

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6142 HOUSE STATE AFFAIRS

59/6

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: DCRA  
 Title: Request Mtn. in AK be named in honor of Dr. Martin L. King, Jr. BRU: Administration & Support  
 Sponsor: Pettyjohn, Barnes, Furnace, et. al. Components: Commissioner's Office  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750  
 Division: Municipal & Regional Assistance Date: 1/18/88  
 Approved by Commissioner: Baker Lund Date: 1/18/88  
 Agency: Community & Regional Affairs

Distribution (by preparer):

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

# HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS:

DATE: 1-18-88

The State Affairs Committee has considered HCR 30

Requesting that a mountain in Alaska be named in honor of Dr. Martin Luther King, Jr.

**RECOMMENDS:**

- replace with CS HCR 30  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  1-18-88 letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Lynne Huffman  
Scott ...  
Terry ...  
Cliff ...  
Dick ...

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lynne Huffman  
Chairman's signature



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

*Office of the Minority Leader*

Official Business  
Room 24  
State Capitol

P.O. Box 1  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4841

### M E M O R A N D U M

TO: All Editors

FROM: Representative Fritz Pettyjohn  
House Minority Leader

DATE: December 11, 1987

A handwritten signature in black ink, appearing to read "Fritz Pettyjohn", written over a horizontal line.

On Thursday, December 8th, I presented the following resolution proposing an Alaska memorial to the late Dr. Martin Luther King, Jr. to the Martin Luther King, Jr. Committee of the Anchorage Assembly. On the basis of its very positive reception I will introduce the resolution when the Alaska legislature convenes in January.

It is important the individual legislators, state-wide, have the benefit of optimum constituent input on this matter, and I urge Alaskan Citizens to express their views to their legislators.

I believe the resolution can accomplish three critical objectives: It will provide, in Alaska, a nationally unique memorial to Martin Luther King, Jr. and the principle of equality under law for which he struggled; it will help to resolve a local debate that has gone on too long; and it will send a message to those organizations that have come to Alaska to incite unrest that racism will not be tolerated here.

**H C R**

**48**

# HOUSE COMMITTEE ON STATE AFFAIRS

## RECAP OF HCR 48

### *Twenty-Fourth Annual Boys' State*

Received February 9, 1990

by Reps. Kubina, Grussendorf, Ulmer, Ellis,  
Navarre, Phillips, Menard, Koponen

Heard February 22, 1990

Passed Out of Committee February 22, 1990  
6 Do Pass

## TABLE OF CONTENTS

### HCR 48: Twenty-Fourth Annual Boys' State

- Item 1:** HCR 48 by Reps. Kubina, Grussendorf, Ulmer, Ellis, Navarre, Phillips, Menard, Koponen
- Item 2:** Fiscal Note by House State Affairs
- Item 3:** Memorandum from Rep. Kubina, February 20, 1990

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 9, 1990

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HCR 48

HOUSE CONCURRENT RES. NO. 48

TWENTY-FOURTH ANNUAL BOYS' STATE

Relating to the twenty-fourth annual Boys' State.

**RECOMMENDATIONS:**

- be replaced with \_\_\_\_\_  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note HSA
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

Do Not  
PASS  
No Rec  
Amend

*David D. Doolley*  
\_\_\_\_\_  
*James H. Haskins*  
\_\_\_\_\_  
*Frank M. Haskins*  
\_\_\_\_\_  
*Paul H. Haskins*  
\_\_\_\_\_  
*Chris P. Haskins*  
\_\_\_\_\_  
*Eileen P. Muehlen*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



*E.P. Muehlen*  
\_\_\_\_\_  
Vice-Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : \_\_\_\_\_  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Twenty-Fourth Annual  
Boys' State  
Sponsor: Kubina  
Requestor: \_\_\_\_\_

Agency Affected: \_\_\_\_\_  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs  
Division: \_\_\_\_\_  
Approved by Commissioner: H. A. "Red" Boucher  
Agency: \_\_\_\_\_

Phone: 465-4963  
Date: Feb 20, 1990  
Date: Feb 20, 1990

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

Item 3

# Alaska State Legislature



While in Session:  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
465-4859

P. O. Box 2463  
Valdez, Alaska 99686  
835-2695

Representative Eugene Kubina

## MEMORANDUM

TO: HOUSE STATE AFFAIRS COMMITTEE  
FROM: REPRESENTATIVE GENE KUBINA *Gene*  
RE: HCR 48 & 49  
DATE: February 20, 1990

Every year the American Legion offers a program on government to worthy and outstanding young men and women in their junior year of high school. Boy's and Girl's state, a week long exercise in mock government, provides the selected individuals with a chance to organize campaigns, run for elected office, participate in government on local, regional, and a statewide level. The program offers an invaluable glimpse at what makes the system work, and a useful experience in dealing with their peers.

Running programs of this scale, and making them as informative and useful as possible, requires a great deal of energy and time on the part of the organizers and the participants. I've introduced these two resolutions to acknowledge these efforts and encourage ourselves, local legislators, public and state agencies, and private individuals and organizations to assist in anyway possible. These resolutions enable the programs to run with as much state cooperation as we can provide, enabling the chosen young women and men to increase their awareness of state government and their possible roles in it.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



**H C R**

**49**

**HOUSE COMMITTEE ON STATE AFFAIRS**

**RECAP OF  
HCR 49**

**Twenty-Second Annual Girls' State**

Received February 9, 1990

by Reps. Kubina, Grussendorf, Ulmer, Ellis,  
Navarre, Phillips, Menard, Koponen

Heard February 22, 1990

Passed Out of Committee February 22, 1990  
6 Do Pass

## TABLE OF CONTENTS

### HCR 49: Twenty-Second Annual Girls' State

- Item 1:** HCR 49 by Reps. Kubina, Grussendorf, Ulmer, Ellis, Navarre, Phillips, Menard, Koponen
- Item 2:** Fiscal Note by House State Affairs
- Item 3:** Memorandum from Rep. Kubina, February 20, 1990

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 9, 1990

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HCR 49

HOUSE CONCURRENT RES. NO. 49

TWENTY-SECOND ANNUAL GIRLS' STATE

Relating to the twenty-second annual Girls' State.

**RECOMMENDATIONS:**

- be replaced with \_\_\_\_\_  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note HSA
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

David Douley  
Alfred Wesley  
Samuel W. ...  
Paul ...  
Tom ...  
E.P. McKeon

	Do Not Pass	No Rec	Amend

E.P. McKeon  
 Vice-Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : \_\_\_\_\_  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Twenty-Second Annual  
Girls' State  
Sponsor: Kubina  
Requestor: \_\_\_\_\_

Agency Affected: \_\_\_\_\_  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs  
Division: \_\_\_\_\_  
Approved by Commissioner: H. K. "Red" Boucher  
Agency: \_\_\_\_\_

Phone: 465-4963  
Date: Feb 20, 1990  
Date: Feb 20, 1990

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

# Alaska State Legislature



While in Session  
P.O. Box 4  
State Capitol  
Juneau, Alaska 99801  
(907) 586-3333

P.O. Box 2463  
Valdez, Alaska 99686  
907 2695

## Representative Eugene Kubina

### MEMORANDUM

TO: HOUSE STATE AFFAIRS COMMITTEE

FROM: REPRESENTATIVE GENE KUBINA *JK*

RE: HCR 48 & 49

DATE: February 20, 1990

Every year the American Legion offers a program on government to worthy and outstanding young men and women in their junior year of high school. Boy's and Girl's state, a week long exercise in mock government, provides the selected individuals with a chance to organize campaigns, run for elected office, participate in government on local, regional, and a statewide level. The program offers an invaluable glimpse at what makes the system work, and a useful experience in dealing with their peers.

Running programs of this scale, and making them as informative and useful as possible, requires a great deal of energy and time on the part of the organizers and the participants. I've introduced these two resolutions to acknowledge these efforts and encourage ourselves, local legislators, public and state agencies, and private individuals and organizations to assist in anyway possible. These resolutions enable the programs to run with as much state cooperation as we can provide, enabling the chosen young women and men to increase their awareness of state government and their possible roles in it.

— DISTRICT SIX —



**H C R**

**52**

# HOUSE COMMITTEE ON STATE AFFAIRS

## RECAP OF HCR 52

### State Leasing of Space

Received February 12, 1990  
by Rep. Ulmer

Heard February 27, 1990

Adopted CSHB 52 (SA) February 27, 1990

Passed Out of Committee February 27, 1990  
3 Do Pass  
2 Do Not Pass

## TABLE OF CONTENTS

### HCR 52: State Leasing of Space

- Item 1:** HCR 52 by Rep. Ulmer  
CSHCR 52 (SA)
- Item 2:** Fiscal Note by House State Affairs  
Fiscal Note by Dept. of Administration (Not Adopted)
- Item 3:** Memorandum from Rep. Ulmer,  
February 27, 1990
- Item 4:** Resolution: State Building Lease Procedures
- Item 5:** *Alaska Designs* "Acquisition of State Facilities  
Via Capital Lease"

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HCR 52

HOUSE CONCURRENT RES. NO. 52

STATE LEASING OF SPACE

Relating to the leasing of space by the state.

