

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

April 11, 2005

8:42 A.M.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Paul Seaton
Representative Peggy Wilson
Representative Carl Moses
Representative Ralph Samuels

MEMBERS ABSENT

Representative Norman Rokeberg
Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 235

"An Act excepting from the Alaska Net Income Tax Act the federal deduction regarding income attributable to certain domestic production activities; and providing for an effective date."

- MOVED CSHB 235(W&M) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 12

Proposing amendments to the Constitution of the State of Alaska relating to the repeal of the budget reserve fund.

- MOVED CSHJR 12(W&M) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 235

SHORT TITLE: DECOUPLING FROM FED TAX DEDUCTION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/29/05	(H)	READ THE FIRST TIME - REFERRALS
03/29/05	(H)	W&M, FIN
04/08/05	(H)	W&M AT 8:30 AM CAPITOL 106
04/08/05	(H)	Heard & Held
04/08/05	(H)	MINUTE(W&M)
04/11/05	(H)	W&M AT 8:30 AM CAPITOL 106

BILL: HJR 12

SHORT TITLE: CONST. AM: BUDGET RESERVE FUND REPEAL
SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/18/05	(H)	READ THE FIRST TIME - REFERRALS
02/18/05	(H)	W&M, STA, JUD, FIN
04/01/05	(H)	W&M AT 8:30 AM CAPITOL 106
04/01/05	(H)	Heard & Held
04/01/05	(H)	MINUTE(W&M)
04/08/05	(H)	W&M AT 8:30 AM CAPITOL 106
04/08/05	(H)	Heard & Held
04/08/05	(H)	MINUTE(W&M)
04/11/05	(H)	W&M AT 8:30 AM CAPITOL 106

WITNESS REGISTER

TOM WILLIAMS, Chair of Tax Committee
Alaska Oil and Gas Association
Anchorage, Alaska
POSITION STATEMENT: Offered information on HB 235.

CHUCK HARLAMERT, Juneau Section Chief
Tax Division
Department of Revenue
Juneau, Alaska
POSITION STATEMENT: Offered information on HB 235.

STEVEN B. PORTER, Deputy Commissioner
Tax Division
Department of Revenue
Juneau, Alaska
POSITION STATEMENT: Offered information on HB 235.

TOM WRIGHT, Staff to Representative John Harris
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Offered information on HJR 12.

ACTION NARRATIVE

CHAIR BRUCE WEYHRAUCH called the House Special Committee on Ways and Means meeting, previously recessed on April 8, 2005, back to order at [8:42:14 AM](#). Representatives Weyhrauch, Seaton, Wilson, and Moses were present at the call to order.

HB 235-DECOUPLING FROM FED TAX DEDUCTION

[8:42:36 AM](#)

CHAIR WEYHRAUCH announced that the first order of business would be HOUSE BILL NO. 235 "An Act excepting from the Alaska Net Income Tax Act the federal deduction regarding income attributable to certain domestic production activities; and providing for an effective date." [Before the committee, was CSHB 235, Version 24-GH1137\F, Kurtz, 4/7/05.]

[8:44:19 AM](#)

TOM WILLIAMS, Chair of Tax Committee, Alaska Oil and Gas Association (AOGA), informed the committee that he is also Alaska tax counsel for BP Exploration (Alaska) Inc. He recalled that at the last hearing there were a number of questions that [AOGA] didn't have a chance to answer, which he would like to address today. He then turned to the U.S. Supreme court case, Kraft General Foods, Inc. v. Iowa Department of Revenue and Finance, which was mentioned at the prior hearing. He said that the case is not applicable to Alaska because Iowa adopted parts of the federal system for the treatment of foreign and domestic dividends for tax purposes. Iowa chose the parts that would help the state and decoupled from what it saw as having a negative revenue impact. As a result, Iowa established a system that only taxed foreign earnings paid as dividends from foreign subsidiaries; domestic earnings whether from foreign or domestic subsidiaries weren't taxed. The aforementioned is what the U.S. Supreme Court said constituted the discrimination against foreign commerce.

[8:45:57 AM](#)

CHAIR WEYHRAUCH asked, for clarification purposes, if the aforementioned case was because Iowa was "tinkering" with the federal code.

