

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 15, 2023

1:00 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative David Eastman
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 2

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

- HEARD & HELD

HOUSE BILL NO. 38

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 2

SHORT TITLE: CONST. AM: APPROP LIMIT

SPONSOR(S): REPRESENTATIVE(S) STAPP

01/23/23	(H)	READ THE FIRST TIME - REFERRALS
01/23/23	(H)	W&M, FIN
01/30/23	(H)	JUD REFERRAL ADDED BEFORE W&M
01/30/23	(H)	BILL REPRINTED
02/15/23	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 38

SHORT TITLE: APPROPRIATION LIMIT; GOV BUDGET
SPONSOR(s): REPRESENTATIVE(s) STAPP

01/19/23	(H)	READ THE FIRST TIME - REFERRALS
01/19/23	(H)	JUD, W&M, FIN
01/27/23	(H)	JUD AT 1:00 PM GRUENBERG 120
01/27/23	(H)	Heard & Held
01/27/23	(H)	MINUTE(JUD)
02/15/23	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE WILL STAPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, offered information on HJR 2.

BERNARD AOTO, Staff
Representative Will Stapp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 2, on behalf of Representative Stapp, prime sponsor.

MARIE MARX, Attorney
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 2.

ROB CARPENTER, Deputy Director
Legislative Finance Division
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 2.

KEVIN BERRY, Associate Professor of Economics
College of Business and Public Policy
University of Alaska Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 2.

KATIE CAPOZZI, President
Alaska Chamber

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 2.

REPRESENTATIVE WILL STAPP

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, offered information during the hearing on HB 38.

BERNARD AOTO, Staff

Representative Will Stapp

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 38, on behalf of Representative Stapp, prime sponsor.

MARIE MARX, Attorney

Legislative Legal Services

Legislative Affairs Agency

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 38.

ACTION NARRATIVE

[1:00:27 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:00 p.m. Representatives C. Johnson, Gray, Groh, and Vance were present at the call to order. Representatives Carpenter, Eastman, and Allard arrived as the meeting was in progress.

HJR 2-CONST. AM: APPROP LIMIT

[1:01:21 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 2, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

[1:01:52 PM](#)

REPRESENTATIVE WILL STAPP, Alaska State Legislature, prime sponsor, provided introductory remarks on HJR 2. He noted that HJR 2 is the companion resolution to HB 38, adding that the

resolution before the committee is the constitutional amendment proposal for a refined appropriation limit. He explained that the spending cap would be based on gross domestic product [GDP] and aims to bring stability to Alaska's economy through long-term fiscal discipline. He deferred to his staff, Mr. Aoto.

[1:03:21 PM](#)

BERNARD AOTO, Staff, Representative Will Stapp, Alaska State Legislature, on behalf of Representative Stapp, prime sponsor, explained that HJR 2 would limit appropriations to 14 percent of a five-year trailing average of real GDP.

CHAIR VANCE invited questions from members of the committee.

[1:04:40 PM](#)

REPRESENTATIVE GROH expressed concern about the possibility of a "double whammy" economic downturn if both the public and private sectors were unable to produce simultaneously. He asked whether the bill sponsor had considered this potential implication.

REPRESENTATIVE STAPP said he had considered the possibility of a long-term economic depression, in which case, he argued that the largest limiting factor would be revenue, not spending.

REPRESENTATIVE GROH contended that if the proposed spending cap was constitutionalized, the ability to revive the economy from a prolonged recession would be limited.

REPRESENTATIVE STAPP highlighted the five-year trailing average as a way to protect against one year of economic downturn. He pointed out that positive GDP growth would increase the spending cap, whereas several years of massive GDP decline would create issues.

REPRESENTATIVE GROH asked whether any academic studies had looked at GDP-based spending caps.

REPRESENTATIVE STAPP said GDP is a standard metric that is studied at most major universities with a macroeconomics program.

REPRESENTATIVE GROH asserted that there is no academic research on GDP-based spending limits.

REPRESENTATIVE STAPP suggested that the effects of such a spending cap could be inferred.

CHAIR VANCE asked why the GDP-based model was selected by the bill sponsor.

REPRESENTATIVE STAPP conveyed that his intent was to tie private sector performance to statewide spending. He expressed a desire for Alaskans in the private sector to have a strong connection to state government. The concept behind utilizing private sector GDP, he said, was to create a mechanism that encouraged state leaders to be mindful of their constituents.

