

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 26, 2021

1:46 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 122

"An Act relating to the definition of 'victim.'"

- MOVED SB 122 OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 6

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

- HEARD & HELD

SENATE BILL NO. 53

"An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 82

"An Act relating to elections and election investigations."

- MOVED CSSB 82(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 122

SHORT TITLE: VICTIM DEFINITION

SPONSOR(s): SENATOR(s) REINBOLD

04/07/21 (S) READ THE FIRST TIME - REFERRALS
04/07/21 (S) JUD
04/14/21 (S) JUD AT 1:30 PM BUTROVICH 205
04/14/21 (S) Heard & Held
04/14/21 (S) MINUTE(JUD)
04/19/21 (S) JUD AT 1:30 PM BUTROVICH 205
04/19/21 (S) Scheduled but Not Heard
04/21/21 (S) JUD AT 1:30 PM BUTROVICH 205
04/21/21 (S) Heard & Held
04/21/21 (S) MINUTE(JUD)
04/23/21 (S) JUD AT 1:30 PM BUTROVICH 205
04/23/21 (S) <Bill Hearing Canceled>
04/26/21 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SJR 6

SHORT TITLE: CONST. AM: PERM FUND & PFDS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) STA, JUD, FIN
02/04/21 (S) STA AT 3:30 PM BUTROVICH 205
02/04/21 (S) Scheduled but Not Heard
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
02/23/21 (S) STA AT 3:30 PM BUTROVICH 205
02/23/21 (S) Moved SJR 6 Out of Committee
02/23/21 (S) MINUTE(STA)
02/24/21 (S) STA RPT 1DP 1NR 2AM
02/24/21 (S) DP: SHOWER
02/24/21 (S) NR: COSTELLO
02/24/21 (S) AM: HOLLAND, KAWASAKI
04/21/21 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE
23
04/21/21 (S) JUD AT 1:30 PM BUTROVICH 205
04/21/21 (S) Heard & Held
04/21/21 (S) MINUTE(JUD)
04/26/21 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 53

SHORT TITLE: PERM FUND; ADVISORY VOTE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, JUD, FIN
02/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/04/21	(S)	Scheduled but Not Heard
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
02/23/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/23/21	(S)	Moved SB 53 Out of Committee
02/23/21	(S)	MINUTE(STA)
02/24/21	(S)	STA RPT 3NR 1AM
02/24/21	(S)	NR: SHOWER, HOLLAND, COSTELLO
02/24/21	(S)	AM: KAWASAKI
04/21/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/21/21	(S)	Heard & Held
04/21/21	(S)	MINUTE(JUD)
04/26/21	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 82

SHORT TITLE: ELECTIONS; ELECTION INVESTIGATIONS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/12/21	(S)	READ THE FIRST TIME - REFERRALS
02/12/21	(S)	JUD, STA, FIN
03/01/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/01/21	(S)	Heard & Held
03/01/21	(S)	MINUTE(JUD)
04/12/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/12/21	(S)	Heard & Held
04/12/21	(S)	MINUTE(JUD)
04/21/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/21/21	(S)	<Bill Hearing Canceled>
04/23/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/23/21	(S)	Heard & Held
04/23/21	(S)	MINUTE(JUD)
04/26/21	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR LORA REINBOLD

Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 122.

KELLI TOTH, Staff
Senator Lora Reinbold
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Briefly testified on behalf of the sponsor of SB 122.

BERT HOUGHTALING, representing self
Big Lake, Alaska
POSITION STATEMENT: Testified in opposition to SJR 6.

BERT HOUGHTALING, representing self
Big Lake, Alaska
POSITION STATEMENT: Testified in opposition to SB 53 because it does not follow the statutory formula for the PFD.

ED MARTIN, representing self
Sterling, Alaska
POSITION STATEMENT: During the hearing on SB 53, stated support for enshrining the original statutory formula for the PFD in the Alaska Constitution.

JEAN HOLT, representing self
Palmer, Alaska
POSITION STATEMENT: Testified in opposition to SB 53.

GHERT ABBOTT, representing self
Ketchikan, Alaska
POSITION STATEMENT: Testified in opposition to SB 82 because it is unnecessary.

BERT HOUGHTALING, representing self
Big Lake, Alaska
POSITION STATEMENT: Testified in support of SB 82 because it will strengthen the integrity of Alaska's elections.

