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7716 SENATE STATE AFFAIRS

1991-1992

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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 205 10-6225

October 26, 1990

Dear Republican Colleague:

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

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

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

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

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

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

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

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

The focus of the inquiry has been on the following questions:

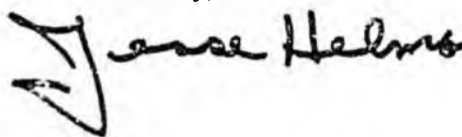
1. Does the U.S. Government possess valid information concerning living POWs in Southeast Asia?
2. Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?

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

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

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

Sincerely,

A handwritten signature in cursive script that reads "Jesse Helms". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

JESSE HELMS:lb

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

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

Introduction

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

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

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

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

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

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

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

Preliminary Conclusions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Definition of POW/MIA

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

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

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

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

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

Review of Live-Sighting Documents

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

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

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

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

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

conclusion.

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

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

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

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

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

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

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

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

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

The 1973 Policy Decision

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

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

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

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

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

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

Process for "Presumption of Death"

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

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

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

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

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

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

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

DOD's Working Hypothesis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Importance of the Problem

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

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

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

MEMBERS PRESENT

Chairman Ivan Ivan
Vice-Chairman Richard Foster
Representative Max Gruenberg

MEMBERS ABSENT

Representative Cliff Davidson
Representative Mike W. Miller

COMMITTEE CALENDAR

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

WITNESS REGISTER

PREVIOUS ACTION

ACTION NARRATIVE

TAPE 13, SIDE A
Number 000

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

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

Number 023

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

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

Number 053

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

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

Number 169

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

Number 171

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

Number 200

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

Number 205

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

Chairman Ivan moved the bill from committee with individual recommendations.

Number 218

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

Number 212

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

Number 219

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

Number 233

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

Number 246

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

Number 252

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

Number 268

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

Alaska State Legislature

House of Representatives

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



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

Special Committee on Military & Veterans Affairs

M E M O R A N D U M

TO: Representative Pat Rodey, Chair
Senate State Affairs Committee

FROM: Representative Ivan M. Ivan, Chair *Ivan*
House Special Committee on Military and
Veterans Affairs

DATE: May 15, 1991

RE: Request to Hear HJR 41

Please consider this request to hear Committee Substitute for House Joint Resolution 41 (MLV): Relating to missing American service personnel, for the floor at your earliest possible convenience.

This resolution requests that Congress increase the federal governments involvement in locating POW/MIA's from the Viet Nam, Laos and Korean Wars. Other states are passing similar resolutions.

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

The resolution requests Congress to appoint a select committee to assist in the obtaining of information in government files on missing American service personnel; urges Congress to begin committee hearings immediately to consider enacting the POW/MIA Truth Bill; and requests Congress to continue funding its

investigation into the status of missing American service personnel in an effort to resolve the POW/MIA situation in Southeast Asia.

I appreciate your consideration of my request. Please do not hesitate to contact Tom Wright of my staff or me if you need further information or if I can be of assistance.

Thank you.

IMI:tw

Patrick M. Rodey
Senator

Alaska State Legislature



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During Session:
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Senate

M E M O R A N D U M

DATE: March 24, 1992

TO: Committee Members
Senate State Affairs Committee

FROM: Senator Pat Rodey, Chairman
Senate State Affairs Committee

SUBJ: HJR 41 Relating to missing American service personnel

Today in committee, we will readdress this measure. As it came back from the senate floor, Senator Cotten had questions concerning references to an "interim report" of the US Senate Foreign Relations Committee, and whether or not we should endorse the resolution without knowing more about the report.

Research into the matter has determined that the Committee itself did not write an interim nor a final report. Senator Jesse Helms of the Republican minority wrote an "interim report" (copy enclosed).

Referencing the report is not central to the thrust of HJR 41. The resolution urges support for HR 1147, the Truth Bill (copy enclosed); it calls for opposing normalizing relations with Vietnam and Laos, including not lifting trade embargoes and economic sanctions, until POW/MIA issues are "resolved"; and it requests Congress to continue funding its investigation into the status of missing Americans.

A draft CS is enclosed to address the above by deleting two sections which refer to the report, and by inserting into the the current Senate State Affairs version wording which opposes lifting trade embargoes and economic sanctions. This is consistent with the intent, and is at the request of members of POW/MIA families. It is supported by Senator Cotten and Representative Ivan.

Also included in the folder is an article from ATLANTIC MONTHLY, "The POW/MIA Myth", and an article and letter criticizing that article.

Mr. Charles Coleman, son of a missing service man, will be available by teleconference today.

Patrick M. Rodey
Senator

Alaska State Legislature



3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

March 25, 1992

Senate

Mr. David Gilbertson
3206 Oregon #3
Anchorage, AK 99517.

Dear Mr. Gilbertson:

Thank you for your message on HJR 41, the resolution relating to missing American service personnel. I appreciate hearing from you on this matter.

Today in the Senate State Affairs Committee, which I chair, we passed out the measure which I have attached. This version is highlighted with the changes I proposed. My staff worked closely with several people who remain interested in a full accounting of missing personnel from this unfortunate era.

From here, the bill will go back to the House for concurrence, and then to the governor for signature. My office, along with the House Military and Veterans Affairs Committee, will follow the progress of this measure until it is signed.

Thank you again for your interest in this resolution, and in the fate of American military personnel.

Sincerely,

A handwritten signature in cursive that reads "Patrick M. Rodey".

Patrick M. Rodey

PMR/tb/ltr004

*I also oppose
lifting sanctions!*

PUBLIC OPINION MESSAGE

Tim?
ZIP: 99517

DEAR: SENATOR RODEY

NAME: DAVID GILBERTSON
TITLE:
ADDRESS: 3206 OREGON #3
CITY: ANCHORAGE
PHONE: 258-7276
BILL NO: HJR 41
SUBJECT: MIA/POW AMERICAN SERVICE PERSONNEL
MESSAGE: WE WANT NO LIFT OF SANCTIONS AGAINST SOUTH VIETNAM, NO LIFT OF EMBARGO AND UNTIL COMPLETE ACCOUNTING OF MISSING IN ACTION IS MADE PUBLIC./RD

POMID: 03105627
DATE: 92/03/24
TIME: 10:56:27
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BAKER
BOYER
BRUCKMAN
CHOQUETTE
B.DAVIS
DONLEY
FINKELSTEIN
GONZALES
GRUSSENDORF
HUDSON
JACKO
KUBINA
LEMAN
MACKIE
MARTIN
M.W.MILLER
NAVARRE
G.PHILLIPS
SHARP
ULMER

BARNES
BROWN
CARNEY
DAVIDSON
C.DAVIS
ELLIS
FOSTER
GRUENBERG
HANLEY
IVAN
KOFONEN
LARSON
LINCOLN
MACLEAN
M.A.MILLER
MOYER
PARNELL
R.PHILLIPS
TAYLOR
ZAHACKI

ADAMS
COLLINS
COTTEN
CRAFT
DUNCAN
ELIASON
FISCHER
FRANK
HALFORD
HOFFMAN
JONES
KERTTULA
MENARD
PEARCE
POURCHOT
SHULTZ
STURGULEWSKI
UEHLING
ZHAROFF

Patrick M. Rodey
Senator

Alaska State Legislature



3111 C. Sr., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

March 28, 1992

Senate

Mr. Charles Kuhlmann
Box 241602
Anchorage, AK 99524-1602

Dear Mr. *Charles* Kuhlmann:

Thank you for your testimony on HJR 41, the resolution relating to missing American military personnel. The entire committee appreciated hearing your concern during the Senate State Affairs meeting on March 25th.

