

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

Anchorage, Alaska

October 15, 2021

12:01 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Liz Snyder, Vice Chair (via teleconference)  
Representative Harriet Drummond (via teleconference)  
Representative Jonathan Kreiss-Tomkins (via teleconference)  
Representative David Eastman (via teleconference)  
Representative Christopher Kurka (via teleconference)  
Representative Sarah Vance (via teleconference)

**MEMBERS ABSENT**

All members present

**Other Legislators Present**

Representative Kelly Merrick

**COMMITTEE CALENDAR**

HOUSE BILL NO. 4006

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

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 401

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; and relating to the budget reserve fund.

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB4006

SHORT TITLE: APPROPRIATION LIMIT; GOV BUDGET

SPONSOR(S): REPRESENTATIVE(S) KAUFMAN

10/04/21 (H) READ THE FIRST TIME - REFERRALS

10/04/21 (H) JUD, W&M, FIN  
10/15/21 (H) JUD AT 12:00 AM ANCH LIO DENALI Rm

BILL: HJR401

SHORT TITLE: CONST. AM: APPROP LIMIT  
SPONSOR(s): REPRESENTATIVE(s) KAUFMAN

10/04/21 (H) READ THE FIRST TIME - REFERRALS  
10/04/21 (H) JUD, W&M, FIN  
10/15/21 (H) JUD AT 12:00 AM ANCH LIO DENALI Rm

#### **WITNESS REGISTER**

REPRESENTATIVE JAMES KAUFMAN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, presented HB 4006/HJR 401.

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

**POSITION STATEMENT:** Presented a PowerPoint on HJR 401/HB 4006 on behalf of Representative Kaufman, prime sponsor.

ALEXEI PAINTER, Director  
Legislative Finance Division  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on HJR 401/HB 4006.

#### **ACTION NARRATIVE**

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**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 12:01 a.m. Representatives Claman, Drummond (via teleconference), Kreiss-Tompkins (via teleconference), Eastman (via teleconference), Vance (via teleconference), and Snyder (via teleconference) were present at the call to order. Representative Kurka (via teleconference) arrived as the meeting was in progress.

^#hb4006  
^#hjr401

**HB4006-APPROPRIATION LIMIT; GOV BUDGET**  
**HJR401-CONST. AM: APPROP LIMIT**

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CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 4006, "An Act relating to an appropriation limit; relating to the budget responsibilities of the governor; and providing for an effective date." and HOUSE JOINT RESOLUTION NO. 401, "Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; and relating to the budget reserve fund."

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REPRESENTATIVE JAMES KAUFMAN, Alaska State Legislature, as prime sponsor, presented HB 4006/HJR 401. He referenced the sponsor statement [included in the committee packet], titled "HB 4006 & HJR 401 Sponsor Statement v. A 10.15.2021.pdf," and summarized the intent of the proposed bill and resolution were to create a fiscal policy to establish an appropriation limit and address risks associated with the overspending on capital projects and the subsequent inability to maintain the infrastructure of such projects and to address the management of the permanent fund. He spoke about controlled spending to eliminate the "boom or bust" mentality and creating beneficial links with the private sector.

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MATTHEW HARVEY, Staff, Representative James Kaufman, Alaska State Legislature, presented a PowerPoint on HJR 401/HB 4006 [hard copy included in the committee packet] on behalf of Representative Kaufman, prime sponsor. He presented page 2, titled "Appropriation Limits Overview," which read as follows [original punctuation provided]:

Structure of an appropriation limit  
Exemptions List: Appropriations subject to the limit  
The Appropriation Limit: Define the calculation factor, starting point, growth rate, and other limit mechanisms  
Other: Capital projects or other specific language  
Current Appropriation Limit

Constitutional: Article IX, §16 (effective in 1982)

Statutory: AS 37.05.540(b)

Types of Appropriation Limits

Proposed Appropriation Limit (HJR 401 / HB 4006)

MR. HARVEY presented slide 3, "Current Constitutional Limit," which read as follows [original punctuation provided]:

