

**SJR**

**23**

Sen. Randy Phillips  
Chairman  
Rep. Terry Martin  
Vice Chairman  
Sen. Al Adams  
Sen. Steve Frank  
Sen. Steve Rieger  
Sen. Bert Sharp  
Rep. John Davies  
Rep. Mark Hanley  
Rep. Ron Larson  
Rep. Eileen MacLean

# State of Alaska



## Legislative Budget and Audit Committee

Session  
Rm. 103  
State Capitol  
Juneau, AK 99801  
(907) 465-4949

Interim  
P.O. Box 142  
Eagle River AK 99577  
(907) 694-4949

March 22, 1993

### Sectional Analysis

#### CS SJR 23

##### Section 1:

Amends Article IX, Sec 14 of the Alaska Constitution. This section changes the word "he" to "The Legislative Auditor" thus making this section of the Constitution gender neutral. In addition, section 1 specifies in the Constitution that the auditor conducts "special audits" as well as post audits.

##### Section 2:

Amends Article IX, Sec 14 of the Alaska Constitution. (b) This section provides that the Legislative Auditor has the power to order the impoundment of money appropriated to an agency that has made expenditures or obligated funds contrary to law, or has failed to properly account for expenditures or revenues, *upon approval of a majority of the members of a committee of the legislature designated by law.*

(c) Provides for the release of an impounded appropriation, either by the auditor, or by *a majority vote of the committee that approved the impoundment order.*

##### Section 3:

Provides that the proposed amendment will be placed before the voters at the next general election.

8-LS0581V  
Cook  
3/17/93

CS FOR SENATE JOINT RESOLUTION NO. 23( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND  
AUDIT COMMITTEE

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to the  
2 powers and duties of the legislative auditor.

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

4 \* Section 1. Article IX, sec. 14, Constitution of the State of Alaska, is amended to read:  
5 SECTION 14. LEGISLATIVE POST-AUDIT. (a) The legislature shall  
6 appoint an auditor to serve at its pleasure. The legislative auditor [HE] shall be a  
7 certified public accountant. The auditor shall conduct post-audits and special audits  
8 as prescribed by law and shall report to the legislature and to the governor.

9 \* Sec. 2. Article IX, sec. 14, Constitution of the State of Alaska, is amended by adding  
10 new subsections to read:

11 (b) If the legislative auditor finds that an office, department, public  
12 corporation, the University of Alaska, or other agency of the executive or judicial  
13 branches of State government has made expenditures or obligated funds contrary to  
14 law or has failed to account properly for expenditures or revenues, the auditor may,  
15 upon approval by a majority of the members of a committee of the legislature  
16 designated by law, order the governor to impound money appropriated to that agency.

1           The order must state the reason for the impoundment and must specifically identify the  
2           money to be impounded. Within five days after receipt of the order the governor shall  
3           impound the money identified by the legislative auditor and ensure that it is not  
4           expended, encumbered, or otherwise obligated.

5                   (c) If the legislative auditor determines that the situation that led to the  
6           impoundment order has been corrected or that impoundment is not in the best interests  
7           of the State, the auditor may order the governor to release money impounded under  
8           (b) of this section. The committee that approves an impoundment order under (b) of  
9           this section may reverse the order if reversal is approved by a majority of the  
10          committee members.

11          \* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of  
12          the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the  
13          State of Alaska, and the election laws of the state.

SENATE JOINT RESOLUTION NO. 23  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND  
AUDIT COMMITTEE

Introduced: 2/22/93  
Referred: STA, JUD, FIN

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14 law or has failed to properly account for expenditures or revenues, the auditor may  
15 order the governor to impound money appropriated to that agency. The order shall  
16 state the reason for the impoundment and shall specifically identify the money to be

1 impounded. Within five days after receipt of the order the governor shall impound the  
2 money identified by the legislative auditor and ensure that it is not expended,  
3 encumbered, or otherwise obligated.

4 (c) If the legislative auditor determines that the situation that led to the  
5 impoundment order has been corrected or that impoundment is not in the best interests  
6 of the State, the auditor may order the governor to release money impounded under  
7 (b) of this section. The legislature may reverse an impoundment order of the auditor  
8 by a resolution concurred in by a majority of the members of each house. ] \*

9 \* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of  
10 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the  
11 State of Alaska, and the election laws of the state.

