

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

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U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

Region X
Alaska, Idaho, Oregon
Washington

3140 Jackson Federal Building
915 Second Avenue,
Seattle, Washington 98174

March 21, 1995

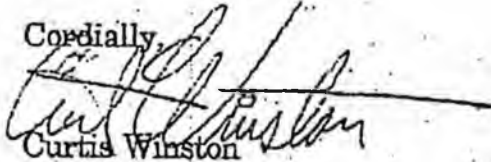
Honorable Joseph Green
Alaska State Legislature
State Capitol
P.O. Box V
Juneau, Ak. 99811

Dear Representative Green:

I would like to express my gratitude and complete support for your commitment to traffic safety, particularly Graduated Driver License System for Alaska's youth. Your legislative package is well thought out and timely. I am confident that when passed, it will have very positive results in Alaska.

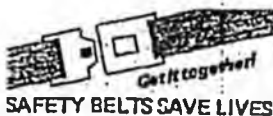
Enclosed is some information compiled by NHTSA for perusal of all concerned. It is encouraging to know that traffic safety is a high priority with you. Please include us as enthusiastic supporters and partners, and allow us to help in any way we can.

Cordially,



Curtis Winston

Regional Administrator



FACT SHEET

April 1994

STATE LEGISLATIVE

Graduated Driver Licensing System

The United States Department of Transportation's National Highway Traffic Safety Administration (NHTSA) believes that state graduated driver licensing systems for young drivers can materially reduce crashes, injuries and deaths. A graduated driver licensing system is a multi-tiered program designed to ease young novice drivers into the driving environment. It is implemented through controlled exposure to progressively more difficult driving experiences or driver licensing stages, prior to full licensure.

Graduated/Provisional Driver's License Systems Work

Under this system, novice drivers are required to demonstrate responsible driving behavior (no convictions or crashes for a specified period) in each stage of licensing before advancing to the next level. For example, there may be a six-month learning stage and one-year intermediate stage prior to gaining full driving privileges. Currently, 13 states have multi-tiered or graduated driver licensing entry systems. They are: California, Colorado, Indiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, Oregon, Pennsylvania, Vermont, Utah, and West Virginia.

In 1977, NHTSA published a "model" entry level licensing program, Development of a Model System for Provisional (Graduated) Licensing of Novice Drivers: Final Report. The Maryland Department of Motor Vehicles then implemented and evaluated portions of a provisional licensing concept. Their program showed a five percent reduction in

crashes and a 10 percent reduction in traffic convictions for 16- and 17-year-old provisional licensed drivers.

California's provisional licensing program became operational on January 1, 1983. The California Department of Motor Vehicles reported, December 1988, that there is evidence that the provisional licensing system reduced the rate of crashes involving 15-17 year-old drivers by 5.3 percent. In 1991, the Oregon Motor Vehicle Division reported that their program reduced crashes 16 percent for male drivers under age 18 with provisional licenses. New Zealand implemented a graduated licensing system in 1987 and reported in 1992 that the program has had a continuous 8 percent crash reduction for drivers under age 25.

NHTSA, in cooperation with the American Association of Motor Vehicle Administrators (AAMVA), completed in 1989 the development of "An Improved Driver Entry System for Young Novice Drivers." It is part of the AAMVA/NHTSA "Guidelines for Motor Vehicle Administrators" series of publications. The purpose of this proposed graduated driver licensing system, based upon the NHTSA "model" entry system, is to ease young novice drivers, under more controlled conditions, into the driving environment. This is achieved by (1) increasing the amount of their behind-the-wheel driving practice, (2) increasing their exposure to progressively more difficult driving experiences, and (3) requiring novice drivers to earn their full driving privilege by demonstrating crash and conviction free driving performance prior to full licensure.

U.S.
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National
Highway
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Graduated vs. Provisional Licensing Programs

The terms "graduated" and "provisional" licenses have been used interchangeably in past years, but they are very different programs.

Provisional License: A provisional drivers license is issued to all drivers under a certain age, for example the age of 21 (or 18), and includes persons operating during the learning or intermediate licensing stages. At a minimum, the provisional license is distinctively different from a regular driver's license to facilitate enforcement of licensing and drinking age laws. The provisional licensee is subject to an illegal per se BAC level of zero percent and quicker driver improvement actions. All occupants of a motor vehicle being operated by them must occupy only seats designed for passengers and use available seat belts (i.e., no passengers riding in the cargo compartment of a pick-up truck).

Graduated Driver Licensing System: Based upon research and the experience of the States, a graduated driver licensing system has at least three stages: learner stage; intermediate stage(s), and full license stage. It includes some or all of the following features:

- (1) Successful completion of a basic driver education course and required a learner's permit for a specified period of behind-the-wheel training.
- (2) A second level driver education program (e.g., safe driving decision making skills) after the new drivers have acquired basic driving skills.
- (3) Require that a parent, or adult licensed driver age 25 or older, supervise basic driving practice and advance practice sessions during high risk (nighttime) hours.
- (4) Lower legal blood alcohol concentration (e.g., zero BAC) requirements for under age 21 drivers.
- (5) Nighttime driving restriction (e.g., no driving from 10:00 pm to 6:00 am) either as part of an intermediate licensing stage, or as a post-licensing driver improvement action.
- (6) More rapid driver youth-oriented improvement actions for accidents and violations.

- (7) Mandatory safety belt usage by all occupants and limitations on the number of passengers in a motor vehicle being operated by a teenager.
- (8) Demonstrated safe driving performance, i.e., having no crashes or convictions for a specified period of time prior to advancing to the next licensing stage (e.g. one year prior to full licensure).
- (9) Issue a provisional license to all drivers under the age of 21 that is distinctive from the regular driver's license (e.g. marked "PROVISIONAL," different colored photo background).
- (10) Require all suspended or revoked drivers being restored for traffic safety violations to be placed in a provisional driver's license program.

While many states are already implementing some features of the graduated/provisional licensing entry system, none is implementing a major portion of the features proposed. There is a need for States to review their novice driver programs in light of the California, Maryland, New Zealand and Oregon findings. We recommend that States seriously consider implementing a young driver graduated licensing system designed to ease young novice drivers into the driving environment. NHTSA and AAMVA can provide, at no cost to the states, technical planning and implementation assistance; also, limited financial assistance may be available to plan, implement and evaluate a state's program.

Key Facts

- In 1992, it was estimated that 40 percent of all deaths for people ages 15 to 20 (over 6,500), resulted from motor vehicle crashes.
- Young drivers represent 7 percent of the total driving population, but represent 14 percent of the drivers involved in fatal crashes.

- ❑ Young drivers are four times more likely to be in a crash than an adult, per mile driven.
- ❑ Few of the specific elements of a graduated or provisional licensing system have been documented to reduce crashes. However, the California, Maryland, New Zealand, and Oregon systems reduced the rate of crashes involving 15-17 year-old drivers.
- ❑ The National Highway Traffic Safety Administration (NHTSA) is responsible for providing assistance to states, other government and public organizations to support efforts designed to promote improvement of traffic safety for the public.

Resources

NHTSA has established, through a grant to the American Association of Motor Vehicle Administrators (AA' IVA), funds to support a cadre of experts to assist states, without cost, interested in aspects of a graduated licensing system. These persons can provide expert testimony and technical planning, implementation and evaluation assistance. Should you desire additional information or assistance, contact your Governor's Representative for Highway Safety; the appropriate NHTSA Regional or National Office, or AAMVA Regional and Headquarter's staff.

Model Graduated Licensing System*

| <i>Leamer Stage*</i> | <i>Intermediate Stage</i> | <i>Full Licensure</i> |
|--|--|---------------------------------------|
| ✓ Pass Knowledge I & Vision Tests | ✓ Pass Skills I Test | ✓ Provisional License* |
| ✓ Take Basic Driver Education | ✓ Compete Basic Driver Education | ✓ Clean Driver Record |
| ✓ Restricted Driving Parent/Driver Education Supervision | ✓ Take Advanced Driver Education | ✓ Complete Advanced Driver Education |
| ✓ Parent I Activity | ✓ Nighttime Restriction** Supervisor Age 25+ | ✓ Pass Knowledge II & Skills II Tests |
| ✓ No Passengers | ✓ Parent II Activity | ✓ Parent Certification |
| ✓ Speed/Road Limits | ✓ Limited Passengers | |
| | ✓ Clean Driver Record | |
| | ✓ Speed/Road Limits | |

* A Provisional Driver's License is issued to all drivers under age 21, to problem drivers reaching a certain negligent point threshold, and/or to problem drivers being reinstated after license suspension/revocation actions, regardless of age. Such license would be subject to the following conditions:

- Distinctively different from other driver licenses
- Illegal per se 0.0 BAC level
- Mandatory seat belts for all occupants
- Quick driver improvement actions
- Clean Driving record for one year
- Nighttime restriction**

Also, a Provisional Driver's License would be issued to problem drivers reaching a certain negligent point threshold and to problem drivers, regardless of age, being reinstated after a driver improvement suspension/revocation actions.

** Nighttime restriction can be a condition of the intermediate phase and/or as a condition of the provisional license issued as a post licensing driver improvement activity problem for drivers who have demonstrated irresponsible driving performance.

Resources (con't)

*National Association of
Governors' Highway Safety Representatives*
750 First Street, N.E., Suite 720
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Nancy Bullen-Administrative Assistant, Driver
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400 Seventh Street, S.W.
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Jery Tannahill (NTS-24)
202-366-2748 [Fax 202-366-2760]

Additional Sources of Information

*Copies of the following material are available
upon request:*

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GRADUATED DRIVER LICENSING SYSTEM QUESTIONS AND ANSWERS

This paper provides basic information about graduated driver licensing for young novice drivers. While many states have driver licensing programs which have features prescribed for a graduated licensing system, none have adopted a major portion of these features. We hope the following information will assist you in the consideration of legislation for a graduated driver licensing system and/or adoption of its various features.

1. What is a graduated driver licensing system?

A graduated driver licensing system is a multi-tiered program designed to ease young novice drivers into the driving environment through controlled exposure to progressively more difficult driving experiences or driver licensing stages, prior to full licensure. Under this system, novice drivers are required to demonstrate responsible driving behavior (no convictions or crashes for a specified period) in each stage of licensing before advancing to the next. For example, a 6 months learning stage and one year for the intermediate stage prior to gaining their full driving privilege.

2. Why a graduated driver licensing system?

Teenage drivers are over represented in traffic crashes, in fact they are twice as likely to be in a fatal crash as the average driver. The graduated driver licensing system addresses the driving problems attributed to this group by traffic safety experts: (1) driving inexperience and lack of adequate driving skills; (2) excessive driving during high risk hours, especially nighttime; (3) risk-taking; and (4) poor driving judgment and decision making. It is believed that considerable driving experience is required before young drivers achieve dependable driving know-how, skill, and judgement.

3. What is the purpose of a graduated driver licensing system?

The purpose of a graduated driver license system is to ease young novice drivers, under controlled conditions, into the driving environment by (1) increasing the amount of their behind-the-wheel driving practice, (2) increasing their exposure to progressively more difficult driving experiences, and (3) requiring them to earn full driving privileges by demonstrating crash and conviction free driving performance.

-2-

4. What evidence is there to indicate that a graduated driver licensing system will reduce young driver crashes?

In 1987 New Zealand implemented a graduated licensing system and reported in 1992 that the program continues an 8 percent crash reduction for drivers (drivers under age 25) in the program has resulted. The Maryland Department of Motor Vehicles implemented in 1979, and evaluated portions of the graduated licensing concept. The Maryland program showed a five percent reduction in crashes and a 10 percent reduction in traffic convictions for 16 and 17 year old provisional licensed drivers.

The California Department of Motor Vehicles reported, in December 1988, that there is evidence their provisional licensing system, implemented January 1, 1983, reduced by 5.3 percent the rate of crashes involving 15-17 year-old drivers. In 1991, the Oregon Motor Vehicle Division reported that their Provisional Licensing Program implemented in 1989 reduced crashes 16 percent for male drivers 16 and 17 years old with provisional licenses.

5. What are the features of a graduated licensing system?

Based upon research and the experience of the States a graduated driver licensing system is a multi-staged licensing system (learner stage, intermediate stage(s), and full License stage) which includes some or all of the following features:

- (1) Successful completion of a basic driver education course and require a Learner's Permit for a specified period of behind-the-wheel training.
- (2) A second level driver education program (e.g., safe driving decision making skills) after the new drivers have acquired basic skills.
- (3) Require that a parent, or adult licensed driver age 25 or older, supervise basic driving practice and advance practice sessions during high risk (nighttime) hours.
- (4) Lower legal blood alcohol concentration (e.g. zero BAC) requirements for under age 21 drivers?
- (5) Nighttime driving restriction (e.g. no driving from 10:00 pm to 6:00 am) either as apart of an intermediate licensing stage, or as a post-licensing driver improvement action.
- (6) Youth-oriented and more rapid driver improvement actions for accidents and violations.

-3-

- (7) Mandatory safety belt usage by all occupants and limitations on the number of passengers in a motor vehicle being operated by a teenager.
- (8) Demonstrated safe driving performance, i.e., having no crashes or convictions for a specified period of time prior to advancing to the next licensing stage (e.g. one year prior to full licensure).
- (9) Issue a provisional license to bridge the gap between a learner's permit and full licensure all drivers under the age of 21 which is distinctive from the regular driver's license (e.g. Marked "PROVISIONAL," different colored photo background).
- (10) Require all suspended or revoked drivers being restored for traffic safety violations to be placed in a provisional driver's license program (see Q&A No. 7 below).

