

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7295 HOUSE STATE AFFAIRS

**Section 7.** This section would replace the provisions of Section 2 to reflect approval by the voters of the constitutional amendment establishing the Debt Retirement Fund. The section references the constitutional amendment and provides that money dedicated to the Fund shall be deposited into the fund when at least \$5 million has accumulated, and at least once each month.

**Section 8.** Makes sections 1-6 of the bill effective immediately.

**Section 9.** Makes section 7 effective when the constitutional amendment establishing the Debt Retirement Fund is approved by the voters.

### **HB 252**

**Section 1.** Appropriates all surplus revenue at the end of fiscal year 1991 from the general fund to the Alaska Debt Retirement Fund.

**Section 2.** Provides that the appropriation made by this bill does not lapse.

**Section 4.** Repeals a 1990 appropriation of the FY 91 general fund surplus to the statutory budget reserve fund.

**Section 4.** Makes the act effective on the effective date of an act establishing the Debt Retirement Fund.

### **HJR 38**

**Section 1.** Amends the Alaska Constitution to establish the Alaska Debt Retirement Fund and dedicate revenues to the fund. The revenues which would be dedicated to the Debt Retirement Fund match those now going to the Alaska Permanent Fund. This section also provides that appropriations from the fund may be made only for (1) payment of debt service on the state's general obligation debt; (2) reimbursement of municipalities for debt service on municipal general obligations, if the reimbursement is authorized by law; and (3) if funds remain after (1) and (2), financing the design and construction of capital projects.

**Section 2.** Amends Article IX, sec. 7 of the Alaska Constitution to exclude the Alaska Debt Retirement Fund from the prohibition on dedicated funds.

**Section 3.** Provides that the amendments proposed by the resolution shall be placed on the next general election ballot.

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX C  
JUNEAU, ALASKA 99811-0200  
PHONE: (907) 465-2200  
FAX: (907) 465-2135

July 9, 1991

The Honorable Gene Kubina  
Chairman  
House State Affairs Committee  
P.O. Box 2463  
Valdez, AK 99686

Dear Mr. Chairman:

This letter is sent in response to your letter of June 28, 1991, requesting information on HJR 38, the Constitutional Debt Retirement Fund.

As you know, this issue is one of Governor Hickel's highest priorities. The legislature passed and the Governor signed HB 251 which created the statutory Debt Retirement Fund. In order to fully achieve the benefits of the Debt Retirement Fund, the constitutional amendment is essential.

I have enclosed a copy of the briefing packet that was prepared for the committee during the session. This packet provides fiscal projections for the Debt Retirement Fund if the constitutional amendment is approved at the 1992 general election. The revenue streams are based on the current Spring Department of Revenue forecast.

The objective of the Alaska Debt Retirement Fund is to establish a long-term source of revenue to pay for debt service and to finance capital projects that will broaden Alaska's economic base. The constitutional amendment will dedicate a percentage of Alaska's mineral lease rentals, royalties, and royalty sale proceeds to the Debt Retirement Fund. This stream of revenue will equal the current annual deposits to the Alaska Permanent Fund.

We believe that the state must broaden its economic base and reduce its dependence on petroleum revenue. This constitutional amendment will provide the means to finance responsible expansion of the state's infrastructure, enhancing the viability and competitiveness of Alaska's industries and providing additional revenue to the state.

We also believe that future state capital projects will have to utilize general obligation debt. We believe that establishing a source of debt retirement will enable the state and local governments to continue to expand their capital assets in a responsible manner utilizing voter approved bonding as needed.

I look forward to being able to provide more information to the committee as well as receive your comments and suggestions.

Sincerely,

  
Millett Keller  
Commissioner

MK/nl  
Enclosure

# STATE OF ALASKA

**OFFICE OF THE GOVERNOR**  
**OFFICE OF MANAGEMENT AND BUDGET**

WALTER J. HICKEL, GOVERNOR

P.O. BOX AM  
JUNEAU, ALASKA 99811-0199  
PHONE: (907) 465-3568

July 17, 1991

The Honorable Gene Kubina  
Chairman, House State Affairs Committee  
P.O. Box 2463  
Valdez, AK 99686

Dear Representative Kubina:

Thank you for your letter of June 28 regarding public hearings on HJR 38, Governor Hickel's proposal for a Constitutional Debt Retirement Fund. This legislation is one of the Governor's priority bills, and we look forward to working with your committee on the legislation.

We are also very interested in participating in the public hearings which you are planning for the fall. We would appreciate receiving a schedule of the hearing locations and dates as soon as it is available, as well as an invitation to attend the hearings.

With regard to background information on HJR 38, your bill file should contain a briefing packet which we provided to your staff during the legislative session. This packet includes the proposed amendment, the Governor's transmittal letter, a sectional analysis, and projections of the fiscal effects of the amendment. The information in this packet is still current.

I have enclosed a copy of SB 235, which was passed by the 1991 Legislature and established the Debt Retirement Fund in statute. This legislation created the

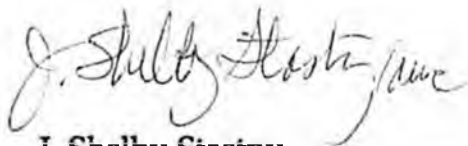
Representative Kubina  
Chairman, House State Affairs Committee  
Page 2

July 17, 1991

statutory framework for the Debt Retirement Fund. The Constitutional amendment proposed by HJR 38 is necessary to protect the Debt Retirement Fund and provide a long-term source of funds to retire debt and finance capital projects.

Please contact me or Jack Kreinheder in my office if you have any questions or comments about this legislation.

Sincerely,



J. Shelby Stastny  
Director

JSS/JK/dmc/91-473

Enclosure

cc: Governor's Office  
Legislative Office  
Don Stolworthy, Scheduling & Research  
Jack Kreinheder, Senior Analyst, OMB





## **KENAI PENINSULA BOROUGH**

144 N. BINKLEY • SCLDOTNA, ALASKA 99669  
PHONE (907) 262-4441

**DON GILMAN**  
MAYOR

### **ALASKA DEBT RETIREMENT FUND POSITION PAPER HB 251, 252 & HJR 38**

The Kenai Peninsula Borough supports the Governor's proposal for a Debt Retirement Fund.

Full funding of the state's obligation for school construction debt reimbursement has been the borough's number one legislative priority for the past four years, and will most likely to continue to be until the debt is paid off.

The economic boom in the early 1980's had a major impact on the boroughs and school districts in Alaska. Many areas experienced severe overcrowding in their school systems and, as a result, new schools were built through the sale of bonds eligible for reimbursement per AS 14.11.100. These bonds were sold with the expectation that they would be reimbursed at the level of entitlement prescribed in statute at the time of the sales.

For KPB, the school construction debt payment for FY '92 is \$26,999,010. This represents approximately 49% of the borough funds for education and 39% of the total borough general fund budget. The borough's entitlement from the state for this year is \$24,529,190. With such a large percentage of potential revenue subject to an annual appropriation by the legislature, the borough and all municipalities are forced to develop their budgets without knowing what their revenues are until the last minute.

In FY '92, Governor Cowper did not make his veto of this program until after the June 15 deadline for establishing the mill levy. The borough was forced to use the bulk of the remaining "fund balance" to make up for the lost revenue. Passage of a debt retirement fund would make known ahead of time the amount of state reimbursement of entitlement.

Debt Retirement Program  
KPB Position Paper  
Page Two

The Kenai Peninsula Borough, along with many other municipalities, worked diligently for the past three years with the legislature and the Governor to pass legislation which eliminated the former school construction funding program, and implemented a single grant program. The impetus for this change was to cap the state's liability for future debt, and create a single equitable funding program. One of the motivations for participation by the municipalities was the assurance that the remaining entitlement for school construction debt would be fully funded. This legislation would fulfill that promise.



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 3, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**  
 \*HB 251-Relating to Debt Retirement Fund  
 \*HB 252-Relating to Approp: Debt Retirement  
 \*HJR 38-Relating to Constitutional Debt Retirement Fund

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
JACK KREINHEDER	GOV.	BOX AM			3568	(Y) N	HB 251, HB 252 HJR 38
SHELBY SPASTNY	GOV.	BOX AM			3568	(Y) N	"
Scott Burgess	AML	Juneau			G-1325	(Y) <del>Y</del> N	"
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HJR

HI

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HJR 41

Revision Date: May 1, 1991 Department Affected: None  
 Title: Relating to missing American BRU: \_\_\_\_\_  
service personnel Component: \_\_\_\_\_  
 Sponsor: House Special Committee on Military  
and Veterans Affairs Requestor: Sponsor COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

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

ANALYSIS: (Attach a separate page if necessary.) No fiscal impact.

Prepared By: Thomas W. Wright Committee Staff Phone: 465-4527  
 Division: House Special Committee on Military and Date: May 1, 1991  
Veterans Affairs  
 Approved by Commissioner: Ivan M. Ivan, Chair  
 Agency: House Special Committee on Military and Veterans Affairs Date: May 1, 1991

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



# Interim Report on the Southeast Asian POW/MIA Issue

---

By the U.S. Senate Committee on Foreign  
Relations Republican Staff

RELEASE DATE: Monday, October 29, 1990

---

CLAIBORNE PELL RHODE ISLAND CHAIRMAN

JOSEPH R. BIDEN JR. DELAWARE  
PAUL S. SARBANIS MARYLAND  
ALAN CRANSTON CALIFORNIA  
CHRISTOPHER J. DODD CONNECTICUT  
JOHN A. BARRY MASSACHUSETTS  
PAUL SIMON ILLINOIS  
TERRY SANFORD NORTH CAROLINA  
DANIEL P. MOFFATT NEW YORK  
CHARLES S. ROBB VIRGINIA

JESSE HELMS NORTH CAROLINA  
RICHARD G. LUGAR INDIANA  
NANCY L. KASSIDIAN KANSAS  
HILLY BUSCHWITZ MINNESOTA  
LARRY PRESSLER SOUTH DAKOTA  
FRANK H. ALBROWSE ALASKA  
MITCHELL CONNELL KENTUCKY  
GORDON J. HUMPHREY NEW HAMPSHIRE  
CONNIE MACK FLORIDA

GERYD H. CHRISTIANSON STAFF DIRECTOR  
JAMES P. LUCIER MINORITY STAFF DIRECTOR

## United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

October 26, 1990

*Dear Republican Colleague:*

*Enclosed is an Interim Report prepared by the Minority Staff of the Senate Committee on Foreign Relations on the U.S. Government's handling of the POW/MIA matter. This summary document represents a year of intensive investigation, culminating in a major breakthrough in the careful examination of DIA live-sighting reports on POW/MIAs--the first time in 17 years that an independent branch of the government has had an opportunity to make an objective evaluation of the methods used in accounting for those categorized as FOW/MIAs in Southeast Asia.*

*On October 17, 1990, the Foreign Minister of Vietnam, Nguyen Cao Thac addressed a coffee at the Foreign Relations Committee and attended by Senators of the Committee as well as invited guests. In my opinion, the Department of State's invitation to Thac to visit the United States was inappropriate at a time when the Executive Branch is still unwilling to address the hard issue of living American POWs still being held captive in Southeast Asia.*

*The thrust of Thac's address was to call for the acceleration of the time table for renewal of relations between the governments of Vietnam and the United States. Thac indicated that the resolution of the POW/MIA issue is one of two major areas of contention. Furthermore, Thac stated that he had agreed to all terms levied by the President through his special envoy, General John Vessey USA (Ret.). But in re-stating the terms to which he had agreed, Thac never once mentioned that the issue of living American POWs in Vietnam had been addressed.*

*The position of the Executive Branch is that there is "no evidence" that living Americans exist in SE Asia, nor were any left after American prisoners were returned in 1973.*

*Nevertheless, public opinion polls continue to suggest that 62% of the American people believe that U.S. POW/MIAs are still alive in Vietnam, and 84% of Vietnam veterans believe so. Clearly the U.S. Government no longer maintains credibility on this issue.*

*For this reason, a year ago, I assigned investigators on the Minority Staff of the Senate Foreign Relations Committee to conduct a staff investigation of the handling of the POW/MIA issue by the U.S. Government. These investigators are highly trained professionals, with a total of more than 68 years of investigative experience in the Executive Branch, including criminal investigative experience, as well as more than 17 years of experience in intelligence analysis. All served in Vietnam and are knowledgeable about the history, geography, and language of that unfortunate country.*

*The investigation has proceeded quietly, and without public fanfare. But much remains to be done. Information developed in the course of the inquiry was the result of the following methods: 1) face-to-face and telephonic interviews; 2) review of various classified and unclassified official documents; 3) corroborative information from government and private sources; and 4) historical research. This report is in all respects an interim report: It is incomplete and it is a summary report of conclusions which must be further tested.*

*The Committee on Foreign Relations has authority to engage in oversight of POW/MIA issues implicit in its broad mandate to study and review foreign policy. Senate Rule 25.1j specifically refers to the Committee on Foreign Relations matters dealing with: "[11.] Intervention abroad and declarations of war," and "[15.] Protection of United States citizens abroad and expatriation."*

*The focus of the inquiry has centered on the following questions:*

*1. Does the U.S. Government possess valid information concerning living POWs in Southeast Asia?*

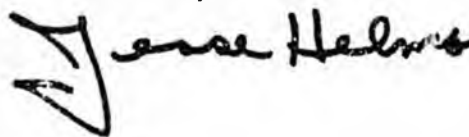
*2. Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?*

*3. Has the U.S. Government acted improperly to intimidate, coerce, or discredit sources which have valid information concerning living POWs in Southeast Asia?*

*I believe that the investigators have come to valid conclusions, although of course much of the material they reviewed remains classified. Moreover, I believe that the American people have the right to see that this inquiry is pursued to a proper conclusion.*

*I am deeply grateful for the enormous contribution of Senator Chuck Grassley who, out of his deep concern for American service personnel, joined me at the very beginning and supported and encouraged it at every step.*

*Sincerely,*

A handwritten signature in black ink that reads "Jesse Helms". The signature is written in a cursive style with a large, stylized initial "J".

*JESSE HELMS:lb*

"Accountability lies in oversight by Congress or in criticism from the electorate, but not in the judgement of the courts."

--From *Smith vs. Reagan*, United States Court of Appeals, for the Fourth Circuit, No. 87-1661, April, 20, 1988, regarding the POW/MIA issue.