[1:10:48 PM](#)

REPRESENTATIVE GRAY referenced testimony from Mr. Gastin during a previous hearing, in which he indicated that all spending should be included in an effective spending cap. For that reason, he asked whether the permanent fund dividend (PFD) should be included in the constitutional spending cap.

REPRESENTATIVE STAPP referenced a memorandum ("memo") and deferred to Legislative Legal Services, [Legislative Affairs Agency (LAA)].

[1:11:51 PM](#)

The committee took a brief at-ease.

[1:12:13 PM](#)

MARIE MARX, Attorney, Legislative Legal Services, LAA, explained that the legal memo spoke to whether, in addition to the appropriation limit, constitutional provisions could be changed in HJR 2, which was a separate issue from the question posed by Representative Gray.

REPRESENTATIVE GRAY restated his question, asking whether the spending cap could apply to all state spending, including the PFD.

MS. MARX stated that the decision to exclude or include specific allocations under the proposed spending cap would be a policy call - not a legal question.

[1:14:47 PM](#)

REPRESENTATIVE CARPENTER inquired about the provisions related to public enterprises and public corporations. He asked whether the existing language pertaining to revenues from public corporations of the state that issued revenue bonds should be excluded.

REPRESENTATIVE STAPP shared his understanding that existing state-owned enterprises (SOEs) are excluded from the Executive Budget Act [AS 37.07]. He suspected that SOE's could be utilized for bonding capacity. He explained that the bond rating agencies only allow Alaska to bond \$1.5 billion in capital projects, which spoke to the need for a revised appropriation limit to give the state a cornerstone for long-term fiscal stability.

[1:16:35 PM](#)

REPRESENTATIVE GRAY asked for the definition of "general obligation (GO) bond".

REPRESENTATIVE STAPP deferred to Mr. Carpenter.

[1:17:23 PM](#)

ROB CARPENTER, Deputy Director, Legislative Finance Division, LAA, defined a GO bond as a bond backed by "the full faith and credit of the State of Alaska." He explained that authorizing required passage through the legislature and a vote of the people, making it the most secure form of debt issued by the state.

REPRESENTATIVE GRAY asked whether a bond consisted of borrowed money that required repayment.

MR. CARPENTER confirmed that to bond money, [the state] would issue notes of debt and then borrow the money from a public market. The bond proceeds from the public market would then be spent on capital projects and repaid over time.

REPRESENTATIVE GRAY asked how the interest rate was determined.

MR. CARPENTER stated that the interest rate was determined by the market and Alaska's credit rating.

REPRESENTATIVE GRAY asked whether the state's credit rating would be impacted if the amount of debt increased over time.

MR. CARPENTER answered yes, credit rating was impacted by the amount of debt "on the books." He explained that if the state continued to stack debt, the bond market would determine Alaska's overall credit worthiness based on the capacity to issue further debt, existing debt, and the state's overall revenue picture.

REPRESENTATIVE GRAY asked whether GO bond payments would be outside the proposed spending cap.

MR. AOTO answered yes.

REPRESENTATIVE GRAY considered a scenario in which the state bonded more items and, ultimately, negated the appropriation limit via increased spending. In this scenario, Alaska's credit rating could decline resulting in higher interest rates. He asked whether that was a possibility.

MR. AOTO said it was possible; however, he reminded Representative Gray that GO bonds required a vote of the people.

[1:21:45 PM](#)

REPRESENTATIVE ALLARD asked the bill sponsor to expound on the decision to exclude GO bonds from the spending cap.

REPRESENTATIVE STAPP indicated that ultimately, the decision [to approve the bonds] would be up to the voters.

CHAIR VANCE asked why HJR 2 was put was put forward, as opposed to adjusting the dollar value of the existing appropriation limit.

REPRESENTATIVE STAPP explained that in addition to setting a new appropriation limit, the goal is to measure private sector growth. He opined that the best way to satisfy the legislature's constitutional obligation to the state is to prioritize individual Alaskans by ensuring economic opportunity for a brighter future.

[1:24:30 PM](#)

REPRESENTATIVE GRAY pointed out that the legislature had a constitutional obligation to maintain education. He asked whether the bill sponsor would consider excluding education funding from the spending cap.

REPRESENTATIVE STAPP agreed that education is incredibly valuable. He said, "Money is money is money," opining that prioritizing operational and capital spending is the key to an effective appropriation limit.

