

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON MILITARY AND
VETERANS' AFFAIRS**

January 29, 2002
3:08 p.m.

MEMBERS PRESENT

Representative Mike Chenault, Chair
Representative Beverly Masek
Representative Lisa Murkowski
Representative Joe Green
Representative Pete Kott
Representative Sharon Cissna
Representative Joe Hayes

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Richard Foster

COMMITTEE CALENDAR

HOUSE CONCURRENT RESOLUTION NO. 20
Relating to declaring September 11, 2002, as Emergency Service
Providers and Armed Forces Appreciation Day.

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 31
Relating to requesting the United States Congress to propose an
amendment to the Constitution of the United States that would
address emergency appointments to and powers of the United
States Senate.

- MOVED CSHJR 31(MLV) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HCR 20
SHORT TITLE: SEPT 11 DAY OF REMEMBRANCE
SPONSOR(S): REPRESENTATIVE(S) STEVENS

Jrn-Date	Jrn-Page		Action
01/14/02	1946	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1946	(H)	MLV
01/14/02	1946	(H)	REFERRED TO MLV
01/29/02		(H)	MLV AT 3:00 PM CAPITOL 124

BILL: HJR 31

SHORT TITLE: POWERS OF US SEN/EMERGENCY APPOINTMENTS

SPONSOR(S): REPRESENTATIVE(S) OGAN

Jrn-Date	Jrn-Page		Action
01/16/02	1968	(H)	READ THE FIRST TIME - REFERRALS
01/16/02	1968	(H)	MLV, STA
01/29/02		(H)	MLV AT 3:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE GARY STEVENS

Alaska State Legislature
Capitol Building, Room 428
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HCR 20.

REPRESENTATIVE SCOTT OGAN

Alaska State Legislature
Capitol Building, Room 108
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HJR 31.

ACTION NARRATIVE

TAPE 02-6, SIDE A

Number 0001

CHAIR MIKE CHENAULT called the House Special Committee on Military and Veterans' Affairs meeting to order at 3:08 p.m. Representatives Chenault, Green, Cissna, and Hayes were present at the call to order; Representatives Masek (who was present for the initial roll call) and Kott arrived soon thereafter. Representative Murkowski arrived as the meeting was in progress.

HCR 20 - SEPT 11 DAY OF REMEMBRANCE

Number 0099

CHAIR CHENAULT announced the first order of business, HOUSE CONCURRENT RESOLUTION NO. 20, Relating to declaring September 11, 2002, as Emergency Service Providers and Armed Forces Appreciation Day.

Number 0168

REPRESENTATIVE GARY STEVENS, Alaska State Legislature, sponsor of HCR 20, explained that September 11, 2001, will go down as an important moment in United States history. The cataclysmic events brought out both the worst in people - from the terrorists who caused so many deaths - and the best - from the emergency service personnel who showed tremendous courage, dedication, and sacrifice. Representative Stevens emphasized the importance of honoring those heroes and not forgetting them. He indicated that many Alaskans have been among those involved since the initial terrorist attacks.

REPRESENTATIVE STEVENS explained that HCR 20 asks the governor to declare September 11, 2002, as Emergency Service Providers and Armed Forces Appreciation Day in Alaska; the purpose is for Alaskans to honor and pay respect to the firefighters, paramedics, police officers, and members of the military who responded to the World Trade Center tragedy and who continue to stand by, ready to serve, every day.

Number 0324

REPRESENTATIVE GREEN noted that many volunteers not associated with either of these groups have pitched in as well. He asked whether there was a reason they weren't included.

REPRESENTATIVE STEVENS said no; it is a good point. He offered to add volunteers, if desired.

Number 0369

REPRESENTATIVE MURKOWSKI asked whether an armed forces recognition day already on the books recognizes the contribution from the military.

REPRESENTATIVE STEVENS answered that he believes so. He said it was a question he'd discussed with the chairman. He noted that military personnel are honored on another day.