## Introduction

---

One year ago, the Ranking Minority Member of the Senate Committee on Foreign Relations assigned members of the Minority Staff to investigate the following three questions:

1.) Whether the United States Government has received and still possesses valid information concerning living prisoners of war/missing in action--POW/MIAs--in Southeast Asia;

2.) Whether the U.S. Government has failed to act on such information; and,

3.) Whether the U.S. Government has acted improperly to intimidate and discredit sources of such information.

The primary purpose of this investigation has been, and will continue to be, to determine whether the U.S. government has handled the question in a truthful and effective manner. But if it results in a determination that even one POW may still be alive, it will result in a dividend of blessings.

The inquiry remains on-going. It is based not only on the review of thousands of classified and non-classified documents, but also upon hundreds of telephonic and face-to-face interviews with government officials and those affected by their decisions with regard to POW/MIAs. A full report will require much additional investigation and analysis. The following, however,

represents an interim report at the conclusion of one year's work. It allows the presentation of some preliminary conclusions.

## Preliminary Conclusions

---

The U.S. Government states it has no evidence that POWs were left behind in Southeast Asia. The official policy asserts that it is open to investigation of all reports. For example, the official Department of Defense (DOD) *POW-MIA Fact Book*, issued July, 1990, states:

Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility. Actions to investigate live sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved.

Notwithstanding this professed openness to new evidence, the U.S. Government has insisted since April 12, 1973, that it has no evidence of living POWs. In fact, on that date--at the conclusion of OPERATION HOMECOMING, which brought home 591 POWs--Dr. Roger Shields, then Assistant Secretary of Defense, stated that the DOD had "no evidence that there were any more POWs still alive in all of Indochina."

This assertion has been consistent. For example, last July, Col. Joseph

A. Schlatter, then chief of the Defense Intelligence Agency's Special Office for POW/MIAs, was saying that "If we look at everything we collected during the war and everything we've collected since the war, we don't find any evidence that Americans are captive."

Furthermore, as late as October, 1990, an unnamed "senior State Department official" was quoted in the press as saying the U.S. Government has "no evidence" of living American prisoners in Southeast Asia.

However, to say that the U.S. Government has "no evidence" is not the same as saying that no evidence exists. After all, there have been nearly 11,700 reports relating to POW/MIAs over the years, including 1,400 first-hand, live-sighting reports. The question is whether every single one of these reports can be dismissed from the category of credible evidence.

The U.S. Government position makes sense only if every single one of these reports can be shown to have been fabricated, erroneous, or not relating directly to a POW/MIA--for example, some reports may relate to Europeans in the area. In fact, DIA analysts have rejected the evidence of all these reports, except for a small pool of less than 150 still considered "unresolved."

The preliminary conclusions presented by staff for review by Senators are as follows:

1. After the conclusion of OPERATION HOMECOMING in April, 1973, brought the return of the 591 POWs, official U.S. Government policy internally adopted and acted upon the presumption that all other POWs were dead, despite public assertions that the government was still open to investigating the possibility of discovering the existence of living prisoners.

2. Following the adoption of an internal policy in April, 1973, that all POW/MIAs were presumed dead, the U.S. Government, convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

3. While there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIAs in general.

4. The pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

5. The internal policy that all POW/MIAs were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than searching for living POW/MIAs.

6. The desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification--a process which resulted in numerous misidentifications of remains.

7. Despite adherence to internal policies and public statements after April, 1973 that "no evidence" existed of living POWs, DIA authoritatively concluded as late as April, 1974 that several hundred living POW/MIAs were still held captive in South East Asia.

8. Although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POWs and were prepared to give an accounting, nine days later a DOD spokesman declared that there were no more American prisoners anywhere in South East Asia. No POWs held by Laotian Communist forces ever returned. The evidence indicates that the U.S. Government made a decision to abandon U.S. citizens still in the custody of the Socialist Republic of Vietnam, Laos and Cambodia, at the conclusion of U.S. involvement in the Second Indochina War.

9. U.S. casualties, including POW/MIAs in South East Asia, resulting from covert or cross border operation, may not be included on the list of those missing.

10. The executive branch has failed to address adequately the concerns of the family members of the POW/MIAs, and has profoundly mishandled the POW/MIA problem.

### Definition of POW/MIA

---

The subject of POW/MIAs requires some definitions. After the Second Indochina War--popularly known as the Vietnam War, even though Thailand, Burma, Laos and Cambodia saw U.S. combat action--hundreds of POWs returned alive, notably in OPERATION HOMECOMING, which concluded in April, 1973.

Those who did not return home are classified by the Department of Defense into two categories: POW/MIAs--that is, those for whom there is some documentation that they were captured but never repatriated; and KIA/BNRs--that is, those believed to have been killed in action, but whose bodies were not recovered. For the latter, there is no evidence of their death except DOD's evaluation of the circumstances, even though no physical evidence of death may be available.

In April, 1973, DOD reported that 2,383 personnel were unaccounted

for: 1,259 POW/MIAs, and 1,124 KIA/BNRs. This study assumes that both categories of the unaccounted for deserve review. Since 1973, DOD has announced the return of 280 sets of remains, diminishing the over-all number by that amount.

In addition, there could well be an equal number of military personnel missing in action from various U.S. covert actions during the war. Since DOD files on covert actions have not been opened, and the participants in such actions never publicly identified, this inquiry could not establish any number for covert POW/MIAs. However, public source books and interviews with participants suggest that the issue of covert operations adds a substantial, but unknown, dimension to the MIA question which has received no scrutiny.

## Review of Live-Sighting Documents

In this inquiry, staff has reviewed hundreds of U.S. Government classified, declassified, and open-source documents. In addition, Senator Grassley and Committee Minority staff were given access to, and have reviewed personally, hundreds of classified live-sighting reports (accounts by Southeast Asians of live POWs in Southeast Asia) in the files of the Defense Intelligence Agency (DIA). According to DIA, this is the first time

that either a United States Senator or any United States Congressional Committee staff have been given access to the raw intelligence contained in the 1,400 live-sighting reports.

Out of the 1,400 live-sighting reports, approximately 1,200 are considered by DIA to be "resolved." Each of the so-called "resolved" sightings was resolved by concluding that the live-sighting report did not pertain to U.S. POWs present after April 1979. Staff felt that in some cases such a conclusion was correct, but that in many it was not supported by the facts.

Staff began by first examining so-called resolved cases in order to study DIA methodology by which a conclusion of "resolution" was reached. Since the guidelines set by DIA for access to the files were extremely restrictive, the time available allowed review of only about one-quarter of the so-called "resolved" cases, and none of those in the category of "unresolved." Nevertheless, staff concluded that a significant number of the "resolved" cases reviewed showed that the DIA methodology was faulty, or that the evidence did not support the DIA conclusion in the case, or both.

The information collected and reviewed to date by the staff shows that the position held by the United States Government--namely, that no evidence exists that Americans are still being held against their will--cannot be supported. Rather, the information uncovered during this inquiry provides enough corroboration to cast doubt upon the veracity of the U.S. Government's

conclusion.

Without revealing classified information, staff believes that the review of the classified live-sighting reports reinforces that doubt. Although more information remains to be reviewed, the evidence this inquiry has thus far uncovered shows that:

1) living U.S. citizens, military and civilian, were held in Southeast Asia against their will after the U.S. Government's statement on April 13, 1973, that no prisoners remained alive; and

2) the information available to the U.S. Government does not rule out the probability that U.S. citizens are still being held in Southeast Asia.

In fact, classified, declassified and unclassified information all confirm one startling fact: That DOD in April, 1974, concluded beyond a doubt that several hundred living American POWs remained in captivity in Southeast Asia. This was a full year after DOD spokesmen were saying publicly that no prisoners remained alive.

Evidence uncovered in the several hundred cases reviewed thus far clearly demonstrates that, in a disturbing number of cases, DOD made significant errors in drawing conclusions about live-sighting reports, the presumed deaths of individuals, or about individuals that were unaccounted for at the conclusion of the war. Although many cases were resolved correctly

based upon the files, there were too many errors apparent to rule out the need to undertake and complete the review of the "unresolved" cases.

Staff also concluded that DOD spent an excessive amount of effort in discrediting live-sighting reports, while exaggerating or mishandling forensic data in order to confirm a presumptive finding of death. DOD appeared to be more anxious to declare a presumptive finding of death than in following up reports of sightings with creative investigative work.

Furthermore, there is evidence of insensitivity on the part of the Executive Branch of the U.S. Government in providing complete and accurate information to the next-of-kin of missing American servicemen.

The classified evidence in DIA files suggests a pattern by a few U.S. Government officials of misleading Congressional inquiries by concealing information, and misinterpreting or manipulating data in government files. Interested Senators and staff with proper clearances no doubt will want to review the classified files themselves and draw their own conclusions.

## The 1973 Policy Decision

Those who have not dealt with the POW/MIA issue may find it

difficult to understand how DOD's analysis of the information could be in error. Unfortunately, staff believes that DOD has allowed its procedures to be dictated by a pre-conceived policy finding.

The *New York Times* reported on April 12, 1973, as follows:

WASHINGTON, April 12 (AP)--The Pentagon, two months after the first American prisoners of war began coming home, said today that it had no evidence that there were any more prisoners still alive in all of Indochina.

Despite the fact that interviews with all returning prisoners are nearly complete, a Pentagon official, Dr. Roger Shields, said that none of the 1,389 Americans listed as missing were now technically considered prisoners. "We have no indication at this time that there are any Americans missing alive in Indochina," Dr. Shields said at a news conference.

Dr. Shields was at that time Assistant Secretary of Defense, but he was following guidance issued on that date by the Department of State in a memorandum to DOD which stated that "There are no more prisoners in Southeast Asia. They are all dead." This directive was issued immediately after the return of the last POWs in OPERATION HOMECOMING. This finding was made despite the fact that none of the hundreds of POW/MIA's that the Pathet Lao publicly acknowledged holding were ever returned from Laos. There were hundreds of live-sighting reports on file in 1973. Thousands of such reports have continued to be received since then.

## Process for "Presumption of Death"

---

Since it was official policy, then, that all MIAs were dead, it became a bureaucratic necessity for all "unresolved" cases to be resolved in favor of a presumed finding of death.

Each respective military service from time to time convenes its own special commissions to pronounce on individual cases. Such a commission has before it at least three categories of information: The first is intelligence-related information concerning the individual. The second is eyewitness accounts of the loss event. The third is the so-called "incident report"--the official report of the loss incident.

If a year passes without new information, the respective military service can convene a commission to determine whether a presumptive finding of death should be declared.

The April, 1973, statement of policy was a political statement, rather than a finding according to statutory authority. As a result, the military services subsequently reviewed each individual case of those who previously had been declared dead *en masse*. And in every case except one, the commissions made a determination of a presumptive finding of death.

Because of this procedure, the bureaucratic necessity arose for discrediting any evidence that might cast doubt on the mass presumptive finding of death of April, 1973. From the standpoint of law and military regulations, the procedure followed in each case gave a legal affirmation to the original political statement.

Therefore, in order to discredit any information which might undermine the political thesis, the analysis of intelligence files fell into a systematic pattern of debunking information contrary to the thesis.

This systematic debunking included discrediting of reports, possible intimidation of witnesses, dismissal of credible evidence through technicalities, and--if all else failed--the arbitrary disregard of evidence contrary to the thesis.

## DOD's Working Hypothesis

---

An analysis of DOD's working hypothesis for fully accounting for American MIAs is the key to understanding the discrepancies between DOD's position on the POW issue and the evidence uncovered by the staff.

DOD's premise, beginning in April, 1973, has been that all MIAs are dead; the corollary, therefore, is that DOD must never find any evidence that

any MIA is alive. The best evidence, in DOD's opinion, is a set of physical remains that can be identified as a specific individual on the POW/MIA list. Once such an identification has been made, the case of that individual can be removed forever from the list. This is an easier task than to accept live-sighting reports that might point to a living POW, thereby necessitating appropriate follow-up action.

It is a reasonable assumption to remove POW/MIAs from the list when remains are identified, if the identification is correct. But the fact is that in a significant number of cases, such identifications have been made on the basis of inadequate physical evidence, using presumptive deductions that may or may not be true. The pressure to identify sets of remains even has resulted in specific cases where caskets have been buried with full military honors as the "remains" of the individual when, in fact, the casket is empty.

Therefore, DOD acts on its premise by vigorously investigating for the remains of dead MIAs. The list of MIAs presumed dead following the conclusion of the war totalled 2,383. DOD has received and claimed to have identified a total of 280 sets of remains since 1973.

Any full accounting of MIAs, according to DOD's working hypothesis, would necessarily involve only those cases in which either a presumptive finding of death could be made, or else full or partial remains could be discovered. As each presumptive finding of death is declared or set of

remains is identified, DIA would remove, as accounted for, the names that matched those on the original MIA list. In this respect, DOD claims that DIA has vigorously investigated and resolved hundreds of such cases.

The policy of DOD is to focus attention on the cases where some evidence, no matter how small, of physical remains can be recovered. But even while DOD enthusiastically and vigorously investigates remains case--no matter how fragmentary--it just as vigorously discredits live-sighting and other witness accounts. Throughout the 1970s and 1980s hundreds of thousands of Asians fled Vietnam, Cambodia and Laos. These refugees provided many first-hand reports, or knew by second- or third-hand reports, of American prisoners being held in their respective countries.

To date, over 11,700 accounts have been received by DOD; 1,400 of these are first-hand, live-sighting reports. DIA claims to have analyzed fully each of these live-sighting reports, and to have left "no stone unturned" in searching for living prisoners. After analyzing the live-sighting reports, DIA has concluded that the majority are not related to living American POWs, with the possible exception of a small percentage of reports that DIA describes as "unresolved."

However, no "resolved" case has ever concluded that an American POW remains captive in Southeast Asia. In this way DIA concludes that there is no evidence of Americans currently being held captive in Southeast

Asia. This contention is consistent with both the working hypothesis described above and with DIA's apparent success at removing from the MIA list names that involve only those cases in which remains are identified, or a finding of death declared.

Insofar as these discrepancies relate to the 1,400 first-hand reports of living prisoners, DOD's original premise comes into question. Numerous live-sighting reports have been erroneously discredited by DIA analysts. Moreover, staff has reason to believe that DOD has misidentified the remains of scores of MIAs, and has incorrectly presumed dead many others.

This analytical bias is typical of a bureaucracy defending an established policy at all costs, even if it means denying the obvious. It is also a typical characteristic of an out-moded paradigm that can no longer explain the real world or real facts. If the original premise of DOD had been that at least *some* of the 2,383 MIAs were alive, then DOD would have been forced by circumstance to view the evidence collected, including the hundreds of live-sighting reports, from an objective standpoint. The relevance and validity of each report could have been judged on its own merits rather than whether it supported a pre-determined hypothesis that no living POW/MIAs remained.

