

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7900 HOUSE JUDICIARY

165

HJR

9

ELECTIVE DISTRICT 14  
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Alaska House of Representatives

DURING SESSION  
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## SPONSOR SUMMARY

### HJR 9

Requiring the approval of the voters for the imposition of state income tax, state ad valorem tax on real property, or state retail sales taxation

HJR 9 is intended to prevent exorbitant and disproportionate taxes from harming Alaskan residents. Taxation, whether of income, property, or retail merchandise, is not the answer to increasing state revenues.

#### Need for Legislation

At present, Alaskans enjoy paying the lowest annual tax per household in the nation, averaged in our state at \$1,632. Nationwide, the movement to prevent legislatures from implanting tax hikes is spiraling upward. The most recent states to have eliminated the ability of legislatures to impose tax increases without popular vote are: Arizona, Florida, Idaho, Michigan, Colorado, and Oklahoma. The latter two actually require a supermajority to approve any tax increases.

These advances in the elimination of unwarranted taxation are indicative of the national trend. In Alaska, voters are extremely apprehensive about new and elevated taxes. The general viewpoint has been to work in conjunction with the legislature, rather than to grant them full autonomy over taxation. HJR 9 would transfer the power to tax from the legislature to the citizenry.

# HOUSE COMMITTEE REPORT

2/11

(7)  
Date Referred: February 3, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-10-93

The JUDICIARY Committee considered:

HJR 9

HOUSE JOINT RESOLUTION NO. 9

VOTER APPROVAL FOR NEW TAXES

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

RECOMMENDATIONS: [ ] the same title

be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[X] fiscal note(s) GOVERNOR 2/3/93

[ ] zero fiscal note \_\_\_\_\_

[X] zero fiscal note(s) Dept of Revenue 2/3/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	IIR	AM
	✓	Brian Porter Phillips Wardlaw Kitt		✓	

CHAIRMAN'S SIGNATURE

# THE 1992 CASE AGAINST ALASKAN STATE INCOME TAX



*"Blessed Be A State Without Income Tax"*

*Representative Terry Martin - April 15, 1992*

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5. INCOME TAXES VS. PERMANENT FUND DIVIDEND!

# THE 1992 CASE AGAINST INCOME TAXES IN ALASKA

They say it was individual pride of achievement that developed Alaska. The miracle of Alaska was forged when the dreams of men and women put on work clothes. As pioneers, they set forth armed with self-esteem, ambition, and the resolve to compete and excel on their own.

How ironic it is today that some of these same people and their children are demanding larger cash handouts because they arrived first.

Edward Gibbon wrote about the Athenians, "They wanted comfortable life and they lost it all - security, comfort and freedom. When they finally wanted not to give to society, but for society to give to them; when the freedom they worked for was freedom from responsibility, Athens ceased to be free and was never free again." They learned that when the people failed to exercise their control over government, the public servants turned to public masters.

The question is - when does a welfare state destroy the free society that established it? It is the sober truth that as long as government cares for the people, the people will not care for themselves. From great societies of the past: Rome, Athens, Great Britain, our forefathers instilled in their people the principle that nothing is free; that socialism pulls few up, but drags many down; and a completely unnecessary tax, used to prop up such a system, is nothing more than punishment for working.

Whenever the government spends or taxes a single dollar more than it needs, it sprouts another seed of poisonous inflation.

Looking to government for "security" destroys the self-reliance that built America and Alaska. You cannot vote yourself security - you must earn it. You cannot bribe poverty to go away - you must work it to death.

The encouragement of pressure groups to "get theirs" at the expense of the working people - by threatening elected officials with defeat - will destroy the self-reliant class and the will to achieve. If the state legislature had more confidence in a hard-work, free-enterprise future than in a cash-for-vote present, there would be a glorious Alaskan future, and it could start now.

We have already indirectly paid a tax to the state by paying for the high cost of oil. The state saved these taxes in the name of the Permanent Fund.

There will always be the indigent, sick and old who cannot produce and must be taken care of by the rest of us. This is a form of charity which is right, rather than a form of government security, which is not a right. The bottom line is that it is of our own individual doing, earned by our hard work.

### THE HISTORY OF INCOME TAX

The first income tax, in the modern sense, was imposed in England by William Pitt in 1799 to help pay for the wars against Napoleon. It was abolished after the Peace of Amiens in 1802. The following year, when war broke out with France again, the tax was reimposed. After Waterloo, it was again abolished. Then, in 1842, the British government adopted the



income tax as a permanent feature of its revenue system.

In 1861, the United States government levied a tax on income for the first time in its history. All income in excess of \$800.00 was taxed at a 3 percent rate. This wartime tax was abolished after the Civil War.

The 16th Amendment to the Constitution, legalizing federal income taxes as a permanent fund-raising device, was adopted in 1913. It began as an amendment to a bill in Congress lowering the tariff on imports. The idea was that the small deficit from reduced tariff receipts could be taken care of by a tiny tax on prosperous incomes. The 1990 Almanac presents an informative synopsis on the early history of income tax. It states that "The nation had few taxes in its early history. From 1791 to 1802, the United States Government was supported by internal taxes on distilled spirits, carriages, refined sugar, tobacco and snuff, property sold at auction, corporate bonds, and slaves. The high cost of the War of 1812 brought about the nation's first sales taxes on gold, silverware, jewelry, and watches. In 1817, however, Congress did away with all internal taxes, relying on tariffs on imported goods to provide sufficient funds for running the Government."

The almanac continues by revealing that in 1862, "in order to support the Civil War effort, Congress enacted the nation's first income-tax law. It was a forerunner of our modern income tax in that it was based on the principles of graduated, or progressive, taxation and of withholding income at the source. During the Civil War, a person earning from \$600 to \$10,000 per year paid tax at the rate of 3%. Those with incomes of more than \$10,000 paid taxes at a higher rate. Additional sales and excise taxes were added, and an "inheritance" tax also made its debut. In 1866, internal revenue collections reached their highest point in the nation's 90-year history - more than \$310 million, an amount not reached again until 1911."

"The Act of 1862 established the office of Commissioner of Internal Revenue. The Commissioner was given the power to assess, levy, and collect taxes, and the right to enforce the tax laws through seizure of property and income and through prosecution. His powers and authority remain very much the same today. "

"In 1868, Congress again focused its taxation efforts on tobacco and distilled spirits and eliminated the income tax in 1872. It had a short-lived revival in 1894 and 1895. In the latter year, the U.S. Supreme Court decided that the income tax was unconstitutional because it was not apportioned among the states in conformity with the Constitution."

The history concludes with discussion of taxes in the early Twentieth Century. The almanac states, "By 1913, with the 16th Amendment to the Constitution, the income tax had become a permanent fixture of the U.S. tax system. The amendment gave Congress legal authority to tax income and resulted in a revenue law that taxed incomes of both individuals and corporations. In fiscal year 1918, annual internal revenue collections for the first time passed the billion-dollar mark, rising to \$5.4 billion by 1920. With the advent of World War II, employment increased, as did tax collections - to \$7.3 billion. The withholding tax on wages was introduced in 1943 and was instrumental in increasing the number of taxpayers to 60 million and tax collections to \$43 billion by 1945."

What started this whole tariff business anyway? When the Moors were masters of Spain, their ships would lie in wait for merchant vessels coming through the Straits of Gibraltar bound for Italy, Greece and Egypt. The Moors were no fools, and instead of plundering the vessels, they levied a sort of blackmail, with a fixed scale of payment based on the value of the cargo. This amount was determined at their port of Tarifa; thus originated the word "tariff". Some people still think a tariff is a form of piracy, even after all these years of government sanction.

The history of Alaska's tax system has been described as follows by Claus M. Naske, a professor of history at the University of Alaska, Fairbanks:

"Territorial Alaska's tax system consisted of a conglomeration of heterogeneous taxes imposed by both Congress and the territorial Legislature for different purposes, on different bases, with many forms of rate schedules and a variety of administrative provisions.

Congress imposed the first taxes in response to the gold rushes of the late 1890's. In 1899, it passed a criminal code and code of criminal procedure that, among other things, imposed some 43 license taxes on specific businesses.

Congress passed the second Organic Act in 1912, which, among other things, gave Alaska a territorial Legislature to meet biennially. Between 1913 and 1948, the Legislature developed a tax system of its own. It consisted of a number of taxes and fees levied on the fisheries and mining industries, Alaska's two major economic activities.

There also was an inheritance tax as well as a patchwork quilt of miscellaneous business, professional, and occupational taxes and fees. In addition, the territory also participated in the Federal Social Security Program on the same basis as the contiguous states, and after World War II, at the urging of Territorial Governor Ernest Gruening, the territorial Legislature provided a generous Veteran's Loan and Bonus Program financed by a general sales tax, 1 percent on retail and 0.5 percent on wholesale sales.

Still another character of the system then (and now) was the narrowness of the tax base. For example, the territorial tax commissioner reported that during the calendar years 1947 and 1948, some 91.25 percent of the tax revenues collected came from a mere five

sources. The salmon industry contributed 21.25 percent, liquor excise taxes 21.31 percent, motor fuel and motor vehicles 15.65 percent, gross sales tax 28.8 percent, and the school head tax 4.12 percent.

Territorial residents had the habit of asking Congress to provide funds for any number of services. The federal government maintained Alaska's judicial system, managed its fish and game resources, paid the salaries and expenses of the Territorial Legislature, built its roads, trails and tramways and educated its Native children. The territory, it is true, made some minor annual contributions to some of these programs. By and large, however, the territory's hardy pioneers expected Uncle Sam to foot the bill for most activities normally conducted and paid for by territorial and local government.

Governor Gruening battled for 10 years, from 1939 until 1949, for a modern tax system. Finally, in the latter year, [the] Legislature passed a modern tax system, including a personal income tax."

From Reaching for a Star by Gerald Bowkett, an example of how Alaskans reacted to the imposition of the federal income tax:

### TAXATION WITHOUT REPRESENTATION

FAIRBANKS, April 4, 1956 - (AP) - A federal court jury ... last night freed an Alaskan who had pleaded not guilty to ... income tax evasion on grounds that he did not believe in "taxation without representation."

Jack Marler ... was found innocent of charges that he willfully failed to file income tax returns...

...The defendant's attorney, Edgar Paul Boyko of Anchorage, announced before the trial that he would make the case "a test of the income tax laws as applied to the Territory of Alaska."

...In his instruction, the judge [U.S. District Judge Vernon D. Forbes] had told the jurors that the defense of "taxation without representation" was not valid, but the jury could take this defense into account in determining whether or not Marler had willfully failed to file his returns...

...U.S. Attorney Ted Stevens said he did not believe that this case was in any way a test of the federal income tax laws as applied to Alaska ...

WASHINGTON, April 19, 1956 - (AP) - An Internal Revenue Service Spokesman today shattered any dreams Alaskans might hold that a recent Fairbanks jury verdict might relieve them from federal tax responsibility.

...[The spokesman said] ... the case ... "establishes no precedent ... In this particular case the jury found for the taxpayer. In their opinion, his failure to file was not willful. That and nothing more. He [Jack Marler] must pay taxes for all the years he failed to file or pay ..."

The state personal income tax imposed in 1949, remained in effect until it was repealed by the state legislature in 1980. In today's debate concerning the reimposition of this tax, people seem to have forgotten that they used to pay state income tax, and how big a bite it took. That was and always should be the first direct bonus Alaskans receive in sharing the state's wealth from oil revenues. Those who are working can look at their paycheck and see \$0.00 taken out for state taxes.

All working Alaskans can compute their weekly or monthly dividend by simply multiplying their federal withholding tax by 16%, the amount of the tax at the time of its repeal. You may want to see your total tax dividends over the years since 1979. To do this, just add up your gross federal income tax for the last twelve years, and determine an additional 16% that would have gone to the state coffers.

The working people of Alaska have saved more than \$9 billion in state income taxes since the taxes were repealed in 1980. On the other hand, all Alaskans have received a total of \$3.125 billion in permanent fund dividend checks.

States with the highest taxes usually have the lowest growth rate in income and economic well-being. Higher taxes lessen economic growth. In Alaska,

unstable industry taxes cause businesses to stay away. The best way for legislatures to improve economic conditions in any state is to reduce taxes of all natures.

A new adage was introduced to rationalize an income tax, namely "Who ever heard of representation without taxation?" I have and I see nothing wrong in this. This is the way our country has operated for more than 126 years, except for a brief period during the Civil War. What is really bad and certainly constitutionally questionable, is taxation without equal representation. Alaska is the only state where a simple majority in the legislature can impose a tax on its citizens - this means 21 members in the House of Representatives and 11 members of the Senate. Until the reapportionment of 1992, our state was so malapportioned, the majority of legislators did not represent the majority of the citizens. This brings to mind the famous aphorism, "Power corrupts: absolute power corrupts absolutely." Few people realize the awesome power given to a few elected officials by Alaska's Constitution, Article IX, Section 1. One may wonder if the framers of the Alaska Constitution ever considered what the Boston Tea Party was all about.

Those who have the power of taxation are not necessarily the best-informed. According to a special opinion editorial in the Washington Post on March 13, 1992 by George F. Will, the tax revolt of 1970s is alive and well in the 90s. In 1990 the people of New Jersey, the second richest state with a median household income over \$40,000, elected Governor Jim Florio, a Democrat, on the promise of no new



*The combination of taxes has become so burdensome that it is shackling America*

taxes and won (sound familiar!). Upon assuming office he promptly raised taxes far more than the deficit required. His tax increases had redistributive purposes, particularly for helping poor school districts.

The people of New Jersey did not feel as though they had anything extra for government to play with considering their style of living. They were most agitated about the \$2.8 billion tax increase - the largest in their state history. Thus, last November 1991, when Democrats controlled both houses of the state legislature, the voters returned the favor by replacing them with a veto-proof Republican majority in both houses.

To counter the newly promoted myth that "an income tax will encourage the public to decrease demands on government or force legislators to reduce spending," we need only to review ancient, medieval, and modern history. However, the quickest way of evaluating this myth is to acknowledge current budget problems of states with income taxes. Californians struggling with a major deficit in 1991 tried to solve its problems by increasing new taxes over \$7 billion and piling on an explosion of anti-growth regulations.

Throughout the nation, tax-cutting, grassroot legions are once again circulating statewide initiatives to try and control their legislature's excessive use of taxes. Here are a few initiatives proposed for November, 1992, that exemplify a freedom the Alaska citizens are deprived of since this state's constitution gives exclusive powers of taxation to the legislature only:

Oklahoma: In March, 1992, Voters approved State Question 640 which requires voter approval of any tax hike that doesn't achieve a 3/4 vote in each house of the legislature. The Oklahoma measure mirrors the model legislation of the American Legislative Exchange Council (ALEC's) Tax and Fiscal Policy Task Force which mandates a super-majority vote in the legislature for any tax increase.

Michigan: Signatures have been gathered for proposal to cut school property taxes by 30% over five years and limit future assessment hikes.

Colorado: Proposal would require voter approval of higher taxes, new debt and state spending hikes above inflation.

Oregon: Activists seek support for a move to require a vote of at least three-fifths of the legislature for tax hikes.

Clearly, other state legislatures are finding that there is a rising voter discontent with increased state spending and tax. One measure which is emerging in other states is the prevention of the legislature from placing emergency clauses on revenue bills which would allow the measure to go into effect immediately. This prevention statute will allow the voters time to circulate petitions on any tax increases prior to implementation of laws requiring new revenues. In Alaska the people are constitutionally prohibited from interfering with legislative appropriations and sources of revenue (taxes).

There are taxpayers' petition drives in a number of other states such as Arizona, Florida, North Dakota and Washington, but such is not allowed in Alaska. The last time a group of citizens tried this (1982), it was ruled as unconstitutional through an interpretation of an assistant attorney general that limiting the source of revenues for taxation would infringe on the untouchable powers of the legislature to appropriate. From this, one is to assume the powers of taxation are superior to the guaranteed right of petition in Alaska.

Obviously, Alaskans' right of petition is severely limited and the pro-tax legislators who defend the stand for additional taxation are bubbling with joy in recognition of the barrier preventing the petition drive. Many Alaskan are unaware that their rights have been stripped through liberal and undemocratic interpretations.

Taxing the working class and transferring the revenues to the non-working segment of a population is the worst sort of socialism a state government can practice. Can we not learn from the downfall of eastern Europe and the U.S.S.R.?