CHAIR CHENAULT mentioned Veterans' Day. He said he wasn't having a problem with [including in the resolution] the armed

forces because they provided what was requested of them on that day and other days. He questioned whether the armed forces should be included in the title, however.

Number 0470

CHAIR CHENAULT informed members that he'd come up with a proposed committee substitute (CS). [Prepared by the committee aide, the proposed CS bore the following title: "**Relating to declaring September 11, 2002, as Emergency Service Providers and Armed Forces Appreciation Day and a Day of Commemoration of all Americans.**"]

CHAIR CHENAULT said his "sticking point" as far as the resolution is this: on September 11, 2001, emergency service providers responded not only at the World Trade Center but also at the Pentagon. In addition, he said, the people aboard Flight 93 [which crashed in Pennsylvania after being hijacked] should be recognized; their heroism averted further tragedy and loss of Americans' lives. He proposed that the day of recognition perhaps should be called Heroes Day. For example, there were heroes of all kinds, whether in public service or in the military.

CHAIR CHENAULT noted that the proposed CS adds a day of commemoration of all Americans. He said, however, that he'd be open to looking at options to make it a better resolution.

Number 0626

REPRESENTATIVE MURKOWSKI, noting that the proposed CS mentions firefighters [at the World Trade Center], asked about police who went in the buildings. She said she was fearful that in trying to be too specific, the [resolution] may forget [others] who truly were the heroes - whether volunteers or janitors on duty who brought people to safety. She agreed with Chair Chenault that perhaps it should be more generic in terms of who is being recognized for their contributions and sacrifices.

Number 0711

REPRESENTATIVE STEVENS offered to make "most of those changes." He pointed out, however, that the first "Whereas" clause speaks of the 343 New York City firefighters lost in the attack. He suggested that although everyone who participated should be recognized and appreciated, there also is a need to realize that 343 firemen lost their lives in this attack.

REPRESENTATIVE GREEN pointed out that there were many policemen too.

REPRESENTATIVE STEVENS offered to make any of the suggested changes.

CHAIR CHENAULT said he didn't know the numbers, but mentioned policemen or other emergency service providers who lost their lives during any of the attacks or rescue attempts.

Number 0798

REPRESENTATIVE MURKOWSKI requested confirmation that this would not cost money to the state nor be a state holiday, but would urge the recognition and honoring of those who either lost their lives or participated.

REPRESENTATIVE STEVENS agreed that there would be no cost and that it wouldn't be a holiday. He specified that it is just for one day - September 11, 2002 - to show appreciation for the sacrifices made.

Number 0887

CHAIR CHENAULT asked whether anyone else wished to testify; there was no response.

REPRESENTATIVE STEVENS noted that the proposed CS adds wording about Flight 93, which he said is appropriate.

CHAIR CHENAULT explained that it adds the people on Flight 93 for their courage and willingness to sacrifice their own lives to save others. In addition, it adds "a Day of Commemoration of all Americans" in the title and in the first "Further Resolved" section.

Number 0973

REPRESENTATIVE KOTT asked what the intent is regarding the title [of the proposed CS], which seems extremely broad and commemorates every person in America.

CHAIR CHENAULT indicated "heroes" is the concept he is looking for, although appreciation regarding the emergency service providers and the armed forces is part of it. He explained, "If we are going to do a resolution, and it is to the providers that

provided the rescue efforts in these three areas, ... we are looking at heroes." He acknowledged that the title of the proposed CS may need some work.

Number 1103

REPRESENTATIVE MURKOWSKI suggested it may be more appropriate in the title to say something like "Declaring September 11, 2002, as a ... day of recognition for those involved in heroics." She emphasized tying it to September 11, 2001. She said it sounds as if everyone agrees whom to recognize: not just the emergency providers or the National Guard, but the people on the aircraft and the volunteers. She suggested committee staff could perhaps work with Representative Stevens to fine-tune that language.

Number 1179

REPRESENTATIVE HAYES proposed saying, "Relating to declaring September 11, 2002, as First Respondents Appreciation Day [and so forth]"; he suggested it would address all emergency service people and may encompass the military. As for the broader sense of people, however, Representative Hayes said he didn't know.

