

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 15, 2024

1:34 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."

- MOVED CSSSSB 20 (JUD) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 4

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

- MOVED CSSSSJR 4 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 165

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

- MOVED SB 165 OUT OF COMMITTEE

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
04/12/24	(S)	Heard & Held
04/12/24	(S)	MINUTE(JUD)
04/15/24	(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
04/12/24	(S)	Heard & Held
04/12/24	(S)	MINUTE(JUD)
04/15/24	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 165

SHORT TITLE: DEFENSE OF PUB. OFFICER: ETHICS COMPLAINT

SPONSOR(s): SENATOR(s) CLAMAN

01/16/24	(S)	PREFILE RELEASED 1/8/24
01/16/24	(S)	READ THE FIRST TIME - REFERRALS
01/16/24	(S)	JUD, FIN
02/28/24	(S)	JUD AT 1:30 PM BUTROVICH 205
02/28/24	(S)	Heard & Held
02/28/24	(S)	MINUTE(JUD)
03/22/24	(S)	JUD AT 1:30 PM BUTROVICH 205
03/22/24	(S)	Heard & Held
03/22/24	(S)	MINUTE(JUD)

04/03/24 (S) JUD AT 1:30 PM BUTROVICH 205
04/03/24 (S) Heard & Held
04/03/24 (S) MINUTE(JUD)
04/12/24 (S) JUD AT 1:30 PM BUTROVICH 205
04/12/24 (S) Scheduled but Not Heard
04/15/24 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

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

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

ACTION NARRATIVE

[1:34:49 PM](#)

CHAIR MATT CLAMAN called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Kaufman, Tobin, and Chair Claman. Senator Kiehl arrived shortly thereafter.

SB 20-APPROPRIATION LIMIT; GOV BUDGET

and

SJR 4-CONST. AM: APPROP LIMIT

[1:35:21 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 the fourth hearing of SB 20 and SJR 4 in the Senate Judiciary Committee. CSSSSB 20, version \S, and CSSSSJR 4, version \U, are before the committee. The intention is to hear amendments today.

1:35:58 PM

CHAIR CLAMAN moved to adopt Amendment 1, work order 33-LS0206\S.1, to SB 20.

33-LS0206\S.1

Marx

4/11/24

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSSSSB 20(JUD), Draft Version "S"

Page 2, lines 3 - 9:

Delete "12 percent of the average of the value of the real gross domestic product of the state as estimated by the federal bureau responsible for economic analysis according to federal law, expressed in current dollars, for the five calendar years immediately preceding the previous fiscal year [APPROPRIATIONS MADE IN THE PRECEDING FISCAL YEAR BY MORE THAN FIVE PERCENT PLUS THE CHANGE IN POPULATION AND INFLATION SINCE THE BEGINNING OF THE PRECEDING FISCAL YEAR]"

Insert "the average of the appropriations made for [IN] the preceding five fiscal years, except for appropriations of money received from a nonstate source in trust for a specific purpose, plus [YEAR BY MORE THAN] five percent, plus the change in population and inflation since the beginning of the preceding five fiscal years [YEAR]"

Page 2, lines 12 - 19:

Delete "[THE DETERMINATION OF THE CHANGE IN POPULATION FOR PURPOSES OF THIS SUBSECTION SHALL BE BASED ON AN ANNUAL ESTIMATE OF POPULATION BY THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT. THE DETERMINATION OF THE CHANGE IN INFLATION FOR PURPOSES OF THIS SUBSECTION SHALL BE BASED ON THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR ANCHORAGE PREPARED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.]"

Insert "The determination of the change in population for purposes of this subsection shall be based on an annual estimate of population by the Department of Labor and Workforce Development. The determination of the change in inflation for purposes

of this subsection shall be based on the Consumer Price Index for all urban consumers for Anchorage prepared by the United States Bureau of Labor Statistics."

