

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4373 SSTA SCR 34 - HB 17

252



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

SCR

34

Alaska State Legislature

CO-CHAIRMAN
FINANCE COMMITTEE

907-465-3740



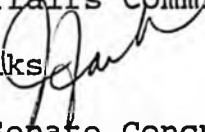
JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

February 26, 1986

MEMORANDUM

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Senator Jan Faiks 

SUBJECT: Background on Senate Concurrent Resolution 34

Very simply, this resolution will encourage the State of Alaska to award service contracts to Alaskan businesses rather than to non-residents.

Although the resolution addresses professional and service contracts in general, I am most familiar with the situation in our resident advertising industry. There the state has awarded two contracts for advertising and public relations services to companies who are based outside of Alaska. The total dollar value of these contracts is \$8.5 million.

In the first instance, the Division of Tourism has awarded a \$5.5 million contract to a San Francisco firm. Although the firm has an informal relationship with an Anchorage advertising company, it is my understanding that the actual portion of services and contract dollars going to that company are minimal.

The tourism contract is purely a negotiated agreement, and so the Alaskan firms who presented proposals for it are not being turned away because they are too costly. For the past twelve years, this contract has been awarded to either Honolulu or San Francisco companies.

The other state contract is a \$3 million advertising award for the Alaska Seafood Marketing Institute. This contract is currently being held by a Seattle advertising company.

OUT OF SESSION

1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611

I find it hard to believe that our companies are not considered "qualified" for these contracts, since Alaska firms are now being used by all of the major oil companies who do business in the state. If our firms lack a particular skill or capability, I believe that it would be more appropriate and cost effective to award the the general contract to a local firm and allow it to subcontract particular portions to outside specialists.

According to a recent survey in Ad Week magazine, the State of Alaska is the only state government in the Union who sends its advertising dollars to out-of-state companies. I believe that it is hypocritical for us to push "local hire" on the private sector, most of whom do spend advertising dollars locally, and at the same time spend the state's own money on outside services.



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James A. Smith
Signature of Camera Operator

11/24/89
Date

SJR

8

Alaska State Legislature

Senate Transportation Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-chairman
Sen. Mitch Abood
Sen. Jan Faiks
Sen. Joe Josephson

Douch V
Juneau, Alaska 99811

February 22, 1986

To: Members of the Senate State Affairs Committee
From: Senator Jack Coghill
Re: SJR 8

A large, stylized handwritten signature in black ink, likely belonging to Senator Jack Coghill, written over a horizontal line.

This letter is in response to the questions your committee posed to my staff member, Blake Call, during the hearing on SJR 8 last week. I apologize for not being at the hearing. I had previous commitments.

To committee had two questions on the wording and the actions of the resolution.

1. Senator DeVries questioned the wording on page one, line 26. Specifically, she asked why there was no reference to the calling of a constitutional convention for specifically dealing with a balanced budget amendment.

The answer to that is this: the fifth whereas of SJR 8 (which line 26 is a part of) deals with the powers that states have in calling constitutional conventions, not with the specific call for a constitutional convention that is mentioned on page 2, lines 2, and lines 11-12. Line 26, page 1, then, deals only with the powers of states and is not in contradiction to the two other mentions of a call for a constitutional convention.

2. Senator Victor Fischer questioned the ability of a present legislature to rescind a legislative resolve from a previous body and requested a legal opinion. The simple answer would be that the legislature is constantly rescinding the actions of previous legislatures each time that it writes new laws and amends existing ones. My staff contacted legal services regarding the legality of rescinding a previous legislative resolve as per your request. Attached is the response from legal services on that question. The most firm answer that we were able to get was that the question is debatable, and that there is nothing to prevent the legislature from rescinding a previous resolve.

I hope that this answers your questions, I look forward to addressing the committee in person as soon as possible on this very important resolution.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 20, 1986

SUBJECT: Request by the state for a Constitutional Convention (SS SJR 8)

TO: Senator Jack Coghill

FROM: Tamara Brandt Cook
Director *TBC*
Division of Legal Services

You have asked whether the state may withdraw a request for a constitutional convention to consider an amendment to the United States Constitution. The question arises in the context of Legislative Resolve No. 1, SLA 1982 by which the legislature requested Congress to submit to the states for ratification an amendment which would require a balanced federal budget and, in the alternative, requested that a convention be called for the purpose of proposing the amendment.

Article V of the Constitution of the United States provides for the amendment of the constitution as follows:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendment to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Senator Coghill
Page 2
February 20, 1986

Thirty-two proposed amendments to the constitution have been submitted to the states for ratification upon the vote of Congress and the convention method has never been used. Consequently, many questions remain unresolved regarding the application of the convention method of proposing amendments to the constitution. (The Constitution of the United States of America, Analysis and Interpretation, U. S. Government Printing Office, Washington, D.C., 1973) Among the undecided questions is the one that you ask -- whether a state that has requested a convention may rescind that request.

Although the validity of the withdrawal of a request for a constitutional convention has not been considered, the related question of whether a resolution to ratify an amendment may be rescinded by a state has come up. The Fourteenth Amendment was ratified by Ohio and New Jersey, both of which subsequently passed rescinding resolutions. The legislatures of Georgia, North Carolina, and South Carolina rejected ratification, but new legislatures subsequently ratified the amendment. The Secretary of State issued a proclamation reciting that 29 states had ratified, including the two which had rescinded and the three which had ratified after first rejecting the amendment, and noted that, if all the ratifications were valid, the amendment itself had been ratified. Congress adopted a resolution the next day listing all 29 states which had ratified and concluding that the ratification process was completed, (The Constitution of the United States, supra, 1978 Supplement, pages 572-578).

Based partly upon the Fourteenth Amendment precedent, in a later case six of the eight participating Justices agreed that the power of rejecting states to ratify and the power of ratifying states to rescind presented political questions and that Congress' discretion to decide the issues was final and unreviewable by the courts, (Colman v. Miller, 307 U. S. 433 (1939)). Justice Black with three other Justices would have gone further and held that Congress had the final, unreviewable determination with respect to every step in the process of submission and ratification of a constitutional amendment. The problem was recently presented again during the Equal Rights Amendment ratification process, but left unresolved.

If the United States Supreme Court follows the precedent of the Fourteenth Amendment and the reasoning in Colman v. Miller it would appear that the question of whether a state may withdraw a request for a constitutional convention would

be a matter left to Congress to decide, rather than the court. The Special Constitutional Convention Study Committee of the American Bar Association has also concluded that Congress has the power to determine procedures for the calling and conduct of a national constitutional convention. (Amendment of the Constitution by the Convention Method under Article V, American Bar Association, 1974). In any case, the function of a state legislature in amending the federal constitution is derived entirely from the United States Constitution and questions regarding that function cannot be resolved at the state level, (Opinion of the Justices of the Senate, 366 N.E.2d 1226 (Mass. 1977)). Consequently, assuming that is the desire of the legislature, it appears that the only course the state has is to rescind its call for a convention and wait for the federal government to determine whether or not that rescission is effective.