RECOMMENDATIONS:

- be replaced with C.S HCR 52(SA)  the same title  
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:  
(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note HSA
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

SIGNING:  
(Check approp. column)

Do Not Pass  
No Rec  
Amend

David D. [Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>	<input checked="" type="checkbox"/>		
<u>[Signature]</u>	<input checked="" type="checkbox"/>		
<u>Hidden Fiscal Note Enclosed</u>			
_____			
_____			
_____			
_____			
_____			
_____			

[Signature]  
Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: \_\_\_\_\_  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: State Leasing of Space

Agency Affected: Dept. of Administration  
BRU: \_\_\_\_\_

Sponsor: Ulmer  
Requestor: \_\_\_\_\_

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs  
Division: \_\_\_\_\_  
Approved by Commissioner: H. A. "Red" Boucher  
Agency: \_\_\_\_\_

Phone: 465-4963  
Date: Feb 27, 1990  
Date: Feb 27, 1990

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

DEPT  
10-10

NO FKU

Item 2

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
Title: House Concurrent BRU: Leasing and Facilities  
Resolution No. 52  
Sponsor: Ulmer Components: Leases  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	12.8	26.6	27.5	28.5	59.0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	5.5	228.0	450.4	425.1	944.6	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	18.3	254.6	477.9	453.6	1,003.6	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	18.3	254.6	477.9	453.6	1,003.6	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	18.3	254.6	477.9	453.6	1,003.6	0

POSITIONS:

FULL-TIME	0	0	0	0	1	0
PART-TIME	1	1	1	1	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on FY 90.  
(See attached analysis)

Prepared by: Robert J. Link, Director  
Division: General Services and Supply  
Approved by Commissioner: Frank S. Baxter  
Agency: Department of Administration

Phone: 465-2250  
Date: 2/26/90  
Date: 2/26/90

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

FISCAL NOTE ANALYSIS

For HCR 52

Currently, the State has 12 leases for office space, in excess of the 10,000 square foot threshold in HCR 52, that will be expiring without renewal options and have not already been rebid. These 12 leases contain approximately 450,000 square feet at a combined monthly cost of \$816.9.

ASSUMPTION:

Increase Lease Costs

The current average cost per square foot of the existing leases procured through Invitations to Bid (ITB) is \$1.82.

The current high cost per square foot based on leases procured through ITB is \$2.58.

The difference between the current average cost and the current high cost per square foot is \$.76.

For the purpose of this fiscal note, we assumed the average increase in the cost per square foot of space procured through a Request for Proposal (RFP) to be \$.38.

The expiration schedule for the next six fiscal years and the estimated additional cost each year is:

- FY 91: 0 leases of 10,000 square feet expire in FY 91.
- FY 92: 3 leases = est. 50,000 square feet x \$.38/mo. = \$228.0\*
- FY 93: 3 leases = 98,778 square feet x \$.38/mo. = \$450.4\*
- FY 94: 4 leases = 93,217 square feet x \$.38/mo. = \$425.1\*
- FY 95: 2 leases = 207,152 square feet x \$.38/mo. = \$944.6\*
- FY 96: 0 leases of 10,000 square feet expire in FY 96.

\* Annual Costs

\*\*\*\*\*

Training Costs

Since the contracting officers who would be involved in the preparation of RFPs have had no formal training and little experience in issuing RFPs, approximately \$5.5 would be required to provide training in the RFP process.

### Personal Services

Bids for lease space are among the most time consuming and difficult bids prepared by the contracting officers. The procurement through a Competitive Sealed Proposal will involve more preparation time and evaluation time than a Competitive Sealed Bid for lease space.

We estimate that development of the initial RFP conditions for proposals will take approximately three months of staff time.

The additional staff time to prepare, evaluate all offers (rather than just the low bid), and answer protests related to the use of a Competitive Sealed Proposal, is expected to add approximately six Purchasing Agent III staff months of work during each year in FY 92-94. In FY 95, due to the complexity of the two replacement leases of 207,152 square feet, we estimate a need for one additional Purchasing Agent III.

Item 3

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



### REPRESENTATIVE FRAN ULMER

#### MEMORANDUM

TO: Rep. Red Boucher, Chair  
Members, House State Affairs Committee

FROM: Rep. Fran Ulmer

DATE: February 27, 1990

RE: HCR 52-relating to state leasing

Many state agencies have turned to the capital lease process as a means of acquiring badly needed new facilities because of the lack of state funds needed to finance construction of office buildings. These facilities are designed, constructed, financed and often operated by the successful bidder. The building is essentially purchased by the state on the "installment plan" utilizing funds from the agency's operating budget. At the conclusion of the term of the lease, which may be 20 years or more, ownership of the facility usually reverts to the state, often after payment of a final lump sum.

A major problem with this process is that it lacks virtually all of the controls normally placed on development of new public facilities. The bids are usually awarded only on the basis of lowest rental cost and do not necessarily take into consideration building standards of the host community, the long term maintenance and operations costs or the functional needs of the agency.

HCR 52 requests that as the state enters into capital lease contracts, criteria in addition to price, including functionality, public convenience, design and appearance be taken into consideration.

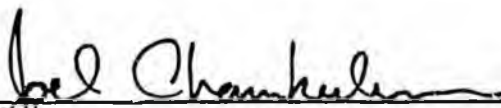
District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947

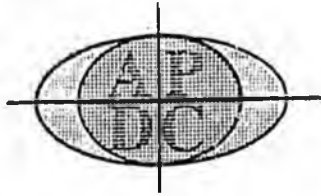
**RESOLUTION  
STATE BUILDING LEASE PROCEDURES**

- Whereas, the Alaska Chapter of the American Institute of Architects promotes quality design and construction practices throughout the State, and
- Whereas, the Department of Administration, other State agencies and other political subdivisions for the State of Alaska have been procuring new building space through a process which solicits bids for lease space normally resulting in new construction, and
- Whereas, the contractor with the lowest lease price and cheapest cost will be the successful bidder for such State space, and
- Whereas, this process is not required to consider the quality of building design, site design, regional planning, construction quality, or operation and maintenance costs, and
- Whereas, such omission harms the long term interest of the State and the affected communities because of the low quality design, planning and construction which inevitably occurs,
- Therefore, be it resolved that the Alaska Chapter of the American Institute of Architects, strongly urges that the Governor's Office and Department of Administration revise this bid process to include qualitative criteria for design, site planning, interior amenity, and maintenance and operation costs so that the State agencies and communities affected receive building projects with acceptable design and construction quality.

Unanimously adopted this date, November 10, 1989.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary



# Alaska Designs

Volume 12, No. 11, December 1989

The Official Newsletter of the Alaska Professional Design Council

## Acquisition of State Facilities Via Capital Lease

by Jack Wolever, AIA

Given current political and economic environments, most state agencies find it almost impossible to obtain funding for needed facilities through capital appropriations. The conventional process of constructing new state buildings -- an appropriation from the legislature, selection of architects and engineers, programming and design, competitive bids, and construction -- is simply no longer accessible to most state agencies because of economic or political constraints.

Several state agencies have turned to the capital lease process as a means of acquiring new facilities. These facilities are designed, constructed, financed, and often operated and maintained by the successful bidder. The building is essentially purchased by the agency on the "installment plan" utilizing funds from the agency operating budget. At the conclusion of the term of the lease, the facility ownership usually reverts to the state, often after payment of a final lump sum amount to the bidder. The capital lease process is made possible because many agencies have accommodated space needs over the years through rental of increasing amounts of office space which is frequently scattered throughout a community. Consolidation of rental space and agency functions increase the buying power and the efficiency of the agency -- powerful arguments for capital lease facility acquisition.

It is critical, however, that those individuals responsible for facility acquisition and management ensure that buildings acquired via capital lease are good investments for the state. Buildings which are functionally unreliable or unsuccessful are frustrating to the personnel who utilize them. Buildings which are poorly designed and constructed are expensive to operate and maintain and can have such a short useful life span that they are of little value at the conclusion of the term of lease when ownership is transferred to the state. It is the responsibility of an agency's facilities management group to ensure that such problems do not compromise the acquisition of a new building.

A publication entitled Design/Build/Bid Considerations for Participants was prepared in 1986 by an ad-hoc committee of Alaskan architects, engineers, contractors, and facility planning experts to inform public sector building owners about the process of acquiring facilities through design/build/bid. The process described differs from the capital lease process currently utilized by the state in several very important areas.

Critical to the success of a design/build/bid project is preparation of a detailed facility program describing the functional needs of the agency, and performance specifications describing a minimum level of quality for building components and systems. Equally important is preparation of a format for evaluating bidder's proposals in order to obtain from each bidder a design for the best possible building that can be provided within the limits defined by the performance specifications and the project budget.

Having participated in numerous design/build/bid public works projects in Alaska and California, it has been my experience that a consultant with experience in preparing D/B/B RFPs is needed to prepare the program, performance specifications, and evaluation format. With regard to evaluation of proposals, this typically involves both objective judgements, such as awarding points for exceeding minimum energy performance standards, and subjective judgements, such as awarding points for quality of architectural design and site planning functionality. Project cost can be dealt with by either establishing a price to be paid and allowing the bidders to provide the best facility achievable within that constraint, or by allowing the cost to be another variable in the evaluation format.

State agencies that are normally in the business of leasing facilities lack the professional expertise required to prepare a D/B/B RFP, and lack that same expertise required to evaluate a D/B/B proposal with regard to both technical criteria and design criteria. The State Department of Administration is the entity that has been responsible for capital lease building acquisitions for other state agencies. The DOA track record has been dismal, producing buildings which are largely unsuccessful because of failings in the RFP utilized by DOA. The community of Juneau has seen protests sent directly from the planning commission to the Governor about conspicuous failures of capital lease building projects initiated by the DOA's Division of General Services and Supplies which is unable to differentiate between a D/B/B project and an ordinary lease for office space. Therefore, it is necessary for the Alaskan consulting community to acquire the expertise to provide state agencies with the services needed to organize and execute a successful D/B/B project.

