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HOUSE COMMITTEE REPORT

(7)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-5-91

The STATE AFFAIRS Committee considered:

HB 188

HOUSE BILL NO. 188

CITATIONS/MEDALS FOR PERSIAN GULF VETS

"An Act relating to the issuance of citations and medals to members of the armed forces serving in the conflict with Iraq."

RECOMMENDATIONS:

be replaced with CS HB 188 (STA) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact Military & Vets Affairs

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Gene Kubina</i>					
<i>Tommy</i>	<input checked="" type="checkbox"/>				
<i>David</i>					
<i>E. Smith</i>	<input type="checkbox"/>				
<i>Jim</i>	<input type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<i>Mr. [unclear]</i>	<input type="checkbox"/>				

Gene Kubina
CHAIRMAN'S SIGNATURE

Alaskan falls in battle

Soldotna man, father-to-be, killed in action

By TOM KIZZIA
and JAY BLUCHER
Daily News reporters

Army sergeant David Quentin Douthit, a 24-year-old father-to-be and graduate of Soldotna High School, has been reported killed in action against Iraqi troops. He is the only Alaskan known to have been killed in the war to liberate Kuwait.

Douthit died Wednesday, the day the cease-fire was announced, according to his family. He was crew chief on an M2 Bradley, a tracked armored personnel carrier, was based at Fort Lewis, Wash., and assigned to the 134th Armored Detachment. Few other details of his death were available Saturday.

U.N., Iraqi military leaders meet

INSIDE

More full stories appear on Pages A-15, A-16, F-1 and F-2.

VICTORY: Road showed the United States as a superpower in the best F-1

Daily News and Times

ALLIED OCCUPIED SOUTHERN IRAQ - Allied and Iraqi commanders met at a heavily guarded desert site near the Kuwaiti border today for the first talks to forge a permanent truce in the Persian Gulf War.

Inside a large tent, U.S. Gen. H. Norman Schwarzkopf and Saudi Lt. Gen. Khalid bin Sultan, commander of the Arab forces, sat across a table from two Iraqi military officers, who were not immediately identified.

As reporters were allowed inside before the talks began,

Please see Page A-14, GULF

Family members in Soldotna received official notice Friday afternoon from two full-dress military officers, who said Douthit was killed in the line of duty

while engaging the Iraqi enemy" and was pronounced dead on arrival at the nearest medical facility. The family was told more details would be available later.

The Pentagon had not yet officially listed Douthit among service members

Please see Back Page ALASKAN



Sgt. David Douthit (a corporal when this photo was taken)

Sgt. Douthit

ALASKAN: Soldotna man killed in action during Persian Gulf War

Continued from Page A-1

killed in action, but a spokeswoman noted a lag time of some 24 hours after notification of family members. On Saturday, the Pentagon had set the number of U.S. service members killed in action in Operation Desert Storm at 97, though the Pentagon had only listed 87 names so far. Non-combat deaths were set at 64.

"It just seems so unreal," Douthit's sister, Angela Holler of Soldotna, said Saturday. "There was only \$9 out of 400,000, and you just never think it will be ... someone you know."

Douthit's parents, Harvey and Nita Douthit of Soldotna, had celebrated last Wednesday night's cease-fire announcement with a baby shower for David's absent wife, Jessica, who is expecting the couple's first child April 1.

By Friday, the senior Douthits were on their way to the ferry terminal in Haines, planning to join Jessica at Fort Lewis in Tacoma, Wash., for the birth. The military contacted the Alaska State Troopers, who spot-

ted the Douthits Friday night on the Alaska Highway south of Tok and told them to call home.

Their daughter Angela delivered the news. She had received word Friday from two military officers, one of whom was a chaplain from Fort Richardson.

Trooper Jim Gellen drove the senior Douthits in their camper back to Anchorage, and they flew to Tacoma Saturday morning.

"They're pretty broke up," Holler said of her parents. "David is the baby of the family."