Page 3, lines 6 - 9:

Delete "a percentage of the average of the value of the real gross domestic product of the state as estimated by the federal bureau responsible for economic analysis according to federal law, expressed in current dollars, for the five calendar years immediately preceding the previous fiscal year"

Insert "the average of the appropriations made for the preceding five fiscal years plus five percent, plus the change, derived from federal indices as prescribed by law, in population and inflation since the beginning of the preceding five fiscal years"

[1:36:00 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

CHAIR CLAMAN said that the goal of Amendment 1 is to replace Gross Domestic Product (GDP) (as a tool for analysis) with an average of appropriations over the last five years from non-state sources (excluding federal monies), adjusted for population and inflation plus five percent. He stated that this number would be becoming the new spending cap. He explained that this would theoretically increase over time (adjusting alongside state spending) and, while capped, would provide some flexibility for additional spending as needed. He indicated that this would be better than a number that may become antiquated over time.

[1:37:12 PM](#)

SENATOR KAUFMAN asked if past modeling was considered. He said that in the previous legislature, this model was considered alongside various others during presentations to the House Special Committee on Ways and Means. He recalled committee members' surprise at the superior performance of the GDP-based cap. He explained that the GDP-based cap was more organic, rather than a hard line reacting to inflation (which the state has no control over). Removing this linkage resulted in problematic behavior.

[1:38:17 PM](#)

CHAIR CLAMAN asked for clarification that the GDP-based cap responded better to market conditions than simply adjusting for inflation.

[1:38:44 PM](#)

SENATOR KAUFMAN clarified that modeling done previously (which is available on his website), shows the organic nature of the curves, which ebb and flow with the economy. There is no ratcheting effect (which is associated with adjusting for inflation). He briefly described how inflation-based models function and opined that these tend to be used due to a lack of adequate state-by-state GDP measurements. However, these measurements are now reliably available. He explained that the GDP-based model has repeatedly behaved more realistically than inflation/population-based models. He reiterated that the state cannot influence inflation - and said that the beneficial linkage is broken when utilizing those models.

[1:40:31 PM](#)

SENATOR TOBIN asked what states offer a spending cap - and, of these, which states have GDP-based cap.

[1:41:32 PM](#)

SENATOR KAUFMAN replied that he does not have a state-by-state accounting and deferred to Mr. Harvey. He said that states use a variety of measurements, including personal income (which has been discussed as a potential for Alaska). He opined that there is no GDP productivity measurement because the information was not previously aggregated. He added that GDP provides a more realistic and encompassing measurement than other options.

[1:42:54 PM](#)

MATTHEW HARVEY, Staff, Senator James Kaufman, Alaska State Legislature, Juneau, Alaska, said that Colorado has a personal income-based "tax and expenditure limit" (i.e. spending cap). He said that this cap was created before the federally driven, nation-wide improvements on data collection, aggregation, and reporting that made it possible to use GDP as a metric. He briefly described how variables are "stacked" to reach GDP.

[1:44:19 PM](#)

CHAIR CLAMAN opined that that Anchorage's municipal tax cap is more akin to a revenue cap than a spending cap. He explained that Anchorage's cap is based on the previous year's budget and adjusted upward or downward based on shifts in inflation and population. He said that this was used as a model for Amendment 1 and added that he likes the idea of tying spending to revenue.

He opined that using an average from the previous 5 years would provide more balance than simply using the previous year's budget. He reiterated that the 5-year average would be adjusted for population and inflation, plus five percent. This would provide room for increased spending while remaining realistic to the limits. He opined that each method has limitations that will become clear over time.

[1:46:53 PM](#)

SENATOR KAUFMAN expressed appreciation for this perspective alongside several concerns. He said that not referencing the economy is a lost opportunity, as it serves as a reminder to the legislature when determining the state's budget. This allows for the consideration of the productive economy's ability to fund the state's needs. He acknowledged that this is supplemented by federal monies that are subject to their own sourcing limitations.

[1:47:38 PM](#)

SENATOR KIEHL joined the meeting.

[1:47:39 PM](#)

SENATOR KAUFMAN reiterated that inflation is out of the state's control, while the productive economy provides an opportunity for change as needed. In addition, the structure of the Anchorage tax cap can create a ratchet effect. He briefly described how this occurred with the Covid-19 pandemic. He contrasted the rigidity of inflation-based measurements with the fluidity of GDP-based measurements.

