

HJR

11

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/93

FURTHER:

DATE TURNED INTO OFFICE: 4-26-93

The Finance Committee considered **HOUSE JOINT RESOLUTION NO. 11**

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

and recommends:

- replace with _____ CS _____ (FINANCE)
- or , adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Div. of Elections	1-15-93		\$2.2

Appropriation No Fiscal Note

DO PASS:

Tom Kelly
George Jackson
Steve Rieck
[Signature]
 1. Bert Noyes
 Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

 2. Should do pass True Justice - 10/2/93
 Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HJR 11

Revision Date: _____
Title: Amendment to the Constitution RE: repeal of regulations by the legislature
Sponsor: Representatives Phillips and Brice
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary Elections
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director Phone: 465-4611
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Conhill
Agency: Office of the Lt. Governor Date: 1/15/93

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STATEMENT FOR SENATE FINANCE COMMITTEE

HOUSE JOINT RESOLUTION 11

(REPEAL OF REGULATIONS BY THE LEGISLATURE)

SPONSOR: REPRESENTATIVE GAIL PHILLIPS

THIS IS AN OLD FRIEND TO MOST OF YOU, IN FACT THE EXACT LANGUAGE IN THIS RESOLUTION WAS PROPOSED BY THE FORMER CHAIRMAN OF THE SENATE JUDICIARY COMMITTEE AND THE PRESENT COMMITTEE'S VICE CHAIRMAN

ALTHOUGH THIS PROPOSAL FOR A CONSTITUTIONAL AMENDMENT WON'T BE BEFORE THE VOTERS OF THE STATE OF ALASKA UNTIL THE NEXT GENERAL ELECTION BALLOT.....IT IS MY DESIRE TO HAVE IT PASS THIS LEGISLATIVE SESSION IN ORDER THAT PROPONENTS THAT HAVE COME FORTH SUCH AS THE ALASKA STATE CHAMBER OF COMMERCE AND LOCAL CHAMBERS CAN ORGANIZE AN EXTENSIVE EDUCATIONAL CAMPAIGN BETWEEN NOW AND 1994.....

WHILE MANY REGULATIONS DO CONFORM TO AND SUPPORT THE LAWS PASSED BY THE LEGISLATURE.....THERE IS EVER INCREASING EVIDENCE THAT REGULATIONS WHICH ARE IMPOSED ON THE CITIZENS OF THE STATE DO NOT CONFORM WITH THE LAWS PASSED BY THE LEGISLATURE.....MANY TIMES IGNORING THE LEGISLATIVE DIRECTIVE OR GOING FAR, FAR BEYOND THE LIMITS OF WHAT THE LEGISLATURE INTENDED.....

AS YOU ALL KNOW, ONCE REGULATIONS GO INTO EFFECT.....THEY HAVE ALL THE FORCE OF LAW.....EVEN THOUGH NOT A SINGLE PERSON, ELECTED BY THE VOTERS, HAS APPROVED THEM.....

STATEMENT FOR SENATE FINANCE COMMITTEE

PAGE TWO

HOUSE JOINT RESOLUTION 11

(REPEAL OF REGULATIONS BY THE LEGISLATURE)

SPONSOR: REPRESENTATIVE GAIL PHILLIPS

I FIRMLY BELIEVE THAT THE FRAMERS OF OUR STATE CONSTITUTION NEVER INTENDED THAT ANY GOVERNMENTAL BODY.....EXCEPT THE LEGISLATURE..... HAVE THE POWER TO MAKE LAWS.....

TO ANNUL A REGULATION, THE LEGISLATURE WILL STILL HAVE TO PASS A JOINT RESOLUTION, REQUIRING COMMITTEE SCRUTINY AND THE APPROVAL OF A MAJORITY VOTE OF THE MEMBERSHIP OF EACH BODY

THE ALASKA CONSTITUTION PROVIDES A SYSTEM OF CHECKS AND BALANCES AMONG THE THREE BRANCHES OF GOVERNMENT AND FURTHER PROVIDES THE PEOPLE OF ALASKA THEIR OWN CHECKS AND BALANCES THROUGH THE VOTING BOOTH.....THE INITIATIVE PROCESS.....AND FINAL AUTHORITY OVER AMENDMENTS TO THE CONSTITUTION.....

