

HOUSE FINANCE COMMITTEE
March 19, 2010
9:04 a.m.

9:04:30 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly

MEMBERS ABSENT

Representative Woodie Salmon

ALSO PRESENT

Representative Mike Kelly; Derek Miller, Staff,
Representative Kelly

PRESENT VIA TELECONFERENCE

Tamara Cook, Director, Legislative Legal Services,
Legislative Affairs Agency

SUMMARY

HJR 8 CONST. AM: APPROP. LIMIT/MINERAL REVENUE

CS HJR 8(FIN) was REPORTED out of Committee with a no recommendations and with previously published fiscal note: FN2 (ADM)

[9:04:34 AM](#)

#hjr8

HOUSE JOINT RESOLUTION NO. 8

Proposing amendments to the Constitution of the State of Alaska limiting appropriations from certain mineral revenue, relating to the balanced budget account, and relating to an appropriation limit.

[9:04:57 AM](#)

REPRESENTATIVE MIKE KELLY presented an overview of the bill which would replace a mechanism in the Alaska Constitution to attempt to control state spending. He stressed the need for fiscal responsibility and stability in the state. This bill would be a shock absorber using a five year average to form a balanced budget tank to put money into that could be accessed in any given year to bring in enough money to meet the five year average on spending. HE stressed that this is an averaging mechanism.

Co-Chair Stoltze notified his intent to have a motion to this bill move out.

[9:07:41 AM](#)

Representative Doogan asked about the many revenue sources in Section 1 and wondered how much of the general revenue would this account deal with.

Representative Kelly responded in the 80 plus percent range. It attempts to capture all mineral revenues.

Representative Doogan inquired on page 2, line 12-13 that it reads Section 7 does not apply and he wondered why.

Co-Chair Stoltze replied that it is the dedicated funds provision. Representative Kelly agreed that was correct. Representative Doogan noted that this presumptively makes this not a dedicated fund. Representative Kelly agreed. Representative Doogan remarked that on page 2, line 16-17 it reads "that excess amount shall be transferred to the budget reserve fund..." and wondered if that was what was being created with this bill. Representative Kelly remarked that the balanced budget account is the reserve being referred to so the answer is yes.

Co-Chair Stoltze interjected if that the Section 17 budget reserve fund is referred to in Article 9 of the Alaska Constitution. Representative Kelly replied that was correct.

Representative Doogan wondered in Section 2 of the bill what this application of mineral revenue amendment accomplishes. He understood there was something in law that is being revised here.

[9:11:45 AM](#)

DEREK MILLER, STAFF, REPRESENTATIVE KELLY, reported that the amendment replaced the current appropriation limit in the Alaska Constitution under Article IX, Section 16. It applies to appropriations in 2012 and thereafter.

Representative Doogan inquired that if this language is passed, then this bill will, in 2012, supersede the current language in Section 16. Mr. Miller replied yes. He explained that on page 1, line 5-6, it states that "Article IX, sec. 16, Constitution of the State of Alaska, is repealed and readopted to read:" Representative Doogan assumed that all of sec. 16 is out and this new information would be put in. The funding mechanism switches from the current sec. 16 to the language in the bill. Mr. Miller replied that was correct.

[9:13:22 AM](#)

Representative Gara remarked that the Constitutional Budget Reserve (CBR) remains the same; to access it would need the same number of votes now needed. If the five year average of money put into mineral lease fund is not enough, then taking money from the CBR would be the same as is presently done. Representative Kelly replied that was correct.

Representative Gara surmised the fund looked at to indicate whether there is enough money so the CBR doesn't have to be dipped into, is not all the money that comes in that year only the mineral lease money at roughly 80 percent. Representative Kelly replied that is correct.

Representative Gara inquired if the five year average happens to say there is a 20 percent shortfall, but that 20 percent short fall is the money from tuition payments and business license receipts not yet received, he wondered why

they would not be counted. Representative Kelly noted that this had been considered, but the purpose was to try to capture the volatility amount. Other areas which are open to appropriation were left alone because they are not volatile.

Representative Gara understood that it seems like that is the money paying for the service. He questioned why that money would not be counted. Representative Kelly offered that this captures the volatile piece and keeps out of the equation all the new initiatives that might come to Alaska. This includes all the economic development dreams outside the mineral revenue equation would be available. Representative Gara asked what would be the amount of money not calculated into the equation.

