

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8799 HOUSE STATE AFFAIRS

HCR

11

House District 36
Alaina
Alcan
Alikaket
Aniak
Anvik
Arctic Village
Peaver
Bettles
Birch Creek
Canyon Village
Central
Chalkyitsik
Chicken
Chistochina
Chitina
Chuathbaluk
Circle
Circle Hot Springs
Coldfoot
Copper Center
Copperville
Crooked Creek
Dot Lake
Dry Creek
Eagle
Eagle Village
Evansville
Fort Yukon
Gakona
Galena
Gravling
Gulkana
Healy Lake
Holy Cross
Hughes
Huslia
Kaltag
Koyukuk
Lime Village
Livengood
Lake Minchumina
Lower Kalskag
Manley
Marshall
McCarthy
McGrath
McDra
Mentasta
Minto
Nabesna
Nenana
Nikolai
Northway
Nulato
Pilot Station
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Slana
Sleetmute
Stevens Village
Stony River
Tatortna
Tanacross
Tanana
Telida
Terlin
Tok
Tulaksak
Tyonek
Upper Kalskag
Venette
Wiseman

Representative Irene K. Nicholia

State Capitol • Juneau, Alaska 99801
Phone: 465-4527 FAX: 465-2294

*Resources
Community and Regional Affairs
International Trade and Tourism*

MEMORANDUM

TO: Representative Jeannette James
Chair, House State Affairs Committee

FROM: Representative Irene Nicholia *Irene*

DATE: February 21, 1995

RE: Scheduling of HCR 11

I would like to request a hearing on HCR 11, Designating March 1995 as Sobriety Awareness Month, in the House State Affairs Committee.

It is important that this resolution pass through both the House and the Senate in a timely manner, as this proclamation will be carried by Ramy Brooks in this years Iditarod race beginning March 5.

I appreciate your consideration of this matter, and I look forward to working with the State Affairs Committee on HCR 11.

Thank you.

Carving Bill 4527 Deborah Osterdorff

House District 38

- Alatna
- Alatna
- Alakaket
- Aniak
- Anvik
- Arctic Village
- Beaver
- Bertles
- Birch Creek
- Canyon Village
- Central
- Chalkyitsik
- Chicken
- Chistochina
- Chitina
- Chuathbaluk
- Circle
- Circle Hot Springs
- Coldfoot
- Copper Center
- Copperville
- Crooked Creek
- Dot Lake
- Dry Creek
- Eagle
- Eagle Village
- Evansville
- Fort Yukon
- Gakona
- Galena
- Grayling
- Gulkana
- Healy Lake
- Holy Cross
- Hughes
- Huslia
- Kaltag
- Koyukuk
- Lime Village
- Livengood
- Lake Minchumina
- Lower Kalskag
- Manley
- Marshall
- McCarthy
- McGrath
- Medfra
- Mentasta
- Minto
- Nabesna
- Nenana
- Nikolai
- Northway
- Nulato
- Pilot Station
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Shageluk
- Slana
- Sleetmute
- Stevens Village
- Stony River
- Takotna
- Tanacross
- Tanana
- Telida
- Tetlin
- Tok
- Tuluksak
- Tyonek
- Upper Kalskag
- Venetie
- Wiseman

Representative Irene K. Nicholia

State Capitol • Juneau, Alaska 99801
Phone: 465-4527 FAX: 465-2294

Community and Economic Development
International Trade Commission

House Concurrent Resolution 11

SPONSOR STATEMENT

HCR 11 designates the month of March as Sobriety Awareness Month, commonly referred to as "SAM."

The problems of drug and alcohol abuse in Alaska are very serious. Our social and criminal-justice systems are heavily impacted by people who are abusing alcohol and drugs.

The Alaska Federation of Natives is asking the State to begin taking a positive, proactive role toward promoting sobriety. HCR 11 is a formal statement from the Legislature recognizing those individuals who have chosen to lead a sober lifestyle, and supporting the goals of the Alaska Federation of Natives Sobriety Movement (AFNSM).

The AFNSM Council and the 55 AFNSM charter groups and honor societies have adopted a similar resolution designating March as Sobriety Awareness Month. The Movement has identified the ABC's of sobriety as: a) To improve the quality of life and health of individuals, families and communities; b) To reduce the incidences of alcohol and drug related crimes, and; c) To reduce the burden of local, state, and federal government exhaustion of resources to pay for the problems caused by substance abuse. The attached information further explains the path of the AFNSM for this effort.

It is incumbent upon the State to become more involved in promoting sobriety. We can begin this process by supporting the work of the AFNSM and passing HCR 11.

Thank you for your consideration.

News

Sobriety: A solution as easy as the ABC's

COMMENTARY from the Alaska Federation of Natives.

Without argument the resultant problems of substance abuse (alcohol and drug) have resolutely been identified by government agencies for decades. Three questions we, as Alaskans and as a society, must concern ourselves with are: "What is the best method of approach to solving the problems of substance abuse? Is it better to maintain a status quo of focusing on the problems of substance abuse? Or, is it better to focus on the merits of a common, yet identifiable, solution?" For the AFNSM Sobriety Movement (AFNSM), it is the latter.

The principle strategy for solving the indisputable problems of substance abuse have been met mostly from the vantage point of "naming" positions and programs after the problem, e.g., Alcohol Counselor, Department of Alcohol and Drug Abuse, Mothers Against Drunk Drivers, Alcohol Awareness Month, etc.,.

By virtue of these titles, although well intentioned, give more attention to a commodity and its abuses than to advocating or creating unanimity of purpose to a com-

mon solution which results in socially appropriate behaviors and choices.

Behaviors and choices which empower people to nurture what AFNSM has identified as the ABC's: a) To improve the quality of life and health of individuals, families and communities; b) To reduce the incidences of alcohol and drug related crimes; c) To reduce the burden of local, state and federal government to exhaust their resources to pay for the problems caused by substance abuse.

Aside from AFNSM, its 55 Charter Groups and Honor Societies (two of which are the National Family Partnership and its affiliate Alaskans for Drug-Free Youth), no other agency in the field of prevention, has identified or advocated head-on the particular lifestyle known as sobriety, lifestyle known, shared and practiced by millions of Americans.

It is so easy to talk for granted, that, while our society is in the grip of dealing with the problems of substance abuse, there is a segment of our populous who live under the banner and lifestyle of sobriety. Curiously, this populous is not

crowding our prison system; nor, are their children crowding the juvenile and justice system. These are people, neighbors even, who represent a segment of our society who are unseen, unheard and unappreciated by the grandiose institutions and positions we have created - and for reason felt it noble to name after - to deal with the pervasive problems of substance abuse.

For AFNSM the optimum word is sobriety. It refers to a lifestyle: a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs.

Prevention, on the other hand, although an intricate part of sobriety, only refers to the task(s) in which attain or maintain sobriety. The sooner we understand this, the sooner we will come to appreciate the difficult role and responsibility we, as a society, have to reinforce a lifestyle which empowers and nurtures the "ABC's" identified by AFNSM into becoming a reality.

The current mind-set within the "prevention field" is so rigid in its bureaucracy that it is hard to see them openly acknowledge that AFNSM's definition of sobriety

has a lot to do with why they even exist. Which brings up a very important point.

That is, AFNSM is not the sobriety movement, per se. The sobriety movement is, and can be construed as, the culmination of effort of every public and private agency affected by and working toward the prevention of substance abuse. Only these public and private agencies do not realize this, yet. Because they have not yet fully ascribed to or taken public ownership of sobriety as a solution, in so much as they have taken public ownership of only identifying substance abuse as a problem. Identifying a problem is only half the answer.

Meanwhile, until the time that more prevention programs begin accepting sobriety in their public vocabularies, AFNSM will continue to collect sobriety pledge signatures and give them to an Iditarod Musher to carry up to Nome; not so much for their symbolic value, as much as a way to pay homage to the thousands of men, women and children, who are already doing their part to accomplish the aforementioned ABC's.

Mr. Nickoly Etyne, a Chukchi (Eskimo) for the Northeastern region of Siberia, who has been identified as the Iditarod Musher to carry AFNSM's sobriety signatures to Nome this year, has given AFNSM an opportunity to share its message internationally.

Mr. Remy Brooks, an Athabascan Indian from Fairbanks, who was later found out to be also racing in this year's Iditarod has pledged his full support in the effort to ensuring that the signatures make it to Nome.

Before the "sobriety movement" was ever identified, we, as a society, judged ourselves by our intentions to support those who live what AFNSM defines as sobriety. However, we cannot escape our actions or ineptitude to socially and publicly identify, reward and reinforce sobriety as a socially acceptable and appropriate lifestyle.

This March, we, as a society, with prevention field looking on, have an opportunity to "walk our talk" as an Iditarod Musher(s) takes AFNSM's sobriety signatures to Nome.

It is as easy as ABC; wait and see.

HCR 11

AFNSM JOURNAL

Volume 1 Issue 2

FEBRUARY 1995

SOBRIETY: A POSITIVE, HEALTHY AND PRODUCTIVE WAY OF LIFE...

For AFNSM SAM is MARCH

During a planned statewide call-in teleconference, Tuesday, January 31, 1995, in an unprecedented move to focus more on the solution rather than the problem. The AFN Sobriety Movement (AFNSM) Council, its Charter Groups & Honor Societies (CGHS), passed AFNSM resolution 95-01 designating the month of March as Sobriety Awareness Month (SAM); calling for the AFN Board of Directors, the 19th Alaska State Legislature and Honorable Governor Tony Knowles to proclaim March as Sobriety Awareness Month.

Having March known as SAM will generate the much needed recognition of the thousands of men, women and children whose sobriety signatures will travel on the Iditarod trail in Nicokoly Etyne's dog sled, a Chukchi Eskimo from the Northeastern region of Siberia. Also, it will generate greater appreciation to the merits of sobriety which are resultant in what AFNSM identifies as the ABC's: a) To improve the quality of life and health of individuals, families and communities; b) To reduce the incidences of alcohol and drug related crimes; c) To reduce the burden on local, state and federal governments to exhaust their resources on the problems caused by alcohol and drug abuse.

It is so easy to forget or take for granted that, while our society is in the grip of



Our Symbol: The raven is a spiritual creature, representing the creator. The figures sheltered by its wings represent the people standing together for a purpose.

dealing with the problems of alcohol and drug abuse, that there is a segment of our society who live under the banner and lifestyle of sobriety. Curiously, this segment of our society is not crowding our prison system; nor, are they or their children crowding the justice system. These are people, neighbors even, who are unseen, unheard and unappreciated by the institutions and positions - and for some reason felt it noble to name after - who deal with only the problems of substance abuse. Having a month known as SAM could change all that.

Congressional Senators & AK Senate President back AFNSM

US Alaskan Congressional Senators Stevens and Murkowski, and Alaska Senate President Drue Pearce, backed AFNSM's plea to First Lady Hillary Rodham Clinton to write a personal letter in support and in recognition of AFNSM's efforts to: 1) become non-dependent of state & federal subsidies; 2) honor thousands of people whose sobriety signatures are being carried on the Iditarod trail; 3) further what AFNSM identifies as the ABC's.

If, and when, Mrs. Clinton's letter is received it will be carried on the Iditarod trail in this years Iditarod.

Inside This Issue

1&2 SAM is MARCH; Senators back AFNSM

3&4 AkANG & AFNSM work together

5&6 ACC; AFNSM Iditapledge Kick-off

7&8 Native Inmates; Teleconference 2/14-3pm

9 KTBV FOX 4 Kids Club - Blanket Toss

Position Paper
HCR 11
Sobriety Awareness Month: March 1995

The intent of this House Concurrent Resolution is to pay tribute to the thousands of men, women, and children, who through their own sobriety, are improving the quality of life and health for themselves, their families, and their communities. Secondly, this resolution encourages state agencies and citizens of the state to engage in suitable activities during the month of March 1995 to observe Sobriety Awareness Month. The concept of this resolution was initiated by the Alaskan Federation of Natives and the AFN Sobriety Movement.

The impact of this resolution is to increase community understanding and awareness of sobriety as a positive and healthy choice for individuals, families and communities. The growing awareness of the public contributes to a growing desire for information and knowledge about causes and effects and for effective approaches and programs to prevent and treat substance and addiction. Awareness and knowledge of substance abuse have led to the development of grass roots efforts to address the issues through local, state and national actions.

Building on the existing public interest can be among the most cost-effective approaches to achieving widespread and long lasting reductions in alcohol, other drug, and inhalant abuse. This interest can be the foundation for development of local action and partnerships with and among communities.