The Committee, which I chair, passed out the measure, a copy of which I have attached. This version is highlighted with the changes I proposed. My staff worked closely with you and others who remain interested in a full accounting of missing personnel from this unfortunate era.

From here, the bill will go back to the House for concurrence, and then to the governor for signature. My office, along with the House Military and Veterans Affairs Committee, will follow its progress until it is signed.

Thank you again for your interest in this resolution, and in the fate of American military personnel.

Sincerely,

A handwritten signature in cursive script that reads "Patrick".

Patrick M. Rodey

PMR/tb/ltr004

7-LS1177G
Bannister
1/29/92

SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 41 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

A RESOLUTION

1 Relating to missing American service personnel.

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

3 WHEREAS there are more than 88,000 American service personnel missing in action from
4 World War II, the Korean War, and the Vietnam conflict; and

5 WHEREAS recent information has been released regarding American service personnel held
6 against their will after World War II, the Korean War, and the Vietnam conflict; and

7 WHEREAS the United States Senate Foreign Relations Committee released an interim report
8 in October 1990 that concluded that American service personnel were held in Southeast Asia after the
9 end of the Vietnam conflict and that information available to the United States government does not rule
10 out the possibility that American service personnel are being held in Southeast Asia; and

11 WHEREAS on April 12, 1973, the United States Department of Defense publicly stated that
12 there was no evidence of live American prisoners of war in Southeast Asia; and

13 WHEREAS the public statement was given nine days after Pathet Lao leaders had declared that
14 Laotian communist forces did in fact have live American prisoners of war in their control; and

15 WHEREAS the prisoners of war held by the Laotian government and its military forces were
16 never released; and

17 WHEREAS there have been more than 11,700 live sighting reports received by the Department

1 of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number
2 of unresolved and discrepancy cases; and

3 **WHEREAS** in October 1990 the United States Senate Foreign Relations Committee released an
4 Interim Report on the Southeast Asian POW/MIA Issue that concluded that United States military and
5 civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the
6 Department of Defense that there was no evidence of live prisoners of war, and the report also concluded
7 that information available to the United States government does not rule out the possibility that United
8 States citizens are still held in Southeast Asia; and

9 **WHEREAS** the interim report states that congressional inquiries into the POW/MIA issue have
10 been hampered by information that was concealed from committee members or that was misinterpreted
11 or manipulated in government files; and

12 **WHEREAS** the POW/MIA Truth Bill has been introduced into the United States Congress, and
13 the bill would direct the heads of the federal government agencies and departments to disclose
14 information concerning the United States service personnel classified as prisoners of war or missing in
15 action from World War II, the Korean War, and the Vietnam conflict; and

16 **WHEREAS** the bill protects national security by censoring the sources and methods used to
17 collect the live sighting reports; and

18 **WHEREAS** the families of these missing service personnel need and deserve the opportunity to
19 have access to the information concerning the status of their loved ones; and

20 **WHEREAS** the Senate Select Committee on POW/MIA Affairs has been established in the
21 United States Congress to resolve the POW/MIA issue;

22 **BE IT RESOLVED** that the Alaska State Legislature urges the United States Congress to oppose
23 the normalization of affairs with Vietnam until Congress resolves the POW/MIA issue in Southeast Asia
24 based on the recommendations of the Senate Select Committee on POW/MIA Affairs; and be it

25 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States Congress to
26 begin committee hearings immediately to consider enacting the POW/MIA Truth Bill; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature requests the United States Congress
28 to continue funding its investigation into the status of missing American service personnel, which is vital
29 to resolving the POW/MIA issue.

30 **COPIES** of this resolution shall be sent to the Honorable George Bush, President of the United
31 States; the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate;
32 the Honorable Robert C. Byrd, President Pro Tempore of the U.S. Senate; the Honorable George J.

1 Mitchell, Majority Leader of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S.
2 House of Representatives; the Honorable Richard A. Gephardt, Majority Leader of the U.S. House of
3 Representatives; the Honorable Robert Dole, Minority Leader of the U.S. Senate; the Honorable William
4 S. Broomfield, Minority Leader of the U.S. House of Representatives; the Honorable Claiborne Pell,
5 Chair of the Senate Committee on Foreign Relations; the Honorable Dante B. Fascell, Chair of the House
6 Committee on Foreign Affairs; the Honorable John F. Kerry, Co-Chair of the Senate Select Committee
7 on POW/MIA Affairs; the Honorable Robert C. Smith, Co-Chair of the Senate Select Committee on
8 POW/MIA affairs; the Honorable John Miller, U.S. Representative; the Honorable James A. Baker, III,
9 Secretary of the U.S. Department of State; the Honorable Dick Cheney, Secretary of the U.S. Department
10 of Defense; the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
11 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to the
12 Honorable Jerry W. Hefner, Chair of the Oklahoma House Veterans Affairs Committee.

Alaska State Legislature

House of Representatives

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



P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-1327

Special Committee on Military & Veterans Affairs

SUMMARY OF HJR 41

House Joint Resolution 41 requests Congress to enact the POW-MIA Truth Bill, H.R. 1147, introduced by Representative John Miller of Washington. This bill would require federal government officials to disclose information on live sightings of American soldiers missing in World War II and the Korean and Viet Nam wars. Under the bill, sources and methods used to collect the reports would be censored to protect national security.

HJR 41 also urges Congress to continue funding of the POW-MIA special investigation that's being conducted by the Senate Foreign Relations Committee and to appoint a select committee to assist in obtaining information in government files on missing American service personnel.

SUMMARY

Alaska State Legislature

House of Representatives

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



State Capitol
Juneau, Alaska 99801-1182
(907) 465-1527

Special Committee on Military & Veterans Affairs

House Joint Resolution 41 was introduced by the House Special Committee on Military and Veterans Affairs to recognize that POW/MIA's probably still exist in Southeast Asia, as well as Korea and possibly from World War II. The resolution requests that Congress increase the federal government's involvement in locating POW/MIA's from the Viet Nam, Laos, Korean and Second World Wars. Other states have passed or are passing similar resolutions.

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

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

STATEMENT

102d CONGRESS

1st SESSION

H.R. 1147

John Miller
(Original signature of Member)

HLC

Insert
title
here
☛

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

IN THE HOUSE OF REPRESENTATIVES

Feb. 17 1991

Insert
sponsor's
name
here
☛

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

A BILL

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

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

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

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

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

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

25 SEC. 2. LIMITATIONS ON DISCLOSURE.

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

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

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

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

23 SEC. 3. DEADLINES.

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

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

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

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

BILL TEXT Report for H.R.3603

As introduced in the House, November 7, 1989

101st CONGRESS
1st Session

H. R. 3603

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

IN THE HOUSE OF REPRESENTATIVES
November 7, 1989

Mr. Denny Smith (for himself, Mr. Smith of New Hampshire, Mrs. Bentley, Mr. Hansen, Mr. Jones of North Carolina, Mr. Lancaster, Mr. Donald E. Lukens, Mr. McCloskey, Mr. Regula, Mr. Rowland of Connecticut, and Mr. Sundquist) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

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

=====
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. DISCLOSURE OF INFORMATION CONCERNING UNITED STATES PERSONNEL CLASSIFIED AS PRISONER OF WAR OR MISSING IN ACTION FROM WORLD WAR II, THE KOREAN CONFLICT, AND THE VIETNAM CONFLICT.