Constitutional: Article IX, §16 (effective in 1982)  
"Appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. " \$2.5 B plus inflation and population growth since 1982 Calculation for FY 21 would be about \$9.8 billion At least 1/3 of limit reserved for Capital Projects and Loans Can also break the limit for appropriations to Permanent fund, capital projects if signed by governor or approved by the voters, and a state of disaster

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MR. HARVEY presented slide 4, "Current Constitutional Limit: Exemptions," which read as follows [original punctuation provided]:

Creates exemptions for fund sources as well as purposes Current limit applies to all UGF, most statewide items, and some DGF items Excludes PFDs, bond proceeds, debt service payments, non-State sources of revenue, public corporation revenues, and disaster declarations School Bond Debt Reimbursement is excluded from the limit

MR. HARVEY presented slide 5, titled "Current Statutory Limit," which read as follows [original punctuation provided]:

Enacted in 1986 Based on appropriations made in a fiscal year, not for a fiscal year Counts supplementals in the year appropriated, not effective Limits spending growth to population plus inflation plus 5% The use of both factors to calculate the limit has caused the limit to outgrow effectiveness The timing of data for calculation of this limit does not

work well with the budget process. The limit is not known before the annual budget process

MR. HARVEY presented slide 6, "UGF Spending History," which displayed a graph showing spending history. He then presented a second graph on slide 7 showing inflation and population adjusted UGF spending. The slide also noted as follows: "When the spending limit was put in place, it was anchored to the highest rate of spending in Alaska history."

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MR. HARVEY jumped to slide 11, titled "Proposed Appropriation Limit," and explained that it depicted a comparison of several proposed fiscal policies. He drew attention to slide 13, which read as follows [original punctuation provided]:

Effective and Reasonable

This proposal would set the cap roughly at current levels and would include a constitutional provision for some flexibility in the case of unforeseen risks

Stable and Predictable

The 5-year trailing average creates stability, smooths out overspending when revenues are up, allows government spending to fall much slower than GDP during poor years, and the limit is known before the budget process begins

Private-Sector Focused

Open the discussion to outcomes during the budget process

CHAIR CLAMAN asked for an explanation of the color coding that had been used on the chart on slide 11.

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ALEXEI PAINTER, Director, Legislative Finance Division, Legislative Affairs Agency, explained that there existed two instances on the chart where the word "yes" had been shaded red and explained that it was a typographical error.

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REPRESENTATIVE EASTMAN opined that focusing the discussion on tangibles, such as impacts to the economy, is a critical part of the conversation.

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REPRESENTATIVE DRUMMOND shared her concern that the proposal doesn't examine the development of Alaska's human capital. She noted the number of children in kindergarten through twelfth grades, adults who may require additional education, and pre-kindergarten students who also require education. She stated that education and training would be necessary to cultivate a contributing workforce. She asked how such education and training would be funded.

REPRESENTATIVE KAUFMAN referred to slide 4 and noted that school bond debt reimbursement would be excluded under the proposed plan and that over time, the spending limits would not result in draconian cuts but would stabilize the fiscal cycles and create potential to take advantage of opportunities as they may arise.

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REPRESENTATIVE SNYDER referred to slide 8, titled "Proposed Appropriation Limit," and she asked for additional information on the 11.5 percent value cap.

REPRESENTATIVE KAUFMAN answered that the means of determining spending can vary, including using inflation, tax revenue, economic factors, and income and productivity (indisc) and the proposed cap was based on gross domestic product (GDP) data over five years. He stated that advances in data collection and reporting allowed for better quality GDP data. He stated that GDP took into consideration many economic factors including government and private sector data.

REPRESENTATIVE SNYDER asked what outcomes had been observed in other places that have adopted part or all of the proposed policies and whether there had been lessons learned that could be shared with the committee.

REPRESENTATIVE KAUFMAN noted that the State of Colorado had imposed spending caps that had resulted in collecting less taxes.

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MR. PAINTER suggested that interpretation of results in other states was one of policy. He stated that the State of Colorado and the State of California had both imposed some spending caps that had limited expenditures.

