

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 8, 2021

3:04 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Matt Claman, Vice Chair
Representative Geran Tarr
Representative Andi Story
Representative Sarah Vance
Representative James Kaufman
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 106

"An Act relating to missing persons under 21 years of age."

- MOVED HB 106 OUT OF COMMITTEE

HOUSE BILL NO. 102

"An Act relating to the state insurance catastrophe reserve account; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 106

SHORT TITLE: MISSING PERSONS UNDER 21 YEARS OLD

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/19/21	(H)	READ THE FIRST TIME - REFERRALS
02/19/21	(H)	STA, HSS
03/11/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/11/21	(H)	Scheduled but Not Heard
03/16/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/16/21	(H)	Heard & Held
03/16/21	(H)	MINUTE(STA)
03/25/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/25/21	(H)	-- MEETING CANCELED --

04/01/21 (H) STA AT 3:00 PM GRUENBERG 120
04/01/21 (H) Heard & Held
04/01/21 (H) MINUTE (STA)
04/08/21 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 102

SHORT TITLE: STATE INSUR. CATASTROPHE RESERVE ACCT.
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/21 (H) READ THE FIRST TIME - REFERRALS
02/18/21 (H) STA, FIN
04/08/21 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

KACI SCHROEDER, Assistant Attorney General
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 106.

SCOTT JORDAN, Director
Division of Risk Management
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Introduced HB 102 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

LESLIE ISAACS, Director
Division of Administrative Services
Department of Administration
Klawock, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 102.

PALOMA HARBOUR, Fiscal Management Analyst
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 102.

ACTION NARRATIVE

[3:04:40 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:04 p.m. Representatives Kaufman, Story, Tarr, Vance, and Kreiss-Tomkins were present at the call to order. Representatives Claman and Eastman arrived as the meeting was in progress.

HB 106-MISSING PERSONS UNDER 21 YEARS OLD

[3:05:39 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 106, "An Act relating to missing persons under 21 years of age."

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The committee took a brief at-ease.

[3:06:57 PM](#)

REPRESENTATIVE VANCE moved to adopt Amendment 1 to HB 106, labeled 32-GH1581\A.1, Radford, 4/7/21, which read:

Page 1, line 1, following "**Act**":

Insert "**relating to human trafficking; and**"

Page 1, following line 2:

Insert a new bill section to read:

*** Section 1.** AS 11.41.360(a) is amended to read:

(a) A person commits the crime of human trafficking in the first degree if the person compels or induces another person to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, [OR] by deception, **or by coercion.**"

Page 1, line 3:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

CHAIR KREISS-TOMKINS objected for the purpose of discussion.

[3:07:07 PM](#)

REPRESENTATIVE VANCE recalled that during the previous bill hearing on 4/1/21, a representative from the Department of Public Safety (DPS) had mentioned that the college-age group [18-21] was more susceptible to coercion, which she later concluded could lead to human trafficking. Consequently, she observed that [Alaska's] human trafficking laws did not include the term "coercion". She explained that Amendment 1 would add "or by coercion" to the definition of human trafficking. She deferred to the Department of Law (DOL) for further explanation.

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KACI SCHROEDER, Assistant Attorney General, Department of Law (DOL), stated that DOL was unsure of what the sponsor of Amendment 1 meant by "coercion". She explained that if the sponsor meant to include the crime of coercion, as it appears in Title 11, a defense attorney could argue that because the broader crime of coercion is a class C felony and a lower class of offense than human trafficking [class A felony], it should be charged with the lower offense. She added that additional amendments would be required to prevent that from happening. Therefore, as drafted, DOL had concerns with implementing Amendment 1 consistent with the intent of the legislature.

REPRESENTATIVE VANCE concluded that Alaska's human trafficking statutes required further work. She asserted that the statutes should clarify that coercion is a factor in human trafficking while allowing the crime to be prosecuted to the full extent of the law. She withdrew Amendment 1 In light of Ms. Schroeder's advice, she informed committee members of her intention to withdraw the amendment and work on a more comprehensive human trafficking bill.

REPRESENTATIVE VANCE [moved to withdraw] Amendment 1. [There being no objection, Amendment 1 was withdrawn.]

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REPRESENTATIVE CLAMAN asked whether the majority of sex trafficking prosecutions in Alaska were being prosecuted by the federal government or the state.

MS. SCHROEDER answered both. She said she couldn't determine who was doing more prosecutions, just that state and federal prosecutors worked closely on them together.

