

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 12, 2024

2:24 p.m.

MEMBERS PRESENT

Senator Matt Claman, Chair
Senator Jesse Kiehl, Vice Chair
Senator James Kaufman
Senator Löki Tobin

MEMBERS ABSENT

Senator Cathy Giessel

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 20

"An Act relating to an appropriation limit; relating to the budget responsibilities of the governor; and providing for an effective date."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 4

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

- HEARD & HELD

SENATE BILL NO. 165

"An Act relating to legal representation of public officers in ethics complaints."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 20

SHORT TITLE: APPROPRIATION LIMIT; GOV BUDGET

SPONSOR(S): SENATOR(S) KAUFMAN

01/18/23	(S)	PREFILE RELEASED 1/9/23
01/18/23	(S)	READ THE FIRST TIME - REFERRALS
01/18/23	(S)	JUD, FIN

03/10/23	(S)	SPONSOR	SUBSTITUTE	INTRODUCED	-
		REFERRALS			
03/10/23	(S)	JUD, FIN			
04/05/23	(S)	JUD AT 1:30 PM	BUTROVICH	205	
04/05/23	(S)	Heard & Held			
04/05/23	(S)	MINUTE(JUD)			
02/19/24	(S)	JUD AT 1:30 PM	BUTROVICH	205	
02/19/24	(S)	Heard & Held			
02/19/24	(S)	MINUTE(JUD)			
04/12/24	(S)	JUD AT 1:30 PM	BUTROVICH	205	

BILL: SJR 4

SHORT TITLE: CONST. AM: APPROP LIMIT

SPONSOR(s): SENATOR(s) KAUFMAN

01/18/23	(S)	PREFILE RELEASED	1/9/23		
01/18/23	(S)	READ THE FIRST TIME	- REFERRALS		
01/18/23	(S)	JUD, FIN			
03/10/23	(S)	SPONSOR SUBSTITUTE	INTRODUCED-REFERRALS		
03/10/23	(S)	JUD, FIN			
04/05/23	(S)	JUD AT 1:30 PM	BUTROVICH	205	
04/05/23	(S)	Heard & Held			
04/05/23	(S)	MINUTE(JUD)			
02/19/24	(S)	JUD AT 1:30 PM	BUTROVICH	205	
02/19/24	(S)	Heard & Held			
02/19/24	(S)	MINUTE(JUD)			
04/12/24	(S)	JUD AT 1:30 PM	BUTROVICH	205	

WITNESS REGISTER

BREANNA KAKARUK, Staff
 Senator Matt Claman
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the explanation of changes for SB 20 and SJR 4.

MATTHEW HARVEY, Staff
 Senator James Kaufman
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 20 and SJR 4.

ACTION NARRATIVE

[2:24:31 PM](#)

CHAIR MATT CLAMAN called the Senate Judiciary Standing Committee meeting to order at [2:24 p.m. on Friday, April 12, 2024]. Present at the call to order were Senators Kiehl, Kaufman, Tobin, and Chair Claman.

SB 20-APPROPRIATION LIMIT; GOV BUDGET

and

SJR 4-CONST. AM: APPROP LIMIT

[2:25:21 PM](#)

CHAIR CLAMAN announced the consideration of SPONSOR SUBSTITUTE FOR SENATE BILL NO. 20 "An Act relating to an appropriation limit; relating to the budget responsibilities of the governor; and providing for an effective date."

and

CHAIR CLAMAN announced the consideration of SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 4 Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

This is third hearing of SB 20 and SJR 4 in the Senate Judiciary Committee. There is a proposed committee substitute (CS) for each piece of legislation. He invited Ms. Kakaruk to present the explanation of changes for SB 20 and SJR 4.

[2:26:01 PM](#)

BREANNA KAKARUK, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the explanation of changes for SB 20:

[Original punctuation provided.]

**Senate Bill 20
Explanation of Changes**

Senate Judiciary Committee: Version B to Version S

The CS for Senate Bill 20 (Judiciary) version S amends version B with the following changes:

- Including the permanent fund dividend within the spending cap.

- Including government spending within the value of the real gross domestic product.
- Including a conforming change from new subsection (f) to new subsection (h) in Section 2.

[2:26:40 PM](#)

MS. KAKARUK presented the explanation of changes for SJR 4:

[Original punctuation provided.]