6. What is a provisional driver's license?

A provisional drivers license is issued to all drivers under the age of 21 (or 18) and includes persons operating during the learning or intermediate licensing stages. It is distinctively different from a regular driver's license to facilitate enforcement of licensing and drinking laws and the driver would be subject to an illegal per se BAC level of zero percent and quicker driver improvement actions. All occupants of a motor vehicle being operated by a provisional licensed driver must occupy seats designed for and use available seat belts (i.e., no passengers riding in the cargo compartment of a pick-up truck).

7. What is a provisional driver's license program?

This is a new proposal taken from an early draft of the High Risk Driver Act of 1993 and provides "that any driver whose driving privilege has been restored after license suspension or revocation resulting from a traffic safety violation shall be required to enter the provisional license program and 1) successfully complete, no at-fault accidents nor convictions, a period of not less than one year (supervised nighttime driving practice, a night driving restriction between the hours of 12:00 p.m. and 6:00 a.m., unless supervised by an adult at least 25 years of age with a clean driving record), 2) subject to immediate suspension upon conviction of any moving traffic violation, and 3) deemed to be driving while intoxicated with a blood alcohol concentration of .02 percent or greater. A waiver may be granted by appropriate state authority for applicants to drive during the nighttime restricted period for purposes of work or school."

3/12/95

Dear Legislators,

The Legislative meeting in Anchorage was well attended my many local residence as well as constituents from outside of Anchorage. Thank you to the legislatures who attended and to those that followed the meeting via telecommunications.

All of those involved had important and urgent interests. The ongoing subsistence issue drew many testimonies. There is a big difference from past input on the points raised by subsistence input and now. We now have the hands on experience to see the exact direction (exclusion of Anchorage, Fairbanks, Juneau and Ketchikan and highway areas in between) of Federal and State legislation on subsistence.

Mr. Wayne Ross testified to the unconstitutional point of State and Federal law. Mr. Patrick Wright, as co-chairman of the Anchorage Advisory Board, Fish and Game, testified to how proud he was to be able to participate in a democratic process of seasons and bag limits but yet see the whole process undermined by the preference and tier II for subsistence. Mr. Al Franzmann, who flew up from Soldotna Saturday morning, testified from his experience on the Alaska Game Board how good sound management has been removed from the boards, by the agencies (A.G. office and Fish and Game Department, Subsistence Section) who's priority should be enhancing fish and game for all residents on a equal basis. I testified how Alaska residents, members of the Southcentral Area Subsistence Board, appointed by the Federal Government, ARE AWARE that they are breaking the constitution of Alaska and ignoring the McDowell I case which prohibits a subsistence priority based on residency. We have Alaska citizens on advisory boards as well as Fish and Game Boards that are proposing and passing regulations (Tier II) against their neighbors. ITS TIME TO BRING THIS TO AN END!

The following pages include:

1. Kenai Peninsula Subsistence.
2. Article from the Anchorage News on how are courts are jammed with Tier II problems, and confusion on Tier II.
3. Proposals from Alaska Board Of Game Spring Game Packet March 18 - 31, 1995 Fairbanks, for easier apprehension to jam our courts more.
4. Repeal 1986 Subsistence Law.

Please join in the repeal of the 1986 State Subsistence Law. Our citizens deserve better. A response would be appreciated.

William E. Olson
5961 ORTH CIRCLE
Anchorage, Alaska
99516

Anchorage Daily News

VOL. 1, NO. 01 70 PAGES

ANCHORAGE, ALASKA, THURSDAY, MARCH 2, 1995

PRICE 50 CENTS

Kenai towns may get subsistence rights

Panel's recommendation could limit sport hunting on Peninsula's federal lands

By TOM KIZZIA
Daily News reporter

A handful of rural communities would get subsistence hunting privileges on federal lands on the Kenai Peninsula under a recommendation made Wednesday by an important federal panel.

The decision brings to Anchorage's doorstep the subsistence controversy

splitting federal law against the state's constitution, and it sets the stage for the first major change in Alaska's hunting rules since the U.S. Interior Department took control of game animals on federal lands in 1990.

If the Federal Subsistence Board adopts the recommendation this spring, it could lead to subsistence

seasons on the Kenai Peninsula and new limits on sport hunting for moose and caribou, officials say. It could also lead to federal management of the Peninsula's coveted salmon runs and new subsistence fisheries.

The proposal by the federal subsistence regional advisory council would provide subsistence hunt-

ing rights to residents of seven Peninsula communities, including Hope, Whittier, Cooper Landing and Ninilchik. Depending on how biologists interpret the requirement, that could mean special subsistence seasons on the Kenai National Wildlife Refuge and the Chugach National Forest — federal lands where most of the Peninsula's

moose and caribou are hunted.

"I hate to see these things come up that give one person rights over another just because of where they live," said Ed Krohn, chairman of a state Fish and Game advisory committee for Kenai and Soldotna. "They've got the same access to Fred Meyer as anybody else."

The state lost a lawsuit last year that tried to block just this kind of federal game management. Gov. Tony Knowles' decision in January to drop an appeal of that court decision has subjected him to intense criticism from Republican lawmakers.

Please see Back Page,
SUBSISTENCE

Sneaker's

THE BACK PAGE

SUBSISTENCE: Kenai rules may change

Continued from Page A-1

Knowles said he'd rather see the state pass a constitutional amendment and set up its own rural subsistence program.

The advisory council found that the seven Kenai Peninsula communities — designated rural by the federal government four years ago — relied on subsistence hunting in the past. The council, made up of subsistence users from small communities throughout the region, advises federal land managers about traditional hunting and fishing practices.

A panel of top federal officials known as the Federal Subsistence Board will make the final decision, but the advisory group has real power. The federal board can only change its recommendations if they were based on inaccurate historical data, or could harm wildlife or subsistence users themselves, said Dick Marshall, acting deputy director of subsistence for the U.S. Fish and Wildlife Service.

The Federal Subsistence Board is set to take up the Peninsula recommendation in April.

"It's going to be an important decision with implications for the rest of the state," said Ken Pitcher, regional supervisor of the state division of wildlife conservation. "Everybody is going to be watching it closely."

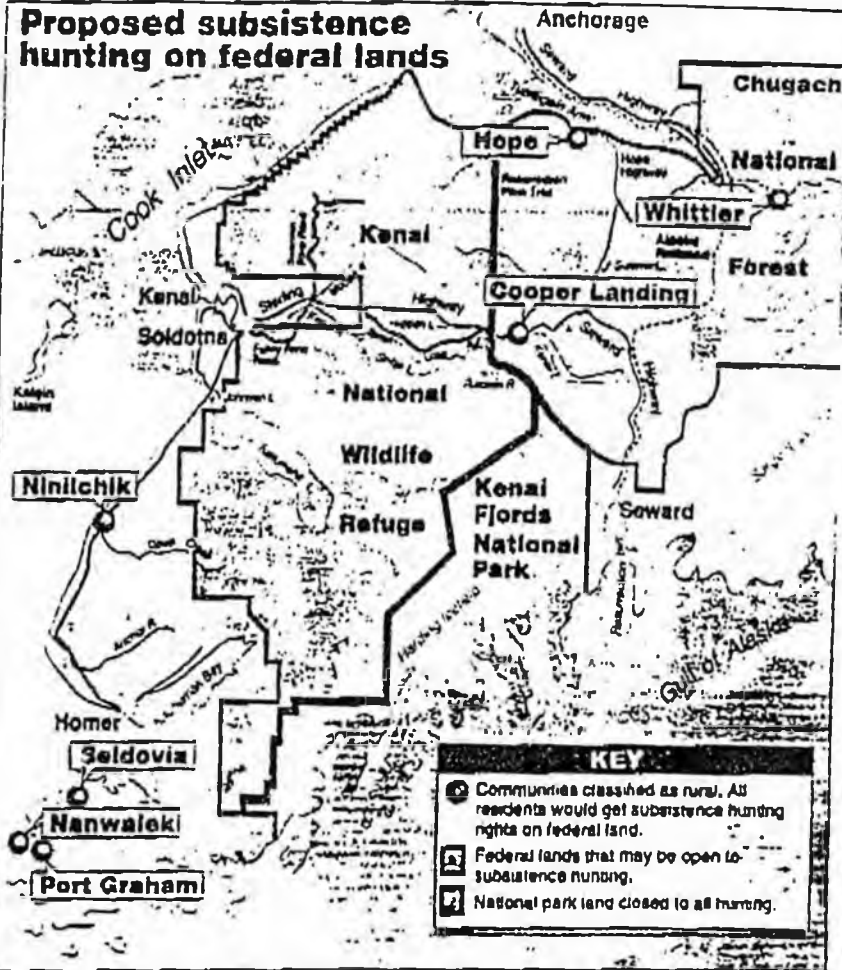
At the same time, the federal subsistence bureaucracy is considering similar questions of traditional uses in the upper Tanana River valley, where sport hunting pressure from Fairbanks may come into conflict with the subsistence needs of local communities.

A federal law passed in 1980 requires the state to give rural subsistence hunters and fishermen first priority for fish and game. Alaska law used to mirror that, but in 1989 the state Supreme Court ruled the statute unconstitutional because it discriminated in favor of rural residents.

In 1990, the federal government created the subsistence board to regulate hunting and fishing on millions of acres of federal land in Alaska. Until now, most regulatory changes have been small.

The Southcentral advisory council's proposal would allow subsistence hunting

Proposed subsistence hunting on federal lands



Source: U.S. Fish and Wildlife Service

NON ENLIGHTENED / Anchorage Daily News

blood "creole" village of the 1830s.

But newcomers in the seven communities also get to hunt, highlighting a problem of the federal subsistence priority based on rural residency. In a place like the Kenai Peninsula, a fast-growing population makes it hard to sort out longtime hunters from suburbanites. For instance, a postal service pensioner from Florida who retires to Cooper Landing would get subsistence privileges. But a Kenaitze Indian living in Kenai, descended from Natives who greeted Russian fur traders 200 years ago, would get none.

"We still need to discuss how can we allow hunting by individuals or groups who have been inundated by change but have consistent patterns of use," said Gary Oskolkoff of Ninilchik, a council member.

The council recommendation applies to mountain goats, Dall sheep and bears

One hunt likely to stir controversy would be a Ninilchik hunt of caribou in the Kenai Mountains. The council concluded that Ninilchik residents hunted caribou there in the 19th century, before the herds disappeared. That could give them first shot at a small new herd transplanted to the Killey River area a decade ago by state and federal biologists.

The recommendation could also mean special subsistence hunts for moose. Between 500 and 600 moose are killed by hunters on the Kenai Peninsula every year. Sport-hunting seasons and rules might have to be altered to accommodate local subsistence demand, Marshall said.

Oskolkoff said the effect on sport hunters shouldn't be great. "I don't believe it would be a very big change," he said. "It would simply displace hunters already in the sport hunt

sport-hunting seasons for moose on the Kenai at its meeting today. The group is meeting at the Sheraton Anchorage Hotel.

Waiting in the wings is the even-bigger issue of federal management of fishing.

The state is appealing a federal court decision allowing a federal takeover of subsistence fishing on navigable waters in Alaska. Even without a ruling there, however, the federal government claims authority to manage a handful of rivers, including the Kenai River where it flows through the Kenai National Wildlife Refuge.

The advisory council could eventually take up the question of subsistence fishing traditions in the rural communities. Having found that Cooper Landing has hunting rights, the council might be hard-pressed to deny Cooper Landing residents subsistence fishery on the upper

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Game wardens pay for shooting moose

By STEVE RINEHART
Daily News reporter

Two state game wardens were disciplined on Wednesday after one of them shot a moose illegally and on duty, and the other failed to report the violation, according to the Fish and Wildlife Protection Agency.

Col. John Glass, commander of the State Troopers fish and wildlife branch, would not specify the punishment he handed his officers. But he called it substantial and "higher than a private citizen would get."

"We all make mistakes. Believe me, they have paid for those mistakes," he said.

He said the actions of the two officers, Sven Skille and Brian Larson, undermined public confidence in the troopers.

"This kind of conduct is not going to be condoned."

Please see Back Page **WARDENS**

WARDENS: Two disciplined for shooting moose, not reporting

Continued from Page A-1

of allowed," he said. According to Glass and Sgt. Bruce Lester, the two troopers had been sent on a poaching patrol along the Susitna River near Alexander Creek in early December. Larson shot a large bull moose during duty hours, in an area that is reserved for hunters holding special "Tier II" subsistence permits. Skille helped him clean, dress and hang the carcass, which Larson later retrieved on his own time.

Shooting a moose without the required permit is against the law.

The offense can be prosecuted as a simple violation, with a fine up to \$300, or as a misdemeanor, with a maximum penalty of \$1,000, six months in jail. Glass said the troopers conducted a criminal investigation and referred the case to the Palmer district attorney's office, which declined to prosecute.

The troopers also conducted an internal investigation, which found the two guilty of policy violations. Hunting while on duty is strictly forbidden, Glass said. Furthermore, according to Lester, the officers violated policy by not reporting the incident

for several days.

"It does not really make any difference who shot it. They are dealt with equally," Glass said.

Neither Skille nor Larson could be reached for comment on Wednesday.

Lester said the incident was partly his fault. He and Larson had reviewed the hunting regulations for that area and figured no subsistence permit was required.

"They took the moose because they thought it was open," he said. "We read it that way. It was confusing regulations."

The seeming confusion

over the law is why the state did not prosecute the troopers for the crime, said assistant Palmer district attorney William Estelle.

"We have had who courtrooms full of people with Tier II violation people with clean records. Over the past year or so we have dismissed many them," he said.

After the incident, Fish and Wildlife Protection issued a press release advising hunters that a subsistence permit is required for the winter moose hunt that area.

The moose was donated to charity.

PROPOSAL 135 - 5 AAC 92.062. PRIORITY FOR SUBSISTENCE HUNTING TIER II PERMITS. Add paragraph to make it clear that lying on a Tier II application is a violation, punishable by a bailable fine.