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REPRESENTATIVE EASTMAN asked whether the intent of Amendment 1 was to account for scenarios involving drug use.

REPRESENTATIVE VANCE relayed that she was trying to bring Alaska's human trafficking definitions up to the federal standard by including the word "coercion." She said she had not specifically thought of drugs [while drafting the amendment], as not all instances of coercion involve them.

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REPRESENTATIVE STORY expressed her appreciation for the bill. She informed committee members that many people in her district and across the state were concerned [about missing persons under the age of 21].

CHAIR KREISS-TOMKINS invited final comments from the committee on HB 106.

[3:15:53 PM](#)

REPRESENTATIVE VANCE stated her appreciation for the administration for bringing this legislation forward and updating the reporting standards for missing persons under the age of 21. She believed that many people were not aware of this issue or its connection to human trafficking. Further, she addressed the [high rates of] missing and murdered indigenous women. She shared a personal anecdote regarding a missing woman from her district [District 31] and stressed the importance of recognizing signs "of people who are being sought after and go missing." She also reported that 25 percent of the homeless population [in Alaska] is trafficked, which falls into the missing persons category.

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REPRESENTATIVE EASTMAN said it was important to understand how the legislature intended "reasonable efforts" on page 2, line 9, to be interpreted. He opined that without clear intent, the requirement for reasonable effort could be ineffective or work done by law enforcement would be "extremely difficult to work into all the other tasks [the legislature] is asking law enforcement to do." He maintained that the term "reasonable" is subjective. Additionally, he directed attention to Section 2, paragraph (2), of the bill, which required [that a request be made] to remove the information from state and national

databases within 24 hours of the missing person being located. He argued that sometimes, information regarding a missing person may not be accurate. He said in those situations, the 24-hour requirement may need further refinement.

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REPRESENTATIVE KAUFMAN suggested referring the bill to the House Judiciary Standing Committee to resolve the aforementioned concerns.

CHAIR KREISS-TOMKINS recommended raising that consideration to the chair of HJUD or the speaker of the House, as [the speaker] makes the referrals.

REPRESENTATIVE CLAMAN in response to Representative Kaufman, explained that the intent of this legislation was to align Alaska statutes with federal law to acquire federal funds for missing persons reports. He said he appreciated the idea that HJUD could add much to the process; however, he disagreed with that opinion, as the House State Affairs Standing Committee's process had been robust. He concluded by stating his support for the bill.

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REPRESENTATIVE TARR said research showed that a young person is typically trafficked within 48 hours, which indicated that timing is critical. She expressed her hope that "they will be able to do it within 24 hours because it's less likely that they'll be able to help that young person the more time goes on."

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REPRESENTATIVE STORY agreed with Representative Tarr's remarks. She expressed her support for the legislation and hoped that it would pass expeditiously.

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REPRESENTATIVE CLAMAN moved to report HB 106 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 106 was reported out of the House State Affairs Standing Committee.

HB 102-STATE INSUR. CATASTROPHE RESERVE ACCT.

[3:22:56 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 102, "An Act relating to the state insurance catastrophe reserve account; and providing for an effective date."

[3:24:26 PM](#)

SCOTT JORDAN, Director, Division of Risk Management, Department of Administration (DOA), introduced HB 102 on behalf of the House Rules Standing Committee, sponsor by request of the governor. He provided a PowerPoint presentation, titled "House Bill 102" [hard copy included in the committee packet]. He began on slide 2, which outlined the purpose of the bill as follows [original punctuation provided]:

- This legislation would change the Catastrophic Reserve Account (CATFund) from \$5,000,000 to \$50,000,000 unencumbered funds.
- The purpose is to allow the State to self-insure for property coverage.
- The State currently self-insures for Workers' Compensation and General Liability.
- Due to the global property insurance markets hardening, we saw a 30% increase in insurance costs from FY20 to FY21 and have been told to expect another 15% to 20% for FY22.
- Currently, the limit on catastrophic coverage is \$50,000,000 for an annual premium. By increasing the statutory cap, the State will be able to fully self-insure against property losses and in doing so save the annual premium.

