

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9993 HOUSE RULES

HCR

16

ALASKA STATE LEGISLATURE

STATE CAPITOL, SUITE 418
JUNEAU, AK 99801-1182
(907) 465-4939
FAX (907) 465-2418
1-800-465-4939

INTERIM
716 WEST 4TH, SUITE 620
ANCHORAGE, AK 99501
(907) 269-0244
FAX (907) 269-0248

CO-CHAIR
COMMUNITY AND REGIONAL AFFAIRS

VICE-CHAIR
LABOR AND COMMERCE
TRANSPORTATION

SPECIAL COMMITTEE
ECONOMIC DEVELOPMENT AND TOURISM



REPRESENTATIVE ANDREW HALCRO

District 12

January 10, 2000

The Honorable John Cowdery
Chairman, House Committee on Rules
State Capitol Building
Juneau, Alaska 99801

Dear Chairman Cowdery:

Last session legislation passed that combined the Department of Community and Regional Affairs and the Department of Commerce and Economic Development into the Department of Community and Economic Development. Because of this change and changes to the titles of other state departments, Uniform Rule 20, which addresses House and Senate Committee jurisdictions does not conform to actual department titles.

These technical corrections to the Uniform Rules are necessary to make them parallel the names of the reorganized state departments. I would appreciate your scheduling HCR 16 for consideration by the House Rules Committee at your earliest convenience.

I have enclosed a copy of the Resolution and my sponsor statement for the members of the Committee.

Sincerely yours,

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

Andrew Halcro

Enclosures

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Interim:

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320 Anchorage, AK 99501

Phone: 907-269-0222
Fax: 907-269-0223
Toll Free: 1-888-269-3879



**Representative
John J. Cowdery
Chairman
House Rules
Committee**

Session:

State Capitol Bldg., Suite
204
Juneau, AK 99801

Phone: 907-165-3879
Fax: 907-465-2069
Toll Free: 1-888-269-3879

DATE: January 13, 2000

TO: House Rules Committee Members

FROM: Representative John J. Cowdery
House Rules Committee

RE: Rules Committee Meeting

CC: Speaker Porter, Representative Green, Representative Phillips,
Representative Kott, Representative Berkowitz, Representative Joule

The House Rules Committee will have a scheduled committee meeting
at the following time:

**Wednesday
January 19, 2000
4:00 PM
Beltz Room**

**HCR 16
Amendment to the Uniform Rules relating to standing
committees**

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Sponsor Statement HCR 16

Uniform Rule 20

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HCR 20 will alter the Uniform Rules by changing the name of the Department of Education to the Department of Education and Early Development, changing the name of the Department of Labor to the Department of Labor and Workforce Development.

Additionally, it provides the Committee on Community and Regional Affairs will have jurisdiction over the programs and activities of the Department of Community and Economic Development that primarily relate to local government and government services or functions in the unorganized borough and other matters relating to political subdivisions.

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DATE: January 13, 2000

TO: House Rules Committee Members

FROM: Representative John J. Cowdery
House Rules Committee

RE: Rules Committee Meeting

CC: Speaker Porter, Representative Green, Representative Phillips,
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**Wednesday
January 19, 2000
4:00 PM
Beltz Room**

**HCR 16
Amendment to the Uniform Rules relating to standing
committees**

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HCR 16

Revision Date: 1/19/00
 Title: Amend Uniform Rules;
 Standing Committees
 Sponsor: Halvorsen
 Requester: _____

Dept. Affected Legislature
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by

[Signature]

Phone _____

Staff to House Rules Committee

Phone _____

Date _____

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HCR 16

Revision Date: 1/19/00
Title: Amend Uniform Rules;
standing committees
Sponsor: Halero
Requester: _____

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BRU _____
Component _____
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(Thousands of Dollars)

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Prepared by

Con Suh

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Staff to House Rules Committee

Phone _____

Date _____

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Staff to House Rules committee

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Staff to House Rules Committee

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Date _____

FISCAL NOTE

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Prepared by



Phone _____

Staff to House Rules Committee

Phone _____

Date _____

HAZCRO

HCR 16

Procedure for scheduling Rules meeting:

- Look at all schedules and find a convenient date (including sponsor's schedule)
(4-6 is a good time)
- Reserve Room
(Senate Sergeant at Arms for Beltz; Judiciary Comm. Room, etc.)
 - Call sponsor
 - notify of time/place
 - Ask for packets ASAP
 - Ask if there will be any teleconference (also ask JC)
- Give notice to chief clerk by memo by 4:00 Thursday of week before
- Give notice by memo to all members
- If teleconference, call TC people at LIO for setup. (who, where, etc.)
- Call House Records (2214)
- Make labels
- Get files ready (put announcement memo in packet)
- Let Marco look at files in case of changes - ADD UNIFORM RULES, MEMO
- Give out files day before meeting.
- Bring yellow file of bill to meeting.

Rules Committee Announcement Memo Distribution

- Cowdery 204
- Porter 208
- Green 214
- Phillips 411
- Kott 118
- Berkowitz 404
- Joule 405

Sponsor Distribution

- Halcro 418

6 13 Jan 00

Rules Committee Folder Distribution

<input checked="" type="checkbox"/> Cowdery	204
<input checked="" type="checkbox"/> Porter	208
<input checked="" type="checkbox"/> Green	214
<input checked="" type="checkbox"/> Phillips	411
<input checked="" type="checkbox"/> Kott	118
<input checked="" type="checkbox"/> Berkowitz	404
<input checked="" type="checkbox"/> Joule	405

18 Jan. 00
←

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Sponsor Statement **HCR 16**

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HCR 16

Revision Date: 1/19/00
 Title: Amend Uniform Rules:
 Standing Committees
 Sponsor: Halero
 Requester: _____

Dept. Affected Legislature
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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Land & Structures						
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Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

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ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by 

Phone _____

Staff to House Rules Committee

Phone _____

Date _____

HJR

48

From the office of . . . **Representative John J. Cowdery**

State Capitol Bldg., Room 204

Juneau, AK 99801

907-465-3879 phone

907-465-2069 fax

MEMORANDUM

TO: House Clerks Office

FROM: Representative John J. Cowdery, Chairman Rules Committee

DATE: February 28, 2000

RE: Committee Hearing Date

CC:

Notes:

The House Rules Committee will have a scheduled
Committee meeting at the following time:

Tuesday
March 7, 2000
3:00 PM
Fahrenkamp Room

HJR 48
Access Across United States / Canada Border

Support for Sponsor Amendments on HJR 48

Representative Gail Phillips

During a recent World Trade Committee meeting, when HJR48 was discussed, it was suggested that the intent of our resolution might be different from the actual wording. That suggestion was overlooked as the committee moved the resolution out. A subsequent review of the resolution confirmed the difference between the intent and the resolve. To clarify my position, I would like to offer an amendment with the following explanation:

As it says in the short title, the resolution relates to the **“free flow of people and the fair trade of goods and services across the border between the United States and Canada”**

Line 15-17 on page 2 resolves to ask the Congress to amend section 110 to exempt Canadians from the requirements of 110.