Every time the big spenders create a crisis in Alaska - "tax, tax, tax" is always their answer. They forward the idea that increased taxes reduce the size of government. People think the world of communism and socialism is over, unfortunately in Alaska the charms of these bells ring loudly in the halls of Juneau.

California's super crazy new cracker tax is another example showing that paying taxes does little to curtail the appetite of tax-hungry liberal legislators. In order to balance the budget, or at least make a dent in the deficit, California increased the 6 percent sales tax by a cent and a quarter on sales of certain items such as magazines, ship and aviation fuel, bottled water, and snack foods. So what's a taxable snack? Not peanuts, pork rinds or doughnuts. All crackers are, except saltines, graham crackers, animal crackers and arrowroot. Granola bars are taxed, granola isn't. Hershey milk chocolate chips are exempt, a Hershey milk chocolate bar is taxed. Tostitos tortilla chips are exempt, Doritos tortilla chips are taxed. (Did someone forget to make a campaign contribution to the finance chairman or to the war chest of the controlling political party?)

The out-of-control spending frenzy of New York's government led to the raise of taxes over \$1 billion for each year from 1989 to 1991 (total \$3 billion) and still the fiscal year budget for 1992 faced a \$6 billion deficit. This state, with the highest tax burden in the nation, will increase its spending another 7 percent this year with its credit rating cut to the third-lowest in the nation.

The myth of a tax-paying public having control of a wild spending legislature should not be employed in Alaska. Be aware that a simple majority of legislators can impose a tax on a majority of the citizenry whom they do not represent. The time to

Speak out against the tax movement is now, during the fall election on November 3rd, 1992.

Proponents of reimposing the income tax argue that, at 4%, the tax would be on par with what other states levy, but they overlook the fact that with a much higher per capita income, at \$28,182, Alaskans would end up paying more in hard dollars. The more you tax the people, the less ability they have for economic survival.

In 1986, Governor Cowper's Office of Management and Budget developed graphs and charts purporting to compare the income various family groupings would receive from the permanent fund to the amount they would pay in personal income tax. The idea behind it was to graphically illustrate how well-off taxpayers will be with the PFD offsetting their taxes. The graph was quite misleading. Remember, you must first include the total PFD received in your gross income, which causes your taxes to increase. Since the tax on the PFD is not withheld, you will pay, either by receiving a smaller federal refund, or by sending in a bigger check with your 1040 form.

For a single individual who must pay federal taxes on their PFD first, at an average of \$20.00 per \$100.00, or from an \$931.00 PFD check, subtract \$188.00. In this case, the individual may receive \$743.00 clear from their PFD after federal taxes, but would still have to pay an additional \$30.00 to the state income tax plus 4% of gross = \$1,440 of one's annual wages for a person whose income is \$36,000.

Misguiding assumptions were used to lead families and married couples into accepting the tax, instead of capping the size of the PFD checks. The major misconception is not taking reality into computation. In the highest percentage of cases for families in Alaska both parents are working and taxed. Instances where a multi-member parent unit has only one breadwinner are clearly the exception, not the rule.

So, in computing how your family will actually advance in total income, be sure you include the tax to be paid by each working member of the family, and subtract it from the total dividends received.

The second major factor to be aware of is that these comparisons are made on tax levels of 3.2% and 5.6%. Once the tax is put into law, not voted on by the public, how quickly will it rise? If the most recent state tax level at 16% of federal is used, how then does your gross tax level compare with PFD income? Be careful in the use of terms when you evaluate the difference of 16% of federal tax and 4% or 5% of your gross income. The income tax may sound much less (at 4% or 5%) but keep in mind that it loses the innocence of the so-called "truth", when the true intent gouges out the most tax.

A vivid example of this would be to look at an individual whose gross earnings are \$18,000. If this person is single with no dependents, whereas the federal tax would be \$2,505.60 in one year, 16% would amount to approximately \$400. This is compared to the wondrous savings of a personal income tax which would take 5% of the gross equalling \$900. In the same respect, one who earns \$36,000 gross would have \$6927 removed for federal tax, 16% of which is approximately \$1107 vs. the personal income tax of 5% on the gross amounting to \$1,800. Obviously there is major discrepancy resulting in a much greater amount paid through the personal income tax method. Yet again, it is evident that those who have the power of taxation are not necessarily the best informed.

When one considers the tremendous amount of revenue the State of Alaska received during FY 1980s, it is illogical, irrational, unnecessary and, most importantly unjustifiable to tax the working people of this state. Should we reduce the workers of Alaska to slavery to a government that has billions of dollars in savings, and gives out hundreds of millions of dollars in "cold" cash that no other state would dream of doing.

Last year, 532,174 people applied for permanent fund dividend checks. Of that group, approximately 158,000 with incomes above \$15,000 would pay an income tax, if enacted. Remember, only working people and those with high pensions would pay taxes. For 1991, \$464 million was given out in dividend checks. All workers available for taxation would have to pay approximately \$3000 for state income taxes to equal this giveaway.

Is it really fair, logical, or economically sound to give 184,000 children checks for \$931.00 each while taxing their parents twice or three times that amount? This is no way to secure the happiness of the people. You are going to tax Mom and Dad just to give the kids a dividend check. It used to be the responsibility of the parents to give their children an allowance. Today we are telling the children that from now on they shouldn't bug Mom and Dad about an allowance - just talk to your legislator. In most cases, with both parents working and considering a high percentage of single parents working in Alaska, there will be no net gain from the dividend checks, because the taxes will be higher than the dividends.

Let's compare taxing the working class to give \$3,000 to everyone over 65. Is it really fair (and of what government purpose) to tax a single parent who is barely making ends meet, while giving a bonus to retired persons who, in more than 25% of cases, have larger incomes. The average per capita income for Alaska in 1990 was \$28,187.00. All persons over 65 receive a bonus plus their permanent fund dividend check. The bonus amounts to \$63,000,000 for 21,000 people, which if continued, would come from 63,000 workers who are taxed at least \$1,000 each. All working people making more than \$15,000 would be taxed - which would in many cases go to someone who is drawing a higher income in retirement. Of the 21,000 senior citizens who, as of March 1, 1991, were receiving \$3,000 each; 5,000 had incomes of

\$30,000 or more. It would take 15,000 taxpayers, at \$1,000 each, just to pay \$15,000,000 for this group whose incomes already exceed the average Alaskan's annual wage. This amounts to stealing from the have-nots to give to those who have enough. Those who are proposing this unjustified tax on the people who toil for their bread (so others can eat it) must realize the burden they are placing on the people who can least afford it. When legislators impose an unnecessary tax on the state's citizens, we hurt hundreds of thousands of people. This is especially true when we try to regulate human behavior (force charity), since some envision themselves the redistributors of personal income.

Some legislators reason it to be the purpose of government to equalize economic power. Can the working people of Alaska carry the increased burden of government spending to support the desires of a large non-working segment of our state who demand not only unnecessary services, but in addition, enormous amounts of cold cash to elevate their buying power? I find no reason why we must concern ourselves with the redistribution of the working people's personal income while we continue to give out hundreds of millions of dollars to every citizen who does nothing to earn it.

Now the question is, "How many non-workers can the workers support?" We have to know where the line of refusal to support stops in our system. Maybe it runs until it becomes impossible for the workers to handle the job any longer or when they see they can have a higher income by not working. Are we approaching the breaking point? Here are some of the figures for people who help increase the costs of government, but for obvious reasons contribute little to pay those costs: 179,939 under the age of 19; 25,000 college students in Alaska at full-time equivalency; 22,095 seniors over the age of 65, 3/4 of whom have no tax liability; 2,350 inmates in the state correction system; 17,300 average per year unemployed - a

total of 229,384 individuals receiving permanent fund dividend checks (excluding felons who are now ineligible). In essence, this results in the employed workers of Alaska being forced to pay for almost 230,000 dividend checks distributed to individuals who are not working.

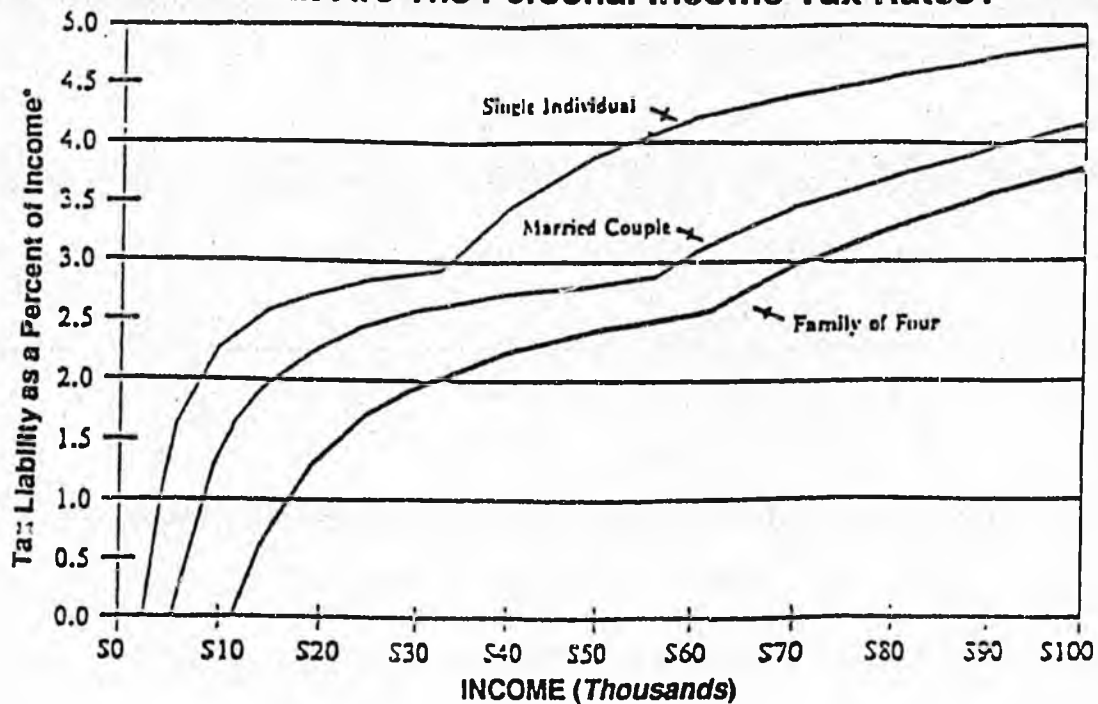
**Taxing the working-class and giving the revenues to the non-working segment of a population is the worst sort of inflation a state government can put into the economy.**

An interesting side note to this issue is that under the permanent fund dividend program "hold harmless" provisions, the state will pay \$24 million in federal income taxes on behalf of certain low-income PFD recipients to ensure that they will not be taxed, because they exceed their low-income limits and thereby become ineligible for federal government programs they are currently covered under. An additional \$5 million plus is allocated by the state to pay federal taxes under the hold harmless benefit for recipients of the longevity bonus, who would become ineligible for programs such as medicaid with the additional income. Each of the 158,000 taxpayers would have to pay \$120 to pay this tax of the "poor".

Of course, these hold harmless provisions are just two tax exemption benefits allowed to certain groups of people. Another well-known state subsidy is the payment of \$3 million in property taxes to municipalities on behalf of senior citizens. How about the state paying 80% of monthly rents for thousands who claim poverty but the income from the state is not counted.

Too many of my colleagues are crawling all over each other to be canonized as the patron saint and savior of the permanent fund dividend program.

## What Are The Personal Income Tax Rates?



Many legislators fail to see that the income tax they propose will take away any dividend the working-class and their children would receive. The new tax form the Department of Revenue designed from HB154 and proposed by members of the House Democrats in 1988 would have been sent to each taxpayer, making it clear by telling the taxpayer to subtract the dividend credit from their tax liability. The Department also estimates a rebate to the state of \$16.6 million from the dividends. Thus families earning more than \$25,000 for single taxpayers or \$40,000 for joint statements, will be deprived of the income of their children's dividend checks. Families (including children) who keep their income below \$12,000 a year will receive a full allocation of dividend checks.

Emotional slogans are useful for rallying people to a cause, but slogans are no substitute for thought. Take, for instance, "we must have an income tax to make the non-resident worker pay for working in the state." The Department of Revenue, in a hypothetical case, analyzed that a \$300 million income tax scenario would only bring in \$17 million from out-of-state workers. Does it make sense,

then, to tax ourselves \$283 million just to get \$17 million? Resident workers would pay 95% of the tax, while out-of-staters would pay 5%.

Another rationale for paying state income taxes is that they can be deducted from your federal tax. Because we have no state income tax, \$86 million stays with the federal government each year (out of \$399 million in federal taxes paid by Alaskans). This is termed the "federal tax leakage." In other words, if we had a state income tax, 22 cents out of every dollar in income tax paid to the IRS would stay in the state. Does it make sense to tax the working class \$316 million to save the \$86 million? If this is the case, then the same logic should apply to other leakages to the federal government. Why not stop giving out permanent fund dividends and save that \$100 million leakage? Is this not a reasonable trade-off? And who will benefit? - the working people. With the PFD check increasing each year, the federal tax leakage will dramatically increase.

I cannot really blame the Juneau representatives for pushing a state income tax because the program itself would employ, at a minimum, 92 new people with a payroll of at least \$4.1 million (\$50,000 for the average employee including benefits), plus an enormous start-up cost with new machinery and office space required. At the same time, we will still be employing 92 full-time equivalent employees to give out the dividend checks.

Currently, state employees and teachers across the state are complaining or threatening to go on strike for a 3% to 4% pay increase. However, many of them also say they support an income tax. I am bewildered by their rationalization. Don't they realize that an income tax is also a reduction in their wages? Do they not realize that government workers and teachers far and above receive a higher salary than the average private worker and would pay a higher percentage of taxes. As everyone has shared equally in the wealth of Alaska through the PFD checks, so everyone should also be willing to share equally in the loss through a reduction in

the PFD. With an income tax, working people are being forced to take too great a portion of the burden in replacing the lost revenues.

Others who advocate reimposing the state income tax say people were more interested in government when they paid taxes. This is really grabbing at straws, and is not borne out by the facts. Figures show in Alaska that the public's participation in government, in terms of percentages of people who voted, has risen since the end of the income tax in 1980. I find the private sector even more interested today in protecting their pocketbooks from the government.

We should consider the tax revolt fever going on all over the nation. Take a hint from the state of Michigan, where the people recalled five Democrat state senators who voted to increase their income taxes, and replaced them with conservative Republicans. I wouldn't be surprised to find a lot of requests for recall procedures in this state, to be used on those who pass any bill for a new income tax or see a lot of new faces after the November 3, 1992 election in the state legislature.

No other state allows a simple majority of the legislature to increase taxes on the citizens. A number of states, by their constitution or state laws, require a 2/3 or 3/4 majority, and one state even requires 4/5 of each house before a new tax increase can become effective. Voter approval is required in more than half the states, while here in Alaska, the people are denied this opportunity. The citizens of Alaska, in 1983, were even denied the right to petition through the initiative process for the right to vote on taxation.

It borders on tyranny if our current legislature would invoke a new tax on the citizens, the majority of whom they do not represent. It certainly would be an affront to the principles of a republic if such action were implemented.