MR. WILLIAMS replied that Iowa was tinkering with the federal code in the sense that it decided which portions to use for "Iowa purposes." Iowa adopted particular federal code income sections, but didn't adopt the tax credit provision. Mr. Williams opined that there is no state action to be done, the federal law went into effect January 1, 2005. "There is nothing that happened other than January 1st arrived," he said. There is no state action to say Alaska is discriminating. More importantly, if Alaska were to follow the status quo, it would adopt the entire federal code with regard to the qualified production activity income (QPAI). Mr. Williams emphasized that the federal code has already been adopted in its entirety. He

added that in the Iowa case, foreign commerce was involved. Foreign commerce includes an extra dimension in that there are issues that can impact the nation. Therefore, from the federal constitutional perspective it's important not to let states interfere with foreign policy decisions because it could have devastating implications abroad and domestically. In regards to why one would object to legislation that would return the state to where it would be had Congress not acted, Congress did act and Alaska adopted it.

MR. WILLIAMS then highlighted that earlier in 2005, the Department of Revenue (DOR) made an administrative tax change to the [economic limit factor (ELF)] that resulted in \$150 million [loss] annually. Therefore, he characterized an additional \$30 million as "piling on," especially in a time of surplus. He acknowledged that the state never has enough money to cover every agenda. He stated this legislation is unnecessary and could have unintended consequences similar to those [discovered with the ELF tax change], including the deferment of projects. Mr. Williams pointed out that \$50 oil is \$50 oil no matter the location, [a difference] is that Alaska has higher costs than anywhere else. Therefore, Alaska must recognize its strengths, one of which is a "stable and predictable tax regime."

[8:53:11 AM](#)

REPRESENTATIVE SEATON asked, for clarification purposes, if Mr. Williams's testimony was implicating that Alaska needs to couple with the federal tax code because decoupling would be detrimental to Alaska.

MR. WILLIAMS said there are many strengths with staying coupled with the Alaska system, such as ease of administration for the DOR. Similarly, the industry's perspective is Alaska should follow the federal definition of taxable income because it doesn't require additional modifications of tax calculation purposes in Alaska. He added that coupling is efficient for taxpayers and industry. He noted that not every thing the federal government does is a tax break for the oil and gas industry.

[8:55:51 AM](#)

REPRESENTATIVE SEATON opined the legislature either automatically couples which offers security or decouples when it's appropriate, and "one or the other needs to float."

MR. WILLIAMS said the legislature makes that decision about whether to decouple from a specific provision. He alluded to the idea that tax laws have become increasingly complicated and therefore allowing the federal government to do the "heavy lifting and the enforcement tax laws" is wise.

[8:58:01 AM](#)

MR. WILLIAMS, in response to Chair Weyhrauch, said Congress doesn't have the power to tell states how to define income.

[8:59:34 AM](#)

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Department of Revenue, referred to the Kraft decision and the implication that because Alaska took no action the discrimination was somehow permissible. However, [a provision] is or is not permissible per the constitution. Mr. Harlamert recalled testimony from the prior hearing that implied that because Alaska treats credits a bit differently, Alaska has the ability to engage in this sort of discriminatory treatment of income. However, constitutional issues are a prerogative of the courts which have dealt with income and credit issues on a separate basis. Therefore, he opined that income issues are fairly "settled." He highlighted that if a state treats economic activity outside of the state or the country differently than inside and it's less favorable, than it's impermissible discrimination. In contrast, virtually every state with an income tax has credits and those credits are restricted to activity within the state. The aforementioned doesn't "square" with the aforementioned discussion regarding income because it favors in-state activity. Alaska allows credits wherever earned in the U.S. and apportions those credits to the state. Until four months ago there was no court definition that using tax credits for investment in the state violated the Commerce Clause. From a historical perspective, before and after the Kraft case DOR had regular and ongoing disputes with taxpayers regarding whether the state could incorporate the federal government's discrimination and apply it. Virtually all the taxpayers filed on the basis that the state couldn't discriminate, the state argued, and generally lost. Therefore, the department acquiesced in its regulations in 1998 such that the calculations of foreign and domestic activities outside the state were equalized to calculations of income inside the state, which has benefited every major taxpayer as well as the state because it's generated a predictable tax scheme.

