

**ALASKA LEGISLATURE COMMITTEE FILES**

**1991-1992**

**8672**

**6995**

**HOUSE**

**JUDICIARY**

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venerable Anglo-American history and its perception as a bulwark of the two-party system. However, use of the majority voting rule, in association with the single-member district rather than proportional representation, is not unknown in the United States.

#### Use of Majority Rule in U.S. Elections

The majority vote rule (coupled with the traditional single-member district method of representation) is currently used in the primaries of nine southern states, in some municipal elections, in the general elections for state officials in Georgia and Arizona, and in the unique "open election" system of Louisiana.

#### Southern Runoff Primaries

Nine states--Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina,<sup>5</sup> Oklahoma, South Carolina and Texas--require party candidates to be nominated in a primary election by a majority of the votes cast. If no candidate receives a majority in the primary, a runoff primary is held between the two candidates with the highest number of votes. The runoff occurs three to four weeks after the primary.<sup>6</sup> A majority vote is not required in the subsequent general election in these states (except in Georgia, which is discussed below).

All of the states with runoff primaries have been dominated by the Democratic party since the collapse of the Republican party in the south after the Civil War. In these one-party states, the runoff primary was adopted to insure that the Democratic nominee had the support of the majority of the party, because for all practical purposes the primary was tantamount to the general election.<sup>7</sup> That is, because there would be ineffective Republican opposition in the general election (if any at all), the decisive election was the primary, which was often crowded with candidates.

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<sup>5</sup>In 1989 North Carolina lowered to 40 percent the portion of the vote that a candidate may receive to be elected and therefore avoid a runoff.

<sup>6</sup>Council of State Governments, *Book of the States 1990*, Table 5.3, p. 236.

<sup>7</sup>This is the conventional explanation of the southern runoff primary. However, it has also been alleged that the runoff primary was contrived as a means of excluding blacks from elective office. This is discussed below under the heading "Majority Vote Systems and the U.S. Voting Rights Act."

### Municipal Runoff Elections

A number of municipal election codes in the United States, particularly in cities where local elections are conducted on a nonpartisan basis (and which involve no primary), require the successful candidates for certain offices to receive a majority vote. We could not obtain data (or even an informed estimate) on the number or proportion of U.S. cities that require a majority vote. However, several large cities, including New York City, do so.<sup>8</sup>

In Alaska, Title 29 of the state statutes requires a runoff in municipal elections if a candidate for mayor, assembly or school board fails to obtain 40 percent of the vote in the general election. However, municipalities may opt out of this requirement by ordinance.<sup>9</sup> Municipalities with home-rule charters may choose their own election rules. The home-rule Municipality of Anchorage, for example, requires a runoff for mayor if no candidate receives 40 percent of the vote in the general election.

### General Election Runoffs for State Offices

In the early history of this country, several state constitutions--primarily those of the New England states--required the governor to be elected by a majority of the popular vote. If a candidate failed to obtain a majority of the vote cast, the state legislature decided the election.<sup>10</sup> These laws have been repealed, with one exception. The Vermont Constitution still requires the

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<sup>8</sup>A study of minority candidates in municipal runoff elections used data from Dallas, Fort Worth and San Antonio, Texas. Arnold Fleischmann and Lana Stein, "Minority and Female Success in Municipal Runoff Elections," *Social Science Quarterly*, Vol. 68, No. 2 (1987). In Georgia, about half of the 550 municipalities elect officials under the majority rule (personal communication, February 1, 1991, Jeff Lanier, director of Elections Division, State of Georgia).

<sup>9</sup>Alaska Statute 29.29.060. The Matanuska-Susitna Borough assembly opted out of the provision in 1989. The impetus for doing so in that case came from the local municipal administrators. Voter turnout in the runoffs was low, and the second election was an administrative burden (personal communication with Linda Dahl, clerk of the Matanuska-Susitna Borough, January 24, 1991).

<sup>10</sup>See the discussion in Robert A. Diamond, *Guide to U.S. Elections*, Congressional Quarterly, Inc. pp. 363-364. During the 19th century, many gubernatorial elections were decided by the legislatures in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and Georgia. Apparently many state constitutions continue to provide for the legislative election of executive officers in the case of a tie in a general election conducted under the plurality rule. See the U.S. Supreme Court decision in *Fortson v. Morris*, 385 US 231, n.3.

positions of governor, lieutenant governor and treasurer to be filled by an election in the General Assembly when no candidate for these offices receives a majority of the popular vote in the general election.<sup>11</sup>

Georgia is the latest state to drop a constitutional provision for the legislative election of governor. There, the change resulted from a furor surrounding the 1966 election by the General Assembly of Lester Maddox.<sup>12</sup> The new law calls for a popular runoff if a candidate does not receive a majority of the votes cast. The majority vote requirement applies to all elected state officials in the executive, legislative and judicial branches. The runoff is to be held on the third Tuesday following the general election. Only those registered to vote in the general election are entitled to vote in the runoff, and only those votes cast for the two candidates whose names appear on the ballot are counted.<sup>13</sup>

According to the Georgia state election office, general election runoffs are rare, but primary election runoffs are common.<sup>14</sup> Currently, the Georgia attorney general's office is defending the state's runoff provisions from allegations that they deny blacks full participation in the electoral process

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<sup>11</sup>Vermont Constitution, Section 47. In 1976, the General Assembly, pursuant to this provision, elected lieutenant governor the candidate who received the second highest vote in the general election (the difference between the highest and second highest number of votes was 1,100). A controversy erupted, but efforts to amend the constitution came to nothing.

<sup>12</sup>In the 1966 gubernatorial election in Georgia, votes cast for write-in candidate Ellis Arnall were enough to deny Democrat Lester Maddox and Republican Howard Calaway a majority. The General Assembly elected segregationist Maddox governor, even though he received the second highest number of votes in the general election. The legislative election was contested in federal court, and the U.S. Supreme Court upheld the state constitutional provision. (The case, *Fortson v. Morris*, 385 US 231, is analyzed in Richard J. Bryan, "Legislative Election of a Governor", *North Carolina Law Review*, Vol 46, 1967.)

<sup>13</sup>Georgia Statutes 21-2-501(a) states in part: "Except as otherwise provided in this Code section, no candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office."

<sup>14</sup>Jeff Lanier, director of the Election Division, Office of the Secretary of State, Georgia, said that there has not been a general election runoff in Georgia since the time he assumed his position in 1982, and he personally does not remember a general election runoff since he began to vote in 1972. Personal communication, February 1, 1991.

(this issue is discussed below under the heading "Majority Vote Systems and the U.S. Voting Rights Act").

Arizona is the only other state which requires a majority vote in statewide general elections.<sup>15</sup> This provision, which applies only to the executive offices of governor, secretary of state, attorney general, and superintendent of public instruction, was ratified by the voters as an amendment to the state constitution in 1988. It represented a political reaction to Arizona's unhappy experience with Governor Evan Meacham, who was elected without a majority of the vote in 1984 and later removed from office by impeachment.

The Arizona constitutional provision states, in part: "If no person receives a majority of the votes cast for the office, a second election shall be held as prescribed by law between the persons receiving the highest and second highest number of votes cast for the office."<sup>16</sup> A law implementing this provision was not adopted prior to the general election in November 1990. In the contest for governor, votes cast for a write-in candidate denied a majority to either of the major party candidates. It was necessary for the Arizona legislature to convene in special session to adopt legislation to provide for the runoff election. The runoff is scheduled for February 26, 1991.

#### Louisiana's "Open Election" System

In 1975, Louisiana's legislature adopted a method of electing state officials that is unique in the United States. It is commonly referred to as the "open primary" system in Louisiana, but it is not a conventional open primary (nor is it a blanket primary) system. Rather, it is best described as an "open election" system.

In Louisiana, all candidates from all parties compete in the first round of a runoff system. A candidate who receives a majority of the vote in the first round wins the seat. A runoff is held between the two candidates receiving highest and second highest number of votes in those contests which did not produce a majority-vote winner in the first round. Note that the first round is not a primary election in which party candidates are nominated. The two

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<sup>15</sup>In 1969 the Arkansas legislature adopted a majority vote requirement for the general election in contests for governor and four other elective executive officers. However, the Arkansas supreme court struck it down on the grounds that it conflicted with a provision in the state constitution which declares that the election of these officers shall be determined by "the highest number of votes", which refers to a plurality (*Rockefeller v. Matthews*, 459 S.W. 2d 110).

<sup>16</sup>Arizona Constitution, Article V, Section 1.B

candidates who advance from the first round to the runoff may be from the same party.<sup>17</sup>

### Analysis of Majority Vote Rule

Requiring candidates to receive a majority of the votes cast at an election has a strong appeal on the basis of fundamental democratic values. On the other hand, the majority vote rule may also have undesired political and administrative impacts on the electoral process. This section discusses the case for and against a majority vote rule. It should be noted in passing, however, that the plurality and majority vote rules are not the only, and may not be the most efficient, methods of electing public officers. There are numerous alternative voting schemes.<sup>18</sup> In Australia, for example, the alternative preference ballot is used, in which voters rank the candidates. In this scheme, when a candidate fails to obtain a majority on the first ballot, the weakest candidate is eliminated and the votes he received are distributed to the other candidates according to the second preference on the ballot. This process of redistributing votes continues until a candidate obtains a majority.

### The Arguments for a Majority Vote Rule

In political environments where third parties or single-issue groups are active, a majority vote system is more likely than a plurality system to produce public officials who have broad public support. Under a majority vote rule, fringe political candidates are unlikely to be elected. It gives to those who supported an "also ran" candidate the opportunity to express a preference

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<sup>17</sup>Your research request expressed an interest in a system in which "... any candidate who receives an absolute majority of the votes cast in the primary election [is] declared the winner; no general election [is] held for that office." A provision of this kind could be grafted on Alaska's existing blanket primary system. In this case, if a candidate did not receive a majority of the vote, the two party nominees with the highest number of votes (presumably the Democrat and Republican) would advance to the general election. However, this is not how the Louisiana system works.

<sup>18</sup>A wide variety of election schemes have been devised, some of which have found practical application and some of which remain theoretical. See, for example, Jeffrey T. Richelson, "Running Off Empty: Run-off Point Systems," *Public Choice*, Vol. 35, (1980). See also, Joseph F. Zimmerman, "The Single-Member District System: Can it Be Reformed?," *National Civic Review*, Vol. 70, No. 5 (1981).

for one of the two remaining candidates. In theoretical terms, the majority rule has a higher probability of electing the Condorcet winner.<sup>19</sup>

It is argued that a majority rule can promote political consensus in jurisdictions that have numerous, independent factions. It does so through the bargaining process that occurs after the first round election. The top two candidates who advance to the runoff must seek support from those who did not initially support them. They must compromise with other factions and interests to build a winning coalition.

Also, in these fractured political settings, the official who wins with a majority vote acquires legitimacy that a plurality vote cannot provide. One commentator observes: "There may be no 'general will', but a majority's will is a closer approximation than a plurality's, and thus more able to confer a mandate, a sense of the right of the chosen representative to act."<sup>20</sup>

#### Criticisms of the Majority Vote Rule

A practical criticism of runoff elections is that generally fewer voters turn out at the second ballot. Studies of southern primaries confirm that voter turnout declines in runoff elections.<sup>21</sup> Because of this drop-off in voter participation between the first and second rounds, the runoff may not be more likely than a plurality election to produce a winner with broad public support and confer legitimacy. For example, a 45 percent plurality in the first round may amount to more votes than a 51 percent majority in the runoff if the number of voters declines sufficiently between the two elections.

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<sup>19</sup>There is no guarantee that the majority vote system will produce the Condorcet winner. That it may not can be illustrated by reference to the 1990 gubernatorial election in Alaska. The following scenario is only speculative, but it seems plausible on the basis of opinion polls published during the campaign. If paired in dual contests with Walter Hickel and Tony Knowles, Arliss Sturgulewski wins. She is, therefore, the theorists' Condorcet winner and presumably has the broadest electoral support of the three candidates. But in a plurality contest involving all three, Walter Hickel wins (this was the outcome of the November general election). If a majority vote rule required a runoff, Hickel would have been paired with Knowles, and Knowles would have won (this would be the outcome if more Sturgulewski voters went to Knowles than to Hickel). If nothing else, this scenario illustrates that the rules under which an election is conducted can affect the outcome of the election.