THE ONE AREA THAT IS NOT CURRENTLY ACCESSIBLE TO THE PEOPLE'S CHECKS AND BALANCES IS THE VOLUME OF ADMINISTRATIVE REGULATIONS WHICH ARE PROPOSED BY THE STATE AGENCIES IN THE EXECUTIVE BRANCH OF GOVERNMENT.....AND ARE WRITTEN BY THE DEPARTMENT OF LAW.....REGULATIONS THAT AFFECT EVERY ASPECT OF THESE PEOPLE'S LIVES.....YET THEY ARE POWERLESS TO CHANGE THEM.....

THIS MEASURE WOULD PROVIDE A REASONABLE AVENUE FOR ANNULMENT OF IMPROPER REGULATIONS.....

STATEMENT FOR SENATE FINANCE COMMITTEE

PAGE THREE

HOUSE JOINT RESOLUTION 11

(REPEAL OF REGULATIONS BY THE LEGISLATURE)

SPONSOR: REPRESENTATIVE GAIL PHILLIPS

I HAVE PROVIDED BACKUP MATERIALS FOR THE COMMITTEE.....THEY INCLUDE A CHART INDICATING THE RESULTS OF EACH TIME THIS PROPOSAL HAS BEEN BEFORE THE VOTERS.....AS WELL AS COPIES OF THE BALLOT MEASURES AND STATEMENTS IN FAVOR AND IN OPPOSITION THAT APPEARED IN THE VOTERS PAMPHLET.....

IT IS ALSO MY UNDERSTANDING THAT THE ATTORNEY GENERAL HAS COME OUT IN OPPOSITION TO THIS RESOLUTION.....HOWEVER, IT'S IRONIC THAT THE PRESENT LT. GOVERNOR.....WHO WAS AN ESTEEMED MEMBER OF THE CONSTITUTIONAL CONVENTION.....INTRODUCED THIS MEASURE DURING THE 16TH LEGISLATURE.....AND HAS FORMALLY ENDORSED THIS RESOLUTION A COPY OF HIS ENDORSEMENT SHOULD ALSO BE IN YOUR BILL PACKETS

IT IS MY INTENTION TO WORK EXTREMELY CLOSE WITH THE DIVISION OF ELECTIONS IN PREPARATION OF THE BALLOT MEASURE AND I STRONGLY BELIEVE THAT WITH A BETTER CAMPAIGN PRESENTATION TO THE VOTERS..... WITH THE VOLUNTEER EFFORTS OF PEOPLE LIKE THE CHAMBERS OF COMMERCE, WE CAN SEE THIS CONSTITUTIONAL AMENDMENT BECOME REALITY

**NOTE: HOUSE JOINT RESOLUTION 11 PASSED THE HOUSE MARCH 10 BY A VOTE OF 36 YEAS AND 4 NAYS
THE RESOLUTION DOES CARRY A SMALL FISCAL NOTE OF \$2,200 TO PLACE THE MEASURE ON THE BALLOT**

HOUSE COMMITTEE REPORT

4/1

(7)
Date Referred: January 11, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 1-30-93

The STATE AFFAIRS Committee considered:

HJR 11

HOUSE JOINT RESOLUTION NO. 11

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

- RECOMMENDATIONS: [] the same title
 be replaced with _____ [] 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 Gov. / Elections

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Vezey</i> Vezey		<i>Betty Davis</i> - B. Davis		X	
<i>Will Vimer</i> Vimer					
<i>Harley Olberg</i> Olberg	✓				
<i>Jack G. Davis</i> G. Davis	✓				
<i>Pete Kott</i> Kott	✓				

Al Vezey Vezey

CHAIRMAN'S SIGNATURE

(7)
Date Referred: February 1, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-15-93

The JUDICIARY Committee considered:

HJR 11

HOUSE JOINT RESOLUTION NO. 11

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

RECOMMENDATIONS: the same title
be replaced with _____ 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 _____

fiscal note(s) Governor 2/1/93

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
Brian A. Porter <small>Porter</small>	✓	Tom Nordlund <small>Nordlund</small>		✓	
Paul Phillips <small>Phillips</small>	✓	Al Davidson <small>Davidson</small>			
Carol Green <small>Green</small>	✓				
Phil Kott <small>Kott</small>	✓				

Brian A. Porter
CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

2/25

Rules

(11)