The Department of Health and Social Services strongly supports House Concurrent Resolution 11 to designate March 1995 as Sobriety Awareness Month.

Recommended by Marilee M. Fletcher Feb. 27, 1995
Date
Marilee M. Fletcher,
Division of Alcoholism
and Drug Abuse

Approved by Karen Perdue Feb. 27, 1995
Date
Karen Perdue,
Commissioner

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CR 11

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Sobriety Awareness Month: March 1995 BRU: Alcohol and Drug Abuse Svcs
 Component: ADA Administration
 Sponsor: Nicholia, Gussendorf, Robinson, Navarre COMPONENT SERIAL NO. 302
 Requestor: House STA See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the division.

Prepared by: Marilee Fletcher
 Division: Alcoholism & Drug Abuse

Phone: 465-2071
 Date: 02/27/95

Approved by Commissioner: Karen Perdue
 Agency: Department of Health & Social Services

Date: 2/27/95

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HCR

25

HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS AFFAIRS

SPONSOR STATEMENT HCR 25

THE 381st Intelligence Squadron Logistics Division, which is stationed at Elmendorf Air Force Base, has performed distinguished service to our nation, as indicated by the numerous merit awards it has earned. Among others, this outstanding unit has received the United States Air Force Outstanding Logistics Plans and Programs Award, the Lieutenant General Leo Marquez Award, the General Thomas P. Gerrity Award for Outstanding Logistics, and the Honorable Dudley Sharp Award.

Alaska is honored by the dedication and professional competence of this unit. HCR 25 recognizes its excellence by declaring May 15, 1996 to be 381st Intelligence Squadron Logistics Division Day. Your support is appreciated.

**HOUSE SPECIAL COMMITTEE
ON MILITARY AND VETERANS AFFAIRS**

**HCR 25
ANALYSIS**

This resolution would declare May 15, 1996 to be 381st Intelligence Squadron Logistics Division Day. It calls for a distribution of copies of the resolution to various officials and military leaders.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HCR 25

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: "A Resolution Declaring May 15, 1996, BFU: Executive Operations
381st Intelligence Squadron Logistics Division Day Component: Office of the Lt. Governor
 Sponsor: House Spec. Comm. Military and Veterans Affairs
 Requester: _____ COMPONENT SERIAL NO. 11

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	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						
1037 GF/Mental Health						
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						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: John Lindback, Chief of Staff *John Lindback* Phone: 465-3522
 Division: Office of the Lt. Governor Date: 2/8/96
 Approved by Commissioner: Lt. Governor Fran Ulmer *F. Ulmer* Date: _____
 Agency: _____

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HJR

1

Alaska State Legislature



Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

MEMORANDUM

TO: Representative Jeannette James *Jeannette*
Chair
House State Affairs Committee

FROM: Representative Gail Phillips *Gail*
SPEAKER

DATE: February 22, 1995

RE: HJR 1, "Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature."

Please schedule HJR 1 for a hearing before the House State Affairs Committee as soon as possible.

HJR 1 would place before the voters in the next general election a ballot proposition to amend the Alaska Constitution to allow the Legislature to repeal regulations (those which either ignore the legislative directive of the enabling legislation or go beyond the limits of what the Legislature intended) in a much more direct fashion.

The Legislature has approved this ballot measure several times in the past; and, although prior efforts to persuade the voters to support this amendment have failed, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality.

I urge you to support this important resolution. Thank you again for your prompt consideration of this matter.

- Request for hearing -

Alaska State Legislature



State Capitol
Juneau, Alaska 99801-1182
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(907) 465-2689

Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

SPONSOR STATEMENT

HJR 1 -- "PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO REPEAL OF REGULATIONS BY THE LEGISLATURE"

This Joint Resolution is a proposal to place a Constitutional Amendment before the voters of the State of Alaska on the 1996 General Election ballot. The Amendment would permit the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes.

Many regulations do conform to and accurately implement the laws passed by the Legislature; however, there are an increasing number of situations where regulations imposed on the citizens of the state do not. In many cases, legislative directives are ignored or regulations are promulgated that go far beyond the scope of what the Legislature intended. As you know, once regulations go into effect, they have all the force and effect of law. This is the case even though regulations are promulgated by agency bureaucrats who do not have to answer to the voters.

The Alaska Constitution provides a system of checks and balances among the three branches of government. The people of Alaska have their own check on government through the voting booth, the initiative process, and final authority over amendments to the Constitution.

However, one area that is beyond reasonable access to the people's voice is the tremendous volume of administrative regulations which are proposed by state agencies and written by attorneys at the Department of Law. These regulations affect every aspect of the peoples' lives. Yet the people are virtually powerless to change them. The Constitutional Amendment proposed by HJR 1 would provide the people a reasonable avenue to seek the repeal of improper regulations.

- Sponsor Statement -

I recognize that this issue has been before the voters three different times and prior efforts to persuade the voters to support similar amendments have failed. Nevertheless, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality. Now, more than ever, Alaskans understand how regulations affect their daily lives and I believe they will support this ballot proposition which brings state regulations closer to the people.

I urge your support of this important resolution.

A handwritten signature in cursive script, appearing to read "Lail".

Alaska State Legislature



Official Business
Fax (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

MEMORANDUM

TO: House State Affairs Committee

FROM: Representative Gail Phillips *Gail*
SPEAKER

DATE: February 22, 1995

RE: HJR 1, "Proposing an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the legislature."

This proposal for an amendment to the Constitution of the State of Alaska to repeal regulations by the Legislature has been placed on the ballot on three previous occasions. The chart below shows the results of those votes. Although prior efforts to persuade the voters to support this amendment have failed, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality.

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

- Background -

BALLOT MEASURE NO. 2

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

BALLOT LANGUAGE

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

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

A vote "FOR" adopts the amendment. FOR

A vote "AGAINST" rejects the amendment. AGAINST

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

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

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(HCS SJR 40 (Jud) am H)

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

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

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

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

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

BALLOT MEASURE NO. 2

STATEMENT IN SUPPORT OF BALLOT MEASURE NO. 2

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

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

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

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

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

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

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

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

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

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

Andre Marrou
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 2

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

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

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

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

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

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

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

MEASURE NO. 1

Constitutional Amendment

LEGISLATIVE ANNULMENT OF ADMINISTRATIVE REGULATIONS

(1983 Legislative Resolve No. 15 (SCS HJR 5(Jud)))

SUMMARY

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

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

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

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

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

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

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

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

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

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

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 1

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

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

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

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

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

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

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

—Mike Szymanski,
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 1

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

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

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

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

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

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

BALLOT PROPOSITION NO. 1

LEGISLATIVE ANNULMENT OF REGULATIONS Constitutional Amendment

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

SUMMARY

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

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

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR

AGAINST

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

Senate	(20 members):	Yeas <u>18</u>	Nays <u>0</u>	Absent or Not Voting <u>2</u>
House	(40 members):	Yeas <u>35</u>	Nays <u>0</u>	Absent or Not Voting <u>4</u>

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

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

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

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

STATEMENT IN FAVOR OF BALLOT PROPOSITION NO. 1

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

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

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

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

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

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

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

STATEMENT AGAINST BALLOT PROPOSITION NO. 1

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

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

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

VISUAL NOTE

BILL NO. RJR 1

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: Amendment to the Constitution RE:
Repeal of regulations by legislators.
Sponsor: Senator Phillips
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary Elections

COMPONENT SERIAL NO. 22

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
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REVENUE						
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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
1008 GF/PROGRAM	0	0	0	0	0	0
1008 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 1 measure can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be \$2.4.

Prepared by: David Koivumaki, Acting Director Phone: 463-4611
Division: Division of Elections Date: 1-22-95

Approved by Commissioner: Lt. Governor Frank Miller Date: _____
Agency: Office of the Lt. Governor

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HJR 11

Effective Date: _____ Dept. Affected: Office of the Governor
 Title: Amendment to the Constitution RE: DIV: Division of Elections
repeal of regulations by the legislature Component: General and Primary Elections
 Sponsor: Representative Phillips and Brice
 Requester: _____ COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGES IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts	0	0	0	0	0	0
1000 AF Match	0	0	0	0	0	0
1004 AF	2.2	0	0	0	0	0
1000 AF/Program Receipts	0	0	0	0	0	0
1000 AF/INITIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	2.2	0	0	0	0	0

Balance of any current year (FY94) cost: 0

POSITIONS

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Prepared by: Joseph Swanson, Director of Elections
 Division: Division of Elections
 Approved by Commissioner: Lt. Governor John B. Coghill
 Agency: Office of the Lt. Governor

Phone: 465-4611
 Date: 1/11/94
 Date: 1/11/94

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 1

Revision Date: _____ Dept. Affected: Department of Law
 Title: ...relating to repeal of regulations by the BRU: Legal Services
 Legislature: _____ Component: Operations
 Sponsor: Representative Phillips
 Requester: House State Affairs COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 (FY95) 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)

House Joint Resolution No. 1 proposes an amendment to the Constitution of the State of Alaska that would give the legislature the power to repeal a regulation adopted by a state department or agency by joint resolution of the legislature. If the amendment is adopted in the 1996 general election, it will probably not have a direct immediate fiscal impact on the department's operations. The department is statutorily responsible for reviewing all regulations for legality and form to insure consistency with the appropriate enabling legislation. The department also drafts regulations on behalf of some departments and assists other departments in drafting regulations that deal with highly complex matters requiring the attention of an attorney. Obviously, some of the time spent in these efforts will have been lost whenever a regulation has been annulled. Larger departments which have the responsibility for carrying out major state programs, and who routinely draft numerous program operating regulations inhouse, will probably experience an even greater loss of staff time. More importantly, the absence of statutorily mandated regulations, which would occur after annulment, could result in litigation from an adversely impacted industry, public interest group, or a member of the public claiming damages due to the

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/13/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 1

ANALYSIS CONTINUATION:

absence of required regulations. The impact of such litigation cannot, in this case, be estimated in advance and therefore no cost impact can be shown.

HJR

4

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



MAY 15 - JAN 15 258-8169
716 W. 4TH, SUITE 650
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783
STATE CAPITOL
JUNEAU, AK 99801-1182

HOME 333-6990
355 DONNA DRIVE, #11
ANCHORAGE, AK 99504

MEMORANDUM

DATE: January 17, 1995

TO: Representative Jeannette James, Chair
State Affairs Committee

FROM: Representative Terry Martin *TMM*

RE: Scheduling of HJR4

At your earliest convenience would you please schedule House Joint Resolution 4, authorizing the use of the initiative to amend the Constitution of the State of Alaska.

My staff will submit the required information pertaining to the bill as soon as possible. If you have any questions, please contact Tom Anderson at 6590.



REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



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SPONSOR SUMMARY

HJR 4

Authorizing the use of the initiative to amend
the Constitution of the State of Alaska.

The use of initiative enables citizens to bypass the legislature by placing proposed constitutional amendments on the ballot. At present, nearly half of the United States (24) have adopted the initiative process into their prospective state government.

Since the 2nd Session of the 1st Legislature (1960), there have been over 600 resolutions introduced by legislators to amend the Alaska Constitution, 31 of which have gone before the voters and of these, 22 were approved and 9 were rejected. The most persistent issue since 1969 has been the length of the legislative session for which 50 resolutions have been introduced. In 1983, Rep. Joe Hayes, then Speaker of the House, succeeded in passing a 120 day session which we currently operate under, and yet many believe the session should be limited to 90 days or less.

Since 1968, legislators have introduced 29 resolutions on behalf of the people to elect the attorney general, while 27 resolutions have been introduced to limit state legislative terms (three of which were killed in the 18th Legislature). In retrospect, these constitutional amendments were supported by the voters and yet never brought before them due to a self-righteous group of legislators unwilling to allow democracy to operate as it should.

In essence, HJR 4 will allow the Alaskan citizenry to initiate and enact laws without action by the legislature. There are six positive reasons why the voters of Alaska are entitled to this form of direct legislation: 1.) Direct legislation will reduce the empowerment of political parties, political bosses, and entrenched legislators; 2.) Direct legislation will reduce power and repeal action of special interests; 3.) Direct legislation will educate the people and allow them to develop



civic virtue; 4.) Citizens are as well-qualified as their elected representatives, if not more so, to decide public policy questions; 5.) Citizens want to decide public policy issues directly, and by permitting them to have full participation we would substantially decrease public apathy and dissatisfaction with government; and finally 6.) Direct initiative (grass root legislation) issues on the ballot for election day increases the percentage of public turn-out to vote.