<sup>20</sup>Charles Krauthammer, "Runoff Run-in," *The New Republic*, May 28, 1984, p. 13.

<sup>21</sup>Stephen G. Wright, "Voter Turnout in Runoff Elections," *Journal of Politics*, Vol. 51, No. 2 (1989).

Indeed, even when voter participation in the runoff does not decline precipitously, the distinction between the number of votes cast for a winner under a plurality rule and under a majority rule may pale in significance when the number of the voters under either system is compared with the number of registered voters or the number of eligible voters (for example, when only a quarter of the eligible voters go to the polls, a majority victory for a candidate may not represent a significant difference from a plurality victory when both are viewed as a percentage of potential voters).

Also, as a practical matter, elections are expensive to run, both for the candidates who must campaign and the government that must mobilize the election machinery. A runoff election may seem like a very expensive proposition, especially if one must be held to resolve the election of a single position over which there is little voter excitement (such as the insurance commissioner, for example). Also, a runoff presents other administrative problems, such as providing adequate opportunity for absentee voters to participate.

Politicians and political scientists have long speculated that the majority rule tends to encourage the candidacy of people representing third parties and miscellaneous political factions. The hypothesis is that the majority rule fosters multicandidate contests because it makes it possible for weak candidates to parlay a second place showing in the first round into a victory in the runoff. A prominent political scientist describes the rationale of the hypothesis:

In the runoff majority system a candidate who initially has the second most votes can ultimately win, provided the supporters of eliminated candidates vote for her or him at the second ballot. Hence, if a group of politicians can see a chance to come in second or third, it is often worthwhile to form a new party.<sup>22</sup>

In recent years, theoretical studies have demonstrated the logic of this longstanding hypothesis, and empirical studies of runoff and non-runoff primaries confirm that runoff primaries tend to attract more contestants. While local political history and circumstance can help explain the correlation, it seems to be a persistent characteristic of majority vote systems. Whether this characteristic should be considered a shortcoming of

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<sup>22</sup>Riker, "The Two-party System and Duverger's Law," p. 759.

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the system is not clear, in view of the countervailing tendency of majority runoff systems to be more effective in preventing a third party victory.<sup>23</sup>

The virtue of the majority vote system, which is the ability it gives to a centrist coalition to rally behind a consensus, mainstream candidate, has also lead to its harshest criticism, namely that it serves as a convenient and effective method of excluding blacks and other minorities from office. Black politicians in the south have attacked runoff primaries as contrivances to keep blacks from being elected. They argue that black candidates can often win a plurality of votes in the first ballot, but that white voters close ranks behind the white candidate in the runoff (even if it means voting for a Republican). Similar complaints about the discriminatory effects of a runoff requirement have been voiced by female candidates.

These criticisms of the majority vote rule have spawned a number of academic studies that investigate the political fortunes of black, hispanic and female candidates in southern runoff elections. The studies have generally provided little support for the discrimination thesis.<sup>24</sup> Nonetheless, many minority politicians believe the system is biased in its result and biased in its intent, and the U.S. Department of Justice has viewed majority systems with skepticism under the U.S. Voting Rights Act of 1965.

#### Majority Vote Systems and the U.S. Voting Rights Act of 1965

Section 2 of the Voting Rights Act of 1965 prohibits any election procedure "that results in an abridgement of the right to vote on account of race." The act was amended by Congress in 1982 to make clear its application to

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<sup>23</sup>See Stephen G. Wright and William H. Riker, "Plurality and Runoff Systems and Numbers of Candidates," *Public Choice*, Vol. 60. (1989). This study concludes that plurality voting systems in general may be more efficient in producing Condorcet winners than majority systems because of the tendency of the latter to entice more contestants into the election. That is, all things being equal, plurality systems are less efficient than majority systems. But because majority systems attract more candidates, and because the efficiency of any system declines as the number of candidates increases, the plurality system may over the long haul produce more Condorcet winners than the majority system.

<sup>24</sup>See for example, Charles S. Bullock and Lock K. Johnson, "Runoff Elections in Georgia," *Journal of Politics*, Vol. 47 (1985). The authors conclude: "While the small number of cases makes our conclusions tentative, there is no support for the minority-disadvantage myth. Blacks and women who led primaries do at least as well as white males. To the extent that runoffs disadvantage minorities, it is blacks and women running second in the primaries who have a harder time--but they would also lose under a plurality system." (p. 945).

electoral procedures that result in discrimination whether or not they were adopted with the intent to discriminate. In congressional hearings at the time, the U.S. Department of Justice indicated that majority vote procedures often had a discriminatory impact (as did at-large elections, high fees and bonding requirements, numbered posts, staggered terms, full slate voting requirements, residency requirements, annexations and retrocessions, incorporations, and malapportionment and gerrymandering).<sup>25</sup> Between 1965 and 1981, the U.S. Justice Department, acting under the Voting Rights Act, objected to 43 attempts by local governments to adopt general election runoffs (out of a total of 151 objections filed against municipal election procedures).<sup>26</sup>

In 1990, the U.S. Justice Department brought suit against the primary and general election majority vote requirements in Georgia. The American Civil Liberties Union brought a similar suit on behalf of several black candidates. These suits have been consolidated into a single proceeding in federal court. The Georgia attorney general is defending the legality of the majority vote provisions.<sup>27</sup>

Political jurisdictions with a significant racial minority must receive "preclearance" under Section 2 of the Voting Rights Act of proposed changes in election procedures. The U.S. Justice Department must rule on the proposed changes before they may be implemented. It is interesting to note that the legislation recently adopted in Arizona to carry out the runoff election for governor was successfully precleared. Thus, not all majority vote schemes are prohibited, only those deemed to be discriminatory.

An analysis in 1986 of the legality of runoff elections under Section 2 of the Voting Rights Act concluded:

Section 2 of the Voting Rights Act steers a careful middle course, allowing most jurisdictions to continue to use runoffs to build political consensus while striking down those that result in significant racial discrimination. The Act mandates a broad but rigorous assessment of each challenged procedure. A court must consider whether the "totality of circumstances" indicates that a runoff is depriving minorities of the right to participate fully. However, a court should only invalidate

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<sup>25</sup>See U.S. House of Representatives, 97th Congress, *Voting Rights Extension*, Report No. 97-227 (1981), p. 18.

<sup>26</sup>U.S. Senate, 97th Congress, *Voting Rights Act*, Hearings before the Subcommittee on the Constitution, Committee on the Judiciary; Report No. J-97-92, pp. 1746-1759.

<sup>27</sup>An informative article about this case is Ellen Perlman, "Civil Rights Leaders Seek to Overturn Georgia Primary System," *City and State*, May 21, 1990.

a runoff where there is evidence of significant discrimination.<sup>28</sup>

#### QUESTIONS POSED IN RESEARCH REQUEST

This section addresses the several specific questions you asked.

#### Would Adoption of a Majority Vote Rule Require A Constitutional Amendment?

In Alaska, a majority vote requirement for governor and lieutenant governor would require a constitutional amendment. Article III, Section 3 of the Alaska Constitution states: "The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the highest number of votes shall be governor." This means that the candidate receiving a plurality of the vote carries the election. Because the lieutenant governor is elected with the governor (Article III, Section 8), the plurality provision also applies to this office.

However, a majority vote rule could be adopted for legislative members by statute. Article II, Section 3, states merely that "Legislators shall be elected at general elections." There does not appear to be any other constitutional provision or common law principle that would limit the legislature's power to prescribe a majority vote requirement.<sup>29</sup>

#### Are Alaska's Election Laws Subject to "Preclearance" Under the Voting Rights Act?

Yes. However, not readily apparent are the factors the U.S. Justice Department would use to evaluate the potential discriminatory effects of a statewide, majority vote requirement. One important factor might be the position taken by the Alaska Federation of Natives, and other Native Alaskan groups, on the majority vote issue.

#### What Procedures Should Govern Runoff Elections, Based on the Experience of Other States?

There is so little experience anywhere with general election runoffs at the state level that this question is difficult to answer. With respect to the

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<sup>28</sup>Matthew G. McGuire, "Assessing the Legality of Runoff Elections Under the Voting Rights Act," *Columbia Law Review*, Vol. 86, (1986), p. 887.

<sup>29</sup>Memorandum from John B. Gaguine, Legislative Council, to Gordon S. Harrison, January 31, 1991.

question of when a runoff should be held, it seems evident that there are reasons why a runoff should be held as soon after the general election as practical. A new governor needs as much transition time as possible to prepare for the legislative session. A late runoff would shorten this transition time. Runoff candidates should not be required to bear the financial burden of a third campaign. However, sufficient time between the general and runoff election must lapse to fully inform and prepare the electorate for the runoff, to print and distribute ballots, and reactivate the local election machinery. A minimum of three weeks from the general election is probably necessary to accomplish these tasks.

#### How Many Elections in Recent Alaska History Would Have Required a Runoff?

In six of the ten general elections since statehood, the successful team of candidates for governor and lieutenant governor was elected by a plurality. They were elected four times by a majority. The smallest plurality was received by Governor Hammond in 1978 (38.2 percent). If the threshold for triggering a runoff election had been 40 percent of the vote (see below), two runoffs would have been held: in 1978 and in 1990, when Governor Hickel obtained a plurality of 38.8.

Occasionally a member of the state legislature is elected by a plurality rather than a majority. In 1990, for example, state Representative Tom Moyer was elected with 48.7 percent of the vote; in 1986 Senator Uehling received 49.9 percent, and Representative Swackhammer received 41.7 percent.

It is interesting to note that candidates for legislative seats often run unopposed in the primary. Also, candidates in multicandidate primary contests frequently obtain a majority in the primary. In the August 1990 primary, for example, seven candidates ran unopposed (i.e., they faced no opposition from their own party and no candidates ran from the other party) and received virtually 100 percent of the vote cast. Thirty-one candidates who faced opponents in their own party and/or another party obtained a majority of the votes cast. Thus, changing the law to consider a candidate the winner of the general election who receives a majority of the votes cast in the primary would affect a substantial number of legislative races (refer to the discussion of Louisiana's open election system, and footnote 17, on page 8).

#### How is a Majority Assured in the Runoff?

Runoff elections should be conducted with the stipulation that the only valid votes are those cast for the two candidates printed on the ballot.

Georgia statutes (21-2-501) provide that ". . . only those votes cast for the persons designated . . . as candidates in such run-off election shall be counted in the tabulation and canvass of the votes cast." The recently

adopted Arizona law states simply: "A write-in candidate is not permitted in a second election" (321.16.D).

#### Why Do Some Jurisdictions Require a Runoff if No Candidate Receives 40 Percent of the Votes?

A 40 percent threshold, such as that provided in AS 29.29.060, has been adopted in a number of jurisdictions as a means of avoiding the more egregious undemocratic outcomes that are possible under the plurality rule, while preserving many of the political and administrative advantages of a plurality system. That is, a runoff is thought to be necessary to build political consensus if a candidate is not successful in polling over 40 percent of the vote at the general election. The voters who cast ballots for a third (or fourth) candidate are considered numerous enough to warrant the expense of a runoff to give them a chance to express a preference for the two leading candidates.

It is important to note that in very close contests, just a few write-in votes (or just a few votes for a minor party) can deny a candidate a majority of the total votes cast. For example, in Alaska in 1966, Walter Hickel garnered 49.996 percent of the votes in a contest with one other serious candidate.<sup>30</sup> Most people would agree that runoff elections in such cases do not serve a useful political purpose.<sup>31</sup> Therefore, a threshold somewhere below 50 percent is established to trigger a runoff.<sup>32</sup>

#### Will a Majority Rule Tend to Attract More Candidates?

Studies and the theoretical literature suggest that elections conducted under a majority rule tend to have more candidates than elections conducted under a plurality rule. The additional candidates are likely to represent fringe (noncentrist) political causes and interests. However, local political circumstances will amplify or moderate this tendency to some extent. Therefore, it is not readily apparent how a change to a majority rule in Alaska might affect the number of candidates running in various races.

