

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8323 ○ SENATE JUDICIARY ○



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Ferry Duncan
Signature of Camera Operator

10/1/97
Date

SCR

4

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 3/29/93

FURTHER:

Date of 5-Day Notice: 8 April 1993
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 12 April 1993

JUDICIARY Committee considered SCR 4

Relating to the Alaska Supreme Court's interpretation of Alaska Rule of Civil Procedure 82 and requesting that the court modify its interpretation of that rule.

and recommends:

replace with _____ CS _____ (_____)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical title change
(HB only)

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Senate Judiciary	4/6/93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Rick Halford
Greg Taylor

Suzanne K. Little no Rec
[Signature]

Chris L. Taylor
Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SCR 41

Revision Date: _____ Dept. Affected: None
 Title: Relating To The Supreme Courts BRU: n/a
Interpretation of Alaska Civil Rule 82 Component: n/a
 Sponsor: Senator Taylor
 Requestor: Senate Judiciary Committee COMPONENT SERIAL NO. ---

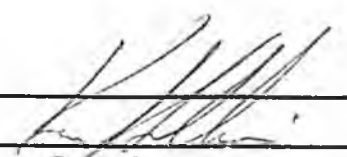
Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of any current year (FY94) cost: \$ ---

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Kevin Sullivan  Phone: 415-3717
 Division: Senate Committee Date: 1-28-94
 Approved by: Senator Robin Taylor Chair Date: _____
 Agency: Senate Judiciary Committee

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Senator Robin L. Taylor

SPONSOR STATEMENT

SCR 4

The purpose of this Resolution is to petition the Supreme Court to review the special status afforded "public interest groups" in the award of attorneys fees under Rule 82 of the Alaska Rules of Civil Procedure.

For all Alaskans except "public interest groups," Rule 82 provides for partial repayment of attorneys fees to the prevailing party by the losing party. This rule designed to discourage frivolous litigation in Alaska and it tends to reduce the judicial case load as a result.

The exception to this rule is "public interest litigation." Based on the Supreme Court's exception for public interest litigants, Rule 82 in fact provides an economic incentive for various groups to sue because full attorneys fees are paid to the public interest group if it prevails and no attorneys fees are charged if it loses. (See attached Brief Legal History of Rule 82.)

This raises a number of public policy issues which, to this point, have not been examined by the Legislature:

- 1) What is the "public interest" that the Court is protecting with its Rule 82 exception? For example, is it really in the "public interest for environmental groups to sue to close down businesses in Alaska?
- 2) How much of a legal subsidy is realized by these groups and who pays for it? For example, if the Legislature funds a particular group through the Appropriations process (such as Alaska Legal Services), is that group obtaining additional funds from the State under Rule 82? If so, to what extent?

3) Is it good public policy to encourage litigation by the groups the Supreme Court has decided to favor? How much does the Supreme Court's policy cost the State of Alaska?

In reviewing these issues the Legislature should not violate the Constitutional separation of powers by crossing into the province of the Judiciary. However, by the same token, it is worth investigating whether the Judiciary is assuming the Legislative authority of public policy determination. Certain groups are being encouraged to litigate as the State is compelled by the Court to partially fund those groups with moneys from other Alaskans, including appropriated funds from the State.

In court order number 1118, the Supreme Court reviewed certain parts of Rule 82 and reenacted the rule effective July 15, 1993 (see attached rule change). It elected not to change the public interest litigation rules (ID. at S 2.).

In summary, under Rule 82 as currently interpreted by the Court, certain parties are encouraged with significant economic incentives to bring litigation against the State. The question of whether the interest of the public is truly being served by these "public interest" parties is also at issue. Finally, the State is being directed to subsidize these questionable "public interest" litigants at great expense to the public itself. Senate Concurrent Resolution 4 urges the Supreme Court to review these issues.

BRIEF HISTORY OF PUBLIC INTEREST LITIGATION UNDER RULE 82

When the Alaska Supreme Court was established in 1960 and adopted rules under Article IV, Sec. 15, Alaska constitution, it adopted what has been known as the "English" rule with respect to the award of attorney fees and costs to successful litigants. The so-called "American" rule generally did not provide for the award of attorney fees and costs, except when specifically authorized in the statute creating the cause of action.

The "American" rule derives in part from the concepts of sovereign immunity so long upheld by the federal courts--that the federal government may not be sued unless Congress has specifically consented. Most, if not all, of the states started out with that rule. Over time, the rule has been eroded, both by the Congress and in the states, but probably no state has had the benefit of a rule such as Rule 82 that has general application in all cases and with all litigants, both private and governmental.

"Public interest" litigation, especially with respect to environmental issues, is of relatively recent origin. It has its roots, however, in the concept of the "private attorney general," best exemplified in the federal anti-trust legislation. This type of litigation began to be a chosen method of action with the passage of the Voting Rights Act of 1964 which contained a provision authorizing an award of attorney fees and costs to

successful litigants. 42 U.S.C. 2000a-3(b) provides: "In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person."

In 1968, the U. S. Supreme Court, interpreting this provision, stated in Newman v. Piggy Park Enterprises, Inc., 390 U.S. 400, 19 L.Ed. 2d 1263, 88 S. Ct. 964 (1968), that:

If successful plaintiffs were routinely forced to bear their own attorneys' fees, few aggrieved parties would be in a position to advance the public interest by involving the injunctive power of the federal courts. Congress therefore enacted the provision for counsel fees--not simply to penalize litigants who deliberately advance arguments they know to be untenable but, more broadly, to encourage individuals injured by racial discrimination to seek judicial relief under Title II.

It follows that one who succeeds in obtaining an injunction under that title should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust.

Although the Supreme Court in Piggy Park justified its holding in some respects by pointing out that a person litigating under the Act was entitled only to an injunction, not damages, and an award of attorney fees was particularly justified, therefore, the Alaska Supreme Court used the case to establish its own interpretation of Rule 82 as it applied to public interest litigants.

The Alaska Supreme Court had, in 1964, interpreted Alaska Civil Rule 82 to provide partial compensation for attorney fees and costs to prevailing litigants. Preferred General Agency of Alaska, Inc. v. Rafetto, 391 P.2d 951 (Alaska 1964). Much litigation followed about how much of the whole cost would be "partially" compensated. In 1973 the court had determined that partial could not be full compensation and held in Malvo v. J. C. Penney Company, Inc., 512 P. 2d 575, that it was an abuse of discretion for a court to award full attorney fees to prevailing parties unless the conduct of the losing party was egregious, holding that the purpose of Rule 82 was "to partially compensate a prevailing party for the costs and fees incurred where such compensation is justified and not to penalize a party for litigating a good faith claim. Malvo involved only private litigants.

In 1974 the Alaska Supreme Court first faced the "public interest litigant" issue in a case in which the public interest litigant lost. In reliance on Piggy Park, the court decided that

it would be an abuse of discretion to award attorneys' fees against a losing party "who has in good faith raised a question of genuine public interest before the courts." Gilbert v. State, 526 P.2d 1131 (1974). In Girves v. Kenai Peninsula Borough, 536 P.2d 1221 (Alaska 1975), the court reiterated its holding in Gilbert and reversed an award to the borough, stating again that public interest litigants should not be penalized by an award of attorney fees against them.

In 1977 the Alaska Supreme Court had before it a case involving a prevailing public interest litigant, Anchorage v. McCabe et al., 568 P. 2d 986 (1977). In that case the court held that, notwithstanding the "partial compensation" rule established in Malvo, "the trial court may, in its discretion, award full attorney's fees to public interest plaintiffs." In 1990, it finally arrived at the determination that public interest litigants must be awarded full attorney fees. Anchorage Daily News v. Anchorage School District, 803 P. 2d 402.

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1118

Amending Civil Rule 82 and Civil Rule 79 concerning award of attorney's fees and costs.

IT IS ORDERED:

1. Civil Rule 82 is repealed and reenacted to provide:

(a) Allowance to Prevailing Party.

Except as otherwise provided by law or agreed to by the parties, the prevailing party in a civil case shall be awarded attorney's fees calculated under this rule.

(b) Amount of Award.

(1) The court shall adhere to the following schedule in fixing the award of attorney's fees to a party recovering a money judgment in a case:

Judgment and, if Awarded, Prejudgment Interest	Contested With Trial	Contested Without Trial	Non- Contested
First \$ 25,000	20%	18%	10%
Next \$ 75,000	10%	8%	3%
Next \$400,000	10%	6%	2%
Over \$500,000	10%	2%	1%

(2) In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case which goes to trial 30 percent of the prevailing party's actual attorney's fees which

Supreme Court Order No. 1118
Effective Date: July 15, 1993
Page 2

were necessarily incurred, and shall award the prevailing party in a case resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

(3) The court may vary an attorney's fee award calculated under subparagraph (b)(1) or (2) of this rule if, upon consideration of the factors listed below, the court determines a variation is warranted:

- (A) the complexity of the litigation;
- (B) the length of trial;
- (C) the reasonableness of the attorneys' hourly rates and the number of hours expended;
- (D) the reasonableness of the number of attorneys used;
- (E) the attorneys' efforts to minimize fees;
- (F) the reasonableness of the claims and defenses pursued by each side;
- (G) vexatious or bad faith conduct;

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Effective Date: July 15, 1993
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(H) the relationship between the amount of work performed and the significance of the matters at stake;

(I) the extent to which a given fee award may be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts;

(J) the extent to which the fees incurred by the prevailing party suggest that they had been influenced by considerations apart from the case at bar, such as a desire to discourage claims by others against the prevailing party or its insurer; and

(K) other equitable factors deemed relevant.

If the court varies an award, the court shall explain the reasons for the variation.

(c) Motions for Attorney's Fees. A motion is required for an award of attorney's fees under this rule. The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment as defined by Civil Rule 58.1. Failure to move for attorney's fees within 10 days or such additional time as the court may allow, shall be construed as a waiver of the party's right to recover attorney's fees. A motion for attorney's fees in a default case exceeding \$50,000 must specify actual fees.

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Page 4

(d) **Determination of Award.** Attorney's fees upon entry of judgment by default may be determined by the clerk. In all other matters the court shall determine attorney's fees.

(e) **Effect of Rule.** The allowance of attorney's fees by the court in conformance with this rule shall not be construed as fixing the fees between attorney and client.