REPRESENTATIVE GRAY cited Article 7, Section 1, of the Alaska State Constitution and expressed concern that the proposed spending cap could prevent the legislature from carrying out its constitutional duty to establish and maintain a system of public schools open to all children of the state.

REPRESENTATIVE STAPP suggested that Representative Gray propose a constitutional funding formula for education.

[1:26:40 PM](#)

REPRESENTATIVE EASTMAN inquired about the timing of the calculation. He directed attention to the language on page 2, line 2, and asked whether the year preceding the prior fiscal year would be 2020.

REPRESENTATIVE STAPP shared his understanding that Representative Eastman was correct.

REPRESENTATIVE EASTMAN asked how Representative Stapp would describe the current inflationary environment.

REPRESENTATIVE STAPP described the current inflationary pressure as far above the historic average of 2.5 percent.

REPRESENTATIVE EASTMAN asked how that contrasted with the inflationary environment of FY 20.

REPRESENTATIVE STAPP believed that the current inflationary pressure is much higher than that of FY 20.

REPRESENTATIVE EASTMAN sought to confirm that future changes in inflationary pressure would need to be forecasted or anticipated, as that data is not readily available.

REPRESENTATIVE STAPP clarified that inflation as a metric is not included in HJR 2. He asked Representative Eastman to elaborate.

REPRESENTATIVE EASTMAN asked whether it seemed reckless to remove the existing inflationary adjustment from the state

spending cap and hope that inflation wouldn't increase in the future.

REPRESENTATIVE STAPP contended that it is not reckless. He argued that a state government that burned through \$10 billion in revenue and \$16 billion in savings over a 12-year timeframe was reckless. He expressed concern that if Alaska does not begin to lay strong fiscal foundations, inflation would be the least of its worries, as available revenues would cease to meet existing operating expenses.

REPRESENTATIVE EASTMAN asked why HJR 2 would not maintain some kind of adjustment for inflation given that future inflationary pressures were unknown. He expressed concern about constitutionalizing a spending cap for which the nominal value was too low.

REPRESENTATIVE STAPP pointed out that voters could choose to accept or reject the proposed spending cap.

[1:33:14 PM](#)

REPRESENTATIVE GROH pointed out that HJR 2 made an exception for capital improvements, as opposed to operational spending, such as K-12 funding or SNAP benefits, which many constituents were concerned about. He added that capital spending had "exploded" during the boom-and-bust periods referenced by the bill sponsor and asked Representative Stapp to speak to that.

REPRESENTATIVE STAPP pointed out that levels of operational spending could decrease based on the priority of future legislators. He challenged Representative Groh to propose a constitutional formula for education spending.

REPRESENTATIVE GROH asked whether the exception for capital spending would create a bias over operational spending in future years if HJR 2 were to pass.

REPRESENTATIVE STAPP stated that capital spending is a proven indicator of private sector growth and GDP development. He opined that Alaska requires significant infrastructure development, adding that most residents would welcome relief in energy and fuel bills in the event that the state invested in infrastructure to facilitate commerce.

[1:36:42 PM](#)

REPRESENTATIVE GRAY asked whether the governor's current [FY 24] budget proposal would fall underneath the constitutional spending cap proposed in HJR 2.

REPRESENTATIVE STAPP said the current budget would fall underneath the constitutional limit. He further noted that should HJR 2 pass, the constitutional limit would not be effective in FY 24, making it irrelevant to the governor's proposed budget.

REPRESENTATIVE GRAY restated his question, asking whether the governor's FY 24 budget proposal would fall underneath the constitutional spending cap.

MR. AOTO shared his understanding that the governor's proposed budget would not breach the constitutional limit proposal in HJR 2.

[1:38:52 PM](#)

REPRESENTATIVE ALLARD inquired about the relevance of hypothetical scenarios.

REPRESENTATIVE STAPP said he was happy to entertain all questions. He reiterated that ultimately, the Alaskan voters would get to determine whether the constitutional amendment should advance.

[1:39:58 PM](#)

REPRESENTATIVE EASTMAN asked whether the governor's FY 24 budget proposal was close to exceeding the constitutional limit.

REPRESENTATIVE STAPP deferred to Mr. Carpenter.

MR. CARPENTER said based on preliminary calculations, the 14 percent spending cap would equate to approximately \$6.2 billion. He estimated that the appropriations within the governor's budget that were germane to the constitutional cap amounted to approximately \$5.4 billion - roughly \$800 million under the constitutional limit.