If you have any questions, please contact this agency.

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<sup>30</sup>In the contest for governor and lieutenant governor in 1966, Egan/Wade received 32,065 votes; Hickel/Miller 33,145 votes; and Grasse/Saupe 1,084.

<sup>31</sup>Arizona's first runoff under its new majority vote rule was required because a relatively few write-in votes narrowly denied either of the major party candidates a majority victory. According to Mr. Rich Bitner, research staff with the Arizona Senate, many Arizonans are now questioning the wisdom of their new "50 percent plus one" law.

<sup>32</sup>Candidates in primaries in South Dakota and Iowa must poll over 35 percent of the votes or face a runoff election. See also "Why 30% (but not 40%) Mayors?" *New York Times*, August 15, 1984.

HJR

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HOUSE COMMITTEE REPORT

(7)  
 Date Referred: March 8, 1991 FURTHER REFERRALS: Finance

Date of Committee Action: 5/4/92

The JUDICIARY Committee considered: HJR 19

HOUSE JOINT RESOLUTION NO. 19 TRANSPORTATION FUND

Proposing amendments to the Constitution of the State of Alaska creating a transportation fund.

RECOMMENDATIONS:  
 be replaced with CS HJR 19 (JUD)  the same title  
 a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note Transportation  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Mike Miller</u>	<input checked="" type="checkbox"/>	<u>David Donley</u>		<input checked="" type="checkbox"/>	
<u>Terry Martin with amendment</u>	<input checked="" type="checkbox"/>	<u>D. L. ...</u>		<input checked="" type="checkbox"/>	
		<u>William ...</u>		<input checked="" type="checkbox"/>	
		<u>H. J. Ellis</u>		<input checked="" type="checkbox"/>	

David Donley  
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NUMBER: HJR 19

## FISCAL NOTE

Revision Date:  
Title: Transportation Fund

Department Affected: DOT&PF  
BRU:

Sponsor: House Transportation  
Requestor: House Judiciary

Component:  
Component Serial Number:

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

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	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
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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**FUNDING:** (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

Estimate of current year impact: \_\_\_\_\_

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

Prepared by: Catherine McHugh

Phone: 465-3900

Division: Special Assistant to the Commissioner

Date: May 5, 1992

Approved by Commissioner: 

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: May 5, 1992

Distribution By Preparer: Leg. Finance, Leg. Sponsor, Requestor, OMB/DBR, Gov. Leg. Office, Impacted Agency(ies).

**FISCAL NOTE**

Revision Date: \_\_\_\_\_ Department Affected: DOT&PF  
 Title: Proposing amendments to the Constitution of the State of Alaska creating a transportation fund BRU:  
 Sponsor: House Transportation Committee Component:  
 Requestor: House Transportation Committee Component Serial Number:

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

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	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
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

Estimate of current year impact: \_\_\_\_\_

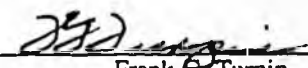
**ANALYSIS: (Attach a separate page if necessary) See page 2.**

Prepared by: M. Clyde Stoltzfus

Phone: 465-3900

Division: Commissioners Office

Date: February 26, 1991

Approved by Commissioner:   
Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: February 27, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

ANALYSIS (cont. from page 1):

Transportation infrastructure is one of the basic building blocks of an economic system. Transportation not only moves people and goods: it also moves the economy. In this regard, the condition of the transportation infrastructure has been clearly shown to be directly linked to the productivity of an economy. Under the current system, funding to maintain Alaska's transportation infrastructure varies greatly depending on the competing demand for state general fund dollars and fluctuating state revenues. As a basic underpinning of a healthy growing economy, maintaining our basic transportation infrastructure is too important to allow continued fluctuation. As a result of past funding variations, today we are facing an overwhelming backlog of deferred maintenance just to keep from losing our capital assets. Aside from the threat to our capital assets, the poor condition of our transportation system has had an untold impact on the productivity of our economy. In the final analysis, poor maintenance on our transportation system is a hidden cost for all businesses and ultimately all consumers in the state. This legislation would stabilize our maintenance funding so that long-term management decisions could be made that would eventually benefit all Alaskans.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HJR 19

Revision Date: \_\_\_\_\_  
Title: Proposing amendments to the Constitution of the State of Alaska creating a transportation fund  
Sponsor: House Transportation Committee  
Requestor: House Transportation Committee

Department Affected: Revenue  
BRU: Revenue Operations  
Component: Treasury Management

Component Serial No.

0	1	2	1
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL				5,000	5,000	5,000
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	5,000	5,000	5,000

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER: <u>Transportation Fund</u>				5,000	5,000	5,000
<b>TOTAL</b>	0	0	0	5,000	5,000	5,000

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

**ANALYSIS:** Assumes an independent audit beginning in FY 95 for FY 94, the first year of funding. Contractual requirements may be more if fund accumulates substantial money requiring investment related fees.

Prepared by: Darrel J. Rexwinkel Phone: 465-2300  
Division: Treasury Date: March 5, 1991  
Approved by Commissioner: *Darrel Rexwinkel acting*  
Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HJR 19

Revision Date: \_\_\_\_\_ Department Affected: Office of the Governor-Elections  
 Title: Amendment to the Constitution BRU: Division of Elections  
est. Transportation Fund Component: II - Primary and General Elections  
 Sponsor: Transportation Committee  
 Requestor: Transportation Comm COMPONENT SERIAL NO. 

0	0	2	2
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*				
FEDERAL FUNDS						
OTHER						
TOTAL		2.2*				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.) \* This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared By: Elizabeth Ziegler, Deputy Director Phone: 465-4611  
 Division: Division of Elections Date: 3-4-91  
 Approved by Commissioner: [Signature]  
 Agency: Division of Elections Date: 3-4-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# Alaska State Legislature

## House of Representatives



Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

### Committee on Transportation

TO: Rep. Dave Donley  
Chairman, House Judiciary Committee

FROM: Representative Richard Foster *RF*  
Chairman, House Transportation Committee

SUBJECT: HJR 19

DATE: April 9, 1991

I would like to request a hearing on HJR 19 at your earliest convenience. This is a very important resolution for the transportation system as it would place the issue of a dedicated transportation fund before the voters at the next election.

I would appreciate your assistance with scheduling this resolution Dave.



## Department of Transportation & Public Facilities

# POSITION PAPER

**BILL NO:** HJR 19

**APPROVED:**

A handwritten signature in cursive script, appearing to read "J. Durkin".

**TITLE:** Proposing a dedicated fund

**DATE:** February 27, 1991

---

The Department of Transportation and Public Facilities endorses this Resolution proposing a constitutional amendment establishing a dedicated transportation fund. The department has the statutory responsibility for the maintenance and operation of Alaska's transportation system. The department believes that maintaining the state's transportation system in a responsible manner is of vital importance to the economic well-being of all Alaskans. Consequently, the department is concerned that the volatility of current revenue sources make it increasingly difficult to insure that the necessary funds are available to maintain the system in a responsible manner.

The department believes that user fees are one of the more equitable and appropriate methods of attaining a stable funding source for transportation facilities. The department also recognizes that a direct linkage between the expenditures of a fee and the services provided, raises the credibility of the user fee concept and may make increasing those fees more acceptable to system users. Moreover, establishing a direct linkage between the fees collected and the expenditures authorized would provide the consuming public with the ability to make an informed decision about the cost of the services they expect. Since a dedicated fund would create the direct linkage between expenditures authorized and the fees collected, the department believes that establishment of a dedicated fund is the most significant, long-term step needed to better manage the capital assets the State has in its transportation infrastructure.

# Alaska Association of Harbormasters & Port Administrators, Inc.

H  
File

334 Front Street  
Ketchikan, Alaska 99901

January 6, 1992

The Honorable Representative Dave Donley  
Alaska State Legislature  
House Judiciary Committee  
Room 122, Capitol  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Donley:

The Alaska Association of Harbormasters and Port Administrators is an organization of the Harbormasters and Port Administrators who are responsible for the maintenance and operation of the majority of the small boat harbors and port facilities located throughout the State. Our Association is 20 years old and has over 64 members.

As stewards of the State-owned small boat harbors we are fully aware of the value of those assets to the State and her people. As professionals we take great pride in our commitment to provide the best in moorage and service to the thousands of vessel operators who use harbor and port facilities each year.

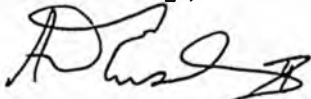
Over the years our members have expressed grave concern over the lack of dedication the State has shown toward the small boat harbors. These valuable assets are aging rapidly. Some harbors are over forty years old and require attention that is beyond the ability of the operators. This situation is the result of maintenance, expensive maintenance, that has been deferred by the State and to some extent the operators.

For many years the Alaska Association of Harbormasters and Port Administrators has advocated establishing a dedicated fund by which the State could fulfill its obligation to perform maintenance in its small boat harbors. On November 7, 1991, our Association unanimously approved a resolution of support for establishing such a fund.

You are currently reviewing House Joint Resolution 19 (Judiciary) which proposes amendments to the Constitution of the State of Alaska, creating a Transportation fund. Our Association supports the resolution and asks that those funds generated by the State tax on fuel used by water craft be made available to fund maintenance of the State's small boat harbors.

On behalf of the membership of the Alaska Association of Harbor-masters and Port Administrators it is requested House Joint Resolution No. 19 be passed out of committee and presented for legislative approval.

Sincerely,



A. D. Ensley II, President  
Alaska Association of Harbormasters  
and Port Administrators, Inc.

ADE:sd



To	Rep. D. Donley	From	H. Springer
Co.		Co.	AGC
Dept.		Phone #	
Fax #	465-2299	Fax #	

## ASSOCIATED GENERAL CONTRACTORS of ALASKA

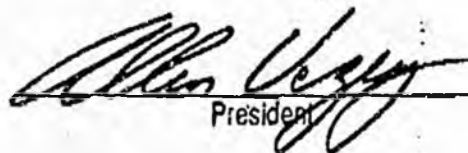
1041 B STREET • ANCHORAGE, ALASKA 99503  
P.O. BOX 240009 • ANCHORAGE, ALASKA 99524-0009  
TELEPHONE (907) 561-5354 • FAX (907) 562 6118

### A RESOLUTION OF THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA REQUESTING THE ALASKA STATE LEGISLATURE TO PASS A RESOLUTION TO PUT THE 1992 GENERAL ELECTION BALLOT A CONSTITUTIONAL AMENDMENT TO DEDICATE TRANSPORTATION USER FEES TO TRANSPORTATION SERVICES

- WHEREAS, fluctuating oil prices create instability in budgets which are dependent on oil revenues, and
- WHEREAS, stability is needed for a proper management of capital assets and for industry to be prepared to manage those assets, and
- WHEREAS, oil production from Prudhoe Bay is expected to decrease, and as a result, the State's oil revenues will also decrease, and
- WHEREAS, the State's transportation systems are too important to Alaska's economic vitality to be subject to this downturn in revenues, and
- WHEREAS, the costs of maintenance and repair brought on by use of the transportation system should be paid by users of the system, and
- WHEREAS, user fees are the most equitable and fair, and therefore the most reasonable source of funding for expenses related to the Alaska transportation system, and
- WHEREAS, dedicated user fees are needed to ensure that these fees go to transportation services and create the connection which will allow adjustments to the levels of revenues being collected, based on needs, and
- WHEREAS, the dedicating of user fees in the State of Alaska requires that voters approve an amendment to the Constitution,

NOW, THEREFORE, BE IT RESOLVED by the Associated General Contractors of Alaska that it requests the Legislature to pass a resolution to put on the 1992 general election ballot a Constitutional Amendment to dedicate transportation user fees to transportation services.

PASSED AND ADOPTED BY AGC OF ALASKA ON THIS 10TH DAY OF FEBRUARY, 1992.