2. By adopting these amendments to Civil Rule 82, the court intends no change in existing Alaska law regarding the award of attorney's fees for or against a public interest litigant, see, e.g., Anchorage Daily News v. Anchorage School Dist., 803 P.2d 402, 404 (Alaska 1990); City of Anchorage v. McCabe, 568 P.2d 986, 993-94 (Alaska 1977); Gilbert v. State, 526 P.2d 1131, 1136 (Alaska 1974), or in the law that an award of full attorney's fees is manifestly unreasonable in the absence of bad faith or vexatious conduct by the non-prevailing party. See, e.g., Malvo v. J.C. Pennev Co., 512 P.2d 575, 588 (Alaska 1973); Demoski v. New, 737 P.2d 780, 788 (Alaska 1987).

3. Civil Rule 79(b) is amended to provide:

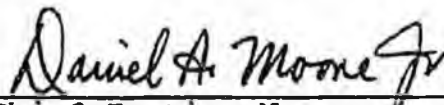
(b) **Items Allowed as Costs.** A party entitled to costs may be allowed premiums paid on the expenses of posting, undertakings, bonds or security stipulations, where the same have been furnished by reason of express requirement of law or on order of the court; the necessary expense of taking depositions for use at trial and producing exhibits; the expense of service and publication of summons or notices, and postage when the same are served by mail;

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filing fees and other charges made by the clerk of the court and fees for transcripts required in the trial of a case in the superior court; and costs paid by the prevailing party's attorney for computerized legal research. In addition to the items allowed as costs by law and in these rules, a party shall be allowed any other expenses necessarily incurred in order to enable a party to secure some right accorded the party in the action or proceeding. Fees for investigators, paralegals or law clerks shall not be allowed as costs.

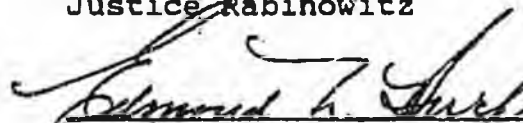
DATED: January 7, 1993

EFFECTIVE DATE: July 15, 1993



Chief Justice Moore

Justice Rabinowitz



Justice Burke



Justice Matthews



Justice Compton

RABINOWITZ, Justice dissenting.

I dissent from the court's adoption of the amendments to Civil Rule 82 called for in this order. In my view no compelling

case has been made demonstrating the need for these changes.¹ Further, my judicial hunch is that these amendments to Civil Rule 82, in particular the new provisions reflected in (b) (3) (A) through (K), will unnecessarily and dramatically increase litigation over attorney's fees awards both in our trial courts as well as in this court.²

¹In this regard I note that the Alaska Judicial Council is scheduled to conduct an in depth empirical study of the workings of Civil Rule 82. My preference is to await the results of the Council's study before deciding whether any of the current provisions of Rule 82 should be amended. Such a study should position this court to make a more informed assessment as to whether the current rule operates in a fashion which unjustly denies access to our courts. I further note that our Civil Rules Committee recently surveyed the Alaska Bar membership on discrete aspects of Civil Rule 82. A clear majority of those responding to the committee's questionnaire indicated: that Civil Rule 82 does not deter people of moderate means from filing valid claims; that the rule does not put excessive pressure on moderate income people to settle valid claims; and that the rule is needed to discourage frivolous litigation.

²Any attorney worth his or her salt will, pursuant to the expansive provisions of (b) (3) (A) through (K), request variations from the attorney's fees awards called for under either the monetary recovery schedule provisions of (b) (1), or the provisions of (b) (2) which apply where no money judgment is recovered by the prevailing party.

STATEMENT
of
James F. Clark

My name is James F. Clark. I am an attorney in private practice in Juneau. Many of my clients are companies whose business is the development of Alaska's natural resources--timber and mining. Those clients must have permits issued by state and federal agencies in order to operate. I appear today to speak in favor of the adoption of SCR 4.

When the legislature enacted legislation requiring permits before persons may engage in certain activities in connection with the development of natural resources, the legislature implicitly determined that those activities were in the public interest. The Alaska Supreme Court has, however, failed to take notice of these legislative Acts and accord those complying with the Acts the recognition that they are, in fact, acting in the public interest.

Large national special interest political organizations, as well as local special interest political organizations funded by these national organizations, have prevailed upon the Alaska Supreme Court to grant them a so-called "public interest" exception to Alaska Civil Rule 82. This exception permits them to litigate without cost, even when they lose, by awarding them full attorney fees when they prevail (something not even done for indigents) and when they lose, relieving them of the duty to pay attorney fees and costs to the prevailing party.

The "public interest" exception is no longer valid. So-called "public interest" litigants are in the business of litigating and they are well funded to do so. No longer can the Alaska Supreme Court base its exception on the notion that "public interest" litigants could not afford to protect their rights without it.

Generally, suits challenging permits issued by the state are brought against the state, not the permittee or permit applicant. Notwithstanding, permittees and permit applicants must participate in the lawsuits in order to insure that their interests

are fully protected. As the scope of regulation increases, more and more litigation will be brought in order to prevent economic development of Alaska's natural resources. This means both a direct loss to the state because the state must pay attorney fees to the prevailing party and is not fully compensated for its attorney fees when it prevails, but also because such litigation has a chilling effect on economic development. This also means fewer new jobs are created and substantially less wealth is created for the tax bases of our communities.

It is clear from the decisions rendered by the Alaska Supreme Court that it has a very narrow, lopsided, view of what the public interest is. I believe that adoption of SCR 4 is important because the court needs to reconsider its concept of the "public interest" and to begin to treat all litigants equally and fairly.

SCR

18

Alaska State Legislature



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Senator Robin L. Taylor

FOR IMMEDIATE RELEASE

March 21, 1994

Contact: Joe Ambrose
465-4906

Senator Robin L. Taylor wants the Governor to buy Alaska from the federal government for \$10 billion.

That's the essence of Senate Concurrent Resolution 18, introduced in the Alaska State Senate today. The resolution calls for negotiations between the State and the U.S. Congress for the purchase of all federal land, water or land and water, not including military reservations and federal offices.

The resolution would offer a \$500,000 bonus if the feds also remove the Environmental Protection Agency, the U.S. Corps of Engineers and the U.S. Departments of the Interior and Agriculture and all their personnel from Alaska.

SCR 18 says the federal government has violated the Alaska Statehood Compact and calls the buy-out proposal "a fair and proper resolution of this dispute".

"A compact is a contract and may not be unilaterally altered by either party", Taylor said. "The federal government has violated this principle. I don't think its far fetched to offer to settle this contract dispute by buying out one of the partners."

Taylor said the buy-out would include surface and subsurface rights and would call for the United States government to relinquish all dominion, control and regulatory authority over federal land in Alaska.

(more)

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Taylor News Release

3/21/94

Page Two

The Senate Majority Leader pointed out that \$10 billion would go a long way in helping to balance the federal budget and said he thought it would be a small price to pay to end federal interference in the development of Alaska.

"This isn't offered tongue-in-cheek", Taylor said. "I'd like to see how the feds respond to a legitimate offer to settle our differences in the time-honored way...cash on the barrel head".

Asked how he would fund the buy-out, Taylor said that decision would be made if and when Congress indicated it was interested in negotiating the proposal.

"The money is there if Alaska really wants to buy out the federal government, " Taylor said.

- 0 -

(Editors and News Directors: Copy of SCR 18 follows.)



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Jerry Duncan
Signature of Camera Operator

10/1/97
Date

SJR

2

SPONSOR STATEMENT

SENATE JOINT RESOLUTION NUMBER 2

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO THE RIGHTS OF VICTIMS OF CRIMES.

In the past, courts both state and national, have leaned toward the rights of the accused in concern to judicial process, trial proceedings, and sentencing. This has led in some cases to the rights of the victims of crime being overlooked or even overtly ignored.

SJR 2 seeks to balance the approach courts take in trial proceedings, by mandating that the impact on the victims of crime be taken into account in nine specific areas. These nine rights of crime victims are:

1. The right to be treated with fairness and respect for their dignity and privacy; throughout the criminal justice process;
2. The right to timely disposition of the case following arrest of the accused;
3. The right to be reasonably protected from the accused throughout the criminal justice process;
4. The right to notification of court proceedings;
5. The right to attend trial and all other court proceedings that the accused has the right to attend;
6. The right to confer with the prosecution;
7. The right to make a statement to the court at sentencing;
8. The right to restitution as provided by law;
9. The right to information about the conviction, sentence, imprisonment, and release of the accused.

None of these guaranteed rights of the victim in any way diminish the rights of the defendant or his/her defense.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

August 17, 1993

AUG 17 1993

Senator Loren Leman
Chair
Senate State Affairs Committee
716 West 4th Avenue
Suite 540
Anchorage, Alaska 99501

Dear Senator Leman:

The United States Constitution guarantees criminals certain rights and protections. Unfortunately, until recently innocent victims of crime have not been afforded the same protections. Although some progress has been made in statutory law, victims are still not given the same constitutional protections as are afforded criminals.

To help to rectify this injustice, I introduced Senate Joint Resolution 2 (SJR 2) last session, which would provide these constitutional protections to victims of crime. I was pleased to see you as a co-sponsor of this important resolution. Unfortunately, SJR 2 was not scheduled for any hearings during session, so I am asking if you would schedule it for interim hearings before our return to Juneau, so that interested members of the public have an opportunity to discuss this important matter with us in person.

Secondly, I would like to ask that as a committee chair, you request agency fiscal notes on this resolution. Apparently fiscal notes are only being issued to committee chairs, not sponsoring legislators, so your assistance on this score would be appreciated.

Thank you for your consideration of these requests.

Sincerely,

A handwritten signature in cursive script that reads "Dave Donley".

Senator Dave Donley

DD/jbv

CC: Victims for Justice
Anchorage Crime Commission
Alaska Peace Officers Association
STAR

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CO-CHAIR: Anchorage Caucus • MEMBER: Senate Judiciary Committee • Senate Resources Committee

SJR 2

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515



March 22, 1993

APR 7 1993

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Senator Loren Leman
Alaska State Legislature
Capitol, Room 113
P.O. Box V (MS 3100)
Juneau, Alaska 99801


Dear Senator Leman:

On behalf of Alaska's Peace Officers we encourage you to support SJR 2, the Victim's Rights Bill. In 1990 the U.S. Congress passed the Victim's Rights and Restitution Act and urged the States to follow suit. To be both effective and humane, a criminal justice system must respond to the needs and concerns of the victims of crime at all stages of the criminal justice process.

One way to ensure appropriate consideration of victim's rights is to codify and enforce a "Victims' Bill of Rights." Victims' needs can include protection from further violence or retribution, restitution to cover economic loss and information about and participation in the criminal justice process. The criminal justice system should do all it can to minimize the pain of victims and victim-witnesses.