We in Alaska have a golden opportunity to avoid the mistake numerous states and Congress have made by preventing the state from engaging in

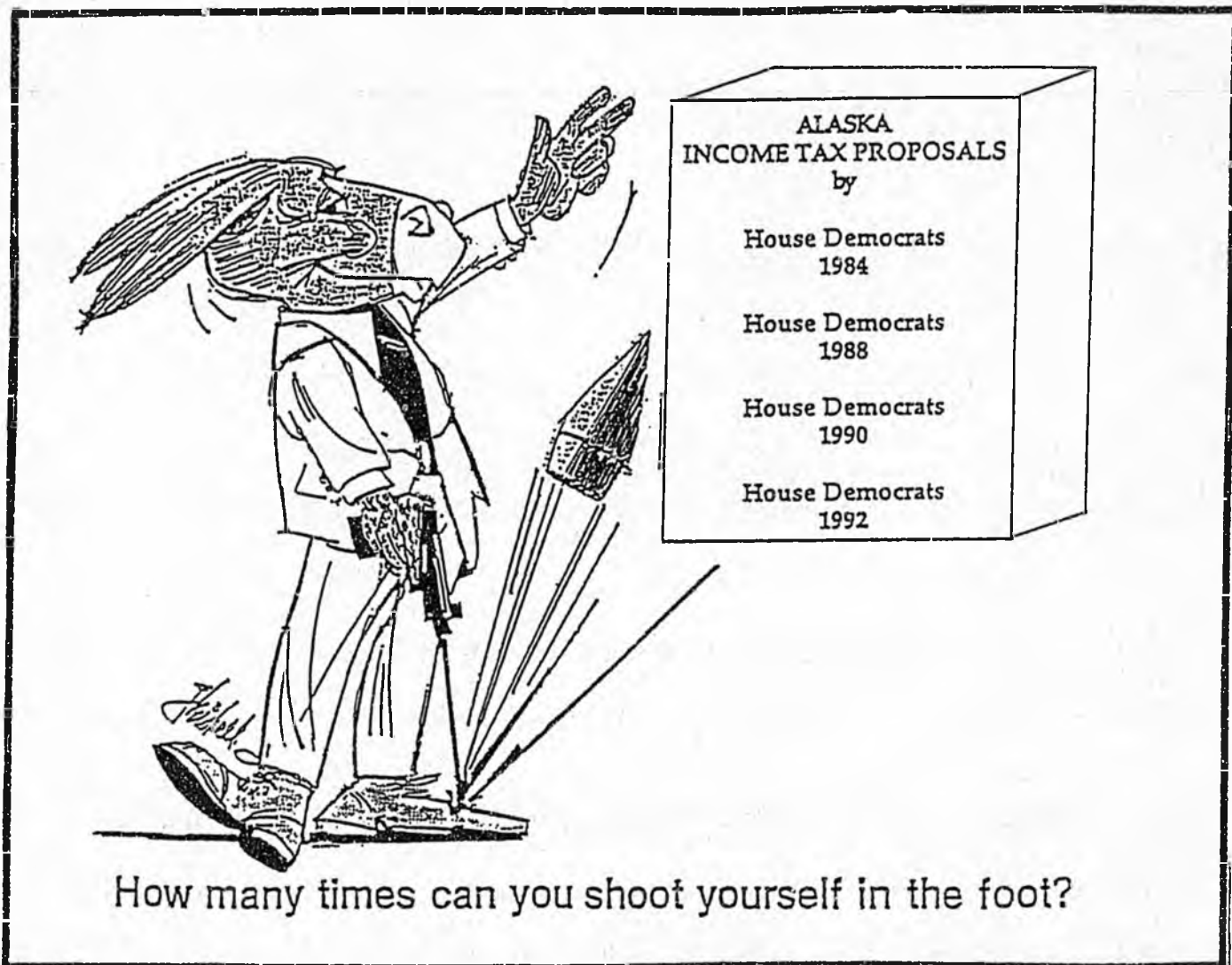
inflationary deficit spending, and forcing taxation on our children and our children's children - taxation they will be paying until the death of democracy.

On the other hand, what a unique legacy we can establish in Alaska, perhaps for the other states to emulate, where future generations - every child born in Alaska - can hope to grow up to enjoy no state taxation. Blessed may be the young Alaskans for they shall not inherit state debt. Once they start providing for themselves, being independent, self-reliant Alaskan breadwinners, they can be sure the state will not take a big slice of it. A new income tax is the worst type of capital punishment we could impose on the future generations, especially when the state is collecting more taxes than is absolutely necessary. This may be considered legalized robbery. It is said that the income tax has made more liars out of the American people than any other institution. Alaska does not need to add to this temptation.

Once a new tax is put into law, there would be no limit to how high future legislatures could raise it. Nor would there be any limit on the growth of state government as some suggest. You don't see the federal government decrease as people pay taxes, nor did the state government decrease when an income tax was imposed. The new tax is a threat to every individual's personal and family well-being. The state does not need the extra revenue. The legislature was not created to devour the savings of the widows, nor the income of the single parent who struggles to provide for the needs of her or his children.

**BLESSED BE A STATE WITHOUT INCOME TAX!!!**

BLESSED BE A STATE WITHOUT INCOME TAX!!!



# STATE OF ALASKA EXPENDITURES

## PER CAPITA COMPARISON

48	times the national average on	AIRPORTS
29	times the national average on	FISH & GAME
13	times the national average on	INTEREST ON DEBT
9	times the national average on	PUBLIC BUILDINGS
8	times the national average on	JUDICIAL/LEGAL ADMN.
8	times the national average on	NATURAL RESOURCES
7	times the national average on	GOVERNMENT ADMN.
6	times the national average on	FINANCIAL ADMN.
6	times the national average on	HIGHWAYS
*****		
4	times the national average on	TOTAL STATE SPENDING
*****		
4	times the national average on	CORRECTIONS
3	times the national average on	PARKS & RECREATION
3	times the national average on	HEALTH
2.5	times the national average on	TRANSFERS - LOCAL GOV
1.8	times the national average on	HIGHER EDUCATION
1.8	times the national average on	PUBLIC WELFARE
0.6	times the national average on	HOSPITALS

ELECTIVE DISTRICT 14  
ELMENDORF A.F.B.  
EAST ANCHORAGE  
GOVERNMENT HILL

REP. TERRY MARTIN



HOME  
355 DONNA DR., #11  
ANCHORAGE, AK 99504  
PHONE: 333-6990

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

Alaska House of Representatives

MEMORANDUM

DATE: February 3, 1993  
TO: Representative Brian Porter, Judiciary Chairman  
FROM: Representative Terry Martin *T.M.*  
RE: HJR 9 - Voter approval of new state taxes.

---

This is a formal request to please schedule HJR 9 at your earliest convenience in the Judiciary Committee. The resolution was passed out of State Affairs on Tuesday, February 2nd.

If you have any questions, please contact my aide Tom Anderson at 6618.

ELECTIVE DISTRICT 14  
ELMENDORF A.F.B.  
EAST ANCHORAGE  
GOVERNMENT HILL

REP. TERRY MARTIN

HOME  
355 DONNA DR., #11  
ANCHORAGE, AK 99504  
PHONE: 333-6990



Alaska House of Representatives

DURING SESSION  
P.O. BOX V  
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JUNEAU, AK 99811  
PHONE: 465-3783

## SECTIONAL ANALYSIS

### HJR 9

Requiring the approval of the voters for the imposition of state income tax, state ad valorem tax on real property, or state retail sales taxation

#### Section 1.

Amends Article IX, sec. 1 of the Constitution of the State of Alaska by prohibiting any imposition of state income tax, ad valorem taxation on real property, or retail sales tax, without the approval of the voters of the state.

#### Section 2.

Places the amendment proposed by the resolution before the voters throughout the state in the next general election.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HJR 9

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: prohibiting imposition of taxation  
without voter approval  
Sponsor: Representative Martin  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

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

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

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHT/A	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0

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

Prepared by: Charlot E. Thickstun, Director *Charlot E. Thickstun* Phone: 465-4611  
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coohill *John B. Coohill*  
Agency: Office of the Lt. Governor Date: 1/15/93

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HJR 9

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Prohibiting the imposition of state personal income taxation, state ad BRU: Revenue Operations  
 valorem taxation on real property, or state retail sales taxation without the approval... Component: Income & Excise Audit  
 Sponsor: Representative Martin  
 Requestor: Representative Martin COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						

REVENUE FUND SOURCE: \_\_\_\_\_

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS: -

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0.00

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

The requirement of voter approval prior to the implementation of certain taxes has no operating budget impact on the Department of Revenue.

Prepared by: Rod R. Mourant *Rod R. Mourant* Phone: 465-2300  
 Division: Commissioner's Office  
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: 1/15/93  
 Agency: Revenue Date: 1/15/93

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*Initiatives*

## Fiscal Issues Crowd November Ballots

Tax and spending issues are perennial favorites in the initiative states. This year is no exception.

Scott Mackey

A broad range of fiscal matters will be before the voters in at least 13 states this month. Issues range in importance from easing debt restrictions on local governments to a major transfer in budget authority from the legislature to the governor.

Unlike previous years when fiscal ballot initiatives primarily sought to limit taxes and spending, this year's proposals include nearly an equal number of measures that would increase taxes or change the mix of revenue sources to make the state's tax system more progressive.

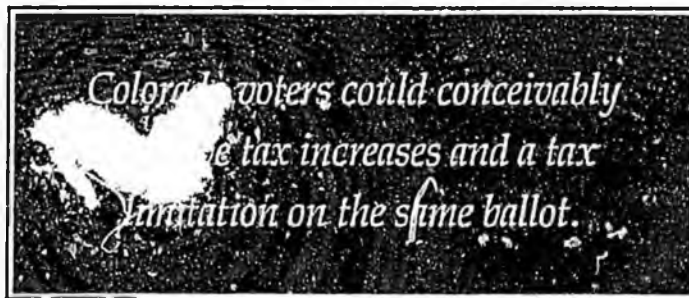
State voters will make decisions on budget process reforms, state lotteries, liberalizing fiscal restrictions on local governments, and property tax relief. With this mix 1992 may not be the "tax revolt" year that some observers predicted in the wake of widespread state tax increases in 1990 and 1991.

### Budget Process Reforms

Citizens in five states—California, Connecticut, Florida, Missouri and Rhode Island—will vote on changes in the legislative budget process. The most significant change could be in California, where voters will decide

whether or not to give the governor almost unilateral control over the budget process if the Legislature fails to meet certain deadlines.

Legislatures in Connecticut and Rhode Island have placed constitutional amendments before the voters that would impose new limits on state spending. The Rhode Island measure is



modeled after Delaware's law, which limits general fund appropriations to 98 percent of the revenue estimate and requires additional revenues to be placed in a "rainy day fund." Fund balances could be used for repayment of debt service or capital construction projects only if they exceed 3 percent of the revenue estimate. The Connecticut proposal would limit state spending to the percentage increase in inflation or state personal income, whichever is greater. The General Assembly could override the limit with a three-fifths vote and an emergency declaration by the governor.

Florida voters will decide whether to

approve a statutory "Taxpayers' Bill of Rights" similar to those in 13 other states. Another measure would place new restrictions on Florida's budget process, such as requiring a three-day layover between committee approval and floor consideration of appropriation bills. Missouri voters will decide whether to create a constitutionally protected "rainy day fund."

### Limitations on Legislative Tax Powers

Voters in Arizona and Colorado will decide whether to place new restrictions on the legislature's ability to raise taxes. The Arizona measure would require a two-thirds legislative vote for tax increases; tax measures vetoed by the governor would require a three-fourths majority to override. In Colorado, an initiative would require voter approval for any new tax increases unless they were adopted by a two-thirds legislative vote.

If these initiatives are approved, Arizona and Colorado would join seven other states with supermajority requirements for tax increases. Voters in Oklahoma approved a three-fourths supermajority requirement in a September referendum.

### Property Tax Changes

Property tax limitations will be on the ballot in Colorado, Florida, Idaho and Michigan. The Colorado initiative would require voter approval for property tax increases above certain limits, while the Florida initiative would limit assessment increases to 3 percent per year. Similar to California's Proposition 13, assessments would be brought up to market value when the home is sold or substantial renovations are completed.

The Idaho initiative calls for a cap on

Scott Mackey specializes in state and local tax issues for NCSL.

property taxes at 1 percent of market value. While Idaho is generally a low property tax state, there are certain areas where property tax payments greatly exceed this 1 percent cap. These areas would be forced to roll back property tax rates.

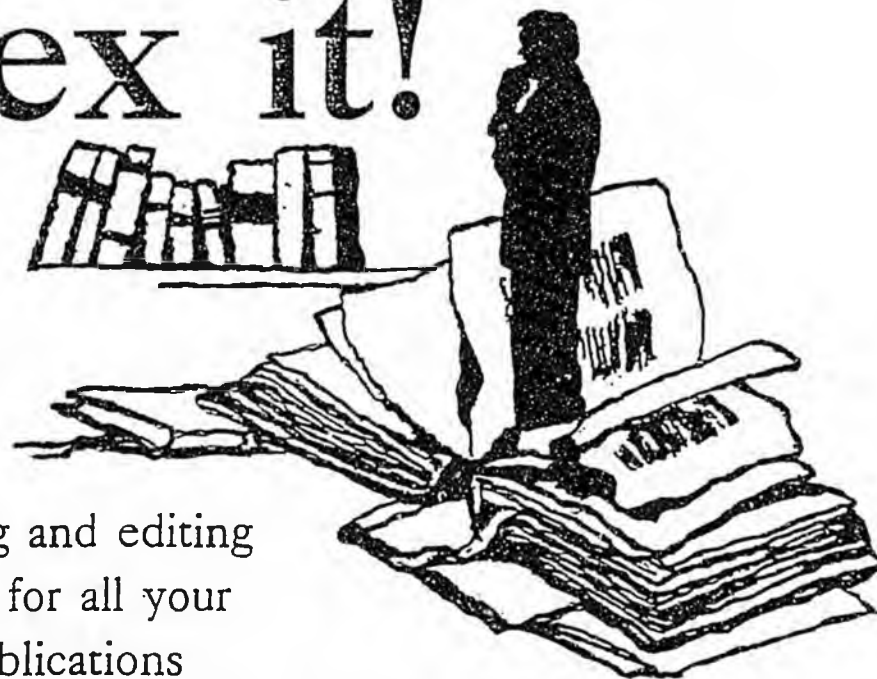
Two competing initiatives will be on the ballot in Michigan. The "cut and cap" proposal, sponsored by the gover-

nor, would roll back school taxes by 30 percent and limit future assessment increases to 3 percent annually. Another measure, referred to the voters by the Legislature, would limit annual increases in state equalized valuation to the inflation rate or 5 percent, whichever is lower.

Four other states have property tax measures on the ballot. Kansas voters

will decide whether to amend the constitution to allow the Legislature to create a classified assessment system, which allows different types of property to be valued for tax purposes at different levels. The state constitution now contains a uniformity clause that requires all property to be treated the same. Voters in Arkansas, California and Oklahoma will consider limited

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## Governors Take Proposals to the People

Governors in three states, unable to win legislative support for their fiscal agendas, are seeking to bypass the legislature with initiatives on the November ballot. Voters in California, Colorado and Michigan will decide major tax and budget questions that could alter their states' fiscal landscape for many years to come.

In California, Governor Pete Wilson is seeking voter approval of a measure that would substantially alter the balance of power between the legislature and the executive in the budget process. Not surprisingly, the Legislature would come out on the short end of the stick. The measure would reduce the time for legislative consideration of the budget by nearly two months. It would require the Legislature to submit the budget bill to the governor by June 15 and require that the budget be signed into law by July 1. Failure to meet these deadlines would trigger "fiscal emergency" powers that would give the governor almost unilateral control over program expenditures for the fol-

lowing fiscal year. The governor would also have the option of vetoing budget bills that meet the June 15 deadline in order to create the "fiscal emergency" that would give him these expanded powers.

The Wilson initiative would also cut welfare grants by 25 percent. And as a final jab at the Legislature, the initiative would suspend lawmakers' (and the governor's) pay between July 1 and such time as the budget is passed and signed into law.

Colorado Governor Roy Romer was unable to win legislative approval for a tax increase to boost state funding for K-12 education, so he launched an initiative crusade. A ballot measure sponsored by Romer would increase the state sales tax from 3 percent to 4 percent and earmark the proceeds for education.

A school finance reform bill enacted in 1988 committed Colorado to major increases in school funding in the early 1990s. The state finds itself in the same boat as others that promised K-12 mon-

ey during the 1980s that they cannot afford now. While the legislature has boosted school funding substantially, the state has not fully funded the increases required by the 1988 law.

Michigan voters will decide whether to approve a 30 percent rollback in school property taxes proposed by Governor John Engler. Governor Engler's "cut and cap" initiative would also limit the future growth in property assessments to 3 percent annually. The initiative requires the state to make up local school revenues lost because of the 30 percent rollback. However, revenues lost due to the 3 percent limitation on assessment increases would not be reimbursed through state aid. Engler argues that Michigan's property tax burden, which is among the highest in the country, is hurting small businesses and is responsible for Michigan's chronically high unemployment. Opponents, including state teachers' groups, counter that Engler's argument is a red herring and that the initiative would devastate schools.

property tax exemptions.

### Liberalizations of Local Tax Restrictions

Not all of the ballot measures will restrict taxes and spending. Voters in Arizona will decide whether to relax spending and debt restrictions on local governments. Missouri citizens will vote on allowing local governments to pass tax increases with a four-sevenths majority instead of a two-thirds majority. Florida voters will decide whether to give counties the authority to levy a penny sales tax.