It is imperative that we as legislators provide the voters of Alaska a direct means by which to change their constitution. In light of the fact that only 5% of the proposed constitutional amendments by the legislature in the past 27 years have gone before the voters, it is clear that the legislature alone will not pass certain amendments that the public desires. The right to initiative by the voter is an inherent tenet of democracy. The Nineteenth Legislature would be responsible in removing the barriers and allowing the voters to exercise this right.

REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



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SECTIONAL ANALYSIS HJR 4

Authorizing the use of the initiative to amend
the Constitution of the State of Alaska.

Section 1

Allows voters to propose and enact constitutional amendments (as well as laws) by the use of initiative.

Section 2

Makes a technical adjustment to Article XI, sec. 2, of the Alaska Constitution, adding that the application proposing an initiative may contain a constitutional amendment (or a proposed law and/or a referendum).

Section 3

Adds the proposal of a constitutional amendment as a possible ballot title and proposition and voids the petition if the same amendment was proposed.

Section 4

Defines the disposition of the proposed constitutional amendment by stating that if a majority of the votes cast favors the amendment, the amendment becomes effective 30 days after the lieutenant governor certifies the election returns. There are also minor verbiage revisions for law and referendum action.

Section 5

Adds to Article XI, sec. 4, of the Alaska Constitution, that amendments may also be proposed by initiative, as opposed to by the legislature solely.

Section 6

States that if this resolution passes, it will be placed on the next general election ballot.



Take the Initiative

Step-by-step tips on how to put
an issue on the ballot

by Richard Arnold

Last year, the political process seemed to catch the public's fancy for the first time in at least two decades. The phenomenon led to a burst of activity on the initiative front, with a record 69 qualifying for statewide ballots. The emphasis of initiative campaigns also shifted, from high-dollar fund raising to volunteer-driven activities.

In the wake of talk show campaigns, and the Perot movement, far more people are now willing to involve themselves in the making of public policy; they want to have more direct influence over political decisions and are volunteering in record numbers. Many of last year's ballot issue drives collected most of their petition signatures with volunteers, reversing a long-term trend toward the use of private companies and paid canvassers.

These developments call for a reappraisal of strategies for qualifying questions for the ballot, suggested steps are outlined here.

Three Phases to Weave

Initiative efforts have two preliminary stages, the pre-circulation phase and the circulation phase, before the customary electoral phase begins.

During the pre-circulation phase, the coalition is formed around a specific goal. The laws and ballot rules must be thoroughly researched and understood.

State election agencies will provide information on the number of signatures required, deadlines for filing, petition format, etc. Study the rules and follow them to the letter throughout the campaign. Often, popular initiative movements are kept off the ballot by

the courts, on technical objections.

Once there is agreement on the objective, the exact wording of the initiative must be agreed upon. This complicated task should include the best political and legal advice available. Frequently, focus groups and polls help determine the best way to phrase the initiative in terms of persuading

Far more people are now willing to involve themselves in the making of public policy.

voters. Start early! Time is truly money in initiative campaigns.

When we handled the circulation phase for the Colorado Educational Voucher Initiative (CEVI) last year, we had less than 12 weeks to collect about 80,000 raw signatures. The measure — which would have given parents vouchers that could be exchanged for tuition at public, private, or religious schools — was a controversial one, mightily opposed by the teacher organizations. Validation would be sternly contested, and competition for signatures was fierce — 10 issues qualified for the ballot and three others came close.

We ultimately succeeded, using five steps along the way:

1. Raise Money — The most successful petition campaigns have financial commitments and a time line already in place before they begin circulating. For the 1990 ballot in Califor-

nia, successful signature campaigns spent an average of \$1.14 per signature. Colorado state law requires nearly 50,000 valid signatures for ballot qualification; because of the difficulty in matching signer qualifications, a general rule of thumb is to get eight raw signatures for every five valid ones required. Therefore, we calculated we needed to collect at least 80,000 raw signatures, which — at a unit cost of \$1.14 — would require a petition budget of about \$92,000. Ultimately, we collected more signatures for less money.

Fortunately, the sponsoring organization, Coloradans for School Choice (CSC), had done all the pre-circulation work prior to contacting me, including raising a significant amount of money. The issue had been attempted in 1984 and 1988 and much of those support networks were still intact.

2. Print Petitions — Since the wording had already been completed, the initiative was immediately filed with the secretary of state. A printed copy of the petition must be approved by the secretary of state prior to circulation. As in most states, the approval process takes several weeks. When the petition was finally released for circulation, we had only 58 days to collect 80,000 signatures.

A petition packet should be created that includes petitions, fact sheets, circulator instructions, circulator rights, local contacts, voter registration information, and deadlines.

3. Establish an Office to Process Signatures — We established a headquarters that was responsible for planning, coordinating, printing, distribut-

ing, retrieving, processing, validating, storing, and submitting all petitions.

All contacts were placed in the computer. Contact with circulators was direct, in person, by telephone or by fax. Short on money and time, the campaign did only one mailing during the circulation phase.

Because Colorado requires that each petition section be signed by the circulator in front of a notary, it was not possible to get signatures through a mailing. This requirement always makes it harder to get volunteer signatures: the paid circulation unit of our effort simply arranged to have a notary in the office at turn-in times.

Each signature block must be checked at HQ for legal compliance. A small random sample of the signatures should be checked against the voter rolls to determine what percentage are valid registered voters.

4. Plan the Signature Campaign

— On May 5, 1992, we prepared a proposal based on collecting at least 80,000 signatures with volunteers. The mix would be heavier on the paid side because of the limited time available. Most paid signature drives are less expensive and more successful than volunteer efforts, unless you already have a very strong volunteer organization.

An organizing committee should be made up of people who are not only enthusiastic about the issue, but who also wield financial, political or organizational clout. CSC assembled a diverse group of supporters including two state senators, home-schoolers, private school representatives, and church groups.

5. Organize Volunteer Structures

— Volunteers need to be recruited, trained, supervised and rewarded. The best volunteer structures are built around existing organizational units that have a stake in the results. Polling can help identify which groups will make the best recruiting targets. Our plan had three arms: individual volunteers; private schools (including home-schoolers); and churches.

Individual volunteers are the hardest to recruit, supply, and retrieve completed petition sections from. To get the word out, we used an 800 number and disseminated information through talk shows, speaker bureaus, letters to editors, news articles, press conferences, church bulletins, newsletter advertisements, and special interest publications. The process is a slow one. Most of these signatures will come in near the deadline.

Private schools were not as fruitful a source as we had hoped. Classes were no longer in session and not all such schools supported the initiative. Success requires a dedicated volunteer for each school — finding the right person was not easy. Sending packets home with the children had a low rate of return.

There are several steps required to organize churches. Through the use of local and regional church organizations and directories, we were able to contact several congregations at once. We obtained permission from often reluctant churches to have members of their congregations circulate petitions on Sunday morning after the services. Friendly competition between congregations inspired higher signature totals. Ultimately, we circulated about 100 churches. Individuals in rural areas acted as contact people to their local churches, accounting for almost 10,000 signatures.

Winding Up

On July 3, 1992 — with four weeks remaining in the campaign — we had

Three Phases of an Initiative

Pre-Circulation:

- Raise Money
- Research Initiative Procedures
- Form a Coalition Around the Issue
- Poll the Electorate
- Write the Initiative
- Plan the Signature Campaign

Circulation:

- Raise Money
- Print Petition Sections
- Distribute Petitions
- Contract for Paid Signatures
- Develop Volunteer Structure
- Retrieve Completed Petitions
- Process and Validate Signatures
- Store and Submit Signatures

Campaign:

- Raise Money
- Poll the Electorate
- Develop and Deliver Message
- Develop Grass Roots Support
- Get Out the Vote
- React and Respond to Opposition

collected just over one-fourth of the 80,000 needed signatures. The paid effort was on target, but with little room for error. The volunteer effort — which had only four weeks to organize — was falling short of projections. The consensus was that we might fall as many as 10,000 signatures short of that goal.

We agreed that we would take steps to both increase the paid signatures by 10,000 and to provide additional money to beef up the staff for the volunteer effort. On Sunday July 12, the volunteer staff was able to target over 20 churches in Denver and Colorado Springs. That was the turning point. Over 5,000 volunteer signatures came in that weekend alone. More importantly, we had recruited enough volunteers and new churches to do even better the next Sunday. The paid effort had also picked up steam, collecting over 12,000 signatures that week, bringing the paid total to 40,000.

After a second big weekend, the effort was cut off a full week early on Monday, July 27. We had collected over 91,000 signatures in seven weeks — 41 percent from volunteers. The total cost for the drive was just over \$80,000. Paid signatures cost \$44,000, an average of 82¢ per signature. Volunteer signatures cost \$33,000, an average of 90¢ per signature. The remainder of the budget was spent on printing the petition sections.

The Gallows Poll

Our short circulation time frame had forced us to take drastic measures, such as putting more money into the signature effort than originally planned. But while the additional money spent in gathering signatures could have been used to help win the election, there would have been no election if we had fallen short of valid signatures.

Hamstrung by a lack of funds in the voter persuasion phase and hammered by the teacher unions, CEVI was turned back at the polls by nearly a 2:1 ratio. The phrasing of the initiative also proved to be a burden, as its opponents were successful in gaining credence for the notion it would cost the state \$70 million in its first year — an obvious problem in this age of shrinking budgets.

Richard Arnold is president of National Voter Outreach — a California-based political consulting firm.

THE VOTER INITIATIVE

By Tommy Neal

Initiative, referendum and recall are political terms that to some signify the ultimate in democracy and to others a repudiation of our representative system of government.

- The **initiative** enables citizens to bypass the legislature by placing proposed statutes and, in some states, constitutional amendments on the ballot.
- The **referendum** provides for a popular vote on laws that have been enacted by the legislature.
- The **recall** allows citizens to remove elected officials from office.

The initiative has a long history.

In the United States, the initiative, referendum and recall movement can be traced directly to the populist and progressive eras of the late 19th and early 20th centuries when state governments were perceived to be controlled by special interests, such as railroads, bankers, land speculators and "robber barons." Given its populist roots, the initiative has been primarily a western innovation—16 of the 24 initiative states are west of the Mississippi.

Discussions of direct citizen involvement in government usually include all three processes. This brief, however, focuses only on the initiative as it applies to state government. The terms "initiative" and "referendum" are sometimes used interchangeably, which is inaccurate. Initiatives propose legislation or constitutional amendments independently of the legislature. The referendum refers only to approval or rejection of legislation that has already been enacted by the legislature. Referenda can be placed on the ballot by the legislature or by a petition process similar to that for initiatives.

The initiative allows the public to bypass the legislature.

Proponents of the initiative maintain that the process provides a method for making decisions on public policy issues that the legislature refuses to address or on which it is unable to reach agreement. It is also argued that the initiative provides a counterbalance to the influence of special interests in the legislative process—an influence that, in the public's perception, is often excessive.

**Initiative States
Ranked in Order of Use, 1898-1992**

State	Year Initiative Adopted	Number on Ballot Since Adoption
Oregon	1902	274
California	1911	232
North Dakota	1914	160
Colorado	1910	150
Arizona	1910	133
Washington	1912**	91
Arkansas	1909	80
Oklahoma	1907	79
Missouri	1906	60
Ohio	1912	58
Montana	1904	56
Michigan	1908	54
South Dakota	1898	42
Massachusetts	1918	41
Nebraska	1912	35
Nevada	1904	27
Maine	1908**	27
Alaska	1959**	22
Idaho	1912**	17
Utah	1900**	16
Florida	1972*	12
Illinois	1970*	4
Wyoming	1968**	3
Mississippi	1992*	0

* Applies only to constitutional amendments.

** Applies only to statutes.

A major argument against the initiative is that it undermines our system of representative government. Legislators are elected to represent their constituents in the consideration of public policy questions. And the electorate has an opportunity, at the polls, to approve or reject the actions of the legislator who represents them. With the money now needed to qualify a ballot question, it is also said that, contrary to the original intent, the initiative can become a tool of special interests.

Initiatives may undermine representative government.

