

ALASKA

LEGISLATURE

COMMITTEE

FILES

1991-1992

8672

7291

HOUSE

STATE

AFFAIRS



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

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January 27, 1991

SPONSOR STATEMENT

HOUSE JOINT RESOLUTION 8

This resolution is offered as a statement of support, not only for the President of the United States and other leaders of the Allied Forces, but more importantly for the men and women of the military forces serving in the Persian Gulf. It is important to the morale of our troops that they know their fellow Americans appreciate their bravery and dedication.

According to a spokesperson from the Office of the Secretary of Defense, there are 245,000 personnel from the Allied Forces plus 475,000 American military personnel serving in the Persian Gulf as of January 25th. Accurate figures are not readily available regarding the number of Alaskans currently on duty serving in the Gulf. It appears that to date, Alaska has been most fortunate in having most of her sons and daughters left at home. There are, however, 7 Alaskan Naval reservists who have been activated for service in the Persian Gulf. I have been told that there are Army medical corps reservists from Alaska who have also been activated but I cannot substantiate that at this time.

Additionally, Alaska is home to several thousand active duty military personnel and their families who have made and continue to make significant contributions to our state. These active duty personnel are all subject to duty in the Persian Gulf. It is important to indicate to those men and women serving in operation "Desert Storm" and all military personnel that Alaska supports their efforts.

I believe that all Alaskans were praying for a peaceful resolution to the Middle East crisis. However, exhausting diplomatic efforts failed to resolve the issue. To debate whether we should have launched the attack when we did would serve no purpose at this time. The fact is that we are at war with Iraq. War is never easy and many personal sacrifices will be made. Let us, members of the Alaska Legislature, make Alaska a forerunner in publicly acknowledging support for the men and women of our military services who will be making those sacrifices.

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

POSITION PAPER
CSHR 8 (STA) (Draft)

Summary of Resolution: This resolution expresses the Legislature's support of the United States and Allied Forces military personnel involved in Operation Desert Storm, their concern for the safety of people residing in the Persian Gulf Region, and their desire to have a message of support sent to all Alaskans serving in the Persian Gulf.

Impact of Resolution of Department of Military and Veterans Affairs: None

Departmental Position on Resolution: The department supports the resolution.

Approved: _____

J. Morrison
John

MG John W. Schaeffer

Date: _____

Jan 29, 1991

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 8

Revision Date: _____ Department Affected: Military Veterans Affairs

Title: Persian Gulf Conflict BRU: _____

Component: _____

Sponsor: Rep. Barnes

Requestor: House State Affairs Committee **COMPONENT SERIAL NO.**

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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						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: House State Affairs Committee Phone: 465-4859

Division: _____ Date: _____

Approved by Commission: Representative Gene Kubina, Chair

Agency: House State Affairs Committee Date: 1-28-91

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

Presentation to the Alaska Legislature, 1-14-90

I am here to speak about HJR 8 Relating to the Persian Gulf Conflict (1-28-91).

I believe there are serious problems with the resolution as it is currently written. The problems are not with the "Whereas Statements", which detail the heinous actions of the Iraqi military against Kuwaiti, Saudi, and Israeli people: the unprovoked aggression, the brutal killing of men, women, and children, the plundering of a neighbor's assets, the threatening, recalcitrant response of Saddam Hussein to world authority. These brutal events are correctly named in the resolution. The problem is the conclusion that follows, that therefore, the state legislature "solemnly supports" those involved in "Desert Storm", "as they take actions considered necessary to respond to the Iraq's ruthlessness."

What might those actions be? Any actions? Any actions whether they are morally right or wrong? Any actions, as long as they are considered "necessary" to "respond to ruthlessness?" Considered necessary by whom? The President? Allied Force leaders? Unnamed "U.N. officials?"

I believe there are serious ethical problems with this resolution. Such unnamed and undefined support constitutes an ethical blank check, endorsed by the legislature, for any action, moral or otherwise, by our national leaders, by other national leaders, or by men and women in the military operation.

Think about what this means in reality. Once large-scale war starts, it predictably escalates. There are many actions that all know are bound to occur during Desert Storm in response to Iraq's ruthlessness: the aerial bombing of men

and women, including women, children, and other non-combatants; the destruction of Iraqi and Kuwaiti cities, including homes, mosques, cultural sites, and economic infrastructure; the severing of food and water lines, leading to famine, starvation, disease, and death; the displacement of vast numbers of refugees; the permanent destruction of families, the inconsolable mourning for lost sons and daughters, the long-term impoverishment of ethnic groups, and on and on. This is the nature of war. I submit to you, that such conduct in response to Iraq's ruthlessness is contrary to the religious values of many Catholic and Protestant churches in our communities. This is why I cannot support this resolution.

As you know, there is a range of ethical value systems in our communities. One of these value systems is that of Nationalism or Patriotism: that in times of war, it is right and good to stand behind, support, and follow the nation's leaders, and that military action is an honorable service. Currently, the resolution is written from this value system: to support ("to give approval to or be in favor of"), our leaders and military. From the values of Nationalism or Patriotism, these are appropriate ethical value statements.

However, there are other value systems deeply held by many Alaska residents. The one I grew up with and teach to my children, and to other's children in Church school on Sunday mornings, derives from my Protestant church upbringing. In this value system, as a matter of conscience, each person must decide for themselves whether it is right or wrong to participate in the destructive actions of war. In making these personal decisions, the church tells us not to automatically follow the ways of the world in dealing with conflict, but to follow the ways of spiritual truth. We are taught that it is never God's will to kill one's

neighbor or one's enemies. War is never part of God's plan. We are taught to love our enemy, to combat evil with good deeds, and to be willing to suffer persecution in our obedience to God's will. Under this value system, the destruction of lives by the military during war is a thing of great sadness and anguish. Under this value system, we feel deep concern and pray for the physical and spiritual safety of men and women caught in war. Under this value system, we feel repentance because killing our neighbor in war is a sin that separates us from the plan of God.

In our communities, there are at least these two value systems, and undoubtedly more. Because of this, I believe resolutions from the Alaska legislature which make ethical statements must be very carefully worded, so as not to denigrate the deeply held value systems of the good people in our communities who follow their conscience in faith. In particular, resolutions should contain factual statements and ethical statements that, at the very least, do not denigrate the values of God as the churches hold them. Either that, or there should be no resolution at all.

As for the final resolution, expressing "heartfelt concern for the safety of all the men and women serving in the Allied Forces in the Persian Gulf", let us add a concern for the safety of all men and women in the Middle East, as this terrible war engulfs them. May we pledge ourselves to play an active, life-giving role in bringing about a peaceful solution, in the hopes of making "necessary" military responses unnecessary.

Thank you for your consideration of this matter.

Robert J. Wolfe 1760 Evergreen Juneau, AK 99801
586-2864 (h)465-4147 (w)

January 29, 1991

Representative Gene Kubina, chair
House State Affairs Committee
Alaska House of Representatives
Juneau, Alaska 99811

Dear Gene,

I am writing in regard to the two Persian Gulf war resolutions: HJR's 8 and 12. While Kay Brown's HJR 12 is the more-balanced statement; neither of the original resolutions nor the 1-28 Draft Committee Substitute for HJR 8 adequately addresses the deeply-felt longing for peace that Alaskans, even those who currently support the war, have consistently expressed.

The Juneau Coalition for Peace in the Middle East, in a current letter to the Secretary-General of the United Nations, calls for four key actions which are in keeping with our broadly-shared social values and which represent positive steps toward a permanent resolution of the conflict. These are:

- "1.) a cease-fire, negotiated and supervised by the United Nations;
- 2.) support of our military men and women, by non-violently bringing about the conditions that will allow them to return home safely, as soon as possible;
- 3.) a comprehensive international conference on peace and justice in the Middle East; and
- 4.) the re-allocation of world resources for human and environmental needs, not for war."