9:04:53 AM

STEVEN B. PORTER, Deputy Commissioner, Department of Revenue, commented that each state has to determine whether the federal government's decisions are appropriate for the state. He related his belief that maintaining the "status quo" is appropriate and there is no need to provide the industry with an additional incentive considering the current economic environment. And maintaining the status quo does not threaten to raise the industries taxes, he added. With regard to the argument that by changing the tax status it increases the risk to the state environment, he suggested asking the [oil and gas companies] which authorization for expenditure (AFE) isn't going forward due to this small increment. Although the industry may argue that this legislation will produce an increased risk for investment, Alaska is one of the safest places when one considers the risks worldwide.

9:08:01 AM

REPRESENTATIVE SEATON asked how this legislation would effect the fishery corporations, specifically could there be a situation such that fishery companies could pay no corporate tax because of the [QPAI] generated outside of the state.

MR. HARLAMERT replied, "No, to have any benefit from this proposal or from the federal law as applied in Alaska, you would have to owe tax, ... the deduction is limited to the percentage rate times the lesser of your QPAI, or your qualified income, or your taxable income. So unless you have taxable income ... the deduction won't do you any benefit."

REPRESENTATIVE SEATON asked if the QPAI generated outside the state would impact the corporate income tax of those corporations paying tax within the state.

MR. HARLAMERT replied, "The [QPAI] could reduce their tax before credits at a maximum at 9 percent, and so they would be paying 91 percent of what they would have paid without the bill anyway. If you look at tax after credits that [amount] can increase because its 9 percent of the tax."

9:10:51 AM

CHAIR WEYHRAUCH turned to Mr. Porter's query regarding the risk environment. He related his belief that AOGA's testimony has said the cumulative effect of the legislature acting on the

administrative proposal to effect the QPAI coupled with the previous administrative decision to effect ELF, produces a potential long-term risk environment.

MR. PORTER relayed that Governor Murkowski has been clear in his statements regarding the [oil] industry. Governor Murkowski expects the state to receive its "fair share" of the revenue while supporting new development. He added that the state has "been open to, and encourages the industry" to come to the division with its economics. The industry is encouraged to bring its AFEs to the division detailing how the incremental tax on that field effects the economics of that project.

CHAIR WEYHRAUCH, upon determining no one else wished to testify, closed public testimony.

[9:14:27 AM](#)

REPRESENTATIVE SEATON [restating his motion from the prior hearing] moved to adopt CSHB 235, Version 24-GH1137\F, Kurtz, 4/7/05, as the working document. There being no objection, Version F was before the committee.

REPRESENTATIVE SEATON moved to report CSHB 235, Version 24-GH1137\F, Kurtz, 4/7/05, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 235(W&M) was reported from the House Special Committee on Ways and Means.

HJR 12-CONST. AM: BUDGET RESERVE FUND REPEAL

[9:16:11 AM](#)

CHAIR WEYHRAUCH announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 12 Proposing amendments to the Constitution of the State of Alaska relating to the repeal of the budget reserve fund. [Before the committee, adopted as a work draft was Version G, 24-LS0485\G, Cook, 4/4/05].

[9:18:41 AM](#)

CHAIR WEYHRAUCH clarified that Version G of HJR 12 is dated 4/4/05, and Version F is dated 3/8/05.

TOM WRIGHT, Staff to Representative John Harris, Alaska State Legislature, replied Version F was Representative Croft's proposal that the sponsor was taking into consideration. In

response to Chair Weyhrauch, Mr. Wright related that Representative Seaton's amendments to the resolution are congruent with the sponsor's intent, such as including the 5 percent of market value (POMV) methodology and establishing a portion of the currency going into a statutory constitutional budget reserve. He added that the aforementioned amendments may need to be drafted in statutory language through a bill.

CHAIR WEYHRAUCH noted the committee's intent to take action on the resolution today and move it to the next committee of referral for further refinement.

[9:18:59 AM](#)

MR. WRIGHT reiterated his preference for the earlier mentioned amendments to be addressed in accompanying legislation.

