

ALASKA LEGISLATURE

2038

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

Taylor, Warren A. Fairbanks 1909 Washington 1891

VanderLeest, H. R. Juneau 1908 Michigan 1882

Walsh, M. J. Nome 1905 Ireland 1882

White, Barrie M. Anchorage 1947 New York 1923

Wien, Ada B. Fairbanks 1907 Alaska 1907

V. RIVERS: I move and ask unanimous consent that we adopt that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted.

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me in view of the geographical distribution of the country and in view of the varied interests, economic and otherwise, that we would be defeating practically the purpose of the initiative and referendum if we require two-thirds of the districts to be represented on this petition. I think that half is a fair figure. It seems to me that if you were going to have an initiative or referendum on mining matters that in all probability it would be very hard to get votes for that initiative in two-thirds of the districts where their main interests perhaps would lie in fish, or fur, or timber. I put this amendment in in all sincerity, because I think it will make the initiative and referendum more workable and more fair if we allow it to go through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to say that we are talking not about precincts here, which at the present time there are something like 400 in the Territory, but about election districts under the constitution, and my understanding is that the Committee on Apportionment will bring in a proposal which will specify there will be 24 election districts. That would mean if we leave it the way it is that it would require at least one person's signature only from 16 of the districts to be among either ten or fifteen per cent as we may vote tomorrow on Mr. McNealy's motion to reconsider. The way Mr. Rivers would propose to change it, it would be necessary to get signatures from only 12 different districts, that is 12 signatures would be necessary, one from each district, making up a total of a round 4,000 at the present time. I feel that as it is it is not at all cumbersome or difficult. If we had required that a large number had to be obtained from the districts, it might be, but all that is necessary is one lone signature from each district.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away

from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to one-half" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16 per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers, V.

RIVERS: I ask that the roll be called.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Aves, Coghill, Doogan, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 26 - Armstrong, Barr, Boswell, Buckalew, Collins, Cooper, Davis, V. Fischer, Hellenthal, Johnson, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien,
Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 26 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Mr. Buckalew



R. RIVERS: I now move the adoption of the amendment in the form presently presented and before you.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 1, Section 4, strike lines 13 to 18 inclusive, and lines 1 to 5 inclusive, on page 2 and substitute the following: 'Section 4. Prior to general circulation, an initiative petition containing a draft of the proposed law in bill form shall be signed by ten qualified electors as sponsors and have its sufficiency as to form certified by the attorney general. Denial of certification shall be reviewable by the court. If certified to be sufficient the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 15% of the number of votes cast for governor in the preceding general election at which the governor was chosen. The petition shall contain signatures from at least two-thirds of the election districts of the State. The petition may be filed with the attorney general who shall prepare a ballot title or proposition designating and summarizing the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided.

PRESIDENT EGAN: Is there a second to the motion by Mr. Ralph Rivers?

BARR: I second the motion.

PRESIDENT EGAN: It has been moved and seconded, and the motion is open for discussion. Mr. Taylor.

TAYLOR: I have an amendment to offer. It is on the desk, an amendment changing "15" as a per cent in the unnumbered lines here, but it is the last word in the original proposal, changing the 15% to "10%".

PRESIDENT EGAN: Your amendment is out of order at this time. This motion is before us. A new amendment is on the floor at this time.

TAYLOR: Amending the amendment though.

PRESIDENT EGAN: Amending the "15%" to "10%"? Mr. Taylor then offers an amendment to the amendment seeking to change to read "10%". Is there a second?

MARSTON: I second the motion.

SWEENEY: I object.

PRESIDENT EGAN: The question is on the amendment to the amendment seeking to make it ten per cent of the number of votes cast. Mrs. Sweeney.

SWEENEY: This matter was voted on in the Committee of the Whole last night, and in coming into the plenary session we adopted the oral report of the Committee. Now I don't feel that we can vote on that issue again any more than we can vote on the 19 or 20 years again.

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PRESIDENT EGAN: Mrs. Sweeney, the Chair does not recall that we ever voted on ten per cent. But anything that happened in the Committee of the Whole session would just come to the plenary session as a recommendation. That is all. Mr. Sundborg.

SUNDBORG: Mr. President, I believe Mrs. Sweeney's recollection is perhaps incorrect and that we did in plenary session amend from the figure eight to fifteen per cent. I don't believe we discussed that matter at all in Committee of the Whole.

PRESIDENT EGAN: No one could again offer the amendment and be in order to make it eight per cent, Mrs. Sweeney; but the Chair will have to rule that the particular amendment to the amendment offering ten per cent as the figure is in order. Mr. Taylor.

TAYLOR: I would like to speak briefly. I think this has been argued pro and con at the time that the original proposal was eight per cent. I think a number of the Committee have spoken against the fifteen per cent on the grounds that it would positively make it impossible or so difficult to circulate a petition for an initiative that it would render the law inoperative. Now as Mr. Londborg, said, this morning he was reading some statistics in Missouri, and to initiate a law it only requires five per cent. Now, of course, we realize that in Missouri it is much easier to get petitions circulated. The transportation problem is nothing. The people who circulate them can drive around different places and counties and get them signed. Here with the vast distances and the difficulties of transportation, it would be a little bit difficult. So that would leave us, if we adopt the ten per cent, still twice as high as the State of Missouri where transportation is very easy. So I think ten per cent would be a good compromise.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think if we read the Missouri Constitution carefully we will find that it is "five per cent of the qualified electors". We are only asking for a certain per cent of the governor's vote. There is a lot of difference because I don't think half or maybe a third of the people who can vote go out and vote. So actually five per cent in Missouri would be equivalent to maybe fifteen or twenty per cent here. Not only that, they also require five per cent of the electors in each of two-thirds of the voting precincts. We are saying that they can get all but fourteen, I believe it is, in one precinct and then just go out and spot enough so that they qualify in the two-thirds in the other.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't go along with Mr. Taylor that this is going to be such a difficult task to get the fifteen per cent. Every petition will have at least ten sponsors, and if they know it is going to have to come from two-thirds of the legislative districts, those ten sponsors will in all likelihood come from ten different districts or maybe five. If you have 4,000 votes to get it requires each sponsor to secure 400 votes, and I believe it should be left at fifteen per cent.

MARSTON: The 19 states who have the initiative and referendum laws have averaged a little below eight per cent requirement. We went over this document and this figure with the experts here. It was in keeping with their thinking, and eight per cent is higher than the average of the 19 states who have this, and it is the right number. I want to warn the people here of one thing I see coming up. The person or persons who are issuing most of these amendments are people against initiative and referendum. I know that.

PRESIDENT EGAN: The Chair will have to hold from here on that the Chair will have to declare any one out of order if they allude to the motives behind any delegate.

MARSTON: Can I say who is for and against? It has been said on the floor.

PRESIDENT EGAN: This does not particularly refer to your statements, but the Chair is going to have to hold firm on allusions as to what might be the motives of other delegates on the floor.

MARSTON: Eight per cent is above the average required. If you want the initiative and referendum to work, if you want the people of Alaska to have a chance to initiate and recall laws, keep it at eight per cent. That is the right figure. Ten per cent would be plenty high. Fifteen per cent rules it out. It is not effective.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I am both in agreement and in disagreement with Mr. Taylor's proposal. Ten per cent at the present time with our present voting population perhaps would be a little low. Also, I have an amendment on the desk, and if Mr. Taylor would adopt the latter part of my amendment, I think maybe we would straighten this situation out. I would go ten per cent provided however that no petition shall have less than 5,000 signatures.

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed "no". The ayes have it and the previous question has been ordered. The question is, "Shall Mr. Taylor's proposed amendment to the amendment be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

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Yeas: 29 - Coghill, Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest.

Nays: 21 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Gray, Hellenthal, Johnson, Laws, Londborg, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

LONDBORG: I have an amendment. It is the one I submitted before the recess. I would like to resubmit it.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment. The amendment was not voted upon, is that right?

LONDBORG: It was not voted upon, I had asked that it be withdrawn.

CHIEF CLERK: This was to Section 4, is that right?

LONDBORG: I believe so. It is in the Ralph Rivers amendment. I think you will find it better on page 2, line 8 of the changed copy, although I can't legally attach it to that.

CHIEF CLERK: "After the word 'signatures' in the next to the last sentence of the Ralph Rivers amendment, delete the rest of the sentence and substitute the following: 'from each of two-thirds of the election districts of the State with signatures equalling not less than 3% of the number of voters casting ballots for governor in each such district in the preceding general election at which a governor was elected'."

PRESIDENT EGAN: What is your pleasure, Mr. Londborg?

LONDBORG: I move the adoption of the amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion and the Chief Clerk might read the proposed amendment once more.

CHIEF CLERK: You can find it on page 5 of the journal of the 42nd day, next to the last paragraph, it is the bottom of the page.

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Londborg.

LONDBORG: The reason for this proposed amendment is to make it a little more clear that there should be at least more than one signature in each of these two-thirds of the districts. As the proposal now reads, they are to obtain signatures in at least two-thirds of the election districts of the state. Now, as I take it, that would mean that a person wanting to start an initiative, if he would get ten per cent of the total votes cast in one city, then he could send out or go out, either way, and just get one signature in each of two-thirds remaining districts and that would make the petition valid. Probably he would get two or three to play safe, but he would only have to get one. He would get a signature in each of the two-thirds districts and I believe that when we have such an important thing as an initiative and if the legislature has failed to the great extent that initiative is necessary, then that initiative should be a vital interest over all the state and not just in one area, and I believe that that interest will be best shown if we have at least three per cent of the voters in each of those two-thirds districts signing. Now three per cent is not very high. I put that purposely low so that it would not make it hard to get the signatures in any one of those areas, but at least it should be

more than one signature in two-thirds of the election districts. That is not going to make the initiative, I don't believe, any harder to work but it will at least show and prove that that proposed bill or that proposed law is gaining interest over the whole state, not just a local affair that the ten per cent would indicate if they were taken from one city or one locality and just go out and get one signature to comply with our initiative.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am going to support the amendment because I think it makes good sense.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am going to vote against the amendment because I don't think it makes good sense. The reasoning behind it sounds perfectly logical but I call attention to the fact that in this proposal that we have so far, we have at least three types of initiative which are not possible. We have put safeguards on it as far as the people are concerned so that the Territorial legislature will not be faced with a law they do not want. I think we also should remember that the initiative petition is just the beginning, that it will still be referred to the people for a vote throughout the Territory of Alaska, and I am sure by that time there will be sufficient discussion of it so it will be taken up, but I have the feeling we have gone to too large an extent in legislating this matter of initiative and referendum in the first place. We are continually getting into numbers. We are getting into things that are subject to critical glances from the people that are trying to get the job done, and I think generally that the less restrictions that we put on this thing the better off we are going to be, and I don't think the amendment will serve the purpose that the proposer thinks it will.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I believe I agree with Mr. Hurley's position on this. Even though the signatures originate in one area I want you to note that in Section 5 it states. "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Well, if there is no special local interest in the legislation, even though the signatures should come from a local area, if it is an overall general legislation, it would be my assumption that they would probably try to get as widespread number of signatures as possible to get as widespread interest as possible. I see no reason to impose some other percentage figure now. I don't see we gain a thing by it. I think it is an extra handicap and does not add to but detracts from the initiative and referendum as we now have it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to close this short debate. In answer to the last objection, I don't believe Section 5 is a safeguard at

all. It just merely says that they may not be used for means of earmarking revenues, etc., but there still may be a law that one locality might particularly want, maybe it isn't pertaining to them, but it may pertain to the whole state, but the state may not be particularly interested in it, and the initiative may spring out of a populous area and they could get the ten per cent in just an overnight campaign and get the one signature out around, and then in answer to the former objection where we should not make it hard or things of that nature, let us remember that the initiative is not enacting laws by an apportionment representation. We are enacting laws by popular vote, and we have set up a machinery in the legislature to make our laws and they are sitting representing the various areas of the country, but when it comes to a popular vote, then you will find that it is where the people are that is going to count, and I think as a safeguard, and again I say it is not a high safeguard but very low, if you get three per cent of the qualified voters in these two-thirds districts you will have a good indication of whether it is of statewide interest.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Londborg be adopted by the Convention?"

LONDBORG: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Barr, Boswell, Cross, Hinckel, Johnson, Kilcher, Laws, Londborg, McNealy, Metcalf, Nerland, Poulson, Reader, R. Rivers, Stewart, Sweeney, Walsh.

Nays: 31 - Barr, Coghill, Collins, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Riley, V. Rivers, Rosswog, Smith, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 17 yeas, 31 nays and 7 absent.

PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mr. Sundborg.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Johnson's amendment.

CHIEF CLERK: "Page 1, Section 4, line 18. Strike word 'eight' at the end of the line and insert in lieu thereof the word 'fifteen'."

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment.

MCNEALY: I second the motion.

GRAY: I would like to ask the mover how he arrived at the figure "fifteen". I had in mind "twenty-five" but I don't know what

the difference is between eight, ten, or fifteen per cent.

JOHNSON: I suppose I arrived at my fifteen like you arrived at your twenty-five. It was simply an estimate of what I thought would be a far better percentage of the electorate needed to initiate a proposal under this act. It seemed to me that eight per cent was a little bit low.

SUNDBORG: I think we should all be clear that all that this figure refers to is the percentage of the electors or of those voting at the last election who would have to sign a petition in order to get it voted upon. It does not mean that eight or fifteen percentage means it goes into effect. It just puts it on the ballot. I venture if we change this to fifteen there would be very few initiative measures would ever get on the ballot. That is quite a high percentage to get when you carry petitions around.

LONDBORG: If you can't get fifteen per cent to put it on the ballot they certainly would not get enough to pass it when it does come out. I think it should be a little bit higher than eight per cent because its not eight per cent of the qualified electors, it's only eight per cent of the ones that voted . and I think we ought to have it a little bit higher to preclude any possibility of throwing in legislation that might also call for special elections and a lot of expense.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am not an authority on the subject, but I understand there are other states who have as high a percentage as 15 and I believe one has as high as 20 per cent. I can't quote the number of states. I would like to hear from some of the Committee that has investigated that.

MARSTON: Mr. Chairman, the average requirement is eight per cent of the states that have this form of law. The average is eight per cent.

PRESIDENT EGAN: Mr. Kilcher, did you want the floor?

KILCHER: Yes. I advise that this amendment be defeated. It is exorbitantly high and I intend to suggest an amendment at a

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much lower figure than this. The average is slightly less than eight per cent, as for as my figures show. Considering the distance and geography of Alaska, we should rather have a figure lower than eight or leave it as it is. That defeats the purpose of the measure.

GRAY: I feel that this is an important figure. I feel that this is the one place, if this is a constitutional measure, to insure that the people want the measure rather than some small

group in one locality. I believe that this figure should be sufficiently high. Under a republican form of government we are going to legislate through our legislature. We want to keep the principle of the law ultimately belongs to the people, and I think the figure should denote and be used only at a time that the legislature is not conforming to the wishes of the people, and that is why I believe this figure is very important, and by this figure I think we save the initiative for the constitution or we lose it due to the cumbersome expenses of practice of possibly poor legislation.

PRESIDENT EGAN: If there is no further discussion -- Mr. Barr?