Sincerely,

ALASKA PEACE OFFICERS ASSOCIATION


Terry L. Marquart
President

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Ms. Janice Lienhart 278-0977
619 E. 5th Avenue
Anchorage AK 99501 Date POM Sent 01/29/93
Constituency C Bill Number SJR 2 Response SUPPORTS
Subject

I ENCOURAGE YOU TO PASS THIS OUT OF COMMITTEE. THIS HELPS TO GIVE VICTIMS EQUAL RIGHTS.

Mrs. Theresa Cain 694-9997
P. O. Box 771318
Eagle River AK 99577 Date POM Sent 01/28/93
Constituency N Bill Number SJR 2 Response SUPPORTS
Subject

AS A VICTIM OF A CRIME, I ENCOURAGE THIS BILL TO PASS.

Nov. 17 1990

Anchorage Daily News

Gerald E. Grilly
Publisher



Howard Weaver
Editor

Michael Carey, Editorial Page Editor

Patrick Dougherty, Managing Editor

Kathorino Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded In 1946 by Norman C. Brown

Justice?

Innocent victims find indifference

Alaska, like the rest of the country, strives to have a law enforcement system in which justice is blind. For those accused of crimes, it's a noble and appropriate goal.

But as presently structured, the criminal justice system too often is blind to the plight of innocent victims and witnesses. All the attention focuses on determining suspects and proving their guilt or innocence. The needs of victims and witnesses are an afterthought.

Take the case of Eagle River resident Rob Chamberlain. He was driving his \$5,000 sports car when his passenger was shot and killed by another motorist. His car has been impounded as evidence until the suspect goes on trial. In the meantime, Mr. Chamberlain has to bum rides for his lengthy trip to work, while he's stuck paying for a car he cannot use.

In a system that cared about justice for innocent bystanders, there would be a simple process for helping people like Mr. Chamberlain. Society has a legitimate need to take his car for evidence. It's less clear why society should be allowed to take it without just compensation.

The violent crimes compensation board, welcome as it is, provides no relief here. The board does not compensate victims of property crimes. It cannot pay for economic losses that an investigation or prosecution inflicts on innocent witnesses.

One reason society doesn't do more for victims and witnesses is money. The \$600,000 a year Alaska spends on victims of violent crimes is barely enough to meet the demand. Helping innocent witnesses with their losses and expenses could cost considerably more.

But then, no one ever said justice is cheap.

Wounded by a gunman, hobbled by the system

Injured bystander struggles to piece life together

By SHEILA TOOMEY
Daily News reporter

John Miller was strolling down Fourth Avenue picking breakfast out of his teeth when he saw the guns.

It was 5 a.m. on an August Sunday and Miller had stumbled into an armed confrontation between the Anchorage police and Roy Fox, a deranged loner with a stolen shotgun.

As Miller remembers it, he had a choice of getting shot by Fox, crouched in the doorway of an Army-Navy store, or shot by the police under the assumption he was involved in whatever was going on.

When Miller dreams about what happened, he dreams about being trapped.

As it turned out, his decision to just keep walking, looking as uninvolved as possible, didn't work. Fox nailed him in the back, right at the belt line, lifting Miller off his feet and slamming him to the pavement, where he lay in terror as the

police fired more than 20 shots, hitting Fox 17 times.

It all happened more than a year ago and, as angry as he was at Fox, Miller is angrier at what has happened since: namely, not much.

Miller, 32, was a building trades worker before the shooting, working job-to-job as a subcontractor on renovations. He had no medical insurance. He had just finished a home burned out in a fire and was scheduled to start another job in a few days.

He had his own apartment and an unremarkable life that suited him fine.

Now he has a hole in his back you could put your fist in. He spent 2½ months in the hospital, had three operations and still has a bunch of birdshot in his body. He has nerve damage in his back, his left thigh is numb and doctors have told him to get ready for arthritis.

"I really wanted to know that," Miller said Wednesday, sitting in the living room of his mother's Sand Lake condo which he now shares. "Like, here I am in my prime and I'm looking forward to having arthritis in 10 years."

He can't do construction any

Please see Back Page, TALES



John Miller says he's angry at the way assistance agencies have let him down after his 1989 injury.

Miller, in
Eugene

Thor
Nov 1 1990



JOE LAVRACAS / Anchorage Daily News

THE BACK PAGE

TALES OF THE CITY: Wounded bystander tries to rebuild his life

Continued from Page A-1

more because he can't lift heavy weights. He says all he wants is re-training and a chance to work at a decent job, like the one he lost.

As Miller remembers it, the first sign that the world didn't care much about him was when the hospital told him to stop going to physical therapy because state emergency medical assistance didn't cover it. His \$59,000 hospital bill was taken care of but out-of-hospital medi-

cal expenses were his problem.

He had lost his apartment. He had no income. So he went to welfare for help. He wasn't disabled enough to qualify, but they offered \$120 a month toward rent. "I couldn't even find a roommate who would let me move in for that."

He ended up back home with mom, an arrangement that neither finds satisfactory.

"Luckily, I had someone to stay with," Miller said.

"Where would I go, the Brother Francis Shelter?"

At vocational rehabilitation they gave him lots of tests and made lots of appointments. Either he was too disabled for a program or not disabled enough, he said. They told him to get some special tests — he's not sure what — but they cost money Miller doesn't have. No tests, no re-training program.

And he still hadn't figured out how to get the physical therapy he needed.

"The baddest part about it, I needed it so bad at the time," Miller said Wednesday. "They should have helped me at the time."

By now the bills were piling up. Doctors who had extended credit figured out Miller wasn't eligible for anything reliable. He applied for help to the Violent Crimes Compensation Board, but he wasn't an emergency and the board only meets quarterly. He and the board's executive director, Nola Capp, still disagree about whether he has sub-

mitted all the necessary paperwork.

Miller is not adept at working the system. He's not sure exactly what he applied for and exactly why he didn't get it. He says he filled out all the forms people gave him and went where they told him to go but nothing happened. "They're just giving me a runaround," he concluded.

On Oct. 17, the board paid \$5,000 of Miller's outstanding medical bills and approved funds for physical therapy — a year after he

got out of the hospital.

"Of all the people in the world he was purely innocent," Capp said. "But the board has to have regulations. We can't just give out money."

Russ Cusack over at vocational rehab says he'll check Miller's case file and see what he can do.

Miller still has flashbacks about the shooting, dreams that wake him up with the sweats. But he's madder at the system now than he ever was at Roy Fox.

"The Spark of Justice": A Call for Enacting A Constitutional Amendment

By Steve Twist

The welcoming ceremonies at the Fourteenth Annual Conference followed traditional form, with a warm greeting from Pima County Attorney Stephen Neely and a thoughtful address by NOVA President Daniel Rosenblatt, among others. Greetings from Attorney General Robert Corbin, delivered by his Chief Assistant, were expected to lean more towards a friendly welcome than towards the thought-provoking. If that is what the participants wanted of Steve Twist, they were disappointed. Judging from their reactions, however, they were anything but disappointed.

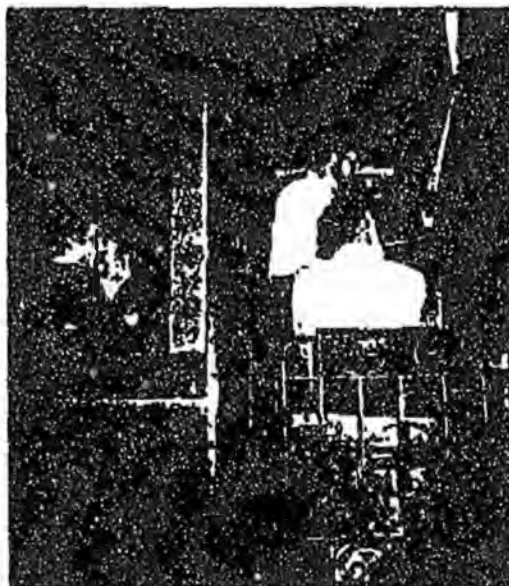
As a service to the many conference-goers who asked for a copy of Steve Twist's stemwinder on victim rights, we are reprinting it here:

Steve comes by his impatience the hard way. As a principal supporter of a victim rights amendment to the Arizona constitution, he led the fight that found that proposal just one vote short of ratification in the Arizona legislature last session. He and other victim advocates in the state are determined to get their proposal on the ballot through a petition drive. It seems likely that they will succeed. Steve's speech follows.

Good evening. It is my great privilege to join Steve Neely in welcoming you to Tucson and to the warm hospitality of Southern Arizona.

It is highly appropriate to have selected Tucson as the host site for this meeting. Steve Neely has been one of the pioneers of victim/witness programs among prosecutors in America and his program, run by Vicki Sharp, Sharon Hochman, Stuart Gellman and the many fine and dedicated staff and volunteers, is consistently regarded as among the best in the nation.

It has brought new sensitivity to the business of prosecution by recognizing the plight of victims as they suffer not only the ordeal of the crime, but also the ordeal of the criminal justice system. Pima County's program helps victims



Steve Twist speaks at the opening ceremonies. The platform is a made-for-movies train, at the sound stage at Old Tucson. Other white-stoppers are (l. to r.) Dan Rosenblatt, Marlene Young, and Stuart Gellman.

cope with both ordeals. We are proud to have them in Arizona.

But the strength of their program has also taught us that new frontiers must be explored, that new answers must be found. Here in Tucson, as elsewhere in Arizona and America, the most caring and effective victim/witness program cannot protect victims from a criminal justice system which is itself abusive, destructive, and deaf to the cry for victims' rights.

The best counseling programs are strained to breaking when the system itself causes the emotional pain which needs treatment.

The most caring prosecutor, who regularly consults with victims about their cases, cannot overcome the trauma caused by the inexcusable delays he must report, or the procedural setbacks, the suppression of evidence, the repeated releases of defendants, or sentences that neither deter nor punish nor protect future victims.

The strongest victims' rights statutes will never protect victims if they are

always second to the constitutional rights of defendants . . . or for that matter, to the interests or convenience of the judges or the lawyers.

The best-funded compensation and assistance programs, even if they had badly-needed additional revenues, will never compensate for the injustice or the indignity of our systems' treatment of victims.

Many of us in the victims' movement believe that we must seek more fundamental reforms in the justice system if we are to make our dreams of justice a reality.