CHAIR WEYHRAUCH, in response to Representative Wilson, explained that Version F was an idea of "how to sculpt HJR 12" that was provided by Representative Croft. He acknowledged that as the committee reviews Version G, it may want to incorporate aspects of Version F into Version G.

The committee took an at-ease from [9:20:37 AM](#) to [9:24:41 AM](#).

[9:25:09 AM](#)

REPRESENTATIVE WILSON moved to adopt Representative Seaton's conceptual amendments labeled CSHJR12\G, Cook 4/4/05. The conceptual amendments are as follows [original punctuation provided]:

Proposed amendment # 1
Page 1 line 2
Insert after construction "permanent"

Proposed amendment # 2
Page 1 line 11
Insert before appropriated "only"

insert after appropriated
"as authorized under (b) of this section"

Proposed amendment # 3
Page 1 line 11 after fund for insert
construction and

Proposed amendment # 4
Page 1 line 12 through 15 delete
Entire sentence beginning with "MONEY MAY ...
CORPORATION.

Proposed amendment # 5
Page 1 line 16 add new section 2 and new section 3 and
renumber accordingly

***Sec. 2.** Article IX, sec. 17(b), Constitution of the
State of Alaska, is repealed and readopted to read:

(b) Appropriations from the capital project
endowment fund during a fiscal year may not
exceed five percent of the average of the fiscal
year-end market values of the fund for the first
five of the preceding six fiscal years.
Appropriations from the fund may only be made for
capital projects.

***Sec. 3.** Article IX, secs. 17(c) and 17(d),
Constitution of the State of Alaska, are repealed.

[9:25:48 AM](#)

CHAIR WEYHRAUCH related his understanding that the [five
separate] conceptual amendments establish a capital construction
permanent fund, for which the CBR would be "morphed" from a
budget reserve fund for state spending in the constitution to a
fund for capital construction and maintenance projects within
the state. Therefore, it would essentially eliminate the CBR
and establish the aforementioned account. He highlighted that
the Senate has adopted to use permanent fund earnings for
education projects, in addition Governor Murkowski has
introduced legislation to use funds from the Amerada Hess
Settlement which is within the corpus of the permanent fund. He
opined that the proposed fund could theoretically be used for
any of the aforementioned purposes. However, a gas pipeline may
not qualify as a capital construction fund because it would be,
theoretically, by private industry.

[9:27:24 AM](#)

REPRESENTATIVE WILSON asked if the [capital construction
project] could potentially be utilized in the event that the
state decides to take part ownership of the pipeline.

CHAIR WEYHRAUCH replied, "I guess it's arguable."

[9:27:43 AM](#)

CHAIR WEYHRAUCH objected to the conceptual amendments for discussion purposes.

[9:28:01 AM](#)

REPRESENTATIVE SEATON explained that the portion [of Conceptual Amendment 1] labeled as proposed amendment 1 inserts the word "permanent fund" starting on page 1, line 2, throughout the resolution in order to clarify for voters that the fund's purpose is as a "permanent capital generation source."

CHAIR WEYHRAUCH related his belief that the [capital project fund] presents a "philosophical shift" in the resolution.

[9:29:43 AM](#)

REPRESENTATIVE SEATON reiterated that proposed amendment 1 proposed a title change for identification purposes. He turned to proposed amendment 2 [as labeled on Conceptual Amendment 1] on page 1, line 11, which proposes to insert the word "only" before appropriated, which reads "the money can only be appropriated."

CHAIR WEYHRAUCH suggested that grammatical the language "money may only be appropriated" would be better.

[9:30:18 AM](#)

REPRESENTATIVE SEATON related that the aforementioned language was taken from Version F.

MR. WRIGHT, in response to Chair Weyhrauch, offered Version F page 2, line 9, reads "Appropriations from the fund may only be made for capital projects."

[9:31:16 AM](#)

REPRESENTATIVE SEATON said he would take Chair Weyhrauch's suggestion as a friendly amendment.

CHAIR WEYHRAUCH clarified then that the word "only" be inserted before "be appropriated".

[9:31:48 AM](#)

REPRESENTATIVE WILSON suggested that the change on page 1, line 2, that inserts "permanent" after the word "construction" should be done throughout the body of the resolution.