Congress has considered legislation that would establish procedures for conducting a constitutional convention, although none has passed yet. (See S. 215, 1967; S 1272, 1973) The proposals have included a provision allowing a state to withdraw a request for a convention if this is done before two-thirds of the states have requested a convention on the same topic. This suggests that Congress is likely to find that Alaska may withdraw its request in this situation.

In passing I note that questions can be raised regarding the legal effect of Legislative Resolve 1, SLA 1982 itself. The request for a constitutional convention is conditioned upon limiting the subjects taken up at the convention. Otherwise, according to the resolution, "...this application and request shall no longer be of any force or effect...". There is considerable debate over whether a constitutional convention once called can be limited in scope but, since the situation has not come up, the debate has been strictly academic. While the Special Constitutional Convention Study Committee of the ABA concluded that a limited convention may be called, other commentators disagree. If a convention cannot be limited or can be, but isn't, will this request for a convention nevertheless be given effect? Even if the convention is limited in scope, does the fact that the state's request is conditional render the request somehow invalid?

TBC:csh
c6/003



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James O. Smith
Signature of Camera Operator

11/24/89
Date

SJR

43

Introduced by: Mayor and Council
Members

Date : February 13, 1984

RESOLUTION NO. 2504

A RESOLUTION SUPPORTING THE ARCTIC WINTER GAMES
TO BE HELD IN FAIRBANKS.

WHEREAS, Alaska's greatest resource is its people; and

WHEREAS, athletic activity is a vital part of the community and
creates an atmosphere of competition, excitement and fun; and

WHEREAS, the Arctic Winter Games are held in the Northwest
Territories, Yukon Territory and Alaska in rotation, and

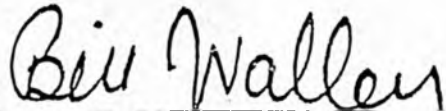
WHEREAS, the Fairbanks North Star Borough and the City of
Fairbanks and their people have successfully hosted the Arctic Winter
Games in the year 1982; and

WHEREAS, Fairbanks has adequate facilities for hosting
the Arctic Winter Games; and

WHEREAS, the Arctic Winter Games are good for the community as
a whole;

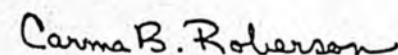
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF FAIRBANKS, ALASKA, that the City Council of the City of Fairbanks
joins with the Fairbanks North Star Borough in encouraging the Arctic
Winter Games Corporation to hold the 1988 Winter Games in Fairbanks and
agrees to send a representative to Yellowknife, Canada to bid to have the
Arctic Winter Games in Fairbanks in 1988.

PASSED and APPROVED this 13th day of February, 1984.



Bill Walley, Mayor

ATTEST:



CARMA B. ROBERSON, City Clerk

By: Phil Younker
Introduced: 02/23/84
Adopted: 02/23/84

RESOLUTION NO. 84-15

A RESOLUTION SUPPORTING THE ARCTIC WINTER GAMES
TO BE HELD IN FAIRBANKS

WHEAREAS, Alaska's greatest resource is its people; and

WHEAREAS, athletic activity is a vital part of the community and creates an atmosphere of competition, excitement and fun; and

WHEREAS, the Arctic Winter Games are held in the Northwest Territories, Yukon Territory and Alaska in rotation, and

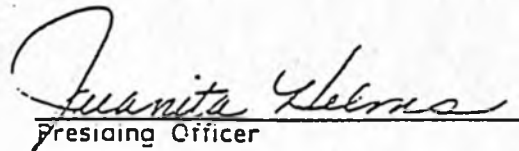
WHEREAS, the Fairbanks North Star Borough and the City of Fairbanks and their people have successffully hosted the Arctic Winter Games in the year 1982; and

WHEREAS, Fairbanks has adequate facilities for hosting the Arctic Winter Games; and

WHEREAS, the Arctic Winter Games are good for the community as a whole;

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRBANKS NORTH STAR BOROUGH ASSEMBLY, THAT THE FAIRBANKS NORTH STAR BOROUGH ASSEMBLY joins with the City Council of the City of Fairbanks, in encouraging the Arctic Winter Games Corporation to hold the 1988 Winter Games in Fairbanks and agrees to send a representative to Yellowknife, Canada to bid to have the Arctic Winter Games in Fairbanks in 1988.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 1984.



Presiding Officer

ATTEST:



Clerk of the Assembly

RESOLUTION 85-5

A RESOLUTION OF THE CITY OF NORTH POLE, ALASKA
SUPPORTING THE CITY OF FAIRBANKS IN ITS BID TO
HOST THE 1988 ARCTIC WINTER GAMES

WHEREAS, the Arctic Winter Games are held on a rotational basis in the Northwest Territories, Yukon Territory and Alaska; and

WHEREAS, the people of the Fairbanks North Star Borough successfully hosted the 1982 Arctic Winter Games; and

WHEREAS, the City of Fairbanks has adequate facilities for hosting the Arctic Winter Games; and

WHEREAS, athletic activity is a vital part of the community and creates an atmosphere of competition, excitement and fun; and

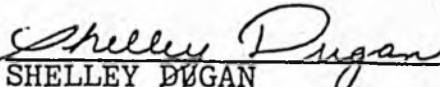
WHEREAS, the Arctic Winter Games are good for the Fairbanks North Star Borough community as a whole;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Pole, Alaska, that the North Pole City Council joins the Fairbanks City Council and the Fairbanks North Star Borough Assembly in encouraging the Arctic Winter Games Corporation to hold the 1988 Winter Games in Fairbanks and supports sending a representative to Yellowknife, Canada to bid to have the 1988 Arctic Winter Games in Fairbanks, Alaska.

PASSED AND APPROVED this 22nd day of October, 1985.


MAYOR CARLETA LEWIS

ATTEST:


SHELLEY DUGAN
CITY CLERK

INTRODUCED: October 22, 1985

ADOPTED; October 22, 1985

Introduced: 2/27/86
Referred: State Affairs

Written 5 day rule -
For inclusion.

C
see pls
M

1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST

2

SENATE JOINT RESOLUTION NO. 43

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

Relating to Fairbanks as the nominee for

6

the site of the 1988 Arctic Winter

7

Games.

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

9

WHEREAS the state's greatest resource is its people; and

10

WHEREAS athletic activity is a vital part of the community and creates

11

an atmosphere of competition, excitement, and fun; and

12

WHEREAS the Fairbanks North Star Borough and the City of Fairbanks

13

and their people previously hosted the Arctic Winter Games; and

14

WHEREAS Fairbanks possesses adequate facilities and the warm hospi-

15

talidity for a successful Arctic Winter Games; and

16

WHEREAS the Arctic Winter Games are held on a rotational basis in the

17

Northwest Territories, Yukon Territory, and Alaska;

18

BE IT RESOLVED by the Alaska State Legislature that it fully endorses

19

the efforts of the Fairbanks North Star Borough, the City of Fairbanks, and

20

the City of North Pole to bring the 1988 Arctic Winter Games to Fairbanks

21

and urges the Arctic Winter Games Site Selection Committee to select

22

Fairbanks, Alaska as the nominee for the site of the 1988 Arctic Winter

23

Games.