Date Referred: February 17, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/24/93

The FINANCE Committee considered:

HJR 11

HOUSE JOINT RESOLUTION NO. 11

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] 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: _____

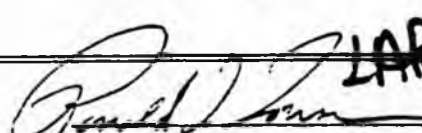
[] fiscal impact _____

fiscal note(s) Office of Lt. Gov. 2/19

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mary Jean Fileen Mathison</i>					
<i>Ronald J. Larson</i>	X				
<i>Ben Grussendorf</i>	X	<i>Mark Hanley</i>			X
<i>Mike Navarre</i>	✓	<i>Sean Parnell</i>			X
<i>Van Brown</i>	✓	<i>Lynn Hoffman</i>			X
<i>Therriault</i>					
<i>Richard [unclear]</i>					

 **LARSON**
 CHAIRMAN'S SIGNATURE
 CO-Chairs

YEAS: 36 NAYS: 4 EXCUSED: 0 ABSENT: 0

YEAS: BARNES, BRICE, BROWN, BUNDE, CARNEY, B.DAVIS, G.DAVIS, FOSTER, GREEN, GRUSSENDORF, HANLEY, HUDSON, JAMES, KOTT, LARSON, MACKIE, MACLEAN, MARTIN, MENARD, MOSES, MULDER, NAVARRE, NICHOLIA, NORDLUND, OLBERG, PARNELL, PHILLIPS, PORTER, SANDERS, SITTON, THERRIALT, TOOHEY, ULMER, VEZEY, WILLIAMS, WILLIS

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
BASIS	JOURNAL	TEXT									

03/10/93 HOUSE JOURNAL PAGE 0593

HJR 11
HJR 11 WAS READ THE THIRD TIME.

THE QUESTION BEING: "SHALL HJR 11 PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

HJR 11
THIRD READING
FINAL PASSAGE

YEAS: 36 NAYS: 4 EXCUSED: 0 ABSENT: 0

YEAS: BARNES, BRICE, BROWN, BUNDE, CARNEY, B.DAVIS, G.DAVIS, FOSTER, GREEN, GRUSSENDORF, HANLEY, HUDSON, JAMES, KOTT, LARSON, MACKIE, MACLEAN, MARTIN, MENARD, MOSES, MULDER, NAVARRE, NICHOLIA, NORDLUND, OLBERG, PARNELL, PHILLIPS, PORTER, SANDERS, SITTON, THERRIALT, TOOHEY, ULMER, VEZEY, WILLIAMS, WILLIS

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
BASIS	JOURNAL	TEXT									

03/10/93 HOUSE JOURNAL PAGE 0593

NAYS: DAVIDSON, DAVIES, FINKELSTEIN, HOFFMAN

AND SO, HJR 11 PASSED THE HOUSE.

REPRESENTATIVE HOFFMAN GAVE NOTICE OF RECONSIDERATION OF HIS VOTE ON HJR 11.

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

B005-LAST PAGE



JOHN B. COGHILL
LIEUTENANT GOVERNOR

STATE OF ALASKA

P. O. Box 110015
JUNEAU, ALASKA 99811-0015
(907) 485-3520

February 23, 1993

The Honorable Representative Gary Davis, Chairman
Administrative Regulation Review Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Davis:

I was pleased to hear that the agenda for the Administrative Regulation Review Committee includes a discussion of HJR 11/SJR 11, "Proposing an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the legislature." I would like to express my most sincere support for these resolutions.

As a member of our state's Constitutional Convention, I have a special place in my heart for all issues that have come before us which might alter the Constitution. In all cases, whether I supported the issue or not, I believe the people of Alaska should be allowed to decide if, when, and how their constitution should be changed.

The issue of regulatory review and the necessary checks and balances has been a personal crusade that is very important to me. As you may know, I sponsored this very same measure in the 16th Legislature. While some of you may not have supported Governor Hickel's Executive Order which granted regulatory review powers to the Lieutenant Governor, we had promised that we would bring the regulations closer to the people by having an elected official involved in the review process. In a letter to Governor Hickel, former Lieutenant Governor Stephen Mc Alpine expressed the following opinion:

"...there should be an independent review within the executive branch of government to analyze the overall consequence of regulation of not only the effective operation of government but also how regulations will impact society as a whole."