Unfortunately, DOD choose to make its own analysis, without proper legislative oversight. Claiming extreme sensitivity and possible threats to sources and methods of intelligence gathering, DOD evaded the proper

oversight that would have assured the objectivity of their process, The result has been a disservice to the POW/MIAs, their families and the American people.

## Importance of the Problem

---

The resolution of these questions is important not only to any MIA/POWs who may be still alive, but also to the families involved. It is also important to the fate of any possible POWs in a future military action. With 200,000 U.S. troops now deployed to the Persian Gulf, the question of possible prisoners of war once again becomes an urgent matter.

Moreover, the resolution of issues relating to Southeast Asia is a key priority of our nation's foreign policy. Secretary of State James A. Baker III stated recently that the POW/MIA issue is the last remaining obstacle to resumption of relations with the government of Vietnam. But if it turns out that Vietnam has been concealing the existence of POWs, then it would be a complicating factor in initiating relations with the present regime.

SPECIAL COMMITTEE ON  
MILITARY & VETERANS AFFAIRS  
May 1, 1991  
5:30 p.m.

MEMBERS PRESENT

Chairman Ivan Ivan  
Vice-Chairman Richard Foster  
Representative Max Gruenberg

MEMBERS ABSENT

Representative Cliff Davidson  
Representative Mike W. Miller

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION 41: Relating to missing American Service personnel.

WITNESS REGISTER

PREVIOUS ACTION

ACTION NARRATIVE

TAPE 13, SIDE A  
Number 000

The House Special Committee on Military and Veterans Affairs meeting was called to order by Chairman Ivan at 5:30 p.m. Members present were Representatives Ivan, Foster and Gruenberg.

Chairman Ivan announced that the committee would hear House Joint Resolution 41, relating to missing American service personnel. He recognized committee staff, Tom Wright.

Number 023

Tom Wright, House Special Committee on Military and Veterans Affairs staff, stated that the resolution was brought to the committee's attention by Rep. Jerry Hefner of Oklahoma. The purpose of the resolution was to recognize that there still existed the probability of POW/MIA's in Southeast Asia and that the federal government needed to continue investigations into the status of those missing personnel. He further stated a zero

fiscal note had been prepared by the committee and was in the committee members' packets. Mr. Wright added that he would answer any questions from the committee on HJR 41.

Number 053

Rep. Gruenberg asked that if the word "probability" found on page 1, line 10, and on page 2, line 7, was the language used in the U.S. Senate Interim Report on the Southeast Asian POW/MIA Issue. Mr. Wright replied that he had not yet received the report and was not sure if the word "probability" was used. He stated the language for HJR 41 was basically that used by the Oklahoma legislature and they included the word "probability".

Rep. Gruenberg moved that the word "probability" be replaced with "possibility". Chairman Ivan asked for objections. Hearing none, the amendment by Rep. Gruenberg was adopted.

Number 169

Rep. Gruenberg noted that the resolution made reference to American service personnel in World War II, the Korean and Viet Nam conflicts. He moved that on page 2, line 27, the words "in Southeast Asia" be deleted since it made no reference to World War II nor the Korean conflict. Chairman Ivan asked for objections. There were no objections and Rep. Gruenberg's second amendment was adopted.

Number 171

Rep. Gruenberg requested that the committee send copies of HJR 41 to U.S. Senate Majority Leader, George Mitchell, to the sponsors of H.R. 1147, the POW/MIA Truth Bill in the U.S. House, the chairs of the Senate and House Foreign Relations Committees, and the majority and minority leaders of the both Congressional bodies. Rep. Gruenberg moved that the inclusion of those he just named be included into HJR 41. Chairman Ivan asked for objections and hearing none, moved that Rep. Gruenberg's third amendment be adopted.

Number 200

Rep. Gruenberg commented that on page 2, line 4, the word "Issue" should not be capitalized. Mr. Wright stated that the word "Issue" was part of the report title and should be capitalized.

Number 205

Rep. Gruenberg then made a motion that the committee adopt the Military and Veterans Affairs committee substitute for HJR 41 and move it from committee with individual recommendations. Chairman Ivan asked if there any objections. There were no objections and

Chairman Ivan moved the bill from committee with individual recommendations.

Number 218

Chairman Ivan asked if the committee members had any other business to come before the committee.

Number 212

Mr. Wright expressed concerns about the definitions of the duties of the adjutant general as addressed in House Bill 272 and whether or not to include language to further define those duties or to leave the language as is which is very broad and gives all discretion to the adjutant general.

Number 219

Rep. Gruenberg responded that the definition of duties be worked out with the adjutant general and his staff. He also indicated the possibility of including in the duties, an annual report by the department to include the plans by the active military and problems faced by the federal military in the state and possible remedies.

Number 233

Mr. Wright asked if the annual report should include state military activities.

Number 246

Rep. Gruenberg stated he would like to have the report focus on the active military and not so much the activities of the National Guard which he felt were significantly different. He added that the Coast Guard should be included when discussing active military.

Number 252

Chairman Ivan stated that he found USAF Lt. Gen. McInerney's address to the committee informative and the information he passed on to legislators could possibly be the basis or format for the annual report as far as what should be included. He asked Rep. Gruenberg's staff and the committee staff to work on the language and bring it back at the beginning of the next session.

Number 268

Rep. Gruenberg suggested that the committee introduce companion bills to the veterans home should the Senate bills for the veterans home be delayed much longer. He requested Mr. Wright to

ask the Senate bills sponsor if there would be problems with the committee introducing companion legislation.

Mr. Wright stated he would ask Sen. Kerttula.

Number 272

Rep. Foster reminded the committee about the proposed committee trip to Nome next fall. He suggested that the department send an invitation to the Soviet commander from Big Diomedes to visit the committee while they toured Little Diomedes. Rep. Foster continued by stating in the age of perestroika such an invitation should be extended and we could learn even more about not only our own military's role with the Soviet Union but maybe learn more about how they see that role developing.

Number 290

Rep. Gruenberg suggested that the committee find out if a trip to Big Diomedes would be possible.

Mr. Wright responded that he would request that the department look into the possibility of making a tour of Big Diomedes.

Number 301

Chairman Ivan stated that the trip taken during Easter break was so successful that his colleagues in the House and Senate are expressing an interest in the fall trip.

Number 303

Mr. Wright stated that he has corresponded with Colonel Carroll, Capt. Mike Haller and Jeff Morrison of the department to set up arrangements for the fall trip. He further stated that the fall trip might have to be in the first week of October since that date corresponded with the new federal fiscal year.

Number 312

Chairman Ivan stated that Mr. Wright would coordinate the fall trip with Rep. Foster's office.

There was no further business before the House Special Committee on Military and Veterans Affairs. Chairman Ivan adjourned the meeting at 6:00 p.m.

JOHN W. BOLANDER  
JONAS DANFORS  
JUDITH CALDWELL  
JAMES J. COOK, CONNECTICUT  
JERRY MAGARASSETTI  
JERRY KILPATRICK  
SAM FORD, NORTH CAROLINA  
AL W. MORTIMER, NEW YORK  
ALAN S. ROSS, VIRGINIA

JESSE HELMS, NORTH CAROLINA  
JERRY L. HANCOCK, MISSISSIPPI  
RICHARD L. HART, MISSISSIPPI  
RUDY W. SCHWARTZ, MISSISSIPPI  
LARRY W. HILLIS, SOUTH CAROLINA  
FRANK W. STUBBS, ALABAMA  
WYCH MCCONNELL, MISSISSIPPI  
GORDON J. HUGHES, NEW HAMPSHIRE  
CONRAD MALCOLM, FLORIDA

SPENCER S. CHRISTENSEN, STAFF DIRECTOR  
JAMES P. LUCAS, SENATE STAFF DIRECTOR

# United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

November 13, 1990

The Honorable James A. Baker III  
Secretary of State  
Department of State  
Washington, D.C.

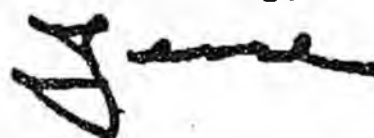
Dear Mr. Secretary:

As you know, recent press reports suggest that the Foreign Minister of the Socialist Republic of Viet Nam, Mr. Nguyen Co Thach, last month revealed to the United States in diplomatic channels that the Vietnamese Communists were still holding at least one specific United States military person named "Robinson." Even more significantly, these press reports also suggest that the Vietnamese authoritatively admitted that they still held several other United States Prisoners of War or men Missing In Action--POWs/MIAs. If these press reports are accurate, then they are extremely significant. I am also advised that last month Vietnamese Foreign Minister Thach in fact confirmed to the United States that his country still held as many as 10 U.S. POWs/MIAs.

Jim, as you are no doubt aware, on October 29, 1990, I released an Interim Report on the Southeast Asian POW/MIA Issue by the U.S. Senate Committee on Foreign Relations Republican Staff. This report concluded that there is a possibility that U.S. POWs and MIAs may still be held in Southeast Asia.

I therefore request that the State Department provide Senators and members of the Committee staff who have the proper clearances the reported diplomatic cables and/or memoranda of conversations concerning these reported recent high level Vietnamese diplomatic revelations, and also the record of the U.S. responses. In addition, I ask that you request that the Defense Intelligence Agency, which has executive responsibility for all intelligence on the POW/MIA issue, provide Senators and the committee staff the intelligence holdings that DIA may have on this reported new high-level diplomatic assertion that POWs/MIAs are still being held.

Sincerely,



JESSE HELMS:dp

Copy to: Lieutenant General Harry E. Soyars, U.S. Army  
Director, Defense Intelligence Agency

102d CONGRESS

1st SESSION

H.R. 1147

*John Miller*  
(Original signature of Member)

HLC

Insert  
title  
here  
☛

To direct the heads of agencies to disclose information concerning United States personnel classified as prisoners of war or missing in action after 1940, including from World War II, the Korean conflict, and the Vietnam conflict.

IN THE HOUSE OF REPRESENTATIVES

Feb. 17, 1991

Insert  
sponsor's  
name  
here  
☛

Mr. MILLER of Washington introduced the following bill; which was referred to the Committee on \_\_\_\_\_

**A BILL**

- 1 *Be it enacted by the Senate and House of Representatives of the United*
- 2 *States of America in Congress assembled,*

1 SECTION 1. DISCLOSURE OF INFORMATION CONCERNING UNITED STATES  
2 PERSONNEL CLASSIFIED AS PRISONER OF WAR OR  
3 MISSING IN ACTION AFTER 1940.

4 (a) IN GENERAL.--Except as provided in section 2, the  
5 head of each department or agency which holds or receives any  
6 records and information, including live-sighting reports,  
7 which have been correlated or possibly correlated to United  
8 States personnel listed as prisoner of war or missing in  
9 action after 1940, including from World War II, the Korean  
10 conflict, and the Vietnam conflict, shall make available to  
11 the public all such records and information.

12 (b) DEPARTMENT OF DEFENSE.--The Department of Defense  
13 shall make available to the public with its records and  
14 information a complete listing of United States personnel  
15 classified as prisoner of war, missing in action, or killed  
16 in action (body not returned) after 1940, including from  
17 World War II, the Korean conflict, and the Vietnam conflict.  
18 The listing shall include--

19 (1) the current classification for each service  
20 member; and

21 (2) any changes which have occurred in the service  
22 member's classification during or after the conclusion of  
23 hostilities of World War II, the Korean conflict, and the  
24 Vietnam conflict.

25 SEC. 2. LIMITATIONS ON DISCLOSURE.

1 (a) PROTECTION OF SOURCES AND METHODS.--

2 (1) IN GENERAL.--Section 1 does not apply with  
3 respect to information that would reveal sources and  
4 methods of intelligence collection that if released would  
5 compromise national security.

6 (2) PERSONS OF AMERICAN PARENTAGE.--For purposes of  
7 this subsection, information regarding the existence or  
8 possible existence of persons of American parentage in  
9 communist countries shall not be interpreted compromising  
10 national security.

11 (b) SPECIFIC MENTION BY NAME.--No records or information,  
12 including fatality reports, which specifically mention a  
13 United States service member by name and does not correlate  
14 or possibly correlate to circumstances which may involve  
15 United States personnel listed as prisoner of war or missing  
16 in action, shall be made available to the public pursuant to  
17 this Act without the expressed written consent of the closest  
18 living relative. This proscription does not limit the access  
19 of that family member to the information. This authority may  
20 not be delegated to any other person or organization without  
21 express legal power of attorney from the closest living  
22 relative.

23 SEC. 3. DEADLINES.

24 (a) EXISTING RECORDS AND INFORMATION.--The head of each  
25 department or agency covered in subsection (a) shall make

1 records and information available pursuant to this Act not  
2 later than 180 days after the date of the enactment of this  
3 Act.

4 (b) NEW RECORDS AND INFORMATION.--If the head of a  
5 department or agency covered in subsection (a) receives  
6 records and information after the date of the enactment of  
7 this Act, such records and information shall be made  
8 available not later than 180 days after it is received by the  
9 department or agency.

10 (c) EXCEPTIONS.--If the head of a department or agency  
11 determines that release of certain records and information  
12 after the date required by subsection (a) or (b) will  
13 compromise the safety of United States personnel known or  
14 thought to be held prisoner of war, then such a determination  
15 once made must be immediately reported to and is subject to  
16 the review of the appropriate intelligence committees of the  
17 United States Congress and the President.

# United States Senate

WASHINGTON, DC 20510-2803

February 21, 1991

Dear Colleague:

We will shortly introduce a resolution to establish a Senate Select Committee on POW/MIA Affairs.

For nearly a decade, the Executive Branch has designated the fullest possible accounting of POW/MIAs as an issue of highest national priority. It is truly unfortunate that despite this designation, there continues to be foot-dragging by Communist governments in Southeast Asia and North Korea. Moreover, despite seven different investigations since the 1970's, extremely serious charges persist concerning the U.S. Government's handling of POW/MIA matters. We believe these charges are serious enough to warrant further investigation by a bipartisan select committee.

We are also very concerned with the issue of POWs in the Gulf War and Iraq's compliance with the Geneva Conventions of 1949. We all hope for a swift and favorable resolution to the Gulf War. However, we believe it is critical that Congress act now to review and assess our Gulf policies and objectives as they relate to the return of our captured service men and women. The formation of a Senate Select Committee on POW/MIA Affairs would strengthen efforts in the Senate to address the POW/MIA issue. It would also ensure that these efforts are pursued until the fullest possible accounting is achieved.

