

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 16, 2002
8:03 a.m.

MEMBERS PRESENT

Representative John Coghill, Chair
Representative Jeannette James
Representative Hugh Fate
Representative Gary Stevens
Representative Peggy Wilson
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Air National Guard (ANG) Brigadier General

Colonel Gene Ramsay - Kulis ANG Base

- CONFIRMATION ADVANCED

Space and Missile Defense Brigadier General

Colonel James Welch - Anchorage

- CONFIRMATION ADVANCED

HOUSE BILL NO. 458

"An Act relating to periods of probation for state employees; and providing for an effective date."

- MOVED HB 458 OUT OF COMMITTEE

HOUSE BILL NO. 370

"An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."

- MOVED HB 370 OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 37

Proposing an amendment to the Constitution of the State of Alaska relating to officers and employees of the executive branch.

- MOVED SJR 37 OUT OF COMMITTEE

HOUSE BILL NO. 364

"An Act relating to capital projects for deferred maintenance, replacement, modification, and expansion of state facilities; relating to leases to secure financing for those projects; relating to the issuance of certificates of participation to finance those projects for certain capital facilities owned by the state; giving notice of and approving the entry into, and the issuance of certificates of participation in, lease-financing agreements for those projects; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

SENATE JOINT RESOLUTION NO. 38

Proposing amendments to the Constitution of the State of Alaska relating to information regarding proposed expenditures.

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 458

SHORT TITLE: STATE EMPLOYEE PROBATIONARY PERIOD

SPONSOR(S): REPRESENTATIVE(S) HUDSON

Jrn-Date	Jrn-Page		Action
02/19/02	2311	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2311	(H)	STA
04/11/02		(H)	STA AT 8:00 AM CAPITOL 102
04/11/02		(H)	Heard & Held
04/11/02		(H)	MINUTE(STA)
04/16/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 370

SHORT TITLE: GUARANTEED REVENUE BONDS FOR VETERANS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/01/02	2117	(H)	READ THE FIRST TIME - REFERRALS
02/01/02	2117	(H)	MLV, STA, FIN
02/01/02	2117	(H)	FN1: ZERO(REV)
02/01/02	2117	(H)	FN2: (GOV)
02/01/02	2117	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/19/02		(H)	MLV AT 3:00 PM CAPITOL 124
02/19/02		(H)	Moved Out of Committee
02/19/02		(H)	MINUTE(MLV)
02/20/02	2337	(H)	MLV RPT 4DP
02/20/02	2337	(H)	DP: GREEN, MURKOWSKI, HAYES, CHENAULT
02/20/02	2337	(H)	FN1: ZERO(REV)
02/20/02	2337	(H)	FN2: (GOV)
04/16/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: SJR 37

SHORT TITLE:CONST AM: HIRING FREEZE
SPONSOR(S): SENATOR(S) KELLY

Jrn-Date	Jrn-Page		Action
02/19/02	2226	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2226	(S)	STA, JUD, FIN
02/26/02		(S)	STA AT 3:30 PM BELTZ 211
02/26/02		(S)	Moved SJR 37 Out of Committee MINUTE(STA)
02/27/02	2318	(S)	STA RPT 3DP 1NR
02/27/02	2318	(S)	DP: THERRIAULT, PHILLIPS, HALFORD;
02/27/02	2318	(S)	NR: STEVENS
02/27/02	2318	(S)	FN1: (GOV)
03/18/02		(S)	JUD AT 1:30 PM BELTZ 211
03/18/02		(S)	Moved Out of Committee
03/18/02		(S)	MINUTE(JUD)
03/20/02	2472	(S)	JUD RPT 3DP 1DNP
03/20/02	2472	(S)	DP: TAYLOR, COWDERY, THERRIAULT;
03/20/02	2472	(S)	DNP: ELLIS
03/20/02	2472	(S)	FN1: (GOV)
03/22/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/22/02		(S)	Moved Out of Committee
03/22/02		(S)	MINUTE(FIN)
03/22/02	2496	(S)	FIN RPT 6DP 3NR
03/22/02	2496	(S)	DP: DONLEY, KELLY, GREEN,