REPRESENTATIVE SNYDER asked whether spending caps in the states referenced had been based on GDP.

MR. PAINTER answered that the State of Colorado had based its limits on inflation plus population growth and personal income. He stated that several states used inflation and personal income but that no states to his knowledge had based caps on GDP. He stated that Alaska's natural resources influence its GDP in a proportionally different manner than that of other states. Further, Alaska's economic structure is different from those in other states. He stated that the most common factor used in other states is that of personal income growth.

REPRESENTATIVE SNYDER stated that some investment such as in land clearing and ports was necessary to encourage economic development and infrastructure and asked whether impacts to those had been taken into consideration.

REPRESENTATIVE KAUFMAN asked Representative Snyder to clarify whether she was asking whether the allowable spending would cover future infrastructure costs, which she confirmed as correct.

REPRESENTATIVE KAUFMAN stated his belief that it had. He stated that that the proposed policy had a focus on the private sector and that sector is closely tied to government infrastructure. He suggested that the elimination "boom or bust" could impart stability and contribute to wiser spending decisions.

REPRESENTATIVE SNYDER asked whether HJR 401 would change the vote requirement to draw from the constitutional budget reserve (CBR).

MR. HARVEY referred to Section 2 and explained that should the amount available in the general fund be less than the established limit, there would exist a mechanism to fund the general fund from the CBR.

PRESENTATIVE SNYDER asked the rationale for the inclusion of that provision.

MR. HARVEY answered that the Fiscal Plan Working Group had recommended its inclusion and that the Senate Judiciary Standing Committee had removed the provision to address the question of constitutional amendment versus revision associated with the CBR.

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REPRESENTATIVE KURKA asked the current amount spent per person in Alaska excluding federal funds and the permanent fund dividend (PFD).

MR. PAINTER answered that with federal funds and the PFD excluded, the total appropriations amounted to approximately \$4.6 billion or \$6,300 per person subject to the proposed appropriation limit.

REPRESENTATIVE KURKA asked for confirmation that the amount stated consisted of only state funds.

MR. PAINTER clarified that the amount consisted of the appropriations subject to the limit in question and offered to analyze all appropriations and follow up with the committee.

REPRESENTATIVE KURKA said he had estimated state spending per person to be \$8,750. He asked how much of a percentage increase HJR 401 would allow in state spending.

REPRESENTATIVE KAUFMAN said that the present limit would allow for double that which is currently spent.

MR. HARVEY added that HJR 401 would provide a constitutional limit on the statutory spending limit.

REPRESENTATIVE KURKA asked Representative Kaufman whether he would consider state spending at the current level to be excessive.

REPRESENTATIVE KAUFMAN stated that his opinion was that spending was not managed effectively and that direct cuts to spending could result in "blowback." He stated that continuous improvement could be contrasted with the negative effects of radical institutional change, and it would require hard work. He pointed out that Alaska lacks municipalities and has an expansive terrain that justify some of the state spending. He offered that a management path that could deliver value at equal or lower costs.

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REPRESENTATIVE KURKA asked Representative Kaufman to explain his rationale for basing spending on GDP rather than other metrics.

REPRESENTATIVE KAUFMAN answered that there exist challenges with each approach and that population is not a direct indicator of prosperity. He offered that Alaska's inflation is unique to national inflation as evidenced by cost of living allowances (COLA) have widely varied. He rhetorically asked whether government spending should naturally align with inflation, to which he postulated that it should not, as evidenced by economies of scale. He proposed that the factors calculated to determine GDP take into consideration gainful employment, localized inflation, and the unique attributes of Alaska. He compared GDP to a moving bandwidth that would respond to an economy.

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REPRESENTATIVE VANCE asked Representative Kaufman to expand on the relationship between the proposed statutory bill and the proposed constitutional amendment and the need for both.

REPRESENTATIVE KAUFMAN explained that the constitutional cap would exist as a high limit, and the statutory bill would manage [budgetary] highs and lows.

