

MINUTES
SENATE FINANCE COMMITTEE
May 03, 2001
9:20 AM

TAPES

SFC-01 # 93, Side A
SFC 01 # 93, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:20 AM.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Donald Olson

Also Attending: RANDALL BURNS Chief Executive Officer, Alaska Psychiatric Institute; RUSS WEBB, Deputy Commissioner, Department of Health and Social Services

Attending via Teleconference: From Anchorage: SAM DICKEY, President, University Area Community Council, and former president, Airport Heights Community Council, and participant of the Coalition for API [Alaska Psychiatric Institute]; ELAINE PRATT, Member, Coalition for API; JEFF JESSEE, Executive Director, Alaska Mental Health Trust Authority, Department of Revenue

SUMMARY INFORMATION

SJR 23-CONST AM: APPROPRIATION/SPENDING LIMIT

The Committee considered and adopted two amendments. The bill moved from Committee.

HB 76-NEW FACILITIES FOR API

The Committee heard from the Department of Health and Social Services, the Mental Health Trust Authority, the Alaska Psychiatric Institute and other interested parties. The bill was held in

Committee.

#SJR23

SENATE JOINT RESOLUTION NO. 23

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

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Donley restated the intent of the resolution to replace the current constitutional appropriation, or spending limit. He noted the current spending limit amendment to the Alaska Constitution was adopted in 1982 by voters and was intended to limit state government spending and require that one-third of all appropriations are allocated to the capital budget items. He opined that this constitutional amendment "has never worked" because the amount is "simply set too high". He explained that although the \$2.5 billion figure is specified in the amendment, annual adjustment for population and inflation raises the amount to over \$6 billion for the current year. He pointed out the amount subject to the provisions of the constitutional amendment is approximately \$3.1 billion. This, he noted results in a \$3 billion "cushion".

Co-Chair Donley added that a court decision on the matter "completely turned on its head," the meaning of the one-third capital appropriation provision. This one-third requirement, he said, has never been followed. He surmised citizens reading the constitution "are led to believe" there exists a \$2.5 billion limit, which he stressed is actually \$6 billion, and that the capital budget is almost \$1 billion general funds annually, which is also not the case.

Co-Chair Donley expressed, "Given that the existing provisions have never worked and is not understandable to any average person...it's clear that that provision of the constitution is certainly broken." This resolution, he said, replaces the "broken language" with a provision that is effective. Co-Chair Donley explained the FY 00 budget of \$3.1 billion is used to set a new baseline. He noted that although this seems to be an increase of \$600 million from the language adopted in 1982, it is actually a decrease of almost \$3 billion from the population and inflation adjusted amount.

Co-Chair Donley stated that this resolution attempts to prevent the problems of the 1982 provision by clarifying which funds are

included in the spending limit. He added that this resolution limits the growth in spending to a percentage of population and inflation. He referred a spreadsheet, Appropriation Limit, showing the changes to the base limit and growth limit of 50 percent of population and inflation. [Copy on file.] He surmised this approach would hold down the growth more effectively.

Co-Chair Donley also noted a provision is added allowing, through a super majority vote of the legislature, that .25 percent inflationary growth could be accessed. He pointed out in the first year after this resolution takes effect, the amount would be approximately \$31 million. He termed this to be a safety valve.

Co-Chair Donley continued that an additional safety valve is the option of general obligations (GO) bonds to finance capital projects. He described how, if the legislature identifies an important need, a GO bond proposal could be placed on the ballot, and if approved by voters at the next general election, could relieve pressure on the operating budget. He surmised that this is an appropriate method to allow for large capital expenditures.

Co-Chair Donley also noted the resolution contains a repeal provision in the form of placing a question before voters in the 2010 general election as to whether this constitutional amendment should remain a part of the constitution. He noted that this encourages legislative review of the provision as well.

Co-Chair Kelly asked if there are other provisions in the state constitution that come up for public review.