REPRESENTATIVE EASTMAN asked how the supplementary appropriations were calculated underneath the spending cap, as proposed. Specifically, he asked whether the recent \$393 million supplemental budget request would be put on the "tab" for FY 23 or FY 24.

1:42:00 PM

REPRESENTATIVE STAPP deferred to Mr. Carpenter.

MR. CARPENTER indicated that the proposed statutory spending limit applies to appropriations "in" a fiscal year, whereas the constitutional limit applies to appropriations "for" a fiscal year. He added that he would need further clarification from the bill sponsor as to whether the supplemental appropriations would be "in" or "for" the fiscal year.

REPRESENTATIVE EASTMAN questioned how GDP would be determined for the purpose of the spending cap.

REPRESENTATIVE STAPP indicated that the process by which GDP is determined and transmitted to the legislature would be similar to that of inflation for the existing appropriation limit.

REPRESENTATIVE EASTMAN asked when GDP would be transmitted to the legislature and how much time the body would have to craft a budget that fell underneath the GDP-based cap.

MR. AOTO offered to follow up with the requested information.

1:47:04 PM

CHAIR VANCE asked whether a transmittal date would be determined and inserted on page 2, lines 3-4.

REPRESENTATIVE STAPP was unsure whether that would be the proper place in the language. He deferred to Ms. Marx.

MS. MARX explained that typically, constitutional provisions are drafted with broader language, whereas the specific nuances of the law are placed into statute. She expounded that based on HJR 2, the legislature could establish additional provisions and procedures in statute that were necessary to implement the constitutional requirement.

CHAIR VANCE directed attention to page 1, line 16 and inquired about the implications of referencing federal law in the state constitution.

MS. MARX said she did not understand the question. She conveyed that the data on GDP would come from the federal government,

which explained the reference to the federal bureau and federal law on page 1, line 16.

REPRESENTATIVE VANCE asked what would happen if the federal bureau stopped providing economic analyses on GDP.

MS. MARX acknowledged that the point highlighted by Chair Vance was a downside to having specific language in the Alaska State Constitution.

[1:51:48 PM](#)

REPRESENTATIVE EASTMAN pondered to what extent the data provided by the federal government is susceptible to political pressure.

REPRESENTATIVE STAPP pointed out that the same argument could be made for the census data used in the existing appropriation limit.

REPRESENTATIVE EASTMAN considered a scenario in which the new formula enshrined in the constitution, per HJR 2, "isn't working for some reason." He asked how much time it would take to roll back the constitutional amendment and fix the hypothetical error.

MS. MARX outlined the following process for amending the constitution: firstly, a resolution would need to pass from the legislature with a two-thirds vote; secondly, the resolution would appear on the ballot at the next general election to be voted on by the public.

[1:55:05 PM](#)

REPRESENTATIVE EASTMAN considered a scenario in which HJR 2 passed from the legislature tomorrow. He asked how long until the resolution would be effective and constitutionally binding.

MS. MARX noted that the next general election was 2024. She reported that per Article 13, Section 1, of the Alaska State Constitution, unless otherwise provided, the constitutional amendment would become effective 30 days after the certification of the election returns by the lieutenant governor.

[1:56:02 PM](#)

REPRESENTATIVE VANCE opened public testimony on HJR 2.

[1:56:29 PM](#)

KEVIN BERRY, Associate Professor of Economics, University of Alaska Anchorage (UAA), pointed out that HJR is prototypical, meaning that spending would increase when GDP was higher, which would exacerbate business cycles in Alaska. He said the government had two different ways of making economic policy to influence growth: monetary policy and fiscal policy. The federal government can do both; however, Alaska's economy was often counter cyclical to the rest of the country, he said, adding that monetary policy could not be utilized at the state level. For that reason, he opined that HJR 2 would tie the state's hands, making it harder to craft fiscal policy to counter federal policy that was not beneficial to Alaska. He provided an example. He argued that exacerbation of the business cycle could cause more people to leave the state, further destabilizing the population and workforce. He concluded by emphasizing the importance of utilizing accurate inflation measures when considering the spending cap.