24

COPIES of this resolution shall be sent to the Fairbanks North Star

25

Borough Assembly, the City Council of the City of Fairbanks, and the City

26

Council of North Pole.



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James A. Smith
Signature of Camera Operator

11/24/89
Date

SJR

46

Introduced: 3/4/86
Referred: State Affairs

1 IN THE SENATE

BY THE RULES COMMITTEE

2 SENATE JOINT RESOLUTION NO. 46

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Relating to democracy in the
6 Philippines.

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

8 WHEREAS Corazon Aquino has become President of the Philippines follow-
9 ing a contested and controversial election; and

10 WHEREAS the transition from the 20-year presidency of Ferdinand Marcos
11 to the presidency of Corazon Aquino occurred peacefully in spite of the
12 grave potential for civil war; and

13 WHEREAS the nonviolent political action and civil disobedience of the
14 Philippine people was consistent with the high principles of Mahatma Gandhi
15 and Martin Luther King; and

16 WHEREAS the new era of political freedom will strengthen the cause of
17 democracy in the Philippines and will give hope to oppressed peoples every-
18 where; and

19 WHEREAS Alaskans of Filipino descent and other residents of the state
20 are encouraged by the developments in the Philippines;

21 BE IT RESOLVED that the Alaska State Legislature respectfully extends
22 its congratulations to Corazon Aquino upon her inauguration as President of
23 the Philippines; and be it

24 FURTHER RESOLVED that the Alaska State Legislature praises the coura-
25 geous and peaceful political action of the Philippine people in strengthen-
26 ing the cause of democracy and freedom; and be it

27 FURTHER RESOLVED that the Alaska State Legislature extends its best
28 wishes for prosperity and success in the future to the Philippine people
29 and to President Aquino.
S

1 COPIES of this resolution shall be sent to the Honorable Ronald
2 Reagan, President of the United States; to the Philippine Ambassador to the
3 United States; and to the Honorable Ted Stevens and the Honorable Frank
4 Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,
5 members of the Alaska delegation in Congress.
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SUMMARY OF CHANGES APPEARING IN DRAFT CSSB 46 (SA)

1. Page 1, line 14. Delete 'Philippine' and insert 'Filipino'
2. Page 1, line 25, after 'the'. Delete 'Philippine' and insert 'Filipino'
3. Page 1, line 28, after 'to the'. Delete 'Philippine' and insert 'Filipino'
4. Page 2, line 2, after 'President of the United States'. Insert 'to the Honorable Corazon Aquino, President of the Philippines;'



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James O. Smith
Signature of Camera Operator

11/24/89
Date

HB

14

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/7/85

Date 3/26/85

Mr. President

The Committee on STATE AFFAIRS considered CSHB 14(Fin)

making members of the Alaska Territorial Guard eligible for a death gratuity; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Edna H. ...
V. J. ...
Tom Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
 Chairman

[Signature]
 Chairman recommendation

REQUEST

Bill/Resolution No.: HB14
Title: Veterans Burial Allowance
Alaska Territorial Guard
Sponsor: Fuller and Wallis
Requestor: Military & Vets Affairs
Date of Request: 16 January 1985

FISCAL DETAIL

Agency Affected: Military & Veterans Affairs
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected:
Veterans Affairs (Veterans Benefits)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		3.0	3.0	3.0		
800 MISCELLANEOUS						
TOTAL OPERATING		3.0	3.0	3.0		

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		3.0	3.0	3.0		
FEDERAL FUNDS						
OTHER						
TOTAL		3.0	3.0	3.0		

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Amend Chapter 98 SLA 82 to add members of the Alaska Territorial Guard as those eligible to receive a State Burial Allowance of \$750. It is estimated that this bill would affect four families annually.

Prepared By: Richard L. Rountree, Director
Division: Administrative & Support Services

Phone: 465-4600
Date: 16 January 1985

Approved by Commissioner: MG Edward G. Pagano
Agency: Dept. of Military & Veterans Affairs

Date: 16 January 1985

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

fiscal note Dept MA

7/1/84

EXPLANATION OF FISCAL NOTE: *HB-14*

The Territorial Guard was in existence from 1941 until 1947, with about 5,000 individuals on the roster. The members constituted approximately 10% of the population. These people would now be in their mid- to late-70's.

According to Labor statistics, Alaska has approximately 5,000 people over 75 today. If we assume that the Territorial Guardsmen would also number 10% of that population, then there may be about 50 of them left. This figure assumes that none died, moved away, or entered another branch of service with eligibility for the burial allowance. And, of course, many of the individuals in the state over 75 today likely were not here in the early 40's.

You can see that the figure of 50 is a rough estimate, and in all likelihood much larger than it ought to be, but it does represent the Department's best guess as to how many members of the former Alaska Territorial Guard are surviving today. There is no way of figuring the exact number. Therefore, an assumption of four members a year applying for the burial allowance may be high, but the total cost is low, only \$3,000, and we can easily make a budget adjustment after the first year.

explanation of fiscal note

HB 14: VETERANS BURIAL ALLOWANCE, ALASKA TERRITORIAL GUARD

SUBJECT OF PROPOSED BILL: Amend SLA 1982 Chapter 98 to add members of the Alaska Territorial Guard as those eligible to receive the Veterans Burial Allowance of \$750.00.

THIS BILL CORRECTS WHAT APPEARS TO HAVE BEEN AN OVERSIGHT IN THE STATUTES. UNDER PRESENT LAW, VETERANS WHO ARE ELIGIBLE FOR A BURIAL ALLOWANCE ARE THOSE WHO SERVED IN THE U.S. ARMED FORCES, IN THE ALASKA ARMY NATIONAL GUARD, THE ALASKA AIR NATIONAL GUARD, THE ALASKA NAVAL MILITIA, OR IN A RESERVE UNIT OF THE U.S. ARMED FORCES IN ALASKA. ALASKA TERRITORIAL GUARDSMEN ARE OMITTED.

I WOULD SUSPECT THAT THE REASON FOR THE OMISSION WAS CONFUSION OVER THE IDENTITIES OF ALL THE VARIOUS MILITIAS IN THE STATE CREATED IN THE 1940'S. THE SEPTEMBER 14, 1984 ATTORNEY GENERAL'S OPINION CONTAINED IN YOUR BILL PACKETS EXPLAINS THAT THE STATUTES DEFINING WHO IS A VETERAN DO NOT EXPRESSEDLY INCLUDE MEMBERS OF THE ALASKA TERRITORIAL GUARD. IT APPEARS THAT THE LEGISLATURE MAY NOT HAVE BEEN AWARE OF THE DISTINCTION BETWEEN THE ALASKA TERRITORIAL GUARD AND THE ALASKA NATIONAL GUARD.