There are two types of initiatives—direct and indirect. In the direct process, proposals that qualify go directly on the ballot. In the indirect process, they are submitted to the legislature, which has an opportunity to act on the proposal. Amendments or substitute measures are allowed in some states; prohibited in others. The legislature is given varying lengths of time to act on a proposal and—depending on the state—the initiative goes to the ballot if the legislature rejects it, submits a different proposal or takes no action. States with some form of the indirect process are MAINE, MASSACHUSETTS, MICHIGAN, MISSISSIPPI, NEVADA and OHIO (the last two for statutory proposals, but not for constitutional amendments). Two states—UTAH and WASHINGTON—allow proponents to use either method. SOUTH DAKOTA requires initiatives to be submitted to the Legislature, where they must be enacted and referred to the voters at the next general election.

There are direct and indirect initiatives.

No two states have exactly the same requirements for qualifying initiatives. In general, however, the process includes these steps: preliminary filing of a proposed petition with a designated state official; review of the petition for conformance with statutory requirements and, in several states, a review of the language of the proposal; preparation of a ballot title and summary; circulation of the petition to obtain the required number of signatures—usually a percentage of the votes cast for a statewide office in the preceding general election; and, finally, submission to the state elections official (normally the secretary of state), who is responsible for verifying the number of valid signatures obtained.

There are 24 variations of the initiative process.

Central to the whole process, obviously, is getting the requisite number of valid signatures. Early proponents of the initiative foresaw the requirement for circulating petitions as a demonstration of widespread public support for a proposal: The petitions would be circulated by informed citizens concerned about public policy questions that were not being addressed by the legislature. While that may still be the case in some instances, many petition drives now are highly organized, professional campaigns employing paid circulators. In CALIFORNIA, and other states, the essential ingredient for qualifying an initiative for the ballot is money. It has been estimated that in California an expenditure of \$1 million will guarantee a place on the ballot. Only two initiatives in California have spent more than \$500,000 and not qualified. The right to pay circulators has been upheld by the U.S. Supreme Court (*Meyer vs. Grant*).

Money helps get initiatives to the ballot.

Once an initiative is on the ballot, the general requirement for passage is a majority vote. Exceptions include NEBRASKA, MASSACHUSETTS and MISSISSIPPI. Those states require a majority, provided the votes cast on the initiative equal a percentage of the total votes cast in the election (35 percent in Nebraska, 30 percent in Massachusetts, and 40 percent in Mississippi). WYOMING requires "an amount in excess of 50 percent of those voting in the preceding general election." An initiated constitutional amendment in NEVADA must receive a majority vote in two successive general elections.

Selected References

- California Commission on Campaign Financing. *Democracy by Initiative: Shaping California's Fourth Branch of Government*. Los Angeles, Calif.: Center for Responsive Government, 1992.
- Congressional Research Service. *Initiative, Referendum and Recall: A Resume of State Provisions*. Washington, D.C.: Library of Congress, March 1981.
- Cronin, Thomas E. *Direct Democracy: The Politics of Initiative, Referendum, and Recall*. Cambridge, Mass.: Harvard University Press, 1989.
- Public Affairs Research Institute of New Jersey. "Initiative and Referendum Analysis." Princeton, N.J., 1992.

Contact for More Information

Tommy Neal
NCSL—Denver
(303) 830-2200



FISCAL NOTE

STATE OF ALASKA

BILL NO. HJR 4

1995 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE: Authorizing the use of the initiative to amend the Constitution of the State of Alaska.

BRU: Division of Elections

Component: General and Primary Elections

Sponsor: Representative Martin

Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	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 & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	2.2*	0	0	0	0

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

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	2.2*	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	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 Konvuniemi, Acting Director Phone: 465-4611
 Division: Division of Elections Date: 1/25/95

Approved by Commissioner: Lt. Governor Fran Ulmer
 Agency: Office of the Lt. Governor Date: _____

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**State Affairs Committee meets this
Thursday the 26th to hear:**

HJR 4 Use of initiative to amend Constitution

HB 44 Gaming proceeds/define charitable
organizations

HB 81 Preservation of Public facilities

Bills previously heard

HJR 3 Voter approval of new taxes

HB 4 Permanent fund dividend eligibility

HB 70 End PFD hold harmless

Passed out Tuesday

HB 42 Absentee voting and use of fax

AMENDMENT # 1 by Rep OGAN
LINE 17 PG 2.

B IF A 2/3 majority.

ADD THE WORD 2/3

FISCAL NOTE

STATE OF ALASKA

BILL NO. HJR 4

1995 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE: Authorizing the use of the initiative to amend the Constitution of the State of Alaska.

BRU: Division of Elections

Component: General and Primary Elections

Sponsor: Representative Martin

Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	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 & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	2.2*	0	0	0	0

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

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	2.2*	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	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: 1/25/95

Approved by Commissioner: Lt. Governor Fran Ulmer

Agency: Office of the Lt. Governor Date: _____

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HJR

5

9-LS0226F
Cook
1/24/95

CS FOR HOUSE JOINT RESOLUTION NO. 5()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, Rokeberg, Porter, Green, Bunde

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to terms of
2 legislators.

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. Article II, sec. 3, Constitution of the State of Alaska, is amended to read:

5 SECTION 3. ELECTION AND TERMS. (a) Legislators shall be elected at
6 general elections. Their terms begin on the fourth Monday of the January following
7 election unless otherwise provided by law. The term of representatives shall be two years,
8 and the term of senators, four years. One-half of the senators shall be elected every two
9 years. A person may not serve consecutively more than twelve full regular sessions
10 in the legislature. Thereafter, the person may not again serve in the legislature as a
11 result of election or appointment to fill a vacancy until at least two consecutive full
12 regular sessions have elapsed during which the person has not served.

13 * Sec. 2. Article II, sec. 3, Constitution of the State of Alaska, is amended by adding a new
14 subsection to read:

15 (b) For purposes of applying the tenure limit under (a) of this section, periods
16 served in the legislature during the interim between sessions or during special sessions

1 shall not be considered. Periods served in the legislature as a result of appointment to fill
2 a vacancy shall not be considered for purposes of determining whether the tenure limit has
3 been reached.

4 * Sec. 3. Article XV, Constitution of the State of Alaska, is amended by adding a new section
5 to read:

6 SECTION 29. APPLICATION OF 1996 TENURE LIMIT AMENDMENT.
7 Regular sessions served in the legislature before the convening of the First Regular Session
8 of the Twentieth Alaska State Legislature shall not be considered for purposes of applying
9 the tenure limit added by the 1996 amendment to Section 3 of Article II.

10 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of the
11 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of
12 Alaska, and the election laws of the state.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 5

Revision Date: _____

Department Affected: Office of the Governor

Title: Amendment to the Constitution RE: Terms of Legislators

BRU: Division of Elections

Component: General and Primary Elections

Sponsor: Representative Theriault

COMPONENT SERIAL NO. 22

Requestor: _____

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	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 & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	2.2*	0	0	0	0

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

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	2.2*	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	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 \$3.4.

Prepared by: David Kovunemi, Acting Director
Division: Division of Elections

Phone: 465-4811
Date: 1-25-95

Approved by Commissioner: Lt. Governor Fran Ulmer
Agency: Office of the Lt. Governor

Date: 1-25-95

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House Of Representatives

Work Draft 9-LS0226\F 1/24/95

CS HJR 5 () Proposing amendments to the Constitution of the State of Alaska relating to terms of legislators

SPONSOR: Rep. Gene Therriault

SPONSOR STATEMENT:

The "blank" CS (work draft #9-LS0226\F, 1/24/95) proposes to limit terms in relation to regular sessions as opposed to calendar years of HJR 5 as originally prefiled. The work draft proposes that a person may not serve consecutively more than twelve full regular sessions in the legislature. A person may not again serve in the legislature as a result of election or appointment to fill a vacancy until at least two consecutive regular sessions have elapsed. Also, for the purposes of tabulating the number of sessions served, special sessions shall not be counted nor shall time served as the result of appointment to fill a vacancy.

Alaskan voters have recently demonstrated their overwhelming desire for congressional term limits with 1994's ballot measure 4, passing with over 62% of the votes. Alaskans have also expressed their support for term limits on the municipal level with many communities adopting some form of term limits for local elected officials. HJR 5 will now give voters the chance to change the state constitution and limit terms of state legislators.

Term limits are a positive legislative reform, guaranteeing a flow of new legislators with new ideas. The popularity of term limits demonstrates that career politicians are not desirable. Term limits will also level the playing field for challengers facing long-time incumbents whose power is oftentimes derived primarily from seniority.

Placing a constitutional amendment limiting the terms of state legislators on the ballot is a measure that is long overdue.

Work Draft 9-LS0226\F 1/24/95

CS HJR 5 () Proposing amendments to the Constitution of the State of Alaska relating to terms of legislators

SPONSOR: Rep. Gene Therriault

Sectional Analysis:

Section 1: Amends Article II, section 3, Constitution of the State of Alaska limiting a person from serving consecutively more than twelve full regular sessions in the legislature. A person may not again serve in the legislature as a result of election or appointment until at least two consecutive full regular sessions have elapsed.

Section 2: Exempts periods served during the interim, between sessions or during special sessions from being considered when calculating the term limit. Also, periods served as a result of appointment to fill a vacancy shall not be considered when determining whether the tenure limit has been reached.

Section 3: Exempts regular sessions served in the legislature before the start of the Twentieth Legislature from being considered when calculating whether tenure limit has been reached.

Section 4: Places the proposed amendments on the ballot at the next general election.

Alaska State Legislature

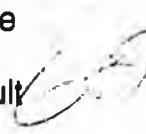
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House District 13

House Of Representatives

MEMORANDUM

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Gene Therriault 

DATE: January 25, 1995

SUBJECT: Scheduling of HJR 5

I respectfully request House Joint Resolution 5, "Proposing amendments to the Constitution of the State of Alaska relating to terms of legislators" be scheduled for a hearing in the House State Affairs Committee.

Attached you will find a "blank" CS (work draft #9-LS0226\F, 1/24/95) that I am submitting for your consideration as a possible State Affairs Committee Substitute. After pre-filing HJR 5, I decided terms should be limited in relation to regular sessions as opposed to calendar years as HJR 5 originally proposed. The work draft proposes that a person may not serve consecutively more than twelve full regular sessions in the legislature. A person may not again serve in the legislature as a result of election or appointment to fill a vacancy until at least two consecutive regular sessions have elapsed. Also, for the purposes of the tenure limit, the draft excludes periods served in the legislature during the interim between sessions, during special sessions, or as a result of appointment to fill a vacancy.

Attachments include:

1. proposed work draft
2. sponsor statement
3. sectional analysis
4. Division of Elections' fiscal note

I appreciate your consideration of my request.

attachments (4)

HJR

9

REPRESENTATIVE
JEANNETTE JAMES

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FAX (907) 488-9006

While In Juneau
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FAX (907) 465-2381

House of Representatives

House District 34

SPONSOR STATEMENT

3-10-95

HJR 9

**Requesting the Governor to file suit against the U.S.
and others over POW/MIA's from Alaska**

There is continuing controversy concerning the presence of American servicemen, who were listed as Prisoners of War or Missing in Action and may be being held against their will in the Southeast Asian nations of Vietnam, Laos, and Kampuchea (formerly Cambodia).

The United States government has stated that all of our Prisoners of War have been returned from Vietnam. A top secret Vietnamese report, dated 1972, by General Tran Von Kwang, Deputy Chief of Staff for the North Vietnamese Army, reported that in September of 1972 Hanoi held 1,205 American prisoners. Only 591 American Prisoners of War have been released under the 1973 Peace Settlement.

There are two missing and unaccounted for servicemen in Southeast Asia from Alaska.

I request that the Alaska State Legislature hereby require the Governor of the state of Alaska, on behalf of the people of this state, to file in the United States Supreme Court a cause of action against the government of the United States. Defendants in this suit would include the Department of Defense and the intelligence agencies, the ambassadors or other public ministers and consuls of the governments of Vietnam, Laos, Kampuchea, Russia, and China, alleging violation of civil rights of the people of Alaska.

Especially, alleging the violation of the right to life, liberty and the pursuit of happiness of the following named citizens of the State of Alaska, **Thomas E. Anderson, U.S.M.C.** Spenard and **Howard M. Koslosky U.S.N.** Anchorage.

