](#)

SENATOR COGHILL moved to report SB 40, version A, from committee with individual recommendations and no fiscal note.

[2:39:25 PM](#)

At ease

[2:39:46 PM](#)

CHAIR SHOWER reconvened the meeting and asked Senator Coghill to restate the motion acknowledging the fiscal note.

SENATOR COGHILL moved to report SB 40, version A, from committee with individual recommendations and attached fiscal note(s).

CHAIR SHOWER stated that without objection, SB 40 passed from the Senate State Affairs Standing Committee.

[2:40:05 PM](#)

At ease

[2:41:26 PM](#)

CHAIR SHOWER recessed the meeting until 3:30 pm.

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

[3:40:14 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.

Senators Kawasaki, Coghill, Micciche, and Chair Shower were present.

CHAIR SHOWER noted that the bill was last heard on March 28 when public testimony was heard and closed. He advised that written testimony could be submitted to senate.state.affairs@akleg.gov. He asked Mr. Milks to provide the follow-up answers to questions from the previous hearing.

[3:40:59 PM](#)

WILLIAM MILKS, Assistant Attorney General, Civil Division, Labor & State Affairs Section, Juneau, said the primary question the members had was about the effect of garnishments or hold harmless provisions on the dividend. He reviewed the intent of the legislation and advised that SJR 5 does not cover garnishments.

[3:43:11 PM](#)

SENATOR MICCICHE pointed out that any other changes related to eligibility would need to go to the voters.

MR. MILKS said that's correct.

[3:44:09 PM](#)

CHAIR SHOWER said he had two amendments for the committee to consider. He also related his intention to move the bill.

[3:44:27 PM](#)

SENATOR COGHILL moved to adopt Amendment 1, work order 31-GS1072\A.3, Nauman, 4/3/19.

AMENDMENT 1

OFFERED IN THE SENATE
TO: SJR 5

BY SENATOR SHOWER

Page 2, line 11, following "effective":
Insert "on the later of"

Page 2, line 12, following "governor":
Insert B"or an effective date provided for by concurrence of two-thirds of the membership of each house"

CHAIR SHOWER objected for discussion purposes. He explained that these are technical changes that the drafter recommended. He asked Mr. Milks to comment.

[3:45:00 PM](#)

MR. MILKS agreed that both amendments contain technical changes that Legislative Legal Services thought would further clarify the bill. The Department of Law has no objection. Amendment 1, A.3, clarifies that the legislature could pass a bill changing the permanent fund dividend program and later provide an effective date with the concurrence of two-thirds of the membership of each house.

MR. MILKS explained that the second amendment, A.4, is a contingent law. It clarifies that a law passed by the legislature to change the dividend is subject to a vote of the people.

[3:46:59 PM](#)

CHAIR SHOWER removed his objection. Finding no further comment or objection, [Amendment 1 was adopted.]

[3:47:16 PM](#)

At ease

[3:47:34 PM](#)

CHAIR SHOWER reconvened the meeting and stated that Amendment 1 passed.

[3:47:51 PM](#)

SENATOR COGHILL moved to adopt Amendment 2, 31-GS1072\A.4, Nauman, 4/3/19.

AMENDMENT 2

OFFERED IN THE SENATE
TO: SJR5

BY SENATOR SHOWER

Page 2, line 4:

Delete "Any"

Insert "Notwithstanding Section 18 of Article II, a"

Delete "Sections 14-18"

Insert "Sections 14-17"

Page 2, line 8:

Delete "proposed"

Page 2, line 9:

Delete "proposed"

Page 2, line 13:
Delete "proposed"

CHAIR SHOWER objected for discussion purposes. He said Legislative Legal Services recommended the technical changes in Amendment 2. He asked Mr. Milks to comment.

[3:48:17 PM](#)

MR. MILKS restated the explanation he previously gave for Amendment 2. It is a contingent law. It clarifies that a law passed by the legislature to change the dividend is subject to a vote of the people. It is similar to an amendment the committee saw last week regarding taxation.

[3:49:17 PM](#)

CHAIR SHOWER found no questions and removed his objection. Finding no further discussion or objection, Amendment 2 passed.

He asked if there was further discussion on SJR 5.

[3:49:56 PM](#)

SENATOR COGHILL highlighted that there are lingering legal questions that will tie the hands of the legislature going forward regarding eligibility and timing. He expressed hope that these questions will be addressed in the next committee.

CHAIR SHOWER said he didn't offer the third amendment that starts to address those issues because he didn't feel there was time for the explanation and debate. He said that amendment and others will be offered in the judiciary committee.

[3:51:00 PM](#)

SENATOR COGHILL moved to report SJR 5, work order 31-GS1072\A, as amended, from committee with individual recommendations, attached fiscal note(s), and authorization for Legislative Legal Services to make appropriate technical and conforming changes.