(a) Information To Be Disclosed.--Except as provided in subsection (b), the head of each department or agency which holds or receives any records and information, including live-sighting reports, which have been correlated or possibly correlated to United States personnel listed as prisoner of war or missing in action from World War II, the Korean conflict, and the Vietnam conflict shall make available to the public all such records and information held or received by that department or agency. In addition, the Department of Defense shall make available to the public with its records and information a complete listing of United States personnel classified as prisoner of war,

missing in action, or killed in action (body not returned) from World War II, the Korean conflict, and the Vietnam conflict. This listing shall include the current classification for each service member as well as any changes which may have occurred in the service member's classification during or after the conclusion of hostilities of World War II, the Korean conflict, and the Vietnam conflict.

(b) Exceptions To Subsection (a).--As follows:

(1) Does not apply with respect to information that would reveal sources and methods of intelligence collection that when released would compromise national security. By definition, the existence or possible existence of persons of American parentage in communist countries shall not be interpreted as compromising national security.

(2) No records or information, including fatality reports, which specifically mention a United States service member by name and does not correlate or possibly correlate to circumstances which may involve United States personnel listed as prisoner of war or missing in action shall be made available to the public without the expressed written consent of the closest living relative. This proscription in no way limits the access of that family member to the information. This authority may not be delegated to any other person or organization without express legal power of attorney from the closest living relative.

(c) Deadline.--As follows:

(1) The head of each department or agency covered in subsection (a) shall make records and information available not later than one hundred and eighty days after the date of enactment of this Act.

(2) When the head of each department or agency covered in subsection (a) receives records and information after the date of enactment of this Act, such records and information shall be made available not later than one hundred and eighty days after it is received by the department or agency.

(d) Exceptions to Deadline.--If the head of a department or agency determines that release of certain records and information after the deadlines in subsection (c) will compromise the safety of United States personnel known or thought to be held prisoner of war, then such a determination once made must be immediately reported to and is subject to the review of the appropriate intelligence committees of the United States Congress and the President of the United States.

HJR

57

^{CS}
FISCAL NOTE HJR57(SA)
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

COMMITTEE COPY

Revision Date: _____ Department Affected: DCSN
 Title: REQUEST TO HUD SECRETARY TO BRU: Alaska State Housing Authority
exclude permanent fund & longevity bonus Component: _____
 Sponsor: Representative Dover
 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
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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 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 Housing Date: 2.10.92

Distribution: (by payment), Leg. Fin. Legislative Services, Requestor, OMB/OAR, Gov. Legis. Off., & Impacted Agency(ies).

Rev 10/7/91

Page of

COMMITTEE COPY

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

MEMORANDUM

TO: Senator Pat Rodey, Chair
Senate State Affairs Committee

FROM: Representative Mark Boyer *MB*

DATE: March 25, 1992

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

I would like to request that HJR 57 be scheduled for a hearing in the State Affairs Committee.

Currently the State of Alaska has "hold harmless" provisions for most needs-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 Secretary of HUD has the authority to grant waivers (see attached). HJR 57 requests that the Secretary exercise this authority and "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."

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.

HJR 57 passed the House with a vote of 32 to eight. It passed out of the Senate HESS Committee on Tuesday with all members present recommending "do pass". The resolution has zero fiscal notes from the Dept. of Administration and the Dept. of Commerce and Economic Development.

Thank you.

FAIRBANKS 20B

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.

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 intantion of HUD to provide opportunities for low-income residents to save money for homeownership, self-employment, or other self-sufficiency opportunities; and

CORRECTION

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

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

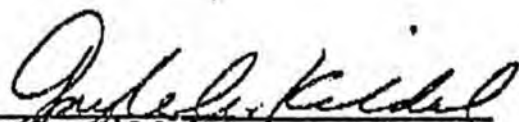
WHEREAS, this causes seniors and low-income families to pay a high percentage of their income each month in order to compensate for this once-a-year payment; and

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.

§ 791.405 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.

§ 791.406 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

Office of the Secretary, HUD

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.

(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 IFAPs 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. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)) (19 FR 6715, Feb. 23, 1984))

HJR

62

COMPARISON BETWEEN GUAM AS A U.S. POSSESSION AND GUAM AS A COMMONWEALTH.

POLITICAL RELATIONSHIP

Possession:

- Federal government has control over the property and people.
- Federal government sets rules and can change them as they wish.
- Local government created by and exists at the wishes of the U.S. government.

Commonwealth:

- Partnership with U.S. government through mutual consent.
- Guam would be self-governing by limiting federal action and through the creation of a constitutional government by the people of Guam.
- Recognition of the Chamorro people to make a determination of Guam's ultimate political status.

APPLICATION OF FEDERAL LAWS

Possession:

- U.S. government can apply any law to Guam without Guam's representation or consent.
- American citizenship is unprotected by U.S. Constitution.

Commonwealth:

- U.S. laws would not apply without Guam's consent.
- Constitutionally guaranteed American citizenship.
- Federal laws extended to Guam would have to meet local needs.

IMMIGRATION

Possession:

- U.S. immigration laws apply to Guam as they do to the entire U.S. mainland.
- Strain on Guam's infrastructure, public services, and limited property due to the increased, unregulated population rate.
- Guam's native people are becoming a minority in their own island.

Commonwealth:

- Immigration policies would fit the conditions of our small island.
- Labor needs would be met by the creation of a new class of non-immigrant alien workers.
- The migration of aliens to Guam for U.S. citizenship would be limited, and the sponsorship "chain" of continuing migration for citizenship would be broken.

AIRLINES

Possession:

- Limitation on potential economic expansion by restrictions on foreign airline service to Guam.
- U.S. government uses Guam as a bargaining chip in negotiations with foreign governments over airline routes.

Commonwealth:

- Guam may sponsor foreign airline services to the island.
- Maintenance of standard passenger and cargo service between Guam and the U.S.
- U.S. must consult with Guam when adding or changing existing routes.

TELECOMMUNICATIONS

Possession:

- High cost of overseas telex, telephone, satellite, and undersea cable transmission due to our status as a foreign entity with the Federal Communication Commission.

Commonwealth:

- Conversion of our foreign status to a domestic status, therefore providing lower telecommunications cost.

TAXATION

Possession:

- Guam is allowed to adopt its own tax code, but the Department of Treasury or Department of Interior could change or cancel Guam's tax system.
- Stateside tax laws which are not necessarily suitable to our island or attracting different types of investment.

Commonwealth:

- Ability to construct our tax system to attract more business investors and to adjust it according to our needs.
- Non-requirement of federal approval of our tax system, and tax right would be covered by mutual consent.

SHIPPING

Possession:

- Jones Act which requires only U.S. vessels to be used in bringing U.S. goods to Guam applies.
- High shipping rates as a result of U.S. carriers overcharging Guam clients.
- Most vessels in Guam's waters must be U.S. built — a cost factor that is passed on to consumers.

Commonwealth:

- Lower priced goods due to foreign vessels being allowed to bring U.S. goods to Guam.
- Local residents would be allowed to buy, register, and use foreign built boats in Guam.
- Removal of costly restrictions, allowing easier and cheaper methods of sending fish and fish products off island.

OUR COMMONWEALTH DESTINY

"Commonwealth" is a status that is vaguely defined in American law. Some States are "commonwealths," and both the Northern Mariana Islands and Puerto Rico are "Commonwealths." Our Commonwealth Act is like the CNMI's and Puerto Rico's, but it more clearly sets out the rights of Guam citizens to self-government by limiting the powers of the federal government to interfere with our internal affairs.

Commonwealth was selected because it best suited Guam's needs and was most likely to receive federal support. Commonwealth would continue Guam's long relationship with the United States while giving us a full measure of local self-government leaving defense and national security matters in the hands of the U.S. government.