(d) Submitting false information on a Tier II application is a strict liability violation, punishable by a bailable fine.

PROBLEM: In the past two years, the names of several hundred Tier II applicants have been turned over to Fish and Wildlife Protection for investigation into possible fraud for obtaining permits by submitting false information. Because of the volume of the cases, Fish and Wildlife Protection has been treating them as bailable violations.

At least one court, in a jurisdiction with one of the largest concentrations of suspected fraud, has ruled consistently that Fish and Wildlife Protection lacks the authority to handle these cases in this manner. The court has held that the cases must be prosecuted under state statutes in which a jury trial is required and the state must prove the applicant knowingly submitted false information. Because of their caseload, district attorneys in nearly every jurisdiction have been unwilling to add hundreds of Tier II fraud cases to their trial dockets.

By clearly spelling out the violation in this section of the regulation, Fish and Wildlife Protection will have the authority to pursue Tier II fraud.

WHAT WILL HAPPEN IF NOTHING IS DONE? It will be virtually impossible to prosecute Tier II fraud.

WHO IS LIKELY TO BENEFIT? Applicants who honestly fill out their Tier II questionnaires; the Alaska public at large by having Tier II fraud punished without unduly burdening the court system.

WHO IS LIKELY TO SUFFER? People who lie on their Tier II applications.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game and the Alaska Department of Public Safety, Division of Fish and Wildlife Protection

HQ-95-G-99

.....

PROPOSAL 136 - 5 AAC 92.062(d). Add paragraph to make it clear that lying on a Tier II application is a violation, punishable by a bailable fine.

(d) No person may submit false or inaccurate information in support of a Tier II application.

PROBLEM: In the past two years, the names of several hundred Tier II applicants have been turned over to Fish and Wildlife Protection for investigation into possible fraud for obtaining permits by submitting false information. Because of the volume of the cases, Fish and Wildlife Protection has been treating them as bailable violations.

At least one court, in a jurisdiction with one of the largest concentrations of suspected fraud, has ruled consistently that Fish and Wildlife Protection lacks the authority to handle these cases in this manner. The court has held that the cases must be prosecuted under state statutes in which a jury trial is required and the state must prove the applicant knowingly submitted false information. Because of their caseload, district attorneys in nearly every jurisdiction have been unwilling to add hundreds of Tier II fraud cases to their trial dockets.

By clearly spelling out the violation in this section of the regulation, Fish and Wildlife Protection will have the authority to pursue Tier II fraud.

WHAT WILL HAPPEN IF NOTHING IS DONE? It will be virtually impossible to prosecute Tier II fraud.

WHO IS LIKELY TO BENEFIT? Applicants who honestly fill out their Tier II questionnaires; the Alaska public at large by having Tier II fraud punished without unduly burdening the court system.

WHO IS LIKELY TO SUFFER? People who lie on their Tier II applications.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game and the Alaska Department of Public Safety, Division of Fish and Wildlife Protection.

HQ-95-G-156
.....

Kenaitze Indian Tribe, IRA
Resolution No. 95-09
Page 2

6. That anti-subsistence interests talk "equality" and "states' rights" - but are really in this to grab fish and game for non-subsistence user groups;

7. That Senator Stevens has told the Legislature that the Congressional Delegation will not use the Congress and the federal law to resolve a dispute affecting only Alaskans; and

8. That the Alaska Legislature, by refusing for five years to trust its own voters with a constitutional amendment, has created this dispute - which can be resolved only in Alaska, by Alaskans.

NOW THEREFORE BE IT RESOLVED THAT THE EXECUTIVE COMMITTEE/TRIBAL COUNCIL of the Kenaitze Indian Tribe, IRA strongly opposes House Joint Resolution No. 33, and implores the 104th Congress to stand firm on Title VIII of ANILCA, which protects the very life and future of rural Alaskan villages.

CERTIFICATION

VOTING FOR: 7
VOTING AGAINST: 0
ABSTAINING: 0
ABSENT: 0

Clare A. ...
TRIBAL CHAIRPERSON
KENAITZE INDIAN TRIBE, IRA

Carol J. Nolan
TRIBAL SECRETARY
KENAITZE INDIAN TRIBE, IRA

March 20, 1995
DATE

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 33

Revision Date: _____ Dept. Affected: ADFG
 Title: Requesting Congress BRU: Subsistence
 Amend ANILCA Title VIII Component: Subsistence
 Sponsor: Representative MASEK
 Requester: House Judiciary COMPONENT SERIAL NO. 483

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

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 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

There are no direct costs to the Department of Fish and Game that would result from passage of this resolution. Should Congress amend ANILCA as the resolution requests, fiscal implications could result but they would be variable depending on subsequent actions of the federal government and the Alaska Legislature.

Prepared by: Robert Bosworth
 Division: Subsistence
 Approved by Commissioner: Frank Ruse
 Agency: Fish and Game

Phone: 485-4148
 Date: 3/16/95
 Date: 3.16.95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill Number: HJR 33

Sponsor: Representative Masek

Bill Title: Amendments to ANILCA

Department Position: Oppose

This resolution asks Congress to revise ANILCA Title VIII to incorporate "...the principles of common use and of equal access to fish and wildlife for subsistence..." and to return full authority for subsistence management to Alaska. The resolution appears to be asking that consistency between ANILCA and the Alaska Constitution be achieved by amending ANILCA. It should be noted that the Alaska Constitution actually contains provisions for common use and equal application of laws to persons similarly situated (Title VIII, Secs. 3 and 17), and does not call for equal access.

The proposed change in ANILCA could have the effect of allowing the state's subsistence management program to be consistent with ANILCA, so the program that is currently in place for managing subsistence on state and private lands would apply on federal public lands as well.

Currently, all Alaskans are eligible to participate in subsistence hunts and fisheries. This is not a desirable condition; it has the effect of increasing participation unreasonably and increasing the number of subsistence hunts and fisheries that are over-subscribed, which therefore must be managed under Tier II qualification criteria. Existing Tier II hunts are unpopular and eligibility determinations for these hunts are difficult to administer and enforce. There is a pressing need to define subsistence eligibility in Alaska broadly through use of a fair, manageable and enforceable system. Presently the Alaska Constitution does not provide a mechanism to accomplish this. But making ANILCA consistent with the state constitution would eliminate one (federal) mechanism of determining subsistence eligibility (rural residency) and replace it with no mechanism at all. This scenario would complicate subsistence management by ADF&G.

The resolution also would not diminish federal judicial oversight of subsistence management in Alaska. Thus, even though ANILCA and the state constitution may be consistent with regard to subsistence eligibility, aggrieved parties could still seek federal relief if they felt that their subsistence opportunity was infringed by state regulations. The result, statewide, would be an amalgam of state subsistence regulations and federal court orders.

Though perhaps well intentioned, the resolution, as written, does not lead to a solution to subsistence management problems in Alaska. If Congress were to act favorably on it, which is unlikely, it could further complicate the state's management program.

Commissioner's Signature

Date

3.16.95

Alaska Chapter

Waterfowl U.S.A.

3105A Lakoshore Drive • Suite 105 • Anchorage, Alaska 99517
(907) 243 3235

March 22, 1995

FAX TO 907-465-3834

TO: House Judiciary Committee

We support HJR33. The management of our natural resources is the right of the State of Alaska. Section 8 of ANILCA should be repealed. Our state constitution requires equal access to our resources which includes fish and game. ANILCA uses a zip code to grant or deny fishing and hunting priority. That is bad fish and game management and is unfair to 14,000 natives who live in Anchorage.



Kim M. Pendleton
Acting Secretary

"Dedicated to increasing our waterfowl resource."

ALASKA WATERFOWL ASSOCIATION


3105A LAKESHORE DRIVE, SUITE 102
ANCHORAGE, ALASKA 99517
TEL (907) 243-3235

March 22, 1995

FAX TO 907-465-3834

TO: House Judiciary Committee

We support HJR33. ANILCA should be amended by repeal of the rural subsistence priority. Fish and game management is a state right. We want a fair opportunity to use our state's natural resources as our state constitution presently requires.


John W. Hendrickson
President



Native Village of White Mountain
IRA Tribal Council
P O Box 84082
White Mountain, AK 99784
(907) 638-3651
FAX# 638-3652

March 21, 1995

STATE HOUSE JUDICIARY COMMITTEE

Mr. Brian Porter, Committee Chair
Alaska State Capitol
Juneau, Alaska 99801-1182

Ladies & Gentlemen of the House Judiciary Committee

The Native Village of White Mountain, IRA Tribal Council opposes the House Joint Resolution No. 33. If the Legislature passes Resolution No. 33, Congress would be under the impression that Rural Alaskans do not need Federal protection when it comes to subsistence hunting and fishing. We need Federal protection because the State is not willing to assist us when it comes to our subsistence life style

The House Judiciary Committee selected Anchorage, Fairbanks, Matsu, Juneau, Glenallen, and Kenai to participate in the Legislative Information Office (LIO) teleconference. By doing this they excluded the voices of Rural Alaska Natives

Rural Alaskans depend on ANILCA to protect our ability to subsistence hunting and fishing in this time of shortage

Alaska Natives are generous when it comes to food. We know we must depend on our subsistence life style in order to provide food for our families. Job opportunities are not as vast in Rural Alaska as they are in the predominantly urban areas.

The longer the Federal Government manages game here in Alaska, the stronger they will become, because they have been more responsive to rural needs than the State Game Board.

The Subsistence Hunting and Fishing issue need to be resolved by letting the citizens of Alaska vote on it

Respectfully yours,

Lucy D. Ashenfelter
SECRETARY

cc: Representative Beverly Masek
Representative Richard Foster
Senator Al Adams
Loretta Bullard, President Kawcrak, Inc.
Julie Kitka, President AK Federation of Natives

LEGISLATIVE INFORMATION

| | | | |
|-------------------------|--------------------|------------------|---------------|
| Search | D | D | D |
| Title First Name | Middle Name | Last Name | Suffix |
| BOY SAZ | FRANK | DAVIES | 99707 |
| Mailing Address | | | Zip |
| Home Address | | | Zip |
| 452-1792- | | | FRANKS |
| Telephone | Affiliation | | City |

| House Members | | | Senate Members | | | Committees | | |
|---------------|-----------|-------------|----------------|------------|---------------|------------|--|--|
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| Eaton | MacLean/ | Sanders^- | Kelly^- | Torgerson+ | TRANS | | | |
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| Green^- | Moses/- | Vezev^+ | | | | | | |
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| | | Willis^ | | | | | | |

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 You may telephone or hand deliver your message to any LIO. POMs may not exceed 50 words. They must include your name, address and telephone number (if possible) and the name of the receiving legislator(s). They may not contain vulgar language.

Caucuses

| | | | |
|----------------------|-----------|---------|--------------------------|
| Ancorages^ | Majority- | Bill # | |
| Bush/ | Minority | | |
| Fairbanks /Imenort^+ | | Support | Oppose Amend Not Related |

Subject
 HR 432 33

50 Word Maximum Message

| | | | | | | | | | |
|-----------|-----|-----|-----|-------|-----|----------|-----|-------|-----|
| PLEASE | 11 | ADD | 21 | MY | 31 | SUPPORT | 41 | TO | 51 |
| PASSAGE | 61 | OF | 71 | HR 33 | 81 | | 91 | I | 101 |
| AM | 111 | 23 | 121 | YOUR | 131 | RESIDENT | 141 | WHO | 151 |
| BELIEVES | 161 | IN | 171 | EQUAL | 181 | HUNTING | 191 | RISKS | 201 |
| FOR RENTS | 211 | FOR | 221 | GRAND | 231 | | 241 | | 251 |
| | 261 | | 271 | | 281 | | 291 | | 301 |
| | 311 | | 321 | | 331 | | 341 | | 351 |
| | 361 | | 371 | | 381 | | 391 | | 401 |
| | 411 | | 421 | | 431 | | 441 | | 451 |
| | 461 | | 471 | | 481 | | 491 | | 501 |

FAX memo

TO: House Judiciary Committee members 907-465-3834

FROM: Mary Bishop, 1555 Gus's Grind, Fairbanks, AK 99709

DATE: Wednesday, March 22, 1995

RE: HJR 33

I want to express my support for HJR 33 and I urge you to support the resolution

Resolution of the state/federal conflict over fish and game management is one of the most important issues in our state. While some would have us surrender our state's constitution, we know that act would not resolve the problem--even Attorney General Botelho has said as much.

The only solution is to amend the federal law, Title VIII of ANILCA. Giving special privileges to certain ethnic, religious, or racial groups never resolves problems. After generations of conflict the result is obvious; we only need look at the frightening results in other nations of the world like Bosnia, South Africa and Northern Ireland.

While this is not strictly a racial issue, no one involved in the issue can be blind to the racial implications. It's time to face the facts and stand on the principles that made us a great nation and a great state.

Nationally, we have never achieved perfect equality--but we are getting better at it all the time. Equality is a goal for which we must continue to strive. We must not simply "junk" this or any other worthy goal simply because it's hard to achieve and we haven't reached it yet.



Shields Rental Center

P.O. BOX 10707 310 BIRCH HILL ROAD FAIRBANKS, ALASKA 99710
(907) 457-3226 FAX (907) 457-4546

DATE: 3 - 22 - 95

NUMBER OF PAGES: 1

TO: House Judiciary Committee FAX: 1-907-465-3834

FROM: Mike SHIELDS

REFERENCE: _____

MESSAGE: Dear Members

I support HJR 33

Sincerely

Mike Shields

Please contact immediately if all pages are not received at (907) 457-3226.