Section 110 does not address specific borders. It only addresses the establishment of an entry exit control system that collects information on all alien departures and arrivals to the U.S. For example: if a Canadian goes to Mexico and travels back through the U.S. at the San Diego crossing our resolution, as it stands, asks for him to be exempt from entry exit requirements of section 110.

As the sponsor of this bill I would like to clarify the intent and offer the following amendments to the resolution to be specific to the Canadian-U.S. border.

HJR48

Sponsor Statement

HJR 48 – A resolution relating to the free flow of people and fair trade of goods and services across the border between the United States and Canada.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) requires the Immigration and Naturalization Service to have in place by March 31, 2001, an automated system to document every non-U.S. citizen entering and exiting the United States. If this provision is implemented it would cause massive congestion at land border crossings between the U.S. and Canada and threaten the economic structure on both sides of the border.

Resolution HCR 48 requests the United States Congress to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) to call for the exemption of Canadians from Section 110 of that act at the Canadian - U.S. land border crossings and to provide additional resources to facilitate expedient border crossings.

Canada and the U.S. have a long practice of not requiring the majority of their citizens to fill out formal documentation to enter each other's country. At present, travelers leaving the U.S. do not have to stop at U.S. Customs upon departing. Under Section 110 every vehicle would have to stop in both directions, so that the entry and departure of all non-U.S. citizens could be documented. Section 110 goes against the cooperative efforts to cut red tape at the border of the 1995 Shared Border Accord and the Open Skies Agreement, and the Canada-U.S. Partnership forum (CUSP).

Canada and the U.S. share the longest undefended border in the world and bilateral trade exceeds \$1 billion every day supporting more than 2 million jobs. Over 100 million people cross the border annually. In 1997, 15 million Canadians visited the U.S. for at least one day and 13 million Americans took overnight trips to Canada. We need laws to make travel between our countries easier, not more difficult.

The Council of State Governments (CSG), CSG West, The National Governors Association and the Cascadia Mayors Council all have adopted resolutions in favor of an exemption from the IIRIRA Section 110, for Canadians.

Your support for this message to the President of the U.S., the U.S. Congress and other state legislatures would help to ensure that our strong relationship with Canadians and economic benefits of this association would be maintained.

3/1/00

AMENDMENT

Offered to the House Rules Committee

By REP G. PHILLIPS

To: HJR 48

Page 2, lines 15 to 17 are amended to read:

Be it resolved that the Alaska State Legislature calls on the United States Congress to Amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to exempt [Canadian citizens] from the requirements of sec. 110 of that act Canadian citizens at land border crossing stations along the Canadian-U.S. border; and be it

The amending elements of this section are repeated in Page 2 lines 24 and 25 and, Page 2 lines 28 and 29.

1-LS1247D
Cook
2/29/00

CS FOR HOUSE JOINT RESOLUTION NO. 48()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE PHILLIPS

A RESOLUTION

1 Relating to the free flow of people and the fair trade of goods and services
2 across the border between the United States and Canada.

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

4 WHEREAS, in 1997, the International Committee and Governing Board of the Council
5 of State Governments adopted a resolution urging the United States Congress to amend the
6 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to exempt Canadians
7 from coverage under sec. 110 of that Act; and

8 WHEREAS the United States and Canada share the longest undefended border in the
9 world; and

10 WHEREAS the United States and Canada have the largest bilateral trade relationship
11 in the world, exceeding \$1,000,000,000 every day and supporting more than 2,000,000 jobs;
12 and

13 WHEREAS sec. 110 of the Illegal Immigration Reform and Immigrant Responsibility
14 Act of 1996 requires the United States Attorney General to develop an automated entry and
15 exit control system to record the entry into and departure from the United States of all
16 "aliens"; and

1 **WHEREAS** sec. 110 of the Act uses the word "alien" without any qualification and
2 will apply to millions of Canadian citizens who enter the United States every year and have
3 traditionally enjoyed the longstanding reciprocal privilege of summary inspection; and

4 **WHEREAS** implementation of this control system has been delayed, but will go into
5 effect on March 31, 2001, imposing an unmanageable requirement on border crossing services
6 and resulting in gridlock at crucial border crossings between the United States and Canada;
7 and

8 **WHEREAS** the United States and Canada continue to pursue joint policies to facilitate
9 the movement of people and the fair trade of goods and services across the border, including
10 the 1995 Shared Border Accord and the Open Skies Agreement; and

11 **WHEREAS**, on October 8, 1999, the President of the United States and the Prime
12 Minister of Canada agreed to create the Canada-U.S. Partnership Forum (CUSP) intended to
13 help streamline border policies and management and increase efficiencies in customs,
14 immigration, and law enforcement;

15 **BE IT RESOLVED** that the Alaska State Legislature calls on the United States
16 Congress to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
17 to exempt from the requirements of sec. 110 of that Act Canadian citizens who enter at land
18 border crossing stations along the border between the United States and Canada; and be it

19 **FURTHER RESOLVED** that the Alaska State Legislature requests the United States
20 Congress to provide additional resources to adequately facilitate the free flow of people and
21 the fair trade of goods and services across the border between the United States and Canada;
22 and be it

23 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
24 President of the United States to make this issue an administrative priority and to urge the
25 United States Congress to exempt from sec. 110 of the Illegal Immigration Reform and
26 Immigrant Responsibility Act of 1996 Canadian citizens who enter at land border crossing
27 stations along the border between the United States and Canada; and be it

28 **FURTHER RESOLVED** that the Alaska State Legislature encourages all state
29 legislatures to pass resolutions urging the President of the United States, the leadership of the
30 United States Congress, and the state's congressional members to exempt from sec. 110 of the
31 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Canadian citizens who

1 enter at land border crossing stations along the border between the United States and Canada.
2 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
3 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
4 of the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the
5 Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; to the Honorable
6 Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don
7 Young, U.S. Representative, members of the Alaska delegation in Congress; and to the
8 legislatures of each of the states.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR 48

Revision Date: Feb. 8, 2000
 Title: Free flow of people/trade
between Canada & U.S.
 Sponsor: PHILLIPS
 Requester: H. WTR St/Fed Relations

Dept. Affected _____
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution would not have a significant fiscal impact on any state agency.