Following a 1982 vote which selected Commonwealth, the Commission on Self-Determination drafted a document which would give Guam the most amount of self-government while maintaining a partnership with the U.S. The document, which received a majority vote of the people of Guam in 1987 included many specific federal-Guam relations issues such as trade, land return, natural resource rights, transportation, continued federal funding and U.S. defense rights, under the umbrella of a new political status protected by mutual consent.

Since Guam's voters selected Commonwealth, the Presidential vote or voting representation in Congress were not included in the draft Commonwealth Act; under the U.S. Constitution only States have these rights. A change in the U.S. Constitution would be required for Guam to receive these state-like voting powers and would open up Guam being treated as a State for the purposes of federal taxation. Subsequently, Guam, which currently retains nearly half a million in taxes it collects, would have to turn over these taxes to the federal government, and also levy an equal amount of taxes from the people just to maintain an existing level of services provided. This would result in a minimum of over one billion dollars to Guam taxpayers if Guam citizens were to receive state-like voting powers. This unequal representation, with full taxation would not meet our needs.

An example of the Federal position on the issue of statehood is clearly seen in the case of Puerto Rico. Recent attempts by Puerto Rico to get U.S. support for the statehood option were killed by the U.S. Congress. Statehood, then, does not even appear to be acceptable to the U.S. for Puerto Rico and its 3.2 million citizens.

Instead of representation on the same basis as States, the Commonwealth Act would give Guam direct representation in the process of federal decision-making that affects us. Through our consent to federal law applications, the Commonwealth Act would give Guam a powerful stand in which to represent our interests.

Commonwealth would give Guam a period of maximum self-government while retaining our partnership with the United States. A final act of self-determination — which the Guam Constitution would establish — would establish Guam's ultimate political status.

Guam Commission on Self-Determination
P.O. Box 2950
Agana, Guam 96910
Tel: (671) 472-2829/2804 Fax: (671) 477-4826

Governor Joseph F. Ada, Chairman
Senator Francisco R. Santos, Vice-Chair
Presiding Judge Alberto C. Lamorena III
Senator Marilyn D. Manibusan
Senator Pilar C. Lujan

Mayor Francisco N. Lizama
Attorney David Lujan, Public Member
Mr. Pete Perez, Public Member
Mr. Leland R. Bettis, Executive Director

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: CSHJR 62 STA

(H) Publish Date: 3-13-92

Revision Date: _____ Department Affected: Legislative Affairs Agency

Title: Support Commonwealth Status for Guam BRU: _____

Sponsor: H) ITT Committee Component: _____

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



Twenty-first Guam Legislature

155 Hesler St.
Agaña, Guam 96910

Tel. (671) 472-3461

Fax: (671) 477-1715

February 6, 1992

Reverend Tagi Pefu
Pastor of the Samoan First Assembly of God
605 N. Hoyt Apt. C
Anchorage, Alaska 99508

Dear Reverend Pefu:

On behalf of Sens. George Bamba and Marilyn Manibusan of the Twenty-First Guam Legislature, I thank you for the support you wish to extend to Guam. I understand from Rep. Max F. Gruenberg of the Alaska State Legislature you are willing to advance his effort in introducing a resolution to promote the island's quest for commonwealth status.

I have enclosed two documents which may help you in drafting a letter of support for the resolution. The first is an overview of Guam's commonwealth quest delivered by the Gov. Joseph F. Ada, to the House Interior Subcommittee in Honolulu in 1989. The second is a general outline of how commonwealth will affect the island's citizens and where we intend to go with it in the future.

I hope this information proves helpful. Should you need any further material or would like any questions answered, please do not hesitate to contact me at either senator's office at the address listed above. Alternatively, I can be reached by telephone on (671) 472-3458, or by facsimile on (671) 477-8648.

Thank you for your time and attention, they are indeed much appreciated.

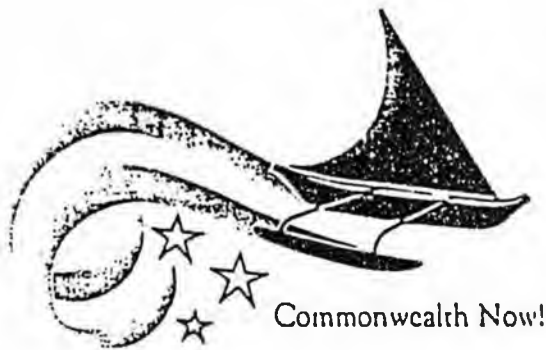
Sincerely,

Anna Ulloa
Special Assistant
Senator George Bamba's Office
Senator Marilyn Manibusan's Office

cc: Senator George Bamba
Senator Marilyn Manibusan
Representative Max F. Gruenberg

attachments

~~CONFIDENTIAL~~
LETTER - GUAM LEGISLATORS



HOW COMMONWEALTH WILL AFFECT YOU

*by Joseph F. Ada
Governor of Guam*

To properly answer the question of how Commonwealth will affect each of us, we need to consider where we are today—and how we got to this point.

Guam is, first and foremost, our home. Most of us were born here. We grew up here. We are working and raising our children here. And Guam is a good place to do all of these things. Our island home has become a leader in the western Pacific. We have the ability to meet the needs of our people of Guam while not spending more than we take in. Our standard of living is higher than it has ever been. Improvements in infrastructure are being made to better our living.

We are also taking steps to ensure that our island's natural beauty is preserved—that growth is for the benefit of our people—that Guam remain an island paradise. And we are succeeding. Guam is truly the pearl of the Pacific. But as good as Guam is today, as fortunate as we have been, things could be better. Guam faces many obstacles that have no good reason to exist; difficulties which can be overcome through the protective umbrella of Commonwealth.

All that we have today can be lost tomorrow. Our people, for example, have no input in trading decisions which have time and again killed any real attempts to establish light industries such as garment or watch manufacturing. We have no input on shipping decisions which have time and again increased the cost of goods being shipped to Guam. We are paying more for food, medical supplies, construction materials, cars, and household goods because of decisions made outside of Guam!

Our people have no input on political decisions made in Washington—decisions in which Guam's needs never even come up in conversation—but decisions which prove to be to the detriment of our people. The Immigration Act of 1990 is an example of an Act designed to serve the needs of the U.S. but which could seriously jeopardized our island's ability to bring in the necessary temporary labor to continue construction for housing and development. Also, shipping rates have been raised without justification despite business increase in the shipping lines.

Guam is good now. But we want to ensure that it stays good for generations to come. We need the protective umbrella of Commonwealth. We need the stability of Commonwealth.

We need a stable trading relationship with the United States, one which recognizes our island's need for a diversified economy. We need the return of federal land in Guam which now lies idle—which the federal government cannot justify holding onto. We need to plan properly for adequate housing, schools, and infrastructure for both those who regard Guam as home and those who immigrated here but in order to do so, we need to control immigration. Most of all, we need mutual consent—the assurance that decisions made in Washington which affect our people are made with the full input, cognizance, and approval of our people.

These things and the many more contained in Commonwealth will ensure the stability of our island home for generations to come. And that is how Commonwealth will affect you—by giving you the assurance that all you are working for today will not be lost; that the goodness and richness we enjoy today will be here for your children and your children's children.

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.

REP. MOYER MEMO

One of the best ways to better understand the impact of our Commonwealth legislation is to compare it to two existing political relationships: our current Organic Act and the Commonwealth of the Northern Mariana Islands.

