

**S B**

**370**

(7)

Date Referred to Committee: May 11, 2002

FURTHER REFERRALS:

Date of Committee Action: 11 May 2002

The STATE AFFAIRS Committee considered:

CSSB 370(STA)

CS FOR SENATE BILL NO. 370(STA)

CONSTITUTIONAL CONVENTION PROCEDURES

"An Act establishing procedures relating to constitutional conventions."

Recommends it be replaced with CS ( ) [ ] Same Title [ ] New Title  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of A\*brevs. for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 IIS  
 LAA  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REY  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Fo: Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet	Zero
GOV				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Gregory Wilson</i>	Wilson			✓	
<i>Harold Crawford</i>	CRAWFORD	✓			
<i>Alphonse Fata</i>	Fata	✓			
<i>Jeanette</i>	James	✓			
Chair: <i>John</i>	Coghill	✓			
Chair: <i>John</i>	Coghill	✓			

# ALASKA STATE LEGISLATURE

SENATOR  
**Gene Therriault**  
119 N. Cushman Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
FAX (907) 488-4271



While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
FAX (907) 465-3884

Senate  
Senate District Q

Senate Bill 370

Constitutional Convention

## SPONSOR STATEMENT:

Under article XIII, section 3, there is a requirement that at least once each decade the voters be given an opportunity to call a constitutional convention. That call will appear on the November 5, 2002 general election ballot. If a majority of the voters cast their ballots in favor of the constitutional call, the same section of the constitution directs that delegates be selected at the next general election. It also places the duties of issuing the call on the shoulders of the lieutenant governor. The lieutenant governor is required to issue the call as closely as possible to the original call for the Alaska Constitutional Convention of 1955—*unless other provisions are made by law*. Senate Bill 370 makes minimal provisions for the issuance of the call.

The bill restricts the lieutenant governor from issuing the call before October 1 of the year following the year in which the question of holding a constitutional convention was placed on the ballot. By delaying the date of the call, the next legislature will be permitted to hold public hearings and gather expert testimony on how best to issue the call. If they are unable to reach agreement on provisions for the call, the remaining provisions provided for by SB 370 will apply. Those provisions are:

- one delegate shall be elected from each house and senate district, for a total of 60 delegates to the convention.
- The provisions of AS 15.13 (campaign contribution limits and prohibitions) that apply to candidates for State House also apply to candidates for delegate.
- The convention will be held at the campus of the University of Alaska in Fairbanks.

In all other respects, the call will be issued as closely to the original call as possible.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 370  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Office of the Governor  
Title "An Act establishing procedures BRU Executive Operations  
relating to constitutional conventions." Component Lieutenant Governor  
Sponsor Senate State Affairs  
Requester Sen STA Component No. 11

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Michael A. Nizich, Administrative Director Phone 465-3876  
Division Administrative Services Date/Time 5/1/02 2:09 PM  
Approved by: Sally Rue, Chief of Staff Date 5/1/2002  
Agency Office of the Lieutenant Governor

**ARTICLE 13  
AMENDMENT AND REVISION**

**Section 13.1 - Amendments.**

Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

**Section 13.2 - Convention.**

The legislature may call constitutional conventions at any time.

**Section 13.3 - Call by Referendum.**

If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.

**Section 13.4 - Powers.**

Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

### Section 3. Call by Referendum

If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska constitutional convention of 1955, including, but not limited to, number of members districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.

This self-executing provision guarantees to the voters a chance to decide at least once every ten years if there should be a constitutional convention. Many state constitutions provide for a periodic referendum on a convention, but the interval is typically twenty years. Delegates to the convention chose ten years on the grounds that change would be occurring fast in Alaska. This section specifies the essential procedures for holding a convention in order to prevent the legislature from thwarting the will of the voters by refusing to issue a call or to appropriate funds for the convention.

The first referendum on the question of holding a constitutional convention was held in 1970. The ballot read: "As required by the constitution of the State of Alaska Article XIII, Section 3, shall there be a constitutional convention?" The outcome was a very narrow affirmative vote, 34,911 to 34,472. Opponents of the convention sued, claiming that the wording of the ballot proposition biased the vote in favor of the measure by implying that the convention, rather than the vote, was required by the constitution. The courts agreed and threw out the election results (*Boucher v. Bomhoff*, 495 P.2d 77, 1972). The question was put before the voters again at the next general election (1972) with the

## Article XIII

constitutionally required language, "Shall there be a constitutional convention?", and it was strongly defeated (29,192 to 55,389). This question was again put before the voters in 1982. A convention call was rejected 63,816 to 108,319.