In summary, the capital lease process is currently the only practical means available to most state agencies for obtaining new facilities. In order to ensure that agency funds are invested in a responsible manner, it is imperative that state agencies utilize a process structured to produce buildings that are functionally responsive to the needs of the occupants, are economical to operate and maintain, and are humane and productive environments for the individuals who work there. In

addition, those building projects must complement and enhance the community in which they are placed -- the buildings must be good neighbors rather than centers of controversy over planning and design issues. It is incumbent on the Alaskan design community to recognize the need for D/B/B services and to be able to provide those services to state agencies. It is incumbent on the state to recognize the failings of its' process and its' products, and to obtain the necessary expertise required to develop successful capital lease building projects.

BY REP. ULMER

1 IN THE HOUSE

2

HOUSE CONCURRENT RESOLUTION NO. 52

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

Relating to the leasing of space by the

6

state.

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

8

WHEREAS the state leases office space in over 60 communities through-

9

out the state, and the purpose of these offices is to provide services to

10

the public; and

11

WHEREAS the state's presence in these offices affects the business

12

environment in the host community, and the design of these offices affects

13

employee efficiency and morale as well as the cost of the leases; and

14

WHEREAS the state should be a responsible citizen in the host commu-

15

ity and not cause the construction of buildings that are below the pre-

16

vailing standard for commercial structures in the host community; and

17

WHEREAS the competitive sealed proposal process makes it possible to

18

consider attributes other than the cost of a lease, including the total

19

life-cycle costs for maintenance and operations, functionality, public

20

convenience, design, and appearance of the leased building;

21

BE IT RESOLVED that the Alaska State Legislature respectfully requests

22

the governor to direct the Department of Administration to seek lease space

23

that not only accommodates the state's mission but is also compatible with

24

the host community's planning, zoning, and design regulations; and be it

25

FURTHER RESOLVED that the Alaska State Legislature encourages state

26

agencies to avoid leasing practices that would cause the construction of

27

substandard commercial structures that will not compete well for private

28

sector tenants when the state lease ends or that will be substandard in

29

appearance and features when compared to prevailing building practices and

Why not done through Admin process now?  
 purpose of bill give DOA nudge to  
 Adopt a broader view - we want you  
 to consider these design factors -  
 shutting - purpose of resolution

- 1 design; and be it
- 2 FURTHER RESOLVED that the Alaska State Legislature encourages state
- 3 agencies to utilize the competitive sealed proposal process for the acqui-
- 4 sition of leased space when the lease exceeds 10,000 square feet or a term
- 5 of five years; and be it
- 6 FURTHER RESOLVED that the competitive sealed proposal process used to
- 7 lease office space for the state consider the total life-cycle cost of the
- 8 building to be leased, including maintenance and operations, functionality,
- 9 public convenience, design, and appearance.
- 10 COPIES of this resolution shall be sent to the Honorable John M.
- 11 Andrews, commissioner of administration; the Honorable Mark S. Hickey,
- 12 commissioner of transportation and public facilities; and to Ray Price,
- 13 Executive Director of the Alaska State Housing Authority.

MAY 1971

→ problem statewide  
 → CAP lease process  
 Reluctant to build - lease / construction  
 poor use of space through design process.  
 when you go out, matter is space. Not  
 concerned with design, long term cost  
 not functional needs.

\*  
 Legislative process - not  
 DOA process. Leg wanted go get  
 cheap space - don't have design.  
 Change of mind. No transfer design.  
 Direct design only no real benefit

\* → LEASING RESULTS IN CONSTRUCTION  
 - bid specifications

DON'T GET FORCE -  
 e.g. plywood panel  
 C bad, bad, bad.

(1) Any builders fit through ADA - criteria  
 through state - sitting there?  
 (2) AS building needs 1971

**H C R**

**57**

# HOUSE COMMITTEE ON STATE AFFAIRS

## RECAP OF HCR 57

1991 "Year of Reconciliation"

Received February 12, 1990  
by Rep. Wallis and Gruenberg

Heard March 1, 1990  
Heard March 7, 1990

CSHCR 57 (SA) Adopted March 7, 1990

Passed Out of Committee March 7, 1990  
4 Do Pass

## TABLE OF CONTENTS

### HCR 57: 1991 "Year of Reconciliation"

- Item 1:** HCR 57 by Rep. Wallis, Gruenberg  
CSHCR 57 (SA)
- Item 2:** Fiscal Note by House State Affairs
- Item 3:** Memorandum from Rep. Wallis,  
February 16, 1990
- Item 4:** News Article
- Item 5:** Backup Information

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HCR 57

HOUSE CONCURRENT RES. NO. 57 1990 "YEAR OF RECONCILIATION"

Declaring 1991 as a Year of Reconciliation.

RECOMMENDATIONS:

be replaced with CSHCR57(SA)  the same title  
 a new title

have attached amendment(s)

do pass

do not pass

no recommendation

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note HSA

zero fiscal note(s) \_\_\_\_\_

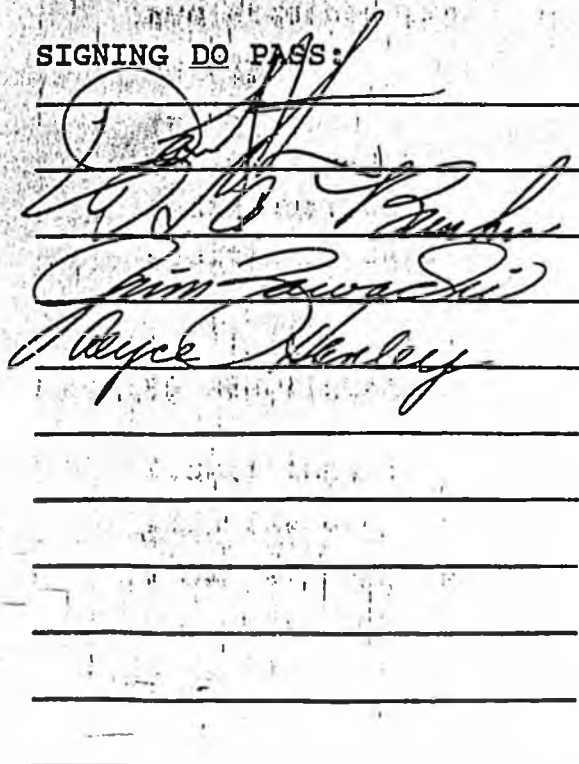
zero with analysis \_\_\_\_\_

zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

SIGNING:  
(Check approp. column)

Do Not Pass No Rec Amend



	Do Not Pass	No Rec	Amend

  
Chairman's Signature

Item 2

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : \_\_\_\_\_  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title : 1991 "Year of  
Reconciliation"  
Sponsor : Wallis  
Requestor : \_\_\_\_\_

Agency Affected : \_\_\_\_\_  
BRU : \_\_\_\_\_  
Components : \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by : House State Affairs  
Division : \_\_\_\_\_  
Approved by Commissioner : H. A. "Red" Boucher  
Agency : \_\_\_\_\_

Phone : 465-4963  
Date : Feb 26, 1990  
Date : Feb 26, 1990

- Distribution (by preparer) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

TO: Representative Red Boucher, Chairman  
House State Affairs

FROM: Representative Kay Wallis *KW*

DATE: February 16, 1990

SUBJECT: Request hearing for HCR 57

I would like to respectfully request that you schedule House Concurrent Resolution 57 for a hearing in the House State Affairs Committee at your earliest convenience. HCR 57 would name 1991 as a "Year of Reconciliation" and encourage statewide observance of the year via newspaper editorials and articles, conference themes and public awareness. This resolution will play its own small part in helping to "reconcile" Natives and Caucasians in their diverse views as the 20th anniversary of the Alaska Native Claims Settlement Act (1971-1991) is observed statewide.

Thanks for your prompt attention to this request.

HCR57.dia

Item 3

Representative F. Kay Wallis  
P.O. Box V  
Juneau, Alaska 99611

"Year of Reconciliation"

# South Dakota proclaims 90 year of reconciliation



The Associated Press

Steve Cournoyer, right, and Paul Iron Cloud sign the reconciliation proclamation while Gov. George Mickelson greets Judith Peterson Thursday at the state Capitol in Pierre, S.D.

Representative F. Kay Walker  
P.O. Box V  
Juneau, Alaska 99819

"Year of Reconciliation"

# South Dakota proclaims 90 year of reconciliation

By CHET BROKAW  
The Associated Press

PIERRE, S.D. — Gov. George Mickelson, recognizing the historical hurt suffered by Indians, smoked a peace pipe with tribal leaders and proclaimed a year of reconciliation in 1990, a century after the Wounded Knee massacre.

The governor and representatives of eight Sioux tribes drew deeply and passed the pipe Thursday as they sat in a circle around a buffalo skull and other items in the center of the state Capitol rotunda.

The members of the South Dakota Legislature and hundreds of other spectators applauded as Mickelson and the tribal leaders completed the ceremony. They then signed a proclamation designating 1990 as a time for healing wounds that have festered between Indians and non-Indians for a century.

During the state's centennial celebration last year, Indians refused to take part, claiming they had nothing to celebrate. They have been at odds with state government over issues such as hunting and fishing rights, law enforcement on reservation

highways and contracts for state services.

The governor decided it was time to bury the tomahawk.