Representative Gary Davis
February 23, 1993
Page Two

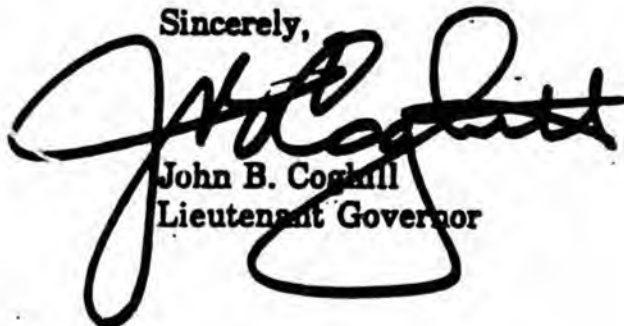
For a short time in Alaskan history the people could look to the Lieutenant Governor, an elected official, for accountability in regulatory review. Since December of 1991, however, no elected official has had the power to review regulations. I have heard from many Alaskans throughout the years who became "victims" of regulations, but they did not elect the authors of these laws. If an elected official in the executive branch does not have the delegated authority to review laws generated in state agencies, I believe the Legislature should have that authority. If the people of Alaska are unhappy with the laws that bind them, they can go to the polls and elect new legislators who better understand their needs.

In the separation of powers, the legislature is the body of government with the power to make law. It is true that regulations undergo a legal review to ensure the regulation is consistent with the enabling statute, and that you, the Legislature could always rewrite statute if you find the regulations go beyond your intent, but I do not believe this is the best process.

Yes, this issue has been before the voters three different times, and failed each time, but never by as much as 20%. Alaskans need to be educated on this subject and I am convinced the sponsors of this resolution are committed to developing a strong educational campaign to help the people of this state understand this proposition was drafted to help them, not hurt them. Now, more than ever before, Alaskans understand how regulations affect their daily lives and will most likely be more receptive to a ballot proposition which will bring the regulations closer to the people.

I encourage your support of this resolution. It is time that all lawmakers become responsible to the public they regulate.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "John B. Coghill". The signature is written over the printed name and title.

John B. Coghill
Lieutenant Governor

JBC/lag

cc: ~~The Honorable Representative Gail Phillips~~
The Honorable Senator Drue Pearce

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

MEMORANDUM

TO: Senator Drue Pearce, Co-Chairman
Senate Finance Committee

FROM: Representative Gail Phillips

SUBJECT: House Joint Resolution 11
(repeal of regulations by the legislature)

DATE: April 15, 1993

Background

This proposal for an amendment to the Constitution of the State of Alaska to repeal regulations by the Legislature has been placed on the ballot on three previous occasions. The chart below indicates the history of those votes. On all three occasions, the ballot proposition lost by a margin of less than 20 percent; However, my commitment in 1994 is to see that it passes by a substantial margin.

<u>1980</u>	<u>1984</u>	<u>1986</u>	
58,808	91,174	65,176	Yea's
82,010	98,856	94,299	Nay's
140,818	190,030	159,475	Total Proposition Votes
16%	4%	18%	Failure Percentage
162,653	213,173	182,526	Total Votes Cast
258,742	305,262	292,274	Total Registered Voters
63%	70%	62%	Voter Turnout

GP/sgn

BALLOT MEASURE NO. 2

Constitutional Amendment Legislative Annulment of Administrative Regulations (1986 Legislative Resolve No. 60 HCS SJR 40 [Jud] am H)

BALLOT LANGUAGE

(As it will appear on the November 4, 1986, General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive branch regulations by passing a resolution that is not subject to veto by the governor or repeal by referendum. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals.

A vote "FOR" adopts
the amendment.

FOR

A vote "AGAINST"
rejects the amendment.

AGAINST

VOTES CAST BY MEMBERS OF THE 14TH ALASKA LEGISLATURE ON FINAL PASSAGE

House:	Yeas	31
	Nays	4
	Absent or Not Voting	5
Senate:	Yeas	17
	Nays	0
	Absent or Not Voting	3

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(HCS SJR 40 [Jud] am H)

This proposal for a constitutional amendment would allow the legislature to annul a regulation issued by a state department or agency by its adoption of a concurrent resolution. Under the present provisions of the constitution, the legislature may annul a regulation only by the enactment of a bill that is subject to the veto of the governor; if the governor vetoes the bill, the constitution now requires a two-thirds affirmative vote of the legislature assembled in joint session to override the veto.

