

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

Anchorage, Alaska

October 29, 2003

5:10 p.m.

**MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson, Vice Chair  
Representative Jim Holm (via teleconference)  
Representative Dan Ogg (via teleconference)  
Representative Ralph Samuels  
Representative Les Gara  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Bruce Weyhrauch  
Representative Mike Hawker  
Representative Beverly Masek (via teleconference)

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 9

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

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 4

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HJR 9

SHORT TITLE: CONST AM: APPROPRIATION/SPENDING LIMIT

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

Jrn-Date      Jrn-Page                      Action

01/31/03	0102	(H)	READ THE FIRST TIME - REFERRALS
01/31/03	0102	(H)	STA, JUD, FIN
02/11/03		(H)	STA AT 8:00 AM CAPITOL 102
02/11/03		(H)	Heard & Held
02/11/03		(H)	MINUTE(STA)
03/28/03	0687	(H)	COSPONSOR(S): ROKEBERG
04/04/03	0797	(H)	W&M REFERRAL ADDED BEFORE STA
04/09/03		(H)	W&M AT 7:00 AM HOUSE FIN 519
04/09/03		(H)	Heard & Held
04/09/03		(H)	MINUTE(W&M)
04/17/03		(H)	W&M AT 7:00 AM HOUSE FIN 519
04/17/03		(H)	Heard & Held
04/17/03		(H)	MINUTE(W&M)
04/24/03		(H)	W&M AT 7:00 AM HOUSE FIN 519
04/24/03		(H)	Heard & Held
04/24/03		(H)	MINUTE(W&M)
04/29/03		(H)	W&M AT 7:00 AM HOUSE FIN 519
04/29/03		(H)	Heard & Held
04/29/03		(H)	MINUTE(W&M)
04/30/03		(H)	W&M AT 8:00 AM HOUSE FIN 519
04/30/03		(H)	Heard & Held
04/30/03		(H)	MINUTE(W&M)
04/30/03		(H)	MINUTE(W&M)
05/02/03	1271	(H)	W&M RPT CS(W&M) NT 3DP 2NR 2AM
05/02/03	1271	(H)	DP: HEINZE, WHITAKER, HAWKER;
05/02/03	1271	(H)	NR: MOSES, GRUENBERG; AM: KOHRING,
05/02/03	1271	(H)	WILSON
05/02/03	1271	(H)	FN1: (GOV)
05/02/03		(H)	W&M AT 7:00 AM HOUSE FIN 519
05/02/03		(H)	Moved CSHJR 9(W&M) Out of Committee
05/02/03		(H)	MINUTE(W&M)
05/06/03		(H)	JUD AT 5:30 PM CAPITOL 120
05/06/03		(H)	<Pending Referral> -- Meeting Canceled --
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102
05/06/03		(H)	Scheduled But Not Heard --
05/06/03		(H)	STA AT 5:30 PM CAPITOL 102
05/06/03		(H)	Scheduled But Not Heard -- Meeting Canceled --
05/07/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/07/03		(H)	<Bill Hearing Postponed> --
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Heard & Held

05/07/03		(H)	MINUTE(STA)
05/08/03	1465	(H)	STA RPT CS(STA) NT 3DP 3NR
05/08/03	1465	(H)	DP: SEATON, LYNN, DAHLSTROM;
05/08/03	1465	(H)	NR: GRUENBERG, HOLM, WEYHRAUCH
05/08/03	1466	(H)	FN1: (GOV)
05/08/03	1466	(H)	REFERRED TO JUDICIARY
05/08/03		(H)	JUD AT 3:30 PM CAPITOL 120
05/08/03		(H)	<Bill Hearing Postponed> --
05/08/03		(H)	STA AT 8:00 AM CAPITOL 102
05/08/03		(H)	Moved CSHJR 9(STA) Out of Committee
05/08/03		(H)	MINUTE(STA)
05/09/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/09/03		(H)	Heard & Held
05/09/03		(H)	MINUTE(JUD)
05/12/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/12/03		(H)	<Bill Hearing Postponed to Wed. 5/14/03>
05/14/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/14/03		(H)	Heard & Held Meeting
05/14/03		(H)	MINUTE(JUD)
05/15/03		(H)	JUD AT 8:30 AM CAPITOL 120
05/15/03		(H)	-- Meeting Canceled --
10/29/03		(H)	JUD AT 5:00 PM Anch LIO