FISCAL NOTE

No. 1
 Bill Version: CSHJR 9 (MLV)
 (H) Publish Date: 3/22/95

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: _____	Dept. Affected: <u>Department of Law</u>	_____
Title: <u>"Requesting the governor to file suit in the</u>	BRU: <u>Legal Services</u>	_____
<u>United States Supreme Court..."</u>	Component: <u>Operations</u>	_____
Sponsor: <u>Representative James</u>	_____	
Requester: <u>Representative James</u>	COMPONENT SERIAL NO. <u>0093</u>	_____

Expenditures/Revenues (Thousands of Dollars)

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

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of any current year (FY95) cost: \$ 00

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX	XXXXX
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HJR 9 requests the governor to file suit in the United States Supreme Court against the United States government alleging violations of the civil rights of Americans listed as prisoners of war or missing in action in Southeast Asia. The resolution further requests that the suit demand that the Department of Defense, the intelligence agencies, and the governments of Vietnam, Laos, Kampuchea, Russia, North Korea, and China be ordered to turn over all documents concerning Americans listed as POWs or MIAs as a result of the Vietnam War. It is a purpose of the resolution that the lawsuit is not intended to solicit a ruling or an opinion definitively declaring the POW/MIA issue moot, but rather that it is intended to mandate that the fate or location of all Americans listed as POWs or MIAs be determined as missing beyond a reasonable doubt and on an individual basis. The resolution also requests that other states to join in the suit.

The Department of Law has no comment to offer concerning the merits of the resolution. However, we do note that if the intent of the resolution is carried out it will be necessary to hire outside counsel skilled in

Prepared by: <u>Richard T. Peques, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>3/17/95</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>3/17/95</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 9

ANALYSIS CONTINUATION:

U.S. Supreme Court proceedings. Outside counsel would be needed to advise the state concerning preparation of the suit, requirements of federal and international jurisdiction, to provide liaison with the National Association of Attorneys General and the other states, and to represent the state in formal proceedings before the U.S. Supreme Court. At this early juncture we cannot determine what costs might be required. We caution, however, that the U.S. Supreme Court costs could eventually reach \$50,000 or more.

February 1, 1995

AN OPEN REQUEST TO ALL MEMBERS OF THE ALASKA STATE LEGISLATURE:

Reference: House Joint Resolution No. 9

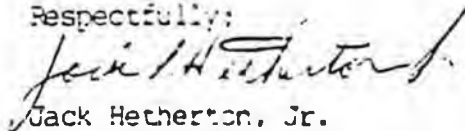
I am submitting the enclosed documents as testimony in support of passage of House Joint Resolution NO. 9.

I am a Vietnam veteran and have been very involved in the POW/MIA issue. This is a disturbing and emotional issue for me as I am sure it is for the other thousands of veterans in Alaska. My one primary goal is to verify and help repatriate any American servicemen held against their will by a foreign power.

Please take the time to read these documents. With the current political situation at the national level, every day is becoming all the more crucial.

I have other supporting documents and video tapes that I can make available to you if you wish.

Respectfully:



Jack Hetherton, Jr.
P.O. Box 2376
Soldotna, Alaska 99669
(907) 262-5455

[Faint handwritten notes]

EXCERPTS FROM:

United States Senate
An Examination of U.S. Policy Toward POW/MIAs

By the U.S. Senate Committee on Foreign Relations Republican Staff
Thursday, May 23, 1991

(Part I; THE AEF AND WORLD WAR I):

August 20, 1921, a formal agreement between the Soviet Union and the United States, the "Riga Agreement," was concluded...Among the conditions for U.S. aid to the Soviets was....The United States expected the repatriation of approximately 20 U.S. citizens; but, in fact, more than 100 Americans were repatriated as a result of this agreement.

As Herbert Hoover wrote in his autobiography: The provision for release of American prisoners was suggested by Secretary Hughes, who informed me that the Department knew that there were about 20 of them. More than a hundred American prisoners in Russian dungeons were released on Sept 1, (1921).

Even so, reports continued to be received by the Department of State that more Americans were still held in Russia. The discrepancy between the official information in the hands of the U.S. government..20 Americans held, and the actual number of more than one hundred released..gave the U.S. Government its first taste of negotiating for Americans held against their will by Communists.

(World War II):

World War II was a great military victory for the United States Armed Forces. In both the European and the Pacific theaters, the enemy unconditionally surrendered. However, despite the total victory in Europe by Allied forces, thousands and thousands of U.S. soldiers..perhaps as many as 20,000..were never repatriated from prisoner of war (POW) camps, prisons and forced labor and concentration camps.

The daughter of one U.S. Army officer..Major Wirt Thompson..was never told that in 1955 a German POW repatriated from the Soviet concentration camp system reported to the United States Government that while he was in prison, he met her father. The German repatriate told American officials that Thompson told him that he had been imprisoned at Budenskaya prison near Moscow, and also in the Tayshet labor camp after World War II. Not only was Thompson's daughter "overwhelmed" when when she found out early in 1991 that this information existed, but she wondered how her family could have been told by the United States government in 1944 that Thompson had been killed in action, body not recovered.

(Korean War):

Unlike the result in World War II, Allied forces did not achieve a military victory in Korea. The Korean War ended at the negotiating table between Communist North Korean representatives and United Nations representatives. With regard to POW repatriation, the North Koreans initially demanded an "all-for-all" prisoner exchange. The United States was reluctant to agree to this formula based on its World War II experience with the Yalta agreement and mandatory repatriation, knowing that thousands of those forced to return to the Soviet Union were either shot or interned in slave labor camps, where most of them died. After two long years of negotiations, the North Koreans agreed to the principle of voluntary or "non-forcible" repatriation." This agreement stated that each side would release only those prisoners who wished to return to their respective countries.

Operation BIG SWITCH was the name given to the largest and final exchange of prisoners between the North Koreans and the U.N. forces, which occurred over a one-month period from August 5, 1953 to September 6, 1953. Chinese and North Korean POWs were returned to North Korea, and U.S. and other U.N. troops were returned to South Korea. Approximately 14,200 Communist Chinese POWs elected not to return to the Peoples Republic of China; while 21 American POWs elected to stay with the Communist forces, and likely went to China. These 21 Americans are defectors and obviously are not considered as repatriated U.S. POWs. However, U.S. government documents state that the U.S. government knew that nearly one thousand U.S. POWs..and an undetermined number of some 8,000 U.S. MIAs..were still held captive after Operation BIG SWITCH and were not repatriated at the end of the Korean War. These U.S. POWs were never repatriated. Three days after the start of operation BIG SWITCH, the New York Times reported that Gen. James A. Van Fleet, retired commander of the United States Eighth Army in Korea, estimated tonight that a large percentage of the 8,000 American soldiers listed as missing in Korea were still alive. A report by the U.N. Combined Command for Reconnaissance Activity, Korea, five days into operation BIG SWITCH, stated: "Figures show that the total number of MIAs, plus known captives, less those to be repatriated, leaves a balance of 8,000 unaccounted for."

(Vietnam War)

The war widely known as the Vietnam War was the second war fought by the Communist forces in Vietnam and in Southeast Asia. The Vietnamese forces, after defeating the French, fought the Second Indochina war against the United States and the U.S.-backed forces. In the final analysis, however, this war was a political and moral defeat for the United States. As a result, the United States was forced at the Paris Peace Conference to negotiate its withdrawal from Southeast Asia from a military and political position. Internal divisions in the United States and mounting political pressure to extricate from the war, exacerbated this weak negotiating position. As a result, the United States, as in World War I, World War II, and the Korean War, found itself, once again, unable to guarantee the repatriation of all U.S. POWs and MIAs who were alive and held captive.

The United States' chief negotiator at the Paris Peace Conference, Henry Kissinger, admitted as much in his book, *Years of Upheaval*, published in 1982. Kissinger wrote: Equally frustrating were our discussions of the American soldiers and airmen who were prisoners of war or missing in action. We knew of at least eighty instances in which an American serviceman had been captured

alive and subsequently disappeared. The evidence consisted of either voice communications from the ground in advance of capture or photographs and names published by the Communists.

Operation HOMEcoming, the name given to the last repatriation of U.S. POWs by the North Vietnamese began February 12, 1973, and ended March 29, 1973. A grand total of 591 United States servicemen were repatriated.

However, news reports and other documentation stated that the United States Government knowingly left men..perhaps thousands of men..in the captivity of Communist forces in Southeast Asia.

On January 27, 1973, an agreement to end the war and restore peace in Vietnam was signed in Paris, France. Signatories to this agreement were the United States, North Vietnam, South Vietnam, and the South Vietnam Provisional Government (PRG). This agreement consisted of a preamble, and nine chapters, covering 23 Articles and four protocols. The Paris accord stated that the return of prisoners of war, would be carried out simultaneously with and completed not later than the same day as the troop withdrawal.

The United States did not receive the list of American POWs the whom the North Vietnamese admitted they were holding in captivity until after the peace accords were signed. Significantly, the list included only nine Americans captured in Laos. While these men were captured in Laos, they were not prisoners of the Pathet Lao, but were handed over to, and held by, the North Vietnamese after their capture. In fact, it was widely known that the Pathet Lao were holding many other U.S. POWs. On March 25, one news report stated: U.S. sources believe that a substantial number of the missing (in Laos)..perhaps as many as 100..still may be alive. These conclusions are based inspections of crash sites by search teams and on intelligence reports.

The absence of names on the U.S. POW list handed over by the North Vietnamese of Americans captured in Laos and held by the Pathet Lao was one of the great blunders of the Paris Peace Accord negotiations and caused great confusion and emotional duress among family members of missing and captured personnel.

The Department of Defense (DOD) has been gathering reports on live sightings of American prisoners since the United States became involved in the war in Southeast Asia. Live sighting reports are defined as first-hand eye-witness accounts of a person or persons whom the witness believes to be an American POW or American POWs seen in captivity in Southeast Asia. The DOD states that it has received in excess of 1,400 first-hand live-sighting reports since the end of the Second Indochina War (1955-1975).

104-1-1995 13:57 FBI 442 4000 44 70 16076319-9511 P.01

United States Senate

WASHINGTON, DC 20510

January 24, 1995

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We are writing to request that you not open diplomatic liaison offices with the Socialist Republic of Vietnam (SRV) without first giving the Congress the opportunity to review the information on POWs and MIAs required within 45 days under Section 1034 of Public Law 103-337.

As you know, the Secretary of Defense is required under Section 1034 to provide us with a complete listing by name of all missing and otherwise unaccounted for U.S. personnel about whom it is possible that Vietnamese and Laotian officials can produce additional information or remains. This information was required by November 17, 1994. However, the Department of Defense subsequently requested an extension to February 17, 1995 to which we did not object. We now understand that there is a possibility the Department of Defense may not fully comply with this requirement by February 17th.

We are, therefore, concerned with Assistant Secretary of State Winston Lord's announcement on January 12, 1995 that U.S. and GRV diplomatic liaison offices in Hanoi and Washington would be opened "within a few weeks." While we are aware that an agreement on this matter was initialed in December between Vietnam and the United States, we trust that you will not allow this agreement to take effect without first fulfilling the straightforward requirement contained in Section 1034 of Public Law 103-337. We wish to emphasize that we would be extremely concerned if any level of diplomatic relations was established with Vietnam before the 104th Congress has had the opportunity to review the information required under Section 1034.

During the Congressional debate on lifting the trade embargo against Vietnam last year, there was sharp division on whether Vietnamese officials are being fully forthcoming on the POW/MIA issue (a 14 vote difference in the House on the Snowe amendment, and a 16 vote difference in the Senate on the Dole/Smith amendment). Since that time, we understand that Vietnamese

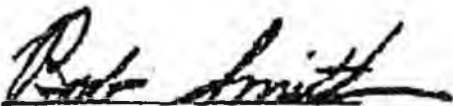
The Honorable William J. Clinton
January 24, 1995
page 2

officials have refused, as recently as last October, to further discuss U.S. concerns about relevant documents from Russian archives. We further understand that they have continued to withhold key politburo and Ministry of Defense records in Hanoi.

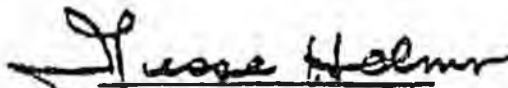
Finally, we have been made aware that a detailed account of POW/MIA information being withheld by Vietnamese officials was recently disclosed to the press by a former DLA contract agent. Given these revelations, we believe most members of the new 104th Congress would be concerned about the level of cooperation we are receiving from Vietnamese officials. We also believe that these disclosures, and the apparent Vietnamese unwillingness to provide key information, underscores the need for your Administration to fully comply with Section 1034 of Public Law 103-337 before proceeding on the diplomatic front with Vietnam.

We thank you for your assistance on this matter.