In addition, we believe a Select Committee would provide a much-needed structure for a closer, more coordinated working relationship with the Administration's POW/MIA Interagency Group. We recognize that several members of Congress have made substantial contributions toward resolution of POW/MIA matters from Southeast Asia and North Korea. We strongly feel that a coordinated approach in the Senate on these matters will only further enhance resolution of this issue.

Finally, the House of Representatives established a House POW/MIA Task Force in 1977. There is no comparable

structure in the Senate and, unfortunately, no Senate hearings have been held on this matter since 1986.

If there is any issue serious enough to justify establishing a Select Committee, it is clearly the POW/MIA issue. We also want to assure our colleagues that we will work with the leadership to find a mutually acceptable funding mechanism for the committee.

We have not received a satisfactory accounting of our missing service personnel, and the families and concerned veterans still wait for answers. The present POW situation in the Gulf has further convinced us that it is vital for the Senate to provide an effective oversight structure to address POW/MIA matters.

We ask you to support the creation of this committee by cosponsoring the Senate resolution which we will shortly introduce. Please contact Dino Carlucci at 48338 to cosponsor.

Sincerely,

Bob Smith

Alb. S. F. F. F.

Jesus Helms

Tommy Kirk

Chuck Grassley

Pat Riehl

STATEMENT BY SENATOR CHUCK GRASSLEY  
REGARDING POW/MIA ISSUE  
10/12/90

Mr. President, on July 31, I rose before this body to pose several questions regarding a request I had made of the Defense Department for access to eyewitness reports on American Prisoners of War in Southeast Asia. I and others of my colleagues had been denied access to these files for the sole reason that they are classified. That response came in April from Assistant Secretary of Defense for International Security Affairs, Mr. Henry Rowen. My July statement before this body raised the question of whether or not that response from Mr. Rowen was appropriate.

The day after my statement, I received a letter from Assistant Secretary of Defense for Legislative Affairs, Mr. David Gribbin. That letter reversed the position announced earlier by Mr. Rowen, and I and my colleagues were granted access to the POW files, although with the most extraordinary of restrictions.

Now, Mr. President, let me describe what I mean by "the most extraordinary of restrictions." I have to go to the Pentagon myself and camp out there if I want to review these documents. I am not allowed to bring my own staff, regardless of clearance. Instead, I have to bring staff from one of three committees, even though I do not sit on any of them. Furthermore, if I leave, the staff has to leave as well. Needless to say, this is a maximum inconvenience for a member of the United States Senate for documents that are classified mostly at SECRET, CONFIDENTIAL or FOR OFFICIAL USE ONLY, which is not a category of classification at all.

Now, Mr. President, my purpose in raising this issue today is not to quarrel with this arrangement at this time, even though it is a most inappropriate arrangement. In the end, the Department did the right thing by granting me and my colleagues access after its initial reluctance. And I have taken advantage of this access by spending 116 man-hours, together with staff, pouring through hundreds of these files. Having now seen many of the reports, I am not at all convinced they warrant such extreme precautionary measures. The question, and this is the purpose for which I rise today, Mr. President, is: What is it that compels such an unreasonable position on the part of DoD?

I may not have an answer to that question, but I do believe I have uncovered the first piece of the puzzle.

It shows little awareness of the responsibility under the Constitution for congressional access to government information. And it shows a deep misunderstanding of the laws and procedures for handling classified information. Furthermore, it suggests a lack of awareness of the line between advocacy of a principle or issue, in this case the POW issue, and the Government's own position. When a self-declared POW advocate, which Griffiths is in her non-quasi-governmental role, begins to take the government's position "at face value," as Ms. Griffiths declares in her memo that she has done, then that line is crossed. This is indeed the point that gives rise to the question of whether or not this quasi-governmental official has become "bureaucratized."

The more important question, though, Mr. President, is what impact did this rationale -- this "sky is falling" hysteria -- have on the Defense Department's decision to restrict the access of United States Senators to eyewitness accounts of POWs, which documents are either SECRET, CONFIDENTIAL or FOR OFFICIAL USE ONLY -- not TOP SECRET or Code Word classified? Why is it that a quasi-government official can see them, but not a United States Senator? And why is it that a quasi-government official can dictate or heavily influence the access policy of the Department of Defense?

It is my hope, Mr. President, that the answers to these questions will become clearer in the weeks ahead as those of us who are interested in this issue continue our oversight responsibilities. I will continue to discuss this on-going matter with my colleagues on this floor from time to time in the future until these questions are resolved.

Thank you, Mr. President.

STATEMENT BY SENATOR CHUCK GRASSLEY

7/31/90

Mr. President, I would like to take a moment of my colleagues' time to address what I consider to be a very important and curious matter.

Like most of my colleagues, I have tried to respond to inquiries from my constituents about the POW/MIA issue. Many of them are concerned that we have not done all we can to resolve this issue. I have committed myself, as others of my colleagues have done, to verifying the assertion that the government has, in fact, done everything it can.

Last summer, the Secretary of Defense issued what is called the POW/MIA Fact Book. In it, the Secretary states the U.S. Government is doing all it can to help resolve the POW/MIA issue. Since the end of the Vietnam War, the Government has acquired over 10,000 reports on sightings of POWs. Of these 10,000, some 1200 are first-hand live sighting reports. Some of these are cases as yet unverified, some are suspected to be fabrications, and some allegedly pertain to individuals since accounted for.

On March 23, fully four months ago, I sent a letter to the Secretary of Defense requesting access to these documents. I asked for the documents in installments over a period of time, trying to mitigate the workload and effort associated with my request. This was a pretty straight-forward, simple request for information that the U.S. Government claims to be proud of with respect to the thoroughness of its investigation, analysis and evaluation of the POW/MIA issue.

On April 16, I received a response to my request. It came from Assistant Secretary of Defense for International Security Affairs Henry S. Rowen.

Mr. Rowen's response, Mr. President, was to deny a member of the United States Senate access to that information solely on the basis that the information is CLASSIFIED. Since when is that a condition for withholding information from a United States Senator?

In response to Mr. Rowen's letter, I wrote a second letter to Secretary Cheney dated May 24 indicating -- with irritation, I might add -- my dissatisfaction with this unacceptable, bureaucratic response. I have yet to receive a reply, and it's now over two months later.

Sunday, February 24, 1991

Fort Worth Star-Telegram

## Honor Desert Storm POWs by remembering others kissed goodbye

Marine Lt. Col. Clifford M. Acree, 39,  
Oceanside, Calif.

Air Force Col. David W. Eberly, 43,  
Goldboro, N.C.

Air Force Maj. Thomas E. Griffith, 34,  
Goldboro, N.C.

Marine CWO Guy J. Hunter, 46, Camp  
Pendleton, Calif.

Air Force Capt. Harry M. Roberts, 30,  
Savannah, Ga.

Air Force Maj. Jeffrey S. Tux, 33, Sellersville, Pa.

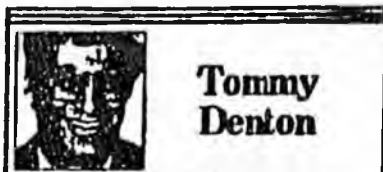
Navy Lt. Lawrence R. Slade, 26, Virginia  
Beach, Va.

Navy Lt. Jeffrey N. Zaus, 28, Cherry Hill, N.J.

Those men are the known American prisoners of war captured and held by the Iraqis during Operation Desert Storm.

Remember them.

As the grim drama of war proceeds, the American public has demonstrated its strong support for the troops fighting in the Middle East. Whatever the painful ambivalence that millions of people may feel about the policies driving the war, the men and women caught in the vortex of battle



Tommy  
Denton

enjoy the sympathy, admiration and prayers of a nation at war.

Those held in enemy captivity occupy a special place of remorse and joy of honor for the cruel, tortuous ordeal we must hope they are still alive to endure.

Remember them. Do not let them be forgotten as the memories of their captured comrades-in-arms from earlier wars have been allowed to drift into the mists of time. Most certainly, do not allow them to be abandoned as those who were left by a callous, cynical government that treacherously dismissed thousands of American POWs knowingly left behind in Southeast Asia after the Vietnam War.

Those abandoned men are the bitter legacy of a point in history when the United

States lost its way. When the peace accords ended the American role in the war with Vietnam in 1973, all the prisoners of war were to have been released, and thousands were. Thousands of others were not, and the government's intelligence agencies knew it, even if the public and members of Congress did not.

Richard Nixon cut a secret deal with Hanoi that included payment of \$4 billion in exchange for all prisoners. Nixon never told Congress about the letter he signed, and when the administration sought the money, Congress refused.

Vietnam had a document in hand, a contract as it were. When the contract was broken, they retained some 2,000 American prisoners. Neither the American public nor Congress knew about them at the time, but people in the government did.

To have exposed their presence would have been embarrassing. The intelligence agencies had too much to hide, including an illegal "secret war" in Laos and a lucrative drug-financing operation to finance it surreptitiously, out of the glare even of official secretary.

Any probing for prisoner-of-war camps might have revealed the illicit activities of the CIA and intelligence operatives in the Defense Department, so they stonewalled and fabricated an elaborate lie that remains official policy to this day: No live prisoners remained.

Despite solid evidence of actual sightings of live prisoners — from eyewitnesses, photographs and satellite images — four succeeding presidential administrations have perpetuated the lie.

A book published last fall, *Kiss the Boys Goodbye* by Monika-Janece Stevenson and William Stevenson, exposes the people and events that were part of the calculated deception.

Now the Select Committee on Intelligence has begun, although much too slowly, to lead its weight and authority to revealing the truth — gleaned not from the sanitized "official" reports from intelligence agencies used in the cover-up but from the raw data. The committee produced an interim report last October that summarized, and essentially confirmed, the findings docu-

mented in *Kiss the Boys Goodbye*.

Committee Chairman James Helms has indicated that the final report, with specific and damning evidence, may be released this week. Already a number of senators have expressed interest in establishing a select committee, with subpoena power, to build on the findings of that report.

Sources within the committee have suggested, though not confirmed, that as many as 300 to 400 American men may still be in captivity, if not in Vietnam, possibly in Laos or even in the Soviet Union. Mr. steps — in Washington and Hanoi — have been taken to assure "plausible deniability."

Eighteen years of deceit make the task of uncovering the truth all the more difficult. Congress will move only as quickly to uncover and heal the ugly wounds of deception, betrayal and abandonment as the American people demand.

In remembering those of Desert Storm held captive, do not forget the boys kissed goodbye.

Tommy Denton is senior editorial writer and columnist for the Star-Telegram.



# METRO

9<sup>TH</sup>

FEBRUARY 1991

SATURDAY

6A

---

## Campaign launched to account for POWs, MIAs

### ■ Backers hope to get support from legislators

ED STYCH ASSOCIATED PRESS

**A**s the number of Americans missing in the Persian Gulf mounts, a national campaign aimed at accounting for soldiers missing in Vietnam was launched Friday in St. Paul.

"What happened in Vietnam could very well be the same scenario that will occur when the issue is finished in the Middle East," said Tracy Usry, a special investigator for the Republican staff of the Senate Foreign Relations Committee.

Retired Navy Capt. Eugene McDaniel, who organized the campaign, said the gulf war will help refocus attention on

POWs from previous wars. He said he and other prisoner-of-war and missing-in-action activists will work to ensure that each soldier missing in the Persian Gulf is accounted for.

"We'd like to reassure the families of those missing in the Middle East that they will be unlike those that were left behind in Southeast Asia," said McDaniel, who was a POW for six years in Vietnam. "They will be coming home at the end of this war because of the public debate that has been created in this country."

Usry and McDaniel testified before Minnesota lawmakers, urging them to pass resolutions asking Congress to approve two bills that supporters say may lead to the return of Vietnam MIAs.

One of the resolutions asks Congress to

enact the POW-MIA truth bill, which was introduced in late 1989 and failed to get out of committee last year.

The proposal would require government officials to disclose information on alleged live sightings of American soldiers missing in World War II and the Korean and Vietnam wars.

Under the bill, sources and methods used to collect the reports would be censored to protect national security.

The second resolution urges Congress to continue funding of the POW-MIA special investigation that's being conducted by the Senate Foreign Relations Committee.

The POW-MIA activists said they will ask all state legislatures to pass similar resolutions. The effort is expected to culminate with a march on Washington in

the spring.

More than 88,000 Americans are listed as missing from World War II and the Vietnam and Korean wars, according to the Minnesota Veterans Affairs Department.

Usry and the other activists testified before a joint hearing of the Senate Veterans and General Legislation Committee and the House General Legislation, Veterans Affairs and Gaming Committee.

Before the hearing, about 150 people rallied for an hour on the state Capitol steps to show support for the resolutions.

Most of the demonstrators were veterans and wore military uniforms. Several carried American flags or POW flags that had the inscription, "You are not forgotten."

# Coverups about POWs a betrayal of liberty and a threat to us all

It's rare when a book comes along that has the potential to make a significant impact on American politics. *Kiss the Boys Goodbye*, by Monica Jensen-Stevenson and William Stevenson, is that rare book.

Read this book, and you will never look at government again in quite the same way. This is the story of how our government -- at least a core of it hidden away in the bowels of national security agencies -- deliberately betrayed American prisoners of war in Vietnam. Our government knew there were living POWs left behind, and resorted to lies, intimidation, disinformation, frameups, character assassination and possibly even murder to keep that disgusting secret.

Men who would betray comrades, men who would deliberately leave behind Americans to suffer and die in captivity and who would attack those trying to tell the truth are dangerous men. Such indecency and fanaticism, or in some cases, cynicism and cowardice, put at risk our liberty. They would betray anyone or anything -- including the Constitution.

Jensen-Stevenson was an Emmy-winning producer for the CBS show *60 Minutes*. She stumbled into this government mafia when she decided to do a *60 Min-*



**Charley Reese**

OF THE SENTINEL STAFF

utes segment on Bobby Garfield, a Marine POW who finally came out, only to be framed as a deserter. The government feared Garfield's knowledge of other living POWs, so it set out to discredit him.

As soon as she began to ask questions, she began to get anonymous threats. She began to be shadowed by clean cut men with the look of government written all over them. Someone even extinguished the pilot lights on the gas appliances in her Georgetown

home, which could have led to an explosion.

