

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

Anchorage, Alaska

October 14, 2021

1:01 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 JOINT RESOLUTION NO. 402

Proposing amendments to the Constitution of the State of Alaska relating to payment of a dividend to eligible state residents.

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 403

Proposing amendments to the Constitution of the State of Alaska relating to an unrestricted general fund surplus, the Alaska permanent fund, and the budget reserve fund.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR402

SHORT TITLE: CONST AM: DIVIDENDS

SPONSOR(S): REPRESENTATIVE(S) HOPKINS

10/12/21 (H) READ THE FIRST TIME - REFERRALS

10/12/21 (H) STA, JUD, FIN

10/14/21 (H) STA AT 1:00 PM ANCH LIO DENALI Rm

BILL: HJR403

SHORT TITLE: CONST. AM: GENERAL FUND SURPLUS

SPONSOR (s) : REPRESENTATIVE (s) HOPKINS

10/12/21 (H) READ THE FIRST TIME - REFERRALS
10/12/21 (H) STA, JUD, FIN
10/14/21 (H) STA AT 1:00 PM ANCH LIO DENALI Rm

WITNESS REGISTER

REPRESENTATIVE GRIER HOPKINS

Alaska State Legislature
Juneau, Alaska, Alaska

POSITION STATEMENT: Introduced HJR 403 and HJR 403, as the prime sponsor.

JOE HARDENBROOK, Staff
Representative Grier Hopkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation during the hearing on HJR 402 and HJR 403, on behalf of Representative Hopkins, prime sponsor.

ALEXEI PAINTER, Director
Legislative Finance Division
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 402 and HJR 403.

EMILY NAUMAN, Deputy Director
Legislative Legal Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 402 and HJR 403.

ACTION NARRATIVE

[1:01:36 PM](#)

VICE CHAIR MATT CLAMAN called the House State Affairs Standing Committee meeting to order at 1:01 p.m. Representatives Kreiss-Tomkins (via teleconference), Story (via teleconference), Tarr, Kaufman, and Claman were present at the call to order. Representatives Vance (via teleconference) and Eastman (via teleconference) arrived as the meeting was in progress. Also present were Representatives McCabe and Gillham.

HJR402-CONST AM: DIVIDENDS
HJR403-CONST. AM: GENERAL FUND SURPLUS

[1:03:16 PM](#)

VICE CHAIR CLAMAN announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 402, Proposing amendments to the Constitution of the State of Alaska relating to payment of a dividend to eligible state residents; HOUSE JOINT RESOLUTION NO. 403, Proposing amendments to the Constitution of the State of Alaska relating to an unrestricted general fund surplus, the Alaska permanent fund, and the budget reserve fund.

[1:04:00 PM](#)

REPRESENTATIVE GRIER HOPKINS, Alaska State Legislature, prime sponsor, introduced HJR 402 and HJR 403. HJR 402, he said, provides that there shall be a dividend, which shall be paid according to a formula in state law. Regarding HJR 403, he paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

Alaskans are beneficiaries of the foresight of our state's founders, who ensured that state-owned resources would be managed for the maximum benefit of all Alaskans (Article VIII Section 2). Unique among states, Alaska's constitution creates communal ownership of state resources - what former Governor Wally Hickel called "the Owner State."

In 1990, with numerous multimillion-dollar oil taxation lawsuits pending in the courts, voters of Alaska approved creation of the Constitutional Budget Reserve (Article IX, Section 17), a fund which would capture "all money received...as a result of...an administrative proceeding or of litigation in a State or federal court...in the budget reserve fund." In most cases, appropriating monies from the fund requires a $\frac{3}{4}$ vote of both houses of the legislature. Until funds appropriated from the CBR are repaid, "the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund," a maneuver now dubbed "the sweep."

Since the advent of Alaska's oil boom, citizens and elected leaders have sought ways to restrict state

spending during boom years, in the hopes that the savings would pay for essential services and provide economic relief to Alaskans during inevitable bust years. While numerous attempts have been made, including the adoption of a complex and (in retrospect) unworkable Appropriation Limit amendment in 1982 (Article IX Section 16), crafting a politically acceptable mathematical formula which simultaneously restrains spending AND protects Alaskans' interests and access to essential services during years of economic hardship has proven daunting.

HJR 403 seeks to incentivize Alaska's leaders to NOT spend every dollar available by replacing the "sweep" provision of the CBR with a mandate that all future state surpluses - as defined by statute - be split evenly between the Constitutional Budget Reserve and the payment of dividends to eligible Alaska residents. This "political spending cap" would see Alaskans benefit directly from actions to restrain spending. Additionally, an equal amount would be deposited into the CBR to build our "rainy day fund" for inevitable economic challenges in the years ahead. Further, HJR 403 maintains the constitutional prohibition on dedicated funds while protecting statutorily designated funds - thus preserving the legislature's power of appropriation and the ability of future legislators to respond to challenges and opportunities.