BARR: Mr. President, as I stated before, I am against the basic idea of an initiative but I realize it has some value if it is in the constitution. In fact it may be a deterrent on the actions of legislature if they know it is there and could be used, but my main fear was it would be used too often for no good purpose. I may change my mind and vote for it if this figure of fifteen per cent is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that possibly the adoption of this 15 per cent motion would make the program of the initiative unworkable. I notice that the states that used the initiative for statutory purposes, there are none of them that are above ten. Now I will grant that for purposes of amending the constitution there are some states that go as high, I believe, as thirty. I think it would be an error to adopt this fifteen per cent because of the fact it would be practically impossible to get that number of signatures on the petition required to initiate an initiative.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, now they call this a petition by the voters, how to get a certain per cent of it. Now in looking at it another way, it is a motion by a certain percentage of the electors that they would like to have something voted on. Now you say eight per cent is too much, but as important as this session is, less than two per cent of the body of this house can initiate anything they want to before this body and have it voted on, so why should you have to have the electors, eight per cent or fifteen per cent more. Eight per cent I think is a fair compromise. We discussed that considerably in the Committee, but when you figure that less than two per cent in here can start something, all a man has to do is to make a motion. That one man is less

than two per cent and everybody considers it, so I think if we have eight per cent on this initiative, that is plenty.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Eight per cent is a little higher than the average state that uses this law. Now we know how hard it was to go out and get 250 names on a paper to get the chance to run for this Constitutional Convention. It was a lot of work for most of us to go out and do it ourselves. To get one of these initiative measures before the people it takes over 2,000 people to sign up. You would not get any place if you had to get 2,000. You would not be here and neither would I. It's a hurdle high enough if they feel that 2,000 votes to get on the ballot is what you have to get, they have a cause and then the people have a chance to say "yes or "no". I think eight per cent is right.

BOSWELL: I wondered if the Committee had studied the statistics of voting and about what eight per cent would require. Is that the figure -- 2,000?

MARSTON: My recollection is 27,000 votes here all over Alaska. Eight per cent of that is 2,160.

BOSWELL: I would speak in favor of a higher figure than eight per cent. It seems to me that one of the things, one of the abuses is that a number of bills could get introduced with a few voters and with only 2,000 it seems to me that it would be very easy for one locality to get 2,000 votes on a particular issue. That is why I would favor a higher figure, and I think fifteen per cent is about right.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If Alaska had a static population I would be inclined to agree, but I feel we have an expanding population, and by the time we become a state, the people that are concerned with introducing proposals, our population and our voting population will be such that eight per cent will be a reasonable figure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, talking about the difficulty of getting that number of signatures to a petition, I maintain it is pretty easy to get a petition signed. I know of one candidate to this Constitutional Convention who merely typed up some petitions and mailed them to friends and he got 800 signatures with no effort on the part of himself.

PRESIDENT EGAN: Mr. Gray.

GRAY: I have to rise a second time because of that 200-vote

deal. The gentleman on that pointed directly at me. I wish to cite right now the principle of the thing. On the extraneous, unimportant matters, we don't care what the percentage is, two per cent, but on these important matters we must raise it to a higher value.

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PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to say that the effect of the amendment, if it is adopted, would be that in Alaska right now in order to get any measure up before the people on an initiative basis, it would require 4,050 signatures on petitions. That is a lot of signatures to try to go out and get in Alaska. That is what fifteen per cent of 27,000 is. This is not going to carry the proposition. This is what is required to simply get it on the ballot so the people can have a chance to vote on it. The eight per cent now in there, as Mr. Marston said, would require slightly over 2,000, so that is what we are voting on.

ROSSWOG: Mr. Chairman, I would like to say a few words.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I think it should be hard to get these petitions out and have them filled out, and I would be in favor of a little higher figure than the eight per cent.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am recalling the other arguments that have been made prior to this particular question. And if you will recall various people stated "Well, when the legislature fails to enact some necessary legislation the people can put the blocks to them. If the legislature has fallen down that much, it is not going to be any trouble at all to get fifteen per cent because they are all going to be up in arms. If the legislature has fallen down that much and they have to resort to the initiative, I think you can get fifteen per cent, if it's that important.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I take my second turn here. I still believe it should be a lot higher. If that small percentage can throw the wheels in motion and perhaps calls for a special election and have \$40,000 every time a few people get together and want it if it does not happen to fall on a primary or general election, I think it should be relatively hard to do it because if it is something that that many people want, I am sure you can get the signatures. There have been various experiments performed on the idea of getting people to sign their names, and they say in cities that one out of ten will refuse to sign their signatures on a petition and perhaps not even look at the petition.

COOPER: I would like to point out that the figure fifteen per cent as used in the proposal, the figures that were presented on the floor were fifteen percent of 27,000 votes, and the last general election, as I recall I am not letter perfect on these figures -- was over 40,000. Is that correct? Might I ask if any of the delegates know?

PRESIDENT EGAN: Twenty seven thousand the Chair believes, or something like that.

COOPER: Of the general election?

PRESIDENT EGAN: Twenty seven thousand, six hundred and something.

COOPER: I just wanted to point out in argument that the delegate that was elected at large with the greatest number of votes, Territory wide, received 7,000 votes, which in effect would be a signature. The 15 per cent of the 27,000 votes then would be over 4,000 signatures. I believe it is a little high.

R. RIVERS: That delegate was running in a field of seven candidates. The 27,000 reflects the number of votes cast per delegate, I believe.

HILSCHER: According to the report of PAS slightly less than eight per cent seems to be the average in the states where this provision applies. Those states have a far more static population than we have. They are closely allied through transportation, through numerous radio stations, telephones, and it is much easier to get your message across. Here in Alaska where we have such a large area, the great distances between our towns and communities, our lack of communications comparable to those in the states places an additional penalty upon our people. So if we are to adopt the fifteen per cent, we might in essence from the standpoint of inconvenience, be setting it up almost at 25 per cent. I am in favor of the figure as it stands at the present time in Section 4, at eight per cent.

HINCKEL: I originally proposed or composed an article in which I set forth fifteen per cent. In Committee they changed my mind and I agreed to the eight per cent. In view of the fact that we have now removed all restrictions on the voters, a voter does not have to be able to read, etc., the qualified elector who would be permitted to sign this petition, I now favor that we raise the percentage back to a higher figure than eight -- possibly as high as fifteen.

UNIDENTIFIED DELAGATE: Question.

TAYLOR: I would like to say too that some of the states don't favor too large petitions. New York with three or four million voters, you can't present a petition that has more than 50,000 signatures, so it is a very small percentage of the voters that are on the petition because they are too bulky, there is too much trouble checking them. So in New York State you can't get more than 50,000 people on which would be a small percentage.

MCNEALY: I had not intended to speak on this, but everybody is taking a turn. The point is that I have some amendments to offer here which if the fifteen per cent went through I would be inclined to go along with the initiative and not offer my proposed amendments. Mr. Taylor speaks of New York. I think there are others here in the body who talked with Congressman O'Brien from New York. He said in one of his last words of parting from a little meeting, he said, "Don't get stuck like the State of New York with an initiative system or you will be spending out a good percentage of the Territory's money. You will find that your

initiative elections will cost you far more than your regular elections. As a Congressman from New York I sincerely hope you do not write the initiative into the constitution." I think this fifteen per cent would be somewhat of a safeguard against too many elections at least.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" That is changing "eight per cent" to read "fifteen per cent". All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

SWEENEY: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Awes, Barr, Boswell, Buckalew, Cross, Doogan, V. Fischer, Gray, Hinckel, Johnson, Laws, Londborg, McCutcheon, McNealy, Nerland, Nolan, Poulsen. Reader, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 23 - Coghill, Collins, Cooper, Davis, Emberg, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratrovich. R. Rivers, V. Rivers, Smith, Stewart, Taylor..

Absent: 7 - H. Fischer, Hellenthal, King, Riley. Robertson, Sundborg, VanderLeest.)

CHIEF CLERK: 25 yeas, 23 nays and 7 absent.

PRESIDENT EGAN: And so the motion has carried and the amendment is ordered adopted.

V. RIVERS: It takes a majority of all of the members to which the body is entitled for final action.

PRESIDENT EGAN: The Chair will declare a two-minute recess.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Johnson's amendment.

CHIEF CLERK: Do you want this one taken up next?

JOHNSON: Yes, please.

CHIEF CLERK: "Page 2, line 3. Section 4, after word 'chosen' add new sentence, 'The petition shall be from two-thirds of the voting precincts.'"

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: "The petition shall be from two-thirds of the voting precincts" -- where, Mr. Johnson, of the Territory?

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment?

JOHNSON: I do.

ROBERTSON: I second the motion.

JOHNSON: I might explain. Mr. President, that it occurs to me that under the present wording that a petition could be circulated in one large population area and the required number of signatures be obtained from that one population area, and I believe that it would be better or equitable to have the petitions circulated in at least two-thirds of the voting precincts and signatures obtained all around the state rather than just in one locality.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We went all through this, and in this big land of Alaska we said the other day one voting precinct was bigger than 40 of the states, and we concluded it was not fair if we want the initiative to work, to chase them all over the great land of Alaska to get these petitions. You nullify it. Here is one man with five petitions here. It is not improving this thing. If you want to nullify it, this is one way to do it. We worked on it for about four weeks, good men, even if I was on there, the rest of them anyway, and we decided that some of these people -- we had it in there. We took it out. It was too big a land to chase them over the mountains and across the rivers and the oceans to get this scattered vote, so I wish if you want this initiative and referendum you would hold back on a lot of these amendments. They are not improving it. That is the reason we did not put it in there. We considered Mr. Johnson's amendment carefully. I would like to hear some of the other Committees on this.

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PRESIDENT EGAN: The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" Mr. Davis.

DAVIS: May I ask Mr. Johnson a question? If I understood your explanation correctly, Mr. Johnson, what you intended was that the petition should be circulated or that signatures should be secured from at least two-thirds. It seems to me the form does not quite carry out what you are trying to do. I am in favor of the suggestion that I think you are trying to make there.

JOHNSON: We could add the words "shall be circulated in at least two-thirds of the voting precincts." I will accept Mr. Davis' suggested amendment, and insert, "The petition shall contain signatures from at least two-thirds of the election districts of the State."

PRESIDENT EGAN: Mr. Davis, do you offer that proposed amendment?

DAVIS: Yes.

PRESIDENT EGAN: Is there objection to Mr. Davis's proposed amendment to the amendment? Mr. McLaughlin.

MCLAUGHLIN: Are you substituting the word "circulating" and do not require signing, Mr. Davis?

DAVIS: Either "circulated" or "signatures should be secured

from". Either one would be all right from my standpoint. But as it reads it says, "it shall be from" and I think it is meaningless.

MCLAUGHLIN: I am just anxious to know what the amended amendment is.

DAVIS: I will say "circulated" as an amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have the same question in mind, and in my mind it would have been at least two-thirds of the voting precincts that would be represented, and that would indicate at least one vote from at least two-thirds of the voting precincts in Alaska.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can certainly see a value in having signatures from that many of the precincts. That would be one of the best ways to get the people all over the State of Alaska acquainted with what is coming up, otherwise many people will have to depend on radio or newspapers, etc., to find out and first thing you know there is a special election and a lot of them will have the initiative before them to vote and come to the polls and probably have not had a chance to talk it over and can't read, and we are going to have a lot of confusion, but if it can be circulated around I think it is going to stimulate a lot of interest and a lot of study on the initiative.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am partially in favor of Mr. Johnson's motion, and I am against it for the use of the phraseology "of all the voting precincts", which would be a difficult job. I would like to amend the motion and make it similar to the Missouri Constitution, what they say on the matter. I would like to amend the motion and say "the major political subdivisions" and put the word "each" before that. In other words, you have Nome, Fairbanks, Anchorage, and Juneau, and you have to get two-thirds of your signatures from those major areas, and you won't work a hardship on the people with the initiative.

PRESIDENT EGAN: Mr. Metcalf, at the present time the particular motion cannot be further amended in its present state. There has already been an amendment to the proposed amendment offered and an amendment to the amendment to the amendment the Chair would hold would be out of order at this time. Mr. Stewart.

STEWART: Mr. President, just one question of information. Would the word "circulating include posting in a public place?"

DAVIS: Mr. President, in order to get away from the confusion which I caused here, I would like to withdraw the proposed amendment, putting it back to Mr. Johnson's amendment, then we can start over again.

PRESIDENT EGAN: If there is no objection, Mr. Davis asks unanimous consent to withdraw his proposed amendment to the amendment.

MCNEALY: I object.

PRESIDENT EGAN: That will take a motion before we can discuss it further. Mr. Davis.

DAVIS: I move that I be allowed to withdraw my proposed amendment to Mr. Johnson's amendment.

JOHNSON: I second.

MCNEALY: I withdraw my objection.

PRESIDENT EGAN: The proposed amendment to the amendment was withdrawn. Mr. Metcalf.

METCALF: I should like to read the amendment to Mr. Johnson's motion here.

PRESIDENT EGAN: If you could get it in writing. The Convention will sit at ease for a minute or two. The Convention is at ease. The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I ask leave by unanimous consent to withdraw my original amendment and substitute in lieu thereof a different wording which I have placed on the Secretary's desk.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that he be allowed to withdraw his original amendment and substitute another amendment. Is there objection? If there is no objection it is so ordered, and the Chief Clerk may read the proposed amendment.

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CHIEF CLERK: "Page 2, line 3, Section 4, after word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of the State.'"

JOHNSON: I move the adoption of the amendment as read.

ROBERTSON: I second it.

PRESIDENT EGAN: The motion is open for discussion. Mr.

Smith.

SMITH: Mr. President, my recollection of the Committee discussion on this question was that under Section 3 the legislature would have the authority to require that signatures be obtained from as many legislative districts as they might deem necessary. The Committee felt, that is my version of the Committee feeling was, that due to the changes which will inevitably come, that the legislature could safely make those requirements. They could change those requirements to meet changing conditions and, therefore, I am opposing the amendment.

TAYLOR: I would just like to substantiate the remarks of Mr. Smith. We went over this quite carefully. We argued pro and con as to whether we should put anything in about where the petition was to be circulated, how many names to it, studied the other states' provisions along these same lines, and we felt due to our geographical limits that it would be better to leave that to the legislature. Now that is an untried thing in Alaska, and if we put this in here the legislature then would be unable to change it. It would take a constitutional amendment to make any change in the method of getting the signatures or where you got them from. So we thought we would leave this thing in the fluid stage so if there was an attempt to initiate legislation by this method, and they found out that the provision by law pursuant to the article was unwieldy, cumbersome, and made it practically impossible to get a measure through, that the legislature could change it at the first session if they realize it should be done. So we purposely left that out. We felt it would be better to leave it fluid so by trial and error we can find out what is the best manner to handle this, so I would think that the amendment should be defeated.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I was going to state for the advocacy of the delegates that the original wording we had in there was that not over 25 per cent of the signatures on a petition should come from any one political subdivision, and we all agreed that it would probably be adequate but as Mr. Taylor has said, we finally decided that we might be wrong and it would be better to leave it to the legislature so it could be amended or changed without all the trouble of going through constitutional amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Line 25 on page 2, actually Section 5, says this measure of the initiative shall not pertain to local or special legislation. Therefore, I don't think the amendment is in any way, shape or form out of order. If the people of the state at-large are to be affected by eventual legislation, then I believe that petition should be distributed within at least two-thirds of the voting precincts.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: There seems to be a feeling here that this is making it too hard to get an initiative. I would like to call the attention to the initiative provision in the State of Missouri where they not only ask that it be circulated in two-thirds of the congressional districts of the state, but that it be signed by a certain per cent of the legal voters. Now in the case of the constitutionality amendment it is eight per cent. In case of the law it is five per cent, which I think would compare to our fifteen per cent of those who voted. This is five per cent of the legal voters and it shall be signed by five per cent of the voters in each of two-thirds of the districts, so they certainly have their initiative a lot harder than we are proposing here.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think we are losing sight of one of the main things to be considered in connection with this proposal. These amendments and others that have already been adopted, as well as some of the sections themselves, are clearly attempts to replace fundamental law with statutory law, and I think that the whole thing of setting up the procedure for initiative and referendum, which is now being clumsily done by the body, should be left in the hands of the legislature. I have said once on this floor, if I have said it once I have said it a dozen times and probably will say it that many more, we have got to leave things to the legislature that belong among the legislature's functions, and instead of trying to write statutory law into the constitution of the State of Alaska let's get down to brass tacks and write the fundamental law on which the legislature may base its actions. I am against the amendment.

