

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

May 6, 2003

8:06 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 17

Relating to the Alaska-Yukon Intergovernmental Relations Accord, to annual legislative exchanges, and to continuing intergovernmental work on matters of joint concern and mutual interest.

- MOVED SJR 17 OUT OF COMMITTEE

HOUSE BILL NO. 288

"An Act changing the name of the Department of Community and Economic Development."

- MOVED CSHB 288(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 22

Relating to the USA PATRIOT Act and to defending the Bill of Rights, the Constitution of the State of Alaska, and civil liberties.

- MOVED HJR 22 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 23

Relating to the USA PATRIOT Act and to the peace and security of citizens of our country.

- MOVED HJR 23 OUT OF COMMITTEE

HOUSE BILL NO. 230

"An Act relating to political signs on private property."

- SCHEDULED BUT NOT HEARD

HOUSE JOINT RESOLUTION NO. 9

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

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: SJR 17

SHORT TITLE:ALASKA-YUKON INTERGOV RELATIONS ACCORD

SPONSOR(S): SENATOR(S) OLSON

Jrn-Date	Jrn-Page		Action
04/14/03	0834	(S)	READ THE FIRST TIME - REFERRALS
04/14/03	0834	(S)	STA
04/22/03		(S)	STA AT 4:00 PM BELTZ 211
04/22/03		(S)	Moved Out of Committee
04/22/03		(S)	MINUTE(STA)
04/23/03	0932	(S)	STA RPT 3DP
04/23/03	0932	(S)	DP: STEVENS G, COWDERY, DYSON
04/23/03	0932	(S)	FN1: ZERO(S.STA)
05/01/03	1084	(S)	RULES TO CALENDAR 5/1/2003
05/01/03	1084	(S)	READ THE SECOND TIME
05/01/03	1085	(S)	ADVANCED TO THIRD READING UNAN CONSENT
05/01/03	1085	(S)	READ THE THIRD TIME SJR 17
05/01/03	1085	(S)	PASSED Y18 N- E1 A1
05/01/03	1085	(S)	COSPONSOR(S): DYSON, SEEKINS, WAGONER,
05/01/03	1085	(S)	LINCOLN, ELTON, ELLIS, STEVENS B, OGAN,
05/01/03	1085	(S)	COWDERY, TAYLOR
05/01/03	1091	(S)	TRANSMITTED TO (H)
05/01/03	1091	(S)	VERSION: SJR 17
05/02/03	1267	(H)	READ THE FIRST TIME - REFERRALS
05/02/03	1267	(H)	STA
05/02/03	1290	(H)	CROSS SPONSOR(S): STOLTZE, DAHLSTROM,
05/02/03	1290	(H)	WILSON, GRUENBERG

05/06/03 (H) STA AT 8:00 AM CAPITOL 102

BILL: HB 288

SHORT TITLE: CHANGING NAME OF DEPT OF COMM & ECON DEV.

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
04/28/03	1156	(H)	READ THE FIRST TIME - REFERRALS
04/28/03	1156	(H)	STA, L&C
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 22

SHORT TITLE: PATRIOT ACT AND DEFENDING CIVIL LIBERTIES

SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG

Jrn-Date	Jrn-Page		Action
04/02/03	0737	(H)	READ THE FIRST TIME - REFERRALS
04/02/03	0737	(H)	STA, JUD
04/07/03	0830	(H)	COSPONSOR(S): CRAWFORD
04/23/03	1078	(H)	COSPONSOR(S): KERTTULA
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 23

SHORT TITLE: PATRIOT ACT AND PEACE & SECURITY

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
04/07/03	0818	(H)	READ THE FIRST TIME - REFERRALS
04/07/03	0818	(H)	STA, JUD
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

SENATOR DONNY OLSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SJR 17.

REPRESENTATIVE VIC KOHRING

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 288.

EDGAR BLATCHFORD, Commissioner

Department of Community & Economic Development (DCED)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 288, as amended,
and responded to questions.

REPRESENTATIVE DAVID GUTTENBERG

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HJR 22.

REPRESENTATIVE JOHN COGHILL

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HJR 23.

GRAHAM STOREY

Nome, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23,
offered his preference that neither resolution pass.

JIM SYKES

Palmer, Alaska

POSITION STATEMENT: Testified in favor of HJR 22 and mentioned
that HJR 23 would be okay.

JENNIFER RUDINGER, Executive Director

Alaska Civil Liberties Union
Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23,
provided comments regarding aspects of the USA PATRIOT Act and
testified in support of sending a message to Congress.

ROGER W. SHANNON

Kenai, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR
22 and HJR 23.

JANET KUSSART

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23,
offered her support of the resolutions and asked the committee
to vote to pass them.

KATY PARRISH

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, relayed some of her concerns about the USA PATRIOT Act, detailed examples of its misuse, and urged passage of HJR 22 and SJR 15.

GEOFF KENNEDY

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 22 and HJR 23.

JOHN ILIFF

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, highlighted some problems with the USA PATRIOT Act and asked the committee to pass HJR 22.

FRANK TURNEY

Bill of Rights Defense Committee - Fairbanks Chapter

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments regarding the Bill of Rights and proposed that both resolutions be reported from committee.

LARRY HURLOCK

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, detailed some of the aspects of the Juneau resolution and urged members to get something similar passed this session.

JED WHITTAKER

Anchorage, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and urged the committee to move the resolutions forward.

JOHN BRADING

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and asked that steps be taken to repeal those Acts and executive orders that infringe on people's constitutional rights.

MIKE PRAX

North Pole, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and urged members to move some form of the resolution through the process this session.

ELIZABETH CUADRA

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments, testified in support of HJR 22, and urged members to enact it this session.

GREG ESCHRIGHT

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and said he supports passage of a resolution.

DAVID NOON

Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 22 and HJR 23.

JUNE PINNELL-STEPHENS

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided statistics resulting from the implementation of Section 215 of the USA PATRIOT Act, and urged members to pass the strongest resolution possible.

ANDREA DOLL

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and asked whether citizens should just stand by and let their freedoms and rights be taken away.

NINA MOLLETT

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and encouraged members to pass as strong a resolution as possible.

HEATHER McINTYRE

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and encouraged passage of an amalgamation of the two resolutions.

ALVIN A. ANDERS

Alaska Libertarian Party

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, urged passage of a resolution with teeth.

M. MIKE LAWLESS

Two Rivers, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, expressed confidence that the legislature will send a resolution with teeth to Congress.

PAOLA GREER

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided a synopsis of the "Domestic Security Enhancement Act of 2003" and urged members to take action as soon as possible.

LIZ GREIG

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and relayed that she would like to see an amalgamation of the two resolutions with more teeth in it.

ANNA GODDUHN

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and testified in support of passing a combination of the two resolutions.

MICHAEL WALLERI

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HJR 22 and HJR 23, provided comments and said he hopes the resolutions will pass from committee.

ACTION NARRATIVE

TAPE 03-52, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Weyhrauch, Holm, and Lynn were present at the call to order. Representatives Seaton, Dahlstrom, Berkowitz, and Gruenberg arrived as the meeting was in progress.

SJR 17 - ALASKA-YUKON INTERGOV RELATIONS ACCORD

Number 0052

CHAIR WEYHRAUCH announced that the first order of business would be SENATE JOINT RESOLUTION NO. 17, Relating to the Alaska-Yukon Intergovernmental Relations Accord, to annual legislative

exchanges, and to continuing intergovernmental work on matters of joint concern and mutual interest.

Number 0081

SENATOR DONNY OLSON, Alaska State Legislature, sponsor, said that SJR 17 supports the extension of the Alaska-Yukon Intergovernmental Relations Accord, which is currently set to expire on September 8, 2003. Alaska and the Yukon territory of Canada, he remarked, share not only a long, common border but also a connected history of resource development and pre-contact ethnography. In the past, Alaska and the Yukon territory have enjoyed mutual prosperity from joint efforts in mineral exploration and development, and currently co-manage important fish and game resources that transmute borders. With a pending gas pipeline and other matters of potential resource use, exploration, and development, it is essential, he opined, for Alaska and the Yukon territory to work together cooperatively to ensure the wise use of resources.