March 22, 1995

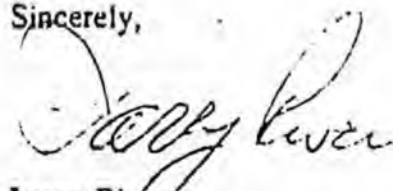
Larry Rivers
Box 107
Talkeetna, Alaska 99676

House Judiciary Committee
Fax 907 465-3834

Dear Committee Members,

I write in support of Beverly Masek's HJR 33, and support amending ANILCA to eliminate the rural subsistence priority. This was an ill conceived provision that has caused extended strife among state residents, great expense in attempts to comply, and has impeded responsible game management in the state. It caused splits among the people by creating segments of the population. To quote a native leader in Ft. Yukon. "It's time we were all just Americans, without creating small groups that were better than the rest." This resolution makes it possible to move forward in a manner that is fair to all.

Sincerely,



Larry Rivers
Talkeetna, Alaska

TRACY MORPHIS
3811 ERICKSON AVENUE #1
FAIRBANKS, ALASKA

ZIP (I choose not to provide a zip code on the grounds
of possible prejudicial preferential treatment.)

March 22, 1995
8:55a.m.

House Judiciary Committee,
Fax # (907) 465-3834

In regards to HJR 33 I strongly support ammending ANILCA to get rid of the rural subsistence priority.

I am an Alaskan and choose to live in this state where I was born because of the hunting and fishing that is available to all Alaskans. At least it was the year I was born. For three generations we have fished and hunted in Alaska and made wise use of our resources. We have never waisted these resources because we know how precious they are to us and future generations.

We depend on wild game meat to help us throughout the winter months just as others do in other parts of Alaska.

Please support the efforts of Beverly Masek in ammending ANILCA!!!



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
 committee on HJR 33 , dated 3-17-95
bill/subject

I WISH TO SUPPORT
 BEU MASEK'S BILL

Signed: Robert E Hill
 Testifier ~~194~~

Representing (Optional)

Address 1945 GREENWOOD ST
NORTH POLE AK
99705



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
committee on HJR 33 dated 3-17-95
bill/subject

I UNCONDITIONALLY SUPPORT
THIS RESOLUTION AS BEING IN
THE BEST INTEREST OF "ALL"
ALASKANS

Signed: [Signature]
Testifier

Representing (Optional)
1805 CENTRAL AVE FALKE AK 99705
Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee name
 committee on HJR 33 , dated 3-17-95
 bill/subject:

*Support our state constitution as
 affirmed by the Alaska Supreme
 Court and amended ANILCA*

Support this Bill

Signed: *Henry Knudsen*
 Testifier

Representing (Optional)
2050 Tribulation Trail Fairbanks
 Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee no. 16
 committee on HJR 33, dated 3-17-95
 bill/subject

I have lived in Alaska for 35 of my 37 years. The right to hunt in Alaska cannot be limited to a chosen few. To alternate or divide Alaskans along these lines is morally, ethically and legally wrong. Support Bev Masek's attempt to right this wrong and bring the decision making back to Alaska. Let us work out necessary, fair & equitable compromises among ourselves.

Support HJR 33!

Signed: [Signature]
 Testifier

Representing (Optional)

1400 SUMMIT DRIVE EBS AK 99712
 Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
committee on HJR 33 dated 3-17-95
bill/subject

I support THIS BILL!
LEAVE THE STATE CONSTITUTION
AS IT IS WHICH GUARANTEES
EQUAL RIGHTS FOR ALL ALASKANS.
AMEND A.N.I.L.C.A.

Signed: [Signature]
Testifier

Representing (Optional)
P.O. Box 82610, FAIRBANKS, AK 99708
Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 HJ Resolution No. 33 committee name

committee on ANILCA: Public Law 96-487, dated March 12, 1995
 bill/subject:

Heartily endorse ~~your~~ HJ33 for revision ~~of~~ Title VIII of ANILCA
 so that common useage and access may be had for Alaska. Further-
 more that Congress orders Secretaries of Interior and Agriculture
~~to~~ return authority for management ~~of~~ subsistence of Alaska's
 fish and wildlife. Don't fall prey to selfish interests that
 would divide and conquer.

Signed: *Alvin S. Fuchs*
 Testifier
 Former Territorial Representative
 Representing (Optional)
 666 Tenth Ave., Fairbanks, Alaska 99701
 Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
committee on HJR 33 . dated 3-17-95
bill/subject

I whole heartedly support House
Joint Resolution # 33. I have lived in
Fairbanks since 1951 and have hunted
around the state all my life. I do not
believe that my residence in Fairbanks
should give me any less right to the
game resources of Alaska.

Sincerely

Signed: Gary John Nussbaumer
Testifier

Myself
Representing (Optional)

2376 Nugget Loop Fairbanks, AK 99709
Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
 committee on HJR 33 , dated 3-17-95
bill/subject

To whom it may concern:
 I believe the best policy for
 all Alaskans is to protect our
 State constitution. To protect our
 constitution is to promote equal
 rights for ALL Alaskans, therefore
 I support HJR 33.

Signed: Daryl Sobek *Daryl Sobek* 3/17/95
Testifier

 Representing (Optional)

 Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
 committee on HJR 33, dated 3-17-95
bill/subject

I support HJR33 which
 guarantees EQUAL RIGHTS
 FOR ALL ALASKANS!

Signed: *Jerrel Faehl* JERREL FAEHL
Testifier

Representing (Optional)
161 Kenneth St. FBICS, AK. 99712
Address



Alaska State Legislature

Please enter into the record my testimony to the House Jud
committee name

committee on HJR 33 dated 3-17-95
bill/subject:

THE ALASKA OUTDOOR COUNCIL REPRESENTING
MANY USERS OF ALASKA'S WILDLIFE FULLY
SUPPORTS HJR 33. THE INTENT OF THIS
LEGISLATION WILL START US ON THE LONG
PROCESS OF REACHING A REASONABLE SOLUTION
TO SUBSISTENCE.

THANK YOU FOR THIS OPPORTUNITY TO
IMPART OUR VIEWS ON THIS IMPORTANT
SUBJECT.

Signed: Eddie GRASSER
Testifier

ALASKA OUTDOOR COUNCIL
Representing (Optional)

Box 22394 JUNEAU 99802
Address



Alaska State Legislature

Please enter into the record my testimony to the the House Judiciary
committee name

committee on Purpose of HLR 33 dated 3-17-95
bill/subject:

I opposed to this Resolution
Cause all my wife I depended on
Subsistance, and that the way we eat
and hunt.
we really don't have money so
much. and my people really depend
on the Subsistance all our life

Signed: Jimmy Peck
Testifier

Representing (Optional)
Venetie, Alaska 99781
Address



Alaska State Legislature

Please enter into the record my testimony to the R-33 committee name

committee on _____, dated _____
bill/subject

My name is CLYDE WILLIAMS, and would like
for the Records to oppose this Resolution on
the ground that my father ^{explained} taught to me
is, what ~~is~~ ~~got~~ ~~from~~ ~~the~~ ~~land~~ ~~is~~
that if you respect the land the
land will provide for you. I have lived
off the land all my life Thank-you

CLYDE WILLIAMS
Box 48
Fort Yukon, AK

Signed: CLYDE WILLIAMS
Testifier

Representing (Optional)

Address

o -



Alaska State Legislature

Please enter into the record my testimony to the HOUSE Judiciary
committee name

committee on HJR 33 dated MARCH 17, 1995
bill/subject

I'm the elected 1st Chief for the Village of Minto and born and raised in this community.

This afternoon, I would like go on record in opposition to HJR 33.

HJR 33 in its present form is not good for the people I represent; it only serves to hurt the native people of Minto and divide the people of our fine state.

The protection that the federal government offers under title VIII of ANILCA, is a tool that is beneficial to the native people of Alaska.

At this point in time, the state of Alaska does not offer me and my people, that degree of protection. Please give this careful consideration.

Signed: Ken A. Chad
Testifier

Minto Village Council
Representing (Optional)

Box 26, Minto, Alaska 99758
Address



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name

committee on House Resolution 33 dated Mar 17-1995
bill/subject

My name is Steve Girnis, Chief of Ft. Yukon representing 849 Gwich'in Athabascans and on behalf of them I want to relay our opposition to House Resolution 33.

We believe that Subsistence is a state issue, which should be addressed by the people of the state of Alaska. Sen. Stevens in his address to the legislature stated just that, so why are some members of the legislature asking the Congress to resolve this issue?

We support our protection under Article VIII of ANILCA, so we urge the Committee to support our concerns and furthermore that you kill this resolution in Committee

Signed: Steve Girnis
Testifier

Native Village of Ft. Yukon

Representing (Optional)

Box 382 Ft Yukon, AK 99740

Address

465-3834

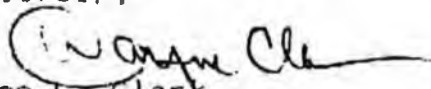
Dear Rep. Porter:

I want to express my support of equal access for all Alaskans to the wildlife populations of Alaska. I also support the returning of the management of wildlife populations to Alaskan control. As a professionally trained Wildlife Biologist and now a owner of a business here in Alaska, I feel the Alaskan people are being shortchanged by not being able to manage their own resources.

I lived in the Anchorage area before statehood and witnessed some very poor wildlife management by the Federal Government in those days. I feel that Alaskans can best manage Alaska and subsistance given to certain people is very counterproductive to the wildlife management principles.

Please support the language of the ANILCA bill that gave all Alaskans the same rights.

Sincerely,



Wayne L. Clark
phone 907 452-1907
fax 452-3916

March 22, 1995



Official Business

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Alaska State Legislature

Chairman - International Trade & Tourism

REPRESENTATIVE
BEVERLY MASEK

Willow
MC 89 Box 251
Willow Alaska 99688
(907) 495-6812

State Capitol
Juneau, AK 99801-1182
(907) 465-2679

MEMORANDUM

TO: MEMBERS HOUSE JUDICIARY
FROM: REP. MASEK *BM*
DATE: MARCH 22, 1995
RE: DEPT. OF FISH AND GAME'S POSITION - HJR 33

It is inconceivable to me that a Department established to manage fish and wildlife appears now to be more interested in managing people than the resources they use.

Since 1978, the subsistence issue has cost the state millions of dollars and has caused the Department of Fish and Game to create, first a Section than later an entire Division to deal with the subsistence controversy. Perhaps a subsistence Department will come next.

It seems only prudent to ask what the total cost to date the Department has incurred in attempting to manage subsistence. Perhaps the Division which might have better placed in the Department of Health and Social Services.

It may also be prudent to ask why a Department which has lost management authority on over 50% of the State because of ANILCA would now suggest we adopt it as part of our Constitution?

How much time, energy, and dollars have been diverted away from sorely needed habitat and resource management?

Just over one week ago the Attorney General advised the legislature that we can only regain full management of fish and game if we

repeal ANILCA. Why is the Commissioner now indicating just the opposite?

Another question which begs to be asked is why after losing all our management authority do our budgets and payroll for Department employees remain at the same levels or higher?

In the Department of Fish and Game, over 70% of the budget goes to salaries and benefits with little remaining for the resources we need to enhance. Why would the Department want to use any remaining funds for battling the federal government on management policies?

The Boards of Fish and Game have been frustrated with the amount of time they have spent administering a State and Federal law which creates endless controversies and lawsuits. With threats of lawsuits by affected parties dominating the Board atmosphere fish and game management has been the loser.

Amending those portions of ANILCA which conflict with our Constitution will eliminate not only certain Federal oversight, but also the pressures which have turned our Boards into juries and our public process of management into a forum for special interest attorneys.

Finally, I would like it noted for the record that the Governor as a matter of protocol was notified in writing of HJR-33 before it was introduced on February 28th. I to date, have not receive even a courtesy reply from his office. Further, I can not understand why the Governor's liaison asked for this Resolution to be held over to allow time for a response to be drafted.

I urge committee members not to accept any of the ambiguous and dilatory arguments being made by the Administration. An Administration which as we all know is bound by campaign promises to political special interests who are demanding that the equal rights of your constituents be eliminated from the State Constitution.

The Attorney General stated it best at the Joint Briefing when he admitted that amending ANILCA was a legally acceptable solution, but not a politically acceptable one.

It is a sad day when a Department as important as Fish and Game has to welcome federal mangement because it is politically correct.

DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill Number: HJR 33

Sponsor: Representative Masek

Bill Title: Amendments to ANILCA

Department Position: Oppose

This resolution asks Congress to revise ANILCA Title VIII to incorporate "...the principles of common use and of equal access to fish and wildlife for subsistence..." and to return full authority for subsistence management to Alaska. The resolution appears to be asking that consistency between ANILCA and the Alaska Constitution be achieved by amending ANILCA. It should be noted that the Alaska Constitution actually contains provisions for common use and equal application of laws to persons similarly situated (Title VIII, Secs. 3 and 17), and does not call for equal access.

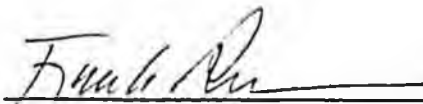
The proposed change in ANILCA could have the effect of allowing the state's subsistence management program to be consistent with ANILCA, so the program that is currently in place for managing subsistence on state and private lands would apply on federal public lands as well.

Currently, all Alaskans are eligible to participate in subsistence hunts and fisheries. This is not a desirable condition; it has the effect of increasing participation unreasonably and increasing the number of subsistence hunts and fisheries that are over-subscribed, which therefore must be managed under Tier II qualification criteria. Existing Tier II hunts are unpopular and eligibility determinations for these hunts are difficult to administer and enforce. There is a pressing need to define subsistence eligibility in Alaska broadly through use of a fair, manageable and enforceable system. Presently the Alaska Constitution does not provide a mechanism to accomplish this. But making ANILCA consistent with the state constitution would eliminate one (federal) mechanism of determining subsistence eligibility (rural residency) and replace it with no mechanism at all. This scenario would complicate subsistence management by ADF&G.