WHEN ERNEST GRUENING WAS GOVERNOR IN 1941, HE WORKED WITH THE FEDERAL GOVERNMENT TO CREATE THE ALASKA NATIONAL GUARD. AT THAT TIME, THE FEDERAL GOVERNMENT SAID THAT THE TERRITORY OF ALASKA HAD THE AUTHORITY TO ORGANIZE A TERRITORIAL GUARD. IN 1941, THE TERRITORY APPROPRIATED MONIES TO THE NATIONAL GUARD OF ALASKA, AND IN 1949 THE ALASKA TERRITORIAL MILITIA WAS CREATED, WHICH WAS REFERRED TO AS THE ALASKA NATIONAL GUARD. SO WE HAD THE ALASKA NATIONAL GUARD, CREATED BY THE FEDERAL GOVERNMENT, AND THE ALASKA TERRITORIAL GUARD, CREATED BY THE TERRITORY OF ALASKA. ALTHOUGH THE FEDERAL ACT CREATING THE NATIONAL GUARD GAVE PERMISSION TO THE GOVERNOR OF ALASKA TO CREATE THE

Rep. Fuller's testimony

TERRITORIAL GUARD, THIS DOES NOT MEAN THAT THE ATG WAS A PART OF THE NATIONAL GUARD, AND SO REFERENCE TO THE TERRITORIAL GUARD WOULD NEED TO BE SPELLED OUT IN THE STATUTES.

IF MY EXPLANATION HAS CONFUSED YOU, THEN YOU WILL UNDERSTAND HOW THE TERRITORIAL GUARDSMEN COULD EASILY HAVE BEEN OVERLOOKED IN DEFINING VETERANS ELIGIBLE FOR THE BURIAL ALLOWANCE. THE TERRITORIAL GUARDSMEN REMAINED IN ALASKA WHEN THE TERRITORY WAS ACTUALLY OCCUPIED BY ENEMY FORCES. THESE PEOPLE DESERVE TO HAVE THE BENEFITS EXTENDED TO OTHER MEMBERS OF THE NATIONAL GUARD.

AS YOU CAN SEE, THE FISCAL NOTE ON THIS BILL IS QUITE SMALL, JUST \$3,000.

5. The Alaska Territorial Guard was composed of members of the State Defense Force who remained in Alaska during armed hostilities when the enemy forces actually occupied the Territory of Alaska. These people no less than other veterans or members of the National Guard served the State in a defense role and should be accorded the burial allowance accorded other members of the National Guard.

HB 14

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

September 14, 1984

Mr. Al Adams, Chairman
House Finance Committee
Pouch V
Juneau, AK 99811

Re: Territorial Guardsmen; burial allowance provided
by AS 26.10.080

Dear Mr. Adams:

In your letter of September 5, 1984, you requested an opinion from this office as to whether former members of the Alaska Territorial Guard (ATG) may be eligible for burial allowances under AS 26.10.080 (.080). The following analysis and historical review of the ATG's status under .080 is submitted in response to your request. In our opinion, former members of the ATG are not eligible for burial allowances under that provision.

The statute in question provides that burial allowances will be paid to a qualifying veteran. The statute then defines a veteran, in pertinent part in AS 26.10.080(d)(1), as a person who is serving or has served in a branch of the armed services of the United States, and in (d)(2) of that section, as a person who had served in the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia, or who had served in a reserve unit of the United States Armed Forces in Alaska. AS 26.10.080. The ATG is not expressly included within the definition of veteran in .080. On the face of .080, therefore, former members of the ATG are ineligible for burial allowances provided by that statute.

The reason for the omission of the ATG is not clear, however, and may have been either intentional or accidental. That the omission may have been intentional is evident when comparing .080 with AS 26.05.225 (.225), which provides credit to former members of the ATG for the purpose of determining eligibility for retirement pay. The provision of a benefit to former members of the ATG through .225 implies that the legislature was aware of the existence of the ATG. and hence the omission of the ATG from .080 appears to be deliberate.

In the alternative, the omission of the ATG from benefits under .080 may have been accidental because the legislature may not have been aware of the distinction between

AG's opinion

the ATG and the Alaska National Guard. The reason for this confusion will be discussed in the paragraphs following. AS 26.05.225 indicates that it was the legislature's intent to provide at least certain benefits to former members of the ATG. It is therefore possible to imply that the legislature would have included burial allowances as well under .080 but did not only by reason of accident.

Mr. Ernest Gruening, the territorial governor of Alaska, notes that when he took office in 1939 there had never been a National Guard in Alaska, that he took steps to organize one and that he requested federal authorization to do so. Gruening, Introduction to M. Marston, Men of the Tundra, at 3, 1972. On December 31, 1941, presumably as a result of Mr. Gruening's efforts, the U.S. Congress approved an act to establish a military code for the territory of Alaska, H. Res. 5822, 77th Cong., 1st Sess., ch. 644, Dec. 31, 1941 (1941 Act). That Act declared that the militia of the territory of Alaska was to be divided into two classes: the Organized Militia, known as the Alaska National Guard, and the Unorganized Militia. 1941 Act, § 1. The Act further provided that the governor of the territory of Alaska had authority to organize a Territorial Guard. 1941 Act, § 6. In apparent support of the federal act, the legislature of the territory of Alaska appropriated certain monies to the National Guard of Alaska. 1941 Alaska Sess. Laws, ch. 60, H.B. 122; 1943 Alaska Sess. Laws, chs. 26, 27, H.B. 55, 56; 1945 Alaska Sess. Laws, ch. 64, H.B. 65. Finally, in 1949 the territory of Alaska created an Alaska Territorial Militia which the territorial legislature referred to as the Alaska National Guard. 1949 Alaska Sess. Laws, ch. 120, H.B. 22.

Confusion may have arisen in the legislature over the separate identities of the various militias which had been created in the 1940's. If such confusion existed, it may have led to the omission of the ATG in .080. To prevent further confusion, therefore, it is recommended that when a former member of a militia in the territory of Alaska claims burial allowances under .080, it should be ascertained at the outset whether that person was a member of the federally created Alaska National Guard, which is expressly covered under .080, or whether that individual was a member of the ATG organized by the governor of Alaska, which is not covered under .080.

Unless strong evidence to the contrary is found, a member of the ATG does not fall within the purview of .080(1) or (2) on the strength of the 1941 Act. This is based in large part on the fact that the 1941 Act does not expressly state that the Territorial Guard is a part of the Alaska National Guard and does not expressly describe the Territorial Guard either as a branch of the federal armed forces or as a part of the Unorganized

Mr. Al Adams, Chairman
House Finance Committee

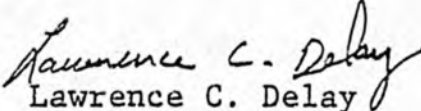
September 14, 1984
Page 3

Militia. While the Territorial Guard received federal sanction under the 1941 Act, was subject to regulations of discipline in training prescribed by the U.S. Secretary of War and received federal arms and equipment, 1941 Act, § 7, the Territorial Guard, was nonetheless a body organized by the territory of Alaska and existed independently of the Alaska National Guard and other branches of the federal armed forces.