ORGANIC ACT

CNMI COVENANT

	GUAM COMMONWEALTH BILL	COMMONWEALTH GOALS	ORGANIC ACT	CNMI COVENANT
Indigenous Rights	U.S. recognizes right of the Chamorro people to determine the local form of government for Guam. U.S. will provide the Chamorro language, culture, and the training of Chamorros for employment as professionals, skilled workers and leaders in business and industry. Establishes a Chamorro Land Trust to receive excess federal lands for the benefit of Chamorros.	To guarantee to the Chamorro people the ultimate authority to choose the form of government in Guam, and to ensure the preservation and advancement of the culture.	No clear recognition of the right of self-determination for the Chamorro people. No protection for the Chamorro culture.	The indigenous people of the Northern Mariana Islands secured their right of self-determination by approving the Covenant of Political Union with the U.S. The local culture is protected by the CNMI Constitution.
Self-Government	Significant degree of self-government, but not fully self-governing until the Guam Constitution is established.	To guarantee local control of political, social, and cultural issues.	Large degree of local government, but subject to the supremacy of federal law.	Significant degree of local self-government. Application of federal law and the U.S. Constitution limited by the Covenant between the CNMI and the U.S.
U.S. Constitution and Federal Laws	U.S. Constitution and federal laws continue to apply. Authority to change federal laws which apply is subject to mutual agreement of Guam and the U.S.	To limit federal jurisdiction to a positive and acceptable limit.	Most of the U.S. Constitution requires in Guam. Unaltered U.S. authority to apply federal laws to Guam.	Same as the Guam Commonwealth Act.
Foreign Affairs/Defense	U.S. is responsible for Deliana and Foreign Affairs matters affecting Guam, but shall consult Guam's Governor with respect to any change in Deliana activities in Guam. U.S. is obligated to support Guam's membership in international organizations as mutually agreed.	To continue primary federal responsibility for Foreign Affairs and Defense, while giving Guam a greater voice in the decision making process.	Same, except U.S. has no obligation to support Guam's participation in international organizations nor consult with Guam's Governor on Defense activities in Guam.	Same as Guam Commonwealth Act.
Immigration	Local control of immigration for business, tourism and permanent residence.	To give the people of Guam control over who live and works in the Commonwealth.	U.S. Immigration law controls who lives and works in Guam.	Similar to the Commonwealth Act, but less local control.
Trade	Free trade with the U.S. No tariffs or quotas for products of Guam. Existing federal trade knowledge and improved.	To remove current restrictions on trade between Guam and the U.S. Mainland.	Guam products are subject to quota and duty unless they meet the requirements of certain federal trade laws.	Same as the Organic Act.
Taxation	The minor tax code continues until a Guam income tax code is locally enacted.	To ensure local Government of Guam control of taxation.	The U.S. controls income taxation in Guam under the Minor Code.	Same as the Guam Commonwealth Act.
Business, Land and Marine Resources	Guam will be exempt from federal shipping, transportation, and communication laws and regulations which restrict business investment.	To remove various federally mandated restrictions which prevent economic growth.	Guam is subject to U.S. economic laws and regulations which restrict business opportunity.	Similar to the Guam Commonwealth Act.
Federal Assistance	U.S. right of eminent domain is limited. Guam controls marine resources out to 200 miles.	To ensure Guam has title to all land and sea resources.	U.S. right of eminent domain extends to Guam. Marine resources are under federal control.	Similar to the Guam Commonwealth Act.
Civil Liberties	Federal financial assistance is authorized to compensate Guam for impact of federal activities. The level of assistance is subject to negotiation and Congressional appropriation. Federal benefits and programs available to the States will continue to be available to Guam.	To properly compensate Guam for various federal and military activity.	Federal mandate how to Guam from Deliana operating and a variety of federal programs, including Interior Department activities, all of which are subject to Congressional appropriation.	Multi-year funding provisions with periodic re-negotiations.
Courts	The Bill of Rights in the Organic Act will continue until the Constitution of Guam is adopted with a new Bill of Rights. The U.S. Bill of Rights will continue to apply as under the Organic Act.	To guarantee basic civil rights to all Guam citizens.	Civil Liberties are guaranteed by the Bill of Rights in the Organic Act and the U.S. Constitution.	The CNMI Constitution contains a Bill of Rights which extends the CNMI from the U.S. Bill of Rights guarantee of a jury trial.
	Similar to the current judicial system under the Organic Act, except Guam will be able to add its local appellate court. Appellate from Guam's Appellate court can be sent directly to the U.S. Supreme court.	To give the Superior Court of Guam the standing of a State Court system.	Guam's Superior Court is a local court of general jurisdiction with appeals to the appellate branch of the District Court of Guam. Appeals from the District Court go to the Federal Court of Appeals for the Ninth Circuit and then to the U.S. Supreme Court.	Similar to the Organic Act.

Wen Wang

HJR

68

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 68

Revision Date: February 13, 1992 Department Affected: None
Title: Reopen allotments for Native veterans BRU: None

Sponsor: House Special Committee on Military and Veterans Affairs Component: None

Requestor: House Special Committee on Military and Veterans Affairs 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					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0					

CAPITAL	0					
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REVENUE	0					
FUND SOURCE:	0					

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Thomas W. Wright, Committee Staff Phone: 465-4527
Division: House Special Committee on Military and Veterans Affairs Date: February 13, 1992
Approved by Commissioner: Representative Ivan M. Ivan, Chair
Agency: House Special Committee on Military and Veterans Affairs Date: February 13, 1992

July 27, 1987

Miles Pierce
Alaska Senior Vice Commander
7414 Pamela Place
Anchorage, Alaska 99504

Dear Mr. Pierce,

I appreciate your consideration of my concerns regarding Native servicemen who have been deprived of the opportunity to obtain Native lands during and following military tenure.

To review my personal experience with this issue we need to return to when I was stationed in the U.S. Navy out of San Diego, California. While there I attempted to register with my Native corporation, NANA Regional Corporation, and register for land claims. I went to the Indian Center offices in San Diego where staff from the Bureau of Indian Affairs, Bureau of Land Management and state personnel were employed. It was explained that because I was in government service and thus a ward of the government, I would not qualify for land under the Alaska Native Claims Settlement Act (ANCSA). Several other Native individuals serving in the Navy and Marines were in the office at the time and shared my surprise with this policy. We had no prior knowledge of this, took it to be fact and as a result I ceased pursuing land until last year.


In 1986 when U.S. Senator Frank Murkowski visited Kotzebue I spoke with one of his aides and explained the details of my and other Native's predicaments. I was instructed to submit a memorandum explaining the circumstances and that cases "might" be considered on an individual basis.

Native Veterans, no matter where they were at the time of passage of ANSCA, should not be deprived of its inherent rights. Agreements made between the U.S. government and Natives should not be confused with or exclude Natives who were serving our government at the time of such agreements.

In particular, Vietnam veterans should not be subject to this policy. We sacrificed time, energy and effort for our country. When experiencing further personal losses, it becomes easy to conclude that our efforts may have been for naught.

I trust you will pursue this in my behalf and in behalf of other Native veterans who are adversely effected.

Sincerely,


Walter R. Karmun
1614 NEW POST 3839
KOTZEBUE ALASKA 99799

WK - 442-3799

KARMUN

To: Chairman Ivan M. Ivan
House Special Committee on Military and Veterans Affairs

From: Johnny T. Hawk, President & Chief Executive Officer
Callista Corporation

Date: February 21, 1992

Subject: House Joint Resolution 68

I am speaking for House Joint Resolution 68, which I feel is long overdue. It is good that the Alaska Legislature is recognizing the contributions of Alaska Natives who have served this great country of ours at a great sacrifice.