In California, a broad tax increase package would significantly weaken the portion of Proposition 13 that limits taxes on business property. The current law limits assessment increases for business property to 2 percent annually, unless the business is sold or substantially renovated. The proposed ballot measure would require business property to be reassessed at full market value every three years, unless the business could

prove that 50 percent of its stock had not changed hands during the 3-year period. Passage of this initiative could provide local governments in California with between \$550 million and \$1.2 billion in new revenue in FY 1994.

In Oregon, voters will decide whether to increase taxes on business property by liberalizing the property tax limits approved in 1990. Under the proposal, business property taxes for schools would be limited to 2 percent of market value. The cap under current law, once fully phased in, is 0.5 percent of value.

### Tax Increases and Tax Shifts

Tax increases will be on the ballot in Arkansas, California, Colorado, Massachusetts, North Dakota and Oklahoma. Included are cigarette tax increases (Arkansas and Massachusetts), sales tax increases (Colorado and North Dakota), and Medicaid provider taxes (Oklahoma). California's "soak the rich" ini-

tiative would raise personal income tax rates and most business taxes while reducing sales taxes by a quarter-cent and repealing the sales tax on candy and snack foods. It would also reinstate the renter credit for higher income renters.

A South Dakota initiative would create a new personal and corporate income tax with graduated rates ranging from 2 percent to 5 percent. It would also repeal the sales tax on food, clothing and utilities and roll back property taxes.

The broad range of fiscal initiatives on the 1992 ballot defy sweeping generalizations. In Colorado, for example, voters could conceivably approve tax increases and a tax limitation on the same ballot. Arizona voters could liberalize local tax restrictions at the same time that they severely restrict state tax options. What seems clear is that governors and citizens of some states are moving to circumvent the legislature in ways that threaten the legislative role in budgeting and policymaking. ■

# Money

# January

Volume 22 Number 1

## COVER STORIES

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These money-saving strategies will work now—and through the '90s.  
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- 86 SURPRISING TACTICS TO CUT STATE TAXES** *by Deborah Lohse*  
State and local taxes have been climbing 11% faster than the federal bill; you can save a lot with these little-known tips.  
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Cover photographs by Ken Probst

## NEW READERS' POLL



TELL US YOUR IDEAS.  
Page 15



SAFE JUNK BOND FUNDS  
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THE BARGAIN STOCKS  
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could risk having New York State and City insist that they are due taxes on your interest, dividends and capital gains as well as the income from your job. While New Jersey will give you a credit for the New York taxes, your final bill will be the same as if you lived in Manhattan.

It can be difficult to prove that you aren't actually a resident of the high-tax state even though you own a home there. The reason: If you spend more than half the year in the high-tax state, you meet the definition of resident used by many states. You can try to prove otherwise by, say, showing that you vote in the other state, register your car there and belong to social clubs and send your kids to schools there. But fewer and fewer revenue-hungry states accept such evidence as conclusive. In the end, you may have to either pay up or give up your second home. "Domicile is a state of mind," says Gattegno, "but the burden of proof is all yours."

■ **If you're married, don't automatically file a standard joint state return.** Ten states (Arkansas, Delaware, Iowa, Kentucky, Maryland, Mississippi, Missouri, Montana, Tennessee and Virginia) and the District of Columbia give a special break to married couples in which both spouses have income and file a joint federal return. These states let a couple calculate each spouse's state tax separately—at lower effective rates than if they filed jointly—and file a so-called joint-separate return. For example, a Virginia couple with one spouse earning \$40,000 and the other \$20,000, two children and \$10,000 in itemized deductions would pay a 1992 state tax of \$2,434 by filing jointly. With a joint-separate return, however, the couple would pay only \$2,204, a \$230 saving. "Two-earner couples should calculate their taxes both ways to find the lower tax," advises Kenneth Zemsky, a partner with Ernst & Young in New York City.

■ **Look into triple-tax-exempt bonds.** If you're in the 28% federal tax bracket or higher and live in a state with heavy income taxes, you might consider buying municipal bonds issued in your home state. That's because they are triple-tax-free: Any income they generate is exempt from federal, state and local taxes. (Only Indiana, Utah and, in some cases, North Dakota exempt income from other states' munis.) For example, Fidelity's New York Tax-Free High-Yield Fund, which, despite its name, invests primarily in investment-grade bonds, is 100% tax-exempt for residents of New York State. For top-bracket taxpayers—a combined effective rate of 39.51% if they live in New York City—the fund's current 5.39% yield is equivalent to 8.91% from a taxable investment. (For more about investing in municipal bonds, see page 82.)

■ **Consider investing in Treasury securities.** While income from Treasury bills, notes and bonds is taxed federally, it is free of all state and local taxes. You can buy Treasuries direct from the Federal Reserve

**FROM \$1,632  
IN ALASKA TO  
\$10,016 IN  
NEW YORK**

What's the difference between living in Alaska and in New York? For a typical two-income family of four that subscribes to MONEY, as much as 17 feet of snow a year and \$8,384 in state and local taxes—the widest gap in our fourth annual study of such taxes.

The table at right lists the tax load of a family that earned \$72,385 in 1992, plus \$2,782 in interest, \$455 in dividends and \$1,472 in capital gains. They spent \$35,112 on food, clothing, prescription drugs, household goods, a new car (\$12,456) and other items. Their two autos consumed 1,912 gallons of gas. The first two columns show each state's rank and the family's combined bill for state and local income, sales, property and gas taxes. The third column grades each state on the likelihood of tax increases in 1993 or 1994, according to tax experts: A, no major tax hikes expected (seven states); B, moderate chance (16); C, strong probability (15); and D, best bet (13). Property taxes are estimates of this family's bill in each state. Tax rates in the comments column are for couples filing jointly in 1992.

All state income tax estimates were provided by the state and local tax group of Ernst & Young, the international accounting and management consulting firm.

—Deborah Lohse

Other sources: Verex Inc.; *A Fair City* From Fair by Citizens for Tax Justice and the Institute on Taxation and Economic Policy. Notes: <sup>1</sup>Additional local income tax may also be assessed. <sup>2</sup>Local income tax calculated on state return. <sup>3</sup>"None" means state imposes no death tax; "0" means no tax applies to spouse or child heir.

State	Rank	Family Bill	Grade	Comments
Alaska	1	\$1,632	A	
Wyoming	2			
Nevada	3			
Florida	4			
Tennessee	5			
South Dakota	6			
New Hampshire	7			
Texas	8			
Washington	9			
North Dakota	10			
Delaware	11			
Alabama	12			
Louisiana	13			
Mississippi	14			
New Mexico	15			
West Virginia	16			
Missouri <sup>1</sup>	17			
South Carolina	18			
Arizona	19			
Indiana	20			
Kentucky <sup>1</sup>	21			
Montana	22			
Oklahoma	23			
Kansas	24			
Pennsylvania	25			
Iowa <sup>1</sup>	26			
Arkansas	27			
Illinois	28			
Virginia	29			
North Carolina	30			
Colorado	31			
Georgia	32			
New Jersey	33			
Michigan <sup>1</sup>	34			
California	35			
Idaho	36			
Nebraska	37			
Ohio	38			
Utah	39			
Vermont	40			
Hawaii	41			
Minnesota	42			
Rhode Island	43			
Connecticut	44			
Oregon	45			
Maryland <sup>2</sup>	46			
Maine	47			
Massachusetts	48			
Wisconsin	49			
District of Columbia	50			
New York <sup>1</sup>	51	\$10,016	D	

Compiled by Kirsten Chancellor and Deborah Lohse

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Y-O-U-R-T-A-X-E-S

Total annual typical household	Grade	Tax on earned income				Sales tax		Property tax		Death tax on		Notes
		For single earning \$35,000	For two married earning \$50,000	For two married earning \$75,000	For two married earning \$100,000	Statewide rate	Highest combined state and local	\$600,000 estate left to spouse	\$600,000 estate left to child	Comments		
\$1,632	A	None	None	None	None	0.00%	7.00%	\$1,479	None	None	Most tax revenue from the oil and gas industry	
2,945	B	None	None	None	None	3.00%	5.00%	1,451	None	None	Most tax revenue from oil company and sales taxes	
3,539	B	None	None	None	None	6.50%	7.00%	1,161	None	None	Most tax revenue from sales, gambling and gas taxes	
3,846	D	None	None	None	None	6.00%	7.00%	1,730	None	None	Most tax revenue from sales, use and admissions taxes	
4,038	C	None	None	None	None	7.00%	8.75%	1,147	0	0	Certain interest and dividend income taxed at 6%	
4,284	C	None	None	None	None	4.00%	8.00%	2,331	0	\$41,250	Primary source of tax revenue: sales and gas taxes	
4,591	D	None	None	None	None	0.00%	0.00%	4,023	0	0	Dividends and interest over \$2,400 taxed at 5%	
4,647	D	None	None	None	None	6.25%	8.25%	2,245	None	None	Revenue mainly from sales and oil company taxes	
4,694	C	None	None	None	None	7.00%	8.20%	1,896	None	None	Revenue mostly from sales, property and corporate taxes	
5,292	B	\$751	\$721	\$1,547	\$2,399	5.00%	6.00%	1,948	None	None	Top rate: 12% on taxable income over \$50,000	
5,354	C	1,812	1,822	3,351	4,950	0.00%	0.00%	1,234	0	31,250	Top rate: 7.7% on taxable income over \$40,000	
5,552	D	1,267	1,652	2,442	3,222	4.00%	9.50%	617	None	None	Top rate: 5% on taxable income over \$6,000	
5,752	D	895	1,195	1,829	2,456	4.00%	10.00%	925	0	17,050	Top rate: 6% on taxable income over \$50,000	
5,792	B	1,185	1,251	2,339	3,427	7.00%	7.00%	1,200	0	0	Top rate: 5% on taxable income over \$10,000	
5,948	B	1,329	1,489	3,038	4,824	5.125%	6.875%	902	None	None	Top rate: 6.5% on taxable income over \$41,600	
5,981	B	1,260	1,695	3,230	4,855	5.00%	6.00%	522	None	None	Top rate: 6.5% on taxable income over \$60,000	
6,047	C	1,265	1,660	2,612	3,552	4.225%	7.725%	1,154	None	None	Top rate: 6% on taxable income over \$9,000	
6,531	C	1,728	2,005	3,485	4,964	5.00%	6.00%	1,381	None	None	Top rate: 7% on taxable income over \$10,600	
6,537	B	1,271	1,402	2,436	3,578	5.00%	8.50%	1,781	None	None	Top rate: 7% on taxable income over \$300,000	
6,712	C	1,156	1,564	2,414	3,264	5.00%	5.00%	1,613	0	24,950	Rate: a flat 3.4% of federal AGI, with modifications	
6,744	B	1,841	2,131	3,436	4,742	6.00%	6.00%	1,137	0	45,350	Top rate: 6% on taxable income over \$8,000	
6,781	D	1,552	2,199	3,776	5,393	0.00%	0.00%	2,301	0	0	Top rate: 11% on taxable income over \$57,600	
6,907	C	1,885	2,051	3,574	5,097	4.50%	9.50%	1,062	0	17,725	Top rate: 7% on taxable income over \$21,000	
6,935	A	1,630	1,395	2,755	4,153	4.90%	6.50%	1,923	0	21,750	Top rate: 6.45% on taxable income over \$60,000	
6,969	B	1,033	1,475	2,213	2,950	6.00%	7.00%	2,059	\$35,880	36,000	Rate: a flat 2.6% on a broad base of taxable income	
7,006	A	1,667	1,967	3,176	4,468	5.00%	6.00%	2,052	0	39,825	Top rate: 9.98% on taxable income over \$47,700	
7,074	B	1,690	2,289	3,812	5,335	4.50%	7.50%	902	None	None	Top rate: 7% on taxable income over \$25,000	
7,125	D	1,020	1,223	2,045	2,767	6.25%	8.75%	2,357	None	None	Rate: a flat 3% of modified federal AGI; 2.75% in 1993	
7,217	B	1,537	2,061	3,312	4,563	4.50%	4.50%	2,159	None	None	Top rate: 5.75% on taxable income over \$17,000	
7,263	B	1,973	2,274	3,797	5,320	6.00%	6.00%	1,232	0	7,000	Top rate: 7.75% on taxable income over \$100,000	
7,268	A	1,455	1,716	2,604	3,892	3.00%	9.00%	1,884	None	None	Rate: a flat 5% of modified federal taxable income	
7,301	C	1,682	1,991	3,296	4,602	4.00%	5.00%	1,637	None	None	Top rate: 6% on taxable income over \$10,000	
7,371	A	750	997	1,791	3,178	6.00%	6.00%	3,772	0	0	Top rate: 7% on taxable income over \$150,000	
7,493	B	1,513	1,914	3,064	4,214	4.00%	4.00%	2,566	0	34,300	Rate: a flat 4.6% of taxable income	
7,605	C	1,512	1,159	2,897	4,920	7.25%	3.50%	1,998	None	None	Top rate: 11% on taxable income over \$414,400	
7,634	A	2,119	2,272	4,033	5,817	5.00%	7.00%	1,492	None	None	Top rate: 8.2% on taxable income over \$40,000	
7,728	D	1,371	1,545	2,961	4,466	5.00%	6.50%	2,703	0	5,850	Top rate: 6.92% on taxable income over \$45,000	
7,751	D	1,065	1,396	2,648	4,153	5.00%	7.00%	1,537	2,100	30,100	Top rate: 6.9% on taxable income over \$100,000	
7,892	A	1,839	2,242	3,596	4,943	6.00%	7.25%	1,751	None	None	Top rate: 7.2% on taxable income over \$7,500	
7,962	D	1,562	1,494	3,323	5,332	5.00%	5.00%	2,750	None	None	Top rate: 34% of federal income tax above \$13,100	
8,272	C	2,783	3,015	5,182	7,358	4.00%	4.00%	1,079	None	None	Top rate: 10% on taxable income over \$41,000	
8,311	C	2,041	2,326	4,067	5,807	6.50%	7.50%	2,027	None	None	Top rate: 8.5% on taxable income over \$83,300	
8,314	C	1,476	1,416	3,038	4,761	7.00%	7.00%	2,928	None	None	Rate: 27.5% of modified federal tax liability	
9,389	C	1,377	1,071	3,037	4,500	5.00%	6.00%	3,245	0	37,895	Rate: a flat 4.5% of taxable income	
8,390	D	2,469	2,930	4,889	6,847	0.00%	0.00%	2,910	None	None	Top rate: 9% on taxable income over \$10,000	
8,568	B	2,295	2,914	4,446	6,078	5.00%	5.00%	2,098	5,000	6,000	Top rate, with local surtax: 9% over \$150,000	
9,611	D	2,030	1,965	3,907	5,884	6.00%	6.00%	2,495	None	None	Top rate: 9.89% on taxable income over \$75,000	
8,764	B	1,952	2,594	4,082	5,569	5.00%	5.00%	2,732	23,500	55,500	Rate on earned income is 5.95%; unearned, 12%	
8,770	B	2,113	2,474	3,985	5,554	5.00%	5.50%	2,813	None	None	Top rate: 6.93% on taxable income over \$20,000	
9,348	C	2,505	2,856	4,829	6,878	6.00%	6.00%	2,296	None	None	Top rate: 9.5% on taxable income over \$20,000	
10,016	D	1,846	2,157	4,108	5,821	4.00%	8.50%	3,255	0	25,500	Top rate: 7.85% on taxable income over \$26,000	

# NFIB Alaska

National Federation of  
Independent Business

POSITION PAPER

OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS  
(NFIB/ALASKA)

IN SUPPORT

OF

HJR 9 PROPOSING AN AMENDMENT TO THE CONSTITUTION  
PROHIBITING THE IMPOSITION OF STATE TAXES WITHOUT  
THE APPROVAL OF THE VOTERS OF THE STATE.

State Office  
9159 Skywood Lane  
Juneau, AK 99801  
(907) 789-4278



The Guardian of  
Small Business

CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS RESA JERREL, AND I AM THE STATE DIRECTOR FOR NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA. I AM HAPPY TO BE HERE TODAY TO TESTIFY IN FAVOR OF HJR 9.

NFIB/ALASKA IS COMPRISED OF 5,000 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERS ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES. WE THEN SHARE THE RESULTS OF OUR POLL WITH THE LEGISLATURE AND ADMINISTRATION. THERE IS NOT ENOUGH SPACE ON THE ANNUAL POLL TO PLACE EVERY POSSIBLE ISSUE BEFORE OUR MEMBERS. THEREFORE, WE ALSO USE THE PREVIOUS YEARS BALLOT RESULTS AS GUIDANCE ON ISSUES.