SENATOR OLSON went on to say:

This year, I and a number of others attended the annual legislative exchange with our Yukon colleagues in Whitehorse. The meetings and discussions that ensued underscore the importance of continuing the Alaska-Yukon Intergovernmental Relations Accord for our future economic growth and wellbeing. With that, I respectfully urge your favorable support of this resolution.

REPRESENTATIVE DAHLSTROM mentioned that she was one of those who attended the aforementioned exchange, adding that it was a very productive meeting and that she is looking forward to many good things resulting from it.

Number 0240

REPRESENTATIVE DAHLSTROM moved to report SJR 17 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, SJR 17 was reported from the House State Affairs Standing Committee.

HB 288 - CHANGING NAME OF DEPT OF COMM & ECON DEV.

Number 0297

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 288, "An Act changing the name of the Department of Community and Economic Development."

Number 0336

REPRESENTATIVE VIC KOHRING, Alaska State Legislature, sponsor, relayed that HB 288 changes the name of the Department of Community & Economic Development (DCED) to the Department of Commerce. He opined that the name "Commerce" more accurately reflects the objectives of the department, that being to: promote growth in Alaska's economy through the large-scale trading, buying, and selling of goods between cities, states, and countries; and have business dealings with the same. He relayed that the DCED's web site lists, among others, the following two objectives: "Organize and conduct business trade missions to expand product sales in current markets and develop new markets," and "Marketing Alaska-Sell Alaska's goods and services throughout the world." A second reason for changing the name, he offered, is that it will "eliminate any confusion that's out there about whether we even have an agency in Alaska that is tasked to develop commerce as we attempt to promote the state throughout the world and attract investment here."

REPRESENTATIVE KOHRING mentioned that numerous other states include "Commerce" in the title of their comparable agency. In addition to the aforementioned reasons, the administration desires a name change, he remarked, noting that the governor announced in his "State of the State" speech that the administration would be referring to the department as the "Department of Commerce." House Bill 288 merely formalizes that change and is accompanied by a zero fiscal note.

Number 0526

REPRESENTATIVE DAHLSTROM moved to report HB 288 out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE KOHRING explained that although the administration desires a name change, it wishes for the words "Economic Development" to remain in that new name; thus the new name would be "the Department of Commerce & Economic Development." He said that he would be amenable to such a change to HB 288

Number 0629

REPRESENTATIVE DAHLSTROM withdrew her motion to report HB 288 out of committee.

Number 0636

REPRESENTATIVE LYNN made a motion to adopt Amendment 1: to add, after "Commerce" on page 1, line 7, the words "and Economic Development"; to retain, after "Commerce" on page 1, line 9, the words "and Economic Development; to add, after "Commerce" on page 2, line 2, the words "and Economic Development"; and to add, after "commerce" on page 2, line 2, the words "and economic development". There being no objection, Amendment 1 was adopted.

Number 0835

EDGAR BLATCHFORD, Commissioner, Department of Community & Economic Development (DCED), indicated that the administration supports HB 288, as amended, adding that the cost to the state will be minimal in that the changes effected will be gradual in terms of acquiring supplies containing the new name. He added, "We are eager to change the name of the department to "Commerce & Economic Development, simply for the sake that we need to be more effective in our communications with people: the private sector, and in the community, and in the international arena."

COMMISSIONER BLATCHFORD, in response to questions, confirmed that he'd been commissioner of the Department of Community & Regional Affairs (DCRA) under Governor Hickel in the early 1990s; that in 1999, the DCRA was merged with what was then known as the Department of Commerce and Economic Development; and that with the change proposed by HB 288, the last vestige of the name "Community & Regional Affairs" will be removed. He relayed that his heart and sole is in rural Alaska; therefore, one of the things he did as the commissioner of the Department of Community & Economic Development was to reorganize the department to reflect a continuing commitment to activities in the unorganized boroughs as well as the organized boroughs. He mentioned that one of the divisions in the DCED is now responsible for all of the programs that were under the purview of the DCRA.

COMMISSIONER BLATCHFORD went on to say that the DCED strongly believes that the municipalities, the boroughs, and the unorganized areas of the state need to be at the table when public policy discussions are underway. He assured the

committee that the proposed change in the department's name contains no intention to diminish the functions that were formerly under the purview of the DCRA, adding that it is the DCED's intention to strengthen its commitment to the private sector and to economic development in both the organized and the unorganized boroughs. He relayed that the department views the name change as a strengthening of the its mission.

Number 1121

CHAIR WEYHRAUCH asked whether either the sponsor or the commissioner would have any objection to changing the title of HB 288 to say: "An act changing the name of the Department of Department of Community and Economic Development to the Department of Commerce and Economic Development."

CHAIR WEYHRAUCH noted that Representative Kohring is "shaking [his] head, 'No,' to that title change."

REPRESENTATIVE BERKOWITZ asked for a definition of the word "commerce."

REPRESENTATIVE KOHRING replied that he defines it both by the dictionary and by the department's mission statement, and reiterated his earlier comments on that issue.

REPRESENTATIVE BERKOWITZ offered that under Article X, Section 14, of the Alaska State Constitution, it says: "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law." He pointed out that "that term" was not mentioned in either of the definitions proffered by the sponsor. He opined that "this title change doesn't sweep in the constitutional requirements," adding that during the discussions surrounding the merger in 1999, there was a great deal of angst that the DCRA was going to be swallowed up by the Department of Commerce & Economic Development and that the concerns of rural Alaska were going be swept under the rug.

REPRESENTATIVE BERKOWITZ relayed that he viewed Governor Murkowski's announcement as a retreat from the commitments and assurances made during the original debate that the needs of rural communities were going to be met. There is a lot in a name, he remarked, adding that the signal being sent via HB 288 is: "Not only have we done away with ... 'Regional Affairs,' in

phase one, now we're going to do away with the 'Community' part of what we're supposed to take care of." He said it seems to him that the proposed change deviates from the constitutional mission that used to belong exclusively to the DCRA, and that it adds another brick in the wall between urban and rural Alaska that could easily be interpreted as a slight to rural Alaska.

Number 1465

REPRESENTATIVE KOHRING suggested that the creation of a division within the DCED specifically tasked with administering programs to rural Alaska was an adequate solution to the concerns expressed regarding the original merger. He said that he believes that the assurances made in 1999, that rural programs are taken very seriously and that the intent is to retain them, still apply.

COMMISSIONER BLATCHFORD said that as Alaska has changed, so has the department. At statehood, all of Alaska was in the unorganized borough, and since that time, he offered, much of Alaska's population is now living in the organized borough or in some form of a borough or under a joint city-borough type of government. The department's mission is still the same with regard to dealing with municipalities, he assured the committee, adding that some communities still welcome the department's help and some no longer need it.

COMMISSIONER BLATCHFORD offered his view that the goal of state government is to enable local governments to make their own decisions as much as possible. He also offered his view, as the former commissioner of DCRA, that rather than the DCRA being swallowed up by the Department of Commerce & Economic Development, the opposite has happened in that the functions of the DCRA swallowed up the Department of Commerce & Economic Development. He again offered to the committee that the department's mission remains the same, to be available to assist communities and provide them with as many resources as possible.

REPRESENTATIVE BERKOWITZ offered his opinion, however, that notwithstanding the commissioner's assurances, everything he has seen from the current administration runs counter to letting local people make local decisions. He added:

The signal that is sent, in addition, by the change here, is fairly unmistakable. And there are good people involved in your department, and I have every confidence in your ability to steward the department.

But these departments and these institutions endure long after we're gone. And we ought to make sure that the good that [is] occurring now and the good that occurred in the past continues, and a name change is just a precursor to a mission change. And a mission change could readily happen under someone who is much less friendly to rural Alaska and rural needs than you are.

Number 1785

REPRESENTATIVE DAHLSTROM moved to report HB 288 [as amended] out of committee with individual recommendations and the accompanying zero fiscal note.

Number 1792

REPRESENTATIVE BERKOWITZ objected.

CHAIR WEYHRAUCH asked whether there were any objections regarding his suggestion to change the title of HB 288 to read: "An act changing the name of the Department of Community and Economic Development to the Department of Commerce and Economic Development." He added, "I move that title change."

REPRESENTATIVE BERKOWITZ said he objects to that title change.