[1:12:09 PM](#)

JOE HARDENBROOK, Staff, Representative Grier Hopkins, Alaska State Legislature, on behalf of Representative Hopkins, prime sponsor, provided brief introductory remarks, noting that the proposed resolutions were intended to renew the relationship and trust between Alaska's citizens and their elected officials. He introduced a PowerPoint presentation, titled "HJR 403; A New Vision for Alaska's Fiscal Future" [hard copy included in the committee packet]. He began on slide 2, which read as follows [original punctuation provided]:

What is the Goal of a Spending Cap?

- Restrain Spending
- Save/Return Excess Revenue
- Cuts or New Revenues Necessary to Expand Services

[1:14:19 PM](#)

MR. HARDENBROOK continued to slide 3, which read as follows [original punctuation provided]:

What are the Challenges of a spending cap?

- Crafting durable, multi-year formula
- Crises/funding shortfalls/windfalls
- Political agreement on formula, definitions, priorities

[1:15:28 PM](#)

MR. HARDENBROOK turned to slide 4, which read as follows [original punctuation provided]:

HJR 403

- A "political" spending cap
- Strengthens "owner state" principles
- No complex formulas in the constitution
- Transparency, flexibility & accountability

MR. HARDENBROOK advanced to slide 5, which provided a flow chart of HJR 403. After the budget was developed, he explained, the surplus (if any) would be split equally between the PFD and the constitutional budget reserve (CBR). He proceeded to slide 6, stating that HJR 403 was crafted with the goal of incentivizing savings, growing the dividend, and removing roadblocks that hamper transparency and accountability in state finances.

[1:17:23 PM](#)

MR. HARDENBROOK continued to slide 7, which read as follows [original punctuation provided]:

What wouldn't change:

- CBR remains "rainy day" fund
- $\frac{3}{4}$ vote necessary to appropriate from CBR
- Legal proceeds deposited in CBR
- Constitution's dedicated fund prohibition

[1:18:03 PM](#)

MR. HARDENBROOK continued to slide 8, which read as follows [original punctuation provided]:

What would change:

- Alaskans receive share of future state surpluses
 - "surplus" defined in statute
- Potential new funding stream for dividends
- "Sweep" provision replaced with saving/sharing

[1:18:42 PM](#)

MR. HARDENBROOK continued to slide 9, which read as follows [original punctuation provided]:

Challenges:

- Defining "surplus" in statute
- Calculating surplus in time for dividend distribution
- Maintaining CBR without "sweep"

[1:19:50 PM](#)

MR. HARDENBROOK continued to slide 10, which read as follows [original punctuation provided]:

HB 326 - FY 2010 supplemental budget

- Page 22, line 21 - section 18:
- "The amount available in the general fund at the end of the fiscal year ending June 30, 2010, after all other appropriations have been made, is appropriated from the general fund to the budget reserve fund"
- "Fifty percent of the amount available in the general fund at the end of the fiscal year ending June 30, 2023, after all other appropriations have been made, is appropriated from the general fund to the budget reserve fund."
- "Fifty percent of the amount available in the general fund at the end of the fiscal year ending June 30, 2023, after all other appropriations have been made, is appropriated from the general fund to the dividend fund for the payment of the permanent fund dividends."

VICE CHAIR CLAMAN invited questions from committee members on HJR 403.

[1:21:18 PM](#)

REPRESENTATIVE TARR inquired about the debt owed to the CBR and how that would be addressed under the proposed legislation.

REPRESENTATIVE HOPKINS said the legislature's debt to the CBR would not be forgiven. He explained that the "moral obligation" to repay the CBR debt would remain; however, HJR 403 would remove the "sweep," as well as the requirement to repay the amount appropriated to the CBR.

REPRESENTATIVE TARR asked whether there was an estimated amount for the dividend under this proposal.

REPRESENTATIVE HOPKINS explained that this would not be the only mechanism to pay the dividend, pointing out that the statutory formula would still be on the books. He clarified that 50 percent of the budget surplus allotted for the dividend would be in addition to the statutory formula.

VICE CHAIR CLAMAN asked how much was owed to the CBR.

[1:24:58 PM](#)

ALEXEI PAINTER, Director, Legislative Finance Division, said the amount was in dispute between the Division of Legislative Audit and the administration. He noted that the amount was either \$11 billion or \$12 billion.

[1:25:31 PM](#)

REPRESENTATIVE KAUFMAN said it was unclear how the current proposal would cap spending. He asked whether the spending cap was purely based on political pressure.

REPRESENTATIVE HOPKINS acknowledged that it would be a legislative decision rather than a formula.