Co-Chair Donley replied there are several and gave the constitutional convention as an example, explaining how the question of whether to hold a constitutional convention is placed before the voters every ten years.

Senator Ward expressed his support for this resolution and told how he had made earlier attempts to support Co-Chair Donley in these efforts in previous legislative sessions.

Senator Ward commented that if this issue had been placed on the ballot earlier, he believed Alaskans "would have taken a different attitude toward income tax, sales tax, permanent funds, petroleum taxes, a whole host of things." He stated there is currently "a blank check in government." He titled this constitutional amendment as the beginning of "the Alaskan Plan" and said it does not compare to the Republican Party's five-year budget plan that concluded the previous fiscal year. He stressed this is what the citizens of Alaskans have demanded and that "they want us to live within our

means and right now they know that there is no limit" to state government spending. He surmised that if this resolution were placed on a future ballot, voters would become more involved in the long-range fiscal plan for state government. He warned there must be a limit to government spending so citizens would have faith in their government. He concluded this resolution is the answer to the failed ballot measure in the 1999 special election to use a portion of the earnings of the permanent fund to pay for some government services.

Co-Chair Kelly commented that whenever a constitutional amendment pertaining to government spending there would always be difficulties. He noted that although Co-Chair Donley gave a complete presentation of this resolution, there might still be minor issues to address. However, he remarked that the House of Representatives committee process has progressed "frightenly slow" this session and he was concerned that the resolution would not complete the process in the next year and qualify for placement on the 2002 General Election ballot. He therefore asked for Senate Finance Committee leeway to expedite the resolution through the Senate this year so it could be transmitted to the House as soon as possible. He preferred this resolution receive necessary scrutiny in House committees rather than be delayed then rushed through during the last days of the legislative session.

Senator Hoffman referenced page 2, lines 13 and 14, "The operating expenditures of each of the principal departments established by law under Section 22 of Article III shall be reduced by an equal percentage." He asserted that whenever the matter of reducing state government has been considered, the method of across the board reductions to all services was a last result option. He stressed that across the board reductions "don't make much sense" and a better approach is to examine and prioritize specific services. Therefore, he asked why an across the board method is imposed in this constitutional amendment.

Senator Hoffman continued to page 2, lines 14 through 16, "This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house." He wanted to know if such a resolution could be considered and adopted at the same time the budget is under consideration.

Co-Chair Donley answered yes to Senator Hoffman's second question. He noted the final result would still be a requirement that the growth remain less than the population and inflation requirements.

Co-Chair Donley addressed the first question saying that although

he agreed the equal reduction approach is not a good idea for general budget practice, he recommends it for this situation because it is a provision to be implemented only if the legislature violates the spending limits imposed in this constitutional amendment. He expressed this provision would encourage the legislature to stay within the spending limit, to prioritize services and would also avoid costly litigation. He explained that in a situation where the legislature "ignored its constitutional duty" to appropriate within the limit or inadvertently appropriated more than the limit allows, a court would have to determine appropriate reductions. He stated this provision in the constitutional amendment provides the court specific guidelines for making those reductions and also gives the legislature "clear notice" of the consequences of violating the spending limit. He predicted that this provision actually addresses Senator Hoffman's concerns about unprioritized reductions because the legislature would be encouraged to make budget decisions within the constraints rather than allow for an arbitrary across the board reduction.

Senator Hoffman estimated the proposed FY 02 budget would exceed the spending limit imposed by this constitutional amendment if it existed today. He requested the Division of Legislative Finance confirm this.

Co-Chair Donley agreed to this, and classified the FY 02 budget as a "moving target" since it had not yet passed the legislature.

Co-Chair Kelly asked for clarification of the equal reduction provision imposed if the legislature appropriated an amount higher than the spending limit.

Co-Chair Donley reiterated how the budget would be reduced in equal proportions to each department in the event of a lawsuit filed and won against the legislature for over-spending. He pointed out that the governor is also responsible for any over-spending since the budget must be signed into law before funds could be appropriated. He surmised that the amount of money involved in these instances would be minimal.

