

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 4, 2003

1:10 p.m.

**MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson, Vice Chair  
Representative Jim Holm  
Representative Dan Ogg  
Representative Ralph Samuels  
Representative Les Gara  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 212

"An Act relating to trusts, including trust protectors, trustee advisors, transfers of property in trust, and transfers of trust interests, and to creditors' claims against property subject to a power of appointment."

- MOVED CSHB 212(JUD) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 177

"An Act relating to concealed handguns."

- MOVED CSSSHB 177(STA) OUT OF COMMITTEE

HOUSE BILL NO. 31

"An Act relating to initiative and referendum petitions; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 5

Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 212

SHORT TITLE:POWERS OF APPOINTMENTS/TRUSTS/CREDITORS

SPONSOR(S): REPRESENTATIVE(S)MCGUIRE, Ogg

Jrn-Date	Jrn-Page		Action
03/24/03	0618	(H)	READ THE FIRST TIME - REFERRALS
03/24/03	0618	(H)	L&C, JUD, FIN
03/26/03	0652	(H)	L&C REFERRAL WAIVED
04/02/03		(H)	JUD AT 1:00 PM CAPITOL 120
04/02/03		(H)	Heard & Held MINUTE(JUD)
04/04/03		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 177

SHORT TITLE:CONCEALED HANDGUNS

SPONSOR(S): REPRESENTATIVE(S)STOLTZE

Jrn-Date	Jrn-Page		Action
03/07/03	0467	(H)	READ THE FIRST TIME - REFERRALS
03/07/03	0467	(H)	STA, JUD
03/14/03	0540	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/14/03	0540	(H)	READ THE FIRST TIME - REFERRALS
03/14/03	0540	(H)	STA, JUD
03/17/03	0567	(H)	COSPONSOR(S): DAHLSTROM, HOLM
03/24/03	0623	(H)	COSPONSOR(S): GATTO
03/27/03		(H)	STA AT 8:00 AM CAPITOL 102
03/27/03		(H)	Moved CSSSHB 177(STA) Out of Committee MINUTE(STA)
03/28/03	0689	(H)	COSPONSOR(S): ANDERSON
04/02/03	0734	(H)	STA RPT CS(STA) 3DP 3NR
04/02/03	0734	(H)	DP: LYNN, DAHLSTROM, WEYHRAUCH;
04/02/03	0734	(H)	NR: SEATON, GRUENBERG, HOLM
04/02/03	0735	(H)	FN1: ZERO(LAW)
04/04/03		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 31

SHORT TITLE:INITIATIVE/REFERENDUM PETITIONS

SPONSOR(S): REPRESENTATIVE(S)WILLIAMS

Jrn-Date	Jrn-Page		Action
01/21/03	0039	(H)	PREFILE RELEASED (1/10/03)

01/21/03	0039	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0039	(H)	STA, JUD
03/04/03		(H)	STA AT 8:00 AM CAPITOL 102
03/04/03		(H)	Heard & Held MINUTE(STA)
03/25/03		(H)	STA AT 8:00 AM CAPITOL 102
03/25/03		(H)	Moved Out of Committee MINUTE(STA)
03/31/03	0703	(H)	STA RPT 2DP 4NR
03/31/03	0703	(H)	DP: HOLM, WEYHRAUCH; NR: SEATON,
03/31/03	0703	(H)	GRUENBERG, LYNN, DAHLSTROM
03/31/03	0704	(H)	FN1: ZERO(GOV)
03/31/03	0704	(H)	REFERRED TO JUDICIARY
03/31/03	0721	(H)	COSPONSOR(S): MEYER
04/04/03		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HJR 5

SHORT TITLE: CONST AM: INITIATIVE/REFERENDUM PETITIONS

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS

Jrn-Date	Jrn-Page		Action
01/21/03	0025	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0025	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0025	(H)	STA, JUD, FIN
03/04/03		(H)	STA AT 8:00 AM CAPITOL 102
03/04/03		(H)	Heard & Held MINUTE(STA)
03/25/03		(H)	STA AT 8:00 AM CAPITOL 102
03/25/03		(H)	Moved Out of Committee MINUTE(STA)
03/31/03	0703	(H)	STA RPT 1DP 5NR
03/31/03	0703	(H)	DP: HOLM; NR: SEATON, GRUENBERG, LYNN,
03/31/03	0703	(H)	DAHLSTROM, WEYHRAUCH
03/31/03	0703	(H)	FN1: (GOV)
03/31/03	0703	(H)	REFERRED TO JUDICIARY
03/31/03	0721	(H)	COSPONSOR(S): MEYER
04/04/03		(H)	JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

STEPHEN E. GREER, Attorney at Law  
Anchorage, Alaska

POSITION STATEMENT: Answered a question related to an amendment to HB 212, Version Q.

BRIAN JUDY, Alaska State Liaison  
Institute for Legislative Action  
National Rifle Association of America (NRA)  
Sacramento, California

POSITION STATEMENT: Testified in support of [CSSSHB 177(STA)].

REPRESENTATIVE BILL STOLTZE  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Sponsor of SSHB 177.

NOEL NAPOLILLI, Alaska Outdoor Council (AOC);  
Alaska Second Amendment Coalition  
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of [CSSSHB 177(STA)].

REPRESENTATIVE BILL WILLIAMS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 31 and HJR 5.

JAMES PRICE  
Nikiski, Alaska

POSITION STATEMENT: Testified in opposition to HB 31.

RICHARD H. BISHOP, Chair  
Trustee Advisory Board  
Alaska Outdoor Council (AOC)  
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 31 and HJR 5.

KAREN BRETZ, Secretary/Treasurer  
Alaskans for Efficient Government  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 31 and HJR 5.

LINDA RONAN, Alaska HEMP (Help End Marijuana Prohibition)  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 31 and HJR 5.

STEVE CLEARY, Executive Director  
Alaska Public Interest Research Group (AkPIRG)  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 31 and HJR 5.

VIRGINIA BREEZE, Election Projects Coordinator  
Central Office  
Division of Elections  
Office of the Lieutenant Governor  
Juneau, Alaska

POSITION STATEMENT: Indicated that the division had an impartial statement regarding [HB 31 and HJR 5].

ALVIN ANDERS, Chairman  
Alaska Libertarian Party of Juneau  
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 31 and HJR 5, and suggested an alternative change to the initiative process.

CHERYL JEBE, President  
League of Women Voters (LWV) of Alaska  
Juneau, Alaska

POSITION STATEMENT: Offered comments during discussion of HB 31 and HJR 5.

#### **ACTION NARRATIVE**

#### **TAPE 03-30, SIDE A**

Number 0001

**CHAIR LESIL McGUIRE** called the House Judiciary Standing Committee meeting to order at 1:10 p.m. Representatives McGuire, Anderson, Holm, Ogg, Samuels, Gara, and Gruenberg were present at the call to order.