### Section 4. Power

**Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.**

The power of a convention to propose constitutional changes cannot be limited ("plenary" means full). Thus, if the voters call for a convention, the legislature may not subvert it by circumscribing the scope of review by the delegates.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

## CHAPTER 46

## AN ACT

To provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date.

(C. S. for H..B. 1)

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. A constitutional convention, comprised of delegates elected by the legal voters of the Territory of Alaska, shall assemble at the University of Alaska, College, Alaska, on the 8th day of November, 1955, at ten o'clock a. m., or as soon thereafter as a quorum shall be present, for the purpose of preparing and agreeing upon a constitution for the proposed State of Alaska. The convention shall meet for not more than seventy-five days but may, at its discretion, recess for a period of not to exceed fifteen days for the purpose of holding public hearings in Alaska on proposed provisions of the constitution.

Section 2. Delegates to the convention shall possess the qualifications of legal voters of Alaska and shall have been residents of Alaska for not less than three years immediately preceding the first day of the convention. The holding of the office of delegate or any other

office of the convention shall not constitute a disqualification for selection for or the holding of any other office, and the holding of any other office, except an appointive office under the Federal Government, shall not constitute a disqualification for election to or the holding of office as a delegate or any other office of the convention.

Section 3. There are hereby created the following election districts from which delegates to the convention shall be elected. These election districts shall be comprised of the several recording districts of Alaska which shall be known as "local election districts", the judicial divisions of Alaska, and the Territory of Alaska at Large:

Election District No. 1—Ketchikan and Hyder Recording Districts.

Election District No. 2—Wrangell and Petersburg Recording Districts.

Election District No. 3—Sitka Recording District.

Election District No. 4—Juneau

Original Call for  
Delegates - 1955

Recording District.

Election District No. 5—Haines and Sagway Recording Districts.

Election District No. 6—First Judicial Division.

Election District No. 7—Cape Nome and Wade Hampton Recording Districts.

Election District No. 8—Fairhaven and Noatak-Kobuk Recording Districts.

Election District No. 9—Second Judicial Division.

Election District No. 10—Cordova and McCarthy Recording Districts.

Election District No. 11—Valdez and Chitina Recording Districts.

Election District No. 12—Seward and Whittier Recording Districts.

Election District No. 13—Kenai, Homer and Seldovia Recording Districts.

Election District No. 14—Kodiak and Aleutian Islands Recording Districts.

Election District No. 15—Anchorage Recording District.

Election District No. 16—Palmer, Wasilla and Talkeetna Recording Districts.

Election District No. 17—Iliamna, Kvichak and Bristol Bay Recording Districts.

Election District No. 18—Third Judicial Division.

Election District No. 19—Bethel, Kuskokwim, Mt. McKinley, Innoko, Nulato, Nenana, Hot Springs, Rampart and Fort Gibbon Recording Districts.

Election District No. 20—Fair-

banks Recording District.

Election District No. 21—Fourth Judicial Division.

Election District No. 22—Territory of Alaska at Large.

Section 4. The convention shall consist of fifty-five delegates apportioned among the election districts as follows:

Election District No. 1—One Delegate.

Election District No. 2—One Delegate.

Election District No. 3—One Delegate.

Election District No. 4—One Delegate.

Election District No. 5—One Delegate.

Election District No. 6—Seven Delegates.

Election District No. 7—One Delegate.

Election District No. 8—One Delegate.

Election District No. 9—Four Delegates.

Election District No. 10—One Delegate.

Election District No. 11—One Delegate.

Election District No. 12—One Delegate.

Election District No. 13—One Delegate.

Election District No. 14—One Delegate.

Election District No. 15—One Delegate.

Election District No. 16—One Delegate.

Election District No. 17—One

Delegate.

Election District No. 18—  
Twelve Delegates.

Election District No. 19—One  
Delegate.

Election District No. 20—One  
Delegate.

Election District No. 21—Eight  
Delegates.

Election District No. 22—Seven  
Delegates.

Section 5. A special election for the election of delegates shall be held throughout Alaska on September 13, 1955. The Governor of Alaska shall prepare and furnish all ballots, certificates, and forms necessary for the holding of the election, which shall in general be conducted, including the making of returns, the canvassing of ballots, and the ascertaining of results substantially in the manner fixed by the laws governing the election of legislators in general elections in Alaska, including rotation of names on the ballot. The Governor may employ such technical and other personnel as may be necessary to assist him in the preparation for and conduct of the election provided for herein. The Governor may make such reasonable rules and regulations regarding the conduct of the election, the counting of ballots, the preparation, transmission and canvassing of returns, and other matters relating to the election, as may appear necessary and are consistent with the purposes of the special election provided for herein.