Mickelson said he gathered the state lawmakers and the Indian leaders together to "make this truly a year of reconciliation that marks a new beginning."

"I believe it places a responsibility on all of us throughout this year to make a personal commitment," the governor said.

Indians are going through especially tough times in the state. On South Dakota's nine reservations, unemployment approaches 80 percent, and alcoholism, drugs and health care are severe problems.

Tim Giago, publisher of the weekly Lakota Times, had challenged Mickelson to proclaim 1990 as a year to help ease racial discord between Indian and white people in South Dakota. Mickelson thanked the Indian publisher for issuing the challenge.

In the proclamation, Mickelson said that as South Dakota begins its second century of statehood, people must also remember that the

creation of the state was a sad time for Indians.

In December 1890, a little more than a year after South Dakota became a state, Sioux leader Sitting Bull was killed and nearly 300 Sioux men, women and children were killed by U.S. government troops in the Wounded Knee massacre.

"Strife between the cultures in South Dakota has, for 100 years, been of grave concern and continues to be of grave concern," the governor said in the proclamation.

The 100th anniversary of the tragic events offers an opportunity for Indians and non-Indians to put aside their fears and mistrust, build friendships, cooperate, learn about each other's culture and develop a respect and understanding that will grow in the next century, Mickelson said.

More than 6 percent of the state's population — or about 45,000 people — are Indians, according to the 1980 U.S. Census.

Mickelson said he realizes state government and the tribal governments won't settle all their disputes in the next year, but many of the problems might be resolved.

Representative F. Kay Wallis  
P.O. Box V  
Juneau, Alaska 99811

**DRAFT**

1991 Year of Reconciliation / a resolution

I. Scope of project: what do we want and how big do we want it to be?

- 1. Individual villages, cities and communities
- 2. Regionwide: Native corporations, AFN, VPC
- 3. Statewide: events at museums, newspaper series

II. Events

- 1. Suggested theme for AFN Convention, VPC in Juneau
- 2. Suggested editorial themes for Native newspapers
- 3. Suggested editorial themes for statewide newspapers
- 4. Suggested series theme for radio, TV productions

III. State and local historical societies

IV. Participation by individuals, groups

- 1. Spiritual theme addressed by churches, communities
- 2. Celebration at Governor's Mansion attended by Native leaders and statewide civic leaders, legislators, media

NOTE: Observing 1991 as a "Year of Reconciliation" will not involve the expenditure of any state funds. The designation is intended to serve as a guidepost or marker for a year in Alaskan history that has special importance for the Native people of this state, as it marks the 20th anniversary of the passage of the Alaska Native Claims Settlement Act. Reconciliation is used in the Resolution as a spiritual term meaning "to bring into harmony, to bring together diverse cultures and subcultures into a more harmonious whole." This observance would be an opportunity for Natives and non-Natives to better understand each other through "reconciliation." Sponsored by Rep. Kay Wallis.  
Co-sponsors: \_\_\_\_\_

**DRAFT**

Editorial: 1991 is Year of Reconciliation

1991 has been proclaimed a Year of Reconciliation by resolution of the state legislature and by proclamation of the Governor. We think this is a good year to focus attention on the 20th anniversary of the Alaska Native Claims Settlement Act and the results of that historic act. In 1971, Alaska Natives reached a milestone in their history with the passage of that act, and now 20 years later, it's a good time to reflect on what has happened in the intervening years. Certainly there have been good times and bad times, divisive times and harmonious times. With 1991 as a Year of Reconciliation, perhaps during this time we can devote ourselves to a renewed effort to understand each other better, Natives and non-Natives, across cross-cultural lines... etc etc...

FROM A POSSIBLE EDITORIAL IN THE ANCHORAGE DAILY NEWS/ANCHORAGE TIMES/JUNEAU EMPIRE/ETC.....in observance of the 1991 Year of Reconciliation resolution...

HJR

1

# HOUSE COMMITTEE ON STATE AFFAIRS

## RECAP OF HJR 1

### Legislative Meetings Open to the Public

Received January 9, 1989

by Reps. Brown, Ellis, Boucher, Cotten, Donley,  
Ulmer, M. Davis, Koponen, and Navarre

Heard January 19, 1989

Heard January 24, 1989

Committee Substitute adopted January 24, 1989

Passed Out of Committee January 24, 1989

5 Do Pass

## TABLE OF CONTENTS

### HJR 1: Legislative Meetings Open to the Public

- Item 1:** HJR 1 by Reps. Brown, Ellis, Boucher, Cotten, Donley, Ulmer, M. Davis, Koponen, and Navarre  
CSHJR 1 (SA)
- Item 2:** Fiscal Note and Analysis
- Item 3:** Summary of HJR 1 Proposed Legislation
- Item 4:** Anchorage Daily News article
- Item 5:** Letter from League of Women Voter's to Rep. Kay Brown, Sponsor
- Item 6:** Amendment by Rep. MacLean  
January 23, 1989



Original Sponsors: Brown, Ellis  
Boucher, et al.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 1 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 open meetings.

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

9 \* Section 1. Article I, Constitution of the State of Alaska, is amended  
10 by adding a new section to read:

11 SECTION 24. MEETINGS OPEN. (a) Unless the legislature or a  
12 committee of the legislature is meeting in executive session to con-  
13 sider matters authorized by law, the discussions and debates of each  
14 house of the legislature and its committees shall be open to the  
15 public.

16 (b) Except as provided in (a) of this section, private and  
17 formal or informal discussions that lead to promises, agreements, or  
18 votes on legislation under its jurisdiction by a quorum of a house of  
19 the legislature or a committee are prohibited. A court may not pre-  
20 scribe rules or procedures for the conduct of legislative business or  
21 invalidate legislation because of a violation of this section. A  
22 court may impose a civil fine upon a member of the legislature for a  
23 wilful violation of this section.

24 (c) The provisions of this section do not apply to a subcommit-  
25 tee of a committee of the legislature.

26 (d) The legislature may implement this section.

27 \* Sec. 2. INTENT. (a) The purpose of the amendment to art. I, Consti-  
28 tution of the State of Alaska, proposed in sec. 1 of this resolution is to

1 amendment ensures that the public is not excluded during the substantive  
2 deliberative and decision-making stages of the budgetary and lawmaking  
3 process.

4 (b) This amendment provides a basis for judicial enforcement of the  
5 existing open meetings law (AS 44.62.310 - 44.62.312) or an amendment to it  
6 to the extent that the provisions are consistent with the amendment pro-  
7 posed in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and  
8 12, Constitution of the State of Alaska. The amount of civil fines au-  
9 thorized by this amendment may be established by law.

10 (c) This amendment is not intended to prevent the free flow of ideas  
11 among legislators or their participation in public forums, community  
12 events, site visitations, or social events.

13 (d) In the preparation of its neutral summary under AS 15.58.-  
14 020(6)(C), the Legislative Affairs Agency shall consider the statement of  
15 legislative intent contained in (a) - (c) of this section.

16 \* Sec. 3. The amendment proposed by this resolution shall be placed  
17 before the voters of the state at the next general election in conformity  
18 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-  
19 tion laws of the state.  
20  
21  
22  
23  
24  
25  
26  
27

Item 2

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Office of the Governor  
Title: Const. Amend.- Open Meetings BRU: Division of Elections  
Sponsor: Brown Components: 1 Elections  
Requestor: Brown

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	2.2*	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	2.2*	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\* Costs included cover 2 to 3 pages in each Official Elections Pamphlet, for printing and typesetting, and costs estimated to cover computer program-ing requirements for vote (Continued)

Prepared by: Linda Edgeworth Phone: 465-4611  
Division: Elections Date: 1/17/89

Approved by Commissioner: *Sandra Stewart* Date: 1/17/89  
Agency: Division of Elections

Distribution (by preparer):

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

**CONTINUATION of FISCAL NOTE ANALYSIS**

**For Bill/Resolution No. HJR 1**

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

By Brown, Ellis, Boucher, Cotten  
Donley, Ulmer, M. Davis, Koponen  
and Navarre

Prepared by:  
Rep. Kay Brown  
January 19, 1989

**HJR 1: Proposing an amendment to the Constitution of the State of Alaska relating to open meetings.**

**HJR 1 proposes to amend the State Constitution by:**

- mandating legislative adherence to the Open Meetings Act
- providing for court enforcement in the instance of a violation
- requiring that the discussions and debates of the legislature or a committee of the legislature be open unless the house of the legislature or a committee is meeting in executive session to consider matters authorized by law
- prohibiting a quorum of a house of the legislature or a committee of the legislature from engaging in private and substantive discussions and debates on legislation under its jurisdiction
- providing for a civil fine for a wilful violation, and other sanctions authorized by law.

HJR 1 includes intent language making it clear that this amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community events, site visitations, or social events. It intends to make openness in government the rule and secrecy the exception, and ensures that the public is not excluded during the substantive deliberative and decision-making stages of the budgetary and lawmaking process.

Item 4

## 2 lawmakers argue case for open meetings amendment

### Amendment would protect the public's right to know

By SEN. ARLISS STURGULEWSKI

Alaska's Open Meeting Act states "All meetings of a legislative body ... are open to the public ..." If members of the Anchorage Assembly, the Bristol Bay Borough Assembly, or the Ketchikan City Council meet to discuss legislative matters the meeting has to be public.

The law clearly applies to the legislature also, but the way Alaska's Constitution is constructed there can be no enforcement against the legislature. The legislature says, "Do as we say, not as we do." Hypocritical? You bet, but also very comfortable for some.