Jessica Douthit, 19, was examined at Madigan Army Medical Center near Fort Lewis Saturday, when she showed signs of premature labor, but was released later in the afternoon, according to the hospital.

Holler said the family had followed news of the war closely and believes Douthit was killed in the tank battle in southern Iraq that preceded the cease-fire. Pausing at Anchorage International Airport Saturday afternoon between connecting flights on her way to Tacoma, she recalled, the

6He didn't really want to go and leave his pregnant wife behind, but he said it was his job. He was in the Army. 9

— Angela Holler, David's sister

family's relief at news of the cease-fire.

"We thought it was over, that David was safe ... and their baby," she said, choking back tears.

David had told his family he believed in the U.S. mission to the Middle East.

"He told me once that if they didn't stop Saddam Hussein, they'd just be doing it five years from now," Holler said. "He didn't really want to go and leave his pregnant wife behind, but he said it was his job. He was in the Army."

David Douthit was born in Ketchikan and moved to Soldotna when he was about 3, Holler said. He had four brothers and sisters, all older. Their father worked for Arco and is now retired. David was a downhill skier

and a 1982 state motocross champion, she said.

Douthit graduated from Soldotna High School in 1984, a member of the first class to proceed four years through the new school. After a year in mechanic's school in Denver, he enlisted in the Army.

He met Jessica when he was stationed in Bad Kreuznach, West Germany. Holler said her brother had a free time considered a military career and reenlisted. But with eight months left in his second tour, he had decided to leave the service.

"Now that he was starting a family, this was going to be it," she said.

"The military can be real hard on a family because you have to move so often."

She said her brother, a gifted mechanic, would

probably have moved back to Alaska.

Douthit had been stationed at Fort Lewis since September 1989. His best friend there, Sgt. Steve Brown, said Douthit was considered an excellent soldier and an expert gunner. He was also trained in chemical warfare decontamination techniques, a specialty that got him summoned to the Middle East ahead of others in his unit. But Douthit wasn't a career man, Brown said.

"He wanted to get out and work on cars," Brown said. "He always said he just wanted to go back to Alaska to fish and work on cars."

Holler said her brother had a freedom over here and make sure his baby would grow up in a free land." Jessica said the Tacoma News Tribune Saturday night. "He wanted to do what was right."

Douthit left Fort Lewis the day after Christmas. After reaching the Middle East, he was able to phone home several times.

"At first he seemed real

excited," Holler said. "He liked seeing the camels walking around loose. He always sounded really up."

His mother, Nita, was active in the Great Alaskan Hug letter-writing and family support effort, said Hug organizer Mary Keith. News of Douthit's death, coming a day after the cease-fire, was a blow to other network families, Keith said.

"We'd felt so good that all our kids had made it out," she said. "It seemed like we'd slid through."

The family has been told it will be seven to 10 days before Douthit's body reaches Fort Lewis. They planned to meet Saturday night to discuss burial and memorial plans after arrival in Tacoma.

before going on seas. The funeral may have to wait until after his child is born so that Jessica can travel, Holler said.

"I'm sure that we'll have something here, whatever happens," she said. "He had so many friends here."

□ Daily News reporter Paul D. contributed to this story.

the Persian Gulf.

Please see Page A-7, POWs

Family prepares to bury soldier

By TOM KIZZIA
Daily News reporter

SOLDOTNA — The remains of Sgt. David Douthit will be returned to Alaska and laid to rest in a picturesque Kaslof cemetery beside the grave of a buddy who shared some harrowing high school escapades and then joined the Army with him.

Burial will follow a funeral set for 3 p.m. Tuesday at the Soldotna High School auditorium, according to Douthit's family. Organizers scrambled Monday to find a space big enough to hold the crowd expected to honor Douthit, the only Alaskan known to have been killed in action in the war against Iraq.