Co-Chair Kelly asked if the appropriation reductions would be made through a court action.

Co-Chair Donley affirmed and explained the court would order each department to reduce its budget and the specifics would be determined by the commissioners of each department.

Co-Chair Kelly asked if the commissioners would have flexibility to make these reductions within the Budget Request Units (BRU).

Co-Chair Donley answered by reading from page 2, lines 10 and 11, "...the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated..."

Senator Hoffman opined that in actuality, the governor would review the budget passed by the legislature to ensure the appropriations are within the limit. In the event they are higher, Senator Hoffman continued, the governor would prioritize and make necessary line item reductions at this time.

Co-Chair Donley agreed this is true, "within the perimeters of the constitutional provision, which requires it to be equal by department." He asserted the way to avoid this situation is to not violate the spending limits.

Amendment #1: This conceptual amendment deletes a sentence from Section 1 (c), on page 2, lines 13 and 14 of the resolution, which reads, "The operating expenditures of each of the principal departments established by law under Section 22 of Article III shall be reduced by an equal percentage."

Co-Chair Kelly expressed his concern that some items such as contracts negotiated in good faith and entitlements, would be a priority and could not be reduced, but that other, less desirable reductions would be required elsewhere. He predicted there would be a small number of budget items available to incur the full reduction. He also warned that the legislature would be unable to make these budget decisions.

Co-Chair Donley noted several events would have to occur before this provision would be activated. He listed: the legislature would pass a budget higher than the appropriation limit, the governor would not exercise veto authority in reducing appropriations to meet the limit, a lawsuit would be filed against the state, and the court would rule against the state in this suit. Only at this time, he explained, would the governor be required to make the equal reductions in accordance to the constitutional amendment and the court order.

Senator Green understood the primary intent of the appropriation limit is to become the "guiding principal" by which, the budget is formulated and policies set. By knowing the appropriation limit at the start of the budget process, she surmised the department representatives would have to submit proposed budgets that meet the predetermined amount. She stated the message would be sent to the executive branch, "This is the principal under which we're going to

operate. You have some information and you work from that principal." She expressed this method starts with the governor's office. If nothing else, she predicted this intent of the constitutional amendment would ensure there is leadership in the budget process rather than a compilation of reactions.

Co-Chair Donley applauded this point, and noted that in the last six years, the governor has been proposing large budget increases. Under the appropriation limit, Co-Chair Donley stated, the governor would have to meet the cap or there could be consequences. He noted this also addresses Senator Hoffman's concerns about prioritizing expenditures.

Co-Chair Donley stated he had no objection to the deletion of the sentence as proposed.

Co-Chair Donley moved for adoption of Amendment #1.

Without objection the amendment was ADOPTED.

Co-Chair Donley requested Committee advice on the last sentence in Section 2 on page 2, lines 23 through 25, "If the majority of those voting on the proposition rejects the amendment, the amendment shall be repealed and Section 16 of Article IX shall be reenacted to read exactly as it did when it was first adopted in 1982." He explained this applies to the provision placing the constitutional amendment, if initially adopted, back before voters for reconsideration in the year 2010 and every eight years thereafter. He commented that the language adopted in 1982 is "pretty bad" and thought it might be preferable to completely repeal the constitutional amendment rather than revert to the previous language.

Co-Chair Kelly asked for clarification of how this resolution would affect the existing constitutional amendment.

Co-Chair Donley explained if this resolution were adopted, and its provisions incorporated into the constitutional amendment governing spending limits, but the voters later elected to repeal these provisions, the constitutional amendment would remain but the language would revert to that in the original constitutional amendment. An alternative, he said, is to provide that the constitutional amendment is repealed in its entirety if voters fail to retain the language contained in this resolution.

Co-Chair Kelly recommended repealing the entire constitutional amendment, saying it is ineffectual.

Senator Lemman agreed. He stated the provision proposed in the resolution could be confusing and he wanted to keep the constitution as simple as possible.