ALTHOUGH WE HAVE NOT POLLED OUR MEMBERS ON THIS SPECIFIC RESOLUTION, WE DO HAVE RESULTS ON THE ISSUE OF TAXES THAT GIVES US A VERY GOOD IDEA OF WHERE THEY STAND.

ON THE 1993 STATE BALLOT THE MEMBERS OVERWHELMINGLY VOTED, (93%) TO REDUCE STATE GOVERNMENT SPENDING BEFORE INCREASING PRESENT TAXES OR IMPOSING NEW TAXES.

ALSO, IN 1990 THE MEMBERS VOTED CLEARLY TO REJECT, (80%) THE REINSTATEMENT OF THE STATE PERSONAL INCOME TAX.

NFIB/ALASKA THANKS YOU FOR THE OPPORTUNITY TO COMMENT ON THIS LEGISLATION. IF YOU HAVE ANY QUESTIONS I WOULD BE HAPPY TO TRY AND ANSWER THEM.

HJR

||

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-15-93

The JUDICIARY Committee considered:

HJR 11

HOUSE JOINT RESOLUTION NO. 11

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

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

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

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

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

[ ] fiscal impact \_\_\_\_\_

fiscal note(s) Governor 2/1/93

[ ] zero fiscal note \_\_\_\_\_

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian A. Porter</i>	✓	<i>Tom Woodward</i>		✓	
<i>Earl Riddings</i>	✓	<i>Cliff Damms</i>			
<i>Joseph H. ...</i>	✓				
<i>Pete ...</i>	✓				

*Brian A. Porter*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HJR 11

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: repeal of regulations by the legislature  
Sponsor: Representatives Phillips and Brice  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0

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

Prepared by: Charlot E. Thickstun, Director *Charlot E. Thickstun* Phone: 465-4611  
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Conhill *John B. Conhill*  
Agency: Office of the Lt. Governor Date: 1/15/93

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# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE GAIL PHILLIPS

STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

Official Business  
PHONE: (907) 465-2689  
FAX: (907) 465-3472

### MEMORANDUM

TO: Representative Brian Porter, Chairman *Brian*  
House Judiciary Committee

FROM: Representative Gail Phillips *Gail*

SUBJECT: House Joint Resolution 11  
(repeal of regulations by the legislature)

DATE: February 1, 1993

---

I would appreciate your scheduling the above referenced resolution for a hearing before the House Judiciary Committee at your earliest possible convenience.

This issue has been before the legislature in the past and has even appeared on the ballot several times. I have attached, under separate cover, background material on the previous ballot measures for your committee files.

It is my hope that with a better campaign presentation to the voters, we can see this constitutional amendment become reality.

Your consideration of my request would be greatly appreciated.

GP/sgn

Attachment

TESTIMONY BEFORE HOUSE STATE AFFAIRS COMMITTEE (1-21-93)

HOUSE JOINT RESOLUTION 11  
(Repeal of regulations by the legislature)

REP. GAIL PHILLIPS

THIS JOINT RESOLUTION IS A PROPOSAL TO PLACE A CONSTITUTIONAL AMENDMENT BEFORE THE VOTERS OF THE STATE OF ALASKA ON THE 1994 GENERAL ELECTION BALLOT.....

THE AMENDMENT WOULD PERMIT THE LEGISLATURE TO TAKE ACTION ON REGULATIONS PROMULGATED BY STATE AGENCIES THAT MAY NOT PROPERLY IMPLEMENT THE INTENT OF THE LAWS PASSED BY THE LEGISLATURE.....

ANNULMENT OF REGULATIONS BY RESOLUTION WAS AUTHORIZED BY THE FIRST STATE LEGISLATURE IN 1959; HOWEVER, IN 1980 THE ALASKA SUPREME COURT RULED.....IN A 3-2 DECISION..... THAT THE CONSTITUTION PERMITS THE LEGISLATURE TO ANNUL A REGULATION BY PASSING A BILL. A BILL PASSED BY THE LEGISLATURE ANNULING A REGULATION COULD BE VETOED BY THE GOVERNOR OR REPEALED BY REFERENDUM. A RESOLUTION ANNULING A REGULATION COULD NOT.....

ADOPTION OF A RESOLUTION ANNULING A REGULATION REQUIRES APPROVAL BY A MAJORITY VOTE OF THE MEMBERSHIP OF EACH BODY OF THE LEGISLATURE.....

WHILE MANY REGULATIONS DO CONFORM TO AND SUPPORT THE LAWS PASSED BY THE LEGISLATURE..... THERE ARE EVER INCREASING EVIDENCE THAT REGULATIONS WHICH ARE IMPOSED ON THE CITIZENS OF THE STATE GO FAR BEYOND THE INTENT OF THE LAWS PASSED BY THE LEGISLATURE.....MANY TIMES IGNORING THE LEGISLATIVE DIRECTIVE OR GOING BEYOND THE LIMITS OF WHAT THE LEGISLATURE INTENDED.....

ONCE REGULATIONS GO INTO EFFECT.....THEY HAVE ALL THE FORCE OF LAW.....EVEN THOUGH NO SINGLE PERSON, ELECTED BY THE VOTERS, HAS APPROVED THEM.....

TESTIMONY BEFORE HOUSE STATE AFFAIRS COMMITTEE (1-21-93)

PAGE TWO  
HOUSE JOINT RESOLUTION 11  
(Repeal of regulations by the legislature)

I FIRMLY BELIEVE THAT THE FRAMERS OF OUR STATE CONSTITUTION NEVER INTENDED THAT ANY GOVERNMENTAL BODY.....EXCEPT THE LEGISLATURE.....HAVE THE POWER TO MAKE LAWS.....

THE ALASKA CONSTITUTION PROVIDES A SYSTEM OF CHECKS AND BALANCES AMONG THE THREE BRANCHES OF GOVERNMENT AND FURTHER PROVIDES THE PEOPLE OF ALASKA THEIR OWN CHECKS AND BALANCES THROUGH THE VOTING BOOTH.....THE INITIATIVE PROCESS.....AND FINAL AUTHORITY OVER AMENDMENTS TO THE CONSTITUTION.....

THE ONE AREA THAT IS NOT CURRENTLY ACCESSIBLE TO THE PEOPLE'S CHECKS AND BALANCES IS THE VOLUME OF ADMINISTRATIVE REGULATIONS WHICH ARE PROPOSED BY THE STATE AGENCIES IN THE EXECUTIVE BRANCH OF GOVERNMENT.....AND ARE WRITTEN BY THE DEPARTMENT OF LAW.....REGULATIONS THAT AFFECT EVERY ASPECT OF THESE PEOPLE'S LIVES.....YET THEY ARE POWERLESS TO CHANGE THEM.....

THIS MEASURE WOULD PROVIDE A REASONABLE AVENUE FOR ANNULMENT OF IMPROPER REGULATIONS.....

THIS PROPOSAL WAS MOST RECENTLY BEFORE THE LAST LEGISLATURE.....IT PASSED THE SENATE UNANIMOUSLY.....WAS REPORTED OUT OF BOTH HOUSE STATE AFFAIRS AND HOUSE JUDICIARY COMMITTEES WITH UNANIMOUS "DO PASS" RECOMMENDATIONS: AND RECEIVED AN ENDORSEMENT FROM THE JOINT HOUSE/SENATE COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW.....HOWEVER IT WAS LOST TO A HOUSE FLOOR VOTE JUST MINUTES BEFORE ADJOURNMENT.....

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 8, 1993

Hon. Brian Porter  
Alaska House of Representatives  
Alaska House Judiciary  
State Capitol, Room 122  
Juneau, AK 99801-1182

Dear Representative Porter:

HJR 11 appears on this week's schedule for a hearing before your committee on Friday, February 12, 1993, but has been cancelled. This letter is to express the Department of Law's opposition to that resolution.

HJR 11 is a resolution to place before the voters for the fourth time in 13 years an amendment to the Constitution of the State of Alaska to allow repeal or annulment of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of our state constitution to allow the legislature, by joint resolution, to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass tight statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an executive-branch regulation is adopted, if the legislature believes that the regulation is not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the legislature with the power to guide regulation formation.

2. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing regulations changes law. Our constitution presently grants the power to the legislature to change law by passing

REPLY TO:

1031 W 4th AVENUE SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

P.O. BOX K— STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5296

465-6735

Hon. Brian Porter  
Alaska House of Representatives  
State of Alaska

February 8, 1993  
Page 2

a bill, which is then subject to the governor's review and possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without that action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislative and executive branches.

3. By repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's law-making function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

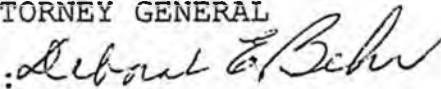
4. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. The executive branch considers comments in the development of regulations. In this way, the legislature and the public have input into the regulation-adoption process.

5. Finally, the voters of Alaska have voted down this type of constitutional amendment three times in the last 13 years. We assume that the public means what its votes have indicated, and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

If you have additional questions, please let me know.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By:   
Deborah E. Behr  
Assistant Attorney General

DEB:cl

cc: Charles Cole  
Bruce Botelho

Kris Lethin



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### REPRESENTATIVE GAIL PHILLIPS

STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

Official Business  
PHONE: (907) 465-2689  
FAX: (907) 465-3472

#### MEMORANDUM

TO: Representative Brian Porter, Chairman *Brian*  
House Judiciary Committee  
House Judiciary Committee Members

FROM: Representative Gail Phillips *Gail*

SUBJECT: House Joint Resolution 11  
(repeal of regulations by the legislature)

DATE: February 1, 1993

#### Background

This proposal for an amendment to the Constitution of the State of Alaska to repeal regulations by the Legislature has been placed on the ballot on three previous occasions. Each time it failed to be approved by the voters. The following chart and past proposition materials are attached for your files.

<u>1980</u>	<u>1984</u>	<u>1986</u>	
58,808	91,174	65,176	Yea's
82,010	98,856	94,299	Nay's
140,818	190,030	159,475	Total Proposition Votes
16%	4%	18%	Failure Percentage
162,653	213,173	182,526	Total Votes Cast
258,742	305,262	292,274	Total Registered Voters
63%	70%	62%	Voter Turnout

GP/sgn  
Attachments

# BALLOT MEASURE NO. 2

## Constitutional Amendment Legislative Annulment of Administrative Regulations (1986 Legislative Resolve No. 60 HCS SJR 40 [Jud] am H)

### BALLOT LANGUAGE (As it will appear on the November 4, 1986, General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive branch regulations by passing a resolution that is not subject to veto by the governor or repeal by referendum. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals.

A vote "FOR" adopts the amendment. FOR

A vote "AGAINST" rejects the amendment. AGAINST

### VOTES CAST BY MEMBERS OF THE 14TH ALASKA LEGISLATURE ON FINAL PASSAGE

House:	Yeas	31
	Nays	4
	Absent or Not Voting	5
Senate:	Yeas	17
	Nays	0
	Absent or Not Voting	3

### LEGISLATIVE AFFAIRS AGENCY SUMMARY

(HCS SJR 40 [Jud] am H)

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by its adoption of a concurrent resolution. Under the present provision of the constitution, the legislature may annul a regulation only by the enactment of a bill that is subject to the veto of the governor; if the governor vetoes the bill, the constitution now requires a two-thirds affirmative vote of the legislature assembled in joint session to override the veto.

If the legislature adopts a concurrent resolution to annul a regulation under the authority proposed here, the annulment would be effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specified a different date. The concurrent resolution would not be subject to the veto of the governor. Adoption would require three readings in each house on three separate days except that it may be advanced from second to third reading on the same day by the concurrence of three-fourths of the membership of the house considering it. Adoption would require approval by a majority vote of each membership of each house. The vote on final passage must be entered into the journal.

### FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(This amendment would add the following section to article II of the Alaska Constitution.) - -

**SECTION 22. ANNULMENT OF REGULATIONS.** The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

# BALLOT MEASURE NO. 2

## STATEMENT IN SUPPORT OF BALLOT MEASURE NO. 2

The issue is basically simple—should bureaucrats or the Legislature be the ultimate lawmaking authority?

All 60 members of the Legislature (40 House and 20 Senate) are elected by the people. They are all voted into, and out of, office by individual voters. The Alaska Constitution says, "The legislative (i.e., lawmaking) power of the State is vested in a Legislature consisting of a Senate... and a House of Representatives..." The Legislature proposes, considers, and enacts laws, known collectively as the Alaska Statutes (if general and permanent) or as the Session Laws of Alaska (if specific and temporary).

All bureaucrats who promulgate (i.e., enact and enforce) regulations (theoretically, to put laws into effect) are in the Executive Branch, headed by the Governor. Bureaucrats are not voted into office and thus cannot be removed by the people. Instead, bureaucrats are hired by the Governor or by his/her appointees, and thus can only be removed from office by the Governor or by somebody answerable to him/her. However, the regulations promulgated by the bureaucrats, known collectively as the Alaska Administrative Code, have the force of law and affect all of us, sometimes adversely.

What can be done about a law that's bad? It can be repealed by the Legislature or, in some cases, by the people directly via an initiative petition.

What about a regulation that's bad? It can only be repealed by the bureaucrats who promulgated it, up to and including the Governor. If the Legislature tries to repeal a regulation by passing a bill, the Governor will almost certainly (and always has, in the past) veto the bill so that the bad regulation stays in full force and effect.

Now, if the Legislature had the power to repeal regulations by passing a concurrent resolution (instead of a bill), then the resolution could not be vetoed by the Governor. Thus, the Legislature would be able to get rid of bad regulations, which in effect it cannot do now.

Would this give the Legislature too much power? Not hardly. Since the Legislature already has full power to enact laws, why shouldn't it have full power to repeal all laws, including regulations?

Why do Governors and bureaucrats oppose giving the Legislature such regulatory repeal power? Because Governors and their handpicked bureaucrats, which are answerable only to the Governor (and cannot be removed by the people, which can remove Legislators), don't want to lose the power they now have to promulgate and enforce any regulation they want. It's that simple.

If you feel that the Legislature should have the power to repeal regulations via concurrent resolution (not vetoable by the Governor), vote FOR the ballot measure. If you feel that bureaucrats should be the ultimate law-making authority, vote otherwise.

I recommend that you vote FOR. Only in this way will we realistically be able to get rid of bad regulations.

Andre Marrou  
State Representative

## STATEMENT OPPOSING BALLOT MEASURE NO. 2

For the third time in six years, the legislature insists on confronting the voters with a proposed constitutional amendment giving the legislature a short-cut to law-making—another attempt by the legislature to concentrate governmental power in its own hands. The voters rejected a similar proposal in 1980 and the identical proposal in 1984. It should be rejected again.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. Regulations are adopted to implement statutes. They have the force of law. Annulling them changes the law. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that would be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power between the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation, and it would empower the legislature to act in place of the executive by reversing a specific executive-branch decision.

In its intent statement accompanying this proposal, the legislature admitted that the "difficulty in achieving [the two-thirds] majority [to override a veto] in opposition to the governor and the governor's administration has led the legislature to propose this amendment." In other words, the fear that the governor might veto a bill and that not enough legislators would agree to override that veto prompted this short-cut approach to law-making. That fear overlooks the governor's accountability to the voters throughout the state.

The annulment is like a repeal. The legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. The legislature would be saying to the agency "your decision to adopt that regulation is wrong." But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive-branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the constitution's checks and balances on its power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As mentioned when the voters rejected the 1980 and 1984 proposals, this amendment would aid legislators, not the public, and it should be rejected.

Katherine D. Nordale  
Delegate to the Alaska  
Constitutional Convention, 1955-1956

# MEASURE NO. 1

## Constitutional Amendment

### LEGISLATIVE ANNULMENT OF ADMINISTRATIVE REGULATIONS (1983 Legislative Resolve No. 15 (SCS HJR 5[Jud]))

#### SUMMARY

*(As it will appear on the November 6, 1984 General Election Ballot)*

This amendment of the Alaska Constitution would permit the legislature to annul executive-branch regulations by passing a resolution. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals. The resolution is not subject to veto by the governor, and it is not subject to repeal by referendum.

#### BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR   
AGAINST

#### VOTES CAST BY MEMBERS OF THE 13TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 19	Nays 0	Absent or Not Voting 1
House	(40 members):	Yeas 34	Nays 2	Absent or Not Voting 4

#### LEGISLATIVE AFFAIRS AGENCY SUMMARY

*(As required by law)*

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by concurrent resolution. The annulment is effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specifies a different date. Adoption requires three readings in each house on three separate days except it may be advanced from second to third reading on the same day by concurrence of three fourths of the membership of the house considering it. Adoption requires approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

#### FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT - -

*(This amendment would add the following section to article II of the Alaska Constitution.)*

**SECTION 22. ANNULMENT OF REGULATIONS.** The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

## STATEMENT IN FAVOR OF BALLOT MEASURE NO. 1

Voters who have ever experienced irritation or anger as a result of a problem they have had with state regulations should vote in favor of Ballot Measure No. 1. While many regulations do conform to and support state laws, there are occasionally regulations which are imposed that go beyond the intent of the law and cause undue hardship on our citizens. These regulations often make no sense at all, state agency people are often at a loss to explain the meaning or sense of the regulations, and yet the state agencies involved continue to enforce them, and voters are powerless to change them.

The Alaska Constitution, patterned essentially upon the Constitution of the United States and the experience of the other states, provides a system of checks and balances among the three branches of government, and further entitles the people to their own checks and balances through the voting booth, the initiative process, and final authority over amendments to the constitution. The one major area of government that is currently not directly accessible to the people's checks and balances is the very considerable volume of administrative regulations which are written by the state agencies in the executive branch of government.

These regulations deal with every aspect of government and our lives: fish and game, education, health and social services, traffic, land development, utilities, taxes; the list is endless. And once the regulations go into effect, they have all the force of law. The problem is, that unlike the situation that occurs with laws, the agency people who make and enforce regulations are not subject to voter approval at election time; they are either appointed by the governor or by his commissioners.

While the legislature is often made aware of foolish bureaucratic requirements by unhappy constituents, it is almost powerless to do anything about them. Currently, to annul a regulation, the legislature must pass a new bill which is then subject to veto by the governor. This puts the governor in the powerful position of being able to stop a bill that would overturn a regulation made by his own subordinates.

It was never intended by the framers of our State Constitution that any governmental body except the legislature have the power to make laws. Yet, bad regulations have been written, on occasion by state agencies, which go beyond the letter and intent of the law as passed by the legislature and in effect create law on their own.

This measure would provide a reasonable avenue for annulment of bad regulations. It would allow your elected representatives in the legislature, through a majority vote of both houses, to annul regulations in the same way they pass any legislative bill, except it would not be subject to veto by the governor, who clearly has a biased position in the matter.

The House Joint Resolution which created the ballot measure had bi-partisan sponsorship during the last legislative session, and was passed with near-unanimous support by both houses of the legislature.

—Mike Szymanski,  
State Representative

## STATEMENT OPPOSING BALLOT MEASURE NO. 1

This proposed amendment to the Alaska Constitution is very similar to the one proposed in 1980 and rejected by the voters 82,010 to 58,808. Although the present version includes some improvements over the 1980 version, it is another attempt by the legislature to concentrate governmental power in its own hands.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. The regulations are adopted to implement statutes. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that could be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power among the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation; and it would empower the legislature to act in place of the executive by nullifying a specific executive-branch decision.

The annulment is like a repeal. In using this expedited procedure to annul a regulation, the legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. And it would not be providing the thoughtful analysis necessary to solve a problem. The legislature would be saying to the agency "your decision to adopt that regulation is wrong". But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor an appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the Constitution's checks and balances on its power when it exercises that power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As argued four years ago, when the voters rejected the 1980 proposal, this amendment would aid legislators, not the public, and it should be rejected.

—Katherine D. Nordale,  
Delegate to the Alaska Constitutional Convention, 1955-1956

# BALLOT PROPOSITION NO. 1

## LEGISLATIVE ANNULMENT OF REGULATIONS Constitutional Amendment

(Committee Substitute for House Joint Resolution No. 82 Amended)

### SUMMARY

(As it will appear on the November 4, 1980 General Election Ballot)

This proposal would permit the legislature to annul, by adopting a resolution, regulations adopted by state agencies. Annulment of regulations by resolution was authorized by the First State Legislature in 1959; however, in 1980 the Alaska Supreme Court held that the constitution permits the legislature to annul a regulation only by passing a bill, which requires three readings of the bill and a roll call vote which is recorded. The procedures for adopting resolutions are governed by legislative rules and require only the approval of the resolution by voice vote of a majority of both houses. A bill passed by the legislature annulling a regulation could be vetoed by the governor or repealed by referendum. A resolution annulling a regulation could not.

### BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR   
AGAINST

### VOTE CAST BY MEMBERS OF 11TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas <u>18</u>	Nays <u>0</u>	Absent or Not Voting <u>2</u>
House	(40 members):	Yeas <u>36</u>	Nays <u>0</u>	Absent or Not Voting <u>4</u>

### LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal would add a new section, section 22, to Article II of the state constitution. If adopted, the proposal would authorize the legislature to annul or set aside a regulation which has been adopted by a state department or agency. In order to annul a regulation, the legislature could adopt a concurrent resolution by approval of the resolution by majority vote of the membership of each house of the legislature. The resolution specifies the date on which the annulment of a regulation would take effect.

### FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

**SECTION 22. ANNULMENT OF REGULATIONS.** The legislature by a concurrent resolution approved by a majority vote of the membership of each house may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective on the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date.

## STATEMENT IN FAVOR OF BALLOT PROPOSITION NO. 1

The legislature, when it writes a law, cannot foresee all of the possible details involved in carrying it out. The appropriate administrative agency is therefore allowed to write regulations which spell out who does what, when, where, and how. If the agency does no more than this no problem is created.

Unfortunately agency regulations are not always consistent with the intent the legislature had in passing the law. Sometimes an agency will get carried away and put out regulations that cause an unnecessary burden for the citizens. The First State Legislature realized this and provided a simple solution. The legislature could, by a concurrent resolution passed by a majority of each house, annul an administrative regulation. Such a resolution is not subject to the governor's veto.

The Alaska Supreme Court recently held, in a 3-2 decision, that the legislature must use a bill rather than a resolution to annul administrative regulations. But a bill is subject to

the governor's veto. The governor can hardly be expected to approve a bill overruling his subordinates, who put out the regulation in the first place. The present governor has already vetoed one such bill.

The court ruling gives agency regulations equal standing with laws, *even though no single person elected by the voters has approved them.*

Our government is wisely based on dividing power among the three branches: legislative, executive and judicial. The current situation gives entirely too much power to the executive branch. Your approval of this constitutional amendment will restore the better balance under which the state operated from 1961 to 1980.

— Charles H. Parr  
Chairman, House Judiciary Committee  
Alaska State Legislature

## STATEMENT AGAINST BALLOT PROPOSITION NO. 1

This is still another proposal by the legislature to free itself from the checks and balances of our constitution. Under the constitution, the legislature has all the power it needs to make laws and annul administrative regulations. This proposal does not aid the public in any way. What it does is allow the legislature to exercise its power to annul regulations in disregard of the constitutional requirements that each bill have a single subject, that each bill have three readings in each house, and that there be a recorded vote of the ayes and nays on final passage. It would also free the legislature from the executive veto and it would allow it to ignore the prohibition against special and local legislation.

The Alaska Supreme Court has recently ruled that the legislature must abide by the constitution's checks and balances on its power whenever it exercises that power, including when it acts to annul regulations. This amendment is intended to overrule the court's decision and erode the constitution's safeguards. It aids legislators, not the public, and it should be rejected.

— Katherine D. Nordale  
Delegate to the Alaska  
Constitutional Convention,  
1955-1956

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 11, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 1-30-93

The STATE AFFAIRS Committee considered:

HJR 11

HOUSE JOINT RESOLUTION NO. 11

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

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

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

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

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

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

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

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>		<i>Betty Davis</i>		X	
<i>[Signature]</i>					
<i>Harley Ellberg</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

*[Signature]*  
CHAIRMAN'S SIGNATURE

HJR

15

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 11, 1993

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 2-22-93

The JUDICIARY Committee considered:

SSHJR 15

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 15 100 DAY SESSION LIMIT

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

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

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

APPROVES PREVIOUS: (Dept/Date)

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

fiscal note(s) LAA 2/11/93 Governor 2/11/93

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

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>		→		✓	
<i>Gail Phillips</i>	✓				
<i>Pete East</i>	✓	<i>Jim Donaldson</i>		✓	
		<i>Jaunette James</i>		✓	

*Brian Porter*  
 CHAIRMAN'S SIGNATURE

Alaska State Legislature  
House of Representatives

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HEALTH, EDUCATION  
& SOCIAL SERVICES  
JUDICIARY  
STATE AFFAIRS

SPECIAL COMMITTEES:  
MILITARY & VETERANS AFFAIRS  
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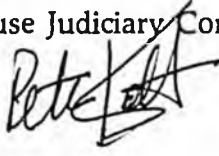
DURING SESSION:  
STATE CAPITOL  
JUNEAU, AK 99811  
PHONE (907) 465-3777

Representative Pete Kott

MEMORANDUM

DATE: February 11, 1993

TO: Rep. Brian Porter  
Chairman, House Judiciary Committee

FROM: Rep. Pete Kott 

RE: Request for hearing  
SSHJR 15, 100 Day Session Limit

Please schedule SSHJR 15 for a hearing before the House Judiciary Committee as soon as possible.

SSHJR 15 proposes a constitutional amendment establishing a 100 day limit on the regular session of the legislature. This amendment will reduce the legislative budget and demonstrate the 18th Legislature's commitment to fiscal restraint.

As you requested, the following items are attached:

Sponsor statement  
Fiscal note from Legislative Affairs  
Fiscal note from Division of Elections  
Sectional analysis  
Background material

If you have any questions on this issue, please call me or my Legislative Assistant, Jack Phelps, at 465-3777.



REQUEST FOR SCHEDULING

## SECTIONAL ANALYSIS OF SSHJR 15

### SECTION 1:

Section 1 of SSHJR 15 consists of a proposed amendment to Article II, Section 8 of the Alaska Constitution. The principal substantive change is to reduce the length of the regular legislative session from 120 days to 100 days.

All other changes proposed in SSHJR 15 have the effect of making it clear that the regular session will last a total of 100 days and not 101 days. Thus, SSHJR 15 would supplant the reasoning expressed in *Alaska Christian Bible Institute v. State*, 772 P.2d 1079 (Alaska 1989). In that case, the Alaska Supreme Court held that the first day of a regular session is not counted towards the 120 days that the constitution presently permits. SSHJR 15 makes it clear that the first day of the regular session is to be counted toward the 100 day limit now proposed.

Except as noted above, no other substantive changes are made to Article II, Section 8 by SSHJR 15. Those provisions contained in Article II, Section 8 which address extensions to the regular session remain unaltered.

### SECTION 2:

Section 2 reaffirms that, if approved by the legislature, the proposed amendment will go before the voters in accordance with Article XIII, Section 1 of the Alaska Constitution.

## SPONSOR STATEMENT

### SSHJR 15 — 100 DAY SESSION LIMIT

#### INTRODUCTION

The purpose of SSHJR 15 is to help reduce the cost of doing state business without impinging severely upon the ability of the legislature to address matters of importance to the state of Alaska. Currently there is widespread popular belief that it should not take the legislature 120 days to finish its business. The legislature, by placing time constraints on its own activities, can demonstrate an ongoing commitment to the prudent use of state funds. This body has already taken a positive step in that direction by establishing an early calendar goal for the first session of the 18th Legislature. House Joint Resolution 15 would give the voters of our state the opportunity to ratify this commitment by amending the state constitution to limit each legislative session to 100 days.

#### A REASONABLE REDUCTION

A major obstacle to this kind of legislative reform has been the legitimate concern that a shorter session would not allow the legislature adequate time for reasoned debate on the merits of a given issue. This difficulty was taken into consideration in the drafting of SSHJR 15, and contributed to the decision to call for a twenty day session reduction rather than the more common thirty day reduction. SSHJR 15 is an attempt to address the issue of a reduced session while allowing some flexibility for exigencies which may require more time to resolve in some years than in others. Certainly nothing in this act nor in the Constitution itself requires the legislature to remain in session for the maximum allowable time.

The present 120 day limit resulted from Legislative Resolve No. 23 passed by the 13th Legislature, and was approved by the voters on November 6, 1984. Prior to that time, there was no constitutional limitation on the length of a session.

During the second session of the 15th Legislature, the National Conference of State Legislatures, at the request of the Alaska House of Representatives, conducted a review of House rules and procedures. In its final report, NCSL identified the session limitation as one element in a comprehensive approach to improving the efficiency of the legislative process.

At the time the NCSL study was done, the 120 day session limit was relatively new and many members of the 15th Legislature had served long enough to evaluate the difference. The report indicated that "the 120 day limit has been an overwhelming success. Few respondents connected the limit to logjam problems or any other negative consequences." Furthermore, during the interviews, "[m]ost respondents called the limit

'great' or 'very positive' and several suggested that the legislature could conduct its business within an even shorter time frame."

#### A STRICT 100 DAY LIMIT

Article II, Section 8, as amended by Legislative Resolve No. 23, SLA 1983, requires adjournment 120 days from the date the legislature convenes in regular session. In 1989, the Alaska Supreme Court interpreted the language of Article II, Section 8 to mean that the total session length was 121 days since the day the legislature convenes is not counted for purposes of the constitutional limitation. *Alaska Christian Bible Institute v. State*, 772 P. 2d 1079 (Alaska 1989). It is the intent of SSHJR 15 to specify clearly a 100 day maximum duration for the regular legislative session.

#### DATE FOR CONVENING FIXED BY STATUTE

The Alaska Constitution fixes the date for convening the regular session as the fourth Monday in January except as provided by law. This allows the legislature the flexibility to establish a different date as it deems appropriate. The legislature has, in fact, taken advantage of that flexibility, and presently Sec. 24.05.090 requires the legislature to convene on the second Monday in January except on the years following a gubernatorial election, in which years the legislature is to convene on the third Monday in January.

SSHJR 15 is silent regarding the constitutionally mandated starting point because the sponsor believes that the flexibility currently provided by Article II, Section 8 already allows the legislature to adjust by statute the date the legislature convenes. If there are compelling reasons now to convene the legislature later than present law provides, the statute can be changed without proposing a constitutional amendment. Perhaps within a few years, it may be expedient to convene the legislature at an earlier date. A change in statute can accommodate that need as well. In short, there is no compelling reason to amend the constitution on this point.

Furthermore, there are legitimate practical reasons for keeping the start of the legislative session in January. First, the budget process is placed under no unmanageable constraints by the present calendar. It is true that the revenue projections do not normally appear until April. But there is much preliminary work that can be done in advance of those projections. Indeed, Title 37 requires the governor's proposed budget to be delivered to the legislature by the fourth day of the legislative session. The governor must submit requests for supplemental appropriations before the end of the 30th day of session. The governor must also submit requests for budget amendments to agency budgets before the 60th day. In short, there is sufficient work which can be done before revenue projections arrive to justify a January starting date.

Additional arguments for retaining a January startup date may be adduced from the practical implications of a citizen legislature. The livelihood of many Alaskans depends upon the fishing and tourism industries. Legislative adjournment before the end of April each year will provide additional relief for those legislators whose primary source of income lies in one of these vital industries. For those legislators who must move their families to Juneau at the beginning of each session, a later starting date could pose a hardship since the common school semester break now falls reasonably close to the beginning of session.

Reducing the length of session while retaining a January start date will lend itself well to the ideas of forward and early funding. In any case, the longer period of time between the end of legislative activity and the beginning of the fiscal year can assist agencies in making adjustments for changes in funding levels.



January 18, 1993

To: Representative Pete Kott  
Representative Terry Martin  
State Capitol Room 409  
Juneau, AK 99811

From: Roger E. Henderson

Re: House Joint Resolutions Nos. 3 and 15

I wholeheartedly support both of the above referenced resolutions, particularly in view of the fact that the proposal in the last general election for a constitutional convention was defeated. Based upon my contact with voters during campaigns before the election, I am convinced that both of the proposed resolutions are favored by a majority of Alaskans.