Prepared by Donald M. Riehle WTR Staff

Phone 465-6643

Phone _____

Date 2-8-00

Section 110 of the
Illegal Immigration Reform
and Immigrant Responsibility
Act of 1996

SEC. 110. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) System.--Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will--

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Report.--

(1) Deadline.--Not later than December 31 of each year following the development of the system under subsection (a), the Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate on such system.

(2) Information.--The report shall include the following information:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived as nonimmigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system or through other means as of the end of the alien's authorized period of stay, with an accounting by the alien's country of nationality and date of arrival in the United States.

(c) Use of Information on Overstays.--Information regarding aliens who have remained in the United States beyond their authorized period of stay identified through the system shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

HR 2202

SEPT. 24, 1996

ILLEGAL IMMIGRATION REFORM & IMMIGRANT RESPONSIBILITY ACT OF 1996

State of Oregon
Draft Resolution

DRAFT ONLY

RESOLUTION

Urging Congress to repeal Section 110 of the Illegal Immigration Reform & Immigrant Responsibility Act of 1996.

WHEREAS, The State of Oregon derives substantial economic benefit from tourism and trade; and

WHEREAS, Canada ranks number 1 as Oregon's source of international tourism, sending more than 400,000 tourists to this state in 1998; and

WHEREAS, Visitors from Canada make a major economic contribution to the State of Oregon by spending more than \$100 a day; and

WHEREAS, The United States has entered into international trade agreements with our Canadian neighbour to foster, encourage and stimulate the exchange of goods and products for mutual economic gain; and

WHEREAS, Canada is the State of Oregon's number 1 export market with some \$1.5 billion in transportation equipment, trucks, computers, semi-conductors, machinery, agricultural goods, forest products, furniture, aluminum, chemicals, metals, plastics, and seafood sold to Canada in 1998; and

WHEREAS, 70 percent of Canada - U.S. trade is shipped by truck, with some 30,000 truck crossings a day; and

WHEREAS, In 1995 President Bill Clinton and Prime Minister Jean Chretien signed the Shared Border Accord to facilitate the movement of goods and people across our common border; and

WHEREAS, Some 250,000 Oregonians travelled to and visited Canada in 1998; and

WHEREAS, Over 100 million people annually move across our common border with some 20 million crossing the border between the State of Washington and Canada; and

WHEREAS, The United States does not currently require travellers driving to Canada to stop, file paperwork and be interviewed by U.S. authorities at land border crossings; and

WHEREAS, Oregonians visiting Canada do not need to obtain visas, nor do Canadians visiting the United States have to obtain visas; and

WHEREAS, Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires that a new entry-exit control system be implemented to identify and track all foreign visitors entering and leaving the United States; and

WHEREAS, Section 110 would impose new border inspection requirements for the gathering of data at entry and departure points for vehicular traffic from Canada where none currently exists; and

WHEREAS, No inspection stations or other facilities for travellers departing the United States now exist at our land borders and would have to be constructed at a cost surely in the tens of millions of dollars; and

WHEREAS, Oregonians would be caught up in these new regulations each and every time they travel to and from Canada; and

WHEREAS, This new border entry-exit system would not provide for any enhancement of provisions for apprehending or removing illegal immigrants, drug traffickers, terrorists or other criminals and would not curtail illegal immigration at the border; and

WHEREAS, Congestion at our borders currently causes delays and waits running into the hours on busy travel days, and these delays and inconveniences are projected to grow exponentially; and

WHEREAS, These delays and inconveniences would surely disrupt and have a negative impact on the citizens and economy of the State of Oregon; and

WHEREAS, The National Governors Association and Council of State Governments West have expressed their opposition to Section 110; and

WHEREAS, United States Senate Bill 745 and United States House of Representatives Bill 1650 have been introduced to repeal Section 110; and

WHEREAS, The Cascadia (Oregon, Washington, British Columbia) Mayors Council unanimously approved a call for the repeal of Section 110 at their meeting on 7 May 1999; and

WHEREAS, Senator Gordon Smith of Oregon is a co-sponsor of SB 745; now, therefore, be it

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF OREGON, That Congress is hereby urged to repeal Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; and be it further

RESOLVED, That Congress is encouraged to keep our common borders reasonably free of government over-involvement and to impose no new restrictions until infrastructure is available that can collect data and detect illegal and unwanted immigration without disrupting legitimate and beneficial trade and tourism; and be it further

RESOLVED, That this RESOLUTION be copied to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the United States House of Representatives and each member of the Oregon Congressional Delegation.

CGS-West

Council of State Governments-West
Resolution 98-8



Passed in
Anchorage
in Sept. 98

"Serving Western Legislatures"

Council of State Governments-WEST

121 Second Street, Fourth Floor
San Francisco, CA 94105
(415) 974-6422 .PHONE
(415) 974-1747 .FAX
csgw@csg.org .E-MAIL
http://www.csgwest.org