Only point 2.) is addressed in the draft CS. I suggest that the other points be added to any resolution passed, in similar form to this:

(In the draft CS, these would follow the "further resolved" expressing concern and support for the troops and requesting steps to peace.)

FURTHER RESOLVED that the legislature urges President Bush, the Congress, and the United Nations to actively and immediately work toward a cease-fire, negotiated and supervised by the United Nations, and a United Nations-sponsored comprehensive international conference on peace and justice in the Middle East as key steps to end the war; and be it

FURTHER RESOLVED that the legislature urges President Bush, the Congress, and the United Nations to actively work toward the re-allocation of world resources for human and environmental needs, not for war; and be it

The draft CS also contains a number of deeply troubling, highly polarizing statements which reflect the common but regrettable wartime tendency to depersonalize the enemy. These distorted statements do not fairly represent Alaskan sentiment, and contribute nothing to the intent of the Resolution or to the goal of a satisfactory peace. Some, in particular the statements that we have pursued all diplomatic means while the Iraqis have rebuffed all overtures, are so blatantly untrue that they are highly offensive to many of us. Issues as complex as war do not lend themselves to this kind of simplistic self-righteousness. I suggest that such statements either be dropped entirely or extensively reworked to reflect a reasoned understanding. I would be happy to work with your staff on such changes.

thank you



Bill Glude
PO Box 22316
Juneau, AK 99802
586-5606

Ron Reed

STATEMENT ON GULF WAR RESOLUTION

Thank you, Mr. Chairman and Honorable representatives of this committee. I am here to testify in opposition to HJR8, introduced by Rep. Barnes, and in favor of HJR12, by Rep. Brown.

Despite Pres. Bush's declaration that the Gulf War is a "noble cause," Americans remain deeply divided over the propriety of this engagement. When the Senate gave Mr. Bush the power to attack Iraq without further consultation, they did so by the extremely narrow margin of 52 ayes to 47 nays, reflecting the division of their constituents. In early January, columnist Mike Royko reported that his mail was running about nine to one against launching a war, even after months of incessant pro-war propaganda from most of the major media outlets. Indeed, several members of congress, in the course of the debate on the resolution to authorize force, stated that they were voting in favor primarily to convince Saddam Hussein that the U.S. was serious, in the hope that a war would then turn out not to be necessary.

Yet only one day after the artificially concocted deadline of Jan. 15, less than a week after the Congressional debate, and a mere five months after the imposition of sanctions, Mr. Bush launched his midnight air raids, and the defensive Shield was transformed into an offensive Sword. Why this rush to war? After all, CIA Director William Webster testified to Congress in December that the sanctions had been up to that time approximately 97 percent effective. And sanctions do take time. During the twentieth century, sanctions have been imposed on recalcitrant states by other states a total of over a hundred times. The average length of time for the sanctions to have the desired effect in these cases was between one and two years. Are Iraqi civilians dying, and our soldiers risking death, because an impatient George Bush "had it" with Saddam Hussein?

There are plentiful indications of the artificiality of the Jan. 15th deadline. It was agreed to by the United Nations Security Council, an organization to which the U.S. paid only scant and contemptuous attention in the past, after a great deal of administration arm-twisting, threats and bribery, as a compromise to the earlier U.S. demand for a New Year's deadline.

Nor did Iraq refuse all offers of negotiations. Beginning early in August, within two weeks of the invasion, Iraq floated the first of a series of peace feelers to the West. This was not the attempted "linkage" that proposed that Israel, Syria and Turkey be held to the same standards of conduct as Iraq, which later received such a hostile reception as tantamount to "rewarding aggression," a motive conspicuously absent of mention when discussing the aforementioned cases.

No, this first Iraqi proposal, presented Aug. 23 but unreported by our faithful media, was an offer to withdraw from Kuwait and release all hostages in return for guaranteed access to the Gulf through cession of two small uninhabited islands, and for full control of the Rumailah oilfield, the original source of the dispute with Kuwait, which lies in any case 95 percent under Iraqi territory. Access to the Gulf has been an Iraqi ambition ever since the British mandate deliberately drew up the boundaries of the Protectorate to exclude such access.

The answer of the White House was to ridicule the offer when it was made public on Aug. 29; the media, when it bothered to report the initiative at all, followed suit. Of course, the Iraqis may indeed have been playing games, although an administration official who specializes in Middle Eastern affairs felt it was "serious" and "negotiable," according to the New York *Newsday*, but we'll never know, as no response was forthcoming. Without drawing further and possibly unwarranted conclusions, one can at least say the failure of diplomacy was mutual.

The pros and cons of different dates to start the war was even the subject of detailed accounts in *Time* and *Newsweek* during the Fall. Why the unseemly rush to war? One answer is offered in an intriguing cover article in this week's *Nation* on the economic incentives for the war: not just the swallowing of the peace dividend, or the diversion of attention from the Savings and Loan scandal, or the testing of new weapons, or even control of the Middle Eastern spigot, though all of these no doubt have a part to play; but the continued floating of the recession-wracked, deficit-ridden U.S. economy through Saudi and Gulf petrodollars; the U.S. Army as Mercenaries for Hire. Are we indeed going to Mr. Bush's "hoble war" for jobs, as Secretary of State Baker suggested in a moment of candor last Fall? Is propping up the banks and the exchange rate of the dollar, and obtaining economic leverage over our post-Cold War rivals Japan and the European Economic Community, worth the lives of our brothers, sisters, lovers and friends?

Before I go any further, I'd like to make two things clear. The first ought to go without saying, but given the rightwing propensity to equate dissent with treason and support of the enemy--there's a t-shirt for sale in the Nugget Mall that reads "Reward the Professors--Send them to Kuwait"--I will state it for the record. I do not, and the peace movement does not, consider the soldiers to be the villains in this war. They are victims just as the Kuwaiti citizens and the Iraqi civilians and troops. The best support we can give them is to urge ceasefire and peace: to bring them home alive, rather than in body bags, or "human remains pouches," as the Pentagon prefers to call them in its sanitized and bloodless prose.

The second point that needs to be stressed is that I, too, deplore the invasion and annexation of Kuwait by Iraq. But unlike our statesmen, I also deplore the invasion and annexation of the northern third of Cyprus by our ally Turkey, supported to the tune of \$500 million a year by our country; the invasion and annexation of East Jerusalem and the Golan Heights; and the invasion and occupation of southern Lebanon, the Gaza strip, and the West Bank by our close ally Israel, the single largest recipient of U.S. foreign aid; the invasion and annexation of the Sahel, or Sahara Arab Democratic Republic, by the puppet state of Morocco (as Amnesty International called it), now a vaunted ally against the new Hitler of the Middle East; the invasion and occupation of eastern Lebanon by Syria, now a "reformed" terror state thanks to its role as a co-belligerent against its ancient enemy Iraq, on whom it has territorial designs of its own; the invasion and annexation of East Timor, and the genocidal butchery of one third of its population, by the regime we helped bring to power in Indonesia at the cost of up to one and a half million lives; and last but not least, our own invasion of Grenada, terror bombing of Tripoli, and takeover of Panama during the era of "America--standing tall." For that matter, I deplore the previous Iraqi invasion of other people's territory, which was directed against Iran in 1980, and which the Reagan/Bush administration tacitly supported.