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MR. JORDAN addressed statutory language on slide 3, which highlighted key points in AS 37.05.289 [regarding the state insurance catastrophe reserve account], including "Assets of the account may be used to obtain insurance, to establish reserves for the self-insurance program, and to satisfy claims or judgments arising under the program." The two other highlighted phrases indicated that the current cap is not to exceed \$5 million unencumbered. He reviewed a list of expenditures from the CATFund since its inception in 1988 on slide 4. He noted that the total expended was \$149 million, which averaged \$4.5

million per year. He acknowledged that the \$5 million cap had been sufficient; however, he reiterated the department's interest in increasing the statutory cap to \$50 million to allow the state to self-insure against catastrophic property losses.

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MR. JORDAN advanced to a graph on slide 5 that showed the 10-year history of property premiums and losses. The blue line reflected property premiums, which had increased from \$2 million in fiscal year 2010 (FY 10) to \$5.1 million in FY 20. The orange line reflected property losses paid by the state. Losses remained fairly low except for three spikes: \$4 million in FY 15 due to the Crystal Lake Hatchery fire in March 2014; \$1.2 million in FY 20 due to the claims from the earthquake in Anchorage on November 30, 2018; \$1 million in FY 20 due to retention paid for a Department of Transportation & Public Facilities (DOT&PF) maintenance shop snow collapse in McGrath.

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MR. JORDAN turned to slide 6 and reviewed the history of property premiums compared to all premiums from FY 10 to FY 20; property premiums totaled \$39 million, and all premiums totaled \$80 million. He said he hoped that HB 102 would create savings for the department, as increases in property premiums were expected to continue. He proceeded to slide 7, regarding larger claims paid out of the CATFund, which read as follows [original punctuation provided]:

- AMHS LeConte Grounding May 2004; \$1,187,330
- F&G Crystal Lake Hatchery fire March 2014; \$4,078,137
- Alaska Aerospace Kodiak Launch Facility rocket explosion August 2014; \$1,513,667
- PFAS claims starting in November 2017; \$5,877,555
- Earthquake related claims November 2018; \$1,263,631

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MR. JORDAN moved to slide 8, which provided a summary of undesignated general fund (UGF) lapse appropriations and read as follows [original punctuation provided]:

- The budget includes lapse appropriations to shore up certain state accounts up to statutory limits
- The Risk Management lapse appropriation is last to ensure sufficient lapse for the other accounts
- The total FY2021 projected UGF lapse is \$110.7 million

MR. JORDAN noted that slide 8 showed how the catastrophic reserve account was funded each year.

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CHAIR KREISS-TOMKINS said he was thrilled about legislation that would save money for the state operating budget.

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REPRESENTATIVE CLAMAN questioned how much the insurance companies were paying.

MR. JORDAN offered to follow up with the requested information. He believed that during that 10-year period [FY 10 to FY 20], the only claim of significance was the Alaska Aerospace claim.

REPRESENTATIVE CLAMAN reasoned that if the premiums paid by the state exceeded the losses paid by the insurance companies, there would be additional reason to pass HB 102.

MR. JORDAN relayed that there were many years that the state did not receive payments from the insurance carriers for the Alaska Aerospace claim.

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REPRESENTATIVE KAUFMAN questioned how the CATFund would be managed if there were no claims and a large cash balance leftover.

MR. JORDAN explained that the fund had an unencumbered balance of \$5 million which could not be exceeded. If the bill were to pass, he said, the fund would have a balance of \$50 million. He noted that even with an unencumbered balance of \$5 million, there were still \$6.2 million in encumbered claims waiting to settle. He added that there were years the fund wasn't used at all and years in which all of it was used.

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REPRESENTATIVE KAUFMAN questioned whether the management plan was optimized for total yield benefit. He remarked

If part of it can be invested in a way if it does build up and somehow, we know we have float, and how is that portion of it optimized in a way that's, maybe, semi-liquid where it could be if you have an encumbrance that comes upon it where it's liquid enough where you can get it, but it's being managed for optimum return rather than just in a cash account.

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MR. JORDAN stated that the interest off this account is managed by the Department of Revenue (DOR). He explained that the state didn't get any interest from it, later adding that the account would have a maximum of \$50 million. He deferred the question to DOR.

CHAIR KREISS-TOMKINS sought to confirm that Representative Kaufman had asked if the bill were to pass, whether the \$50 million balance would sit in the bank and collect interest or be managed for return.

REPRESENTATIVE KAUFMAN confirmed that he was attempting to ask whether the fund would be managed with an investment profile.

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LESLIE ISAACS, Director, Division of Administrative Services, Department of Administration, said he would have to confer with DOR to ascertain the investment portfolio and whether it included the CATFund.