  
\_\_\_\_\_  
President

FAIRBANKS  
P.O. BOX 60005 • FAIRBANKS, AK 99706  
(907) 452-1889

JUNEAU  
99901 GLACIER HIGHWAY  
(907) 561-5754

SIGI DOTNA  
P.O. BOX 350 • SOLDOTNA, AK 99669  
(907) 262-2485

# Dedicated tax would solve pothole problem

JUNEAU — Because most of us commute regularly, we have a seat-of-the-pants feel for the bumps and potholes and roller-coaster ups and downs of troublesome stretches of our roads and highways.

We wonder why repairing our highways has such a low priority in how we spend our state money. Why doesn't our Department of Transportation and Public Facilities get the job done? Is it true they would rather build than repair what we have already?

The answer to all of these questions is understandable. Voter pressure! Your Legislature is very sensitive to the squeaky wheel. And the wheels that want highways repaired have been running quietly. Much too quietly. Not until this session have legislators heard enough from squeaky maintenance wheels to give the transportation department what was asked for to spend on highway maintenance.

Lawmakers are not against maintenance. Not at all. It's just a matter of priorities. Other constituent requests push maintenance to the bottom of the list. How do you solve this?

Well, at transportation department we have a way. Dedicated revenue. Gasoline taxes should be used only for highway maintenance and construction. Aviation



**Frank Turpin**

fuel taxes should be dedicated to airports. Marine fuels to boat harbors. This is an idea whose time has come. In fact, it is an idea whose worth and effectiveness are already proven in many other states.

We need to take care of what we have. The practice of deferred maintenance, resulting in the past from funding going elsewhere where the pressure to deliver money was stronger, has to be eliminated and the needed money put into upkeep.

Our engineers tell me that we have over \$400 million of deferred maintenance today in our highways and rural airports, and to me that is almost an emergency situation.

There is similar neglect in needed upkeep of public buildings and other facili-

ties. I just don't think that we should permit our public properties and services that depend on them to go that far down. We need to do much more to protect the infrastructure we have in place.

Regarding highways, if we doubled the current 8-cent gasoline tax we would still be well below the national average of 19-cents per gallon while gaining about \$66 million in needed maintenance funds. For rural airports, if we added 2-cents a gallon to the fuel tax, we would have almost all the money we need for their maintenance.

In many instances of the transportation department's responsibility, similar circumstances apply: The facilities and services provided can, unlike many government functions, generate a distinct stream of revenues for their own operation.

A resolution is under consideration in the Legislature that proposes a change in our constitution, to be voted on in 1992, that would permit designated funding for transportation and public facilities maintenance. I think people, if they can be sure their money will provide better facilities and services, will want that.

*Frank G. Turpin is Commissioner of the Alaska, Department of Transportation and Public Facilities.*

THE  
**CONSTITUTION**  
OF THE  
**STATE OF**  
**ALASKA**



**John B. Coghill**  
**Lieutenant Governor**

December 1990

**Article IX**

**Finance and Taxation**

**Section 1 - Taxing Power.**

The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

**Section 2 - Nondiscrimination.**

The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to the residents of the State.

**Section 3 - Assessment Standards.**

Standards for appraisal of all property assessed by the State or its political subdivisions shall be prescribed by law.

**Section 4 - Exemptions.**

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

**Section 5 - Interests in Government Property.**

Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

**Section 6 - Public Purpose.**

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

**Section 7 - Dedicated Funds.**

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in Section 15 of this article or when required by the federal government for state participation in federal

programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. [Amendment approved November 2, 1976 - Effective February 21, 1977]

#### Section 8 - State Debt.

No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective. [Amendment approved November 2, 1982 - Effective December 24, 1982]

#### Section 9 - Local Debts.

No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

#### Section 10 - Interim Borrowing.

The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

#### Section 11 - Exceptions.

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

#### Section 12 - Budget.

The governor shall submit to the legislature the budget for the next fiscal year setting forth the anticipated income of all departments, and the governor, at the same time, shall submit to the legislature recommendations to authorize the proposed expenditures in the budget for the next fiscal year.

#### Section 13 - Expenditures.

No money shall be withdrawn from the treasury for any purpose other than appropriations made by law. No obligations shall be incurred except as authorized by law. Obligations outstanding at the end of the period shall be void.

#### Section 14 - Legislative Post-Audit.

The legislature shall appoint an auditor who shall be a certified public accountant. The auditor shall be prescribed by law and shall report to the legislature.

#### Section 15 - Alaska Permanent Fund.

At least twenty-five per cent of all mineral sale proceeds, federal mineral revenue received by the State shall be placed in the Alaska Permanent Fund, of which shall be used only for those purposes specifically designated by law as eligible. All income from the permanent fund shall be deposited in the fund unless otherwise provided by law. [Amendment approved November 2, 1976 - Effective February 21, 1977]

#### Section 16 - Appropriation Limitation.

Except for appropriations for Alaska State bonds, appropriations of revenue bond proceeds, the principal and interest on general obligations of money received from a non-State source for a public purpose, including revenues of a public utility of the State that issues revenue bonds, and appropriations made for a fiscal year shall not exceed the cumulative change, derived from federal population and inflation since July 1,

HJR

25

HOUSE COMMITTEE REPORT

(7)  
Date Referred: March 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 3-18-91

The JUDICIARY Committee considered:

HJR 25

HOUSE JOINT RESOLUTION NO. 25

DISCLOSURE; EXXON VALDEZ SETTLEMENT DATA

Relating to economic and scientific data developed as a result of the Exxon Valdez litigation.

RECOMMENDATIONS:

be replaced with

CSHJR 25 (JUD)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

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

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

zero fiscal note \_\_\_\_\_

zero fiscal note(s) LAA 3-13-91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>David Dowley</i>		<i>Terry Maston</i>	✓		
<i>Hy Sellers</i>		<i>Mark C. ...</i>		X	
<i>Kevin Pat Parnell</i>					
<i>Max ...</i>					

*David Dowley*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CSHJR 25

Revision Date: \_\_\_\_\_ Department Affected: Legislative Affairs Agency  
 Title: Relating to economic and scientific data developed as a result of the Exxon Valdez litigation. BRU: \_\_\_\_\_  
 Sponsor: Representative Navarre Component: \_\_\_\_\_  
 Requestor: House Resources COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Rep. Cliff Davidson, Chairman Phone: 465-2487  
 Division: House Resources Date: March 12, 1991

Approved by Commissioner: Rep. Cliff Davidson, Chairman *Cliff Davidson*  
 Agency: \_\_\_\_\_ Date: March 12, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ALASKA STATE LEGISLATURE  
REPRESENTATIVE MIKE NAVARRE

Co-Chair  
House Finance Committee  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3779

March 10, 1991

TO: Representative Cliff Davidson, Chair, House Resources Committee

FROM: Representative Mike Navarre *Mike*

SUBJECT: Sponsor Statement for HJR 25 & HCR 8, resolutions relating to the Exxon Valdez settlement data.

.....

House Joint Resolution 25 and House Current Resolution 8 are essentially the same in content. The only difference in the resolutions is in the last paragraph where directions are given to whom is to receive the resolutions. The Uniform Rules of the Alaska State Legislature in Rule 49 specifies the type of resolution and the appropriate manner in which the resolution is to be handled.

The essence of both resolutions is to require that the economic and scientific data collected from the studies of Exxon Valdez tragedy be released. It is unthinkable that some entity, individual, or organization would desire to lock-up data from an ecological mishap. The economic and scientific data is relevant and needed to avoid future mishaps or, if another mishap does occur society will be better able to handle the diasters aftermath.

Why does the Legislature need to ensure the release of the scientific and economic data from the Exxon spill?

1. Other entities that may litigate in the future may find the data useful.
2. To ensure proper resource management the data would be useful in determining the evolutionary happenings in the waters of Alaska.
3. Both the U.S. Congress and the Alaska Legislature need to know the effects on the marine environment, in order to determine the future of drilling and transport of oil in the Alaskan environment.
4. Long term policy involving the use double-hull tankers.
5. Release of the data to only Exxon should be unacceptable.
6. The public paid directly or indirectly for these studies, therefore it is unacceptable not to allow public access to the data generated as a result of the Exxon spill.

DISTRICT 5

34824 K-Beach Road • Soldotna, Alaska 99669 • (907) 262-7848



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ALASKA STATE LEGISLATURE  
REPRESENTATIVE MIKE NAVARRE

Co-Chair  
House Finance Committee  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3779

7. To properly continue the restoration of Prince William Sound and other areas of the State data on what has been accomplished needs to be available.

It is difficult to see the downside of these two resolutions, but in order to be overly cautious one could consider the potential legal exposure that the State may have. The balance between blocking access and open information to any data in a free society must be carefully weighed as to its outcomes.

DISTRICT 5

34824 K-Beach Road • Soldotna, Alaska 99669 • (907) 262-7842



PRINTED ON RECYCLED PAPER

# HOUSE COMMITTEE REPORT

(9)  
Date Referred: February 20, 1991

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/12/91

The RESOURCES Committee considered:

HJR 25

HOUSE JOINT RESOLUTION NO. 25

DISCLOSURE; EXXON VALDEZ SETTLEMENT DATA

Relating to economic and scientific data developed as a result of the Exxon Valdez litigation.

RECOMMENDATIONS:  
 be replaced with CS HJR 25  the same title  
 a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

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

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

zero fiscal note House Res.

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

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Clay Davidson</i> DAVIDSON	<i>Soren A. Lemau</i> LEMAU		<input checked="" type="checkbox"/>	
<i>Lincoln</i> LINCOLN	<i>Bill Hudson</i> HUDSON		<input checked="" type="checkbox"/>	
<i>Juan</i> JUAN				
<i>Charles</i> CHARLES				
<i>David Zamboni</i> ZAMBONI				
<i>Tom Moyer</i> MOYER	<i>Jim Zamboni</i> ZAMBONI	<input checked="" type="checkbox"/>		

FINKELSTEIN

*Clay Davidson*  
Chairman's Signature

**HOUSE CONCURRENT RESOLUTION NO. 8**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY REPRESENTATIVES NAVARRE, Kubina, Brown, Ellis, Moyer, Ulmer, Koponen, Finkelstein

Introduced: 2/20/91

Referred: Resources, Judiciary

**A RESOLUTION**

1 Relating to economic and scientific data developed as a result of the Exxon Valdez  
 2 litigation.

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

4       **WHEREAS** many parties to the civil and criminal actions arising out of the March 1989 oil spill  
 5 caused by the grounding of the Exxon Valdez have, as a result of the litigation, generated substantial  
 6 economic and scientific studies of the results of the spill; and

7       **WHEREAS** those studies are of great interest to the public, especially to those who were affected  
 8 by the spill, those studying the spill, and those trying to develop measures to mitigate possible large  
 9 future spills; and

10       **WHEREAS** as a matter of public policy, materials produced in litigation should be a matter of  
 11 public record, especially when governmental entities are litigants; and

12       **WHEREAS** the Alaska Supreme Court ruled in Anchorage School District v. Anchorage Daily  
 13 News, 779 P.2d 1191 (Alaska 1989), that the public records disclosure statutes, AS 09.25.110 -  
 14 09.25.125, overrode a governmental entity's attempt to make a litigation settlement confidential, thus  
 15 making it likely that any confidentiality provisions in an Exxon Valdez settlement would be ruled  
 16 illegal;

*ADD address from joint resolution*

*all copies available*

1           **BE IT RESOLVED** that the Alaska State Legislature urges that any settlement of the civil or  
2 criminal litigation arising from the Exxon Valdez spill provide that all economic and scientific studies  
3 generated by the litigation be open to public inspection and not be treated as confidential material.

4           **COPIES** of this resolution shall be sent to the Honorable Walter Hickel, Governor of the State  
5 of Alaska; to the Honorable Charles Cole, Attorney General of the State of Alaska; to the Honorable  
6 Brian Shortell, Superior Court Judge for the Third Judicial District of Alaska; and to all other heads of  
7 departments in the executive branch of the government of the State of Alaska.