CHAIR WEYHRAUCH announced that the title change had already been adopted, and invited Representative Berkowitz to speak to his objection.

REPRESENTATIVE BERKOWITZ remarked:

Economic development is one of these vague terms that we all tried out, particularly around campaign season and in our great rhetorical flourishes on the floor, but it doesn't have a specific meaning. And ... we ought to be precise and short, and "Commerce" is pretty short and to the point. It also links up fairly well, I think, with the federal department of commerce, and there could be benefits from that. So, we ought to be short and to the point, and if we're going to get rid of "Economic Development" -- if it wasn't the intent of the sponsor to have "Economic Development" in it, the administration was acquiescent in that. It's their department and I think they should call it what they intended to call it. And

hopefully, in future years, we'll go back to making it what it's supposed to be.

Number 1882

A roll call vote was taken. Representatives Holm, Seaton, Dahlstrom, Lynn, and Weyhrauch voted in favor of reporting HB 288, as amended, from committee. Representatives Berkowitz and Gruenberg voted against it. Therefore, CSHB 288(STA) was reported from the House State Affairs Standing Committee by a vote of 5-2.

HJR 22 - PATRIOT ACT AND DEFENDING CIVIL LIBERTIES

HJR 23 - PATRIOT ACT AND PEACE & SECURITY

[Contains brief mention of SJR 15.]

Number 1936

CHAIR WEYHRAUCH announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 22, Relating to the USA PATRIOT Act and to defending the Bill of Rights, the Constitution of the State of Alaska, and civil liberties; and HOUSE JOINT RESOLUTION NO. 23, Relating to the USA PATRIOT Act and to the peace and security of citizens of our country.

Number 1952

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, sponsor of HJR 22, paraphrased portions of his sponsor statement, which read in part [original punctuation provided]:

The State of Alaska has a proud history of respecting the right to privacy and individual liberties as reflected in the Alaska and U.S. Constitutions. This resolution states that efforts to fight terrorism must not be waged at the expense of the civil rights and liberties of the people of the State of Alaska and the United States.

The resolution affirms the state's strong opposition to terrorism but raises concerns about provisions of the USA Patriot Act that expand federal authority to detain and investigate and engage in the electronic surveillance of citizens and non-citizens alike.

The resolution states that absent any probable cause of criminal activity, it is the policy of the State of Alaska to forbid participation or cooperation with such investigations, surveillance, or detention; the recording, sharing, and retention of intelligence information such as library records; book and video sales or rental records; medical, financial, and student records, and other personal data; and profiling based on race, ethnicity, citizenship, religion, or political views.

The resolution also calls upon Alaska's Congressional delegation to work to correct provisions of the USA Patriot Act and other measures that infringe on civil liberties.

[Chair Weyhrauch turned the gavel over to Vice Chair Holm.]

Number 2076

REPRESENTATIVE JOHN COGHILL, Alaska State Legislature, sponsor of HJR 23, indicated that his and Representative Guttenberg's goal is to put together a bipartisan message to send to the nation's leaders regarding the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 ("USA PATRIOT Act"). He opined the so much swings on what the definition of "terrorism" entails, that caution is appropriate in order to ensure that essential liberties are protected. He noted that HJR 23 includes the preamble to the U.S. Constitution.

REPRESENTATIVE COGHILL went on to say:

We want to establish justice, insure domestic tranquility, provide for common defense, provide for the general welfare, and secure the blessings of liberty for the next generation. So, all of those can be intentions, and especially when we're trying to protect our borders. We're trying to ensure domestic tranquility and provide justice at the same time. So we find ourselves once again at that moment of tension where we have those who would want to destroy our country and we need to have some kind of surveillance and intelligence and all of the different things that are necessary to protect our borders, but we don't want to [come] ... under the powerful hand of the tyrannical government.

REPRESENTATIVE COGHILL said that he took a little different approach than did Representative Guttenberg, but notwithstanding that difference, "I think we can amalgamate some of our approaches and I am sure willing to do that." He indicated that [HJR 23] calls upon Congress to affirm its commitment to the founding principles of the U.S. Constitution, its amendments, and its preamble. He mentioned that although he has no objection to adding more teeth to HJR 23, he is cautious about describing "all the things, lest we leave something [important] out." He opined that "the whole thing" hinges upon how the government defines terrorism. "The liberties that we enjoy in Alaska and in America are something that we would like to see [enjoyed] across the world, but the only way they're going to do that is if they stay healthy at home," he added, and predicted that "probable cause" will be a key issue in the discussion of how to ensure appropriate limitations on the power of government.

[Vice Chair Holm returned the gavel to Chair Weyhrauch.]

REPRESENTATIVE BERKOWITZ thanked Representative Coghill for the bipartisan cooperation he's shown on this and other issues.

REPRESENTATIVE HOLM said he appreciates that these resolutions are being brought forth, and mentioned the fine line between protecting oneself and losing all personal freedoms.

Number 2439

GRAHAM STOREY relayed that he'd been scheduled to fly from Seattle to Chicago on September 11, 2001, but the flight was canceled due to the terrorist attacks. He offered the following to illustrate why the USA PATRIOT Act is needed:

The "Church Senate committee hearing" back in 1973 results in the stripping of federal law enforcement powers which could have prevented such occurrences that happened on September 11. [The USA Patriot Act] does not take us back to that same level of law enforcement powers we had, that were eroded from the '70s through the '80s through the '90s. As a point, every time a provision of this Act is challenged in court, it is either upheld to be constitutional or the lower court's ruling is overturned by the appeals court.

Quite frankly, I can't believe that responsible legislators would advocate the civil disobedience of not following federal legislation which is entirely constitutional. My preference, if either one of these [resolutions] were to pass, would obviously be Representative Coghill's, but my preference would be that none of them pass and, instead, the Alaska [legislature] come out with a resolution in full support of the [USA PATRIOT Act]. Thank you.

Number 2540

JIM SYKES mentioned that in the mid-1970s, he'd traveled around the world a lot by himself, and he'd traveled to eastern Europe and the Soviet Union and he'd never experienced a more secure place - there were no guns, there was no crime, it was an entirely secure place. He went on to say:

I had one person take me aside when I was traveling through Bulgaria, who took me through a walk in the park, and he said, "We have a saying here, that if three people sit down to drink coffee, that one of them is an informant." And I think that the [USA PATRIOT Act] is taking us dangerously in that direction. We have to recognize that terrorism is not a military problem - it's a police problem. We do need to give tools to the police to give them adequate information to help prevent terrorism, but by the nature of terrorism, it's not something that you can easily prevent. And during the time I was traveling around, the Bader-Meinhof gang was very, very active in Europe - there were bombs going off in Paris and other major European cities - and it really was police work that needed to be done.

And I think you'll find that across the nation, there are even more, I would say, assertive, resolutions of this type being passed, and some of them even suggest fines for cooperating with the parts of the [USA PATRIOT Act] that take away our most dear freedoms. So I would like to speak in favor of [HJR 22]. I think that it is -- and I would like to actually thank both Representatives Coghill and Guttenberg for coming forward with this, because I think that while [HJR 23] is okay, I think that [HJR 22] strikes a good balance between where most Alaskans feel our very important

freedoms need to be preserved, and that we should speak out.

It is the responsibility of our legislature to speak out in favor of our freedoms that are in the Alaska [State] Constitution as well the U.S. Constitution. So I would say I favor [HJR 22]; [HJR 23] would be okay. And I thank you very much for bringing this forward, I think it's very important to state this, and I hope that you pass it with the unanimous vote.

Number 2654

JENNIFER RUDINGER, Executive Director, Alaska Civil Liberties Union (AkCLU), thanked the committee for hearing both resolutions, and said she is pleased to hear that the sponsors are working toward a bipartisan resolution. She went on to say:

I had a wonderful meeting two weeks ago with Congressman Young when he was in ... Anchorage for Easter break. And we sat down for 30 minutes and didn't disagree about anything. ... Congressman Young, actually, is one of the most vocal critics of the USA PATRIOT Act. As you probably are aware ..., the [USA PATRIOT Act] was passed not only in the aftermath of the tragic attacks of [9/11/2001] but in the midst of anthrax [threats]. There was beginning to be some talk in Congress of slowing down the movement of the [USA PATRIOT Act], just to have a few hearings, maybe ask some questions and get some answers. [But] then, in October of [2001], anthrax hit, and these folks ... were afraid - not just abstractly for American lives, but for their own lives - and they were working out of hallways and closets, afraid to open any envelopes, didn't have their own fax machines.