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## Legislative Budget and Audit Committee

### Memorandum

TO: Senator Loren Leman, Chair  
State Affairs Committee

FROM: Senator Randy Phillips, Chair *REP*  
Legislative Budget and Audit Committee

DATE: March 16, 1993

RE: Sponsor Statement in Support of:  
Senate Joint Resolution No. 23  
Proposing Amendments to the Constitution of the State of  
Alaska relating to the powers and duties of the legislative  
auditor.

Each year the Legislative Auditor performs a statewide single audit of the state's financial statements as well as a number of special audits of individual agencies and programs. In the course of these audits, the Auditor may find material violations of accounting standards or even state statutes. These violations, along with recommendations on how to cure the violations, are reported to the Legislative Budget and Audit Committee and released to the public in a report. Regardless of the gravity of the violations, the Legislative Auditor, and thus the Legislature has no power to enforce any recommendations.

Senate Joint Resolution 23 was introduced to provide an enforcement mechanism for the Legislative Branch of government. The Constitutional Amendment proposed by SJR 23 would allow the Legislative Auditor to impound appropriations in the case where an agency is found to have made expenditures contrary to law or has failed to properly account for

expenditures or revenues. It is expected and hoped that this power would never be used. However, I feel that it is appropriate and necessary that this power be available.

On the surface, placing the power to impound appropriations in the hands of one person, the Legislative Auditor, would appear to be an invitation to abuse of that power. The Auditor serves at the pleasure of the Legislature and can be removed by a majority of the Legislative Budget and Audit Committee. Any abuse of the impound powers would be subject to a check by that Committee and by the full Legislature.

**ALASKA STATE LEGISLATURE**  
**LEGISLATIVE BUDGET AND AUDIT COMMITTEE**  
Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

**MEMORANDUM**

**TO:** The Honorable Randy Phillips  
Chairman, Legislative Budget  
and Audit Committee

**FROM:** Randy S. Welker *Randy*  
Legislative Auditor

**DATE:** March 16, 1993

**RE:** Senate Joint Resolution No. 23

At your request, we have looked at the authority and processes that exist in other states for the enforcement of audit recommendations. There are no two states the same. Additionally, many states acknowledge that they are in the same position that we find ourselves in - no authority to require implementation of recommendations. The following are examples of four states with some degree of enforcement language. The authority is vested in a variety of positions or committees.

State of Nevada

The U.S. General Accounting Office has recognized the Legislative Auditor's monitoring and followup system in a publication titled: *How to Get Action on Audit Recommendations* issued in July 1991. Not by coincidence, our proposed system in SB 128 closely follows their system. The Nevada system provides that the Director of the Department of Administration (similar to our Office of Management and Budget) may withhold money appropriated to the agency for failure to submit a corrective action plan. Our proposal as embodied in SB 128 and SJR 23 place that authority with the Legislative Auditor, a position independent of the executive branch; free from the political influences of the affected agency.

Senator Randy Phillips

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March 16, 1993

State of Georgia

The State of Georgia is currently considering a resolution amending the constitution to create the office of inspector general. The position would be responsible for the prevention and detection of fraud, waste, and abuse in the expenditure of public funds. The inspector general would have the authority to institute civil or criminal action necessary for the enforcement of the provisions of the office.

State of South Carolina

The oversight committee for the State Auditor is the State Budget and Control Board. State law provides that the Board shall withhold a portion of the funds appropriated to any state agency (including but not limited to the agency head salary) which fails to satisfactorily correct material weaknesses in its internal accounting system as cited in a management letter issued by the State Auditor or which fails to immediately take sufficient action to prevent recurrence of any cited violation of state laws or regulations.

State of Oregon

The Director of Audits in Oregon is employed by the elected Secretary of State. Information we have reviewed shows that the salary of public officials may be withheld if they fail to correct deficiencies disclosed in two successive audits.

I hope this gives you a general idea of the various means states have chosen to encourage audit recommendation implementation. If I can be of further help, please call.

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##### Section 2:

Amends Article IX, Sec 14 of the Alaska Constitution. (b)This section provides that the Legislative Auditor has the power to order the impoundment of money appropriated to an agency upon written findings that the agency has made expenditures or obligated funds contrary to law, or has failed to properly account for expenditures or revenues.

(c) Provides for the release of an impounded appropriation.

##### Section 3:

Provides that the proposed amendment will be placed before the voters at the next general election.