REPRESENTATIVE KAUFMAN characterized HJR 403 as more of an appropriation plan, as opposed to a spending cap.

REPRESENTATIVE HOPKINS explained that HJR 403 was intended to incentivize fiscal prudence.

[1:27:52 PM](#)

REPRESENTATIVE TARR inquired about scenarios beyond the legislature's control, such as fire season. She asked whether a

scenario could be created in which the legislature was impacted by public pressure to spend less in order to create a higher surplus to increase the dividend.

REPRESENTATIVE HOPKINS believed that pressure was already being dealt with today. He reiterated that the proposed resolution would be an additional mechanism to utilize the "net dividend process." He stated that he envisioned HJR 403 as a package deal with a new dividend formula.

[1:31:14 PM](#)

REPRESENTATIVE KREISS-TOMKINS inquired about the notion of debt owed to the CBR. He was unsure whether having \$11 billion in the CBR would serve a purpose with a balanced budget and structural solution in place. He asked whether that premise had been examined and why the bill sponsor felt that having a surplus in the CBR would be valuable.

REPRESENTATIVE HOPKINS said he was not advocating for making repayment to the CBR the top priority. He suggested that the legislature may want to take a more "measured" approach at that, adding that [50 percent of the surplus] could be allocated towards inflation proofing, education, or the Alaska Permanent Fund, for example. He said it would be a value judgement for the legislature to make each year.

[1:34:58 PM](#)

REPRESENTATIVE HOPKINS, in response to a question from Representative Story, explained that the funds appropriated to a department within a given budget year would not be surplus dollars; therefore, those dollars would not fall under the scope of HJR 403. Similarly, the capital budget would not be surplus dollars either. He deferred to Mr. Painter to speak to the annual surplus.

[1:37:37 PM](#)

MR. PAINTER said there was a "definitional question" in terms of identifying a surplus. He reported that FY 22 was the 10th straight year of budget deficits; however, per the constitution, the deficit must be filled from a source. Generally, those deficits had been filled from savings accounts with an open-ended draw, he said. He recalled that in the last two years, a portion of the state budget had been taken directly from the CBR to create a post-transfer surplus; nonetheless, there was still

a net deficit. In FY 21, the deficit was less than \$1 billion, so the surplus was transferred to the statutory budget reserve (SBR) via appropriation bills. The surplus from FY 21 was then used to fill the deficit in FY 22. He concluded that to some degree, there was a surplus in FY 21 and FY 22; however, the surplus did not exist on a cashflow basis. He said the proposed legislation would need to clarify whether the surplus was a net surplus or a surplus based on appropriations from the general fund (GF). He reiterated the difficulty of defining a surplus.

[1:40:31 PM](#)

MR. HARDENBROOK resumed the presentation on 13, which read as follows [original punctuation provided]:

HJR 402 - Accountability:

- There shall be a dividend
- The dividend shall be paid according to a formula in state law
- Alaska's owner state principles in action

[1:41:43 PM](#)

MR. HARDENBROOK continued to slide 14, which read as follows [original punctuation provided]:

HJR 402 - Flexibility:

- Dividends may be paid from any funding source
 - PF earnings, oil & gas revenues, general fund
- Formula & eligibility statutes may be amended
 - Future legislators may change program to meet new challenges or opportunities

[1:42:28 PM](#)

MR. HARDENBROOK turned to slide 15, which read as follows [original punctuation provided]:

What wouldn't change:

- Statutes detailing eligibility for dividends
- Permanent Fund Corporation
- Formula statute can be amended

[1:42:51 PM](#)

MR. HARDENBROOK concluded on slide 16, which read as follows [original punctuation provided]:

What would change:

- Legislature must follow dividend formula - or change the law
- Constitutional mandate that dividends be paid every year

[1:43:31 PM](#)

REPRESENTATIVE KREISS-TOMKINS inquired about the feedback from Legislative Legal Services about potential weak constitutional links or ambiguities.

[1:44:26 PM](#)

EMILY NAUMAN, Deputy Director, Legislative Legal Services, said there were no obvious legal issues with the proposed resolutions.

REPRESENTATIVE HOPKINS said it was his intention that HJR 402 would not be a standalone item. He envisioned it paired with legislation that would constitutionalize the percent of market value (POMV).

[1:45:42 PM](#)

MS. NAUMAN, in response to a question from Vice Chair Claman, pointed out that Wielechowski v. State was based on a statutory dividend formula whereas the current proposal would add to the constitution. She shared her understanding that the proposed amendment would overrule Wielechowski v. State, and the legislature would be obligated to follow the formula as a constitutional provision.

VICE CHAIR CLAMAN sought to confirm that Ms. Nauman had indicated that the current statutory [dividend] formula would become binding if the proposed amendment were to pass.