Senator Lemman referred to the "safety valve" language on page 2, lines 14 through 16, "This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house." He asked if this provision would preclude the current legislative practice of separately voting to pass the budget and the subsequent withdrawal from the Constitutional Budget Reserve fund (CBR) to pay the difference between available funds and the total budget expenditures. He noted this method is established in statute and wanted to know if an additional resolution would be required before funds could be withdrawn from the CBR.

Co-Chair Donley replied that a resolution "keeps the power with the legislature" with regard to CBR draws. He explained if the CBR withdrawal were included in the budget legislation, it would be subject to a line-item veto. He gave a scenario of a budget bill passed that included the CBR withdrawal. He warned that the governor could veto this section of the bill, which would activate the budget reduction provision and the governor would determine the reductions rather than the legislature.

Senator Lemman asked how this compares to the Alaska Supreme Court interpretation of the existing constitutional amendment.

Co-Chair Donley replied this resolution specifically authorizes the legislature's intent that the governor could not veto legislative approval of CBR draws.

Amendment #2: This amendment deletes, "...and Section 16 of Article IX shall be reenacted to read exactly as it did when it was first adopted in 1982." from Section 2, page 2, lines 24 and 25 of the resolution.

Co-Chair Donley moved for adoption.

There was no objection and the amendment was ADOPTED.

Senator Wilken stated that he would support reporting this resolution from Committee, but stressed that it is a work in progress. He voiced concerns with "the half and half" provision that calculates the allowable spending increases based on population and inflation, saying it is too ambitious and too low. He admitted he did not have a recommendation as to what the amount should be. He noted the predicted 13 percent per capita reduction

over nine years and emphasized the difficulty in making one-percent budget reductions under the Republican's five year budget plan, which concluded the previous year. He thought the issue could be addressed with an additional safety valve; one that would be easier to enact than the currently proposed provision.

Senator Wilken expressed there is a need to address capital spending versus operating expenditures. He opined that the operating budget is the result of an "arduous process that serves to restrain government." He remarked this is entirely different from the process of allocation for capital expenditures, which are intended to encourage the state's economy. He stressed Alaskans need to understand that the intent in funding operation items is one of restraining government but the intent in funding capital items is to build Alaska. He characterized the two budgets as mutually exclusive. He was concerned with the proposal to combine the two into one spending limit provision. He warned that the result could be favoring government at the expense of building Alaska.

Co-Chair Kelly concurred.

Senator Wilken listed that his third concern relates to the University of Alaska, which he was unsure if it was subject to the spending limits. He predicted if tuitions were increased, "we're back to the old statutory designated receipts problem," explaining that any revenue increases with the intent of funding specific state services would affect the total appropriation amount in relation to the spending limits. He stated there are other instances where additional revenues could be generated to assist in paying for and expanding a service.

Senator Wilken shared his final concern with "federal indices" as it appears in Section 1 (a). He pointed out there are few federal indices for comparison and those impacted by this resolution should be clarified.

Senator Wilken assured he is "fully supportive" of the constitutional spending limit, stressing he wanted to guarantee the one adopted is acceptable.

Senator Austerman associated himself with Senator Wilken's comments. He emphasized, "the devil is in the details" on any such proposal. He considered this resolution "a tool for us to start getting a handle on where we're going on government." He noted his interest in pursuing a long-term financial plan and stressed this is a key element to that plan. He was reassured that because this resolution requires a two-thirds vote from each body, the problems

would be adequately addressed before it passed. He hoped there would be constructive discussions on the matter in the House of Representatives over the interim.

Co-Chair Kelly noted Co-Chair Donley's tendency to "work on a lot of projects all very much in depth." He requested the sponsor work on this resolution with the same intensity given to his other legislation.

Senator Austerman invited Co-Chair Donley to participate in the long-term financial planning group.

Senator Ward offered a motion to move from Committee SJR 23, as amended, with a zero fiscal note from the Division of Elections, Office of the Lieutenant Governor.