[3:51:28 PM](#)

CHAIR SHOWER found no objection and CSSJR 5(STA) moved from the Senate State Affairs Standing Committee.

[3:51:34 PM](#)

At ease

SB 32-CRIMES; SENTENCING; MENT. ILLNESS; EVIDENCE

[3:56:19 PM](#)

CHAIR SHOWER reconvened the meeting and announced the consideration of SENATE BILL NO. 32, "An Act relating to criminal law and procedure; relating to controlled substances; relating to probation; relating to sentencing; relating to reports of involuntary commitment; amending Rule 6, Alaska Rules of Criminal Procedure; and providing for an effective date."

He noted the committee last heard the bill about a month ago. The intent today is to review and refresh the members' understanding of the bill. He reminded everybody that this committee is looking at the bill from the state affairs policy perspective and the judiciary perspective. He described SB 32 as foundational to the suite of the Governor's crime bills.

[3:57:35 PM](#)

ROBERT HENDERSON, Deputy Attorney General, Criminal Division, reviewed the drug classifications under SB 32. He explained that SB 32 returns all drug laws to what they were pre-2016. The primary effect is that possession of Schedule IA and Schedule IIA controlled substances return to a class C felony offense. For someone with no criminal history the presumptive term for that offense is 0-2 years.

SB 32 also resets the stage on drug distribution to the pre-2016 law. Trafficking or distributing any amount of a Schedule IA controlled substances (heroin, fentanyl, Carfentanil) is a class A felony. Trafficking a Schedule IIA or Schedule IIIA controlled substance (methamphetamine, cocaine) is a class B felony. The amount that is trafficked is one factor in determining the seriousness of the offense and location is another factor for the court to consider. For example, trafficking heroin in Kotzebue is different than trafficking heroin in Anchorage because it has a different impact in each community. The court also considers the commercial value of the drug and the manner in which the drug is trafficked. This includes such things as whether the trafficker possesses a firearm or is using other individuals in the scheme. All these factors are considered when the court is identifying the appropriate sanction for the conduct. Finally, he said that SB 32 returns the manufacture of methamphetamine to a class A felony.

[4:02:45 PM](#)

SENATOR KAWASAKI asked him to clarify what he said about the location of the trafficking (such as Kotzebue versus Anchorage) being a factor that the court would consider.

MR. HENDERSON said he used Kotzebue and Anchorage as an example because supply and demand dictates that the street value of the same quantities of a substance like heroin is much different in a small rural community than a large urban community. That's important because the increased value of the drug also increases the danger associated with trafficking that drug. That someone brought a dangerous drug into a small community is one factor the court should be able to consider when determining an appropriate sentence for that trafficking offense.

SENATOR KAWASAKI asked if that might raise equal protection issues.

MR. HENDERSON answered no. He explained that the bill returns trafficking of heroin to a class A felony offense and the presumptive term of imprisonment is 5-8 years. The court can also find that the offense should be aggravated or mitigated depending on the amount the person was trafficking. He said it's those aggravators and mitigators that allow the court to depart from that presumptive range. Pre-2016 there was robust case law that talked about how the court should look at the amount trafficked throughout Alaska as an aggravator or mitigator. For these reasons this provision in SB 32 would not raise an equal protection concern, he said.

SENATOR KAWASAKI asked if he was finished reviewing the classifications.

MR. HENDERSON answered the he was finished with the drug overview, but there were other classifications he could discuss.

SENATOR KAWASAKI said he had several questions about raising the classifications. He first asked if increasing possession of any amount of a schedule IA drug such as heroin to a class C felony would include automatic jail time.

MR. HENDERSON answered by first reviewing the existing law. He then explained that under SB 32 the presumptive range for conviction of a class C felony is 0-2 years jail time so the judge has the discretion to impose no jail time or up to 2 years. He said the court needs to have the ability to impose certain jail time if the judge wants to order a person to residential treatment. He also explained that the suspended entry of judgement would be available under SB 32. This tool allows the prosecution and the defense to agree that if the offender does all the things they're asked to do on probation, the case is then dismissed and the judgement is not entered.

[4:09:52 PM](#)

SENATOR KAWASAKI asked if the proposed penalties for schedule VIA substances would impact the current legal cannabis and marijuana industry.

MR. HENDERSON answered no; under SB 32, the criminal penalties that would attach to the possession and trafficking of marijuana are outside the regulation of the legal marijuana industry. He reminded the committee that at the previous hearing he discussed a potential amendment to clarify that point.

[4:11:03 PM](#)

SENATOR MICCICHE said he has an amendment to clarify that the legal marijuana industry authorized in AS 17 is excepted from the increased penalties involving a controlled substance.

He also highlighted that the suspended entry of judgement is a carrot and a stick to help someone work toward clearing their record by successfully completing a treatment program.

[4:14:36 PM](#)

CHAIR SHOWER held SB 32 in committee.

[4:15:09 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 4:15 pm.