[1:49:28 PM](#)

SENATOR TOBIN commented that this is expanding beyond her area of expertise. She turned her attention to public schools, which are heavily dependent on state funds, and which have unique needs related to the Alaska's geographical size and population distribution. She expressed concern that a spending cap tied to GDP may result in reduced education spending in years when state spending is limited. She emphasized the need for school buildings to remain open and noted that inflation may result in higher funding needs. She offered the example of teacher incentives, which would be severely impacted by tying the spending cap to GDP. She reiterated that education funding is directly impacted by state spending. She expressed concern that drastically reducing state spending may likewise reduce the state's ability to provide high-quality public education - thus reducing Alaska's population retention rate. A reduction in

population would then further reduce state spending - creating a negative feedback loop.

[1:52:17 PM](#)

SENATOR KAUFMAN replied that a GDP-based cap would provide funding reliability, which he opined is the biggest threat to education in Alaska. He described the current, reactive method of budget planning and contrasted this with a method that would operate with a comfortable percentage and prevent "peak spending" - instead rolling savings forward for use when needed. He argued that choosing a comfortable percentage would avoid the spending constriction described in the education funding example. He explained that the GDP-based measurement modeling used various percentages designed to take the excess during a boom year and that it would respond to shifts instead of remaining fixed. He commented that the current budgeting method uses the best year to estimate spending, which often leads to shortfalls. He opined that reactive budgeting is largely responsible for limiting the state's workforce development. He explained how rolling savings forward could be used to address issues as they arise and prevent overspending - thus resulting in greater reliability. He commented that it initially seems counterintuitive and argued that spending control and financial discipline would result in steady yearly spending.

[1:56:33 PM](#)

SENATOR KIEHL briefly commented on the absence of revenue tied to GDP.

[1:56:43 PM](#)

CHAIR CLAMAN withdrew his objection to Amendment 1.

[1:56:45 PM](#)

SENATOR KAUFMAN objected to Amendment 1.

[1:56:53 PM](#)

CHAIR CLAMAN found objection and asked for a roll call vote.

[1:56:56 PM](#)

A roll call vote was taken. Senator Claman voted in favor of Amendment 1 and Senators Kaufman, Kiehl, Tobin voted against it. The vote was 1:3.

CHAIR CLAMAN announced that Amendment 1 failed on a vote of 1 yea and 3 nays.

[1:57:39 PM](#)

SENATOR KAUFMAN moved to adopt Amendment 2, work order 33-LS0206\S.2, to SB 20.

33-LS0206\S.2
Marx
4/11/24

A M E N D M E N T 2

OFFERED IN THE SENATE

TO: CSSSSB 20(JUD), Draft Version "S"

Page 1, lines 5 - 6:

Delete "[APPROPRIATIONS TO THE PERMANENT FUND OR FOR ALASKA PERMANENT FUND DIVIDENDS,]"

Insert "appropriations [TO THE PERMANENT FUND OR] for the costs of managing the Alaska permanent fund [DIVIDENDS],"

Page 3, line 10, following "(2)":

Insert "appropriations for the costs of managing the Alaska permanent fund,"

[1:57:41 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

[1:57:47 PM](#)

SENATOR KAUFMAN said that Amendment 2 addresses various Permanent Fund clerical management concerns.

[1:58:29 PM](#)

SENATOR KIEHL asked if there is a comparable treatment for investment management fees that the Alaska Retirement Management (ARM) Board incurs - and whether they would receive the same treatment as the Permanent Fund Corporation's investment management fees. He opined that this is the laudable goal of Amendment 2.

[1:59:00 PM](#)

SENATOR KAUFMAN deferred to Mr. Harvey.

[1:59:06 PM](#)

MR. HARVEY replied that there are currently no exemptions for ARM investment management fees. He explained that Amendment 2 applies to investment management fees for a broader, public, market-based investment corporation, in the event that the markets are contracyclical to Alaska's performance.