SUNDBORG: I have to take a view opposite to that of Mrs. Hermann's, something which I do not often do, for the reason that this provision would cover not only initiative petitions but referendum petitions, and I do not believe it proper to leave in the hands of the legislature the writing of basic provisions on how petitions which would override and defeat actions which the legislature has taken would have to be handled. Now under your view it is open here if we don't mention it, and it is open to the legislature to put up any kind of a provision it wants. It could require that there would have to be signatures from every voting precinct in the state which would defeat it because it would be impossible to get such signatures, and I don't believe that if we are going to have the referendum at all which is the process for the people to say, "We don't want this law which the legislature has just passed. We don't want to leave it to the legislature to set up the ground rules of how those things are going to be

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handled. I think that the amendment as now submitted does not require very much. All it says is that the petition shall contain signatures from at least two-thirds of the election districts of the state. The Apportionment Committee is bringing out a report which is going to set up 24 election districts in the state. This would require that anyone who wants to get a matter on the ballot would only have to have signatures from 16 of those election districts. Say that we need 4,000 as it is in Alaska today, he could have 3,985 signatures from the City of Anchorage and he could get one each from the other 16 election districts and he's on the ballot. Now I don't think that is going to restrict very many initiative or referendum petitions.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I certainly agree with Mrs. Hermann. It seems to me a lot of delegates, and I have had the same idea myself up to this point, that you can't write into the constitution provisions that are going to take care of every imaginary evil that might come up. I think you can trust the legislature. We are going to trust the judges. We have created judges. We have given to the judges the power to incarcerate people and even hang them, and it is not any more illogical to trust the legislature. I might say that I offered an amendment which I think will cure all of this discussion, and I don't mean any reflection on Mr. Collins or his Committee, but I certainly agree with Mrs. Hermann. Now you can see the hassle we have gotten into over whether it is going to be ten or fifteen per cent, and it is all legislation, and if it proves to be unworkable you have got to amend the constitution to change it, and Mrs. Hermann is absolutely right.

MCLAUGHLIN: Without committing myself either way, I am just a little bit puzzled. Under Mrs. Hermann's suggestion it would all be left to the legislature. If the legislature exercises its authority under Section 3 prescribing the procedures to be followed in the exercise of powers of initiative and referendum, it makes it an emergency act, and you can't have a referendum on your referendum.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the only value for the initiative and referendum procedure is if there is a clear channel for enactment of legislation by the people. That is, if it goes directly from the people bypassing the legislature. If you give the legislature the power to block that channel, then you just as well as have no initiative and referendum at all. Now this is the second time I have had to change my mind on the question that is concerned with this, but I will now support the amendment offered.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think, in answering Mr. Smith's objections, he possibly loses sight of the fact that this Convention, if we adopt this proposal would be bound by it, as it says "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein...by the people." They have got to pass the legislation. It has got to be introduced. It has got to be implemented

by the proper legislative measure. Let us trust the legislature. Let us leave this just as much as basic law as we possibly can.

Otherwise, we are coming out of here with a constitution that the voters will not ratify. Maybe some of these amendments are put in for the purpose of defeating the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I want to say that I agree, strange as it may seem, with what Mrs. Hermann has said here. I think a good deal that is in this bill as written is legislation. The amendment which Mr. Johnson offered and which I supported was a matter to amend something that is legislation in my opinion to make the thing clearer and more nearly responsive to the will of the people of the whole rather than one section. That was the reason for offering the amendment. I would agree right off that if this part of Section 4 could be stricken as legislation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I resent the implication that I have offered any amendments for the purpose of defeating this constitution. I don't believe that Delegate Taylor had any right to make such an inference. I think that any delegate here has the right to offer amendments as long as they feel they are justified and it is part of the subject matter at hand. Now certainly in this instance, the constitutions that have been read to us, clearly indicate that this provision which is now before us by way of amendment is not unusual. There is nothing strange about it, and as Delegate Sundborg points out, it is not an impractical proposition because you can get, as he says, 3,995 signatures in Anchorage and get the rest of them, one signature from the other 15 voting precincts, so it is not an impractical proposition. It still acts as an additional safeguard on the misuse of the initiative. Yesterday I was opposed to the initiative principle, but the delegation in the Committee of the Whole voted to support the principle, and it is now in our constitution and will be I assume, but I still think that we have the right to make it as strong as possible because certainly it can be very easily misused as has been pointed out, and a special election under the initiative could cost the taxpayers \$40,000 and you might have a number of those special elections every year, and it runs into money, and I don't think we are going to have any too much money after we become a state, at least not for awhile, so I believe it is a reasonable safeguard and that the amendment should be passed.

PRESIDENT EGAN: Mr. McNally.

MCNEALY: Mr. President, I am a strong advocate of leaving matters to the legislature, but I want to point out that when you start writing legislation into the constitution then you have got to write more legislation in order to supplement the legislation that you already have written in, and I too want to call attention to Section 3, the last line where it states, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people. If this is left blank, the percentage of the voters

who must sign the petition, and if it is left in the blank about what districts they shall be signed in, then I can foresee and very clearly there will be untold litigation, because if the legislature attempted to pass a bill and required fifteen per cent of the signatures, the people, or a small segment, would attack it on the grounds that it was hampering or restricting or impairing the voters. If the legislature attempted to say that the petitions had to be secured in certain districts they could always refer back to this clause here of hampering, restricting, or impairing. I think as long as we started writing legislation into this, unless the matter is clearly spelled out in the bill and left up to the legislature, then we must spell out these things in order to protect against future court action.

PRESIDENT EGAN: The Chair is going to adhere to the rule, Mr. Taylor, that each delegate is allowed two times around. Mr. Kilcher.

KILCHER: Point of information. I would like to address a question to Mr. Johnson. If Mr. Johnson's amendment should be adopted, would that leave enough power to the legislature later on to determine the percentage of signatures required in each of the two-thirds of the legal subdivisions?

JOHNSON: Offhand, I would say no, but it seems to me that it might be construed that if the legislature should determine later that each voting precinct would have to produce a proportionate share of the signatures, that might be in contravention of the constitutionality. I am not enough of a constitutional lawyer to know, but my offhand opinion is that this provision as it is now before us would make it flexible, and if the legislature attempted to put any restrictions on that flexibility, that it would not be improper.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Personally I think that the legislature would be entitled to make further specifications that are not limited by any of the constitutional sections, and I hope that it will, and provided that I am right in my assumption, I am in favor of Mr. Johnson's amendment.

ARMSTRONG: If Section 4 is to stay in the act, it seems to me that we have to have this provision. I want to revert back to the thing that Mr. Marston constantly talks about, the people. I have a feeling so often that when I vote on the wrong side of an issue that I am voting against the people because that word has been underscored so emphatically. I think that to eradicate sectionalism and provincialism from Alaska we must have an expression from as many sections of the state as possible. I think one of the great things that is hampering us now is the feeling that one area wants to dominate another area, and I will vote for this amendment because of my inner feeling that this is bridging all of these depressions of sectionalism. It is asking for a widespread opinion on a piece of legislation. If folks say "Well, we are not intelligently" enlightened on this enough so that we

can sign this petition, then let them dig into it before they sign :: It will probably give a wider base of opinion when it comes to a vote. We can probably vote on it more intelligently. I will support this amendment if we are keeping in Section 4.

BOSWELL: I move the previous question.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of the question will signify by saying "aye", all opposed by saying no . The "ayes have it and the previous question is ordered. The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor --

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after the word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of the State.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 13 - Aves, Buckalew, Emberg, Hermann, Hinckel, Hurley, King, Metcalf, Nordale, Peratrovich, Riley, V. Rivers, Taylor.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 38 yeas, 13 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hellenthal.

CHAIRMAN R. RIVERS: Mrs. Sweeney.

SWEENEY: I would like to ask Mr. Taylor a question. On Section 4, the last line on page 1 and going to the top of page 2 it

provides that you will have eight per cent of the number of votes cast for governor in the preceding general election, at which the governor was elected. I am wondering if your Committee considered the possibility of a restriction in there similar to the one that is in the model constitution requiring that only a certain percentage of those signatures can come from a certain district. That is, that the petition must represent a large area rather than a restricted area.

TAYLOR: We did talk that over. We gave it consideration. We felt that with the geographical limitations of the state of Alaska, we felt that in view of the size of Alaska, the geographical size of it in proportion to the population, that if we put a limitation upon the number of voters that could come from any political subdivision or of any particular area, that it would make it very difficult up here by reason of the great sparsely populated areas, we did not hold that up. We felt it would make it very difficult if 25 per cent of, say 25 or 30 per cent of the petitions had to be from one division or one part of a division. Well, you could go in there and get those all right, but it is so difficult to circulate those petitions in the outlying precincts.

SWEENEY: On the other hand, I feel that, if just speaking of divisions now, if one division, for instance the Southeast, had a bit of legislation they wanted passed, they could get the eight per cent of the votes very easily and yet we would be imposing, if the legislature then passed whatever it was we wanted, we would be imposing our will on the whole of Alaska, and it seems to me that a portion should be required to come from another division, perhaps a third or even half from another section.

CHAIRMAN R. RIVERS: The Committee will be at ease for a moment while our guests pass out. (Guests left gallery.) The Committee will come to order.

TAYLOR: Mr. Chairman, I would like to answer Mrs. Sweeney's question in this way. Although as she states the eight per cent of the voters, of the number of voters that cast their votes for the governor at the previous election was secured in one division, that does not make it a law because that then is submitted, if they get the sufficient number of signatures on there, then it is submitted to the entire electorate and then it can be defeated by the voters of other divisions or political subdivisions whichever they might be, because the entire electorate then votes upon what eight per cent of the electorate initiated.

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13/1/70
Sons of the American Revolution

FISCAL NOTE

Bill Version: CSHJR 7 (STA)

(H) Publish Date: 2/26/99

STATE OF ALASKA 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected _____ Office of the Governor _____
 Title Constitutional Amendment relating to _____ BRU _____ Elective Operations _____
 initiative and referendum petitions _____ Component _____ General and Primary _____
 Sponsor Representative Williams _____
 Requester House State Affairs Committee _____ Component Serial No. 22 _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

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	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by Gail Fenumial *Gail Fenumial*
 Division Division of Elections
 Approved by Lt. Governor Fran Ulmer *Fran Ulmer*
 Agency Office of the Lieutenant Governor

Phone 465-3935
 Date/Time 2/9/99 9:43 AM
 Date 2/9/99

HJR

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SFIN

FILE

HJR 7

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

February 3, 2000

MEMO TO FILE

TO: Finance Committee

BILL/RES. NO.: **CS HJF 7(FIN) am**

ATTENTION: Heidi, Vicki
Senate Secretary's Office

This bill/resolution has not yet received a **do pass** recommendation.

Please leave this note in the file.

Thank you.

Coalition for the Alaskan Way of Life

P.O. Box 60954

Fairbanks, AK 99706

Ben Hopson/Chairman Pete Buist /Co-Chair Gabe Sam /Co-Chair

March 30, 2000

Dear Senator Torgerson,

The Coalition for the Alaskan Way of Life (CAWL) was formed two years ago to oppose Proposition 9, the Wolf Snaring Ban. The CAWL effort was able to accomplish a feat many thought impossible. We united sportsmen and Alaska Natives to work together. Groups as diverse as The Alaska Outdoor Council and the Tanana Chiefs Conference put aside their differences and united to defeat Proposition 9. This unity proved to be one of our greatest strengths and a key reason for our victory in 1998.

As sweet as that victory was, it came at a high price in money and manpower. The campaign raised and spent over \$250,000, an absurd amount of money to defend Alaska's Native and cultural heritage of wolf snaring.

Truthfully, Enough is Enough!

"It's time for Rural Alaskans to draw a line in the Snow!"

Rural Alaskans should never have to face another ballot initiative like Proposition 9 that directly attacks our cultural heritage. There are so many other important issues for the Native community to address we cannot afford to squander our hard earned resources on issues like wolf snaring. Now is the time to use the momentum of our Proposition 9 victory and go on the offensive and stop this craziness once and for all.

Representative Bill Williams of Saxman working with CAWL has introduced legislation, which will protect rural Alaska from these frivolous initiatives. That bill, HJR7, is now before your committee. As you know, it is a Constitutional Amendment Resolution that, if passed by the legislature, will insure that rural Alaska will have a voice in Alaska's initiative process and can stop initiatives like Proposition 9 before they get started.

Let us explain our reasoning for supporting HJR7:

Alaska's population distribution is much different now than when our Constitution was written. Today, initiative supporters can collect signatures in densely populated districts in and around Anchorage and get almost any question on the ballot they desire. Whether it is English only, same sex marriage or animal rights sponsored initiatives like wolf snaring, our initiative system plays right into the hands of large, well funded Outside special interest groups from the Lower 48. It is far too easy to abuse the Alaska initiative process by buying a place on the ballot. Here's how the system works now:

Alaska's constitutional laws governing the placing of initiatives on the ballot require signatures to be gathered equal to 10% of those who voted in the last general election or, approximately 21,000 signatures must be gathered to qualify an initiative. A small number compared to other states in the U.S. In addition, those signatures must come from at least 2/3rd's or 27 of the 40 state House districts. We believe it was the clear intention of the framers of the Alaska Constitution that those signatures were to be gathered equally from those 27 House districts. Unfortunately, due to a loose interpretation of the law, that's not what is happening. Since the Alaska Constitution does not specifically require a specified number of signatures to be gathered from each of the 27 house districts virtually all the signatures (in most cases almost 90%) are gathered in the highly populated suburban areas in and around Anchorage. Only a small number of signatures are gathered in a few rural districts to meet the minimum requirements. Rural Alaska is effectively ignored and shut out of the process.

The Alaska initiative system is so loose that signatures could be gathered, the initiative approved by the Lieutenant Governors office and placed on the ballot, approved by voters, and never have a single signature gathered from rural Alaska. We think that is a travesty.

But, fortunately Representative Bill Williams' bill, HJR7, will even the playing field for rural Alaskans and will insure that rural Alaska has a voice in the initiative process.