**Senate Joint Resolution 4
Explanation of Changes**

Senate Judiciary Committee: Version B to Version U

The CS for Senate Joint Resolution 4 (Judiciary) version U amends version B with the following changes:

- Including the Permanent Fund dividend within the spending cap.
- Including government spending within the value of the real gross domestic product.
- In Section 1, changing the affirmative vote of two-thirds to the affirmative vote of a majority. With the affirmative vote of a majority of the membership of each house, the legislature may appropriate an additional amount for capital improvements in excess of the limit under section 1.
- In Section 2, including language stating the amount appropriated from the constitutional budget reserve fund for a fiscal year under subsection (c) may not exceed 25% of the balance of the fund on June 30 of the previous fiscal year.

[2:28:11 PM](#)

SENATOR TOBIN asked how a deposit into the Permanent Fund might be counted if there is a windfall and an additional deposit is made into the corpus of the Permanent Fund. She asked whether such a deposit would be included or excluded from the appropriation limit as described in SB 20, version S and SJR 4, version U.

[2:29:07 PM](#)

CHAIR CLAMAN directed the question to Senator Kaufman.

[2:29:43 PM](#)

SENATOR KAUFMAN replied that this would disincentivize savings and added that he does not want that to happen. He expressed his preference that changes to the permanent fund be excluded from the cap and emphasized the importance of maintaining the state's ability to move money into savings.

[2:30:18 PM](#)

SENATOR TOBIN asked for confirmation of her understanding that for both SB 20, version S and SJR 4, version U, the additional appropriation funds going into the Permanent Fund corpus would be considered under the cap.

[2:30:38 PM](#)

SENATOR KAUFMAN replied that this was not included in the original version. He stated his belief that this is not a beneficial change.

[2:30:48 PM](#)

CHAIR CLAMAN expressed his understanding that the permanent fund dividends were removed as an exception to the cap. He interpreted the previous question to inquire about an appropriation to the permanent fund principal as opposed to a dividend. He said his understanding is that this would not count under the cap. If Alaska put a billion dollars into the permanent fund, that would not count under the spending cap.

SENATOR KAUFMAN replied that, as he understands it, the change would have that effect. He clarified that removing the language allows capitalization of the Permanent Fund.

CHAIR CLAMAN expressed his understanding that the language in question had not been removed.

SENATOR KAUFMAN said he might be responding to the wrong line item.

[2:31:51 PM](#)

MATTHEW HARVEY, Staff, Senator James Kaufman, Alaska State Legislature, Juneau, Alaska, explained that there were two changes: one removing the exemption for Alaska Permanent Fund dividends and one removing added language (which was included in SB 20, version A and SJR 4, version A) which exempted

appropriations to the Alaska Permanent Fund. He noted that discussions with Legislative Legal Services indicated that this may have been clarifying language to ensure that appropriations to the Alaska Permanent Fund itself were exempt from the cap.

[2:33:00 PM](#)

CHAIR CLAMAN commented that, as the person requesting the changes, his goal was to ensure that Permanent Fund dividends were no longer exempt from the cap. He clarified that it was not his intention to exempt appropriations to the Permanent Fund itself, which would equate to taking money that is effectively in savings and keeping it in savings - and therefore would not be considered an appropriation. He commented that it may be a drafting error.

[2:33:44 PM](#)

MR. HARVEY directed attention to SB 20, Section 1, lines 9-11, which refers and explained that the language related to Permanent Fund appropriation exemptions may have been added as clarifying language to specify the Alaska Permanent Fund.

CHAIR CLAMAN expressed his understanding that the language in Section 1, lines 9-11 includes the Permanent Fund.

[2:34:43 PM](#)

MR. HARVEY replied that it likely will.

[2:34:52 PM](#)

SENATOR KIEHL said that he also interpreted SB 20, Section 1, lines 9-11 as including the Permanent Fund, as well as the Alaska School Trust Fund (ASTF) - from which annual appropriations can be made. He noted that the ASTF corpus is protected.

[2:35:13 PM](#)

SENATOR KAUFMAN said the question of whether to put the Permanent Fund dividend under the cap is a policy decision that can be discussed separately. He emphasized the importance of protecting the ability to transfer funds to savings and said that this was always the intent. He opined that the state does not want to inadvertently limit the ability to save money when taking actions that are intended to limit spending.

[2:35:49 PM](#)

CHAIR CLAMAN directed attention to Section 1, lines 8-10 of SJR 4 and Section 1, lines 9-10 of SB 20 and asked whether it is

reasonable to note that this language may need to be clarified in future committees to ensure the Permanent Fund is included.

[2:36:40 PM](#)

SENATOR KAUFMAN replied yes.

[2:36:44 PM](#)

CHAIR CLAMAN invited the sponsor to make comments.