[1:59:51 PM](#)

SENATOR KIEHL expressed his support for Amendment 2 and encouraged the sponsor to consider including the ARM Board's investment management fees in a future amendment.

[2:00:04 PM](#)

CHAIR CLAMAN withdrew his objection to Amendment 2. Finding no further objection, Amendment 2 was adopted.

[2:00:13 PM](#)

CHAIR CLAMAN moved to adopt Amendment 3, work order 33-LS0206\S.3, to SB 20.

33-LS0206\S.3
Marx
4/15/24

A M E N D M E N T 3

OFFERED IN THE SENATE

TO: CSSSSB 20(JUD), Draft Version "S"

Page 1, lines 5 - 6:

Delete "[APPROPRIATIONS TO THE PERMANENT FUND OR FOR ALASKA PERMANENT FUND DIVIDENDS,]"

Insert "appropriations to the [PERMANENT FUND OR FOR] Alaska permanent fund [DIVIDENDS],"

Page 3, line 10, following "(2)":

Insert "appropriations to the Alaska permanent fund,"

Page 3, line 15:

Delete "to the permanent fund and"

[2:00:19 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

CHAIR CLAMAN said that Amendment 3 clarifies a previous question related to whether appropriations to the Permanent Fund should be excluded from the spending cap. He explained that Amendment 3 ensures that permanent fund dividends (PFD) are included within the spending cap for the calculation, while appropriations made to the Permanent Fund principal are excluded.

[2:01:55 PM](#)

CHAIR CLAMAN withdrew his objection to Amendment 3. Finding no further objection, Amendment 3 was adopted.

[2:02:03 PM](#)

CHAIR CLAMAN brought up SJR 4 and moved to adopt Amendment 1, work order 33-LS0205\U.1, to SJR 4.

33-LS0205\U.1

Marx

4/11/24

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSSSSJR 4(JUD), Draft Version "U"

Page 1, line 14, through page 2, line 4:

Delete "a percentage of the average of the value of the real gross domestic product of the State as estimated by the federal bureau responsible for economic analysis according to federal law, expressed in current dollars, for the five calendar years immediately preceding the prior fiscal year. The percentage shall be established by law that is not a law enacted as an appropriation bill or fifteen percent, whichever is less."

Insert "the average of the appropriations made for the preceding five fiscal years, except for appropriations of money received from a non-State source in trust for a specific purpose, plus five percent, plus the change, derived from federal indices as prescribed by law, in population and inflation since the beginning of the preceding five fiscal years."

[2:02:17 PM](#)

CHAIR CLAMAN objected for purposes of discussion, then withdrew Amendment 1.

[2:02:59 PM](#)

SENATOR KAUFMAN moved to adopt Amendment 2, work order 33-LS0205\U.2, to SJR 4.

33-LS0205\U.2

Marx

4/11/24

A M E N D M E N T 2

OFFERED IN THE SENATE

TO: CSSSSJR 4(JUD), Draft Version "U"

Page 1, lines 5 - 6:

Delete "[APPROPRIATIONS FOR ALASKA PERMANENT FUND DIVIDENDS,]"

Insert "appropriations for the costs of managing the Alaska permanent fund [DIVIDENDS],"

[2:03:01 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

[2:03:04 PM](#)

SENATOR KAUFMAN said that Amendment 2 includes the same clerical improvement as Amendment 2 to SB 20.

[2:03:14 PM](#)

CHAIR CLAMAN withdrew his objection. Finding no further objection, Amendment 2 was adopted. He noted that the topic of retirement fund investments could be taken up in the Senate Finance Committee as it is the next committee of referral.

[2:03:41 PM](#)

SENATOR KIEHL moved to adopt Amendment 3, work order 33-LS0205\U.3, to SJR 4.

33-LS0205\U.3

Marx

4/13/24

A M E N D M E N T 3

OFFERED IN THE SENATE

BY SENATOR KIEHL

TO: CSSSSJR 4(JUD), Draft Version "U"

Page 1, line 2:

Delete "**and the budget reserve fund**"

Page 2, line 30, through page 3, line 4:

Delete all material.