CHAIR KREISS-TOMKINS acknowledged the importance of receiving maximum return if the fund were to increase from \$5 million to \$50 million.

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REPRESENTATIVE VANCE asked whether any legislative action was required to accomplish that adjustment and maximize its potential. She acknowledged that \$50 million is very different from \$5 million, adding that the legislature should ensure that it has the flexibility that Representative Kaufman spoke of.

CHAIR KREISS-TOMKINS concurred.

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REPRESENTATIVE EASTMAN asked what regulations required the money to be kept on hand.

MR. JORDAN said there was no requirement that it be kept on hand. He related that in 1988, the fund was originally created to handle the large fluctuations in claims. He added that the account was being leveraged to potentially handle the self-insured aspect of property coverage and allow the state to retain the current property insurance premium.

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REPRESENTATIVE EASTMAN asked Mr. Jordan to contrast the plan in HB 102 to a competing plan in which costs would be treated through the annual appropriations process as opposed to setting aside the \$50 million.

MR. JORDAN pointed out that the CATFund was intended to cover unanticipated catastrophic losses. He conveyed that the annual actuarial reports anticipated a certain amount of property claims each year. He further noted that aside from the spikes in FY 15 and FY 20, the property losses ranged from \$200,000 to \$1.5 million in the last 10 years.

REPRESENTATIVE EASTMAN asked for a comparative cost/benefit analysis between HB 102 and another plan in which annual expenses were paid on occurrence. He questioned the benefit of HB 102 as opposed to "the wait-and-see approach."

MR. JORDAN explained that the state was buying coverage for \$50 million in catastrophic losses. Referencing slide 5, he indicated that a varying amount was paid; however, if the state were to pay \$6.5 million for coverage next year without incurring losses, the \$6.5 million would be "out the door." He continued to explain that if [the \$6.5 million] were put into the account and the state had its own fund "sitting there waiting for a catastrophic loss," then the premiums would be saved on a yearly basis; further, the savings would return to the agencies in a "great reduction."

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REPRESENTATIVE EASTMAN asked why it's more effective and cost efficient for the state to have this fund as opposed to charging property damages to the state through the appropriations process.

CHAIR KREISS-TOMKINS sought to clarify that Representative Eastman was asking why the CATFund existed and if the McGrath snowshed were to collapse next year, why the state couldn't simply add that as a line item in the capital budget.

REPRESENTATIVE EASTMAN confirmed that was his question.

MR. JORDAN stated that the Federal Emergency Management Agency (FEMA) required that the state have catastrophic insurance. He shared that after the earthquake, several buildings requested a benefit from FEMA which required proof that the buildings were insured. He said the fund provided the ability to do that without buying insurance. He elaborated that without the CATFund or purchased insurance, FEMA could deny coverage on a catastrophic loss, such as an earthquake, flood, or tsunami.

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REPRESENTATIVE KAUFMAN surmised that the \$50 million figure was derived from analysis. He said, "This seems like a good idea, but those numbers and the evaluation of those numbers is what would prove that this is a good idea and there's not an opportunity being missed."

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REPRESENTATIVE CLAMAN sought to clarify the difference between a limit of \$5 million and a limit of \$50 million. He construed that the \$5 million limit was utilized for the retention of purchasing insurance, which meant that the state paid the first \$5 million on a claim and insurance covered the rest.

MR. JORDAN clarified that the retention was \$1 million. He explained that the CATFund was set up to handle large, unanticipated losses. He added that the fund could handle losses over \$1 million retention.

REPRESENTATIVE CLAMAN sought to confirm that with \$50 million in the fund, the state would not purchase excess coverage for losses exceeding \$1 million.

MR. JORDAN said [DOA] didn't intend on purchasing any excess coverage and planned for the CATFund to cover unexpectedly large property losses. He anticipated that aside from a catastrophic loss, nothing would exceed "something that [the department] couldn't pay out of [its] yearly appropriations."

REPRESENTATIVE CLAMAN surmised that in areas outside of property loss, the state had high retentions but still received excess coverage in other areas of potential exposure. He asked whether that was accurate.

MR. JORDAN said the state was self-insured for workers' compensation and general liability. He stated that [should the bill pass], property coverage would be added to those self-insurance programs. He noted that excess insurance was purchased for aviation and marine, both of which had high retentions and high excess limits.