I believe this country should reward those who served their country in time of need rather than penalize them. Alaska Natives historically have proven themselves to be very patriotic and their record speaks for itself.

Some may say that those involved were wards of the government itself, so had the opportunity to participate in the Native Allotment Program. If they hold that belief, how many United States Department of the Interior personnel were willing to go to the front lines and enroll them? This holds true for those military personnel that were assigned to the four corners of the world at that time as well.

It is only fair that the State of Alaska urge the United States to open a window of opportunity for those affected to participate in a program beneficial to all eligible. This is a good time to do this because I have spoken to our Congressional Delegation personnel and they informed me that the Department of the Interior is reviewing land allotment applications at this time. Thus, now is the time to make this request on behalf of Alaska Native Veterans.

I thank you, Mr. Chairman and members of the Committee, on behalf of the many Native Veterans from the Callista Region for this and for the opportunity extended to us. It is very much appreciated.

cc: United States Veterans Affairs, Washington DC
Honorable Manual J. Lujan, Jr., Secretary of the Interior
Honorable Dan Quayle, Vice President of the United States
Ranking Members of U.S. House of Representatives and U.S. Senate
Honorable Robert C. Byrd, President Pro Tempore, U.S. Senate
Honorable Thomas S. Foley, Speaker, U.S. House of Representatives
Honorable Ted Stevens, U.S. Senator
Honorable Frank Murkowski, U.S. Senator
Honorable Don Young, U.S. House of Representatives

HAWK

Delbert J. Rexford
Box 231
Barrow, Alaska 99723

February 20, 1992

Good Morning Mr. Chairman
House Special Committee Members on Military & Veterans' Affairs

My name is Delbert J. Rexford. I am a member of the Inupiat Community of the Arctic Slope, IRA Joint Tribal Council and the Treasurer for the Native Village of Barrow, Inupiat Traditional Government Council.

I am here this morning to speak in support of House Joint Resolution No. 68. Please keep in mind I have not served in any of the United States Military Service Branches.

During the Vietnam conflict in South East Asia. Many of our young Alaska Natives served in the military when the Alaska Native allotments deadline filing date of December 18, 1971 was in effect.

I would like to make my statement brief and to the point. I whole heartedly support House Joint Resolution No. 68. Many of our Alaska Natives are deprived of receiving Native Allotments due to serving their country in a controversial war. Controversial on the home front as well as on the battle fields of Vietnam. The Vietnam War between the United States and Vietnam continues haunts many of our Alaska Natives.

I would like to share with you a healing process a Pt. Hope Vietnam Veteran uses due to the personal impact on his life. He continues to experience emotional and spiritual setbacks due to his involvement in Vietnam. When the Vietnam War conflict flashbacks occur...he goes into the country to relaxes by being alone. This is a common occurrence by Vietnam Veterans. The point is this man has been deprived of peace of mind and the only way he gets peace of mind is to be alone in his own country. He deserves to receive a Native Allotment. After all he fought for the United States of America. He fought for Old Glory. He fought for the beliefs and principles of his country. But the United States Government mandated a deadline date of December 18, 1971 for Native Allotment eligibility. All Alaskan Natives who served in the Vietnam War should be made eligible for Native allotments. After all they laid their life on the line when in active duty for our country and the United States of America owes them peace of mind. In our Alaska Native Cultures...peace of mind is being one with the earth, the environment and having a sense of belonging.

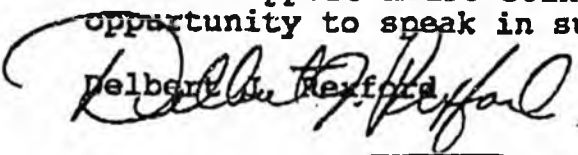
In closing, " The great law of culture: let each become all that he was created capable of being." A quote from Thomas Carlye between 1795-1881. Our Alaska Native Vietnam Veterans are people of the land. Depriving them of Native Allotments is the greatest injustice for those who served in to fight for the beliefs and principles of

REXFORD

a democratic and free nation.

Please support House Joint Resolution No. 68. Thank you for this opportunity to speak in support of HJR No. 68.

Delbert L. Rexford



KIKIKTAGRUK INUPIAT CORPORATION

BOX 1050
KOTZEBUE, ALASKA 99752

March 6, 1992

Representative Ivan M. Ivan
Alaska State Legislature
Special Committee on Military & Veterans Affairs
State Capitol
Juneau AK 99801-1182

Dear Representative *Ivan* Ivan:

We appreciate your letter of March 2, 1992 regarding HJR68. We at KIC have always supported legislation that will benefit our shareholders.

We believe that the process should get started to make land available to those natives that were in the service to be afforded the same opportunities we had to make our claims.

Thank you for giving us the opportunity to make comments on HJR68.

Sincerely,



Willie Goodwin Jr.
Land Manager

WGJr/as

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



February 20, 1992

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

FEB 26 1992

Dear Representative Ivan:

I was delighted to be informed that the House of Representatives has introduced the House Joint Resolution No. 68 urging Congress to reopen the Native Allotment process for the benefit of our Native military veterans.

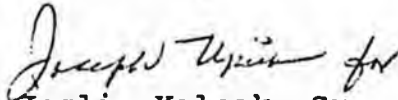
I would like to inform you that the North Slope Borough supports this bill as there are numerous military veterans who served in the Vietnam War who were not able to participate in the Native Allotment filing process. These veterans should not be denied the right to own an allotment because he/she was serving our country at the time of the filing period.

This great country of ours should honor the wishes of these brave military veterans who answered to the call of duty.

I would like to thank you for the opportunity to say a few words in this regard. I hope that this bill will pass the Congress as it deals with the most important part of our country, its people.

If I can be of any assistance to you in this crucial matter, please let me know.

Sincerely,


Jeslie Kaleak, Sr.
Mayor

c:\wp50\misc\rep_ivan

N. S. BOROUGH

REPRESENTATIVE EILEEN MACLEAN

HOUSE JOINT RESOLUTION NO. 68

I am Arnold N. Brower Jr., a Vietnam Veteran honorably discharged. My time in service began in February 1968. I received an honorable discharge in January of 1971.

In delight of House Joint Resolution No. 68, I lend full support.

I appreciate this opportunity to speak for native veterans from the vietnam conflict. After all, the draft gave no choice of our future. Higher education of some sort would have been my preference in civilian life.

Those of us that went to Vietnam, it was a traumatic experience. Returning home relapses occurred, it was like a period of sobering up after drunkenness, except it took a long time for some veterans.

I received an early out discharge provided exceptance by an accredited college or school immediately upon discharge. Upon settling at home from attending Sheldon Jackson Jr College, I heard about the land allotments but I was told it was too late. At the time the ASRC or application office was in Barrow. Wesley Aiken and Jacob Adams were the personnel attending to the maps.

The issue started before the ANILCA passage. Apparently, the amendment never got submitted in Washington, D.C. Other issues considered in the past include the opt in, opt out provisions to the 1991 amendments. Provisions for 1991 issues allow children born after 1991 some privileges under the ANSCA law.

Alaska native veterans should apply same as those Alaska natives who applied for native allotments. The same allowance is comparable in the education paid by the military after a military discharge. Normally the veteran would have gone to further educational venture instead of military service by the draft. The military grants under the laws of the United States certain educational benefits a veteran he or she didn't receive because of service. Congress should pass the Alaska native veteran's allotment right to similiar benefits a veteran did not receive because of the military service provided. Alaska native veterans would have normally applied if they didn't go to War.