Re-number the following bill sections accordingly.

Page 3, line 7:

Delete "(a)"

Page 3, lines 11 - 13:
Delete all material.

[2:03:43 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

[2:03:46 PM](#)

SENATOR KIEHL said that Amendment 3 relates to the cap on withdrawals from the Constitutional Budget Reserve (CBR) in a given year and how this impacts the minimum savings balance required to manage steep decreases in resource-based revenue. He pointed out that it is currently difficult to reach the necessary savings balance. He emphasized the importance of savings, as some aspects of the state's revenue picture are particularly volatile. He questioned the value of including a constitutional requirement to maintain adequate savings to fund four years of resource collapse. He recommended simplification by removing this limit.

[2:05:04 PM](#)

SENATOR KAUFMAN said that the intent is to stimulate, motivate, healthy economic considerations - never to make savings difficult. He said he does not have concerns about Amendment 3.

[2:05:31 PM](#)

CHAIR CLAMAN expressed support for the language that Amendment 3 removes.

[2:05:40 PM](#)

CHAIR CLAMAN maintained his objection to Amendment 3 and asked for a roll call vote.

[2:05:51 PM](#)

A roll call vote was taken. Senators Kaufman, Kiehl, Tobin voted in favor of Amendment 3 and Senator Claman voted against it. The vote was 3:1.

CHAIR CLAMAN announced that Amendment 3 was adopted on a vote of 3 yeas and 1 nay.

[2:06:20 PM](#)

CHAIR CLAMAN moved to adopt Amendment 4, work order 33-LS0205\U.4, to SJR 4.

33-LS0205\U.4
Marx

A M E N D M E N T 4

OFFERED IN THE SENATE

TO: CSSSSJR 4(JUD), Draft Version "U"

Page 1, lines 5 - 6:

Delete "[APPROPRIATIONS FOR ALASKA PERMANENT FUND DIVIDENDS,]"

Insert "appropriations to the [FOR] Alaska permanent fund [DIVIDENDS],"

[2:06:27 PM](#)

CHAIR CLAMAN objected for purposes of discussion.

CHAIR CLAMAN explained that, like Amendment 4 to SB 20, Amendment 4 would exclude appropriations to the Permanent Fund from the spending cap while including PFDs.

[2:06:56 PM](#)

CHAIR CLAMAN withdrew his objection to Amendment 4. He found no further objection, and Amendment 4 was adopted.

[2:07:20 PM](#)

SENATOR KAUFMAN expressed his appreciation for considering both SB 20 and SJR 4.

[2:07:43 PM](#)

CHAIR CLAMAN brought up SB 20 and solicited the will of the committee.

[2:07:46 PM](#)

SENATOR KIEHL moved to report CSSSSB 20, work order 33-LS0206\S, as amended, from committee with individual recommendations and attached fiscal note(s).

[2:08:05 PM](#)

CHAIR CLAMAN found no objection, and CSSSSB 20(JUD) was reported from the Senate Judiciary Standing Committee.

[2:08:19 PM](#)

CHAIR CLAMAN brought up SJR 4 and solicited the will of the committee.

[2:08:20 PM](#)

SENATOR KIEHL moved to report CSSSSJR 4, work order 33-LS0205\U, as amended, from committee with individual recommendations and attached fiscal note(s).

[2:08:41 PM](#)

CHAIR CLAMAN found no objection and CSSSSJR 4(JUD) was reported from the Senate Judiciary Standing Committee

SB 165-DEFENSE OF PUB. OFFICER: ETHICS COMPLAINT

[2:08:54 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 165 "An Act relating to legal representation of public officers in ethics complaints."

[2:09:06 PM](#)

CHAIR CLAMAN solicited the will of the committee.

[2:09:08 PM](#)

SENATOR KIEHL moved to report SB 165, work order 33-LS1029\B, from committee with individual recommendations and attached fiscal note(s).

[2:09:23 PM](#)

CHAIR CLAMAN found no objection and SB 165 was reported from the Senate Judiciary Standing Committee.

[2:09:37 PM](#)

There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 2:09 p.m.