You can get a copy of this book at your favorite bookstore or library. It's a Dutton book published by the Penguin Group. Ask for it. Demand it. I almost feel like printing bumper stickers urging Americans to read this book. It has that kind of impact.

If enough Americans read it, it has the potential to generate the political heat to excise a dangerous cancer that has developed in Washington and remains hidden by a group that uses the same tactics as the Mafia -- except that this group has infinitely more resources. The ordinary Mafia can't bury the evidence against it under security classifications.

*Kiss the Boys Goodbye* reads like a spy thriller, only all the names and people are real. Jensen-Stevenson tells the story just as she discovered it. It is not a textbook on the issue of missing in action soldiers. It is an exciting story of determined people pursuing the truth through the Washington bureaucracy and the back alleys of Southeast Asia.

Jensen-Stevenson became so absorbed as the magnitude of the coverup became evident that she left CBS to work on this book.

Read it, and you'll understand what a villain Rep. Stephen Solarz, D-Brooklyn, is. In view of his role as an anti-war man in Vietnam and as one of the chief figures in discrediting and attacking anyone who came forward with information about living POWs, it is ironic that he became a war hawk for the Persian Gulf.

But you'll find more than villains, cowards and cynics. You'll also find heroes and heroines. People like Capt. Red McDaniel, a former POW who gave up a promising Navy career to pursue the truth about the MIAs. People like Rosa Perot, the Texas billionaire, who stubbornly pursued the truth. People like a wonderful group of Vietnam vets with their own intelligence network, who come forward to help and to protect those trying to tell the truth.

Some of the finest people America has ever produced need your help, and some of the worst need to be rooted out and prosecuted. You can start the ball toward doing both by buying and reading this book.

It is more than the story of how the government betrayed its POWs and then covered up the crime. It is the story of how a free government can become dangerously corrupted by unaccountable men using national security as a camouflage.

# Report fuels fight to find truth about 1968 Laos raid

► The wife of a man missing in action in Laos says a recent report indicates there were survivors of an attack where her husband was stationed.

By David E. Hendrix  
The Press-Enterprise

For 22 years Ann Holland has battled high-ranking U.S. officials, her family and herself, arguing that nobody could prove all the Americans atop a super-secret radar site in northern Laos were killed in a 1968 communist raid.

Recently, one of the same American agencies with which she has fought, notified her that she had a new-found ally: A high-ranking Laotian official who led the raid against the mountaintop CIA post.

The notification is a significant disclosure by U.S. officials of evidence that American Air Force technicians survived the epic March 11, 1968, battle. A top secret Air Force report acknowledges that the American air war against North Vietnam changed significantly after the fall of what was known as Lima Site 85.

The site's overthrow also significantly changed Holland's life: her husband, Air Force Tech. Sgt. Melvin A. Holland, was one of the 11 men captured or killed in the raid. Until Dec. 10, Holland could get no American officials to publicly acknowledge that there was evidence some of the men might have survived.

On Dec. 10, the Air Force Casualty Office forwarded Ann Holland a message from U.S. officials in Bangkok, Thailand. The message said a Laotian general in

August and September interviews told an Air Force intelligence officer that "two or three Americans had been wounded and taken away by the (North) Vietnamese forces" after the Site 85 battle. "He added that the Pathet Lao had standing orders to send all captured Americans to Vietnam since the Pathet Lao had no facilities to care for them."

For Holland, the message is more than vindication about events that happened after her husband was sent to Southeast Asia.

The new report, she hopes, will make officials believe other information that has come to her attention during the past five years: That some of the men, including her husband, were alive as recently as 1987. She hopes also that someone seriously will consider reports that a 1984 CIA-sanctioned attempt to rescue Site 85 survivors was aborted by other American officials.

A Department of Defense spokesman called the new report "interesting" but said no comment could be made about the information or any investigation about its contents.

"We do not discuss the specifics of any ongoing investigation," said Lt. Cmdr. Ned Lundquist, a Pentagon public affairs officer.

The new information comes on the eve of a scheduled report by the Senate Foreign Relations Committee about the POW-MIA issue. A preliminary report Oct. 29 charged that U.S. authorities have consistently discounted their own intelligence reports that hundreds of American POWs were left behind at the end of the Vietnam War and some remained alive in the 1980s.

A committee staff member said recently that the final report would be even harder hitting about alleged



Ann Holland  
husband lost in Laos



The Press-Enterprise



Melvin Holland  
in 1967

American negligence of its missing servicemen.

The story of Site 85, and the fate of its 11 missing men, involves secrecy and intrigue at the highest levels. It includes supervisors whose names years later became publicly familiar during the Iran-Contra hearings and who handled some of the nation's more sensitive covert activities.

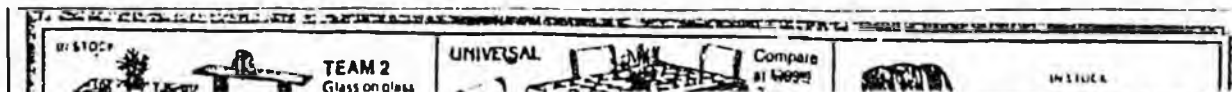
For 15 years the U.S. government would not acknowledge publicly that anyone was even missing

from atop the mountain. Even the agency responsible for determining the fate of the Americans did not know for years that they were missing.

In September 1967, some 48 Air Force technicians who would staff Site 85 were asked to accept discharges and be added to the work rosters of Lockheed Corp., which had produced the equipment they would use. They spent their last two weeks in the

Please see HOLLAND, D-2

Information flows in



## Nation/world

# Report on POWs holds chilling

By David Evans  
Chicago Tribune

WASHINGTON—The Senate report on the fate of America's Vietnam-era prisoners of war is sure to fan the flames of a long-simmering debate that possibly hundreds of American prisoners were left behind in Southeast Asia.

The report comes at a time when up to 300,000 American troops increasingly face the prospect of a war with Iraq in which some of them would be taken prisoner, and it raises the question of whether the U.S. government would expend every effort to get them back at the end of hostilities.

"When the troops [in Saudi Arabia] learn that we left men in captivity, I'm not sure what they're going to think," said retired Navy Capt. Eugene "Red" McDaniel, who was shot down in May 1967 and spent six years as a POW in North Vietnam.

But the problem is not unique to the Vietnam War. Around 8,000 known U.S. prisoners and other missing personnel were un-

accounted for after the Korean War.

In a 1955 report, Pentagon officials noted that some POWs were transferred to China and Soviet Siberia early in the war and that the U.S. never pursued negotiations for their return because it did not recognize the Communist regime in China, where many were believed to be held.

The latest report, released Monday as part of a continuing investigation by Republican Sens. Jesse Helms of North Carolina and Charles Grassley of Iowa, charged that "the evidence indicates that the U.S. government made a decision to abandon U.S. citizens still in the custody of . . . Vietnam, Laos and Cambodia at the conclusion of the U.S. involvement" in the Vietnam War.

Although 591 American prisoners were repatriated in 1973, the Senate report said, more than 4,000 personnel remain unaccounted for, including hundreds of airmen shot down over Laos.

The report charged that classi-

fied evidence in the files of the Defense Intelligence Agency, which tracks the status of unaccounted-for POWs and MIAs, suggests a pattern "by a few U.S. government officials of misleading congressional inquiries by concealing information and misinterpreting or manipulating data in government files."

The report stopped short of citing names but is part of a continuing investigation.

McDaniel, who supported the conclusions of the latest investigation, declared, "I was an absolute believer that we all came home"—until 1985. That's when an Army colonel on the National Security Council confirmed to him that prisoners were still alive in Southeast Asia, McDaniel said.

The Senate report cited the activities of the Defense Intelligence Agency, which "authoritatively concluded as late as April 1974 that several hundred living POW/MIAs were still held captive in Southeast Asia."

The report has remained in the

## news for U.S. soldiers in gulf

agency's secret files ever since. But because of the continuing controversy over the matter, the Pentagon conducted a five-month review of about 100 unresolved POW/MIA case files in 1986. This effort was headed by retired Air Force Lt. Gen. Eugene Tighe.

From 1974 to 1981, Tighe was deputy chief and then the head of the Defense Intelligence Agency. The so-called Tighe Report concluded that American POWs were still alive in Southeast Asia.

In an interview last week, Tighe said, "There are reports of Americans alive in Southeast Asia that cannot be discarded. We've had all kinds of live sighting reports, and some of them were dismissed summarily, and that bothers me."

The Pentagon rebutted the Senate report Thursday, saying the Defense Department "did not conclude in April 1974 or at any other time that several hundred living American POWs remained in captivity."

In effect, this statement denied the existence of the 1974 Defense

Intelligence Agency report and the findings of the 1986 Tighe report.

In addition, the National League of Families of American Prisoners and Missing in Southeast Asia on Wednesday lambasted the Senate report—titled "Interim Report on the Southeast Asian POW/MIA Issue"—as "inaccurate, misleading, distorted and extremely simplistic."

But the group's director, Ann Griffiths, said her organization "doesn't rule out the possibility that some could still be alive."

Grassley spent a week in September reviewing about 500 of 1,200 POW/MIA sighting reports. "Nobody's gone through the other 700 sighting reports, but after spending four days going over those files, I can tell you that there are a lot of unanswered questions," Grassley said.

One person hoping some are still alive is Ann Curran of Bensenville, Ill., the mother of Marine 1st Lt. Patrick Curran, the bombardier on an A-6 jet that was shot down over Laos in 1969.

"The search planes heard the beep from his survival radio, so they knew he survived," she said. Lt. Curran was never found, however, and in 1978 he was administratively classified as "killed in action, body not recovered."

"Americans have been seen in Laos," she said. "Was he tortured, is he hungry? These are the questions that just break your heart, and four U.S. administrations have done nothing."

To resolve the continuing controversy, Tighe recommended that an independent presidential commission be created and strip custody of the files from the Defense Intelligence Agency.

McDaniel noted that "according to the studies I've seen, 39 percent of us hit the ground alive. Had I known in 1967 what I know now about my government, I could not have hung on [in captivity] for 2,110 days."

He added, "My advice to the boys in the Middle East is: Don't get captured."

# NEWSMAKERS

BEHIND THE SCENES WITH PEOPLE IN THE HEADLINES

## Ex-POW: Gulf troops are uneasy

A man who spent six years in North Vietnam's infamous "Hanoi Hilton" prison camp says today's soldiers fear they'll suffer the same fate.

Eugene "Red" McDaniel, founder of the conservative American Defense Institute, says, "I've given talks at dozens of military bases, and the first question is typically whether I think POWs still remain in Vietnam. I throw the question back at them, and the response is always over 90% 'yes.'"

"That means almost all the servicemen preparing for war in the gulf know the government might abandon them."

McDaniel, 59, has been trying since 1985 to win release of U.S. prisoners he claims are still held in Vietnam. "It's important that we resolve the issue to reassure the troops."

The Pentagon casts doubt on most reports of sightings.

"When I went to war, I was prepared to be killed, to be wounded, even to be a prisoner of war, but I was not prepared to be abandoned by the country that sent me there."

— Carol J. Costas

► Gulf crisis, 5A



McDANIEL: His concern about Iraq: 'We'll have prisoners there if we go to war.'



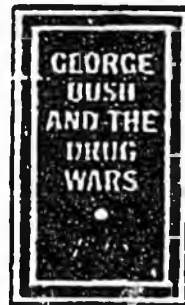
San Francisco  
Examiner  
Oct. 25/90

WARREN  
**HINKLE**

# Has CIA concealed American POWs?

*Well, George, I go in looking for prisoners, but I spend all my time discovering the government has been moving drugs around the world and is involved in illegal arms deals. . . I can't get at the prisoners because of the corruption among our own covert people.*

— Ross Perot, on his search for American POWs in Southeast Asia, to Vice President George Bush, 1987.



William Webster was sworn in as the director of the Central Intelligence Agency on May 26, 1987. He selected, from all the spook books in the CIA library, Bill Stevenson's "A Man Called Intrepid" as the text for his inaugural sermon. It is the story of the ace Brit spymaster Sir William Stephenson, code named In-

trepid. The new CIA boss sought to inspire his troops with Intrepid's uplifting dictum that intelligence work requires man of great integrity, because when you operate in absolute secrecy, free from most rules of behavior, abuse comes easily.

Spy craft expert Stevenson is a veteran Southeast Asia war correspondent who has always been on close professional terms, and generally admiring of, the intelligence services of Great Britain, Israel and the United States. He was a welcome guest at the CIA's sylvan headquarters in rural Langley, Va.

The CIA no longer sets a place for Bill Stevenson at its table.

Stevenson, in a recent book called "Kiss the Boys Goodbye," co-written by his wife, a former producer for "60 Minutes," has reluctantly concluded that the CIA behaved in a beastly fashion toward American POWs still captive in Southeast Asia after the Vietnam peace accords of 1973.

Stevenson says the CIA continued a secret anti-communist

war in Indochina after 1973 — so secret from congressional scrutiny that some of its activities were financed by profits from drug profiteering. Because a full-scale effort to free POWs might expose the agency's clandestine networks in Laos and Cambodia, Stevenson says the CIA abused its secrecy privileged by concealing solid intelligence reports about captured Americans still alive in Southeast Asia.

Even recently, CIA personnel assigned to investigate reports of missing American servicemen were used as cover for recruiting and arming refugees to fight on the side of the genocidal Khmer Rouge against the Hanoi-supported government in Cambodia, said Stevenson.

As late as November 1989 there was a credible report of 20

## OPINION

# POW wife fought like a soldier for 25 years

By Eugene B. McDaniel

**M**arian Shelton, the wife of a POW from the Vietnam War, was buried in Arlington National Cemetery today. She went to her grave convinced that her husband, Air Force Col. Charles Shelton, is still alive somewhere in Southeast Asia. She was equally convinced that evidence of his survival is being suppressed. The mother of five took her own life on Oct. 5 after a quarter of a century of seeking the truth about her husband's fate.

Was she the tragic, but deluded, victim of the prisoner of war controversy? Tragic, yes; deluded, no. The overwhelming weight of evidence is on her side. Incredible as it seems, the issue of Americans still alive in Vietnam is no fantasy.

The evidence has escaped public scrutiny because it is enmeshed in the arcane realm of espionage. A faceless, but powerful, clique of intelligence operatives has controlled certain sensitive foreign policy issues through five presidencies. They control by withholding information, and this will continue until a public outcry puts an end to it.

What is this evidence?

■ 1) Hidden from public view is a large body of precise, high-quality intelligence examined by Lt. Gen. Eugene Tighe, widely regarded as a master of the intelligence craft. What Tighe gleaned from intelligence reports corresponds closely with information provided independently by a Marine who was released from the Vietnamese prison system in 1979.