I urge this resolution to pass and forwarded to the congressional delegation for immediate passage. I urge all veteran posts and affiliation to support this important document. If an American citizen had a right before his service for his country, it must be restored after his service is no longer needed by the country. Aboriginal native rights of all Alaska natives was intended to be honored during the land claims act.

Alaska State Legislature

House of Representatives

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



State Capitol
Juneau, Alaska 99801-1182
(907) 465-4327

Special Committee on Military & Veterans Affairs

SUMMARY - HJR 68

House Joint Resolution 68 requests Congress to amend federal law that would allow otherwise eligible Alaska Native veterans a new 18-month filing period for Native land allotments.

Since some of our Native veterans served during the time of the Vietnam conflict, many were overseas and could not take advantage of the native land allotments which were discontinued by the enactment of ANCSA in 1971. This resolution addresses that problem by requesting Congress to reopen this issue.

HJR

69

ALASKA STATE LEGISLATURE

Office of Majority Whip

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VICE CHAIR
HEALTH, EDUCATION
& SOCIAL SERVICES

COMMUNITY AND
REGIONAL AFFAIRS

INTERNATIONAL TRADE
AND TOURISM

CHAIR
CHILDREN'S CAUCUS

REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

S P O N S O R S T A T E M E N T

I appreciate the committee members hearing CSHJR 69. CSHJR 69 urges Congress to grant statehood to the District of Columbia.

Washington D.C., with a population of 607,00, has more people than Alaska, Wyoming or Vermont. But its elected officials have no real power and the city is denied a voting representative in Congress. The Federal Government treats the District as a colony, controlling local policy on issues ranging from sanitation to abortion and undermining the city's ability to raise revenues.

I believe Washingtonians deserve self-government no less than other Americans. Two bills pending in Congress, H.R. 4718 and S.2023, would admit Washington to the union as New Columbia, the 51st state. The House District of Columbia Committee voted out H.R. 4718 on April 2, setting up a plan to transform most of the District into the state of New Columbia while maintaining a small independent enclave as the seat of national government. These bills are worthy of attention and a vote of approval. Even if statehood fails, debate could suggest intermediate solutions.

Washingtonians have suffered long under second-class citizenship. They were first allowed to vote in Presidential elections in 1964. Permission to elect local officials followed slowly; in 1968, the school board; in 1971, a non-voting delegate to the House of Representatives; and in 1973, the mayor and the city council.

The Home Rule Act of 1973, which granted limited self-rule, contained dictatorial restrictions. The city cannot so much as reschedule garbage collection without asking Congress, for permission, which has 30 days in which to disapprove. Nor can the city determine its own budget or set independent policies.

The Federal presence harms the city fiscally. The District is forbidden to tax nonresidents, many of them Federal workers, who comprise about 60 percent of the work force. Federal properties are also exempt from real estate taxes. The city calculates that

all taxing restrictions combines cost it \$1.9 billion a year in revenues.

Those who oppose statehood often claim that the Constitution forbids creation of a state in the District. That claim is without merit. The Constitution says only that Congress will exercise exclusive legislative control over a seat of Government that does not exceed 10 miles square. A state could be created that would reduce the size of the Federal enclave but not eliminate it.

How can the United States champion democracy abroad while it disenfranchises District citizens who die in wars and pay taxes the same way other Americans do? There is every reason for Congress to convene hearings and then bring the issue to the floor.

On April 4, 1992 Jesse Jackson organized "Hands Around the Capitol in Washington D.C. where over 2,000 rallied their support for statehood.

Please help me send the message back to President Bush and our Congressional leaders that we want to see H.R. 2482 or S. 2023 passed this year.

Thanks.

FISCAL NOTE

No. 1
 Bill Version CSHJR 69 (STA)
 (H) Publish Date: 3-20-92

STATE OF ALASKA
 1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Legislative Affairs Agency
 Title: STATEHOOD FOR WASHINGTON, D.C. BRU: _____
 Component: _____

Sponsor: Rep. B. Davis

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

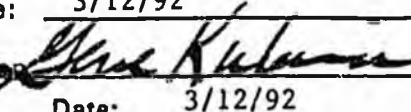
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

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

Division: _____ Date: 3/12/92

Approved by Commissioner: Representative Gene Kubina, Chairman 

Agency: House State Affairs Committee Date: 3/12/92

Congresswoman

ELEANOR HOLMES

NORTON

District of Columbia



**OPENING STATEMENT OF ELEANOR HOLMES NORTON
HOUSE DISTRICT OF COLUMBIA COMMITTEE**

H.R. 2482

April 2, 1992

Mr. Chairman, when my great grandfather, Richard Holmes, a fugitive slave from Virginia, crossed the District line before the Civil War, Washington, D.C. represented freedom. Today, for Richard's great-great grandchildren, John Holmes Norton and Katherine Felicia Norton, Washington is the place in our country where there is the least freedom. Less freedom than the 50 states, to be sure, but also less freedom than the territories, none of which have ever petitioned for statehood. Guam, Puerto Rico, the Virgin Islands, and American Samoa do not have voting representation in the Congress, but at least the Congress does not undermine its own professed democratic principles by reviewing and overturning the official enactments of their democratically elected local representatives.

I am grateful, therefore, Mr. Chairman, for your extraordinary leadership for 21 years to right this wrong. Yours has been a service not to Washingtonians alone, but to your country, for in bringing us to this historic day, you have moved to wipe away a conspicuous blemish on American democracy. From your first year in the Congress, you have worked for full and undiluted democracy for the District and have been an architect who has perfected and protected the home rule we have achieved. For all your rank and importance in the Congress, you will surely be remembered by history for your unique work in making American democracy more perfect.

In the same way, the Subcommittee Chairman, Mr. Mervyn Dymally, who, against our protestations, has announced that he will retire at the conclusion of this session, will go with the applause, yes and with the cheers of all who felt or watched his years of outstanding service on this Committee and to the District. His principled, patient and eloquent leadership was especially important in guiding the New Columbia Statehood Act through Subcommittee.

While my good friends of the minority will almost surely vote against us today, each and every one of them has approached my bill with the dignity and seriousness its subject matter deserves. Their criticisms have always been thoughtful and have even led to improvements in the bill itself. Mr. Bliley, the Ranking Minority Member of the full Committee and Mr. Lowery the Ranking Minority Member of the Subcommittee, have led their side with comments that were always substantive and never pejorative or deprecating of the District or its people.

Nevertheless, the careful consideration given H.R. 2482 has presumably not altered the party line vote that will probably result today. Thus has it always been. Whenever a state has sought admission to the Union, the political considerations of the moment have always been the deciding factor -- whether the state was slave or free before the Civil War, whether its residents are Democrats or Republicans today.

Opposition to D.C. Statehood has been couched in two major ways: first, and perhaps most prominently, in constitutional

terms and then in economic terms, up to and including questions of viability.

The constitutional issues raise matters of first impression because the District itself is unique. Yet precedent is surely on the side of statehood. Congress reduced the size of the District to meet the request of the people of Virginia for return of their land over a matter of slavery. It can do so to meet the request of the people of the District for statehood. Article 4, Section 3 of the Constitution cannot be interpreted to require the United States of America to receive permission from the state of Maryland to reduce the size of federally owned land. Maryland gave the land in absolute fee simple to the United States, retaining no claims. It is too late in the century and too many years after countless interpretations of the supremacy clause to argue that the sovereign government of the United States of America cannot do as it pleases with the land on which its capital is located and over which it has now had sovereign and solitary control for 201 years.