Section 6. Candidates for the of-

rice of delegate shall be nominated by petition filed in person or by mail with the clerk of the court of the judicial division in which the candidate is a resident on or before May 10, 1955. Each petition shall be accompanied by a fee of ten dollars, except that the fee for candidates for election from the Territory at large shall be forty dollars. Each nominating petition shall be signed by legally qualified voters of Alaska residing within the election district in and for which the delegates nominated are to be elected equal in number to at least five per cent of the number of votes cast in the election district in the General Election of 1954, provided that no nominating petition need contain more than two hundred signatures nor may it contain less than fifty signatures, in any election district.

Section 7. Each nominating petition shall contain the name of not more than one candidate and shall set forth the name, place of residence and post office address of the candidate thereby nominated, that the nomination is for the office of delegate to the constitutional convention to be convened on November 8, 1955, that the petitioners are legally qualified to vote for such candidates and pledge themselves to support and vote for the person named in such petition, and that this petition, together with all other petitions theretofore signed by them, does not nominate a greater number of candidates than the number of delegates to be elected in the election district for which

the nominations are made. Every voter signing a nominating petition shall add to his signature his place of residence, post office address, and street number, if any. No voter shall sign a petition or petitions for a greater number of candidates than are to be elected in the election district in which he resides, except that any petitioner may sign not more than seven petitions of candidates for election as delegates from the district composed of the Territory of Alaska at large, in addition to the petition or petitions of candidates from the petitioner's local and judicial election districts. It is the intent of this Act that qualified petitioners may sign not more nominating petitions than there are delegates authorized from the local and judicial election districts in which the petitioner resides, and in addition may sign not more than seven nominating petitions for candidates seeking election from the Territory at Large.

Section 8. Each nominating petition shall, before it may be filed with the clerk of the court, contain an acceptance of such nomination in writing, signed and verified by an oath or affirmation of the candidate therein nominated, upon or annexed to such petition. Such acceptance shall certify that the candidate shall have been a resident of the election district for which he is nominated for at least one year and that he is a qualified voter in the election district for which he is nominated. Such acceptance shall also certify that the nominee

consents to enter as a candidate at the ensuing special election for the election of delegates to a constitutional convention, and that if elected he agrees to take office and serve as a delegate from the election district in which he is nominated.

Section 9. If any delegate from any election district shall die, resign, or otherwise become disqualified from serving, or if a vacancy occurs for any reason whatsoever, the vacancy shall be filled by the candidate not theretofore certified as elected who received the next highest number of votes amongst the candidates in the election district in which the vacancy occurred. If a vacancy should again occur in such district, it shall be filled in like manner from amongst the remaining candidates. Any election contest which results in a tie shall be resolved by the drawing of lots between the competing candidates, and the loser of the drawing shall be considered second only to the winner and shall hold such standing among the balance of the winning candidates.

Section 10. All nominating petitions and their acceptances shall when filed be and remain open for public inspection during regular business hours, at the office where filed until May 20, 1955; thereafter they shall be transmitted to the Governor of Alaska for determination of the candidates nominated and for permanent filing in the office of the Secretary of Alaska. Deter-

mination of the validity of petitions shall be made initially by the Governor of Alaska, and recourse by candidates believing themselves aggrieved may be had by appeal from the determination of the Governor to the canvassing board, the decision of which shall be final. Objections to petitions may be raised by any qualified voter of the election district from which the candidate is nominated, and such objection must be stated in writing to the Governor of Alaska on or before May 25, 1955. Not later than May 31, 1955, the Governor shall make his determination as to the candidates nominated from each election district and shall thereupon certify the names designated for placement on the ballot for each such district.

Section 11. The election of delegates shall be conducted without any reference to the political party affiliations of the candidates, and the ballots used shall be nonpartisan in every respect. A separate ballot shall be prepared for each local election district, and each such ballot shall contain (a) the names of the candidates running for the office of delegate from that district, (b) the names of the candidates running for the office of delegate from the judicial division election district in which the local election district is situated, and (c) the names of the candidates running for the office of delegate from the district which comprises the Territory at Large.

Section 12. The candidate or candidates receiving the greatest number of votes in the election district for which nominated shall be deemed elected for that district, and the Governor of Alaska shall issue to them certificates of election in the manner otherwise prescribed by law for persons elected to the Legislature of Alaska.