REPRESENTATIVE SEATON agreed with that suggestion, and noted that was his intention.

[9:32:22 AM](#)

CHAIR WEYHRAUCH clarified that Amendment 2 [as labeled on Conceptual Amendment 1] for page 1, line 11, inserts the word "only" before "be appropriated".

MR. WRIGHT said he is uncertain if it's necessary on page 1, line 11, to insert after appropriated "as authorized under (b) of this section," because the text is referring to its own subsection.

REPRESENTATIVE SEATON agreed that it's confusing, and suggested that perhaps the language "Article IX, sec 17(b)" could be added for clarity.

MR. WRIGHT noted the aforementioned text is found in Version F, subsection (a).

[9:34:31 AM](#)

CHAIR WEYHRAUCH opined the sentence in Version G, on page 1, lines 9-10: "Money may be appropriated only as provided under (b) of this section." should be deleted.

[9:35:11 AM](#)

REPRESENTATIVE SEATON reiterated the need to include the language "under Article IX, sec 17(b)" so that the resolution would refer to the way in which the appropriation is authorized.

[9:35:57 AM](#)

CHAIR WEYHRAUCH questioned whether Representative Seaton's suggested language is necessary.

MR. WRIGHT opined that the language "as authorized under (b) of this section." is not necessary because it's already found in subsection (b).

REPRESENTATIVE WILSON asked whether the language: "as authorized under Article IX, section 17(b) of this section" is necessary.

MR. WRIGHT related his belief that it's unnecessary.

[9:37:25 AM](#)

CHAIR WEYHRAUCH pointed out that a new section 18 [in the constitution] is being created.

REPRESENTATIVE WILSON inquired as to whether section 18 needs to refer back to section 17.

MR. WRIGHT clarified that section 17 is being repealed because a constitutional amendment cannot be amended. Therefore, the section would remain numbered accordingly.

CHAIR WEYHRAUCH asked whether the capital construction permanent fund should be section 17 or 18.

MR. WRIGHT related his belief that it should be section 18.

[9:38:35 AM](#)

CHAIR WEYHRAUCH, upon conferring with Representative Seaton, announced that the portion of the amendment on [page 1, line 11] after appropriated, that would insert "as authorized under (b) of this section." is to be deleted from the Conceptual Amendment 1. He then turned the committee's attention to proposed amendment 3 [as labeled on Conceptual Amendment 1] to page 1, line 11, which would after the word "fund", insert, "construction and maintenance."

REPRESENTATIVE SEATON explained that the change was proposed so that it's clear that the fund can be used for "construction and maintenance."

[9:39:36 AM](#)

MR. WRIGHT, in response to Chair Weyhrauch, said there is no problem with inserting "construction and maintenance."

[9:39:55 AM](#)

CHAIR WEYHRAUCH, in response to Representative Wilson, said page 1, line 11, will read, "Money may only be appropriated from the

capital construction fund for construction and maintenance of facilities."

[9:41:07 AM](#)

CHAIR WEYHRAUCH turned to amendment 4 [as labeled on Conceptual Amendment 1], page 1, line 12-15, deletes the entire sentence "Money may be appropriated from the fund for payment of the principal and interest on general and obligation or revenue bonds issues for the construction of capital projects by the State or a subdivision of the State, including a public corporation."

[9:41:42 AM](#)

REPRESENTATIVE SEATON characterized amendment 4 [as labeled on Conceptual Amendment 1] as a "policy call."

REPRESENTATIVE WILSON noted her agreement, and said that she didn't want a prior legislature to have the ability to tie-up all the funds for future legislatures.

MR. WRIGHT relayed that the sponsor has no objection to the removal of that language.

CHAIR WEYHRAUCH, upon determining there was no objection, announced that amendments 1, 2, 3, and 4 [as labeled on Conceptual Amendment 1] were incorporated into the resolution. He then turned the committee's attention to proposed amendment 5 [as labeled on Conceptual Amendment 1], which proposes adding new Sections 2 and 3.

[9:45:30 AM](#)

MR. WRIGHT questioned whether the "budget reserve fund transition language" is necessary in the resolution.

REPRESENTATIVE SEATON said the transition language is necessary and it can be renumbered accordingly as opposed to being repealed.

