

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 7, 2021

1:34 p.m.

MEMBERS PRESENT

Senator Lora Reinbold, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Attorney General - Department of Law
Treg Taylor - Anchorage

- CONFIRMATION ADVANCED

SENATE JOINT RESOLUTION NO. 1

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

- HEARD & HELD

SENATE BILL NO. 9

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 1

SHORT TITLE: CONST AM: GUARANTEE PERM FUND DIVIDEND

SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) STA, JUD, FIN
02/09/21 (S) STA AT 3:30 PM BUTROVICH 205
02/09/21 (S) Heard & Held
02/09/21 (S) MINUTE(STA)
02/11/21 (S) STA AT 3:30 PM BUTROVICH 205
02/11/21 (S) Scheduled but Not Heard
03/02/21 (S) STA AT 3:30 PM BUTROVICH 205
03/02/21 (S) Moved SJR 1 Out of Committee
03/02/21 (S) MINUTE(STA)
03/03/21 (S) STA RPT 2NR 1AM
03/03/21 (S) NR: SHOWER, REINBOLD
03/03/21 (S) AM: KAWASAKI
03/24/21 (S) JUD AT 1:30 PM BUTROVICH 205
03/24/21 (S) Scheduled but Not Heard
03/29/21 (S) JUD AT 1:00 PM BUTROVICH 205
03/29/21 (S) Heard & Held
03/29/21 (S) MINUTE(JUD)
04/07/21 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 9

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(s): SENATOR(s) MICCICHE

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) L&C, JUD, FIN
02/12/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/12/21 (S) Heard & Held
02/12/21 (S) MINUTE(L&C)
03/03/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/03/21 (S) Scheduled but Not Heard
03/10/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21 (S) -- MEETING CANCELED --
03/12/21 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/12/21 (S) Moved SB 9 Out of Committee
03/12/21 (S) MINUTE(L&C)
03/15/21 (S) L&C RPT 3DP 1NR

03/15/21 (S) DP: COSTELLO, GRAY-JACKSON, REVAK
03/15/21 (S) NR: STEVENS
03/24/21 (S) JUD AT 1:30 PM BUTROVICH 205
03/24/21 (S) Scheduled but Not Heard
03/29/21 (S) JUD AT 1:00 PM BUTROVICH 205
03/29/21 (S) Heard & Held
03/29/21 (S) MINUTE (JUD)
04/07/21 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of SJR 1.

TREGARRICK "TREG" TAYLOR, Attorney General Designee
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified as attorney general designee.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of SB 9.

BUDDY WHITT, Staff
Senator Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on SB 9 on behalf of Senator Hughes.

GLEN KLINKHART, Executive Director
Alcohol & Marijuana Control Office
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions on SB 9.

ACTION NARRATIVE

1:34:15 PM

CHAIR LORA REINBOLD called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Myers, Hughes, Shower, Kiehl, and Chair Reinbold.

SJR 1-CONST AM: GUARANTEE PERM FUND DIVIDEND

[1:34:56 PM](#)

CHAIR REINBOLD announced the consideration of SJR 1, SENATE JOINT RESOLUTION NO. 1, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and appropriations from the Alaska permanent fund.

[1:35:45 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, speaking as sponsor, offered a summary of SJR 1, which would place the existing permanent fund statute into the Alaska Constitution. It would also allow a mechanism to withdraw funds from the Alaska Permanent Fund but cap the total draw at 5 percent. The people will always receive the first call on the earnings of the Alaska Permanent Fund, ahead of government, he said.

[1:36:36 PM](#)

CHAIR REINBOLD stated the committee would consider amendments.

[1:36:52 PM](#)

SENATOR MYERS moved to adopt Amendment 1, work order 32-LS0015\A.3:

32-LS0015\A.3
Nauman
4/1/21

AMENDMENT 1

OFFERED IN THE SENATE
TO: SJR 1

BY SENATOR MYERS

Page 1, line 16:
Delete "five"
Insert "four"

CHAIR REINBOLD objected for discussion purposes.

[1:36:55 PM](#)

SENATOR MYERS explained Amendment 1. He stated that Callan Associates, Inc., who have served as the Alaska Permanent Fund Corporation's investment consultants, provided some information recently. He began a PowerPoint showing the Callan Associates projections for the Earnings Reserve balance over the next decade, which projected an average fund growth rate of 6.2 percent using an inflation rate of 2 percent. After adjusting

for inflation, the state could only expect to draw 4.2 percent to maintain the overall value of the fund, in particular, the earnings reserve account (ERA). He reviewed handouts prepared by legislative finance. He directed attention to slide 1, "Impact of FY21-22 Overdraws on ERA Balance and POMV Draw, Constant 6.2% Returns." He said the large blue bars represent the projected balance of the ERA given the current 5 percent of market value (POMV) draw.

SENATOR MYERS turned to the next slide, "Impact of FY21-22 Overdraws on ERA Balance and POMV Draw; FY00-FY08 Returns." This slide shows projections for the ERA if the market conditions were similar to ones during FY00 to FY08. This slide predicted a significant drop beginning in FY24 to FY28.

[1:39:28 PM](#)

SENATOR MYERS turned to slide 3, "Impact of FY21-22 Overdraws on ERA Balance and POMV Draw; FY09-FY17 Returns." This slide provides projections for the ERA using market returns from FY09 to FY17. This slide shows the anticipated significant drop in the ERA from FY22 through FY30, which he deemed as very problematic.

SENATOR MYERS explained that Amendment 1 would reduce the POMV draw to 4 percent to address these concerns.