In 1988 in Arizona, over 200,000 of our neighbors will be victims of either murder, rape, robbery, aggravated assault, or serious theft. As they begin to cope with the crime and the justice system, in many ways we force them to face it legally alone. In my state, victims have not one constitutional right or remedy to protect them.

They have no right to a speedy trial.
They have no right to privacy.

They have no right to a lawyer.
They have no right to refuse a pre-trial interview.

They have no right to be informed or consulted.

They have no right to be in the courtroom.

They have no right to finality to their ordeal.

They have no right to be heard until the trial is over.

They have no right to access to the entire court record.

They have no right to due process.

In short, they are treated as a hard piece of evidence in our system.

Having failed victims in our duty to protect them from crime, we then subject them to a system which affords them no constitutional rights and they are brutalized by it.

Many of us believe the answer lies in constitutional reform. Unless victims' rights are made a part of our basic law — our constitutional law — victims will always be second-class citizens. It is time for this atrocity to stop.

As those of us in Arizona know, our

challenge is great and our opposition is strong. Not all the venom in my state is found in the creatures of the Arizona desert.

Of course none of our opponents are against "victims' rights". The strength of the movement you have forged has captured the agenda and they are afraid to oppose us.

They are for "victims rights but..." — but they don't believe those rights should be in the Constitution.

They are for victim rights but

... they are not for the right of the victim to be in the courtroom throughout the trial;

... they are not for the victims right to a speedy trial;

... or reasonable finality;

... or to refuse pre-trial interviews;

... or to have all relevant evidence introduced so the truth of what happened can fully be heard.

They are not for the child victims

right to testify outside the threatening presence of the defendant.

They are not for the victims' right to prison sentences which will protect future victims.

Those who say they are for "victim rights but..."

"... you've seen it in the eyes of caring police and dedicated prosecutors; you've seen it in the mirror."

are deceitful, fraudulent, and they have no right to associate with you or carry the banner which you have raised.

Our movement is the most important civil rights movement of the Eighties and Nineties. Our success will depend on courage and spirit and perseverance.

Napoleon said there are only two powers in the world, the sword and the spirit. In the end, he said, the sword will always be conquered by the spirit.

For now, it seems, the sword is in the

hands of the criminal and we have lost the spirit to overcome him.

But in all the injustice we see, in all the victims' pain, there is a spark. You know that spark. You have seen it in the eyes of those you counsel and comfort; you've seen it in the eyes of citizens who

can no longer stomach the repeated horror stories which daily come from our system; you've seen it in the eyes of caring police and dedicated

prosecutors; you've seen it in the mirror.

It is the spark of justice. Remember when you first felt that spark, what your hearts were touched and filled by it. Inspire yourself again for this cause and you will inspire others. Use this conference to re-ignite the spark, or feed it with the oxygen that is here. Share your ideas, share your vision of our new frontier, and we will see justice for victims in our day.

Thank you. □

News from the States:

California Updates "Miranda" Warnings

For years, victim advocates have spoken of a "Reverse Miranda" warning or card — one that would routinely be used to read to the victim that person's rights.

Due to an initiative of the California Youth Authority and the California Corrections Department — supported by the state's major law enforcement associations — victims there may soon receive such a recital of their rights as a standard part of filing a crime report.

The following is an announcement describing the new program.

"You have a right to remain silent..." That's a phrase that has become well known to law enforcement and criminal suspects with whom they deal. If police agencies, the California Youth Authority (CYA), the California Department of Corrections (CDC) and victim rights advocates have their way, crime victims will have their rights explained at the scene of crimes too.

That is why the CYA, CDC and

major law enforcement organizations are distributing cards to law enforcement officers throughout the state that can be used not only to advise suspects of their rights, but the victims of their rights as well.

The cards will be accompanied by a letter signed by Cal Terhune, Director, CYA; Jim Rowland, Director, CDC; Glen Craig, President, California Peace Officers Association (CPOA); Craig Meacham, President, California Police Chiefs' Association; and Sherman Block, President, California State Sheriffs' Association.

Although victims of crime in California have had these rights for years, only the suspects have had their rights read to them at the time of arrest. This card will inform the victims of their rights under the law and provide them with information for assistance.

The local law enforcement agencies are being encouraged to use the same information with local assistance phone

numbers for distribution to victims, who may not remember the information given to them by the officers at the scene of the crime.

The implementation of this project is the accomplishment of a cooperative effort between law enforcement associations, CYA, CDC, and the office of Governor George Deukmejian, who has fully supported the project.

If all those involved have their way, "As a victim of a crime, you may..." will become as well known as the Miranda warning given to criminal suspects.

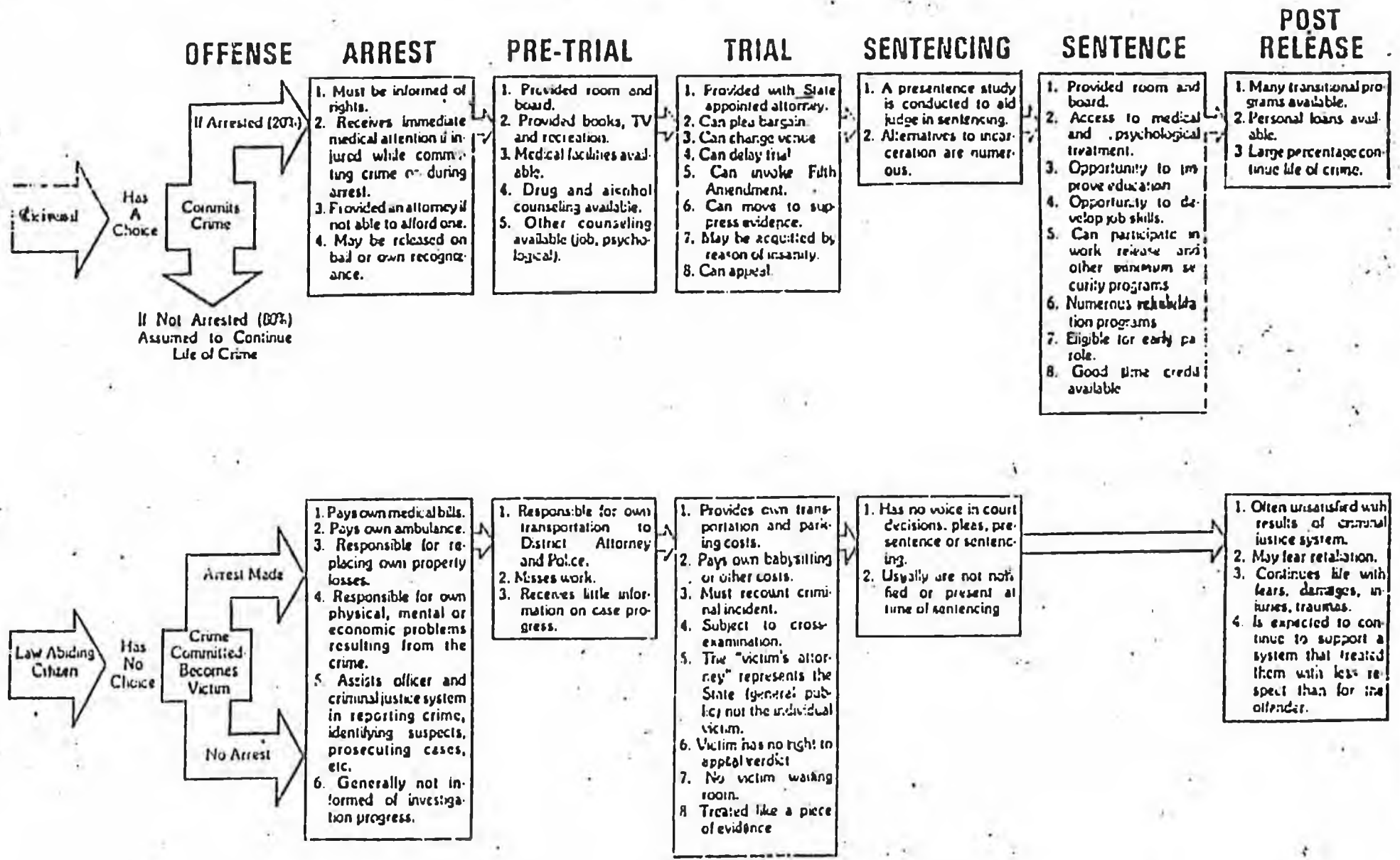
For more information, write:

Sharon English
California Youth Authority
4241 Williamsborough Drive
Sacramento, CA 95823 □

- o Substance abuse is an almost universal problem among criminals. New misdemeanor centers with on-site alcohol screening, and residential treatment programs in existing facilities are all cost-effective ways to combat the problem.
- o The Administration recognizes the need for additional high security beds at the Spring Creek Correctional Facility. The Department of Corrections has been operating over emergency capacity for more than a year. The Department will be reporting its projections for the future jail and prison populations in the upcoming weeks. The report will identify the immediate and long-term needs to expand the correctional system.
- o More prison beds are not the department's only answer to reducing crime. The department can achieve impressive success with innovative, cost-effective programs which emphasize offender responsibility and can lower recidivism.
- o New policies place the lowest risk offenders in the lowest cost placements so that secure prison beds can be used for the most dangerous criminals. Offenders who don't pose an immediate risk to the public are being placed in prerelease programs to help reduce recidivism. These programs emphasize personal responsibility by requiring community work service and requiring offenders with jobs to pay for part of the costs of their incarceration. Most prisoners will be returning to society eventually, and these programs insure a careful, closely supervised reintegration to help them avoid returning to crime after release from prison.
- o Constitutional Amendment -- House and Senate Resolutions have been introduced by Rep. Brian Porter and Sen. Dave Donley for Constitutional amendments which would change the emphasis of penal administration in Alaska. The Constitution should clarify that public protection, deterrence, and reaffirmation of societal norms are chief goals of incarceration. The rights of the offender must be balanced with the rights of victims and law-abiding citizens.
- o Offender Fees -- Increasingly, offenders are being required to pay their fair share, just like other Alaskans. The Administration is exploring ways to expand the state's ability to collect fees for certain medical, program, housing, and supervision services. Contracting out the fee collection to the private sector in some instances may be an efficient way to increase offender responsibility as well as offset the expenses of the correctional system.
- o Alternative Punishments -- Highly structured day reporting programs can be operated out of existing Community Residential Centers. Graduated levels of