Number 1231

REPRESENTATIVE CISSNA posed the following idea for the title: "Relating to declaring September 11, 2002, as a day in commemoration of ... thousands of acts of individual heroism." The "Whereas" clauses then would bring "everybody" in.

Number 1293

REPRESENTATIVE MURKOWSKI indicated perhaps the primary purpose of the sponsor's resolution was to recognize emergency providers.

REPRESENTATIVE KOTT suggested the title was getting too wordy.

REPRESENTATIVE CISSNA offered to withdraw her suggestion.

Number 1305

REPRESENTATIVE STEVENS responded that it was a good point, however. Many people who weren't emergency service personnel did some very heroic things.

Number 1323

REPRESENTATIVE KOTT suggested that it be thought out more thoroughly. He proposed having the title be something along the lines of "An Act declaring September 11, 2002, as Hero Appreciation Day." In the "Whereas" clauses, then, it could go into the details, specifying the 343 New York City firefighters and other groups, along with what they did. The title should be fairly simple and shouldn't get into too many details, he added.

Number 1388

REPRESENTATIVE HAYES said while he agreed with Representative Kott, it seems the resolution would lose its focus, which began with the emergency service providers.

Number 1417

REPRESENTATIVE MURKOWSKI indicated the resolution could declare September 11 [2002] as First Responders and Other Heroes Day, for example. She agreed there should be some recognition of the emergency service providers, but added, "Perhaps I'm inferring too much from the sponsor."

Number 1450

REPRESENTATIVE GREEN offered another suggestion: "Relating to declaring [September 11, 2002] as Twin Towers Heroes Day."

CHAIR CHENAULT said it would be site-specific, however, and may require separate [resolutions] for the Pentagon and Flight 93.

Number 1480

CHAIR CHENAULT announced that if it met the sponsor's approval, his staff and Representative Stevens' staff would work to come up with a title that the committee could support.

REPRESENTATIVE STEVENS concurred. [HCR 20 was held over.]

HJR 31 - POWERS OF US SEN/EMERGENCY APPOINTMENTS

Number 1544

CHAIR CHENAULT announced the next order of business, HOUSE JOINT RESOLUTION NO. 31, Relating to requesting the United States Congress to propose an amendment to the Constitution of the

United States that would address emergency appointments to and powers of the United States Senate.

Number 1617

REPRESENTATIVE SCOTT OGAN, Alaska State Legislature, sponsor of HJR 31, noted that the U.S. Constitution is silent on the subject of succession in the case of a national disaster. He mentioned the unprecedented attack on the nation's capital [on September 11, 2001], followed by the biological attack [in the form of anthrax sent by mail] on the offices in the capital. He said those events brought home a stark reality: if the United States were to lose a major portion of a legislative branch, the country essentially would be run by martial law until that legislative branch could be reinstated.

REPRESENTATIVE OGAN pointed out that the Seventeenth Amendment addresses who succeeds a Senator who is incapacitated, resigns, or dies; however, it does not give power to the legislature to "act as a legislative branch." The Seventeenth Amendment is silent on filling appointments in the House. The result would be - other than having oversight hearings - an inability to act or pass legislation, leaving the nation with only two branches of government: executive and judiciary.

REPRESENTATIVE OGAN surmised that the [writers of the U.S.] Constitution never envisioned weapons of mass destruction or biological and chemical weapons. Therefore, partly for the sake of discussion, HJR 31 suggests that if Congress becomes dysfunctional because of these unthinkable acts, the legislatures would appoint within ten days a new Senate; the Senate would act as a temporary unicameral body, with the powers of the [full] legislature, until a House could be appointed.

REPRESENTATIVE OGAN indicated a U.S. Congressman [later clarified to be Congressman Baird of Washington] was proposing a U.S. constitutional amendment whereby if the number of House members drops below two-thirds [later clarified to be three-quarters], the states would be allowed to appoint House members to fill that vacancy. He said, "That's fine. ... There's more than one way to skin a cat here on this one."