The point I am making is that while Iraqi atrocities against Kuwaiti civilians and other nefarious activities cannot be excused, they are hardly of a fundamentally different character from those that we routinely condone and dismiss when carried out by our friends and allies, and indeed, by dictators who are maintained in power solely by our tax moneys, our training, and our troops. As the *New Yorker* put it last Oct. 15, if we try Hussein for crimes against humanity, by the same standards, many of the regimes we supported in Central America in the Eighties, not to mention those in our government who directed the policies of support, would also be in the dock.

Iraq itself, pre-invasion, is not absent from this list of "our" state terrorists. Aside from our pronounced "tilt" in Iraq's direction during the war with Iran, by 1990 the U.S. had become Iraq's largest trading partner. Congressman Henry Gonzales of Texas has

charged that \$3 billion in letters of credit were extended to Iraq by one Atlanta-based bank alone, and that the deal included armaments as well as, quite possibly, chemical weapons. This money helped finance the invasion of Kuwait, as Gonzales pointed out. In 1989 Iraq received \$1 billion in loan assurances, second in this regard only to Mexico.

This was the culmination of a long and mutually profitable relationship; ever since 1982 Iraq has been one of the largest importers of U.S. rice and wheat (a total of \$5.5 billion worth), financing a good deal of that through federally guaranteed loans. By 1987, 10 percent of Iraq's food was imported from the U.S. Over the years, the federally guaranteed loans freed up moneys for armaments for the war with Iran; during the Eighties, Iraq purchased \$46.8 billion worth of arms, more by far than any other Third World country.

Even when Iraq diverted helicopters purchased from the U.S. to military purposes in blatant violation of explicit promises, the administration hardly blinked. In 1988, when Congress wanted to restrict trade with Iraq due to egregious human rights violations, the Reagan administration lobbied successfully to defeat the restrictions. And when the human rights office of the State Department compiled a critical report against Iraq last Spring, the Bush administration, fresh from having lifted a formal ban on loans to Iraq, pressured the office to tone down the report in the interest of increased U.S. influence and better oil flows.

In fact, the Iraqi invasion itself followed closely after U.S. Ambassador April Glaspie indicated clearly at a meeting with Saddam that the U.S. had no intrinsic objection to whatever means Iraq used to settle its disputes with Kuwait. This reassurance came in response to Saddam's virtual announcement of his plans, saying that Kuwait was threatening Iraq's lifeblood, and that no country had a right to threaten another with economic extinction. Two days before the invasion, a State Department official testified before Congress that the U.S. was not committed to defend Kuwait in the event of an invasion, although by that time, according to the chairman of the Senate Intelligence Committee, the CIA not only knew of the invasion plan, but even correctly guessed the day. The State Department then forbade the Agency to warn the Kuwaiti government or people, and forced the cancellation of a Voice of America broadcast on the Iraqi threat.

Meanwhile, on July 27, Gen. Norman Schwarzkopf successfully carried out a command exercise for 350 of his staff officers based on the premise of one Middle Eastern country invading another and threatening U.S. interests. We need to ask, did George Bush invite the invasion of Kuwait, whether in fulfillment of short-term political objectives, geopolitical strategems, or the long-coveted permanent U.S. bases in the Middle East? Or, as one Middle East diplomat was quoted, if Saddam didn't exist, would Bush have had to invent him?

There are many unanswered and provocative questions about the origins of the crisis, and good reasons for doubting that our media, spoon-fed by the Pentagon, according to their own complaints, are presenting us with anything like the full story. The Barnes resolution, with its blanket and advance approval for whatever the Bush administration may be planning, is not a real gesture of support for our troops, but only for our government, right or wrong. I believe that Rep. Brown's resolution, a neutral statement that praises our people in uniform and at the same time urges Pres. Bush and the Congress to seek peaceful resolution of the Gulf conflict, much better expresses the feelings of most Alaskans. Thank you.

592 Seatter Street
Juneau, AK 99801

29 January 1991

Representative Gene Kubina, Chair
State Affairs Committee
Alaska House of Representatives
Pouch
Juneau, AK

Re: HJR 8; HJR 12

Dear Representative Kubina:

There are obviously a lot of people who need to express themselves about the Gulf War (I have been doing at least my share), and it is natural that the Legislature should try to express the feelings of Alaskans about it, but, with all due respect to the sponsor and co-sponsors of HJR 8, do we really need still more pious rationalizations, still more jingoism, still more demonization of Saddam Hussein, and still more cheerleading for our war leaders? I doubt if such stuff improves the morale of our military men and women. It certainly doesn't demonstrate that they are there on behalf of a peace-loving, thoughtful, democratic society. And its superficially supportive note does not really do anything for the welfare of our troops, let alone for the welfare of all the people of the region; it just leaves them there to be victimized by the war.

By contrast, it struck me upon reading HJR 12 that this is the sort of message that would have heartened me greatly, had I read it when I was in Vietnam back in '65 and '66. It shows that we care, by engaging the reality of war and trying to stop it. That's the only real support for the troops. I would have gone further and recommended the earliest possible UN-sponsored cease fire and comprehensive peace conference. But at least HJR 12 sends the right message of support.

Thank you for this opportunity to comment on these two resolutions.



John Dunker

cc: Rep. Kay Brown
Rep. Max Gruenberg
Rep. Niilo Koponen

Douglas K. Mertz
1215 Fifth Street
Douglas, Alaska 99824

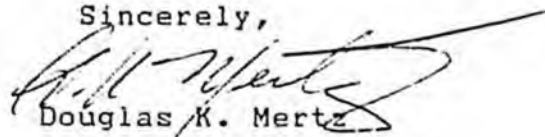
January 29, 1991

Honorable Gene Kubina, Chairman
House State Affairs Committee
Alaska State Legislature

Dear Mr. Chairman:

I urge the members of the House State Affairs Committee to support HJR 12, commending Alaskans serving in the Persian Gulf and urging the President and Congress to seek an end to the war. Public debate on the war has too often been in terms of full support for the U.S.'s military objectives as the only viable and patriotic position. HJR 12 redresses this misstatement by emphasizing that our personnel in the Gulf deserve our support no matter what view we take of the war, and by emphasizing that the best support we can give them would be an early and peaceful resolution to the war. This is an attitude that all Alaskans and all Americans can support, and is far preferable to statements that emphasize belligerency toward Arab nations or which define support only in terms of military objectives.

Sincerely,



Douglas K. Mertz



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: January 30, 1991

PLACE: Room 102
Capitol

SUBJECT OF MEETING:

HJR 8 - Relating to the Persian Gulf Conflict

HJR 12- Commending Alaska's Soldiers in Gulf War

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Ron Reed		2721 DAVIS ST. JUNEAU	99801	314-2096	465-2988	<input checked="" type="radio"/>	N	HJR 8 & HJR 12
Bill G-wood	self	PO Box 22316 JUNEAU	99802	586-5606	same	<input checked="" type="radio"/>	N	HJR 8/12
Dennis J. Woodie	—	Box 21878 JUNEAU	99802	314-2626	"	<input checked="" type="radio"/>	N	HJR 8/12
[REDACTED]								
Amy Paige	self/Dunkley	592 Scatter St	99801	586-4409		<input checked="" type="radio"/>	N	HJR 8/12
Robert Wolfe	self	1760 Evergreen	99801	586-2864		<input checked="" type="radio"/>	N	HJR 8/12
Judy Brakel	self	440 E. 1 st St, JUNEAU	99801	586-2606	465-2767	<input checked="" type="radio"/>	N	HJR 8/12
Jeff Morrison	DMVA	PO Box L JUNEAU		780-5883	465-4600	Y	<input checked="" type="radio"/>	HJR 8
						Y	N	
						Y	N	
						Y	N	

12

12

NO 8

NO 8

4.20 12

NO 8

NO 8

HJR

9

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR9

Revision Date: 01/29/91 Department Affected: Office of the Governor - Elections
 Title: Amend. Const. Prohibit St. Per. Inc. Tax BRU: Elections
St Ad Valorem Tax on Real Prop., St. Retl Component: II - Primary and General Elections
Sales Tax without voters Approval
 Sponsor: Representative Martin
 Requestor: State Affairs COMPONENT SERIAL NO.