Gen. Havel's Anti-Crime Package

THE CRIMINAL INJUSTICE SYSTEM



FISCAL NOTE

STATE OF ALASKA
93 LEGISLATIVE SESSION

BILL NO. SJR 2

Revision Date: _____
Title: Amendment to the Constitution RE: rights of victims of crimes
Sponsor: Senators Donley and Leman
Requestor: _____

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

PENDITURES/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 *J. B. Coghill*
Agency: Office of the Lt. Governor Date: 1/15/93

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FISCAL NOTE

BILL NO. SJR 2

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: January 14, 1994
Title: "...amendment to the Constitution...relating to the right of victims of crime..."
Sponsor: Senator Donlev
Requestor: Senate State Affairs

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services Division

Phone: 465-3672
Date: January 14, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: January 14, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SJR 2

ANALYSIS CONTINUATION:

SJR 2 would place an amendment to the state's constitution before the voters at the next general election that would establish certain constitutional rights for victims of crime. Currently, victims rights are provided by statute (AS 12.61.010-AS 12.61.900) and the effect of the amendment, if approved by the voters, would be to guarantee those rights in a far broader and absolute fashion. For instance, AS 12.61.015 provides for many of the same rights that are included in the proposed amendment. Adoption of this resolution will not have a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

SJR 2

Revision Date:	_____	Dept. Affected:	<u>Corrections</u>
Title:	<u>Amendment to the Constitution RE: Penal Administration</u>	BRU:	<u>All</u>
Sponsor:	<u>Sen. Donley</u>	Component:	<u>All</u>
Requestor:	<u>Senate State Affairs</u>	COMPONENT SERIAL NO.:	<u>694-1884</u>

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS:	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTLA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY94) impact: \$ 0

POSITIONS:

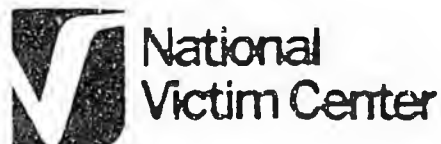
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By:	Diane Schenker <i>[Signature]</i>	Phone:	465-3315/561-4426
Division:	Office of the Commissioner	Date:	1/17/94
Approved by Commissioner:	J. Frank Prewitt, Jr. <i>[Signature]</i> (For)	Date:	1/18/94
Agency:	Department of Corrections		

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An advocacy and resource center founded in honor of Sunny von Bülow

OVERVIEW OF CRIME AND VICTIMIZATION IN AMERICA

GENERAL DATA

- About 34.7 million Americans age 12 or older were victims of crime in 1987. This is a 1.8% increase in overall crimes from 1986, the lowest level of crime since 1971. (Bureau of Justice Statistics, *Criminal Victimization in 1987*, NCJ-113587, October 1988)
- One violent crime occurred every 21 seconds in 1987. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Almost 6,000,000 of the crimes committed in 1987 were classified as violent. (Bureau of Justice Statistics, *Criminal Victimization 1987*, NCJ-113587, October 1988)
- One in four American households were touched by a crime of violence or theft in 1987, the same proportion as in the previous two years. (Bureau of Justice Statistics, *Households Touched by Crime, 1987*, NCJ-111240 May 1988)
- The *National Crime Survey* determined that an estimated 34.1 million crimes, including both completed and attempted offenses, were committed against individuals or households across the United States in 1986. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August 1988)
- Almost 5% of the nation's households had a member who was the victim of a violent crime in 1987. (Bureau of Justice Statistics, *Households Touched by Crime, 1987*, NCJ-111240, May 1988)
- Males were more often victimized by strangers than were females: 67% of violent crimes committed against males and 45% of violent crimes committed against females were committed by strangers. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August, 1988)
- Approximately a third of violent crimes involved the presence or use of a weapon. (Bureau of Justice Statistics, *Criminal Victimization in the United States, 1986*, NCJ-111456, August 1988)
- At current crime rates, an estimated five-sixths of U.S. citizens will be victims of attempted or completed violent crimes during their lifetimes. The risk is greater for males than females and for blacks than whites. (Bureau of Justice Statistics, *Report to the Nation on Crime and Justice, Second Edition*, NCJ-105506, March 1988)

DOMESTIC VIOLENCE

- Conservative estimates predict domestic violence affects more than 2.1 million women, four million children and one million older people each year. (Family Violence Project, San Francisco, California, *Safe at Home: Domestic Violence is Everyone's Business*)
- The most likely classification for incidents of domestic violence is simple assault, which is a misdemeanor in most jurisdictions. (American Bar Association *Journal. Violence in the Home*, May 1, 1987)
- In 1986, at least half of the domestic "simple assaults" actually involved bodily injury as serious or more serious than 90% of all rapes, robberies and aggravated assaults. (Bureau of Justice Statistics, *Preventing Domestic Violence Against Women*, NCJ-102037, August, 1986)
- Twenty to fifty percent of American couples have suffered violence regularly in their marriage. (National Institute of Mental Health, *Plain Talk About Wife Abuse*, July 29, 1987)
- In the *National Crime Survey*, seven out of ten incidents of domestic violence were committed by the woman's spouse, ex-spouse, boyfriend or ex-boyfriend. An estimated 52% of all incidents of domestic violence were reported to police. (Bureau of Justice Statistics, *BJS Data Report, 1987*, NCJ-110643, April 1988).

DRUNK DRIVING

- Every 22 minutes, one person dies in an alcohol-related auto crash. (National Highway Traffic Safety Administration, *Preliminary Estimates of 1987 Highway Safety Statistics, 1988*)
- Estimates of the economic costs of drunk driving range from \$11 billion (NHTSA, 1985) to \$24 billion (Allstate, 1982) each year. (Mothers Against Drunk Driving, *A Summary of Statistics Related to the National Drunk Driving Problem*, October 1988)
- In 1987, nearly nine 15- to 19-year-olds died each day in alcohol-related traffic crashes. (National Highway Traffic Safety Administration, *Preliminary Estimates of 1987 Highway Statistics, 1988*)
- Between 1970 and 1986 arrests for DWI increased nearly 223%, while the number of licensed drivers increased by 42%. (Bureau of Justice Statistics, *Drunk Driving*, NCJ-109945, February 1988)
- Nearly half of those in jail for DWI had previously been sentenced to probation, jail, or prison for DWI. (Bureau of Justice Statistics, *Drunk Driving*, NCJ-109945, February 1988)

HATE/VIOLENCE CRIMES (cont'd)

- The incidents of anti-gay violence rose 42% in 1987. A record 7,008 incidents, ranging from verbal abuse to slayings, were reported to the *National Gay and Lesbian Task Force*. Fifteen percent of all incidents reported in 1987 and five percent of the physical assaults involved verbal references to AIDS. (National Gay and Lesbian Task Force, *Anti-Gay Violence, Victimization & Defamation in 1987*)
- In January of 1988, five states required police to record and report incidents of racial, religious and ethnic violence. Three states had established procedures to collect data, although there was no data collection legislation. (National Institute Against Prejudice and Violence, *Forum* newsletter, Vol 3, No. 1, January 1988)

HOMICIDE

- In 1987, there was one murder every 26 seconds. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Criminal homicide is one of the 15 most frequent causes of death, and for the 15- to 34-year age group, it is second only to accidents as a cause of death. (Washington Criminal Justice Reports, *Crime Victims Digest*, Vol 5, No. 11, November 1988)
- At the current homicide rates, about one out of every 133 Americans will become a murder victim. For black males, the proportion is estimated to be one in 30. (Bureau of Justice Statistics, *Lifetime Likelihood of Victimization*, NCJ-104274, March 1987)
- In 1986, 95% of the black murder victims were slain by black offenders; 88% of the white murder victims were killed by white offenders; males were most often slain by males (83%); however, 9 out of every 10 female victims were murdered by males. (Federal Bureau of Investigation, *Uniform Crime Reports 1986*, JUS-432, Release date July 25, 1987)

SEXUAL ASSAULT

- Every six minutes during 1987, one American was forcibly raped. (Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States*, JUS-432, Release date July 10, 1988)
- Of the almost 125,000 rapes reported to the *Bureau of Justice Statistics* in 1987, 36.4% happened between 6:00 a.m. and 6:00 p.m. and 35.9% occurred between 6:00 p.m. and midnight. (Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics, 1987*, NCJ-111612)

LEGISLATION (cont'd)

- Forty-eight states now allow the use of victim impact statements.
- Seventeen states mandate court appearance for victims.
- Twenty-four states have plea bargain/consultation legislation.
- Forty-four states have victim/witness information statutes.
- Thirty-four states have notification of final disposition.
- Thirty-nine states have notification of the release of prisoners in felony cases.
- Forty-six states have victim compensation programs.
- Every state, including the District of Columbia, have some sort of restitution legislation, and 23 states have mandatory restitution legislation.

Source: *National Organization for Victim Assistance*, January 1988.

FOR FURTHER INFORMATION CONTACT:

National Victim Center
307 W. 7th Street, Suite 1001
Fort Worth, TX 76102
(817) 877-3355

U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, DC 20531

Bureau of Justice Statistics: (202) 724-7782
National Institute of Justice: (202) 724-2949
Office for Victims of Crime: (202) 724-6134

Federal Bureau of Investigation
Office of Public Affairs
10th and Pennsylvania Avenue
Washington, DC 20535
(202) 324-3000



CRIMESTRAKE

A Division of the National Rifle Association

Washington D.C. Office
1600 Rhode Island Ave., N.W.
Washington, D.C. 20036
(202) 828-6028
(202) 466-5385 FAX

STEVEN J. TWIST
DIRECTOR

Western Headquarters
Phelps Dodge Tower
2600 North Central Ave.
Suite 1750
Phoenix, Arizona 85004
(602) 266-6690
(602) 266-8390 FAX

December 7, 1993

Ms. Janice Lienhart
Victims for Justice
619 E. Fifth Avenue
Anchorage, Alaska 99501

Re: Alaska Victims' Rights Constitutional Amendment

Dear Janice:

I did not want the year to end without formally thanking you for your courtesy and hospitality during my recent visit in Alaska.

In the time intervening since my visit, I have continued to seek out information that may be helpful as we approach the legislative session early next year. I spoke today with Senator William Van Regenmorter in Michigan. He wrote and sponsored both the Michigan victims' rights statute and subsequently the Michigan victims' rights constitutional amendment. The Senator is sending me a booklet prepared after the passage of their law to explain victims' rights to citizens in Michigan. He also had some suggestions about how to approach certain sensitive issues.

Senator Van Regenmorter indicated that states opting for what he calls the "philosophical approach" (broad statements preserving and protecting the rights of victims to due process and fair treatment without specifying those rights) have found that they left too much discretion in the courts without sufficient direction regarding what those rights should be. He told me that in Michigan a victim's right to be present in the courtroom after he or she had testified was not adequately assured until a constitutional amendment was passed. Judicial power to control the courtroom preempted the victim's right to be present without reliance on any right of the defendant. It is therefore not simply a matter of defendants' rights defeating victims' rights.

I specifically asked about any legislative implementation language in their constitutional amendment. He said that his staff had researched the issue and felt that it was necessary. Without it, the Senator opined that the legislature would not be able to fully implement the victims' rights to provide for such things as enforcement, limitations, and means of implementation.

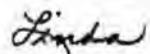
As for opposition to the proposed constitutional amendment, a Michigan taxpayer organization initially opposed the proposed constitutional amendment because they feared that prosecutors (and hence the state) could be liable to victims for violation of their rights. The resulting monetary damages would be paid out of the public coffers and place an additional burden on the taxpayer, hence their opposition. Senator Van Regenmorter indicated that as a result of this concern language was added restricting suits for monetary damages.

Finally, the Michigan victims' rights amendment was drafted to provide that an assessment against defendants could be ordered by the court to pay for the preservation and implementation of victims' rights. This provision was added to allow the state to shift the cost of implementation to the defendants. He cautioned however that the state needs to be prepared to meet this cost initially and not depend on revenues from defendants who frequently are indigent. Senator Van Regenmorter indicated that the it has cost the State of Michigan approximately \$1 1/2 million dollars to implement their constitutional amendment state wide, but in his opinion it is well worth the cost.

The Senator would be happy to answer any questions that we may have, or talk to any legislator that has questions. He is deeply committed to victims and victims rights and may be a valuable ally. His opinion as a Senator (and elected official) may be more persuasive to other Legislators since he understands the political implications of support for victims' rights.

Please keep me informed of the progress of your legislation. I am prepared to return to Alaska as needed to ensure our goal of passing a victims' rights constitutional amendment. Best regards to you and your sister, Sharon, for a safe and happy holiday season!

Sincerely,



Linda A. Akers
Deputy Director
CrimeStrike

SJR

3

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 15, 1993

SUBJECT: Terms of Legislators (SJR 3)
TO: Senator Loren Leman
FROM: Tamara Brandt Cook
Director TBC

Here is a sectional summary of SJR 3 as you requested.

Sec. 1. This amends the state constitution to provide that a person may not serve more than eight consecutive full calendar years as a member of the legislature and, after leaving office, may serve again only after 23 months.

Sec. 2. Despite the eight year restriction, if a person has served less than seven consecutive full calendar years on the day the person assumes office, the person may complete the term.

Sec. 3. Years served before the convening of the Nineteenth Session do not count towards the term limit.

Sec. 4. This directs a vote on the resolution in 1994.

Bearing in mind that the first and last year in office will consist of partial calendar years, usually a Representative would be able to serve four consecutive terms and a Senator would be able to serve 2 terms. With respect to a Senator who completes the last two years of this term during the Nineteenth Legislature, the language which allows legislators to complete a new term in office so long as they have not served more than seven consecutive full calendar years will allow the Senator to serve two full terms in the Senate after completing the current term. This provision may also come into play when a legislator is appointed to complete a partial term due to a vacancy in office and could have the effect of permitting the person to serve an additional full term depending upon when the appointment occurs. Lastly, the requirement that twenty-three months elapse before a member who has reached the limit may again serve will have the effect of forcing the member to sit out one two-year session.

TBC:mi
93-005.mai

SECTIONAL ANALYSIS

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SJR 3

Revision Date: _____
Title: Proposing amendments to the
Constitution....relating to terms of legislators.
Sponsor: Senator Leman
Requestor: Senate State Affairs

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Salaries and Allowances

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

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

Pamela A. Stoops

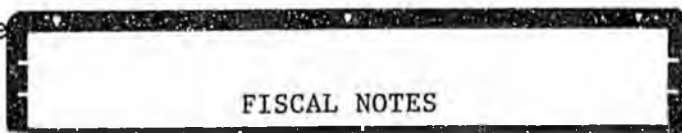
Phone: 465-3850
Date: 1/15/93

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

Warren W. Endicott

Date: 1/15/93

Distribution (by preparer): Le



, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 3

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE: terms of legislators

BRU: Division of Elections

Sponsor: Senators Leman, Kelly, Frank, Donley

Component: General and Primary Elections

Requestor: _____

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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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 3

Revision Date: January 14, 1993
Title: "...amendment to the Constitution... relating to terms of legislators."
Sponsor: Senator Leman
Requestor: Senate State Affairs

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

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

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

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

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

Estimate of current year (FY93) impact _____

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: January 14, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: January 14, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 3

ANALYSIS (Continued):

Senate Joint Resolution No. 3 proposes an amendment to the state's constitution that would provide that a person may not serve more than eight consecutive calendar years as a member of the legislature. After that period, the person may not again serve as a member of the legislature until twenty-three months after the member leaves office. This is a matter involving a separate, co-equal branch of government, and it will not have a fiscal impact on the Department of Law.



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

SPONSOR STATEMENT

BY: Senator Loren Leman
SUBJECT: SJR 3: Limiting Legislative Terms to Eight Years
DATE: January 20, 1993

SJR 3 proposes a constitutional amendment to limit the length of legislative service to eight consecutive years. It allows a return to office after a minimum two-year break in service.

Limiting terms of office is a popular movement across the United States. In 1990, Oklahoma, California, and Colorado constitutional amendments reached the ballot through the initiative process. All three of these initiatives passed. In 1992, 14 additional states limited the terms of legislators.

Professional political life is inconsistent with good representative government. The basic premise behind a democratic republic is that of citizen legislators serving for a limited period of time to represent their fellow citizens, then returning to live among them. The longer they are apart from that community, the more remote they become.

In my own January 1992 legislative questionnaire, more than 70 percent of the respondents indicated their support for this proposal. On November 6, 1990, 75 percent of Anchorage voters supported amendments to the Municipal Charter limiting terms on the Anchorage Assembly and School Board. Our consideration of this issue is very timely.

SPONSOR STATEMENT

The advantages to adopting a limit on legislative terms are several. They include:

- * Opening the opportunity for service to more people - with an emphasis on a "citizen" rather than "career" legislature.
- * Diminishing the advantages of incumbency and seniority. Merit will play a larger role in legislative power.
- * Helping to equalize influence of districts and their citizens
- * Making the legislature more responsible and accountable for its actions.
- * Enhancing legislative turnover with improved influx of new people and new ideas.
- * Reducing cynicism that many people feel toward government by making the Legislature more representative of a broad cross-section of Alaska.

There are, of course, detractors. The primary reasons they offer are that institutional memory will be lost, voters should not be limited in their decision of who represents them, and the influence of the bureaucracy will increase. I believe that if these are indeed disadvantages, the benefits of limiting terms far outweigh them.

My proposal for an eight-year limit with a two-year break and the potential for a continuation of service is a compromise between the more aggressive proposals to limit service to six years with possibility for return and those that limit service to 12 years or place no limits at all. Further, the limits imposed by SJR 3 will not apply to service before 1995.

The advantages of incumbency are considerable. While others approach "leveling the playing field" by restricting contributions and one's ability to earn a living outside the legislature, I believe that this proposal, especially when coupled with two of my other proposals contained in SJR 4, and SJR 5 will do far more to improve the conduct of the Legislature, its responsiveness, and our image in the Alaskan community.

Passing this resolution will be a big step in the right direction toward improving our conduct and restoring confidence in our Legislature.

Thank you.

	State-By-State Term Limits			
State	U.S. Senators	U.S. Congress	State Senators	State Reps
Arizona	12 years	6 years	8 years	8 years
Arkansas	12 years	6 years	8 years	6 years
California	12 years	6 years	8 years	6 years
Colorado	12 years	12 years	8 years	8 years
Florida	8 years	8 years	8 years	8 years
Michigan	12 years	6 years	8 years	6 years
Missouri	12 years	8 years	8 years	8 years
Montana	12 years	6 years	8 years	6 years
Nebraska	12 years	8 years	8 years	4 years
North Dakota	12 years	12 years	none	none
Ohio	12 years	8 years	8 years	8 years
Oklahoma	none	none	12 years total in both houses	
Oregon	12 years	6 years	8 years	6 years
South Dakota	12 years	12 years	8 years	8 years
Washington	12 years	6 years	8 years	6 years
Wyoming	12 years	6 years	12 years	6 years
Prepared by Senate State Affairs Committee Staff--January 1993				

SJR

4



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

SPONSOR STATEMENT

BY: Senator Loren Leman
SUBJECT: SJR 4: Limiting Session Length to 90 Days
DATE: January 20, 1993

SJR 4 proposes a constitutional amendment to reduce the length of the regular session from the existing 121 days to 90 days. I believe that the work of the Legislature, if organized properly, can be completed well within this revised limit.

The benefits to reducing the session length are substantial.

First, legislative service will be possible for more people. Most people who own a business or work a job for a salary have substantial difficulty in taking the time necessary to serve as a legislator. Reducing the session length by one month will make it possible for more people to serve. This I believe will be a big step in the right direction toward improving representative government.

Second, it will save us money. At \$50,000 per day to operate the Legislature, a 31-day reduction will save the State \$1.55 million.

Third, it will make it easier for others to do business with us. Traveling to Juneau and communicating with us is expensive. The more concentrated we make our legislative session, the easier it is for others who are interested in participating in the legislative process.

Opponents of a reduction in the session length argue that this will just place more power in the hands of the Administration. I heartily disagree. The Legislature still has control of the State's purse strings via the budgeting process. Additionally, we as legislators still have authority and responsibility even when we are not in session. That will continue.

Shortening the session length will force us to establish a work plan for completing our work within the 90-day limit.

I believe that passage of this resolution and voter approval of the constitutional amendment will help make the Legislature a more responsive, representative and open institution.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 15, 1993

SUBJECT: Duration of a Regular Session (SJR 4)

TO: Senator Loren Leman

FROM: Tamara Brandt Cook
Director

TBC

Here is the sectional summary of SJR 4 you requested.

Sec. 1. A regular session of the legislature is limited to ninety consecutive calendar days, excluding any extension. Currently, a regular session may not exceed 121 consecutive calendar days, excluding any extension.

Sec. 2. The proposed constitutional amendment is to be presented to the voters in 1994. If adopted, it would apply to the Nineteenth Legislature.

TBC:gc
93-029.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SJR 4

Revision Date: _____
Title: Proposing an amendment to the
Constitution...duration of a regular session.
Sponsor: Senator Leman
Requestor: Senator Leman

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		<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>
TOTAL OPERATING	0	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>

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

GENERAL FUND	0	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>

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)

SJR 4 reduces the length of the legislative session from a 120 day limit to a 90 day limit. The estimated daily cost of the session is \$50,000 a day. If the session is reduced by 30 days, a savings of \$1,500,000 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

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 4

Revision Date: January 14, 1993
Title: "Proposing an amendment...relating to
the duration of a regular session."
Sponsor: Senator Leman
Requestor: Senate State Affairs

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

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

CAPITAL						
---------	--	--	--	--	--	--

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

FUNDING:

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

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

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)
SJR 4 proposes an amendment to the state's constitution that would reduce the duration of a regular session of the Legislature from one hundred and twenty to ninety days. This is a matter involving a separate co-equal branch of government, and it will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: January 14, 1993
Date: January 14, 1993

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1989 LEGISLATIVE SESSION DATES

	Scheduled to Convene	Time Limit (Days)	
		Regular Session	Special Session
Alabama	Feb. 7	30	12
Alaska	Jan. 9	121 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.

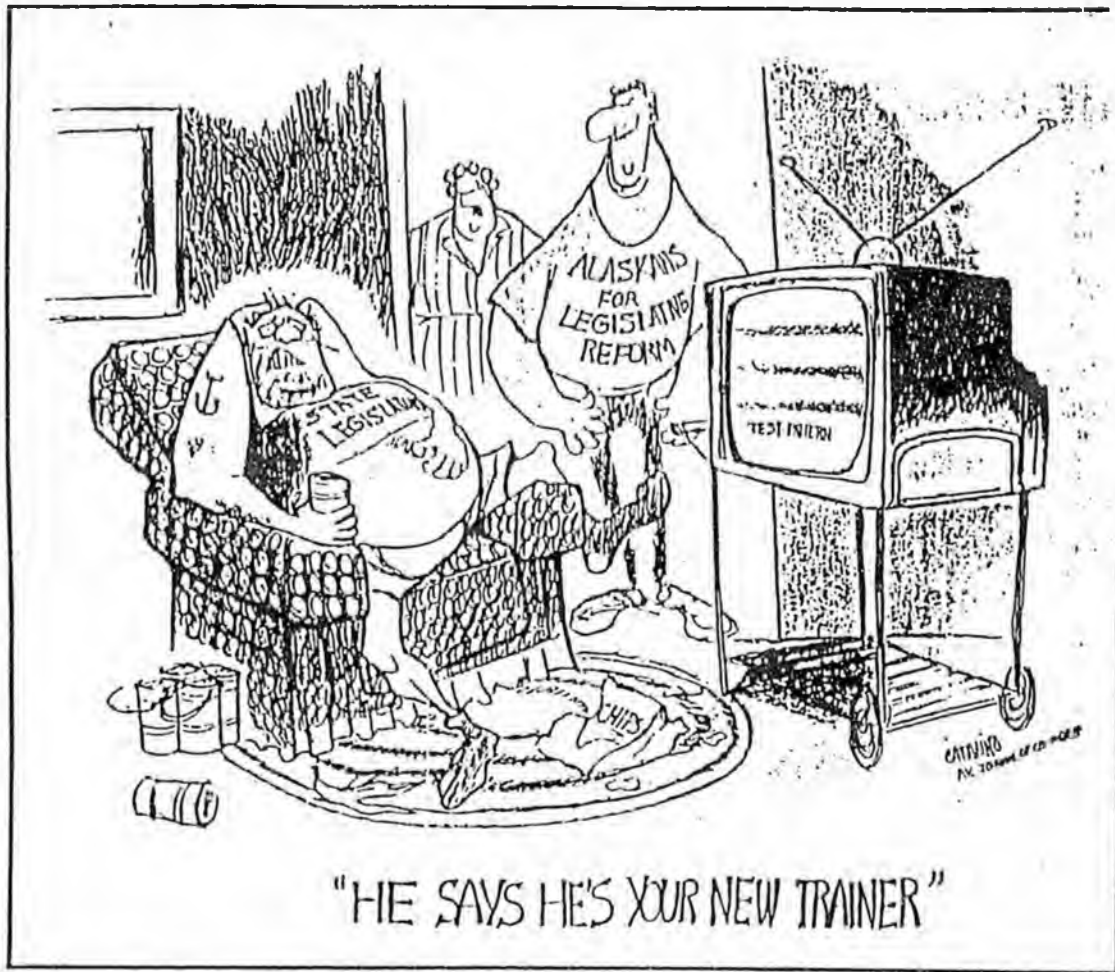
(d) 60 legislative days within 85 calendar days.

(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.



"HE SAYS HE'S YOUR NEW TRAINER"

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 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 dominant occupation of members of the legislature not be that of "legislator," but that legislative bodies represent a broad spectrum of occupations. 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).

THE GOVERNOR'S MESSAGE

Refocusing priorities

THE ANNUAL showdown over the state budget is a mundane affair compared to the list of assignments that Gov. Walter Hickel has in mind.

In his State of the State address last night, the governor announced he is declaring war on the federal government and is dispatching his attorney general to do battle in court.

Like David being sent after Goliath, Attorney General Charles Cole has been directed by the governor to prepare and file a series of landmark lawsuits. Among the objectives of the legal challenges are adequate access to all state land holdings, compensation for royalties lost when federal lands were locked up in wilderness, an end to the oil export ban, and reaffirmation of the state's authority to regulate fishing in all navigable waters in and off Alaska.

While the attorney general and his staff are keeping busy in court, other departments are going to find their hands full as well. Mr. Hickel is counting on his subsistence advisory council to complete work on a solution for the subsistence issue to enable him to present a proposal to the Legislature in the near future.

HE ALSO intends to make the gas pipeline project become a reality; put an end to the waste of fish resources off Alaska shores; continue work on road access, including the road to Cordova; promote resource development on state owned lands; open ANWR; introduce a tough new crime bill; complete the Mental Health Trust settlement; and stimulate the economy to create new jobs in the state.

An ambitious agenda if ever there was one.

And while his list has more than enough challenges to keep his executive staff busy for many days to come, the governor had a special assignment for the Legislature that also could keep lawmakers tied up for a while.

Gov. Hickel repeated his challenge to the Legislature to place on the this year's ballot a constitutional amendment to limit legislative sessions to 75 days and consecutive terms of legislators to eight years.

Getting the legislative reform proposal on the ballot probably will be a greater challenge than winning all the court battles with the federal government.

THE GOVERNOR'S message to Alaska, after one year in office, was pragmatic and necessary.

He acknowledged that he is putting people atop his list of priorities. Health care, education, combating crime — are among those priorities. So, too, are jobs.

The governor recognizes that this state is entering a period of economic uncertainty and that it is essential for Alaskans to work together to prepare for that future. His message last night is he intends to provide the necessary leadership.

ALASKAN OWNED AND OPERATED SINCE 1915

SHORTENING THE LEGISLATURE

Put lid on at 75 days

WHEN 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

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 tugs-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?

SJR

5

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY

STATE OF ALASKA

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

130 Seward Street, Suite 409

Juneau, Alaska 99801-2105

MEMORANDUM

January 15, 1993

SUBJECT: Legislative Action (SJR 5)

TO: Senator Loren Leman

FROM: Tamara Brandt Cook
Director

TBC

Here is the sectional summary you requested for SJR 5.

Sec. 1. Adds to the enactment requirements for bills that they be referred to at least one committee and be reported back from that committee. Requires every bill or resolution referred to a committee to be considered by that committee at a public hearing. A motion to report out the measure is always in order. Each measure reported out by the last committee is required to be calendared and considered by the house. Measures are to be calendared in the order they are reported out. A measure that is adopted in violation of these requirement is void.

No legislator may be committed to vote in favor of or against any matter coming before the body, except that a legislator may vote in caucus on matters relating to selection of caucus officers or organization of the legislature. Action taken in violation of this requirement is void.

Sec. 2. These constitutional amendments will be presented to the voters in 1994 and if approved, will apply to the Nineteenth Legislature.

TBC:gc
93-032.glc

FISCAL NOTE

BILL NO. SJR 5

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: Amendment to the Constitution RE: legislative action on bills and resolutions and legislative caucuses
 Sponsor: Senator Leman
 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 *J. B. Coghill*
 Agency: Office of the Lt. Governor Date: 1/15/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 5

Revision Date: January 15, 1993
Title: "Proposing amendments to the Constitution...relating to legislative action on bills..."
Sponsor: Senator Leman
Requestor: Senate State Affairs

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

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

CAPITAL						
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REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

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

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: January 15, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: January 15, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SJR 5

ANALYSIS (Continued):

Senate Joint Resolution No. 5 would place a proposal before the voters at the next general election to amend the Constitution of the State of Alaska, which would provide constitutional limits on the legislative process for the referral and action on bills and resolutions, and limiting the powers of legislative caucuses. This is a matter involving the operations of a separate co-equal branch of government, and it will not have a fiscal impact on the Department of Law.



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senator Loren Leman

DATE: January 20, 1993

SUBJECT: LAA Fiscal Note for SJR 5 -- Legislative Action on Bills and Resolutions and Legislative Caucuses

I disagree with the costs proposed by LAA's attached fiscal note.

Colorado's electorate passed a similar amendment on its 1988 ballot. Before this amendment, Colorado's Legislative Council assigned one non-partisan staff to each of nine committees in the House and Senate -- no additional staff were required.

After the amendment became law, staffing numbers did not change. Colorado's Legislative Council continues to assign one staff person to each committee. David Hite, director of Colorado's Legislative Council personnel office reports the net effect of the amendment is that legislators spend more time in committees. Mr Hite stated that this additional work is not considered odious by the Legislators.

Alaska's unique geographic challenges necessitate use of teleconferenced hearings. SJR 5 may require additional hearings, but the LAA estimate is high.