The original language of HJR7 as introduced by Rep. Williams calls for the total number of signatures required to place an initiative on the ballot be equal to 15% (currently 10%) of those who voted in the last general election. Those signatures must be gathered from a minimum 3/4th's (currently 2/3rd's) of Alaska's election districts; equal to 30 of the 40 House districts. In addition, to ensure representation from rural Alaska, HJR7 requires these signatures be equal to 15% of those who voted in the proceeding election **in each of those 30 house districts.**

As you know the version of HJR7 before your committee has been severely amended and it is our opinion that in its present state does little to rectify the problems inherent in Alaska's initiative process.

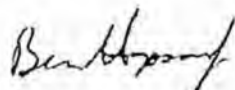
We respectfully request that your committee review the attached information and consider restoring HJR7 to its original form as introduced with one exception. We recommend that your committee raise the required number of districts from which signatures must be gathered to qualify an initiative from the current requirement of $2/3^{\text{rd}}$, and beyond HJR7's requirement of $3/4^{\text{th}}$, to a total of $7/8^{\text{th}}$ or 35 House districts.

The reason for our request is as follows: Obviously, the current $2/3^{\text{rd}}$ requirement is insufficient to grant any representation to rural Alaska, but even increasing the number to $3/4^{\text{th}}$ or 30 House districts will only guarantee marginal representation. Of Alaska's 40 House districts only 10 are truly rural districts. Anchorage, Fairbanks and Juneau alone comprise a total of 30 House districts. Theoretically at the $3/4^{\text{th}}$ requirement rural Alaska could still be excluded from the signature gathering process. Requiring signatures to be gathered in $7/8^{\text{th}}$ or 35 house districts will guarantee rural Alaska will be represented in the initiative process.

In addition to this request we feel it is critical that attention be given to making sure the number of signatures required from each House district be increased to between 10% and 15%. Please take a moment and refer to the HJR7 Comparison spreadsheet attached to this letter. As you will notice at the bottom of the page, at 4% (the current amended version of HJR7) all the initiatives in 1998 would have still qualified. However, at 10% or above none of the three initiatives, Wolf snaring, English only, or the Marijuana would have qualified because they would not have received the needed support from rural Alaska.

CAWL strongly believes that if rural Alaska must live under the laws created by the initiative process they should also have a say in the ballot questions that are put on the ballot. We sincerely ask for your assistance and the assistance of your committee in restoring our voice to the Alaska initiative process.

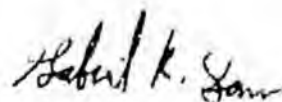
Sincerely,



Ben Hopson, Jr.



Pete Buist



Gabe Sam

District	Votes Cast 98	Wolf	English	Marijuana	HJR7-4%	HJR7-7%	HJR7-10%	HJR7-15%
1 Ketchikan *	5025	45	24	34	201	352	503	754
2 Sitka *	5890	475	27	50	236	412	589	884
3 Juneau	7198	1354	36	798	288	504	720	1080
4 Juneau	6712	1226	36	823	268	470	671	1006
5 S'East Islands *	4924	224	25	100	197	345	492	739
6 Kodiak *	4025	144	115	520	161	282	403	602
7 Kenai *	6832	438	504	314	273	478	683	1025
8 Kenai *	5917	418	855	385	237	414	592	887
9 Kenia *	5223	243	588	254	209	366	522	783
10 Anchorage	6932	1027	1090	957	277	485	693	1040
11 Anchorage	5299	1095	1003	1070	212	371	530	795
12 Anchorage	5791	1027	980	1046	232	405	580	867
13 Anchorage	6331	1440	1013	1136	253	443	633	950
14 Anchorage	3258	821	645	685	130	228	326	489
15 Anchorage	4292	1432	1077	1147	172	300	429	644
16 Anchorage	3162	1403	1099	1369	126	221	316	474
17 Anchorage	5328	1253	1228	1327	213	373	533	799
18 Anchorage	7814	1291	1096	1132	313	547	781	1173
19 Anchorage	5573	1227	1163	1238	223	390	557	836
20 Anchorage	5332	1181	1142	1068	213	373	533	800
21 Anchorage	4973	1138	1027	1130	199	348	497	719
22 Anchorage	6666	1106	995	972	267	466	667	1000
23 Anchorage	2964	640	614	608	108	207	269	445
24 Eagle River	5666	977	871	932	227	397	567	850
25 Eagle River	6103	863	1006	974	244	427	610	915
26 Wasilla	6401	765	1033	895	256	448	640	960
27 Palmer	7868	691	1053	940	315	550	787	1180
28 Talkeetna	7772	919	998	1070	311	544	777	1165
29 Fairbanks	6931	302	407	280	277	485	693	1039
30 Fairbanks	4751	193	393	174	190	332	475	713
31 Fairbanks	4688	205	425	180	188	328	469	703
32 Wainwright	3618	151	284	73	145	253	362	542
33 Fairbanks	6308	198	465	166	256	447	639	946
34 North Pole	4650	153	312	108	186	325	465	698
35 Valdez *	5015	227	271	236	201	351	502	752
36 Tanana *	4762	202	136	214	190	333	476	714
37 Kotzebue *	4059	180	124	186	162	284	406	608
38 Nome *	4412	146	87	162	176	308	441	662
39 Bethel *	4708	217	152	161	188	329	471	706
40 Aleutians *	2556	145	125	173	102	179	256	409
Total	215,539	27,210	24,524	25,087	8,662	15,087	21,555	32,331

*Indicates Rural AK

Total Suburban (27)	152,191-71%	24,061-88%	21,491-88%	22,298-88%	70%	70%	70%
Total Rural (13)	63,348-29%	3,149 -11%	3,033-12%	2,789-11%	30%	30%	30%
Total Anch/MatSu (19)	107,525-71%	20,296-84%	19,133-89%	19,786 -89%			

	Wolf	English	Marijuana
How Districts	30@4%	32@4%	27@4%
Would Have	22@7%	25@7%	23@7%
Qualified in 1998	20@10%	21@10%	22@10%
Under HJR7	20@15%	21@15%	22@15%

**Senate Judiciary Committee Hearing – 1/25/00
Alaska Outdoor Council Testimony on HJR 7
Ballot Box Biology and the Initiative Process**

Richard Bishop, Vice President

Mr. Chairman, Committee members,

Thank you for this opportunity to testify. I am Dick Bishop, Vice President of the Alaska Outdoor Council, a statewide umbrella organization comprised of over 40 user-conservation outdoor groups plus now up to nearly 2000 individual members. Our total membership is 10 to 11,000 Alaskans and a few interested Outsiders.

Mr. Chairman, the Outdoor Council opposes the use of "Ballot Box Biology" in the management of fish and wildlife. Nationally, the initiative process has been used in a number of the 24 states where it's available to circumvent a rational public process for the management of fish and wildlife. It has become fashionable for animal protection and anti-hunting groups. It has also been effective, because an emotionally charged message can be marketed effectively on today's electronic media.

There is no law requiring truth in advertising. Fish and wildlife management policy can be flip-flopped by a barrage of 30-second sound bites influencing the "majority of the moment" – even though the sound bites misrepresent the issue.

We saw that in Alaska with proposed bans on same-day aerial shooting of wolves, where the issue was portrayed as aerial shooting, already illegal, and then a proposed ban on wolf snaring. The Legislature had to correct the first one with SB74. Fortunately, the Coalition for the Alaska Way of Life, which we support, beat the anti-snaring proposal.

If the initiative process continues to be so susceptible to irresponsible use, we expect more attacks on scientifically sound fish and wildlife management and on Alaskan's traditional values. "Ballot Box Biology" thumbs it's nose – or worse – at the most open, democratic fish and game management process in the world.

These attacks demonstrate no tolerance of, and no respect for, traditional Alaskan values that depend on sound management and responsible human uses of fish and game.

Yet to cope with these attacks drains the energies and pocketbooks of Alaskan fishers, hunters, and trappers across the state, not to mention the possibility of taking food from their tables and warm clothes from their closet.

The Outdoor Council has advocated a Constitutional amendment making fish and wildlife management ineligible for the initiative process. There is no real bar to public participation in fish and wildlife management. There is more opportunity for public participation in Alaska's fish and wildlife management through the Board and Advisory Committee process than has ever been fully used. But it is a deliberate, rational process, not easily derailed by the emotional, disinformation tactics usually employed by its detractors.

The Alaska Outdoor Council strongly recommends taking fish and wildlife off the initiative eligibility list.

If the Legislature is unable or unwilling to do so, then we urge you to beef up HJR 7 by requiring petition signatures of 15% of previous voters in each House district, from $\frac{3}{4}$ or more (7/8) of the Districts, and with total signatures equaling at least 15% of the number of previous voters in order for the petition to be accepted. HB45 should, of course, be modified accordingly.

At least this would ensure the broader public participation that Rep. Williams set out to ensure, and hopefully it would require more people to give any proposal serious thought.



Teleconference Participants

TCN: 10651

Participant Lists

View List for

ALL

Testifiers

Go >>>

Close Window

Participants

Unidentified Testifiers: 0

Unidentified Observers: 1

ANCHORAGE (ANC)

DELTA JCT. (DJT)

1 Name: Mr. John Gloffely, HB45 Phone:
 Address: Affiliation: United We
 City /St /Zip: Type: Testifier
 Bill: HJR 7: CONST AM: INITIATIVE/REFERENDUM PETITIONS

FAIRBANKS (FBX)

1 Name: Mr. Joe Mattie Phone:
 Address: Affiliation: CAWL
 City /St /Zip: Type: Testifier
 Bill: HJR 7: CONST AM: INITIATIVE/REFERENDUM PETITIONS

2 Name: Mr. Mike Sulton Phone:
 Address: Affiliation:
 City /St /Zip: Type: Testifier
 Bill: SB 34: TATTOOS AND BODY PIERCING

3 Name: Mr. Ryan Cunningham Phone:
 Address: Affiliation:
 City /St /Zip: Type: Testifier
 Bill: SB 34: TATTOOS AND BODY PIERCING

MATSU (MAT)

1 Name: Ms. Jan Tatlow Phone: 745-4488
 Address: PO Box 1621 Affiliation: Private In
 City /St /Zip: Palmer Ak 99645 Type: Testifier
 Bill: SB 289: BOARD OF TECHNICAL AND VOCATIONAL EDUC

VALDEZ (VAL)

HJR

12

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 5, 1999

FURTHER REFERRALS:

Date of Committee Action: 2/16/99

The FINANCE Committee considered:

HJR 12

HOUSE JOINT RESOLUTION NO. 12

NO FED. CLAIM ON STATE TOBACCO SETTLEMENT

Relating to federal claims against funds obtained by settlement of state tobacco litigation.

recommends it be replaced with the following committee substitute CS HJR 12 (FN) the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____
 zero fiscal note(s) HFC zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Tom Therriault</i> Therriault	X			
<i>Ed Mulden</i> Mulden	X			
<i>Tom Bunde</i> Bunde			✓	
<i>Jim Kohring</i> Kohring	X			
<i>Ellen Austerman</i> Austerman	X			
<i>J. Davis</i> J. Davis	X			
<i>Ben Gussendorf</i> Gussendorf	X			
<i>J. Davis</i> J. Davis	X			
<i>W. Williams</i> Williams	X			

CO CHAIR'S SIGNATURE *Tom Therriault* *Ed Mulden*
Therriault mulden

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR 12

Title: NO FED. CLAIM ON STATE TOBACCO
SETTLEMENT
Sponsor: Rep. Harris
Requestor: H FIN

Dept. Affected: Law
BRU: Civil Division
Components: Fair Business Practices
Serial # 2206

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	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

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This resolution has a zero fiscal impact. However, if federal law is not enacted to prevent HCFA from asserting its claim against the settlement money, the result could be a loss to the State of Alaska of \$400 million over 25 years.

Prepared by: House Finance Committee Date: 2/16/99
Representative Eldon Mulder Phone: 465-2647
Representative Gene Theriault Phone: 465-4797

PRESENTATION ON TOBACCO ISSUES and HJR 12

Alaska Department of Law
to
House Finance Committee
February 16, 1999

INTRODUCTION

During the past two years, the Knowles administration, with the help of the Alaska Legislature, has addressed the problems caused by tobacco and the challenge of limiting access on a number of fronts. Our joint efforts have included legislation to increase taxes on tobacco products, measures to limit youth access to tobacco, and stepped-up enforcement activities, and, of course litigation and participation in the national settlement with the industry. The Department of Law's efforts have been closely coordinated with the Alaska Departments of Health and Social Services and Revenue, local tobacco control groups, and other state attorneys general.

ENFORCEMENT OF TOBACCO VENDOR AND TAX LAWS

- > **TOBACCO VENDOR ENFORCMENT (STING OPERATIONS):** During 1997 and 1998, the Department of Law ("Law") worked closely with the Anchorage and Juneau Police Departments to coordinate enforcement and prosecution of tobacco vendors that sold tobacco products to persons under 19. Law plans to work with the Fairbanks Department of Public Safety and Fairbanks City Attorney's Office to enforce state tobacco laws during the early spring.
- Today, Law will announce a settlement related to tobacco business licensing litigation with 9 vendors operating a total of 11 stores (5 in Anchorage and 6 in Juneau). The vendors agreed to a settlement that requires: (1) a three-day suspension of their tobacco licenses, (2) that they re-train all of their tobacco sales clerks in stores where violations occurred, and (3) that vendors make contributions totaling more than \$50,000 to a statewide youth tobacco prevention television campaign. This television campaign will air statewide for a month this spring.

- **STATE SALES TAX ENFORCEMENT:** State law requires any person who causes cigarettes to be brought into the state for personal consumption or resale to obtain a license from the Alaska Department of Revenue and pay the appropriate taxes. A federal law known as the "Jenkins Act" requires persons shipping cigarettes into Alaska to provide the state with a list identifying the recipients. With the growth of Internet sales, the Alaska Departments of Law and Revenue have worked closely with the federal Alcohol, Tobacco and Firearms investigators and U.S. Attorney's Office to vigorously pursue illegal cigarette shipments. Investigations are currently underway, and additional investigations are likely.

LITIGATION AND THE NATIONAL SETTLEMENT

- **ALASKA'S LITIGATION:** In April, 1997, Alaska filed suit against the major tobacco manufacturers based on state consumer protection and antitrust laws. The suit was scheduled to go to trial in February, 2000.
- **NATIONAL SETTLEMENT:** On November 23, 1998, after extended negotiations the State of Alaska and 45 other states reached a final settlement of litigation with the tobacco industry – Mississippi, Texas, Florida, and Minnesota had already settled their lawsuits. The settlement, which was approved by the Juneau Superior Court on , ends the State's litigation with the industry. The settlement will mean payments of nearly \$670 million to Alaska over the next 25 years, starting in FY 2000.
- **PUBLIC HEALTH TERMS:** The significant public health terms of the settlement require: bans on marketing to youth; changes in corporate culture; disbanding trade associations; lobbying restrictions; opening industry research; and creation of a national teen smoking foundation and public education fund. The full settlement agreement is available at www.naag.org on the Internet.
- **THE PAYMENT STREAM:** The State of Alaska does not need to pass any legislation to receive payments under the settlement. However, legislation is required to protect Alaska's payments from the rather remote possibility of a nonparticipating manufacturer reduction, which is discussed in more detail below. The State also needs protection against attempts by HCFA (the federal Health Care Finance Administration) to recoup a portion of the state's funds, as will also be discussed below.