3597 (File Nos. S-2647, S-3076, S-3033),  
P.2d (1990).

**Sec. 09.25.121. Copies of public records for veterans.** When a copy of a public record is required by the Department of Military and Veterans' Affairs, the Department of Commerce and Economic Development, or by the United States Veterans' Administration to be used in determining the eligibility of a person to participate in benefits, the official custodian of the public record shall, without charge, provide the applicant for the benefits, a person acting on behalf of the applicant, or an authorized representative of the department or the United States Veterans' Administration with a certified copy of the record. (§ 1 ch 35 SLA 1981; am § 2 ch 21 SLA 1985)

**Effect of amendments.** — The 1985 amendment substituted "Department of Military and Veterans' Affairs" for "division of veterans' affairs" in the first instance in which it appeared and substi-

tuted "department" in the second instance, inserted "the" preceding "Department of Commerce," and made a minor punctuation change.

**Sec. 09.25.122. Litigation disclosure.** A public record that is subject to disclosure and copying under AS 09.25.110 — 09.25.120 remains a public record subject to disclosure and copying even if the record is used for, included in, or relevant to litigation, including law enforcement proceedings, involving a public agency, except that with respect to a person involved in litigation, the records sought shall be disclosed in accordance with applicable court rules. In this section, "involved in litigation" means a party to litigation or representing a party to litigation, including obtaining public records for the party. (§ 6 ch 200 SLA 1990)

**Effective dates.** — Section 6, ch. 200, SLA 1990, which enacted this section, took effect on September 25, 1990.

**Sec. 09.25.123. Supervision and regulation.** (a) The Telecommunications Information Council shall supervise and adopt regulations for the operation and implementation of AS 09.25.110 — 09.25.140 by public agencies in the executive branch, including the Alaska State Housing Authority, but not including the Alaska Railroad Corporation.

(b) The legislative council shall supervise and adopt procedures for the operation and implementation of AS 09.25.110 — 09.25.140 by public agencies in the legislative branch.

(c) The administrative director of courts shall supervise and adopt procedures for the operation and implementation of AS 09.25.110 — 09.25.140 by public agencies in the judicial branch.

HJR

26

(7)

H. JSE COMMITTEE REPORT

Date Referred: February 22, 1991

FURTHER REFERRALS:

Date of Committee Action: 3-14-91

The JUDICIARY Committee considered:

HJR 26

HOUSE JOINT RESOLUTION NO. 26

EQUAL RIGHTS AMENDMENT: U.S. CONSTITUTION

Relating to the Equal Rights Amendment.

RECOMMENDATIONS:

be replaced with CS HJR 26 (Jud)

the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

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

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

zero fiscal note Legislative Affairs

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>David Douley</i>		<i>Terry Martin</i>		<input checked="" type="checkbox"/>	
<i>W. J. ...</i>		<i>Mark ...</i>		<input checked="" type="checkbox"/>	
<i>Kevin P. ...</i>		<i>...</i>			
<i>J. E. ...</i>					

*David Douley*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO: HJR 26

Revision Date: \_\_\_\_\_  
Title: Relating to the Equal Rights  
Amendment: \_\_\_\_\_  
Sponsor: Representative Gruenberg  
Requestor: Representative Donley

Department Affected: None  
BRU: \_\_\_\_\_  
Component: \_\_\_\_\_

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	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	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director  
Division: Administrative Services

Phone: 465-3850  
Date: 3/5/91

Approved By: Warren W. Endicott, Executive Director  
Agency: Legislative Affairs Agency

Date: 3/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

BILL NO. HJR 26

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: 01/24/92  
Title: Amendment to the Constitution RE: Equal Rights Amendment  
U.S. Constitution  
Sponsor: Representative Gruenberg  
Requestor: Senate Judiciary

Department Affected: Office of the Governor-Elections  
BRU: Division of Elections  
Component: II-Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	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	0	0	0	0	0	0

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Elizabeth Ziegler, Deputy Director  
Division: Elections

Phone: 465-4611  
Date: 01/24/92

Approved by Commissioner: Charles E. Hickston  
Agency: Office of the Governor

Date: 01-27-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

## MEMORANDUM

TO: Representative Dave Donley  
Chair, House Judiciary Committee

FROM: Representative Max Gruenberg *MAX*

DATE: February 25, 1991

RE: Scheduling of HJR 26, the ERA Resolution

I would very much appreciate it if you would schedule HJR 26, the ERA resolution, for a hearing as soon as it is possible.

This resolution requests that the U.S. Congress promptly consider and pass recently submitted joint resolutions amending the United States Constitution to explicitly provide that:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This resolution is very similar to the resolution that Alaska passed in 1972, making it the seventeenth state to ratify the Equal Rights Amendment. Unfortunately, the amendment was three states short of the 38 needed to ratify it, and it died on June 30, 1982.

This year in Congress, Senator Ted Kennedy (D-Massachusetts) and Rep. Don Edwards (D-California) introduced joint resolutions in their respective houses, amending the U.S. Constitution to provide equal rights for women and men.

This resolution asks Congress to expeditiously pass the ERA and present it to the American people for ratification. Discrimination against individuals based on sex, must be eliminated. We must ensure that all individuals are not denied equal opportunity under the laws of the United States.

If you have any questions, please call me or Mona Maehara of my staff at ext. 4968.

Thank you.

# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

WALTER J. HICKEL, GOVERNOR

HEADQUARTERS  
800 A STREET, SUITE 202  
ANCHORAGE, ALASKA 99501-3628  
PHONE: (907) 278-7474

March 13, 1991

Representative Dave Donley  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

VIA FAX: 465-2299

Dear Judiciary Committee Chairperson:

The Alaska State Commission for Human Rights is committed to Article 1 Section 3 of the Alaska Constitution which now provides:

"No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin."

We are committed also to uphold the laws of the State of Alaska which implement this provision.

Alaska's legislature ratified the Equal Rights Amendment in 1972, and we commend the efforts of the 17th Legislature by Resolution to press the Congress of the United States to resubmit the Equal Rights Amendment to the states for ratification.

We look to the day when all members of our society are treated with equality, fairness, dignity and respect. We urge adoption of HJR 26.

Sincerely,



Esther C. Wunnicke  
Chairperson

ECW:fb  
data\124

WALTER J. HICKEL, GOVERNOR

**HUMAN RIGHTS COMMISSION**

HEADQUARTERS  
800 A STREET, SUITE 202  
ANCHORAGE, ALASKA 99501-3628  
PHONE: (907) 276-7474

March 7, 1991

Representative Max F. Gruenberg, Jr.  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

VIA FAX: 465-4565

Attn: Mona Maihare

Dear Representative Gruenberg:

We are committed to Article 1 Section 3 of the Alaska Constitution which now provides:

"No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin."

We are committed also to uphold the laws of the State of Alaska which implement this provision.

Alaska's legislature ratified the Equal Rights Amendment in 1972 and we commend the efforts of the 17th Legislature by Resolution to press the Congress of the United States to resubmit the Equal Rights Amendment to the states for ratification.

We look to the day when all members of our society are treated with equality, fairness, dignity and respect. We urge adoption of the Resolution you have introduced.

Sincerely,



Esther C. Wunnicke  
Chairperson

ECW:pat  
data\122



GIRL SCOUTS

March 12, 1991

TO WHOM IT MAY CONCERN:

This letter is in support of House Joint Resolution No. 26 relating to the Equal Rights Amendment.

As an all girl organization with a total membership of more than 2.5 million girls nationwide, we understand the importance of this resolution and the ERA. Our nation cannot afford to leave untapped the skills and talents of over half the population. We need women who can make decisions, develop strategies, and lead the way to the future. Without the basic "equality of rights under the law", this is not possible.

Please support and approve HJR 26.

Sincerely,

Gail A. Riter  
Executive Director



GIRL SCOUTS

Susitna Girl Scout Council  
3911 Turnagain Blvd, East  
Anchorage, Alaska 99517  
(907) 248-2250

March 8, 1991

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

TO: Alaska State Legislature  
FROM: Susitna Girl Scout Council  
RE: House Joint Resolution Number 26

The Susitna Girl Scout Council of Alaska supports House Joint Resolution Number 26 calling for the ratification of the Equal Rights Amendment to the United States Constitution.

*Ann L. Kieffer*

Ann Kieffer, President  
SUSITNA GIRL SCOUT COUNCIL

*March 8, 1991*

Date



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE  
ANCHORAGE, ALASKA 99503  
(907) 274-0536  
FAX: (907) 274-0551

## JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302  
JUNEAU, ALASKA 99801  
(907) 586-3090  
FAX: (907) 586-2744

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435  
FAX: (907) 456-2159

March 4, 1991

**TO: Rep. Dave Donley, Chair**  
**Members, House Judiciary Committee**

**RE: HJR 26: "Relating to the Equal Rights Amendment."**

NEA-Alaska supports this Resolution and urges its passage.

Our resolve to support the Equal Rights Amendment is even greater today than it was in 1972 when the Equal Rights Amendment was first a national issue.

We support the rationale stated in the joint resolution. Further, we believe that if an Equal Rights amendment passes the U.S. Congress it will be ratified by states and ensure the human rights of all citizens. Women and men will benefit from passage of the ERA.

These rights are presently being exercised but are not protected by the U.S. Constitution.

Thank you for your consideration of our position.

Sincerely,

Bob Manners  
Executive Director

Don Oberg  
President

LE04/HJR26/dl

**ALASKA WOMEN'S LOBBY**  
POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

POSITION PAPER      HJR 26      FEDERAL EQUAL RIGHTS AMENDMENT

200 years after the ratification of the United States Constitution women still do not have the basic equality of rights under the law nationwide which the federal Equal Rights Amendment would provide.

The ERA is needed as much or more today than when it was first introduced in 1923 and passed by Congress in 1972. During the 1980's policy makers who do not support true equality for women have sought to repeal or reverse the few guarantees which exist for women in employment, education, family law and job benefits. Proposed changes include repealing affirmative action regulations, easing enforcement procedures for equal employment laws, and eliminating equal education laws.

The ERA would prohibit gender-based discrimination by government entities, establish a national policy to reinforce existing law and encourage the enactment of new laws reaching the private sector.

The current equal opportunity laws were enacted by Congress without the full force of the Constitution. Title VII of the Civil Rights Act, Title IX of the Education Amendments, the Civil Rights Restoration Act, the Equal Pay Act, and the Equal Credit Act have not provided adequate protections and have not substantially changed patterns and practices of discrimination.

In employment, education, insurance, retirement, family and divorce law, social security, pregnancy, and disability, the current laws are simply not enough.

The 14th Amendment was added to the United States Constitution over 100 years ago. At that time, women were denied such basic prerogatives of citizenship as the right to vote, hold property, serve on juries, and pursue certain occupations. The 14th Amendment's equal protection provision provides no guidelines for applying it to gender-discrimination claims. The Supreme Court has never viewed sex-discrimination as comparable to racial or ethnic classifications for the purpose of equal protection.

A federal ERA would guarantee substantially heightened and uniform scrutiny of all gender-based claims.

A federal ERA would provide equal justice, equal treatment and equal opportunity by extending to both women and men rights formerly reserved for women or men alone.

102d CONGRESS  
1st Session

S. J. RES. 3

Proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

-----  
IN THE SENATE OF THE UNITED STATES

January 14 (legislative day, January 3), 1991

Mr. Kennedy (for himself, Mr. Packwood, Mr. Adams, Mr. Akaka, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Bradley, Mr. Burdick, Mr. Chafee, Mr. Cohen, Mr. Conrad, Mr. Cranston, Mr. Daschle, Mr. DeConcini, Mr. Durenberger, Mr. Gore, Mr. Harkin, Mr. Hatfield, Mr. Hollings, Mr. Inouye, Mr. Jeffords, Mrs. Kassebaum, Mr. Kerry, Mr. Kohl, Mr. Lautenberg, Mr. Leahy, Mr. Leiberman, Mr. Levin, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Moynihan, Mr. Pell, Mr. Riegle, Mr. Sarbanes, Mr. Simon, Mr. Specter, Mr. Wirth, Mr. Dodd, Mr. Glenn, Mr. Graham, Mr. Heinz, Mr. Robb, Mr. Wellstone, and Mr. Rockefeller) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

-----  
JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

=====  
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Article--

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provision of this article.