REPRESENTATIVE OGAN explained that the idea behind the resolution was to highlight the fact that the U.S. Constitution does not address this issue and to encourage Congress to do so. He said it is unfortunate that the country is faced with this issue, but one of the best responses to terrorists' threats is

to guarantee that operation of all three branches of government would be functional subsequent to an attack.

Number 1883

CHAIR CHENAULT offered his interpretation that if there were a catastrophe [in Washington, D.C.] the states would issue writs for an election to fill the vacancies. He asked Representative Ogan if the intent of HJR 31 is to consider having either the state House or state Senate, rather than the public, decide who would be elected for the short term.

REPRESENTATIVE OGAN admitted it has been a pipe dream of his that the legislators would appoint the [U.S.] Senate replacements; that was the way it used to be. He stated that he would not object, however, if the resolution were amended to say that the governor would appoint [the replacements]; that process would be more efficient than having to call special sessions of the legislature.

Number 1975

REPRESENTATIVE OGAN referred to a portion of the Seventeenth Amendment and said:

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies, provided that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

REPRESENTATIVE OGAN [referring to the last line] said, "We recently took some action on that and vetoed the right a few days back, or a week or two ago." He stated that the U.S. Constitution does not address House members. He noted that the nation has lived under the threat of nuclear attack for a long time. For example, he was trained to dive under his desk [in school]; the general thinking then, however, was that if there were a nuclear war, there would be nothing left to govern anyway. Only recently has there been the possibility that "these sorts of weapons" would fall into the hands of despots, tyrants, and terrorists.

Number 2062

REPRESENTATIVE MURKOWSKI asked why the resolution relates to the Senate. She stated her comprehension that the privilege was already in place to address vacancies in the Senate; she cited the aforementioned reference to executive authority to issue [writs of] election or make temporary appointments. She offered her understanding that what is missing is a procedure for the U.S. House of Representatives. She asked Representative Ogan for an explanation.

Number 2114

REPRESENTATIVE OGAN answered that there is more than one way to address this issue; he reiterated his previous testimony regarding Congressman [Baird's] proposed amendment. He noted that there are a larger number of House members; the process involved would possibly be more arduous and, therefore, not as expedient. In the case of a national emergency, the nation needs [to reestablish] an operative legislative branch very quickly. He described his idea, to give temporary unicameral powers to the Senate to act as the body of the legislature until a House could be elected. He surmised that he was keeping with the Founding Fathers' idea that Senators have so much power and there are fewer of them; therefore, it is more imperative to appoint their seats and allow the election process to fill the House seats. He added that he did not think anyone had envisioned that a majority of the House ever would be wiped out, because there are so many members.

REPRESENTATIVE OGAN conceded that Congressman [Baird's] proposal might be a more practical way to go. He mentioned that words such as "may" and "might" are used in the resolution. He stated his certainty that Congress, despite the knowledgeable recommendations of the Alaska State Legislature, may choose another course of action. The idea behind the resolution is to make U.S. Congress aware of the issue, to generate discussion, and to suggest - not force - a solution.

Number 2228

REPRESENTATIVE MURKOWSKI referred to a section of HJR 31 that began on page 2, line 7, and read:

FURTHER RESOLVED that the proposed amendment also might permit the United States Senate to exercise all of the powers of the United States Congress if a majority of the seats in the United States House of Representatives were to become vacant and might

establish procedures under which the United States Senate would temporarily act as a unicameral body until vacancies in the United States House of Representatives are filled.

REPRESENTATIVE MURKOWSKI suggested perhaps HJR 31 should focus on the foregoing because the "accommodation for the vacancy, or ... the discussion about how the vacancies are fulfilled, are included in the amendment." She further suggested that the "Resolved" clause that talks about filling vacancies might not be needed.

Number 2282

REPRESENTATIVE OGAN emphasized the importance of quickly restoring a functional third branch of government in order to deal with emergencies; that is why it is more efficient to have a temporary unicameral body. He noted that HJR 31 says this would be done in ten days [on page 2, line 5]. He said it would be difficult to reappoint the majority of the Senate without also having to reappoint a majority of the House.