03/22/02	2496	(S)	WILKEN, WARD, LEMAN; NR: AUSTERMAN, HOFFMAN, OLSON
03/22/02	2496	(S)	FN1: (GOV)
03/26/02		(S)	RLS AT 11:00 AM FAHRENKAMP 203
03/26/02		(S)	MINUTE(RLS)
03/28/02	2559	(S)	ADVANCED TO THIRD READING FLD Y14 N3 E3
03/28/02	2556	(S)	RULES TO CALENDAR 10R 3/28/02
03/28/02	2558	(S)	READ THE SECOND TIME
03/28/02	2559	(S)	ADVANCED TO THIRD READING 4/2 CALENDAR
04/02/02	2591	(S)	READ THE THIRD TIME SJR 37
04/02/02	2592	(S)	HELD IN THIRD READING TO 4/8 CALENDAR
04/08/02	2663	(S)	BEFORE THE SENATE IN THIRD READING
04/08/02	2663	(S)	PASSED Y14 N5 E1
04/08/02	2663	(S)	ELTON NOTICE OF RECONSIDERATION
04/09/02	2691	(S)	RECONSIDERATION NOT TAKEN UP
04/09/02	2692	(S)	TRANSMITTED TO (H)
04/09/02	2692	(S)	VERSION: SJR 37
04/10/02	2861	(H)	READ THE FIRST TIME - REFERRALS
04/10/02	2861	(H)	STA, JUD, FIN
04/16/02		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

GENE RAMSAY, Colonel, Appointee
as Brigadier General
Alaska Air National Guard
(No address provided)
Kulis Air National Guard Base
Anchorage, Alaska

POSITION STATEMENT: As appointee to the position of Brigadier General in the Alaska Air National Guard, provided background and answered questions.

JAMES WELCH, Colonel, Appointee
as Brigadier General
Space and Missile Defense
(No address provided)

POSITION STATEMENT: As appointee to the position of Brigadier General for Space and Missile Defense, provided background and answered questions.

MELANIE LESH, Staff
to Representative Bill Hudson
Alaska State Legislature
Capitol Building, Room 502
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions on HB 458 on behalf of the sponsor.

JOHN BITNEY, Legislative Liaison
Alaska Housing Finance Corporation
Department of Revenue
PO Box 101020
Anchorage, Alaska 99510-1020

POSITION STATEMENT: Explained HB 370 and answered questions.

SENATOR PETE KELLY
Capitol Building, Room 518
Juneau, Alaska 99801

POSITION STATEMENT: Presented SJR 37 as sponsor.

JACK KREINHEDER, Chief Analyst
Office of the Director
Office of Management & Budget
Office of the Governor
PO Box 110020
Juneau, Alaska 99811-0001

POSITION STATEMENT: Testified and answered questions on SJR 37.

ACTION NARRATIVE

TAPE 02-41, SIDE A
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:03 a.m. Representatives Coghill, James, Fate, Stevens, Wilson, and Crawford were present at the call to order. Representative Hayes arrived as the meeting was in progress.

CONFIRMATION HEARINGS

Alaska Air National Guard (ANG) Brigadier General

CHAIR COGHILL announced the first order of business would be the confirmation hearing for the appointee as the Alaska Air National Guard Brigadier General. He invited Colonel Ramsay to provide opening remarks and answer members' questions.

Number 0160

GENE RAMSAY, Colonel, Appointee as Brigadier General, Alaska Air National Guard, testified via teleconference. He explained that he will be next commander of the 176th Wing at Kulis Air National Guard Base. It is the larger of the two wings in the Alaska Air National Guard. The nation has turned to the guard and reserve to fill a void. The rescue folks just spent four months in Kuwait, and at the same time, a service is provided in Alaska with the airlift in search and rescue. He noted that the missions of the airlift squadron and the search and rescue are well tailored to the needs of the state.

COLONEL RAMSAY said his biggest task will be to figure out how much is enough. Many guard members have been called to active duty due to the national emergency, and employers are starting to feel the pinch.

CHAIR COGHILL asked Colonel Ramsay to give an overview of the different squadrons in that wing.