And frankly, in the midst of this chaos, not enough copies of this 342-page bill had been printed for every member of Congress to even have one. Most members of Congress never read it. And that's understandable ... [considering] the fear in which they were operating. In times of panic, when one is so desperate and one is being told, "Give us this law and we will keep you safe," I think the tendency generally is to say, "Okay, okay, okay, here - do it." But then second thoughts creep in because Congress was not told exactly what this really authorizes. And

many provisions of this 342-page bill actually go way beyond dealing with anything related to terrorism, and get to ordinary, routine criminal investigations. So now there are many in Congress who are calling for hearings and calling for revisions and amendments.

Just recently, the Washington Times ran an article where Congressman Sensenbrenner, a Republican from Wisconsin, joined with Congressman Conyers, a Democrat from Michigan, to call for hearings and begin to look at this because Congress is not getting reports on how this is being implemented - Congress is not able to track [it] because so many of these provision involve law enforcement activities that are done in secret. Our representatives cannot hold the executive branch of government accountable - they cannot hold law enforcement accountable - when they don't know what's happening. And neither can we, the people.

Number 2819

MS. RUDINGER continued:

So Congressman Young, in our meeting a couple of weeks ago, agreed to do three things. He said that he would sign on to cosponsor a bill that has been introduced in Congress by [Congressman] Bernie Sanders of Vermont, and this bill will begin to fix one part of the [USA PATRIOT Act], Section 215, that deals with library records. And that is something that, all over Alaska, folks are very upset about; the Alaska Library Association has taken a very strong position against the [USA PATRIOT Act], especially Section 215. Congressman Sanders's bill is something that Congressman Young said he would support.

The second thing Congressman Young said he would do is, he is very likely to oppose the Domestic Security Enhancement Act, which is also known as "PATRIOT II." This is a measure that was leaked in January, or none of us would know of its existence. It was at that point over 120 pages long and it was being drafted for the purpose of removing the sunset provision on the [USA PATRIOT Act] and also expanding law enforcement's authority to conduct secret searches even broader than [it] already [is]. So ... PATRIOT II, however it ends up being introduced, given the intent of the ...

proposed bill, is something that Congressman [Young] said he's very likely to oppose.

And on the sunset issue, I should add that not all of the USA PATRIOT Act does sunset in [2005]. One of the compromises that was put into it in Congress, because no one had had time to read it, was: "Well, let's have it sunset in four years; let's give this a try and see how it works." But some of these changes such as the provision dealing with Section 213, the provision dealing with "sneak-and-peak warrants," this is a permanent change in the law; there is no sunset on this.

Number 2911

MS. RUDINGER, in response to a question, said:

Well, a sneak-and-peak warrant -- normally, the Fourth Amendment requires that if the government is going to search your property, come into your home, come into your computer or your office and download files, that you have a right to have notice that they're doing it. A sneak-and-peak warrant, or what used to be called "the black-bag job" during the Watergate investigations, this is where you don't have that notice, where the government can come into your home, download your files, search through your property, your records, go to your office and do the same, without you ever knowing they were there. Or, at least prior to the [USA PATRIOT Act], it could be months before you knew that they were there; there were court cases that had ruled they could have a certain amount of time but eventually you had [to] know they were there.

The [USA PATRIOT Act] says, under some circumstances, you may never know that they were there; the only way you would find out is if, in fact, their searches [led] to criminal charges being filed against you. So if they went in and did a fishing expedition, found nothing and left, under the [USA PATRIOT Act] you don't ever have to find out that they were there. That's my understanding. So ... prior to the [USA PATRIOT Act], as I mentioned, the court cases said that ... after a certain amount of time, you would know. Well, there were very tight restrictions on

when this kind of a warrant would be issued - there were basically five things that law enforcement had to show the judge in order to get the warrant. Number one, that an individual's physical safety would be endangered if notice were given. Two, that someone would flee prosecution. Three, that evidence would be tampered with.

TAPE 03-52, SIDE B

Number 2988

MS. RUDINGER continued:

[Not on tape, but taken from the Gavel to Gavel recording on the Internet, was the following bracketed portion.] [Four, that potential witnesses could be intimidated - or would be intimidated, I should say. And five, that an investigation would be jeopardized or a trial unduly delayed. If they showed any one of those things and convinced the judge that notice would] be potentially harmful, they could get around the notice requirement, but eventually, after the fact, they had to tell you. So, what ... Section 213 of the [USA PATRIOT Act] does is take this limited authority and expand it. It used to be that it applied to electronic information they were trying to get. Now it expands it so it applies to any kind of search, whether it's for physical evidence or electronic evidence, and in any kind of criminal case, not just about terrorism.

So this is a permanent change in the law, and this is one of the things that a lot of folks in Congress, frankly, didn't realize the scope that they were authorizing when they agreed to Section 213. ... The [American Civil Liberties Union (ACLU)] has been very involved, it's part of a broad, left-right coalition including the Eagle Forum, ... the American Conservative Union, Gun Owners of America, and ... groups like People for the American Way - over 100 groups are involved in working to make some changes and put some balance ... back into the inquiry here. Anytime that the government is proposing measures that potentially infringe on our civil liberties in the name of security, there are some questions that we the people and our elected representatives should ask.

Number one, we should be asking: "Show us how this really makes us safe. Show us, don't just give us some feel-good assertion. Explain to me how this measure is necessary to make us safe." Now, if the government does convince you that the specific provision is going to keep the public safe, then there is a balancing that comes into play - balance the increase in safety with what you may be giving up in terms of individual liberties. If you're getting a minimal increase in safety but you're trading away some very essential liberties, maybe the balance doesn't weigh in favor of passing that proposed ... language. If the balance does tip in favor of that, then that makes some sense. ... It's not that we have to trade away our liberty for our freedom; we can be both safe and free if the right questions are asked and we make sure that we're not trading away our liberty for a false sense of security, that we're really getting something for this, something that, frankly, ought to have something to do with terrorism.

...

Number 2842

MS. RUDINGER added:

And also the third thing that Congressman Young agreed to, besides working to fix the library thing with [Congressman] Sanders and opposing PATRIOT II as it's likely to be introduced, most importantly, he agreed to introduce legislation into Congress to begin to fix the USA PATRIOT Act - an actual bill that would repeal some of these things and amend some of these things. It's not the whole [USA PATRIOT Act] that we're trying to repeal, but there are some very specific provisions of it that are quite onerous, and Congressman Young agreed to introduce legislation to ... get at that.

Now, of course the first thing I then said, besides "Thank you," was "Well, Congressman Young, you realize as soon as you introduce something getting at attacking or correcting the [USA PATRIOT Act]" - as Representative Coghill pointed out, the importance of naming, it's very Orwellian, really - "if your against something called the [USA PATRIOT Act] does that make you," and he finished the sentence for me, he said, "Yeah, I'll be called 'unpatriotic.'" And so ... I

left him copies of the Fairbanks resolution that had passed unanimously in that city council on January 6; of the Juneau resolution, which at that time was pending but then has since passed 6-1; copies of [the] Gustavus [resolution] - I didn't have at that time a copy of [the] North Pole [resolution], but I see they passed one as well; and also copies of HJR 22 and SJR 15, which were what I had at the time.

And I asked him if it would be helpful to him and his colleagues who are maybe not in as safe a political position as he is, when they try to fix the [USA PATRIOT Act], is it helpful that, right now, we're up to 97 communities around the country, including four in Alaska, who have passed resolutions calling on Congress to do this. And I said, "Would it be helpful if the ... Alaska legislature passed a strong resolution calling on Congress to do this; it's going to be pretty hard to say you're unpatriotic." And he said, "Yes."

Number 2741

MS. RUDINGER went on to say:

In fact, Senator Ogan had placed a call to his office, asking that question, "Would this be helpful to you?" And he asked me to convey to Senator Ogan, which I did through his staff, that it would be helpful and he meant to call him back but he was in transit between [Washington] D.C. and Alaska. So, it was a great meeting. And there are many provisions of the [USA PATRIOT Act] that are quite onerous that Congress, at the time, did not realize went well beyond what's required, as the wording of the title says, to intercept and obstruct terrorism, but that actually gets to ordinary, routine criminal investigations.