City and borough flags in Soldotna were lowered to half-staff Monday. State law says only the governor has authority to order the state and U.S. flags lowered. Gov. Walter Hickel will probably issue a proclamation that flags be lowered Wednesday for Douthit and others who died in the war, press spokesman Harry Gamble said.

A memorial service for students has been

Please see Back Page, DOUTHIT

Joe Carr



P
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W

Section A NATI

Section B

Section C

Section D

Bombeck col H

Bridge H

Comics G-4

Crossword C

Doogan col I

Helena

Douthit funeral set

The funeral of Sgt. David Douthit of Soldotna, the only Alaskan known to have been killed in the war with Iraq, has been confirmed for 3 p.m. Tuesday at Soldotna High School.

The date had been tentative because doctors had not given Douthit's widow, Jessica, permission to fly. She is in her eighth month of pregnancy.

That permission was granted Friday, and she will travel with the rest of the family to Alaska this weekend, said Gary Hollier, a brother-in-law of Douthit.

The family has asked that instead of flowers, donations be made to two memorial funds for Jessica Douthit and the baby.

The Douthit Memorial Fund and Douthit Baby Fund can be reached through the National Bank of Alaska, Box 509, Soldotna, 99669.

Carpenter had tried everything else. The Anchorage musher had watered the dog let them rest. He had fed the dogs and let them He pleaded with the dogs. He walked out in front

Please see Back Page, ID17

commissioner hammering on

AN discrimination laws. In an interview : Alleman tried to clarify positions, saying he urged the state to stop "hammering on white people." "I'm not a human rights activist," he said. "What you might say is equal rights activists aren't doing what the Alaska Constitution and statutes say. They are all equal."

The Hickel administration was quick to disavow man's statements. "We wouldn't say comments of that nature any way, shape or said Deputy Press Secretary Eric Rehmann.

LL Gen Thomas W. Kelly, director of operations for the Joint Chiefs of Staff, said Monday that allied intelligence has spotted in southern Iraq both Soviet-made T-72 tanks, apparently in the hands of regular Iraqi army units, and T-72 tanks in the hands of Republican Guards.

"They're both apparently trying to exert an influence on the situation and we don't

know what they're going to do," Kelly said. "What you have on your hands returning to Iraq is a beaten army, and beaten armies can be politically dangerous."

Several Iraqi soldiers interviewed by the British Broadcasting Corp. on the highway leading to Basra through allied positions in southern Iraq confirmed that, for the first time since Saddam took sole control of his nation 12 years ago, his own army now harbors open resentment toward him.

Although Iran has remained officially neutral in the Gulf war, the Islamic Republic has long sought to dislodge Saddam, whose Baathist ideology of secularism and violence is a bane to Iran's fundamentalist religious leadership.

What is more, Saddam's inner ruling circle, which consists largely of Iraq's minority Sunni Islamic sect, has systematically sought to oppress and subjugate the nation's Shiite majority, the predominant community in neighboring Iran.

DOUHLIT: Soldier killed in gulf war to be buried next to old friend

Continued from Page A-1

scheduled for 9:10 a.m. Wednesday at Soldotna High School, where Douthit graduated in 1984.

Douthit's body is expected to reach Fort Lewis in Tacoma, Wash., by Friday, when a memorial service for him is planned, said Douthit's brother-in-law, Gary HOLLIER. Douthit's parents, brothers and sisters will return to Alaska with the body over the weekend, Hollier said.

Joining them for the funeral will be Douthit's 18-year-old wife, Jessica, who is expecting the couple's first child in less than a month.

Douthit's parents, Harvey and Nita Douthit of Soldotna, have decided to bury their youngest child at Spruce Grove Memorial Park south of Soldotna next to the grave of Spencer Reeder, who raced and

partied with Douthit through high school and then "walked the wall" in Berlin with him during their several years together, under the Army's buddy system.

Reeder died in 1988 when a small aluminum skiff swamped in the Kenai River canyon above Skilak Lake. Reeder was on leave from the Army at the time.

