

SJR

6

SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: SSR6 Amend Const.

ABBREVIATED TITLE: Desecration of Flag -

SPONSER: Zharoff; Menard; Rodey ORIGINAL RECEIVED: 1-22

WRITTEN REQUEST TO SCHEDULE REC'D: 2-5 FROM: Zharoff -

SPONSER'S STATEMENT REC'D: _____ FROM: _____

SECTIONAL ANALYSIS RQST'D: _____ FROM: _____

SECTIONAL ANALYSIS RECEIVED: _____

FISCAL NOTE (ORIGINAL)

RQST'D OF: Law - Reges 1-24 REC'D FROM: Law DATE: 2-5

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FISCAL NOTE (C.S.)

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

RQST'D OF: _____ REC'D FROM: _____ DATE: _____

FIVE DAY NOTICE GIVEN: _____ NOTICE OF HEARINGS GIVEN: _____

COMMITTEES OF REFERRAL: FIRST: _____ SECOND: _____ THIRD: _____

COMMITTEE ACTION

DATE: 2-11-91 Individual Recommendation: France, Halford, Rodey, DePass
Callin - Colman - No Rec.

PERSONS TO BE NOTIFIED OF HEARING

1. SPONSOR Zharoff
2. AGENCY Law -
3. Wagstaff
4. Warren Colver
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SJR 6

Revision Date: _____ Department Affected: Department of Law
 Title: "...Constitution of the United States BRU: Prosecution
prohibiting desecration of the flag..." Component: Criminal Justice Litigation
 Sponsor: Senator Zharoff
 Requestor: Senate Judiciary 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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 4, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 4, 1991

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

CONTINUATION of FISCAL NGTE ANALYSIS

For Bill/Resolution No. SJR 6

Senate Joint Resolution No. 6 calls upon the Congress of the United States to propose an amendment to the United States Constitution that would empower the Congress and the legislatures of the several states to prohibit the physical desecration of the Flag of the United States. SJR 6, which is a communication from the Alaska State Legislature to the Congress of the United States, will not have a fiscal impact on the Department of Law.

Rick -

Would you look
at S.J.P. 6 - (in
Jurb.) Desecration
of U.S. Flag - If
possible I would like
have a hearing on
the resolution - Thanks -

Fred J



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PIRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

SSR

TO: All Senators
FROM: Senator Fred F. Zharoff *Fred F. Zharoff*
DATE: January 7, 1991
SUBJ: Flag Desecration Resolution

I have attached a draft resolution I plan on pre-filing which would request the Congress of the United States to propose an amendment to the constitution that would give the Congress and legislatures the power to prohibit physical desecration of the United States Flag.

Should you wish to Co-sponsor this resolution, please contact my Juneau office at 465-3473.

Co Sponsor

Alaska State Legislature



Senate Judiciary Committee

SSR 6 - Flag Desecration -

Rich -

This Resolution had already been filed. In order to cosponsor I believe the following motion is needed on the floor. I'm sure you are familiar with this.

Doug

^{Rock}
Under Unfinished Business:

"I move and ask unanimous
consent to be shown as
Co-sponsor on SJRB -

" A resolution relating to an
amendment to the Constitution
of the United States
prohibiting desecration of the
Flag of the United States "

Compliments of

Kristie

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Luckhaupt
12/13/90

SENATE JOINT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR ZHAROFF

Introduced:
Referred:

A RESOLUTION

1 Relating to an amendment to the Constitution of the United States prohibiting desecration
2 of the Flag of the United States.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 WHEREAS, although the right of free expression is part of the foundation of the United States
5 Constitution, very carefully drawn limits on expression in specific instances have long been recognized
6 as legitimate means of maintaining public safety and decency, as well as orderliness and the productive
7 value of public debate; and

8 WHEREAS certain actions, although arguably related to one person's free expression,
9 nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred
10 values of others; and

11 WHEREAS there are symbols of our national soul such as the Washington Monument, the
12 United States Capitol Building, and memorials to our greatest leaders, that are the property of every
13 American and are therefore worthy of protection from desecration and dishonor; and

14 WHEREAS the American Flag was most nobly born in the struggle for independence that began
15 with "The Shot Heard Round the World" on a bridge in Concord, Massachusetts; and

16 WHEREAS in the War of 1812 the American Flag stood boldly against foreign invasion,

1 symbolized the stand of a young and brave nation against the mighty world power of that day, and in
2 its courageous resilience inspired our national anthem; and

3 **WHEREAS** in the Second World War the American Flag was the banner that led the American
4 battle against fascist imperialism from the depths of Pearl Harbor to the mountaintop on Iwo Jima, and
5 from defeat in North Africa's Kasserine Pass to victory in the streets of Hitler's Germany; and

6 **WHEREAS** the American Flag symbolizes the ideals that good and decent people fought for in
7 Vietnam, often at the expense of their lives or at the cost of cruel condemnation upon their return home;
8 and

9 **WHEREAS** the American Flag symbolizes the sacred values for which loyal Americans risked
10 and often lost their lives in securing civil rights for all Americans, regardless of race, sex, or creed; and