[1:59:29 PM](#)

KATIE CAPOZZI, President, Alaska Chamber, stated her support for a meaningful spending cap. She remarked that the existing state spending cap was outdated and did not restrict spending in a "serious" way. She explained that when revenues fails to meet budgeted expenses, the business community would be targeted for increased taxes, fines, and fees to fill the deficit. She stressed the need for stability and predictability for businesses to grow, invest in the state, and hire employees. She emphasized that the constant looming threat of needing to bail out a state government that periodically overspends was a disincentive to invest in Alaska. She opined that a meaningful cap would go a long way in showing Alaskans that government could be trusted to spend wisely and provide a safety net of core government services during years of revenue shortfalls. As state leaders ask Alaskans to contribute to state revenue with increased or new taxes, she requested assurances that dramatic overspending would not occur once more money was available. She cited an annual public opinion survey conducted by the Alaska Chamber, indicating that Alaskans supported a constitutional spending cap by over 60 percent. In closing she noted that the chamber had not taken an official position on any legislation related to an appropriation limit; nonetheless, the Alaska Chamber strongly supports the policy in general.

[2:03:08 PM](#)

CHAIR VANCE closed public testimony on HJR 2. She announced that the resolution would be held over.

HB 38-APPROPRIATION LIMIT; GOV BUDGET
HJR 2-CONST. AM: APPROP LIMIT

[2:03:39 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 38, "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. 2, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

[2:03:56 PM](#)

The committee took an at-ease from 2:03 p.m. to 2:07 p.m.

[2:07:04 PM](#)

CHAIR VANCE asked the bill sponsor to highlight key differences between HB 38 and HJR 2.

[2:07:40 PM](#)

REPRESENTATIVE WILL STAPP, Alaska State Legislature, prime sponsor of HB 38, indicated that the main structural difference between the two proposals was the percentages, adding that the statutory limit is set at 11.5 percent. Further, conditional language was included in HB 38, which ties it to HJR 2, effectively making it so one could not properly function without the other.

[2:08:58 PM](#)

REPRESENTATIVE EASTMAN asked the bill sponsor to contrast the constitutional limit against the statutory limit of 11.5 percent.

REPRESENTATIVE STAPP responded that the constitutional limit, as proposed, is 14 percent.

REPRESENTATIVE EASTMAN asked why the statutory limit is set at 11.5 percent, as opposed to keeping it consistent with the constitutional limit of 14 percent.

REPRESENTATIVE STAPP deferred to his staff, Mr. Aoto.

[2:09:32 PM](#)

BERNARD AOTO, Staff, Representative Will Stapp, Alaska State Legislature, said the 11.5 percent was calculated based on spending habits as exhibited by the legislature in the late 1970s prior to the oil boom of the 1980s and the constitutional cap, as provided in 1983.

REPRESENTATIVE EASTMAN asked whether the governor's [FY 24] budget proposal would fall underneath the statutory limit proposed in HB 38.

MR. AOTO stated that the governor's proposed budget would breach the statutory limit. He added that the legislature would have the ability breach the statutory limit, as long as appropriations remained underneath the constitutional limit. He noted that neither HB 38 nor HJR 2 would impact the FY 24 budget, as both were intertwined, and the constitutional provision required a vote of the people to go into effect.

REPRESENTATIVE EASTMAN considered a scenario in which HB 38 passed the legislature sooner than HJR 2. He sought to confirm that the statutory limit would not go into effect until the constitutional provision was enacted.

MR. AOTO answered yes.

[2:11:35 PM](#)

REPRESENTATIVE GROH asked whether the statutory limit includes exceptions related to the Alaska Mental Health Trust Authority (AMHTA).

MR. AOTO acknowledged that the exceptions differed between HJR 2 and HB 38; however, he shared his belief that the exceptions "were supposed to match." He remarked, "the mental health funds, as an exception in one, are meant to keep it in line with the other."

REPRESENTATIVE GROH requested a more extensive explanation.

[2:12:49 PM](#)

REPRESENTATIVE GRAY inquired about the vote threshold required to surpass the statutory spending cap.

MR. AOTO shared his understanding that a two-thirds vote of the legislative body was needed to override the statutory limit. He reiterated that because HB 38 is tied to the constitutional limit provided in HJR 2, the statutory limit would not be effective until the constitutional provision was voted on by Alaskans and subsequently enacted.

REPRESENTATIVE GRAY questioned why the statutory limit is tied to the constitutional limit.

MR. AOTO stated that the constitutional limit served as an enforcement mechanism, as the legislature had the ability to override the statutory spending limit with a two-thirds vote.