[2:37:05 PM](#)

SENATOR KAUFMAN reiterated that placing the dividend under the cap is a policy call. He said the dividend number has not been resolved and opined that the dividend needs its own solution. He noted that several pieces of legislation are seeking to determine the new dividend formula. He said that the dividend was removed in order to allow other legislation to address this. He surmised that, because the formula is not yet determined, this would be easier from both a policy and economic perspective.

[2:38:20 PM](#)

SENATOR KAUFMAN surmised that, if the dividend is included but not resolved, the battle would continue in perpetuity. He said that setting this aside is in line with the roadmap from the fiscal policy work group, which carved out the dividend, the cap, and various aspects of policy into separate segments. He questioned how the percentage would be set if the value is unknown. He reiterated that this is an internal battle within the legislature and was set aside for simplicity as well as for political and economic reasons. He clarified that this is not holding it superior to other spending, but rather an acknowledgment that the number still needs to be determined.

[2:39:36 PM](#)

SENATOR KAUFMAN said that disincentivizing savings is not the goal; therefore, fund transfers for the purpose of savings are excluded from the cap. He turned his attention to the question of including government spending within the value of the real gross domestic product. He said that one beneficial aspect of the original versions of SB 20 and SJR 4 was the focus on in-state productive, private sector economic activity. He surmised that government spending may happen; however, baking the spending into the number results in a loss of the dynamic focus on the health and productivity of the private sector. He indicated that he does not support this change. He turned his attention to the change to the voting requirement and noted that this is a change from two-thirds affirmative vote to a majority

affirmative vote. He opined that this is not an issue. He expressed a willingness to discuss the final change, which applies to the amount appropriated from the constitutional budget reserve fund (CBR) and said there are questions about how this may be affected by the sweep and reverse sweep provisions. He noted that there is some concern related to how addressing two sections of the Alaska Constitution may open the possibility for legal action and indicated that the original legislation was intentionally simple to avoid this.

[2:41:47 PM](#)

SENATOR KIEHL said he understands the goal and reasons for excluding state government spending. He is considering this as it relates to state spending; however, he opined that federal government spending is materially different, in terms of what Alaskans - and the legislature - can control and the impact it has on the economy. He wondered if it would be advisable to include federal government spending - which he opined can be considered economic spending in the state - or whether this should be treated differently.

SENATOR KAUFMAN replied that if the federal government initiates activity in the state, the economic impact on the community (e.g. payroll, local economic activity) would be captured. He said this was not carved out in the original legislation. He clarified that the economic impact on the community would be measured, rather than the initial layer of spending.

[2:44:20 PM](#)

SENATOR TOBIN referred to page 1 of both SB 20 and SJR 4, and questioned how appropriations to meet state disaster would be impacted. She asked about guardrails and pointed out that the state is currently experiencing after-effects of receiving federal funds to assist with issues in public schools. However, the state recently discovered it was in non-compliance with federal requirements to receive the funds. Additional appropriations to certain school districts may be necessary in order to meet contractual obligations and become eligible for the federal funds. She asked if this would fall under the scope of the appropriations in SJR 4 and SB 20 despite it being outside of the initial disaster timeframe. She wondered how the language in SB 20 and SJR 4 addresses these types of extenuating circumstances (e.g. when there is a lag between the time of the disaster and the disbursement of federal funds).

[2:45:45 PM](#)

SENATOR KAUFMAN replied that if it was associated with a declared disaster, it would not be under the cap. He said that the intent is not to limit the state's ability to be able to respond to a disaster and therefore there is no cap on these appropriations. He acknowledged that some might consider this an incentive for the governor to declare a disaster unnecessarily but opined that this is a drastic action that he is not concerned about. He acknowledged the subtlety of the question with respect to the question of duration and opined that if a declared disaster could clearly be tied to the expenditure, this would be part of the exemption.

[2:46:51 PM](#)

SENATOR TOBIN shared an example of a recent earthquake impacting Ursa Minor Elementary School on Joint Base Elmendorf-Richardson. She said that the school is currently being rebuilt but is years away from completion - and is still working to access adequate federal funds. She expressed hope that language could be added to protect funds that face these types of extenuating circumstances and commented that lags of this kind are becoming more common.

[2:47:48 PM](#)

SENATOR KAUFMAN said that he does not think this will be an issue. He read from SJR 4, page 1, lines 9-12 and opined that the language ensures that any expenditure associated with the disaster would be exempt. He pointed out that federal funds would not be limited.

[2:48:35 PM](#)

SENATOR TOBIN expressed her understanding and said that rebuilding Ursa Minor might require match funds in order to leverage the federal dollars. She commented that it is convoluted, requiring either a school bond or additional resources from the state. She expressed a desire to understand and make a public record so that the intent is clear.