Under terms of the settlement agreement, Alaska will receive the following payments:

PAYMENTS TO ALASKA
under
SETTLEMENT OF TOBACCO LITIGATION

	Date of Payment	Amount of Payment
Up-front Payment	between April 1999 and June 2000 (depending on actions of other states)	\$8,194,049.54
Annual Payments	between April and June 2000	\$21,890,915.46
	April 2001	\$23,638,672.09
	April 2002	\$28,383,145.58
	April 2003	\$28,651,761.36
	April 2004	\$23,912,967.90
	April 2005	\$23,912,967.90
	April 2006	\$23,912,967.90
	April 2007	\$23,912,967.90
	April 2008	\$24,387,539.93
	April 2009	\$24,387,539.93
	April 2010	\$24,387,539.93
	April 2011	\$24,387,539.93
	April 2012	\$24,387,539.93
	April 2013	\$24,387,539.93
	April 2014	\$24,387,539.93
	April 2015	\$24,387,539.93
	April 2016	\$24,387,539.93
	April 2017	\$24,387,539.93
	April 2018	\$27,327,155.20
	April 2019	\$27,327,155.20
	April 2020	\$27,327,155.20
	April 2021	\$27,327,155.20
	April 2022	\$27,327,155.20
	April 2023	\$27,327,155.20
	April 2024	\$27,327,155.20
	April 2025	\$27,327,155.20
	TOTAL	\$668,903,056.53

- **TIMING OF UP-FRONT PAYMENT:** On December 28, 1998, the tobacco companies paid an up-front payment into escrow as part of the agreement. No legislation is required for Alaska to receive its up-front payment, which will be disbursed to Alaska only when 80 percent of the states' lawsuits are dismissed without any appeal, or on June 30, 2000, whichever comes first. Right now, there are appeals in California and New York, so the anticipated receipt of the up-front payment will probably come closer to June 30, 2000.
- **TIMING OF ANNUAL PAYMENTS:** The first annual payment will be available no later than June 30, 2000. No legislation is required for Alaska to receive its annual payments. Alaska's first annual payment could come as early as April 2000, if 80 percent of the states' lawsuits are dismissed without any appeal, but in any case will be made no later than June 30, 2000. Beginning in 2001, the annual payments will be made to the state on April 15 each year.
- **ATTORNEYS' FEES:** The State of Alaska was represented in the tobacco litigation by the law firm of Hagens & Berman, which represented all the Northwest states. The settlement agreement allows the state's outside counsel to seek payment from the tobacco companies without affecting Alaska's share of the settlement. Hagens & Berman requested reimbursement directly from the tobacco companies, which agreed to pay \$10 million as full payment for the firm's representation of Alaska. This payment did not affect Alaska's share of the settlement. However, when compared to the state's settlement of \$668,903,056.53, the Hagens & Berman fee is approximately 1.5 percent.

THREAT TO SETTLEMENT FROM HCFA

- **FEDERAL RECOUPMENT:** The U.S. Health Care Finance Administration (HCFA) has taken the position that as much as half of the funds recovered through the national settlement are subject to the agency's right of recoupment. HCFA apparently bases its position on an interpretation of §1903(d)(2)(A-B) of the Social Security Act, which states that reimbursements to a state by a third party are "overpayments" from which HCFA may claim a pro-rata share.
 - The agency's position is based on the assumption that the state was specifically suing to collect state and federal dollars under a Medicaid reimbursement theory. One estimate shows that HCFA's interpretation of §1903(d) could result in a loss to the State of Alaska of \$400 million over 25 years. The Department of Law is working through Alaska's congressional delegation and other states to solve this problem, and it will defend the state's right to settlement funds in court if necessary. HCFA has represented

that it will assert its claim against annual state payments beginning after the Year 2000 payment.

- ✓ **ALASKA'S RESPONSE TO THREAT: Alaska's Objectives** - The State had four primary objectives when it brought suit against the tobacco industry: (1) to end the industry's targeting of Alaska's children as new consumers for its products; (2) to force the industry to disclose the harmful effects of smoking and decades of research demonstrating that tobacco kills; (3) to thwart the industry's apparent efforts to prevent the development of a safer product; and (4) to require the industry to pay for the harm it already has caused and, in the future, fund public health programs directed at alleviating the related public health concerns.
- **Alaska Sued to Protect Alaskans:** Alaska brought suit to protect Alaskans and to protect the fiscal integrity of the state's Medicaid program against future smoking-related treatment costs. Unlike other states, Alaska did not specifically plead a federal Medicaid recoupment claim in state superior court. Collecting federal dollars is the responsibility of HCFA and the U.S. Department of Justice. The U.S. Department of Justice declined to sue the tobacco industry on behalf of HCFA, and HCFA provided no support to the states during the litigation.
 - **First Proposed Settlement and Congress vs. State Settlement:** The first settlement was signed by the states and tobacco industry on June 20, 1997. It called for the tobacco industry to make payments to the states and fund federal enforcement programs totaling \$368.5 billion over 25 years. This settlement also required congressional approval, which did not occur. Accordingly, the states returned to litigation and resumed negotiations with the industry on their own. The litigation and resumed negotiations resulted in the second state settlement of November 23, 1998. HCFA could have acted along with the states to protect its rights during the second settlement process, but chose not to.
 - **Use of Settlement Funds:** A key provision of the McCain Bill in the 105th Congress provided that if states directed 50 percent of the settlement money (of the proposed 1997 settlement) to supplement but not supplant existing health care programs, HCFA could not assert its claim for recoupment. While the states take the position that all settlement dollars are state funds, many states are abiding by the provisions of the McCain Bill (spending no less than 50 percent to supplement health care-related programs) to protect against recoupment by the federal government.
 - **Recent Development: SB 346:** On February 3, 1999, U.S. Senator Frank Murkowski and U.S. Senator Kay Bailey Hutchinson co-sponsored SB 346. SB

346 would protect all the states' settlement dollars from HCFA's attempted recoupment.

LEGISLATION

- **MODEL STATUTE:** The state is not required to pass the model statute included in the settlement to receive settlement payments. However, if the state does not pass the model statute, the state will risk a possible reduction in payments under the nonparticipating manufacturers' payment (NPM) reduction formula of the settlement. The settlement provides for an adjustment to the state's payments if the participating manufacturers experience a disadvantage and lose market share for sales of their tobacco products to other nonparticipating manufacturers as a result of the marketing restrictions, payments, and other restrictions in the settlement agreement.
- **NPM Risk Low In Alaska** - At this point, the risk to Alaska of a nonparticipating manufacturer reduction is minimal, given that many of the very small tobacco product manufacturers have decided to sign on to the settlement, which reduces the risk that they will take market share away from the largest companies. The risk is further lowered by the fact that the small tobacco products manufacturers only represent 1-2 percent of the U.S. market, making it unlikely that sales of their products will trigger the nonparticipating manufacturer reductions.
 - **NPM Risk Can Be Eliminated** - The risk of nonparticipating manufacturer reductions can be eliminated by passage of the model statute. Under the terms of the settlement agreement, if the state passes the model statute and enforces it, the state will be exempt from any payment reductions even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

CONCLUSION

In the upcoming months, Law will be working closely with the Alaska Departments of Revenue and Health and Social Services, and the federal Alcohol, Tobacco and Firearms investigators to assure full compliance with state tax laws. Law is also working closely at the direction of the governor with members of Alaska's congressional delegation to protect the state settlement from HCFA.

1-LS0418\G
Ford ✓
2/16/99

adopted

**CS FOR HOUSE JOINT RESOLUTION NO. 12(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION**

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES HARRIS, Rokeberg, Green

A RESOLUTION

**1 Relating to federal claims against funds obtained by settlement of state tobacco
2 litigation.**

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

4 WHEREAS the State of Alaska, taking all of the risks inherent in litigation, brought
5 suit against major cigarette and smokeless tobacco manufacturers based on state antitrust and
6 consumer protection claims solely to collect the state's smoking-related expenditures; and

7 WHEREAS none of the claims asserted by the state were based on a Medicaid
**8 recoupment statute or included the assertion of claims based on federal law for the federal
9 government's tobacco-related Medicaid expenditures; and**

10 WHEREAS the State of Alaska entered into a settlement agreement in state court
**11 based on state antitrust and consumer protection law claims with cigarette and smokeless
12 tobacco companies for \$669,000,000 on November 23, 1998; and**

13 WHEREAS the federal government, through the Health Care Finance Administration,
**14 has asserted that it is entitled to a significant share of the state settlement on the basis that it
15 represents the federal share of Medicaid costs; and**

16 WHEREAS the federal government declined to bring its own action to assert a claim

1 for the federal money it spent for the treatment of smoking-related illnesses in Alaska and
2 provided no assistance to the state during the litigation or during settlement negotiations; and

3 **WHEREAS** the federal government asserts that it is authorized and obligated, under
4 the Social Security Act, to collect its share of any settlement funds attributed to Medicaid; and

5 **WHEREAS** the state tobacco lawsuit was brought for violation of state law under state
6 law theories and the state lawsuit did not make any federal claims; and

7 **WHEREAS** the state bore all the risk and expense in the litigation brought in state
8 court and settled without any assistance from the federal government; and

9 **WHEREAS** the state is entitled to all of the funds negotiated in the tobacco settlement
10 agreement without any federal claim;

11 **BE IT RESOLVED** that the Twenty-First Alaska State Legislature respectfully
12 requests the Congress to enact and the President to sign legislation to prohibit any federal
13 claim against money obtained by settlement of state tobacco litigation; and be it

14 **FURTHER RESOLVED** that the Twenty-First Alaska State Legislature respectfully
15 urges the President of the United States to direct the Health Care Finance Administration to
16 review the facts related to the tobacco settlement with the State of Alaska and refrain from
17 taking steps to pursue recoupment of dollars to which the federal government is not entitled.

18 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
19 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
20 of the U.S. Senate; the Honorable Donna E. Shalala, Secretary of the U.S. Department of
21 Health and Human Services; the Honorable Trent Lott, Majority Leader of the U.S. Senate;
22 the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; and to the
23 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
24 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.



Federal Budget & Tax Update

An Information Service of the AFI Federal Budget and Taxation Committee
February 2, 1999, Vol. 5, No. 1

President's Budget for FY 2000 Released State Tobacco Funds Targeted

The President's Fiscal Year 2000 Budget released on February 1, 1999 calls for \$1.765 trillion in funding for the president's fiscal priorities. The budget reserves 62% of the expected budget surplus (over the next 15 years) for Social Security Reform. The president intends to reserve the entire projected FY 2000 surplus, or 117.3 billion for Social Security reform (see chart below). The president's five-year proposal raises spending by \$30 billion.

The Projected Budget Surplus. The president's broad plan for the surplus includes the following:

- reserve 62% of the surplus for Social Security, setting aside roughly one-fifth of that portion for investment in private securities;
- reserve 15% of the surplus for Medicare;
- dedicate 12% to fund a new presidential initiative for Universal Savings Accounts; and
- reserve 11 percent of the projected surplus for military readiness and domestic priorities.

Presidential Priorities. The FY 2000 Budget includes many of the proposals previously announced by the White

House, including a \$1,000 tax credit for long term care costs (\$5 billion over five years) and for a variety of health care, education, environment, international affairs and defense proposals. In education, the president proposes to spend \$200 million for performance accountability, \$600 million for after-school services, \$450 million for technology, \$22 billion for school construction and \$1.4 billion to continue the administration's 100,000 new teachers initiative.

The budget increases funding for child care, including \$6.3 billion over five years to expand the child and dependent care tax credit, \$1.2 billion to increase the child care and development fund in 2000, \$3 billion over five years for a new Early Learning Fund and \$173 million in 2000 for quality improvements.

Labor spending includes \$965 million for job training, \$144 million in additional spending in Welfare-to-Work to support housing and transportation and \$150 million to states to support fathers' efforts to pay child support.

The budget increases the low-income housing tax credit from \$1.25 to \$1.75 per capita (\$1.7 billion in cost over five years).

	1998	Estimates					
	Actual	1999	2000	2001	2002	2003	2004
Receipts	1721.8	1806.3	1883.0	1933.3	2007.1	2075.0	2165.5
Outlays	1652.6	1727.1	1765.7	1799.2	1820.3	1893.0	1957.9
Reserve Pending Social Security Reform							
Surplus	69.2	79.3	117.3	134.1	186.7	182.0	207.6
On-budget Deficit (-)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Off-Budget Surplus	-29.9	-41.7	-12.2	0.2	44.4	31.4	49.8
Resources contingent upon Social Security Reform							
Defense	99.2	121.0	129.5	133.9	142.3	150.7	157.8
Non-Defense	5.6	17.1	13.0	15.0
Priority initiatives	15.1	19.7	16.5	9.2
Debt Service	1.6	4.1	7.0	9.9
Remaining Reserve	0.7	2.3	4.3	6.3
				107.2	143.6	141.3	167.3

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Health care spending includes \$930 million over five years to extend Medicaid benefits to legal immigrants, \$1.2 billion to help disabled workers buy into Medicaid and Medicare, and \$358 million for mental health grants. States would have the option to provide health care to legal immigrant children, to restore SSI eligibility to legal immigrants with disabilities, and to restore Food Stamp eligibility to certain aged immigrants (\$1.1 billion over five years). The proposal would allow states to provide health coverage to legal immigrant children and pregnant women under Medicaid or CHIP.

\$200 million supports state and local efforts to reduce emissions, \$800 million for the Clean Water State Revolving Fund, a reduction of \$55 million from 1999 levels, and \$825 million for the Drinking Water SRF, and increase of \$50 million over 1999.

Discretionary and Mandatory Offsets. Tobacco revenues, FAA user fees, health care savings, superfund revenues and other fees offset the \$17.1 billion in increased discretionary spending above the caps that the president recommends for 2000. Health care, student loan, revenue and other offsets totaling \$6.5 billion offset the class size, child care, health care, revenue initiatives and other mandatory program increases the president has proposed. Annual examination fees of state-chartered member banks of the Federal Reserve (\$450 million over five years) and state-chartered FDIC insured banks (\$458 million over five years) are included in the offset package.

Tax Plans. The president's budget includes an increase in the federal cigarette tax of 55 cents-per-pack and speeds up the timetable for the 15 cents-per-pack increase included in the 1997 BBA. These increases combined raise \$34.5 billion over five years. The budget offsets \$32 billion in spending by closing "tax loopholes and eliminating unwarranted benefits," the majority of these proposals are aimed at corporate taxes. Proposals that affect individuals include taxation of signing bonuses and income from residence rental, disallowance of interest on debt allocable to tax-exempt obligations, increased penalties for failure to file correct information on returns, withholding of gambling winnings, and a change to the foster child definition under EITC.

Human Services. The president's proposal restores Social Services Block Grant (Title XXI) funding to its authorized level of \$2.38 billion, an increase of \$471 million over 1999. The president decreases the amount of TANF that may be transferred to SSBG from 10% to 4.25%, providing federal savings of \$600 million in 2000. The budget reduces the TANF Contingency Fund by \$360 million along with a legislative proposal making it easier for states to access the money. The proposal freezes Supplemental TANF Grants for population increases at FY 1999 levels, for federal savings of \$241 million over five years.