BILL: HJR 4

SHORT TITLE:CONST AM: 90 DAY LEGISLATIVE SESSION

SPONSOR(S): REPRESENTATIVE(S) SAMUELS, ROKEBERG

Jrn-Date	Jrn-Page		Action
01/21/03	0025	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0025	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0025	(H)	STA, JUD, FIN
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
03/17/03	0566	(H)	COSPONSOR(S): CROFT
03/18/03		(H)	STA AT 8:00 AM CAPITOL 102
03/18/03		(H)	Heard & Held
03/18/03		(H)	MINUTE(STA)
03/19/03	0593	(H)	COSPONSOR(S): HOLM, ANDERSON, MEYER,
03/19/03	0593	(H)	MCGUIRE
04/24/03	1110	(H)	COSPONSOR(S): KOHRING
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Scheduled But Not Heard

04/29/03		(H)	STA AT 8:00 AM CAPITOL 102
04/29/03		(H)	Heard & Held
04/29/03		(H)	MINUTE(STA)
04/30/03		(H)	JUD AT 1:00 PM CAPITOL 120
04/30/03		(H)	<Bill Hearing Postponed to 05/02/03>
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Moved CSHJR 4(STA) Out of Committee
05/01/03		(H)	MINUTE(STA)
05/02/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/02/03		(H)	Scheduled But Not Heard <Mtg Postponed to 4:00 PM>
05/05/03	1307	(H)	STA RPT CS(STA) NT 4DP 1DNP 2NR
05/05/03	1307	(H)	DP: HOLM, LYNN, DAHLSTROM, WEYHRAUCH;
05/05/03	1307	(H)	DNP: BERKOWITZ; NR: SEATON, GRUENBERG
05/05/03	1308	(H)	FN1: (LEG)
05/05/03	1308	(H)	FN2: (GOV)
05/05/03	1308	(H)	REFERRED TO JUDICIARY
05/05/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/05/03		(H)	Scheduled But Not Heard
05/06/03		(H)	JUD AT 5:30 PM CAPITOL 120
05/06/03		(H)	-- Meeting Canceled --
05/07/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/07/03		(H)	Scheduled But Not Heard --
05/08/03		(H)	JUD AT 3:30 PM CAPITOL 120
05/08/03		(H)	Scheduled But Not Heard --
05/09/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/09/03		(H)	Scheduled But Not Heard
05/12/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/12/03		(H)	Scheduled But Not Heard --
05/13/03		(H)	JUD AT 3:30 PM CAPITOL 120
05/13/03		(H)	-- Meeting Canceled --
05/14/03		(H)	JUD AT 1:00 PM CAPITOL 120
05/14/03		(H)	Scheduled But Not Heard
05/15/03		(H)	JUD AT 8:30 AM CAPITOL 120
05/15/03		(H)	-- Meeting Canceled --
10/29/03		(H)	JUD AT 5:00 PM Anch LIO

**WITNESS REGISTER**

REPRESENTATIVE BILL STOLTZE  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As the sponsor, presented HJR 9.

RONALD JORDAN

Anchorage, Alaska

POSITION STATEMENT: During hearings on HJR 9 and HJR 4, expressed concern about special sessions and spoke in favor of a cap and 90-day sessions if they accomplish what a 120-day session can.

SARA NIELSEN, Staff

to Representative Ralph Samuels

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During hearing on HJR 4, offered a point of clarification.

HUGH BROWN III

Anchorage, Alaska

POSITION STATEMENT: Expressed concerns about HJR 4 and suggested a wait-and-see approach.

#### **ACTION NARRATIVE**

#### **TAPE 03-73, SIDE A**

Number 001

**CHAIR LESIL McGUIRE** called the House Judiciary Standing Committee meeting to order at 5:10 p.m. Representatives McGuire, Anderson, Holm (via teleconference), Ogg (via teleconference), Samuels, Gara, and Gruenberg were present at the call to order. Other legislators present were Representatives Weyhrauch, Hawker, and Masek (via teleconference).