REPRESENTATIVE GRAY expressed confusion as to the vote threshold required to surpass the proposed statutory spending limit.

MR. AOTO deferred to Ms. Marx.

[2:16:10 PM](#)

REPRESENTATIVE STAPP asked Representative Gray to rephrase the question.

REPRESENTATIVE GRAY inquired about the vote count required to surpass the statutory limit. Additionally, he asked whether the constitutional limit could be surpassed with a vote of the legislature.

MR. AOTO shared his understanding that the constitutional [limit] could not be surpassed by the legislature.

REPRESENTATIVE GRAY remarked:

Correct me if I'm wrong, if we just had the statutory - 11.5 percent - we would just need 21 votes to override, but if we put the constitutional amendment in place, there's language that states that we would need two-thirds to override that 11.5 percent. ... We can't go above 14 percent ... but we could go above 11.5 percent with a two-thirds vote; however, without that constitutional amendment, we could override that 11.5 percent with 21 [votes].

REPRESENTATIVE GRAY asked whether that was correct.

REPRESENTATIVE STAPP clarified that Representative Gray's summation was not entirely accurate. He reminded the committee that if HJR 2 did not pass, the statutory limit would cease to exist due to the conditional language in the bill.

CHAIR VANCE asked Ms. Marx to speak to the vote thresholds required to surpass a statutory spending limit and a constitutional spending limit.

[2:18:54 PM](#)

MARIE MARX, Attorney, Legislative Legal Services, LAA, clarified that the legislature could not exceed the constitutional limit, as the state constitution was binding on all the people of Alaska, including the legislature.

CHAIR VANCE inquired about the repercussions for exceeding the constitutional limit.

MS. MARX speculated that the action would be subject to litigation and resolved through the courts.

CHAIR VANCE asked whether there had been instances of historical action against the legislature for similar scenarios.

MS. MARX did not know that answer with regard to the appropriation limit. She referenced the 2020 lawsuit pertaining to the RPL process [Eric Forrer v. State of Alaska], in which a citizen asserted that using RPLs to allocate certain federal funds was unconstitutional and could only be done with an act of the legislature. She added that there were other recent instances, in addition to the aforementioned case, of citizens suing the legislature for unconstitutional actions.

[2:21:53 PM](#)

REPRESENTATIVE CARPENTER asked how the courts had responded in the past to the violation of an appropriation statute.

MS. MARX stated that the statutory limit was not binding in regard to legislative spending. She stressed that, per the state constitution, the legislature had the absolute power of appropriation, which could not be limited by statutory authority. She reiterated that constitutionally, the legislature was not bound by statutory appropriation limits.

REPRESENTATIVE CARPENTER inferred that the courts would likely rule in the legislature's favor if a citizen were to sue the state for violating the statutory appropriation limit.

[2:24:21 PM](#)

REPRESENTATIVE EASTMAN inquired about the two-thirds vote that Mr. Aoto had referenced earlier. He questioned the mechanism by which the legislature could violate statute with a two-thirds vote.

MR. AOTO stated that he had misspoken.

[2:24:49 PM](#)

REPRESENTATIVE GROH pointed out that there is a provision in HJR 2 that allows for an affirmative vote of two-thirds of each legislative body to appropriate an additional amount for capitol improvements. He asked whether that had been the point of confusion.

MR. AOTO remarked, "In all honesty, the entire line of questioning was very confusing."

[2:25:37 PM](#)

REPRESENTATIVE EASTMAN shared his understanding that unless the legislature could come up with an affirmative two-thirds vote of both bodies to pass a constitutional amendment, any spending limit would not be enforced by the courts against the legislature. Effectively, the legislature could spend as much as it wanted, he surmised. He asked whether that was correct.

REPRESENTATIVE STAPP remarked, "All the more reason to have a constitutional spending limit to have some sort of restraint on individuals."

MR. AOTO confirmed that Representative Eastman's summation was accurate. He pointed out that the legislature had breached the existing statutory spending limit several times in recent years; however, the current constitutional limit had not been surpassed.

REPRESENTATIVE EASTMAN pointed out that it would be extremely difficult to breach the existing constitutional spending limit.

2:27:23 PM

CHAIR VANCE opened public testimony on HB 38; after ascertaining that no one wished to testify online or in person, she closed public testimony. She announced that HB 38 and HJR 2 would be held over.

2:28:38 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:28 p.m.