Hollier said Reeder's father had bought two burial plots when he had to bury his son and told the Douthits he would be proud to have David buried next to Spencer.

Douthit and Reeder were part of a tight-knit group of five friends who drove fast cars and survived close calls through high school. Though luck rode with them in their high school years, only two are alive today; a third friend committed suicide last spring.

Dwayne Self, one of the remaining friends, recalled Monday how his buddy, Dave "honed his skills" as a teen-ager by snowboarding over cliffs, "test-driving"

sports cars off used-car lots in Anchorage, and racing side-by-side in pickups through the middle of Soldotna at 3 a.m.

A state motocross champ one year, Douthit had his share of narrow misses. Once, Self said, Douthit went into a spin while passing on the highway outside Kenai at 70 mph. He had the presence of mind to keep his Plymouth Charger going straight backward off the embankment so that it flipped end-over-end instead of rolling dangerously sideways, Self said. Douthit and his passenger walked away from the wreck.

"We were bulletproof at 16, guaranteed," said Self. "We were the best at what we did."

Douthit grew up in his parents' Jakefront log home in Soldotna. As a teen-ager he had an outlying cabin of his own, its walls papered over with rock and swimsuit posters, where he and his friends listened to music — his favorite song was the Eagles'

IDITAROD: Musher who took a tow to get his dogs going ruled out of the race

Continued from Page A-1

tried to lead the team himself.

"I had balls and tangies," Carpenter said. "The dogs started growling at each other and getting argumentative — and this is a team that's always happy and never fights."

Or, so it had been. After the leadership in the team broke down, it became a rabble.

Carpenter was left to lament a lead dog injured three weeks before, a lead dog left home.

"When you say go to him, he gets up and goes whether he wants to or not," Carpenter said.

This team needed that kind of leadership.

In the shade of the tall cottonwoods and spruce-birch forest on the west bank of the river, it was

hard to get the team moving — even with Moore's help. Both he and Lee felt the pangs of empathy for Carpenter's plight. Any musher would. Few things ache more strongly of betrayal than a trusted dog team that quits for no obvious reason.

"Something happened out there that I can't explain," Carpenter said. "I guess I let them go out too fast."

Perhaps they hit the so-called wall that can bring human marathon runners to their knees. The dogs didn't even want to chase other teams.

"My expectations for the dog team probably got in the way of reality. I ended up expecting too much."

Lee, a 35-year-old Anchorage man who has been running dogs since the age 9, suggested Carpenter rest the team 24 hours. Lee had been through this before.

"There's a schedule that will bring them back," Lee said. "Two hours on, two hours off, if the musher can handle it."

The problem is the musher spends the two hours off making sure the dogs get plenty of food and water, and never sleeps.

Together with Moore, Lee managed to help Carpenter get his team to Yentna. By then it was as much a matter of propping up the musher as urging on the team.

Carpenter was disappointed; his bowed shoulders showed it.

This was his second Iditarod. The first had ended in McGrath, and he wanted to make Nome to prove to himself that he could do the 1,000-mile run. The prospect of letting down the people who had sponsored this expensive expedition weighed on him.

He hoped to travel with Lee and Moore at the tail end of the race. Lee, who'd spent the warmth of the day sleeping on his sled in the hot spring sun, had a happy and playful dog team that looked ready to make the march.

"I can almost guarantee I won't be the last guy to Nome," he said.

Moore's team did not look as strong, but their attitudes were good and so was his.

"We'll either make it or we won't," he said at Yentna. "I'm not going to push them."

The dogs rested in the snow in the sun. They roted and began yapping when he dug out the cook kit to fix dinner.

Carpenter left as Moore was making sure his dogs were all taken care of.

"I'm gonna go drink a few more glasses of water and

get some spaghetti," Carpenter said. "Maybe I'll take a little nap, too."

"Is there a place to sleep in Skwentna?" Moore asked.