So ... whether this becomes a joint bipartisan [resolution] with two sponsors on it, or a committee bill, or whatever ends up happening, what the ACLU and our coalition partners would like to see is, something that does call on Congress to do their homework, do the balancing between whether these measures will really keep us safe and, if so, what are we trading away, and be sure to understand that. So to fix the [USA PATRIOT Act] where that balance is not

appropriately struck, but also have some binding language in it - something with teeth. ...

An example of excellent binding language is the Fairbanks resolution. Fairbanks is saying that our city dollars, in Fairbanks, will not be used to violate the bill of rights to the extent that we have the right to say no. A lot of the things coming down under the [USA PATRIOT Act] are mandatory, but sometimes these are voluntary requests that come down from the feds, and having binding language means that the answer will be, "We will not violate civil liberties if it's a voluntary request." Thank you very much to the committee, and I look forward to working with anyone that wants to put together a bipartisan effort here.

CHAIR WEYHRAUCH said that it is his hope that the House State Affairs Standing Committee will pass out both resolutions and that the two sponsors will work together in the House Judiciary Standing Committee.

Number 2622

ROGER W. SHANNON suggested that the issue raised by HJR 22, HJR 23, and SJR 15 are important enough that one's political affiliations ought not hold sway in the discussion. He went on to say:

We need to come together on this issue because it's probably one of the most important pieces of legislation to have been enacted upon these shores in many, many years. With all this in mind, I'd like to give you an example as to what I see going on. Let me take you back to my football days in high school when we were doing tackle practice, and a little buddy of mine was flipped the ball from 10 yards away and it was my duty to get down below it, at ankle level. He was much shorter than myself. We met head on. When I rolled off to the side, he says, "Are you all right?" And I said, "I think so." ... He'd said, "You shouldn't be all right; check your helmet." I took it off. Sir, there were 17 splits and cracks in that helmet. That's what I'm starting to see with these different resolutions down there. We need to throw the party lines out and individual (indisc.) out of this, and [come] together and live up to that little

word in HJR and SJR - I believe it says "joint."
That's a five-letter word, sir; I believe it equates
to another five-letter word, and that would be
"unity."

MR. SHANNON said that although he can see the importance of and
the need for the USA PATRIOT Act, he can also see the need to
scrutinize it, to be vigilant, and to not give away civil
liberties.

Number 2250

JANET KUSSART indicated that she supports [the resolutions], and
asked the committee to vote to pass them. She relayed that if
she were to be frightened of anything, it would be of the
government and of what it might do under the name of the USA
PATRIOT Act. She went on to say:

I've never been so upset, to think that my own
government would pass such an Act that would cause us
to be afraid of it, [for] our own being, here in this
state and in this nation. ... And we ask our military
men and women to fight for freedom and democracy, and
yet we're living under something right now that is not
good for us. ... I really would want you to put us
back on the right track, and let our Congress people
know ... that we do not live under such a totalitarian
way of life. Thank you.

Number 2153

KATY PARRISH said she had some concerns about the USA PATRIOT
Act. She elaborated:

Number one, up to 2,000 people, including children,
have been detained in the United States without trial
or charge or even legal right. The fate of most is
unknown. Rabih Hadad, one of the detained, a
respected Muslim pastor, has been charged with no
crime. To date, Mr. Hadad is being held in solitary
confinement, and can only see his family for four
hours a month. Meanwhile, Congressman John Conyers,
Jr., has expressed outrage over the fact that his
proceedings, to date, have all been in secret. As
Congressman Conyers states, "Justice delayed
translates to justice denied."

On March 20, Jason Halperin, a doctor with [Doctors Without Borders/Medicins Sans Frontieres (MSF)], and a friend were held at gun point in an Indian restaurant in Manhattan by INS [Immigration and Naturalization Service] and Department of Homeland Security agents. They told the agents they had no right to hold them. The agents responded, "You're being held under the [USA] PATRIOT Act following suspicion under an internal Homeland Security investigation. These men, other patrons, and staff were terrorized and held for over two hours while agents checked their background. They were subsequently released after the agents realized [that] the tip given was a mistake.

Finally, in the 2002 performance report for the Department of Justice, Section 8.1.b (ph), the Office of Professional Responsibility released data looking at the misconduct of U.S. attorneys; despite the implementation of the [USA PATRIOT Act], which has been touted to aid law enforcement and attorneys in prosecuting terrorists, U.S. attorney misconduct is the highest it's been in six years. Thanks to the [USA PATRIOT Act], having less checks and balances doesn't seem to have made a positive impact on law-enforcement ethics. I beg you to pass strong resolutions such as HJR 22 and SJR 15 to keep America safe and free. Thank you.

Number 2018

GEOFF KENNEDY offered the following comments:

One of the three biggest lies, as you know, is: "I'm from the government and I'm here to help you." I got plenty of government help in the 1980s when I spoke out publicly against the immoral policies of the federal government. I got rewarded with audits by the Internal Revenue Service [IRS] again and again. Once the IRS examiner asked me for evidence for my claims one, two, three, and four. When I did so, she asked questions about claims numbers five, six, seven, and eight. I told her I didn't bring such evidence because she didn't ask me to, so she unilaterally [decided] to disallow my claims - the old bait-and-switch trick. I was making about \$7 an hour at the time, I'd guess you'd call it the "leave no person's wallet behind" strategy.

Well now, big government has the Internet; Mr. Poindexter, of "Iran/Contra-gate" infamy, can now find an opinion piece I wrote in the Catholic Anchor newspaper in which I suggested people in government shouldn't just post the Ten Commandments but actually obey them, even on the job. So now the feds can find out I'm a member of [a] religion who's leader, John Paul II, has publicly called the war in Iraq immoral. Now, President Bush says either you're with him or against him. Does following my pope make me an enemy of my country? Now the government insists it's only after terrorists, not dissenters.

Yeah, that's the government that told me it wasn't doing arms business with terrorists to finance the Contras; it's the government that told me, "Read my lips, no new taxes"; and [it's] the government that told me, "I did not have sex with that woman." Yeah, right. They're from the government and they're here to help me. Well, legislators, it's time to decide: Are you on the side of Alaskans, or tyrants? Because make no mistake, if you let the feds take away our rights, your handing the terrorists a victory. It's time to tell the feds to stick tyranny where the sun don't shine. Thanks.

Number 1899

JOHN ILIFF relayed that he is a librarian. He went on to say:

A fundamental tenant of my profession is that library patrons should be able to read and research with a reasonable expectation of privacy. With the USA PATRIOT Act, the bar that assures even a modicum of privacy for my folks has been set too low. Among the problems with the [USA PATRIOT Act], that I see, are that it provides easy access for federal agents to library and bookstore records under the guise of obtaining business records; it allows for obtaining records that can be part of really overly broad investigations, it also gags librarians and other library keepers from telling the folks that we serve that they're being monitored, that they're being observed and scrutinized.

The USA PATRIOT Act was passed in a period of heightened emotion. It is time, I think, for us now to be levelheaded. We all want security, but excessive information gathering by federal agents is not the answer. It is now clear that the tragic events of 9/11 were not the result of too little information. As a joint committee of the U.S. Congress noted, the failure to impede the attacks was due to a lack of coordination of information. Stated otherwise, the feds don't need easy access to library records, they need better coordination of information.

Please join the American Library Association, the Alaska Library Association, the American Booksellers Association, and many, many other organizations by resolving to support the U.S. Bill of Rights and by condemning the onerous parts of the [USA PATRIOT Act]. This is not a Republican party issue, and it's not a Democratic party issue; it is neither a liberal nor a conservative issue. This is an issue of basic American rights. Please pass HJR 22 and declare Alaska a safe zone for the U.S. Bill of Rights. Thanks.