RESOLUTION 98-8

***Maintaining the Free Flow of People and Goods
Across the United States Border***

OFFICERS

Melvin R. Brown
Speaker, Utah
Chair

Jeannette Hamby
Senator, Oregon
Chair-Elect

Timothy Z. Jennings
Senate Majority Leader
New Mexico
Vice-Chair

Manny M. Aragon
Senate President Pro Tem
New Mexico
Immediate Past Chair

Kent Briggs
Executive Director

COMMITTEE CHAIRS

Electrical Industry Restructuring
Kathy Augustino
Senator, Nevada

Future of Western Legislatures
Joe Baca
Assistant Speaker Pro Tem
California

Energy & Minerals
Ramona Barnes
Representative, Alaska

Western Water Policy
Joseph E. Dini, Jr.
Speaker, Nevada

Southern Border
Denise M. Ducheny
Assemblymember, California

Smart States
Elaine Alquist
Assemblymember, California

Public Land Policy
Tom Hatch
Representative, Utah

Trade & Transportation
Ray Powers
Senate Assistant Majority Leader
Colorado

WESTRENDS
Raymond G. Sanchez
Speaker, New Mexico

Legislative Service Agency Directors
Carl Bianchi
Director Legislative Services, Idaho

Introduced by the Trade and Transportation Committee

WHEREAS, the United States and Canada share the longest undefended border in the world and have the largest bilateral trading relationship in the world with over 125 million crossings by U.S. and Canadian citizens at the border each year, many at land borders; and

WHEREAS, implementation of Section 110 of the *Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)* passed by the U.S. Congress in 1996 requires the Attorney General to develop and implement an automated entry-exit control system to register "all aliens" entering and departing the United States, including Canadians; and

WHEREAS, Western states support increased trade with Canada and Mexico in the post NAFTA era, but also believe firmly in maintaining the employment, safety and environmental standards required by that agreement;

WHEREAS, strong and important ties link the United States with our land border neighbors, as reflected in trade which exceeds \$430 billion annually and in tens of millions of border crossing for business and tourism; and

WHEREAS, such a system will unnecessarily cause unreasonably long delays at the border, thereby seriously impeding trade, hindering tourism, and adversely affecting the economies of the 13-state region and four Pacific Island Territories of the CSG-WEST, and

WHEREAS, the U.S. Senate recently unanimously passed a Senate substitute amendment to S. 1360, which would prevent the legislation from going into effect at land borders and sea ports; and

WHEREAS, the transportation infrastructure in the West is vital to international trade and tourism and is uniquely affected by the vast distances between urban areas, by large amounts of public land and by poor transportation conditions on many Indian reservations;

RESOLUTION 98-8

Page 2 of 2

NOW, THEREFORE, BE IT RESOLVED that the CSG-*WEST* (Council of State Governments-*WEST*, Serving Western Legislatures) strongly supports S. 1360, the *Border Improvement and Immigration Act of 1997*, and urges the U. S. House of Representatives expeditiously to pass the Senate-passed legislation, which was sent to the House as a Senate Amendment to H.R. 2920; and

BE IT FURTHER RESOLVED that CSG-*WEST* urges its members to immediately contact their Congressional delegations to encourage their support of H.R. 2920 with the Senate Amendment, and endorses transmitting this policy position to the leadership of the U.S. Congress and the appropriate members of the U. S. Congress; and

BE IT FURTHER RESOLVED that U.S. trade authorities be urged to enforce safety, labor, environment and other side agreements of NAFTA and provide evidence of that enforcement.

***ADOPTED BY THE CSG-WEST EXECUTIVE COMMITTEE ON SEPTEMBER 22, 1998
ASSEMBLED IN ANNUAL MEETING IN ANCHORAGE, ALASKA.***

CL:am/anch/res/98-8

DRAFT

CSG EXECUTIVE COMMITTEE RESOLUTION

Facilitating the Free Flow of People, Goods and Services Across the U.S. - Canada Border

—Passed by the CSG International Committee—
—December 4, 1999 in Québec City, Québec—

- Whereas,** In 1997, the International Committee and Governing Board of the Council of State Governments adopted a resolution urging Congress to amend Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to exempt Canadians from the requirements thereof; and
- WHEREAS,** The United States and Canada share the longest undefended border in the world; and
- Whereas,** The United States and Canada have the largest bilateral trade relationship in the world, exceeding \$1 billion every day and supporting more than two million jobs; and
- WHEREAS,** Canada is the #1 trading partner of 40 U.S. states; and
- Whereas,** The rate of cross border traffic is steadily increasing, with over 125 million crossings by U.S. and Canadian citizens each year, many at land borders; and
- Whereas,** Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires the U.S. Attorney General to develop an automated entry-exit control system to register "all aliens" entering and departing the United States; and
- Whereas,** Section 110 of the Act uses the word "alien" without any qualification and will include millions of Canadian citizens who enter the United States every year and have traditionally enjoyed the longstanding reciprocal privilege of summary inspection; and
- Whereas,** This control system has been delayed, but will still go into effect on March 31, 2001, imposing an unmanageable requirement on border crossing services and resulting in gridlock at crucial Canada - U.S. border crossings; and

Whereas, Canada and the United States continue to pursue joint policies to facilitate the cross-border movement of people and the fair trade of goods and services, including the 1995 Shared Border Accord and the Open Skies Agreement; and

Whereas, On October 8, 1999, the President of the United States and the Prime Minister of Canada agreed to create the Canada-U.S. Partnership (CUSP) intended to help streamline border policies and management and increase efficiencies in customs, immigration and law enforcement;

NOW THEREFORE BE IT RESOLVED, that the International Committee and Executive Committee of the Council of State Governments call on Congress to amend Section 110 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act to exempt Canadian citizens from the requirements thereof; and

BE IT FURTHER RESOLVED, that the Council requests Congress to provide additional resources to adequately facilitate the free flow of people and the fair trade of goods and services across the Canada - U.S. border; and

BE IT FURTHER RESOLVED, that the Council calls on the President to make this issue a legislative priority and urge Congress to amend Section 110 to exempt Canadian citizens; and

BE IT FURTHER RESOLVED, that the Council encourages state legislatures to pass resolutions urging the President, congressional leadership, and members of their congressional delegations to amend Section 110 to exempt Canadian citizens; and

BE IT FINALLY RESOLVED, that this resolution be transmitted directly to the President, to the leadership of the U.S. Congress, and to appropriate congressional members.

Adopted this 7th day of December, 1999, at the CSG Annual Meeting in Québec City, Québec.