Number 2342

REPRESENTATIVE GREEN recalled that in every legislative session but the current one, he has introduced legislation to have Alaska adopt a unicameral government, for reasons he would not delve into at present. He mentioned big states versus little states as the reason the nation has a Senate and House; he indicated it was a compromise. He suggested if 230 members of the House were lost, there still would be more House members than Senate members, and the Senate would be acting as a unicameral government. He stated his concern that "we would then really be waving a flag saying, 'Oh, all those Representatives that are left are of no account.'"

Number 2398

REPRESENTATIVE OGAN replied that he had no problem with the suggested language changes. More important, he wanted the issue raised so that, hopefully, Congress would consider it and make a decision.

Number 2427

REPRESENTATIVE MURKOWSKI said she would like to see the aforementioned amendment by Congressman [Baird] included in HJR

31 as a "Whereas" clause, to lend the committee's support to that legislation.

Number 2461

REPRESENTATIVE OGAN, in response to a request for a description of the federal legislation, read the following from newly received information: "Brian Baird of Washington has introduced a constitutional amendment that would allow governors to appoint U.S. House members to 90-day terms in the event that one-quarter of all Representatives were killed."

Number 2537

CHAIR CHENAULT noted that the Seventeenth Amendment provides that the legislature of the state may empower the executive to make temporary appointments. He made reference to language in HJR 31 beginning on page 2, line 4, which read:

... the legislatures of each of the states with vacant seats would make appointments within 10 days to fill those vacancies; ...

REPRESENTATIVE OGAN reiterated that legislators used to appoint [U.S.] Senators; he suggested that Senators therefore used to be more accountable to the legislators. He emphasized that he did not intend any disparagement toward the current delegation.

Number 2595

REPRESENTATIVE OGAN, in response to a question from Representative Kott, clarified that the Seventeenth Amendment was passed by Congress on May 13, 1912, and ratified April 8, 1913. As of April 9, 1913, [U.S.] Senators were elected, not appointed by the legislators.

Number 2607

REPRESENTATIVE HAYES offered Amendment 1: On page 2, line 4, change "legislatures" to "governor".

REPRESENTATIVE HAYES explained that the executive branch is available year-round, whereas the legislators are part-time. Giving the executive branch authority to appoint would avoid the possible need for a special legislative session and the resulting rancor; it would result in an easier, "cleaner" process within our present system.

REPRESENTATIVE OGAN agreed with Amendment 1, adding, "I got my moment on the soap box."

Number 2675

CHAIR CHENAULT asked whether there were any objections. There being no objection, Amendment 1 was adopted.

CHAIR CHENAULT asked whether there was public testimony; none was offered.

Number 2691

REPRESENTATIVE MURKOWSKI explained her reasoning for a second amendment. She referred to language beginning on page 1, line 5, which read, "**WHEREAS** the terrible events of September 11, 2001, have demonstrated that the United States is vulnerable to attack by terrorists". She emphasized the need to recognize that September 11, 2001, was not the first time the nation has been attacked by terrorists; for example, the World Trade Center also was attacked in 1993.

REPRESENTATIVE MURKOWSKI [moved to adopt] Amendment 2 as follows: On page 1, line 5, change "have demonstrated" to "have again demonstrated".

REPRESENTATIVE OGAN replied that he was amenable to that amendment. He noted that the English had at one time burned the White House, so [terrorism] has been going on for a long time.

Number 2751

CHAIR CHENAULT asked whether there were any objections. There being no objection, Amendment 2 was adopted.

Number 2761

REPRESENTATIVE MURKOWSKI began discussion of a possible third amendment. She indicated the third "Whereas" clause and referred to Representative Ogan's testimony that the [U.S.] Constitution is "silent" regarding the succession in question. She noted that the term "inadequate" is used in the resolution, [page 1, lines 9-12], which read:

WHEREAS the Constitution of the United States has procedures that are inadequate to enable the United

States Congress to continue to function if a majority of its seats were to become vacant due to an attack on the United States or as a result of a natural disaster or other emergency;...