Lee said mushers are always welcome to grab a space on the floor at Joe Della's cabin. Those words gave Carpenter something to look forward to.

"I've had a long hard day," he said.

It went only slightly better that night. In the cold, the dogs made their way up the Yentna and Skwentna rivers. By early Monday morning, they were at Della's cabin.

There Carpenter rested and waited for the news of his fate. Iditarod officials were huddling to decide if he should be disqualified.

Iditarod rules say mushers are allowed incidental, emergency help from other mushers but there is a prohibi-

tion on one team towing another.

Carpenter got the word from officials shortly after 10 a.m. A year of his life and a \$20,000 investment in equipment and dogs had gone for naught.

"They said it was an infraction of the rules, and they won't let me go on," he said. "I can't feel anything. I'm so totally dejected I'm almost ill."

"I'm in debt a few thousand dollars. I figured if I was going to do this, I'd do the best I could. It's a little more than disappointing. When I came in last night, I said I can take this dog team to Nome."

"It wouldn't have been easy. It wouldn't have been the race I expected, but I know I could have done it. I don't know what I'll do now. It's hard to put things in perspective."

RIGHTS COMMISSIONER: Hickel appointee says he's there to represent other side

Continued from Page A-1

Ether Wunniche.

Wunniche said she was surprised by Allemen's in-

Greater Juneau Area District Chairman.

Allemen's appointment was never announced publicly. Commission members

row," he said. "My recollection is of Japanese Zeros coming over the hills and the bombs falling ... and whenever I recall that I call

Tanner, I'm sorry."

It was during a preview of a workshop called Reducing Racism that Allemen made his comments about

she, too, had suffered. Allemen shot back, "Yeah, and I've suffered as a white male and as a landlord and as various other things. But

some before giving him the appointment two weeks ago.

Allemen said Tanner didn't go into any depth in the interview.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 188

Revision Date: _____ Department Affected: Military & Veterans Affairs
 Title: Citations & Medals to Alaskan residents in Persian Gulf crisis. BRU: Veterans Affairs
 Component: Veterans Services

Sponsor: Rep. Foster
 Requestor: House DMVA COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	67.3					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	67.3					

CAPITAL						
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REVENUE	12.5					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	67.3					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

 See attached page

Prepared By: Jeff Morrison Phone: 465-4600
 Division: Administrative Support & Services Date: 13 March 91

Approved by Commissioner: MG Hugh L. Cox III by J Morrison
 Agency: Military and Veterans Affairs Date: 13 March 91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE TO HB 188
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

The bill as drafted provides for the issuance of both medals and citations. There are three expenditure elements to the fiscal note: advertising and administration; medallion production costs, and citation production costs. In addition, the fiscal note is based on the assumption that surplus medallions will be sold at a profit to generate revenue to the state. If the legislature wishes to not allow the sale of surplus medallions, this fiscal note will need to be revised.

The fiscal note is based on a maximum number of 1500 potential recipients. The position paper for HB188 supports a statistical projection of about 1200 Alaskans serving in the Persian Gulf conflict. The use of 1500 as a working figure is intended to cover a possible margin of error in estimating.

EXPENDITURE INFORMATION

Advertising and Administration: 22.0

These expenses are for advertising in military publications and other publications to inform the potential recipients of the medals and citations of the need to apply for them, and the procedures to apply for them (\$20,000). The contest to design the medal will be contracted out to a veterans organization for \$2,000.

Medallion production costs: 37.8

Fiscal note assumes the production of 2000 each 2 ounce silver medallions (about 2" diameter). Die casting is \$1800. Unit costs of medallions includes: \$3.00 striking cost; \$3.00 packaging and shipping; and \$12.00 silver (2oz. @ \$6.00/oz).

Citation Production costs 7.5

Fiscal note is based on unit cost of \$5.00 for citation and presentation folder, for 1500 citations.