[1:40:09 PM](#)

SENATOR KIEHL asked if the charts reflect the growth in the fund's corpus or were limited to the ERA.

SENATOR MYERS said the charts refer to the changes in the ERA, assuming 2 percent inflation. This does not change royalty deposits or provide statutory inflation proofing until 2024.

[1:40:55 PM](#)

SENATOR KIEHL asked if the fund's corpus would achieve real dollar growth or if it would also deteriorate.

SENATOR MYERS answered that these projections only reflect changes to the ERA. He was unsure about the changes to the corpus but predicted it would slowly increase. He said this is based on 25 percent royalty deposits but noted royalties are down based on North Slope production levels and statutory inflation proofing not occurring until 2024.

[1:41:42 PM](#)

SENATOR KIEHL said he envisions that SJR 1 will receive more financial analysis as it goes through the process. He offered his support to maintain the 5 percent POMV draw because he finds that it is responsible and will preserve the real-dollar value of the Permanent Fund for Alaska's future.

[1:42:13 PM](#)

SENATOR SHOWER echoed Senator Kiehl's comments. He offered his view that the legislature has not reduced the size of state government. He expressed concern that reducing the POMV draw would unfairly burden the Permanent Fund Dividend (PFD). Secondly, not taking enough from the draw will mean that taxes will be necessary. He expressed concern that 4 percent is too low.

[1:44:00 PM](#)

SENATOR WIELECHOWSKI said Amendment 1 is not unreasonable. He acknowledged that some people support using a 4 percent POMV. However, he is comfortable with 5 percent. He pointed out that SJR 1 does away with the earnings reserve account (ERA) to avoid giving the legislature access to spending it.

[1:44:42 PM](#)

SENATOR MYERS explained that he offered Amendment 1 to put his concerns on record. He withdrew Amendment 1.

[1:45:24 PM](#)

CHAIR REINBOLD commented that she would like to reduce government.

[1:45:51 PM](#)

SENATOR KIEHL moved to adopt Amendment 2, work order 32-LS0015\A. 2:

32-LS0015\A.2
Nauman
3/31/21

AMENDMENT 2

OFFERED IN THE SENATE
TO: SJR 1

BY SENATOR KIEHL

Page 1, line 14, through page 2, line 12:

Delete all material and insert:

"(b) At the end of each fiscal year, five percent of the average market value of the fund for the first five of the preceding six fiscal years,

including the fiscal year just ended, including any unrealized gains or losses, shall be determined in accordance with generally accepted accounting principles.

(c) Each fiscal year, an amount

(1) equal to one and one-fourth percent of the average market value of the fund, as calculated under (b) of this section, shall be transferred from the permanent fund for use in a program of dividend payments to state residents, as provided by law;

(2) not to exceed three and three-fourths percent of the average market value of the fund, as calculated under (b) of this section, may be appropriated by the legislature from the permanent fund to the general fund."

CHAIR REINBOLD objected for discussion purposes.

[1:45:58 PM](#)

SENATOR KIEHL explained that Amendment 2 would enshrine the dividend and set a minimum percentage of the dividend below which the legislature cannot go. It would make the remainder of the draw available for appropriation, just as it is today. It allows most of the discretion for appropriations to legislators, who are the people's representatives. He summarized that under Amendment 2, a minimum of 25 percent of the draw would be used for dividends, which leaves 75 percent for deposit to the general fund for the legislature to consider. He clarified that the 25 percent draw for the dividend is not a cap.

[1:47:46 PM](#)

SENATOR MYERS offered his view that Amendment 2 would go against the intent of the constitutional framers. Their intent was to provide dividends as the first draw. Making the guaranteed portion the smaller portion will place the dividends in the position of the second draw. He offered his view that the resource owners should get the first call on the states' royalties. He expressed concern that Amendment 2 will reduce the effective rate on royalties even further. Therefore, Amendment 2 is not a good idea.

[1:49:12 PM](#)

SENATOR SHOWER agreed with Senator Myers. He expressed concern that Amendment 2 would result in a smaller permanent fund dividend and the government would increase in size. He predicted that the legislature would continue to allow this to happen

unless it has no choice. He emphasized the need for a PFD solution.

[1:51:26 PM](#)

SENATOR WIELECHOWSKI stated that SJR 1 is designed to resolve the PFD issue. He offered his view that the people would not support this approach. He said he could not support Amendment 2.

[1:52:05 PM](#)

SENATOR KIEHL highlighted differing viewpoints on how the Alaska Constitution is constructed. He said the committee could discuss what the framers intended. However, the Alaska Constitution's language requires that the permanent fund's earnings be deposited to the general fund. The courts have affirmed it, he said. A majority of the House and the Senate makes appropriation determinations. Amendment 2 would put the first call on the PFD for Alaskans. Legislators currently disagree on the size of that dividend. Early in this legislative session, there were discussions about having a zero dividend. However, that is not something he supports, he said. The federal COVID-19 funds have offset the state's revenues. He reminded members that funding for state government benefits Alaskans. State funding paves and plows roads, fuels state trooper vehicles, pays biologist salaries and natural resource managers who enable resource development to occur. He related his understanding that there was no support for Amendment 2.

SENATOR KIEHL withdrew Amendment 2.

[1:54:17 PM](#)

CHAIR REINBOLD remarked that the 25 percent to 75 percent split would "throw people for a loop." However, she liked the minimum floor aspect in Amendment 2.

[1:54:57 PM](#)

SENATOR KIEHL moved to adopt Amendment 3, work order 32-LS0015\A.1:

32-LS0015\A.1
Nauman
3/31/21

AMENDMENT 3

OFFERED IN THE SENATE
TO: SJR 1

BY SENATOR KIEHL

Page 1, lines 14 - 15:

Delete "in accordance with generally accepted
accounting principles"
Insert "as provided by law"

CHAIR REINBOLD objected for discussion purposes.