Number 0389

COLONEL RAMSAY explained that the core of business of the wing is the "airlift" and "rescue." The 144th [Tactical] Airlift Squadron has eight new C-130s and is the traditional guard squadron. It is manned with 80 percent of traditional guard members and 20 percent full-time guard members. The 210th [Air] Rescue [Squadron], the other half of the core of business, is more of an active duty squadron. It has about 80 percent full-time guard members and about 20 percent part-time guard members. It has an alert mission and is on alert 24 hours per day, 7 days per week, and that can only be done with full-time people. There are several large aircraft maintenance squadrons. There is a medical squadron that runs a clinic; a civil engineering squadron that fixes buildings on the base, deploys, does the rapid runway repair, and builds tent cities; a personnel unit that takes care of records and orders; and a communications squadron that takes care of all the computers, radios, and phones. He commented that he'd probably left something out, but basically it is a miniature air force base. There are about 1,200 people on a base of 128 acres. The 176th Wing does just

about everything an air force base would do, except it doesn't have any nuclear weapons.

Number 0545

COLONEL RAMSAY reported that the rescue squadron has four HC-130s and six HH-60 rescue helicopters. He calculated the replacement value would be close to half a billion dollars if everything were bought new today. He noted that the rescue squadron also has an enviable safety record. The last accident was in 1965, and over 150,000 hours have been flown in 35 years without a mishap.

CHAIR COGHILL asked the committee if there was any objection to forwarding this confirmation to the [joint session of the House and Senate]. There being no objection, the confirmation for Colonel Ramsay was advanced.

Space and Missile Defense Brigadier General

CHAIR COGHILL announced the next order of business would be the confirmation hearing for the appointee as the Space and Missile Defense Brigadier General. He invited Colonel Welch to provide opening remarks and answer members' questions.

Number 0702

JAMES WELCH, Colonel, Appointee as Brigadier General, Space and Missile Defense, testified via teleconference. He told the committee that he spent 10.5 years in Alaska from 1988 to 1998 working for BP [British Petroleum]. At that time he was a colonel in the Army National Guard. He later took a position in Colombia and Bolivia with BP. He moved back to Alaska when he was appointed to this position. He is a manager for BP and runs the optimization and well entries part of the field at Milne Point Unit.

COLONEL WELCH noted that this is a new position with space and missile defense, so he won't be replacing anyone. His goal is to get the military ready in the event of a deployment in three or four years. There will be some work with the national guard bureau, the army space command, and the national missile defense to make sure there are the right skills in the military sector in order to operate. In the nearer term he would like to get a piece of the "test bed business" for the army national guard. That will involve working with the same group of people and with the state and federal legislators and other stakeholders such as

Boeing, and the U.S. Army Corps of Engineers. He said he sees his role as a high-level interface as a traditional guardsman. He'll travel down to NORAD [North American Aerospace Defense Command] to try to carve out a piece for the Alaska guard in this test pad and get ready for the long-term deployment in the event that the President orders that.

COLONEL WELCH noted that this is an important project for the state of Alaska. This threat is not going to go away, the threat will mature in different theaters in the world, and Alaska is going to have to be ready and is uniquely geographically positioned to do that. Two good resources are in Alaska to help the space and missile defense community: the computer center at the University of Alaska and the Kodiak Launch Complex.

CHAIR COGHILL asked Colonel Welch if he would be working in the policy area or facilities development.

COLONEL WELCH answered he probably would be doing more in the policy areas. He also mention that the U.S. Army Corps of Engineers, under the space and missile command, is in the process of building a test bed. He said he sees his role as fairly representing Alaskan workers and Alaskan contractors in these opportunities. He offered to update the legislature on the dynamic area of space and missile defense anytime.

Number 1272

CHAIR COGHILL asked the committee if there was any objection to forwarding this confirmation to the [joint session of the House and Senate]. There being no objection, the confirmation for Colonel Welch was advanced.

HB 458 - STATE EMPLOYEE PROBATIONARY PERIOD

Number 1340

CHAIR COGHILL announced that the next order of business would be HOUSE BILL NO. 458, "An Act relating to periods of probation for state employees; and providing for an effective date."

MELANIE LESH, Staff to Representative Bill Hudson, Alaska State Legislature, referred to a letter from the Department of Administration. She said that she thought the letter answered questions Representative James had at the last hearing on HB 458.