#### HJR 9-CONST AM: APPROPRIATION/SPENDING LIMIT

[Contains discussion pertaining to HJR 4]

CHAIR McGUIRE announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 9, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

Number 019

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, speaking as the sponsor of HJR 9, noted that there have been several

meetings already held. This bill is a tool to address the fiscal issues facing the state, and today is the time to hear from the public.

Number 039

CHAIR MCGUIRE opened up public testimony.

Number 045

RONALD JORDAN, representing himself, noted that he has lived here 40 years. He said, "If a 90-day session can accomplish the same thing in 120 days without being called back into special session like previous governors have done, I'm all for it. I am all for [the constitutional spending limit]. Let's put a cap on it."

CHAIR MCGUIRE temporarily set aside HJR 9.

HJR 4-CONST AM: 90 DAY LEGISLATIVE SESSION

CHAIR MCGUIRE announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 4, Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

Number 081

REPRESENTATIVE SAMUELS moved to adopt CSHJR 4(STA).

CHAIR MCGUIRE indicated it was adopted.

Number 086

RONALD JORDAN, representing himself, stated concern about special sessions. He feels that not enough production occurs in the first session and that the cost and what is accomplished is of concern to him. Current communication systems can allow legislators to participate while staying in their own areas of the state. He said he is in favor of 90-day sessions.

Number 130

REPRESENTATIVE GARA expressed concern with the rule that allows people to file a bill with only 24 hours' notice to the public. These bills then move quite quickly through the process. Before that rule applies, the public must be given five days' to a

week's notice. If there is a 90-day session, then a higher percentage of the legislation would be debated under this 24-hour rule. Could a provision that the public will always be given at least 5 days notice be added?

MR. JORDAN replied that he doesn't pay attention to bills that don't interest him, regardless of the amount of notice.

Number 156

REPRESENTATIVE SAMUELS noted that there would be statutory changes that need to be addressed before passage of this resolution and that the details would have to be fleshed out, but not constitutionally. He explained:

You are going to save money. I think you're going to give more people an opportunity to serve as legislators. That's probably the key. ... It would increase the pool of people willing to make these sacrifices to go to Juneau and serve their community. We have a lot of us because we have special circumstances. I think you'd increase the pool, you'd save some money, and quite frankly, we can do it in 90 days. I have no doubt about that.

Number 192

CHAIR McGUIRE questioned what the initiative [1984] that changed it to 120 days looked like.

Number 195

SARA NIELSEN, Staff to Representative Ralph Samuels, Alaska State Legislature, noted that the initiative was general, leaving the details up to the uniform rules in the legislature.

Number 210

REPRESENTATIVE SAMUELS stated that it takes additional time for a new legislature to move in during an election year. He'd reviewed the minutes from the Constitutional Convention to look at the thinking behind the legislation, he said; they did not put a limit on it. He offered a quotation from the Constitutional Convention: "In the first years of the legislature your session may go three or four months a year but in subsequent sessions you may have as low as 30 day sessions."

Representative Samuels noted that Utah, for example, has a 20-day session.

Number 233

CHAIR MCGUIRE noted that the cost would be close to \$1 million with per diem and staffing.

REPRESENTATIVE SAMUELS agreed this is accurate and possibly higher.

Number 238

CHAIR MCGUIRE noted that Representative Weyhrauch had joined the meeting and Representative Masek had newly joined via teleconference.

Number 242

REPRESENTATIVE HOLM questioned the lack of fiscal notes and requested clarification that the cost is \$1 million a year or thereabouts from 2006 and beyond.

REPRESENTATIVE SAMUELS replied, "Yes, that's correct."

Number 257

REPRESENTATIVE STOLTZ added that the original legislature was faced with a gravely ill governor. The legislature historically has dropped the number of days actually in session from the low 70s to as low as 55 percent in the 17th legislature.