The proposal also eliminates the child support hold harmless payment and reduces the match for establishing paternity from 90% to 66%, providing federal savings of \$324 million over five years and adjusts child support orders, saving the feds \$65 million over five years.

Recoupment of State Tobacco Funds. As suspected, the 2000 Budget includes the president's plan to recoup \$15.98 billion of the \$246 billion settlement reached between the tobacco industry and states during the five-year budget period. Recoupment would not begin until 2001 to allow time for a resolution of the expected federal-state dispute. NCSL opposes efforts by the federal government to recoup state tobacco funds. The administration states [we] "will work with the States and the Congress to enact tobacco legislation that, among other things, recoups the Federal States in exchange for a commitment by the states to use tobacco money to support state and State priorities which reduce youth smoking, promote public health and children's programs, and assist affected rural communities."

Medicaid Cost Allocation. As was done with Food Stamps in the Agricultural Research bill, the president's budget reduces state administrative funds by \$300 million annually. For the impact on individual states of this reduction see: <http://www.ffis.org/misc/cost.htm>.

Transportation. Transportation spending includes \$6.1 billion for public transit and \$2.4 billion for planning and congestion. Highway obligation is \$28.3 billion in 2000, an increase of \$1.8 billion above 1999 funding. While providing an increase, the levels set in the president's proposal violate TEA21 because rather than distributing the revenue aligned budget authority (RABA) proportionately to the five core highway programs, the administration prioritizes the increase of highway trust fund revenues to other specific categories within transportation. FAA budget authority is set at \$10.1 billion for 2000. The president proposes to eliminate general fund contributions to aviation, reducing funding for the Airport Improvement Program.

Pension Portability. The president's budget allows the use of 403(b) and Section 457 plan funds to purchase service credit through a direct transfer to state and local plans without having to take a taxable distribution of these amounts.

Support for Selected State Programs. A summary of Major discretionary and Mandatory Program funding prepared by Federal Funds Information for States follows this update. The information is available online in PDF format at <http://www.ffis.org/misc/99jmpb.pdf>

President Budget Available On-Line. Access the president's budget at <http://www.gpo.gov/usbudget>

MAJOR DISCRETIONARY AND MANDATORY PROGRAM FUNDING

(federal fiscal years, dollars in millions)

MAJOR DISCRETIONARY	FY 1998	FY 1999	FY 2000 Proposed	2000 VS. 1999	
				\$ Change	% Change
DEPARTMENT OF AGRICULTURE	34,577	34,647	34,775	3128	2.0%
WOMEN, INFANTS & CHILDREN (WIC)	3,924	3,924	4,105	181	4.6%
RURAL COMMUNITY ADVANCEMENT PROGRAM 1/	653	723	670	-53	-7.3%
DEPARTMENT OF COMMERCE	361	392	364	-28	-7.1%
ECONOMIC DEVELOPMENT ASSISTANCE	361	392	364	-28	-7.1%
DEPARTMENT OF EDUCATION	26,704	29,173	29,411	238	0.8%
TITLE I EDUCATION FOR THE DISADVANTAGED 2/	8,022	8,371	8,744	373	4.5%
GOALS 2000	491	491	491	0	0.0%
SCHOOL-TO-WORK (Education)	200	125	55	-70	-5.60%
TECHNOLOGY LITERACY CHALLENGE FUND	425	425	450	25	5.9%
IMPACT AID	808	864	736	-128	-14.8%
TITLE VI EDUCATION BLOCK GRANT	350	375	0	-375	n/a
EISENHOWER PROFESSIONAL DEV GRANTS	335	335	335	0	0.0%
CLASS SIZE REDUCTION	0	1,200	1,400	200	16.7%
DRUG-FREE SCHOOLS & COMMUNITIES	531	441	439	-2	-0.5%
SPECIAL EDUCATION 3/	4,811	5,334	5,450	116	2.2%
BILINGUAL AND IMMIGRANT EDUCATION	354	380	415	35	9.2%
CHARTER SCHOOLS	80	100	130	30	30.0%
WORK STUDY	830	870	934	64	7.4%
FELL GRANTS 4/	7,345	7,704	7,463	-341	-3.1%
FEDERAL SUPPLEMENTAL ED OPPORTUNITY	614	619	631	12	1.9%
VOCATIONAL & ADULT EDUCATION	1,508	1,539	1,738	199	12.9%
HEALTH AND HUMAN SERVICES	13,627	14,777	15,930	1,153	7.8%
SUBSTANCE ABUSE BLOCK GRANT	1,310	1,585	1,615	30	1.9%
MENTAL HEALTH BLOCK GRANT	275	289	359	70	24.2%
MATERNAL & CHILD HEALTH BLOCK GRANT	681	700	695	-5	-0.7%
CONSOLIDATED HEALTH CENTERS	825	925	940	15	1.6%
HEALTHY START INITIATIVE	96	105	105	0	0.0%
PREVENTIVE HEALTH BLOCK GRANT	149	150	120	-30	-20.0%
FAMILY PLANNING	203	218	240	22	10.1%
IMMUNIZATION GRANTS	410	421	526	105	24.9%
SEXUALLY TRANSMITTED DISEASES	112	124	131	7	5.6%
RYAN WHITE AIDS GRANTS	1,150	1,411	1,511	100	7.1%
HEAD START 5/	4,347	4,660	5,267	607	13.0%
CHILD WELFARE SERVICES	291	292	292	0	0.0%
COMMUNITY SERVICES BLOCK GRANT	490	500	500	0	0.0%
CHILD CARE & DEV BLOCK GRANTS	1,002	1,000	1,183	183	18.3%
LOW INCOME HOME ENERGY ASSIST	1,000	1,100	1,100	0	0.0%
REFUGEE ASSISTANCE	415	415	423	8	1.9%
ADMINISTRATION ON AGING	871	882	923	41	4.6%
HUD AND INDEPENDENT AGENCIES	13,241	13,530	13,171	-359	-2.7%
COMMUNITY DEV BLOCK GRANTS	4,805	4,750	4,725	-25	-0.5%
HOMELESS ASSISTANCE GRANTS	823	973	1,020	45	4.6%
HOME PROGRAM	1,500	1,600	1,585	-15	-0.9%
PUBLIC HOUSING OPERATING FUND	2,900	2,818	3,003	185	6.6%
EPA CLEAN WATER STATE REV FUND	1,350	1,350	800	-550	-40.7%
EPA DRINKING WATER STATE REV FUND	725	775	825	50	6.5%
PROGRAM AND INFRASTRUCTURE ASSISTANCE 6/	1,138	1,262	1,213	-49	-3.9%
DEPARTMENTS OF ENERGY AND INTERIOR	303	318	365	47	14.8%
WEATHERIZATION AND ASSISTANCE PROGRAM	125	133	154	21	15.8%
ABANDONED MINE REC FUND	178	185	211	26	14.1%
DEPARTMENT OF JUSTICE	4,021	4,056	2,457	-1,599	-39.4%
VIOLENCE AGAINST WOMEN	172	207	207	0	0.0%
COPIES/21st CENTURY POLICING 7/	1,430	1,430	1,275	-155	-10.8%
LOCAL LAW ENFORCEMENT BLOCK GRANT	523	523	0	-523	n/a
CRIMINAL ALIEN ASSISTANCE	585	585	500	-85	-14.5%
E BYRNE FORMULA GRANTS	505	505	400	-105	-20.8%
JUVENILE ACCOUNTABILITY BLOCK GRANT	250	250	0	-250	n/a
VIOLENT OFFENDER INCARCERATION	556	556	75	-481	-86.5%

(continued)

MAJOR DISCRETIONARY (cont'd.)	FY 1998	FY 1999	FY 2000 Proposed	\$ Change	% Change
DEPARTMENT OF LABOR	7,651	7,473	7,722	249	3.3%
DISLOCATED WORKERS	1,331	1,390	1,532	142	10.2%
ADULT WORKFORCE DEVELOPMENT	955	955	955	0	0.0%
YOUTH ACTIVITIES #1	0	0	1,001	1,001	n/a
YOUTH TRAINING GRANTS #1	130	130	0	-130	n/a
SUMMER YOUTH PROGRAM #1	871	871	0	-871	n/a
SCHOOL-TO-WORK (LABOR)	200	190	116	-74	-38.9%
EMPLOYMENT SERVICE STATE ADMIN	762	762	762	0	0.0%
ONE STOP CAREER CENTERS	163	147	150	7	2.0%
WELFARE-TO-WORK #2	1,105	993	1,000	107	12.0%
UNEMPLOYMENT COMP STATE ADMIN	2,114	2,135	2,206	71	3.3%
DEPARTMENT OF TRANSPORTATION	\$29,240	\$34,142	\$35,958	\$1,816	5.3%
AIRPORT OBLIGATION CEILING	1,700	1,950	1,600	-350	-17.9%
HIGHWAY OBLIGATION CEILING 10/	21,500	25,511	23,112	1,801	7.1%
HIGHWAY EXEMPT FROM CEILING	1,390	1,424	1,172	-292	-20.5%
STATE & COMMUNITY HIGHWAY SAFETY	150	150	150	3	2.0%
MASS TRANSIT:					
FORMULA GRANTS	2,500	2,850	3,310	460	16.1%
DISCRETIONARY GRANTS	2,000	2,257	2,451	194	8.6%
SUBTOTAL: DISCRETIONARY	\$99,725	\$108,508	\$110,153	\$1,645	1.5%

MANDATORY/ENTITLEMENT	FY 1998	FY 1999	FY 2000 Proposed	2000 VS. 1999	
				\$ Change	% Change
CHILD NUTRITION	\$8,797	\$9,183	\$9,568	\$385	4.2%
COMMODITY ASSISTANCE PROGRAM	141	131	155	24	18.3%
FOOD STAMPS	24,907	22,585	22,487	-98	-0.4%
SOCIAL SERVICES BLOCK GRANT (\$\$B0)	2,299	1,909	2,380	471	24.7%
CHILD HEALTH INSURANCE (CHIP)	4,235	4,247	4,249	2	0.0%
WELFARE REFORM					
Child Care Reimburse to States 11/	2,070	2,167	4,122	1,955	90.2%
Temporary Assistance to Needy Families (TANF)	16,653	17,034	16,640	-394	-2.3%
CHILD SUPPORT ENFORCEMENT	2,556	3,009	3,178	169	5.6%
FOSTER CARE, ADOPTION ASSISTANCE, AND					
INDEPENDENT LIVING	4,311	4,922	5,667	745	15.1%
FAMILY SUPPORT AND PRESERVATION	255	275	295	20	7.3%
MEDICAID VENDOR	99,137	102,265	108,258	5,993	5.9%
MEDICAID ADMINISTRATION	4,973	5,740	5,857	117	2.0%
VOCATIONAL REHAB STATE GRANTS	2,247	2,304	2,339	35	1.5%
SUBTOTAL MANDATORY/ENTITLEMENT	\$172,581	\$175,771	\$185,195	\$9,424	5.4%
TOTAL: SELECTED GRANTS-IN-AID	\$272,306	\$284,279	\$295,348	\$11,069	3.9%

FOOTNOTES

- 1/ This program incorporates the Rural Utilities Assistance Program.
- 2/ FY 1998 includes an advance appropriation of \$1.6 billion, and both FY 1999 and FY 2000 include an advance appropriation of \$6.1 billion.
- 3/ FY 2000 includes an advance appropriation of \$1.9 billion.
- 4/ The Administration is proposing a \$125 increase in the maximum Pell Grant Award to \$3,250 for FY 2000.
- 5/ FY 2000 Head Start funding includes \$338 million for Early Head Start.
- 6/ This program includes funding for the Mexican border, Alaskan native villages, categorical grants and infrastructure grants.
- 7/ The COPS program expires in FY 1999. The President proposes a similar "21st Century Policing Initiative" for FY 2000.
- 8/ Youth Training Grants and Summer Youth Programs were consolidated in Youth Activities in the Workforce Investment Act of 1998.
- 9/ The Administration is proposing to reauthorize this program for FY2000. The FY1999 funding level reflects a \$137 million reduction in P.L. 105-277.
- 10/ The President proposes to fund this program at \$1.4 billion less than the maximum amount provided in TEA-21.
- 11/ FY 2000 includes the President's proposal to provide an additional \$1.8 billion for low-income working families, early learning, and improving the quality and safety of child care.

FFIS Contact: Marcia Howard (202) 624-5322

NGA Contact: Jim Martin (202) 624-5315

FREQUENTLY ASKED QUESTIONS

- 1. Who are the parties to the Tobacco Settlement?** -The parties to the settlement include 46 states (Florida, Minnesota, Mississippi, and Texas had previously settled with the tobacco manufacturers), Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and the District of Columbia, Brown & Williamson Tobacco corporation, Lorillard Tobacco Company, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Commonwealth Tobacco, and Liggett & Myers.
- 2. What is the effective date of the tobacco settlement?** The parties signed the Master Settlement Agreement (MSA) on Monday, November 23, 1998, the Master Settlement Agreement Execution Date. States that sued the tobacco manufacturers must go to state court and file a motion for the approval of the settlement agreement by December 11, 1998. States that had not filed a suit, must go to state court to file suit and to make a motion to approve the settlement agreement by December 23, 1998. The effective dates for the non-economic provisions of the MSA vary, but many are related to the MSA Execution date (e.g. 60 days after the MSA Execution date). There are two important effective dates related to the economic provisions of the MSA: the **State Specific Finality Date** and the **Final Approval Date**. The State Specific Finality Date is the date when a state court gives final approval to the settlement and the consent decree. The Final Approval Date is the earlier of June 30, 2000 or the date when 80 percent of the states have obtained State Specific Finality and those states represent 80% of the payments.
- 3. When do the settlement funds become available to the states?** No funds can be dispersed to the states until Final Approval is attained. If the requisite number of states have not reached State Specific Finality **before** June 30, 2000, the funds will become available to all states that have reached State Specific Finality on June 30, 2000. If a state fails to obtain State Specific Finality by December 31, 2001, its participation in the settlement is terminated.
- 4. I understand that tobacco manufacturers will begin making payments in December 1998. Where will these funds go if they are not available to states until June 30, 2000?** The payments made by the tobacco manufacturers will be deposited into an escrow account. When a state obtains State Specific Finality, the funds that are to be allotted to that state will be moved from the general escrow account into a state specific escrow account, where the funds will accrue interest and will become available to the state on the Final Approval date.
- 5. What must states do to attain State Specific Finality?** States must get the settlement approved by a state court. This includes approval of the consent decree. In addition, all opportunities for appeal of the approval must have expired, so that the court's approval is final.
- 6. What will state legislatures need to do to implement the tobacco settlement agreement?** State legislatures will need to enact the model statute included in the Master Settlement Agreement (See question #12), regarding the treatment of non-participating manufacturers, before the state begins receiving its allotment from the settlement. In addition, if there is any question about the legislative appropriation of the settlement funds, legislatures may want to enact laws to clarify the treatment of the funds under state law. The settlement agreement is silent on that issue. Finally, the legislature should probably review the state's consent decree, the document that implements the settlement agreement in the state.
- 7. What is the purpose of the model statute included in the Master Settlement Agreement? What happens if my state fails to enact the statute?** The model statute creates a reserve fund for non-participating manufacturers to pay future claims, establishing a level playing field between participating and non-participating manufacturers. The model act must be enacted by states exactly as it is drafted in the MSA (Exhibit T) and as a stand-alone piece of legislation or the state must enact a "qualifying statute," as determined by a firm jointly retained by the settling states and the original participating manufacturers. The ruling of the

firm is final. A "qualifying statute" is defined in the MSA as a settling state's statute, regulation, law and/or rule (applicable everywhere the state has authority to legislate) that effectively and fully neutralizes the cost disadvantages that the participating manufacturers experience (as opposed to the non-participating manufacturers) experience as a result of the MSA. If a state fails to enact the model statute or if a state enacts the model and a court subsequently overturns it, the state allotment will be reduced by no more than 65 percent.