#### HB 212 - POWERS OF APPOINTMENTS/TRUSTS/CREDITORS

Number 0042

CHAIR McGUIRE announced that the first order of business would be HOUSE BILL NO. 212, "An Act relating to trusts, including trust protectors, trustee advisors, transfers of property in trust, and transfers of trust interests, and to creditors' claims against property subject to a power of appointment." [Before the committee was the proposed committee substitute (CS) for HB 212, Version 23-LS0471\I, Bannister, 4/1/03, which was adopted as the work draft and amended on 4/2/03.]

Number 0096

REPRESENTATIVE SAMUELS moved to adopt the proposed committee substitute (CS) for HB 212, Version 23-LS0471\Q, Bannister, 4/4/03, as the work draft. There being no objection, Version Q was before the committee.

Number 0129

REPRESENTATIVE GRUENBERG moved that the committee adopt Amendment 1, which read [original punctuation provided]:

Page 5, Line 29

Before "affidavit",  
Delete "an" and Insert "a sworn"

Number 0157

CHAIR McGUIRE noted that there were no objections. Therefore, Amendment 1 was adopted.

Number 0170

CHAIR McGUIRE moved that the committee adopt Conceptual Amendment 2, which read [original punctuation provided]:

Section 6. AS 34.40.110

page 6, line 15, add a new section to read:

(8) the assets being transferred into the trust were  
not derived from unlawful activities.

REPRESENTATIVE HOLM objected.

REPRESENTATIVE GRUENBERG explained that Conceptual Amendment 2 [eliminates] laundered money.

REPRESENTATIVE HOLM removed his objection.

Number 0229

CHAIR McGUIRE noted that there were no further objections. Therefore, Conceptual Amendment 2 was adopted.

Number 0239

REPRESENTATIVE SAMUELS moved to report the proposed committee substitute (CS) for HB 212, Version 23-LS0471\Q, Bannister, 4/4/03, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes.

REPRESENTATIVE GARA objected to ask if there would be any testimony today.

CHAIR McGUIRE answered that she wasn't planning to hear testimony, however she indicated that if there is a specific question for someone she would allow that.

The committee took an at-ease from 1:16 p.m. to 1:17 p.m.

REPRESENTATIVE GARA surmised, then, that with the adoption of [Amendment 1], the bill would still meet the goal of making Alaska an attractive place for those entering into trusts.

STEPHEN E. GREER, Attorney at Law, replied yes, and said that the affidavit is a nice addition to the current statute.

REPRESENTATIVE GARA withdrew his objection.

Number 0370

CHAIR McGUIRE, upon determining that there were no further objections, announced that CSHB 212(JUD) was reported from the House Judiciary Standing Committee.

HB 177 - CONCEALED HANDGUNS

Number 0391

CHAIR McGUIRE announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 177, "An Act relating to concealed handguns." [Before the committee was CSSH B 177(STA).]

Number 0427

BRIAN JUDY, Alaska State Liaison, Institute for Legislative Action, National Rifle Association of America (NRA), urged the committee's support of [CSSH B 177(STA)]. On the surface, this legislation appears to make a substantive change to Alaska's law; however, he countered, it simply makes a technical change that really has no substantive impact. Mr. Judy specified that the intent of this legislation is to open up the recognition of

Alaska's concealed firearm permits by other states. This legislation requires that the Department of Public Safety (DPS) enter into reciprocity agreements, which he understood the new administration to be working on already. He noted that SSHB 177 was amended in the House State Affairs Standing Committee in order to clarify that Alaska only has to reciprocate with those states with which Alaska can legally do so. This legislation also repeals language that was added to last year's legislation, SB 242.

MR. JUDY relayed that during the debate on SB 242, there was concern that certain Alaskans who were denied permits or had revoked permits might be able to have permits issued in other states and return to Alaska and carry [a concealed weapon]. Although supporters of SB 242 felt the aforementioned was unlikely, [the NRA] didn't feel that the amendment would detract from the intent of SB 242. However, the amendment has provided a barrier to the recognition of Alaska permits. He noted that he provided the committee with a list of the states that issue permits to nonresidents, in order to ease concerns [that those who were denied permits or had revoked permits might be able to have permits issued in other states and return to Alaska and carry a concealed weapon]. He pointed out that those states issuing permits to nonresidents have issuance criteria essentially identical to Alaska's criteria. Therefore, he said it would be extraordinarily unlikely that an Alaskan [who was denied or had a revoked permit] would be able to obtain a permit in another state.

MR. JUDY reiterated that this legislation will have no substantive impact on the State of Alaska, although it will open the door for the recognition of Alaska permits by other states. He again urged the committee's support of [CSSSHB 177(STA)].

Number 0648

REPRESENTATIVE GARA said that he wanted to ensure that this legislation doesn't allow the state to recognize the right to carry a concealed weapon from someone from a state with a lower standard than Alaska. He asked if the legislation does that.

MR. JUDY said that this legislation makes no change to that. Under existing law, Alaska already recognizes permits from all other states. This legislation merely facilitates the recognition of Alaska permits by other states.

REPRESENTATIVE GARA asked if this legislation lowers Alaska's standards for issuing a permit to Alaskans or issuing a permit to a person from another state.

MR. JUDY replied no, and pointed out that under Alaska law, a nonresident can't apply for an Alaskan permit.

Number 0719

REPRESENTATIVE GRUENBERG referred to line 15 of CSSSHB 177(STA) and commented, "That was not what we changed in the State Affairs Committee." He relayed his understanding that the permittees would be able to carry concealed handguns in both states. However, the way the language is currently written, it only allows Alaskans to enter into other states and carry a [concealed] weapon; the legislation doesn't seem to complete the reciprocity so that those validly permitted in other states can carry [a concealed weapon] in Alaska. Therefore, he suggested changing the language [on line 15] from "in those other states" to "both states". However, he said he wasn't sure that was necessary.

MR. JUDY agreed that the language change isn't necessary because any Alaskan with an Alaska permit can carry in Alaska and because Alaska law recognizes permit holders from other states. Therefore, the reason to ensure that these reciprocity agreements are entered into by the DPS is because some states require such agreements in order to recognize other states' permits. This legislation is solely to benefit Alaska citizens, he opined, and will ensure that Alaskan citizens will be able to carry [concealed weapons] in as many other states as possible.

REPRESENTATIVE GRUENBERG noted that he had asked for confirmation that there is really a problem, and that he was given a letter from Louis Beaty, Manager, Crime Records Service Legal Staff, Texas Department of Public Safety, to Barbara Bitney dated April 4, 2003.