CORI MILLS, Senior Assistant Attorney General
Labor & State Affairs Section
Civil Division
Department of Law
Juneau, Alaska
POSITION STATEMENT: Answered questions during the discussion of SB 82.

JOHN HALEY, Assistant Attorney General
Special Litigation and Consumer Protection
Civil Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 82.

ACTION NARRATIVE

[1:46:28 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:46 p.m. Present at the call to order were Senators Myers, Hughes, Kiehl, Shower, and Chair Holland.

SB 122-VICTIM DEFINITION

[1:47:13 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 122, "An Act relating to the definition of 'victim.'"

[This is the third hearing on the bill. Public testimony was taken on 4/12/21 and was closed.]

[1:47:41 PM](#)

SENATOR LORA REINBOLD, Alaska State Legislature, Juneau, Alaska, sponsor of SB 122, said the bill is very important to ensure that victims will not be left out of the criminal justice system process. She urged members to move the bill from committee. She recognized her staff, Kelli Toth, who had done the majority of the work on SB 122.

[1:48:49 PM](#)

CHAIR HOLLAND reopened public testimony on SB 122. After first determining no one wished to testify, closed public testimony on SB 122.

CHAIR HOLLAND asked the sponsor's staff if she had any comments.

[1:49:23 PM](#)

KELLI TOTH, Staff, Senator Lora Reinbold, Alaska State Legislature, Juneau, Alaska, stated that this bill would include minor children of a homicide victim [the opportunity to participate in hearings or court proceedings]. She characterized

the bill as an important one that can provide protections for minor children.

[1:49:57 PM](#)

SENATOR SHOWER moved to report SB 122, work order 32-LS0422\B, Version B, from committee with individual recommendations and attached fiscal note(s). There being no further objection, the CSSB 122(JUD) was reported from the Senate Judiciary Standing Committee.

[1:50:26 PM](#)

At ease

SJR 6-CONST. AM: PERM FUND & PFDS

[1:52:39 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE JOINT RESOLUTION NO. 6, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund, appropriations from the permanent fund, and the permanent fund dividend.

[SJR 6 was first heard on 4/21/21.]

[1:53:18 PM](#)

CHAIR HOLLAND opened public testimony on SJR 6.

[1:53:51 PM](#)

BERT HOUGHTALING, representing self, Big Lake, Alaska, stated he is opposed to SJR 6 and SB 53. Neither one will protect the statutory formula for the permanent fund dividend (PFD). He offered his view that these bills seem to allocate funds for the legislature to spend. He said that any bill that will allow legislators an option to "may" or "may not" pay a dividend is a no go for him. He and his friends soundly oppose SJR 6. He supports placing the statutory formula into the Alaska Constitution.

[1:55:00 PM](#)

CHAIR HOLLAND closed public testimony on SJR 6.

[SJR 6 was held in committee.]

SB 53-PERM FUND; ADVISORY VOTE

[1:55:32 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 53, "An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

[SB 53 was heard on 4/21/21.]

[1:55:34 PM](#)

CHAIR HOLLAND opened public testimony on SB 53.

[1:55:57 PM](#)

BERT HOUGHTALING, representing self, Big Lake, Alaska, stated his opposition to SB 53. The bill will take the permanent fund earnings and divide it in half. The legislature may or may not pay a permanent fund dividend (PFD) under the bill. He characterized SB 53 as similar to another bill before the legislature, SB 75. He said it would provide a spending cap but would fund the capital budget and operating budget first. He said he opposes any PFD bill that does not follow the PFD statutory formula.

[1:57:40 PM](#)

CHAIR HOLLAND closed public testimony on SB 53.

[1:57:50 PM](#)

At ease

[1:59:36 PM](#)

CHAIR HOLLAND reconvened the meeting

[2:00:04 PM](#)

CHAIR HOLLAND reopened public testimony on SB 53.

[2:00:28 PM](#)

ED MARTIN, representing self, Sterling, Alaska, stated that if SB 53 does not go back to the original statutory formula based on a five-year average of the permanent fund and pay out 50 percent in PFDs, it would not meet the advisory vote criteria. He offered his view that during the original advisory vote to establish the PFDs several issues arose, including the sentiment that the legislature should not touch the PFD or create a percent-of-market-value (POMV). However, the legislature has done this. Therefore, he has reservations about using a different formula. He suggested that using the POMV may be

unconstitutional. He said he favors enshrining the original statutory formula for the PFD in the Alaska Constitution.