Constitutional lawyers, of course, disagree among themselves about the constitutional issues. Where no definitive constitutional answer is available, Congress must err on the side of democracy. No harm can be done by granting statehood. Rank, palpable injustice will be done by denying it.

Arguments concerning the financial viability of the District are far easier to rebut because they are manifestly groundless. District residents, who pay higher taxes than all but two states, must wonder whether to laugh or cry when they hear the economic viability of the District questioned.

First, most of the discussion of viability that we have heard would hold the District to a higher standard than other states which have gained admission to the union. Many entered with little population and scant development. One of the most recent examples was Alaska, but the House committee report used as the test of viability that a state have "sufficient population and resources to support a state government and to provide its share of the cost of the Federal government." The District far surpasses this standard.

The District raises most of its own \$3.8 billion dollar budget, and, as with most states, it does so through income, property and sales taxes, in that order. Looking only at locally raised revenues, discounting federal funds altogether, the District raised more revenue than 11 states in the fiscal years 1989-90. They were Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.

The D.C. economy would surely be the envy of most states today. Until recently, the District was described as recession-proof, and even now its diverse white collar employment base gives it more protection from cyclical episodes than most states. The District's per capita income is the third highest in the nation and our per capita contribution to the federal treasury is likewise third in rank. In average income, our workers earn \$32,106, 42% above the national average (1989). The District is counted among the leading states in just those upscale areas where most states seek to lead their economies -- business services, where we outrank 30 states; communications, where we outrank 25 states; finance, insurance and real estate, where we outrank 14 states; hotels and lodging, where we outrank 27 states; and legal services, where we outrank 41 states. Moreover, Mr. Chairman, the great majority of our work force -- almost 70% -- is employed in the non-governmental sector.

It is difficult to believe that any state came into the Union with greater financial viability than the District. Indeed, statehood would make the District more viable. Today, 55% of D.C. land is exempted from taxation. Statehood would place much of the federal land in the National Capital Service

Area, and New Columbia would then have only 30% of its land exempted from taxation.

Mr. Chairman, Washingtonians have always tried to make up for their disabilities, whether of citizenship, economics or race, by working harder. We have the largest middle class of any large city in the country and the largest proportionate black middle class in the world. No state or major city has a population that equals ours in years of college education.

But what we in the District are most proud of is our record of self governance. No state has had to earn statehood, and yet we have earned it. We have earned it through 1800 enactments since Home Rule, only three of which have been overturned by the Congress. We have earned it by paying our own way and subsidizing less wealthy jurisdictions with an unusually high contribution in federal taxes, without representation in Congress, and with only limited democracy at home. We earned it with immediate desegregation of our schools when I was in high school without "massive resistance" or other forms of resistance of Southern jurisdictions like ourselves. We continue to earn it with a highly responsible government and local officials who have faced up to the hard issues which in recent years have left crippling problems throughout the United States, including our neighboring states and cities.

The District has tried the other alternatives and is left with none but statehood. Only 16 states ratified the Voting Rights Amendment, and if all 50 had, the District's local governance would still have been left under the undemocratic control of Congress. Retrocession is impossible because neither jurisdiction desires it, and thus retrocession itself would be undemocratic and unconstitutional. After 200 years, the District has acquired a distinctive culture and demography. To ask the District to retrocede to Maryland is like asking West Virginia to return to Virginia.

Mr. Chairman, my great grandfather found a better life and greater democracy in the District than he had known. His great-great grandchildren want to continue on the route he started when he walked away from slavery. Katherine Felicia and John Holmes, who trace our family back generations before their great-great grandfather, want to be full American citizens. This is the time. Statehood is the only way.

102D CONGRESS
2D SESSION

H. R. 4718

IN THE HOUSE OF REPRESENTATIVES

Ms. NORTON introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide for the admission of the State of New Columbia
into the Union.

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 "New Columbia Admis-
5 sion Act".

6 SEC. 2. ADMISSION INTO THE UNION.

7 Subject to the provisions of this Act, and upon issu-
8 ance of the proclamation required by section 7(d)(1) of
9 this Act, the State of New Columbia (hereinafter referred

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1 to as "the State") is declared to be a State of the United
2 States of America, is declared admitted into the Union
3 on an equal footing with the other States in all respects
4 whatever, and the constitution adopted by the Council of
5 the District of Columbia in the Constitution for the State
6 of New Columbia Approval Act of 1987 (D.C. Law 7-8),
7 subject to ratification by a majority of the registered quali-
8 fied electors of the District of Columbia, is found to be
9 republican in form and in conformity with the Con-
10 stitution of the United States and the principles of the
11 Declaration of Independence and is accepted, ratified, and
12 confirmed.

13 **SEC. 3. CONSTITUTION.**

14 The constitution of the State of New Columbia shall
15 always be republican in form and shall not be repugnant
16 to the Constitution of the United States and the principles
17 of the Declaration of Independence.

18 **SEC. 4. TERRITORIES AND BOUNDARIES.**

19 (a) Subject to the provisions of this section, the State
20 of New Columbia shall consist of all of the territory, to-
21 gether with the territorial waters, of the District of Colum-
22 bia. The State of New Columbia shall not include the Na-
23 tional Capital Service Area of the District of Columbia,
24 which is described in subsection (b). As of the date of ad-
25 mission of New Columbia into the Union, the District of

1 Columbia shall consist of the National Capital Service
2 Area.

3 (b) The National Capital Service Area, subject to the
4 provisions of section 16, is comprised of the principal Fed-
5 eral monuments, the White House, the Capitol Building,
6 the United States Supreme Court Building, and the Fed-
7 eral executive, legislative, and judicial office buildings lo-
8 cated adjacent to the Mall and the Capitol Building.

9 (c) Notwithstanding any other provision of this sec-
10 tion or of section 16, the boundaries of the State of New
11 Columbia shall include the District Building.

12 SEC. 5. COMPACT WITH UNITED STATES; CLAIMS TO FED-
13 ERAL LANDS AND PROPERTY.

14 (a) As a compact with the United States, the State
15 and its people disclaim all right and title to any lands or
16 other property not granted or confirmed to the State or
17 its political subdivisions by or under the authority of this
18 Act, the right or title to which is held by the United States
19 or subject to disposition by the United States.

20 (b)(1) Nothing contained in this Act shall recognize,
21 deny, enlarge, impair, or otherwise affect any claim
22 against the United States, and any such claim shall be
23 governed by applicable laws of the United States.

24 (2) Nothing in this Act is intended or shall be con-
25 strued as a finding, interpretation, or construction by the

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H.L.C.

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1 Congress that any applicable law authorizes, establishes,
2 recognizes, or confirms the validity or invalidity of any
3 such claim, and the determination of the applicability or
4 effect of any law to any such claim shall be unaffected
5 by anything in this Act.

6 (c) No taxes shall be imposed by the State upon any
7 lands or other property now owned or hereafter acquired
8 by the United States, except to the extent as Congress
9 may permit.

10 (d)(1) Upon the admission of the State of New Co-
11 lumbia into the Union, the annual Federal payment au-
12 thorized to be appropriated to the District of Columbia
13 shall be authorized to be appropriated to the State of New
14 Columbia. Nothing in this Act is intended to alter the
15 basis for the Federal payment to the District of Columbia
16 or the State of New Columbia.

17 (2) Not later than 7 months before the beginning of
18 each fiscal year, the Governor shall submit a report to
19 Congress on the effects of the presence of the seat of the
20 Federal Government within or adjacent to the State on
21 the revenues and expenditures of the State, and shall in-
22 clude in the report information relating to—

23 (A) services rendered to the Federal Govern-
24 ment and services rendered because of the State's