The legislation which Rep. Brown introduced in the House and I introduced in the Senate last year would amend the Constitution to prohibit private and substantive debate on legislation by a quorum of either house or a committee of the legislature. Legislators could be personally subject to civil fine for violations, but legislation could not be invalidated.

The amendment makes a proper exception for executive sessions for consideration of confidential material. It also specifies that

the courts may not prescribe rules or procedures for the conduct of legislative business.

Certainly any change to a Constitution should be made with great thought and care, yet one of the beauties and strengths of our form of government is that our constitutions are living, growing documents. Since statehood, the Alaska Constitution has been amended 18 times to clarify and protect our rights. The public should be guaranteed the right to know what their representatives and senators are doing when a quorum of them meet to work on legislation.

I have no problem with making my stands in public. This is the least that people deserve from their legislators.

For next session I have already prefiled Senate Joint Resolution No. 1 — "Proposing an amendment to the Constitution of the State of Alaska relating to open meetings."

This is an issue of fundamental importance to Alaska, and with your support we can amend our state Constitution and ensure the public's right to participate in their own government.

---

Sen. Arliss Sturgulewski represents midtown and South Anchorage in the state Senate.

---

### Public need for access has never been more critical

By REP. KAY BROWN

When the Alaska Supreme Court ruled last year on the open meetings lawsuit brought against the legislature by the League of Women Voters and two newspapers, the court decision highlighted a crucial flaw in our state Constitution. While there was no dispute that violations had occurred, the Supreme Court ruled that it was powerless under the Constitution to enforce the state's Open Meetings Act against the legislature.

In the *League vs. the Alaska Legislature* case, there was no argument that secret closed-door meetings were held during the 1988 legislative session in violation of the Open Meetings Act. However, because the Alaska Constitution currently does not expressly provide the court jurisdiction to enforce the law with regard to the legislature, the court ruled that it could not require the legislature to obey the law.

Openness is the foundation of effective democratic representation — without access to legislative meetings there can be no accountability. It is essential for the public

and press to be able to follow and understand the issues debated and decided by the legislature — not only to know what happens, but also how and why specific decisions are made.

That's why Sen. Arliss Sturgulewski and I sponsored constitutional amendments last legislative session that would guarantee the public's right of access to the legislative deliberations. House Joint Resolution 44 passed the House with overwhelming support. Although HJR 44 cleared three of its Senate committee referrals, the resolution died in the Senate Rules Committee without a vote of the full Senate.

Decisions made in Juneau are of vital interest to all Alaskans as the state comes to terms with declining revenues. I will continue working to secure passage of an amendment to guarantee the public's right of access to legislative debate. Until such an amendment is adopted, the legislature will be free to meet at will behind closed doors in violation of the Open Meetings Act, but beyond the reach of the courts.

---

Rep. Kay Brown represents downtown Anchorage in the state House.

---



January 19, 1989

Representative Kay Brown  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Brown:

The Alaska League of Women Voters strongly support HJR 1, proposing an amendment to the Constitution of the State of Alaska relating to open meetings. As you must know, our belief is strong that the deliberations and the decision making of the Legislature and its constituent groups must be done in full public view. We believe in it so strongly that we are working with other interested groups to launch an initiative campaign. The process of placing the initiative on the ballot for a vote of the people will be a healthy one. It will provide an opportunity for public debate and then for voters to say whether they believe public access to legislative meetings should be guaranteed in the Constitution of the State of Alaska.

The League of Women Voters asks you to give the people of Alaska the opportunity to make that decision. Thank you.

Sincerely,

*Charlotte Fox (by VLB)*

Charlotte Fox  
President

A M E M D M E N T

BY REP. MACLEAN

TO: HJR 1

Page 1, line 17

Delete "substantive discussions and debates"

insert "formal or informal discussions that lead to agreements,  
promises, or votes"

Proposed Amendment

HJR 1

MacClean

Page 1, line 17

Delete "substantive discussions and

Insert "formal or informal discussions, agreements, promises, or votes"

Donley

Page 1, lines 21 to 23

Delete "A court may impose a civil fine upon a member of the legislature for a wilful violation of this section and may impose other sanctions authorized by law"

Insert "If authorized by law, a court may impose a civil fine upon a member of the legislature for a wilful violation of this section"

Page 1, lines 24 to 25

(c) is now (d)

New language for (c) reads: "The provisions of this section do not apply to subcommittees of the legislature"

Introduced: 1/9/89  
Referred: State Affairs and  
Judiciary

IN THE HOUSE

HOUSE JOINT RESOLUTION  
IN THE LEGISLATURE OF THE  
SIXTEENTH LEGISLATURE -

Proposing  
tion of  
open mee

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA

Section 1. Article I, Constitution of the State of Alaska, amended  
by adding a new section to read:

SECTION 24. MEETINGS OPEN. (a)

committee of the legislature is meeting to consider matters authorized by law, the doors of each house of the legislature and its committees shall be open to the public.

(b) Except as provided in (a)

FORMAL OR INFORMAL DISCUSSION  
substantive discussions and debates of PROMISES OR GOALS  
by a quorum of a house of the legislature is prohibited. A court may not prescribe

conduct of legislative business or investigate a violation of this section.

IF A COURT MAY IMPOSE A CIVIL FINE UPON A MEMBER OF THE LEGISLATURE FOR A WILFUL VIOLATION OF THIS SECTION,  
A court may impose other sanctions authorized by law.

(D) The legislature may implement

\* Sec. 2. INTENT. (a) The purpose of the amendment to the State of Alaska, proposed in order to make openness in government the rule and standard. The amendment ensures that the public is not excluded from the deliberative and decision-making stages of the legislative process.

CLERK OF THE HOUSE  
STATE OF ALASKA

IF A COURT MAY IMPOSE A CIVIL FINE UPON A MEMBER OF THE LEGISLATURE FOR A WILFUL VIOLATION OF THIS SECTION,  
A court may impose other sanctions authorized by law.

THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL HOUSES OF THE LEGISLATURE

b. Example / Checklist Contact Sheet

Comm file

LEGISLATIVE SPONSOR: House State Affairs

TC DATE/DAY: Thurs, Jan 19

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30-10:30

LEGISLATIVE REFERENCE: HJR 1

JUNEAU ROOM: C-102

SUBJECT: Legislative Meetings

BRIDGE: \_\_\_\_\_

Open to public

# OF PORTS: \_\_\_\_\_

CONTACT: Ann PH: 4931

DATE TAKEN/BY: 1/13/89 Londi

\*\*\*\*\*

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage
- Darrow \*
- Bethel
- Delta Junction \*
- Dillingham \*
- Fairbanks
- Glennallen \*
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg \*
- Sitka
- Soldotna
- Valdez \*

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

OFFNETS: \_\_\_\_\_

CHAIRING SITE: Juneau

CHAIRPERSON: Rep. Boucher

[ ] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

\_\_\_\_\_  
SIGNATURE OF SPONSOR/CONTACT PERSON

\_\_\_\_\_  
DATE

\*\*\*\*\*

SPECIAL INSTRUCTIONS



**H J R**

**3**

**HOUSE COMMITTEE ON STATE AFFAIRS**

**RECAP OF  
HJR 3**

**Authorize Const. Amend't by Initiative**

Received January 9, 1989  
by Rep. Martin

Heard April 27, 1989  
Heard April 10, 1990

Passed Out of Committee April 10, 1990  
4 Do Pass

## **TABLE OF CONTENTS**

### **HJR 3: Authorize Const. Amend't by Initiative**

- Item 1:** HJR 3 by Rep. Martin
- Item 2:** Fiscal Note and Analysis by Division of Elections
- Item 3:** Memorandum from Rep. Martin, April 11, 1990
- Item 4:** Chapter- Initiative

# HOUSE COMMITTEE REPORT

(5)  
Date Referred: January 9, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee recommends that:

HOUSE JOINT RESOLUTION NO. 3 [AUTHORIZE CONST. AMEND'T BY INITIATIVE]  
Proposing amendments to the Constitution of the State of Alaska authorizing use of the initiative to amend the Constitution of the State of Alaska.

[ ] be replaced with \_\_\_\_\_ [ ] the same title  
[ ] a new title

[ ] have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact Elections
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- [ ] zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

*Alice Hanley* Hanley  
*Sam Menard* Menard  
*Jim Zawacki* Zawacki  
*Bob Boucher* Boucher

SIGNING OTHER THAN DO PASS:  
(Do Not Pass, No Recommendation, Amend)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Bob Boucher*  
 Chairman's signature

Item 2

**FISCAL NOTE**

**REQUEST:**

Revision Date: 4/9/90 Agency Affected: Office of the Governor  
 Title: Authorizing the use of the initiative to amend the Constitution BRU: Elections  
 Sponsor: Martin Components: II- Primary & General Elections  
 Requestor: Martin

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2*	-0-	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	2.2*	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The fiscal impact for FY 90 is -0-

- \* Costs included cover 2 to 3 pages in each Official Election Pamphlet, for printing and typesetting, and costs estimated to cover computer programming requirements for vote counting purposes.