0	0	2	2
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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		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				

CAPITAL						
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REVENUE						
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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: Linda Edgeworth, Information Officer Phone: 465-4611

Division: J Division of Elections Date: 01/29/91

Approved by Commissioner: Charles E. Thickett

Agency: Division of Elections Date: 1-29-91

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 9

House Joint Resolution No. 9 proposes an amendment to Article IX of the state's constitution which would provide that a law establishing a state tax on personal income, a state ad valorem tax on real property, or a state retail sales tax could not take effect until approved by the voters of the state. Placing this proposal before the voters in the next general election will not have a fiscal impact on the Department of Law.

REP. TERRY MARTIN

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



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DURING SESSION
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Alaska House of Representatives

SPONSOR STATEMENT

by Rep. Terry Martin

HJR 9 "Proposing an amendment to the Constitution of the State of Alaska prohibiting the imposition of state personal income taxation, state ad valorem taxation on real property, or state retail sales taxation without the approval of the voters of the state."

This resolution simply protects the people of Alaska from unwarranted taxation. Under current constitutional provisions, the legislature may impose a tax with a simple majority vote. HJR 9 would require an endorsement by a majority of the voters before such a tax could become effective.

Since the advent of great oil wealth, beginning in the early 1980s, the state government has grown by thousands of employees, and the state has taken on funding of many activities that are not normally considered legitimate functions of a government. While we are currently experiencing an increase in revenues over what had been anticipated before the Persian Gulf crisis began, we cannot expect continued relief from the decline of Prudhoe Bay once the war is ended.

If the Prudhoe Bay production curve comes about as projected, barring further exploration and development of Alaska's oil reserves, there will be a substantial gap between revenues and state expenditures. Unless, of course, the budget is significantly cut.

In the event the legislature in the future goes shopping for new sources of revenues, the people ought to have the final word on the imposition of those taxes. HJR 9 would provide the people their opportunity to say whether they agree that the state budget reflects their priorities to the extent that they will take further taxation upon themselves to support it.

The proposed CS was suggested by Mr. Chenoweth of Legal Services. In reviewing the original, he determined it did should have a mechanism in it to execute the vote.

Thank you for considering this resolution. I encourage your support of it as a means of returning power to the people.



BRIEF SECTION ANALYSIS

HJR 9 - Voter approval of new taxes

Section 1 amends Article IX of the state constitution (Finance and Taxation) by adding a new sentence that would prohibit the imposition of a personal income tax, a statewide property tax or a statewide sales tax without a vote of the people.

Section 2 provides standard language to put the constitutional amendment proposed by this resolution before the voters for their approval at the next occurring general election.

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
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EAST ANCHORAGE



HOME
3960 REKA DRIVE-86
ANCHORAGE, AK 99508
PHONE 333-6990

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

Alaska House of Representatives

MEMORANDUM

To: Rep. Gene Kubina, Chairman
House Committee on State Affairs

From: Rep. Terry Martin *TMM*

Date: February 5, 1991

Subject: Request for hearing

In accordance with your memorandum of January 22, I am requesting that you schedule HJR 9 for a committee hearing as soon as you can. This resolution proposes an amendment to the state constitution that would require a vote of the people before imposition of a state personal income tax, a state ad valorem taxation on real property or a state retail sales tax.

Attached to this request are the following:

- 1) Sponsor's statement
- 2) A sectional analysis
- 3) Fiscal note from the division of elections
- 4) Proposed committee substitute
- 5) Background research

Thank you for your expeditious attention to this request.





ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 11, 1985

MEMORANDUM

TO: Representative Terry Martin

FROM: Mark Torgerson *MIT*
Legislative Analyst

RE: Voter Approval of Taxation in Other States
Research Request 85-132

Joan Mathews of your staff requested information on states which require voter approval of taxation. Specifically, she wanted a report on which types of taxes, e.g., income or property taxes, require voter approval in each state. The information compiled so far shows:

1. Currently, none of the states have constitutional or statutory provisions which require voter approval of all state tax increases. Two states--California and Missouri--have constitutional amendments which require voter approval of all local tax and fee increases. In California, special taxes need a two-thirds vote while general tax increases need a majority approval vote. The Missouri provision requires a majority vote for either tax, but property taxes cannot be increased by more than \$3.50 per \$100 value without a two-thirds vote.
2. Some state constitutions require voter approval for specific types of tax increases. For example, California's electorate must approve any increase in property or insurance company taxes. In Michigan, any state sales tax increase must be submitted to the voters. In 1984, the voters there defeated a proposal which would have required voter approval to raise any tax. Likewise, Oregon voters defeated a proposal to limit property taxes. Currently, Oregon's constitution does not require voter approval for any tax increase. Their legislature has the full power of state taxation, but tax increases may be referred to the voters for approval or rejection. Alaska's constitution does not require voter approval of tax provisions. In Washington, the constitution limits real and personal property tax levies to one percent of fair market value. In addition, special local levies must be approved by a three-fifths vote. The constitutions of Arkansas and Idaho

TABLE 1

States That Require a Super-Majority Legislative Vote
to Pass Major Tax Increases

<u>State</u>	<u>Percent of Votes Required for Passage in Each House</u>	<u>Notes</u>
Arkansas	three-fourths	Required only for taxes levied since 1934. (Primarily pertains to sales and alcohol beverage taxes.)
California	two-thirds	Applies to all tax increases. Constitutional requirement adopted in 1978.
Delaware	three-fifths	Applies to all tax increases. Constitutional requirement adopted in 1980 and 1981.
Florida	three-fifths	Applies only to changes in corporate income tax. Adopted in 1971.
Louisiana	two-thirds	Applies to all tax increases.
Mississippi	two-thirds	Applies to all tax increases.
South Dakota	two-thirds	Required to increase any existing tax rate or base. (Simple majority if a new tax is adopted.) Adopted in 1978.

TABLE 2

Description of State Limitation Measures

<u>State</u>	<u>Year Adopted</u>	<u>Constitutional or Statutory</u>	<u>Expenditures or Revenues</u>	<u>Nature of Limitations</u>
Alaska	1982	Statutory	Expenditures	Inflation and population growth
Arizona	1978	Constitutional	Expenditures	7 percent of personal income
California	1979	Constitutional	Expenditures	Inflation and population growth
Colorado	1979	Statutory	Expenditures	7 percent annual increase
Hawaii	1978	Constitutional	Expenditures	Growth of personal income
Idaho	1980	Statutory	Expenditures	5-1/3 percent of personal income
Louisiana	1979	Statutory	Revenues	Growth of personal income
Michigan	1978	Constitutional	Revenues	Ratio of revenue to personal income in base year
Missouri	1980	Constitutional	Revenues	Ratio of revenue to personal income in base year
Montana	1981	Statutory	Expenditures	Growth of personal income
Nevada	1979	Statutory	Expenditures	Inflation and population growth*
New Jersey	1976	Statutory	Expenditures	Growth of personal income per capita
Oregon	1979	Statutory	Expenditures	Growth of personal income
Rhode Island	1977	Statutory	Expenditures	8 percent annual increase*
South Carolina	1980	Statutory	Expenditures	Growth of personal income
Tennessee	1978	Constitutional	Expenditures	Growth of personal income
Texas	1978	Constitutional	Expenditures	Growth of personal income
Utah	1979	Statutory	Expenditures	Growth of personal income x .85
Washington	1979	Statutory	Revenues	Growth of personal income

Source: National Conference of State Legislatures.