[2:02:53 PM](#)

JEAN HOLT, representing self, Palmer, Alaska, spoke in opposition to SB 53. She echoed the comments of Mr. Houghtaling by speaking in support of maintaining PFDs and placing language in the Alaska Constitution to require it, if necessary.

[SB 53 was held in committee.]

SB 82-ELECTIONS; ELECTION INVESTIGATIONS

[2:04:00 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 82, "An Act relating to elections and election investigations."

[2:04:21 PM](#)

At ease

[2:05:17 PM](#)

CHAIR HOLLAND reconvened the meeting.

[2:05:37 PM](#)

SENATOR SHOWER moved to adopt the proposed committee substitute (CS) for SB 82, [work order 32-GS1645\B, Version B], as the working document.

There being no objection, Version B was before the committee.

[2:06:20 PM](#)

At ease

[2:06:24 PM](#)

CHAIR HOLLAND opened public testimony on SB 82.

[2:06:56 PM](#)

GHERT ABBOTT, representing self, Ketchikan, Alaska, offered his belief that SB 82 is necessary because former President Trump was unwilling to accept his 2020 election loss. In an attempt to overturn the election result, he and his supporters constructed a vast conspiracy theory about how the voting machine software was programmed by the government of Venezuela and various other actors. When repeated hand count returns confirmed the voting machine accuracy, Mr. Trump and his supporters shifted the accusations to ones about ballot stuffing. No courts or audits found any evidence to support these allegations. Subsequently,

many state legislatures introduced bills with the intent of reinforcing doubt and distrust in the election system.

He offered his belief that SB 82 is one of the bills that pretend to solve a pretend problem, giving credibility to the accusations that the 2020 election was fraudulent. SB 82 is not necessary. He urged members to reject SB 82.

[2:08:47 PM](#)

BERT HOUGHTALING, representing self, Big Lake, Alaska, said he will speak in support of any bill that will strengthen the integrity of Alaska's elections. He offered his view that the November 2020 election was full of fraud. However, it lacked sufficient fraud to overturn the election results. The state needs to clean up Alaska's election rolls and ensure that Alaska's legal votes are counted. He offered his support for any bill that will help ensure fair and free elections.

[2:10:01 PM](#)

CHAIR HOLLAND closed public testimony on SB 82.

[2:10:30 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment 1 [work order 32-GS1645\B, Version B]. Conceptual Amendment 1 was prepared by his office and is labeled Conceptual Amendment 7]. It read:

Offered to: CSSB 82(JUD), Draft Version "B"
Offered by: Sen. Kiehl
Pg. 4, following ln. 12:

Insert new subsection to read:

"(k) Any court action brought by the attorney general to enforce this section against a candidate or elected official must be brought within two years of the filing of the complaint."

Reletter the following subsections accordingly.

CHAIR HOLLAND objected for discussion purposes.

[2:10:51 PM](#)

SENATOR KIEHL explained Conceptual Amendment 1 to Version B, would replace [Amendment 2] which was offered, discussed and withdrawn at the 4/23/21 hearing on SB 82. He said he has had ongoing discussions with the Department of Law (DOL). He noted DOL would prefer the original language in SB 82. Conceptual

Amendment 1 would provide the attorney general a two-year time limit to bring action against a candidate or elected official. He clarified that Conceptual Amendment 1 would not affect complaints filed against the Division of Elections, a municipality, political party or group. DOL would need to file a complaint or drop the issue within two years of filing the complaint.

[2:12:28 PM](#)

CORI MILLS, Senior Assistant Attorney General, Labor & State Affairs Section, Civil Division, Department of Law, Juneau, Alaska, agreed DOL prefers the original language in SB 82. While she could not say the department supports Conceptual Amendment 1, providing a two-year statute of limitations would force DOL to prioritize complaints. It would also clarify the status of an investigation. Once the statute of limitations is over, it would bring the finality that the committee desires. She offered her belief that this language is at least workable if the committee decides to take this route.

[2:13:47 PM](#)

SENATOR SHOWER related his understanding that a statute of limitations sets up a time limit within which an action must be brought. He asked if this means the investigation must be completed within two years or if an investigation could continue if the accusation is filed within the statute of limitation timeframe.