Number 1390

REPRESENTATIVE JAMES agreed that her questions had been answered.

Number 1407

REPRESENTATIVE FATE moved to report HB 458 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 458 was reported out of the House State Affairs Standing Committee.

HB 370 - GUARANTEED REVENUE BONDS FOR VETERANS

CHAIR COGHILL announced that the next order of business would be HOUSE BILL NO. 370, "An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."

Number 1470

JOHN BITNEY, Legislative Liaison, Alaska Housing Finance Corporation (AHFC), Department of Revenue, explained that HB 370 is an authorization to ask voters this fall to approve \$500 million in state-guaranteed mortgage revenue bonds that AHFC would issue out over time to provide the funds necessary to continue the veterans mortgage revenue. The state got involved in this program around 1980 when Congress opened up a provision in the U.S. tax code for states to provide a tax-free mortgage program to qualified veterans. Shortly thereafter, Congress closed the window for states to get in on the program. Alaska was one of five states that had gone ahead and gotten started. Essentially, Alaska has been grandfathered in.

Number 1556

MR. BITNEY told the members that in order for these bonds to be tax-exempt under the U.S. Code, the state issuing the bonds has to unconditionally guarantee the bonds, and in Alaska that requires voter approval. Unlike any other mortgage program AHFC has, this one has to have voter approval. These bonds are structured so that the mortgages that they're purchasing are the assets that back them. This is no way uses up any of the state's general obligation bond capacity. That is separate.

Number 1624

MR. BITNEY reported that this is the fifth time this question has been put out on the ballot, and the last time was in 1986. He noted that these questions have been strongly approved by the voters at 60 percent or better. Information would be gotten out to the voters if this were put out for a vote, he said. The program is offered and available to qualified veterans who were in active-duty service prior to January 1, 1977, and have not been discharged more than 30 years prior to the date of the loan application, so there is a diminishing pool of qualified veterans. Right now there are about 400 loans per year, \$70 million in volume. He said that this would probably be the last time this is done, unless Congress extended the benefit.

Number 1775

MR. BITNEY explained that the AHFC would not just go out and issue \$500 million in one sale; it would be broken up into pieces over time as the demand for loans comes in each year. Two weeks ago the AHFC finished a sale on a \$50 million financing for loans. There's about \$47 million in capacity left from the last voter authorization in 1986. He told the members that the AHFC will be out of authorization from that last vote easily by the end of this year.

Number 1828

REPRESENTATIVE WILSON asked what the average amount of loan is.

MR. BITNEY answered that in FY [fiscal year] 01, there were 411 loans; the average sale price was \$188,000; the average loan amount on that was \$169,000. The average loan-to-value ratio was about 91 percent, and a 5 percent down is required. The AHFC will go to 100 percent loan-to-value if there is "a VA" [Veterans Administration] coupled with the loan. The average age of the borrower was 50 years old, with a household size of two, and an average payment of \$1,000 per month.

Number 1897

REPRESENTATIVE CRAWFORD asked if \$500 million was the size of the obligation done in the past.

MR. BITNEY answered in 1986 it was \$600 million. The total is almost \$2.2 billion.

REPRESENTATIVE WILSON asked for more details on the rules of the loans.

MR. BITNEY answered that there are no income restrictions and no acquisition restrictions on this tax-exempt program that are in other tax-exempt programs. Someone can only own one home under the program. It is for an owner-occupied, single-family residence or condominium up to a four-plex, or a type-1 mobile home.

Number 2125

REPRESENTATIVE HAYES moved to report HB 370 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 370 was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from 8:34 a.m. to 8:35 a.m.

SJR 37 - CONST AM: HIRING FREEZE

[Contains discussion of SCR 29]

CHAIR COGHILL announced that the next order of business would be SENATE JOINT RESOLUTION NO. 37, Proposing an amendment to the Constitution of the State of Alaska relating to officers and employees of the executive branch.