REPRESENTATIVE VANCE asked Representative Kaufman to clarify whether, as the economy's production increases, state spending could also increase without exceeding the cap.

REPRESENTATIVE KAUFMAN answered that it could but only as a result of economic growth.

REPRESENTATIVE VANCE asked about the dangers Representative Kaufman had warned of becoming "financialized" and his rationale for moving away from that mentality.

REPRESENTATIVE KAUFMAN answered by comparing that an individual may enter into retirement and thus become financialized, without worry of other economic factors such as the labor market. He offered that other individuals would still be reliant on the labor market for economic and spiritual value. He cautioned that the focus on reserves was one with merit, but it was not a sole indicator of financial success. He mentioned the state's transition from natural resources to the earnings from the permanent fund as an example of the changes that may occur in future scenarios.

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REPRESENTATIVE EASTMAN asked Representative Kaufman to what he attributes the "dwindling" private sector.

REPRESENTATIVE KAUFMAN answered that the economy had changed and diversified but that his belief was that there exist tremendous responsible resource development opportunities to contribute to prosperity, rather than relying solely on a financial fund.

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REPRESENTATIVE SNYDER stated that the exclusion of the appropriations from the proposed bill did not further a solution to the problems that exist with regard to the dividend.

REPRESENTATIVE KAUFMAN offered that it may be impossible to solve all problems that may exist [in fiscal policy] in any single proposed legislation, and that the proposed legislation would address other fiscal matters.

REPRESENTATIVE SNYDER asked whether Representative Kaufman held the belief that [an omnibus] set of legislation could be paired with the other proposed legislation at a future date.

REPRESENTATIVE KAUFMAN agreed that it was possible and expressed his hope that the legislation before the committee could aid in stabilizing other, underlying fiscal issues.

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CHAIR CLAMAN referred to the Wielechowski v. Alaska decision as being the law of the land that prescribes that the permanent fund dividend must compete with all other programs and that exclusion of the dividend in the overall proposed policy may run contrary to that decision.

REPRESENTATIVE KAUFMAN referred to slide 11 and explained that the assumption had been made that there existed a future potential solution to the problems with the dividend and offered that the proposed legislation before the committee would not interfere with any such future proposed legislation regarding the dividend.

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REPRESENTATIVE SNYDER asked whether there could exist unintended tensions considering constitutional obligations to fund education and other programs.

REPRESENTATIVE KAUFMAN answered by drawing attention to slide 13 that depicted an analysis of what would have occurred had the proposed policy been in place. He stated that peaks in spending had historically usually occurred due to capital spending. He suggested that he did not believe that the proposed fiscal policy would interfere with constitutionally mandated spending.

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REPRESENTATIVE KURKA asked whether there is any difference between the graphs on slides 9 and 13.

REPRESENTATIVE KAUFMAN answered no.

REPRESENTATIVE KURKA asked whether the graphs represented current spending that would fall within the proposed cap considering that there were exclusions [from the data.]

REPRESENTATIVE KAUFMAN answered that the chart reflected that which is included and that which is excluded.

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CHAIR CLAMAN noted that there exists a U.S. military publication that rates education in all 50 states and noted that Alaska is no longer listed among the best. He asked whether there exists sufficient investment in education under the proposed legislation to address factors that had contributed to Alaska's downgrade.

REPRESENTATIVE KAUFMAN offered that teachers have difficulties in teaching due to non-education factors such as mental health. He suggested that underlying societal problems need to be addressed separate from education spending. He suggested that [economic] opportunity would alleviate some of the social factors negatively affecting education outcomes.

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CHAIR CLAMAN restated his question to seek how the model before the committee would address some of the direct fiscal investment needed to improve Alaska's schools to become again attractive to military and other employers' families.

REPRESENTATIVE KAUFMAN referred to slide 13 and offered that it depicted the policy as if it had been enacted and suggested that spending is not a solution to all problems that may exist, but that the model represents future opportunity to allow for additional spending when necessary.

CHAIR CLAMAN asked whether Representative Kaufman was suggesting that the limits in the policy would allow for future spending flexibility for the legislature.