REPRESENTATIVE MURKOWSKI asked if it would be better to say that the U.S. Constitution is "silent" on it. She surmised that the end result would be the same. She requested Representative Ogan's input.

Number 2801

REPRESENTATIVE OGAN said he wouldn't object to her suggestion. He reiterated his main intent, to present the issue before Congress, where any "hairsplitting" could be done.

Number 2818

REPRESENTATIVE MURKOWSKI moved to adopt conceptual Amendment 3 regarding the aforementioned language [page 1, lines 9-12], to reflect that the procedures are silent with regard to filling the vacancies in the event of a natural disaster or other attack.

Number 2841

REPRESENTATIVE OGAN clarified that the resolution should still state that [the U.S. Constitution's procedures] are silent in regard to Congress's continuing to function, for example. He asked Representative Murkowski if that was her intention.

REPRESENTATIVE MURKOWSKI answered in the affirmative.

Number 2870

CHAIR CHENAULT asked whether there was any objection. There being no objection, conceptual Amendment 3 was adopted.

Number 2887

REPRESENTATIVE GREEN stated that he wanted to think about the "unicameral" issue, lest there be "mischief."

Number 2912

REPRESENTATIVE OGAN asked to address that comment and stated that he found it interesting. He noted that he and

Representative Green have found themselves on opposite sides of the unicameral issue in the legislature and now on this [issue] as well. He mentioned efficiency and suggested that [HJR 31] could specify that within 90 days a House would be elected; he said that may "time" with what Congressman Baird is doing. He added that at least [the language of the resolution could be written such that] a third branch [of government] could quickly be functional.

REPRESENTATIVE OGAN offered his belief that the [U.S.] Senate declares war, not both houses. He questioned whether the Senate could pass bills to get money to fund a war effort, for example, and stated his belief that the nation would be crippled if it did not have both houses functioning, or have temporary power in one house.

TAPE 02-6, SIDE B
Number 2971

REPRESENTATIVE OGAN mentioned 90 days to appoint a house and said it was "just another spin, another thing for them to consider when they deliberate the issue in Congressman Baird's bill." He suggested a hybrid of both approaches may be the final outcome.

Number 2957

REPRESENTATIVE KOTT said the following:

You are correct: It is the U.S. Senate that issues the declaration of war; however, I might add that absent that declaration, the President, [under] Article I, has the power to basically do the same ... by using the War Powers Act. Certainly, under his emergency powers [or] provisions, he could put forces in place or do some things that perhaps the Congress would do if they were there.

REPRESENTATIVE KOTT indicated it really gets down to the issue of whether it is unicameral. For example, if an act were committed that wiped out the U.S. Senate except for Alaska's two Senators, there would be two Senators left and 435 House members. He asked:

Would, then, the House, in unison with our two Senators, act as a cameral legislature? Would that be envisioned, or would we then not bring government to a

halt, awaiting the appointments ... within the ten days? ... Would, then, we wait for ten days for the other 98 Senators to be appointed, or would we then envision the House acting in unison with our two Senators in that cameral legislature, or Congress?

Number 2873

REPRESENTATIVE OGAN responded that it was a good question. The constitution gives the governor the power to reappoint, but doesn't set a time limit; he surmised that the task would be done quickly, however. He asked the committee to imagine the worst-case scenario, when suddenly there is no legislative body to keep the President in check. He mentioned the War Powers Act, which allows the President to [make decisions regarding national defense]. He said it is imperative that the checks-and-balances system of our nation be kept intact.

REPRESENTATIVE OGAN reminded members of his hope that the resolution would generate discussion and elicit a solution [in Congress]. He concluded, "I think the sanctity of our way of life and our liberties and our country need to be protected with this."