Number 0878

REPRESENTATIVE GARA explained that [CSSSHB 177(STA) deals with an amendment last year that was intended to prevent Alaska from recognizing the right of people from other states to carry a concealed weapon if that individual had previously had their concealed weapon permit revoked in the past. He asked, "By amending this law, are we not making it alright for people from other states who have standards for carrying a concealed weapons

that are lower than our standards to then carry them within this state?"

MR. JUDY replied no, and specified that [CSSSHB 177(STA)] will have no impact on that. Under existing law, regardless of other states' standards, their permits are recognized in Alaska. Looking across the nation, over 40 states issue concealed weapon permits. Although every law varies, the issuance criteria is fairly comparable. Mr. Judy emphasized that regardless of the issuance criteria, the empirical evidence from every state is the same: concealed weapon permit holders rarely cause any problem.

Number 1014

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, sponsor of SSHB 177, echoed Mr. Judy's testimony that this legislation is a technical amendment rather than a substantive change. As the Louis Beaty letter describes, Representative Stoltze remarked, this legislation attempts to remove a technical barrier in order to allow greater reciprocity. He highlighted Section 2, which specifies that the [DPS] will continue to move forward in overcoming these technical barriers and create reciprocity with other states in order to guarantee the rights of Alaskan citizens.

Number 1134

NOEL NAPOLILLI, Alaska Outdoor Council (AOC); Alaska Second Amendment Coalition, simply noted the AOC's full support of [CSSSHB 177(STA)].

REPRESENTATIVE GARA relayed his understanding that this legislation would eliminate a provision of law that says a concealed handgun permit couldn't be obtained in this state if the individual had previously had a handgun permit revoked in [another state]. By changing the law, it seems to suggest that someone from out of state would be allowed to carry a concealed handgun even if the individual had a concealed handgun permit revoked or suspended. Why is this a good idea, he asked.

REPRESENTATIVE STOLTZE said he didn't believe that the aforementioned provision actually protected the state, but instead simply illustrates the danger of making amendments on the [House] floor. After acknowledging that it is awkward to remove something from existing law, he opined that the language shouldn't have been included in the first place.

REPRESENTATIVE GARA asked if eliminating the provision that prohibits the issuance of a permit to someone who had their permit revoked would appear to say that it's acceptable to issue a permit to an individual who previously had a concealed weapons permit revoked.

REPRESENTATIVE STOLTZE answered that eliminating this provision recognizes that there are enough protections in Alaska's existing concealed carry law to prevent such a situation. He posed a situation in which an individual was denied a permit on the basis of age, because the individual was too young. He suggested that Texas is probably more interested in the reasons individuals are denied or revoked rather than just the mere fact of the denial or revocation.

Number 1364

CHAIR McGUIRE asked if Representative Stoltze had spoken with the Texas Department of Public Safety in order to determine whether this legislation would allow reciprocity between Alaska and Texas.

REPRESENTATIVE STOLTZE suggested that the letter from Louis Beaty specifies that [current law] is the major obstacle [in reciprocity]. He also noted that he has had many conversations with different levels of bureaucracy and staff of the Texas Legislature and gathered the same response. He said he suspected that [Texas] is probably reluctant to just come right out and say that if Alaska enacts this, then Texas will automatically approve reciprocity.

CHAIR McGUIRE mentioned Representative Croft's proposal to eliminate permits altogether and inquired as to why not pursue that over [CSSSHB 177(STA)].

REPRESENTATIVE STOLTZE explained that Representative Croft's proposal doesn't actually eliminate the permits altogether. Representative Croft's proposal copies a statute from Vermont. Representative Stoltze said that Representative Croft's legislation retains the permit in recognition of the need to have the ability for reciprocity so that Alaskan citizens could carry their permit in other states. It's not harmful to have the permit process, he said.

Number 1486

REPRESENTATIVE HOLM opined that if someone doesn't qualify for a handgun permit in Alaska, they probably wouldn't qualify elsewhere because Alaska has one of the strictest qualification standards in the country.

REPRESENTATIVE GARA, in response to Representative Holm's statement, opined that someone would be able to qualify elsewhere if that location had lesser standards than the State of Alaska.

REPRESENTATIVE HOLM argued that this legislation attempts to allow reciprocity. Noting that there was a concern that there would be individuals entering Alaska from states with lesser qualifying standards, he opined that such can't happen.

REPRESENTATIVE GARA said if Alaska has the strictest standards, then other states have less strict standards, and therefore doesn't that mean that Alaska will be admitting people who received permits under lesser standards.

REPRESENTATIVE HOLM simply remarked that this legislation addresses Alaskans going elsewhere to carry, not vice versa.

Number 1583

REPRESENTATIVE ANDERSON moved to report CSSSHB 177(STA) out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSSSHB 177(STA) was reported from the House Judiciary Standing Committee.

HB 31 - INITIATIVE/REFERENDUM PETITIONS

HJR 5 - CONST AM: INITIATIVE/REFERENDUM PETITIONS

Number 1583

CHAIR McGUIRE indicated that the following bills were the last order of business: HOUSE BILL NO. 31, "An Act relating to initiative and referendum petitions; and providing for an effective date"; and HOUSE JOINT RESOLUTION NO. 5, Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

Number 1617

REPRESENTATIVE BILL WILLIAMS, Alaska State Legislature, sponsor, offered the following opening remarks.

Good afternoon, committee members and Madam Chairman. I am here today to urge the passage of House Bill 31 and its accompanying ... House Joint Resolution [5]. It's the right of the people to put [an] initiative ... on the ballot and to vote on an important part of Alaskan democracy. Why is [the legislation] needed? To make the initiative process truly democratic and representative of [the] state. As you can see from statistical data in your committee packets, current law allows initiative sponsors to get [an] initiative on [the] statewide ballot with only a token number of signatures. ...

The NCSL [National Conference on State Legislatures] has taken a strong stand recommending statewide support for initiatives before they get on the ballot. Government in other states has been bogged down and hamstrung by numerous attempts to govern by initiative - ... California and Washington. House Bill 31 and HJR 5 would require petition sponsors to get signatures equaling at least 7 percent of the number of voters in the most recent general election in at least three-quarters of the House districts - 30 districts. This change supports the letter of [the] spirit of the constitution, and brings more Alaskans from more parts of the state into the initiative process. The proposal exports and expands democracy.

... The framers of the [Alaska State] Constitution crafted an article [in] our constitution allowing citizens to get initiatives on the ballot, a right that does not exist in 26 other U.S. states. The framers of the [Alaska State] Constitution specifically included [a] geographical-distribution requirement in order to prevent any one of the areas of the state from dominating the process. House Bill 31/HJR 5 exports democracy into all areas of the state. [House Bill 31/House Joint Resolution 5] changes the signature-gathering requirements to more [accurately] account for changes in communication and population (indisc. - voice faded away).