Prepared by: Linda Edgeworth Phone: 465-4611  
 Division: Division of Elections Date: \_\_\_\_\_

Approved by Commissioner: [Signature] Date: 4.9.90  
 Agency: Division of Elections

**Distribution (by preparer):**

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 3

However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2

Under these circumstances the fiscal note would be:

53.4

Item 3

REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE



HOME  
3960 REKA DRIVE-B6  
ANCHORAGE, AK 99508  
PHONE 533-6990

DURING SESSION  
P. O. BOX V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

Alaska House of Representatives

April 12, 1989

MEMORANDUM

To: H.A. "Red" Boucher, Chairman  
House State Affairs Committee

From: Rep. Terry Martin *T.M.*

Subject: HJR 3 - Allowing initiated changes in constitution

Thank you for scheduling HJR 3 for a hearing. I think the members of your committee will find it an interesting and informative discussion. Attached you will find the following back-up information:

- Sponsor statement
- Fiscal note from division of elections
- A list of the 17 states that currently allow amendment of their constitutions through initiative
- A quote from Thomas Jefferson regarding the need for constitutions to be able to change with changing times.
- A portion of a study of direct legislation done for the California Roundtable in the early 1980s
- A list of all amendments proposed to the Alaska constitution between statehood and the general election of 1982



## SPONSOR STATEMENT

HJR 3 - Proposing amendments to the constitution of the State of Alaska authorizing the use of the initiative to amend the Constitution of the State of Alaska.

This resolution would place before the voters of the state an amendment to the state constitution that would have the effect of allowing the constitution to be amended by direct popular initiative.

Currently, amendments to the constitution can be proposed only by approval of two-thirds vote of each house of the legislature, and then approved by affirmative vote of the majority of the voters in the next general election following passage of the measure by the legislature.

HJR 3 would still require approval of all proposed constitutional amendments by a majority of the voters, but would allow amendments to be proposed in the same way that a statute may be initiated. Sponsors of an initiative would be required to obtain a number of signatures on their petition equal to 10% of the number of voters who had voted in the preceding gubernatorial election. They would have one year to gather signatures and file the petition. The signators would have to be verified to be qualified voters from at least two-thirds of the election districts of the state. And the legislature would retain the ability to supercede an initiative by passing substantially the same proposed change.

This is a fair step forward in placing faith in the genius of the people and in their ability to correct and update their constitution as experience and maturity of our society dictates.

Article I, Section 2 of the constitution states, "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." Furthermore, in Article 1, Section 6, we find, "the right of the people peaceably to assemble, and to petition the government shall never be abridged." Yet, in other sections of the constitution - such as those delegating powers to the three branches of government - we see that the foundations of power of the people have been seriously eroded, and their abilities to regain these rights are prohibited.

## FISCAL NOTE

**REQUEST:**

Revision Date: 4/12/89  
Title: Authorizing the use of the initiative to amend the Constitution  
Sponsor: Martin  
Requestor: Martin

Agency Affected: Office of the Governor  
BRU: Division of Elections  
Components: II-Elections  
Primary & General Elections

**EXPENDITURES/REVENUES:** (Thousand: of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	2.2*	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	2.2*	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

\* Costs included cover 2 to 3 pages in each Official Election Pamphlet for printing and typesetting, and costs estimated to cover computer programming requirements for vote (Continued)

Prepared by: Linda Edgeworth Phone: 465-4611  
Division: Elections Date: \_\_\_\_\_

Approved by Commissioner: [Signature] Date: 4-12-89  
Agency: Division of Elections

**Distribution (by preparer):**

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 3

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

**Table 1.3**  
**CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE**  
**Constitutional Provisions**

<i>State</i>	<i>Number of signatures required on initiative petition</i>	<i>Distribution of signatures</i>	<i>Referendum vote</i>
Arizona.....	15% of total votes cast for all candidates for governor at last election.	None specified.	Majority vote on amendment.
Arkansas.....	10% of voters for governor at last election.	Must include 5% of voters for governor in each of 15 counties.	Majority vote on amendment.
California.....	8% of total voters for all candidates for governor at last election.	None specified.	Majority vote on amendment.
Colorado.....	5% of total legal votes for all candidates for secretary of state at last general election.	None specified.	Majority vote on amendment.
Florida.....	8% of total votes cast in the state in the last election for presidential electors.	8% of total votes cast in each of 1/2 of the congressional districts.	Majority vote on amendment.
Illinois(a).....	8% of total votes cast for candidates for governor at last election.	None specified.	Majority voting in election or 3/5 voting on amendment.
Massachusetts(b).....	3% of total votes cast for governor at preceding biennial state election (not less than 25,000 qualified voters).	No more than 1/4 from any one county.	Majority vote on amendment which must be 30% of total ballots cast at election.
Michigan.....	10% of total voters for all candidates at last gubernatorial election.	None specified.	Majority vote on amendment.
Missouri.....	8% of legal voters for all candidates for governor at last election.	The 8% must be in each of 2/3 of the congressional districts in the state.	Majority vote on amendment.
Montana.....	10% of qualified electors, the number of qualified electors to be determined by number of votes cast for governor in preceding general election.	The 10% to include at least 10% of qualified electors in each of 2/5 of the legislative districts.	Majority vote on amendment.
Nebraska.....	10% of total votes for governor at last election.	The 10% must include 5% in each of 2/5 of the counties.	Majority vote on amendment which must be at least 35% of total vote at the election.
Nevada.....	10% of voters who voted in entire state in last general election.	10% of total voters who voted in each of 75% of the counties.	Majority vote on amendment in two consecutive general elections.
North Dakota.....	4% of population of the state.	None specified.	Majority vote on amendment.
Ohio.....	10% of total number of electors who voted for governor in last election.	At least 5% of qualified electors in each of 1/2 of counties in the state.	Majority vote on amendment.
Oklahoma.....	15% of legal voters for state office receiving highest number of voters at last general state election.	None specified.	Majority vote on amendment.
Oregon.....	8% of total votes for all candidates for governor at last election at which governor was elected for four-year term.	None specified.	Majority vote on amendment.
South Dakota.....	10% of total votes for governor in last election.	None specified.	Majority vote on amendment.

(a) Only Article IV. The Legislature, may be amended by initiative petition.

(b) Before being submitted to the electorate for ratification, initiative

measures must be approved at two sessions of a successively elected legislature by not less than one-fourth of all members elected, sitting in joint session.

S

ome men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well. I belonged to it, and labored with it. But I know also that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered, and manners and opinions change with the change of circumstances, institutions must advance also and keep pace with the times.

Thomas Jefferson's letter

Source: The Initiative and Referendum: A Study and Evaluation of Direct Legislation  
Presented as a working paper to the California Roundtable  
November, 1981 by Dr. Alfred Balitzer

## CHAPTER II

### THE THEORY OF DIRECT LEGISLATION REVIEWED AND CRITIQUED

With the increasing use of direct legislation in both statutory and constitutional matters, it is well to examine the theory behind such legislation—the underlying assumptions of the advocates of the initiative and referendum.

A short review of the philosophy of governmental "reform" will assist in comprehending of the impulse behind direct legislation. Our system of government, it is said, is unresponsive to the needs of the people. The distance between elected representatives and electors is too great. Moreover, between the voters and the representatives are many intervening structures—including corporations, political parties, and political machines—that act as "special interests" and unduly influence the governors to the detriment of the governed. Too often, special interests constitute well-organized and well-financed elites whose agents are able to corrupt legislators. The laws made by corrupt political officials lack legitimacy in the eyes of the people, so that the people become alienated from their government.

The initiative and referendum, on the other hand, close the gap between the people and their government, circumvent the power of special interests, encourage representatives to be honest and attentive (because the threat of the initiative process is always present), and provide the ultimate degree of democratic legitimacy for laws and political decisions. Governor Hiram Johnson of California, in the midst of the battle over adoption of the initiative and referendum in his state, expressed the Progressive position, saying: "There are two kinds of government, government in secret, the spring of which no man knows, and government in the open—government that takes into confidence all the people of all the state all the time."

It would be grossly inaccurate to assume that the Progressive champions of

direct legislation were only reacting to the power of money in politics. It is true that their ire was raised in part by their perception of special-interest money and its ill effects on the political system; underlying this perception, however, was their peculiar view of the relationship between democracy and egalitarianism. They drew their political philosophy of participatory and egalitarian democracy from many sources, including elements of the American religious tradition, experiments with utopian communities, the popular utopian literature, the works of the French philosopher Jean Jacques Rousseau and the German Karl Marx, the budding industrial labor movements, and the ideas of America's small but articulate Socialist Party. Indeed, the Progressives believed that their political philosophy represented a furthering of the American political tradition which was, from its inception, devoted to the equal rights of all men.

In fact, the Progressive belief in the equality of all men led to their insistence on direct democracy and to their implicit distrust of representative government. Their views, expressed early in the twentieth century, represented the continuation of a debate that was first heard in the eighteenth, between the advocates of the new Constitution and those who had opposed it. During the debates between the Federalists and the anti-Federalists, the latter offered the opinion that popular government is only secure in a small country where the people can meet to administer government directly. Many anti-Federalists believed that a scheme of representative government, necessary in a large country, was subversive of the principle of popular government, and held the seed of despotism. Although the advocates of the Constitution won the day, the arguments of the anti-Federalists faintly persisted down through the decades, from time to time growing more influential when taken up by able leaders battling for a good cause.

Underlying the reformist philosophy of the Progressives was a sentimental and romantic vision of the democratic citizen. According to the historian Richard

Hofstadter:

At the core of their conception of politics was a figure quite as old-fashioned as the figure of the little competitive entrepreneur who represented the most commonly accepted economic ideal. This old-fashioned character was the Man of Good Will, the same innocent, bewildered, bespectacled, and mustached figure we see in the cartoons today labeled John Q. Public. . . . In a great deal of Progressive thinking the Man of Good Will was abstracted from association with positive interests; his chief interests were negative. He needed to be protected from unjust taxation, spared the high cost of living, relieved of the exactions of the monopolies and the grafting of the bosses. . . . The problem was to devise such governmental machinery which would empower him to rule. Since he was dissociated from all special interests and biases and had nothing but the common weal at heart, he would rule well. He would act and think as a public-spirited individual, unlike all the groups of vested interests that were ready to prey on him.