Number2782

REPRESENTATIVE MURKOWSKI began discussion of what would become Amendment 4. She brought attention to page 1, lines 13-15, and page 2, lines 1-2, which read:

BE IT RESOLVED by the Alaska State Legislature that the Congress of the United States is respectfully requested to propose and submit to the states an amendment to the Constitution of the United States that would establish procedures to ensure that the United States Congress will continue to function after emergencies which cause many vacancies in the body ...

REPRESENTATIVE MURKOWSKI proposed that the foregoing encapsulates all that is necessary to address in the resolution. She expressed appreciation of the concern of establishing a deadline, however. Agreeing that [Congress] would figure out the details anyway, she suggested the committee need not spend time discussing the unicameral-versus-bicameral issue. The one "Resolved" clause would be sufficient if the committee wanted to say, in effect, "Congress, address this, because it's important and we, the State of Alaska, recognize that it's important."

REPRESENTATIVE KOTT responded that Representative Murkowski's idea was exactly what he'd been looking for.

Number 2481

REPRESENTATIVE MURKOWSKI moved to adopt Amendment 4, removing the two ["Further Resolved" clauses] from page 2, lines [3-11].

Number 2659

[There was an objection for purposes of discussion.]

REPRESENTATIVE GREEN indicated he and Representative Ogan both are fond of the Tenth Amendment. He asked whether all the states would have to ratify [a proposed amendment to the U.S. Constitution] to give Congress the authority.

REPRESENTATIVE OGAN offered his belief that it would require a two-thirds vote of the U.S. Congress and that three-quarters of the states would have to ratify it. He asked his staff to review his notes to verify that.

REPRESENTATIVE GREEN said he thought it was correct. He noted that the committee could submit this resolution, but by the time [a proposed amendment] came back from the federal government, a different state legislature could be in place. He compared it to when [President Woodrow] Wilson championed the League of Nations but his own Congress would not support it. He pondered whether, if [HJR 31] were sent to Congress, it would be left to the next state legislature to ratify [any proposed constitutional amendment passed by Congress as a result].

REPRESENTATIVE OGAN suggested his own resolution is just asking Congress to think about it. He agreed it would be up to a future legislature to ratify [any such amendment]. He suggested perhaps, because of [the terrorist attacks of September 11, 2001], Congress would pass a resolution expeditiously and legislators everywhere would get onboard with addressing this. He pointed out that if Congress doesn't do a good job on a [proposed amendment], then three-quarters of the states wouldn't [ratify] it.

Number 2484

REPRESENTATIVE KOTT agreed that it would require three-fourths of the states for ratification. He offered his belief that it

must happen within seven - perhaps six - years. He stated his certainty that Congress would do what it thought best. He mentioned the Connecticut Compromise and the system of checks and balances; he said the states want to have their interests looked out for. He noted that another option is a [constitutional] convention for ratification. He said the amendment process is the only way "to get from there to the future." He stated that he is now supportive of HJR 31.

Number 2409

REPRESENTATIVE MURKOWSKI pointed out that adoption of [Amendment 4] would affect [Amendment 1].

CHAIR CHENAULT specified that [if Amendment 4] were adopted, Amendment 1 would be "deleted" and Amendments 2 and 3 would [remain].

Number 2375

REPRESENTATIVE OGAN said he had no objection, but might be tempted to reoffer this [deleted section as an amendment] on the floor "just for the sake of the intelligent discussion that we've had here today."

Number 2358

CHAIR CHENAULT asked whether there was any objection to Amendment 4. There being no objection, Amendment 4 was adopted.

Number 2338

REPRESENTATIVE KOTT referred to [page 1, lines 5-6], which read:

WHEREAS the terrible events of September 11, 2001, have demonstrated that the United States is vulnerable to attack by terrorists; ...

REPRESENTATIVE KOTT asked whether "was" should be changed to "is". Noting that perhaps \$34 million has been invested in "homeland security," he said he hoped the public thought it was money well spent and that the nation was less vulnerable. He pondered whether the nation is still vulnerable and said he would like to think it is not. In response to a comment by Representative Green, Representative Kott articulated that [the nation's people] don't know what all has been done, but probably many things have been done behind the scenes. He said he didn't

want to send a message to the terrorists that the nation is still vulnerable.