Number 1787

FRANK TURNEY, Bill of Rights Defense Committee - Fairbanks Chapter, thanked the committee for the opportunity to testify and the sponsors for bringing forth the resolutions. He went on to say:

As of right now, 97 cities and towns across the United States have passed resolutions defending civil liberties versus the [USA PATRIOT Act]. Arcata California [passed] the first ordinance that actually had teeth; it was brought by the mayor, the chief of police, and the city manager. I'd like to remind [you that] not only the Fairbanks city council passed a resolution, and Juneau, but also North Pole passed a ... resolution 7-0. Looking at the Bill of Rights and the U.S. Constitution and the [USA PATRIOT Act], this [USA PATRIOT Act] is not the intent of our Founding Fathers when it comes to protecting unalienable rights versus the federal government. The Bill of Rights has been in jeopardy for the past couple of decades. The [USA PATRIOT Act] and Homeland Security has added fuel to destroy our Bill of Rights.

I support our president, as far as terrorism, and support our troops. But I believe it takes more than a soldier to protect our freedoms. Elected officials are sworn to an oath to uphold the U.S. Constitution, and that includes the Bill of Rights. Looking at both of these House resolutions, they are both worthy of passing. ... Let's let freedom ring and pass both these resolutions [out of the House State Affairs Standing Committee]. Thank you.

Number 1680

LARRY HURLOCK noted that he'd worked on the Juneau resolution, and remarked that resolutions of this nature are easy to write but hard to get through the process. He went on to say:

What I'm urging you to do is, ... move to the center ... if you must ..., [and] get something out this session. If you can't get something with big, sharp teeth, at least use your voice. The Juneau resolution called for four action items. ... The first was, we asked for continued congressional engagement with the issue of government surveillance. And not just the [USA PATRIOT Act]; we did include the homeland security Act, and one of the reasons we did that is that the homeland security Act has a provision in [it] that prevents their own inspector general from looking at those cases/investigations which the secretary of the Department of Homeland Security feels the [inspector] general shouldn't be looking at. And that's pretty egregious stuff; at least in our opinion it was. ... We actually included, also, the executive orders.

The second action item we had was, we dealt with employee responses to the homeland security Act. ... The American Library Association teaches their people how to respond to a ... subpoena, as opposed to a warrant. In other words, with a subpoena, you just don't hand something forward; [with] warrants, you react in a much faster way, you give them what [they] want - you give them inventory. My point being, we did include an employee response within our action items. We also created a repository for complaints - the Juneau borough does have a human rights commission - and today, if you feel that you are being unjustly

put under surveillance by the U.S. government, you can report that to the human rights commission, which will report that to the assembly, which is to make that information public.

Number 1442

MR. HURLOCK continued:

We also requested reportage of activity, from the federal government, for actions which are taken within the City and Borough of Juneau. We worked down to just asking for just one single number, and we were told that, "No, you're not going to get the information." But we are a municipality; this is the state of Alaska, I think there is something called state's rights and, hopefully, you have a little more clout as to getting the kind of reportage that the average person on the street would like to know about the surveillance activities being taken by the federal government concerning their lives.

I have a hiking partner: he's an NRA person, [a] hardcore conservative. After the events of 9/11, when so many people were being thrown in jail, their names not even being given out, I said to him, "You know, I think it's just a pity that in this country that Congress doesn't even know the names of the people who are in jail." And he said, "Well, what bothers me is that I don't know the names of the people in jail." I wish you all good luck, and that concludes my testimony. Thank you.

Number 1380

JED WHITTAKER offered the following testimony:

The foundation of the United States of America was to prevent the tyranny of government, the tyranny of kings, and to assert the common rights of man. And I do believe that the [USA PATRIOT Act] is a piece of legislation that asserts the tyranny of government over [the] common rights of man, and therefore it's not a good thing. It was, as Jennifer Rudinger pointed out, a piece of legislation that many Congress people did not read when they passed it; they were in shock because of the events of 9/11.

I do believe that I can paraphrase Congressman Don Young, who said that, "The [USA PATRIOT Act] bill is the worst piece of legislation I ever voted for." And now, I'm glad to see that he has seen the error of his ways and is attempting to stand up for the common rights of man against the tyranny of government. And make no mistake about it, the [USA PATRIOT Act] is tyrannical. I commend the bipartisan effort of Representative Guttenberg and Representative Coghill.

Once you get finished with this, please take a look at the homeland security Act, which, if I may take the time to quote from a column by William Safire, the homeland security Act allows: "Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend - all these transactions and communications will go into what the defense department describes as 'a virtual, centralized grand database.' To this computerized dossier on your private life from commercial sources, add every piece of information that government has about you - passport application, [driver's license] and bridge toll records, judicial and divorce records, complaints from nosy neighbors to the FBI, your lifetime paper trail plus the latest hidden camera surveillance - and you have the supersnoop's dream: a 'Total Information Awareness' about every U.S. citizen."

Well, that got passed as well, and it is really very scary to think about the tyrannical powers that the United States government has. And it's time to try to defend what this country's all about, which is freedom not tyranny, and therefore I urge you to bring these resolutions [forth], to give our congressmen some backbone and to recognize that they did make a mistake and that they have the opportunity to recommend [fixing] it. This is a grassroots effort, and the more they hear from the people around the country, the more they will act. Thank you very much.

Number 1115

JOHN BRADING said he would be speaking in support of both [HJR 22 and HJR 23]. He went on to say:

I found an interesting quote from a famous statesman that lived during Roman Empire times, some 2,000 years ago, that relates to these resolutions: "Beware the leader who bangs the drums of war in order to whip the citizenry into patriotic fervor, for patriotism is indeed a double edged sword - it both emboldens the blood just as it narrows the mind - and when the drums of war have reached a fever pitch, and the blood boils with hate and the mind is closed, the leader will have no need to seize the rights of the citizenry; rather, the citizenry, infused with fear and blinded by patriotism, will offer up all their rights unto the leader and gladly so. How do I know? For this is what I have done, and I am Caesar"

Quite interesting, that quote was. This ingenious mind-control technique is used over and over again through the centuries. [It was] picked up again [seventy] years ago by Adolph Hitler, who came to power in 1933 because of a terrorist's successful fire bombing of the German parliament - Reichstag - building. Hitler used this terrorist attack on the German homeland to bang the drums of war in order to whip the citizenry into a patriotic fervor that boiled their blood and filled their minds with hate. Psychologists today call this, (indisc.), a part of the brain, backwards to trigger the mind's reptilian flight-or-fight survival mode.

MR. BRADING continued:

That's what is manipulating the mass consciousness of the U.S. people for control, power, and wealth-building greed. I believe the power elite and corporate greed machine are simply doing a modern version of the old tried and true Caesar-Hitler scam: first creating fear with 9/11, then do war, we win, leaders are cheered, military industrial corporations make billions, [and] the duped U.S. people foot the bill with blood and more taxes. All the while, our minds are in shock with fear and diverted away from the "un-patriot" Act (indisc) and executive orders that seized the rights of people. Pretty slick scam, hmmm?

If these Acts and executive orders stand, our country will [be] converted into a fascist police state ruled by ... secrecy behind closed doors. Those who exercise their First Amendment rights to oppose government policies will disappear first, just like Hitler did, just like Stalin did, just like Mao did; it will be the final, complete abduction of democratic laws and principles. Wake up, America - demand freedom from bondage. Our constitution does not defend itself, we the people must. I request my elected representatives to repeal those portions of the so-called USA PATRIOT Act, homeland security Act, and related executive orders that destroy our constitutional rights. Thank you.

Number 0846

MIKE PRAX thanked the committee for hearing testimony on HJR 22 and HJR 23. He went on to say:

I think it's essential to consider that one of these resolutions should get through the legislative process and be passed this session if possible. The [USA PATRIOT Act] is [a] huge bill that affects many people and many aspects of our life, and Congress is considering other bills that could make the situation even worse. The first thing that we need to do is to get the attention of Congress by passing resolutions of this nature, letting them know that we are concerned about it. And once we have their attention, then we can (indisc.). So, I hope that you don't get too hung up in the details; (indisc.) emphasize the need to move this through and pass something this legislative session. Thanks a lot.