TOTAL EXPENSES 67.3

REVENUE INFORMATION 12.5

Revenue is based on selling an estimated 500 surplus medallions at a wholesale selling price of \$25.00. The retail value of a 2 oz. silver medallion would be about \$35.00. Selling the medallions wholesale would still generate a profit of about \$5.00 per unit, and would also reduce administrative time and effort that would be faced if the medallions were to be sold retail by state employees. Overproducing the medallions would also ensure that there were sufficient numbers of medallions if the number of medallions exceeded the estimated maximum figure needed of 1500.

POSITION PAPER

HB 188

Summary of Bill: This bill requires the Department of Military and Veterans Affairs to issue citations and medals to Alaskan residents who served in the Persian Gulf conflict.

Background: A statistical approach to estimating the number of Alaskans involved in the Persian Gulf conflict leads to a rough estimate of about 1200 Alaskan residents who would benefit from the provisions of this bill. The two methods used are as follows:

1. The 1990 census lists the population of the United States as 248,710,000, and Alaska as 550,000. The number of American men and women serving in the Persian Gulf, according to newspaper reports, totaled about 540,000. Assuming that the ratio of Alaskans in the Persian Gulf is the same as the percentage of Alaskans in the total U.S. population, there would be about 1194 Alaskans of the 550,000 service personnel in the Persian Gulf.
2. The Juneau Empire recently listed the names of 60 residents who were serving in the Persian Gulf. The 1990 census lists the Juneau population as 26,751, and the Alaska population as 550,000. Assuming that the ratio of Alaskans serving in the Persian Gulf is the same as the ratio of Juneau residents serving in the Persian Gulf, there would be 1233 Alaskans stationed in the Persian Gulf.

A medal issued by the State of Alaska is not permitted to be worn on the military uniforms of the United States armed forces. Unless further clarified through legislative intent or direction, the medal to be issued would be in the form of a medallion, rather than a military decoration or award.

Impact of Legislation on Department of Military and Veterans Affairs: DMVA would administer the bill. We would obtain the names of eligible residents through advertising and other public relations efforts. If SB152 becomes law (bonus for Persian Gulf veterans), we would work closely with the Department of Revenue to obtain names of eligible Alaskans. We would contract with a veterans organization to design the medal, which would be done on a competitive basis open only to Alaskan veterans. So far, the Disabled American Veterans has expressed an interest in performing the service of administering a contest to design the medal. An attached fiscal note details the fiscal impact of the proposed legislation.

Departmental Position: This is an appropriate way to recognize the efforts of the men and women who served in the Persian Gulf conflict, and we believe that the public would support such a gesture by the State of Alaska. The legislature may wish to consider making the provisions of the bill applicable to survivors of men or women killed in the Persian Gulf conflict.

A further suggestion we offer is to amend the bill (if deemed necessary) to make it possible to sell additional copies of the medallion to the public to generate revenue. It is likely that there would be sufficient demand to sell as many as 500 of the medallions to interested investors, perhaps more. This would enable the net cost to the state to be less.

Approved: _____

Hugh L. Cox III
for MG Hugh L. Cox III

Date: 3/13/91

Notes to press release:

FOSTER

Juneau, Rep. Richard Foster, D-Nome, today introduced legislation that would honor Alaskans who served in the war against Iraq by awarding them a state medal of honor and an official citation.

"This bill reflects our appreciation for the sacrifices and contributions our military personnel have made in the conflict with Iraq," said Foster, a two term Viet Nam veteran. "Alaska is home to over 70,000 veterans of previous military conflicts, the highest rate per capita for all America," Foster estimates "and there may be as many as 1500 service men and women from the Iraq conflict."

"It is my hope that the first medal and citation will be awarded to the family of Army Sgt. David Douthit of Soldotna," Foster stated. Sgt. Douthit is the only Alaska known to have been killed in the Iraq conflict.