[9:17:15 AM](#)

Mr. Miller responded it reflects \$400 million to \$700 million in the last five to ten years.

Representative Gara inquired in what years the CBR vote would have been necessary in order to meet the budget over the past decade. Mr. Miller replied that the graph on page 10 of the PowerPoint presentation shows the State General Fund Spending FY80-FY10 (HJR 8 Balanced Budget Resolution House Finance Committee, March 18, 2010 copy on file). The green line reflects the total General Fund (GF) Revenue received; the blue line is the actual GF spending spent that year; the black line is the estimated amount if HJR 8 had been in effect. He noted the difference between the black line and blue line would be in excess of what would be spent in any given year from FY 2000 to FY 2009.

Representative Gara noted that starting in FY 2002 through FY 2008 it would have been necessary to go into the CBR or cut the budget by \$500 million. Representative Kelly responded that there would have been roughly \$4 billion would be carved out of the process by being disciplined to use the averaging. Representative Gara observed that gives a lot of power to those not in the majority.

Representative Kelly indicated that the intention is to give people the people of Alaska a margin in fiscal planning to avoid the crash ahead. Representative Gara agreed that seems to be the intent.

[9:20:58 AM](#)

Representative Kelly answered that this is a bipartisan approach.

Representative Fairclough asked Representative Kelly to speak to the current Alaska Constitution, Section 16, and what this provided to the citizens of Alaska and the difference in this new Section 16. She added not in relationship to dollars. She stated that Section 16 sets an appropriation limit, but it also does other things, such as revenue bonds and cumulative draws. She wanted to know the specific components of what is being repealed.

Representative Kelly responded that Tamara Cook could respond better to that question.

Co-Chair Stoltze commented that he did not think they were spending one third of appropriations on capital budgets. He believed Representative Kelly was trying to make this more clear and forcible. Representative Kelly agreed.

[9:23:31 AM](#) AT EASE
[9:41:07 AM](#) RECONVENED

[9:41:16 AM](#)

TAMARA COOK, DIRECTOR, LEGISLATIVE LEGAL SERVICES, LEGISLATIVE AFFAIRS AGENCY (via teleconference) referred to the contents of the current Section 16. That appropriation limit was enacted in 1982, originally to be applied in 1984. It has never been applied. The difference in Section 16 under this bill is that it takes a different approach. Instead of simply identifying sources of mineral revenue as HJR 8 does, the original section lists a number of critical exceptions based on the purpose of the appropriation that are out from under the limit.

Representative Fairclough asked the provisions inside of the current Section 16 so there can be a comparative analysis between the two bills.

Ms. Cook responded that in the existing Section 16 the appropriation limit takes the track of first exempting out from the formula. HJR 8 does not have the exemption. She explained that the exemptions in the existing Section 16 are appropriations for Alaska Permanent Fund Dividends,

Appropriations of Revenue Bonds proceeds, appropriations to pay the principle and interest on Government Obligation (GO) bonds and appropriations of money received from a non state source in trust for a specific purpose. The current Section 16 sets a hard number. Appropriations from the treasury made for a fiscal year shall not exceed \$2.5 billion. That number is increased by the cumulative change derived from the federal indexes as prescribed by law in population and inflation since July 1, 1981. She understood the inflation proofing part of Section 16, that has the \$2.5 billion figure, has grown to such an extent that the state has never reached it. Section 16 also contains a provision that says within the appropriation limit, once calculated, that one third of the appropriation has to be reserved for capital projects and loan appropriations. There is no similar provision in HJR 8. She continued that a mechanism whereby the legislature can exceed the existing appropriation limit for bills that make appropriations to the Permanent Fund and for bills that make appropriations for capital projects, if the bill is approved by the governor or passed by affirmative vote of three-fourths of the membership of the legislature over a veto. The existing Section 16 is considerably different from the HJR 8 under discussion.

[9:46:58 AM](#)

Representative Fairclough asked for the exemption in the current formula that specifies that Permanent Fund dividends would take precedence over other expenditures. She also inquired how that was relevant to the new bill and the proposed ballot measure would secure the people's Permanent Fund Dividend.

Ms. Cook replied that the HJR 8 does not speak to the Permanent Fund Dividend at all. The existing Section 16 simply exempted out from the appropriation limit the amount of money the state spends on the Permanent Fund Dividend. That appropriation was never part of the original calculation.