In conclusion, whether by accident or by intent, the legislature which enacted .080 did not expressly provide burial allowances to ATG members through that section. Furthermore, a review of the federal act which sanctioned the Alaska National Guard and gave permission to the governor of Alaska to create the ATG does not lead to the conclusion that the ATG was either a part of the National Guard or otherwise a part of the federal armed forces of the United States. The ATG does not therefore fall within the purview of AS 26.10.080(d)(1) or (2) as it is not a part of the National Guard or any branch of the U.S. armed services. A former member of the ATG is therefore not eligible to receive burial allowances under AS 26.10.080.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Lawrence C. Delay
Assistant Attorney General

LCD:ihr

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF MILITARY
AND VETERANS AFFAIRS**

OFFICE OF THE ADJUTANT GENERAL

SUITE 620 FRONTIER BUILDING
3601 "C" STREET
ANCHORAGE, ALASKA 99503
PHONE: (907) 243-0656 AUTOVON: 862-7210

September 18, 1984

Representative Al Adams
P.O. Box 333
Kotzebue, Alaska 99752

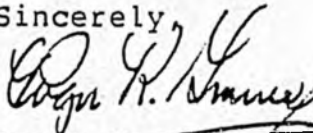
Dear Representative Adams:

I am in receipt of a copy of the letter dated 14 September from Mr. Delay of the Attorney General's office where he discusses the Alaska Territorial Guardsmen and the Veterans Burial Allowance Program as provided by AS 26.10.080. Unfortunately as presently written, the statute does not include Alaska Territorial Guardsmen.

Prior to Mr. Delay's research and the Attorney General's opinion, Major General Edward G. Pagano, the Adjutant General and Commissioner of the Department of Military and Veterans Affairs, submitted to the Governor the department's legislative packet which contained a bill that would amend AS 26.10.080 to include members of the Alaska Territorial Guard. A copy is attached for your reference.

It is this department's opinion that members of the Alaska Territorial Guard made a significant contribution to the Territory and State of Alaska and should be included along with other veterans in the state's Death Benefit Program.

Sincerely,



Roger W. Graves, Director
Division of Veterans Affairs
Department of Military &
Veterans Affairs

RKG/bs

Attachment



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

HB

15

2 CS FOR HOUSE BILL NO. 15 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to advisory elections on certain
7 annexation proposals."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

10 (48) AS 29.68.025 (advisory elections on annexations)

11 * Sec. 2. AS 29.68 is amended by adding a new section to Article 1 to
12 read:

13 Sec. 29.68.025. ADVISORY ELECTIONS ON ANNEXATIONS. (a) IF a
14 municipality requests an annexation proposed to be effected under
15 AS 29.68.010(a), the municipality shall present the results of an
16 advisory election on the proposal to the Local Boundary Commission at
17 the hearing conducted under AS 44.47.581. The advisory election shall
18 be conducted by the municipality in the area proposed for annexation
19 in accordance with procedures for a regular or special election.

20 (b) If an annexation that is not requested by a municipality is
21 proposed to be effected under AS 29.68.010(a), the director of elec-
22 tions shall present the results of an advisory election on the pro-
23 posal to the Local Boundary Commission at the hearing conducted under
24 AS 44.47.581. The advisory election shall be conducted by the direc-
25 tor of elections in the area proposed for annexation in the general-
26 manner prescribed by the Alaska Election Code (AS 15). The state
27 shall pay all election costs for elections under this subsection.

28 (c) A municipality may conduct an advisory election on an annex-
tion proposal in which all municipal voters may participate and the

COPY

1
2 municipality may present the results of the election to the Local
3 Boundary Commission if the area of the proposed annexation is

4 (1) located within the municipality; or

5 (2) proposed to be annexed to the municipality.

6 (d) This section applies to home rule and general law municipal-
7 ities.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/22/85

<u>REQUEST</u> (Version #1) <u>Bill/Resolution No.: CS for HB 15</u> <u>Title: Act relating to advisory elections on annexations</u> <u>Sponsor: CRA Committee</u> <u>Requestor: Goll & Marrou</u> <u>Date of Request: 3/22/85</u>	<u>FISCAL DETAIL</u> <u>Agency Affected: Office of the Governor</u> <u>Program Category Affected: Division of Elections</u> <u>BRU, Program or Subprogram(s) Affected: Division of Elections</u>
---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.6	9.0	9.5	10.0	10.5
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	8.6	9.0	9.5	10.0	10.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	8.6	9.0	9.5	10.0	10.5
FEDERAL FUNDS						
OTHER						
TOTAL	0	8.6	9.0	9.5	10.0	10.5

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached page.

Prepared By: Sherry Valentine Phone: 465-4611
 Division: Elections Date: 3/22/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

CS FOR HB 15 (VERSION #1)

This fiscal note was developed on the basis of two elections per year from areas outside municipalities wishing to be annexed. It assumes that one request would be received from a punch card precinct and the other from a handmarked precinct. The cost for a punch card precinct is \$5.8 while a handmarked precinct is \$2.8. Computer counted (punch card) precincts are generally higher due to the need for computer programming and a Data Processing Review Board to oversee the computer counting of ballots.

We have specified the costs for each type of precinct so that if there were more than two such elections administered by the State within a year, the Legislature could identify the potential costs by multiplying the precinct cost by the number of additional elections beyond two.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/31/86

REQUEST Page 1 of 2

FISCAL DETAIL

Bill Resolution No.: CS for HB 15 (C&RA)
Title: An Act Relating to advisory elections on annexations

Agency Affected: Office of the Governor
BRU: Division of Elections

Sponsor: CRA Committee

Components: Elections

Requestor: House RULES

Date of Request: 1/29/86

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	8.6	9.0	9.5	10.0	10.5	11.0

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	8.6	9.0	9.5	10.0	10.5	11.0
FEDERAL FUNDS						
OTHER						
TOTAL	8.6	9.0	9.5	10.0	10.5	11.0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached page.

Prepared by: Sherry Valentine

Phone: 465-4611

Division: Elections

Date: 1/31/86

Approved by Commissioner: Sherry Valentine

Date: 2/10/86

Agency: Elections

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill Resolution No. CS FOR HB 15 (C&RA) page 2 of 2

This fiscal note was developed on the basis of two elections per year from areas outside municipalities wishing to be annexed. It assumes that one request would be received from a punch card precinct and the other from a handmarked precinct. The cost for a punch card precinct is \$5.8 while a handmarked precinct is \$2.8. Computer counted (punch card) precincts are generally higher due to the need for computer programming and a Data Processing Review Board to oversee the computer counting of ballots.

We have specified the costs for each type of precinct so that if there were more than two such elections administered by the State within a year, the Legislature could identify the potential costs by multiplying the precinct cost by the number of additional elections beyond two.

Article 2. Annexation and Detachment.