REPRESENTATIVE KAUFMAN answered yes, and had the policy been applied previously, there would have been opportunities for increased spending flexibility as well as increased reserves. He reiterated that appropriation limits cannot address all issues that may exist and stated his hope that the proposed policy would have strength but not rigidity.

CHAIR CLAMAN asked whether Representative Kaufman, if he had been among the lawmakers who had passed the original state spending caps in 1982, would agree or disagree with the current cost of government spending.

REPRESENTATIVE KAUFMAN answered that it may have seemed prudent at the time it was proposed but suggested that the model, with the benefit of hindsight, had become inflexible.

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REPRESENTATIVE KURKA asked Mr. Harvey to add to the previous line of questioning.

MR. HARVEY offered that the previous lawmakers had not considered population or inflation that had resulted in errors and suggested that had those been considered, it would have been a better policy.

CHAIR CLAMAN offered that the City of Anchorage's tax cap belied the logic that tax cap laws were not effective.

REPRESENTATIVE KURKA asked whether the existing spending cap was effective.

REPRESENTATIVE KAUFMAN answered that the present constitutional limit would allow for double the current state spending and characterized the limit as ineffective and that it could not measure for success. He mentioned the decrease in student

readiness and other issues that had occurred under the current spending cap. He encouraged the development of policy to take into consideration its results.

REPRESENTATIVE KURKA asked Representative Kaufman to provide another graph to include the current spending cap. He asked whether Representative Kaufman held the belief that education spending and outcomes were not a problem to be solved.

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REPRESENTATIVE KAUFMAN answered that while money does not provide all solutions, it has tremendous effects. He cautioned that fiscal [booms] can allow for unchecked spending. He emphasized continuous management improvement to increase the value of money spent.

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REPRESENTATIVE DRUMMOND stated that the COVID-19 pandemic had had a negative impact on childcare in Alaska. She stated the importance of readiness programs including pre-k programs. She mentioned that the Anchorage School District had formerly been a desirable district for military and working families, and she asked how appropriation limits could benefit the decline in quality education in the state.

REPRESENTATIVE KAUFMAN referred to slide 13 and stated that the only limitation in spending in the proposed plan would be the current spending consensus. He stated that additional funding would be subject only to a simple majority vote under the proposed plan, although an upper limit would be established at the constitutional level. He advised that while problems may have been identified, solutions should be sought by examining successes in other districts [to discover] continuous improvement processes.

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REPRESENTATIVE VANCE asked Representative Kaufman to describe the overall goal for the appropriation limit and to further explain the value expected.

REPRESENTATIVE KAUFMAN stated that the current state spending depicted on the graphs in the presentation reflected the prevailing political sentiment regarding spending. He stated that the proposed policy was designed for improved management

considering the current political consensus. He stated that the reduction in budgetary volatility as proposed with appropriation limits would enable more optimal management and increased value including the ability to reserve some capital funding for future identified priorities. He stated that the proposed policy would be adaptive to future policy changes.

REPRESENTATIVE VANCE asked whether the policy being associated with GDP would create more opportunities for education within the private sector and whether other states had realized such opportunities.

REPRESENTATIVE KAUFMAN answered that the states that have high performance match resources with their policies and management processes. He added that other, non-monetary benefits may also be realized with flexible fiscal planning and controls. He compared the government and private sectors to a business' accounting and operations and its production floor, respectively.

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CHAIR CLAMAN asked which states had realized optimization.

REPRESENTATIVE KAUFMAN called to mind the State of Colorado, which was experiencing high economic growth and population growth and is in the process of evaluating rescinding of taxes. He stated that a simple search of states experiencing economic growth was readily available, and he allowed that some factors affecting a state's economic growth would not be attributed to fiscal policy

CHAIR CLAMAN noted that Mr. Painter had provided that the per-person spending for items other than the permanent fund amounted to \$8,562 in fiscal year 2022 (FY 22).

[HJR 401/HB 4006 was held over.]

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#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:48 p.m.