Number 1752

REPRESENTATIVE WILLIAMS concluded:

Of the 24 states that have an initiative process, 13 have some sort of geographic-distribution requirements for signatures. It is important that Alaska's initiative process be fair and represent the entire state, to avoid the kind of undue influence, by interest groups and local areas, that the framers of the [Alaska State] Constitution sought to avoid. ... The bill and the accompanying resolution, if passed by the legislature, will not change Alaska law. The decision will be made by the people of Alaska, in [a] vote on a constitutional amendment in November 2004. I urge the passage of these two bills.

REPRESENTATIVE WILLIAMS added that he would like the House Judiciary Standing Committee to look into whether there is actually a need for the resolution changing the constitution, or whether his goals could be accomplished just by a change to statute.

CHAIR McGUIRE asked Representative Williams whether he has obtained a legal opinion from Legislative Legal and Research Services.

REPRESENTATIVE WILLIAMS said he had, but indicated that he would trust the findings of the committee with regard to legal issues.

Number 1857

JAMES PRICE said he opposes HB 31 and any attempts to make the initiative process more difficult or cumbersome for the citizens of Alaska. He opined that the increase in signature collection to 7 percent in three-quarters of the House districts will not foster democratic participation, and will simply make the initiative process more expensive and difficult for the common citizens who, he surmised, are the ones that participate in that process. He suggested that the legislation will give special interest groups and people with an axe to grind who have money more influence over the process. He mentioned that he'd participated in an initiative on the Kenai Peninsula, and relayed that had his group had to abide by the requirements proposed in [HB 31/HJR 5], they would have had to gather signatures across the inlet in Tyonek, across the bay in Seldovia, and on the other side of the borough in Cooper Landing; he added that such requirements might have "actually sunk our boat" because his group didn't have "deep pockets."

MR. PRICE observed that it is very difficult, currently, to gather 15 percent of the signatures from all the jurisdictions. He noted that at their local election regarding the private prison, voter participation was about 39 percent - almost double that area's past average. He opined that Cornell Companies and VECO Corporation spent millions of dollars to influence the legislature and promote a private prison funded with public money. He said that had there not been the initiative process, his area would have "had a prison that no one wanted." He added, "Our borough people told everyone, 'Oh, this is what the people want; (indisc.) overwhelming support for it,' yet when the vote came in, we smoked them by a level of three to one, and they found out that, no, they didn't have the support."

MR. PRICE suggested that an effective alternative would be to prohibit cities from spending public funds to advance their interests with regard to local ballot issues. In essence, he remarked, "they're using taxpayer money to get the citizens that are at the ballot box." In closing, he said that he adamantly opposes any changes to the initiative process that make it more difficult, and he encouraged the committee to respect the democratic process by voting against this "bad legislation."

Number 2022

RICHARD H. BISHOP, Chair, Trustee Advisory Board, Alaska Outdoor Council (AOC), said that the AOC strongly supports HB 31 and HJR 5. He went on to say:

I'm a game biologist by training. I retired from ADF&G [Alaska Department of Fish & Game] in 1989 ..., after over 20 years' work on game research, management, and department administration. Since retirement, I have worked in various capacities, mostly with the Alaska Outdoor Council on fish and wildlife resource issues, including several initiatives. The initiatives aren't a bad tool when they're used to protect peoples' rights. Unfortunately, most initiatives are used to restrict peoples' rights. In my review of the information, I found ... that even the Founding Fathers of this country were quite wary of the impact of the initiative system - or initiatives - on minority rights.

In general, hunters, fishers, and trappers are a numerical minority in Alaska. And, in general,

wildlife initiatives in this state, and nationwide, have promoted restriction of scientifically sound, lawful hunting, trapping, and sound state wildlife management. In other words, in addition to the management, ... many of these initiatives have been aimed at the minority of hunters, trappers, and fishers. Representative Williams's bill and resolution would help defend against the tyranny of the majority by requiring broader representation of Alaskan minorities of all kinds, not just hunters and trappers, in order to put an initiative on the ballot.

So, instead of a bad idea being sold by slick advertising to a gullible majority who have no stake in the issue, the idea would have to pass muster with those whose interests are most affected. House Bill 31 does not ban the use of the initiative process. What it really says is, if you want to use this method of making law, you'd better have an idea that helps people, and not hurts them, or it just won't fly. Initiatives on wildlife issues, and this is the principal issue of the Alaska Outdoor Council, are widely condemned by professional fish and wildlife biologists in Alaska and across the United States because they've proven a poor substitute for the legal framework developed over the last 100 years for managing fish and game.

Number 2149

MR. BISHOP continued:

With wildlife, it's easy to sell a bad a idea with great - and, often, misleading - advertising. People mostly like wildlife, and mostly don't like to bother checking out the facts. So they react to the emotional appeal of a ballot campaign. Alaska has an outstanding legal framework and system for fish and game management consisting of the local advisory committees, the Board of Fisheries, the Board of Game, and the legislature, all working together with the [Alaska] Department of Fish & Game professionals to do a good job on management. It's part of our representational democracy, and it's important to remember, of course, that that's how our system is set up, not as a total democracy, but as a representational democracy.

The initiative process [is] used by anti-hunters and anti-management interests [as] an end run around this representational-democracy system. House Bill 31 and HJR 5 would improve the working climate of this commendable system. It would be harder to undermine the system through initiatives that are not based on sound, scientific management - initiatives that penalize rather than promote the interests of Alaska's fishers, hunters, and trappers - through the tyranny of the majority. Thank you for taking my testimony; I'd be happy to try to answer any questions the committee may have.

Number 2245

KAREN BRETZ, Secretary/Treasurer, Alaskans for Efficient Government, after mentioning that she is also an attorney, noted that her organization has sponsored several statewide initiatives. She said:

I have been involved in the initiative process as a proponent of ballot initiatives and counsel to litigants involved in the initiative process. One reason proffered [in] support of this bill and resolution in the past, and currently, is that it will ensure that there is statewide support of a proposed initiative. I am not aware of anything ever introduced to a legislative committee showing that the current initiative process is failing us in that persons living in rural areas are disenfranchised and that increasing signature requirements is the solution. In fact, the opposite is true, and HB 31 and HJR 5 will guarantee that people living off the road system will become disenfranchised from the initiative process.

The requirement that signatures be collected equal to 10 percent of the voters that voted in the preceding general election ensures that the proposed initiative has minimal support. If basic, fairly straightforward requirements are met, the lieutenant governor places the initiative on the ballot, and all [Alaskan] voters have the opportunity to vote on the proposition. There has been no attempt by proponents of HB 31 and HJR 5 to show that people in rural Alaska are not

given the opportunity to make their voices heard when it counts - in the actual election.