8. **When the Final Approval Date arrives and the funds become available to the states, who controls the funds?** The Master Settlement Agreement is silent on the matter; therefore the general belief is that the funds will be appropriated according to state law.
9. **How are the amounts each state will receive determined? Are the state allotments listed in the Master Settlement Agreement the actual amounts each state will receive?** The state allotments were established by a formula developed by the Attorneys General. These allotments are subject to a number of adjustments, reductions and offsets. In addition, the federal government is laying claim to more than half the settlement dollars. The exact amount a state will receive is the net of the listed allocation minus any adjustments, reductions and offsets and may also be subject to recoupment of any settlement funds attributable to Medicaid.
10. **What is the basis of the federal claim on state tobacco settlement funds?** The U.S. Department of Health and Human Services (DHHS) contends that existing Medicaid law (Section 1903(d) of the Social Security Act) compels it to recover its share (federal Medicaid matching percentage) of third party payments, collected by states on behalf of Medicaid clients, and argues further that state tobacco settlement funds are third-party recoveries under the provisions of the Medicaid statute. DHHS has "recouped" some funds from states that reached an earlier settlement agreement with the Liggett Group, but temporarily suspended the collection of state tobacco settlement funds pending comprehensive federal tobacco legislation. An amendment to the Medicaid statute that would exempt tobacco settlement funds from recoupment must be enacted to prevent the seizure of state tobacco settlement funds when they become available to states in 2000.
11. **Does the Master Settlement Agreement restrict or earmark the settlement funds?** No. States will determine how the funds will be spent.
12. **If the federal government adopts an excise tax on tobacco products, will my state receive less money from the tobacco settlement?** Maybe. Under the provisions of the settlement, if the federal government enacts a tax or fee on tobacco products, and uses the proceeds to provide either unrestricted funds to states or funds earmarked for health care or tobacco-related health care, these funds would be subtracted from the state allotment on a dollar-for-dollar basis. The **federal legislation offset** would not apply if the funds were earmarked for assistance to tobacco growers or impacted communities.
13. **Aside from determining funding priorities and enactment of the model statute, are there other legislative actions related to the tobacco settlement state legislators might consider?** Yes. The settlement agreement prohibits the sale and manufacture of cigarettes in packages of less than 20 cigarettes. This prohibition sunsets December 31, 2001. The settlement agreement also prohibits tobacco manufacturers from opposing state legislation prohibiting the sale and manufacture of these small cigarette packages. If a state wants to continue the ban, considered a key provision to discourage youth access to cigarettes, state legislation would be required. In addition, the settlement agreement identifies areas of state legislation, law and administrative rule related to youth access to tobacco products, that the tobacco industry is prohibited from opposing. That list provides a starting point for considering future legislation. Finally, there is a wide range of youth access issues that are not addressed in the settlement agreement that could be the subject of state legislative initiatives.



NATIONAL CONFERENCE of STATE LEGISLATURES

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January 19, 1999

The Honorable Bill Clinton
President of the United States
1500 Pennsylvania Avenue, NW
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Dear Mr. President:

We are writing to urge you to enact legislation early in the 106th Congress that will ensure that states retain all of their tobacco settlement funds. These funds result from the historic accord reached on November 23, 1998 between 46 states, U.S. territories and commonwealths and the District of Columbia and tobacco industry representatives. These funds result from the effort put forth by state attorneys general in which states solely assumed enormous risks and displayed determination to initiate a settlement that will lead to reduced youth smoking and reduced access to tobacco products. These accomplishments mirror similar efforts put forth by four states, Florida, Minnesota, Mississippi and Texas, that settled tobacco-related suits in 1997-98. Having displayed admirable leadership on this matter, states should not have these settlement funds compromised in any way. Furthermore, states are now in the midst of finalizing the settlement, carrying out the terms of the settlement agreement and making initial fiscal determinations about how to most responsibly apply settlement funds to public health and other needs. We cannot and should not be threatened with the seizure of these funds by any entity.

In the fall of 1997, states were notified by the U.S. Department of Health and Human Services (HHS) of its intention to "recoup" the federal match from funds states received through suits brought against tobacco manufacturers, citing a provision in existing Medicaid law. Since then, HHS has suspended recoupment activities. NCSL believes that suspension should be converted into an outright prohibition. States initiated the suits and the federal government played no role in these suits or the subsequent settlement agreement. Additionally, the settlement agreement makes no mention of Medicaid. It is clear to us that the federal government has no claim to these funds. We urge you to further clarify this through legislation.

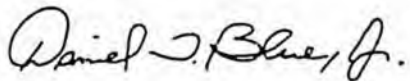
The nation's state legislators have made recoupment prohibition a top state-federal priority for 1999. We urge its enactment as expeditiously as possible. States are carrying out the directives of the settlement agreements and cannot tolerate any uncertainty as to the status of settlement funds or any other related matter. We also believe that swift enactment of a recoupment prohibition is critical to our mutual efforts to reduce youth smoking, abate youth access to

Denver
1100 North Capitol Street, Suite 700, Denver, Colorado 80202
Phone 303 830 2200 Fax 303 863 5013

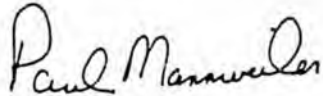
Washington
444 North Capitol Street, N.W. Suite 515
Washington, D.C. 20001
Phone 202 624 5400 Fax 202 737 1100

tobacco products and address the economic impact of anticipated demand for tobacco products.
We look forward to resolving this issue with you in the 106th Congress.

Sincerely,



Representative Dan Blue
House Democratic Majority Leader, North Carolina
President, NCSL



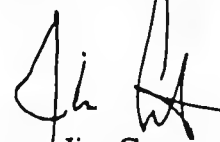
Representative Paul Mannweiler
House Republican Leader, Indiana
President-Elect, NCSL



Representative Pete Lancy
Speaker of the House, Texas
Chair, Assembly on Federal Issues, NCSL



Senator Richard Finan
Senate President, Ohio
Immediate-Past President, NCSL



Senator Jim Costa
State Senator, California
Vice-President, NCSL

HJR

12

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/16/99

FURTHER: § 3/20/99

DATE TURNED
IN TO OFFICE: 3/16/99

Finance Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 12(FIN)

Relating to federal claims against funds obtained by settlement of state tobacco litigation.

and recommends:

- be replaced with S CS CS H. 12 (FIN)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Paul E. Rice</i>	→	<i>See Only</i>	✓		
<i>Linda Green</i>	✓				
<i>Al Adams</i>	X				
<i>Kevin D. Sullivan</i>	✓				
<i>Sam White</i>	→				
Co-Chair: <i>John Morgan</i>	✓	Co-Chair:			
Co-Chair: <i>Nan Barnett</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

LAW	3/16/99	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No: 1
 Bill Version: CSHJR 12 (FIN)
 (H) Publish Date: 2/17/99
 BILL NO.

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Title: NO FED. CLAIM ON STATE TOBACCO
 SETTLEMENT
 Sponsor: Rep. Harris
 Requestor: H FIN

Dept. Affected: Law
 BRU: Civil Division
 Components: Fair Business Practices
 Serial # 2206

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	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

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This resolution has a zero fiscal impact. However, if federal law is not enacted to prevent HCFA from asserting its claim against the settlement money, the result could be a loss to the State of Alaska of \$400 million over 25 years.

Prepared by: House Finance Committee Date: 2/16/99
 Representative Eldon Mulder Phone: 465-2647
 Representative Gene Therriault Phone: 465-4797

SENATE FINANCE COMMITTEE

SIGN-IN

HJR 12-NO FED. CLAIM ON STATE TOBACCO SETTLEMENT

NAME: Down Gardner Sub./Bill No: HJR 12
Co./Dept./Title: Dep't of Law Phone: 2133
Address: Diamond Ct House Zip: Jensen

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond to Questions

HJR

13

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 8, 1999

FURTHER REFERRALS:

Date of Committee Action: 3/9/99

The FINANCE Committee considered:

HJR 13

HOUSE JOINT RESOLUTION NO. 13

UNIVERSITY ENDOWMENT FOR RESEARCH

Relating to using oil spill settlement funds to create an endowment for the sciences at the University of Alaska.

recommends it be replaced with the following committee substitute CS HJR 13 (FIN) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: _____

(Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) House HESS 3/8/99

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Care Theriault</i>	Theriault	X			
<i>John Mulder</i>	Mulder	X			
<i>Tom Bunde</i>	Bunde			X	
<i>Jim Kohring</i>	Kohring		X		X
<i>Al Austman</i>	Austman		X		
<i>John J. Davies</i>	J. Davies	X			
<i>Ben Grussendorf</i>	Grussendorf	X			
<i>Carl E. Moses</i>	Moses			X	
<i>Bill Williams</i>	Williams			X	
<i>Bob Foster</i>	Foster	X			

CO-CHAIR'S SIGNATURE

Care Theriault *John Mulder*
Theriault Mulder

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSHJR 13 (HES)
(H) Publish Date: 3/8/99

Revision Date: 3/2/99
Title: UNIVERSITY ENDOWMENT FOR RESEARCH

Dept. Affected: None
BRU: _____
Component: _____

Sponsor: Rep. THERRIAULT
Requester: _____

Component Serial No. _____

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS						
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by
Rep. Fred Dyson 
Co-Chair
House HESS

Phone _____
Phone _____
Date _____

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSHJR 13 (HES)

(H) Publish Date: 3/8/99

Revision Date: 3/2/99

Title: UNIVERSITY ENDOWMENT FOR RESEARCH

Dept. Affected: None

BRU

Component

Sponsor: Rep. THERRIAULT

Requester:

Component Serial No.

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES []	-					
------------------------	---	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by

Rep. Fred Dyson
Co-Chair
House HESS

Phone _____

Phone _____

Date _____

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



House Of Representatives

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

House District 33

CS HJR 13 (HES)

Sponsor: Representative Gene Therriault

Sponsor Statement

House Joint Resolution 13, "Relating to using oil spill settlement funds to create a long-term research and monitoring endowment," supports the recent action of the Exxon Valdez Oil Spill Trustees to create a long-term research and monitoring endowment using \$115,000,000 of the expected reserve.

The EVOS Trustee Council allocates money obtained from settlement of the Exxon Valdez spill litigation. Over the years, EVOS funds have largely been used to purchase land for habitat preservation, and have been lacking in the area of research. I believe this has left a critical gap in our understanding of this spill and how to respond in the future. Endowing scientific chairs at the University will help increase available baseline data, enhance the biological resources of the northern Gulf of Alaska, and significantly improve spill-related technology, restoration methods and ecosystem preservation. For example, it is widely understood that many aspects of the Exxon Valdez oil spill response, such as high-pressure washing of beaches and rock washing, may have caused more long-term harm than benefit. We also need to know if types of marine ecosystems are extra sensitive to certain cleanup activities, and if so, how we should respond to a spill in those areas.

An endowment of this nature will fulfill the intent of the Exxon Valdez oil settlement and the mission of the Trustee Council, which is to restore, rehabilitate, replace, enhance, or acquire equivalent resources and services in the oil spill region.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
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Fax: (907) 488-4271



House Of Representatives

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-1797
Fax: (907) 465-3881

House District 33

MEMORANDUM

DATE: March 3, 1999
TO: Members of the House Health, Education and Social Services Committee
FROM: Representative Gene Therriault
SUBJECT: House Joint Resolution 13

I would like to submit for consideration a possible Committee Substitute for House Joint Resolution 13. The substitute is in response to a resolution passed earlier this week by the Exxon Valdez Oil Spill Trustee Council.

The original HJR 13 urged the Trustee Council, which allocates money obtained through settlement of the Exxon Valdez oil spill litigation, to establish a \$100,000,000 endowment for the sciences at the University of Alaska. However, in a meeting March 1, 1999, the Trustee Council passed a resolution to set aside approximately \$115,000,000, and use the annual earnings to fund a combination of research, monitoring and general restoration. Because the Council's resolution encompasses the intent of HJR 13, the CS for HJR 13 has been amended to support the Trustee Council resolution and to encourage the Council to use a portion of the earnings to endow chairs at the University of Alaska in relevant areas of research, instruction and public service.

The Substitute incorporates an additional resolve regarding the manner in which EVOS funds can be invested. To provide a little background, the United States and the State of Alaska settled civil claims against Exxon in October 1991 for damages caused by the oil spill. Exxon agreed to pay \$900 million over ten years to the governments jointly. The United States required the trust funds, despite the fact that they were joint funds with Alaska, to be kept in accounts in the US Treasury. By order of the US District Court for the District of Alaska, all settlement funds have been paid into the Registry of the Court and deposited in the Court Registry Investment System (CRIS). CRIS is a cash management tool for handling court registry funds. It provides courts an easy and safe way to manage case-related funds that are periodically deposited with the court. CRIS was not designed to actively manage funds.

The federal law requiring EVOS funds to be deposited in CRIS causes two problems. First, all funds deposited in CRIS are assessed a fee of ten percent of interest earnings. Since 1991, the fund has been assessed more than \$2 million in fees. These fees are in addition to investment management fees. According to an independent auditor hired by the Trustee Council, the fees basically cover the services of one individual who determines what portion of funds are available for investment and directs a commercial bank to purchase government securities. The bank performs all record-keeping and bookkeeping services. The auditors found that the "fees charged for this service are clearly disproportionate to the costs incurred by the Court Clerk for this service."

The second problem is the fund's low rate of return. By law, funds deposited in Court Registry accounts can only be invested in U.S. government Treasury securities. The twelve month average rate of return for the period ending June 30, 1997 for the CRIS Fund was 5.12%, before fees. In contrast, the twelve month average rate of return ending June 30, 1997 for the State of Alaska Employees Retirement Fund, which consists of multiple asset classes, was 18%.

In its March 1 resolution the Trustee Council is seeking flexibility to move the joint funds out of the Registry of the Court and invest funds in appropriate accounts to maximize the revenues while maintaining the safety of the investments. The CS for HJR 13 supports this effort and urges the Alaska Congressional delegation to work with the Trustee Council to achieve this.

January 13, 1999

Voice of The Times
Anchorage Daily News

"Public support needed for spill endowment"

by Grant C. Baker

[Up]

The 10th anniversary of the 1989 Exxon Valdez Oil Spill (EVOS) is approaching soon. A spill symposium will be held from March 23-26 at the Egan Civic and Convention Center to commemorate the event.