HB 188, co sponsored by Rep. Ivan Martin Ivan, D-Bethel and Rep. Max Gruenberg, D-Spenard, instructs the Department of Military and Veterans Affairs to present a medal and citation to all Alaskan residents assigned to the conflict. The Disabled American Veterans Association has pledged support of this measure and indicates a willingness to assist in medal design competition. Following distribution, the Department will prepare a listing of all recipients for permanent recording in the State of Alaska Archives.

- Sponsor Statement -

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 5, 1991

SUBJECT: Residency requirement for artists in CSHB 188 () (W.O. 7LS0793)

TO: Representative Max Gruenberg
Attn: Mike

FROM: Theresa L. Bannister ^{TB}
Legislative Counsel

This memo accompanies the draft that you requested as CSHB 188 () relating to the issuance of medallions and citations to Persian Gulf veterans.

Please be aware that the restriction of the design competition to Alaska residents raises an issue under the privileges and immunities clause (sec. 2, art. IV, Constitution of the United States).

If a right to participate in the competition is considered to be a "fundamental right that involves basic and essential activities", the clause will apply and must be satisfied. Although the right does not seem very fundamental at first glance, one can argue that some artists earn their living by the money they receive from governmental art competitions. If considered the right to earn a living, the clause would apply.

If the clause applies, discrimination against nonresidents is prohibited unless the state has a substantial justification for the discrimination, and the means employed by the statute are closely related to the interests served by the statute. Robison v. Francis, 713 P.2d 259 (Alaska 1986). To overcome a challenge based on the clause, the state would have to show that nonresidents are "a peculiar source of the evil" which the state's action is meant to remedy, and that the state's purpose is something other than protecting residents from competition. Robison v. Francis, 713 P.2d 259 (Alaska 1986). It is unclear whether the arguments for having an Alaskan design an Alaska veteran's medallion would satisfy this criteria.

The state is given certain leeway in preferring its own residents in its own activities. In Robison v. Francis, 713 P.2d 259, 265 (Alaska 1986), the court indicated it could give little deference to the state, despite the fact that the state was acting as a

Representative Max Gruenberg

April 5, 1991

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"market participant" (owner), because all municipal and state construction projects were covered by the resident preference and because those projects amounted to 60 - 70% of all commercial construction in the state. In this case, however, the state could make a healthy argument that it is entitled to deference in this case, since the restricted activity is limited to a single event and to a relatively small amount of money.

In conclusion, although the limited competition raises a privileges and immunities clause issue, the outcome of the challenge is unclear.

If I may be of further assistance, please advise.

TLB:lmb
91-102.lmb

Enclosure



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: April 3, 1991

PLACE: Capitol, Room 102

SUBJECT OF MEETING:
 *HB 171 - Relating to Prohibit Sealing of Certain Court Records
 *HB 188 - Relating to Citations/Medals for Persian Gulf Vets
 *HJR 29 - Relating to Persian Gulf Conflict
 HCR 17 - Relating to Task Force on Governmental Roles

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
MARY ANERSACKS	AIA	PO Box 21211 Juneau 99802			572-3340	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 171
Larry LaRolle	Rep Foster	611 Court Bldg 99811			465-3789	<input type="radio"/> Y <input type="radio"/> N	HB 188
✓ Jeff Morrison	DMVA	PO Box 6 Juneau 99811			465-4600	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 188
✓ John Walsh	Foster				3789	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 188 ✓
Tom Dierp	Moye					<input checked="" type="radio"/> Y <input type="radio"/> N	HJR 29
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	



House State Affairs Committee

Representative Gene Kubina, Chair

SUBJECT OF MEETING:

DATE:

PLACE:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Kathy Kalkhart	Asian vehicle manufacturers	Box 34338 Seward Ak	99553	739-7557	739-0247	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 171
TONY YOST	Pharmaceutical Manufacturers	5251 DTC Parkway #1090 Englewood Co 80111	80111	(303) 799-6246	(303) 740-3554	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 171
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	