[9:45:52 AM](#)

MR. WRIGHT suggested that it might be more appropriate to be a new subsection (c) under section 18, rather than repealing section 17(c) and 17(d).

REPRESENTATIVE SEATON related that he wanted to include Sections 2 and 3 of Version F into Version G because that is where the POMV is defined. He reiterated that these amendments are conceptual.

9:47:07 AM

CHAIR WEYHRAUCH surmised then that "the guts" of these amendments is establishing the POMV.

9:47:22 AM

REPRESENTATIVE WILSON opined that POMV methodology is important in order to have an "steady stream" of revenue for each legislature while protecting the principal of the fund.

9:48:48 AM

CHAIR WEYHRAUCH offered that proposed amendment 5 [as labeled on Conceptual Amendment 1] should read, "appropriations from the capital construction permanent fund."

MR. WRIGHT added that the sentence "Appropriations from the fund may only be made for capital projects." isn't necessary because it's stated throughout the amendment that appropriations are for construction and maintenance of facilities of the state or a subdivision of the state.

CHAIR WEYHRAUCH noted it's important to keep the constitution as simple a document as possible so it doesn't read like a regulation.

MR. WRIGHT pointed out that Section 3 is unnecessary because section 17 [of Article IX] is being repealed.

CHAIR WEYHRAUCH offered a friendly amendment to proposed amendment 5 [as labeled on Conceptual Amendment 1], which would delete the aforementioned sentence from Section 2 of Article IX, section 17(b). In response to Representative Wilson, Chair Weyhrauch confirmed that section 17(b) will now read, "Appropriations from the capital construction permanent fund during a fiscal year may not exceed five percent of the average of the fiscal year-end market values of the fund for the first five of the preceding six fiscal years." In further response to Representative Wilson, Chair Weyhrauch clarified that the aforementioned methodology is similar to the calculations used for the permanent fund dividend checks.

[9:52:30 AM](#)

REPRESENTATIVE SEATON, in response to Representative Wilson, clarified this is the wording for POMV.

REPRESENTATIVE WILSON added she wants to have the POMV methodology in the resolution.

[9:53:03 AM](#)

CHAIR WEYHRAUCH explained that the POMV assumes an 8 percent growth with 3 percent inflation, of which 5 percent is endowed for use by the legislature. In response to Representative Wilson, Chair Weyhrauch answered, "the first five of the proceeding six fiscal years," is an assumption that tries to even the fluctuations of the market and determines the rate of return and inflation.

CHAIR WEYHRAUCH, in response to Representative Wilson, said the aforementioned assumption is only used for the POMV methodology.

[9:54:13 AM](#)

MR. WRIGHT clarified that the aforementioned is standard language used in other legislation for the POMV methodology.

[9:54:46 AM](#)

REPRESENTATIVE SEATON noted his agreement with earlier statements that if section 17 is repealed entirely, the subsection should actually be "(c)" and the language on the first two lines of Sec. 2. could be deleted.

CHAIR WEYHRAUCH, in response to Representative Wilson, said the reorder of the sections is a drafting issue.

[9:56:53 AM](#)

REPRESENTATIVE SEATON added that the new Section 3 should be deleted because of the repeal of section 17 [of Article IX] in Version G. In response to Representative Wilson, Representative Seaton clarified that the proposed Section 3 will not be inserted, and therefore the proposed amendment 5 [as labeled on Conceptual Amendment 1] will read:

Article IX, sec. 17(b), Constitution of the State of Alaska, is repealed and readopted to read:

(b) Appropriations from the capital construction permanent fund during a fiscal year may not exceed five percent of the average of the fiscal year-end market values of the fund for the first five of the preceding six fiscal years.

REPRESENTATIVE SEATON said instead of the conceptual amendment of adding section 2, all that is needed is the addition of subsection (c) under Section [2].

[9:58:38 AM](#)

MR. WRIGHT noted that the conceptual amendments have added significant changes to which the sponsor won't have any problems.