Senator Kenneth McClintock, Puerto Rico
CSG Chairman

Canadian Consulate General

Background information on U.S – Canada Trade

Department of Foreign Affairs
and International Trade



Ministère des Affaires étrangères
et du Commerce international

UNCLASSIFIED

January 19, 2000

EXT 1507 (12/93)

FACSIMILE / TÉLÉCOPIE

If there is any problem upon receipt of this fax, please call

206-770-4065

S'il y a des problèmes à la réception de cette télécopie, prière d'appeler:

To/ Destinataire	The Honourable Gail Phillips State House of Representatives State Capitol Juneau, AK 99801	Tel Fax	907-465-2698
From/ De	Kevin Cook Political & Economic Officer Canadian Consulate General 412 Plaza 600 Sixth & Stewart Streets Seattle WA 98101	Tel Fax	

No of pages including this page / Nombre de pages avec cette feuille: 22

COMMENTS/COMMENTAIRES:

Attn: Scott

Attached is information concerning section 110 IIRAIRA of 1996. Should there be any difficulty in reading the material from the embassy you can log on at www.canadianembassy.org and go to 'issues' or search under section 110.

Please let me know if I can provide any additional information.

Should Representative Phillips introduce such a resolution we would be most appreciative to receive a copy.

Thank you.

Kevin Cook

Department of Foreign Affairs
and International Trade
Embassy of Canada
Washington, D.C.

Ministère des Affaires étrangères
et du Commerce international
Ambassade du Canada
Washington, D.C.

Français

Canada - U.S. Trade

Alaska

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This document is available in Adobe Acrobat 3.0 format (PDF)

In 1989, the Canada-U.S. Free Trade Agreement went into effect, phasing out all tariffs and many non-tariff barriers to trade. Beginning in 1994, the North American Free Trade Agreement (NAFTA) opened the Mexican market to Canada and the United States. Two-way trade in goods, services and income between Canada and the United States totalled \$397 billion in 1998, the largest bilateral exchange in the world.



Alaska and Canada have a mutually beneficial exchange. In 1998, they traded a total of \$492 million worth of goods, an increase of 27 per cent over the previous year. Alaska sold Canada \$205 million in merchandise, while its imports from Canada totalled \$287 million.

Alaska exports natural and refined resources... Alaska's leading export to Canada in 1998 was metals, which accounted for \$91 million of the state's exports. Fish accounted for 23 per cent of the total, \$47 million, and energy products for 5 per cent, \$11 million, of which \$8 million was fuel oil. Crude wood materials accounted for 15 per cent of exports, or \$30 million.

And transportation equipment. Alaska sold Canada \$7 million worth of transportation equipment, including \$5 million in aircraft engines and parts.

Canada supplies Alaskan industries and consumers with machinery... Alaska's largest category of imports from Canada was machinery, more than \$140 million worth. Alaska also bought \$14



million worth of forest products, led by \$8 million in softwood lumber.

Equipment and metals... Another important group of Alaska's imports was equipment and tools, which totalled \$26 million, and included \$5 million in electrical lighting and distribution equipment. Canada also provided Alaska's industries with \$11 million worth of metals and metal products, including \$7 million in fabricated metals.

Transportation and chemicals... Alaska bought \$14 million worth of Canadian transportation equipment, including \$8 million in trucks and \$7 million in motor vehicle engines and parts. The state's imports of chemicals and allied products totalled \$11 million, including \$3 million in organic chemicals and \$3 million in fertilizers.

And Tourism adds millions to the exchange. In 1998, 62,200 Canadians visited Alaska for one night or more and spent \$34 million while 109,200 residents of Alaska spent \$32 million in Canada.

July 1999

For more information on Canada's trade with Alaska, please contact:

Consulate General of Canada
412 Plaza 600
Sixth and Stewart
Seattle, WA 98101-1286
Tel: (206) 443-1777
Fax: (206) 443-1782

All figures are in U.S. dollars. Merchandise trade and tourism figures are from Statistics Canada, converted at the rate of US\$1.00=C\$1.4831.

Arizona

Alaska

In 1989, the Canada-U.S. Free Trade Agreement went into effect, phasing out all tariffs and many non-tariff barriers to trade. Beginning in 1994, the North American Free Trade Agreement (NAFTA) opened the Mexican market to Canada and the United States. Two-way trade in goods, services and income between Canada and the United States totalled \$397 billion in 1998, the largest bilateral exchange in the world.

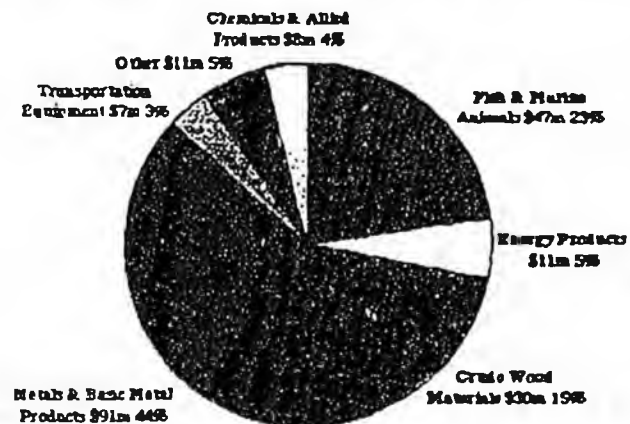
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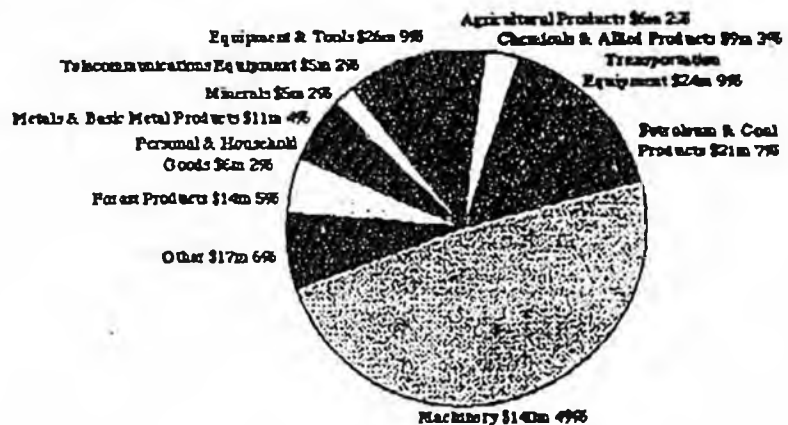
All figures are in U.S. dollars.