"Section 3. This amendment shall take effect two years after the date of ratification."

S.J.R.3 BY KENNEDY, EDWARD (D-MA) -- Constitution of the United States,  
Amendment - Equal Rights

CURRENTLY: 39 Democrats  
9 Republicans

---  
48 Cosponsors

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ADAMS (D-WA)	As Introduced	01/14/91
AKAKA (D-HI)	As Introduced	01/14/91
BAUCUS (D-MT)	As Introduced	01/14/91
BENTSEN (D-TX)	As Introduced	01/14/91
BIDEN (D-DE)	As Introduced	01/14/91
BINGAMAN (D-NM)	As Introduced	01/14/91
BRADLEY (D-NJ)	As Introduced	01/14/91
BURDICK (D-ND)	As Introduced	01/14/91
CHAFEE (R-RI)	As Introduced	01/14/91
COHEN (R-ME)	As Introduced	01/14/91
CONRAD (D-ND)	As Introduced	01/14/91
CRANSTON (D-CA)	As Introduced	01/14/91
DASCHLE (D-SD)	As Introduced	01/14/91
DECONCINI (D-AZ)	As Introduced	01/14/91
DIXON, ALAN (D-IL)	Added	01/22/91
DODD (D-CT)	As Introduced	01/14/91
DURENBERGER (R-MN)	As Introduced	01/14/91
GLENN (D-OH)	As Introduced	01/14/91
GORE (D-TN)	As Introduced	01/14/91
GRAHAM, BOB (D-FL)	As Introduced	01/14/91
HARKIN (D-IA)	As Introduced	01/14/91
HATFIELD (R-OR)	As Introduced	01/14/91
HEINZ (R-PA)	As Introduced	01/14/91
HOLLINGS (D-SC)	As Introduced	01/14/91
INOUE (D-HI)	As Introduced	01/14/91
JEFFORDS (R-VT)	As Introduced	01/14/91
KASSEBAUM (R-KS)	As Introduced	01/14/91
KERRY, JOHN (D-MA)	As Introduced	01/14/91
KOHL (D-WI)	As Introduced	01/14/91
LAUTENBERG (D-NJ)	As Introduced	01/14/91
LEAHY (D-VT)	As Introduced	01/14/91
LEVIN, CARL (D-MI)	As Introduced	01/14/91
LIEBERMAN (D-CT)	As Introduced	01/14/91
METZENBAUM (D-OH)	As Introduced	01/14/91
MIKULSKI (D-MD)	As Introduced	01/14/91
MITCHELL, GEORGE (D-ME)	As Introduced	01/14/91
MOYNIHAN (D-NY)	As Introduced	01/14/91
PACKWOOD (R-OR)	As Introduced	01/14/91
PELL (D-RI)	As Introduced	01/14/91
PIEGLE (D-MI)	As Introduced	01/14/91
ROBB (D-VA)	As Introduced	01/14/91
ROCKEFELLER (D-WV)	As Introduced	01/14/91
RANFORD (D-NC)	Added	01/22/91
SARBANES (D-MD)	As Introduced	01/14/91
SIMON (D-IL)	As Introduced	01/14/91
SPECTER (R-PA)	As Introduced	01/14/91
WELLSTONE (D-MN)	As Introduced	01/14/91
WIRTH (D-CO)	As Introduced	01/14/91

H.J.R.1 BY EDWARDS, DON (D-CA) -- Constitution of the United States,  
Amendment - Equal Rights

CURRENTLY: 81 Democrats  
13 Republicans

---  
94 Cosponsors

-----

ABERCROMBIE (D-HI)	Added	02/04/91
ACKERMAN (D-NY)	Added	02/04/91
ANDREWS, MIKE (D-TX)	Added	02/04/91
ANDREWS, THOMAS (D-ME)	Added	02/04/91
ATKINS (D-MA)	Added	02/04/91
AUCOIN (D-OR)	Added	02/04/91
BACCHUS (D-FL)	Added	01/18/91
BEILENSON (D-CA)	Added	01/18/91
BERMAN (D-CA)	Added	01/18/91
BOEHLERT (R-NY)	Added	02/04/91
BOUCHER (D-VA)	Added	02/04/91
BOXER (D-CA)	Added	02/04/91
BROOKS (D-TX)	As Introduced	01/03/91
BROWN, GEORGE (D-CA)	Added	02/04/91
CAMPBELL, BEN (D-CO)	Added	02/04/91
CARDIN (D-MD)	Added	02/04/91
CLAY (D-MO)	Added	02/04/91
COLEMAN, RONALD (D-TX)	Added	01/18/91
DE FAZIO (D-OR)	Added	02/04/91
DICKS (D-WA)	Added	01/18/91
DIXON, JULIAN (D-CA)	Added	01/18/91
DOWNEY, THOMAS (D-NY)	Added	02/04/91
EVANS, LANE (D-IL)	Added	02/04/91
FASCELL (D-FL)	Added	01/18/91
FAZIO (D-CA)	As Introduced	01/03/91
FISH (R-NY)	As Introduced	01/03/91
FOGLIETTA (D-PA)	Added	01/18/91
FUSTER (D-PR)	Added	01/18/91
GEPHARDT (D-MO)	As Introduced	01/03/91
GEREN (D-TX)	Added	02/04/91
GLICKMAN (D-KS)	Added	02/04/91
GRAY, WILLIAM (D-PA)	As Introduced	01/03/91
GREEN (R-NY)	Added	01/18/91
HORTON (R-NY)	Added	02/04/91
HOYER (D-MD)	As Introduced	01/03/91
HUGHES (D-NJ)	Added	01/18/91
JACOBS (D-IN)	Added	01/18/91
JONTZ (D-IN)	Added	02/04/91
KAPTUR (D-OH)	Added	02/04/91
KILDEE (D-MI)	Added	02/04/91
KLUG (R-WI)	Added	02/04/91
LEACH, JAMES (R-IA)	Added	02/04/91
LEHMAN, RICHARD (D-CA)	Added	02/04/91
LEHMAN, WILLIAM (D-FL)	Added	01/18/91
LEVINE, MEL (D-CA)	Added	01/18/91
LOWERY, BILL (R-CA)	Added	01/18/91
LOWEY, NITA (D-NY)	Added	02/04/91

MACHTLEY (R-RI)	Added 01/18/91
MANTON (D-NY)	Added 01/18/91
MARTINEZ (D-CA)	Added 02/04/91
MATSUI (D-CA)	Added 01/18/91
MCCLOSKEY (D-IN)	Added 01/18/91
MCDERMOTT (D-WA)	Added 01/18/91
MCHUGH (D-NY)	Added 02/04/91
MILLER, GEORGE (D-CA)	Added 01/18/91
MINETA (D-CA)	Added 02/04/91
MOODY (D-WI)	Added 01/18/91
MORAN (D-VA)	Added 02/04/91
MORELLA (R-MD)	Added 01/18/91
MRAZEK (D-NY)	Added 02/04/91
NAGLE (D-IA)	Added 02/04/91
NORTON (D-DC)	Added 01/18/91
PEASE (D-OH)	Added 02/04/91
PELOSI (D-CA)	Added 01/18/91
PENNY (D-MN)	Added 01/18/91
PICKLE (D-TX)	Added 01/18/91
RANGEL, CHARLES (D-NY)	Added 02/04/91
RICHARDSON (D-NM)	Added 01/18/91
ROE (D-NJ)	Added 02/04/91
ROYBAL (D-CA)	Added 01/18/91
SANGMEISTER (D-IL)	Added 01/18/91
SCHEUER (D-NY)	Added 02/04/91
SCHROEDER (D-CO)	As Introduced 01/03/91
SCHUMER (D-NY)	Added 01/18/91
SHARP (D-IN)	Added 02/04/91
SHAYS (R-CT)	Added 01/18/91
SLAUGHTER, LOUISE (D-NY)	Added 02/04/91
SMITH, LAWRENCE (D-FL)	Added 01/18/91
SNOWE (R-ME)	As Introduced 01/03/91
STARK (D-CA)	Added 01/18/91
STUDDS (D-MA)	Added 01/18/91
SWIFT (D-WA)	Added 01/18/91
TRAXLER (D-MI)	Added 02/04/91
UDALL (D-AZ)	Added 02/04/91
UNSOELD (D-WA)	Added 02/04/91
VENTO (D-MN)	Added 02/04/91
WALSH (R-NY)	Added 02/04/91
WAXMAN (D-CA)	Added 02/04/91
WHEAT (D-MO)	Added 01/18/91
WILLIAMS, PAT (D-MT)	Added 02/04/91
WILSON, CHARLES (D-TX)	Added 02/04/91
WYDEN (D-OR)	Added 02/04/91
YATES (D-IL)	Added 01/18/91
ZIMMER (R-NJ)	Added 02/04/91

Table 1-5 State Action on Proposed Constitutional Amendments

State	Proposed amendment				
	Congressional pay <sup>a</sup>	Reapportionment <sup>b</sup>	Equal rights <sup>c</sup>	Balanced budget <sup>d</sup>	Ban abortion <sup>e</sup>
Alabama	n.a.	yes	n.a.	r	yes
Alaska	n.a.	n.a.	yes	yes	n.a.
Arizona	yes	yes	n.a.	yes	n.a.
Arkansas	yes	yes	n.a.	yes	yes
California	n.a.	n.a.	yes	n.a. <sup>f</sup>	n.a.
Colorado	yes	yes	yes	yes	n.a.
Connecticut	yes	n.a.	yes	n.a.	n.a.
Delaware	yes	n.a.	yes	yes	yes
Florida	n.a.	yes	n.a.	r	n.a.
Georgia	yes	yes	n.a.	yes	n.a.
Hawaii	n.a.	n.a.	yes	n.a.	n.a.
Idaho	n.a.	yes	r	yes	yes
Illinois	n.a.	r <sup>g</sup>	n.a.	n.a. <sup>f</sup>	n.a.
Indiana	yes	yes	yes	yes	yes
Iowa	n.a.	yes	yes	yes	n.a.
Kansas	n.a.	r <sup>g</sup>	yes	yes	n.a.
Kentucky	n.a.	yes	r	n.a. <sup>f</sup>	yes
Louisiana	yes	yes	n.a.	yes	yes
Maine	yes	n.a.	yes	n.a.	n.a.
Maryland	yes	r <sup>g</sup>	yes	yes	n.a.
Massachusetts	n.a.	n.a.	yes	n.a.	yes
Michigan	n.a.	n.a.	yes	n.a.	n.a.
Minnesota	n.a.	yes	yes	n.a.	n.a.
Mississippi	n.a.	yes	n.a.	yes	yes
Missouri	n.a.	yes	n.a.	yes	yes
Montana	yes	yes	yes	n.a. <sup>f</sup>	n.a.
Nebraska	n.a.	yes	r	yes	yes
Nevada	n.a.	yes	n.a.	yes	yes
New Hampshire	yes	yes	yes	yes	n.a.
New Jersey	n.a.	n.a.	yes	n.a.	yes
New Mexico	yes	yes	yes	yes	n.a.
New York	n.a.	n.a.	yes	n.a.	n.a.
North Carolina	yes	r <sup>g</sup>	n.a.	yes	n.a.
North Dakota	n.a.	yes	yes	yes	n.a.
Ohio	yes	n.a.	yes	n.a.	n.a.
Oklahoma	yes	yes	n.a.	yes	yes
Oregon	n.a.	n.a.	yes	yes	n.a.
Pennsylvania	n.a.	n.a.	yes	yes	yes
Rhode Island	n.a.	n.a.	yes	n.a.	yes
South Carolina	yes	yes	n.a.	yes	n.a.
South Dakota	yes	yes	r	yes	yes
Tennessee	yes	yes	r	yes	yes

(Table continues)

Table 1-5 (Continued)

State	Proposed amendment				
	Congressional pay <sup>a</sup>	Reapportionment <sup>b</sup>	Equal rights <sup>c</sup>	Balanced budget <sup>d</sup>	Ban abortion <sup>e</sup>
Texas	yes	r <sup>g</sup>	yes	yes	n.a.
Utah	yes	yes	n.a.	yes	yes
Vermont	yes	n.a.	yes	n.a.	n.a.
Virginia	yes	yes	n.a.	yes	n.a.
Washington	n.a.	r <sup>g</sup>	yes	n.a.	n.a.
West Virginia	yes	n.a.	yes	n.a.	n.a.
Wisconsin	yes	n.a.	yes	n.a.	n.a.
Wyoming	yes	yes	yes	yes	n.a.