Before any debriefing, that Marine, Bobby Garwood, endured a court martial on trumped up charges of desertion. Debriefers finally made it



Associated Press  
Marian Shelton

**W**as she the tragic, but deluded, victim of the prisoner of war controversy? Tragic, yes; deluded, no. The overwhelming weight of evidence is on her side. Incredible as it seems, the issue of Americans still alive in Vietnam is no fantasy.

clear to him, even with photos, that visual and human intelligence methods allowed experts to assemble a detailed record of his whereabouts throughout his imprisonment. Marian Shelton managed to obtain documents confirming this astounding capability in regard to other prisoners, including her husband.

■ 2) Texas industrialist H. Ross Perot, a member of a special commission headed by Tighe charged with examining POW evidence in 1986, was invited to visit Hanoi by the Vietnamese leadership. They acknowledged that the Americans were there. Perot's goal was to lay the groundwork for formal negotiations. To his exasperation, his report to President Ronald Reagan brought no action, making it clear that low-level bureaucrats were controlling the issue.

Many will ask: What motive could there be to suppress efforts that could result in the release of these Americans?

The most significant motive pertains to the determination of the "secret government" of intelligence bureaucrats to retain their foreign policy power and

pursue their private agenda. In Southeast Asia, that means keeping up the military pressure against the Hanoi-dominated governments in Laos and Cambodia. Any substantial US Hanoi agreement would threaten this agenda.

Yet another reason is embarrassment. The longer the POWs languished in captivity, the more embarrassing would it be when they were returned to America. The zeal for supporting and waging secret warfare, moreover, led to practices of the sort that, in turn, led to prosecution in the Iran-contra case.

The Vietnamese, for their part, are holding American POWs for the same reason they held French POWs from their previous war — as bargaining chips for aid and diplomatic objectives. The POWs were also collateral for the payment of reparations agreed to by President Richard Nixon, which were never paid.

Over the past several years, I've supplied material and guidance to Monika Jensen-Stevenson and William Stevenson for their recently released book, *Kiss the Boys Goodbye*. Even if one discounts the vast majority of evidence in this book, such as the materi-

al regarding Charles and Marian Shelton, it is clear that we are dealing with a scandal far surpassing Watergate.

Some are astounded that this could occur without someone blowing the whistle. Some have tried, only to be rebuffed at every turn. Marian Shelton and her son, a former military chaplain, were harassed beyond endurance by the unelected foreign policymakers only for voicing what they believed to be true. Others, including decorated Vietnam veterans, have had their credibility questioned for daring to dissent.

The National League of Families, of which Marian was once a national director, has done nothing to stop the effort to silence those who ask too many questions. The league sometimes seems to be contributing to the harassment. Marian once said, "The league was started by wives to force a wartime administration to act on behalf of their men held in prison camps. Now it's run by the government as a front to kill open discussion." Her children urged me to stress that sad reality in this article.

By contrast, many families, active-duty service personnel, former POWs, and veterans are carrying on Marian Shelton's crusade. They're calling for the kind of courage on the part of our elected officials that will lead to the negotiated release of our up-to-now abandoned men before any more of them die.

Marian Shelton's fight is over. She can now rest in Arlington National Cemetery. The fight for our POWs is not over. We cannot rest.

Capit McDaniel (USN-Retired) spent six years in a Hanoi POW camp. He is president of the American Defense Institute in Washington, DC.

# Group offers reward in bid to find MIAs

By LULU YU

A GROUP of Americans setting sail for Vietnam this week is offering US\$2.5 million (HK\$19.5 million) to any one who can produce US servicemen declared missing in action from the Vietnam War.

The group, led by former Congressman Bill Hendon, plans to release hundreds of helium-filled balloons with messages attached to them along the Vietnam coast this weekend.

The messages, wrapped in sandwich bags and written in Vietnamese, will offer the multi-million reward to anyone who can help MIA servicemen escape from the Indochinese countries of Vietnam, Laos and Kampuchea.

Strong winds this time of the year are expected to carry the balloons to extensive areas of Indochina, particularly along the banks of the Mekong River.

The boat which the Americans are using for the ambitious mission is, ironically, one which achieved a similar mission for a group of Vietnamese people 21 years ago.

The 65-ft luxury cruiser was once a tattered fishing boat which refugees used for their escape to Hongkong. Those refugees, who sold their boat to Mr John Scrivener in 1979, have since been reactivated in the US.

On Friday Mr Scrivener will be chartering his cruiser, renamed Little John Thomas, back to where it originally came from — this time in a bid to help Americans escape.

"I don't know any MIAs in Vietnam, but I have a lot of compassion for them. I like to do what I can to help," said Mr



□ Mr Bill Hendon

Scrivener, a fund manager who spent two years working in Vietnam in the late 1960s.

Mr Hendon, a long-time lobbyist for the rescue of MIAs and prisoners of the Vietnam War, said yesterday the mission was the latest in a series of civilian efforts towards the recovery of the missing soldiers.

"We are going to deliver this message: If you can make an American pilot a free man, we'll make you a very rich man. We don't care who that person is, as long as he can bring out an MIA, we'll give him the full reward," said Mr Hendon.

There are an estimated 1,400 servicemen stranded in Vietnam 16 years after American troops pulled out of the country.

Said Mr Hendon, Republican Congressman until 1986 and presently the chairman of the POW Publicity Fund: "The question is no longer whether the men are there. The question is how do we get them out."

"The American Government is still counting on diplo-

macy, but diplomacy has failed for the last 16 years. We're going to do the best we can to spread the word to as many people in Indochina as possible.

"Who knows, maybe someone will get the message in a few days, or in a few months, and we will have the chance of saving one MIA."

Mr Jeffrey Donahue, another long-time champion of the controversial MIA issue, said he and another group of Americans had made a similar attempt at flying message balloons over the Mekong River in September 1987.

Mr Donahue is desperate to rescue his brother, Major Morgan Donahue, whom he believes is alive in Laos.

The 1987 attempt failed when Thai authorities intervened at the Thai-Laos border and put a halt to the release of balloons.

Efforts by Mr Donahue, Mr Hendon and others included dropping message leaflets in the Mekong River, interviewing potential witnesses in Indochina and lobbying Washington for assistance.

Joint American-Vietnamese teams staged an unprecedented search last September for witnesses of plane crashes involving American troops during the Vietnam War.

But, like previous American efforts, the search failed to bring out any MIAs.

Mr Hendon said the US\$2.5 million reward has been pledged by 11 congressmen and lobbyists and represented a first step in the use of a reward incentive.

"If we can bring out just one MIA, I'm sure more money will be pledged and more efforts will be put into it."



Tradition

# Information flows in about Site 85 men

By David E. Hendrix  
The Press-Enterprise

Except for her attorney in a suit against the United States government, Ann Holland in 1985 had worked alone for 17 years in her quest for information about the Site 85 men.

True to the code of secrecy to which the Air Force asked families of Site 85 workers to adhere, none of the workers' wives corresponded with each other.

In July 1985 Holland attended a national convention of relatives of MIAs and found people who had been looking for her because of the suit.

"I found somebody who knew what I was talking about," she said, her voice again choking with emotion. "They hugged me and said, 'You're not alone anymore.'"

Information snowballed to Holland. She hadn't even known that the mountain was called Site 85. She learned that officials knew weeks before the mountain fell that it would be overrun and that some of the men survived and were captured. Her "Deep Throat" source told her the Air Force for 10 days was ready to try to mount a rescue effort but that plans were called off.

She also eventually received from the Air Force a packet of information that included an intelligence report about an American survivor from Phou Pha Thi. The survivor was described as a male Caucasian in his early 20s and wearing light colored glasses.

Melvin would have been 32 at the time of the sighting and did wear glasses.

In the same report, defense intelligence analysts discredited the information solely because it was believed there were no Phou Pha Thi survivors.

"I remember looking at that and saying, 'They did take a prisoner and he was wearing glasses.' And I said, 'Those bastards lied to me,'" she said of Department of Defense personnel.

In March 1986 she received more information that reinforced her beliefs. The Press-Enterprise reported about an alleged CIA-sanctioned clandestine rescue attempt on behalf of Site 85 survivors. Holland was the first family member contacted about the story.

According to four of the team members, who spoke on the condition they not be identified, six American survivors of the Site 85 raid were being held in a Laotian prison cave in 1984. Two members of the attempted rescue team were former CIA agents, one a Special Forces officer and the other an Army intelligence officer.

One of the six Site 85 survivors died of bleeding ulcers in 1985, dropping the number of survivors to five, the team members said. The mission was scuttled by Department of Defense intervention, they said.

The CIA, in keeping with its policy, declined to confirm or deny such an operation. The Defense Intelligence Agency POW/MIA spokesman in 1984, Col. Howard Hill, a former POW himself, said he was unfamiliar with the Site 85 raid.

"Phou Pha Thi Mountain is

where those six were, where those six Air Force guys were taken prisoner," one of the rescue team members said. "They're not on any list, either. What did they do with (accounting for) those people?" the source asked.

In 1988, Holland and other Site 85 families received additional information, this from a man who claimed to be a former Air Force intelligence officer who was researching Site 85. The man, who also provided information to The Press-Enterprise on the condition he not be identified by name, disclosed detailed information previously known only to a limited number of military and intelligence officials and recently publicized in the book "Kiss The Boys Goodbye."

The man said two Australian journalists met with American POWs held near Laung Prabang in central Laos in 1987. Just before leaving Laos, the journalists allegedly were handed five photographs of Americans then being held in a northern Laotian POW camp.

"Each picture had a name, written in both Laotian and English on the back of the photograph," a written statement from the man said. One of the five names was Holland. Another of the last names was Price. One of the missing Site 85 technicians is David S. Price.

The man in mid-1988 severed contact with the families and The Press-Enterprise and disappeared. Edits by congressional investigators to find him have proved fruitless.

Another report that at least three Americans survived the Site 85 assault came in late October in a San Bernardino interview. A former Thai intelligence officer, one of four Thai fieldworkers who supervised activities for the CIA in Laos, said he directed field interrogations of captured communist officers because of his linguistic skills.

The former CIA contract officer, who spoke on condition he not be identified because he feared reprisals against family members in Southeast Asia, said one of the captured officers was a North Vietnamese lieutenant named Chi. Chi, the Thai officer said, told him that at least three Americans from Site 85 were captured.

The Thai officer said he kept Lt. Chi as a servant for a lengthy period and found him to be a truthful man. The Thai said he was reassigned and after the fall of Laos told other CIA fieldworkers what had happened to Chi. Chi, the Thai was told, was taken up in a helicopter and pushed out the door.

**PLAN GREAT WEEKENDS WITH**

**Guide**

Every Friday in

THE PRESS-ENTERPRISE

UNIVERSAL

TEAM 2  
GAMES ON TABLE  
with frame  
from Square  
Cocktail, End  
of Sofa Table,  
YOUR  
CHOICE

Compare at \$1200  
\$6788  
Monthly payment \$118

5-piece Living  
Table and 4 chairs  
Monthly payment

**CLOSED TODAY**

**RSB FURNITURE**

**YEAR**

**SHOP TOMORROW**

**ULTIMATE B**

**Sealy MATTE**

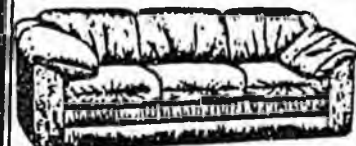
**BUY IT TODAY**

7 DAYS A WEEK on any Sealy Po  
★ PLUS FREE DELIVERY ★ PL  
★ PLUS 30 DAY SLEEP SATISFA

**LOWEST PRI**

SEALY	TWIN EA. PC.	FULL EA. PC.	QUEEN SET
CLASSIC REST DELUXE POSTURE PILLOW	\$439 <sup>99</sup>	\$829 <sup>99</sup>	\$1079 <sup>99</sup>
INTREPID POSTUREPEDIC	\$779 <sup>99</sup>	\$1279 <sup>99</sup>	\$1779 <sup>99</sup>
	\$979 <sup>99</sup>	\$1679 <sup>99</sup>	\$2379 <sup>99</sup>

\* All prices include delivery. \*\* Minimum and maximum delivery rates. Mattress Plus is registered in the U.S. Patent Office. All other names and brands are those of their owners.



Contemporary styling with plush cushions in a luxurious suede-like bone fabric. Monthly as low as \$188. **\$39788** Compare at \$1000

US Compare at \$1000 Sofa Compare at \$1000



Contemporary style tufted arm in linen, natural fabric. **BOTH SOFA & LOVESEAT** Monthly payment as low as \$128. **\$59788** Compare at \$1000

\* DOUBLE THE DIFFERENCE PRICE GUARANTEE. If you can't get your price lower, we'll give you \$1000. \*\* The actual purchase price and amount financed is based on financing. RSB will finance the purchase for you. US Compare at \$1000.

RIVERSIDE: 10000 Magnolia (714) 687-6770 • S RANCHO MIRAGE: 72



STORE HOURS: MONDAY THROUGH FRIDAY 10 AM TO 8 PM • SATURDAY 10 AM TO 6 PM

All Sof  
R

All Se  
Sleep

All Din  
Dinet

All B  
Re

All Occa  
& Table



STATE OF OKLAHOMA  
 HOUSE OF REPRESENTATIVES  
 STATE CAPITOL  
 OKLAHOMA CITY, OKLAHOMA 73105-4885

RECEIVED  
 APR 06 1991

JERRY W. HEFNER  
 State Representative  
 District 12

State Capitol Bldg.  
 Room 304E  
 Oklahoma City, OK 73105-4885  
 (405) 521-2711

COMMITTEES:  
 Veterans Affairs  
 Chairman

Energy, Environment and  
 Natural Resources  
 Tourism and Recreation  
 Transportation  
 Rules

April 4, 1991

*Rep. Luan*

The Honorable ~~Ben~~ Grussendorf  
 Speaker of the House  
 State Capitol  
 P. O. Box V  
 Juneau, AK 99811

Dear Speaker Grussendorf:

The Oklahoma House of Representatives sponsored a Public Hearing at the State Capitol on March 26th of this year for the purpose of increasing the federal government's involvement in locating the POW/MIA's from the Viet Nam, Laos and Korean wars.

House Concurrent Resolution 1013 was passed in support of this effort. I am writing to encourage Alaska to join us in this endeavor and I am challenging every state to pass a Resolution to do the same. This still is an extremely important issue and hopefully by working together, we can change the process to locate our missing prisoners of war and bring them home.

Time is of the essence. Minnesota and Florida passed a similar Resolution and other states have pending legislation. Please let me know if you will be able to help. If you have any questions or need background information, please do not hesitate to contact me.

Sincerely,

*Jerry W. Hefner*

Jerry W. Hefner  
 State Representative  
 District 12

JWH/pi

# Alaska State Legislature

## House of Representatives

Rep. Ivan, Chair  
Rep. Davidson  
Rep. Foster  
Rep. Gruenberg  
Rep. M.W. Miller



P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4527

### Special Committee on Military & Veterans Affairs

## *Tom Wright's testimony*

House Joint Resolution 41 was introduced by the House Special Committee on Military and Veterans Affairs to recognize that POW/MIA's probably still exist in Southeast Asia. The resolution requests that Congress increase the federal governments involvement in locating POW/MIA's from the Viet Nam, Laos and Korean Wars. Other states are passing similar resolutions.

In 1990, the U.S. Senate Foreign Relations Committee released an interim report that concluded that American Service personnel were held in Southeast Asia after the end of the Viet Nam conflict and that information available to the U.S. government does not rule out the probability that American service personnel are still being held. In fact, the Department of Defense has received more than 11,700 live sighting reports of POW/MIA's since 1973, 1,400 of those are first-hand, live sighting reports, and the department admits there are a number of unresolved and discrepancy cases.

The resolution requests Congress to appoint a select committee to assist in the obtaining of information in government files on missing American service personnel; urges Congress to begin committee hearings immediately to consider enacting the POW/MIA Truth Bill, H.R. 1147, introduced by Representative John Miller of ~~VA~~ and requests Congress to continue funding its investigation into the status of missing American service personnel in an effort to resolve the POW/MIA situation in Southeast Asia.



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 10, 1991

PLACE: Capitol Room 102

**SUBJECT OF MEETING:**  
 HB 198 - Relating to Legislative Sessions to be in Mat-Su Borough  
 \*HB 308 - Relating to Adoption of Emergency Regulations  
 \*HB 155 - Relating to Barrier-Free Remodeling Fund

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Ernie Polley	Self	634 W. 12th	99801	6-1437		(Y) N	HB 198
George Rogers	Self	1790 Evergreen Av. 1UN	99801	6-1202		(Y) N	HB 198
Carolyn Burg	Self	P.O. Box 20005 Juneau, Alaska	99802-0005	6-4757		(Y) N	HB 198
Renda Heimbecker	Self	8345 Old Dairy Rd Juneau, AK 99801	99801	9-9532	9-4144	(Y) (N)	HB 198
Chuck Alberg	Self	2000 Winter Blvd #200 Juneau AK	99801	9-1871	6-6874	(Y) N	HB 198
Jim Kover	JUNEAU ECON. DEV. COUNCIL	124 W. 5th St. Juneau	99801	6-1905	465-3662	(Y) N	HB 198
Bill Patten	Self	1567 Evergreen	99801	6-2247		Y N	198
Bruce Botelho	CSB	4012 DOUGLAS Box 210348	99824	4-2334	6-5381	(Y) N	HB 198
Peter McDowell		Avuk. Bay 99821		3-3663		(Y) N	HB 198
Kay Siebel	self	8923 Tanis, Jno 99801		789-7586	586-6868	(Y) N	HB 198
Tom Wright	Committee on Mil & Vet Affairs	P.O. Box K Juneau	99801	4527		(Y) N	HB 198



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 10, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

\*HB 157 - Relating to Approp: Barrier Free Facility Fund  
 HJR 41 - Relating to MIA/POW American Service Personnel

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ Jon Carter	Self	3875 Seaview Ave Juneau		789-0563	463-5114	(Y) N	HB 198
✓ Sandy Williams	Self	640 5th St Douglas		364-2243	463-5114	(Y) N	HB 198
✓ JOE POOR	JUNEAN CHANSEN	124 W 5th Juneau		4-2804	6-6420	(Y) N	HB 198
✓ VAL POOR	Self	15745 Glacier Hwy		289-2254		(Y) N	HB 198
✓ ROSIE PETERSON	Self	239 W 7th Juneau		6-3625		(Y) N	HB 198
✓ Debbie Bales	Self	6550 N D St		66796		(Y) N	HB 198
✓ Molly Smith	Self	914 3rd Douglas		6-1265		(Y) N	HB 198
✓ Clark Luevina's	Self	217 Second Juneau 204		6-8110		(Y) N	HB 198
✓ Mary J. Durdan	Self	P.O. Box 21211	99802	6-3340		(Y) N	HB 198
						Y N	
						Y N	

HJR

45

# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 1, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 1/25/92

The STATE AFFAIRS Committee considered:

HJR 45

HOUSE JOINT RESOLUTION NO. 45

REAPPORTIONMENT BOARD & REAPPORTIONMENT

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

**RECOMMENDATIONS:**

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

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

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

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Office of the Gov.

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

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

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene A. Kukhina</i>		<i>Dave Kusicki</i>		<input checked="" type="checkbox"/>	
<i>Tom Mays</i>	<input checked="" type="checkbox"/>	<i>Janice S. ...</i>			
<i>...</i>	<input checked="" type="checkbox"/>	<i>Mike Miller</i>	<input checked="" type="checkbox"/>		
		<i>...</i>		<input checked="" type="checkbox"/>	

*Eugene A. Kukhina*  
CHAIRMAN'S SIGNATURE

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

February 5, 1991

**SUBJECT:** Constitutionality under U.S. Constitution of Article VI sections of Alaska constitution (Work Order No. 7LS0653)

**TO:** Representative Dave Donley  
Attn: Laurie Otto

**FROM:** John B. Gaguine *JBG*  
Legislative Counsel

Since the "one person, one vote" decisions of the U.S. Supreme Court in the early 1960s (Baker v. Carr, 369 U.S. 186, 7 L.Ed.2d 663 (1962); Reynolds v. Sims, 377 U.S. 533, 12 L.Ed.2d 506 (1964); and many others), it is obvious that many of the provisions of the reapportionment article of the Alaska Constitution, article six, are unconstitutional under the federal constitution. Some of these have been specifically held unconstitutional by the Alaska Supreme Court, and others have been simply ignored. You have asked for an analysis of the constitutionality of Article VI, sections 1 - 7.

Section 1 is still constitutional. That section provides that members of the house of representatives shall be elected by the qualified voters of the respective election districts. Under section 3, the election districts are to be reapportioned "immediately following the official reporting of each decennial census of the United States." This has been done by the governor and the Reapportionment Board (sections 8 - 10), and the most recent reapportionment of house districts (Article XIV, Sections 1 and 3, proclaimed by the governor in 1984) has been upheld by the Alaska Supreme Court. Kenai Peninsula Borough v. State, 743 P.2d 1352, 1358-61 (Alaska 1987).

Section 2 is not constitutional as written. It provides that members of the senate shall be elected by the qualified voters of the respective senate districts set forth in Article XIV, Section 2 of the original constitution, subject to changes authorized in Article VI. In Wade v. Nolan, 414 P.2d 689 (Alaska 1966), the Alaska Supreme Court reached the inescapable conclusion that those senate districts did not comport with the U.S. Constitution. The court also ruled that the governor and the Reapportionment Board could reapportion the senate on a constitutional basis, even though the

LEGAL OPINION - CONSTITUTIONALITY

Representative Dave Donley

February 5, 1991

Page 2

Alaska Constitution only gave the governor and the board reapportionment authority as to the house.

Since Wade the Alaska constitution has been treated as though amended. The governor and the Reapportionment Board are now seen by all, including the courts, as having the power to reapportion the senate as well as the house. Thus, for instance, current Article XIV, Section 2, relating to senate districts, was promulgated by the governor, with the advice of the board, under Article VI, Section 10. Kenai Peninsula Borough, supra at 1364 (citing Egan v. Hammond, 502 P.2d 856, 874 (Alaska 1972)), notes that because the constitution has never been amended with regard to senate reapportionment, "the governor's implied power to reapportion senate districts therefore remains in force under Wade."

The first sentence of section 3 ("The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States") is still constitutional, although, as noted, it is now being interpreted as allowing reapportionment of the senate as well. The second sentence ("Reapportionment shall be based upon civilian population within each election district as reported by the census") was ruled unconstitutional by the Alaska Supreme Court in Egan v. Hammond, supra at 868-69, because it totally disenfranchised the military in Alaska, in violation of several decisions of the U.S. Supreme Court. Egan also ruled that the portion of the sentence requiring use of census data in reapportionment was also unconstitutional, because it could not be severed from the unconstitutional "civilian population" part. Id., at 870-71.

However, the Egan court ruled, id. at 869, that the state could legitimately exclude some (but not all) military personnel as a permissible device for limiting the impact of transients and non-residents; specific formulas for such exclusion were upheld by the court in Groh v. Egan, 526 P.2d 863, 869-74 (Alaska 1974), and in Carpenter v. Hammond, 667 P.2d 1204, 1210-13 (Alaska), appeal dismissed, 464 U.S. 801, 78 L.Ed.2d 67 (1983). And the Groh v. Egan court ruled that, although the Reapportionment Board was not constitutionally required to use 1970 census data when it reapportioned in 1973, it did not abuse its discretion in using this data, especially since it explained in its order why using more recent data would be impractical. 526 P.2d at 867-69. Thus, the second sentence of section 3 still has considerable validity.

Sections 4 and 5 are rather turgid. I believe that their intent is that the governor, in reapportioning, should adhere to the election districts set out in original Article XIV even if such adherence leads to districts with quite different populations. If my reading is correct, then these sections are inconsistent with the U.S. Supreme Court decisions, which have only tolerated very small variances. At any rate, sections 4 and 5 appear to be a dead letters, no longer considered by the reapportionment boards or cited by the courts in their reapportionment decisions.

Representative Dave Donley

February 5, 1991

Page 3

Insofar as section 6 refers to the retaining or combining election districts provided in sections 4 and 5, it too is unconstitutional and a dead letter. Its reference to the "civilian" population is also unconstitutional. Other than that, section 6 appears alive and well. No one has argued that the governor and the board may not or should not give consideration to local government boundaries, or that they may not or should not use drainage and other geographic features wherever possible in describing district boundaries. As to the requirement that house election districts contain "as nearly as practicable a relatively integrated socio-economic area," that was upheld in Carpenter, supra (where the court held that Cordova was improperly joined with House District 2, the Southeast "iceworm" district), even though the likely result would be to increase the population disparities between house districts. (The court in Kenai Peninsula Borough, supra at 1358-61, upheld a smaller "iceworm" district established by the Reapportionment Board as the result of Carpenter. Kenai Peninsula Borough also ruled, at 1364-65, that the "integrated socio-economic area" requirement did not apply to senate districts.)

Section 7 is clearly unconstitutional and dead. Like Section 2, its intent was to preserve senate districts based on geographic area and not population. Thus, although it allowed the governor to modify senate districts based on changes in election (house) districts, it required that each senate district retain its total number of senators and its approximate perimeter.

I hope that this memorandum has been of assistance to you. Please let me know if I can be of further assistance.

JBG:mi  
91-020.mai

**DIVISION OF LEGAL SERVICES****LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

**MEMORANDUM**

November 8, 1991

**SUBJECT:** CSHJR 45 (State Affairs)

**TO:** Representative Gene Kubina  
Chair, House State Affairs Committee  
Attn: Annie

**FROM:** John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

Enclosed is a draft CSHJR 45 (State Affairs), incorporating the changes to HJR 45 that you requested, with one exception. There is no lapse date for the transitional provision; I asked Dave Dierdorff about this, and he indicated, as I suspected he would, that a lapse date was not appropriate. Transitional provisions remain in the constitution, even when they are obsolete.

There is one provision of this resolution that I believe may violate the federal constitution: the provision (part of article VI, section 10(c)) that if census data is not available in time, the old districts stay in effect for the first post-census election. I believe that this provision may violate the equal protection clause of the Fourteenth Amendment, as construed by the U.S. Supreme Court in the one-person, one vote cases. The California Supreme Court in 1982 ruled that the old districts could not stay in place, when the legislature failed to produce a plan by 1982; instead the court imposed an interim plan. Assembly v. Deukmejian, 639 P.2d 939, 955-61 (Cal. 1982). However, the California court did not cite any direct authority that an interim plan was required, and three of the seven justices concluded that an interim plan was not required, and that the districts in effect during the 1970's could stay in effect for 1982. At any rate, as Laurie Otto notes, subsection (c) will likely never be invoked, as the census data will always be available by September of the following year.<sup>U</sup>

---

<sup>U</sup> Question: If this situation will never arise, why have a provision in the constitution addressing it? I suppose the answer is that there is an extremely remote possibility that it might arise. My feeling, though, is that the constitution - the foundational document of state government - should not concern itself with extremely remote possibilities. If the situation did arise, the supreme court could address it, just as the court very capably addressed the matter of reapportioning the state senate - which the constitution did not (and still does not) provide for - after the one person, one vote decisions of the U.S. Supreme Court.

LEGAL SERVICES 003  
Representative Gene Kubina  
November 8, 1991  
Page 2

With Laurie's agreement, I provided that if the Reapportionment Board, on its second try (if the supreme court rejects all the plans), still cannot come up with a plan that can win a two-thirds vote, then the supreme court is free to adopt any plan that it wants. I also eliminated the provision that all members serve at the pleasure of the entity appointing them. That provision would have greatly increased the likelihood of no two-thirds vote, since a member of one party who was expressing inclination to support another party's plan could then be removed by the entity that appointed the member solely because of the member's expressed inclination.

As I have told Annie, I will be leaving this office on Friday to go to work for the Department of Law, so any further work on this bill, and on other elections and reapportionment questions, will be done by someone else. I don't know yet who that someone else will be. I have enjoyed working with you and with the fine folks on your staff.

JBG:mi  
91-184.mai

Enclosure

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HJR 45

Revision Date: \_\_\_\_\_ Department Affected: Office of the Governor/Elections  
 Title: Ammend. to the Constitution -re-reapportionment of the legislature. BRU: Division of Elections  
 Component: II - Primary and General Elections  
 Sponsor: House Judiciary Committee  
 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: Elizabeth Ziegler, Deputy Director Phone: 465-4611  
 Division: Elections Date: 9/25/91  
 Approved by Commissioner: D. Max Hodel, Chief of Staff  
 Agency: Office of the Governor Date: 9/25/91

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

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HJR 45

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

Department Affected: Office of the Governor-Elections  
BRU: Division of Elections  
Component: 11 - Primary and General Elections

COMPONENT SERIAL NO.

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

Expenditures/Revenues: (Thousands of Dollars)

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: 0

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

Prepared by: Elizabeth Ziegler, Deputy Director  
Division: Elections

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

Approved by Commissioner: *Charlotte E. Thrickett*  
Agency: Office of the Governor

Date: 01/10/92

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

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE DONLEY

TO: Draft CSHJR 45 (State Affairs)

Page 4, lines 23 - 29:

Delete all material and insert:

"Within ten days of receipt of the transmittal, the supreme court shall appoint a panel of three superior court judges and transmit to the panel not more than the three proposals that received the greatest number of votes by the board. Within forty-five days of the transmittal, the panel shall adopt one of the proposals transmitted without change as a final plan. The supreme court shall adopt rules for proceedings before the three-judge panel under this subsection."

Page 5, line 17, after "Reapportionment Board":

Insert: "or the three-judge superior court panel appointed by the supreme court under Section 10 of this article"

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

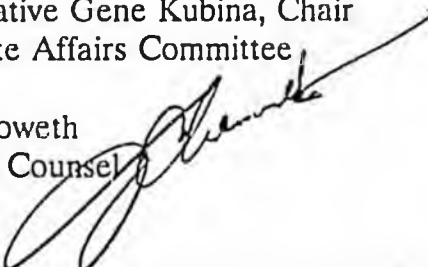
240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

MEMORANDUM

January 21, 1992

**SUBJECT:** Draft CSHJR 45 (State Affairs) (Legislative reapportionment)  
(Work Order No. 7-LS1035D)

**TO:** Representative Gene Kubina, Chair  
House State Affairs Committee

**FROM:** Jack Chenoweth  
Legislative Counsel 

I have been assigned responsibility for further work on this measure.

Looking at the proposed committee substitute resolution with a fresh perspective, I'd like to propose a number of technical changes for the committee's consideration.

I

In sections 2 and 3, amending art. VI, secs. 1 and 2, respectively, a specific reference to the party responsible for districting (" . . . districts shall be set by the Reapportionment Board . . .") has been omitted in this version. Somewhere in the measure the districting (i.e line drawing) responsibility should be formally assigned. Since redistricting is a function of reapportionment and reapportionment may be handled by the Reapportionment Board or the court, the handiest way to accomplish that would seem to me to be to expand the last sentence of subsection (a) of art. VI, sec. 10 (sec. 9 of the resolution) to read:

The final reapportionment plan adopted under this section shall set out election district and senate district boundaries and [REDISTRICTING] shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

In this way, whichever entity actually reapportions is also required to redistrict.

II

The distinction between the establishment of the Reapportionment Board under art. VI, sec. 8 (sec. 7 of the resolution) and the enumeration of the responsibilities of that board under art. VI, sec. 10 (sec. 9 of the resolution) should be maintained. Since the duties of the board are set out at length in the latter section, and since reapportionment may in certain circumstances be accomplished by the court, the reference to reapportionment being conducted by the board set out in the earlier section may be omitted. The first sentence of subsection (a) of art. VI, sec. 8 should be revised to read:

(a) There shall be a Reapportionment Board [THE GOVERNOR SHALL APPOINT A REAPPORTIONMENT BOARD TO ACT IN AN ADVISORY CAPACITY TO HIM].

III

In order to provide certainty to the several critical benchmark reference dates set out in art. VI, sec. 10--dates that may also be critical to the enforcement clause, art. VI, sec. 11--I would encourage adoption of the following changes in the new language being added in subsection (a) of that section:

(a) Except as provided under (c) of this section, no later than the date that is eighteen months before the date of the first general election following the official reporting of each decennial census, the Reapportionment Board shall adopt a proposed reapportionment plan. . . . No later than the date that is fourteen months before the date of the first general election following the official reporting of each decennial census, the board shall adopt a final reapportionment plan.

and in the new language set out at the beginning of subsection (c):

(c) If the data from a decennial census is not available to the board by the date that is sixteen months before the date of the first general election following a decennial census year . . .

These changes should allow the board, the court, and parties seeking to use the enforcement provision to determine deadlines with specificity.

JC:gc  
92-034.glc  
Enclosure

cc: Representative Dave Donley

# Alaska State Legislature



## House of Representatives

House Judiciary Committee

### SPONSOR STATEMENT

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

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

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

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

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

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

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

November 8, 1991

**SUBJECT:** CSHJR 45 (State Affairs)

**TO:** Representative Gene Kubina  
Chair, House State Affairs Committee  
Attn: Annie

**FROM:** John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

Enclosed is a draft CSHJR 45 (State Affairs), incorporating the changes to HJR 45 that you requested, with one exception. There is no lapse date for the transitional provision; I asked Dave Dierdorff about this, and he indicated, as I suspected he would, that a lapse date was not appropriate. Transitional provisions remain in the constitution, even when they are obsolete.

There is one provision of this resolution that I believe may violate the federal constitution: the provision (part of article VI, section 10(c)) that if census data is not available in time, the old districts stay in effect for the first post-census election. I believe that this provision may violate the equal protection clause of the Fourteenth Amendment, as construed by the U.S. Supreme Court in the one-person, one vote cases. The California Supreme Court in 1982 ruled that the old districts could not stay in place, when the legislature failed to produce a plan by 1982; instead the court imposed an interim plan. Assembly v. Deukmejian, 639 P.2d 939, 955-61 (Cal. 1982). However, the California court did not cite any direct authority that an interim plan was required, and three of the seven justices concluded that an interim plan was not required, and that the districts in effect during the 1970's could stay in effect for 1982. At any rate, as Laurie Otto notes, subsection (c) will likely never be invoked, as the census data will always be available by September of the following year.<sup>1/</sup>

---

<sup>1/</sup> Question: if this situation will never arise, why have a provision in the constitution addressing it? I suppose the answer is that there is an extremely remote possibility that it might arise. My feeling, though, is that the constitution - the foundational document of state government - should not concern itself with extremely remote possibilities. If the situation did arise, the supreme court could address it, just as the court very capably addressed the matter of reapportioning the state senate - which the constitution did not (and still does not) provide for - after the one person, one vote decisions of the U.S. Supreme Court.

Representative Gene Kubina  
November 8, 1991  
Page 2

With Laurie's agreement, I provided that if the Reapportionment Board, on its second try (if the supreme court rejects all the plans), still cannot come up with a plan that can win a two-thirds vote, then the supreme court is free to adopt any plan that it wants. I also eliminated the provision that all members serve at the pleasure of the entity appointing them. That provision would have greatly increased the likelihood of no two-thirds vote, since a member of one party who was expressing inclination to support another party's plan could then be removed by the entity that appointed the member solely because of the member's expressed inclination.

As I have told Annie, I will be leaving this office on Friday to go to work for the Department of Law, so any further work on this bill, and on other elections and reapportionment questions, will be done by someone else. I don't know yet who that someone else will be. I have enjoyed working with you and with the fine folks on your staff.

JBG:mi  
91-184.mai

Enclosure

# Alaska State Legislature

130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Legislative Research Agency



Phone: (907) 465-3991  
Fax: (907) 463-3351

November 20, 1991

RECEIVED  
DEC 4 1991

## MEMORANDUM

TO: Representative Dave Donley  
FROM: Gordon S. Harrison, Director *gsh*  
RE: Waiving District Residency Requirements After Redistricting

Some time ago you asked us to look for electoral laws of other states that waive the usual district residency requirements for a period after a legislative redistricting. We could not find any at the time, nor have we since seen any reference to existing laws of this kind (although they may well exist). However, there appear to be *constitutional* provisions in at least four states that relax district residency requirements immediately after redistricting. These are mentioned in footnotes to a table on electoral qualifications for legislators that appears in the *Book of the States, 1990-91*. Also, a constitutional study published prior to the 1970 Illinois constitutional convention recommends such a provision. The recommendation was apparently favorably received by the convention delegates and voters, as Illinois is one of the four states with such a provision.

Attachments

Waiving District  
Leg. Research-Residency Requirements  
After Redistricting

**Table 3.5**  
**THE LEGISLATORS: QUALIFICATIONS FOR ELECTION**

State or other jurisdiction	House					Senate				
	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)
Alabama	21	...	3 (a)	1	...	25	...	3 (a)	1	...
Alaska	21	...	3	1	*	25	...	3	1	*
Arizona	25	*	3	1	...	25	*	3	1	...
Arkansas	21	*	2	1	*	25	*	2	1	*
California	18	3	3	1	*	18	3	3	1	*
Colorado	25	*	...	1	...	25	*	...	1	...
Connecticut	18	...	...	*	*	18	...	...	*	*
Delaware	24	...	3 (a)	1	...	27	...	3 (a)	1	...
Florida	21	...	2	*	*	21	...	2	*	*
Georgia	21	*	(a)	1	...	25	*	(a)	1	...
Hawaii	18	...	3	(b)	*	18	...	3	(b)	*
Idaho	18	*	...	1	*	18	*	...	1	*
Illinois	21	*	...	2 (c)	...	21	*	...	2 (c)	...
Indiana	21	*	2	1	...	25	*	2	1	...
Iowa	21	*	1	60 da.	...	25	*	1	60 da.	...
Kansas	18	...	...	*	*	18	...	...	*	*
Kentucky	24	...	2 (n)	1	...	30	...	6 (a)	1	...
Louisiana	18	...	2	1	*	18	...	2	1	*
Maine	21	5	1	(r)	...	25	5	1	(r)	...
Maryland	21	...	1 (a)	6 mo. (d)	*	25	...	1 (a)	6 mo. (d)	*
Massachusetts	18	...	...	1	...	18	...	5	*	...
Michigan (e)	21	*	...	(b)	*	21	*	...	(b)	*
Minnesota	21	...	1	6 mo.	*	21	...	1	6 mo.	*
Mississippi	21	...	4 (a)	...	*	25	...	4	...	4
Missouri	24	...	...	1 (f)	2	30	...	...	1 (f)	3
Montana (g)	18	...	1 (a)	6 mo. (h)	*	18	...	1 (a)	6 mo. (h)	*
Nebraska	U	U	U	U	U	21	...	...	1	*
Nevada	21	...	1 (a)	(b)	*	21	...	1 (a)	(b)	*
New Hampshire	18	...	2	*	...	30	...	7 (a)	*	...
New Jersey	21	...	2 (a)	1	*	30	...	4 (a)	1	*
New Mexico	21	...	...	*	...	25	...	...	*	...
New York	18	*	5	1 (i)	...	18	*	5	1 (i)	...
North Carolina	(j)	*	1	1	*	25	*	2 (a)	1	*
North Dakota	18	...	1	(b)	*	18	...	1	(b)	*
Ohio (k)	18	...	...	1	*	18	...	...	1	*
Oklahoma	21	...	...	(b)	*	25	...	...	(b)	*
Oregon	21	*	...	1	...	21	*	...	1	...
Pennsylvania	21	...	4 (a)	1	...	25	...	4 (a)	1	...
Rhode Island (l)	18	...	...	...	*	18	...	...	...	*
South Carolina	21	...	...	(b)	*	25	...	...	(b)	*
South Dakota (k,l)	25	*	2	(b)	*	25	*	2	(b)	*
Tennessee	21	*	(a)	1 (b)	*	30	*	3	1 (b)	*
Texas	21	*	2	1	*	26	*	5	1	*
Utah	25	*	3	6 mo. (b)	*	25	*	3	6 mo. (b)	*
Vermont	18	...	2	1	...	18	...	2	1	...

LEGISLATURES

## THE LEGISLATORS: QUALIFICATIONS FOR ELECTION—Continued

State or other jurisdiction	House					Senate				
	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)
Virginia.....	21	...	...	*	*	21	...	...	*	*
Washington.....	18	*	...	(b)	*	18	*	...	(b)	*
West Virginia(l).....	18	...	(a)	1	*	25	...	(a)	1	*
Wisconsin.....	18	...	1	(b)	*	18	...	1	(b)	*
Wyoming.....	21	*	(a)	1	...	25	*	(a)	1	...
Dist. of Columbia.....	U	U	U	U	U	18	...	1	*	*
American Samoa (l) ..	25	* (m)	5	1	...	30 (n)	* (m)	5	1	...
Guam (o).....	U	U	U	U	U	25	*	5	...	...
No. Mariann Islands...	21	...	3	...	*	25	...	5	...	*
Puerto Rico(p).....	25	*	2 (a)	1 (q)	...	30	*	2 (a)	1 (q)	...
U.S. Virgin Islands (o).	U	U	U	U	U	21	*	3	...	*

Note: This table includes constitutional and statutory provisions.

**Key:**

U — Unicameral legislature; members are called senators, except in District of Columbia.

\* — Formal provision; number of years not specified.

... — No formal provision.

(a) Additional state citizenship requirement. Alabama, Delaware—three years. Georgia, New Jersey—House, two years; Senate, four years. Mississippi—four years. New Hampshire—seven years. North Carolina—two years. Pennsylvania—four years. West Virginia—five years.

(b) Must be a qualified voter of the district; number of years not specified.

(c) Following redistricting, a candidate may be elected from any district that contains a part of the district in which he resided at the time of redistricting, and reelected if a resident of the new district he represents for 18 months prior to reelection.

(d) If the district was established for less than six months, residency is length of establishment of district.

(e) No person convicted of a felony or breach of public trust within preceding 20 years or convicted of subversion shall be eligible.

(f) Only if the district has been in existence for one year; if not, then legislator must have been a one year resident of the district(s) from which the new district was created.

(g) No person convicted of a felony is eligible to hold office until final discharge from state supervision.

(h) Shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

(i) After redistricting, must have been a resident of the county in which the district is contained for one year immediately preceding election.

(j) A conflict exists between two articles of the constitution, one specifying age for House members (i.e., "qualified voter of the state") and the other related to general eligibility for elective office (i.e., "every qualified voter . . . who is 21 years of age . . . shall be eligible for election").

(k) No person convicted of embezzlement of public funds shall hold any office.

(l) Disqualification for bribery. In South Dakota and West Virginia, disqualification also for perjury or other infamous crimes. In American Samoa, also for felony.

(m) Or U.S. national.

(n) Must be registered male.

(o) Disqualification for felony or crime involving moral turpitude unless person received pardon restoring civil rights.

(p) Read and write the Spanish or English language.

(q) When there is more than one representative district in a municipality, residence in the municipality shall satisfy this requirement.

(r) Must be district resident at time of nomination.

LEGISLATURES