[2:14:29 PM](#)

MS. MILLS responded that DOL would need to file an action with the two-year limit but the investigation does not need to be completed within the statute of limitations timeframe. At that point, DOL would make it public that it was trying to enforce a violation.

[2:15:19 PM](#)

SENATOR HUGHES stated that this would place some constraint on DOL but she believes Conceptual Amendment 1 raises a valid point. Many of the complaints made on candidates or incumbents pertain to financial matters that would be handled by the Alaska Public Offices Commission (APOC), such as residency, or qualifications that would be determined within 30 days. She offered her view that Conceptual Amendment 1 would pertain to a limited number of incidents related to candidates. It would require DOL to prioritize cases, which she does not object to. Alaska is one of the few states without an elected attorney general. She acknowledged that partisan actions could occur. She

said that the time limit is reasonable. She offered her support for Conceptual Amendment 1.

2:17:06 PM

CHAIR HOLLAND maintained his objection.

A roll call vote was taken. Senators Hughes, Myers, Kiehl Shower, and Holland voted in favor of Conceptual Amendment 1 and no senators voted against it. Therefore, Conceptual Amendment 1 was adopted by a 5:0 vote.

2:17:44 PM

SENATOR KIEHL moved to adopt Conceptual Amendment 2, labeled Conceptual Amendment 8, prepared by his office, which read:

Offered to: CSSB 82(JUD), Draft Version "B"
Offered by: Sen. Kiehl

Pg. 3, lns. 29-31:

Delete: "Intelligence information of the attorney general is not a public record and is not subject to disclosure under AS 40.25.100 - 40.25.295."

CHAIR HOLLAND objected for discussion purposes.

2:18:03 PM

SENATOR KIEHL explained that Conceptual Amendment 2 arose from the committee discussion on the meaning of intelligence information. He said he held discussions with DOL and subsequently reviewed the Public Records Act. Ultimately, he concluded that DOL's exemption for intelligence information should be removed from the bill. This exemption would create a special, secret category that is not even provided to the Alaska State Troopers or other law enforcement agencies. Some things do not require disclosure. The underlying bill says the information from these investigations would have the same exceptions and protections. By removing intelligence information from SB 82, it would not compromise law enforcement or disclose anything that will become a hot issue in a court fight. The Public Records Act allows the public to view government actions just as for other agencies in state government. Although he tried to define "intelligence information," he ultimately concluded "a special, secret category" for DOL was not needed. Alaska has a good Public Records Act that allows any confidential information necessary to conduct an investigation be held confidential.

[2:20:17 PM](#)

SENATOR SHOWER expressed concern that some information during an investigation should not be shared since it could jeopardize cases or cause problems for law enforcement. He agreed that most information should be released but it is also appropriate for the department to provide transparency and be open. He offered to research the pertinent statutes. He asked the administration to comment.

[2:21:47 PM](#)

MS. MILLS responded that there may have been a misunderstanding about what the department previously stated about the meaning of intelligence. As a policy matter, DOL does not support Conceptual Amendment 2, she said. Exempting information from the Public Records Act allows the department to obtain information from parties since the parties understand that this information will be held in confidence. She expressed concern that Conceptual Amendment 2 could affect the fiscal impact since the department receives a substantial number of public records it would need to review. She said most DOL records should not be disclosed due to privacy concerns, law enforcement referrals or ongoing investigations. In fact, when people file public records requests related to criminal cases, DOL must advise them the department cannot even disclose whether an investigation exists since that disclosure could hinder an investigation. She said she was unsure if their requests would even lead to the public obtaining additional information. Yet, it would be burdensome to the department to redact the documents. It is vitally important in civil investigations to receive candid information. While the public is inclined to expect confidentiality in law enforcement matters, the public tends to be less certain that information will be held confidential in civil matters. When drafting the bill, the department was intentional in considering what should be considered public information and what should be protected.

MS. MILLS pointed out DOL agreed to the notice of findings in Conceptual Amendment 4 to Version A that was adopted at the hearing on 4/23/21. DOL agreed the amendment would help to ensure information will not hinder DOL investigations or lead to overly burdensome redactions of information. She said she spoke to Deputy General Skidmore to better understand the law enforcement aspect. She reported it is important that information DOL shares remains confidential to further criminal investigations and to ensure open relationships with the department's counterparts.