If the legislature adopts a concurrent resolution to annul a regulation under the authority proposed in the amendment, the annulment would be effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specified a different date. The concurrent resolution would not be subject to veto of the governor. Adoption would require three readings in each house on three separate days except that it may be advanced from second to third reading on the same day by the concurrence of three-fourths of the membership of the house considering it. Adoption would require approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(This amendment would add the following section to article II of the Alaska Constitution.) - -

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

BALLOT MEASURE NO. 2

STATEMENT IN SUPPORT OF BALLOT MEASURE NO. 2

The issue is basically simple: should bureaucrats or the Legislature be the ultimate lawmaking authority?

All 60 members of the Legislature (40 House and 20 Senate) are elected by the people. They are all voted in to, and out of, office by individual voters. The Alaska Constitution says, "The legislative (i.e., lawmaking) power of the State is vested in a Legislature consisting of a Senate... and a House of Representatives..." The Legislature proposes, considers, and enacts laws, known collectively as the Alaska Statutes (if general and permanent) or as the Session Laws of Alaska (if specific and temporary).

All bureaucrats who promulgate (i.e., enact and enforce) regulations (theoretically, to put laws into effect) are in the Executive Branch, headed by the Governor. Bureaucrats are not voted into office and thus cannot be removed by the people. Instead, bureaucrats are hired by the Governor or by his/her appointees, and thus can only be removed from office by the Governor or by somebody answerable to him/her. However, the regulations promulgated by the bureaucrats, known collectively as the Alaska Administrative Code, have the force of law and affect all of us, sometimes adversely.

What can be done about a law that's bad? It can be repealed by the Legislature or, in some cases, by the people directly via an initiative petition.

What about a regulation that's bad? It can only be repealed by the bureaucrats who promulgated it, up to and including the Governor. If the Legislature tries to repeal a regulation by passing a bill, the Governor will almost certainly (and always has, in the past) veto the bill so that the bad regulation stays in full force and effect.

Now, if the Legislature had the power to repeal regulations by passing a concurrent resolution (instead of a bill), then the resolution could not be vetoed by the Governor. Thus, the Legislature would be able to get rid of bad regulations, which in effect it cannot do now.

Would this give the Legislature too much power? Not hardly. Since the Legislature already has full power to enact laws, why shouldn't it have full power to repeal all laws, including regulations?

Why do Governors and bureaucrats oppose giving the Legislature such regulatory repeal power? Because Governors and their handpicked bureaucrats, which are answerable only to the Governor (and cannot be removed by the people, which can remove Legislators), don't want to lose the power they now have to promulgate and enforce any regulation they want. It's that simple.

If you feel that the Legislature should have the power to repeal regulations via concurrent resolution (not vetoable by the Governor), vote FOR the ballot measure. If you feel that bureaucrats should be the ultimate lawmaking authority, vote otherwise.

I recommend that you vote FOR. Only in this way will we realistically be able to get rid of bad regulations.

Andre Marrou
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 2

For the third time in six years, the legislature insists on confronting the voters with a proposed constitutional amendment giving the legislature a short-cut to law-making—another attempt by the legislature to concentrate governmental power in its own hands. The voters rejected a similar proposal in 1980 and the identical proposal in 1984. It should be rejected again.

Under the current constitution and statute, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. Regulations are adopted to implement statutes. They have the force of law. Annulling them changes the law. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that would be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power between the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation, and it would empower the legislature to act in place of the executive by reversing a specific executive-branch decision.

In its intent statement accompanying this proposal, the legislature admitted that the "difficulty in achieving (the two-thirds) majority (to override a veto) in opposition to the governor and the governor's administration has led the legislature to propose this amendment." In other words, the fear that the governor might veto a bill and that not enough legislators would agree to override that veto prompted this short-cut approach to law-making. That fear overlooks the governor's accountability to the voters throughout the state.

The annulment is like a repeal. The legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. The legislature would be saying to the agency "your decision to adopt that regulation is wrong." But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive-branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the constitution's checks and balances on its power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As mentioned when the voters rejected the 1980 and 1984 proposals, this amendment would aid legislators, not the public, and it should be rejected.