Number 0756

ELIZABETH CUADRA thanked the committee for hearing the resolutions and the sponsors for bringing them forth. She said that she supports HJR 22 and hopes that the sponsor of HJR 23 will merge that resolution with HJR 22, making it a bipartisan effort. She offered her belief that the USA PATRIOT Act impacts the rights laid out in the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the U.S. Constitution. She went on to say:

It seems to me that fear is the problem. There is fear in this country ever since 9/11, and we are now burdened with a U.S. attorney general, John Ashcroft, who knows how to take advantage of that fear to get what he wants. I fear him far more than I fear any terrorists. I was a child when World War II began, on a farm in Kansas, and remember listening to radio broadcasts of speeches by President Roosevelt. And in one of those speeches, he said something that I hear quoted again nowadays: "The only thing we have to fear is fear itself." And yet even under that administration, this country made the horrible mistake of interning U.S. citizens in prison camps just because they were of Japanese ancestry. That's what fear does.

Yesterday in the news we were reminded of what happened 50 years ago, during the cold war, when Senator Joseph McCarthy held secret hearings in which he interrogated and intimidated roughly 390 U.S. citizens over whether they were communists or not. The transcripts were finally released - after 50 years of being under seal - yesterday. John Ashcroft belongs in this array of events with what he is trying to do to our country and to our rights now, unfortunately. He told congress, when he presented them the USA PATRIOT Act legislation, "You have three days to pass this bill, after that you are the ones responsible for more terrorist acts in this country."

You've already heard about the anthrax in the Senate buildings at the same time and the fact that members of Congress never actually read the [USA PATRIOT Act]. Congressman Young has been heard to say that this is the worst ... thing that Congress ever did - or something to that effect Obviously, we need constant vigilance if we're going to prevent the country that I love from becoming a place where our federal agencies and even our local police are now required to act as if they were part of the old Soviet KGB. And the reason is also, we have PATRIOT II coming down the line. And under that one, I understand, even we native born U.S. citizens can be stripped of our citizenship if we put a foot wrong. So please do enact this legislation, and please do it this session.

Number 0365

GREG ESCHRIGHT thanked the committee for the opportunity to testify and the sponsors for bringing HJR 22 and HJR 23 forth. He offered the following as a dictionary definition of republic: "A political order in which the supreme power lies in a body of citizens who are entitled to vote for officers and representatives responsible to them." He opined that inherent in that definition is a "need for civil liberties and the ability to have information about our government and what it's doing. He posited that the issue raised by the resolutions is a nonpartisan issue, adding that he supports passage of a resolution and that it is imperative that the legislature act on it. He reiterated earlier comments about the USA PATRIOT Act, adding that it was adopted without the citizenry being given the opportunity to know what it contained.

MR. ESCHRIGHT opined that the Bill of Rights conceptualizes God-given rights rather than government-granted rights, and that these rights are rights that citizens hold for themselves rather than rights that the government holds to protect itself. Referring to the USA PATRIOT Act, he noted that one of its provisions pertains to the collection of e-mail data, and that advocates of that provision say that those collecting e-mail will only read who it's being sent to and where it was sent from. Addressing the members, he said: "You wouldn't let them do that with your regular mail; ... I wouldn't let them do that with my e-mail."

MR. ESCHRIGHT concluded:

When you listen to the administration talk about the current holding of prisoners, one of the things that's said is that they have no trouble getting people to talk. Well, the problem with that is that the Bill of Rights, particularly, ... forbids being compelled to [be a] witness against [oneself], and that's very definitely being allowed under the current legislation. Thank you.

TAPE 03-53, SIDE A

Number 0001

DAVID NOON relayed that he teaches U.S. history at the University of Alaska Southeast. He indicated that as a historian he is gratified to hear testimony offering historical examples. He went on to say:

[Also] as a historian, I'm aware of ... many of the long-term, often unintended, consequences of legislation - in U.S. history - that has criminalized what should be and what's usually recognized as the constitutionally protected activities of ordinary citizens. ... We've heard some examples of this already; people have referenced the McCarthy hearings. I would also reference World War I era anti-sedition legislation, as well as many of the abuses that were uncovered in the 1970s by the "Church committee," particularly campaigns conducted by the FBI [Federal Bureau of Investigation] and by the CIA [Central Intelligence Agency] to target domestic civil rights organizations, antiwar groups, and so forth. ...

A point I would like to make in addition to that is that many of the [damages] caused by these particular episodes in American history did not result necessarily from a swooping tyrannical power coming from Washington [D.C.]. Much of the damage caused by the McCarthy hearings took place with the cooperation of, and often at the instigation of, local government officials, school boards, state investigative committees, and so forth. So I think that when states like Alaska, or the [City and Borough of Juneau (CBJ)] initiate resolutions of this kind, it's an important counterbalance to that fear that many of us have of federal authority and federal power exercised unjustly.

And I think it is crucial for communities to stand up for the people who work for them: librarians, public health officials, police officers, and so forth. And I think that ... a resolution of this kind reiterates what the 100 communities and several states in the U.S. have already insisted on, which is that their communities back them up. And that's all I have to say. Thank you.

Number 0241

JUNE PINNELL-STEPHENS relayed that she is on the board of the AkCLU and on the council of the American Library Association. She went on to say:

I want to discuss particularly Section 215 of the [USA PATRIOT Act]. And although the U.S. attorney for Alaska, Tim Burgess (ph), says that the library community is overreacting, because libraries and bookstores aren't even mentioned, I'd like to point out that no specific entity is mentioned in Section 215 - ... therefore, all of us are covered. And in fact, within the first three months after 9/11, more than 200 public libraries in this country had already been contacted by the law enforcement officials, and within twelve months, that number rose to nearly 600.

Other incidents include computers being removed from libraries in Washington [D.C.] without a court order; every public internet access computer was removed from the library in Wisconsin; and in New Mexico, Andrew O'Connor, a former public defender, was arrested in St. John's College library, taken away in handcuffs and held for five hours after he was accused of making threatening remarks about President Bush in a chat room. Mr. O'Connor contends that he made those comments in person to another person in the library and he was swept up by mistake after federal officials had warned institutions in the area about suspicious persons being around.

Underlying these attempts to gain records of library use is an absurd assumption that it's possible to equate what people will do based on what they read. I frequently buy material for the public library here about explosives and blasting because Fairbanks is a mining center and I think it's important that miners have access to current, accurate information about safe handling procedures. Will they continue to use these materials if they think the FBI is looking over their shoulders, much less adding their names to watch lists? Another concern I have is the use of national security letters. These are administrative subpoenas issued by the FBI without court review. There are more than 1,200 of them issued in the year 2002, which is a 30 percent increase over the previous year, and now there's a proposal to expand their use by the CIA.

There are also proposals, as you know, in the Senate, to remove the sunset provision of the [USA PATRIOT Act]. Other speakers have already mentioned that this is a bipartisan effort. Lori Waters, who represented

Phyllis Schlafly's Eagle Forum, began her comments at a speech at the American Conservative Union by saying, "Everyone in this room is a suspect until it's proven that you're not." ... I do want to point out that Dick Army says, "The justice department seems to be running amok; this agency, right now, is the biggest threat to personal liberty in the country." I certainly concur with that comment, and I urge you to pass the strongest statement possible to turn back these abuses and excesses. Thank you very much.

Number 0529

ANDREA DOLL indicated that her freedom to write letters to the editor, march with peace signs, and testify before committees is what makes America the country that its citizens love. She went on to say:

I am here because I believe that representative government begins right here at this local level, at the town meeting, beginning with the town meeting, and then that voice continues and goes right here into the state, and then from the state this voice, your voice, will go onto the federal government. And the public response to the [USA PATRIOT Act] has been very, very strong. Democracy is built on an open dialog and checks and balances, and this is being threatened right now by the alarming federal trend towards secrecy and suspicion of the American citizen and the expansion of executive power.

Well, when we ask our military to defend our democratic principles on a battlefield, are we, as citizens, able to stand by and watch our principles taken away by a pen and a pencil and we don't do anything? And [so then] I ask you all: Are you willing just to stand by and do nothing? I don't think you are. Are we as citizens willing to lose our rights - and our freedom ... to assemble, and our rights to privacy, our right to trial by jury, our freedom of speech - so that we might have security? And I think of this security as sort of [a] padded cell. Well, democracy is risky, and vigilance is really what it's all about. So I thank you, right now, thank every one of you, for being alert, for having this dialog, for inviting us in and

demonstrating what this whole thing is all about.
Thank you.