Representative Gara wondered how this would change the Permanent Fund Dividend. Representative Kelly replied that the statement before, relative to the Permanent Fund and its entire operation, would not change it. There would also be no different access to the permanent fund than currently exists.

[9:49:15 AM](#)

Representative Doogan noted there are circumstances when the permanent fund ends up with more money after inflation proofing and paying dividends and wondered if that amount of money would be affected by this proposal.

Representative Kelly stressed that it would not be because this mechanism is different mechanism from the existing one. This is a five year average only of the mineral income.

Representative Doogan contended then that neither the amount put in the permanent fund nor the investment income would be affected. Representative Kelly responded that was correct.

[9:50:40 AM](#)

Representative Austerman asked if the five year averaging is implemented, would it step back four years to pick up the average. Representative Kelly responded that it looks back four fiscal years and one forward.

[9:51:45 AM](#)

Co-Chair Stoltze asked if there was any public testimony.

Co-Chair Stoltze closed public testimony for the committee.

Representative Fairclough inquired that when looking back at all appropriations had there been consideration in this concept bill to look at the flexibility of a year when there is no revenue. A common problem is that there is always the anticipation that money will be made and not lost. She wondered if there has been a discussion with legal in that regard. She asserted that if taking all appropriation, instead of just the operating budget, that may restrict the legislature in a way not wanted.

Representative Kelly replied that since the only focus is the five year average of the mineral revenue, then it is a ramp into and out of higher and lower oil prices. It does not touch the revenue outside of the equation.

Representative Fairclough inquired if the language should reflect all the operating budgets appropriations versus the

capital budget which is volatile up and down. The state has the most control on the operating budget. She remarked that in her community and throughout Alaska that Alaska's capital budget when invested is an economic engine in different communities. If oil revenues at 80 percent will be invested in capital projects it might hamper some projects that in a given year Alaska needs more investment in a capital project. She wondered how that will affect an operating budget given those restraints.

[9:55:27 AM](#)

Representative Kelly responded that this bill only looks at the revenue side and does not affect the legislature's ability to factor between operating budgets and capital budgets in any given year. It also does not control the amount that the legislature can take from the mineral revenue except to average it. This bill would place \$4 billion in addition to current savings into the bank. Since oil price spikes do not necessarily coincide with the capital needs, he believed that by putting money into this tank it could fill up to two times the annual appropriation, then it could be accessed for times when revenue fall below the line will be better there is discipline to put something in it. When the money is in excess of the balance budget account overflows it would go directly into the CBR. There could also be access to this money with a three quarter vote. It would not prejudice between the capital and operating budgets only dampen down the ups and downs with a shock absorber.

Representative Fairclough remarked it is an appropriation limit so it will cap spending which she understood that was intent. She noted the downturn in the United States economy and remarked that the University of Alaska budget was one of few universities in the nation that received an increase. She asked if the appropriation limit is on those mineral revenues and if there is money elsewhere then this will limit the investments since that are where most of the money comes from. This might restrict spending in communities in the future.

[9:58:49 AM](#)

Representative Austerman asked about the non renewable resources extraction in Alaska as what the budget will be based on. He believed that Alaska has already seen the peak

of funding source through that and a non renewable revenue source; he believed would continue to go down. He questioned how the state would adjust for this.

Representative Kelly agreed. He offered that this mechanism cannot create any wealth for the state only discipline the spending. The inevitable crash between the growth in state budget and a decline in the non renewable resource approaches. He maintained that this bill along with other efforts will go toward stability and predictability in and out of price changes. He stressed the state's goal to find other ways to create wealth to pay for the state's services are out of this equation. Representative Austerman agreed on the issue that Representative Kelly is only indicating the maximum amount from these mineral sources of revenue so that then would drive the state to get other sources of revenue to pay the bills. Representative Kelly agreed with him.

[10:02:18 AM](#)

Representative Doogan reflected that this mechanism will operate a lot like the averaging in the Permanent Fund. The amount that goes in will go up or down depending on revenue and spending. Representative Kelly agreed that is directly on point. This bill would be an averaging method.

Representative Austerman clarified that under (d) the amounts placed in the Alaska permanent fund under Section 15 and the amounts placed in the budget reserved under Section 17(a) is excluded. Representative Kelly stressed that was correct.