Katherine D. Nordale
Delegata to the Alaska
Constitutional Convention, 1955-1956

MEASURE NO. 1

Constitutional Amendment

LEGISLATIVE ANNULMENT OF ADMINISTRATIVE REGULATIONS

(1983 Legislative Resolve No. 15 (SCS HJR 5(Jud)))

SUMMARY

(As it will appear on the November 6, 1984 General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive-branch regulations by passing a resolution. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals. The resolution is not subject to veto by the governor, and it is not subject to repeal by referendum.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTES CAST BY MEMBERS OF THE 13TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 19	Nays 0	Absent or Not Voting 1
House	(40 members):	Yeas 34	Nays 2	Absent or Not Voting 4

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by concurrent resolution. The annulment is effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specifies a different date. Adoption requires three readings in each house on three separate days except it may be advanced from second to third reading on the same day by concurrence of three fourths of the membership of the house considering it. Adoption requires approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT - -

(This amendment would add the following section to article II of the Alaska Constitution.)

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 1

Voters who have ever experienced irritation or anger as a result of a problem they have had with state regulations should vote favor of Ballot Measure No. 1. While many regulations do conform to and support state laws, there are occasionally regulations which are imposed that go beyond the intent of the law and cause undue hardship on our citizens. These regulations often make no sense at all, state agency people are often at a loss to explain the meaning or sense of the regulations, and yet the state agencies involved continue to enforce them, and voters are powerless to change them.

The Alaska Constitution, patterned essentially upon the Constitution of the United States and the experience of the other states, provides a system of checks and balances among the three branches of government, and further entitles the people to their own checks and balances through the voting booth, the initiative process, and final authority over amendments to the constitution. The one major area of government that is currently not directly accessible to the people's checks and balances is the very considerable volume of administrative regulations which are written by the state agencies in the executive branch of government.

These regulations deal with every aspect of government and our lives: fish and game, education, health and social services, traffic, land development, utilities, taxes; the list is endless. And once the regulations go into effect, they have all the force of law. The problem is, that unlike the situation that occurs with laws, the agency people who make and enforce regulations are not subject to voter approval at election time; they are either appointed by the governor or by his commissioners.

While the legislature is often made aware of foolish bureaucratic requirements by unhappy constituents, it is almost powerless to do anything about them. Currently, to annul a regulation, the legislature must pass a new bill which is then subject to veto by the governor. This puts the governor in the powerful position of being able to stop a bill that would overturn a regulation made by his own subordinates.

It was never intended by the framers of our State Constitution that any governmental body except the legislature have the power to make laws. Yet, bad regulations have been written, on occasion by state agencies, which go beyond the letter and intent of the law as passed by the legislature and in effect create law on their own.

This measure would provide a reasonable avenue for annulment of bad regulations. It would allow your elected representatives in the legislature, through a majority vote of both houses, to annul regulations in the same way they pass any legislative bill, except it would not be subject to veto by the governor, who clearly has a biased position in the matter.

The House Joint Resolution which created the ballot measure had bi-partisan sponsorship during the last legislative session, and was passed with near-unanimous support by both houses of the legislature.

—Mike Szymanski,
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 1

This proposed amendment to the Alaska Constitution is very similar to the one proposed in 1980 and rejected by the voters 82,010 to 58,808. Although the present version includes some improvements over the 1980 version, it is another attempt by the legislature to concentrate governmental power in its own hands.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. The regulations are adopted to implement statutes. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that could be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power among the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation; and it would empower the legislature to act in place of the executive by nullifying a specific executive-branch decision.

The amendment is like a repeal. In using this expedited procedure to annul a regulation, the legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. And it would not be providing the thoughtful analysis necessary to solve a problem. The legislature would be saying to the agency "your decision to adopt that regulation is wrong". But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor an appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the Constitution's checks and balances on its power when it exercises that power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As argued four years ago, when the voters rejected the 1980 proposal, this amendment would aid legislators, not the public, and it should be rejected.