Co-Chair Donley remarked he was in agreement with all the comments raised during this hearing and that he would continue to work on this resolution.

Without objection the bill MOVED from Committee.

#HB76

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 76(FIN)

"An Act providing for and relating to the issuance of certificates of participation to finance construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of and approving the entry into and the issuance of certificates of participation in a lease-purchase agreement for construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of the intent and approval to retain investment income from pertinent appropriations to be applied to the cost of construction of a new facility to be known as the Alaska Psychiatric Institute; relating to the construction of a facility to be known as the Alaska Psychiatric Institute; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

SAM DICKEY, President, University Area Community Council, and former president, Airport Heights Community Council, and participant of the Coalition for API [Alaska Psychiatric Institute], testified via teleconference from Anchorage about his involvement in this matter since the state's pursuit of the Charter

North purchase option. He described the Coalition for API as a group of "families, friends, consumers, providers and just concerned citizens" who would like a resolution to the situation. He emphasized his support for the Shared Vision document as put forth by the state and "all the major stakeholders in the area" and therefore encouraged passage of HB 76.

ELAINE PRATT, Member, Coalition for API, testified via teleconference from Anchorage to encourage passage of this bill. She stated that additional funding is desperately needed for a new, asbestos-free building. She relayed this project has been ongoing for over 15 years and adoption of this legislation is necessary to "bring it to closure." She noted this legislation, coupled with the recently signed, Shared Vision Memorandum of Understanding, creates "win-win solutions for all parties involved."

Senator Ward understood that a structural engineer report was done on the existing facility. He requested a copy of this report to assist him in determining the remaining life expectancy. He also requested information related to the option of remodeling this facility and the cost of such a project.

JEFF JESSEE, Executive Director, Alaska Mental Health Trust Authority, Department of Revenue, testified via teleconference from Anchorage that this information exists and would be provided.

Senator Ward asked the life expectancy of the building according to the structural engineers.

RANDALL BURNS Chief Executive Officer, Alaska Psychiatric Institute, testified in Juneau about the reports in question. He stated one report was completed this year and reviews previous studies on renovation costs. He detailed Option One, to move patients and staff from the hospital for two years and renovate the facility, that would cost an estimated \$74 million not including the cost of the temporary relocation. Option Two, he explained, is a phased renovation of three to four years with patients remaining in the facility and would cost approximately \$81 million.

Mr. Burns told of another study commissioned by the Alaska Mental Health Trust Authority (AMHTA) that reviewed due diligence of the Trust's property. This report, he shared, found that the facility has two to five years remaining of service and that "it would not be reasonable to consider continued use of the improvements, which is the hospital, beyond the two to five year timeframe." He noted this report also warned that the physical risks of continued use beyond this time should be of significant concern.

Senator Ward referred to the latest report released on March 22, 2001, which states, "This estimate has been prepared and developed from the 1989 report." He noted the 1989 report gives estimates of remodeling costs based on square footage. He again asked if a structural engineers report on the building has ever been conducted.

Mr. Burns responded there were several studies done, two of which occurred in 1989 and 1993. He corrected Senator Ward's reference is to the study completed in 1997. Mr. Burns stated the 1989 and 1993 studies examined the structural aspects of the facility and reported that since the facility was not seismically braced, additional structural problems affected the recommendations for continued use.

Senator Ward requested these reports as well.

Senator Wilken shared estimates of population projections recently given to him. [Copies on file.]

Co-Chair Kelly announced the bill would be held in Committee for further consideration.

Senator Wilken relayed his question of whether a larger a facility should be built to address the future needs rather than constructing a building only adequate for today's population. He informed that over the previous two years, the population has exceeded capacity 65 percent of the time. He referred to future estimates and noted that in FY 10, at a cost of \$60 million, the new facility would be full. He expressed there would be a need for an additional facility five years after this one is completed. He surmised, "We're penny-wise and pound foolish here".