Prepared by the House Research Agency, February 1985.

*Limitation applies to governor's budget request, not to legislative action.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 11, 1985

MEMORANDUM

TO: Representative Terry Martin

FROM: Mark Torgerson *M.T.*
Legislative Analyst

RE: Voter Approval of Taxation in Other States
Research Request 85-132

Joan Mathews of your staff requested information on states which require voter approval of taxation. Specifically, she wanted a report on which types of taxes, e.g., income or property taxes, require voter approval in each state. The information compiled so far shows:

1. Currently, none of the states have constitutional or statutory provisions which require voter approval of all state tax increases. Two states--California and Missouri--have constitutional amendments which require voter approval of all local tax and fee increases. In California, special taxes need a two-thirds vote while general tax increases need a majority approval vote. The Missouri provision requires a majority vote for either tax, but property taxes cannot be increased by more than \$3.50 per \$100 value without a two-thirds vote.
2. Some state constitutions require voter approval for specific types of tax increases. For example, California's electorate must approve any increase in property or insurance company taxes. In Michigan, any state sales tax increase must be submitted to the voters. In 1984, the voters there defeated a proposal which would have required voter approval to raise any tax. Likewise, Oregon voters defeated a proposal to limit property taxes. Currently, Oregon's constitution does not require voter approval for any tax increase. Their legislature has the full power of state taxation, but tax increases may be referred to the voters for approval or rejection. Alaska's constitution does not require voter approval of tax provisions. In Washington, the constitution limits real and personal property tax levies to one percent of fair market value. In addition, special local levies must be approved by a three-fifths vote. The constitutions of Arkansas and Idaho

Representative Martin
February 11, 1985
Page Two

limit property tax levies to one percent of the assessed valuation. Hawaii's constitution does not limit property taxes, but the power to tax real property there lies exclusively with the counties.

3. Voters in a number of states have recently passed constitutional amendments that mandate a super-majority vote of each house of the legislature to increase state taxes. Table 1 lists those states, the percent vote needed for passage, and the type of tax affected.
4. Voters and legislatures in 19 states have recently adopted measures which impose ceilings on the growth of state spending or revenue. Some of these measures could affect tax increases. For example, in Colorado and Hawaii, spending limitations have resulted in tax refunds. Missouri's revenue restriction will probably create a similar tax refund this year. Table 2 describes these state limitation measures.
5. Voters in 24 states can essentially write their own tax law via the initiative process. However, citizen-initiated proposals have recently been submitted for tax limitation purposes only. Voters can reject legislatively created tax increases through the referendum process.

Please let me know if you need additional information.

MT

Attachments

TABLE 1

States That Require a Super-Majority Legislative Vote
to Pass Major Tax Increases

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Louisiana	two-thirds	Applies to all tax increases.
Mississippi	two-thirds	Applies to all tax increases.
South Dakota	two-thirds	Required to increase any existing tax rate or base. (Simple majority if a new tax is adopted.) Adopted in 1978.

TABLE 1 (Continued)

States that Require Super-Majority Legislative Vote
for Tax Increases in Special Circumstances

<u>State</u>	<u>Percent of Votes Required for Passage in Each House</u>	<u>Notes</u>
Arizona	two-thirds	Required only if an emergency clause is attached which would enact the tax change immediately rather than 90 days after legislative adjournment.
Maine	two-thirds	Required only if an emergency clause is attached which would enact the tax change immediately rather than 90 days after legislative adjournment.
North Dakota	two-thirds	Required only for modification of tax changes in the first seven years after approval by electorate in an initiative or referendum.
Oklahoma	two-thirds	Required only if an emergency clause is attached that would enact a tax change immediately after the governor signs a bill. Invoking an emergency clause when passing a tax change prohibits future changes by initiative.

Source: Advisory Commission on Intergovernmental Relations. Information compiled from 1984 fiscal survey of legislative and executive state budget officers.

Prepared by the House Research Agency, February 1985.

TABLE 2

Description of State Limitation Measures

<u>State</u>	<u>Year Adopted</u>	<u>Constitutional or Statutory</u>	<u>Expenditures or Revenues</u>	<u>Nature of Limitations</u>
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Colorado	1979	Statutory	Expenditures	7 percent annual increase
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Idaho	1980	Statutory	Expenditures	5-1/3 percent of personal income
Louisiana	1979	Statutory	Revenues	Growth of personal income
Michigan	1978	Constitutional	Revenues	Ratio of revenue to personal income in base year
Missouri	1980	Constitutional	Revenues	Ratio of revenue to personal income in base year
Montana	1981	Statutory	Expenditures	Growth of personal income
Nevada	1979	Statutory	Expenditures	Inflation and population growth*
New Jersey	1976	Statutory	Expenditures	Growth of personal income per capita
Oregon	1979	Statutory	Expenditures	Growth of personal income
Rhode Island	1977	Statutory	Expenditures	8 percent annual increase*
South Carolina	1980	Statutory	Expenditures	Growth of personal income
Tennessee	1978	Constitutional	Expenditures	Growth of personal income
Texas	1978	Constitutional	Expenditures	Growth of personal income
Utah	1979	Statutory	Expenditures	Growth of personal income x .95
Washington	1979	Statutory	Revenues	Growth of personal income

Source: National Conference of State Legislatures.

Prepared by the House Research Agency, February 1985.

*Limitation applies to governor's budget request, not to legislative action.

FISCAL NOTE

BILL NO. HJR 9

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 01/13/92 Department Affected: Office of the Governor-Elections
 Title: Amendment to the Constitution RE: Voter Approval for New Taxes BRU: Division of Elections
 Component: II-Primary and General Elections
 Sponsor: Representative Martin
 Requestor: House State Affairs

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 Elections 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: Elections Date: 01/13/92

Approved by Commissioner: *Wesley L. Richardson*
 Agency: Office of the Governor Date: 01-13-92

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

HJR

10

REP. TERRY MARTIN

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



HOME
3960 REKA DRIVE-B6
ANCHORAGE, AK 99508
PHONE 333-6990

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

Alaska House of Representatives

SPONSOR STATEMENT

by Rep. Terry Martin

HJR 10 - "Proposing amendments to the Constitution of the State of Alaska authorizing the use of the initiative to amend the Constitution of the State of Alaska."

Under current constitutional provisions, amendments to Alaska's constitution can be proposed only by a joint resolution of the legislature, passed by two-thirds majority votes; or by a constitutional convention. In either case, the proposed amendment must be approved by a majority vote of the electorate.

HJR 10 would provide a third avenue for proposing amendments to the constitution - the initiative process. An initiated amendment would follow the same procedure as an initiated statute. It would be proposed by its sponsors to the Lt. Governor, and when approved as to form, the sponsors would collect the necessary number of signatures of registered voters. Upon certification that the required number of voters had signed the petitions, the initiated constitutional amendment would be scheduled for the ballot. If passed, an initiated constitutional amendment would become effective 30 days after certification of the election.

A constitution is supposed to be the voice of the people. Yet, under current requirements, that voice is muffled. If the legislature doesn't want to pass a proposed amendment, it doesn't get done. Oftentimes, by the time a constitutional amendment does pass the legislature and is proposed to the people, it is so convoluted as to be difficult to understand, and open to varying interpretations. The recently-passed budget reserve fund is an excellent example.

On the other hand, when the time comes around for the people to vote on holding a constitutional convention (Nov. 1992) there develops such hysteria that an open convention would destroy our "model and modern constitution" and the public is urged to vote no, and thus the people are persistently denied a voice in "their" constitution.