REPRESENTATIVE WEYHRAUCH stated that the executive branch was designed to be the stronger branch compared with the legislative branch. He finds that the only time the legislature has real power is during the session. The less time it has in session, the less time it has to exert power to effect change. He has found it frustrating in the interim because the executive branch is unresponsive. He wonders if having only a 90-day session would tip the balance of power to the executive branch, causing the people to suffer.

REPRESENTATIVE SAMUELS agreed that this bill would give more power to the executive branch. The positive outcome, however, is that more constituents would be able to participate. The basic question is whether or not the job can be done in 90 days, and he feels they would all admit that it could. Historically,

120 days is an arbitrary number. For example, the session prior to 120 days was 160 days. In California the legislature is full-time and paid accordingly. Representative Samuels said he does not feel this is good for the state.

Number 330

REPRESENTATIVE GARA voiced concern that a 90-day session would not attract more people to work in Juneau, since it's difficult to take 90 days off, let alone 120, from a job. He described his job as "120 days, then 8 months where you go back to see your constituents, then 120 days, and then 8 months or 6 months where you have to campaign for the next time." He added, "Most people can't do it, and it's not going to make a difference whether it's a 90-day session or 120-day session." Moving the capital to Anchorage might make a difference, he suggested.

REPRESENTATIVE GARA addressed the point of regulating hearings by statute rather than constitutionally. The people in power want to get their legislation through and gravitate towards giving the public less notice and less opportunity to have input when a bill is to be heard. He argued that fair notice needs to be built in to the constitution. Because of the 24-hour rule, he believes "some very ugly legislation gets passed." He remarked, "We might save \$1 million in travel costs, but we might lose \$50 million in oil taxes if we give away something that the oil industry potentially wants at the last minute. So it might cost the state much more money, and I would like to see guaranteed public notice and public access in the constitution." He recognized the importance of having an emergency provision to waive the public notice bill. He continued:

I would support the concept of hearings in all the major towns in Alaska during the 30 days before a 90-day session and that the legislators kept their offices open full-time during those 30 days so they could educate themselves [about upcoming legislation and constituents' needs]. Without a guarantee like that, I worry we cut it down to 90 days, we become less educated, the less educated and involved we are the more powerful the executive branch is, the more powerful the lobbyists are who are educating themselves all year, the easier it is for them to pull the wool over our eyes. And I think without some safeguard that says we have to work outside the 90-day session, some safeguard that says we have to provide for meaningful public input outside the legislative

session, without protections like that I worry that the 90-day session will just make us less effective and less responsive to the public. I think that those concerns could be resolved with amendments in this bill, many of them anyway. But without them, I guess I'm a little worried.

Number 393

REPRESENTATIVE HOLM responded that he thinks there's a great difference between 120- and 90-day sessions, especially for those involved in private enterprise. He also noted that the mechanism is already at hand to allow committees to meet outside of the legislative session and discuss problems. He said he isn't concerned that legislative power will be diminished.

REPRESENTATIVE GRUENBERG noted that the quality of debate had changed for the better in this meeting from previous debates about this resolution. If the main problem is to attract more people to the legislature, then this is not the best way to do it. In business, people are attracted by being offered more money. Legislators don't want to do this because the public does not want to spend more money on the legislature. Instead, [this resolution] asks the public to give the legislators more vacation and fewer workdays, less work for the same amount of money, and this will attract more people. He said he feels this is illogical and poor public policy.

REPRESENTATIVE GRUENBERG said with regard to the balance-of-power issue that Alaska has a strong executive branch, since it only has two elected officials, the governor and the lieutenant governor, and that it is also important to have a strong legislature. He said he supports giving the legislature some additional weight, but has no specific recommendations.

Number 485

REPRESENTATIVE SAMUELS noted that a pay cut occurs because there would be less per diem with a 90-day session. The seasonal aspect of the legislature supports a 90-day session. A January, February, and March session fits well with many jobs in Alaska.

REPRESENTATIVE GRUENBERG discussed instituting a system of clerkships - as the supreme court has - to attract the best and brightest. Legislative clerkships would pay off in the next generation, he suggested.