[2:25:26 PM](#)

SENATOR SHOWER referred to page 3, lines 29-31 of Version B, which read:

Intelligence information of the attorney general is not a public record and is not subject to disclosure under AS 40.25.100 - 40.25.295.

SENATOR SHOWER clarified it was not his intention to give the executive branch the ability to avoid giving the public information. However, Intelligence information is important. He referred to AS 40.25.120 related to public records, exceptions, certified copies, to the exceptions under paragraph:

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

SENATOR SHOWER asked DOL to clarify what intelligence information means.

[2:27:43 PM](#)

MS. MILLS restated her description of intelligence information provided at the last hearing. DOL views intelligence information as information that is gathered actively in an investigation. She explained that the investigators may be gathering witness testimony or obtaining documents that are not otherwise public. All information gathered in an investigation is information that could be used for law enforcement purposes, she said.

SENATOR SHOWER related his understanding that a substantial amount of information relates to criminal proceedings, such as for drug cases, in which lives could be jeopardized. However, he related his understanding that this realm pertains more to civil proceedings relating to election law. He surmised it wouldn't be necessary to have undercover agents. He asked for confirmation that that's not what is being discussed here.

MS. MILLS agreed. However, she said it is amazing how much criminal conduct can be uncovered in civil investigations. It is possible to find criminal conduct which would be referred appropriately. She agreed election investigation activity does not pertain to discussions related to criminal investigation, such as search and seizure.

2:30:07 PM

JOHN HALEY, Assistant Attorney General, Special Litigation and Consumer Protection, Civil Division, Department of Law, Anchorage, Alaska, stated that generally speaking, the department views intelligence information quite broadly. He characterized intelligence information as information about potential violations of law including tips from the public, documents, or anything else gathered in the investigation. It may include photographs, stakeout videos, or other types of information that could occur within the context of a criminal investigation or a civil investigation. He agreed with Ms. Mill's comments that civil investigations can often uncover criminal activity. Sometimes a violation of law could be civil or criminal at the same time. For example, tax fraud or securities fraud often relates to civil and criminal conduct.

He stated that one purpose of SB 82 was to create the ability to get to court earlier through a civil process to allow certain violations to be uncovered and remedied before it could affect the outcome of an election. He offered his view that an investigation could involve parallel investigations, in which the civil section is investigating a matter at the same time the criminal section may be investigating the same conduct. He expressed concern that the potential to publicly disclose

information related to a civil investigation may cause some consternation for criminal investigators. It could potentially hinder an investigation, he said.

2:32:09 PM

SENATOR HUGHES referred to page 3, subsection (h) of SB 82, Version B, that once the attorney general submits a notice of findings to the division the record and notice are public records. DOL expressed concerns about tipoffs during the investigation. She asked whether this issue could be solved by adding language that keeps intelligence information confidential until the civil or criminal investigation is completed to prevent hindering the investigation. She asked whether once an investigation is completed if the intelligence information could be released or if DOL is more concerned about the workload envisioned due to the volume of investigations.

2:33:32 PM

MS. MILLS responded that this raises two issues. Once the civil case is concluded, it might not mean the criminal investigation is finished. The minute DOL reveals the name of those interviewed or which photos were taken in a civil case, it could adversely affect an ongoing criminal investigation. She suggested that DOL would need to consider the statute of limitations on the criminal conduct. Second, as mentioned earlier, it raises the issue of the sheer volume of intelligence information that would need to be reviewed and redacted as per the exceptions in statutes Senator Shower read. Further, DOL would not be reimbursed for any costs to do so. She said that while she understands the concern about transparency and accountability, perhaps it could be done in an aggregate way to ensure accountability to the legislature, yet not hamper investigations. DOL does not want to lose investigative tools because witnesses are afraid that their participation in an investigation will become public.

2:36:42 PM

SENATOR HUGHES asked whether part of the problem is that intelligence information is broad. She suggested defining intelligence information or to make it clear which information cannot be released until any criminal and civil case is completed. She asked whether adding another exemption in the Public Records Act might solve the problem.

MS. MILLS responded that these are big policy questions. She agreed it could be addressed in the Public Records Act but the fiscal note would still need to be increased due to the review

process. DOL would prefer not to make any changes to the bill related to this. She cautioned that since intelligence information is a term used in other statutes, trying to solve this issue could create another one. She pointed out SB 82 still has two committee referrals. She suggested trying to figure out how to carve that out. DOL has not previously needed to describe categories of investigative tools or documents. She characterized it as a policy conundrum that make take time to think through to resolve any issues that might be caused by opening this up.