I was involved in Proposition 2 [Ballot Measure 2], the initiative proposing to move the meeting place of the Alaska [State] Legislature from Juneau to the Matanuska-Susitna Valley. This proposition was voted on in the 2002 general election and was soundly defeated - in districts both on and off the road system. According to the statistics on the Division of Elections' web site, Proposition 2 was defeated 10 to 1 in District 1, which is Representative Williams's district; it was defeated 17 to 1 in District 2, which includes Sitka, Petersburg, and Wrangell; [and] it was defeated 2 to 1 in District 37, the Bristol Bay area. In fact, Proposition 2 only passed in four districts - not surprisingly, all in [the] Palmer-Wasilla area.

Number 2330

MS. BRETZ went on to say:

There has been no indication that people in the rural areas did not have the opportunity to make informed choices at the ballot box based on the limited information that was made available to them. I personally collected thousands of signatures for "Prop 2"; I [collected] signatures at the Alaska State Fair in Palmer, in front of [Fred Meyer] and Kmart in Anchorage, at the [Ted Stevens] Anchorage International Airport, and at the Fifth Avenue Mall in downtown Anchorage. These are some of the best places in the state to reach out to Alaskans because one meets voters from across the state. Anchorage is the state's economic hub, and the state fair, the "big box stores," the malls, and the airport are places where people from rural areas come for shopping, entertainment, and to take care of business.

Although I cannot tell you whether we collected signatures of 7 percent of the voters in three-fourths of the house districts, as HB 31 and HJR 5 would require, I can tell you that we talked to persons and collected signatures from Angoon to Barrow to Unalaska and all in between. [House Bill 31 and House Joint Resolution 5] will disenfranchise people living in rural Alaska from the initiative process. It is

undeniable that most signatures needed to place an issue on the ballot can be collected in Anchorage and its environs by reaching out to places frequented by people from across the state. It is also undeniable that a person living in Dillingham cannot collect all the signatures that he needs to place an issue on the statewide ballot by staying in Dillingham.

**TAPE 03-30, SIDE B**

Number 2380

MS. BRETZ continued:

[House Bill 31 and House Joint Resolution 5] will require [people in Bush Alaska to not] only pay for plane tickets, lodging, transportation, and meals in Anchorage, but also [pay for] plane tickets, lodging, transportation, and meals in Juneau, Fairbanks, Barrow, Bethel, et cetera, in order to meet the onerous proposed requirements. Most common citizens do not have the funds to do this. These additional requirements will preclude most people in rural Alaska from getting involved in the initiative process.

Now, when we have increased cause to reflect upon the individual freedoms, prosperity, and wealth that our form of government allows us to enjoy - in contrast to those regimes of Iraq and Afghanistan - ... the legislature should encourage more Alaskans to participate in the initiative process. Although the initiative process has never been instituted on the federal level, the United States Supreme Court has commented on it in the case of United Mine Workers of America v. Illinois State Bar Association, 389 U.S. 427 (1967) ....

MS. BRETZ read from the aforementioned case, which says:

We start with the premise that the rights to peaceably assemble and to petition for a redress of grievances are among the most precious of the liberties safeguarded by the Bill of Rights. These rights, moreover, are intimately connected, both in origin and in purpose, with other First Amendment rights of free speech and free press. "All these, though not identical, are inseparable." (Citations omitted) The First Amendment would, however, be a hollow promise if

[it] ever left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, or assembly as such.

Number 2324

MS. BRETZ, in conclusion, said:

Restraining the rights of the people of the state of Alaska from the right to petition the government through the initiative process is certainly not Alaskan and, I may also add, is not patriotic. I ask that the committee vote to not pass this bill and resolution. Thank you.

REPRESENTATIVE GARA, referring to Ms. Bretz's experience in putting an initiative on the ballot, asked how much volunteer time it took to get the required number of signatures and how much money had to be raised to achieve that goal.

MS. BRETZ said that for Proposition 2, volunteers did 90 percent of the work and the fundraising, adding that she and Uwe Kalenka collected approximately 75 percent of the necessary signatures.

REPRESENTATIVE GRUENBERG asked Ms. Bretz to comment on the issue of "how the initiative process relates to the balance of power in the [Alaska] State Constitution."

MS. BRETZ replied:

I believe that the initiative process is there for people who are dissatisfied with the legislative process, to make their wishes and desires known. Our group has approached several legislators about introducing bills that we thought would be in the best interest of the state; sometimes things happen, sometimes not. But we believe that the initiative process is vital for our democracy, so that the people - citizens - can make laws on their own. It's often been called, as I'm sure you're aware, "direct democracy" - bypassing the legislative process to go directly to the people.

Number 2186

LINDA RONAN, Alaska HEMP (Help End Marijuana Prohibition), noted that her group has been trying to put an initiative on the ballot for years. She remarked that "this is a subject" that is difficult for legislators to bring up; thus it is easier for "the people" to bring the issue forward. She noted that the constitution uses the phrase, "We the People," adding that it is "the people" who have the right to put initiatives on the ballot when political leaders are not interested in making changes regarding certain issues. She posited that the people who don't have the money to go out to all the villages to gather signatures still have access to those who live in villages because those folks do come to the urban centers at some time during the year. She opined that it would be better to keep the initiative process as is, and that [the legislation under discussion] will make the process more difficult because the proposed signature requirements will be almost impossible to meet, particularly for controversial issues. She urged the committee to not pass [HB 31 and HJR 5].

Number 2084

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), indicated that AkPIRG opposes [HB 31 and HJR 5]. He said, "I believe, as has been stated, that elections are the true form of our democracy, and citizens' initiatives on those elections are a valuable tool ...." He opined that [HB 31 and HJR 5] are unnecessary and would unfairly restrict access to the initiative process. He remarked that the Alaska Public Offices Commission (APOC) has always done a very good job in helping citizens keep track of who is spending money on ballot propositions and elections.

Number 1977

VIRGINIA BREEZE, Election Projects Coordinator, Central Office, Division of Elections, Office of the Lieutenant Governor, simply mentioned that the division has "an impartial statement" on the [legislation under discussion].

Number 1953

ALVIN ANDERS, Chairman, Alaska Libertarian Party of Juneau, noted that he is a veteran of many initiative campaigns in Alaska. He went on to say:

I'm here to urge the committee to reject the changes to the initiative process. It is already extremely

difficult to put initiatives on the ballot. Very few businesses will allow anyone to circulate a petition in front of their businesses, especially if the initiative is at all controversial. The proposed changes to the initiative process will mean that circulators will need to not only get signatures equal to 10 percent of the vote cast in the last election, but will also have to get signatures equal to 7 percent of the vote cast in three-fourths of the House districts.