Note: "Yes" indicates state legislature approved the amendment or sent a petition to Congress for a constitutional convention; "n.a." indicates no action was taken or the state legislature rejected the amendment or a proposal to petition for a convention; and "r" indicates previous appeal was rescinded. The equal rights amendment and congressional pay amendment were initiated by Congress and submitted to the states for ratification. The other three proposed amendments were initiated by petition from state legislatures.

<sup>a</sup> Congressional Pay: This amendment as proposed by a resolution of the First Congress of the United States on September 25, 1789, reads: "No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

<sup>b</sup> Reapportionment: States acted to petition Congress for a constitutional convention on this issue following two Supreme Court "one person, one vote" decisions concerning how states were apportioned for their state legislatures. As a result, some states called for a convention to consider an amendment that would allow one house of a state legislature to be apportioned on a basis other than population.

<sup>c</sup> Equal Rights: This amendment, as proposed by Congress and voted on by the states, read: "Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. Section 3. This amendment shall take effect two years after the date of ratification."

<sup>d</sup> Balanced Budget: This proposed amendment has various forms. In its simplest form, Congress would be required to approve a balanced federal budget each year. In other forms there is a provision that a three-fifths majority of Congress could vote not to balance the budget in any given year.

<sup>e</sup> Abortion: Some states have called for a constitutional convention to consider an amendment that would ban abortions. The most common approach among the various proposed amendments is to apply the constitutional protection of due process against the denial of life and property to unborn children.

<sup>f</sup> The state did not endorse the call for a constitutional convention but petitioned Congress to propose a balanced budget amendment to the states.

<sup>g</sup> Passed by only one house of each of the state legislatures.

Sources: Reapportionment: *Congressional Quarterly Weekly Report* (1969), 1372-1373; equal rights: *Public Opinion* (August/September 1981), 39 (reprinted with permission of the American Enterprise Institute for Public Policy Research); Congressional Research Service, *The Constitution of the United States*, 43; balanced budget: *Congressional Record* citations to state communications relating to constitutional conventions, *The Gallup Report* (September 1985), 11; abortion: *Congressional Record* citations to state communications relating to constitutional conventions; congressional pay: House Joint Resolution No. 6 (71st Legislature of the State of Texas, R.S.).



of 19-78. (*Vote 179, p. 32-S*)

- Ted Stevens, R-Alaska, to allow states to bail out even if all of their counties were not eligible to escape coverage, by a vote of 32-58. (*Vote 181, p. 32-S*)

- Stevens, to incorporate the results test of Section Two of the act in the bailout provisions, which were in another section, by a vote of 38-59. (*Vote 180, p. 32-S*)

- Hayakawa, to delete from the bill all requirements for bilingual election materials, by a vote of 32-54. (*Vote 182, p. 32-S*)

- Thad Cochran, R-Miss., to extend nationwide the Section Five requirement for Justice Department approval of election law changes, by 16-74. (*Vote 183, p. 32-S*)

### House Accepts Senate Amendments

After the months of controversy in the Senate, final House action on HR 3112 was anticlimactic. The House June 23 accepted the Senate amendments without debate and by unanimous consent.

There was only one moment of minor fireworks. Rep.

Henry J. Hyde, R-Ill., angry he was not consulted about the procedure used to clear the bill, resigned from the subcommittee that had handled it.

Hyde, ranking Republican on the House Judiciary Civil and Constitutional Rights Subcommittee, initially opposed a Section Five extension. But after hearing a month of testimony, he publicly stated his support for the extension and began to work with Democrats on a compromise proposal.

Hyde's proposal ultimately was not accepted, and instead Democrats put together a compromise with Republicans F. James Sensenbrenner Jr., Wis., and Hamilton Fish Jr., N.Y.

However, Hyde did vote to report the bill to the House and to pass it.

When subcommittee Chairman Don Edwards, D-Calif., chief sponsor of HR 3112, rose to compliment Hyde for his work on the measure, the Illinois Republican stormed off the House floor. Moments later, he resigned from Edwards' panel. ■

## ERA Dies Three States Short of Ratification

The proposed Equal Rights Amendment (ERA) to the Constitution officially died June 30, three states short of the 38 needed to ratify it.

No state had approved the ERA since 1978, when Congress extended the original March 22, 1979, ratification deadline. (*1978 Almanac p. 773*)

Fifteen states, most of them in the South, never ratified the ERA: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah and Virginia.

Idaho, Tennessee and Nebraska rescinded their pro-ERA votes. The Kentucky Legislature rescinded its vote in favor of the ERA in March 1978 but the resolution was vetoed by the lieutenant governor, who was acting as governor. The South Dakota Legislature passed a resolution in 1979 declaring that its earlier ratification of the ERA would become void if the amendment were not finally approved by the original March 22, 1979, deadline.

The operative language of the proposed amendment was short and to the point:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

However, the proposal stirred a national political and social debate out of all proportion to its seeming simplicity.

### ERA Background

Congressional approval of the ERA was no easier than the ratification fight. The amendment finally was approved by Congress March 22, 1972, 49 years after it was first introduced.

Although the House Judiciary Committee handily approved the bill by a 32-3 vote June 22, 1971, supporters had to work to defeat two restrictive amendments on the House floor. The measure was passed Oct. 12 on a 354-24 vote, a margin substantially greater than the two-thirds necessary. (*1971 Almanac p. 656*)

The Senate did not take up the ERA until 1972. The Judiciary Committee approved the bill by a 15-1 vote March 14, 1972. The only senator voting against it was Sam J.

Ervin Jr., D-N.C. (1954-74), who led a vigorous floor battle to block the proposal. (*1972 Almanac p. 199*)

But after four days of debate in which nine Ervin amendments were defeated, the Senate approved the resolution March 22 by an 84-8 vote.

Less than two hours after the Senate acted, Hawaii became the first state to ratify the amendment.

By early 1978, 35 states had ratified the ERA, but with the March 22, 1979, deadline approaching, amendment supporters knew they were in trouble. They launched a campaign to extend the ratification period.

After months of furious lobbying and often heated debate, Congress on Oct. 6 gave final approval to a resolution extending the ratification deadline by 39 months, until June 30, 1982.

### The Court Challenge

The legality of that extension was soon challenged. After Idaho in 1978 voted to rescind its 1973 ratification of the ERA, a group of anti-ERA state legislators and other officials sued the General Services Administration (GSA), which maintained the official list of ratifying states, seeking to force removal of Idaho from the list.

Pro-ERA forces and the Justice Department sought unsuccessfully to remove Judge Marion Callister, of the federal district court in Idaho, from hearing the case because he was a Mormon, and his church opposed the ERA.

However, on Dec. 23, 1981, Callister ruled that Congress exceeded its power when it extended the ERA ratification period in 1978, and that states could rescind their approval of the amendment if they acted within the period available for ratification.

After Callister's adverse ruling, both the National Organization for Women (NOW) and the Justice Department appealed directly to the Supreme Court. NOW asked for expedited consideration of the appeal, but the Justice Department — which was under fire from conservative political groups opposed to the ERA — said such speed would be "inadvisable."

On Jan. 25, 1982, the Supreme Court agreed to hear

the cases of *NOW v. Idaho* and *Carmen v. Idaho* but denied NOW's request for expedited action.

The court did not hear arguments in the case during its 1981-82 term, and on Oct. 4, 1982, the first day of its 1982-83 term, the court dismissed the ERA cases as moot.

Not only did the justices dismiss the cases as moot, they also vacated the lower court decision, wiping it off the law books and rendering it useless as a precedent, a partial victory for those challenging it.

### Doom in June

Despite a massive fund-raising and lobbying effort in 1982, ERA supporters were dealt three crushing blows in June, when state legislatures in North Carolina, Florida and Illinois rejected the amendment.

Women's rights activists conceded defeat almost a week before the June 30 deadline, marking the end of a 10-year battle.

At a June 24 news conference, Eleanor Smeal, president of the National Organization for Women (NOW), which led the ERA drive, said that women's groups would concentrate on electing women and their male backers to state legislatures. They would also use lawsuits and such political tools as boycotts and demonstrations to improve women's rights in the business sector, she said.

Smeal was sharply critical of the Republican Party, which she contended led the attack on the amendment. In somewhat softer terms, she also complained that while the Democratic Party included the ERA in its platform for the 1980 election, the amendment and women's rights generally were not high enough on the party's agenda.

President Reagan opposed the ERA, although he did not take an active role in trying to defeat it. By contrast, President Carter and his wife, Rosalynn, strongly supported the amendment, and though it was to no avail, they lobbied legislators extensively in key states while Carter was in office.

### Supporters, Foes Looking Ahead

On June 30, the day the ERA officially died, its leading supporters and most vociferous foes all held press conferences to mark its passing and look toward the future.

Phyllis Schlafly, the head of Stop ERA and a leading opponent of the amendment, proclaimed ERA "not only dead now but forever in this century."

She said the amendment had been given three years "of artificial life" by the news media since the ratification deadline was extended in 1979.

Schlafly said ERA failed because her supporters could show it would lead to erosion of family life and the draft of women for military service.

"The gift that we give to Americans today," she said, "is to assure the young women today and for all future years that they will forever be exempted from the military draft."

Pro-ERA leaders vowed to continue their fight. Smeal released a list of 137 Republican state legislators she said opposed the ERA. While she did not say that these 137 would be targeted specifically in upcoming elections, Smeal said NOW would advise women "to vote selectively on the basis of a candidate's stands on women's rights issues."

Kathy Wilson, head of the National Women's Political Caucus, at a separate press conference released her group's "dirty dozen" list of 12 state legislators who she said played strategic roles in defeating the ERA in seven states. Only two were Republicans.

Wilson blamed the ERA's defeat on the seniority system in state legislatures, which she contended gave anti-ERA legislators key political positions. "The seniority system gave power to the unrepresentative few, small-minded men who became our true adversaries in this decade of struggle for equality," she said.

"We will continue to change the political complexion of the legislatures at large. With more feminists in the ring, these men will never again be the ring leaders."

### New Effort Begun

Even before ERA was put to rest, an identical constitutional amendment was introduced in the House.

On June 24, six days before the ERA died, Rep. Mario Biaggi, D-N.Y., dropped an identical constitutional amendment (H J Res 529) into the House hopper.

And July 14, two weeks after the ratification deadline passed, another — identically worded — amendment (S J Res 213, H J Res 533) was introduced.

The new Senate amendment had 51 cosponsors, led by Paul E. Tsongas, D-Mass., and Bob Packwood, R-Ore. A two-thirds majority — 67 if all members vote — is required to pass a constitutional amendment.

In the House, where the effort was headed by Democratic Reps. Don Edwards, Calif., Peter W. Rodino Jr., N.J., and Patricia Schroeder, Colo., and Republican Rep. Margaret M. Heckler, Mass., sponsors claimed 205 supporters. This was well short of the two-thirds majority (290) that would be needed if all members voted.

However, no action was taken on the new ERA before the 97th Congress adjourned. Senate Majority Leader Howard H. Baker, R-Tenn., said shortly after the original version died June 30 that he favored a "cooling off" period before starting the congressional debate all over again. ■

## LEAA Goes Out of Business

Fourteen years after its creation, the Law Enforcement Assistance Administration (LEAA) went quietly out of business April 15, a demise ordered by Attorney General William French Smith but preordained in the final years of the Carter administration.