Number 532

REPRESENTATIVE SAMUELS stated that this runs counter to the expertise brought to the legislature by several of the members present. He remarked, "If you are in government all the time, then that's what you know. In the judiciary it's a little bit different. That's all you really need to know."

REPRESENTATIVE GRUENBERG countered with the comment, "No, it's different. You become a clerk, then you go into practice, and then sometime later you become the judge. It's not one right after the other."

Number 574

REPRESENTATIVE ANDERSON, who co-sponsored this bill, said he did so not because of the recruitment aspect, but to lessen the days of the session to increase efficiency. People are forced to attend meetings, take fewer trips, and reduce wasteful bills. In a 90-day session, legislators would be zealous in their support and pass fewer bills, he suggested.

**TAPE 03-73, SIDE B**

Number 002

Representative Anderson said this is a citizen legislature, and efficiency and accountability in the shortest amount of time comprise the reasons he supports this bill. He commented that many states have fewer than 100-day sessions.

Number 011

REPRESENTATIVE STOLTZ pointed out that the reason this bill finally made it to the ballot is that it was tied to a pay raise increasing the base salary for the legislature of up to \$46,000. He mentioned a repeal of the pay raise and said many opponents of the original session limit bill of 120 days rethought their decision to oppose. He noted that he has never heard of anyone regretting the limit.

Number 031

REPRESENTATIVE GRUENBERG returned to his point that attracting good people to the legislature is key. Part of the legacy that the legislature can leave is people who choose to go into municipal assemblies, go to law school, and enter public life - "getting people involved who care about humanity." He noted

that raising money to run for office is discouraging and that the image of the legislature with regard to campaign reform is sometimes negative. He emphasized that it's important to make it easier for citizens to run for office.

REPRESENTATIVE SAMUELS said he'd spoken with members of other state legislatures who have shorter sessions about how it works and that the response was positive. Utah has a 20-day legislature every other year. He offered his understanding that there is an increase in participation in these legislatures.

REPRESENTATIVE ANDERSON said he was playing the devil's advocate when he brought up the example of Representative Meyer, who would probably have been dissuaded to run because of family concerns. He would have wanted his wife and children to attend with him, Representative Anderson surmised, and if the session ended in April, what would the family do for schooling at the end of the school year? This bill dissuades citizens from running if they want their family with them in Juneau, he said.

Number 085

CHAIR MCGUIRE set aside HJR 4 with the comment, "We'll continue to look at this." She listed cost, quality of life, and quality of the government as focus points for future thinking. [Further public testimony was taken later in the meeting.]

HJR 9-CONST AM: APPROPRIATION/SPENDING LIMIT

Number 093

CHAIR MCGUIRE returned attention to HOUSE JOINT RESOLUTION NO. 9, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

CHAIR MCGUIRE explained that HJR 9 is a potential component in a fiscal policy. Saying there would be no further public testimony on it, she asked for any further thoughts, noting that this resolution would be brought back up in January. She advised that there are many people who are skeptical about accepting use of the permanent fund without some guarantee of fiscal discipline on the part of the legislature. Can the legislature be self-disciplined, or do they need a law to provide discipline? "It's similar to the 90-day session bill in that should we want to end in 90 days we can at any point in time," she said. "There is certainly no constitutional requirement that we go 120 days, and yet we seem to."

REPRESENTATIVE STOLTZ mentioned that the bill must be practical and work. There's a constitutional spending limit right now. He said he sees it as flawed, but the spending is well within this limit. Saying he anticipates the need for technical answers, he told members that constitutional amendments are serious business and that the process is fluid.

CHAIR MCGUIRE proposed using a case scenario to clarify the process.

Number 150

REPRESENTATIVE HAWKER commended Representative Stoltz for his efforts at "crafting a truly extraordinarily difficult bill to put to language." He said he believes in some form of a constitutional spending limit as the cornerstone of a long-term fiscal policy for the state. He remarked:

We've been through periods here of just having unbridled income, and we've obviously seen our ability to spend it as equally unbridled and, frankly, as a result of that, my experience around the state, particularly this summer doing the [House Special Committee on Ways and Means] community meetings, that we as a legislature lack credibility with the public in their belief that we actually have any inclination towards fiscal discipline and spending restraint.