—Katherine D. Nordale,
Delegate to the Alaska Constitutional Convention, 1955-1956

BALLOT PROPOSITION NO. 1

LEGISLATIVE ANNULMENT OF REGULATIONS Constitutional Amendment

(Committee Substitute for House Joint Resolution No. 82 Amended)

SUMMARY

(As it will appear on the November 4, 1980 General Election Ballot)

This proposal would permit the legislature to annul, by adopting a resolution, regulations adopted by : agencies. Annulment of regulations by resolution was authorized by the First State Legislature in 1959; however in 1980 the Alaska Supreme Court held that the constitution permits the legislature to annul a regulation by passing a bill, which requires three readings of the bill and a roll call vote which is recorded. The procedures for adopting resolutions are governed by legislative rules and require only the approval of the resolution by a vote of a majority of both houses. A bill passed by the legislature annulling a regulation could be vetoed by the governor or repealed by referendum. A resolution annulling a regulation could not.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTE CAST BY MEMBERS OF 11TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas <u>18</u>	Nays <u>0</u>	Absent or Not Voting <u>2</u>
House	(40 members):	Yeas <u>36</u>	Nays <u>0</u>	Absent or Not Voting <u>4</u>

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal would add a new section, section 22, to Article II of the state constitution. If adopted, the proposal would authorize the legislature to annul or set aside a regulation which has been adopted by a state department or agency. In order to annul a regulation, the legislature could adopt a concurrent resolution by approval of the resolution by majority vote of the membership of each house of the legislature. The resolution specifies the date on which the annulment of a regulation would take effect.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by a concurrent resolution approved by a majority vote of the membership of each house may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective on the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date.

STATEMENT IN FAVOR OF BALLOT PROPOSITION NO. 1

The legislature, when it writes a law, cannot foresee all of the possible details involved in carrying it out. The appropriate administrative agency is therefore allowed to write regulations which spell out who does what, when, where, and how. If the agency does no more than this no problem is created.

Unfortunately agency regulations are not always consistent with the intent the legislature had in passing the law. Sometimes an agency will get carried away and put out regulations that cause an unnecessary burden for the citizens. The First State Legislature realized this and provided a simple solution. The legislature could, by a concurrent resolution passed by a majority of each house, annul an administrative regulation. Such a resolution is not subject to the governor's veto.

The Alaska Supreme Court recently held, in a 3-2 decision, that the legislature must use a bill rather than a resolution to annul administrative regulations. But a bill is subject to

the governor's veto. The governor can hardly be expected to approve a bill overruling his subordinates, who put out the regulation in the first place. The present governor has already vetoed one such bill.

The court ruling gives agency regulations equal standing with laws, even though no single person elected by the voters has approved them.

Our government is wisely based on dividing power among the three branches: legislative, executive and judicial. The current situation gives entirely too much power to the executive branch. Your approval of this constitutional amendment will restore the better balance under which the state operated from 1961 to 1980.

— Charles H. Parr
Chairman, House Judiciary Committee
Alaska State Legislature

STATEMENT AGAINST BALLOT PROPOSITION NO. 1

This is still another proposal by the legislature to free itself from the checks and balances of our constitution. Under the constitution, the legislature has all the power it needs to make laws and annul administrative regulations. This proposal does not aid the public in any way. What it does is allow the legislature to exercise its power to annul regulations in disregard of the constitutional requirements that each bill have a single subject, that each bill have three readings in each house, and that there be a recorded vote of the ayes and nays on final passage. It would also free the legislature from the executive veto and it would allow it to ignore the prohibition against special and local legislation.

The Alaska Supreme Court has recently ruled that the legislature must abide by the constitution's checks and balances on its power whenever it exercises that power, including when it acts to annul regulations. This amendment is intended to overrule the court's decision and erode the constitution's safeguards. It aids legislators, not the public, and it should be rejected.

— Katherine D. Nordale
Delegate to the Alaska
Constitutional Convention,
1955-1956

NATE COMMITTEE REPORT

max

DATE: 3/15/93

FURTHER FINANCE

DATE TURNED INTO OFFICE: 4/15/93

JUDICIARY Committee considered HOUSE JOINT RESOLUTION NO. 11

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.)

and a majority of the committee recommends do pass

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

P.H. FN

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
<i>Elections</i>	<i>1/15/93</i>		<i>2.2</i>

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Rich Halford *Halford*

Robert L. Taylor

Wanda S. Suley *Suley*

Elizabeth K. Little *No Rec*

Robert L. Taylor *Taylor*

Chair, Signature and Recommendation