This will have the effect of requiring not one petition drive, but thirty petition drives, because to fail to qualify in just one of the required three-fourths districts will invalidate all the signatures. So even if 100 percent of the voters in 29 districts sign a petition, but supporters fall one signature short in the 30th district, then the initiative fails, and all voters who would like to vote on the issue are disenfranchised. Nor is this reform even necessary. Supporters of making the initiative process more onerous claim they are proposing these changes so that all the state is included in the initiative process, yet they offer no evidence that this is not currently the case. I argue that, in fact, just the opposite is true. When an initiative is on the ballot, it is widely debated statewide.

When legislators pass bills - and, unfortunately, you pass lots of them - voters rarely, if ever, participate in the debate on these bills. In fact, legislators have even claimed that they themselves did not have time to read every bill before voting on it. Alaska statewide ballots are not crowded. Moreover, initiative backers know they need a majority of the voters to pass the initiative, so they work hard to win hearts and minds statewide. These changes will mean the death of citizen initiatives and mean that only initiatives supported by deep pockets can afford to make the ballot. This will hardly support democracy, much less civic participation.

Number 1866

MR. ANDERS continued:

Also, initiatives increase voter turnout. They do this in two ways. First, they do this by registering new voters. On New Year's Day, just eight minutes into the new millennium, I registered a voter who had not voted since 1972 and who had no intention of ever again voting. He changed his mind because marijuana reform would be on the ballot, and his 21-year-old daughter followed her father's example and registered for the first time in her life, after having vowed never to do so. Second, initiatives increase voter turnout by putting issues on the ballot that are too hot to handle for the legislature. Tax reform, defending the Alaska permanent [fund dividend], medical marijuana, term limits, wildlife issues, [and] sign restrictions are just some of the issues that would only have been in the public debate ... thanks to the initiative process. These changes are not needed.

Moreover, there is a better way to accomplish the same goal and save taxpayers money at the same time. Plus, the change can be done without the need for a constitutional amendment. By changing the initiative from a petition booklet of many pages - and printed at great expense to the taxpayers ... - to a one-page form that can be posted on a web site and downloaded by citizens wishing to sign and circulate the petition. If we do this, we will make the initiative easier to sign by even voters living in the remotest parts of Alaska. The added benefit is that the initiative backers can pay the cost of printing these petitions.

Number 1811

MR. ANDERS elaborated:

To do this change, we will need to either give up the circulator affidavit on the last page of petition booklets, or make it a separate form that needs to be signed and turned in. I would argue for the former reform. The circulator affidavit is no longer necessary because the U.S. Supreme Court no longer allows petition circulation to be limited to only registered voters. Since this [U.S.] Supreme Court ruling, circulator affidavits have only served the purpose of having circulators swear that to the best

of their knowledge, the person signing the petition was a registered voter. However, no one is taking our word for it; instead, the state goes to great expense to verify that the signers are, indeed, registered voters.

The initiative has a rich history in Alaska. It plays a very important role in self-government. It fosters civic responsibility. It invigorates public debate. Instead of making the initiative process more difficult, we should make it easier. Ideally, all bills should go before the citizens for a vote. Moreover, Alaska should also allow citizens to use the initiative process to amend the Alaska [State] Constitution.

I propose that the legislature reject these proposed changes. Instead, turn this bill into the requirement necessary to put a constitutional amendment on the ballot, add an additional safeguard by requiring the proposed constitutional amendment to pass twice or to pass with a super majority. At the very least, the legislature should embrace democracy and the democratic process by rejecting this effort to make an already very difficult initiative process far more difficult. Then the legislature could go a step further and take mercy on taxpayers by making initiatives one page, the cost of the printing of which is paid by initiative proponents instead of the taxpayers. As stated earlier, this will make the initiative process far more accessible to all Alaskans by facilitating the placement of initiatives on the Internet where they can easily be downloaded.

Number 1729

MR. ANDERS concluded:

I would like to make two final points. One, the Alaska Outdoor Counsel, their objection is that the initiative process will -- that these changes make it harder for wildlife [issues] to make the ballot. Well, no one is better funded than ... the environmental movement, and this is exactly the type of change that's going to mean that ... [this is] the only type of initiative - those by well-funded special interests - that will make the ballot. ...

The last comment here is that I have copies of the ... type of petition we're talking about, I have lots of extra copies because the state spends a great deal of money printing these petitions booklets up for us. Instead of printing these petitions for us, this is an example of the petition that's done in municipalities, like this is an Anchorage petition. It's one page. In Michigan, proponents of putting ... marijuana reform on the ballot got a 100,000 signatures, all volunteer, twice - [though] they needed 300,000 - and they did it because the form could be very easily downloaded. And with that I'll conclude my remarks and stand by for any questions.

REPRESENTATIVE GARA surmised that when gathering signatures, circulators can assume that a certain percentage of signatures will be invalidated because peoples' signatures can't be read or because persons signing petitions won't be registered voters. He asked Mr. Anders how many extra signatures must be gathered in order that enough are gathered to place an issue on the ballot.

MR. ANDERS said that generally, he tries to get twice as many signatures as are required, since many signatures will, ultimately, be invalidated. He added that most of the initiatives he has been involved with "run a validity rate of better than 70 percent." He remarked that although a 7-percent signature requirement - as is proposed by [HB 31 and HJR 5] - may not seem like much, circulators would have to strive for double the number of signatures required in order to be sure that enough valid signatures were gathered. In response to further remarks, he explained that in a district for which 7 percent of voters voting in the prior election totaled 220, as a petition circulator, he would attempt to gather 400-500 signatures.

Number 1564

CHAIR McGUIRE remarked that the initiative and referendum process is very important, and perhaps unique to western states. She agreed that sometimes the initiative process can be a way of discharging ideas that, for political reasons, get bogged down in [other arenas]. She noted, however, that the basic premise of a representative democracy is that the majority of the people are represented. She elaborated:

When you look at a state like Alaska, it isn't just the majority of people from Anchorage, or the majority of people from Juneau, or the majority of people from Fairbanks - urban areas; it's the majority of the state. And we've struggled long and hard in this legislature to talk about that - the urban/rural divide, some people call it - to make sure that villages and other rural communities in this state have access to water and sewer and power, access to transportation, and opportunities to education, and so on.

CHAIR MCGUIRE asked how enacting the requirements proposed in HB 31 and HJR 5 could be construed as infringing on democracy.