Alaska's Merchandise Exports to Canada 1998, By Percentage of Total, In Millions of U.S. Dollars



Total exports to Canada: \$205 million

Alaska's Merchandise Imports from Canada 1998, By Percentage of Total, In Millions of U.S. Dollars



Total imports from Canada: \$287 million

Canada supplies Alaskan industries and consumers with machinery... Alaska's largest category of imports from Canada was machinery, more than \$140 million worth. Alaska also bought \$14 million worth of forest products, led by \$8 million in softwood lumber.

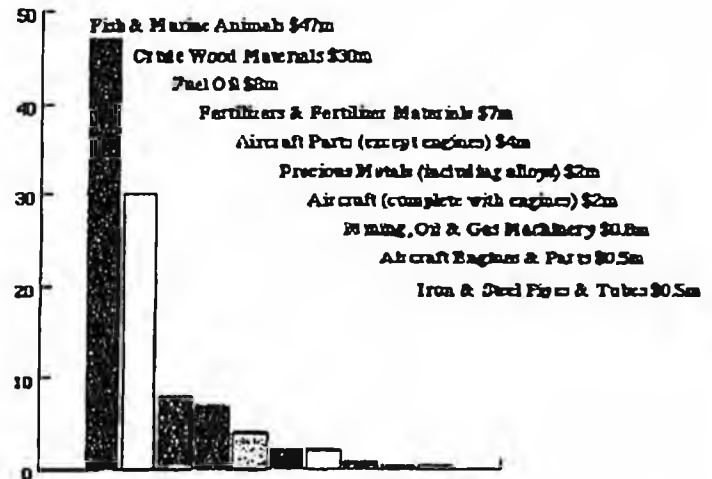
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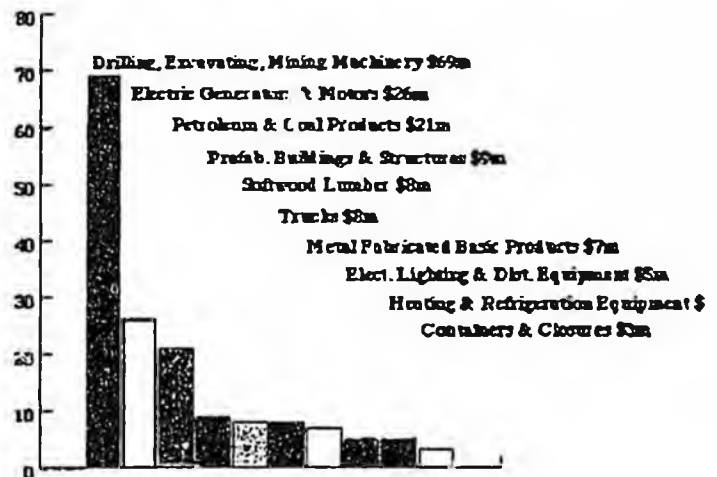
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July 1999

Alaska's Leading Exports to Canada 1998, In Millions of U.S. Dollars



Alaska's Leading Imports from Canada 1998, In Millions of U.S. Dollars



For more information on Canada's trade with Alaska, please contact:

Consulate General of Canada

412 Plaza 600

Sixth and Stewart

Seattle, WA 98101-1286

Tel: (206) 443-1777 Fax: (206) 443-1782

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Canada

Canadian Embassy / Ambassade du Canada

501 Pennsylvania Avenue, N.W.

Washington, D.C. 20001

<http://www.canadianembassy.org>

Navigation

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Section 110

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Canada's concerns about Section 110 of the U.S. Illegal Immigration Reform and Immigrant Responsibility Act of 1996

Citizens of Canada and the U.S. have long enjoyed free and easy access across their shared border for family visits, tourism and trade. As a result, they have developed extensive personal ties and the largest trading relationship in the world, amounting to a billion dollars a day and supporting millions of jobs in both countries. The smooth movement of people and goods across the border is now seriously threatened by a provision of the U.S. Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Section 110 of the Act requires the Immigration and Naturalization Service to have in place by March 30, 2001, an automated system to document the entry and departure of every "alien" arriving and leaving the United States. If this provision is implemented, the millions of people who enter the U.S. from Canada and Canada from the U.S. every year would be required to stop at the border, tying up traffic for miles at already crowded border points. This congestion would severely disrupt the flow of goods and services across the border.

The intent of Section 110 was to monitor the extent of immigration abuse by visa holders and nationals of countries that benefit from a visa waiver program. Canadians have historically been exempt from the requirement to obtain a visa to enter the U.S. Moreover, apprehensions for immigration violations along the Canadian border by the U.S. Border Patrol account for only one per cent of the nationwide total.

In 1995, President Clinton and Prime Minister Jean Chrétien signed an accord to facilitate the movement of goods and people across our shared border and to cooperate in combatting illegal immigration, the smuggling of drugs and other contraband, and cross-border crimes. Erecting border controls such as those that would be imposed under Section 110 runs counter to the spirit of that accord.

Drug Trafficking and the United States-Canada Border

April 1999

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Canadian legislative framework to prevent the admission of drug traffickers

Canada has one of the most comprehensive sets of policy tools in the world to prevent the admission of criminals and members of criminal organizations and remove them from its territory. In fact, some of these tools inspired U.S. legislators to adopt similar provisions in the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. For example:

- Canada's Minister of Citizenship and Immigration and Solicitor General can issue security certificates which allow the removal from Canada of someone who poses a security threat. This is used against serious foreign criminals.
- Immigration officers can refuse visas or deny/revoke admission to anyone who has committed an indictable offence or a combination of misdemeanours.
- Immigration officers can refuse visas or deny/revoke admission to anyone whom they have reasonable grounds to believe is a member of a criminal organization. This provision is used regularly at Canadian visa offices around the globe and at Canadian ports of entry.

Drug trafficking at the northern border

The United States and Canada are equally concerned about the movement of drugs across their shared border. Officials of both countries work in close cooperation in this regard, recognizing that the movement of illicit drugs occurs in both directions. In fact, according to U.S. law enforcement sources, more illicit drugs enter Canada from the United States than the reverse.

The importance of bilateral cooperation

The ability of any country to prevent the admission of drug traffickers depends on the intelligence it possesses and the screening process it has in place to use this intelligence. A close partnership between U.S. and Canadian law enforcement authorities is the best strategy to prevent the movement of drugs in both directions between the United States and Canada and to apprehend drug traffickers.