Sincerely,



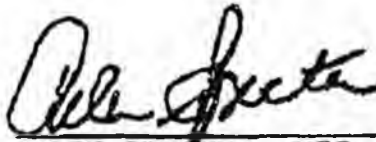
BOB SMITH, USS
Member, Committee on
Armed Services



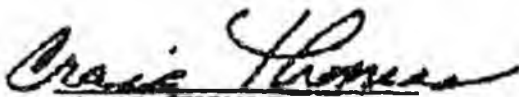
JESSE HELMS, USS
Chairman, Committee on
Foreign Relations



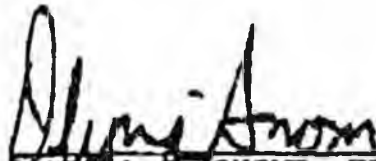
STROM THURMOND, USS
Chairman, Committee on
Armed Services



ARLEN SPECTER, USS
Chairman, Select Committee
on Intelligence

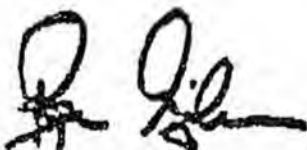


CRAIG THOMAS, USS
Chairman, Subcommittee on
East Asian and Pacific Affairs

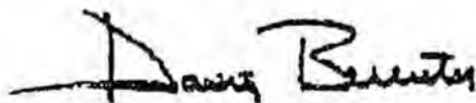


CLYDE A. SNOWE, USS
Chairman, Subcommittee on
International Operations

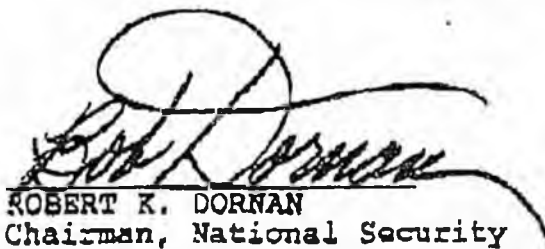
The Honorable William J. Clinton
January 29, 1995
page 3



BENJAMIN A. GILMAN, MC
Chairman, Committee on
International Relations



DOUG BEREUTER, MC
Chairman, International
Relations Subcommittee on
Asia and the Pacific



ROBERT K. DORNAN
Chairman, National Security
Subcommittee on Military Personnel

United States Senate

WASHINGTON, DC 20510-2102


January 26, 1995

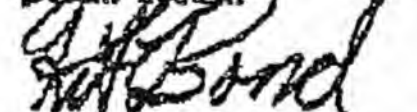
Dear Mr. President:

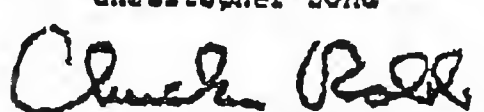
Last May the United States and Vietnam announced that liaison offices would be opened in Washington and Hanoi. We understand that these offices will be opened at the end of this week, with the signing in Hanoi of agreements on diplomatic properties, claims and frozen assets.


Since 1991 the United States and Vietnam have made much progress on the POW/MIA issue. Your decision in February 1994 to lift the trade embargo contributed to even greater cooperation on this issue. We believe that the opening of liaison offices will bring us closer to a resolution not only of the POW/MIA issue but also to other issues including human rights that stand in the way of normal relations between the United States and Vietnam.

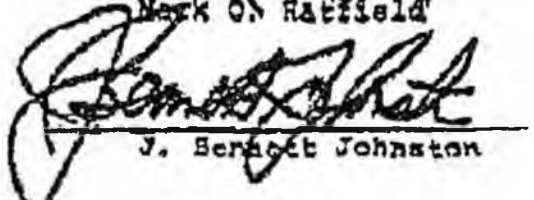
Sincerely,

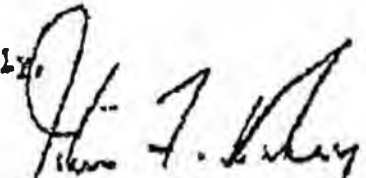

John McCain

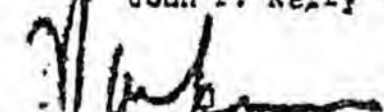

Christopher Bond

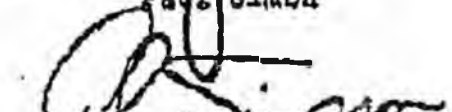

Chuck Robb

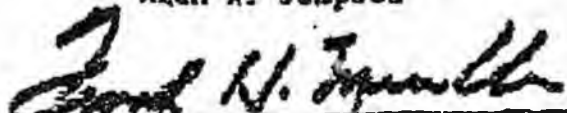

Mark O. Hatfield

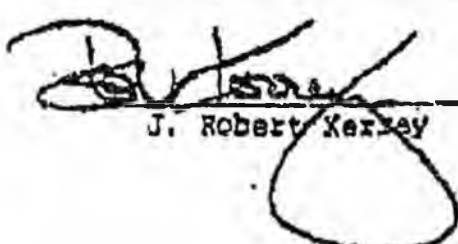

J. Bennett Johnston


John F. Kerry


Paul Simon


Alan K. Simpson


Frank R. Murkowski


J. Robert Kerry

The President
The White House

P.O.Box 8-2977
Fairbanks, Alaska 99708
26 February, 1995

The Honorable Jeannette James
Alaska State Legislature
State Capitol
Juneau, Alaska 99802-1182

Dear Mrs. James:

Thank you for sponsoring House Joint Resolution No. 9, in support of our Prisoners of War and Missing in Action from the war in Southeast Asia. So far, twelve states have already passed similar resolutions, and sixteen others have one under consideration.

As you know, the Interior Alaska Veterans Committee, with representatives from all the major veterans service organizations, is following the progress of HJR 9 with special interest, and several members have already communicated their support to the Legislature. The Committee will be tracking the Resolution through the House and Senate, and will keep advised of hearings through the Legislative Information Office. The records on our POW/MIA's must be opened, and the government's policy of abandonment for convenience must be changed.

There are several excellent references on POW/MIA's, particularly

"The Men We Left Behind", by Mark Sauter & Jim Sanders, National Press Books, 1993

"Moscow Bound", by John M.G. Brown (a former Alaskan), Veteran Press, 1993

"An Examination of U.S. Policy Toward POW/MIAs", by U.S. Senate Committee on Foreign Relations, Minority Staff, 1991

There are also several documentaries on video cassette; probably the best summary of the issue is "Americans Abandoned", by American Defense Institute, 1992. There should be a copy of it in Representative Therriault's office (from 1994 - HJR 5i), or I could send you mine. It runs about 58 minutes, and is tentatively scheduled to air next month on KJNP.

In further support of HJR 9, copies of selected pages from the listed books are attached:

Moscow Bound

Pages 8 - 9: Origin of U.S. policy on American prisoners/hostages.

Pages 900-901: Excerpts from the "1205 Report".

26 February, 1995

The Men We Left Behind

Pages 326 - 327: Confirmation of Lt. Gen. Kwang's "1205 Report"
and related North Vietnamese policy considerations.

Pages 328 - 329: POW files shredded that had been requested by
U.S. Senate.

Page 380 : The crux of the issue, and hope.

Please let me know if you would like any additional information, and how
we in the Interior can help expedite approval of HJR 9.

Thank you.

Sincerely,



Gary C. Tyndall

Attachments: As stated

INTRODUCTION

"YE SHALL KNOW THE TRUTH
AND THE TRUTH WILL MAKE YOU FREE"

(Motto cut in stone at CIA Headquarters, Langley, Virginia)

It has long remained official US policy to refuse public payment of ransom to Communist nations holding American prisoners of war (POWs) or civilians as hostages. This policy evolved from Soviet conduct with U.S. POWs and missing in action (MIAs) of the 1918-1920 American Intervention in Russia, the Allied response to Lenin's withdrawal of Russia from WW I, after the 1917 Bolshevik Revolution. Subsequent Soviet actions in retaining thousands of missing U.S. POWs of WW II, Korea and Vietnam for intelligence purposes, and as forced-labor were dictated by Russian national interests in what became a death-struggle between Soviet Communism and western democratic Capitalism, led by the United States. This example was followed by subsequent Soviet-surrogate regimes in eastern Europe, Communist China, North Korea, Cuba, Vietnam and Laos. The announced ending of the Cold War may ultimately reveal the fate of many of these lost American POWs and could result in the return of survivors to the United States.

During the Revolutionary War of 1775 to 1783, American prisoners of war had been held in appalling conditions on British prison ships or in dungeons and many American POWs, denied the most basic necessities and care, died in British captivity. This contributed to the great bitterness felt in the newly-free nation towards British-American loyalists, who were subsequently mistreated and expelled from their communities in the 13 former colonies. During the American Civil War, from 1861-1865, both Union and Confederate prisoners of war were mistreated, starved and even murdered by their guards, but at the end of that war the survivors were released. As the victors, U.S. authorities subsequently conducted investigations of Confederate war crimes against Union prisoners of war, and carried out reprisal executions.

Official American policy toward military and civilian hostages seized by a foreign state, for use in diplomatic or monetary blackmail, may be said to descend from U.S. reaction to the Barbary pirates of North Africa illegally seizing American prisoners and boasting of it. At first, from 1795 to 1801, large amounts of money were paid by the United States for protection against the pirates and as ransom, but under President Thomas Jefferson, the U.S. went to

war against Tripoli from 1801 to 1805, and subsequently against Algeria. After this, the seizing of American sailors on the high seas by Great Britain led to the War of 1812. These attitudes reflected more than two centuries of American experience at frontier Indian wars, conducted by descendants of European immigrants on the margins a vast continent, in which the often rude and unlettered settlers were actually outnumbered by the indigenous inhabitants and sometimes, as at the time of the 1675-1678 Narragansett, or King Phillip's War, were in danger of being driven into the sea by the natives. In one Indian war after another that followed, from the 1600's to the late 1800's, known American captives had been ransomed whenever possible, or tracked down and liberated by the regular army or volunteer citizen-scouts, if they could be found.

Subsequent experiences in America's minor foreign wars of the late 19th century, in Cuba and the Philippines, did not call for implementation of a different policy. The natural American reaction to public knowledge of U.S. prisoners being held hostage was expressed by President Theodore Roosevelt during the turn-of-the-century era when he quoted a West African proverb: "Speak softly and carry a big stick." Roosevelt believed in using the threat of American military force to carry out U.S. foreign policies. In it's youth and vigor as a new nation that had achieved world power status by the early 20th century, America had bypassed some hard-learned lessons which had resulted in the subtleties of European and Asian diplomacy regarding prisoners of war and hostages. These experiences extended back over two millenniums, from the time of the Persians, Greeks, Romans and Muslims, and Europe had since gone through other evolutions in the treatment of war prisoners from the Dark and Middle ages, through the Renaissance.

The Russian Revolution and subsequent Bolshevik triumph in the civil war resulted in a return to a bygone age in which all war prisoners became hostages, to be secretly held for future use. Since the time of Czar Ivan the Terrible, who created the Oprichnik political police in 1565, state-imposed terror had been a fact of life in Russia. Carrying a dog's head and broom, representing their authority to sweep away traitors, thousands of these agents, dressed in black and riding black horses, roamed Russia in the 1570's, administering death sentences under authority of the Czar. Secret confinement, torture and execution of suspects became commonplace in Russia. This traditional oppression of the landed peasants and city dwellers was continued by Czar Peter the Great and his Romanov successors up until the time of Nicholas II. Under the Communists after 1918, the state terror apparatus was enormously expanded to levels of persecution and mass-death never equaled, before or since, in human history. The American prisoners of war, from the fabled and far-away continent of emigrant dreams,

Origin of U.S. Policy on Prisoners

thousands of files about American POWs and MIAs, which contained numerous refugee live-sighting reports of Americans in captivity long after the war, and years of hand-written notes and comments from investigators. The mass-shredding was conducted by Brigadier General Thomas Needham, commander of "Joint Task Force Full Accounting", a Navy Commander identified as Dale Hayes and an 'unidentified' CIA officer. The destruction of these documents made the task of analyzing which of the POWs and MIAs may have survived in captivity for years, more difficult, and appeared to be an effort to destroy critical evidence that could be used to prove criminal negligence on the part of DIA and JCRC analysts who had for decades been responsible for resolving the fate of over 2,500 missing American servicemen. It is noteworthy that the United States Ambassador to Thailand at this time was David Lambertson, who as a Deputy Assistant Secretary of State, six years before, had denied to the author in a meeting at the Department of State, that any evidence existed concerning American POWs who remained in Communist control after Operation Homecoming in 1973, or that any POW/MIAs had survived in captivity years after the war's end.