REPRESENTATIVE HAWKER said he feels that the crafting and language difficulties can be overcome. He told members:

Care must be taken not to create a monster that either, frankly, serves no functional purpose, as our current spending limit, or threatens our ability to grow and expand the economy in this state - very, very difficult, but this bill is a political necessity if we are to look at creating a larger fiscal plan.

Many of us might like to believe that the community would trust those of us who are elected officials to make the right decisions as we encounter specific circumstances unique to each legislative session. The practical necessity is, we do not enjoy that credibility with the public. And this bill is vital to beginning to establish that credibility as we go forward with some larger fiscal planning.

Number 182

REPRESENTATIVE GARA recalled having debate about this bill in April or May and that he'd expressed concerns then. He said his present major concern is the failure of the state's recent federal review of [Alaska's] child protective system. He continued:

The administration has said that of the ones that cost money, we're not going to adopt any changes because we haven't any money. And then I wonder, if we lock in next year's spending at this year's spending level - and the way that this actually works is that spending has to fall behind inflation, probably, - I wonder if that will always be the answer, that we just don't have the money to address the problems in our child protection system, the real problems that send more foster children to jail than we send to college.

Certainly, I think that everyone at this table would agree to a spending cap where if you move forward to a point where you've solved your problems and you feel like you have a fair budget, I think people would agree to a spending cap from there. The question is, do we institutionalize the poverty and failure that we have in sections of our community like the children who are so much in need, the foster children, the abused children, the children in institutions who right now we are saying we are not going to help to the extent that it costs extra money over last year. Do we lock in that problem?

Number 210

REPRESENTATIVE GARA asked Representative Stoltz, "Can you explain for us the mechanics of the existing spending cap that we have on the books right now and what it is and why it doesn't work?"

REPRESENTATIVE STOLTZ responded that the bill started at the time the state was spending \$15,000 per capita, a high percentage of spending due to the high quantity of oil. This was a faulty premise as to what a sustainable amount should be. A convoluted political situation created it during a special session, and then-Governor Hammond vetoed the capital project. Representative Stoltz said, "It was an imperfect process that

yielded an imperfect type of constitutional amendment. When you index things, there's always a danger of what the escalation is going to be. In short, it has never been taken seriously as a spending limit because we were always underneath it."

REPRESENTATIVE GARA commented that the budget right now is about \$6 billion, but only \$2 billion of that is general fund money, with the rest spent on the dividend and coming from federal money and other fund money. The old cap was \$2.5 billion of general fund money, with adjustment for population growth and inflation. He asked Representative Stoltz what the state is allowed to spend today under the spending cap.

Number 253

REPRESENTATIVE STOLTZ replied that the number is \$6.4 billion and that "we are now meeting our constitutional mandate."

REPRESENTATIVE GRUENBERG stated that with passage of the capital budget, HB 100, several provisions were designed to eliminate the need for the minority's votes, and this was accomplished by changing effective dates. These dates when certain appropriations were made triggered the mechanism for the three-quarters vote (indisc.) allegedly was avoided. He said he thinks that was unconstitutional and that the present resolution may contain the same defect. He then referred to [subsection (b), page 2] and said:

It says that an appropriation that exceeds the limit under (a) of this section may be made for any public purpose upon affirmative vote of at least three-quarters of the members of each house of the legislature. I'm sort of talking myself out of my own argument here. It's exactly the opposite of the other thing, so I'm going to withdraw my comment.

CHAIR MCGUIRE asked Representative Stoltz what the definition of "public purpose" is, after referring to section (b).

REPRESENTATIVE STOLTZ noted, "It would have to fall within the constitutional boundaries of what an appropriation be allowed to be made for."

Number 295

REPRESENTATIVE GRUENBERG wondered:

If there could be no circumstance under which this could be eliminated with less than a three-quarter vote of the legislature, in other words, only certain types of expenditures can be made with a three-quarter vote in violation of subsection (a). But under no circumstance could you get around the limit in subsection (a) with less than a three-quarter vote. Am I correct in that interpretation?