Section 13. The Governor of Alaska shall open the convention and preside until temporary officers are selected. The convention shall be the judge of the qualifications of its members, their election, or appointment. It shall have the power by vote of a majority of the delegates to which the body is entitled to choose a president and secretary and all other appropriate officers, to prescribe their functions, powers and duties, and to make rules and regulations for the conduct of its business. Following its organization the convention shall declare on behalf of the people of the proposed State that they adopt the Constitution of the United States; thereafter, the convention shall proceed to prepare a constitution, which shall be republican in form and shall contain the provisions expressly required by any Act of the Congress of the United States providing for the admission of Alaska as a State, and a State government for the proposed State, and for this purpose the convention shall have power to make ordinances and to take all measures necessary or proper in preparation for the admission of Alaska as a

State of the Union.

Section 14. After a constitution and State government have been framed, the convention shall provide by ordinance for submission of the constitution, and such ordinances as may properly be submitted, to the people of the proposed State for ratification or rejection at an election to be held at a date to be fixed by the convention not less than forty nor later than one hundred twenty days from the date of adjournment of the convention, at which election the persons entitled to vote for delegates under this Act shall be entitled to vote on the ratification or rejection of the constitution and the ordinances submitted, under such rules and regulations as the convention may prescribe. The returns of this election shall be made to the Governor of Alaska and shall be canvassed substantially in the manner now provided by law for the canvass of votes cast in Territorial elections.

Section 15. The convention shall provide by ordinance that after the constitution and ordinances submitted shall have been ratified by the people of the Territory by a majority of the legal votes cast thereon, the Governor shall forthwith submit a certified copy of the same through the President of the United States to the Congress for approval or disapproval, together with a statement of the votes cast thereon.

Section 16. The convention shall

provide by ordinance that in case of the ratification of the constitution by the people and of its approval by the Congress, or by the President, as may be provided in the Enabling Act, there shall be a process of election, at such time and in such manner as the convention may prescribe, in which the qualified voters of Alaska shall choose officers for a full State government, including a governor, members of the legislature, such other officers as the constitution shall prescribe, and the authorized number of Representatives and Senators in the Congress of the United States. The persons elected hereunder shall assume their offices, and the State government shall become in effect, at the time and in the manner that the Congress may provide in enabling the admission of Alaska as a State.

Section 17. Until the admission of Alaska as a State, all of the officers of the Territory shall continue to discharge the duties of their respective officers in and for the Territory of Alaska, and the laws of the Territory shall also remain in force and effect.

Section 18. The convention shall have power to incur such expenses as may be necessary, including but not limited to expenses for employment of such clerical, technical, and professional personnel as it may require, in order to exercise the powers conferred and to perform the duties imposed by this Act.

Section 19. The delegates shall receive a per diem of twenty dollars for each day in attendance at, including time spent going to and returning from, the convention; and they shall be reimbursed for their actual travel costs incurred in attending upon their duties as delegates. In addition they shall receive for their services the sum of fifteen dollars per day as compensation for each day's attendance while the convention is in session.

Section 20. There is hereby appropriated the sum of \$300,000, or so much thereof as may be necessary, for defraying the expenses of the elections provided for herein

and the expenses of the convention, including compensation of the delegates, and for all other purposes of this Act. The disbursements for all costs attributable to the elections of delegates to the convention, not to exceed \$60,000, shall be made upon vouchers certified by the Governor of Alaska. All other disbursements of moneys appropriated hereunder shall be made upon vouchers certified by the president of the convention.

Section 21. This Act shall be in effect on and after its passage and approval, or upon its becoming law without such approval.

Approved March 19, 1955

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## CHAPTER 47

### AN ACT

Relating to financing roads, airfields, and water and harbor facilities; increasing the motor fuel tax; setting rates for motor fuel and aviation fuel; providing refunds for taxes paid on non-highway use fuels; amending Subsection (a) of Sec. 48-5-1, ACLA, 1949, as amended by Ch. 56 Session Laws of Alaska 1949; amending Sec. 48-5-2, ACLA, 1949, as amended by Sec. 1 of Ch. 30, SLA, 1951; amending Sec. 1 of Ch. 34, SLA 1949; repealing subsection 4 of Sec. 14 A. of Ch. 123, SLA, 1949; and setting an effective date.

(C. S. for H. B. 13)

Be it Enacted by the Legislature of  
the Territory of Alaska:

Section 1. Section 48-5-2, Alaska  
Compiled Laws Annotated, 1949, as