[2:39:41 PM](#)

SENATOR KIEHL said Senator Hughes's questions get to the reason for Conceptual Amendment 2, which is that the amendment would not open everything up. Further, it would not subject anything to the public records act until after the civil investigation is completed. He acknowledged that intelligence information appears in another statute and it is not defined. Senator Shower read an extensive list of exceptions of disclosures, including that any information related to an active criminal investigation would not be disclosed. Anything made confidential by federal law, such as information shared by the Department of Homeland Security, or trade secrets would not need to be disclosed. Ultimately, this amendment would pertain to post-investigative actions. It's hard for him to see how it would create challenges for DOL's civil division to work with the criminal division since these are the rules that the criminal division works under, he said. He said he was unsure what aggregate accountability means. Ultimately, it appears that it would be "a pain in the neck" for government to sift through intelligence information. However, it should also be "a pain in the neck" for government to keep things secret from the citizens once investigations are completed. He acknowledged this comes with a price but Alaska has a good Public Records Act, which should be followed.

[2:42:33 PM](#)

CHAIR HOLLAND related his understanding that this would address civil investigations and not necessarily criminal investigations.

[2:42:39 PM](#)

SENATOR SHOWER expressed a willingness to work with DOL on the definition for intelligence information.

[2:43:08 PM](#)

SENATOR HUGHES, speaking generally about the bill, stated that the National Council of State Legislatures (NCSL) pointed out in early 2000, an Act required states to establish a system for complaints. Thus, SB 82 does not relate to the last election cycle but rather that Alaska lags behind other states. She stated her preference is to avoid a big fiscal note. SB 82 has a referral to the Senate State Affairs Committee, where the issues can potentially be addressed and still avoid a big fiscal impact. She said she does not support Conceptual Amendment 2 to Version B.

[2:45:04 PM](#)

CHAIR HOLLAND maintained his objection.

[2:45:12 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of Conceptual Amendment 2 and Senators Myers, Shower, Hughes, and Holland voted against it. Therefore, Conceptual Amendment 2 failed by a 1:4 vote.

[2:45:42 PM](#)

SENATOR KIEHL stated that two of his amendments were held in abeyance from the 4/23/21 hearing on SB 82, Version A.

SENATOR KIEHL withdrew Amendment 1 [work order 32-GS1645\A.1] and Amendment 2 [work order 32-GS1645\A.7] that were previously tabled.

CHAIR HOLLAND stated that Amendment 1 and Amendment 2 are withdrawn.

[2:46:25 PM](#)

SENATOR HUGHES asked the record to reflect that the state has a duty to have a system in place to handle complaints. She acknowledged that partisan politics exist. She offered her view that an attorney general could potentially cover for the Division of Elections. That is more apt to happen in Alaska because Alaska does not have an elected attorney general who is directly responsible to the people. She said she considered a model with citizen oversight for the complaint process. For example, if a complaint is filed with the division but is dismissed, the complainant could request the attorney general consider the matter. If the attorney general takes a partisan position and declines the case, the complainant's next option would be to file a case in superior court, which is an expensive option. She could not find a model but she suggested that the need exists. She said she appreciates that SB 82 addresses some

issues but the issue related to releasing information will trigger a fiscal note. She maintained her view that citizen oversight is a necessary component unless the state elects its attorney general. SB 82 provides some important steps to provide a system for complaints and investigations, she said. However, one area of concern still needs to be addressed.

[2:49:18 PM](#)

SENATOR MYERS offered his view that this bill is not a response to the 2020 election as one testifier indicated. He recalled issues that arose in Alaska's 2018 election resulting in a case with former Representative LeDoux that is not yet resolved. He recalled that the investigation became public in 2020. Although COVID-19 contributed to some of the delays in that case, SB 82 will provide tools to give the administration an opportunity to resolve issues earlier and better serve the public.

[2:50:55 PM](#)

SENATOR SHOWER offered his view that election issues go back to the 2012, 2014, and the 2016 elections and not just to the 2020 election.

[2:51:51 PM](#)

SENATOR SHOWER moved to report SB 82, work order 32-GS1645\B as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 82(JUD) was reported from the Senate Judiciary Standing Committee.

[2:52:27 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2.52 p.m.