Number 2166

SENATOR PETE KELLY, Alaska State Legislature, sponsor, presented SJR 37. He explained that the Alaska constitution specifies duties of the executive branch and the legislature, but on some [duties] it is fairly vague. In the past there has always been a challenge between the two branches of government. He referred to the other resolution asking the governor to institute a hiring freeze [SCR 29]. He recognized that there are some fiscal problems with the state, and that there might be some disagreement in this building as to how serious or how eminent they are. This resolution is asking the governor to take some active management steps. Any governor can say no to just about anything the legislature asks when it comes to the day-to-day management of the executive branch. He indicated that that is why there needs to be a hiring-freeze resolution in the constitution to give the legislature the authority to say:

Look, we've got some problems. If you won't do it [on] your own, we, the people's branch, want to enact

this form of fairly simple management, which is if you've got hundreds of millions of dollars' deficit, one of the first things you probably ought to do is look at reducing or freezing hiring, which this governor has not done.

SENATOR KELLY said that the authority to do that is in SJR 37.

Number 2274

REPRESENTATIVE JAMES said she struggles on this issue and wondered why this resolution would be necessary, since the legislature already has the power of the purse.

SENATOR KELLY replied that the hiring freeze is a more specific management tool than just adding or subtracting from the budget. The legislature could reduce the budget, but it wouldn't stop the governor from hiring more people and reducing services, which has happened.

Number 2375

REPRESENTATIVE JAMES said this seems to be a management decision, and it seems to her that the constitution delineates the management to be the administration. She asked for the rationale for this.

SENATOR KELLY answered that the constitution either allows for something or it doesn't, and that's why the constitution has to be changed to cross those separation-of-power lines. He said he doesn't believe in crossing the lines of separation of power unless it is allowed for in the constitution.

SENATOR KELLY explained that if some executive goes on a hiring binge when budgets are cut or oil revenues drop, those people hired are susceptible to layoffs. He said he likes the idea of a hiring freeze because it protects people from layoffs. If, during a financial drought, things are managed through available options, the positions that currently exist can be protected. He said that one of the reasons he wants to do this is to protect the people who are employed already.

Number 2594

REPRESENTATIVE HAYES asked who would be responsible for the hiring freeze during the interim when the legislators were working at their private-sector jobs. He is concerned that the

staff, who are not elected officials, will ultimately have more power, without the technical expertise, to do the day-to-day functions of deciding when a hiring freeze should be done.

SENATOR KELLY replied that that would be a future question should the legislature ever decide to enact a hiring freeze. There won't be specific answers to those questions in the constitutional authority to enact a hiring freeze. He explained that years from now, there would be a resolution that would itemize those concerns, saying this is how it will be done.

REPRESENTATIVE HAYES asked if any other states or companies are set up in the country whereby the board of directors has the authority over the CEO [chief executive officer] to direct management decisions.

SENATOR KELLY replied that any company can have that authority over the CEO. One difference between the private sector and the government is that the legislature can't fire the governor.

REPRESENTATIVE HAYES asked Senator Kelly if he thought this resolution was the first step in the fiscal problems or if a long-range fiscal plan should be looked at first. He said he is not sure this tool addresses the fundamental problem.

Number 2793

SENATOR KELLY agreed that this is not going to cure the budget problems, but it is a piece of the puzzle, just like a constitutional spending limit is a piece of the puzzle; it's not going to cure the problem. There are a lot of things that can address the long-term financial problems. Any one of them is not the answer.

Number 2833

REPRESENTATIVE HAYES referred to a bill passed in the House whereby the governor's staff would prioritize the most important things in the budget and then the legislature would prioritize it. He commented that it seemed as though there are safeguards in statute that this constitutional amendment is trying to address. He wondered why there needs to be a constitutional amendment when some of these issues can be done with statutory authority.

SENATOR KELLY said that the problem with the bill that the House passed is why this constitutional amendment needs to be passed.

The legislature does not have the authority to require the executive branch to enact a hiring freeze without a constitutional amendment; it doesn't have the authority to ask the executive branch to prioritize the budget without constitutional authority. Prioritization of the budget is not a hiring freeze. That's why it's needed, he explained.

Number 2918

REPRESENTATIVE WILSON asked what would happen during a hiring freeze if an upper management position was vacant and no one under that position was qualified to step into that position.

SENATOR KELLY said that would be another thing that would be handled in the future, should the legislature decide to enact a hiring freeze; some of those considerations could be made in the resolution at the time. He noted that those are the kind of detailed decisions that the executive would be expected to make.