According to this view, such democratic citizens, when left to their own devices, would freely meet, deliberate, and arrive at decisions that furthered the best interests of society as a whole. However, when confronted by well-organized and well-financed elites, the noble citizen would withdraw from public participation, leaving the government to the oligarchs; alienated himself, he would deny to the democracy its most valuable assets--his public spiritedness and innate good sense. At the heart of the Progressive reform philosophy, then, was a desire to elevate this mythical model citizen to power.

Of course, public spiritedness and innate good sense may not be sufficient to guide society in an age of technological progress and industrial expansion. According to Progressive thought, the social and economic problems that arise as a result of these forces are too complex for sensible but simple men. Thus, communities of democratic citizens need the expertise of professional and technical advisers--specialists who are devoted to sharing their special knowledge of social structure, economics, government management, and physical science. It is no wonder that so many leaders of the Progressive movement were middle-class technocrats, managers, lawyers, journalists, and other professionals whose educational attainments and general background prepared them to lead the movement.

Indeed, they elected themselves a President of the United States--Woodrow Wilson, formerly the president of Princeton University.

The Progressives in general believed strongly in the virtues of enlightened public discussion. They advocated the creation of public forums for the discussion of topics of the day. These forums, they thought, would create a climate conducive to honesty in government. The Progressives also tried to establish civic and fraternal clubs of bankers, businessmen, lawyers, and others who would devote their energies to informing the public about corruption and about proposed reforms in government and elsewhere. These self-appointed elites, once organized, encouraged government officials to address the people both directly and through the press--all in the hope that a better-informed people would be better able to affect their government in a positive fashion.

The union of sentimental, democratic idealism with a faith in professionalism and technical expertise generally suggests the intellectual character of the Progressives. This union also suggests the ultimate aspirations for society of those who advocated the initiative and the referendum. In its prime, Progressivism represented a great movement for the creation of "apolitical politics."

Although the initiative and referendum are supposedly intended to defend the rights of the people, they represent a significant departure from the American political tradition as it relates to representative government. While they were first designed as corrections to misuses of power in the representative system, it is now claimed by some that the initiative and referendum threaten the procedural safeguards of the legislative process under the representative system. "Without these safeguards the rights of minorities, and civil liberties generally, are acutely vulnerable to oppression by an anonymous majority of voters." In today's political environment, marked by extensive media influence and by a substantial degree of political polarization, the danger increases.

The danger posed to minority rights and civil liberties by direct popular rule was a subject on which the American Founders spoke and wrote at length. The Founding Fathers recognized that direct democracy posed a profound threat to individual rights and liberty. Not only the Federalist Papers, but the records of the Federal Constitutional Convention, show that the Constitution was designed to provide a system of government that would prevent either a tyranny of the majority or a tyranny of the few. James Madison described the danger as one of "faction," as he warned against the power of a majority or a minority of the population "united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interest of the community."

History had taught Madison that factionalism was the undoing of all previous experiments in popular government.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote: It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government on the other hand enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our enquiries are directed: Let me add that it is the great desideratum, by which alone this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

The history of popular rule, from ancient Greece to Rome to the city-states of Renaissance Italy, offered numerous examples of turmoil, anarchy, and finally tyranny. In sum, the history of free government until the American experiment was a sordid and unhappy one. Direct democracy, Madison believed, only exacerbated the problem of faction. On the other hand, he thought a representative government promised a remedy for the illness. Madison was keenly aware that the attempt to create a union of the states under a republican constitution was an action

unprecedented in modern history. Boldly, Madison urged Americans to undertake the Herculean effort to rescue the reputation of popular government by creating political structures that would secure and preserve both majority rule and minority rights.

Although the danger of factionalism was manifest, Madison did not seek to extirpate factions from society. Faction, he held, was "sown in the nature of man"; any effort to extirpate it would require a tyranny sufficient to destroy all liberty. Madison and his fellow Federalists did not pretend to possess a "final solution" for the chief problem of democracy. Rather, as Alexander Hamilton said: "We are now forming a republican government. Real liberty is neither found in despotism or the extremes of democracy, but in moderate governments."

The effort to create moderate government culminated in the establishment of representative government--a republic. Direct democracy was avoided partly because it exacerbated the tensions between factions by pitting one group of citizens against another in an open, public forum. This inevitably led to "confrontational" politics. If one group of citizens proved to be a majority, it would act for its own sake, disregarding the rights of the minority. Minorities, by contrast, would seek to compel the whole of society to support their special interests. The New England town meeting was no model of popular government, as far as Madison was concerned. Rather, popular government was best when the sphere of territory subject to popular government was enlarged. This necessitated a scheme of representation, and also enlarged the number of interests competing for the public's support.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of Republican, than of Democratic Government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals

composing a majority; and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.

Madison expected that a "multiplicity of interests" would provide for political freedom in America, just as the multiplicity of sects provided for religious freedom. A multiplicity of interests would force each interest to moderate its views as it sought, through compromise, to satisfy its desires in the legislative process. Representative government, in short, allowed for consideration of a great many interests in the lawmaking process, whereas direct or "pure" democracy allowed a bare majority to set the rules for society.

What Madison was saying, in effect, was that direct democracy, including the rule of the people as lawmakers, hold no answer to the problem of special interest. Rather, he believed that the solution to the problem of special interest lay in creating those circumstances--geographic, cultural, economic, and political--that would allow for the development of a multiplicity of interests, and for their subsequent competition through the vehicle of representative government. Madisonian theory, applied to the realities of today's politics, raises troubling questions about the initiative and referendum.

The issue is clearly joined by Justice Hugo Black's often-quoted statement regarding referenda: "Provisions for referendums demonstrate devotion to democracy, not to bias, discrimination or prejudice." Setting aside the fact that a successful referendum or initiative campaign represents an unadulterated victory for the larger part of the electorate over the lesser part, it should be pointed out that, in California at least, referenda and initiatives have been used most frequently by special interest groups seeking to influence "life styles" and to legislate morality. Throughout the 1960's, when racial tension was especially high, local and statewide

direct legislation was used, according to many commentators, to maintain segregated neighborhoods. These same commentators point to the use of direct legislation to continue patterns of racial segregation in public schools. Likewise, initiatives have been used to try to limit the employment opportunities of homosexuals in education. Popular measures aimed at homosexuals possess the same "moral tone" as initiatives of an earlier period that sought to restrict drinking and gambling.

Madison feared the direct injection of religious and moral issues into the political process. These are the most inflammatory kinds of issues, sharply dividing society, and sometimes creating a "civil war"-like atmosphere. They are the kinds of issues that dominated European politics throughout the Middle Ages, producing zealots for political leaders and subjecting whole societies to the rule of organized elites. Although Madison strongly believed in the need for moral and religious principles among democratic peoples, he felt that the development and inculcation of these principles was best left to men in their private capacities as educators, religious leaders, and molders of public opinion. The American Founders consciously rejected the medieval approach to politics, seeing in the distinction between state and moral order, and in the processes of representative government, the guarantee of the civil liberties of all men.

While initiatives and referenda have often had a negative impact on racial and ethnic minorities, it is also true that these devices have often adversely affected the business community. The initiative has been particularly popular among a coalition of special-interest groups, including consumer advocates, environmentalists, educators, and some lawyers, who see business--especially "corporate America"--as the single greatest impediment to a better "life style" for the American people. This coalition, which one critic has termed the coalition of the "utopian coercives," has, in the name of a moral vision, sought to curtail "business as

usual." Their antagonism is most often aimed at the "private sector" and at the "profit motive," which they see as corrupting forces that threaten to destroy basic human values. When the "utopian coercives" speak politically, it is usually against the influence of corporations. Opposing private profits with moral values, they seek to involve the people directly. They tend to reject the representative system, because too often they see their designs frustrated by the compromises that are a necessary part of representative government.

This special-interest coalition also possesses a class bias and seeks to promote a class interest. For example, environmentalists tend to consider environmental quality more important than the production of energy; many also appear more sensitive to the quality of animal life than to the quality of human life (understood in terms of jobs and economic well-being). The environmentalist can usually afford the luxury of his position, but what then becomes of the economic rights of the poor, of disadvantaged racial minorities, and of the business community? By their very nature, initiatives and referenda can seldom balance moral principles and class interests in the same way as a legislative act may balance such principles and interests. Not only is direct legislation absolute, but as with direct or pure democracy itself, it is insensitive to the issues and differences separating economic classes and moral perspectives. Rather than producing reconciliation and consensus, an initiative often hardens class differences. The sophisticated politics that bridges class interests for the sake of the commonweal is sometimes totally absent in the politics of the initiative and referendum.

The foregoing argument is not intended to suggest that initiatives and referenda do not often carry with them a subtle "hidden agenda." For example, Blacks are often disliked by lower-class whites who feel their economic security threatened by the prospect of Black advancement. It has been noted, also, that many of those who seek to prevent the further development of natural resources and

productive capacity, in order to protect a particular "life style," do so out of base motives. As one observer has stated: "It is clear . . . that direct legislation is used effectively by residents of homogenous middle-class communities to prevent unwanted development--especially development that portends increased size or heterogeneity of population." The argument was stated differently by another observer: "Comparison of the voters and nonvoters confirms that direct democracy also has a distinct social bias. Because of low turnouts, local referenda are likely to have more class bias than major elections."