Section

40. Local boundary commission

50. Annexation of military reservations

Section

60. Application

Effective date of article. — Section 90, ch. 74, SLA 1985 provides: "This Act takes effect January 1, 1986."

Sec. 29.06.040. Local boundary commission. (a) The Local Boundary Commission may consider any proposed municipal boundary change. It may reject the proposed change, accept the proposed change, or alter the boundaries and accept the proposal as altered. A Local Boundary Commission decision under this subsection may be appealed under the Administrative Procedure Act (AS 44.62).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.47.567, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection include a provision that

(1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985)

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the borough i

Sec. 29.06.
home rule and

Section

90. Merger and c

100. Petition

110. Review

120. Hearing

130. Decision

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Exceptions

SECTION 11. The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

Budget

Article IX

SECTION 12. The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Expenditures

SECTION 13. No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

Legislative
Post-Audit

SECTION 14. The legislature shall appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct post-audits as prescribed by law and shall report to the legislature and to the governor.

Alaska
Permanent
Fund

SECTION 15. At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James A. Smith
Signature of Camera Operator

11/24/89
Date

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COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

2/28/85

Date 3-12-85

Mr. President

The Committee on STATE AFFAIRS considered CSHB 17(Jud)
multiple convictions for motor vehicle theft and joyriding.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt 5 CS for CSHB 17(SA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- With opinion from legislative counsel
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

Ed Anna De Vries

Bill Kay

Tom Kelly

MEMBERS HAVING

OTHER RECOMMENDATIONS

V. J. ...

[Signature]

Chairman

[Signature]

Chairman recommendation

Offered: 3/13/85
Referred: Rules

CSHB 17 (Jud)
SECOND VERSION

Original sponsors: Uehling and Szymanski

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 17 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to multiple convictions for motor
7 vehicle theft and joyriding."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.46.484(c) is amended to read:

10 (c) A person convicted under (a)(2) of this section [WHO HAS
11 BEEN PREVIOUSLY CONVICTED UNDER THAT PARAGRAPH OR UNDER FORMER
12 AS 28.35.010] is guilty of a class C felony if, within the preceding
13 seven years, the person was convicted under

14 (1) the provisions of (a)(2) of this section;

15 (2) former AS 28.35.010;

16 (3) the provisions of AS 11.46.482(a)(4);

17 (4) an offense involving the theft of a propelled vehicle
18 under AS 11.46.120 - 11.46.140 [~~or AS 11.46.160 / 11.46.190~~]; or

19 (5) a law or ordinance of this or another jurisdiction with
20 elements substantially similar to those of the offenses described in

21 (1) - (4) of this subsection.

Dept of Law
AMENDMENT

~~SECOND VERSION CSHB 17~~



ANCHORAGE POLICE DEPARTMENT

625 C STREET • ANCHORAGE, ALASKA 99501-3599
TELEPHONE (907) 279-1441



TONY KNOWLES
MAYOR

BRIAN S. PORTER
CHIEF

January 25, 1985

Representative Rick Uehling
Pouch V
Juneau, Alaska 99811

RE: House Bill No. 17
"An Act Relating to Multiple Convictions for Motor Vehicle Theft
and Joyriding

Dear Representative Uehling,

Alaska Statute 11.46.484 (a)(2) Criminal Mischief in the Third Degree written, causes a person who has been previously convicted of this offense, or the old Title 28.35.010 (Driving a vehicle without owner's consent) to be charged with a Class "C" Felony.

Since the enactment of this Statute[11.45.484(a)(2)] in 1982, several problems have been encountered that have severely limited the felony prosecution for this offense. This Statute fails to take into consideration:

1. Convictions for the like offense of "Joyriding" (Driving a vehicle without the owner's consent). Other states and jurisdictions have Statutes or Ordinances for the offense of "Driving a vehicle without the owner's consent"(Joyriding), but with the restrictive language of AS 11.46.484(a)(2) prior convictions in other states and jurisdictions may not be used in determining an upgraded charge(felony).
2. Convictions of AS 11.46.482(a)(4) Criminal Mischief in the Second Degree, involving a stolen motor vehicle. The only difference between Criminal Mischief in the Second Degree [AS 11.46.482(a)(4)](Felony) and Criminal Mischief in the Third Degree [AS 11.46.484(a)(2)](Misdemeanor), is if the owner of the stolen vehicle incurs expenses in the amount of \$500 or more the Criminal Mischief in the Second Degree is charged.
3. Convictions of AS 11.46.100-190 Theft in the First-Third Degree. Not all people charged with stealing a motor vehicle are charged under the Criminal Mischief Statutes, depending on what they ultimately do to or with the vehicle, they can be charged under the Theft Statutes.

Position paper Anch Police Dept.

The Theft Statutes are utilized when it can be shown that the thief had the intent to permanently deprive the owner of his stolen vehicle, such as altering the vehicle identification numbers or dismantling the vehicle out.

Anchorage accounts for 44% of the vehicles registered in Alaska, and 83% of the vehicle thefts.

Registered vehicles (Anchorage)

1982	150,973
1983	172,911
1984	186,744

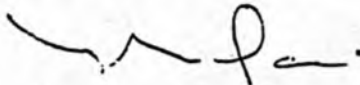
Auto Thefts (Anchorage)

		Dollar Amount
1982	1120 vehicles	\$2,563,800
1983	1433 vehicles (+28%)	3,744,000
1984	1562 vehicles (+ 9%)	4,634,000

In Anchorage, during 1984, your chance of having your vehicle stolen was "1" out of "119". The National average was "1" out of 158 and Seattle only had a rate of "1" out of 335.