One example of this partnership is the Memorandum of Understanding on shared research for customs enforcement equipment, signed between the United States and Canada under the 1995 Shared Border Accord. This joint effort has led to the development and use of technologies such as ion mobility spectrometers (ionscans), which increase the capacity of authorities in both countries to detect traces of illegal drugs and thus stop drug traffickers and interdict shipments.



IIRIRA Section 110 would have no impact on the admission of drug traffickers or drug trafficking

The most effective way to prevent the admission of drug traffickers is to develop the ability to identify them and deny them access, ideally at the visa post and as a last resort at the port of entry. Section 110 would be of no use for this purpose because the proposed entry controls would not add any screening value in terms of either enhancing the quality or quantity of the intelligence available, or applying it through lookouts at visa offices and border crossing points. The proposed exit controls would obviously be of no use in this respect either. Section 110 would be especially ineffective with respect to drugs, the vast majority of which are smuggled into the United States as part of commercial freight shipments, not by individual travellers.

A regional security approach is the most effective way for the United States and Canada to secure their shared border

The United States and Canada share the longest undefended border in the world. The two-way movement of drugs and drug traffickers across that border is a mutual concern, which the two countries are addressing through their long-standing cooperative relationship. A screening strategy that targets only ports of entry will not address smuggling activities across the border in either direction between ports of entry. The geo-physical nature of the border makes total control impossible.

In this context, the best enforcement strategy against drugs and drug traffickers is a regional one that focusses key screening efforts at the two countries' external borders through the use of joint intelligence, harmonized lookouts and common detection techniques. This is a much more effective way of increasing public safety than spending billions of dollars (in infrastructure costs alone) to develop an entry-exit control system that offers no added enforcement value.

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Terrorism and the United States-Canada Border

April 1999

Canadian legislative framework to prevent the admission of terrorists

Canada has one of the most comprehensive sets of policy tools in the world to prevent the admission of terrorists and remove them from its territory. In fact, some of these tools inspired U.S. legislators to adopt similar provisions in the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. For example:

- The Canadian Minister of Citizenship and Immigration and Solicitor General can issue security certificates which allow the removal from Canada of someone who poses a security threat.
- Immigration officers can refuse visas or deny/revoke admission to anyone whom they have reasonable grounds to believe is a member of a terrorist organization. This provision is used regularly at Canadian visa offices around the globe and at Canadian ports of entry.

Movement of terrorists at the northern border

The United States and Canada are equally concerned about the movement of terrorists across their shared border. The available evidence indicates that this movement occurs in both directions. Officials of both countries work in close cooperation in this regard. For example:

- The intelligence agencies of both countries regularly share intelligence information on terrorists, resulting in better "lookouts" on both sides of the border to prevent their admission.

Terrorism and the United States-Canada Border

- This exchange of information has been enhanced in a systematic way to ensure that our respective lookouts screen the same most-wanted terrorists.
- The United States and Canada are engaged in discussions to enhance regional security and make their shared border even safer and more efficient through the harmonization of lookouts, not only for terrorists but also for foreign criminals and other undesirables.

The importance of bilateral cooperation

The ability of any country to prevent the admission of terrorists depends on the intelligence it possesses and the screening process that it has in place to use this intelligence.



The critical importance of this kind of intelligence was demonstrated by the bombing of the World Trade Center in New York. Sheik Omar Abdel-Rahman obtained a visa directly from the U.S. visa post in Khartoum, Sudan, which did not have the same modern lookout system as other U.S. visa posts.

Much publicity has been given to the case of Mr. Gazi Ibrihim Abu Mezer, who was arrested in Brooklyn in August 1997 after the police were informed that he and a friend were planning a bomb attack on the New York subway. Mr. Mezer had been apprehended three times while attempting to smuggle himself into the United States from Canada. He was never detained or prosecuted as a terrorist prior to his arrest because there was no intelligence in either country suggesting that he was one.

In contrast, Mr. Hani Abdel Rahim Sayegh, a member of the Saudi Hizbollah who entered Canada by travelling through the United States, was identified, detained and deported back to the United States in July 1997 because such intelligence was available.

IIRIRA Section 110 would have no impact on the admission of terrorists

The most effective way to prevent the admission of terrorists is to develop the ability to identify them and deny them access, ideally at the visa post and as a last resort at the port of entry. Section 110 would be of no use for this purpose because the proposed entry controls would not add any screening value in terms of either enhancing the quality or quantity of the intelligence available, or applying it through lookouts at visa offices and border crossing points. The proposed exit controls would obviously be of no use in this respect either.

A regional security approach is the most effective way for the United States and Canada to secure their shared border

The United States and Canada share the longest undefended border in the world. The two-way movement of terrorists across that border is a mutual concern, which the two countries are addressing through their long-standing cooperative relationship. A screening strategy that targets only ports of entry will not address people who smuggle themselves across the border in either direction between ports of entry. The geo-physical nature of the border makes total control impossible.

In this context, the best enforcement strategy against terrorists is a regional one that focusses key screening efforts at the two countries' external borders through the use of joint intelligence and harmonized look-outs. This is a much more effective way of increasing public safety than spending billions of dollars (in infrastructure costs alone) to develop an entry-exit control system that offers no added enforcement value.

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Illegal Immigration and the United States-Canada border

Canadian legislative framework and administrative strategy to combat illegal immigration

Canada is a world leader and the United States' closest ally in the fight against illegal immigration. Canada's legislative framework of preventive and punitive measures to discourage smuggling and illegal entry is highly convergent with that of its southern neighbor.

Canada's inadmissibility regime to prevent the admission of terrorists, organized criminals and war criminals inspired several provisions in the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.

Canada was the first country, in the late eighties, to recognize the importance of preventing illegal immigration offshore by establishing an overseas network of immigration control officers, an initiative now replicated by most OECD member countries, including the United States with its "Global Reach" concept. Canada has also replaced the traditional carrier liability policy with a proactive carrier administrative policy, which the International Air Transport Association has hailed as a model for the rest of the world.