MR. ANDERS remarked that democracy is furthered when all Alaskans are given the opportunity to vote directly on an issue at the polls. In contrast, democracy is not furthered when an issue is vetoed simply because people didn't get a chance to sign a petition. He added, "Democracy is voting on issues directly; it's not signing a petition directly." He continued:

What we want to do is make it as easy for people to put issues on the ballot as possible, but as hard for people to violate the rights of individuals through the initiative process. That's why we have a bill of rights, that's why it needs to be vigorously enforced. The initiative process should be viewed as an adjunct of the legislative branch of government. When we were writing the constitution, communication was very difficult; [thus] the idea of having citizens vote on issues, each and every issue individually, would have just been extremely difficult, if for no other reason than the high cost of getting information to everybody.

Number 1329

MR. ANDERS went on to say:

But in smaller communities, like Massachusetts - the birthplace of our [U.S.] Constitution and the independence movement - citizens did organize into town councils where they voted on every issue. And now we've evolved. With the Internet, we can be talking with people all over the state, instantaneously. And so, again, if we want to include

more people in the initiative process, we can do so very easily by making it one page that the proponents pay for the printing of themselves [and allowing] the proponents to put it on the Internet so it can be downloaded; then the folks in Ketchikan [for example] could not only sign the petition very easily, but they can circulate it very easily.

If you want to preserve the sponsor affidavit, it's just a separate page that the person has to download and send in as well. Currently, what happens -- these booklets make it very difficult for ... [volunteer-initiative] efforts to succeed. Mailing these to people is very expensive. When a volunteer gets it, they feel they have to fill it out before they turn it back in; then mailing it back in is very expensive. [If] it's one page, if I only want to sign it, I stick it in an envelope with 37 cents, and it's done. If [I] want to involve my friends ...

CHAIR MCGUIRE interjected to say she [understands] Mr. Anders's point. She noted that according to Article [XI], Section 3, of the Alaska State Constitution, a constitutional amendment would be required to enact Representative William's proposed changes. In contrast to statements made by Mr. Anders regarding the difference between voting on an issue and signing a petition, she opined that because of the aforementioned constitutional language, voting on an issue is not separate and distinct from signing a petition. Rather, "it is all one big part of it," she added. She remarked that although it is inevitable that there will be some bad ideas brought forth through the initiative process, signature requirements will ensure that fewer bad ideas make it to the ballot, so that it can be said that there's enough support for an idea from the start. She then voiced support for Mr. Anders's idea regarding [making petitions available on] the Internet, and suggested that funds should be spent to ensure that the technology currently available is used to increase to the entire state's access to the petition process.

Number 1091

REPRESENTATIVE SAMUELS said he agreed with Chair McGuire on that last point. He opined that with regard to initiatives, "Anchorage has got to be completely driving the bus; we have to be cramming things down peoples' throat, so there ought to be five of us up here that love them because our people are the

ones that -- we're it." He offered the thought that those in Anchorage have more of a voice in the initiative process than do those from Barrow or Nome or Ketchikan, for example, even though, oftentimes, initiatives have an affect on rural areas of the state. He indicated that he is leaning towards supporting Representative Williams's proposal.

MR. ANDERS replied:

Anchorage may drive the bus in as much as that's where the bulk of the population is, so that's where you get the bulk of your signatures. What drives the bus is the 10 percent requirement you need, the [20,000-some or 30,000-some] gross signatures, so you go to your largest population center. Democracy is voting on issues directly, and what we want to do is make it possible for folks in Ketchikan, Unalaska - all over the state - [to] have what they think is a good idea put on the ballot. This requirement would mean they'll have to travel all around the state to do it. Currently, they can come to Anchorage and get the bulk of their signatures there and at the Palmer fair, put their initiative on the ballot, and then, of course, that doesn't mean it's going to pass. A lot of what look like really good ideas, just because they made it on the ballot, didn't pass.

If you look at the [material] that Representative Williams submitted, you'll see a number of initiatives that were placed on the ballot that had a lot of support and had a lot of signatures from around the state - for example, the tax cap - got soundly defeated. The medical marijuana initiative didn't get many signatures around the state but it [did] quite well. I'd also add that it's extremely difficult to find places [that] allow you to circulate a petition. In the case of making marijuana illegal in 1990, ... Carrs allowed you to set up inside the Eagle River Carrs to circulate the petition. Well, in trying to put medical marijuana on the ballot and marijuana ... decriminalization on the ballot, we were threatened with arrest in front of federal post offices.

Number 0897

MR. ANDERS continued:

Now, if the right to petition your government doesn't apply to the federal government, where does it apply? So, thank God we do have public property like the Sullivan Arena, the Palmer fair, Tanana Valley fair, the DMV [Division of Motor Vehicles], the library that you can get signatures. But imagine, when you go to these smaller communities, you don't have the population centers to get those signatures, so you may have to stay there for weeks to bump into enough folks. Combine that, and now you have a controversial initiative that the local authorities don't want to see on the ballot. And then they put somebody out there beside you saying, "Hey, don't sign that marijuana petition" - you're fried. And it can happen. [When] we were doing the wolf snare petition, we had a circulator in Fairbanks who was stalked. And, as a result of her being stalked, we removed the requirement that circulators had to put their name on each [indisc. - coughing].

CHAIR MCGUIRE remarked, "And we need to continue to make improvements to that."

REPRESENTATIVE SAMUELS, on Mr. Anders's comments, said, "That doesn't change the fact that Anchorage has a completely disproportionate part of the power now." He noted that if Representative Williams wanted to do a petition, even he would have to go to Anchorage.

MR. ANDERS pointed out that under the proposed legislation, Representative Williams would then also have to go to Nome, Dillingham, and other districts.

Number 0756

CHERYL JEBE, President, League of Women Voters (LWV) of Alaska, relayed that in 2001, the LWV adopted a resolution supporting the initiative process, after a study recommended "a formula for at least 50 signatures in each of two-thirds of the legislative districts in order to reflect statewide interest in a measure." She remarked, however, that she is not sure that 7 percent is the number that should be used. In the discussions ensuing from the study, the LWV chose 50 signatures because it was decided that it was important that rural Alaska have more of a say in the initiatives being put on the ballot. In response to a question, she noted that another recommendation resulting from the aforementioned study was to support the [current]

requirement for "a number of valid signatures not less than 10 percent of the total number of votes cast in the preceding general election."

REPRESENTATIVE ANDERSON remarked that he could see both sides of the argument. He mentioned, however, that he supports expanding the number of districts from which signatures are gathered in order to achieve a greater representation.