Roger E. Henderson

## LEGISLATURES

REP KOTT  
1-21-93  
SSHR 15

### Legislative Operations, Organization, and Procedures

The increase in the capacity and willingness of legislatures to deal with modern societal problems has involved more than changes in patterns of representation. Legislative organi-

zation and procedures are constantly evolving. Many legislatures regularly review their structures and procedures, often through a Rules Committee or an interim study. Many procedural changes in recent years have had the objective either of opening and formalizing the process and providing more information to both the public and members of the legislative body, or of more effectively using legislative time.

Concern about legislative use of time has been motivated by at least two issues: How much time should a legislature spend in session, and should it be considered "full-time" or "part-time" in nature? And, how can the legislature most effectively use the time available and avoid the end-of-session logjam that occurs in many states?

### Length of Legislative Sessions

Twelve states place no limit on session length, while 32 operate with constitutional limits (two of these, Colorado and Kansas, limit only the second year), and six states (Arizona, Iowa, Nevada, Rhode Island, Tennessee and Vermont) have statutory or indirect limitations based on cutoffs in legislator's salaries or per diem expense payments.

The argument about session limitations often is couched in terms of preserving the "citizen" nature of state legislatures, as opposed to developing "professional" or full-time legislatures on the congressional model. There is no question that the amount of time spent in session and the level of compensation affect the composition of the membership of the legislative bodies. Many argue it is desirable that the predominant occupation of members of the legislature not be that of "legislator," but that legislative bodies represent a broad spectrum of vocations. However, the growing demands on state legislatures and the greater legislative role in policy initiation, budgeting and program oversight have increased the pressure on legislative time.

The 1960s and 1970s were a time of elimination or relaxation of the limits on legislative sessions. More recently, however, there has been a mixed response to the question of session length. In 1984, Alaska adopted a 120-day limit, replacing its previously unlimited sessions. In 1982, Colorado adopted a limit of 140 days for the second year of the session, and in 1981, Washington included session limitations when it moved from biennial to annual sessions. In 1984, Utah lengthened its sessions by

ten days per biennium when it changed from a 60-day (first year) 20-day (second year) system to 45 days per session. New Hampshire adopted annual sessions effective in 1986. Several legislatures, notably Arizona and Iowa, have limited their sessions by legislative rule or statute. Movements to adopt more restrictive session limits surface periodically. Michigan has experienced several attempts to limit sessions. Montana held annual sessions for one biennium in the 1970s, then returned to a biennial schedule. Colorado is considering further limitations on session days and there is a serious proposal in New Hampshire to return to biennial sessions.

### "Full-time" Legislatures and Legislators

Whether a legislature is full-time in nature generally can be measured by factors such as time spent in session, level of compensation and occupational self-definition of members. Moreover, full-time legislatures are likely to have a pattern of considerable legislator time spent in district offices and a high priority placed on constituent service functions.

The legislatures of California, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania and Wisconsin have lengthy sessions, relatively high legislator salaries and many members whose primary occupation is "legislator." None of these states have constitutionally-imposed session limitations, although both California and Wisconsin adopt a systematic schedule of committee and floor activity, as well as recess periods at the beginning of each biennium. Many of the legislatures which have longer sessions meet only two or three days per week, while in other states with more restricted sessions, five- and six-day work weeks are common. Several of the medium-sized states spend as many actual days in session as do the full-time legislatures. Twenty-nine legislatures today have the authority to convene themselves in special session without being dependent on the governor.

The number of legislators who define their occupation as "legislator" is increasing. An occupational survey of state legislators conducted by the National Conference of State Legislatures in 1986 found that more than 60 percent of the legislators in New York and Pennsylvania define their occupation as "legislator," and more than half the legislators in the Middle Atlantic states are full-time. The study also indicated that in larger states the number of

"business owners" who are members of the legislature is much smaller than it is in the states with more limited session lengths. Lawyer legislators exist in greatest numbers in the South, with Virginia having the largest number (45 percent). In a number of states, members engaged in "education" outnumber those coming from any other professional background. Individuals engaged in "agriculture" still are found in every legislature but are in greatest number in the rural Midwestern and mountain states. In rank order, the largest occupational categories are "attorney" (16 percent), "business owner" (14 percent), "full-time legislator" (11 percent), "agricultural occupations" (10 percent) and "educator" (8 percent).

The category of full-time legislator would exceed 20 percent if those who list themselves as "retired," "homemaker" or "student" were included. The increased time demands and complexity of legislative activity as well as stringent conflict of interest and disclosure laws have likely contributed to the continuing decline in lawyer legislators. The number of women and minorities in the legislatures continues to increase each biennium. In 1987, 1,157 of the 7,461 state legislators were female (15.5 percent). The number of women legislators is highest in New Hampshire, Colorado, Maine, Washington and Vermont. Female representation is smallest in Alabama, Kentucky, Louisiana, Mississippi and Pennsylvania. Minority membership in state legislatures now exceeds 400 (5.4 percent).

## 1989 LEGISLATIVE SESSION DATES

	Scheduled to Convene	Time Limit (Days)	
		Regular Session	Special Session
Alabama	Feb. 7	30	12
Alaska	Jan. 9	120a	30
Arizona	Jan. 9	None	None
Arkansas	Jan. 9	60a	b
California	Jan. 2	None	None
Colorado	Jan. 4	None	None
Connecticut	Jan. 4	June 7	None
Delaware	Jan. 10	June 30	None
Florida	Apr. 4	60a	20a
Georgia	Jan. 9	40	40c
Hawaii	Jan. 18	60a	30a
Idaho	Jan. 9	60	20
Illinois	Jan. 11	None	None
Indiana	Jan. 3	61	30
Iowa	Jan. 9	None	None
Kansas	Jan. 9	90a	None
Kentucky	No regular session		
Louisiana	Apr. 17	60d	30
Maine	Dec. 7, 1988	June 21a	None
Maryland	Jan. 11	90a	30
Massachusetts	Jan. 4	None	None
Michigan	Jan. 11	None	None
Minnesota	Jan. 3	120e	None
Mississippi	Jan. 3	90	None
Missouri	Jan. 4	June 30	None
Montana	Jan. 2	90a	None
Nebraska	Jan. 4	90a	None
Nevada	Jan. 16	60	20
New Hampshire	Jan. 4	45	15
New Jersey	Jan. 10	None	None
New Mexico	Jan. 17	60	30c
New York	Jan. 4	None	None
North Carolina	Jan. 11	None	None
North Dakota	Jan. 10	80f	None
Ohio	Jan. 2	None	None
Oklahoma	Jan. 3	90	None
Oregon	Jan. 9	None	None
Pennsylvania	Jan. 3	None	None
Puerto Rico	Jan. 9	Apr. 30a	20
Rhode Island	Jan. 3	60	60
South Carolina	Jan. 10	40	40
South Dakota	Jan. 10	40	None
Tennessee	Jan. 10	90	30
Texas	Jan. 10	140	30
Utah	Jan. 9	45	30
Vermont	Jan. 4	None	None
Virginia	Jan. 11	60a.g	30
Washington	Jan. 9	105	30h
West Virginia	Jan. 11	60a	None
Wisconsin	undetermined	None	None
Wyoming	Jan. 10	40	None

(a) May be extended.

(b) 15 days after disposal of subjects on governor's call.

(c) Legislature convening itself — 30 day limit.

(d) 60 legislative days within 85 calendar days.

(e) Limited to 120 legislative days during 2-year period. Must adjourn by May 22, 1989.

(f) Preliminary session convenes in Dec. following election of members for organizational purposes. Bill introduction permitted.

(g) Limited to 30 days.

(h) Legislature may convene itself with unlimited subject agenda.

# The Anchorage Times

"Believing in Alaskans, putting Alaska first"

Publisher: BILL J. ALLEN

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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## A shorter session?

**T**HE NEW LEGISLATURE that Alaskans elected this past Tuesday will be meeting in Juneau in just a matter of another 10 weeks. Will it be business as usual — four months of unproductive frustration and unlimited spending?

Or will the 1993 session, at long last, be one marked by diligent attention to work and a commitment to do the job in no more than 90 days, if not less?

Many of those who campaigned and won last Tuesday expressed a firm resolve to help reduce state spending and to attend to legislative business in a workmanlike fashion.

We'd like to wish they meant it, and can actually make such things happen.

**UNFORTUNATELY**, we've been disappointed before when other legislators have made similar pledges, only to fail when the session opened and everybody slipped all too easily back into the Juneau routine.



The routine, as you'll have no trouble remembering, means looking busy but really doing nothing for the first three months — all the while stashing away pieces of legislation that can be used as trading blocks when the pressure finally comes to bring the session to an end.

Budget action is always delayed, under this tired scenario, until appropriation dollars have been allocated for pet projects all over the state. Supplemental appropriations, however, are always approved — to cover budget overruns by the Juneau bureaucracy since the last session adjourned.

**WE REPEAT: THERE** is no earthly reason why the business of Alaska's Legislature cannot be completed in 60 days, and even under the most grave of circumstances within 90 days.

There will be grave matters on the table in '93, as a matter of fact — centered around the need to close the fiscal gap between the state's fattened spending habits and its declining revenue base. But 90 days — three full months — is more than enough time to deal with the matter, if only the legislators have the courage and the will to do so. Among other things that Alaskans can no longer afford is a Legislature that stays in session for one-third of the entire year.

# The Anchorage Times

"Putting Alaska first"

BILL J. ALLEN *Publisher*

GENE AREHART *President*

WILLIAM J. TOBIN *Asst. Publisher*

JAMES H. SLACK *General Manager*

J. RANDOLPH MURRAY *Editor*

PAUL JENKINS *Managing Editor*

DENNIS FRADLEY *Editor, Editorial Pages*

Robert B. Atwood, *Publisher Emeritus*

## WHOLE LOT OF NOTHING

### The halfway mark

**T**HE LEGISLATURE last Thursday passed the halfway mark in its 121-day session. You're concerned about having missed the celebration, don't worry. There wasn't anything to celebrate. Other than collecting their \$100 per day, per diem checks on top of their salaries and expenses, lawmakers haven't accomplished very much so far. They never do during the first half of a session.

Sure, they've introduced bills and resolutions, scads of them. They've mailed out their surveys and newsletters to constituents. They huddle with lobbyist to concoct strategies, and they summon administrative department heads to be at their beck and call.

But the legislators haven't tackled any of the hard problems yet. It's a good chance they will avoid altogether the sticky issues like subsistence, ethics and spending reform. They would rather just wait for the March predictions about next year's oil revenue so they can horse trade with one another on how to spend those dwindling dollars.

**WHAT HAVE** they accomplished so far this session? A handful of resolutions and one bill are all that has cleared the Legislature. Things like passing resolutions declaring salmon to be St. Valentine's Day food, congratulating Hilary Lindh for her Olympic silver medal, and supporting on-shore fish allocations. The one bill has to do with providing education employees with collective bargaining rights.

And that's it.

A whole bunch of bills and resolutions have been introduced in this, the 17th Legislature. At last count there were 558 House bills, 447 Senate bills, and more than 240 different types of resolutions. Don't worry about too many of them going anywhere — 90 percent never do.

**FOUR MONTHS** in legislative session in Juneau, more than half of which is dead time, and eight more months back home in their districts with full-time staffs and offices. That's what legislators do — all courtesy of the state's limited tax revenue.

It's hardly the kind of citizen Legislature envisioned at statehood. Rather, it is a full-time, year-round government bureaucracy. Sixty lawmakers and staffs on the payroll year-round for a state with the population of a half a million people. It's a disgrace.

Gov. Walter Hickel wants to limit the Legislature to 75-day sessions. Other people, we're among them, believe 60 days are enough. Public surveys have shown more than three-fourths of the public wants to put limits on both terms of office for lawmakers and length of legislative sessions.

But it doesn't appear to make much difference to the 60 sitting down in Juneau right now. They kind of like it the way it is.

It will take a voter revolt to change things. That revolt should take place in the election ballot booths later this year.

## ✓ Legislative excess

REPORTS FROM precinct meetings held in recent days indicate the folks back home are getting fed up with legislative flim-flam, the likes of which were discussed in the editorial above.

In this election year, there is at least a glimmer of hope that there will be an outcry telling the legislators:

- The people want a limit set on the number of consecutive terms anyone can serve in either the House or the Senate.

- The people are fed up with legislative sessions that last four months a year and want a 90-day limit imposed on lawmaking activities.

Five weeks have now transpired since the 1990 legislature began work.

One veteran member of the House, in a telephone call from Juneau yesterday, said he had never see a

slower start to any second-term session. There is, he reported, no sense of any kind of urgency to get on with the work at hand.

But why should there be?

THEY HAVE until May 7 before they have to adjourn, and this is just the second weekend in February.

There's no rush to do anything — and certainly no thought even given to the possibility they could attend to all the important matters at hand and simply adjourn, thereby saving millions of dollars in staff salaries and other related costs.

The Alaska legislative process has become an embarrassing and costly annual exercise in governmental excess.

And at the precinct level, at least, the public is beginning to speak up.

AT  
9 Feb 1990  
BY

# Editorials

Robert B. Atwood  
President and Publisher

Elaine Atwood  
Assistant Publisher

William J. Tobin  
Vice-President, Editor-in-Chief

## The 90-day dream

THE BEST thing about the dismal legislative session now unraveling in Juneau was the introduction of a proposed constitutional amendment by freshman Republican Rep. Loren Leman of Anchorage.

God bless him, he's asking his fellow legislators to put on the ballot for the vote of the people a constitutional change that would limit the state's annual lawmaking sessions to 90 days.

Such a plan would pass at the polls by a landslide vote — no question about it.

But the trouble is, of course, that Mr. Leman's resolution hasn't a snowball's chance in hell of being passed by the legislators themselves.

It will never get on the ballot. As a matter of fact, it probably will never see the light of day from whatever committee was given the first chance to quietly murder it.

THE LAST thing the legislative establishment wants is another curtailment on its right to sit in Juneau and waste time and money.

Many of the legislators now publicly plead that they hardly have time enough to meet their heavy obligations — ever since the people were so stupid as to put a 120-day limit on the length of the session.

Privately they'll say something else — the honest ones, anyway.

They'll tell you that 90 days is more than enough time to do the annual law-making job, if it is done with diligence.

But that isn't the way things work in Juneau.

This horrible session is a case in point.

It very likely has been the worst in the state's history.

It spent the first 90 days doing absolutely nothing, un-

less you consider the frittering away of time and money to be important. We're now in the 112th day of the session, little still has been done, and the final frenzy of pell-mell legislation is about to begin.

Rep. Leman introduced his resolution on the 100th day of this sad and depressing session.

Here's what he had to say about it:

"WHY CAN'T we arrive, establish priorities, set schedules and get to work? Here we are at 100 days and we could have been finished 25 days ago. My resolution would require a vote of the people. If they approve the 90-day limit, we will cut the length of the session by 25 percent. There is substantial savings to the treasury right there."

But of course that's not what most of the legislators want to achieve. They give lip service to the idea of cutting state costs — while at the same time running one of the most costly operations of state government, one loaded with four-star benefits and extras.

Mr. Leman was even so bold as to suggest that a 90-day session would "make it easier for the average citizen to serve in the legislature."

Spoken like a true freshman. He should know by now that the professional legislators we have in the legislature don't want average, working-class Alaskans having any part of their elite, full-time lifestyle.

But the people of Alaska would buy this proposal in a minute, given the chance. But the hard, sad and realistic truth is their elected legislators will never give them a chance to vote on this proposal.

Bill J. Allen  
Publisher and Chairman

Hugh Cunningham  
Editor

William J. Tobin  
Editor, Editorial Page

Paul Jenkins  
Managing Editor

## 60th legislative day

THE ALASKA Legislature is at the midway point today of its 120-day journey in Juneau.

A number of state legislatures only meet for 60 days a year — or every other year, in some cases. But in Alaska, where the lawmaking job has been transformed by the legislators themselves into virtually a full-time occupation, the legislative sessions last for four full months every year.

It's a terrible waste of time and money.

The job could be done annually in half the time. Most of the legislators will privately admit that, even if they won't say it publicly.

We have sung this same song many times over the years in these columns, and it's worth echoing the refrain one more time just as a reminder that there is a better way to do things.

FIRST OF all, of course, there needs to be a commitment on the part of the legislative leadership to settle down to a disciplined work schedule from the very first day of the session.

This legislature convened last Jan. 8.

And in all kindness, not much has been accomplished.

Sure, there have been floor sessions and committee meetings and roll calls and bills and resolutions introduced by the score. There has been no end of political posturing and rags-of-war between the majority and the minority caucuses and between Republicans and Democrats.

But there has been little in the way of productive accomplishment.