[1:55:02 PM](#)

SENATOR KIEHL explained Amendment 3. He said the legislature does not set generally accepted accounting principles. Amendment 3 would allow the legislature to establish the principles.

CHAIR REINBOLD remarked that she likes Amendment 3.

SENATOR SHOWER offered his support for Amendment 3.

[1:56:47 PM](#)

SENATOR MYERS asked if the bill sponsor could comment on Amendment 3.

SENATOR WIELECHOWSKI responded that this language is the current language in the permanent fund statutes. The term is used 25 times in the statutes. He offered his view that Amendment 3 makes a reasonable change.

[1:57:41 PM](#)

CHAIR REINBOLD withdrew her objection. There being no further objection, Amendment 3 was adopted.

SENATOR SHOWER remarked that he thought this change would help.

[SJR 1 was held in committee.]

[1:59:18 PM](#)

At ease

CONFIRMATION HEARING
Attorney General

[2:00:58 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of the Governor's Appointees, Treg Taylor, Attorney General, Department of Law.

[2:01:33 PM](#)

TREGARRICK "TREG" TAYLOR, Attorney General Designee, Department of Law, Anchorage, Alaska, introduced himself.

[2:01:55 PM](#)

CHAIR REINBOLD said she would focus on the attorney general's lack of experience in criminal law since Mr. Taylor indicated he does not have much experience in this area. She reviewed some of the statutory requirements for the attorney general under AS 44.23.020, as follows:

(a) The attorney general is the legal advisor of the governor and other state officers.

(b) The attorney general shall

(1) defend the Constitution of the State of Alaska and the Constitution of the United States of America;

(2) bring, prosecute, and defend all necessary and proper actions in the name of the state for the collection of revenue;

(3) represent the state in all civil actions in which the state is a party;

[2:02:56 PM](#)

CHAIR REINBOLD said she also researched what attorneys general typically do in other states. She reported that attorneys general are the top legal officers of the state or territory. They advise and represent the legislature and the state agencies and act as the peoples' lawyer.

CHAIR REINBOLD, on behalf of Senator Hughes, who had not yet arrived due to other legislative duties, asked how he proposes to address rampant sexual assault crimes including human trafficking.

[2:03:38 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR responded that his lack of criminal law experience concerns him. He indicated that he asked for John Skidmore, Deputy Attorney General, Criminal Division, for help related to criminal procedures. Mr. Skidmore developed a plan to fully brief him. He stated his goal is to be an asset for the criminal division and make good recommendations and decisions. He acknowledged that sexual assault crimes, domestic violence, and human trafficking are issues the state faces. The department is developing a collaborative plan with other departments and the governor's office to coordinate efforts.

[2:05:41 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR elaborated on the Department of Law (DOL) efforts. DOL created a full-time position in the criminal division to train prosecutors and support staff primarily on sex crimes. While all prosecutors can prosecute sex crimes, the DOL has a dedicated sex crime unit consisting of five prosecutors and support staff. However, that unit has experienced a 125 percent turnover in staff over two years. This has made it impossible for the prosecutors to gain the expertise and ability to work cases effectively or to mentor others. This is because the caseloads are astronomical, averaging 67 cases per prosecutor. Typically, a prosecutor working full-time can work 30 cases. Prosecutors come to the job desiring to effectuate good changes. It is troubling to these prosecutors when time constraints force them to operate in crisis mode continually. The DOL has requested 10 additional prosecutors and nine support staff to lower individual caseloads to allow them time to work cases effectively. It should also allow prosecutors time to better communicate with survivors of sex crimes. He said this is often the first time victims have dealt with the justice system. One way to help is to give prosecutors relief to have adequate time to inform victims about their cases.

[2:09:13 PM](#)

CHAIR REINBOLD asked if DOL's plans would work and the state could reduce its statistics and improve justice in Alaska.

[2:09:48 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR offered to do his best. If the DOL's proposal does not work, he said he would be prepared to take another approach to solve the problem. He stated that sexual assault crimes are difficult to prosecute by their very nature. He said he feels strongly about these crimes. He acknowledged that some perpetrators have gone unpunished and that the state must change that paradigm. He emphasized the necessity of enhancing public trust in the judicial system and giving victims and survivors of sex crimes throughout Alaska the confidence to come forward.

[2:10:53 PM](#)

SENATOR MYERS said he did a Google search. He expressed concern that 97 percent of criminal cases are resolved through plea bargains rather than through the trial process.

ATTORNEY GENERAL DESIGNEE TAYLOR answered that he would like to address the issue. While department resources are part of the issue, most plea bargains are based on the strength of the cases. He offered his belief that adding additional prosecutors

could help. Further, as prosecutors gain experience, it gives them a better sense of the strength of their cases. Still, sometimes plea bargains are in the best interests of the people. Plea bargains will always be part of the criminal justice system. Some changes are being made within the department to bring additional cases to his attention to review the plea bargain decisions.

[2:13:47 PM](#)

SENATOR SHOWER asked if he would support an elected inspector general similar to the military inspector general. He highlighted that an inspector general would not report to the governor but would independently investigate and pursue cases that constitute an important breach of the law. In this way, Alaska would have a system for the public to pursue an avenue outside the traditional government framework. He said he could also see the value of having an elected attorney general to investigate many issues independently.