MS. NAUMAN answered yes.

[1:47:19 PM](#)

REPRESENTATIVE TARR opined that the proposed amendments were a combination of HJR 7 and HJR 1. She asked whether that was

accidental or intentional. Additionally, she inquired about that benefit of implanting two constitutional amendments.

REPRESENTATIVE HOPKINS acknowledged that it would be a question for further deliberation in the committee process. He reiterated that his intention was to offer an alternative solution for consideration.

[1:50:21 PM](#)

REPRESENTATIVE KREISS-TOMKINS pondered whether it was helpful to have multiple vehicles, as opposed to a singular solution. He pointed out that HJR 1, which was currently in the House Finance Committee, could be amended as part of a compromise to include provisions in HJR 402 and HJR 403.

VICE CHAIR CLAMAN pointed out that if Ms. Nauman was correct in that the dividend formula would become constitutionally binding, the dividend would become the highest priority for state spending. He asked whether that was a good idea.

[1:53:37 PM](#)

REPRESENTATIVE HOPKINS opined that the dividend should not be the top priority. He believed that a long-term fiscal plan was the most pressing matter.

VICE CHAIR CLAMAN sought to confirm that deleting the language "according to a formula set out in law" on line 8 of HJR 402 would remove the binding aspect of the amendment.

MS. NAUMAN answered yes, removing that language would make the legislature responsible for some dividend, which could be \$1, for example. The legislature would not have to appropriate for a dividend according to a formula set out in law, she said.

[1:56:24 PM](#)

REPRESENTATIVE EASTMAN remarked:

If we're saying that the legislature ... wants to deal with appropriations a certain way - we want to require a certain type of appropriation to be followed ... instantiating in the constitution that, yes, that is part of the legislature's ability to pass a law that is then incumbent on a future legislature to follow.

REPRESENTATIVE EASTMAN suggested clarifying in a broader context what the legislature had the authority to bind future legislature's by in terms of appropriations.

REPRESENTATIVE HOPKINS supposed that could be an option; however, he believed it would raise concerns with dedicated funds and the flexibility that's necessary to address annual revenue concerns. He believed that fiscal elements needed to be addressed extremely carefully in order to avoid unintended consequences.

[2:01:23 PM](#)

REPRESENTATIVE KREISS-TOMKINS, in response to Representative Eastman, pointed out that there were many appropriation-related laws that the legislature seemed content to ignore, such as senior benefits and senior property tax exemption reimbursement. He opined that until there was equal righteousness about the "non fidelity" to those laws, the statement made by Representative Eastman seemed selective. He welcomed a response.

[2:02:54 PM](#)

REPRESENTATIVE KREISS-TOMKINS inquired about constitutional revision versus constitutional amendments. He asked how ambitious the legislature could be with various joint resolutions without activating the question of a constitutional revision.

MS. NAUMAN said it was difficult to distill the difference between an amendment and a [revision], in part, because there was only one case in the state that helped delineate the difference. She reminded the committee that a revision would require a constitutional convention. In general, she said, a revision was a broad sweeping change to the structure of the constitution. She asked whether Representative Kreiss-Tomkins was asking whether the proposed resolutions constituted a revision or an amendment.

REPRESENTATIVE KREISS-TOMKINS answered yes.

MS. NAUMAN opined that the proposed resolution would not constitute a revision. She highlighted a concern with the resolutions that either tinker with the dividend or require a dividend, as they would potentially take a large amount of money out of the hands of the legislature, which is the appropriating

body. However, because the legislature could change the dividend formula under HJR 402 and HJR 403, it would still have the capacity to control a large amount of that revenue.

VICE CHAIR CLAMAN inquired about the court case that addressed constitutional revision versus amendment.

MS. NAUMAN offered to follow up with the requested information.

[2:06:37 PM](#)

REPRESENTATIVE HOPKINS, in response to a question from Representative Eastman, said he had intentionally excluded a constitutional dividend formula to provide the legislature with the ability to change the statutory formula in the future, thereby maintain flexibility for funding mechanisms. He reiterated his belief that a long-term fiscal policy should be prioritized.

REPRESENTATIVE EASTMAN asked whether the sponsor would be open to an amendment that would add senior tax exemptions to the list of laws that needed to be followed by future legislatures.

REPRESENTATIVE HOPKINS said, at this time, no, as it would not address long-term fiscal policy.

[2:13:14 PM](#)

REPRESENTATIVE STORY asked why HJR 402 and HJR 403 would be an easier path forward.

REPRESENTATIVE HOPKINS responded, "Hope springs eternal."

VICE CHAIR CLAMAN announced that HJR 402 and HJR 403 were held over.

[2:14:45 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 2:14 p.m.