Number 0710

NINA MOLLETT thanked the committee for the opportunity to speak and the sponsors for bringing the resolutions forth. She went on to say:

I feel more secure living in [a] state which has now had four city councils - borough assemblies - passing these resolutions to defend the Bill of Rights, and having the feeling that this body also is going to pass a similar resolution. It makes me feel better about my fear [regarding] the road this country seems to be going - I do think that we're tumbling down a slippery slope. ... A lot of people are afraid of what's going on in this country, and afraid that all of our democratic rights are eroding very rapidly. So I'd like to encourage you to pass a resolution that has as many teeth in it as can be. ...

And I'm proud of [Congressman] Young; ... I'm really glad he said that this was the worst bill he'd ever passed, because, in my opinion, he's voted for quite a few bad bills. ... Power does corrupt ... - it's just the way we are - and I think it's a mistake: this government has been acting very secretive itself - they don't want to give us ... enough information. They don't want to give us information, but they want to get information from us, and I think this is a recipe for disaster. So ... thank you very much for doing this.

Number 0972

HEATHER McINTYRE said that she supports an amalgamation of HJR 22 and HJR 23, adding that she is really pleased that it has become a bipartisan effort. She reiterated that many members of Congress did not have time to read the 342-page USA PATRIOT Act before it was passed less than two months after 9/11, and that there was no public debate conducted at that time. She too noted that Don Young has been noted as describing it as the worst Act ever passed. She acknowledged, however, that it was unlikely that anyone would have been willing to vote against something called a "patriot" Act. She relayed that although she'd at first thought that the provisions of the USA PATRIOT

Act were justified, she has since come to realize that she was wrong, adding that many Americans now realize the Act's negative impact on the long-cherished freedoms and civil liberties of law-abiding residents. She stated: "It's now time for the [USA PATRIOT Act] to be properly in Congress, and passage of an amalgamation of HJR 22 and [HJR 23] will help encourage that debate."

Number 1062

ALVIN A. ANDERS, Alaska Libertarian Party, simply urged members, on behalf of his organization and himself, to pass a resolution with teeth in order to make Congressman Young's job easier.

Number

M. MIKE LAWLESS relayed that two weeks ago he was a delegate for the Bill of Rights Defense Committee that met with many members. He went on to say:

I have a lot of confidence in the body there in Juneau; I know that when [Representative] Coghill and [Representative] Guttenberg say they're willing to work together to put some teeth in the resolution that will reflect the vast majority of [opinions] of Alaskans concerning the USA PATRIOT Act, I have a feeling [they're] going to get [it] done. I'd like to thank the staff down there too, because I know that this is taking up a lot of their time and [it's] necessary.

My only passing comment is that the Bill of Rights [was] handed to us in trust, at great sacrifice, and I don't believe we have the right to trade off our securities and leave our children without an opportunity to enjoy the same freedoms we had, just because we're getting a little wound up about the terrorists now. Anyway, do your job down there and pass what's noble in our character, not what's base and fearful in it. I have confidence ... that you'll send a message, nationwide, [regarding] where Alaska stands when it comes to the application of the USA PATRIOT Act. Thank you.

Number 1202

PAOLA GREER thanked the sponsors for bring forth HJR 22 and HJR 23. He said:

The [USA PATRIOT Act] was introduced by the Whitehouse soon after September 11; Attorney General John Ashcroft gave Congress one week to pass a bill without changes. Few Americans have the slightest idea what the law contains or what it means; those that do, think it deals with foreigners, just foreigners, and terrorists. Nothing could be less true. One U.S. Congressman said it plainly, "This was the least democratic process for debating questions [of] fundamental democracy I've ever seen: A bill drafted by [a] handful of people in secret, subject to no committee process, comes before us immune from amendment." Now Attorney General John Ashcroft wants to strengthen the first Act with a new one called the "Domestic Security Enhancement Act of 2003," or ... PATRIOT Act II.

In short, it says: many of the [USA PATRIOT Act's] limited sunset provisions could be erased from the books; Businesses that rat on customers to the feds would be granted immunity, even if the information violates privacy agreements or is, in fact, dead wrong; police officers carrying out illegal searches would also be granted legal immunity if they were just carrying out orders; American citizens would be subject to secret surveillance by their own government on behalf of foreign countries, including dictatorships; the death penalty would be expanded to cover 15 new offenses; legal permanent residents could be deported instantaneously without a criminal charge or even evidence if the attorney general considers them a threat to national security; Americans could have their citizenship revoked, and be exported, if found to have contributed ... "material support" to organizations deemed by the government, even retroactively, to be terrorist; the government [shall] be instructed to build a mammoth database of citizen's DNA [deoxyribonucleic acid] information if (indisc.) only suspected of wrongdoing by a law enforcement officer; DNA would also be collected from anyone who is or has been on probation for a crime no matter how minor; for the first time in U.S. history, secret arrests will be specifically permitted; meanwhile, if you happen to find out something about the identity or

whereabouts or anything else about a detainee, it will be criminal if you ... [do not] reveal it, even if you are the detainee's parent, spouse, or child.

The powers granted already in the [USA PATRIOT Act], if PATRIOT II should pass, will fundamentally change American society. Please understand the seriousness of these Acts, and do what you can to defend our people and Constitution. You may not have much time left to make a difference, but we might have the rest of our lives to wish you had tried a little harder, sooner. Please try now. Thank you.

Number 1374

LIZ GREIG expressed appreciation for the opportunity to testify. She said she would like to see an amalgamation of HJR 22 and HJR 23, one that contains more teeth if possible. She referred to the USA PATRIOT Act, the homeland security Act, the Domestic Security Enhancement Act of 2003, and related executive orders, and asked the committee to investigate them for all the previously state reasons. She concluded by saying:

I've been taking a master gardener class, and a comment that a lady said to me in California yesterday was ..., "We don't know if we can ship the red worms because, since 9/11, our shipping has been restricted." Red worms? I don't know why that's contrary to the peace and security of the United States, but apparently it is. Thank you very much.

Number 1454

ANNA GODDUHN relayed that the Bush Administration has made her an activist and a patriot in a way that she never anticipated. As Americans, she remarked, people have the right and the responsibility to question the motives and methods of governmental officials, adding "The war has made us think an awful lot about patriotism, but I really do feel a civic responsibility to question our officials." She said that although those that protest the preemptive warfare paradigm and the erosion of civil liberties are scorned as unpatriotic, those people are really just performing their civic duty and it is their responsibility, as citizens, to raise unpleasant questions. She added, "Our Founding Fathers knew well that governments could and would become corrupt; they designed the safeguards to prevent such outcomes, and they intentionally

excluded the measures such as those found in the [USA PATRIOT Act]."

MS. GODDUHN assured the committee that protesters have respect and appreciation for the troops; protesters have issues only with those who would put them in harm's way on the basis of weak and misrepresented and even fabricated evidence. Times have changed, she acknowledged, and that makes evaluating risk more complicated, but it also makes honesty in and disclosure of policy decisions even more important than ever. In conclusion, she said that she wholeheartedly supports passage of a combination of HJR 22 and HJR 23, and that she particularly appreciates the language in HJR 22 that protects her and other critics of the federal government from undisclosed investigation in the absence of probable cause of criminal activity. She thanked the committee for being willing to participate in the "all-American process of checking and balancing the powers of the executive branch."

Number 1630

MICHAEL WALLERI referred to the aforementioned problems with the USA PATRIOT Act, noted that the Act also amended 15 separate statutes, and detailed again some of the Act's effects, including a limitation on hazardous materials (HAZMAT) licenses. He opined that the USA PATRIOT Act is a broad-based overreaction to the events of 9/11. He said he hopes the committee will pass HJR 22 and HJR 23 in order to bring to the attention of Congress the problems resulting from the USA PATRIOT Act.

CHAIR WEYHRAUCH closed public testimony.

Number 1756

REPRESENTATIVE DAHLSTROM moved to report HJR 23 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 23 was reported from the House State Affairs Standing Committee.

Number 1775

REPRESENTATIVE SEATON moved to report HJR 22 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 22 was reported from the House State Affairs Standing Committee.

ADJOURNMENT

Number 1792

The House State Affairs Standing Committee was recessed at 10:05 a.m. to a call of the chair. [The meeting never was reconvened.]