REPRESENTATIVE CLAMAN sought to verify that Mr. Jordan's historical analysis was that the state didn't need excess coverage in the areas it had chosen to self-insure.

MR. JORDAN believed that was an accurate statement for property coverage. He recalled that there was a cost issue in the early 2000s when the state elected to self-insure for liability. He explained that it didn't make sense to purchase the coverage with the high [cost of] premiums; at that time, the state had a limit of \$5 million on liability and the premiums were nearing \$2 million.

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REPRESENTATIVE EASTMAN questioned whether the CATFund was subject to reappropriation by the legislature.

MR. JORDAN deferred to Mr. Isaacs.

MR. ISAACS deferred to Ms. Harbour.

[3:54:42 PM](#)

PALOMA HARBOUR, Fiscal Management Analyst, Office of Management & Budget, Office of the Governor, in response to Representative Eastman, answered no, it does not require appropriation to spend.

REPRESENTATIVE EASTMAN asked whether the legislature could reappropriate the money in the CATFund.

MS. HARBOUR answered yes, the legislature has the authority to take money out of designated general funds, otherwise they would be considered dedicated funds, which she specified "we are not allowed to have."

REPRESENTATIVE EASTMAN questioned whether the CATFund was subject to the sweep.

MS. HARBOUR replied in the affirmative.

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REPRESENTATIVE STORY asked whether other states pursued similar practices regarding catastrophic insurance.

MR. JORDAN replied that other states had various levels of self-insurance. He reported that public entities were moving to self-insure catastrophic losses because of increasing premiums.

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MS. HARBOUR corrected her previous statement, clarifying that the CATFund was exempt from the sweep because it did not require further appropriation.

REPRESENTATIVE STORY inquired about the outcome in other states.

MR. JORDAN offered to follow up with the successes or failures of this self-insurance program in other states.

[3:57:28 PM](#)

CHAIR KREISS-TOMKINS asked when the state began self-insuring for workers' compensation and liability.

MR. JORDAN recalled that worker's compensation was in the mid-1990s; general liability was switched in 2003.

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CHAIR KREISS-TOMKINS questioned whether the division had explored the possibility of providing risk management coverage for aviation and marine through the CATFund if the fund grew to \$50 million.

MR. JORDAN confirmed that the idea was considered. More specifically, he conveyed that the division had considered self-insuring damages on the hulls [vessels] themselves; however, he opined that aviation liability would be less feasible because numerous airports were state-owned, and the state's liability exposure was \$500 million. He said "the marine side" was in the same situation because of the Alaska Marine Highway System (AMHS) and its passengers; the liability coverage was \$1 billion. He opined that the CATFund wouldn't cover that if there was catastrophic loss.

CHAIR KREISS-TOMKINS inquired about the premium the state paid for the marine insurance policy.

MR. JORDAN believed it was \$3.8 million for vessels and liability.

CHAIR KREISS-TOMKINS requested that Mr. Jordan follow up with information related to the premium for aviation as well.

[4:00:53 PM](#)

CHAIR KREISS-TOMKINS conveyed that he was "foggy" on the different interpretations of what was sweepable. He opined that it was problematic that there was no definitive interpretation. He asked whether there was an interpretation from the attorney general specifying that the CATFund was not sweepable.

MS. HARBOUR stated that according to court case related to sweepable funds, funds not subject to further appropriation are not sweepable.

[4:02:15 PM](#)

REPRESENTATIVE VANCE requested that the department provide a list of all the state's insurance policies and identify which were self-insured along with the dates they became self-insured.

MR. JORDAN agreed to follow up with the requested information.

[4:03:04 PM](#)

REPRESENTATIVE KAUFMAN asked for the administrative/management fees expressed as an expense ratio.

MS. HARBOUR said OMB could work with the Department of Revenue (DOR) to provide additional information. She noted that the fund was managed as general fund monies because of its fluidity. She said OMB and DOR would determine whether there were alternative options for investment.

[4:04:30 PM](#)

CHAIR KREISS-TOMKINS opined that HB 102 was terrific legislation. He commended the administration for bringing the proposal forward and identifying possible savings. He said it made no sense to shovel millions of dollars out to insurance companies when the state needed every dollar it could get.

CHAIR KREISS-TOMKINS announced that HB 102 was held over.

[4:05:31 PM](#)

CHAIR KREISS-TOMKINS provided closing remarks and reviewed the upcoming schedule.

[4:06:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:06 p.m.