Many other states allow constitutional amendment by initiative, with generally laudable results. Alaska would do well to follow their example, and give Alaskans another avenue of access to their constitution.



A BRIEF SECTIONAL ANALYSIS

HJR 10 - "Proposing amendments to the Consitution of the State of Alaska authorizing the use of the initiative to amend the Constitution of the State of Alaska."

Section 1 adds constitutional amendments to that section of the constitution that allows for the use of initiative and referendum.

Section 2 adds constitutional amendments to the section that proscribes the application process. This section also contains a grammatical change to existing wording.

Section 3 adds constitutional amendments to the section that proscribes how the election for initiatives is to be held, and that voids an initiative petition if the legislature enacts substantially the same constitutional amendment.

Section 4 adds language that proscribes how the initiated amendment is adopted into the constitution. This section makes such an amendment effective 30 days after the election is certified.

Section 5 adds a sentence to Article XIII, allowing amendments to the constitution to be proposed by initiative.

Section 6 provides the mechanism to put before the voters in the next general election the amendment proposed in this resolution.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 10

Revision Date: _____ Department Affected: Department of Law
 Title: "...Authorizing the use of the initiative to amend the Constitution..." BRU: Legal Services
 Component: Operations
 Sponsor: Representative Martin
 Requestor: House State Affairs 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						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 13, 1991
 Approved by Commissioner: Richard I. Pegues/AC
Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 13, 1991

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 10

House Joint Resolution No. 10 proposes an amendment to the state's constitution that would permit the people to propose and enact constitutional amendments through the initiative process. Currently, an amendment to the constitution must be proposed by two-thirds of each house of the legislature before it can be considered by the voters at a general election. The proposed amendment would permit use of an application with one hundred qualified voters as sponsors to initiate a constitutional amendment proposal. And, after certification by the lieutenant governor, a petition signed by qualified voters, equal in number to ten percent of those who voted in the preceding general election and resided in at least two-thirds of the state's election districts, would be required to place the proposition on the statewide ballot. This method is identical to the process required for proposing and adopting or rejecting a law by initiative.

Adoption of HJR 10, which would place this proposal on the ballot at the next general election, will not have a fiscal impact on the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR10

Revision Date: 01/29/91 Department Affected: Office of the Governor - Election
 Title: Amend to Const.-Authorize use of Init.to amend Const of the State BRU: Elections
 Component: II - Primary and General Elections
 Sponsor: Representative Martin
 Requestor: State Affairs 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: Linda Edgeworth, Information Officer Phone: 465-4611
 Division: Division of Elections Date: 01/29/91

Approved by Commissioner: Charlotte E. Pickett
 Agency: Division of Elections Date: 1-29-91

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

Table 1.3
CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE
Constitutional Provisions

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

(a) Only Article IV, The Legislature, may be amended by initiative petition.
(b) Before being submitted to the electorate for ratification, initiative

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

CONSTITUTIONAL AMENDMENTS APPEARING ON
THE BALLOT IN ALASKA

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

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

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

Thomas Jefferson, letter.

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

CHAPTER II

THE THEORY OF DIRECT LEGISLATION REVIEWED AND CRITIQUED

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

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

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

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

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

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

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

Hofstadter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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APR 26 1991

"A CALL FOR CONVENTION"

By: Representative Terry Martin
April 26, 1991

A patriotic Alaskan is not one who is willing to give up his freedoms which were expounded, and guaranteed in the Declaration of Independence, and in the U.S. Constitution of 1789. In 1992, the people of Alaska will have an opportunity to call for a constitutional convention to make changes in the Alaska constitution that will return power to the people.

In 1790, Supreme Court Justice (and convention delegate) James Wilson observed that the Constitution "is clay in the hands of a potter [the people]; they have the right to mold, to preserve, to improve, to refine, and to furnish it as they please." Should a convention be called to solve the problems we have that make the citizens of Alaska less than equal to citizens of other states?

I find myself as the revolutionist Tom Paine did in 1776, offering a few remarks on a much boasted constitution. Mr. Paine, was of course speaking on the constitution of England, while I speak on the constitution of Alaska. Some of his remarks in reference to England's constitution: "That it was noble for the dark and slavish times in which it was erected is granted. When the world was overrun with tyranny the least remove therefrom was a glorious rescue. But that it is imperfect, subject to convulsions, and incapable of producing what it seems to promise, is easily demonstrated."

As America began it's third century under a constitution, Alaska completed it's third decade. The idea of this book is to stimulate Alaskans in making a living, viable constitution. One that will enhance the natural freedoms of a people and their society by design, rather than be constrained by default in not reevaluating the documents we live under.

Over the years of experience, as we matured as an independent state, we have heard that changes are needed in our constitution. Other's have voiced a fear of change that a constitutional convention might bring forth. The state constitution has been amended 21 times. However, all past Legislatures have refused to address the major constitutional issues and concerns of the people. Major issues are direct iniatives, voting on taxes, election of judges, reapportionment on bases of one person one vote.

The measurement of our maturity is our capacity to change. How flexible are we today to accept the needed changes? Many have the voices for change been throughout the years, as well as today. Do we have the capacity to change, knowing full well that the only certain thing in life and society is a continuous series of changes, static or otherwise.

Over the decades, citizens throughout Alaska have seen their rights of what they believed was a free society eroding at an alarming rate.

As one reviews the Alaska Constitution, it is apparent that the seeds of the erosion were embedded during the constitutional convention of 1955-56.

During my experience as a legislator, I have become more and more concerned about the lack of knowledge that Alaskans, including myself possess concerning the Constitution of the United States. Even more important, is what little knowledge many have of their state's constitution. I believe that this allows for more prohibitions to individual freedoms, than the lack of knowledge about the federal constitution. Everyone seems to know about politics, but few seem to know what we are always fighting about.

With all do respect to the framers of the Alaska Constitution, many who have evaluated the constitution, has experienced the limitation of direct involvement in the government of their affairs. They know that it could be made better for future generations, and improve participation in a representative democracy by the limiting control of government over their lives.

President George Washington once observed: "Government is not reason, it is not eloquence -- it is force! Like fire, it is a dangerous servant and a fearful master." Thomas Jefferson advised: "In questions of power, then let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution."

Alexander Hamilton warned in Essay 25 of The Federalist Papers, that "it is a truth, which the experience of ages has attested that the people are always most in danger when the means of injuring their rights are in the possession of those of whom they entertain the least suspicions."

Citizens who need to renew their knowledge, or learn for the first time of the great documents of our freedom. The Magna Carta 1215 the English Bill of Rights, the Declaration of Independence, the Constitution of the United States of America, the Bill of Rights, and sixteen other amendments added over the last two hundred years. Compare these documents to that of Alaska's Constitution. See if your presumed rights under the historical documents have not been diminished under the much touted "modern one." It is up to all of us to keep informed or lose what we take for granted.

It would have been most beneficial had the delegates of Alaska's Constitutional Convention reviewed the motives of the framers of the national constitution. Perhaps then, Alaskans today would not be suffering losses citizens of other states are free to enjoy. Two very basic questions to have asked would have been: In whom did the American Founding Fathers place the ultimate responsibility for the preservation of the freedoms of the people? Are there governmental controls guaranteed in the U.S. constitution?

From numerous articles printed over the years of debate, especially the Federalist Papers, it is clear everything begins and ends with full faith in "the people". The entire structure of the American government is designed to make elected and appointed officials accountable to the people or the people's representative. The Founders emphasized repeatedly that they were depending upon the people to keep informed and involved in order to preserve their freedoms and to control government. As we prepare to celebrate our thirty fifth anniversary, let us compare for the future.