[10:05:08 AM](#)

Representative Joule noted Section 15 of Alaska Constitution as it relates to the Alaska Permanent Fund states the amount of mineral lease, rentals and royalties that goes into the Alaska Permanent Fund. At one time, through statute, it was fifty percent. It seems that it might be easier to enact a statute. It would leave the legislature the option of looking at it as an option on how it could be done while considering some of the long term options of how to move forward in trying to determine some of the questions. A few years ago the statute was repealed and it went back down to twenty five percent.

Representative Kelly divulged that there had been discussion on using the statute because there is a lower effort to get there. He noted that it was hard to figure how to do within statute and he believed that the people of Alaska should have a say on this.

Representative Joule remarked that if looking at some way to base the budget, on not just the value of a barrel of oil, but on the wealth of the state. If all funds were put into the Permanent Fund and then did a percent of market value and then lived off of that, there might be some stumbling blocks ore rework. A statute gives permission to do something in the interim with a longer view in mind. The legislature does not deal with budgets, but with request for increments.

Representative Kelly commented that HJR 8 would operate only on the mineral wealth; it would put up no barrier different from today in regard to the Percent of Market Value (POMV) or income tax. This bill is a shock absorber that does not create wealth or take it away.

Representative Joule voiced his concern that issues need to be picked very carefully when going to the public to change the Alaska Constitution.

[10:11:33 AM](#)

Representative Kelly MOVED to ADOPT Amendment 1, 26-LS0388\A.1, Cook, 3/18/10 (copy on file):

Page 1, line 12, through page 2, line:

Delete all material

Insert "amounts received by the state from these sources during the five fiscal years that immediately precede the current fiscal year divided by five."

Co-Chair Stoltze OBJECTED for discussion.

Representative Kelly explained Amendment 1. It was determined to go to fiscal years over calendar years as the easier way to go.

Representative Austerman noted that this removes the looking forward year and is now looking at the past five years. Representative Kelly responded that was not exactly correct. Mr. Miller explained that the graph on page 15

describes what it does. For example in the FY10 budget, this amendment would still project the next four or five months of revenue to the legislature. It would still be projected out, but not a full year as it would be with a calendar year.

Representative Austerman remarked that in the amendment on line 4 it says it immediately "precedes" the current. He believed this related to FY 2009. Mr. Miller contended that the current fiscal year is FY 2011. Representative Austerman believed that needed to be stated more clearly.

Ms. Cook responded that on page 1, subsection (a) it states on line 10 that the maximum amount that may be appropriated from the mineral sources was for a current fiscal year. This entire amendment is structured with the notion that it will be looking at a specific fiscal year and the money appropriated for that year is being limited. Consequently in the current fiscal year, there is an appropriation for FY 2011, but under the amendment it would look at FY 2010 and the preceding four fiscal years in order to apply the limit amount. Representative Austerman further that on line 11, page 1, when referring to the current fiscal year, the amendment says immediately "precedes" the current year. He expressed further confusion. Ms. Cook replied that in order to determine the amount that would be available for the current year, the five fiscal years that immediately precede it must be averaged. If the current year is FY 2011, then the five fiscal years immediately recede FY 2011 will include FY 2010.

[10:16:43 AM](#)

Representative Kelly agreed that something is lost jumping from calendar year to fiscal year, but retain about six months worth of looking forward. Ms. Cook declared that was correct.

Co-Chair Stoltze WITHDREW his OBJECTION to Amendment 1. There being NO further OBJECTION, Amendment 1 was adopted.

Co-Chair Stoltze talked to the fiscal note. He indicated that the debate will continue on this bill.

[10:18:23 AM](#)

Representative Austerman stated that this appears to be a good working tool and part of the discussion over the interim will tie back to the long term discussion on how budgets will be funded in the future. He thanked Representative Kelly for bringing this forward.

Representative Fairclough shared that during discussions on the fiscal subcommittee level, there was a presentation from Scott Goldsmith who emphasized that the state needs to save every penny coming in right now as there is the predicted loss of oil and gas production over the years to come.

[10:20:02 AM](#)

Representative Doogan thanked the sponsor and staff for their work on this bill to help level out spending in the state.

Co-Chair Hawker MOVED to report CS HJR 8(FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HJR 8(FIN) was REPORTED out of Committee with a no recommendations and with previously published fiscal note: FN2 (ADM)

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ADJOURNMENT

The meeting was adjourned at 10:22 AM