The resolution also would not diminish federal judicial oversight of subsistence management in Alaska. Thus, even though ANILCA and the state constitution may be consistent with regard to subsistence eligibility, aggrieved parties could still seek federal relief if they felt that their subsistence opportunity was infringed by state regulations. The result, statewide, would be an amalgam of state subsistence regulations and federal court orders.

Though perhaps well intentioned, the resolution, as written, does not lead to a solution to subsistence management problems in Alaska. If Congress were to act favorably on it, which is unlikely, it could further complicate the state's management program.

Commissioner's Signature



Date

3.16.95



HOMER SOCIETY OF N
 PRATT MUSEUM
 3779 Bartlett Street
 Homer, Alaska 99603
 (907)235-8635

| | | | | | |
|-------------------|--------------|---------|--------------|------------|---|
| Post-It™ Fax Note | 7671 | Date | 3/22/95 | # of pages | 1 |
| To | BRIAN PORTER | From | PRATT MUSEUM | | |
| Co/Dept. | Room 118 | Co. | | | |
| Phone # | | Phone # | | | |
| Fax # | 465-3834 | Fax # | 235-2764 | | |

March 22, 1995

Honorable Brian Porter
 State Capitol Building Room 118
 Juneau, AK 99801

Dear Representative Porter:

I am writing in support of the Alaska State Museums Grant-in-Aid program, a grants program of utmost importance to the Pratt Museum, Homer Society of Natural History, and to all museums in Alaska. For the past 15 years, the Pratt Museum has benefited extensively from the annual \$5,000-\$10,000 grants awarded in support of basic collections preservation, storage, and access needs - collections are the lifeblood of museums. These grants also have helped to leverage other public and private monies nationwide for continued support of these fundamental and essential preservation functions of healthy, thriving Alaskan museums.

The original mandate which established the Alaska State Museum included the need for statewide services and financial support for Alaska's unique, diverse cultural and natural heritage. I respectfully request your serious consideration in providing at least the FY 1995 funding level for the continued success of the Alaska State Museum Grant-in-Aid program critical to the vitality of Alaska's community museums. Thank you.

Sincerely,

Elizabeth Ann Webb

Elizabeth Ann Webb
 Curator of Collections

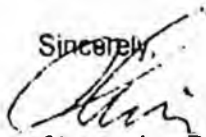
cc: Betsy Pitzman, Director, Pratt Museum

Christopher Batin
Editorial Director

TO: House Judiciary Committee
Brian Porter, Chair
RE: HJR 33

Speaking for many Alaska Angler and Alaska Hunter subscribers within the state and across the Lower 48, we collectively and wholeheartedly support Beverly Masek's resolution that supports amending ANILCA. This measure is long overdue.

Sincerely,



Christopher Batin
Editorial Director

Your Total Information
Source on Alaska
Fishing & Hunting

Alaska Angler Publications
Alaska Hunter Publications
Alaska Angler Photo Book
Alaska Hunter Photo Book
Alaska Angler & Hunter Calendar
Alaska Angler & Hunter T-shirt

P.O. Box 83550
Fairbanks, AK
99708 3550 USA

(907) 455-8000
Fax (907) 455-6691

David M. Johnson

8294 Opal Drive
Anchorage, AK 99502-4546
United States of America
Tel. (907) 248-4385
FAX (907) 248-1465
INTERNET: 73211.3325@compuserve.com

March 21, 1995

Dear House Judiciary Members:

I am writing in favor of HJR 33 that would call for amendment of the Alaska National Interest Lands Conservation Act--ANILCA.

Title eight of this federal law has a basic flaw: it grants subsistence priority based on where a person lives--the so called "zip code priority." The priority should be based on a person's lifestyle.

Therefore, someone who lives in Anchorage and practices a subsistence lifestyle could have the priority right alongside someone from Aniak. The current federal policy is thinly veiled racism...the rural areas are predominately native, of course. While many natives are subsistence users, so are many other Alaskans...and not just in the bush.

Please send a message to the federal government that Alaska does not like the "zip code priority" of ANILCA.

Sincerely,

David M. Johnson

21 March 1995

TO: Mr. Brian Porter, Chairman
House Judiciary Committee

FROM: Ted Morphis
3811 Erickson Ave. #1
Fairbanks, AK. 99709

Chairman Porter,

I'am sending you fax message to voice my support of HJR 33, which was introduced by Rep. Beverly Masek. ANILCA is **unconstitutional**, according to the State of Alaska Constiltution

Furthermore, it is refreshing to finally hear from someone like Rep. Masek, who speaks in reference to **all Alaskan's regardless of organ.**

Best Regards,

A handwritten signature in black ink, appearing to read "Ted Morphis", with a stylized flourish extending upwards and to the right.

Ted Morphis

ALASKA HOUSE JUDICIARY COMMITTEE

3/21/95

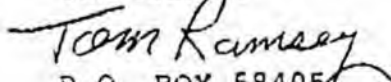
HONORABLE MEMBERS,

I URGE YOUR SUPPORT OF HOUSE JOINT RESOLUTION 33 (HJR33).

THIS SHOW OF SOLIDARITY IS A POSITIVE STEP TOWARDS ALASKA'S DESIRE
AND LAWFUL RIGHT TO MANAGE IT'S OWN FISH AND WILDLIFE RESOURCES.

SINCERELY,

TOM RAMSEY



P.O. BOX 58405
FAIRBANKS, ALASKA 99711

PHONE 488-0210

Public Opinion Message

| | | | |
|--|--------------------|------------------|---------------|
| Richard C | Carol | Swisher | |
| Title First Name | Middle Name | Last Name | Suffix |
| 596 Old Steese North #4 | | Fairbanks | AK |
| Mailing Address Quicksilver Ave | | | Zip 99712 |
| Same as above | | | |
| Home Address | | | Zip |
| 907 1457-1941 | | | |

| Telephone | Affiliation | City |
|-----------|-------------|------|
|-----------|-------------|------|

| House | Members | Senate | Members | Committees | |
|---------------|-----------|------------|---|------------|---------------|
| Austerman+ | Hanley*- | Navarre | Adams/ | Lincoln/ | C&RA |
| Barnes*- | Ivan/+ | Nicholia/ | Donley* | Miller* | FINANCE |
| Brice* | James** | Coan+ | Duncan/ | Pease** | HESS |
| Brown* | Kelly* | Parnell** | Eills* | Phillios** | JUDICIARY |
| Bunde** | Kohrino*- | Phillios+ | Frank** | Rieger** | LABOR & COMM |
| Davies* | Kott** | Porter** | Green+ | Sajo* | RESOURCES |
| B. Davis* | Kubina/ | Robinson | Halford* | Sharo** | RULES |
| G. Davis+ | Mackie/ | Rokeberg*- | Hoffman/ | Taylor+ | STATE AFFAIRS |
| Eiton | MacLean/ | Sanders** | Kelly* | Torgerson+ | TRANS |
| Finkelstein* | Martin** | Therault* | Leman** | Zharoff/ | |
| Foster/+ | Masek* | Toohy** | POMs Policy | | |
| Green*- | Moses/+ | Vazev** | You may telephone or hand deliver your message to any LIO. POMs may not exceed 50 words. They must include your name, address and telephone number (if possible) and the name of the receiving legislator(s). They may not contain vulgar language. | | |
| Grussendorf// | Mulder*- | Williams/+ | | | |
| | | Willis* | | | |

Comments

| | | | |
|------------------------|-----------|---|-----------------|
| Anchorage* | Mariontv+ | Bill # | #33 |
| Bush/ | Mincity | | |
| Fairbanks (Minority) ✓ | | Support Oppose Amend | Amending |

Subject: Support for Amending Anilakt to get rid of the rural subsistence priority

50 Word Maximum Message

| | | | | | | | | | |
|---------|----|----------------|-----|--------|---------|---------|-----|----------|----|
| As | an | Apple | Ave | 3 | Service | 4 | who | 5 | |
| serves | 6 | Bush | 7 | comm | 8 | unities | 9 | I | 10 |
| see | 11 | no | 12 | reason | 13 | to | 14 | drive | 15 |
| a | 16 | discrimination | 17 | wedge | 18 | between | 19 | rural | 20 |
| and | 21 | suburban | 22 | commun | 23 | ities | 24 | I | 25 |
| support | 26 | Beverly | 27 | Masek | 28 | and | 29 | her | 30 |
| future | 31 | insights | 32 | into | 33 | what | 34 | Alaskans | 35 |
| need. | 36 | Thank | 37 | you | 38 | | 39 | | 40 |
| | 41 | | 42 | | 43 | | 44 | | 45 |
| | 46 | | 47 | | 48 | | 49 | | 50 |

PUBLIC OPINION MESSAGE

| | | | |
|---------------------------|-------------|-----------|---------------|
| Renee | D. | Lozier | |
| Title First Name | Middle Name | Last Name | Suffix |
| 596 Old Steese Hwy. N. #4 | | | |
| Mailing Address | | | Zip |
| Fairbanks, AK | | | 99712 |
| Home Address | | | Zip |
| 457-1941 | | | Same as Above |
| Telephone | Affiliation | City | |

| House | Members | Senate | Members | Committees | |
|--------------|----------|-------------|---|------------|---------------|
| Austerman+ | Hanley*- | Navarro | Adams/ | Lincoln/ | C&RA |
| Barnes*+ | Ivan/+ | Nicholia/ | Donlev* | Miller*+ | FINANCE |
| Brice^ | James*+ | Ogan+ | Duncan/ | Pearce*+ | HESS |
| Brown* | Kelly*+ | Parnell*+ | Ellis* | Phillips*+ | JUDICIARY |
| Bunde*+ | Kohnno*+ | Phillips+ | Frank*+ | Rieger*+ | LABOR & COMM |
| Davies^ | Kott*+ | Porter*+ | Green+ | Salo* | RESOURCES |
| B. Davis* | Kubina/ | Robinson | Hallford*+ | Sharo*+ | RULES |
| G. Davis+ | Mackie/ | Rokoberg*+ | Hoffman/ | Taylor+ | STATE AFFAIRS |
| Eaton | MacLean/ | Sanders*+ | Kelly*+ | Torgerson+ | TRANS |
| Finkelstein* | Martin*+ | Theriault*+ | Leman*+ | Zharoff/ | |
| Foster*+ | Masek+ | Toohy*+ | POMs Policy | | |
| Green* | Moses*+ | Vezev*+ | You may telephone or hand deliver your message to any LIO. POMs may not exceed 50 words. They must include your name, address and telephone number (if possible) and the name of the receiving legislator(s). They may not contain vulgar language. | | |
| Grussender// | Mulder*+ | Williams/+ | | | |
| | | Willis* | | | |

Concerns

| | | | |
|--------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Anchorage* | Majority+ | Bill # | # 33 |
| Busv | Minority | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Fairbanks (Inter)* | <input checked="" type="checkbox"/> | Support | Oppose Amend Not |

Subject

50 Word Maximum Message

| | | | | |
|---------|-----------|----------|--------|-----|
| I | support | amending | ANILCA | |
| believe | in | equal | rights | for |
| All | ALASKAINS | | | |
| 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 |
| 31 | 32 | 33 | 34 | 35 |
| 36 | 37 | 38 | 39 | 40 |
| 41 | 42 | 43 | 44 | 45 |
| 46 | 47 | 48 | 49 | 50 |

Fairbanks LIO

PH# 452-4448

FAX# 456-3346



**Sport
Fishing
Alaska** Trip Planners

1401 Shore Drive Anchorage Alaska 99515 (907) 344-8674 Fax (907) 349-4330

Page 1 of 1

March 22, 1995

TO: Chairman, House Judiciary Committee
FAX: 907-465-3834

FROM: Sport Fishing Alaska
Russ and Donna Redick, owners
FAX: 907-349-4330

RE: HJR 33

We strongly support HJR 33 to amend the ANILCA subsistence language.

We are strongly opposed to federal control of Alaska subsistence as well as other federal intervention in fish and wildlife management.

House Judiciary Committee

I would like to express
my sincere support
for HJR 33 which
recommends amending
ANILCA -

Katharine Richardson

3/22/95

March 22, 1995

House Judiciary Comm.
Chairman, Rep Porter

Good morning Please pass H.J.R.33 soon.

This resolution is of vital interest to many
of us Alaskans.

Sincerely,

DAN FAIRBANKS

Fairbanks

D. D. Fairbanks

RICK SCHIKORA
BOX 58388
FAIRBANKS, ALASKA 99701

MESSAGE VIA FAX

TO: HOUSE JUDICIARY COMMITTEE

(907) 465-3834

I URGE YOU IN TO STRONGLY SUPPORT HJR 33 AS INTRODUCED BY REPRESENTATIVE BEVERLY MASEK. I CAN THINK OF NO OTHER WAY TO GET THE ATTENTION OF OUR CONGRESSIONAL DELEGATION. A COUPLE OF THEM WERE THERE WHEN CONGRESS CREATED THIS PROBLEM AND THEY ARE IN A VERY GOOD POSITION TO FIX IT NOW. IT APPEARS THEY NEED A BIG PUSH. THIS HJR MIGHT JUST DO THE TRICK.

ALASKA CANNOT SIT BY IDLY WHILE THE FEDERAL GOVERNMENT IMPLEMENTS A HIGHLY DISCRIMINATORY PRACTICE OF RURAL PREFERENCE UPON ITS PEOPLE. I BELIEVE THAT ANILCA IS UNCONSTITUTIONAL UNDER FEDERAL LAW. EVEN MORE THAN THAT, IT SURF AS HECK VIOLATES THE AGREEMENT WE HAD WITH THE FEDERAL GOVERNMENT IN OUR STATEHOOD COMPACT. IT IS TIME TO SAY ENOUGH IS ENOUGH.