[9:59:10 AM](#)

CHAIR WEYHRAUCH added that there may need to be a committee letter of intent. Chair Weyhrauch removed his objection to Conceptual Amendment 1 [proposed amendments 1-5, as amended]. There being no further objection, Conceptual Amendment 1, as amended, [proposed amendments 1-5, as amended] were adopted. [The committee later returned to HJR 12.]

[10:00:49 AM](#)

The committee recessed at 10:00 a.m. to the call of the chair.

[4:13:13 PM](#)

CHAIR WEYHRAUCH reconvened the House Special Committee on Ways and Means meeting to order at 4:13 p.m. Upon reconvening Representatives Weyhrauch, Samuels, Seaton, and Wilson were present.

HJR 12-CONST. AM: BUDGET RESERVE FUND REPEAL

CHAIR WEYHRAUCH returned the committee's attention to HOUSE JOINT RESOLUTION NO. 12, Proposing amendments to the Constitution of the State of Alaska relating to the repeal of the budget reserve fund.

REPRESENTATIVE SEATON moved to adopt the proposed committee substitute (CS) for HJR 12, Version 24-LS0485\F, Cook, 4/11/05.

[4:13:49 PM](#)

CHAIR WEYHRAUCH objected.

[4:14:07 PM](#)

TOM WRIGHT, Staff to Representative John Harris, Alaska State Legislature, in response to Chair Weyhrauch, related that Version F has adopted the language and intent of the conceptual amendments brought forth earlier by the House Special Committee on Ways and Means.

[4:14:28 PM](#)

CHAIR WEYHRAUCH, in response to Representative Wilson, explained that on page 2, [Section 30. Budget Reserve Fund. subsection (b)], was a request by the committee to not place any "fund transitional provision" into the constitution, if it could be done by a statutory amendment. Furthermore, the aforementioned would conform and maintain the simplicity of the constitution. However, in order to establish the committee's aforementioned request the drafter added (b) "Notwithstanding Section 18(b)," on establishing the percent of market value (POMV) to include the transitory section on the appropriations during the fiscal years of [2007]-2012, which is a 5-year period to make the POMV process work through the appropriation process. He explained that the section "dovetails" the intent of establishing five out of six years of the POMV, with the amount of money available. In further response to Representative Wilson, Chair Weyhrauch relayed that this would be voted on during the November 2006 general election and, if approved, would take effect in 2007.

[4:16:31 PM](#)

MR. WRIGHT added, "I did talk to the drafter and she said one of the reasons this is being voted on in November, which is ... halfway through the fiscal year. And it's kind of hard to have that full-year ... of this fund setup and trying to figure out what 5 percent of that is until it actually had a full year in use."

[4:17:14 PM](#)

CHAIR WEYHRAUCH commented that by establishing a POMV for the capital construction fund, which doesn't involve any payment of the permanent fund dividend, allows the public to understand how it works. He opined that it might "dispel some fear" over how POMV could work in the context of the permanent fund.

[4:17:18 PM](#)

REPRESENTATIVE SEATON related his concern with the legislature only being allowed to use the preceding year's interest from now until 2012 because if there was a potential downturn in interest, the legislature could basically invade the principal. He highlighted that the legislature could use the constitutional budget reserve (CBR) during the transition in order not to invade the principal.

[4:18:58 PM](#)

REPRESENTATIVE WILSON recalled that when the economy went through a downturn event, Sitka never saw a reduction of its 6 percent principal. Therefore, she said, "I feel comfortable" with the 5 percent.

[4:19:33 PM](#)

MR. WRIGHT noted that the POMV concept offers no principal, it's all one lump sum.

[4:20:11 PM](#)

REPRESENTATIVE SEATON specified that he is not suggesting an amendment at this time, but he would like to revisit the concepts at a later date.

[4:20:33 PM](#)

CHAIR WEYHRAUCH highlighted that the resolution has three committees through which it must move and through which there can be refinements. Chair Weyhrauch removed his objection to Version F.

[4:21:05 PM](#)

REPRESENTATIVE SEATON moved to report CSHJR 12, Version 24-LS0485\F, Cook, 4/11/05, out of committee with individual recommendations and the accompanying fiscal notes. There being

no objection, CSHJR 12(W&M) was reported from the House Special Committee on Ways and Means.

ADJOURNMENT

4:21:21 PM

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 4:21 p.m.