Status of restoration programs will be presented. The programs are funded by the \$900 million settlement Alaska made with Exxon in 1991. Each year, a payment is made. The last settlement payment will be received from Exxon in 2001.

A portion of the settlement payments have been set aside each year to create a restoration reserve fund. The reserve is expected to be worth about \$140 million in 2002.

As the final payment grows near, the EVOS Trustee Council has the problem of deciding how to spend the reserve. Oil-damaged areas still need to be restored. Work is needed to fix sporadic and depressed fishery stocks, oiled seabed contamination and the lack of effective oil cleanup methods.

During the same time period since the spill, the financial woes of the University of Alaska have also been heard. The recent low price of oil worsens the problem for the University.

There seems to be a mutual solution to their problems. The needs of the EVOS Trustee Council mesh very well with the mission of the university. Thus, the reserve represents a rare opportunity for both to solve their problems by creating a university research endowment.

Universities across the country have recognized the importance of endowments for their future survival. An Internet search turns up hundreds of Web sites about university endowments.

In 1997, the top 300 university endowments ranged from about \$11 billion to a low of \$67 million. In comparison, the University of Alaska has an endowment worth about \$30 million.

How do university endowments work? First, an initial amount of money is placed into an account. The account earns interest or a rate of return from investments each year. Over the past four years, the average rate of return for 500 university endowments has been about 15 percent.

Part of the earnings is used each year to support things such as research and technology development. This is commonly about 5 percent of the endowment fund. Earnings that remain are left in the account. Each year the account grows and so does the annual amount that can be used. In many ways, an endowment for the University of Alaska would be like the Alaska Permanent Fund.

For example, suppose a \$100 million EVOS endowment is established today for the university. Assume for the sake of discussion that a 15 percent rate of return is used. Over the next 20 years, the endowment will increase nearly six-fold and be worth about \$600 million. An additional \$300 million would have been generated to conduct research.

However, the greatest benefit of an endowment may be the snowballing of opportunities it creates.

Earnings from a \$100 million endowment could fund about 25 permanent endowed research chairs. World-class experts are selected to do the work funded by the endowed chairs. Twenty-five experts in fields such as fisheries, biology, chemistry, and environmental engineering would create a very special university.

World-class experts attract funding from many sources including private industry, and state and federal agencies. Relationships with existing funding sources are enhanced and new funding sources are established. Additional income can be generated from patents and other intellectual properties. For example, Stanford University received about \$120 million from patents and special programs in 1997.

Thus, a broad funding base is generated with long lasting stability for the university and the community. An outstanding environment of teaching and learning is established. That is a natural attraction for students.

An endowment may be structured to do whatever the Trustee Council needs done. As a cooperative effort between the university and the Trustee Council, a customized endowment can be constructed to superbly fulfill the purpose of the EVOS settlement funds.

Public support for an endowment is growing. Resolutions of support have come from the Anchorage Assembly and the Greater Fairbanks Chamber of Commerce. Anchorage Mayor Rick Mystrom, Republican and Democratic legislators, students, and many others have submitted letters of support.

But, the Trustee Council is not yet convinced. It has not committed to the endowment idea.

An endowment can be the key to getting the University on track to become self-supporting. University officials and the Trustee Council need to be shown how well an endowment matches their needs. They need to be urged to get together and make an endowment happen.

Public comments of support are needed soon. The Trustee Council is scheduled to meet on January 21-22 to discuss how the Restoration Reserve will be spent.

The mailing address for the Trustee Council is 645 G St. Suite 401, Anchorage, AK 99501. Addresses and phone numbers for individual Trustee Council members, legislators, and university officials may be obtained from the Internet WEB site at:

<http://www.alaska.net/~baker/evos.htm>

As the 10th anniversary of the spill approaches, the Trustee Council would serve itself and Alaskans well by making sure a university endowment happens as part of the spill legacy.

Dr. Grant C. Baker is a faculty member of the University of Alaska Anchorage, an alumnus of the University of Alaska Fairbanks, and a Prince William Sound commercial fisherman.

Wildlife still hurt by spill

2/10/99

Recovery slow for many species

By MAUREEN CLARK
The Associated Press

Ten years after the tanker Exxon Valdez spilled 11 million gallons of crude oil into Prince William Sound, only two of the nearly two dozen species hurt by the disastrous spill are fully recovered, according to the state-federal panel overseeing restoration of the spill area.

The Exxon Valdez Oil Spill Trustee Council on Tuesday updated the official status of the birds, fish and marine mammals hurt by the spill.

The council added river otters to its list of species considered recovered. They join bald eagles, which were declared recovered 2½ years ago.

The March 24, 1989, spill fouled 1,300 miles of shoreline and killed hundreds of thousands of seabirds and thousands of otters, seals and other animals. It also disrupted salmon and herring fisheries for several years.

Environmentalists used the trustees' update as an opportunity to call for Washington lawmakers to oppose Exxon Corp.'s \$77.2 billion takeover of Mobil Corp.

"We're having trouble holding Exxon accountable," said Rikki Ott, a biologist and activist from Cordova.

Exxon should be required to pay a \$5.2 billion jury verdict resulting from the spill before the company gets any bigger, Ott said. Exxon's appeal of the 1994 award is before the 9th U.S. Circuit Court of Appeals.

Exxon officials in Irving, Texas, had no comment Tuesday on the trustees' findings or on calls to halt the takeover, spokesman Ed Burwell said.

The trustee council had been considering adding pink salmon to the list of recovered species, but decided against that, said Stan Senner, science coordinator for the council.

"There is a great deal of concern about lingering effects of oil in subtidal areas," Senner said. Scientists study-

SPILL: Species still recovering

Continued from Page B-1

ing the effects of the spill have found that even small quantities of oil can damage salmon eggs.

Along with pink salmon in the "recovering" category are mussels, red salmon, and the common murre, a small seabird. About 20,000 oiled murrets were found dead in the months after the spill — three-fourths of all the dead birds recovered in the period.

The trustees voted Tuesday to boost the status of several species from "not recovering" to "recovering." They include clams, Pacific herring, sea otters, black oyster catchers, and marbled murrelets. The marbled murrelet is listed as a threatened species in Washington, Oregon, California, and British Columbia.

Several species continue to show little or no clear improvement since the spill, the council said. They include the common loon, cormorants, harbor seals, harlequin ducks, killer whales and pigeon guillemots.

Very little is known about some species hurt by the spill, so the status of their recovery is unknown. Senner said. Those include cutthroat trout, Dolly Varden, Kittitz's murrelet and rockfish.

University of Alaska President
Mark R. Hamilton
Support for Creating Endowed Chairs and Research Endowment
with the EVOS Restoration Reserve
[Up]

September 28, 1998

Exxon Valdez Oil Spill Trustee Council
645 "G" Street
Anchorage, AK 99501

Dear Trustees:

Beginning in 1993, the University of Alaska, along with a significant portion of the Alaska public, has been requesting the Trustee Council maximize the long-term impact of the Exxon settlement through the establishment of a research endowment and the creation of University endowed chairs in appropriate disciplines. Now, in 1998, with over 85% of the EVOS Restoration Reserve expended, no research endowment in place, and no endowed chairs established, I urge you to seriously reconsider these proposals.

Although significant research projects have been supported by the Council, many important areas of inquiry remain that can only effectively be addressed over an extended period of time. Additionally, there are significant areas of applied endeavor relating to spill technology, restoration methods, and ecosystem preservation that have been learned from work thus far that now needs to be pursued and extended for maximum public benefit.

The establishment of an endowment with a major portion of the remaining Reserve will provide a modest annual flow of funds that will allow, through direct grants and leveraging of additional state, federal and private funds, the continuation of important basic and applied research on the coastal ecosystem of the EVOS impacted area. Additionally, the establishment of selected endowed chairs in relevant instructional, research and/or public service programs would further assure that the lessons learned from the Exxon tragedy will continue to be explored and discussed in classrooms, laboratories, public seminars, and community outreach programs.

Although, it seems most appropriate for the EVOS endowment to be established through the University of Alaska, it would be my recommendation that proposals for annual funding be accepted from all sources, including federal and state government. To secure the maximum benefit for the state and particularly the EVOS impacted area, the earnings of the endowment should support priorities established by the advisory group representing regional interests, including those of major industries, state and federal government, scientific representatives, and regional fisheries and aquaculture associations.

I have tremendous respect for the difficult and controversial task that you have performed on behalf of Alaska and the magnificent region that was impacted by the Exxon oil spill. I urge you now to give your support to the proposal for establishment of a permanent endowment to assure that the spill response technology, environmental restoration and monitoring programs, and public education projects that you have initiated and supported will continue long into the future.

Sincerely,
Mark R. Hamilton
President

POSITION STATEMENT

**Representative Eric Croft
Letter of Support for University Endowment
from EVOS Restoration Reserve Fund**

October 15, 1998

Ms. Molly McCammon, E.D.
Exxon Valdez Oil Spill Trustee Council
645 G. Street, Suite 401
Anchorage, AK 99501

Dear Molly,

It was a pleasure speaking with you following the Legislative Budget and Audit Committee meeting earlier this month. I'm glad you viewed the committee's rejection of the Afognak purchase as a victory, and plan to proceed with executive approval despite the committee's disapproval.

I'm also interested in another proposal proffered to the Trustee Council: establishing endowed research centers and chairs at the University of Alaska with EVOS Restoration Reserve Funds.

Such endowment would greatly assist the council in accomplishing its mission to "effectively restore the environment injured by the spill to a healthy, productive ecosystem, while taking into account the importance of quality of life and need for viable opportunities to establish and sustain a reasonable standard of living." Every dollar would provide a return investment for our students, researchers, business and industry, impacted communities and our environment.

Please tell me what consideration the council has given to this proposal, and how inclined they are to support it. Thanks for all your efforts.

Sincerely,

Representative Eric Croft

William R. Wood

President Emeritus
University of Alaska

Support for creating a University Endowment
with EVOS funds

[Up]

Festival Fairbanks
A non-profit Community Service Organization

September 16, 1998

EVOS Trustee Council
Restoration Office
645 G. Street, Suite 401
Anchorage, AK 99501

Having spent a good many years working with, listening to, and learning from scientists and long-time residents of Alaska and other polar regions, I share their concern about the future of the North. Now past ninety-one, my own interest in the work of the Exxon Valdez Oil Spill Commission is more than casual.

Your assignment is of critical importance to the future of the North, its people, and the proper direction of the region's potential special contribution to the rest of the world. You represent the major opportunity to assure that something genuinely meaningful and long-lasting is undertaken.

What to try and why? There is no simplistic, one-shot solution that will make much difference, if any. Many "nice to have" proposals will be advanced; few are apt to be fundamental and long term. Obviously, however, there is a continuing need to know, to learn all that is possible about the many facets of the macro- and micro-environments of the North and their relationships.

Such an educational undertaking to succeed must reach out to future generations. The process should be one to stimulate the intellect rather than centered only on emotion. It should provide endless occasions to observe, to analyze, to weigh and consider, to cope with problems practically, to make reason-based decisions to do or not to do. The exercise is long-term and vital.

I strongly endorse, therefore, suggestions that the EVOS Restoration Plan include adequate provision for establishing a sound future-oriented program of research and top-level instruction of a few who would be in key positions to accumulate and spread knowledge of the North to the many.

This might best be done through "endowed chairs" at a major university located in the region to be understood, protected, and utilized wisely.

The endowed chairs could be in various disciplines. Mostly scientific, but not all. The creative arts that focus on natural forms add an essential dimension to full understanding and appreciation.

Of course, botany, chemistry, zoology, geology, physics, mathematics, and all of the geophysical, marine and oceanography disciplines, so important in Alaska.

But more. Work in anthropology, art, architecture, music, drama, dance, creative writing all have a contribution to make. The opportunity should provide for a multi-dimensional thrust. A cluster of six or seven such endowed chairs for associated programs would build a concentration of talent, an essential critical mass, each unit strong enough to compliment the others and together make a major difference in perception and understanding toward accomplishing the basic goals of the Commission.

For this assemblage of the "top of the best for the top of the world," I suggest the University of Alaska, a land-grant, space-grant institution, with some very special tools in place: a world scale library, a state-of-the-art supercomputer, a rocket launching range, a synthetic aperture radar facility, a research vessel, coastal laboratories, and research stations with considerable remote monitoring capability.

There is no other institution quite like the University of Alaska. It is becoming a well-recognized international research center and a source of information specializing in knowledge of the arctic and sub-arctic. It is the right place at the right time for the endowed chairs suggested to carry on the mission of the Commission.

Respectfully,

Wm. R. Wood
President (Emeritus)
University of Alaska

Anchorage Mayor Rick Mystrom
Letter of Support for establishing a University Endowment
from EVOS funds.
[Up]

September 11, 1998

EVOS Trustee Council
645 G Street, Suite 401
Anchorage, Alaska 99501

Dear Trustees:

I concur with UAA Chancellor Lee Gorsuch and the Anchorage Assembly and wish to add my support for establishing a research endowment from the EVOS funds within the University of Alaska.

There are numerous benefits to be gained for both the Trustee Council and the City of Anchorage from such an endowment. Our mutual interests and needs mesh very well with the purpose and capability of UAA.

Anchorage is centrally located near two main areas damaged by the spill. Cook Inlet and Prince William Sound are known spill damaged areas continuing to recover. The road to Whittier will soon be completed and will make Prince William Sound much more accessible. Anchorage is a logical choice for spill-based operations since logistics and other costs associated with research and other spill related work could be minimized. Also, several Native Corporations have offices located in Anchorage that over-see spill damaged areas.

I am pleased to endorse the concept of the establishment of a University endowment. It promises numerous benefits for the people of Anchorage and all Alaskans and also serve the mission of the Trustee Council.

Sincerely,

Rick Mystrom
Mayor

**Letter of Support from
Alaska Senator Frank H. Murkowski
for creating a University of Alaska endowment
from the EVOS Restoration Reserve fund
[Up]**

United States Senate
Committee on Energy and Natural Resources
Washington, DC

Senator Frank H. Murkowski
Chairman

September 22, 1998

Ms. Molly McCammon
Executive Director
EVOS Trustee Council
645 G. Street, Suite 401
Anchorage, Alaska 99501

Dear Molly:

I strongly believe it is time to focus attention of the remaining Exxon Valdez Oil Spill (EVOS) funds toward a long term understanding of the Prince William Sound ecosystem and not on a short term goal of habitat acquisition. Therefore, I want to voice my strong support for creating an endowment for the University of Alaska from EVOS Restoration Reserve funds. The creation is an excellent way to combine the goals of the Trustee Council with the capabilities of the University.

In this regard, I am very proud of the efforts by Alaskans to create an endowment. Recent resolutions passed by the cities of Anchorage and Fairbanks show that Alaskans understand the value of their University in meeting the needs of Alaskan communities. Letters of support from UAA Chancellor Lee Gorsuch, UAF Chancellor Joan Wadlow, UAF Alumni, and University faculty and students show that the University wants to serve the public and has the capability to do so. The many of other letters of support from Mayor Mystrom, and the Voice of the Times provide further confirmation that creating a University endowment is the right thing to do.

I hope you will consider the growing numbers of Alaskans who are expressing their opinion in support of endowed chairs and centers within the University of Alaska at your earliest convenience.

Thank you for consideration of this request.

Sincerely,

Frank H. Murkowski
Chairman