Every bill will be heard, but bills with little public support will not be heard extensively. Under the proposed amendment, bills of merit, even though introduced by minority members, will have an opportunity for exposure and advancement.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SJR 5

Revision Date: _____
Title: Proposing amendments to the
Constitution...legislative action on bills and resolutions...
Sponsor: Senator Leman
Requestor: Senate State Affairs

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Session Expenses and
Public Services

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES		65.9	65.9	65.9	65.9	65.9
TRAVEL						
CONTRACTUAL		25.0	25.0	25.0	25.0	25.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	90.9	90.9	90.9	90.9	90.9

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

GENERAL FUND	0	90.9	90.9	90.9	90.9	90.9
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	90.9	90.9	90.9	90.9	90.9

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	4	4	4	4	4
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary) SJR 5 proposes amendments to the Constitution relating to legislative action on bills, resolutions & legislative caucuses. Every bill or resolution referred to a committee shall be considered by the committee at a public hearing held within appropriate deadlines established by the Legislature. It is estimated there would be additional committee staff needed to prepare the bills or resolutions for a public hearing. This could also include an increase in the number of teleconferences held each session. Estimated increase in staff are 4 session secretarial positions for the committees of 1st referral. Additional contractual funds are requested for the increase in communication costs for teleconferenced public hearings.

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

Pamela A. Stoops

Phone: 465-3850
Date: 1/19/93

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

Warren W. Endicott

Date: 1/19/93

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



SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

SPONSOR STATEMENT

BY: Senator Loren Leman

SUBJECT: SJR 5 -- Committee Action on Bills and Restriction on Binding Caucus Votes

DATE: January 20, 1993

SJR 5 contains proposals for constitutional amendments that will help make the Legislature a more responsive, representative and open institution.

The resolution will result in:

- * a hearing and recorded vote for every bill introduced to the Legislature;
- * calendaring of bills by the Rules Committee in the order received from committee; and
- * outlaw of binding caucus votes, except for organizational votes.

The benefit of this resolution are several. Confusing and unnecessary "wheeling and dealing" will be removed from the process. The power of committees chairs will be reduced, providing committee members more control over legislation. A single legislator would no longer be able to thwart the will of the majority.

Colorado adopted a similar bill in 1988. In December 1989, I spoke with the Colorado Senate President, who said that the new system was working very well.

Former Governor Hammond acknowledges the excessive power held by committee chairs. He recommends a secret ballot discharge of bills from committee.

We should conduct ourselves in a manner that fosters high regard from Alaskans for our institution and its policies. I believe this resolution is a step in the right direction.

Committee system subverts majority will idea

Confused by legislative logistics? Frustrated by political patty cake? Outraged by special interest influence? Dismayed over closed door "caucuses?" Welcome aboard.

So you thought that a one-man, one-vote democratic process determined the fate of the state? Forget it. Under rules and protocols now prevailing, one legislator can completely frustrate the will of 59 others and the governor.

Over the years I've witnessed innumerable occasions where a committee chairman singlehandedly killed a bill or held it hostage until some special legislation of his own was passed by protesting colleagues who, at long last, caved in. This practice has cost Alaska untold millions and added weeks to legislative sessions.

This year a host of bills, rather than falling through the cracks, fell into the clutches of committee chairmen who opposed their passage.

Examples: Though a rough assessment shows that almost



Jay Hammond
bushrat/lings

80 percent of all Alaskans favor retention of mandatory car insurance, a committee chairman killed it.

Though a majority of legislators at least gave lip service to retention of the Women's Commission, a committee chairman refused to turn loose the bill which would have eclipsed its "sunsetting." Another committee chairman refused to permit colleagues to even vote on whether you should get to vote on legislative proposals which would raid the permanent fund.

Because of this most undemocratic process, which not

only completely frustrates majority will but permits politicians to cut and weave in such a way as to deny you knowledge of where they really stand, legislators are likely to once more find themselves back in special sessions to deal with such matters as municipal assistance and how to pay for it.

When is the press and public going to learn that their crusading for open meetings and full disclosure will accomplish almost nothing until legislative rules permit majority will to dominate?

The problem lies with the sacrosanct committee system. Currently it is almost unthinkable for a member of the majority to vote to extract bills from committee. As a consequence, minority motions to do so are mere ploys designed to establish a phony voting "record" proving that members who fail to vote for extraction oppose motherhood and favor sin.

The fact that the bill in question might have been sponsored by the "no" voting

member provides additional evidence that said member is conniving or insincere. It's unfair. It's deceptive. Unfortunately, it's also most effective.

The reason majority members will not vote openly for extraction is, of course, that they are well aware of retribution an affronted committee chairman will inflict on their bills should they fall into his clutches. Moreover, in order to retain one's own arbitrary powers (which of course, would never be abused) it's necessary to indulge them in others who might entertain far less noble motives.

To my knowledge, I am the only member of the majority who successfully moved to extract a bill from committee. The results were wondrously cataclysmic and cathartic.

It was occasioned by the broken promise of a finance chairman to bring a bill to the floor by a time certain. When this occurred, as majority leader I told him to have it out by 5 the next afternoon or

I would make the discharge motion.

Assuming I was bluffing, he did not comply. I made my motion. The finance chairman immediately called a caucus. We filed out to await his explanation. When it became apparent he had fled the building and was hiding out along with some committee members, I called the House and troopers forcibly hauled them back.

My discharge motion passed and a new finance committee was appointed. The session shortly thereafter came to a merciful conclusion. One other time simply the threat to repeat the process moved the legislature off dead center.

There is a far simpler process which all who support legislative reform should demand their candidates commit to: Permit votes to discharge legislation from committee to be taken by secret ballot. Currently, by a show of three hands open votes are taken. Similarly, a

secret ballot voting should be permitted.

Years ago, as Rules chairman, I came within one vote of having a secret ballot adopted. Since then I have proposed it repeatedly. While many freshman legislators express interest, that interest wanes as they climb the ladder of seniority.

After all, it's pretty heady to singlehandedly dictate the fate of legislation which offends you (or your campaign contributors.)

If you really want to frustrate special interest dominance, if you really fear some legislators may be "bought," if you really suspect unsavory deals are cut behind closed doors, if you'd really like to know where your legislators stand, if you'd really like to see the legislature act more expeditiously, demand that any candidate seeking your endorsement support the secret ballot discharge process.

□ Jay Hammond served as governor of Alaska from 1974-1982.

Colorado Citizens Rewrite Legislative Rules

The Colorado General Assembly operated this year under new rules that didn't have as much effect as either proponents or opponents had predicted.

Fred Brown

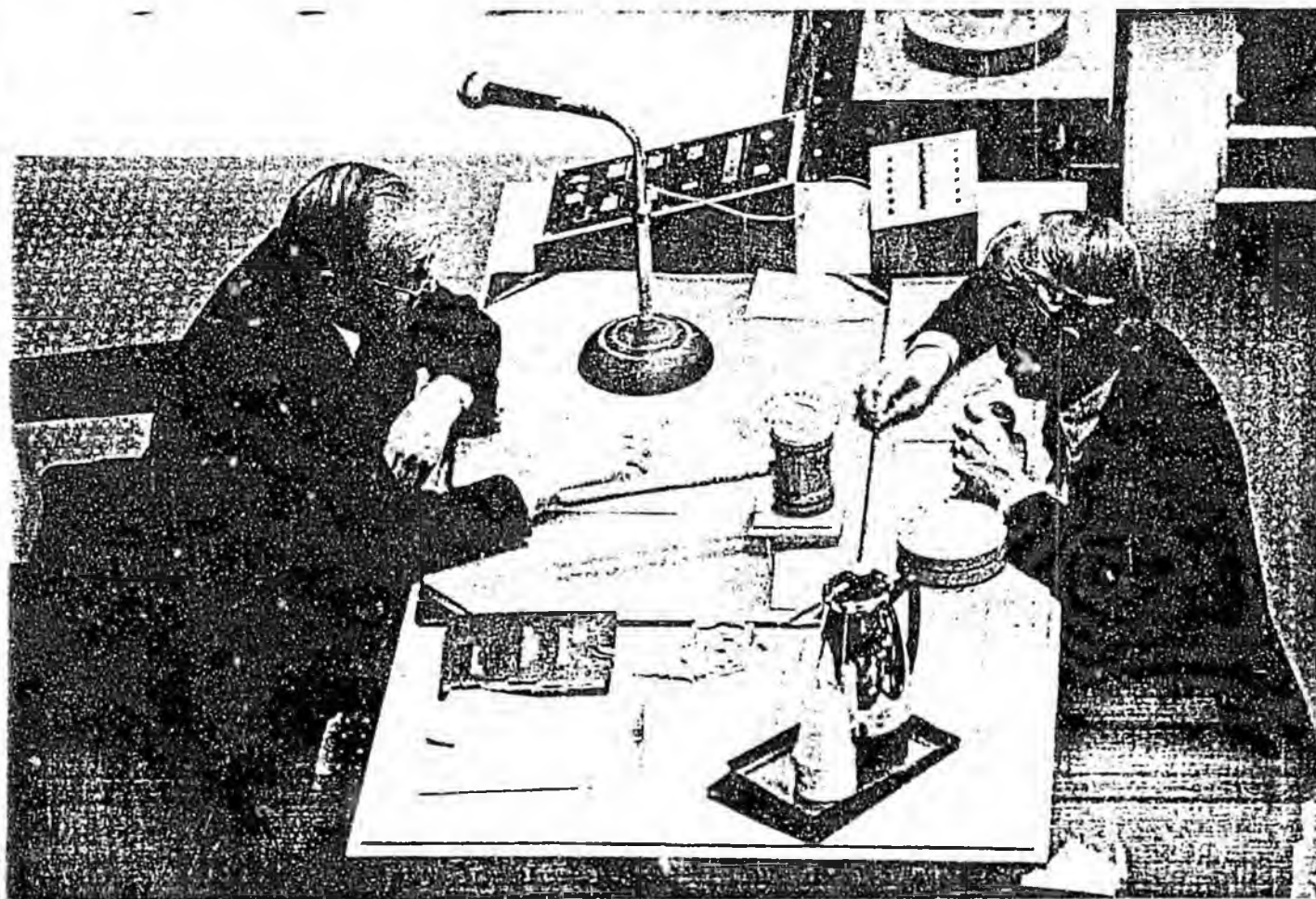
Colorado voters once again have changed the rules for their state legis-

lature. As they did in 1972, when they approved one of the nation's first sunshine laws, the state's independent-minded electorate has insisted that pub-

lic business should be conducted fully in the open.

The 1988 amendment to the constitution is called GAVEL, an acronym for Give A Vote to Every Legislator. It passed by an impressive 72 percent, sending a clear message to the General Assembly that the people wanted binding caucuses outlawed and every bill heard. It's not that Coloradans are particularly unhappy with their lawmakers;

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Speaker Carl "Bev" Bledsoe, left, confers with Representative Paul Schauer.