PLEASE PASS HJR 33.

THANK YOU FOR YOUR TIME

SINCERELY,



RICK SCHIKORA

March 22, 1995

House Judiciary Committee
FAX: 907-465-3834

RE: HJR-33; Amending ANILCA.

Dear Committee Members:

I want to take this opportunity to voice my opinion on this issue and to urge you to support this resolution.

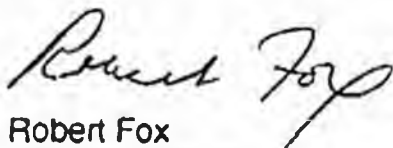
I have never been against a true subsistence lifestyle, but the Federal Government has never had a clue about the issue. It (ANILCA) was written to foster a division between natives and non-natives, and to perpetuate the Federal control over Alaska and her people.

The current situation with Federal intervention has only heightened bias between ourselves, and this will never be resolved unless Alaska and Alaskans are successful at getting ANILCA amended. Under the Federal Subsistence regulations, large areas are being set aside in a very clear preference for where a person lives and not what their need is, and has never considered "need" as an issue, or whether there exists a shortage to justify such a set-aside.

Under Federal intervention, there is no biology allowed, and conservation is out the window. Sound management, which Alaska so desperately needs, is impossible under the current application of ANILCA.

PLEASE SUPPORT HJR-33 TO AMMEND ANILCA!

Sincerely,



Robert Fox
815 6th Avenue
Fairbanks, AK 99701

To: House Judiciary Committee
Fax 907/465-3834

From: Andy Warwick
907/456-1566

March 22, 1995

I support HJR 33. ANILCA is the problem, not the Alaska constitution.



Official Business

COMMITTEES
Vice-Chairman, Transportation
Member
Labor & Commerce

Alaska State Legislature

Chairman - International Trade & Tourism

REPRESENTATIVE
BEVERLY MASEK

Willow
H C 89 Box 251
Willow Alaska 99688
(907) 495-6812

State Capitol
Juneau, AK 99801-1182
(907) 465-2679

SPONSOR STATEMENT

HJR - 33

I have introduced HJR - 33 to preserve the equal protection, equal access, and common use clauses of our State Constitution.

In 1992 the State Supreme Court threw out those portions of the state subsistence law which violated these sections of our constitution.

That action by the court triggered a blackmail clause in ANILCA which mandates federal fish and game management if the state does not adhere to the conditions found in title VIII of ANILCA which deals with subsistence.

Now we must change our state constitution and meet federal standards or lose permanently our fish and game management authority throughout Alaska.

What the State Supreme Court found offensive in the State law (which they threw out) is even more offensive in Title VIII of ANILCA. For instance, the State law was based in part on need and was only triggered in times of resource shortages. The Federal law on the other hand, is not need based and can be activated at anytime.

Even more disturbing have been the courts implementation of the federal law. In the Lime Village Case the courts essentially found that seasons, bag limits, methods and means do not apply to subsistence hunting.

In a more recent decision the courts found that it was permissible for subsistence users to take fish (in this case herring roe) and sell it for cash.

In effect the courts have established a new class of limited entry based solely on where a person lives. This should be warning signal to every commercial fisherman in the state. Under ANILCA a person may move to Wrangell from Seattle, declare a subsistence priority immediately, harvest fish, and legally sell or trade them to a broker in Seattle under the guise of trade and barter.

Finally it should be noted that in 1982 the U.S. Supreme Court ruled that Eskimos in Northwest Alaska could not use subsistence to halt oil development on sea ice located three miles from shore. The most important part of that decision may have been a finding by the court that all aboriginal titles and claims of title had been extinguished under the terms and conditions of the Alaska Native Claims Settlement Act. This was based on a payment of 1 billion dollars and 44 million acres of land.

Yet today we find provisions of ANILCA which, in all likelihood are based on an unconstitutional premise, stripping us of our authority to manage our fish and game. Perhaps if our governor were willing to challenge ANILCA in the federal courts we would have a third option for resolving this dilemma. Unfortunately, his legal council the Attorney General recently told House and Senate members on record that while amending or repealing ANILCA was the only true legal solution for the State, it was politically unacceptable to the Governor. It seems difficult to believe that this Administration finds equal rights and common use unworthy principles to defend.

It is now up to us as Representatives of the people to take the lead on behalf of all Alaskans in defense of their most basic rights.

This Resolution is an ardent request to Congress to amend ANILCA, to respect our state constitution, to relinquish their management of fish and game, and to honor the most critical elements of our Statehood Compact.

I urge your support for this important Resolution.

Thank you.

HJR

34

From the desk of
Representative Jerry Sanders

April 16, 1996

Dear Brian,

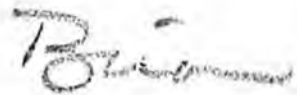
Thank you for your do pass vote on HJR 34 this morning in State Affairs.

I would appreciate it if you could schedule this resolution in House Judiciary immediately so that it will have a better chance of making it to the ballot in this year's election. I feel a 90 day session is sufficient time to conduct the State's business and certainly cost effective due to dwindling General Fund revenues.

Again, thanks for your support.


Jerry Sanders

TOM,
Will checking on
OK for scheduling
next week —





Official Business

COMMITTEES
Labor and Commerce
Transportation

Alaska State Legislature

Chairman - Economic Development Committee

REPRESENTATIVE
JERRY SANDERS
District 19

Anchorage
718 W. 4th Ave.
Anchorage, AK 99501
(907) 258-8199

State Capitol
Juneau, AK 99801-1182
(907) 465-4945

SPONSOR STATEMENT

HIR 34

90 DAY SESSIONS

HJR 34 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 limit.

The benefits to reducing the session length are substantial. Most people who own a business or work a job for a salary have difficulty in taking the time necessary to come to Juneau to conduct legislative business. Traveling to Juneau to communicate with us is expensive. The more concentrated we make our Legislative session, the sooner we will be home to meet with our constituents face to face without exorbitant cost.

Reducing the session length by one month will make it possible for more people to meet with the representatives from their districts. I think this will be a big step in the right direction toward a true representative government.

It will save us money. At \$50,000 per day, a 31 day reduction will save the State \$1.55 million.

I understand that 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 the same responsibilities even when we are not in session.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR34

Revision Date: 3/20/96 Dept. Affected: Office of the Governor
 Title: Constitutional Amendment RE: duration of BRU: Elective Operations
the regular legislative session Component: General and Primary Elections
 Sponsor: Representative Sanders
 Requester: House State Affairs COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 100 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 2.2 | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 2.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 2.2 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 2.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour *D.L. LaTour* Phone: 465-5347
 Division: Division of Elections Date: 3/20/96
 Approved by: _____
 Commissioner: Lt. Governor Fran Ulmer *Fran Ulmer* Date: 3/20/96
 Agency: Office of the Lt. Governor

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 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 34

Revision Date: _____ Dept. Affected: Department of Law
 Title: "Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session." BRU: Civil Division
 Sponsor: Representative Sanders Component: General Legal Services
 Requester: Representative Sanders COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

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 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

HJR 34 would place a ballot proposition before the voters at the next general election that would amend the state's Constitution to reduce the duration of a regular legislative session from 120 to 90 calendar days. If enacted, this resolution will not have a fiscal impact for the Department of Law, because it simply places the proposition before the voters.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3/21/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/21/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

NO. _____
BILL VERSION: HJR 34
PUBLISH DATE: _____

Revision Date: _____ Department Affected: Legislative Affairs Agency
Title: Proposing an amendment to the BRU: Legislative Council
Constitution of the State of Alaska relating to the duration...
Sponsor: Representative Sanders Component: Session Expenses
Requestor: Representative Sanders Salaries & Allowances

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| PERSONAL SERVICES | -1,140.0 | -1,140.0 | -1,140.0 | -1,140.0 | -1,140.0 | -1,140.0 |
| TRAVEL | -75.0 | -75.0 | -75.0 | -75.0 | -75.0 | -75.0 |
| CONTRACTUAL | -240.0 | -240.0 | -240.0 | -240.0 | -240.0 | -240.0 |
| SUPPLIES | -30.0 | -30.0 | -30.0 | -30.0 | -30.0 | -30.0 |
| EQUIPMENT | -15.0 | -15.0 | -15.0 | -15.0 | -15.0 | -15.0 |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------------------|---|---|---|---|---|---|
| REVENUE FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|-------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| GENERAL FUND | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 | -1,500.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER FUND SOURCE | | | | | | |
| TOTAL | -1,500.0 | -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)

HJR 34 would amend the Constitution of the State of Alaska by limiting the regular session to 90 days. The daily cost of a legislative session is \$50,000. A 90 day session would decrease the cost of a regular session by \$1,500,000.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 3/21/96

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
Agency: Legislative Affairs Agency Date: 3/21/96

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

Alaska State Legislature

Legislative Research Agency



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November 8, 1991

MEMORANDUM

TO: Representative Eugene Kubina
FROM: Gordon S. Harrison, Director *gsh*
RE: The Case For and Against a 90-Day Legislative Session

You asked for a brief discussion of the pros and cons of a 90-day limit to the length of legislative sessions.

Arguments For a 90-day Session

Legislators constrained to an annual session of 90 days will presumably work faster and more productively than they do under a 120-day limit. Those people--legislators and nonlegislators alike--who support a 90-day limit believe that a good deal of time is wasted during the session: for example, committees hold too many hearings; legislators "sit on" legislation too long; staff produce too much information and too many amendments and committee substitutes to bills; and everyone devotes too much time to organization, unimportant legislation and petty bickering. According to this line of argument, the business of the state can be transacted more efficiently than it is now, and a 90-day session limit would compel the necessary efficiency.

Fewer days in session would cost less. Legislators' per diem and session staff salaries would be reduced. The director of administrative services of the Legislative Affairs Agency estimates that 120-day sessions now cost approximately \$50,000 per day. Curtailing sessions by 30 days could therefore save something in the neighborhood of \$1.5 million per year.

Also, a shorter session would make legislative service less disruptive to many legislators with families that must be uprooted and businesses that must be left behind for the session. It may be argued that a 90-day session might make legislative service feasible, or at least more appealing, to many people who cannot devote four months per year to sessions in Juneau.

Arguments Against a 90-day Session

The main argument against short sessions is that bad legislation is more likely to result from the hurried consideration of complex policy issues. Opponents of a shorter session do not believe that time is wasted during a 120-day session. While the legislative process may not be as rigorously efficient as *all year*

LEG. RESEARCH OPINION ON HJR 6

Representative Kubina
November 8, 1991
Page 2

a well-run business, the objective of government is not efficiency but good laws and wise public policy. Contemporary society is complex, and attempts to find rational legislative solutions to social ills is time-consuming. The social and economic cost to Alaska of ill-conceived, poorly crafted legislation is potentially far higher than the inconvenience to some legislators and the cost to the state of 120-day sessions.

Opponents of a 90-day session argue that legislatures that are unduly constrained--in time, frequency of meeting, financial and staff resources--are weak vis-a-vis the executive branch. Legislators working in an environment of constraint are unable to master complex subjects, and consequently they must defer to the opinions, data and analyses of the governor and his staff. Also, according to this argument, legislators without the time necessary to study and fully understand policy issues tend to be overly dependent upon their own professional staff and lobbyists for information and ideas.

Comment

The delegates to the Alaska Constitutional Convention deliberately created a strong legislature to counterbalance a strong governor. They pointedly allowed the legislature to meet annually in sessions of unlimited length. The constitution was amended in 1984 to limit sessions to 120 days. My impression is that the amendment is generally regarded as a positive step: it did wring wasted time from the legislative process and enforced some efficiency measures without upsetting the fundamental balance between the legislative and executive branches.

The question now is whether a further reduction of the session length will cripple the legislature as an institution. On this question people of good will may disagree.

I hope this brief discussion is sufficient for your purposes. I will be pleased to analyze the issue at greater length if desired.

*ed
Jen*

1989 LEGISLATIVE SESSION DATES

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

(a) May be extended

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

(c) Legislature convening itself — 30 day limit

(d) 60 legislative days within 85 calendar days

(e) Limited to 120 legislative days during 2-year period

Must adjourn by May 22, 1989

(f) Preliminary session convenes in Dec. following elec-

tion of members for organizational purposes. Bill in-

roduction permitted

(g) Limited to 30 days

(h) Legislature may convene itself with unlimited sub-

ject agenda

LEGISLATURES

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

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

Length of Legislative Sessions

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

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

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

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

"Full-time" Legislatures and Legislators

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

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

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

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

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

Dill 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 mind asylum on the final two or three days.

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

Robert B. Atwood
President and Publisher

Elaine Atwood
Assistant Publisher

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

Aloha, legislators

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

Not Alaska's legislative process.

Hawaii's.

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

And the system works very well.

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

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

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

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

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

with campaign bills is counterproductive to an effective session.