CHAIR MCGUIRE referred to page 1, Section 1, of the bill, which would amend Section 16 [of Article IX] of the state constitution. She pointed out that it outlines a series of nine exemptions, including an appropriation to meet a state of disaster as declared by the governor and an appropriation to the Alaska permanent fund. This subsection does not apply to these exemptions, she said.

REPRESENTATIVE GRUENBERG stated:

This is something that creative legislators and people who want to bust the cap will study for years, decades, maybe longer, so that what we have to do, if we are going to pass this thing in its present form, is see how a tricky, clever, conniving budget analyst could come up with a way, with or without a friendly lawyer, of getting around this. That's where the game's going to be played, I'm afraid.

CHAIR MCGUIRE said she wanted to clarify that Representative Hawker echoed her prior comment. She said:

There's a certain amount of pressure that's being put on this committee from other members of the legislature. We all have a responsibility in our different committees, and we all serve at the will of our various caucuses. I'd like us to be prepared over the interim to focus on this particular resolution in some detail when we get back, and I'd like to do it early on so that we can be efficient and end in 90 days, but really so that we can get going on it before the budget and some of those other things come down.

Number 352

REPRESENTATIVE GARA stated for the record that he urges a deliberative process because this is a constitutional amendment and he is not applying any pressure.

REPRESENTATIVE GARA posed a question to Representative Stoltz:

The way this spending cap is written - and the devil is always in the details - the amount of spending can only go up, on average, 1 percent a year, even if inflation is 3 percent, 4 percent, 5 percent. Or, back in the eighties when it was 10 percent, the amount can only go up 1 percent a year unless you've got three-fourths of both houses to agree, which would very rarely ever happen.

So the way this one is designed, the amount of spending for our schools, for child protection services, will go down every year. And I look at schools, for example, and the school funding has gone down, in comparison with inflation, by about 5 percent over the last six years, and it went down another \$10 million last year. And I'm wondering if this just requires that we keep spending less in real dollars on our schools if we adopt this. The amount of spending has to essentially to go up at a lower rate than the rate of inflation provision, and you can't even take into account new population increases. I'm wondering, do you believe that this will have a detrimental effect on our schools, or is there a way around that that is fair?

REPRESENTATIVE STOLTZ responded that he's not against schools; this legislation forces prioritization. He noted that during the economic downturn of the 1980s, education was not cut because the legislature prioritized a definition of full funding of education. They cut employees, but education was not reduced and, in fact, in his recollection, there was an increase.

CHAIR McGUIRE promoted using scenarios for clarification. She closed public testimony on HJR 9 and set it aside until January. [HJR 9 was held over.]

HJR 4-CONST AM: 90 DAY LEGISLATIVE SESSION

CHAIR McGUIRE reopened public testimony on HOUSE JOINT RESOLUTION NO. 4, Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

Number 420

HUGH BROWN III testified as follows:

I appreciate your efforts to cut the session. Some states have a shorter session than ours. They seem to get their work done, and I think by cutting the session it would save some money. I do have some concerns about it. The public process may be hurt. When I go to Juneau, I talk to legislators and, it is a short window to do that. I work full-time, so I just think that maybe we should hold off on that for a little while, maybe talk it over a little while, and see what the session will look like in 90 days.

As we propose things in the community to supplement what agencies are doing, whether it's helping children and education, we need to be able to access the legislators to make this happen. That's really all I have to say. I'm not really opposed to it, but I think we should wait and take a wait-and-see look at it.

REPRESENTATIVE ANDERSON stated that he was pleased and honored that Mr. Brown had come before the committee to testify. Prior to this time, the turnout for testimony had been poor, he recalled.

REPRESENTATIVE GRUENBERG said, to be fair, in Kodiak the turnout for testimony was good.

MR. BROWN noted that when he was in Juneau and observing the legislative process, he began to appreciate the process and the decision-making. He said he encourages his friends to participate and thinks the session would better serve this goal if it were not set at 90 days. [HJR 4 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 6:32 p.m.