[2:49:14 PM](#)

SENATOR KIEHL asked what changes might impact the sweep and reverse sweep.

[2:49:29 PM](#)

SENATOR KAUFMAN replied that, in SJR 4, changes are made to two sections of the Alaska State Constitution (ASC) simultaneously. He directed attention to SJR 4 Section 2, page 3, line 2.

[2:50:26 PM](#)

SENATOR KIEHL said that he understands the concerns about simultaneously amending 2 sections - and distinguishing an amendment from a revision. He asked about the mechanism of concern related to the reverse sweep, which is a CBR provision.

[2:50:49 PM](#)

MR. HARVEY replied that it is a question rather than a specific mechanism of concern. He said that the potential tangle with the reverse sweep was mentioned to ensure that a limit to CBR appropriations would not impact money being swept into CBR. He noted that there is also a limit to how much can be taken from CBR. He said that he is uncertain whether there would be an issue or concerns.

[2:51:35 PM](#)

CHAIR CLAMAN briefly commented on the difference between a sweep that occurs on June 30 vs July 1. He said that he does not know when the sweep would occur.

[2:52:18 PM](#)

SENATOR KIEHL commented that it is a complicated process and briefly discussed the CBR "scoop" that occurs before the sweep. He opined that the June 30 date raises a significant question. He said that the legislature has considered the CBR minimum balance, given Alaska's potential oil revenue volatility. He noted that there is some stability with the sustainable draw from the permanent fund and some split for public services. He wondered if creating a 25 percent CBR draw limit would quadruple the necessary minimum CBR balance.

[2:53:40 PM](#)

CHAIR CLAMAN asked for more detail. He surmised that a 25 percent draw limit would result in 75 percent remaining in the fund.

[2:53:54 PM](#)

SENATOR KIEHL said the disagreement with the administration is related to whether CBR needs a minimum balance that is sufficient to cash flow the state for quarter 1, or whether CBR needs a balance sufficient to cover potential issues such as a year when oil prices drop significantly or there is a pipeline disaster. He surmised that a 25 percent cap on the draw would quadruple the minimum balance (whatever that minimum balance is determined to be).

[2:54:40 PM](#)

CHAIR CLAMAN commented that this would limit the funds available to fund the state in the event of a disaster impacting state revenue.

[2:54:46 PM](#)

SENATOR KIEHL commented that this may not be a negative outcome; however, it should be given adequate consideration.

[2:55:08 PM](#)

SENATOR KAUFMAN said that it is a question that can be considered in more detail by the Senate Finance Committee. He stated that the intention is to do no harm. He explained that the idea was to create a tie that would provide a healthy measurement of state economic activity, rather than simply referencing the price of oil and guessing at potential spending. He emphasized that he does not want to block access to beneficial activities (e.g. savings) or inadvertently create requirements in funds like CBR that make operations more difficult. He reiterated that the intent is to create a healthy measurement tool that would allow for constructive moderation of peak spending - at the maximum moments.

[2:56:36 PM](#)

CHAIR CLAMAN commented that, with respect to removing PFD from exemptions - thus including PFD in the spending analysis, one of the long-standing issues has been that PFD comes before all else. However, *Wielechowski v. Alaska* determined that PFD must not be treated differently than other programs. He stated that he supports including PFD in the spending, as this reflects the Alaska Supreme Court decision. He said that, as a result, this requires careful consideration of priorities when determining how funds are allocated. He opined that none of the potential appropriations should be exempt from the spending cap. Regarding whether to include government spending in the cap, he opined that there are good arguments for both sides. He said government spending has historically been a large part of the state economy and opined that it is more appropriate to include government spending in the cap. He acknowledged that this would change the cap percentage.

[2:59:04 PM](#)

CHAIR CLAMAN solicited a motion for SB 20.

[2:59:10 PM](#)

SENATOR KIEHL moved to adopt the committee substitute (CS) for SSSB 20, work order 33-LS0206\S, as the working document.

[2:59:31 PM](#)

CHAIR CLAMAN found no objection and CSSSSB 20 was adopted as the working document.

[CSSSSB 20 was held in committee.]

CHAIR CLAMAN solicited a motion for SJR 4.

[2:59:42 PM](#)

SENATOR KIEHL moved to adopt the committee substitute (CS) for SSSJR 4, work order 33-LS0205\U, as the working document.

[2:59:57 PM](#)

CHAIR CLAMAN found no objection and CSSSSJR 4 was adopted as the working document.

[CSSSSJR 4 was held in committee.]

[3:01:30 PM](#)

There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 3:01 p.m.