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

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

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

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

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

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

The Anchorage Times

Bill J. Allen, Publisher
 William J. Tobin, Assistant Publisher
 Gene R. Arabart, General Manager

J. Randolph Murray, Editor
 Paul Jenkins, Managing Editor
 Drake Fradley, Editor, Editorial Pages

Robert B. Atwood, Publisher Emeritus

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

THE
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STATES

VOLUME 30

LEGISLATIVE SESSIONS: LEGAL PROVISIONS—Continued

| State or other jurisdiction | Regular sessions | | | | Special sessions | | | |
|-----------------------------|------------------|----------------------|--|---|---|-----------------------------------|---------------------------------|--|
| | Year | Legislature convenes | | Limitation on length of session (a) | Legislature may call | Legislature may determine subject | Limitation on length of session | |
| | | Month | Day | | | | | |
| Michigan | Annual | Jan. | 2nd Wed. (d) | None | No | No | None | |
| Minnesota | (w) | Jan. | Tues. after 1st Mon. (m) | 120 L or 1st Mon. after 3rd Sat. in May (w) | No | Yes | None | |
| Mississippi | Annual | Jan. | Tues. after 1st Mon. | 125 C (g,x); 90 C (g,x) | No | No | None | |
| Missouri | Annual | Jan. | Wed. after 1st Mon. | May 30 | By petition, 3/4 members, each house | Yes | 30 C (y) | |
| Montana | Biennial-odd yr. | Jan. | 1st Mon. | 90 L (g) | By petition, majority, each house | Yes | None | |
| Nebraska | Annual | Jan. | Wed. after 1st Mon. | odd-90 L (g); even-60 L (g) | By petition, 2/3 members, each house | Yes | None | |
| Nevada | Biennial-odd yr. | Jan. | 3rd Mon. | 60 C (t) | No | No | 20 C (t) | |
| New Hampshire | Annual | Jan. | Wed. after 1st Tues. (d) | 45 L | By 2/3 vote of members, each house | Yes | 15 L (t) | |
| New Jersey | Annual | Jan. | 2nd Tues. | None | By petition, majority, each house | Yes | None | |
| New Mexico | Annual (l) | Jan. | 3rd Tues. | odd-60 C; even-30 C | By petition, 3/5 members, each house | Yes (h) | 30 C | |
| New York | Annual | Jan. | Wed. after 1st Mon. | None | By petition, 2/3 members, each house | Yes (h) | None | |
| North Carolina | (w) | Jan. | 3rd Wed. after 2nd Mon. (m) | None | By petition, 3/5 members, each house | Yes | None | |
| North Dakota | Biennial-odd yr. | Jan. | Tues. after Jan. 3, but not later than Jan. 11 (d) | 80 L (z) | No | Yes | None | |
| Ohio | Annual | Jan. | 1st Mon. | None | Joint call, presiding officers, both houses | Yes | None | |
| Oklahoma | Annual | Feb. | 1st Mon. (aa) | 160 C | By 2/3 vote of members, each house | Yes (h) | None | |
| Oregon | Biennial-odd yr. | Jan. | 2nd Mon. | None | By petition, majority, each house | Yes | None | |
| Pennsylvania | Annual | Jan. | 1st Tues. | None | By petition, majority, each house | No | None | |
| Rhode Island | Annual | Jan. | 1st Tues. | 60 L (t) | No | No | None | |
| South Carolina | Annual | Jan. | 2nd Tues. (d) | 1st Thurs. in June (g) | No | Yes | None | |
| South Dakota | Annual | Jan. | 2nd Tues. | odd-40 L; even-35 L | No | No | None | |
| Tennessee | (w) | Jan. | (bb) | 90 L (t) | By petition, 2/3 members, each house | Yes | 30 L (t) | |
| Texas | Biennial-odd yr. | Jan. | 2nd Tues. | 140 C | No | No | 30 C | |
| Utah | Annual | Jan. | 2nd Mon. | 45 C | No | No | 30 C | |
| Vermont | (w) | Jan. | Wed. after 1st Mon. (m) | None | No | Yes | None | |
| Virginia | Annual | Jan. | 2nd Wed. | odd-30 C (g); even-60 C (g) | By petition, 2/3 members, each house | Yes | None | |

LEGISLATIVE SESSIONS: LEGAL PROVISIONS—Continued

| State or other jurisdiction | Regular sessions | | | | Special sessions | | | |
|-----------------------------|------------------|----------------------|--------------------------------|-------------------------------------|--------------------------------------|-----------------------------------|---------------------------------|--|
| | Year | Legislature convenes | | Limitation on length of session (a) | Legislature may call | Legislature may determine subject | Limitation on length of session | |
| | | Month | Day | | | | | |
| Washington | Annual | Jan. | 2nd Mon. | odd-105 C; even-60 C | By vote, 2/3 members, each house | Yes | 30 C | |
| West Virginia | Annual | Feb. Jan. | 2nd Wed. (c,d) 2nd Wed. (c) | 60 C (g) | By petition, 3/5 members, each house | Yes (cc) | None | |

| State | Session Type | Month | Day | Limitation on length of session | Legislature may call | Legislature may determine subject | Limitation on length of session |
|----------------|------------------|-------|-------------------------|---------------------------------|--------------------------------------|-----------------------------------|---------------------------------|
| Rhode Island | Annual | Jan. | 1st Tues. | 60 L (i) | No | No | None |
| South Carolina | Annual | Jan. | 2nd Tues. (d) | 1st Thurs. in June (g) | No | Yes | None |
| South Dakota | Annual | Jan. | 2nd Tues. | odd-40 L; even-35 L | No | No | None |
| Tennessee | (w) | Jan. | (bb) | 90 L (i) | By petition, 2/3 members, each house | Yes | 30 L (i) |
| Texas | Biennial-odd yr. | Jan. | 2nd Tues. | 140 C | No | No | 30 C |
| Utah | Annual | Jan. | 2nd Mon. | 45 C | No | No | 30 C |
| Vermont | (w) | Jan. | Wed. after 1st Mon. (m) | None | No | Yes | None |
| Virginia | Annual | Jan. | 2nd Wed. | odd-30 C (g); even-60 C (b) | By petition, 2/3 members, each house | Yes | None |

LEGISLATIVE SESSIONS: LEGAL PROVISIONS—Continued

| State or other jurisdiction | Year | Regular sessions | | | Limitation on length of session (a) | Legislature may call | Legislature may determine subject | Limitation on length of session |
|-----------------------------|-------------|------------------|--------------------------------|----------------------|---|----------------------|-----------------------------------|---------------------------------|
| | | Month | Day | Legislature convenes | | | | |
| Washington | Annual | Jan. | 2nd Mon. | odd-105 C; even-60 C | By vote, 2/3 members, each house | Yes | 30 C | |
| West Virginia | Annual | Feb. Jan. | 2nd Wed. (c,d) 2nd Wed. (e) | 60 C (g) | By petition, 1/5 members, each house | Yes (cc) | None | |
| Wisconsin | Annual (dd) | Jan. | 1st Mon. (m) | None | No | No | None | |
| Wyoming | Annual (f) | Jan. Feb. | 2nd Tues. (n) 3rd Mon. (n) | odd-40 L; even-20 L | No | Yes | None | |
| Dist. of Columbia | (cc) | Jan. | 2nd day | None | | | | |
| American Samoa | Annual | Jan. July | 2nd Mon. 2nd Mon. | 45 L. 45 L. | No | No | None | |
| Guam | Annual | Jan. | 2nd Mon. (ff) | None | No | No | None | |
| No. Mariana Islands | Annual | (gg) | (d,gg) | 90 L (gg) | Upon request of presiding officers, both houses | Yes (h) | 10 C | |
| Puerto Rico | Annual | Jan. | 2nd Mon. | Apr. 30 (g) | No | No | 20 C | |
| U.S. Virgin Islands | Annual | Jan. | 2nd Mon. | 75 L | No | No | 15 C | |

Sources: State constitutions and statutes.

Note: Some legislatures will also reconvene after normal session to consider bills vetoed by governor. Connecticut—if governor vetoes any bill, secretary of state must reconvene General Assembly on second Monday after the last day on which governor is either authorized to transmit or has transmitted every bill with his objections, whichever occurs first; General Assembly must adjourn *sine die* not later than three days after its reconvening. Hawaii—legislature may reconvene on 45th day after adjournment *sine die*, in special session, without call. Louisiana—legislature meets in a maximum five-day veto session on the 40th day after final adjournment. Missouri—if governor returns any bill on or after the fifth day before the last day on which legislature may consider bills (in even-numbered years), legislature automatically reconvenes on first Wednesday following the second Monday in September for a maximum 10 C session. New Jersey—legislature meets in special session (without call or petition) to act on bills returned by governor on 45th day after *sine die* adjournment of the regular session; if the second year expires before the 45th day, the day preceding the end of the legislative year. Utah—if 2/3 of the members of each house favor reconvening to consider vetoed bills, a maximum five-day session is set by the presiding officers. Virginia—legislature reconvenes on sixth Wednesday after adjournment for a maximum three-day session (may be extended to seven days upon vote of majority of members elected to each house). Washington—upon petition of 2/3 of the members of each house, legislature meets 45 days after adjournment for a maximum five-day session.

Key:

C—Calendar day

L—Legislative day (In some states, called a session day or workday; definition may vary slightly, however, generally refers to any day on which either house of the legislature is in session)

(a) Applies to each year unless otherwise indicated.

(b) General election year (quadrennial election year).

(c) Year after quadrennial election.

(d) Legal provision for organizational session prior to stated convening date. Alabama—in the year after quadrennial election, on the second Tuesday in January for 10 C. California—in the even-numbered, general election year, on first Monday in December for an organizational session, recess until the first Monday in January of the odd-numbered year. Florida—in general election year, 14th day after election. Indiana—third Tuesday after first Monday in November. Kentucky—in odd-numbered year, Tuesday after first Monday in January for 10 L. Louisiana—in year after general election, second Monday

in January, not to exceed 3 L. Michigan—held in odd-numbered year. New Hampshire—in even-numbered year, first Wednesday in December. North Dakota—in December. South Carolina—in even-numbered year, Tuesday after certification of election of its members for a maximum three-day session. West Virginia—in year after general election, on second Wednesday in January. No. Mariana Islands—in year after general election, second Monday in January.

(e) Other years.

(f) By 2/3 vote each house.

(g) Session may be extended by vote of members in both houses. Alaska: 2/3 vote for 10-day extension. Arkansas: 2/3 vote. Florida: 3/5 vote. Hawaii: petition of 2/3 membership for maximum 15-day extension. Kansas: 2/3 vote. Maine: 2/3 vote for maximum 10 L. Maryland: 3/5 vote for maximum 30 C. Mississippi: 2/3 vote for 30 C extension, no limit on number of extensions. Nebraska: 4/3 vote. South Carolina: 2/3 vote. Virginia: 2/3 vote for 30 C extension. West Virginia: 2/3 vote (or if budget bill has not been acted upon three days before session ends, governor issues proclamation extending session). Puerto Rico: joint resolution.

(h) Only if legislature convenes itself. Special sessions called by the legislature are unlimited in scope in Arizona, Georgia, Maine, and New Mexico.

(i) No constitutional or statutory provision; however, legislative rules require that regular sessions adjourn no later than Saturday of the week during which the 100th day of the session falls.

(j) After governor's business has been disposed of, members may remain in session up to 15 C by a 2/3 vote of both houses.

(k) Regular sessions begin after general election, in December of even-numbered year. In California, legislature meets in December for an organizational session, recesses until the first Monday in January of the odd-numbered year and continues in session until Nov. 30 of next even-numbered year. In Maine, session which begins in December of general election year runs into the following year (odd-numbered); second session begins in next even-numbered year.

(l) Second session limited to consideration of specific types of legislation. Connecticut—individual legislators may only introduce bills of a fiscal nature, emergency legislation and bills raised by committees. Louisiana—fiscal matters. Maine—budgetary matters; legislation in the governor's call; emergency legislation; legislation referred to committees for study. New Mexico—budgets, appropriations and revenue bills; bills drawn pursuant to governor's message; vetoed bills. Wyoming—budget bills.

(n) Odd-numbered years.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS—Continued

- (n) Even-numbered years.
 (o) Odd-numbered years—not later than Wednesday after first Monday in June; even-numbered years—not later than Wednesday after first Monday in May.
 (p) Constitution provides for regular session convening dates and allows that sessions may also be held " . . . at such other times as the General Assembly shall judge necessary." Call by majority of legislators is implied.
 (q) Upon completion of business.
 (r) Limited to 40 L unless extended by 3/5 vote and approved by the governor, except in cases of impeachment proceedings.
 (s) Legislators may reconvene at any time after organizational meeting; however, second Monday in January is the final date by which regular session must be in process.
 (t) Indirect limitation; usually restrictions on legislator's pay, per diem, or daily allowance.
 (u) May not extend beyond April 15.
 (v) Joint rules provide for the submission of a written statement requesting special session by a specified number of members of each chamber.
 (w) Legal provision for session in odd-numbered year; however, legislature may divide, and in practice has divided, to meet in even-numbered years as well.
 (x) 90 C sessions every year, except the first year of a gubernatorial administration during which the

- legislative session runs for 125 C.
 (y) 30 C if called by legislature; 60 C if called by governor.
 (z) No legislative day is shorter than a natural day.
 (aa) Odd number years will include a regular session commencing on the first Tuesday after the first Monday in January and recessing not later than the first Monday in February of that year. Limited constitutional duties can be performed.
 (bb) Commencement of regular session depends on concluding date of organizational session. Legislature meets, in odd-numbered year, on second Tuesday in January for a maximum 15 C organizational session, then returns on the Tuesday following the conclusion of the organizational session.
 (cc) According to a 1955 attorney general's opinion, when the legislature has petitioned to the governor to be called into session, it may then act on any matter.
 (dd) The legislature, by joint resolution, establishes the session schedule of activity for the remainder of the biennium at the beginning of the odd-numbered year.
 (ee) Each Council period begins on January 2 of each odd-numbered year and ends on January 1 of the following odd-numbered year.
 (ff) Legislature meets on the first Monday of each month following its initial session in January.
 (gg) 60 L before April 1 and 30 L after July 31.