Number 2283

REPRESENTATIVE MURKOWSKI pointed out that if the nation was vulnerable previously but [the resolution] says it no longer is, this resolution requesting an amendment to the U.S. Constitution is no longer necessary.

REPRESENTATIVE KOTT concurred with regard to terrorists; however, natural disasters are included, which "brings in another parameter that we haven't really discussed, and I think, probably, we shouldn't at this point." He concluded by saying he was satisfied with the resolution. In response to a comment by Chair Chenault, he offered to move the resolution.

Number 2257

REPRESENTATIVE OGAN mentioned information in the packet stating that President Bush has, through an executive order, formalized lines of succession for seven Cabinet departments, demonstrating that the federal government is painfully aware of the threats of terrorism. He stated his belief that there is no way, as a free society, that [the U.S.] will ever be invulnerable. He paraphrased a statement by Benjamin Franklin that read, "Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety."

REPRESENTATIVE OGAN said he would rather see these measures put into place; he mentioned taking risks such as flying in an airplane and being televised during public committee meetings, the latter of which may raise the ire of somebody who wants to see the destruction of our country. He referred to the sponsor statement and said it suggests that "one of the best ways to guarantee our liberties is to have a continued operation of our republic the way it was designed." Representative Ogan concluded that [the U.S.] will never be able to stop someone bent on his own destruction as well as that of the U.S. He said that is the price [Americans] pay for liberties, and Alaska can do its part to ensure that the republic continues to stand.

Number 2148

REPRESENTATIVE MURKOWSKI referred to the title and pointed out that no reference is made to "emergency appointments" in

Amendment 4; rather, it is to the establishment of procedures to allow for the continuity of government operation.

Number 2091

REPRESENTATIVE MURKOWSKI moved to adopt conceptual Amendment 5, to conform the title to the previously adopted amendments.

CHAIR CHENAULT asked whether there were any objections. There being no objection, conceptual Amendment 5 was adopted.

Number 2073

REPRESENTATIVE KOTT moved to report HJR 31, as amended, out of committee.

Number 2052

REPRESENTATIVE GREEN objected, specifying that he wanted to consider further what "mischief" could be caused by the resolution in conflict with the Tenth Amendment [to the U.S. Constitution].

Number 2026

REPRESENTATIVE KOTT suggested that the resolution be referred to the House Judiciary Standing Committee. He added his belief that there is no great urgency as long as it moves this legislative session.

REPRESENTATIVE GREEN responded that he would be able to satisfy his concerns by the next committee meeting. He said he champions the Tenth Amendment and had not looked previously at the resolution as it relates to that.

Number 1972

REPRESENTATIVE OGAN said, "There's always the amendment process on the floor, and I'm sure it would be a lively and intellectual discussion there too." He emphasized that he did not feel "ownership" of the language of the resolution; rather, he simply wanted the issue to be brought before [Congress].

Number 1952

REPRESENTATIVE HAYES suggested it may be more appropriate to assign the resolution to a subcommittee in order to address

Representative Green's concerns. He pointed out that Representative Green isn't on the House Judiciary Standing Committee.

CHAIR CHENAULT said the committee could follow that line of action or recommend a House Judiciary Standing Committee referral and move the resolution out.

REPRESENTATIVE GREEN noted that [a House Judiciary Standing Committee referral] would delay the resolution more.

A roll call vote was taken. Representatives Masek, Murkowski, Kott, Cissna, and Chenault voted to report HJR 31, as amended, from committee. Representatives Green and Hayes voted against it. Therefore, CSHJR 31(MLV) was moved from the House Special Committee on Military and Veterans' Affairs committee by a vote of 5-2.

REPRESENTATIVE OGAN invited committee members to discuss the resolution with him, to address concerns before it went to the [House State Affairs Standing Committee]. [CSHJR 31(MLV) was moved from committee.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 4:19 p.m.