REPRESENTATIVE HOLM remarked, "We do not have a democracy; we have a representative republic." He opined that lack of a democracy ensures that there will not be a tyranny of the majority. He suggested that changing the initiative process as proposed by Representative Williams will better protect the people. Representative Holm then read from a portion of Delegate Warren A. Taylor's comments from the December 16, 1955, transcripts of the Alaska Constitutional Convention, which says:

Of course, now we know in some states the exercise of the initiative and referendum was perhaps warranted by one act maybe that it be put through. One of them was in California. The Civil Service Act for state employees was put through by means of the initiative measure. The legislature had been importuned for year after year for civil service status of the employees, and it was only in that way that they finally got it. Of course, if the proper safeguards are not put around the type of legislation that can be initiated by the people. [sic] As I said before, they can do a lot of harm. There was one in California that within a year they found out that it was bankrupting the state, and they had to get out another initiative and do away with the first one.

Number 0308

REPRESENTATIVE HOLM said that it is imperative for [the legislature] to oversee what happens to the state of Alaska, and imperative for the people of the state to have some control over the initiative process. He indicated that he supported Representative Williams's proposal.

REPRESENTATIVE GARA posited that the framers of the Alaska State Constitution wanted to give the people of the state a way to exercise the right of direct democracy, and this resulted in the current initiative process. He opined that this current process, as developed by the framers of the Alaska State

Constitution, is a good one. After positing that the framers considered an unfettered right to initiatives to be a problem, Representative Gara pointed out that the restrictions discussed in the aforementioned transcript pertained to "whether or not to let people vote to spend money," and the decision arrived at was to not let the initiative process extend to the expenditure of money. He opined that this is a good limitation. On the issue of whether to require more signatures from throughout the state before allowing an initiative on the ballot, he said he disagrees that such a requirement would be better from a democratic standpoint.

REPRESENTATIVE GARA, likening the initiative process to the legislative process, noted that legislation does not need to have the written support of three-quarters of the body; legislation merely needs to have the support of half of the body plus one. He opined that the current initiative process is set up properly. "I don't think you have to prove that you have a majority before you get your majority," he added. He noted, however, that he does sympathize with the point raised regarding the fact that currently, initiative circulators only have to go to the same larger population centers. But this problem is cured, he opined, by the fact that an initiative won't pass unless it is approved by a majority of the voters at the polls. He warned that making it more burdensome to get signatures, as proposed by HB 31 and HJR 5, will prevent people from getting initiatives on the ballot. He suggested that the changes proposed will increase the cost of getting initiatives on the ballot; as a result, wealthy people and groups with a lot of financial resources will still be able to get initiatives on the ballot, but not average citizens. He indicated that he sides with the people who oppose [HB 31 and HJR 5] and support keeping the initiative process as is.

**TAPE 03-31, SIDE A**

Number 0010

REPRESENTATIVE GRUENBERG remarked that the initiative process is part of the checks and balances to the legislative process. Using the legislative process as an analogy to the initiative process, he noted that only one person has to have an idea - in the form of a piece of legislation - for it to come before the whole body. He surmised that the same is true for Congress and other states' legislatures. He offered his view that the initiative is merely the first step in the process, and suggested that the question before the committee is how many it takes to prevent a measure. He suggested that under HB 31 and

HJR 5, "people from one-quarter of the districts could oppose [a measure]."

REPRESENTATIVE GRUENBERG remarked that the proposal is not very representative because it merely says persons have to live in a district, adding, "those of us who live in districts know that it's very fortuitous whether you live on one side of the street or the other." He asked, "Why does it make me more qualified to oppose a bill just because I live across the street or I happen to live in a different village?" It's not where one lives, he added, "we're all Alaskans." If [the committee] really wants to stop what has been called "the tyranny of the majority," he suggested, it should not be focusing on the "nominating portion," as proposed by HB 31 and HJR 5; rather, the committee should be looking at "enactment," whereby, in order to pass a measure, people from two-thirds or three-quarters of the districts would be required to vote for the measure. Another option for stopping "the tyranny of the majority," he remarked, would be to require a super majority [of the voters] to vote for passage of a measure.

REPRESENTATIVE GRUENBERG relayed that "in talking about candidates," Stalin said, "Let me control the nominating process, and you can have the election." "And he did it, didn't he?" added Representative Gruenberg, because Stalin totally controlled the nominating process. By the same token, if talking about democracy, then the people have a right to propose things, and let "the rest of us vote on it," he remarked, adding, "let's just get it on the ballot, that's all we're talking about here, is putting it on the ballot." And if a measure has no merit, then the people will defeat it at the ballot. He indicated that he is merely asking that all Alaskans be allowed to vote on initiatives.

Number 0384

CHAIR McGUIRE remarked that the first step in the initiative process is not the petition stage; it is actually the application stage, which only requires 100 signatures, which, she opined, is a fairly minimal standard and easy to achieve.

REPRESENTATIVE OGG mentioned that the people of Greece - which, at the time of the war between Athens and Sparta, was run as a true democracy - voted to kill all the admirals when they returned after having suffered a great defeat to Sparta. He suggested that "we've moved past that," and that the Founding Fathers, in establishing the current form of government, were

striving to avoid just such failures of earlier forms of democracy.

REPRESENTATIVE OGG observed that at the time the framers were developing the Alaska State Constitution, Alaska was a very different state. He opined that it would only be healthy to have petition circulators visit those parts of the state that have less populations and talk to the people in those areas. He suggested that HB 31 and HJR 5 will help the legislature recognize that Alaska is a very large state with people throughout, and will counterbalance any tendency to provide less representation to the people who live outside of Alaska's major metropolitan areas. He indicated that he is considering a positive vote to move the legislation forward.

REPRESENTATIVE SAMUELS remarked that if the initiative process were held at the national level, he would not like having other states, along with just one Alaskan, decide whether to put an issue affecting Alaska on the ballot.

REPRESENTATIVE WILLIAMS agreed that Alaska has a representative form of government. He indicated that the people of Saxman, Gustavus, Angoon, and Savoonga should have a chance to voice their opinion on whether to put an initiative on the ballot. With regard to the issue of cost, he mentioned Mr. Anders's comments regarding a petition that could be downloaded and faxed. He noted that the current signature requirement is 10 percent of the people that voted in the prior general election and at least one person from each of 27 House districts. He opined that it would help if more people were involved in the initiative process. He again asked the committee to research whether a constitutional amendment is really needed in order to change the signature requirement.

CHAIR MCGUIRE indicated that because of Representative Williams's compelling testimony, she is in favor of supporting the legislation.

REPRESENTATIVE GRUENBERG, in an effort to allay Representative Samuels's concern that a tyranny could be imposed via the initiative process, read from Article XI, Section 7, of the Alaska State Constitution, which says in part: "Restrictions. The initiative shall not be used to ... enact local or special legislation."

CHAIR MCGUIRE announced that [HB 31 and HJR 5 would be held over.]

**ADJOURNMENT**

Number 1195

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:10 p.m.