Representative democracy has proven itself over the past centuries to be the most beneficial system in which a society of peaceful human beings can conduct relationships between individuals, groups and ideologies. However in Alaska, many people find usually through experience that our kind of democracy isn't all it's cracked up to be. Often some old guards of our young states's constitution herald it to be a model that should be untouchable. What kind of government does Alaska have? Do the people have a democratic representative government or an oligarchy, which is government by an exclusive few as a super powered executive, prohibitive controlling Senators, and little dictators or freedom obstructors in the House of Representatives.

In our review of important documents in which we place our confidence that insure our freedoms, it is worthy of one's time to consider and compare examples of the Soviet Union's constitution.

Article 5 of the Soviet constitution guarantees freedom of speech, freedom of the press, of assembly, meetings, street processions, and demonstrations. That it not far from the First amendment of the U.S. Constitution, and of the Declaration of Independence. Other articles guarantee freedom of religion, freedom of conscience, and a whole host of other freedoms that are similar to Alaska's Article I.

However, there is also Soviet Article 39, which basically states that the individual freedoms must not be to the detriment to the interest of the State. It may surprise many in Alaska, that there are similar limitations in our constitution . . . i.e. Art. 1 Sec. 19., and that all persons have corresponding obligations to the people and to the State. The Soviet system clearly puts the state first, while the Alaska constitution puts limitations on the powers of the people for express purpose of a strong executive and legislature from which it states all power are derived.

We would be negligent to be satisfied with a mere celebration of the past. Celebrations are also a time for examination - to consider where we are now in the evolution of representative democracy, what the future holds in store for us, and whether that future will see the survival of Alaska in the great experiment of equality and liberty.

Introduction to the Concept
of Constitutional Review

We are all proud to be known as Alaskans, and I am fortunate to have been elected to represent the people to help plan our State's bright future.

The Alaska Constitution, which I have sworn to uphold, marked the beginning of a brand new state 33 years ago. I will uphold the Constitution, but reserve my rights on behalf of the people to advocate changes that are necessary to return the power back to the people, which is guaranteed in the U.S. Constitution, and in Article I of our Constitution.

"Model and modern", is a phrase that is often used to elevate Alaska's Constitution above other's. It really only serves to intimidate the public into thinking we have something super sacred which never should be changed. Consider the remarks of Alexis de Tocqueville, "A false notion which is clear and precise will always have more power in the world than a true principle which is obscure and involved".

In addition, Professor of Political Science Francis Canavan, states "slogans are useful for rallying us to a cause, but they are no substitute for thought. Sophists use them to keep us from thinking". These words are often used to portray Alaska's Constitution to be even superior to the United States Constitution- it certainly is not. Although, we have a relatively young Constitution, it cannot be considered a model. Except perhaps as a model for overbearing executive and legislative powers.

It certainly cannot be considered modern, for it is very much outdated when compared to the freedoms and rights granted to the citizens of other states. In certain matters, it is most unenlightened.

Article I of our Constitution guarantees that "all persons have a natural right to life . . .". Using the word "natural" is unique to only Alaska. I often wonder why Alaska uses "natural" proceeding the three basic rights of "life, liberty, and the pursuit of happiness". Recall that in the Declaration of Independence our country's founding fathers chose to use the phrase "unalienable" to describe our rights. The limitation of the Alaskan term is most crucial when the right to life of the unborn child is not protected.

Evaluate Article I, Sec. 2, which states, "All political power is inherent in the people."

Compare this to Art. XI Sec. 7, restrictions of initiatives and referendums pertaining especially to "make or repel appropriations." Who has what powers?

The fear of renewed taxation is upon us all. A quick reading of Art. IX Sec. 1 would lead one into false security without reading the following sections of the Article.

Sec. 1 The power of taxation shall never be surrendered. (?) This power shall not be suspended or contracted away, (?) except as provided in this article.

The emphasis of the underlined words and (?) are added for obvious purposes. In a later chapter it will be easier to see what lies in the way of any citizen or group of citizens who try to regain their supposed power of limiting or prohibiting taxation by the legislature.

In considering the phrase "all powers are inherent in the people", evaluate why they are not allowed direct access to changing the Constitution through the initiative process. The right of changing the action of the Legislature through the referendum is so restrictive, that it is impractical to implement. Therefore, depriving the People of the ability to counter the legislative process in a reasonable time frame. The legislative pay raise is a good example of this problem. Limitations on initiatives and referendum will also be discussed in detail in a latter chapter.

For now be cautious when one speaks of the phrase "rights of the people", to petition the government shall never be abridged as guaranteed in section six of our declaration of rights. The people of Alaska have been refused this right on a number of occasions. In addition, most state constitutions allow their citizens to vote on questions of legislatively enacted taxation. Ours does not give that right to the people of Alaska. Don't jump too quickly to say they have the power of referendum, until you evaluate the time constraints.

The word "model" is badly misused. For example, in 1955-56, at the time of the Constitutional Convention, only twelve states allowed for the election of the Attorney General. Today, forty four states elect their Attorney General. We are really behind the times in granting this power to the people.

You may have wondered why it seems that the voice of the majority is not being heard and acted upon? Quite simply, the majority of legislators are not elected by the majority of the people. Thus, let's look at the issue of reapportionment. The U.S. Constitution and the U.S. Supreme Court have guaranteed equal representation - one person, one vote.

When we review the history of the reapportionment boards appointed by Alaska's Governors over the past thirty years, people of all political persuasions agree the system should be changed.

Even the great liberal intellectuals of Harvard University, and Common Cause agree that our process is outdated. All six of this state's reapportionments have been successfully contested in State Supreme Court. The Court has requested the Legislature to change the constitution. Sadly, the Legislature refuses to act. If the system totally fails to protect the rights of the people - then what?

Since 1791 there have been only sixteen amendments to the U.S. Constitution. There have already been twenty one amendments to Alaska's Constitution. Thus can we say it has withstood the changes of society? No, it should be flexible enough to be amended as the people advance in their concept of equality to all.

Allow me to conclude this thought with this most profound statement by the major articulator of the U.S. Constitution, Mr. Thomas Jefferson. "Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it, and labored with it...But I know also that laws and institutions must go hand in hand with the progress of the human mind.

Fortunately, we Alaskans have inherited much of the good and thoughtful works of America's founding fathers. However, we are also the unwitting participants in one of the world's biggest experiments in socialism, which we have inherited from Alaska's founding fathers and their advisors at the State Constitutional Convention.

In Alaska, many people discover much to their frustration, that democracy isn't all it's cracked up to be. Why is it that Alaska, "the last frontier", is less democratic than other states? People come to Alaska expecting to find the freedom to go and do - to confront nature and realize their dreams. This is best expressed by the shirts they wear claiming that "Alaska is what America was". How rudely they are awakened when they find out they are less free here, than where they originally came from.

Perhaps a bit of historical perspective would be in order to explain how we came to be in this unfortunate situation.

This area of the world we know as Alaska, has throughout history been continuously controlled by foreign powers. First, Imperial Russia exerted her influence for over 100 years, protecting her lucrative fur industry. In addition, Great Britian had strong ties thru the Hudson Bay Company. The Bostonians and West Coast conglomerates introduced the American presence, and finally the federal government of the United States. This was a result of the purchase of Alaska, from Russia in 1867.

The compelling interests of each of those governments was always something other than the well-being of the people living here. Most frequently their interest was to extract one natural resource or another; furs, gold, fish, timber, etc.. They kept the locals under control to the extent that they would not become a hindrance, and in extreme cases in servitude.