11 **WHEREAS** the American Flag was carried to the moon as a banner of goodwill, vision, and
12 triumph on behalf of all mankind; and

13 **WHEREAS** the American Flag to this day is a most honorable and worthy banner of a nation
14 that is thankful for its strengths and committed to curing its faults, and remains the destination of
15 millions of immigrants attracted by the universal power of the American ideal; and

16 **WHEREAS** the law as interpreted by the United States Supreme Court no longer accords to the
17 Stars and Stripes that reverence, respect, and dignity befitting the banner of that most noble experiment
18 of a nation-state; and

19 **WHEREAS** it is only fitting that people everywhere should lend their voices to a forceful call
20 for restoration to the Stars and Stripes of a proper station under law and decency;

21 **BE IT RESOLVED** by the Alaska State Legislature that the Congress of the United States is
22 requested to

23 (1) propose an amendment to the Constitution of the United States that would specifically
24 provide the Congress and the legislatures of the several states the power to prohibit the physical
25 desecration of the Flag of the United States, or, in the alternative;

26 (2) call a convention for the sole and exclusive purpose of proposing and submitting to
27 the several states an amendment to the Constitution of the United States that would specifically provide
28 the Congress and the legislatures of the several states the power to prohibit the physical desecration of
29 the Flag of the United States; and be it

30 **FURTHER RESOLVED** that the legislatures of the several states are invited to join with Alaska
31 to secure ratification of the proposed amendment, or, in the alternative, the call for a convention; and
32 be it

1 **FURTHER RESOLVED** that Alaska's United States Senators and Representative are
2 respectfully requested to enter a copy of this resolution in the Congressional Record as a memorial to
3 the Congress of the United States.

4 **COPIES** of this resolution shall be sent to the Honorable Dan Quayle, Vice-President of the
5 United States and President of the U.S. Senate; to the Honorable Thomas S. Foley, Speaker of the U.S.
6 House of Representatives; the presiding officers of each house of the legislatures of the several states;
7 and to the Honorable Ted Stevens and the Honorable Frank Murkowski, United States Senators, and the
8 Honorable Don Young, United States Representative, members of the Alaska delegation in Congress.

THE FLAG AMENDMENT

Mr. DOLE. Mr. President, earlier this week, the Supreme Court heard oral argument on the constitutionality of the so-called Flag Protection Act of 1989.

Within 6 weeks or so, the Supreme Court will settle—once and for all—the question of whether the flag statute passes, or flunks, the constitutionality test.

I've predicted that the Supreme Court will affirm the two lower court opinions striking down the statute. Obviously, I am not a mindreader, and I could be dead wrong on this one.

But what the critics can't dispute is the simple fact that the American people still—to this day—stand four-square behind a constitutional amendment to protect Old Glory from desecration.

Last Friday, the American Legion officially released the results of a Gallup poll testing the opinions of Americans on the flag-burning issue. And the results show that Old Glory—as well as the constitutional amendment—have won with landslide numbers.

According to the poll, an overwhelming 72 percent of the American people "disagree that burning the flag should be protected under the free speech guarantee of the first amendment;" 71 percent favor "a narrow constitutional amendment that would allow Federal and State governments to make flag-burning illegal." Just like the amendment that the Senate considered last year.

And 73 percent of the American people do not "believe that a constitutional amendment would place our freedom of speech in jeopardy," while only 25 percent think it would.

So despite what you may hear or read in the media, the commitment of the American people to a constitutional amendment remains as strong as ever—almost a full year after the Texas versus Johnson decision. And this commitment will grow even stronger if, and when, the Supreme Court finally strikes down the so-called Flag Protection Act.

I commend the American Legion for its unrelenting work on behalf of the constitutional amendment. And I commend the legion for bringing the poll results to the attention of their elected representatives in Congress.

Mr. President, I ask unanimous consent that the text of the American Legion poll results be printed in the RECORD at this point.

There being no objection, the results were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,

Washington, DC, May 11, 1990

DEAR SENATOR: Although it has been almost a year since the Supreme Court's controversial decision, 72 percent of the American public still believes that burning the American flag should not be a protected form of free speech as guaranteed by the Constitution's First Amendment. As a reinforcement of that belief, 71 percent of Americans favor a narrowly-drawn constitutional amendment to make flag burning illegal, and 73 percent are convinced that such an amendment would not jeopardize their freedom of speech.

These are only three findings of a recent Gallup poll clearly showing that most Americans are still enraged over the whole matter of flag burning. In fact, 57 percent of them stated their intention to vote for or against elected officials because of where they stand on the issue. These are not "soft" opinions or attitudes because it was also found that only 15 percent of the poll participants expressed any uncertainty in stating their positions.

The American Legion is convinced that this poll, conducted April 11 through May 2, is a clear indicator of public opinion. We see it as proof that Americans have considered carefully all sides of the issue, they have made up their minds, and they are demanding that flag burners be dealt with as law-breakers.