On April 9th, the Russian member of the US-Russian Commission on POWs, General Volkogonov, claimed that there was no evidence of any American prisoners of war alive in Russia, but Ambassador Malcolm Toon said that some Russians were hampering efforts to account for missing U.S. soldiers, and reported that he had given the Russians details on the shootdowns of ten U.S. aircraft. He was quoted by the press as saying: "We cannot understand why the Russian government cannot give definitive information about the shootdowns, or whether there were any survivors."⁹ The Clinton Administration announced on the same day that General John Vessey would travel to Hanoi again on a fact-finding mission, and that the President would make no decision on relaxing U.S. pressure on Vietnam until he felt convinced that Hanoi was actually cooperating on resolving the fate of American MIAs. It was reported that the International Monetary Fund would decide in late April whether to resume lending to Vietnam, a move supported by France, Germany and Japan.¹⁰ Meanwhile, American business interests, led by major oil companies, kept up pressure for normalization of relations with Vietnam's Communist government, irregardless of the fate of U.S. prisoners. At this point a major story on the missing Americans again brought the issue to national prominence.

The New York Times published a report on April 12th, revealing that a top-secret report on U.S. POWs, written by General Tran Van Quang, Deputy Chief of Staff of the North Vietnamese Army, on September 12, 1972 had been uncovered in the archives of the Soviet Communist party in Moscow, which stated that there were:

" 1,205 AMERICAN PRISONERS OF WAR LOCATED IN THE PRISONS

OF NORTH VIETNAM- THIS IS A BIG NUMBER. OFFICIALLY, UNTIL NOW, WE PUBLISHED A LIST OF ONLY 368 PRISONERS OF WAR, THE REST WE HAVE NOT REVEALED. THE GOVERNMENT OF THE U.S.A. KNOWS THIS WELL, BUT IT DOES NOT KNOW THE EXACT NUMBER OF PRISONERS OF WAR, AND CAN ONLY MAKE GUESSES BASED ON ITS LOSSES. THAT IS WHY WE ARE KEEPING THE NUMBER OF PRISONERS OF WAR SECRET, IN ACCORDANCE WITH THE POLITBURO'S INSTRUCTIONS." The U.S. POWs were held in 11 North Vietnamese prisons in the fall of 1972 before the Paris peace agreement was signed. Since more Americans were captured between September 1972 and February 1973 and a total of 591 American POWs were released, the figures indicated that some 700 American POWs were secretly withheld by Hanoi after Operation Homecoming in 1973. (This number closely conforms to the author's estimates for two U.S. Senate investigations of 1990-1993, based on the research for this book. It would not include those Americans already transported to the USSR (or China) from 1965- September 1972, and would not necessarily include all those held in Laos, South Vietnam or Cambodia at that time.)

Consisting of both a Russian translation of Tran Van Quang's report marked "top secret" in Russian, and a summary of it by the Soviet Army Intelligence, the document was found in February 1993 by Stephen J. Morris, an Australian researcher for the Harvard Center for International Affairs and the Russian Research Center at Harvard University, who stated he had first showed it to senior White House officials of the Clinton Administration in February. According to the New York Times, copies of it were subsequently circulated among U.S. Government officials, and on the first page of the summary are handwritten instructions for a 'brief note...on the prisoners of war,' to be sent to the Soviet Politburo. The newspaper reported that General Quang said in the report that the American POWs could only be freed as part of an overall peace settlement, and they could be "used as leverage to obtain compensation for the devastation caused by the war." Members of the U.S.-Russian Commission on POWs said that the document was authentic and some experts were quoted by the newspaper as calling it a "smoking gun." The Russian newspaper Izvestia had reported on April 10th that the document on the U.S. POWs and other recently declassified files had been a topic of a closed meeting of the Commission.

The New York Times said that a report on the Soviet document was provided to President Clinton just before the Vancouver summit with Boris Yeltsin, and quoted an unnamed Clinton Administration official saying of the report of the document, 'We are pursuing it very seriously but are not in a position to evaluate it.' The spokesman said that the researcher had informed the Government of the discovery but 'he would not give us the document,' that former Ambassador Malcolm Toon had been requested to follow up on the

And Le Dinh had told the DIA in early 1980 that about 700 Americans continued to be held hostage after Homecoming. DIA admitted Le Dinh had "access to PW/MIA information within this ministry [North Vietnam's Ministry of Defense]." DIA also knew the report out of the Soviet archive closely correlated to Le Dinh's debriefing.

The Le Dinh and Russian reports agree on the number and location of Americans not repatriated. The Russian report indicates more than 600 extra POWs were being held on September 15, 1972. Counting those Americans lost after that date, the number matches the Le Dinh figure of 'about 700' U.S. prisoners captured but not repatriated at the end of the war. In addition, both Le Dinh and the Russian document indicate there are more Vietnamese POW camps than known by the U.S. Le Dinh said there were 12 Vietnamese POW camps by the end of the war, with the Russian document putting the number at 11.

Most importantly, Le Dinh and the Russian document agreed on the motives behind Hanoi's POW policy. One Pentagon POW expert told the authors that the Soviet report alone cannot prove the number of Americans retained by Hanoi. But it does appear to be conclusive evidence of Hanoi's policy of secretly retaining U.S. POWs. This is the critical message of the Soviet document.

Le Dinh and the Russian report agree on the following policy issues:

- The categorization of American POWs. Both the Russian and Le Dinh reports say Americans were placed into various categories, with one of them being "progressives," or those who accepted communism and/or Vietnam's views on the war. Both sources imply the Vietnamese had a plan to withhold POWs from wealthy families. Le Dinh called them "the sons of rich families," and the Russian document referred to them as the "products of rich families."
- Both reports agree on the Vietnamese motive for retaining American POWs. The Russian document quotes the Vietnamese as saying they would hold U.S. POWs for political "concessions" and to obtain U.S. war reparations. According to the Russian report, the Vietnamese general wrote:

"Nixon must compensate North Vietnam for the great damage inflicted on it by this destructive war."

- According to the Le Dinh report, he said "the SRV (Vietnam) retained a 'strategic asset' of over 700 American prisoners that could be used to force the U.S. to pay reparations."

A close reading of the general's documents indicates that two North Vietnamese Politburo decisions made in March and April 1972 caused dissention within the Communist Party. "Both of these [Politburo] decisions touch on the questions of exploiting these American POWs captured in time of war. This disturbs the public opinion of the whole world and the USA. There are various thoughts on the question of American POWs... but even among us there is a group of comrades whose opinions differ from the opinion of the Politburo."

The Politburo had decided to use American POWs as a counter-balance to the vastly superior U.S. military and industrial power—in other words, as hostages to manipulate the Nixon Administration. This decision was apparently questioned or actively opposed by elements within Hanoi's ruling elite who were strong enough to make the Politburo defend its decision.

The general's report was a clear message to the dissenters to get in line with the Politburo decision.

... The question of American POWs has great significance for the resolution of the South Vietnamese problem... We intend to resolve the question of American POWs in the following manner: 1. The government of the USA must demonstrate concessions, in other words, a cease fire and the removal [of] Nguyen Van Thieu, and then both sides can begin discussing the question of repatriating POWs to the Nixon government. 2. ... we can free some more pilots from the number who are progressively inclined. Nixon should not hinder the return of these pilots to their homeland and not undertake any disciplinary measures toward them. 3. Nixon must compensate North Vietnam for the great damage inflicted on it by this destructive war. ... If we take a path of concession toward Americans and liberate POWs we would be at a great loss.

Lieutenant General Tran Van Quang in this report accurately outlined the strategy that was followed by the North Vietnamese. Within a week of the report's appearance, three American pilots were released, and the North Vietnamese did warn the U.S. not to take "any disciplinary measures toward them." And they did demand reparations—as we have shown, it had in fact been an essential part of their negotiating posture since 1968.

But North Vietnam would concede their number one point at the bargaining table that same month—the removal of South Vietnam's President Thieu. This made even more important the use of American POW hostages as leverage in the final negotiating stages and the implementation of the Paris Agreement.

The United States was forced to place \$3.25 billion on the table in advance of any POW release just to get the repatriations started—but the North Vietnamese held back the majority of the POWs to ensure the actual delivery of promised "reconstruction" aid. As we have seen, however, the money wasn't delivered and the hostages were not returned.

As of this writing, there is still not enough evidence in to make a final determination about the accuracy of the Soviet document. But one thing can be said for sure: the DIA is not telling the truth when it says the report's numbers are totally inconsistent with the facts.

In reality, the reports give numbers that closely match the number of POW/MIAs that many Pentagon experts believed Hanoi possessed during the war.

A former Director of the DIA, retired Lieutenant General Eugene F. Tighe, recently said what the DIA already knew: "We had a list [of POWs in 1973] that was really significantly larger than those who came back . . . we had been expecting a lot more people. It was terribly shocking. Finally, we are getting proof of what we said—the numbers [in the Soviet report] don't surprise me at all."

The Shredding Party

Perhaps it was just a coincidence. But soon after the DIA found out about the Soviet POW report, Pentagon POW/MIA officials quietly ran thousands of POW files through a refrigerator-sized shredder at the U.S. Embassy in Bangkok, the military later admitted. By the time the U.S. Ambassador to Thailand learned of the shredding, which took place during March 25 through 27,

1993, it was too late. The original files of the Joint Casualty Resolution Center, the agency which looked for U.S. POWs during the war, were gone.

Major General Thomas Needham, Commander of Hawaii's Joint Task Force Full Accounting, reportedly claimed the shredding was simply a "consolidation" of records. But POW experts said otherwise.

While copies of the shredded reports themselves existed elsewhere, the hand-written notes and additions to the files in Thailand were irreplaceable. "They were basically informational notes and memoranda—the meat of actual investigations," retired Major George Petrie was quoted as saying. The major, a former POW investigator, said the DoD may have destroyed the original files to "simplify case files as much as possible, declare them [the POWs] dead and move on."¹³

Senator Bob Smith complained about the shredding, which apparently involved files the Senate POW committee had requested but never received. So the Pentagon was forced to initiate an "investigation," conducted by none other than the office of the Commander-in-Chief, Pacific Command, an office closely tied to the fortunes of Joint Task Force Full Accounting.

While POW activists hoped for a fair investigation, it didn't really matter. Documents requested by the Senate, and by the authors of this book, and by many POW family members—documents that hundreds of American citizens would gladly have removed from the government's hands if there had been a need to "consolidate" them for reasons of saving space—had been shredded. And there was really nothing anyone could do about it.

Government shredding files

issue. And bringing the boys home from Vietnam might help him deal with the fact that he never went to war there.

Clinton certainly claims commitment to the issue. In a prepared statement released April 2, 1993 he said:

I truly believe that the power of the Presidency could resolve this issue. As the Chief Executive Officer of all federal agencies, the President should not just state that the resolution of this issue is a "national priority"; he should make it the national priority, and direct that all agencies to cooperate and resolve it [sic]. Before I would normalize relations or provide assistance to any of the countries [sic] involved, they would be required to open their files and actively assist in solving this issue. I firmly believe that America should never leave its warriors on the battlefield. This is not a political issue; it is a moral test of those values and traits that made America great.

But there are certainly plenty of people in the bureaucracy urging the President to stick with the status quo. There are certainly many reasons to avoid pushing the POW issue. And making the return of America's POWs truly the "highest national priority" wouldn't be easy.

"See, that's not the issue," Perot said. "The issue is they're our men, they went into combat for us, we left them, we owe it to them to bring them home. It won't look pretty back here, but we can build a consensus here that it's the right thing to do."²

Perhaps. But many who know the POW issue best have lost faith that the U.S. government will ever willingly do what is needed to bring the prisoners home.

With no faith left in their government, many POW/MIA family members and activists have belief only in a justice far beyond the petty political concerns of Washington, D.C.

They place their faith in a promise much stronger than the long-abandoned pledges of successive Presidents. They rely on the words of *Jeremiah 31: 16-17*:

Thus saith the Lord: Refrain thy voice from weeping, and thine eyes from tears; for thy work shall be rewarded, saith the Lord: and they shall come again from the land of the enemy; and there is hope in thine end, saith the Lord, that thy children shall come again to their own border.