TAPE 02-41, SIDE B

Number 2968

REPRESENTATIVE STEVENS commented that SJR 37 seemed like a tool that may be needed at some point. He said that Alaska has an unusual constitution because its governor has more power compared with other states' governors. He wondered if there are other states where the legislature can initiate a hiring freeze. He said he doesn't think this really takes power away from the governor because he can still have a hiring freeze; it just gives more oversight to the legislature.

Number 2888

SENATOR KELLY said he hadn't seen anything like this in other states. They haven't seen the need to do this yet. He applauded the people who have been trying to work on a long-range fiscal plan, but said he thinks that the rules were changed since the statehood compact was written. He explained that Alaska was an unusual circumstance. Alaska was a resource state; it had a higher level of revenue that was supposed to come to it because Alaska would never have a population base to tax itself for the services. He commented that then the environmentalists happened. Right now Alaska should have been receiving the revenues from ANWR [Arctic National Wildlife Refuge] from ten years ago. A fundamental piece of the economic puzzle did not get put in place ten years ago as it was supposed to; now Alaska is suffering the consequences. He said he

thought that the revenue gap was made worse by the governor who, in the face of that revenue gap, continued to add hundreds of millions of dollars almost every year to almost every budget, increased employees, and acted as if the problem didn't exist at all.

SENATOR KELLY reiterated that this resolution won't affect the current governor, but wondered what would happen if in the future the governor will not manage the problem. He said he believes that the legislature has to have the authority to take action if a governor won't. The constitution gave the governor a lot of power and a lot of protection. In the founding documents, the fear wasn't that the people would be the problem; they [the crafters of the documents] were more afraid of a very powerful executive, so they took action to building fences around the executive, not around the people's branch of government. It probably isn't bad to put a bit of a fence around the executive branch in Alaska, particularly given the uniqueness of its financial situation, he commented.

Number 2697

REPRESENTATIVE FATE expressed concern about this resolution's being a problem with the federal constitution and asked Senator Kelly if "Legal" [Legal and Research Services Division] had examined that issue.

SENATOR KELLY answered that he doesn't have it from Legal that it is unconstitutional. He agreed that it is possible, but it is healthy for states to be probing those areas of the federal constitution as they relate to the states to see what power states have. The federal constitution is one of the bedrocks of states rights. It is possible that this won't fit under the federal constitution, but it's worth trying, he commented.

Number 2599

REPRESENTATIVE JAMES noted that she struggles with this issue. She said in her ten years in the legislature she has watched the legislature in action on management issues; she finds a true lack of understanding of the true management of issues. She said she would hate to put this in the constitution so that it would allow a future legislature to actually shut things down, and she said she thinks that could happen. She expressed concern about the economic activities over the last few years and said she sees a definite chilling of any opportunities for Alaska to do anything. She commented that she isn't sure that

this is the methodology to get where she believes Alaska needs to go. It is a serious issue. She noted that she is not convinced that the total dollars being spent are needed, but she can't put her fingers on where the changes need to be made because she's not in that position. She fears some retribution on issues, she said.

Number 2447

REPRESENTATIVE CRAWFORD said he wasn't convinced that this is the tool needed. It seems to him that the people in the constitutional convention had a good idea about the separation of powers. He said he believes that the state government has worked well so far. An across-the-board hiring freeze has a tendency to affect one department over another, he noted. The legislature has the power to not fund a department now, but when there is a hiring freeze, for example, the DFYS [Division of Family & Youth Services], which has a high rate of turnover, would lose all its employees over about three years. He said he thinks it is a "meat ax" approach. If departments aren't doing their jobs, then the legislature shouldn't fund them.

REPRESENTATIVE HAYES agreed that the Republican majority in the legislature has done a good job of controlling costs in the state. It seems as if the legislative branch has done its job in conjunction with the governor. The increases in the budget come from federal dollars and the permanent fund. He said he's not sure what this tool accomplishes.

REPRESENTATIVE STEVENS commented that this says the public will have a chance to decide.