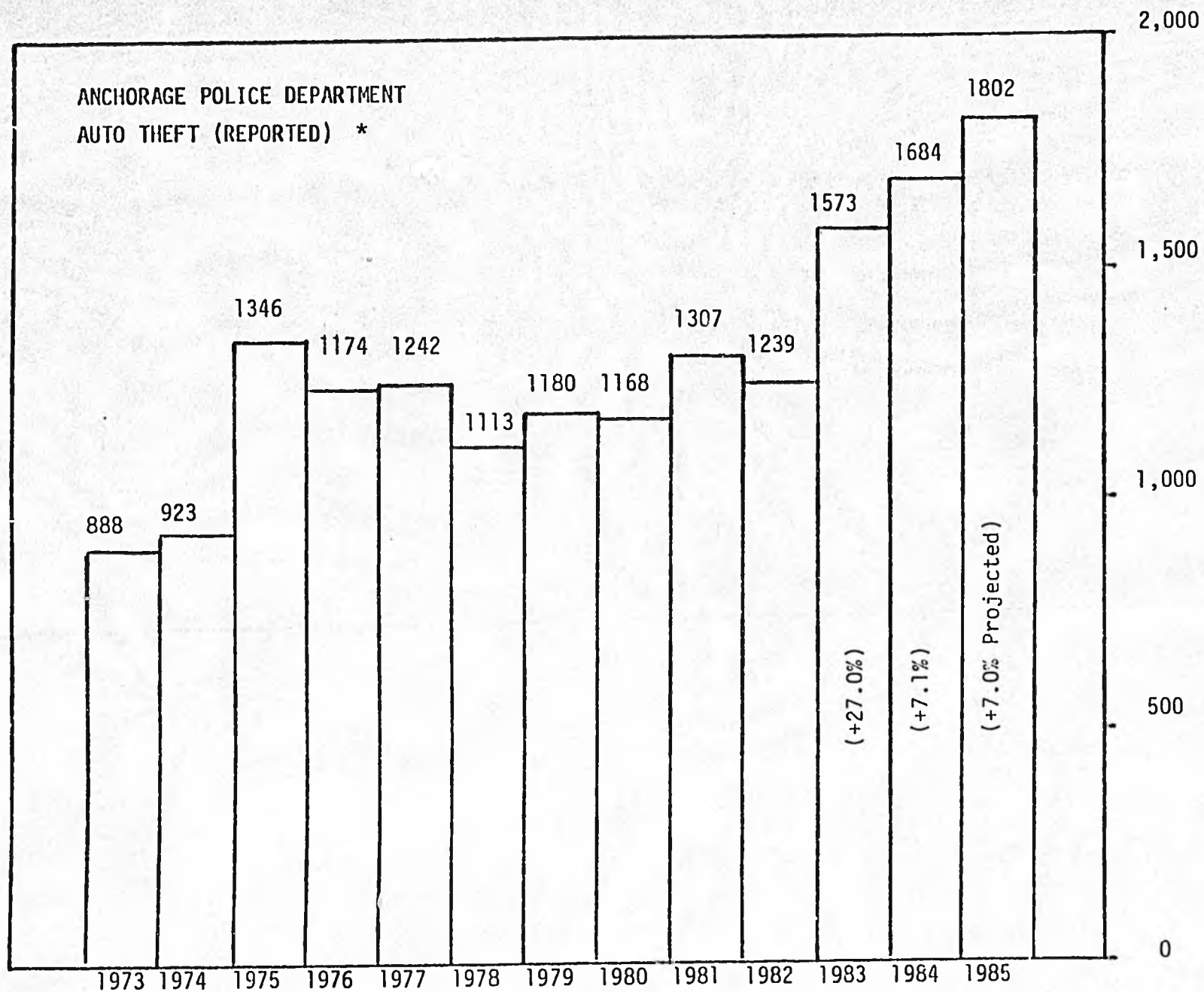
I strongly urge your support for House Bill No. 17. I have worked as an auto theft investigator for the past 12 years and I feel that this Bill will help to reduce auto theft in Alaska. House Bill No. 17 is also supported by the Alaska Chief of Police, Alaska Peace Officers Association and the Anchorage Police Department Employees Association.

Sincerely,



Investigator Lyle L. Davis
Anchorage Police Department
Auto Theft Unit

LLD:vka
Attachments



* (includes reports later found to be false)

HB 17 - JOYRIDING

- This is not a new and different concept. Existing law already provides that anyone convicted of joyriding, who has previously been convicted of a joyriding offense under State law, is guilty of a class C felony.
- This bill amends existing law to close a gaping loophole. Existing law would not allow consideration of a previous conviction for joyriding under municipal ordinances or under another state's law. To allow this situation to continue will result in continued inconsistent treatment of similar offenders. E.g., their penalty would depend on whether they were previously convicted under Anchorage municipal law or state law.
- The significant change in the law is the inclusion of previous convictions for related crimes. That is, a previous conviction for theft of a motor vehicle or a previous conviction of joyriding where \$500 or more of property damage was caused will also be counted to incur the class C felony treatment.
- Although the result of the bill will be increased felony convictions, there is no presumptive term for a first time class C felony conviction. The only time the presumptive scheme will come into play is when that person has previous felony convictions (2 years for a second felony conviction and 3 years for a third felony conviction).

REP. RICK UEHLING
TESTIMONY TO HOUSE JUDICIARY COMMITTEE
REGARDING HOUSE BILL 17

MR. CHAIRMAN,

DURING THE INTERIM, IT WAS BROUGHT TO MY ATTENTION BY MEMBERS OF THE ANCHORAGE POLICE DEPARTMENT THAT CERTAIN DEFICIENCIES EXIST IN THE CURRENT LAWS UNDER WHICH A PERSON IS CHARGED WITH AS 11.46.484(a)(2) CRIMINAL MISCHIEF IN THE THIRD DEGREE (INVOLVING THE THEFT OF A MOTOR VEHICLE.)

UNDER THE CURRENT LAW, FELONY PROSECUTIONS HAVE BEEN LIMITED FOR THIS OFFENSE BY ITS RESTRICTIVE LANGUAGE. THE STATUTE DOES NOT ALLOW OUR POLICE AND PROSECUTORS THE ABILITY TO TAKE INTO CONSIDERATION THE FOLLOWING:

1. VIOLATIONS OF MUNICIPAL ORDINANCES FOR THE CRIME OF "JOYRIDING" (DRIVING A VEHICLE WITHOUT THE OWNER'S CONSENT)
2. CONVICTIONS IN OTHER JURISDICTIONS (OTHER STATES) FOR A LIKE OFFENSE
3. CONVICTIONS OF AS 11.46.482(a)(d) CRIMINAL MISCHIEF IN THE SECOND DEGREE, INVOLVING A STOLEN MOTOR VEHICLE.
4. CONVICTIONS OF AS 11.46.100-190 THEFT IN THE FIRST THROUGH THIRD DEGREE, AS 11.46.100-190 INVOLVING THE THEFT OF A MOTOR VEHICLE.

AUTO THEFT IN ANCHORAGE IS GROWING AT AN INCREASING RATE. IN 1983 THERE WAS A 28% INCREASE IN AUTO THEFTS AND IN 1984, A 9% INCREASE. THE TOTAL VALUE OF ALL CARS STOLEN IN 1984 WAS 4.6 MILLION DOLLARS.

WE NEED TO GIVE OUR POLICE THE TOOLS NECESSARY TO DEAL WITH THIS PROBLEM. I UNDERSTAND THAT THE ATTORNEY GENERAL'S OFFICE MAY HAVE CHANGES THAT THEY WANT TO MAKE. I HAVE NO PROBLEM WITH THAT. I AM WILLING TO WORK WITH MEMBERS OF THE COMMITTEE, THE CHAIRMAN, AND THE ATTORNEY GENERAL'S OFFICE TO SOLVE OUT ANY PROBLEMS. INVESTIGATOR LYLE DAVIS & ANN NEWELL ARE HERE TO TESTIFY AND I AM CERTAIN THAT THEY CAN BETTER ANSWER ANY SPECIFIC QUESTIONS THAT YOU MAY HAVE. THANK YOU.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 15, 1985

REQUEST:

Bill/Resolution No.: H.B. 17
 Title: "An Act relating to multiple convictions for motor vehicle theft and joyriding"
 Sponsor: Representative Uehling
 Requestor: (H) Judiciary
 Date of Request: February 1, 1985

FISCAL DETAIL:

Agency Affected: DEPARTMENT OF CORRECTIONS
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation, and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.9	18.8	19.7	20.7	21.7
400 SUPPLIES		14.6	15.3	16.1	16.9	17.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCF' LANEOUS						
TOTAL OPERATING	-0-	32.5	34.1	35.8	37.6	39.5

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	32.5	34.1	35.8	37.6	39.5
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	32.5	34.1	35.8	37.6	39.5

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

See attached narrative.