[2:15:54 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR responded that he reviewed what other states did last year. He recalled that between 7 to 11 states report findings to the legislature. In most states with an inspector general, that position has jurisdiction in specific areas such as workers' compensation or specific labor issues. However, most inspectors general fall under the executive branch. The challenge is to achieve a balanced structure where the inspector general can remain non-partisan and apolitical. He said he could support this concept since it could save the state money as it investigates matters. He was unsure if the limited scale model or an overarching framework similar to the postmaster inspector general would be best. He characterized it as a policy issue for the legislature to decide.

SENATOR SHOWER commented that it was difficult to know the person to turn to when everyone works for someone. He said the state needs to have someone who works for the people and is responsible to them.

CHAIR REINBOLD agreed with Senator Shower.

[2:18:42 PM](#)

SENATOR KIEHL stated he finds the committee universally supports prosecution and the importance of consequences. However, prosecution alone does not change cultures. He said he was eager to hear the plans to address sex crimes. He noted that significant discussion has occurred over previous misconduct in

the Department of Law (DOL). He asked what specific steps DOL would take to ensure DOL has a safe workplace culture.

ATTORNEY GENERAL DESIGNEE TAYLOR answered that the department knows he has zero tolerance for those behaviors. He wants to lead by example but act swiftly, fairly, and decisively on those matters. He offered his view that the worst thing that can happen is to let issues fester or hope the problems dissipate by coaching. However, there are consequences once an employee crosses a certain line, he said.

[2:21:18 PM](#)

CHAIR REINBOLD said the Food and Drug Administration (FDA). mRNA authorized vaccinations for emergency use by She asked for his stance on government or employer-mandated vaccinations.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that he was unsure of his stance. He offered his view that in six months or longer, the state will better understand the courts' ruling on whether an employer can require employees to receive vaccines as a condition of employment. However, the governor and Commissioner Crum have made it clear that it is a personal decision to get vaccinated. COVID-19 vaccines should be treated like many other vaccines in many ways. The right to insist on that vaccine is very similar.

ATTORNEY GENERAL DESIGNEE TAYLOR said the courts would use a reasonable basis test to decide whether businesses can require proof of vaccination of their customer, such as a vaccine passport. Some other states have taken strong stances on these issues. However, his preference is to wait and see, he said. The courts will weigh the public interests, including the right to privacy and the right to freely move about to engage in commerce, against the serious risks and threats that COVID-19 poses to society. It remains to be seen how the courts will rule on these issues. If necessary, the state may need to challenge some actions.

CHAIR HUGHES rejoined the meeting.

[2:24:15 PM](#)

CHAIR REINBOLD asked for his actions if the governor decided to impose mandatory vaccines even though federal emergency orders prohibit mandatory vaccinations.

ATTORNEY GENERAL DESIGNEE TAYLOR job answered he would never condone breaking the law. He said he would evaluate and

interpret the law, inform the governor or commissioners on it, and advise them that pursuing illegal actions will result in consequences.

[2:24:51 PM](#)

CHAIR REINBOLD asked if he understood the emergency use authorization provision that states could not mandate mRNA vaccinations.

ATTORNEY GENERAL DESIGNEE TAYLOR answered that he had not read that specific federal law. However, he understands that once the emergency abates, the federal government will reevaluate whether vaccines can continue to be used or mandated under emergency authorizations.

[2:25:53 PM](#)

CHAIR REINBOLD offered her belief that the law was very clear on vaccine mandates. She emphasized that the mRNA vaccines have not undergone full FDA approval. She expressed concern that he did not take a more definitive approach. She asked for the state's liability if someone is injured, dies, or has an adverse reaction to the vaccine. For example, the Department of Corrections mandated that prisoners receive vaccines before having face-to-face meetings with their lawyers or to see visitors. She pointed out that a judge recently ruled that this policy was unconstitutional. She maintained her concern about his wait-and-see approach.

[2:27:07 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR answered that he does not make policy calls. Instead, he provides advice to the governor and agencies. He said his advice is confidential and not a matter of public record. He assured the committee that the Department of Law has experts to inform him and he would follow and uphold the law. He maintained that elected officials make the policy calls but ultimately, the courts will rule on these policies. He stated his goal as attorney general is to remain apolitical and give frank legal advice to the governor.

[2:28:43 PM](#)

CHAIR REINBOLD maintained her concern about the state's liability related to vaccines.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that the courts would determine any liability. Suppose the courts determine that policymakers made the right decisions related to vaccinations to protect the public versus an individual's rights to privacy. In

that case, it will not result in any liability. If the courts determine that policymakers made the wrong decisions and violated an individual's right to privacy, the state could incur liability.

[2:29:58 PM](#)

CHAIR REINBOLD related that people express concern on social media that they may lose their jobs if they do not get vaccinated. However, it takes ten years to get a vaccine to market, but the state is only a year into the process. She maintained her interest in having the attorney general take action and not wait for a lawsuit to resolve issues. She asked if he was the people's lawyer.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that his oath is to the US Constitution and the Constitution of the State of Alaska. The Alaska Constitution clearly states, "We the people of Alaska." He maintained that his role is independent of the governor in determining which litigation the state pursues in the public interest. He said he takes his oath very seriously and he takes his responsibility to Alaskans very seriously.

[2:31:30 PM](#)

CHAIR REINBOLD read from an attorney general's opinion (not identified), "The Constitution is not suspended in the time of crisis. We must therefore be vigilant to ensure the protections in the constitution are preserved." She asked if he agreed with that statement.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that he agreed with that statement.

CHAIR REINBOLD asked, if confirmed, whether he would promise to serve the people of Alaska under the oath of office and uphold and defend the Constitution of the State of Alaska and US Constitution and not suspend it in the time of crisis.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that he took that oath and will vow again today that this is his promise to the people of Alaska.

[2:32:15 PM](#)

SENATOR KIEHL referred to confirmation hearings held in the House. Governor Dunleavy's former chief of staff took a governmental affairs position with a large firm, considered a lobbyist position. He recalled that Mr. Taylor appropriately indicated he would not grant a blanket waiver to the Executive

Branch Ethics Act. However, what he heard missing was an acknowledgment that the Executive Branch Ethics Act bars that type of lateral transfer. He asked if he or his staff counseled the governor's former chief of staff on what he was permitted to do and when it would be necessary to request a waiver.

[2:33:31 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR answered that he held frank discussions. He offered his view that Mr. Stevens is aware of his obligations under the Ethics Act. For the next two years, Mr. Stevens will have access to the Department of Law's attorneys to ask for advice on this very issue, he said. The Ethics Act was designed to allow the state to attract the best individuals for positions within the state. If these individuals could not work in their field after state service, it is doubtful they would accept a job with the state. He highlighted that a mechanism must be in place to allow individuals to function in their expertise. The Ethics Act prohibits a former state employee from engaging in an issue for two years when the employee was personally and substantively involved in the matter while employed by the State of Alaska. The intent is not to prohibit employment but to restrict employment unless it's in the state's best interest. He characterized this as a safety valve in the Ethics Act. That provision allows the governor and the attorney general to consider a waiver of the two-year bar if it is in the state's best interest. As issues arise in Mr. Steven's work, he will ask for advice from the Department of Law and that advice may be to advise him to request a waiver. He reiterated that the Ethics Act specifically restricts a state employee from engaging in an issue that the employee personally and substantively engaged in while employed by the State of Alaska.

[2:36:07 PM](#)

ATTORNEY GENERAL DESIGNEE TAYLOR acknowledged that the governor's chief of staff is involved in many issues, some of which are tangential and others require advice. The Department of Law has experts in this area. Assistant Attorney General Maria Bahr has been advising on ethics issues for the past four years. He said he anticipated that Mr. Stevens would request waiver requests over the next two years. If so, he and Governor Dunleavy will determine if it is in the public's interest to grant a waiver. If not, Mr. Stevens will be barred from pursuing that specific issue as an employee of Conoco Phillips.

SENATOR KIEHL remarked that his response concerns him. He stated that the Executive Branch Ethics Act treats lobbyist jobs

differently because of the risks of manipulation of Alaska's government. This raises the alarm because the governor, in consultation with the attorney general, will make decisions about his own political consigliere.

[2:37:49 PM](#)

SENATOR SHOWER offered his view that federal laws, such as HR 1, are being written that can only be adjudicated in Washington, DC. He expressed concern that these bills are overreaching federal authority and a breach of States' rights. He asked whether he would be willing to join other states on matters of federal overreach.

ATTORNEY GENERAL DESIGNEE TAYLOR answered yes.

[2:38:44 PM](#)

CHAIR REINBOLD asked if he would support blocking vaccination passports.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that it falls under policy. Personally, he does not support vaccination passports. He stated that his job as attorney general is to uphold the law and interpret the issues. For example, a pool would be different from a blood donation. He stated that he would decide matters on a case-by-case basis. If he encounters anything he considers a violation of constitutional rights, he will take action.

[2:39:55 PM](#)

CHAIR REINBOLD offered her view that his job as attorney general is to uphold the governor's policies. She maintained her belief that mandatory vaccination passports and requiring mandatory vaccinations are important issues and he should take a firm position on them.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that the state would go to court to seek remedies. He stated that when the governor and departments ask him about policies, he will provide his honest opinion. He acknowledged that it is his job to enforce policy but not create policy. That is the function of the courts under the separation of powers.

[2:42:07 PM](#)

CHAIR REINBOLD asked if the Alaska Constitution gives the legislature the power to set policy and the executive branch executes it. She asked him to cite constitutional provisions that grant the executive branch the power to set policy other than martial law.

ATTORNEY GENERAL DESIGNEE TAYLOR agreed that is the general separation of powers. He stated that the Declaration Act itself delegates the legislature's decision-making ability in times of disasters to the governor. As previously discussed, those mandates carry the weight of the law. He maintained that his goal was to uphold the law.

[2:43:13 PM](#)

CHAIR REINBOLD pointed out that martial law allows the governor to suspend constitutional rights. She asked again if any other constitutional provision grants the governor the authority to suspend constitutional rights.

ATTORNEY GENERAL DESIGNEE TAYLOR responded that he is not aware of any other provisions where the governor can suspend the constitutional rights of citizens.

[2:43:53 PM](#)

SENATOR SHOWER stated that in accordance with AS 39.05.080, the Senate Judiciary Standing Committee reviewed the following and recommends the appointment be forwarded to a joint session for consideration:

Attorney General - Department of Law
Treg Taylor - Anchorage

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:44:30 PM](#)

At ease

SB 9-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[2:45:48 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of SENATE BILL NO. 9, "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules

of Minor Offense Procedure; and providing for an effective date."

[2:46:37 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, Juneau, Alaska, speaking as the sponsor, stated that 90 percent of the bill is a reorganization of Title 4. SB 9 will place items into the code to protect public health and safety. It will help the alcohol industry avoid piecemeal amendments to Title 4. He characterized the bill as providing the alcoholic beverage industry with options to encourage a healthy and lucrative industry.

[2:47:17 PM](#)

CHAIR REINBOLD stated that the committee would take up amendments.

[2:47:20 PM](#)

SENATOR HUGHES moved to adopt Amendment 1, work order 32-LS0124\B. 13:

32-LS0124\B.13
Bruce
4/1/21

AMENDMENT 1

OFFERED IN THE SENATE
TO: SB 9

BY SENATOR HUGHES

Delete "at an annual fair"
Insert "during an event"

Page 21, line 14, following "on":
Insert "the"

Page 21, lines 19 - 21:
Delete all material.

CHAIR REINBOLD objected for discussion purposes.

[2:47:37 PM](#)

SENATOR HUGHES referred to page 21 of SB 9, language relating to fairs. This would remove the language "at an annual event" and replace it with "during an event." She stated that the Alaska State Fair has about 400,000 people who live within an hour's drive of the fairgrounds. The fairgrounds are used for multiple

events throughout the year, which is important to Anchorage, the Mat-Su Valley and the surrounding area. According to the director, the Alaska State Fair would be prevented from carrying out its typical operations.

[2:48:46 PM](#)

SENATOR MICCICHE stated that he supports the Alaska State Fair. Passage of SB 9 will allow the fair to operate. He advised members that another amendment would put sideboards on Amendment 1. However, Amendment 1 would turn the Alaska State Fair and any other annual fair into a bar. He said he advised the Alaska State Fair that a subsequent amendment would cover every event the fair offers.

[2:49:58 PM](#)

CHAIR REINBOLD asked how Amendment 1 would turn the fairgrounds into a bar.

SENATOR MICCICHE answered that currently, the Alaska State Fair would be limited to a permit for the three days of the annual fair. Amendment 1 would allow the fair to hold an event every night and allow operating at will, similar to a Beverage Dispensary License (BDL). In addition, the sporting permit and other types of permits could be used.

[2:50:36 PM](#)

SENATOR HUGHES offered her view that characterizing it as a bar would be inaccurate. She stated that people would be required to purchase tickets. She agreed the fairgrounds have been busy, although the events are not held every night. She said the fairground's operator has a record of being a responsible operator. She stated that at least one fair has been struggling financially and this revenue could help.

[2:51:49 PM](#)

SENATOR SHOWER asked for information on the sideboards.

SENATOR MICCICHE related that Senator Myers would be offering a subsequent amendment, labeled 32-LS0124\B.12, which will address the concerns.

SENATOR HUGHES clarified that Senator Micciche is referring to Amendment 4.

SENATOR SHOWER asked if Amendment 4 would address the concerns raised and whether Amendment 1 would apply to all fairgrounds. He stated that he does not want to limit opportunities.

SENATOR HUGHES answered that the Alaska State Fair would be limited to holding about 20 events per year. It would apply to all fairs. She said she had observed events at the fairgrounds nearly every weekend. She said that she served on the Recover Alaska board over ten years ago. The initial goal of the Title 4 rewrite was to curb consumption and address alcoholism which was rampant in some Alaskan communities. She expressed concern that since the Mat-Su Valley is growing, Amendment 1 would limit development, which she said was not the intent of the rewrite.

[2:54:50 PM](#)

SENATOR SHOWER asked if the sponsor of Amendment 1 would be willing to consider language limited explicitly to the Alaska State Fairgrounds.

SENATOR HUGHES said she would be open to it, but she was unsure what would be legally permissible.

CHAIR REINBOLD asked for the sponsor's will.

[2:55:48 PM](#)

SENATOR HUGHES said she would like Amendment 1 to pass.

SENATOR KIEHL pointed out that Amendment 1 retains the use of the word "event." He asked if a definition of "event" exists.

[2:56:37 PM](#)

BUDDY WHITT, staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, Alaska, on behalf of Senator Hughes, stated he believes it would be a common-use definition. The term "event" is not defined in the bill. He suggested the committee may need Legislative Legal Services to provide clarification.

[2:57:11 PM](#)

SENATOR MICCICHE clarified that someone incorrectly commented that Amendment 4 would limit events to 22 events per year. That is not the case, he said. He stated that the director of the Alaska State Fair previously indicated that due to COVID-19, about 20 events were held during the year, which was an increase in fairground use. He was unsure if that increased use would continue. The Alaska State Fair nonprofit license allows for sporting event licenses and caterer's permits.

[2:57:57 PM](#)

At ease

[The LIO moderator left the meeting because Chair Reinbold removed her mask contrary to the Legislative Council COVID-19 requirements.]

[3:02:30 PM](#)

CHAIR REINBOLD reconvened the meeting.

[3:02:45 PM](#)

SENATOR KIEHL asked if the sponsor of Amendment 4 plans to offer his amendment.

SENATOR MYERS said if Amendment 1 were to pass, he planned to withdraw Amendment 4.

SENATOR KIEHL maintained his objection.

[3:03:08 PM](#)

A roll call vote was taken. Senators Myers, Hughes, and Reinbold voted in favor of Amendment 1 and Senators Kiehl and Shower voted against it. Therefore, Amendment 1 was adopted by a 3:2 vote.

[3:03:34 PM](#)

SENATOR HUGHES moved to adopt Amendment 2, work order 32-LS0124\B.14:

32-LS0124\B.14

Bruce

4/1/21

AMENDMENT 2

OFFERED IN THE SENATE

BY SENATOR HUGHES

TO: SB 9

Page 107, line 12, following "course":

Insert "and allow a licensee, permittee, agent, or employee to complete an alcohol server education course online or in person"

Page 107, line 19, following "test":

Insert ", online or in person,"

CHAIR REINBOLD objected for discussion purposes.

[3:03:49 PM](#)

SENATOR HUGHES explained Amendment 2. She reported that close to 20 percent of the notice of violations issued by the Alcohol & Marijuana Control Office (AMCO) were for expired or missing server education. The Alcoholic Beverage Control Board (ABC Board) allowed online courses due to COVID-19. Amendment 2 would make that change permanent. It would benefit people who need to travel to take the alcohol server education course. Amendment 2 would allow people to take the alcohol server education course online but still allow the board to hold in-person classes. This would reduce the number of violations issued.

[3:04:38 PM](#)

SENATOR MICCICHE offered his view that Amendment 2 was a great amendment. It is something that the ABC Board currently offers, so the board supports it.

CHAIR REINBOLD removed her objection. There being no further objection, Amendment 2 was adopted.

[3:05:04 PM](#)

SENATOR HUGHES moved to adopt Amendment 3, work order 32-LS0124\B.15.

32-LS0124\B.15
Bruce
4/1/21

AMENDMENT 3

OFFERED IN THE SENATE

BY SENATOR HUGHES

TO: SB 9

Page 73, line 26:

Delete "**restaurant or eating place**"

Page 73, line 27:

Delete "first class city, a home rule city, or a unified"

Page 73, lines 29 - 30:

Delete "restaurant or eating place licenses under AS 04.11.100"

Insert "licenses under this chapter"

Page 74, line 2:

Delete "restaurant or eating place licenses under AS 04.11.100"

Insert "licenses of each type under this chapter"

Page 74, lines 5 - 9:

Delete all material.

Reletter the following subparagraphs accordingly.

Page 74, lines 12 - 13:

Amendment 3 continued, as follows:

Delete "restaurant or eating place licenses issued under AS 04.11.100;"

Insert "each type of license requested in the petition; and"

Page 74, lines 15 - 16:

Delete "; and

(3) granting the additional licenses is in the public interest"

Page 74, line 20, following "section;":

Insert "and"

Page 74, line 21, through page 75, line 11:

Delete all material and insert:

"(2) the number of existing licenses of each type requested in the petition within the boundaries of the municipality."

Page 75, line 13:

Delete "first class city, a home rule city, or a unified"

Page 75, lines 15 - 16:

Delete "restaurant or eating place licenses under AS 04.09.210 [AS 04.11.100]"

Insert "licenses under AS 04.09 [THIS CHAPTER]"

Page 75, line 20:

Delete "restaurant or eating place licenses under AS 04.09.210 [AS 04.11.100]"

Insert "licenses of each type under AS 04.09 [THIS CHAPTER]"

Page 75, lines 23 - 27:

Delete all material.

Reletter the following subparagraphs accordingly.

Page 75, lines 30 - 31:

Delete "restaurant or eating place licenses issued under AS 04.09.210 [AS 04.11.100];"

Insert "each type of license requested in the petition; and"

Page 76, lines 2 - 3:

Delete "; and

(3) granting the additional licenses is in the public interest"

CHAIR REINBOLD objected for discussion purposes.

[3:05:19 PM](#)

SENATOR HUGHES stated that the Mat-Su Borough is one of the fastest growing areas in the state. She explained that Amendment 3 would not change the population criteria, but it will change the petition process above the population limits. It would allow the ABC Board to make final decisions. Still, it would allow municipalities to petition for additional licenses if the area has experienced growth in population and business activity. She offered her belief that this was a reasonable compromise.

[3:06:14 PM](#)

SENATOR MICCICHE reminded members that the bill added "substantial increases" for the ability of municipalities to get additional licenses. He cautioned members that if these changes go too far, it risks losing support from some stakeholders for the bill. Amendment 3 would allow licenses in municipalities without law enforcement oversight. He acknowledged that the committee could consider adopting Amendment 3, but members should be aware of its overall effect on Title 4.

SENATOR HUGHES commented that this is not automatic since municipalities still need to apply for the license and the ABC Board still needs to consider other things. She offered her belief that this would provide a balanced approach.

[3:06:59 PM](#)

SENATOR MICCICHE reiterated his concern that this would open it up to all communities. It would delete language "first class city, a home rule city, or a unified" municipality. It would mean that anyone in the state could apply for licenses. If the parties place enough political pressure on the ABC Board, they

might get one. It could happen in places without law enforcement, which is key to responsible management of alcohol licensees. That's what this whole bill is about, he said.

[3:07:34 PM](#)

SENATOR HUGHES said limiting access points can sound great on the surface, but it has other effects. For example, people will be out on the road for longer distances. She argued that ensuring that people are not on the road for longer distances could even be safer.

[3:08:02 PM](#)

SENATOR REINBOLD maintained her objection.

A roll call vote was taken. Senators Kiehl, Shower, Hughes and Myers voted in favor of Amendment 3 and Senator Reinbold voted against it. Therefore, Amendment 3 was adopted by a 4:1 vote.

[3:08:40 PM](#)

SENATOR MYERS withdrew Amendment 4, work order 32-LS0124\B.12.

[3:08:53 PM](#)

SENATOR KIEHL withdrew Amendment 5, work order 32-LS0124\B.16.

[3:09:04 PM](#)

SENATOR KIEHL moved to adopt Amendment 6, work order 32-LS0124\B.17.

32-LS0124\B.17
Bruce
4/5/21

AMENDMENT 6

OFFERED IN THE SENATE
TO: SB 9

BY SENATOR KIEHL

Page 45, lines 28 - 29:

Delete "for a conditional contractor's permit issued under AS 04.09.690"

Insert "as provided under (g) of this section"

Page 46, line 13:

Delete "The"

Insert "Except as provided under (g) of this section, the"

Page 46, following line 15:

Insert a new subsection to read:

"(g) A person who will serve or sell alcohol or check identification of a patron during a permitted event is not required to complete an alcohol server education course under AS 04.21.025 before the first day of the permitted event if the permittee holds

(1) a conditional contractor's permit issued under AS 04.09.690; or

(2) a nonprofit organization event permit issued under AS 04.09.650 or an alcoholic beverage auction permit issued under AS 04.09.660 and the director approves a server plan submitted by the permittee."

Reletter the following subsections accordingly.

Page 102, line 27, following "course":

Insert "or server plan"

Page 103, line 5, following "course":

Insert "or complied with a server plan"

Page 107, line 1:

Delete "(e) and (f)"

Insert "(e) - (g)"

Page 107, line 27, following "subsection":

Insert "and except as provided under AS 04.09.600 (g)"

Page 108, following line 11:

Insert a new subsection to read:

"(g) The holder of a fair license under AS 04.09.290 and agents and employees of the holder of a fair license may sell or serve alcoholic beverages or check the identification of a patron without completing an alcohol server education course under this section if the director approves a server plan submitted by the holder of the fair license."

Reletter the following subsections accordingly.

Page 108, line 12:

Delete "(a) - (c) or (e)"

Insert "(a) - (c), (e), or (g)"

Page 108, line 13, following "education":
Insert "or server plan"

Page 108, line 14, following "education":
Insert "or server plan"

CHAIR REINBOLD objected for discussion purposes.

[3:09:14 PM](#)

SENATOR KIEHL explained Amendment 6. He stated that sometimes not everyone has an alcohol server education (TAP) card. This would allow the organizer of a nonprofit fair licensee event to serve alcoholic beverages by having a plan for other servers approved by the Alcohol & Marijuana Control Office (AMCO). He said many small nonprofits hold small events. However, not every volunteer has a TAP card. For example, alcohol professionals from out of state pour beer at an event in his district. However, these professionals do not have an Alaska TAP card. It seems appropriate not to allow anyone to pour alcoholic beverages in those limited situations, but to allow AMCO to approve a serving plan that does not require everyone to have a TAP card.

CHAIR REINBOLD asked the sponsor to comment.

[3:10:29 PM](#)

SENATOR MICCICHE responded that he had no comment.

[3:10:34 PM](#)

SENATOR KIEHL emphasized that this would have limited effects on nonprofit organizations for events such as the Haines State Fair.

CHAIR REINBOLD maintained her objection.

[3:11:21 PM](#)

SENATOR MICCICHE stated that nonprofits could always auction off a bottle of wine. Amendment 6 would allow fairs throughout Alaska to allow anyone to serve so long as someone has a TAPS card. It would dramatically expand the number of servers that do not receive training.

[3:12:16 PM](#)

SENATOR HUGHES asked for clarification on whether the person would need to supervise.

[3:12:38 PM](#)

SENATOR MICCICHE answered no. He said he often oversees nonprofit events and uses servers who have passed a Training for Alcohol Professionals (TAP) course and hold a TAP card. He emphasized the importance of using trained people to serve alcoholic beverages because otherwise, it creates liability for the organization. For example, a server might overserve customers who could later drive drunk and injure or kill people. He offered his view that this is very important. Amendment 6 would require someone with a TAP card to supervise all the people serving. He characterized some of the events as large events with numerous servers.

[3:13:48 PM](#)

SENATOR KIEHL offered that the bill requires a person to hold a TAP card to serve or sell. That language would include an auctioneer at an event. Amendment 6 would require director approval from AMCO for an alternate plan. He acknowledged that some events are large ones, as described by the sponsor. He related that a TAP-certified person currently oversees a random number of volunteers without incident. However, it is certainly not a requirement in Amendment 6 that one TAP-certified person oversees 20 servers. Instead, the nonprofit must have a server plan approved by the Alcohol & Marijuana Control Office. He cautioned that without Amendment 6, it could shut down many events.

SENATOR HUGHES asked if the Alcohol & Marijuana Control Office could comment.

[3:15:36 PM](#)

GLEN KLINKHART, Executive Director, Alcohol & Marijuana Control Office, Department of Commerce, Community and Economic Development, Anchorage, Alaska, advised members that it is now much easier to take courses and obtain TAP server cards online. As online courses are offered more frequently, it will be possible for people to get certified within a week. He offered his view that server education is paramount from a public safety perspective. He expressed concern about the ratio of servers to those holding TAP cards because it would be difficult to supervise all the servers.

[3:17:09 PM](#)

CHAIR REINBOLD said it sounds like he does not support Amendment 6.

MR. KLINKHART expressed concern that without proper supervision and education, it could open up issues for public safety.

[3:17:55 PM](#)

SENATOR HUGHES asked for the cost and hours to obtain a TAP card.

MR. KLINKHART answered that the Cabaret, Hotel, Restaurant and Retailers Association (CHARR) alcohol server classes take about half a day.

[3:18:35 PM](#)

SENATOR KIEHL offered his view that the cost for the CHARR course is \$65.

[3:18:43 PM](#)

SENATOR MICCICHE referred to page 49. He stated that the alcoholic beverage auction permit fees of \$50 would cover the gift baskets.

[3:19:04 PM](#)

CHAIR REINBOLD maintained her objection.

[3:19:07 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Amendment 6 and Senators Hughes, Shower, Myers, and Reinbold voted against it. Therefore, Amendment 6 failed by a 1:4 vote.

[Public testimony was not opened or closed.]

[SB 9 was held in committee.]

[3:19:49 PM](#)

There being no further business to come before the committee, Chair Reinbold adjourned the Senate Judiciary Standing Committee meeting at 3:19 p.m.