A more detailed presentation of the Gallup poll results is enclosed for your review.

Sincerely,

MILES S. EPLING,
National Commander.

GALLUP POLL RESULTS ON AMERICANS' OPINIONS ON THE FLAG-BURNING ISSUE

Statistics just released to The American Legion by The Gallup Organization, Inc. show that a significant majority of Americans support a constitutional amendment to protect the United States Flag. The poll, which was conducted from April 11 through May 2, and has a "maximum standard-error rate of 2.7 percent at the 95 percent level of confidence," reported that 71 percent favor a narrowly drawn constitutional amendment; 73 percent do not believe such an amendment would jeopardize their freedom of speech; and 57 percent would vote for or against an elected official because of his position on this issue.

The questions asked and the responses, by percentage, follow.

1. Do you agree that burning the American flag should be protected under the free speech guarantee of the First Amendment or do you disagree that burning the flag should be protected under the free speech guarantee of the First Amendment?

Agree, 25 percent; disagree, 72 percent; no opinion, 2 percent.

2. On May 14th the Supreme Court is going to hear final arguments on the Flag Protection Act of 1989, the law which was written to make flag burning a crime. If the Supreme Court finds the Act to be unconstitutional would you favor or oppose a narrow constitutional amendment that would allow federal and state governments to make flag burning illegal?

Favor, 71 percent; oppose, 23 percent; no opinion, 3 percent.

3. Do you believe that a constitutional amendment outlawing flag burning would place your freedom of speech in jeopardy?

Yes, 25 percent; No, 73 percent; don't know, 2 percent.

4. How strong is your opinion on the flag burning issue? On a 1 to 5 scale where 1 means you completely made up your mind on your position on the issue and 5 means you're unsure of your position on the issue where would you rate yourself regarding the flag burning issue?

(1) Unsure of position, 3 percent; (2), 16 percent; (3), 9 percent; (4), 16 percent; (5) completely made up mind, 68 percent.

5. Please tell me yes or no if you would likely to participate in the following activities as a result of your position on the flag burning issue. Would you be likely to:

A. Donate to a group that supported your position?

Yes, 53 percent; No, 44 percent; don't know, 3 percent.

B. Sign a petition that supported your position?

Yes, 86 percent; No, 13 percent.

C. Vote for or against an elected official because of his position on the issue?

Yes, 57 percent; No, 40 percent; don't know, 3 percent.

D. Do volunteer work for a group that supported your position?

Yes, 44 percent; No, 54 percent; don't know, 2 percent.

E. Write a letter to an elected official stating your position on the issue?

Yes, 65 percent; No, 34 percent.

FOR RELEASE MONDAY, MAY 14, 1990

GALLUP POLL RESULTS ON
AMERICANS' OPINIONS ON THE
FLAG-BURNING ISSUE

Statistics just released to The American Legion by The Gallup Organization, Inc. show that a significant majority of Americans support a constitutional amendment to protect the United States Flag. The poll, which was conducted from April 11 through May 2, and has a "maximum standard-error rate of 2.7% at the 95% level of confidence," reported that 71% favor a narrowly drawn constitutional amendment; 73% do not believe such an amendment would jeopardize their freedom of speech; and 57% would vote for or against an elected official because of his position on this issue.

The questions asked and the responses, by percentage, follow.

1. Do you agree that burning the American flag should be protected under the free speech guarantee of the First Amendment, or do you disagree that burning the flag should be protected under the free speech guarantee of the First Amendment?

Agree	25%
Disagree	72%
No Opinion	2%

2. On May 14th the Supreme Court is going to hear final arguments on the Flag Protection Act of 1989, the law which was written to make flag burning a crime. If the Supreme Court finds the Act to be unconstitutional would you favor or oppose a narrow constitutional amendment that would allow federal and state governments to make flag burning illegal?

Favor	71%
Oppose	26%
No Opinion	3%

3. Do you believe that a constitutional amendment outlawing flag burning would place your freedom of speech in jeopardy?

Yes	25%
No	73%
Don't Know	2%

4. How strong is your opinion on the flag burning issue? On a 1 to 5 scale where 5 means you completely made up your mind on your position on the issue and 1 means you're unsure of your position on the issue, where would you rate yourself regarding the flag burning issue?

1	Unsure of position	3%
2		3%
3		9%
4		16%
5	Completely made up mind	68%

5. Please tell me yes or no if you would be likely to participate in the following activities as a result of your position on the flag burning issue. Would you be likely to:

A. Donate to a group that supported your position?

Yes	53%
No	44%
Don't Know	3%

B. Sign a petition that supported your position?

Yes	86%
No	13%

C. Vote for or against an elected official because of his position on the issue?

Yes	57%
No	40%
Don't Know	3%

D. Do volunteer work for a group that supported your position?

Yes	44%
No	54%
Don't Know	2%

E. Write a letter to an elected official stating your position on the issue?

Yes	65%
No	34%

For more information, please contact The American Legion, Public Relations Division. Lew Wood - 317-635-8411 or John Hanson - 202-861-2700.