Number 1996

JACK KREINHEDER, Chief Analyst, Office of the Director, Office of Management & Budget, Office of the Governor, explained that the other resolution by Senator Kelly, SCR 29, is an appropriate vehicle for expressing the legislature's desires, and the administration doesn't have a problem with that type of resolution. He said the administration takes this resolution much more seriously because it is a change in the balance of power. He said he has a lot of respect for the drafters of the constitution.

MR. KREINHEDER commented that the main issue here is the question, "Does this rise to a level of a constitutional amendment?" He encouraged the committee to imagine the

constitutional drafters debating this issue: "Shall we give the legislature the authority to order the governor to do a hiring freeze?" He thinks if the members look at it that way, it is certainly not something they would have considered adding to the constitution back at that time, and in the administration's view, is not appropriate now.

MR. KREINHEDER agreed that there is a potential legal issue. The Department of Law has said that there is national case law in other states that a significant change in the balance of power between the legislature and the executive branch or the court system cannot be done by a constitutional amendment. It has to be through a revision to the constitution, which would have to be done in a constitutional convention rather than through an amendment placed on the ballot. Whether this rises to that level of a "significant change" is an open debate.

Number 1810

MR. KREINHEDER referred to a case in an Eastern state where a constitutional amendment was overturned because the court determined it had to be done through a revision and not a constitutional amendment.

MR. KREINHEDER said even if this passed, he thinks it would be difficult to enforce. There would have to be some kind of review and exemption process.

Number 1691

REPRESENTATIVE HAYES asked how much a lawsuit would cost if there were one on this issue.

MR. KREINHEDER replied he was reluctant to hazard a guess but could look into that.

Number 1621

REPRESENTATIVE JAMES indicated that she tended to agree with the unconstitutionality. Crossing the line and making a constitutional amendment between the legislature and executive branch certainly is the people's decision to make. For the legislature to let the people decide, it would only have the opportunity to put it on [the ballot] as a constitutional amendment. She said that somehow she feels going to court to get a decision is something that is done all the time. She said

she would be more enthusiastic about this issue just to get the answer, whether or not it is the proper thing to do.

MR. KREINHEDER said that the idea of passing a constitutional amendment to resolve a question in court doesn't resolve the issue of whether a hiring freeze rises to the level of a constitutional amendment.

MR. KREINHEDER wondered, if there were a Republican governor in office, whether this amendment would even be looked at. The Alaska constitution is going to be in place for hundreds and hopefully thousands of years, and he said, people need to be careful about "cluttering up the constitution" with things that are based a fairly temporary circumstances of who is governor and who is in the legislature. The constitution should be something that guides the state for a long time.

Number 1373

CHAIR COGHILL said he agreed that they want to be careful with the structure of government. But there have been many key decisions handed into the hands of several governors that have significantly changed the State of Alaska without any "purview." The balance of power is certainly going to be a continuing discussion, and has been from the statehood compact until now. He said he personally feels that this is a worthwhile discussion because even though there are management issues to be resolved, certainly they have to work hand in hand. Even the power of the purse is somewhat limited because of the size of the executive branch.

Number 1238

REPRESENTATIVE JAMES agreed that this debate is always going to be there. If there's a problem in the executive branch, the general public thinks the legislature can fix it. And that's not always the case, and not always should be the case, because there is the separation of powers. This is going to take a lot of thought on the part of the legislature.

Number 1140

REPRESENTATIVE WILSON expressed concerns about the overall ramifications but said she is willing to move the bill on to the House Judiciary Standing Committee.

Number 0961

REPRESENTATIVE HAYES reiterated his earlier concerns. He said the real crux of the issue is how the state should produce new revenue.

CHAIR COGHILL said that asking the people for a shift in authority is not inappropriate. He also agreed that SJR 37 is not a panacea; it is a tool.

Number 0512

REPRESENTATIVE CRAWFORD said he believes that this hiring freeze is a "smoke screen sort of issue" that keeps the legislature from getting to the most pressing issue: "We don't pay for government; we've had a free ride for 20 years, and it's time that the people of this state step up to the plate and share responsibility for the state government."

Number 0395

REPRESENTATIVE STEVENS moved to report SJR 37 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SJR 37 was reported out of the House State Affairs Standing Committee.

ADJOURNMENT

The meeting of the House State Affairs Standing Committee was recessed at 9:38 a.m. to Thursday, April 18, 2002.