Prepared By: William W. Ladwig
 Division: Deputy Commissioner for Administration

Phone: 465-3376
 Date: February 15, 1985

Approved by Commissioner: Roger V. Endell by William W. Ladwig
 Agency: DEPARTMENT OF CORRECTIONS

Date: February 15, 1985

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency (ies)

ANALYSIS

I. Assumptions:

Based upon statistics provided by Anchorage Police Officer Davis, the following assumptions have been made:

1. Anchorage accounts for 83% of the annual arrests for auto theft.
2. The arrests have averaged 100 per year.
3. Of all 100 arrests for all types of auto theft, 15 are for joyriding.
4. Of the 15 arrestees, 3 have prior offenses.
5. Projecting the Anchorage area statistics to the statewide level results in 120 arrests per year for all auto theft crimes with 4 people being subject to this legislation.
6. It is assumed that the number of persons incarcerated under this bill would be 4.
7. It is assumed that incarceration of these 4 persons will require no additional bed space.
8. It is assumed that the cost of living will increase by 5% per year.

II. Program Summary:

A. The annual cost of care is computed as follows:

4 X 365 X 22.28 =	32,500
32.5 X 1.05 =	34.1
34.1 X 1.05 =	35.8
35.8 X 1.05 =	37.6
37.6 X 1.05 =	39.5
Total =	179.5

III. Economic Impact:

Enactment of this bill will not have a significant impact on the State's economy.

IV. Impact on Local Government:

This bill has no apparent impact on local government units.

~~NOTE pg. 1 was never received~~ Set it!

~~_____~~

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 17
 Title: "An Act relating to multiple convictions...for motor vehicles..."
 Sponsor: Repr. Uehling
 Requestor: House Judiciary
 Date of Request: 1/24/85

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING		-				
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

This bill amends AS 11.46.484(c) to provide that a person convicted under (a)(2) of that section who has been previously convicted of an offense having similar elements or of an offense involving the theft of a motor vehicle under AS 11.46.100-11.46.190 is guilty of a class C felony. The effect of the amendment is to provide for the inclusion of convictions of similar offenses in other jurisdictions in arriving at the offense level for repeat offenses in Alaska.

(Continued)

Prepared By: Richard L. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 1/29/85
 Approved by Commissioner: Norman C. Gorsuch Date: 1/29/85
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

1885

REQUEST
Bill/Resolution No.: HB 17
Title: "...multiple convictions
for joyriding."
Sponsor: Rep. Uehling
Requestor: House Judiciary
Date of Request: 2-6-85

FISCAL DETAIL Public Safety
Agency Affected: _____
Program Category Affected: _____
Administration of Justice
BRU, Program or Subprogram(s) Affected: _____
Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached analysis.

Prepared By: Francis C. Allan ^{G.C.O.} Phone: 269-5691
Division: Alaska State Troopers Date: 2-1-85

Approved by Commissioner B. J. Sundberg Date: 2-6-85
Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

[Handwritten signature and date]
7/1/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 17

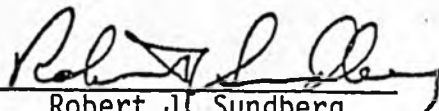
Support

February 1, 1985

HB 17 - "An Act relating to multiple convictions for motor vehicle theft and joyriding."

This legislation broadens the parameters of criminal activity that are to be considered in determining previous convictions involving joyriding.

This wording change will allow more serious charges to be brought against joyriding suspects which should bring the importance of this crime to the public's attention and thus lessen the number of occurrences due to the fear of prosecution as a more serious crime.


Robert J. Sundberg
Commissioner

~~Position Paper Dept of Pub. Safety~~

Sgt. Liba
**MUNICIPALITY
OF ANCHORAGE**

**POLICE
DEPARTMENT**

**MUNICIPAL CRIMINAL CODE
(ARRESTABLE OFFENSES
FROM TITLE 9 INCLUDED)**

JANUARY 1984

receipt issued for and accompanied by the article or articles of merchandise or thing or things of value. (Adapted from GAAII 18.05.040.)

8.05.560 Solicitation to Illegal Act.

It is unlawful to solicit a person for the purpose of committing any illegal act. (GAAII 18.05.010R.)

8.05.580 Switchblade Knives.

It is unlawful for a person to sell, offer for sale, display or carry about his person, a knife which has a blade which can be opened by a spring mechanism, exertion of pressure on the handle, or by gravity. This section does not apply to any officer of the United States, the State of Alaska or the municipality whose carrying or displaying of such a knife is necessary in the course of his official duties. (Adapted from CAC 8.50.010 and new.)

8.05.590 Telephones — Illegal Use of.

It is unlawful for any person to anonymously or repeatedly telephone another person for the purpose of annoying, molesting, or abusing through patently offensive and profane language, or harassing that person or his family. (Adapted from AS 11 45 035, am AO 82-134.)

8.05.600 Theft of Vehicle and Joyriding.

Any person who drives or takes a motor vehicle not his own without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his possession of the vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person. (Adapted from CVC 10851 Cald. Vehicle Code.)

8.05.610 Unauthorized Duplication of Keys.

It is unlawful for any person to make a duplicate of a key bearing the inscription "do not duplicate" or "it is unlawful to duplicate this key," unless authorized to do so by the owner of the lock which the key fits. (CAC 8.32.010.)

8.05.620 Unauthorized Entry.

A. It is unlawful for any person to enter, use or occupy any occupied or unoccupied dwelling, house, tent, hotel, office, store, shop, warehouse, barn, factory or other building, boat, ship, railroad car or structure, or apartment, cottage, clubhouse, bathhouse, hunting or fishing lodge, garage or any other structure or use any personal property therein, except with the consent of the owner of the facility or his agent. However, a person may enter, use or occupy an unoccupied structure specified in this section without the consent of the owner if:

1. the entry, use or occupancy of the facility is for an emergency in the case of immediate and dire need; and
2. the person contacts the owner or agent within 15 days after using the facility or, if the owner is unknown, the Anchorage Police Department, and makes a report of the time of entry, use or occupancy of the facility and any damage to the facility or personal property, unless a notice waiving the necessity for such report is posted in the facility by the owner or his agent.

B. In this section, "occupied" means that the premises is being used by one or more persons entitled to its enjoyment and use, and this includes actual as well as constructive occupancy. (Adapted from AS 11.20.135.)

8.05.660 Vehicle — Tampering With.

It is unlawful for any person, either individually or in concert with one or more other persons, willfully to: