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T H E M I L I T A R Y C O A L I T I O N

201 North Washington Street
Alexandria, Virginia 22314

STATEMENT OF
THE MILITARY COALITION
before the
Subcommittee on Taxation
of the
SENATE FINANCE COMMITTEE
JUNE 12, 1991

Dear Mr. Chairman:

The Military Coalition (see attached list), representing over three and one-half million active duty, retired, Guard and Reserve members of the seven uniformed services and their widows and dependents, wishes to express its appreciation for the opportunity to present this statement for the record in support of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

Mr. Chairman, the Military Coalition as well as other concerned organizations have been working diligently for the past several years to remedy what we collectively consider to be a grave injustice. This injustice allows a state to continue to tax the pension or retirement incomes of former residents once they leave that state to go to another jurisdiction.

It is no secret that the ranks of retired people in the United States are growing. With improvements in health care and treatment, retirees are living longer, more active lives. They move more readily from one locale to another, bringing with them very little except their retirement incomes. Often this pension or retirement check, earned over many years of hard work, is all they have to live on. Yet, Mr. Chairman, we have states today, who reach out and grab a portion of that retirement, regardless of whether they have a fiscal need to provide for these citizens or not.

The vehicle or method States use for this "grab" has come to be known as a source tax. Simply put, a source tax is an income tax levied on the total income earned by a former state resident, regardless of what or where the source of that income may be - either from sources within or without the taxing jurisdiction!

Mr. Chairman, we strongly urge the Committee's favorable consideration of S. 267 which seeks to abolish this tax for the following reasons:

- o It would abolish a blatant form of "taxation without representation". Since the affected retirees no longer live in the state, derive no benefit from the state and can no longer vote in that state, they should not be taxed by that state;

o In many cases, the monies put into a retirement fund are taxed by the state at the outset. To allow the same state to tax it again is a form of double taxation;

o With regard to military personnel and some federal retirees, oftentimes the only reason they were ever in the taxing state was as a result of their federal employment. Additionally, these people are subjected to multiple moves during the course of their careers, often living and working in several different states. Under the source taxing authority presently extant in these states, it is entirely possible that, at the end of their careers, these people could have source taxes applied on their retired incomes by each of these states - simultaneously - and yet not reside in any of them;

o A tax of this nature has a totally chilling affect on the freedom of movement and freedom of choice enjoyed by all Americans. It makes former residents of source tax states virtual prisoners of those states by imposing a continuing liability on their pensions - no matter where they go.

Mr. Chairman, we would like to close with just one of the many stories we've received on this subject. An individual has worked hard all of his life, paid taxes to his respective state of residence, saved whatever was left and invested in a modest retirement plan. Now the day comes to retire and realize a life's dream. The individual moves to a state with no income taxes and lives there for several years. Then one day, upon opening the mail, he finds a letter from his former state announcing that several thousand dollars in back taxes are owed, demanding immediate payment and threatening the loss of home and property if payment is not received. Furthermore, he is informed that taxes will be owed on retirement income for the rest of his life, because part or all of it was earned while working in the former state. The individual then asks himself why; why does he owe taxes to a state in which he hasn't lived for several years? Didn't he pay enough taxes while he lived and worked there? What is the former state doing for him? Is he going to have to live out his days constantly facing this tax burden? How is he going to live on the small pension he has earned if he has to pay these taxes every year?

Mr. Chairman, we in the Military Coalition strongly believe that the only way to remedy this depressing and frustrating dilemma facing many senior retired Americans is to afford them the protection they have earned and deserve. And that way, Mr. Chairman, is to favorably report out of Committee Senator Reid's bill, S. 267.

Respectfully Submitted,

The Military Coalition
(Signatures Attached)

RESIST OF AMERICA

Retirees to Eliminate State Income Source Tax

SUMMARY OF PRESENTATION TO CONGRESS FOR S.267

THE BEST KEPT SECRET IN AMERICA

The taxation of nonresident pensions by the states is a prime example of "TAXATION WITHOUT REPRESENTATION." No one was told about this unfair tax. This tax interferes with our right to travel across the United States of America and live where we choose, without a financial penalty. How can a nation that was formed over the issue of "TAXATION WITHOUT REPRESENTATION" allow this to happen? **BECAUSE IT IS THE BEST KEPT SECRET IN AMERICA!**

Several states now tax nonresident pensions. There are about 40 states with source tax laws and each of them could implement this tax on nonresident pensions. Nonresident taxation of pensions is different from other forms of nonresident taxation. Unlike a business, job, or investment, the pension tax debt cannot be removed from the state. The retiree is trapped for the rest of their lives by the state in "Financial Slavery."

Some states correctly assume pensions are intangibles, similar to savings accounts. Others claim pensions are deferred income. Defining pensions as "deferred income" is an incorrect position, because pension income is not paid after the death of the retiree. These latter states claim that benefits were received when the retirees were earning the pension. They don't deserve more benefits. Yet a retiree that remains in the state also received benefits while earning the pension. This retiree continues to receive benefits. This is unfair and unequal.

Most retirees paid taxes on contributions to their pension plans. Why weren't we informed about this unfair tax that would lead to "Taxation Without Representation" in the future? Why weren't options offered to the employees, such as 401K Averaging Plans? It was this unfair tax that prompted me to form RESIST of America in July of 1988. The only goal of RESIST of America is to end the tax on nonresident pensions by the states. Our organization is not, however, against fair taxation with representation.

California is the most aggressive state that taxes nonresident pensions. They have it both ways. As a spokesperson for the California Franchise Tax Board (FTB) cheerfully acknowledges, residents can be taxed on all income, regardless of its source; nonresidents are taxed on the source regardless of residence, including military pensions, and perhaps Social Security.

There is another point that has aggravated Seniors Citizens. Several States (particularly California) use total income earned (including income earned in other States) to establish the highest rate for taxing pensions.

The U. S. Supreme Court affirmed the constitutionality of taxes on nonresident source income, 70 years ago; even though pensions were not common then. We have tried to get individual states to repeal their tax on nonresident pensions without much success. New Jersey is the only state to repeal their nonresident tax on pensions. **THE CONGRESS OF THE UNITED STATES IS OUR LAST HOPE! WE NEED FEDERAL LEGISLATION!**

The members of RESIST and The Coalition urge you to pass S.267 and end the tyranny of "TAXATION WITHOUT REPRESENTATION." There is no financial loss to the Federal Government, and we believe, to the states. Stop this terrible injustice to our Senior Citizens and to all Americans. This tax affects every American young and old.



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RESIST OF AMERICA

Retirees to Eliminate State Income Source Tax

PRESENTATION TO CONGRESS FOR S.267

THE BEST KEPT SECRET IN AMERICA

The members of RESIST of America and The members of The Coalition shown in Attachment A urge The Senate to pass Senate Bill S. 267.

Issue

Do we still have "TAXATION WITHOUT REPRESENTATION" in America?
YES, WE DO! The taxation of nonresident pensions by the states is a prime example of "TAXATION WITHOUT REPRESENTATION."

How can a nation that was formed over The issue of "TAXATION WITHOUT REPRESENTATION" allow this to happen? **BECAUSE IT IS THE BEST KEPT SECRET IN AMERICA!** No one was told about this unfair tax. This tax interferes with our right to travel across the United States of America and live where we choose without a financial penalty.

Background

Several states now tax nonresident pensions. There are, in total, about 40 states with source tax laws and each of them could implement this tax on nonresident pensions. I will frequently use California as an example during this presentation for three reasons:

- 1: They are the most aggressive State
- 2: They often lead the Nation in new trends
- 3: We understand their nonresident laws and procedures better.

The 40 states mentioned before, tax nonresidents on various types of source income. There are legitimate reasons for some of these taxes. An individual could operate a business or work in a nonresident state. In these cases, the resources of the state are being used or jobs are taken from the residents. If the nonresident doesn't want to pay these taxes, they can remove the business from the state or not work in the state. They have a choice.

Nonresident taxation of pensions is different; because unlike a business, job, or investment, the pension tax debt can not be removed from the state. The retiree is trapped for the rest of their lives by the state in "financial Slavery."

States can raise nonresident taxes whenever they like.
What can nonresidents do about it? NOTHING!

What services do we get as nonresident taxpayers? **NONE!**

We can't use schools, or even buy a fishing license at resident rates.

What do we get from the government of the taxing state? **NOTHING!**

...

This tax hits Retirees hard!

Imagine:

An elderly lady in Nevada that makes between \$12000 and \$13000 a year. She isn't rich, but she is surviving. Then the mailcarrier delivers a notice from California that says she owes taxes on her pension, plus penalty and interest. She can't believe it; and being honest, she tells California that she has never paid. The result was they calculated her tax debt from 1978 till the present. She now owes about \$6000.

Imagine:

A retired man from California, whose wife died, meets a lady, marries her and moves to New York because she is still working there. He discovers that he not only must pay California taxes on his pension for the rest of his life, but must include his out of California income and his new wife's income. He pays New York much less because they give a large exemption for resident pensions.

Imagine:

A lady in Texas who just received a bill from CA for more than \$24000.

Unfortunately, these are not imaginary cases. They are just a few real cases out of thousands in our files.

States Position

Some states correctly assume pensions are intangibles, similar to savings accounts. Others claim pensions are deferred income.

Defining pensions as "deferred income" is an indiscriminate use of the English language and law. Income that is deferred should be paid unconditionally, either to the retiree or to their heirs. Pensions clearly do not meet the requirements of deferred income. If you are unfortunate and die one day before you retire, you or your heirs receive only your own contributions plus a small amount of interest. You receive none of the so called "deferred income."

These states claim that benefits were received when the retirees were earning the pension. Therefore they owe taxes for the rest of their lives, and do not deserve any additional benefits.

There is a fallacy to this argument. Consider two similar retirees. One decides to remain in the state where the pension was earned and the other moves to another state. The resident pays taxes, but continues to receive benefits from the state, and can vote, petition and otherwise be represented by the government of that state. The nonresident pays taxes, but receives nothing. Didn't the retiree who remained in the state also get benefits while they were earning their pension? **ISN'T THIS DISCRIMINATION? HOW CAN THIS BE EQUAL TREATMENT?**

Most retirees paid taxes on contributions to their pension plans. Apparently, Companies, Federal, and State agencies did not pay taxes on their contributions to pension plans or accrued interest. Before the publicity that RESIST of America initiated, no one was informed, by either their State or employer, about nonresident taxation of retirement income. Why weren't we informed about this unfair tax that would lead to "Taxation Without Representation" in the future? Why weren't options offered to the employees, such as 401K Averaging Plans? The only reason for deferring taxable income is to pay fewer taxes on the income later. Nonresident retirees might pay significantly more taxes instead of less. It is particularly frightening to speculate on how high nonresident taxes could become in the future. When a State needs more income, they can raise these taxes at their discretion and a nonresident can do nothing about it. The retiree cannot vote, petition, receive benefits or enjoy governmental protection from the taxing State. This situation is intolerable.

It was this unfair tax that prompted me to form RESIST of America in July of 1988. RESIST of America is a nonprofit organization that was incorporated July 28, 1988. The only goal of RESIST of America is to end the tax on nonresident pensions by the states. RESIST of America is a "grass roots" organization that operates entirely through volunteers. No one in our organization gets a salary. Our organization is not, however, against fair taxation with representation.

California has it both ways

California has obtained (from their point of view) delightfully contradictory court rulings.

Borchers - Baustian

The Borscher case was tried in the district court 2 of Los Angeles, CA. It involved a man who earned his pension in Illinois and moved to California to retire. Borscher claimed that he didn't owe California taxes on his pension income because the SOURCE of his pension was Illinois. California disagreed. Borscher lost after a ten year court battle.

The Baustian case involved a man who earned his pension in California and retired to another State. California claimed that he owed nonresident taxes on his pension because the SOURCE of his pension was California. This decision was made by The State Board of Equalization. The cases occurred about the same period.

As a spokesperson for the California FTB cheerfully acknowledges, residents can be taxed on all income, regardless of its source; nonresidents are taxed on the source regardless of residence.

To make matters worse, California hired collection agencies that use "Gestapo Tactics" to harass and threaten Senior Citizens for the collection of these unfair taxes. They also offer rewards for information on delinquent taxpayers. Other states will probably follow California's lead.

Income earned in other States also taxed

There is another point that has aggravated Seniors Citizens. Several States (particularly California) use total income earned (including income earned in other States) to establish the highest rate for taxing pensions. Even so, they claim they do not tax out of State income. However, any increase in taxes as a result of including non-California income is clearly a tax against that income.

This procedure, causes additional inequality between retirees. A retiree that supplements their income through investments, can decrease their tax liability by investing in items (Federal Securities) that states cannot tax. Those retirees that must work to supplement their income have no options and must include this income. As a result, the retiree that works pay more taxes than the retiree that invests, even if their total income is the same.

California, perhaps other states, tax nonresident, military pensions

Some believe that California does not tax the nonresident pensions of military personnel. Don't you believe it. Check California tax forms 1031 and 1032. California gives an exemption for military personnel, but the maximum exemption is a generous \$40.00 per year. Other states have not answered the question of whether or not they tax military pensions. We suspect they do.

Constitutionality of nonresident taxes

One of the first officials contacted by our organization about this issue was The Attorney General of Nevada. It was our hope that he would challenge the constitutionality of the nonresident tax on pensions by the states. We knew that it was unconstitutional for a citizen to sue a state in a Federal court. Unfortunately, Brian McKay, who was Nevada's Attorney General then, told us that the U. S. Supreme court had upheld the nonresident taxes about 70 years ago. He sent us the Michigan State Law review, which discussed many cases covering this general issue. He recommended that we try to get Federal Legislation passed. Research into other court cases and investigation of The California State Law Review confirmed his position.

Can we solve this problem at the State level?

There are some Senators that believe that we should work though the states and organizations like The Multi-State Tax Commission to end this tax on nonresident pensions. We have tried. It is impossible to sway State Legislators when you are not represented. New Jersey is the only state that was convinced to stop taxing

non resident pensions. This success occurred due to the efforts of The National Association of Retired Federal Employees (NARFE) and due to a study by New Jersey that the collection of these taxes was not economical.

Our efforts with California have been futile to say the least. Last year, The California Legislature introduced two bills to prevent or limit the taxation of nonresident pensions. AB-3976, which would completely end this unfair tax and AB-3963, which would give a \$20,000 credit to nonresidents, but income earned in other States must still be used to determine the tax rate. AB-3963 also contained a "sunset clause" which would automatically repeal the law 6 years after enactment.

Trice Harvey, an Assemblyman from Bakersfield, invited me, Pierce Powers (National Association of Retired Federal Employees -NARFE), Elton Hipport also from NARFE, and Douglas Baldwin, representing The Air Force Association to testify before the Revenue and Taxation Committee for AB-3976.

Johan Klehs, Chairman of this committee (District San Leandro) refused to let us testify, claiming there was not enough time and that we were "out of order." The testimony for and against the previous issue, to grant tax exempt status for businesses that grow ostriches for food involved less than a dozen people, and took more than two hours (not counting two hours for the ostrich barbecue).

Our issue involves millions of Senior Citizens as well as the young people in the State. Clearly, we were faced with a "stacked deck." The committee has every right to oppose our position; however, there is never a reason to be rude and inconsiderate to anyone. Johan Klehs treated us like people without representation.

This year AB 1513, SB 427, and AJR 25 were introduced. The two bills would repeal the tax on nonresident pensions, and the joint resolution urges The United States Congress to pass the bills that prohibit this tax. This year it was Dick Millington (Regional Vice President - NARFE) who received the rude treatment.

I have subsequently written a letter to The Speaker of The California Assembly, Willie Brown, and suggested a plan that would end "TAXATION WITHOUT REPRESENTATION" and yield California more income.

WE NEED FEDERAL LEGISLATION!
THE CONGRESS OF THE UNITED STATES IS OUR LAST HOPE!

We are asking you, The Congress to help us end this terrible injustice to our Seniors and our Future Seniors. The issue of taxation of nonresident pensions by the states affects every American. Even if a citizen does not have a pension or if they never leave the state where the pension is earned, they are affected.

Many states give credits or rebates to retirees that pay taxes to another state. If a state does, then the taxpayers of that state are paying for the benefits, services, and government for these retirees. The taxes paid by the retirees, that should help defray the cost of their benefits, services, and government, are instead paid to their former state. That state doesn't give anything to the retirees or the resident state's economy. Even if the resident state does not give credits or rebates for taxes paid to another state, their citizens still lose. The money paid to another state by the retirees is not available for expenditure in your state.

There is a better way. Taxpayers should pay taxes only to their state of residence, where they receive benefits, services and government, where they have the right to vote, petition, and otherwise influence their representatives.

Three bills have been introduced into The House of Representatives to stop states from taxing nonresident pensions, (H.R.431, H.R.1531, and H.R.1655).

H.R. 431 and H.R. 1531 are similar to The Senate Bill S.267. The main difference is that S. 267 includes pensions and other Retirement income instead of just pensions. The difference is important. California has recently introduced legislation to tax Social Security. Some other States have already done this. Without the clause, "other Retirement Income," we could be back where we started even if The House Bills passed. House bill H.R. 1655 is more complex, but does have some favorable attributes:

1. States must inform employees each year about his or her nonresident tax policies.
2. States must offer a lump sum settlement if the conditions of 1. are met and the retiree leaves the state.
3. Income earned in other states cannot be taxed.

Does S.267 cost the Federal Government?

The Federal Government should realize a slight increase in tax revenue if S. 267 passes, because those retirees that still itemize on their Federal taxes would have fewer deductions.

States would probably not lose income either. If we do not pass S. 267, it is ironic that the most aggressive state, California would lose. California is still the second largest retirement state behind Florida. When the other Source tax States, realize that California is stealing money from their economy, you can bet they will retaliate and impose taxes on their retirees that move to California. It is difficult to predict which state would lose the most, but one situation is easy to predict. If taxes are paid to the State of Residence, where the Retiree can vote, petition, receive services and benefits, everyone gains, including the states.

We urge you to pass S.267 and end the tyranny of "TAXATION WITHOUT REPRESENTATION," without a financial loss to the Federal Government and, we believe, without a loss to the states.

Stop this terrible injustice to our Senior Citizens and to all Americans.

Thank you,



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(702) 883-8620

RESIST OF AMERICA

Retirees to Eliminate State Income Source Tax

PRESENTATION TO CONGRESS FOR S.267

ATTACHMENT A:

The following is a partial list of organizations that have joined RESIST of America in a coalition. The goal of the coalition is to end the taxation of nonresident pensions by the states. These organizations represent millions of people.

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Air Force Association	NARFE
Air Force Sergeants Association	National Assn. of Retired Federal
Airline Pilots Assn.	National Assn. For Uniformed Services
American Assn. of Foreign Service Women	National Assn. of Postal Supervisors
AMVETS	National Guard Assn. of the US
Assn. of Military Surgeons of the US	National Military Family Assn.
Association of the US Army	National Taxpayers Union
Commissioned Officers Assn. of the US Health Service, Inc.	Naval Reserve Association
Common Cause	Navy League of the US
COSSO	Nevada Taxpayers Union
Council of Sacramento Senior Organizations	Non-Commissioned Officers Assn.
CWO & WA Assn., US Coast Guard	Reserve Officers Association
FAIR (Represents 34 Organizations) Fund for Assuring an Independent Retirement	SCAN
Federal Managers Assn.	Senior Co-operative Alert Network
Fleet Reserve Association	Society of Medical Consultants
Marine Corps League	The Retired Enlisted Association
Marine Corps Reserve	The Retired Officers Association
McDonald County Unit of the Retired Teachers Assn. - MO	US Army Warrant Officers Association
	US CG & Chief Petty Officers Assn.



RESIST

RETIREES TO ELIMINATE STATE INCOME SOURCE TAX

NATIONAL HEADQUARTERS

Do we still have "TAXATION WITHOUT REPRESENTATION" in The United States of America? YES, WE DO! A number of states' tax Nonresidents on what they call SOURCE income. This tax becomes intolerable when it is applied to pensions, because the retiree is trapped forever in financial slavery. The retiree can not vote, petition, receive benefits or enjoy governmental protection from the taxing state.

One of our former presidents called "TAXATION WITHOUT REPRESENTATION" TYRANNY. Presidents often take liberty with their words, but the first definition for tyranny in the Random House Unabridged Dictionary is "arbitrary or unrestrained exercise of power; despotic abuse of authority." That president was right. "TAXATION WITHOUT REPRESENTATION" is indeed TYRANNY and it must be stopped!

NOW IS THE TIME FOR EVERY AMERICAN TO STAND UP AND BE COUNTED!!!!

Join RESIST and help us pass Federal Legislation to stop the taxation of non-resident pensions.

H.R.431 - Introduced by Representative Barbara Vucanovich into
The House Judiciary Committee

S.267 - Introduced by Senators Harry Reid and Richard Bryan into
The Senate Finance Committee

H.R.1531- Introduced by Representative Jolene Unsoeld into
The House Judiciary Committee

H.R.1655- Introduced by Representative Barbara Vucanovich into
The House Ways and Means Committee

These bills prohibit a State from imposing an income tax on the pension or retirement income of Nonresidents or domiciliaries. H.R.1655 permits the states to offer settlement options if a retiree leaves their state, provided that the state has informed them of this tax obligation. This bill also has a grandfather clause that prevents states from hitting Seniors that have been retired many years with an unexpected and enormous tax bill.

Bill Hoffman is the founder and President of RESIST, which was organized to stop the unfair practice of taxing non-resident pensions. RESIST is not against fair taxation with representation.

No: one member of RESIST was informed of this unfair tax, by either their State or employer, why? Why weren't options offered to the employees, such as 401K Averaging Plans? Taxes are deferred by intelligent people so that they pay fewer taxes later not more! Non-resident retirees might pay significantly more taxes. It is frightening to speculate on how high non-resident taxes could become in the future. State needs more income = raise non-resident taxes! They can't stop us! How can a nation that was formed over "TAXATION WITHOUT REPRESENTATION" allow this to happen? BECAUSE IT IS THE BEST KEPT SECRET IN AMERICA! We must begin a RESIST "American Tea Party" that dwarfs the original version!

Some states have even hired collection agencies to harass and threaten Senior Citizens for the collection of unpaid non-resident taxes on pensions. California for 7 or 8 Years, sent letters to retirees stating that non-resident taxes were not due on pensions. Then they have the nerve to subsequently say the tax is owed with a 55 percent penalty and interest added to the tax. They also offer rewards for information on delinquent taxpayers. These actions can only be described as "Gestapo Tactics."

Peninsula Daily News

027

Serving Clallam and Jefferson counties — the North Olympic Peninsula

Sunday

January 27, 1991

Bite on retirees is taxing

By TODD COHEN

Peninsula Daily News

SEQUIM — The California tax man finally tracked down Ray Simpson last month.

Thirteen years after Simpson retired from the Golden State to his new home in Sequim, Simpson opened his mailbox and found a notice that said he owed California income taxes on his teaching pension.

It's called "source income tax" and California is one of 11 states that claim a share of the pensions former residents receive — no matter where they now live.

The state asserts that retirees owe taxes on the portion of their retirement income that stems from work done in that state. The California tax for a typical Washington retiree with a \$20,000 annual income is \$140, a state Department of Revenue report said. In addition, the state uses a retirees total income to place the retiree in a higher tax bracket, the report said.

"I can't go to California and vote. I can't go to California and get a resident fishing license. I am a foreigner for all sense and purposes except for paying taxes," said Simpson, a 70-year-old retired teacher.

The tax notice "felt like a good kick in the gut," he said.

Simpson isn't alone. Marian Matsunaga, a retired California office administrator, has been paying the source tax ever since retiring to Sequim in 1987.

"It's a burden to me. I don't get anything from there anymore," she said. "I would rather support Washington."

Another couple doesn't earn enough to pay taxes, but still must file forms with the state. One California retiree living in Sequim didn't want his name used for fear it would help California track him down and tax his military pension.

Using a computer network, California is regarded as the most aggressive of the states in locating retirees and using collection agencies and court liens to collect. It has even obtained court orders forcing the tax be deducted from military pension checks.

"I pay taxes in Washington," the Sequim man said. "I'm not trying to

avoid paying taxes. I'm trying to avoid being done in."

Such fears of an extra tax burden and anger over what many regard as "taxation without representation" has spurred many retirees across the nation to band together and fight. A 45-state strong national organization called RESIST, or Retirees to Eliminate State Income Source Tax, is leading the charge.

In Washington, the top general is a 76-year-old Sequim retiree named Jim Dawes. He formed the state chapter two years ago after hearing about the tax and has built a 500-member organization, managed mostly out of a room in his Sequim house. The tax man has yet to find him, but Dawes expects he will and he isn't waiting.

Dawes goes to battle at 1:30 p.m. tomorrow when a State Senate Governmental Operations committee holds a hearing in Olympia on three bills aimed at blocking source income tax collection in Washington. State Sen. Paul Conner, D-Sequim, is a sponsor of one bill.

A House bill authored by State Rep. Evan Jones, D-Sequim, will be the subject of a later hearing in the House Revenue committee. The bill died in another committee last session.

But Dawes, a postal carrier in California who moved to Sequim in 1987, is hopeful the Legislature will act this year. And he's better

organized, with volunteers busy writing letters to key legislators.

States cannot bar other states from collecting source income taxes. Only Congress has that power and so far no action has been considered, although 78 congressmen have expressed support, including the Peninsula's Rep. Al Swift, D-Bellingham.

However, states can pass laws barring other states from seizing resident's private property, like cars and houses, to satisfy the tax debt. The four bills in the Washington Legislature would do that, and are based on similar laws passed in 1989 and 1990 in Nevada and Florida.

The only other barrier is a state income tax, which allow residents to credit out-of-state taxes. Washington has no income tax and none is proposed.

Jones said several concerns helped kill his bill last year. One committee chairman was concerned about backlash in California, which helps Washington collect business and occupation taxes from California companies that do business in Washington. Other legislators felt it was a federal issue that Congress should solve, he said.

But with four bills now aimed at the problem, Jones said he was encouraged that the Legislature will act. Gov. Booth Gardner also has been quoted as supporting such a bill.

STATEMENT BY THE HONORABLE BARBARA F. VUCANOVICH
BEFORE THE SENATE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

JUNE 12, 1991

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY IN SUPPORT OF S. 267 WHICH WOULD PROHIBIT A STATE FROM IMPOSING AN INCOME TAX ON THE PENSION OR RETIREMENT INCOME OF INDIVIDUALS WHO ARE NOT RESIDENTS OR DOMICILIARIES OF THAT STATE.

ON JANUARY 3, 1991, IN RESPONSE TO A GROWING ANTI-TAX MOVEMENT IN MY STATE OF NEVADA AND IN MANY OTHER STATES, I INTRODUCED H.R. 431 IN THE HOUSE. BOTH S. 267 AND H.R. 431 WOULD PUT AN ABSOLUTE BAN ON THE UNFAIR PRACTICE OF TAXING NON-RESIDENTS' PENSION INCOME.

MANY RETIREES WHO HAVE MOVED TO OTHER STATES SUDDENLY FIND THEIR PENSIONS TAXED BY THE STATE OF THEIR FORMER RESIDENCE. I FEEL THAT IT IS UNFAIR THAT THESE PEOPLE ARE BEING TAXED BY STATES WHERE THEY RECEIVE NO BENEFITS AND CANNOT VOTE. RETIREES WHO HAD THEIR INCOMES TAXED THE FIRST TIME AROUND WHILE EMPLOYED OUGHT NOT BE TAXED A SECOND TIME ON THEIR PENSIONS BY A STATE WHERE THEY NO LONGER LIVE. RETIREES ON FIXED INCOMES SHOULD LIVE COMFORTABLY, WITHOUT WORRIES OF BEING UNFAIRLY TAXED BY OTHER STATES.

AS YOU KNOW, MY STATE OF NEVADA HAS NO INCOME TAX, HOWEVER, THIS ISSUE DOES NOT ONLY CONCERN RETIREES LIVING IN STATES WITH NO INCOME TAXES, IT IS AN ISSUE OF CONCERN TO RETIREES ALL OVER THE COUNTRY. MANY STATES HAVE SOURCE TAX LAWS, ALTHOUGH MANY DON'T GO AFTER THE PENSIONS OF EX-RESIDENTS. WHAT IS OF CONCERN TO MANY FOLKS IS THAT THESE

STATES MAY ACTIVATE THE SOURCE TAX LAWS AT ANY TIME THEY SO DESIRE. JUST ASK RETIREES WHO ARE EX-RESIDENTS OF CALIFORNIA HOW THESE SOURCE TAX LAWS AFFECT THEM. CALIFORNIA IS THE MOST AGGRESSIVE OF THE TAXING STATES. IT HAS HIRED COLLECTION AGENCIES TO COLLECT UNPAID NONRESIDENT TAXES ON PENSIONS. THESE AGENCIES HARASS AND THREATEN SENIOR CITIZENS. CALIFORNIA INCLUDES IN THE TAX ASSESSMENT A 55 PERCENT PENALTY AND DAILY INTEREST. IN MANY OF THESE CASES CALIFORNIA WAS DELINQUENT IN NOTIFYING THE TAXPAYERS OF THE TAX THUS CREATING HUGE INTEREST PENALTIES AND AN OVERWHELMING TAX BURDEN. IN ADDITION, CALIFORNIA AND SOME OF THE OTHER STATES, NOT SATISFIED WITH JUST TAXING THE PENSION, BASE THE TAX RATE ON THE RETIREE'S TOTAL INCOME. BY THIS ACTION, THEY MANAGE TO LEVY A TAX ON THE RETIREE'S OUT-OF-STATE INCOME, TOO, WHETHER FROM INVESTMENTS OR ANOTHER JOB. SIMPLY STATED, THIS IS "TAXATION WITHOUT REPRESENTATION."

MR. CHAIRMAN, THE BOSTON TEA PARTY AND THE REVOLUTION OCCURRED BECAUSE OF UNREASONABLE TAXATION WITHOUT REPRESENTATION. CONGRESS MUST RESOLVE THIS SITUATION AS SOON AS POSSIBLE; OUR SENIORS AND RETIREES DESERVE NO LESS.

IN ADDITION TO H.R. 431, WHICH HAS 115 COSPONSORS, I HAVE INTRODUCED H.R. 1655 WHICH HAS BEEN REFERRED TO THE HOUSE WAYS AND MEANS COMMITTEE. THIS BILL WOULD AMEND THE TAX REFORM ACT OF 1986 TO 1) PROVIDE TAXPAYERS WITH AN ADVANCE NOTICE OF THE TAX, 2) USE A TAXING FORMULA THAT DOES NOT INCLUDE INCOME FROM OTHER STATES, AND 3) PROVIDE TAXPAYERS AN OPPORTUNITY TO PREPAY THE TAX BEFORE THEY ACTUALLY LEAVE THE STATE. H.R. 1655 HAS 33 COSPONSORS.

S. 267, H.R. 431 AND H.R. 1655 DO NOTHING MORE THAN PROVIDE SIMPLE FAIRNESS AND DECENCY TO OUR SENIOR CITIZENS AND TO ALL AMERICAN

TAXPAYERS WHO MAY LIVE IN ONE OR MORE STATES DURING THEIR LIFETIME.

ON THE STATE LEVEL, MY STATE OF NEVADA HAS PASSED LEGISLATION THAT WOULD "EXEMPT PROPERTY IN NEVADA FROM EXECUTION FOR FAILURE TO PAY INCOME TAX TO OTHER STATES ON BENEFITS RECEIVED FROM PENSION OR RETIREMENT FUNDS." THE STATUTE DOES NOT INVALIDATE ANOTHER STATE'S SOURCE TAX; IT MERELY PREVENTS COLLECTION BY PLACING A LIEN ON THE INDIVIDUAL'S PROPERTY LOCATED IN NEVADA. THE STATE OF NEW JERSEY HAS GONE SO FAR AS TO REPEAL ITS TAX ON NONRESIDENTS' RETIREMENT INCOME.

FINALLY, MR CHAIRMAN, I WOULD LIKE TO WELCOME MR. BILL HOFFMAN, A CONSTITUENT OF MINE FROM CARSON CITY, NEVADA. BILL, ALONG WITH HIS WIFE JOANNE, FOUNDED THE "RESIST" ORGANIZATION, RETIREES TO ELIMINATE STATE INCOME SOURCE TAX, AND HAVE WORKED TIRELESSLY FOR THIS JUST CAUSE. BILL WILL BE HAPPY TO ANSWER YOUR SPECIFIC TECHNICAL QUESTIONS. ALONG WITH "RESIST", THE COALITION CONSISTS OF THE AIR FORCE ASSOCIATION AND THIRTY ONE MILITARY ORGANIZATIONS AND THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES.

THANK YOU, MR. CHARIMAN.

STATEMENT OF SENATOR HARRY REID

S. 267, SOURCE TAX HEARING

JUNE 12, 1991

I would like to thank the Chairman of the Senate Committee on Finance, Senator Bentsen, and the Chairman of the Subcommittee on Taxation, Senator Boren, for acknowledging the magnitude of the source tax issue, and for permitting Senator Bryan, Bill Hoffman of Retirees to Eliminate State Income Source Tax, the Federation of Tax Administrators, and myself to come before them today to discuss a matter in which all Members of Congress have a stake--a matter in which all Americans have a stake.

A few years ago, I was approached by Nevadan Bill Hoffman, who told me about a problem Nevadans were having. You see, many Americans are retiring to the Silver State, because, among many other reasons, there is no state income tax. Bill informed me, however, that these new Nevadans were being harrassed by their

former states of residence, and were being taxed by them. Now, I've always been a resident of Nevada. I have never had another state levy a tax on my income or assets. But I know many, many people who have moved to Nevada, retirees and otherwise, who certainly never expected to be told they must continue to pay state income taxes to the state where they used to live. To be perfectly honest, I could hardly believe what Bill Hoffman was telling me.

There are Nevadans, and citizens in every state, who are forced to pay taxes to states where they do not reside. These retirees pay taxes on pensions drawn in the states where they spent their working years, despite the fact that they are not present to participate in the programs which their taxes are funding--they do not participate in medical assistance programs, senior centers, public parks, or even get to vote in their former state of residence--yet they still pay taxes to these states.

No one wants to pay a penny more in taxes than he or she has to. But most Americans pay what they owe. They pay because they

know what they are getting in return, and in the United States, you get a lot in return. But you don't get a single benefit from a state in which you do not reside--except in some instances, a tax bill. As you will hear many times today, this is taxation without representation.

This practice is affecting more and more Americans as economic times become tougher, and certain states have become more creative in looking for revenues. That is why Retirees to Eliminate State Income Source Tax (RESIST), founded in July of 1988, has grown beyond the borders of Nevada to include members in every state of the Union. This is a non-profit, grass roots organization in the truest sense of the word--it operates entirely through the work of volunteers--no members are salaried. The credibility of this group has convinced other long-established organizations such as the National Association of Retired Federal Employees to make a commitment to prohibiting taxation of non-resident retirement income. This is a bi-partisan effort, of millions of Americans who cannot live with unfair reductions in the fixed incomes which their retirement provides them.

I know of people who are taxed at a rate which reflects their entire income--not just their income derived from the taxing state. An individual could find him or herself paying a tax on his pension that far exceeds the rate that would have been applicable at the time the pension was earned. He could also find himself paying tax on the same income to more than one state.

Most states offer a tax credit when their residents pay their income taxes to other states. While this allowance is admirable, the state offering the credit is LOSING REVENUES. If I retire from California to Oklahoma, and California decides to levy a tax on my pension, Oklahoma will most likely grant me a credit for the amount I owe California. But Oklahoma will still be the state providing me with medical assistance and other seniors programs, as well as access to its parks--not to mention the right to vote. And Oklahoma will be providing me all this free of charge since California will be receiving my tax dollars!

To prohibit this unethical practice, I have offered legislation

which prohibits states from taxing pensions or retirement income of non-residents. States are crossing state lines, collecting taxes from non-residents, and are retreating, offering nothing in return. State residents who conscientiously pay taxes on their pension have the privilege of voting in that state, and have access to state funded social services, parks, and other amenities. Non-residents just pay.

Alì too frequently retirees are unaware that they must pay tax to the state from which they draw a monthly pension check. As in Nevada, many people plan retirement in state with low or non-existent income tax and spend or save accordingly. Notifications that back taxes and penalties are owed to a state other than where someone resides is rightfully met with indignation and horror. The indignation rises from the shock of post-revolutionary taxation without representation; the horror rises from the inability to pay an enormous tax debt when one lives on a fixed income.

Once more, I would like to thank the Chairman for the

opportunity to discuss source tax, and I would like to urge his support for prohibiting this unfair practice.



Greater Fairbanks

Chamber

of Commerce

709 Second Avenue

(907) 452-1105

P O Box 74446
Fairbanks, Alaska 99707

RESOLUTION 06-2491

A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF COMMERCE TO PROTECT ALASKAN'S PENSIONS FROM OUT-OF-STATE "SOURCE" TAXATION

WHEREAS, persons living on a fixed income from a pension plan are at the greatest financial risk due to the rapid fluctuation of our economy; and

WHEREAS, the Constitution guarantees the right to travel and to reside anywhere in the United States without any restrictions; and

WHEREAS, that segment of society that is being threatened by "source" taxation have already paid for the services they enjoyed while residents of the "source" state through the existing tax structure of that state; and

WHEREAS, Alaska does not have a personal income tax on any of its residents;

NOW, THEREFORE, BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce encourages the passage of HR431, HR1655 and HR1531; all of which address this unfair and predatory tax practice that is being promulgated against one of society's most fragile groups, senior citizens; and

BE IT FURTHER RESOLVED that the Greater Fairbanks Chamber of Commerce views the practice of "source" taxation to be a blatant violation of the basic constitutional rights to reside in any state by the restriction that this taxation places on our fixed income, and that this legislation receive immediate attention by our Congress.

Dated this 24th day of June, 1991.

Larry Kelly
President

A.L. Buki Wright
Chairman of the Board



RESIST

RETIREES TO ELIMINATE STATE INCOME SOURCE TAX

NATIONAL HEADQUARTERS

Do we still have "TAXATION WITHOUT REPRESENTATION" in The United States of America? YES, WE DO! A number of states' tax Nonresidents on what they call SOURCE income. This tax becomes intolerable when it is applied to pensions, because the retiree is trapped forever in financial slavery. The retiree can not vote, petition, receive benefits or enjoy governmental protection from the taxing state.

One of our former presidents called "TAXATION WITHOUT REPRESENTATION" TYRANNY. Presidents often take liberty with their words, but the first definition for tyranny in the Random House Unabridged Dictionary is "arbitrary or unrestrained exercise of power; despotic abuse of authority." That president was right. "TAXATION WITHOUT REPRESENTATION" is indeed TYRANNY and it must be stopped!

NOW IS THE TIME FOR EVERY AMERICAN TO STAND UP AND BE COUNTED!!!!

Join RESIST and help us pass Federal Legislation to stop the taxation of non-resident pensions.

H.R.431 - Introduced by Representative Barbara Vucanovich into
The House Judiciary Committee

S.267 - Introduced by Senators Harry Reid and Richard Bryan into
The Senate Finance Committee

H.R.1531- Introduced by Representative Jolene Unsoeld into
The House Judiciary Committee

H.R.1655- Introduced by Representative Barbara Vucanovich into
The House Ways and Means Committee

These bills prohibit a State from imposing an income tax on the pension or retirement income of Nonresidents or domiciliaries. H.R.1655 permits the states to offer settlement options if a retiree leaves their state, provided that the state has informed them of this tax obligation. This bill also has a grandfather clause that prevents states from hitting Seniors that have been retired many years with an unexpected and enormous tax bill.

Bill Hoffman is the founder and President of RESIST, which was organized to stop the unfair practice of taxing non-resident pensions. RESIST is not against fair taxation with representation.

Not one member of RESIST was informed of this unfair tax, by either their State or employer, why? Why weren't options offered to the employees, such as 401K Averaging Plans? Taxes are deferred by intelligent people so that they pay fewer taxes later not more! Non-resident retirees might pay significantly more taxes. It is frightening to speculate on how high non-resident taxes could become in the future. State needs more income = raise non-resident taxes! They can't stop us! How can a nation that was formed over "TAXATION WITHOUT REPRESENTATION" allow this to happen? BECAUSE IT IS THE BEST KEPT SECRET IN AMERICA! We must begin a RESIST "American Tea Party" that dwarfs the original version!

Some states have even hired collection agencies to harass and threaten Senior Citizens for the collection of unpaid non-resident taxes on pensions. California for 7 or 8 Years, sent letters to retirees stating that non-resident taxes were not due on pensions. Then they have the nerve to subsequently say the tax is owed with a 55 percent penalty and interest added to the tax. They also offer rewards for information on delinquent taxpayers. These actions can only be described as "Gestapo Tactics."

DIVISION OF LEGAL SERVICES

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MEMORANDUM

October 2, 1991

SUBJECT: Exempting property from collection of another state's judgment for failure to pay income taxes (Work Order No. 7-LS1543\A)

TO: Representative Bill Hudson
Attn: Landa

FROM: Theresa L. Bannister *TLB*
Legislative Counsel

This memo accompanies the draft of the bill that you requested to exempt the Alaskan property of an individual from satisfying the judgment of another state for the individual's failure to pay the other state's income tax on the pension benefits received by the individual.

You will note that the exemption has been drafted to apply to any individual, not just to residents. However, if you intended to limit the exemption to residents, please contact me so that we can discuss the matter further and draft the bill accordingly. (1)

Please be aware that the exemption may violate the full faith and credit provision of the U.S. Constitution (art. IV, sec. 1). That provision generally requires Alaska to recognize the judgments of another state. Although the exemption created by your bill does not directly address the recognition of judgments in Alaska, the exemption does make certain judgments of another state uncollectible in this state. This result may be viewed as violating the full faith and credit provision. If you need further research done on this issue, please advise. (2)

If I may be of further assistance, please advise.

TLB:lmb
91-262.lmb

Enclosure

A number of states, unsatisfied with just taxing the pension, base the tax rate on the retirees total income. By this action they manage to levy a tax on the retirees out of state income, whether from investments or another job.

California has obtained delightfully contradictory court rulings. There is the Borchers case involving a man who retired from the state of Illinois and moved to California. Borchers claimed that he didn't owe California taxes on his pension because the SOURCE of the pension was Illinois. California disagreed and after a 10 year battle in a Los Angeles court, they won. The decision claimed that distributions such as pensions could not be taxed until the amount became fixed and known. A pension, paid for life, first became fixed and known when the payment was received each month and was taxable in the state of residence when received.

They rarely mention this case. Instead, they often refer to the Baustian case which was tried in the California State Board of Equalization. This case is the opposite of Borchers, involving a pension earned in California and received in another state. They claim that the SOURCE of the pension was California and it doesn't matter where the pension is received (Note the contradiction).

As a spokesman for the California Franchise Tax Board cheerfully acknowledges, residents can be taxed on all income, regardless of its source; Nonresidents are taxed on the source regardless of residence. California is an equal opportunity taxing state. They tax everything fair, unfair, just, unjust and yet they had alternatives. They could have avoided "TAXATION WITHOUT REPRESENTATION" by offering options such as ten years averaging.

What are the consequences or danger of this unfair tax? Since the retiree has no control over the tax and it provides free income for the state, the cancer will spread! Federal Employees who typically work in more than one state will probably pay taxes to multiple states. Some states permit apportionment of the tax, depending on the percentage of time worked in that state, and some states give compensation. These items are not always allowed, so don't depend on it.

Don't expect to get any benefits for taxes paid to another state. You won't even be able to use schools or buy a fishing license at resident rates. Of course, they will sell you a fishing license and let you use their schools at NON-RESIDENT RATES, which is much higher. They can take delight in sticking it to you again.

Some states' claim pensions are deferred income and benefits were received while the retirees were residents and therefore they still owe taxes, but deserve no more benefits.

This is a fallacious argument. Consider a person who earns a pension in one of these states and retires in that state. This person pays taxes, but continues to receive benefits from the state, and can vote, petition and otherwise be represented by the government of that state. The person who leaves their state after retirement, pays taxes, but receives nothing. Didn't the retiree who remained in the state also get benefits while they were earning their pension? Don't they get additional benefits after retirement that the non-resident doesn't get? ISN'T THIS DISCRIMINATION? HOW CAN THIS BE EQUAL TREATMENT?

Some states, bless them, take a different position. They consider pension's intangibles and don't tax them.

**** HELP US STOP THESE OUTRAGEOUS, UNFAIR TAXES. ****

Membership fees, gifts or any other donations to RESIST are not tax deductible.

For more information, please contact: William (Bill) C. Hoffman, President
RESIST - National Headquarters
2440 Ash Canyon Rd.
Carson City, NV 89703
(702) 883-8620
(702) 887-1296 - Office

DON YOUNG
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Congress of the United States
House of Representatives
Washington, D.C. 20515

February 5, 1992

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The Honorable Bill Hudson
P.O. Box V
Juneau, Alaska 99811

Dear Representative Hudson:

This regards the question as to whether the source tax legislation that you are developing is in conflict with the full faith and credit provision of the U.S. Constitution.

As you know, similar "stop-gap" legislation has been enacted in several states, including Nevada, Washington, and Florida. Each state that has passed these measures has gauged the possible conflicts concerning the full faith and credit provision, but each state passed the bill nonetheless. It is important to note that California, the state which is most adversely effected by the legislation, has yet to challenge the constitutionality of the stop-gap measure on the grounds that it violates the full faith and credit provision.

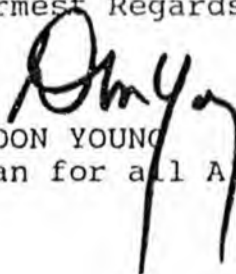
It is my opinion that California and other states that benefit from a source tax do not wish to see a great deal of publicity regarding this issue. These states know that the only way to repeal the tax is to do so at the federal level and adverse publicity will only draw national attention to the unfairness of the tax.

I have discussed the full faith and credit issue with Bill Hoffman, President of RESIST, State Senator Ernie Adler, of Nevada, who introduced the first state legislation, and also U.S. Representative Barbara Vucanovich, who has introduced the federal legislation which would repeal the source tax (or at least make it more equitable). They all agree that the only way to test the full faith and credit provision is to do so in the courts. Either way, Alaska is in a win-win situation.

These are the true experts on the source tax. Their advice to you, as is mine, is to go full speed ahead with your legislation.

I wish you the best of luck during this legislative session. If there is any way I can be of further assistance to you on this or any other issue of concern, please do not hesitate to contact me.

My Warmest Regards,

A handwritten signature in black ink, appearing to read "Don Young", written over the typed name.

DON YOUNG
Congressman for all Alaska

DY/jhr

HJR

57

FISCAL NOTE

BILL NO. CSSB 381 (SA)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An Act relating to information concerning health benefits for retired members of PERS, TRS, JRS & EPORS.

Department Affected: Administration
BRU: Retirement and Benefits

Sponsor: Kerttula
Requestor: Senate State Affairs

Component: Retirement and Benefits
COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS

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

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) The division is currently informing members of the information outlined in this bill. There will be no additional impact on the division.

Prepared By: Gary Bader *Walter Campbell*
Division: Retirement and Benefits

Phone: 465-4470
Date: February 14, 1992

Approved by Commissioner: Nancy Bear Usery *Nancy Bear Usery*
Agency: Department of Administration

Date: 2/21/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).
Rev 10/90

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR57

Revision Date: _____
Title: Omitting PFD & Longevity Bonus from income calculations for HUD Rental Assistance
Sponsor: Representative Boyer
Requestor: House Health, Education & Social Services

Department Affected: Administration
BRU: Division of Pioneers' Benefits
Component: Longevity Bonus Program

COMPONENT

		2	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) The resolution itself would have zero fiscal impact. However if HUD did change their method of calculation, it would have a fiscal impact.

See attached page 2 for analysis.

Prepared by: Barbara Bathony *B. Bathony*
Division: Pioneers' Benefits

Phone: 465-4400
Date: January 30, 1992

Approved by Commissioner: Nancy Bear Usera *Nancy Bear Usera*
Agency: Administration

Date: 2/13/92

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

FISCAL NOTE HJR57
Longevity Bonus
page 2 of 2

The resolution requests a waiver from the Federal Government to eliminate the use of the Longevity Bonus and the Permanent Fund Dividend from gross income in the rent calculation for housing assistance. If the federal method of calculation was changed, the following impact is expected.

Alaska Housing Authority estimates they have 635 families with a member over 65 years of age, of which 94% are receiving the Longevity Bonus. The other 6% (or 38 families) are not receiving the Longevity Bonus.

Therefore the fiscal note was calculated on the maximum number of persons who would qualify from statistics available.

From the statistics in the "1990 census of Population and Housing, STF 1A", it was estimated that 38 households equal 60 persons. An additional 60 persons over 65 years of age would apply for the Longevity Bonus if the bonus no longer counted as income in determining the housing assistance eligibility. Sixty persons at \$3,000 a year equals \$180,000 per year. The fiscal note includes the estimated population increase for each additional year.

Alaska Housing Authority estimates that about 63 individuals would qualify under the bill, which supports the Division's calculations.

Fiscal Year	Number of People	Total Cost
93	60	\$180,000.00
94	63	\$189,000.00
95	66	\$198,000.00
96	69	\$207,000.00
97	72	\$216,000.00
98	75	\$225,000.00

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 57

Revision Date: _____ Department Affected: DCSD
 Title: Request to HUD Secretary to exclude permanent fund & longevity bonus from income for rent calculations BRU: Alaska State Housing Authority
 Sponsor: Representative Boyer Component: _____
 Requestor: Representative Boyer COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

The amount of subsidy received by ASHA would remain the same, in spite of the passage of this bill. Rents are based on the Fair Market Rent or other formula, and this amount would remain the same. Tenants pay 30% of their adjusted gross income, so the amount they pay would be adjusted, but HUD would then be required to pay the difference.

Prepared By: Sherric Simmonds Phone: 562-2813
 Division: Alaska State Housing Authority Date: 2/6/92
 Approved by Commissioner: [Signature]
 Agency: Commissioner of Education Date: 2-10-92

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

VICE-CHAIRMAN
HOUSE FINANCE COMMITTEE

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(907) 456-6473

JUNEAU

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3466

House of Representatives

MEMORANDUM

TO: Rep. Gene Kubina, Co-Chair
House State Affairs Committee

FROM: Rep. Mark Boyer *MB*

DATE: February 12, 1992

RE: HJR 57, "income" for HUD housing assistance

EB 12 1992

I would like to request that HJR 57 be scheduled for a hearing in the State Affairs Committee. This resolution passed out of the Health, Education and Social Services Committee today with all members recommending "do pass".

Currently the State of Alaska has "hold harmless" provisions for most need based programs so that recipients of permanent fund dividends and longevity bonuses do not lose benefits for which they would otherwise qualify. However, the U.S. Department of Housing and Urban Development (HUD) factors income from these sources into payment calculations for housing assistance. This affects approximately 8100 Alaskans in 3129 housing units throughout the state.

The Alaska State Housing Authority (ASHA) is the state agency that handles the HUD housing assistance programs. ASHA's Board passed resolutions supporting the exemption of permanent fund dividends and longevity bonuses from gross income for the purposes of rent calculations.

The Secretary of HUD has the authority to grant waivers. HJR 57 requests that the Secretary "approve as a waiver the Alaska permanent fund dividend program and the longevity bonus program in determining annual adjusted gross income for purposes of payment calculations for [HUD's] housing assistance programs."

FAIRBANKS 20B

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

VICE-CHAIRMAN
HOUSE FINANCE COMMITTEE

FAIRBANKS

SUITE 205
119 NORTH CUSHMAN STREET
FAIRBANKS, ALASKA 99701-2879
(907) 456-6473

JUNEAU

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3466

House of Representatives

02/12/92

HJR 57

"Income" for HUD Housing Assistance

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FAIRBANKS 20B

SPONSOR STATEMENT

RESOLUTION REQUESTING THE SECRETARY OF HUD TO APPROVE A WAIVER OF THE PERMANENT FUND DIVIDEND CHECKS FROM CONSIDERATION IN GROSS INCOME FOR RENT CALCULATIONS

Resolution No. 379

WHEREAS, the Alaska Permanent Fund Dividend (APFD) checks are considered income by the U.S. Department of Housing & Urban Development (HUD) in determining annual adjusted gross income for rent calculations; and

WHEREAS, the amount of the APFD varies, based upon the earnings of the APFD account; and

WHEREAS, the amount of the APFD checks has varied from a low of \$331 to a high of \$1,000, and has averaged \$670 since its inception in 1982; and

WHEREAS, income from the APFD arrives in one annual check, any time during the last three-month period of the year; and

WHEREAS, the APFD of every family member is currently included in determining the total adjusted annual income; and

WHEREAS, the total family's APFD may place families above qualification income limits for housing assistance; and

WHEREAS, monthly rental payments are based on the total adjusted income; and

WHEREAS, this causes seniors and low-income families to pay a high percentage of their income each month in order to compensate for this once-a-year payment; and

WHEREAS, it is the intention of HUD to provide opportunities for low-income residents to save money for homeownership, self-employment, or other self-sufficiency opportunities; and

WHEREAS, it is the intent of this resolution to provide greater opportunities to all low-income Alaskans to increase their quality of life.

NOW, THEREFORE, BE IT RESOLVED, that through support from residents, Alaska public and Indian housing authorities, and the Alaska Legislature, a campaign be waged to request the Secretary of HUD to grant a waiver of the Alaska Permanent Fund Dividend checks from inclusion in annual adjusted gross income for rent calculations.

Passed by the Board of the Alaska State Housing Authority this 11th day of October, 1991.

RESOLUTION REQUESTING THE SECRETARY OF HUD TO
APPROVE A WAIVER OF THE LONGEVITY BONUS CHECKS FROM
CONSIDERATION IN GROSS INCOME FOR RENT CALCULATIONS

Resolution No. 380

WHEREAS, the Longevity Bonus checks are considered income by the U.S. Department of Housing & Urban Development (HUD) in determining annual adjusted gross income for rent calculations; and

WHEREAS, the amount of the Longevity Bonus was instituted by the Alaska State Legislature to encourage seniors to remain in Alaska in their retirement years, in spite of the long, harsh winters; and

WHEREAS, the continuation of the Longevity Bonus is based on the Legislature's willingness to continue its funding; and

WHEREAS, the amount of the Longevity Bonus has increased from \$100 a month to its current \$250 per month; and

WHEREAS, any person at least 65 years of age who has resided in Alaska for one year is eligible for the Longevity Bonus; and

WHEREAS, receipt of the Longevity Bonus places many seniors over income limits for housing assistance; and

WHEREAS, seniors often choose to forego applying for the Longevity Bonus in order to stay within the income limits for housing assistance; and

WHEREAS, monthly rental payments are based on the total adjusted income; and

WHEREAS, it is the intention of HUD to provide opportunities for low-income residents to save money for homeownership, self-employment, or other self-sufficiency opportunities; and

WHEREAS, it is the intent of this resolution to provide greater opportunities to low-income Alaskan seniors to increase their quality of life.

NOW, THEREFORE, BE IT RESOLVED, that through support from residents, Alaska public and Indian housing authorities, and the Alaska Legislature, a campaign be waged to request the Secretary of HUD to grant a waiver of the Longevity Bonus checks from inclusion in annual adjusted gross income for rent calculations.

Passed by the Board of the Alaska State Housing Authority this 11th day of October, 1991.

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

Entitled: Requesting the Secretary of HUD to approve a Waiver of the Permanent Fund Dividend Checks from consideration in gross income for rent calculations



Resolutions 91-03

WHEREAS, the Alaska Permanent Fund Dividend (APFD) checks are considered income by the U.S. Department of Housing and Urban Development in determining annual adjusted gross income for rent calculations; and

WHEREAS, the amount of the APFD varies, based upon the earnings of the APFD account; and

WHEREAS, the amount of the APFD checks has varied from a low of \$331 to a high of \$1,000, and has averaged \$670 since its inception in 1982; and

WHEREAS, income from the APFD arrives in one annual check, sometime within the last three-month period of the year, and

WHEREAS, the APFD of every family member is currently included in determining the total adjusted annual income; and

WHEREAS, the total family's APFD may place many families above qualification income limits for housing assistance; and

WHEREAS, monthly rental payments are based on the total adjusted income; and

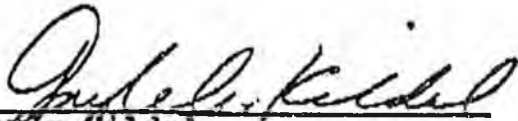
WHEREAS, this causes seniors and low-income families to pay a high percentage of their income each month in order to compensate for this once-a-year payment; and

WHEREAS, it is the intention of HUD to provide opportunities for low-income residents to save money for homeownership, self-employment, or other self-sufficiency opportunities; and

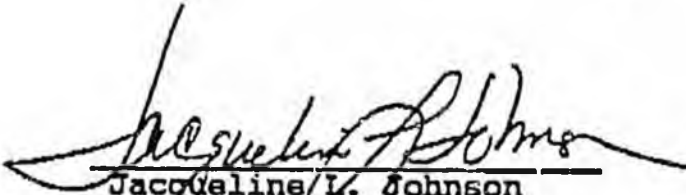
Association of Alaska Housing Authorities
Resolution 91-03
Page 2

WHEREAS, it is the intent of this resolution to provide these opportunities to all low-income Alaskans to increase their quality of life.

NOW, THEREFORE, BE IT RESOLVED, by the Association of Alaska Housing Authorities, that through a campaign of support letters from residents and Alaska public and Indian housing authorities, and support from the Alaska Legislature, a campaign be waged to request the Secretary of HUD to grant a waiver of the Alaska Permanent Fund Dividend checks from inclusion in annual adjusted gross income for rent calculations.



Gayle Kildal
Secretary, AAHA



Jacqueline L. Johnson
President, AAHA



areas. The distribution of contract authority by individual program need not be the same for each allocation area, so long as the total amounts of contract authority made available to the field office for each program type and for the metropolitan and nonmetropolitan portions are not exceeded.

§ 791.105 Field office consultation procedures.

(a) *Consultation with single-jurisdiction allocation areas.* The field office shall consult with the chief executive officers of SMSA central cities and other local governments that have been designated as single-jurisdiction allocation areas pursuant to § 791.404(b)(2). Sufficient time should be provided prior to the consultation to allow the local government to review the preliminary allocation plan and to consult with its local public housing agency. As part of the consultation process, the field office shall ask the chief executive officer to comment on local government preferences with regard to housing type, program type, and the extent to which the local government wishes to use its allocation for carrying out public housing modernization. The field office shall accommodate these preferences as much as possible, consistent with limitations on contract authority by housing type assigned to the field office, the contract authority made available to the allocation area, and the competing preferences of local governments in other allocation areas.

(b) *Consultation with multi-jurisdictional allocation areas.* The field office shall develop appropriate procedures for consultation with local governments within each multi-jurisdictional allocation area about the preliminary allocation plan. Local governments shall have an opportunity, after consulting with their public housing agencies, to indicate their preferences with regard to housing type, program type, and the extent to which they wish to compete for the use of available contract authority for carrying out public housing modernization. The field office shall accommodate these preferences as much as possible, consistent with limitations on contract au-

the field office, the contract authority made available to the allocation area, and the competing preferences of other local governments within the allocation area and in other allocation areas.

(1) Where all of the contract authority for an allocation area is to be targeted for exclusive use in previously underfunded localities in accordance with § 791.404(d), consultation shall be limited to those localities.

(2) Where an areawide housing plan has been developed by two or more local governments or by an APO on behalf of the local governments, the field office shall consult with local government and APO representatives on their preferences and on the need for targeting to previously underfunded localities.

(c) *Consultation with State housing agencies and FmHA.* The field office manager shall meet with representatives of the State housing agencies and FmHA, as appropriate, in order to reach agreement on what portion of the housing assistance in each allocation area will be provided by the set-asides for their respective programs. If the field office and the State agency or FmHA cannot agree, the regional administrator shall resolve the differences. The regional administrator shall also coordinate the use of any State agency or FmHA set-aside which affects more than one field office jurisdiction.

§ 791.106 Approval of the allocation plan.

After the consultation procedures in § 791.405 are completed and appropriate adjustments made, the field office manager shall approve the allocation plan. For each allocation area within the field office jurisdiction, the plan shall indicate the number of assisted housing units by housing type and program type for each household type, the amounts of contract and budget authority for each, and any amounts allocated for public housing modernization. The plan shall include a map or maps clearly showing the allocation areas within the field office jurisdiction. The approved allocation plan shall be completed within 30

Office of the Secretary, HUD

working days after receipt of the field office allocation.

§ 791.107 Exchanges and reallocations of contract authority.

(a) The field office shall make every reasonable effort to obtain a sufficient number of approvable applications to use the available contract authority for each allocation area in a manner consistent with the housing, household and program types specified in the allocation plan. If this objective cannot be achieved, the field office shall make exchanges or reallocations of contract authority in accordance with the following procedures.

(1) If applications for a particular program type or housing type would not use all of the contract authority designated for that program type or housing type in the allocation area, the field office shall attempt to exchange the remaining contract authority for an equal amount of contract authority in another program type or housing type in another allocation area, so long as the total amount of contract authority for each allocation area remains unchanged.

(2) If applications are not sufficient to use all of the contract authority designated for a particular household type in the allocation area, even after exchanges in program type and housing type, the remaining contract authority may be provided to localities within the allocation area that have already met their annual household type goals on a proportional basis.

(3) If the field office manager determines that not all of the contract authority allocated for a particular allocation area is likely to be used during the fiscal year, the remaining authority may be reallocated to other allocation areas where it is likely to be used during that fiscal year.

(4) If the regional administrator or the appropriate Assistant Secretary determines that not all of the contract authority allocated to a field office is likely to be used during the fiscal year, the remaining authority may be reallocated to another field office where it is likely to be used during that fiscal

year. Only the appropriate Assistant Secretary may reallocate contract authority among regional administrators.

(b) Any exchanges or reallocations of contract authority between allocation areas, field offices, or regions shall be consistent with the assignment of contract and budget authority for the specific program type and housing type, any established set-asides, and metropolitan and nonmetropolitan designations.

(c) In addition to the requirements of paragraph (b) of this section, contract authority shall not be reallocated for use in another State unless the field office manager, the regional administrator, or the appropriate Assistant Secretary has determined that other allocation areas within the same State cannot use the available authority in accordance with HAPs during that fiscal year.

PARTS 792-798 [RESERVED]

PART 799—WAIVER AUTHORITY

§ 799.101 Waivers.

(a) *Basic provision.* Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(b) *Reservation of authority by the Secretary.* The authority under paragraph (a) of this section is reserved to the Secretary and no delegation of this waiver authority shall be effective unless executed subsequent to June 7, 1976, for the Assistant Secretary for Housing—Federal Housing Commissioner on September 6, 1983, for the Assistant Secretary for Public and Indian Housing. Authority to waive by either Assistant Secretary is limited to each Assistant Secretary's respective programs.

(Sec. 760, Department of Housing and Urban Development Act (42 U.S.C. 3535(d)) (19 FR 6715, Feb. 21, 1944))

CORRECTION

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

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

Entitled: Requesting the Secretary of HUD to approve a Waiver of the Permanent Fund Dividend Checks from consideration in gross income for rent calculations



Resolutions 91-03

WHEREAS, the Alaska Permanent Fund Dividend (APFD) checks are considered income by the U.S. Department of Housing and Urban Development in determining annual adjusted gross income for rent calculations; and

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WHEREAS, the amount of the APFD checks has varied from a low of \$331 to a high of \$1,000, and has averaged \$670 since its inception in 1982; and

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WHEREAS, the APFD of every family member is currently included in determining the total adjusted annual income; and

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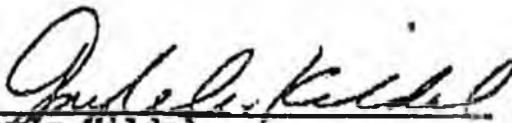
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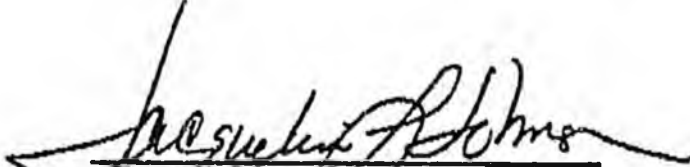
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Association of Alaska Housing Authorities
Resolution 91-03
Page 2

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NOW, THEREFORE, BE IT RESOLVED, by the Association of Alaska Housing Authorities, that through a campaign of support letters from residents and Alaska public and Indian housing authorities, and support from the Alaska Legislature, a campaign be waged to request the Secretary of HUD to grant a waiver of the Alaska Permanent Fund Dividend checks from inclusion in annual adjusted gross income for rent calculations.


Gayle Kildal
Secretary, AAHA

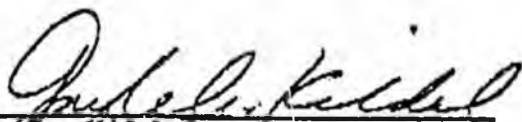

Jacqueline L. Johnson
President, AAHA




Association of Alaska Housing Authorities
Resolution 91-03
Page 2

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President, AAHA



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(c) *Consultation with State housing agencies and FmHA.* The field office manager shall meet with representatives of the State housing agencies and FmHA, as appropriate, in order to reach agreement on what portion of the housing assistance in each allocation area will be provided by the set-asides for their respective programs. If the field office and the State agency or FmHA cannot agree, the regional administrator shall resolve the differences. The regional administrator shall also coordinate the use of any State agency or FmHA set-aside which affects more than one field office jurisdiction.

§ 791.406 Approval of the allocation plan.

After the consultation procedures in § 791.405 are completed and appropriate adjustments made, the field office manager shall approve the allocation plan. For each allocation area within the field office jurisdiction, the plan shall indicate the number of assisted housing units by housing type and program type for each household type, the amounts of contract and budget authority for each, and any amounts allocated for public housing modernization. The plan shall include a map or maps clearly showing the allocation areas within the field office jurisdiction. The approved allocation

working days after receipt of the field office allocation.

§ 791.407 Exchanges and reallocations of contract authority.

(a) The field office shall make every reasonable effort to obtain a sufficient number of approvable applications to use the available contract authority for each allocation area in a manner consistent with the housing, household and program types specified in the allocation plan. If this objective cannot be achieved, the field office shall make exchanges or reallocations of contract authority in accordance with the following procedures.

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(b) Any exchanges or reallocations of contract authority between allocation areas, field offices, or regions shall be consistent with the assignment of contract and budget authority for the specific program type and housing type, any established set-asides, and metropolitan and nonmetropolitan designations.

(c) In addition to the requirements of paragraph (b) of this section, contract authority shall not be reallocated for use in another State unless the field office manager, the regional administrator, or the appropriate Assistant Secretary has determined that other allocation areas within the same State cannot use the available authority in accordance with HAPs during that fiscal year.

PARTS 792-798 [RESERVED]

PART 799—WAIVER AUTHORITY

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(a) *Basic provision.* Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(b) *Reservation of authority by the Secretary.* The authority under paragraph (a) of this section is reserved to the Secretary and no delegation of this waiver authority shall be effective unless executed subsequent to June 7, 1976, for the Assistant Secretary for Housing—Federal Housing Commissioner on September 6, 1983, for the Assistant Secretary for Public and Indian Housing. Authority to waive by either Assistant Secretary is limited to each Assistant Secretary's respective programs.

(Sec. 76(d), Department of Housing and Urban Development Act (12 U.S.C. 3545(d)) (19 FR 6715, Feb. 24, 1984))

HJR

62

HOUSE SPECIAL COMMITTEE ON INTERNATIONAL TRADE AND TOURISM

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811
(907) 465-2973



MEMORANDUM

TO: Representative Gene Kubina, Chair
House State Affairs Committee

FROM: Representative Tom Moyer, Chair *TM*
Special Committee on International Trade
and Tourism

DATE: January 28, 1992

RE: Hearing request for HJR 62

I would like to formally request that you schedule HJR 62, relating to providing commonwealth status for Guam, at your earliest convenience.

Attached is a copy of the resolution and background information that Representative Max Gruenberg and I received from Senator George Bamba's office in Guam and from U.S. Representative Ben Blaz in D.C. I've included the Governor of Guam's presentation before the congressional hearings two years ago in Honolulu. At those hearings, Governor Joseph Ada provided an overview of Guam's commonwealth status and the history of their fight for independence.

As you may already know, Guam is an unincorporated territory of the United States and they are currently seeking self-government status. A bill in Congress, HR 98, which is referred to as the Commonwealth Act, calls for a recognition of their right to self-determination. Representative Don Young is listed as a co-sponsor of this legislation.

Under the Territorial Clause of the U.S. Constitution, Congress has plenary powers to govern the territories. This broad power also includes the power to restructure political relationships with the territories.

Please contact me or Alexis Miller, who is the staff aide for the International Trade and Tourism Committee, at 465-2973.

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 24, 1992

FURTHER REFERRALS:

Date of Committee Action: 3/11/92

The STATE AFFAIRS Committee considered:

HJR 62

HOUSE JOINT RESOLUTION NO. 62

SUPPORT COMMONWEALTH STATUS FOR GUAM

Supporting Guam in its quest for commonwealth status.

RECOMMENDATIONS:

be replaced with CS + HJR 62 (STA) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note State Affairs Note for LAAT

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Eugene G. Kubera</i>					
<i>Tommy</i>	X				
<i>David Churchill</i>					
<i>John</i>					
<i>James J. Sale</i>	✓				
<i>Mike Miller</i>	✓				
<i>Mr. J. Greenberg</i>					

Eugene G. Kubera
CHAIRMAN'S SIGNATURE

Alaska State Legislature

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee



During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

Representative Eugene Kubina

DATE: March 9, 1992

TO: Tam Cook, Director
Legal Services

FROM: Representative Gene Kubina, Chairman
House State Affairs Committee *Gene*

RE: HJR 62 (Commonwealth Status for Guam)

Please draft a State Affairs Committee Substitute (CS) for HJR 62. It should read as follows:

Be it Resolved by the Legislature of the State of Alaska:

Whereas the United States is recognized as the world leader in stimulating the pursuit of global democracy; and

Whereas the United States supports the extension of self-determination to all peoples, especially to those territories under its jurisdiction; and

Whereas the Alaska legislature supports the search by each territory governed by the United States for the political standing best suited for its people; and

Whereas the citizens of the Territory of Alaska fought long and hard for their own self-determination within the United States and eventually achieved it in 1959 with statehood; and

Whereas Alaskans recognize and identify with the desire of the people of Guam to determine their own political, social and economic future; and

Whereas the territory of Guam is attempting to establish a just political relationship between the people of Guam and the United States in the United States' political community, and is trying to allow its people to participate in this attempt; and

Whereas the Guam Territorial Legislature has obtained introduction of the Commonwealth Act of Guam in the United States Congress that would accord the Territory commonwealth status; and

Whereas there is a growing support for providing commonwealth status for Guam, as evidenced by the policy statements and resolutions of various national groups, including members of Congress and the current administration, the National Governors Association, the National Conference of State Legislatures, the Western Legislative Conference, and the United States Conference of Mayors;

Whereas the people of Guam are United States citizens and should be given all the rights afforded them in the U.S. Constitution.

Be it resolved that the Alaska State Legislature supports the people of Guam's efforts to achieve commonwealth status and a just and permanent relationship with the United States; and be it

- DISTRICT SIX -

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

Page Two
Guam Resolution

Further resolved that the Alaska State Legislature urges the United States government to allow the people of Guam to determine their own political, social and economic future while retaining the protection of the U.S. Constitution.

Send copies of the resolution to the names of the people that are currently on HJR 62 and add Senator Bennett Johnston, Chair of the Senate Committee on Energy and Natural Resources. And please correct the spelling of Joe T. San Augustine, Speaker of the Twenty-First Guam Unicameral Legislature.

Thanks for your assistance.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 62

Revision Date: _____ Department Affected: Legislative Affairs Agency
 Title: Support Commonwealth Status BRU: _____
for Guam Component: _____

Sponsor: H) ITT Committee
 Requestor: House State Affairs Committee COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

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

Division: _____ Date: 2-21-92

Approved by Commissioner: Representative Gene Kubina, Chairman

Agency: House State Affairs Committee Date: 2-21-92

Distribution (by preparer): Leg. Fir _____ Impacted Agency(ies).

State of Alaska

House Majority Leader

COMMITTEES

HOUSE JUDICIARY
HOUSE RULES
HOUSE STATE AFFAIRS
SPECIAL COMMITTEE
MILITARY AND VET. AFFAIRS
LEGISLATIVE COUNCIL



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

P.O. Box V
JUNEAU, AK 99811
(907) 465-3718
465-4968/4986
(SESSION)

3111 C STREET, SUITE 424
ANCHORAGE, AK 99507
(907) 561-7621

February 20, 1992

MEMORANDUM

All Members
House State Affairs Committee

SUBJECT: HJR 62, supporting commonwealth status for Guam

Dear Members of State Affairs:

It is my pleasure to wholeheartedly support HJR 62.

Guam's status does not allow the people of Guam input on political decisions made in Washington. Alaska, as a territory, experienced that distress. Alaska shares Guam's Territorial history, giving added impetus to our support of Guam's commonwealth endeavor. We have a special interest in supporting Guam's cause.

Supporting self-determination for the people of Guam is a worthy position for the 17th Legislature to take.

I urge the Committee to pass HJR 62 unanimously.

Sincerely,


Representative Max F. Gruenberg, Jr.

HOUSE SPECIAL COMMITTEE ON INTERNATIONAL TRADE AND TOURISM

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811
(907) 465-2973



MEMORANDUM

DATE: February 28, 1992

TO: Representative Gene Kubina, Chair
House State Affairs Committee

FROM: Alexis Miller, Aide
House Special Committee on
International Trade and Tourism

RE: Guam Resolution Committee Substitute

Attached is a copy of the draft resolution that our office had completed prior to receiving the resolution that was drafted by Representative Max Gruenberg. Representative Moyer would like to combine our draft resolution with the current resolution, HJR 62.

Also attached is a copy of comments received from Manase Mansur, who is an aide to the House Interior and Insular Affairs Committee in Washington, D.C. Mr. Mansur has worked on this issue for many years and his comments should be incorporated into the State Affairs Committee Substitute.

Previously I had sent a copy of HJR 62 to Congressman Ben Blaz, the Guamanian representative in D.C., and he has not sent our office any changes to the resolution. However, I do think we should contact his office again. His number is (202) 225-1188.

Since the resolution is up again on Monday, I'd like to request a draft CS from Legal Services today and work on any additional changes in committee.

I think the most important change in the resolution is our support for commonwealth status, but not for the current legislation in Congress. Please contact me at 465-4930 if I can offer any assistance to your committee staff.

- o The Guam Commonwealth Act would not establish a permanent relationship between Guam and the United States because Guam wants it to require a plebiscite on the future status of Guam.
- o The Guam Legislature did not obtain introduction of the Commonwealth legislation which, instead, was introduced by Members of Congress (and was drafted by a interbranch Guam commission.)
- o Commonwealth is the name of a political entity rather than a political "status" under our Constitution.
- o State and local officials are not the only ones expressing support for the Guam commonwealth effort; support is also evident from statements of leading Members of Congress and the Bush Administration.
- o The United States Government does not need to allow the people of Guam to participate in a determination of their future status because they have the authority to make a determination of their aspirations, were invited to do so by President Carter, did so in referenda during the 1980s, and their decision has been accepted by the Bush Administration.
- o The Commonwealth legislation would not fulfill the people of Guam's expressed desire for a closer relationship with the United States because it would create a more distant relationship with the United States.

* From [unclear] [unclear] House, Internal & Insular Affairs, Guam
in [unclear], D.C.

101ST CONGRESS
2D SESSION

H. R. 98

To establish the Commonwealth of Guam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1989

Mr. BLAZ (for himself, Mr. UDALI, Mr. YOUNG of Alaska, Mr. DE LUGO, and Mr. LAGOMARSINO) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Ways and Means

JULY 11, 1989

Additional sponsors: Mr. DYMALLY, Mr. RICHARDSON, Mr. HORTON, Mr. PARRIS, Mr. MONTGOMERY, Mr. LIGHTFOOT, Mr. CROCKETT, Mr. VENTO, Mr. FOGLIETTA, Mrs. VUCANOVICH, Mr. MAVBOULES, Mr. LEWIS of California, Mr. MURPHY, Mr. AKAKA, Mrs. SAIKI, Mr. BENNETT, Mr. FALEOMAVAEGA, Mr. MARTIN of New York, Mrs. UNSOELD, and Mr. GALLEGLY

DECEMBER 14, 1989

Additional sponsors: Mr. MARTINEZ, Mr. GILMAN, Mr. TORRICELLI, Mr. PAYNE of New Jersey, Mr. SMITH of Vermont, Mr. HUNTER, Mr. GARCIA, Mr. DE LA GARZA, Mr. TOWNS, Mr. CONYEBS, Mr. MORRISON of Washington, Mr. PETRI, Mr. OBTIZ, Mr. RANGEL, Mr. TAUKE, Mr. NIELSON of Utah, Mr. PORTEB, Mr. LANTOS, Mr. HENRY, Mrs. BENTLEY, Mr. WOLPE, Mr. STOKES, Mr. ACKERMAN, Ms. PELOSI, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. GRAY, Mr. DORNAN of California, Mr. MANTON, Mr. TORRES, Mr. WOLF, Mr. SIKORSKI, Mr. ROYBAL, Mr. FROST, Mr. ROE, Mr. KOSTMAYER, Mr. KASICH, Mr. DWYER of New Jersey, Mr. HYDE, Mr. BILBRAY, Mr. McCLOSKEY, Mr. WALSH, Mr. BOEHLERT, Mr. MILLER of Washington, Mr. MORRISON of Connecticut, Mr. CAMPBELL of California, Mr. DOWNEY, Mr. ARNEY, Mr. BATES, Mr. SISISKY, Mr. QUILLEN, Mr. DELAY, Mr. YOUNG of Florida, Mr. FUSTEB, Mr. CLARKE, Mr. ANDERSON, Mr. EDWARDS of Oklahoma, Mr. LEWIS of Georgia, Mr. HANSEN, Ms. SLAUGHTER of New York, Mr. BILIBAKIS, Mr. MURTHA, Mr. FAUNTROY, Mr. DONALD E. LUKENS, Mr. BUSTAMANTE, Mr. DARDEN, Mr. HUGHES, Mr. BROOMFIELD, Mr. RAHALL, Mr. STALLINGS, Mr. TRAFICANT, Mr. LIPINSKI, Mr. TANNER, Mr. HUBBARD, Mr. RIDGE, Mr. DREIER of California, Mr. BAKER, Mr. COBLE, Mr. DANNEMEYER, Mr. DAVIS, Mr. FIELDS, Mr. HEFLEY, Mr. SPENCE, Mr. WELDON, Mr. PAXON, Mr. OXLEY, Mr. McEWEN, Mr. McCOLLUM, Mr. HERGER, Mrs. LLOYD, Mr. MACHTLEY, Mr. BROWN of California, Mr. CRAIG, Mr. FRANK, Mr. PACKARD, Mr. LEACH of

Iowa, Mr. SCLARZ, Mr. MINETA, Mr. CAMPBELL of Colorado, Mr. WEBER, Mr. SCHULZE, Mr. HAMMERSCHMIDT, Mr. BERMAN, Mr. ROSE, Mr. WEISS, Mr. WHEAT, Mr. HALL of Texas, Mr. MILLER of California, Mr. JONES of Georgia, Mr. HAYES of Illinois, Mr. MFUME, Mr. YATRON, Mr. GINORICH, Mr. LIVINGSTON, Mr. HANCOCK, Mr. STUMP, Mr. EMERSON, Mr. LOWEBY of California, Mr. SMITH of New Hampshire, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. BUECHNER, Mr. DEWINE, Mr. KYL, Mr. THOMAS of Wyoming, Mr. COX, Mr. GRANT, Mr. VANDER JAOT, Mr. JAMES, Mr. FAWELL, Mr. THOMAS of California, Mr. FRENZEL, Mr. ROBERT F. SMITH, Mr. CLINGER, Mr. PARKER, and Mr. STENHOLM

MAY 10, 1990

Additional sponsors: Mrs. COLLINS, Mr. SKELTON, Mr. MATSUI, Mr. ROBERTS, Mrs. MEYERS of Kansas, Mr. WHITTAKER, Mr. SAXTON, Mr. KENNEDY, Ms. SNOWE, Mr. CARPER, Mr. SANGMEISTER, Mr. SHUMWAY, Mr. FISH, Mr. McMILLEN of Maryland, Mr. RHODES, Mr. DONNELLY, Mrs. SMITH of Nebraska, Mr. GORDON, Mr. WALKER, Mr. GUNDEBSON, Mr. CRANE, Mr. McDADE, Mr. EEREUTER, Mr. CONTE, Mr. INHOPE, Mr. GONZALEZ, Mr. COURTER, and Mr. HOPKINS

Deleted sponsor: Mr. MILLER of California (added November 21, 1989; deleted April 19, 1990)

A BILL

To establish the Commonwealth of Guam, and for other purposes.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Guam Commonwealth
 5 Act".

6 SEC. 2. PREAMBLE.

7 (a) In recognition of the long-cherished aspiration of the
 8 people of Guam to direct the course of their own destiny, and
 9 with the belief that mutual respect, understanding, and com-
 10 promise among people form a more perfect Union, the people

1 of the United States of America, nurtured in the ideals of
2 liberty and democracy, conscious of their obligations under
3 the Treaty of Paris of 1899 and the Charter of the United
4 Nations, do hereby embrace the establishment of the Com-
5 monwealth of Guam, ever mindful that the right of self-deter-
6 mination and the heritage of the Chamorro people of Guam
7 shall be protected.

8 (b) This Act reflects the will of the people of Guam to
9 attain a greater measure of self-government in concert with
10 the United States of America, and reaffirms the principle that
11 governments derive their just powers only from the consent
12 of the governed.

13 (c) To this end, the Senate and House of Representa-
14 tives of the United States of America in Congress assembled,
15 now adopt this Act.

16 **TITLE I—POLITICAL**
17 **RELATIONSHIP**

18 **SEC. 101. CREATION OF THE COMMONWEALTH AND FULL**
19 **SELF-GOVERNMENT.**

20 (a) The Island of Guam, and its adjacent islands and
21 waters shall upon the enactment of this Act become a self-
22 governing Commonwealth known as the "Commonwealth of
23 Guam". This Act, the provisions of the United States Consti-
24 tution, treaties, and laws of the United States applicable to

1 Guam, and the Constitution of Guam shall be the supreme
2 law of the Commonwealth.

3 (b) The people of Guam shall have the right of full self-
4 government, which shall extend to all rightful subjects of
5 government not inconsistent with this Act and the laws of the
6 United States applicable to Guam, and shall govern them-
7 selves in accordance with this Act through a Constitution of
8 their own adoption. Such Constitution shall—

9 (1) recognize, and be consistent with, the sover-
10 eignty of the United States over Guam, and the su-
11 premacy of the provisions of the Constitution, treaties,
12 and laws of the United States applicable to Guam;

13 (2) provide for a republican form of government;

14 (3) provide for three branches of government; and

15 (4) contain a bill of rights.

16 (c) The Government of the Commonwealth shall have
17 the power to sue in its own name, and, with the consent of
18 the Legislature, may be sued upon any contract entered into
19 with respect to, or any tort committed incident to, the exer-
20 cise by the Government of the Commonwealth of Guam or
21 any of its lawful powers.

22 (d) The Government of the Commonwealth of Guam
23 shall have the power to establish, maintain, and operate a
24 public educational system to the same extent as the several
25 States.

1 SEC. 102. SELF-DETERMINATION AND UNITED STATES CITI-
2 ZENSHIP RIGHTS.

3 (a) The Congress recognizes the inalienable right of self-
4 determination of the indigenous Chamorro people of Guam,
5 defined as all those born on Guam before August 1, 1950,
6 and their descendants. The exercise of such right of self-de-
7 termination shall be provided for in a Constitution of the
8 Commonwealth of Guam.

9 (b) The Government of Guam shall ensure that, not-
10 withstanding the provisions of the preceding paragraph, noth-
11 ing herein shall be interpreted as depriving any qualified resi-
12 dent of Guam of the right to participate as a voter in any
13 referendum or plebiscite held under the ratification procedure
14 for this Act set forth in section 1204 hereof.

15 (c) The United States Government shall, by means of
16 additional federally funded programs, and the Commonwealth
17 of Guam may promote—

18 (1) the maintenance and preservation of the Cha-
19 morro language, culture, and traditions;

20 (2) the enhancement of economic, social, and edu-
21 cational opportunities for Chamorros; and

22 (3) training of Chamorros for employment as pro-
23 fessionals, skilled workers, and leaders in business and
24 industry.

25 (d) The establishment of such additional programs shall
26 not affect the continued eligibility for the benefits of existing

1 programs of members of all minority groups presently quali-
2 fying for such programs under current law.

3 (e) Nothing in this Act or in the Constitution of the
4 Commonwealth of Guam shall impair the United States citi-
5 zenship of the residents of Guam or their descendants, or the
6 entitlement of legally admitted aliens permanently residing in
7 Guam, to the respective rights and privileges accorded to
8 each such class of persons under the first sentence of the
9 fourteenth amendment of the United States Constitution.

10 (f) Notwithstanding any other provisions of law or of
11 this Act, the Commonwealth of Guam shall establish a trust
12 to be known as the "Chamorro Land Trust" for the benefit of
13 the indigenous Chamorro people of Guam and composed of
14 certain lands returned by the United States before and after
15 the effective date of this Act to the Commonwealth of Guam.
16 Nothing in this section shall inhibit or prevent the direct
17 return of lands to the original owners, or the establishment of
18 leasehold arrangements with them, by the Government of the
19 Commonwealth of Guam.

20 (g) The Constitution of the Commonwealth of Guam
21 shall establish reasonable residency requirements for the citi-
22 zens of such Commonwealth for the purposes of the right to
23 vote in Commonwealth elections or to hold any elective office
24 established by the Constitution of Guam.

1 SEC. 103. MUTUAL CONSENT.

2 In order to respect the self-government granted to the
3 Commonwealth of Guam under this Act, the United States
4 agrees to limit the exercise of its authority so that the provi-
5 sions of this Act may be modified only with the mutual con-
6 sent of the Government of the United States and the Govern-
7 ment of the Commonwealth of Guam.

8 **TITLE II—APPLICABILITY OF**
9 **FEDERAL LAW**

10 SEC. 201. APPLICABILITY OF UNITED STATES CONSTITUTION.

11 Those portions of the United States Constitution which
12 apply to Guam on the effective date of this Act shall, unless
13 specifically modified by this Act, continue to apply under this
14 Act. In addition, the following provisions of and amendments
15 to the Constitution of the United States shall apply to the
16 Commonwealth of Guam and shall have the same force and
17 effect in Guam as in the United States or in any State of the
18 United States: Article IV, section 2, clause 2 and section 4;
19 the tenth amendment, and the first sentence of the fourteenth
20 amendment.

21 SEC. 202. EFFECT OF FEDERAL LAW.

22 Except as otherwise intended by this Act, no Federal
23 laws, rules or regulations passed after the date of this Act
24 shall apply to the Commonwealth of Guam unless mutually
25 consented to by the United States and the Government of the
26 Commonwealth of Guam.

1 SEC. 203. JOINT COMMISSION.

2 (a)(1) There is hereby created a Joint Commission on
3 the Applicability of Federal Law (hereinafter referred to as
4 the "Commission") to be composed of 7 members: 3 members
5 and their successors appointed by the President of the United
6 States and 4 members and their successors appointed by the
7 Governor with the advice and consent of the legislature of
8 the Commonwealth of Guam. The appointees by the Govern-
9 ment of Guam shall be citizens of the Commonwealth of
10 Guam who are or have been 10 years continuously resident
11 on Guam at the time of their appointment. Said appointees
12 shall serve at the pleasure of the President of the United
13 States and the Governor of the Commonwealth of Guam,
14 respectively. Any vacancy which may occur on the Commis-
15 sion shall not affect its powers or functions but shall be filled
16 in the same manner in which the original appointment was
17 made. Appointments shall be made within 60 days after the
18 effective date of this Act.

19 (2) The Commission shall adopt its own internal regula-
20 tions to govern its procedures and may delegate authority on
21 particular issues to some of its members.

22 (3) A majority of the Commission shall constitute a
23 quorum for the transaction of its business. The Commission
24 may provide for the taking of testimony, discussion of issues
25 with members of the Federal Government or Government of
26 Guam, and the reception of evidence at meetings at which

1 there are present not less than three members of the Com-
2 mission. The Chairman of the Commission shall call a meet-
3 ing to organize the Commission within 30 days after he and a
4 majority of the members of the Commission have been
5 appointed.

6 (b) The Commission shall—

7 (1) be used for regular consultations between the
8 Government of the United States and the Government
9 of the Commonwealth of Guam on all matters affecting
10 the relationship between them;

11 (2) study existing statutes and regulations affect-
12 ing the relationship between between Guam and the
13 United States;

14 (3) review the policies and procedures of the Fed-
15 eral agencies as such policies and procedures relate to
16 the relationship between Guam and the United States;

17 (4) compile data as may be necessary for the con-
18 duct of the Commission's work or for the implementa-
19 tion of this Act;

20 (5) draft such modifications in existing laws, regu-
21 lations, policies, and procedures as will, in the judg-
22 ment of the Commission, best serve to carry out the
23 purposes of the Commission or this Act;

24 (6) obtain, if possible, the modification of these
25 laws, regulations, and procedures by negotiation and

1 mediation, such as issues concerning land claims and
2 war claims by the people of Guam; and

3 (7) seek to obtain the maximum economic devel-
4 opment and political autonomy for the Commonwealth
5 of Guam without impairing United States national
6 security interests.

7 The heads of Federal departments and agencies are author-
8 ized and directed to furnish whatever assistance is requested
9 by the Commission, without reimbursement, except classified
10 information directly related to national security interests.

11 (c) The Commission is authorized to appoint and fix the
12 compensation of an Executive Secretary and such other addi-
13 tional personnel as may be necessary to enable the Commis-
14 sion to carry out its functions without regard to the Federal
15 Property and Administrative Services Act of 1949 and civil
16 service laws, rules, and regulations, but any Federal employ-
17 ee subject to those laws, rules, and regulations, who may be
18 detailed to the Commission (which detail is hereby author-
19 ized) shall retain his civil service status without interruption
20 or loss of status or privilege. In addition, the Commission
21 may enter into contracts in order to carry out its mandate.

22 (d) The United States will bear the cost of the work of
23 the Commission.

1 SEC. 204. DELEGATION OF AUTHORITY.

2 The Congress hereby authorizes the President or his
3 designee to delegate to the Governor of Guam total or partial
4 performance of functions now vested in administrative agen-
5 cies in the Federal Government. The President or his desig-
6 nee and the Governor of Guam shall consult from time to
7 time on the implementation of this provision.

8 **TITLE III—FOREIGN AFFAIRS AND**
9 **DEFENSE**

10 SEC. 301. UNITED STATES AUTHORITY.

11 The United States shall have responsibility for an au-
12 thority with respect to matters relating to foreign affairs and
13 defense that affect the Commonwealth of Guam.

14 SEC. 302. CONSULTATION WITH GUAM.

15 (a) The United States agrees to consult with the Com-
16 monwealth of Guam in advance of negotiations toward any
17 treaties or international agreements, including Executive
18 Agreements, which affect the well-being of the people of
19 Guam.

20 (b) No military security zones shall be established and
21 no foreign military personnel shall be stationed on the Island
22 of Guam without approval of the Government of the Com-
23 monwealth except in time of declared war, and no military
24 bases will be established without consultation with the
25 Governor of the Commonwealth of Guam.

1 (c) The United States shall consult with the Govern-
2 ment of the Commonwealth of Guam with respect to any
3 proposed plan to increase or decrease Department of Defense
4 activities within the Commonwealth.

5 SEC. 303. UNITED STATES CONSULAR AND TRADE ASSIST-
6 ANCE.

7 (a)(1) The United States shall assist and facilitate the
8 establishment by Guam of offices in the United States and
9 abroad.

10 (2) The United States shall assist the Commonwealth of
11 Guam to become a member or participate in appropriate re-
12 gional and other international organizations to include, but
13 not be limited to, the South Pacific Forum, the regional orga-
14 nizations of the United Nations Specialized agencies, and the
15 Asian Development Bank. Under such authority Guam shall
16 be free to accept and grant financial and technical assistance,
17 to enter into bilateral and multilateral agreements to promote
18 joint ventures private and public, exchange programs, and to
19 become a party to all agreements between and among foreign
20 entities involving regional and subregional affairs. The Com-
21 monwealth may enter into agreements with sovereign states,
22 and the political entities resulting from the Trust Territory of
23 the Pacific Islands, relative to reciprocal trade and tax ques-
24 tions and their application to the respective jurisdictions.

1 (b) The Government of the United States shall seek to
2 obtain from foreign countries favorable treatment for exports
3 from the Commonwealth of Guam and will encourage other
4 countries to consider the Commonwealth of Guam a develop-
5 ing territory.

6 **SEC. 304. NUCLEAR WASTE.**

7 (a) The United States shall not utilize the water sur-
8 rounding the Commonwealth of Guam or the island for
9 dumping or storage of nuclear waste.

10 (b) The United States shall clean up and make safe for
11 human habitation all chemical waste dump sites used by the
12 military in the past and at present, and shall not, at any time,
13 use the island and the surrounding waters of Guam as a de-
14 pository for hazardous chemicals in the future.

15 (c) The United States shall compensate, in a manner to
16 be decided by the District Court of Guam, any person injured
17 as a result of chemical, nuclear, or other hazardous materials
18 stored, used, or disposed of by agencies of the United States
19 Government in the Commonwealth of Guam or its surround-
20 ing waters.

21 **TITLE IV—COURTS**

22 **SEC. 401. JUDICIAL RELATIONSHIP OF GUAM TO THE UNITED**
23 **STATES.**

24 The relations between the courts established by the
25 Constitution or laws of the United States and the local courts

1 Court of Guam and appeals therefrom; except that the terms,
2 "Attorney for the government" and "United States Attor-
3 ney", as used in the Federal Rules of Criminal Procedure,
4 Federal Rules of Civil Procedure and Federal Rules of Ap-
5 pellate Procedure shall, when applicable to cases arising
6 under the laws of Guam, including the Guam Commonwealth
7 income tax, mean the Attorney General of Guam or such
8 other person or persons as may be authorized by the laws of
9 Guam to act therein.

10 SEC. 404. DISTRICT COURT JUDGE, UNITED STATES ATTORNEY,
11 MARSHAL.

12 (a) The President shall appoint, by and with the advice
13 and consent of the Senate, a judge for the District Court of
14 Guam who shall hold office for the term of 10 years and until
15 his successor is chosen and qualified unless sooner removed
16 by the President for cause. The judge shall receive a salary
17 payable by the United States which shall be at the rate pre-
18 scribed for judges of the United States district courts. The
19 chief judge of the Ninth Judicial Circuit of the United States
20 may assign a judge of a local court of record, a judge of the
21 High Court of the Trust Territory of the Pacific Islands, a
22 circuit or district judge of the Ninth Circuit, or a recalled
23 senior judge of the District Court of Guam or of the District
24 Court for the Northern Mariana Islands, and the Chief Jus-
25 tice of the United States may assign any other United States

1 circuit or district judge with the consent of the judge so as-
2 signed and of the chief judge of his circuit, to serve temporar-
3 ily as a judge in the District Court of Guam whenever it is
4 made to appear that such an assignment is necessary for the
5 proper dispatch of the business of the court.

6 (b) The President shall appoint, by and with the advice
7 and consent of the Senate, a United States attorney and
8 United States marshal for Guam to whose offices the provi-
9 sions of chapters 31 and 33 of title 28, United States Code,
10 respectively, shall apply.

11 (c) The judge of the District Court of Guam and the
12 United States attorney and marshal serving on the effective
13 date of this section shall continue to hold their positions
14 under this Act until the expiration of their current terms of
15 office.

16 TITLE V--TRADE

17 SEC. 501. GUAM-UNITED STATES FREE TRADE AREA.

18 (a) The Commonwealth of Guam will remain outside the
19 customs territory of the United States, and no duty, tariff, or
20 quota restrictions shall be imposed or collected by the United
21 States. Economic, trade, and commercial relationships be-
22 tween the United States and the Commonwealth of Guam
23 shall be conducted within the framework of the free trade
24 area between the United States and the Commonwealth of
25 Guam as established by subsection (b).

1 (b) The Commonwealth of Guam shall not impose
2 duties, quotas, or other restrictions on products of the United
3 States imported into Guam, nor shall the United States
4 impose duties, quotas, or other restrictions on "products of
5 Guam" imported into the United States, nor shall the United
6 States treat products of Guam as having originated in any
7 other country.

8 (c) The term "products of Guam" shall mean articles
9 that contain at least 30 percent value added in Guam. Value
10 added includes—

11 (1) all actual labor costs involved in the growth,
12 production, manufacture, or assembly of the specific
13 merchandise, including fringe benefits, on-the-job train-
14 ing, and the cost of engineering supervisory, quality
15 control, and similar personnel;

16 (2) dies, molds, tooling, and depreciation on ma-
17 chinery and equipment which are allocable to the spe-
18 cific merchandise; and

19 (3) research, development, design, engineering,
20 and blueprint costs insofar as they are allocable to the
21 specific merchandise; and costs of inspecting and test-
22 ing the specific merchandise.

23 (d) The Commonwealth of Guam may impose, increase,
24 reduce, or eliminate duties and other restrictions—

TITLE VI--TAXATION

SEC. 601. MIRROR IMAGE TAX.

(a) The income tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam.

(b) The income tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Commonwealth income tax, payable to the Government of Guam, which tax is designated the "Guam Commonwealth Income Tax".

(c) The administration and enforcement of the Guam Commonwealth Income Tax shall be performed pursuant to the laws of Guam. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any duly authorized officer or employee of the Government of Guam.

(d)(1) The income tax laws in force in Guam pursuant to subsection (a) of this section include, but are not limited to, the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income

1 wise required, the applicable provisions of the Internal Reve-
2 nue Code of 1954 and 1939 shall be read so as to substitute
3 "Guam" for "United States," "Governor or his delegate or
4 other official duly authorized to act under the laws of Guam"
5 for "Secretary or his delegate," "Governor or his delegate or
6 other official duly authorized to act under the laws of Guam"
7 for "Commissioner of Internal Revenue" and "Collector of
8 Internal Revenue" for "Collector of Internal Revenue,"
9 "District Court of Guam" for "District Court" and with
10 other changes in nomenclature and other language, including
11 the omission of inapplicable language, where necessary to
12 effect the intent of this section.

13 **SEC. 602. ENFORCEMENT INSTITUTIONS.**

14 (a) Any act or failure to act with respect to the Guam
15 Commonwealth Income Tax which constitutes a criminal of-
16 fense under Chapter 75 of Subtitle F of the Internal Revenue
17 Code of 1986, or the corresponding provisions of the Internal
18 Revenue Code of 1939, as included in the income tax laws in
19 force in Guam pursuant to this section, shall be an offense
20 against the Government of Guam and may be prosecuted in
21 the name of the Government of Guam by the appropriate
22 officers thereof.

23 (b) The Government of Guam shall have a lien with
24 respect to the Guam Commonwealth Income Tax in the
25 same manner and with the same effect and subject to the

1 spect to the United States income tax. When any judgment
2 against the Government of Guam under this paragraph has
3 become final, the Governor shall order the payment of such
4 judgments out of any unencumbered funds in the Treasury of
5 Guam.

6 (3) Execution shall not issue against the Governor or
7 any officer or employee of the Government of Guam on a
8 final judgment in any proceeding against him for any acts or
9 for the recovery of money exacted by or paid to him and
10 subsequently paid into the Treasury of Guam, in performing
11 his official duties under the income tax laws in force in Guam
12 pursuant to subsection (a) of this section, if the court certifies
13 that probable cause existed, or such officer or employee acted
14 under the direction of the Governor or his delegate or other
15 official duly authorized to act under the laws of Guam. When
16 such certificate has been issued, the Governor shall order the
17 payment of such judgment out of any unencumbered funds in
18 the Treasury of Guam.

19 (4) A civil action for the collection of the Guam Com-
20 monwealth Income Tax, together with fines, penalties, and
21 forfeitures, or for the recovery of any erroneous refund of
22 such tax, may be brought in the name of and by the Govern-
23 ment of Guam in the District Court of Guam or in any dis-
24 trict court of the United States or in any court having the
25 jurisdiction of a district court of the United States.

1 principal and interest, from taxation by the Government of
2 the United States, or by any State or Territory or any politi-
3 cal subdivision thereof, or by the District of Columbia.

4 TITLE VII—IMMIGRATION

5 SEC. 701. GUAM IMMIGRATION AUTHORITY.

6 (a) The Congress recognizes that Guam is a small and
7 densely populated insular commonwealth with limited infra-
8 structure and resources, that it is that portion of the United
9 States which is in closest proximity to nations of Asia and the
10 Pacific which supply a large proportion of the immigrants
11 coming to the United States, that significant numbers of such
12 immigrants have in recent years chosen to make Guam their
13 home, and that the admission of substantial additional num-
14 bers of immigrants to Guam threatens to produce a severe
15 impact on the limited infrastructure, health, education, hous-
16 ing, and other services available in Guam. Congress therefore
17 further recognizes that there is a necessary and compelling
18 need henceforth to limit the number of persons permitted to
19 immigrate to Guam, and therefore the Commonwealth of
20 Guam shall have the authority to control entry of all aliens
21 into the Commonwealth of Guam to include the admission,
22 exclusion, and expulsion of such aliens.

23 (b) The Immigration and Nationality Act, and Federal
24 regulations applicable thereto, shall remain applicable to
25 Guam for 2 years from enactment of this Act. The Common-

1 ted for permanent residence into the United States except as
2 provided for in subsection (b) or in those cases where the
3 Governor of Guam has made labor determinations.

4 **SEC. 702. GUAM-ONLY VISA.**

5 United States consular officials, and other officials au-
6 thorized to issue visas for entry into the United States, are
7 authorized to issue visas for travel only to the Common-
8 wealth of Guam for any alien seeking to enter Guam as a
9 nonimmigrant in order to encourage investors and tourists to
10 come to Guam. Regulations governing the issuance of such
11 visas shall be coordinated with the Governor of Guam. Such
12 regulations shall consider the points of origin, duration of per-
13 mitted stay, the means by which the aliens could alter visas
14 to permit entry into the United States, and other appropriate
15 conditions to assure the regulation serves the best interests of
16 the Commonwealth of Guam. The United States and the
17 Commonwealth of Guam shall adopt appropriate measures
18 for the implementation and the enforcement of this section
19 upon or after entry of the aliens into Guam.

20 **TITLE VIII--LABOR**

21 **SEC. 801. FEDERAL EMPLOYMENT.**

22 In all vacancies in the Federal Civil Service occurring
23 in Guam, residents of Guam possessing the requisite stand-
24 ards of age, health, character, education, knowledge, and ex-
25 perience shall be given preference over transfers of persons

1 from off Guam or the recruiting of persons from outside
2 Guam.

3 **SEC. 802. GUAM LABOR LAWS.**

4 Except and to the extent prohibited by Congress, the
5 Commonwealth of Guam shall have authority to enact and
6 enforce all laws regulating or affecting employment in the
7 Commonwealth. All applicable laws of the United States
8 which regulate employment on Guam on the effective date of
9 this Act shall remain applicable to Guam until replaced as to
10 their applicability to Guam by duly enacted law of the Guam
11 Legislature.

12 **TITLE IX—TRANSPORTATION AND**
13 **TELECOMMUNICATIONS.**

14 **SEC. 901. MARITIME SHIPPING.**

15 (a) No provision of the laws of the United States, includ-
16 ing, without limitation, the vessel documentation laws of the
17 United States, shall apply to prevent the United States regis-
18 tration of, and use of, any foreign-built vessel (including ves-
19 sels engaged in towing, barges, dredges, vessels or boats
20 leased, rented, or chartered to another for any use, including,
21 without limitation, vessels used to take out chartered fishing
22 and diving parties or sightseeing tours) for any purpose what-
23 soever within the internal waters, harbors, territorial sea and
24 adjacent Exclusive Economic Zone around Guam.

1 (b) The shipment of fish or fish products from Guam to
2 any coastwise point of the United States shall not be subject
3 to the coastwise laws of the United States.

4 (c) The application of the coastwise laws of the United
5 States to Guam pursuant to 46 U.S.C. 883 shall be periodi-
6 cally examined by the Commission to determine, mutually,
7 the desirability of the continued applicability of such laws to
8 Guam. Such determination by the Commission shall be based
9 solely on the criteria of whether such laws or any or a part
10 thereof as applied to Guam constrain Guam's economic de-
11 velopment and, if such a determination is made, the Commis-
12 sion shall recommend such laws should not continue to apply
13 to Guam: *Provided*, That so long as the coastwise laws are
14 applicable to Guam the United States Government shall be
15 responsible for ensuring adequate and reliable cargo service
16 between Guam and the United States as determined mutually
17 in the Commission.

18 SEC. 902. AIRLINES.

19 (a) The Governor of Guam shall have the authority to
20 sponsor any qualified air service carrier to come to Guam
21 subject only to presidential consultation concerning articulat-
22 ed foreign policy and national defense interests of the United
23 States. The Commonwealth of Guam shall be exempt from
24 all bilateral treaties between the United States and foreign
25 states with respect to scheduling and to technical specifica-

1 tions of aircraft, other than safety requirements, for foreign or
2 United States charter passenger flights to and from Guam
3 where such flights originate from foreign jurisdictions. This
4 provision shall not be applied in such a manner as to impair
5 regularly scheduled passenger and cargo flights from any of
6 the several United States States and Territories to and from
7 Guam.

8 (b) The Commonwealth of Guam shall remain an "eligi-
9 ble point" for purposes of being ensured essential air trans-
10 portation under applicable provisions of the Federal Aviation
11 Act of 1958, as amended by Public Law 98-213, section 10,
12 with passenger and other service to be scheduled to provide
13 regular and satisfactory delivery of postal mail and cargo to
14 and from the United States.

15 (c) In addition to any other requirement in compliance
16 with Federal law for new, additional, or changed routes,
17 United States domestic air carriers shall obtain the concur-
18 rence of the Governor of Guam on any application filed for
19 such service to Guam.

20 SEC. 903. TELECOMMUNICATIONS.

21 The Commonwealth of Guam shall be defined as domes-
22 tic for the purposes of setting rates in telecommunications by
23 the Federal Communications Commission.

1 **TITLE X—LAND, NATURAL**
2 **RESOURCES AND UTILITIES**

3 SEC. 1001. AUTHORITY OVER LAND AND RESOURCES.

4 (a) The Government of the Commonwealth of Guam
5 shall have power of eminent domain over property within the
6 Commonwealth in accord with the Constitution of Guam.

7 (b) The Commonwealth of Guam shall have jurisdiction
8 over all living and nonliving natural resources of the seabed,
9 subsoil, tidelands, and adjacent territorial waters, as defined
10 by the United States law, of the Island of Guam. The Com-
11 monwealth shall exercise rights to determine the conditions,
12 including pollution control, and terms of all scientific re-
13 search, management, exploration, and exploitation of all
14 ocean resources and all sources of energy and prevention of
15 pollution within the 200-mile Exclusive Economic Zone, in-
16 cluding pollution originating outside the zone that poses a
17 threat within the zone.

18 (c) The United States may, upon written notice to the
19 Government of the Commonwealth of Guam, acquire for
20 public purposes in accordance with Federal laws and proce-
21 dures, any interest in real property in the Commonwealth
22 only by voluntary means, under such terms and conditions as
23 may be negotiated by the parties. The United States will
24 continue to recognize and respect the scarcity and special
25 importance of land in the Commonwealth of Guam. If the

1 United States must acquire any interest in real property, it
2 will follow the policy of seeking to acquire only the minimum
3 area necessary to accomplish the public purpose for which
4 the real property is required, of seeking only the minimum
5 interest in real property necessary to support such public pur-
6 pose, and of seeking first to satisfy its requirement by acquir-
7 ing an interest in public rather than private real property. No
8 interest in real property on Guam will be acquired by the
9 United States unless duly authorized by the Congress of the
10 United States and for which appropriations are available.

11 (d) The United States agrees not to exercise within the
12 Commonwealth the power of eminent domain except in time
13 of war and then only to the extent necessary and in compli-
14 ance with applicable United States and Commonwealth of
15 Guam laws, and with full recognition of due process required
16 by the Constitutions of Guam and the United States.

17 (e) The Commonwealth of Guam is exempt from the
18 Federal regulations governing the transfer or sale of excess
19 Federal real property. All excess real properties of the
20 United States on the Island of Guam released after establish-
21 ment of the Commonwealth will be conveyed in fee simple to
22 the Government of the Commonwealth of Guam without any
23 condition, limitation or reversion clause in said conveyance.

24 (f) All land heretofore transferred to the Government of
25 Guam by the United States are released from any and all

1 provisions limiting the use of such land, and are conveyed in
2 fee simple.

3 **SEC. 1002. TRANSFER OF EXCESS FEDERAL REAL PROPERTY.**

4 All real property, including undeveloped land and devel-
5 oped recreational facilities, controlled or owned by any
6 United States military service or Federal agency on Guam
7 and not necessary for direct and continuous operational, lo-
8 gistical, or security use as a military facility or other Federal
9 function shall be transferred as excess Federal real property
10 to the Government of Guam: *Provided*, That all national
11 parks, historical sites, monuments, and cemeteries shall be
12 exempt from this provision. Such transfers will be, whenever
13 possible, at no cost to the people of Guam, or, when appro-
14 priate, at cost no higher than the valuation of the property at
15 the time of original acquisition by the Federal authority, re-
16 gardless of any subsequent alterations or additions to the
17 property. Final determination of which Federal real property
18 is excess to Federal needs, and the authority to mandate
19 prompt and fair transfer to the Government of Guam by the
20 Federal proprietor, shall be with the Joint Commission after
21 consultations with the proprietor.

22 **SEC. 1003. ACCESS TO FEDERAL PROPERTY.**

23 (a) All recreational facilities, and all historical and ar-
24 chaeological sites on real property retained under Federal,
25 civil, or military authority shall be open to access and use by