In its somewhat troubled life, the grant agency dispensed nearly \$8 billion to local law enforcement agencies for programs such as improved police equipment, shelters for homeless youth and special local task forces to prosecute "career criminals." In recent years, however, LEAA was criticized for requiring too much red tape in its grant program and for wasting money on Dick Tracy-type gadgetry.

The LEAA's official end came by order of Attorney General Smith, who announced Dec. 30, 1981, that the agency would be out of business by April 15. The agency came to a practical end March 20, when all LEAA personnel either were transferred to related law enforcement divisions or laid off.

Four LEAA programs continued after April 15 but were operated through the Office of Justice Assistance, Research and Statistics (OJARS), the government's umbrella law enforcement assistance agency. They were: a benefit program that paid \$50,000 to the survivors of police officers killed in action, a regional organized crime intelligence center, a drug treatment program and a program that helped local police run "sting" operations.

The death knell of the LEAA was sounded in 1979

HJR

34



**FISCAL NOTE**

**STATE OF ALASKA  
1991 LEGISLATIVE SESSION**

**BILL NO. HJR34**

Revision Date: \_\_\_\_\_  
 Title: Relating to the Tax Deductibility  
of the Exxon Oil Spill Settlement  
 Sponsor: Ellis, Brown, Donley  
 Requestor: \_\_\_\_\_

Department Affected: Department of Revenue  
 BRU: Revenue Operations  
 Component: Income and Excise Audit  
 COMPONENT SERIAL NO. | 1 | 1 | 3 |

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

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY97-02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE</b>	490.0	817.0	545.0	381.0	381.0	381.0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	490.0	817.0	545.0	381.0	381.0	381.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	490.0	817.0	545.0	381.0	381.0	381.0

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

**ANALYSIS:** Attach a separate page for analysis.

SEE ATTACHED

Prepared By: Carl Meyer *Carl Meyer* Phone: (907) 465-2320  
 Division: Income and Excise Audit Division Date: April 5, 1991

Approved by Commissioner: Lee E. Fisher *Lee E. Fisher*  
 Agency: Department of Revenue Date: 4-5-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

April 5, 1991

HJR 34  
FISCAL NOTE ANALYSIS  
DEPARTMENT OF REVENUE

HJR 34 urges the United States Congress to amend the federal income tax law to deny to Exxon a deduction for amounts paid to the state in settlement for the Exxon oil spill. Alaska law incorporates certain provisions of the federal law including those provisions which would currently allow spill expenses to be deducted. Therefore, a denial of the expenses under federal law would also result in a corresponding denial of the expenses for purposes of the Alaska Net Income Tax Act.

The estimated fiscal impact of the denial of a deduction for the settlement payments is based on payments of \$90,000,000 this summer or fall, \$150,000,000 on September 1, 1992, \$100,000,000 on September 1, 1993, and \$70,000,000 on September 1 of 1994 through 2001. Additional amounts to be paid as fines or penalties are not reflected in the fiscal note as these amounts are not deductible under current law. Also, the fiscal note does not take into account the provision providing for an additional \$100,000,000 payment if the settlement agreement is reopened to consider currently unknown injuries.

**HOUSE JOINT RESOLUTION NO. 34**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES ELLIS, Brown, Donley**

**Introduced: 3/27/91**

**Referred: Judiciary, Finance**

**A RESOLUTION**

**1 Relating to the tax deductibility of the Exxon oil spill settlement.**

**2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**3 WHEREAS** on the night of March 23 - 24, 1989, the T/V Exxon Valdez, owned by Exxon  
**4 Shipping,** went aground on Bligh Reef in Prince William Sound in Alaska; and

**5 WHEREAS** as a result of the grounding, several of the vessel's cargo tanks ruptured and  
**6 approximately 11,000,000 gallons of crude oil owned by Exxon Corporation spilled into Prince William**  
**7 Sound; and**

**8 WHEREAS** on March 12, 1991, the United States, Exxon Corporation, Exxon Shipping  
**9 Company, Exxon Pipeline Company, and Governor Hickel for the State of Alaska entered into a**  
**10 proposed agreement and consent decree to settle the claims between them arising out of the oil spill; and**

**11 WHEREAS** under the agreement Exxon agrees to pay Alaska a specified sum of money as  
**12 compensatory and remedial damages for the oil spill; and**

**13 WHEREAS** under the present income tax laws of the United States, Exxon will be able to reduce  
**14 its income tax liability by deducting a portion of the money to be paid under the agreement; and**

**15 WHEREAS** the deduction by Exxon means that the taxpayers of the United States pay that part  
**16 of the settlement amount that is deducted from Exxon's income taxes, because the United States will not**  
**17 receive that amount in taxes; and**

1 WHEREAS the taxpayers of the United States should not have to pay for Exxon's negligence,  
2 and Exxon should not receive a tax break for compensating the State of Alaska for Exxon's negligence;  
3 and

4 WHEREAS there is movement in the United States Congress to repeal the income tax laws that  
5 allow Exxon to receive the tax break;

6 BE IT RESOLVED that the Alaska State Legislature urges the United States Congress to amend  
7 the income tax laws of the United States so that Exxon may not reduce its income tax liability by  
8 deducting any of the money that Exxon pays to the State of Alaska <sup>+ the Fed 800</sup> as settlement for the Exxon oil spill.

9 COPIES of this resolution shall be sent to the Honorable Dan Quayle, Vice-President of the  
10 United States and President of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S.  
11 House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.  
12 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in  
13 Congress.

*Chair Sen Finance Comm.*

DD - Further Resolves -

JE MW' add language

*Adopted*

#2 past

#3 pst

*(7)*

HJR

43

**HOUSE COMMITTEE REPORT**

(7)

Date Referred: April 29, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-6-91

The JUDICIARY Committee considered:

HJR 43

HOUSE JOINT RESOLUTION NO. 43

CONGRATULATE COMM. ON UNIFORM ST. LAWS

Congratulating the National Conference of Commissioners on Uniform State Laws on its centennial, and expressing the gratitude of the State of Alaska for the work of the conference.

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

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

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

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

zero fiscal note \_\_\_\_\_

zero fiscal note(s) Dept. Law 4-29-91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Larry Masterson</i>	✓				
<i>Mark Stanley</i>	X				
<i>W. K. ...</i>	-				
<i>Lina ...</i>	✓				
<i>Dave Douley</i>	✓				

*Dave Douley*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

Bill Version: HJR 43

(H) Publish Date: 4/29/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law

Title: "Congratulating the National Conference of Commissioners on Uniform State Laws..."  
of Commissioners on Uniform State Laws... BRU: Legal Services  
Component: Operations

Sponsor: \_\_\_\_\_

Requestor: Governor's Office/OMB

COMPONENT SERIAL NO. 

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

**ANALYSIS: (Attach a separate page if necessary.)**  
 This joint resolution congratulates the National Conference of Commissioners on Uniform State Laws (NCCUSL) on its centennial, and this action will not have a fiscal impact.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: April 15, 1991

Approved by Commissioner: Richard I. Pegues  
Charles E. Cole, Attorney General

Agency: Department of Law Date: April 15, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

RECEIVED MAY 3 1991

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May 3, 1991

Hon. Dave Donley, Chair  
House Judiciary Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Re: HJR 43, NCCUSL  
centennial

Dear Rep. Donley:

HJR 43, commemorating the National Conference of Commissioners on Uniform State Laws (NCCUSL) on its centennial, was introduced April 29 and is now in your committee. I would appreciate your scheduling it for an early hearing, and of course I urge favorable action on it.

Alaska has been an active participant in the NCCUSL throughout our period as a territory and since statehood. In addition, we have been the direct beneficiary of the work of the NCCUSL through Alaska enactment of at least 63 of its Uniform Acts.

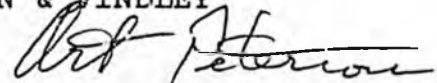
The NCCUSL begins its centennial celebration at this summer's annual meeting, so it is important that the legislature pass this resolution this session.

Thank you.

Yours truly,

DILLON & FINDLEY

By:



Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

cc: Jeff Bush, Supervising Atty.  
Legislation/Regulations Section  
Alaska Department of Law

HJR

45

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 29, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-28-92

The JUDICIARY Committee considered:

HJR 45

HOUSE JOINT RESOLUTION NO. 45

REAPPORTIONMENT BOARD & REAPPORTIONMENT

Proposing amendments to the Constitution of the State of Alaska relating to reapportionment of the legislature.

**RECOMMENDATIONS:**

be replaced with CS HJR 45 (JUD)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

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

fiscal note(s) Gov. - Div'n of Elections

zero fiscal note \_\_\_\_\_

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Dauch Donley</i>	/				
<i>[Signature]</i>	/				
<i>Kevin P. Powell -</i>	/	<i>Mark J. Stanley</i>		X	
<i>H. Ellis</i>	X	<i>Terry Martin</i>		X	
		<i>Uki Milled</i>		✓	

*Dauch Donley*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HJR 45

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution-Reapportionment of the legislature.  
Sponsor: House Judiciary Committee  
Requestor: House State Affairs

Department Affected: Office of the Governor-Elections  
BRU: Division of Elections  
Component: II - Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	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	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) \* This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for Datavote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing of an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Elizabeth Zieglar, Deputy Director  
Division: Elections

Phone: 465-4611  
Date: 01/10/92

Approved by Commissioner: *Charles E. Thielen*  
Agency: Office of the Governor

Date: 01/10/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Rev 10/07/91  
HJR45.FN

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# Alaska State Legislature



## House of Representatives

House Judiciary Committee

### SPONSOR STATEMENT

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

HJR 45 proposes a ballot proposition which amends the Alaska Constitution to reduce the influence of partisan politics on the redistricting process, and to eliminate provisions of the Alaska constitution that have been held to be unconstitutional under federal law.

Alaska is one of two states in the country in which the Governor has sole responsibility for redistricting (Maryland is the other state). Although the framers of the Alaska Constitution adopted this unique approach to reapportionment in an attempt to remove partisan politics from the redistricting process (see attachment 1), to date every attempt at redistricting in Alaska has been contentious and partisan.

The constitutional amendment set out in HJR 45 would transfer responsibility for redistricting from the governor to an independent reapportionment board. The advantages of having redistricting done by an independent board are:

- the reapportionment plan would be drawn by a body that does not have a direct stake in the final outcome;
- existence of an independent board would help take the politics out of an extremely political and divisive issue, and the process would become more technical, thereby enabling a fair plan to be drawn;
- a board would be more willing to create a plan with balanced districts, thereby allowing for competitive elections;
- the specter of gerrymandering, and the sense of unfairness that many people believe taints the current process, will be eliminated by having an independent board conduct redistricting.

In addition to the recurring problems with partisan political considerations controlling the redistricting process, many of the provisions of the reapportionment article of the Alaska Constitution are unconstitutional under the federal constitution as a result of the "one person, one vote" decisions of the U.S. Supreme Court (see attachment 2). The amendments proposed in HJR 45 correct these constitutional problems.

# Alaska State Legislature



## House of Representatives

House Judiciary Committee

### SUMMARY OF HJR 45

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
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### CONSTITUTIONAL AMENDMENT RELATING TO REAPPORTIONMENT

HJR 45 changes the reapportionment process from the current system where the Governor has sole control over redistricting, to a system where redistricting is done by an independent, non-partisan reapportionment board. An outline of the key provisions of HJR 45 follows.

I. **Duties of Board:** The reapportionment board has responsibility for developing and establishing a redistricting and reapportionment plan after each decennial census. In addition to most of the existing criteria for drawing boundaries, a new criterion of political fairness is added.

II. **Makeup of Board:** The reapportionment board has nine members:

A. **Appointed by:**

1. Governor - one member
2. House caucus of party with largest number of representatives - two members
3. House caucus of party with second largest number of representatives - two members
4. Senate caucus of party with largest number of senators - two members
5. Senate caucus of party with second largest number of senators - two members

B. **Qualifications/disqualifications of members:**

1. Can't be public official or public employee.
2. Can't run for legislative office in the next two elections after term of office on board expires.

SUMMARY