The popularity of the initiative and referendum among those who seek to legislate "life styles" and morality is no accident. Not only is an initiative or a referendum an absolute measure--requiring in California only a simple majority of the votes for passage--but once it becomes law, it is very difficult to repeal. Opposition by the legislature to a successful measure, for example, is tantamount to opposing majority rule and "the will of the people." Generally, the legislative process, filtering legislation through committees and other mechanisms that encourage deliberation and compromise, tends to produce laws that are less stringent and less likely than direct legislation to impede individual choice. The legislative process usually requires more than a mere numerical majority of the representatives in order to produce legislation as restrictive and severe as that which can come from the initiative and referendum.

James Madison believed that irresponsible majorities would be controlled by the legislative process as established under a representative form of government. In a legislature, numerical support for a proposal can be roughly determined in advance of a formal vote, as can the comparative strength of various competing interests. A representative must determine what a given measure means to his constituency in terms of the votes he might win or lose in the next election. The voter in the initiative process does not have to make such a judgment.

One may argue that the media and public debate are the only checks on the initiative process, and, indeed, are the only real checks left against unjust measures. This may be true enough—but it is also true that public debate is especially effective in a representative system. Representative government enlarges and refines public discussion through such devices as committee hearings and other public hearings, the testimony of expert witnesses and interested parties, the production of studies by government and private agencies, and the "give and take" of legislators in debate as they express differing views and partisan opinions. Such processes and devices regularly attract the attention of the media, giving any particular measure greater exposure than it might receive as a statewide ballot proposition (except in the case of an occasional "Proposition 13"). In fact, the ambiguity of many initiatives, the "hidden agendas" that underlay them, the technical nature and wording of some propositions, the extraordinary length of many ballots, and the widespread lack of interest in off-year elections, often discourage public debate, not to mention media coverage of the issues and personalities involved in an initiative campaign.

The problem, then, persists: How does the American body politic protect itself against irresponsible initiatives and referenda? The use of the initiative and referendum to legislate "life styles" and morality promises to grow more widespread in the decade of the 1980's. Supporters of the "Moral Majority," of the "Right to Life" and of environmental causes--including opponents of nuclear power and of economic growth and development--will continue to create a circus-like atmosphere in the political arena. The initiative and referendum are not now, and will not become, the exclusive tools of the "right" or the "left," of conservatives, liberals, radicals, or reactionaries. From Jerry Falwell to Tom Hayden, initiatives and referenda are contemplated as instruments for purifying private and public life. Given the expanded use of the initiative and referendum that is almost certain to

take place in the future, how are the interests of majorities and minorities to be protected against unwise, selfish, irresponsible, or unjust pieces of direct legislation?

The Madisonian concern with the problems of direct democracy reminds us that any effort to improve the processes of direct legislation must focus attention on the questions of majority rule and minority rights. Because there are no standing or permanent majorities in American politics, initiatives and referenda can become the instruments of special interests on both the "right" and the "left." On the other hand, there are permanent rights in this country, promised to all Americans by the Declaration of Independence, the Constitution, the Bill of Rights, and by subsequent Constitutional Amendments. Thus, in considering the present standing of the initiative and referendum, and their possible future improvement, it is necessary to set aside partisan and class interests in favor of attention to those structures that, in providing for majority rule, also protect the rights of individuals and minorities.

If improvements are to be contemplated in the process of direct legislation, they should begin by making possible a clearer expression of the will of the majority. For example, efforts should be made to distinguish more clearly between measures promoted by special interests and elite organizations and measures that are genuinely popular. This can be accomplished by changing in the way that direct legislation reaches the ballot. Such change may also give greater protection to minority rights. Specific suggestions for change, and possible alternate approaches to direct legislation, will be discussed in a later chapter. These discussions will focus on what may be the most important question in American politics: how to truly determine and implement the will of the majority while protecting the rights of the individual and the minority.

CONSTITUTIONAL AMENDMENTS APPEARING ON  
THE BALLOT IN ALASKA

	<u>For</u>	<u>Against</u>
August 23, 1966 SJR 1 - Residence Requirement to Vote for President	36,667	12,383
August 27, 1968 HJR 74 - Judicial Qualifications, Commission and Remedial Powers	32,481	12,823
August 27, 1968 Compensation of Judicial Qualification Commission	27,156	17,467
August 25, 1970 Establishing Voting Age at 18 years	36,590	31,216
August 25, 1970 English Eliminated as Requisite for Voting	34,079	32,578
August 25, 1970 Secretary of State Designated Lieutenant Governor	46,102	18,781
August 25, 1970 Chief Justice Election by Supreme Court	44,055	19,583
August 25, 1970 Term of Office for Judicial System Administrator	43,462	18,651
August 22, 1972 Residency Requirement for Voting	31,130	20,745
August 22, 1972 Prohibition of Sexual Discrimination	43,281	10,278
August 22, 1972 Right of Privacy	45,539	7,303
August 22, 1972 Borough Assemblies	30,132	19,354
August 22, 1972 Limited Entry Fisheries	39,837	10,761
August 27, 1974 Time of Voting on Constitutional Amendments	56,017	20,403

	<u>For</u>	<u>Against</u>
November 2, 1976		
Capital Site Selection Ballot Measure		
Larson Lake	33,170	
Mount Yenlo	16,169	
Willow	56,219	
November 2, 1976		
Action on Veto of Bills	71,829	39,980
November 2, 1976		
Permanent Fund From Non-Renewable Resource Revenue	75,588	38,518
November 2, 1976		
Administration and Review of State Land Disposals	46,652	64,744
November 2, 1976		
Direct Financial Aid to Students	54,636	64,211
November 7, 1978		
Powers of Legislative Interim Committees	48,078	68,403
November 4, 1980		
Legislative Annulment of Regulations	58,808	32,010
November 4, 1980		
Disqualification of Legislators	47,054	99,705
November 4, 1980		
Interim and Special Legislative Committees	41,868	102,270
November 4, 1980		
Appointment and Confirmation of Members	56,316	90,506
November 2, 1982		
Veterans' Housing Bonding Authority	111,460	69,497
November 2, 1982		
Changes in Commission on Judicial Qualifications	123,172	53,424
November 2, 1982		
Amendment Limiting Increases in Appropriations	110,669	71,531

Chapter - Initiative.

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." So declares section 2, Article 1 (Declaration of Rights) in the Constitution of the State of Alaska. In section 6 of this same article, "The right of the people peaceably to assemble, and to petition the government shall never be abridged" is guaranteed. Now before one becomes too comfortable in these expressions of freedom and power it is most important to read other provisions of the constitution that seriously diminishes this concept in the foundation of power or one's expressed freedom of speech through the initiative or referendum process as a means of petitioning the government.

Let's take a look at section 7 of Article XI - XI - restrictions. "The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenues, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety." Do you now get the feeling that perhaps too much power may have been given to the elected? Even when the people are successful in passing an initiative or referendum it may be amended at any time by the legislature and even be repealed after two years. What other limitations are there in your supposed rights to petition the government? Would you believe in the age of enlightenment Alaskans do not have direct access to changing their Constitution? No, in this state you must get permission through the legislature.

Why was there ever such limitations imposed? Generally there seems to have been a paranoiac amount of little faith in the people of Alaska during the writing of her Constitution. Some said government functions would be totally disrupted if the electorate, through the initiative, could direct how municipal revenues are to be expended or utilized.

Other arguments made to limit the rights of petition are:  
(1) The true beneficiary of direct legislation will not be the people but the special interests. This however fails when evaluating the power of special interest groups and individuals who can afford to go to Juneau to lobby for special legislation or appropriations.

(2) Direct legislation will result in an unreasonably complex ballot and "frivolous" propositions. Welling over the ballot propositions that the legislature has proposed doesn't any superior ability in writing initiatives.

(3) Voters are ill-equipped to understand complicated proposals and unprepared to grapple with the confusing campaigns and appeals which are a part of the initiative process. What an indirect way to say the voters are not as intelligent as those they elected.

(4) The legislative process is a much better way to make public policy! Oh! Are those elected better equipped to say what is best for society. Were they not once average citizens?

(5) Direct legislation will not educate the voters nor will it increase interest in government. Well, then how does indirect legislation educate the public?

(6) Direct legislation will endanger democracy and undermine representative government. Wow! Would the founding father like to hear this one. James Madison was once quoted to say "the best medicine for a sick or weak democracy is more democracy"

Now before we become too depressed there are those over the years who have shown tremendous faith in the abilities of the people to govern themselves. They argue:

(1) Direct legislation will reduce the power of political parties and political bosses.

(2) Direct legislation will reduce the power of special interests.

(3) Direct legislation will educate the people and allow them to develop civic virtue.

(4) Citizens are better (or at least equally) suited to decide public policy questions than are elected representatives.

(5) Citizens want to decide public policy issues directly, and permitting them to have full participation will decrease public apathy and dissatisfaction with government.

Why is that the people of Alaska surrender their right of direct legislative power? Was it the rush and hype of becoming a State? Were they afraid of becoming controversial and jeopardizing the efforts of statehood? Did they only read Article I sections two and six and become secured in the knowledge of their maximum and always final action of making and repealing laws. Had no one explained to the people or even the press not concern itself with the later expressed superior powers of the created legislature?

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