Nothing, really, worthy of two months of very, very expensive operations.

In the old days — and we acknowledge that issues of the territorial past cannot be likened to the challenges of

today — Alaska's lawmakers handled the legislative function in just 60 days, and then only every other year.

We acknowledge, too, that biennial sessions probably make no realistic sense.

But shorter annual sessions certainly do — 90 days at the maximum, and probably 60 days every other year or so. There are, after all, only a few more than 500,000 people in Alaska — and they require only so much lawmaking every year. And the governor and the administration do need time to try to run the state, without the legislature demanding their constant attention.

WHAT IS going to happen now is what happens every other year in Juneau.

The legislators are going to do everything they have to do in the next 60 days.

And the point is perfectly clear to just about everybody but the legislators themselves.

They could have skipped the first 60 days and started at what now is the midpoint of the session. And the results would be exactly the same — without millions of dollars being spent on staff, travel, tons of paper grinding through the legislative print shop and all the other items that make the legislative process one of the state's most expensive operations.

The real fact is that most of the work will be done in the last 45 to 30 days of the session — ignoring the mad frenzy that will turn the legislative chambers and offices into a mini asylum on the final two or three days.

But let's thank heaven for small favors. Before the voters finally rose up in outrage and anger and forced lawmakers to accept a 120-day limit on the length of the sessions, legislatures were running beyond the 160-day mark.

Robert B. Atwood  
President and Publisher

Elaine Atwood  
Assistant Publisher

William J. Tobin  
Vice-President, Editor-in-Chief

## Aloha, legislators

**FOR SOME** weekend food for thought, we offer a tidbit of information about the legislative process.

Not Alaska's legislative process.

Hawaii's.

Down in the 50th State, where prosperity blooms, there is a 60-day limit on the length of the annual legislative session.

And the system works very well.

This year, the Hawaiian legislature convened on Jan. 21, a Wednesday, and will adjourn — no ifs, ands or buts — on April 27, a Monday.

And midway through the session — if you can believe such radical stuff — the legislators of Hawaii took a mandatory five-day recess. It extended from March 17 to March 23, and took all the lawmakers back to their home districts and out of the pressure cooker for a little exposure once again to the reality of life.

**HOW'S IT** work? Just fine, say legislative leaders.

Because of the deadlines imposed to meet the 60-day requirement, one influential senator from Honolulu says, members of the Hawaii House and Senate are forced to concentrate on priority issues.

They aren't inundated by hundreds and hundreds of pieces of legislation, because the members know the practice of papering the record

with campaign bills is counterproductive to an effective session.

At the start of each session, the president of the Senate and the speaker of the House — this year, the respective posts are held by Sen. Richard S.H. Wong and Rep. Richard A. Kawakami — sign off on a schedule that everybody abides by until adjournment comes.

**AMONG OTHER** things, these rules provide that no new bill can be introduced after the 22nd day of the session. Period. End of discussion. In other words, just a little more than one-third of the session can be used for bill introduction — and just about a full two-thirds for consideration of the legislation that has been put on the table.

And not all of those bills hang around until the very end.

Throughout the 60-day period, there are checkpoints along the way. If bills don't clear those hurdles, they're dead ducks.

That's how the major, priority items get handled in due order, with time for deliberation and thoughtful consideration.

Why can't Alaska legislators get the message that there is a better way to do business — and they don't have to reinvent the wheel to get there?

# The Anchorage Times

Bill J. Allen, Publisher  
William J. Tobin, Assistant Publisher  
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Paul Jenkins, Managing Editor  
Dennis Fradley, Editor, Editorial Pages

Robert B. Atwood, Publisher Emeritus

ALASKAN OWNED AND OPERATED SINCE 1915

## SHORTENING THE LEGISLATURE

### Put lid on at 75 days

**W**HEN IT COMES to reforms that would improve the way the state of Alaska functions, put high on the list a reduction in the length of time the Legislature stays in session every year.

The new suggestion is for a 75-day limit.

Let's endorse that, and urge all Alaskans to think in that time frame.

Clearly it will take a voter revolt to reduce the length of legislative session, because lawmakers themselves will never do so on their own. They like being in session for four months each year, and they cultivate the appearance of working full time — complete with full-time staffs and offices — the other eight months of the year.

And before the people of the state brought enough pressure to bear to force a 120-day limit on the annual sessions, the legislators were delighted to stay in Juneau for much longer periods of time — more than 160 days on three occasions, in fact.

THAT KIND OF time spent legislating each year for a half a million people is a frightful disgrace.

So, too, is 120 days each year.

The truth is, and most legislators will privately acknowledge the reality, nothing much is accomplished in the first 30 days of any session — and often not much in 60, besides a great deal of posturing and pandering to each other's egos.

And while the legislators are in Juneau, doing whatever they do to occupy the time, the wheels of government essentially stop turning.

The result is that for three months at the start of every year, the administrative departments of government — which are supposed to be running things — drop everything else and concentrate on being at the beck and call of the lawmakers.

Then once the Legislature has adjourned, the administrative branches of government spend the next three months trying to figure out what happened to them as a result of legislative actions — and changing regulations and whatnot to conform to changes in the law. Not a whole lot of progressive actions are accomplished during this part of the year.

By the time the last three months are at hand, the administrative offices have to start getting ready for the next legislative session — spending three months building their defenses or trying to concoct arguments in favor of some new program or spending plan.

IT'S NO WONDER that the state winds up running in circles, accomplishing little for the good of the people — but spending an enormous amount of dollars in the process.

The governor — whoever the governor might be — has little time to develop programs and to effectuate leadership goals. Juneau's whole attention is on the legislators — not on the administration and the governor, charged by the Alaska Constitution to lead and direct the state's welfare and future.

Walter J. Hickel, who now occupies the governor's office, has endorsed the 75-day legislative limit. He recognizes there is much to be done and that huge challenges are out there — with great opportunities awaiting if only the state could focus on the goals.

The one-third-of-year legislative session indeed can be shortened. But it will take action by the voters — speaking loudly and with force — to make it happen.

## Speaking out



Clymer



Lopez



Grabowski

Q. Should the Alaska Legislature's 120-day session be further reduced to a 75-day limit?

• "Yes. They need to reduce the length. They're taking too long. I think 75 days is sufficient time for them to legislate."

— Chlora Clymer, Kodiak

• "Yes. It takes them too long to make decisions."

— Nga Lopez, Anchorage

• "Yes. I always feel it takes them too long to make decisions. I think we need to reduce the session."

— Sue Grabowski, Anchorage

## LEGISLATIVE SESSIONS SINCE STATEHOOD

1/21/93  
SSHJR 15

Legislature/Session & Number of Days	Date* Convened	Day/Date Adjourned	Adjournment Time	
			SENATE	HOUSE
1ST LEGISLATURE: 1959 - 1960 1st Session - 81 days 2nd Session - 65 days	1/26/59 1/25/60	Tu 4/16/59 Tu 3/29/60	9:50pm 12:00pm	9:45pm 12:00pm
2ND LEGISLATURE: 1961 - 1962 1st Session - 74 days 2nd Session - 81 days	1/23/61 1/22/62	Th 4/6/61 Th 4/12/62	2:01am 1:22am	2:20am 1:10am
3RD LEGISLATURE: 1963 - 1964 1st Session - 76 days 2nd Session - 85 days* 1st Special Session - 3 days *Formal recess, 40 days	1/28/63 1/27/64 8/31/64	Sa 4/13/63 Sa 5/30/64 We 9/2/64	10:46am 1:00am 11:12am	10:45am 1:00am 11:08am
4TH LEGISLATURE: 1965 - 1966 1st Session - 75 days 2nd Session - 84 days	1/25/65 1/24/66	Fr 4/9/65 Su 4/17/66	4:32am 1:14am	4:35am 1:28am
5TH LEGISLATURE: 1967 - 1968 1st Session - 77 days 1st Special Session - 6 days 2nd Session - 86 days	1/23/67 9/29/67 1/22/68	Su 4/9/67 We 10/4/67 Tu 4/16/68	11:35am 2:37am 8:05am	11:32am 2:35am 8:00am
6TH LEGISLATURE: 1969 - 1970 1st Session - 95 days 2nd Session - 147 days	1/27/69 1/12/70	Th 5/1/69 Su 6/7/70	4:18am 3:33am	4:30am 3:51am
7TH LEGISLATURE: 1971 - 1972 1st Session - 121 days 2nd Session - 161 days	1/11/71 1/10/72	5/11/71 6/18/72	3:23am 12:50am	3:26am 12:59am
8TH LEGISLATURE: 1973 - 1974 1st Session - 90 days 1st Special Session - 27 days 2nd Session - 96 days 2nd Special Session - 4 days	1/8/73 10/17/73 1/21/74 6/17/74	Sa 4/7/73 Mo 11/12/73 Fr 4/27/74 Th 6/20/74	5:45pm 4:35pm 8:21pm 6:17pm	5:50pm 4:35pm 8:25pm 6:12pm
9TH LEGISLATURE: 1975 - 1976 1st Session - 139 days 2nd Session - 142 days	1/20/75 1/12/76	6/7/75 6/1/76	2:30am 8:19am	2:43am 8:14am
10TH LEGISLATURE: 1977 - 1978 1st Session - 141 days 2nd Session - 161 days	1/10/77 1/9/78	Mo 5/30/77 Su 6/18/78	10:41am 9:32pm	12:33pm 11:36pm
11TH LEGISLATURE: 1979 - 1980 1st Session - 112 days 1st Special Session - 3 days 2nd Session - 145 days 2nd Special Session - 3 days	1/15/79 8/6/79 1/14/80 9/22/80	Su 5/6/79 We 8/8/79 Fr 6/6/80 We 9/24/80	12:15pm 2:16pm 8:43pm (6/5) 9:38am	3:00pm 7:26pm (8/7) 1:01am 2:55am (9/23)

\* All sessions convened on a Monday, except the First Special Session of the Fifth Legislature, which convened on a Friday, the First Special Session of the Eighth Legislature, which convened on a Wednesday, and the First Special Session of the Seventeenth Legislature, which convened on a Wednesday.

## LEGISLATIVE SESSIONS SINCE STATEHOOD

Legislature/Session & Number of Days	Date* Convened	Day/Date Adjourned	Adjournment Time	
			SENATE	HOUSE
12TH LEGISLATURE: 1981 - 1982 1st Session - 165 days 1st Special Session - 3 days 2nd Session - 144 days	1/12/81 7/13/81 1/11/82	Th 6/25/81 We 7/15/81 We 6/3/82	7:06pm (6/24) 6:11pm (7/14) 5:35pm	12:23am 1:32am 7:23am (6/2)
13TH LEGISLATURE: 1983 - 1984 1st Session - 162 days 2nd Session - 152 days	1/17/83 1/9/84	Mo 6/27/83 Fr 6/8/84	9:39am 4:38pm	9:28pm (6/26) 4:05pm
14TH LEGISLATURE: 1985 - 1986 1st Session - 119 days 1st Special Session - 30 days** 2nd Session - 120 days	1/14/85 7/15/85 1/13/86	Su 5/12/85 Tu 8/13/85 Mo 5/12/86	9:42pm ** 11:54pm	10:52pm ** 11:59pm
15TH LEGISLATURE: 1987 - 1988 1st Session - 122 days*** 1st Special Session - 3 days 2nd Session - 121 days	1/19/87 7/1/87 1/11/88	We 5/20/87 Fr 7/3/87 Mo 5/9/88	11:58pm (5/19) 1:31am 4:12am	1:36am 12:12am 6:04am
16TH LEGISLATURE: 1989 - 1990 1st Session - 121 days 2nd Session - 122 days 1st Special Session - 14 days	1/9/89 1/8/90 6/25/90	Tu 5/9/89 We 5/9/90 Su 7/8/90	11:59pm 11:59pm (5/8) 5:13pm	11:32pm 12:01am 5:00pm
17TH LEGISLATURE: 1991 - 1992 1st Session - 122 days 2nd Session - 122 days 1st Special Session - 4 days 2nd Special Session - 8 days	1/21/91 1/13/92 05/13/92 06/15/92	We 5/22/91 We 5/13/92 Sat 5/16/92 Mon 6/22/92	9:39pm (5/21) 11:59pm (5/12) 4:56pm (5/15) 3:44pm	12:37am 12:06am 5:40am 4:17pm

\* All sessions convened on a Monday, except the First Special Session of the Fifth Legislature, which convened on a Friday, the First Special Session of the Eighth Legislature, which convened on a Wednesday, and the First Special Session of the Seventeenth Legislature, which convened on a Wednesday.

\*\* The First Special Session of the Fourteenth Legislature (considering the question of impeachment of Governor Sheffield) adjourned in 30 days under Article II, Section 9, Constitution of the State of Alaska.

\*\*\* The First Session of the Fifteenth Legislature was extended by a proclamation by the Governor.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: HJR 15

Revision Date: \_\_\_\_\_  
Title: Proposing an amending to the  
Constitution...duration of a regular session.  
Sponsor: Rep. Kott  
Requestor: Rep. Kott

Department Affected: Legislative Affairs Agency  
BRU: Legislative Council  
Component: Session Expenses Legal Svcs.,  
Sal & Allow., Public Svcs & Admin Services

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>
TOTAL OPERATING	0	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>

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

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

GENERAL FUND	0	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary)

HJR 15 reduces the length of the legislative session from a 120 day limit to a 100 day limit. The estimated daily cost of the session is \$50,000 a day. If the session is reduced by 20 days, a savings of \$1,000,000 is calculated.

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

*Pamela A. Stoops*

Phone: 465-3850  
Date: 1/18/93

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

*Warren W. Endicott*

Date: 1/18/93

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

FISCAL NOTE

BILL NO. HJR 15

STATE OF ALASKA  
93 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: duration of a regular session  
Sponsor: Representative Kott  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0

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

Prepared by: Charlot E. Thickstun, Director *Charlot E. Thickstun* Phone: 465-4611  
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coghill *John B. Coghill*  
Agency: Office of the Lt. Governor Date: 1/15/93

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HJR

21



HOUSE COMMITTEE REPORT

(7)

Date Referred: January 29, 1993

FURTHER REFERRALS:

Date of Committee Action: 2-8-93

The JUDICIARY Committee considered:

HJR 21

HOUSE JOINT RESOLUTION NO. 21

IN MEMORIAM THURGOOD MARSHALL

Honoring Thurgood Marshall, 1908 - 1993.

RECOMMENDATIONS:

be replaced with CS HJR 21 (JUD)

the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

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

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

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

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

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

zero fiscal note HOUSE JUDICIARY 2/9/93

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Brian D. Porter	✓				
Gail Phillip <sup>with</sup> <del>with</del> <sup>gratitude!</sup>	✓				
Don Koubou	✓				
Janette James	✓				
<del>Joseph [unclear]</del>	✓				

Brian D. Porter  
 CHAIRMAN'S SIGNATURE

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CS HJR 21 (JUD)

Revision Date: February 8, 1993 Dept. Affected: None  
 Title: Honoring Thurgood Marshall BRU: None  
 Component: None  
 Sponsor: Rep. Davies  
 Requestor: House Judiciary Committee COMPONENT SERIAL NO. N/A

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

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

Estimate of current year (FY93) impact: \$ \_\_\_\_\_

**ANALYSIS:**

(Attach a separate page if necessary)

No fiscal impact anticipated.

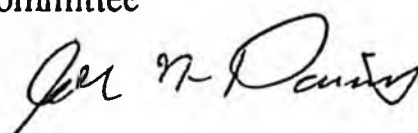
Prepared by: Gayle A. Horetski *Gayle A. Horetski* Phone: 465-4990  
 Division: Legal Counsel - House Judiciary Committee Date: 2-9-93  
 Approved by Commissioner: Representative Brian Porter *Brian Porter* Date: 2-9-93  
 Agency: Chairman, House Judiciary Committee

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**Alaska State Legislature**  
**HOUSE OF REPRESENTATIVES**  
Representative - JOHN DAVIES

30 January 93

To: Rep. Brian Porter, Chairman  
House Judiciary Committee

From: Rep. John Davies 

Subject: House Joint Resolution 21, Honoring Supreme Court Justice  
Thurgood Marshall

Thank you for co-sponsoring HJR 21, honoring Supreme Court Justice Thurgood Marshall. I would like to request a hearing on this resolution at your earliest convenience. There is no fiscal note needed or attached. Please call me if you have any questions.

Thank you for your consideration.