RUSS WEBB, Deputy Commissioner, Department of Health and Social Services, testified in Juneau to address misconceptions. He clarified that over the previous two years, the existing facility has operated at or below the planned 72-bed capacity of the proposed facility 94 percent of the time. He noted that it had operated over the 72-bed projection only six percent of the time, a total of 43 of 670 days.

Mr. Webb noted that the size of the new facility had been the subject of extensive discussion and studies before the 72-bed size was decided. He showed the declining trend of average daily census of the hospital over the past 23 years. He explained that increased knowledge of mental illness, and improved technology primarily with medication, has made it possible to treat mental illness more effectively than in the past and thus reduce the need for, and the length of, hospitalization stays. At the same time, he continued,

community service alternatives have been developed that also reduce the length of hospital stays and provide alternatives.

SFC 01 # 93, Side B 10:08 AM

Mr. Webb continued by listing new services that are specifically planned to reduce the need for hospitalization at API. He shared that a single point of entry agreement recently reached with Providence Hospital would provide an opportunity to divert up to 25 percent of admissions to API. He noted enhanced detoxification service has been implemented to provide treatment for people suffering a combination of mental illness and substance abuse. At the same time, he stated, API has implemented a system of dual diagnosis treatment to serve the same patients. He said this allows these patients to be treated within the community and without hospitalization.

Mr. Webb continued, telling of enhanced crisis treatment for persons with mental illness in other programs, which provides community-based alternatives to API. He said a solicitation had been made for specialized intensive services targeted to treat 80 patients who have been hospitalized for 30 or more days in the past year at API with the goal of reducing their future hospital days by one-half. He spoke of special needs housing opportunities, explaining that some people are hospitalized because they do not have appropriate housing. He detailed a proposal with the Alaska Housing Finance Corporation (AHFC) to address these housing needs.

Mr. Webb reminded that a critical element of community services was recently addressed in the Senate Finance Committee through SB 154, which continues designated evaluation and treatment services throughout the state. He stated the intent is to provide an additional 18 beds in Anchorage through this legislation. He said there have been some difficulties in getting this service to other communities, but that some of these problems have been addressed. He gave as an example the Providence Medical Center, which has been prevented from expanding due to land availability but noted this funding allows for the purchase of the needed land.

He summarized how the aforementioned factors contributed to the determination that the new facility would contain 72 beds. He stated this amount of beds is adequate to meet the future needs, including the occasional spikes in admissions. He calculated the average daily bed need at 54 beds.

Senator Wilken asked if the board of trustees of the MHTA have

reviewed the proposal and support the proposed 72-bed size.

Mr. Jesse replied that the board had reviewed the building and the program capacity. He noted that in the early 1980s, API housed approximately 200 patients and by the 1990s, the number had been reduced by half. He relayed the board's opinion that the proposal is realistic and told of his "very firm direction" by the trustees to proceed with the plan as presented. He pointed out the expectation is not to operate a facility such as Harborview Developmental Center, which had served people with developmental disabilities in an institutional setting.

Mr. Jesse warned against building too large a facility, noting the increased operating costs for a facility with numerous unused beds.

Senator Wilken requested written analysis of the draft as detailed by Mr. Webb, noting he counted five alternative programs that would lessen the demand for API facilities.

Senator Olson wanted to know if the new state-operated facility would affect delivery of mental health care services provided by the private sector.

Mr. Webb described the private community hospitals in Fairbanks and Juneau that provide designated evaluation, which he stressed are short-term evaluations and treatment services of up to 30 days. He stated that SB 154 allows for continuation of these services and for future expansions.

Senator Olson asked specifically about Charter North Hospitals.

Mr. Webb replied that Charter North has not been a provider of designated evaluation and treatment services in the past. He informed that the company is in bankruptcy at the national level and that there has been some discussion about selling the facility in Alaska, but qualified that he did not know the future business plans.

Co-Chair Kelly ordered the bill HELD in Committee.

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RECESS

Co-Chair Pete Kelly recessed the meeting at 10:18 AM to the call of the chair.