Not surprisingly, the need of the faraway government to preserve order, over time developed into a strong paternalistic relationship. It was evidenced by the close ties between the government, represented by the appointed governor, and the people who lived within the boundaries of the territory. Initially as an American territory however, the military controlled everything that happened in Alaska and this proved good. During the Russian occupation, inhumane and cruel treatment of the aboriginal peoples by the peredovshiks, fur hunters, traders, and the commercial monopolies was often the case.

Therefore, in the 17th century Catherine II, turned over to the Russian Orthodox Church the special responsibility to maintain, administer justice, provide an education, and restore civil human treatment throughout the Russian colonies. Perhaps things improved, but the paternal relationship did not change, and the people's opportunity for self-government did not materialize.

After the United States acquired Alaska, the paternalism of Washington, D.C. steadily grew.

Until finally in 1959, the people of Alaska, frustrated by the inaccessibility of the federal government succeeded in establishing themselves "as a State among equals". Today we are well aware that we were not successful in throwing off the yoke of the federal government, and are feeling the dictates of Washington even more acutely now than before. However, the relationship of paternalism between Alaskans, and those who govern them survived, and the institutions of our state government have been spawned by it.

The framers of the Alaskan Constitution made little compromises which they knew were contrary to the basic principle of faith in the people oriented democracy, they accepted the delusion that appointed government officials through one person was a better form of representative government and direct accountability. Once you become the tyrant or dictator you need no accountability. Today the Alaska Constitution persists in denying us a truly democratic-republican government.

This is not to say that democracy is not alive in the Great Land. In fact, we are most fortunate in many respects in being a young state with unique circumstances and unusual characteristics. Some of which make the political process more accessible. For example, Alaska has a small population, so it is not unusual for ordinary citizens to personally know their senators and representatives.

It is not difficult for those who are interested, to really dig in and evaluate those who are asking for their vote, to call them on the telephone, or even to stop by their home for a visit. Another advantage that Alaska has is its easy access to political office. Because the political system is still in its formative years, virtually anyone can run for office and win. There are few effective political cliques in the way, and special interest groups are not well organized as to present insurmountable impediments to determined candidates.

Unfortunately, it is not possible to take full advantage of the many positive aspects of our system, because the basic instrument of our state government, the Alaska Constitution is flawed. It is the document, along with the Statehood Act, that has inherited the paternalism of a people not allowed their full freedom, and has passed it on to the myriad statutes, regulations and polictics adopted by state government over the past thirty three years.

Perhaps, it would be worthwhile to note that there is nothing wrong with protecting the people from too much democracy. As stated above, the American system is that of a democratic republic, where democracy is a mechanical means to an end, and the republican protections of the constitution guard against the misuse of democratic powers.

HJR

12

Douglas K. Mertz
1215 Fifth Street
Douglas, Alaska 99824

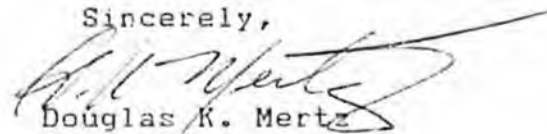
January 29, 1991

Honorable Gene Kubina, Chairman
House State Affairs Committee
Alaska State Legislature

Dear Mr. Chairman:

I urge the members of the House State Affairs Committee to support HJR 12, commending Alaskans serving in the Persian Gulf and urging the President and Congress to seek an end to the war. Public debate on the war has too often been in terms of full support for the U.S.'s military objectives as the only viable and patriotic position. HJR 12 redresses this misstatement by emphasizing that our personnel in the Gulf deserve our support no matter what view we take of the war, and by emphasizing that the best support we can give them would be an early and peaceful resolution to the war. This is an attitude that all Alaskans and all Americans can support, and is far preferable to statements that emphasize belligerency toward Arab nations or which define support only in terms of military objectives.

Sincerely,



Douglas K. Mertz



Official Business

Alaska State Legislature

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

TO: Representative Gene Kubina
Chair, House State Affairs Committee

FROM: Representative Kay Brown

DATE: January 29, 1991

RE: Persian Gulf Resolution

I would like to inform the State Affairs Committee of my support for the proposed CS for HJR 8 (State Affairs). The committee substitute combines Rep. Barnes' resolution regarding the Persian Gulf conflict with HJR 12, which I sponsored.

I am particularly interested in the Resolved clause that would send a message from legislators to Alaskans serving in the Persian Gulf. It is my understanding that the military does not maintain a master list of Alaskans serving in the Persian Gulf. However, my staff has been in contact with support groups and parents from Anchorage, Fairbanks and Juneau who are compiling lists of names and addresses. They have assured us that they will furnish their lists at the legislature's request. In addition, we may want to inform Alaskans via the media that messages will be sent and encourage families to provide names of Alaskans serving in the Persian Gulf to the Legislative Affairs Agency.

It appears that these messages can be sent free of charge. Alascom sends free fax messages to military personnel in the Persian Gulf. And Raini Forrester of Cooper Landing is participating in a national network of computer users that is sending free messages to our troops. My staff reports that she is willing to help relay the legislature's message.

Thank you for your consideration.



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: January 30, 1991

PLACE: Room 102
Capitol

SUBJECT OF MEETING:

HJR 8 - Relating to the Persian Gulf Conflict

HJR 12- Commending Alaska's Soldiers in Gulf War

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Ron Rees		2721 David St. JUNEAU	99801	364-2696	465-2949	(Y) N	HJR 8 & HJR 12
Bill Givoda	self	PO Box 22316 JUNEAU	99802	586-5606	same	(Y) N	HJR 8/12
David J. Woodie	-	Box 21878 JUNEAU	99802	364-2626	"	(Y) N	HJR 8/12
Cathy Smith	self	130 Seward St JUNEAU		586-3650		(Y) N	observe
Amy Parze	self/Driver	592 Scatter St	99801	586-4409		(Y) N	HJR 8/12
Robert Wolfe	self	1760 Evergreen	99801	586-2864		(Y) N	HJR 8/12
Judy Brakel	self	440 E. 1 st St, JUNEAU	99801	586-2606	465-2767	(Y) N	HJR 8/12
Jeff Morrison	DMVA	PO Box L JUNEAU		780-5883	465-4600	Y (N)	HJR 8
						Y N	
						Y N	
						Y N	

12

12

NO 8

NO 8

400 12

NO 8

NO 8

HJR

13

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: _____ Department Affected: Department of Law
 Title: "...amendments...requiring that candidates...receive 40% of the votes..." BRU: Legal Services
 Component: Operations
 Sponsor: Representative Kubina
 Requestor: House State Affairs 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						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 11, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 11, 1991

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

- Dept. of Law FN -

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 13

House Joint Resolution No. 13 proposes amendments to the constitution of the State of Alaska that would require that candidates for governor and lieutenant governor receive forty percent of the votes cast to be elected. The amendments would also change the term of office of the governor and lieutenant governor from noon on the first Monday in December following the governor's election to noon on the first Monday in January following the governor's election. Last, the amendments provides that if no candidate receives forty percent of votes cast for governor, a runoff election between the two candidates receiving the greatest number of votes cast shall be held within forty-five days of the first election. If the resolution is approved by the legislature, the proposed amendments would be placed before the voters at the 1992 general election. The resolution, which asks the voters to consider requiring that future candidates for governor receive a minimum of forty percent of the votes to be elected, should not cause a fiscal impact for the Department of Law.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: _____ Department Affected: Department of Law
 Title: "...amendments...requiring that BRU: Legal Services
candidates...receive 40% of the votes..." Component: Operations
 Sponsor: Representative Kubina
 Requestor: House State Affairs 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						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Pegues

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 11, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 11, 1991

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

— Dept. of Law FN —