Endnotes

Chapter 1

- 1) Nov 23, 1979, memo for the Chairman, JCS, Library of Congress POW/MIA Information File 55. Hereafter referred to as "reel."
- 2) *Ibid*
- 3) Garwood deposition to the Senate Select Committee on POW/MIA Affairs. Hereafter referred to as "Garwood deposition." All information concerning Garwood is from the deposition unless otherwise noted.
- 4) Pentagon's "Uncorrelated Information Relating to Missing Americans in South-east Asia" - Volume 15, page 434. Hereafter referred to only by volume, (vol.), and page, (p.), numbers.
- 5) Vol 15, p. 434
- 6) Vol 7, pp. 311-113
- 7) June 30, 1975, speech as quoted in *National Review*, Aug. 21, 1981
- 8) Jan. 1969 memo RM 5729-1 ARIA "Prisoners of War in Indochina"
- 9) Jan. 9, 1940, DIA Memo "Possible American Stay Behinds in Vietnam"
- 10) *New York Times*, March 25, 1993, p. A 4
- 11) Oct. 25, 1988, Pentagon intelligence report HR 6 024 006 89

Chapter 2

- 1) 15 April, 1976 State Department telegram, "Subject: Information on French POWs"
- 2) See 20 times 8 April 1976 State telegram "Subject: Repatriation of French Remains from North Vietnam, and Information on French POWs." Also 4 March 1976 State Department telegram, "Subject: Repatriation of French Remains from North Vietnam"
- 3) Jan. 1969 Rand memo RM 5729-1 ARIA "Prisoners of War in Indochina" by Anita Louise Nutt, and statement of Anita Louise to House Select Committee on Missing Persons in SEA, 7 April 1976 as reprinted in "Americans in Southeast Asia: The POW/MIA Issue" William Homolka, New World Books, NY, 1986
- 4) *Newsweek*, Jan. 4, 1965, p. 24
- 5) May 19, 1976 Department of State telegram, "Subject: More Information on French POW/MIA"
- 6) Vol. 10, p. 250
- 7) 5 June 1971 State Department telegram, "Subject: Repatriation of French PW in 1951"
- 8) 24 February 1972 DIA memo, "Subject: Debrief of Moroccan Personnel Recently Returned from North Vietnam"
- 9) 25 March 1983 State Department telegram, "Subject: POW/MIA Affairs/Former French Servicemen" in April 1983 State Department telegram "Subject: POW/MIA Affairs/Former French Servicemen"
- 10) From files of Tracy Ury
- 11) 22 April 1982 State Dept telegram "Subject: POW/MIA Affairs: Report of Possible Americans in Vietnam"

Chapter 3

- 1) "Treatment and Induction of U.S. Prisoners Held by the Viet Minh" - November 1951 USAI Technical Memorandum OERI-TM 54-1
- 2) Undated INSCOM record, from FCIA
- 3) June 17, 1955 Pentagon record from the Defense Advisory Committee on Prisoners of War "Recovery of Unrepatriated Prisoners of War"
- 4) *Ibid*
- 5) Gutterason remembers the title "On Limited War" in Kissinger's 1957 book *Nuclear Weapons and Foreign Policy*. Chapter 5 is entitled "What Price Difference? The Problems of Limited War." This appears to be the declassified version of the paper Gutterason remembers.
- 6) Henry Kissinger, *Nuclear Weapons and Foreign Policy* (New York, 1957). Southeast Asia, Indochina, and South Vietnam were all mentioned as potential points of conflict.

Chapter 4

- 1) Vol 7, p. 361
- 2) As quoted by Bobby Garwood
- 3) As quoted by a Top Secret Soviet document (Dec. 1, 1972, Top Secret Report for the Central Committee of the Communist Party of the Soviet Union. Hereafter the "Dec. 1, 1972, Soviet Report")
- 4) *Ibid*
- 5) *Ibid*
- 6) Uncorrelated Info. Vol 7, page 333
- 7) HR 317/09165 78

Chapter 5

- 1) June 24-25 1992 hearings of the Senate Select Committee on POW/MIA Affairs



RECEIVED BY

APR 28 1995

Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Senate State Affairs

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

MEMORANDUM

DATE: April 27, 1995

TO: Senate State Affairs Committee Members

FROM: Senator Bert Sharp, Chairman
Senate State Affairs Committee

RE: *MEETING SCHEDULE*

Tuesday, May 2, 1995 3:30 p.m. Beltz Rm.

HJR 9 - Requesting the governor to file suit in the United States Supreme Court against the United States government alleging violations of the civil rights of Americans listed as prisoners of war or missing in action in Southeast Asia, demanding that documents concerning these individuals be released; and requesting the other states to join in this suit.

HJR 39 - Relating to the Northern Sea Route

HB 10 - "An Act relating to payment for emergency services responding to certain motor vehicle accidents."

SB 163 - "An Act approving the University of Alaska's plans to enter into long-term obligations to borrow money from the Alaska Housing Finance Corporation for the acquisition of student housing facilities; and providing for an effective date."

SR 3 - Relating to the conversion of the Naval Air Facility in Adak

BILLS PREVIOUSLY HEARD

Thursday, May 4, 1995 3:30 p.m. Beltz Rm.

BILLS PREVIOUSLY HEARD

MEMO

To: Rep. Brian Porter, Chair
From: Anne Carpeneti, Aide
Subj: CSHJR 9 (MLV)
Date: April 6, 1995

The referenced resolution concerns POWs and MIAs, and requests the governor to file suit in the Supreme Court concerning their fate.

The only comment I have is to the resolution paragraph on page 3, lines 10 - 13. It doesn't make sense to me. Here is a suggestion which I think captures the intent:

Page 3, line 11 after "moot," delete all material and insert the following:

but rather, it is intended to seek a mandate that all documents, files and other information concerning POWs and MIAs be released to the public so that the fate or location of all members of the service who were POWs or MIAs may be proven beyond a reasonable doubt;

If this doesn't capture the intent, it would be a good idea to determine the intent so that something can be drafted to clarify the paragraph.

CS FOR HOUSE JOINT RESOLUTION NO. 9(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES. Kubina, Therriault, Mulder

A RESOLUTION

1 Requesting the governor to file suit in the United States Supreme Court against
2 the United States government alleging violations of the civil rights of Americans
3 listed as prisoners of war or missing in action in Southeast Asia, demanding that
4 documents concerning these individuals be released; and requesting the other states
5 to join in this suit.

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

7 WHEREAS there is continuing controversy concerning Americans who were listed
8 as prisoners of war (POW) or missing in action (MIA) while serving in the Southeast Asian
9 nations of Vietnam, Laos, and Kampuchea (formerly Cambodia); and

10 WHEREAS the United States government has stated that all of our POWs have been
11 returned; and

12 WHEREAS a top secret Vietnamese report dating from 1972 by General Tran Von
13 Kwang, Deputy Chief of Staff for the North Vietnamese Army reported that in September of
14 1972 Hanoi held 1,205 American prisoners; and

15 WHEREAS only 591 American POWs have been released under the 1973 Peace

1 Settlement, which means that, based on General Kwang's own report, at least 614 POWs were
2 not returned or accounted for; and

3 **WHEREAS** Vietnamese nationals who have moved to the United States have reported
4 the appearance of American prisoners still being held in Southeast Asia; and

5 **WHEREAS** Boris Yeltsin, President of Russia, let it be known that the Soviet Union
6 took members of the American armed forces into the former Soviet Union during the Vietnam
7 War and that there is no adequate explanation of the whereabouts of these Americans; and

8 **WHEREAS** there are still hundreds of documents concerning this issue held by the
9 United States Department of Defense that have not been released to the public, yet individuals
10 within the federal intelligence agencies have tried to discredit information concerning the
11 existence of American POWs instead of demanding a full accounting from Vietnam, Laos,
12 Kampuchea, North Korea, China, and the former Soviet Union; and

13 **WHEREAS** there are two missing and unaccounted for servicemen in Southeast Asia
14 from Alaska; and

15 **WHEREAS** the right to liberty--that inherent and inalienable right endowed by our
16 Creator, as guaranteed by the Declaration of Independence and the Constitution of the United
17 States--is being denied to any American being held prisoner as a result of the Vietnam War;
18 and

19 **WHEREAS** the executive branch of the federal government has not even attempted
20 to negotiate the release of Americans that may still be held prisoner as a result of the war in
21 Southeast Asia and is not actively searching for remaining Americans; and

22 **WHEREAS** the lower courts of the federal judiciary have not granted relief to
23 American soldiers listed as POWs or MIAs; and

24 **WHEREAS** the United States Supreme Court is the last bastion that an American
25 citizen has for redress of grievances and protection of constitutional liberties; and

26 **WHEREAS** the United States Constitution in art. III, sec. 2, states, "In all Cases
27 affecting Ambassadors, other public Ministers and Counsels and those in which a State shall
28 be a Party, the Supreme Court shall have original Jurisdiction.";

29 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests the
30 governor to authorize suit in the United States Supreme Court against the United States
31 government, especially the Department of Defense and the intelligence agencies, and against

1 the and other public ministers and counsels of the governments of Vietnam, Laos,
2 Kampuchea, Russia, North Korea, and China, alleging violations of the civil rights of the
3 people of Alaska, and especially alleging the violation of the right to life, liberty, and the
4 pursuit of happiness of Thomas E. Anderson, USMC, and Howard M. Koslosky, USN; and
5 be it

6 **FURTHER RESOLVED** that the lawsuit demand that the Department of Defense, the
7 intelligence agencies, and the governments of Vietnam, Laos, Kampuchea, Russia, North
8 Korea, and China be ordered to turn over all documents concerning Americans listed as POWs
9 or MIAs as a result of the Vietnam War; and be it

10 **FURTHER RESOLVED** that the lawsuit is not intended to solicit a ruling or an
11 opinion definitively declaring the POW/MIA issue moot, but rather, it is intended to seek a
12 mandate that all documents and other information concerning POWs and MIAs be released
13 to the public so that the fate or location of all members of the service who were POWs or
14 MIAs may be proven beyond a reasonable doubt; and be it

15 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
16 other 49 states of the United States to join in this action on behalf of their citizens being held
17 in captivity as a result of the war in Southeast Asia.

18 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
19 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
20 of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S.
21 Senate; to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and
22 the Honorable Don Young, U.S. Representative, members of the Alaska delegation in
23 Congress; and to the governors and the presiding officers of the houses of the legislatures of
24 each of our sister states.

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Fax Transmittal Memo 7672

To: SAM
Company: Janette James' Office
Location:
Fax #: 465-2381
Telephone #: 465-3743

No. of Pages: 1
Today's Date: 4-19-95
Time: 1:45
From: Jana Stovarsky
Company: City of North Pole
Location:
Fax #: 488-3002
Telephone #: 480-2281
Original Disposition: Destroy Return Call for pickup

This Resolution was faxed on 4/15/95. Per Gary Tyndall's request we are re-faxing! Have a Good Day!

By: Mayor Cunningham
April 3, 1995

CITY OF NORTH POLE

RESOLUTION 95-4

A RESOLUTION URGING THE NINETEENTH ALASKA STATE LEGISLATURE TO PASS HOUSE JOINT RESOLUTION NO. 9 REQUESTING THE GOVERNOR TO FILE SUIT IN THE UNITED STATES SUPREME COURT AGAINST THE UNITED STATES GOVERNMENT ALLEGING VIOLATIONS OF THE CIVIL RIGHTS OF AMERICANS LISTED AS PRISONERS OF WAR OR MISSING IN ACTION IN SOUTHEAST ASIA, DEMANDING THAT DOCUMENTS CONCERNING THESE INDIVIDUALS BE RELEASED AND REQUESTING THE OTHER STATES TO JOIN IN THIS SUIT.

WHEREAS, there is continuing controversy concerning the fate of Americans listed as POW or MIA while serving the United States Government in Southeast Asia; and

WHEREAS, the United States government has stated that all of our POWs have been returned; and

WHEREAS, there is considerable evidence that this is not the whole truth; and

WHEREAS, a lawsuit in the Supreme Court will force the various agencies and governments to release all of the information and documents that are being withheld from the public.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of North Pole urges the Nineteenth Legislature of the State of Alaska to pass House Joint Resolution No. 9.

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF NORTH POLE, ALASKA THIS 3rd DAY OF APRIL, 1995.



Lute M. Cunningham
MAYOR LUTE M. CUNNINGHAM

Jana Stovarsky
JANA STOVARSKY, CITY CLERK

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. BJR 40

1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: Amendment to the Constitution RE:
Repeal Budget Reserve Fund
 Sponsor: Representative Martin
 Requestor: _____

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

EXPENDITURES/REVENUES:

OPERATING	FY 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 Kolvunemi, 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: 5-12-95

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REPRESENTATIVE
TERRY MARTIN
CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
HOUSE FINANCE COMMITTEE

Alaska State Legislature



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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.