From:
 ALASKA LEGISLATIVE
 RESEARCH AGENCY

Table 3.3
 THE LEGISLATORS: NUMB
 (As of April 1994)

| State or other jurisdiction | Democrats | Republicans | Nonpartisan |
|-----------------------------|-----------|-------------|-------------|
| All states | 1,139 | 794 | |
| Alabama | 27 | 8 | |
| Alaska | 10 | 10 | |
| Arizona | 12 | 18 | |
| Arkansas | 30 | 5 | |
| California | 22 | 16 | |
| Colorado | 16 | 19 | |
| Connecticut | 19 | 17 | |
| Delaware | 15 | 6 | |
| Florida | 20 | 20 | |
| Georgia | 39 | 17 | |
| Hawaii | 22 | 3 | |
| Idaho | 12 | 23 | |
| Illinois | 27 | 31 | |
| Indiana | 22 | 26 | |
| Iowa | 27 | 22 | |
| Kansas | 13 | 27 | |
| Kentucky | 24 | 14 | |
| Kentucky | 33 | 6 | |
| Maine | 20 | 15 | |
| Maryland | 38 | 9 | |
| Massachusetts | 31 | 9 | |
| Michigan | 16 | 22 | |
| Minnesota | 45 | 22 | (f) |
| Mississippi | 39 | 13 | |
| Missouri | 20 | 14 | |
| Montana | 30 | 20 | |
| Nebraska | 10 | 11 | |
| Nevada | 11 | 13 | |
| New Hampshire | 11 | 24 | |
| New Jersey | 16 | 24 | |
| New Mexico | 27 | 15 | |
| New York | 26 | 35 | |
| North Carolina | 39 | 11 | |
| North Dakota | 25 | 24 | |
| Ohio | 13 | 20 | |
| Oklahoma | 37 | 11 | |
| Oregon | 16 | 14 | |
| Pennsylvania | 24 | 26 | |
| Rhode Island | 39 | 11 | |
| South Carolina | 30 | 16 | |
| South Dakota | 30 | 15 | |
| Tennessee | 19 | 14 | |
| Texas | 18 | 13 | |
| Utah | 18 | 11 | |
| Vermont | 11 | 16 | |
| Virginia | 22 | 15 | |
| Washington | 25 | 21 | |
| West Virginia | 32 | 12 | |
| Wisconsin | 18 | 17 | |
| Wyoming | 10 | 20 | |
| Dist. of Columbia (m) | 12 | | |
| American Samoa | | | Nonpartisan |
| Guam | 14 | | |
| Northern Mariana Islands | 3 | 6 | |
| Puerto Rico | 8 | 20 | (e) |
| U.S. Virgin Islands | 8 | 4 | |

See footnotes at end of table.

HJR

40

SPONSOR STATEMENT

HJR 40

**Proposing an amendment to the Constitution of the State of Alaska
repealing provisions establishing and relating to
the budget reserve fund.**

The people of Alaska were misled in 1990 when they were persuaded to approve an amendment to their constitution that created the constitutional budget reserve fund (CBR) in Article IX, Sec. 17.

The sponsors and proponents of the CBR argued that the legislature should not be trusted with the anticipated windfalls from negotiated settlements of back oil tax and royalty disputes, estimated at that time to be about \$3 billion. Their statement in the voters' pamphlet supporting the ballot measure put heavy emphasis on cutting the budget, reducing state spending, and getting state spending under control.

In reality, the CBR has accomplished none of this. Instead, it has helped increase state spending by compelling majority and minority members of the legislature to work out deals to obtain the necessary 3/4 vote to gain access to the CBR. Rather than save windfalls, the CBR has become a holding pen for the windfalls, a sidetrack on the way to state spending.

Here are the main reasons why the voters of Alaska should revisit this issue and support the repeal of the CBR:

First, the likelihood that this issue will have a negative effect on permanent fund dividends is quite high. Why? Because the legislature is supposed to consider all other sources of revenue--including the earnings of the permanent fund--before it accesses the CBR by an appropriation for annual state spending. The legislature has chosen not to tap those other revenue sources, but has instead bypassed them to get to the CBR.

If the court orders the state to pay back to the CBR the amount that has been borrowed, which could be as much as \$2 billion by the end of this year, the

impact on the dividends could be much quicker and deeper than anyone might want.

Second, the language of the CBR amendment is confusing, vague, and open to misinterpretation. The legislative history of this amendment is nearly totally lacking, so the intended meanings of the words and phrases used in it are not known. This has led, so far, to two lawsuits and two supreme court decisions that, while they have moved the debate along, have also left many questions up in the air. And more court challenges are being readied.

Third, the CBR could have a devastating impact on the cash flow of the state. While not many Alaskans realize it, the general fund ran dry twice last year and had to be bolstered by borrowed moneys from other accounts. This problem promises to get worse as oil revenues drop. This is particularly acute at the first part of the fiscal year, when demand on the state treasury is traditionally at its highest.

Finally, the fact that the legislature has borrowed from the CBR and not bothered to pay it back has created a conflict with another constitutional mandate, that of not allowing deficit spending. Article IX, Sec. 10 requires that any state debts incurred by borrowing "shall be paid before the end of the next fiscal year." While we might argue over how academic it is to owe a debt to ourselves, a court would likely order the money to be repaid.

For all these reasons, the legislature should approve HJR 40 and put the question of the ineffective and potentially disastrous CBR on the general election ballot for the voters to repeal.

FISCAL NOTE

STATE OF ALASKA

BILL NO. HJR 40

1995 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE:

BRU: Division of Elections

Repeal Budget Reserve Fund

Component: General and Primary Elections

Sponsor: Representative Martin

COMPONENT SERIAL NO. 22

Requestor: _____

EXPENDITURES/REVENUES:

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 2.2* | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS. | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING:

| | | | | | | |
|-----------------|---|------|---|---|---|---|
| 1002 Federal | 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 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 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 (FY95) 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 counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: David Koivuniemi, Acting Director Phone: 465-4611

Division: Division of Elections Date: 4-11-95

Approved by Commissioner: Lt. Governor Fran Ulmer

Agency: Office of the Lt. Governor Date: 4-17-95

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MEMORANDUM

April 6, 1995

TO: All House of Representative Members

FROM: Representative Terry Martin, Chairman
Legislative Budget and Audit Committee

SUBJECT: Constitutional Budget Reserve Fund

I have sponsored HJR 40 which will repeal the Constitutional Budget Reserve Fund (Article IX, Section 17). The resolution is currently in the House State Affairs Committee, and in addition to needing a two-thirds vote of approval in the House and Senate, it will require approval by the voters at the 1996 general election.

Attached for your information are two reports recently compiled regarding the Constitutional Budget Reserve (CBR).

The first item is a memo from my staff answering some basic questions regarding current issues on the CBR.

Second is a report produced by the Department of Law in response to questions regarding funds "available for appropriation", and "funds available for appropriation within the general fund". The positions that are stated for each fund are based upon the Alaska Supreme Court's decision in *Halford v. Hickel* in its findings regarding HB 58 from last session.

It is my feeling that the information and statements posed in these reports help to illustrate some of the many problems the CBR has created in the budget process.



MEMORANDUM

April 6, 1995

TO: Representative Terry Martin, Chairman
Legislative Budget and Audit Committee

FROM: John Bitney, Committee Aide

SUBJECT: Questions Regarding Constitutional Budget Reserve Fund

You have asked me to provide some information in response to questions regarding the Constitutional Budget Reserve Fund (Alaska Constitution Article IX, Sec. 17).

1) How much is currently in the Constitutional Budget Reserve Fund (CBRF)?

The current balance (as of March 14 per Dept. of Revenue) of the CBRF is \$1,373,100,000.

The projected balance to be available on June 30 is \$1,634,900,000. (See attachment #1)

2) How much is currently borrowed from the CBRF?

The total liability to the General Fund for amounts appropriated from the CBRF for FY94 is \$1,418,774,444 (see attachment #2).

As of March 23, the estimated amount to be appropriated from the CBRF during FY95 is \$210,100,000.

3) How much interest is generated in the CBRF?

Article IX, Sec. 17(a) states, in part, "Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund."

The CBRF is invested by the Department of Revenue within the General Investment Account. Investments for the CBRF are separately accounted for since the management of these funds have different purposes than other investments for such things as general fund dollars. For example, general fund dollars would require shorter term investments since they may have to be liquidated on short notice in order to cover state cash requirements. On the other hand, the need to liquidate CBRF investments is much more predictable, and as such, longer term investments can be made.

The interest for the CBRF is computed on a monthly basis. The *periodic rate of return*¹ for the CBRF is 4.13 percent.

4) Who is responsible for the interest that is earned or should be earned that was borrowed from the CBRF? How much is currently in the borrowed status and interest that should have been accounted for?

At the March 23 meeting of the Legislative Budget and Audit Committee (LB&A), Representative Bunde posed this question to the Department of Administration. In response, Jim Baldwin from the Department of Law stated that while money is borrowed from the CBRF to cover cash flow problems, no interest is owed back to the CBRF for the period of time that cash transfers were made to cover the general fund.

At this point, approximately \$50 million has been borrowed from the CBRF in FY95 to cover cash flow problems. It is anticipated that more will be borrowed at the end of FY95 in order to cover the fiscal year end deficit. The exact amount borrowed for FY95 from the CBRF will be shown in the state's Annual Financial Report that is usually completed in December.

5) What is the "sweep"? When does it take place and what is the impact to General Fund cash flow?

Article IX, Sec. 17(d) states;

If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund.

Unless the legislature appropriates \$1.4 billion to repay the CBRF (I would add that this is very unlikely to happen), the Department of Administration will implement the Sec. 17(d) language by automatically "sweeping" all general fund balances on July 1, 1995 into the CBRF. While this will certainly not fully meet the \$1.4 billion "debt", its impact on general fund cash flow could be much more serious.

As discussed at the 3/23/95 LB&A meeting, the state general fund was in a deficit balance last year during August and September. During these months, cash

¹ Since the investment returns for CBRF are reported on a monthly basis, a *periodic rate of return* is used rather than an *annual rate of return*. Periodic rates reflect that the return rate will vary on a month by month basis.

needs of the state are annually at the highest point for the fiscal year. When the cash available in the unrestricted general fund account was unable to cover state cash needs at the time, balances in other general fund group accounts were used to maintain state cash flow.

In the event the Department of Administration implements Sec. 17(d) and "sweeps" all available general fund balances into the CBRF on July 1, this will remove the cash available in these other general fund accounts that has been used in the past to cover general fund cash shortfalls. Please note that these accounts are being swept at the beginning of the period where cash flow needs are at their highest point for the fiscal year.

6) Should we repeal Sec. 17, Art IX?

Obviously this question is a call on the part of the legislature and the citizens of Alaska.

To accomplish a repeal, the legislature would have to approve a constitutional amendment with a resolution passed by two-thirds of both bodies. The voters would then have to approve this amendment at the next general election scheduled for November of 1996.

Representative Martin, the Constitutional Budget Reserve Fund has been the source of controversy and confusion since its initial passage. First, the review and drafting process within the legislature was flawed. The resolution that created the CBRF was only a part of a much larger package negotiated between the House and Senate, and most of the record of the discussion focuses on the other parts of the package. In the end, only the CBRF language remained, but there was little discussion or explanation of how the language worked or how it should be implemented. (Much of the discussion regarding the final language that was adopted occurred at a very late hour on the final night of the 1990 legislative session.)

The result has been a section in our constitution that is confusing and unworkable. It has made the process of writing a budget for state operations more difficult and more politicized. It is conceivable that, as the process evolves, the cost of obtaining a three-quarter vote will increase as available non-CBRF reserve accounts and other options decrease. This would likely result in substantially more unnecessary state spending, hardly the result the people envisioned when they passed the CBRF amendment in 1990.

Constitutional Budget Reserve Analysis

| | |
|---|-----------|
| Balance as of 6/30/94 per the FY94 Annual Financial Report | 613.5 |
| To General Fund, Section 39(c), Ch 3, FSSLA 94 (estimated, to balance FY95) Assuming \$16.55/bbl., DOR March Market Forecast | (141.4) |
| Oil & Gas Litigation, Section 40, Ch 3, FSSLA 94 | (68.7) |
| Oil & Gas Litigation, Section 22(a), Ch 3, FSSLA 94 | (11.3) |
| To Mental Health Trust Fund, Ch 6, FSSLA 94 | (130.3) |
| Additional Settlements, FY95 to date as of March 14, 1995, per Dept of Revenue (1) | 1,373.1 |
| → Projected 6/30/95 Available Balance (2) | 1,634.9 ← |
| To General Fund, estimated, to balance FY96 revenues and expenditures Assuming DOR Fall Forecast, FY96 Base Case @ \$16.72/bbl. and the Knowles FY96 Request | (541.8) |
| BP Settlement, 12/31/95 payment | 350.0 |
| Projected 6/30/96 Available Balance (2) | 1,443.1 |

(1) Sources:

| Date | Taxpayer | Amount (3) |
|--|-----------------------|---------------------------------|
| July, 1994 | Phillips Petroleum | \$17.4 million |
| September, 1994 | ARCO Alaska, Inc. | \$92.4 million |
| September, 1994 | Phillips Petroleum | \$12.9 million |
| September, 1994 | Texaco, Inc. | \$6.7 million |
| October, 1994 | Unocal | \$14.2 million |
| October, 1994 | Exxon Corporation | \$154.5 million |
| October, 1994 | Mapco | \$72.6 million |
| November, 1994 | BP Exploration Alaska | \$700.0 million (4) |
| November, 1994 | ARCO Alaska | \$265.2 million |
| March, 1995 | ARCO Alaska (NGLs) | \$37.2 million |
| FY95 Year-to-date Total as of 3/21/95 | | <u>\$1,373.1 million</u> |

(2) The projected 6/30/95 and 6/30/96 balances do not include the repayment receivable from the general fund (\$1,418.8 million as of 6/30/94).

(3) The amounts shown are approximate, actual settlement receipts posted to the Constitutional Budget Reserve may be slightly different.

(4) The \$1,400.0 million BP Settlement calls for additional payments of \$350.0 million each in FY96 and FY97.