Canada has been similarly innovative in dealing with overstays and other immigration violations, as well as in using data on such violations to refine both visa policy and visa issuance. In so doing Canada has incorporated many of the data linkages and feedback mechanisms recommended by Michael Bromwich, the Inspector General of the U.S. Department of Justice, in his September 1997 report on the Immigration and Naturalization Service (INS) Non-Immigrant Information System.

In Canada, all cases in which a person in possession of a valid visa enters the enforcement stream (i.e., overstay, illegal work, asylum claim or adjustment of status) are immediately reported to the overseas post that issued the visa. Information on these cases is also collected and analyzed to discern trends, which are reported to visa officers to guide the assessment of risk in their daily decision-making. On several occasions this information has supported decisions to reimpose or lift visa requirements.

Canada has also developed the System Support for Intelligence, which collects and analyzes intelligence and provides both event and trend feedback to overseas posts and air carriers, thus allowing them to constantly read and react to illegal immigrant smuggling patterns. Finally, Canada has been a leader in discouraging the life-threatening practice of illegal immigrants trying to cross the ocean as stowaways in cargo containers by developing a CO2 reader to detect human presence in these containers.

Canadian assessment of entry-exit controls

at the border, in the interior and overseas work together closely and continuously to prevent illegal immigration to both our countries, as illustrated by the following examples:

- In February 1997 U.S. and Canadian officials informed and assisted the Government of Senegal in the successful interdiction of the "Africa Queen", a vessel that was about to carry 190 Sri Lankan nationals to North America. This was the second successful joint interdiction operation in West Africa in as many years;
- In October 1998 INS and the Royal Canadian Mounted Police (RCMP) announced the arrest of 35 people involved in smuggling Chinese nationals from Canada into the United States through the Akwesasne Indian reserve as a result of Operation Over the Rainbow II. This was a follow-up to Operation Over the Rainbow I, which had led to the arrest by the RCMP of 20 people involved in smuggling Chinese nationals into Canada;
- On several occasions and most recently in December 1998, using the intelligence tools described earlier, Canadian officials alerted their U.S. colleagues to large-scale misrepresentations by nationals of Eastern Europe and Africa on their applications to obtain U.S. visas solely for the purpose of gaining illegal access to Canada.

In November 1997 U.S. Attorney General Janet Reno and Minister for Citizenship and Immigration Canada (CIC) Lucienne Robillard agreed to build on this successful cooperation by encouraging their officials to formalize and systematize their partnership in what is now known as the Border Vision exercise. This exercise is consistent with the facilitation of legitimate travel, enhanced enforcement against illicit movements and cost reduction objectives of the Shared Border Accord, announced by Prime Minister Chrétien and President Clinton during the latter's 1995 visit to Ottawa.

INS, State Department and CIC officials are working hard on a number of new initiatives to pool their resources and protect their respective citizens against the threats associated with illegal immigration and the movement of terrorists, drug traffickers and other criminals. Both countries have taken concrete steps to systematically and regularly share information on known or suspected terrorists to ensure their early detection.

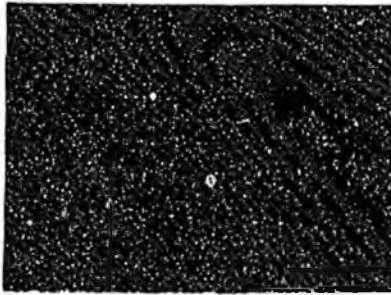
Officials hope to extend this arrangement to international criminals and other threats in the future. A new information-sharing instrument, consistent with our respective privacy laws, to support daily immigration enforcement efforts is almost complete.

Exchanges of information on visa issuance resulting in illegal immigration are now formalized and systematic. A joint map of trends in illegal immigrant smuggling to both countries and resources available overseas to combat them has been developed.

A regional security approach is the most effective way for the United States and Canada to secure their shared border

The United States and Canada share the longest undefended border in the world. The two-way movement of illegal immigrants across that border is a mutual concern, which the two countries are addressing through their long-standing cooperative relationship.

Investing in a system to capture information on entries and exits only at ports of entry will increase scrutiny on legitimate travelers and fail to address smuggling activities across the border in either



direction between ports of entry. The geo-physical nature of the border makes total control impossible.

In this context, the best enforcement strategy against illegal immigration is a regional one that focuses key deterrence efforts overseas and at the two countries' external borders through the use of joint intelligence, harmonized lookouts and common interdiction strategies. This is a much more effective way of increasing public safety than spending billions of dollars (in infrastructure costs alone) to develop an entry-exit control system that offers no added enforcement value.

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Section 110 Spells Trouble for Tourism, Trucking and Trade

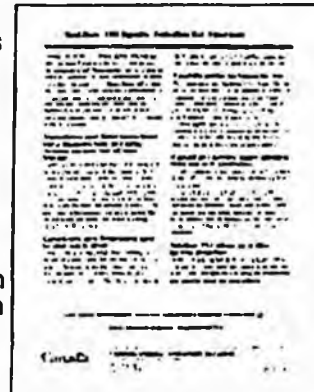
February 1998

 [Download Section 110 Spells Trouble for Tourism in Adobe PDF format](#)

 [Download Section 110 Spells Trouble for Trucking and Trade in Adobe PDF format](#)

Canadians and Americans have long enjoyed free and easy access across our shared border

Canada and the United States have a long practice of not requiring the majority of their citizens to fill out formal documentation to enter each other's country. At present, travellers leaving the U.S. do not have to stop at U.S. Customs upon departing. Under Section 110, every vehicle would have to stop in both directions, so that the entry and departure of non-U.S. citizens could be documented. It is easy to see how the inevitable massive traffic jams would discourage tourism in both directions.



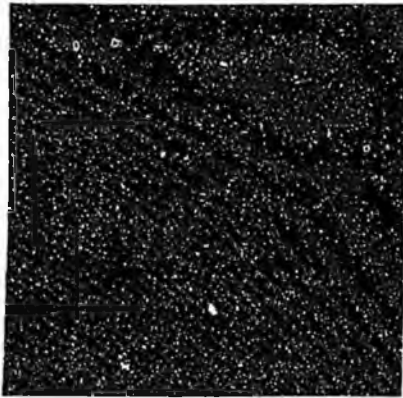
In 1996, Canadian visitors spent a total of \$7.3 billion in the United States, not including international transportation fares. The livelihoods of millions of workers in the tourism industries across the United States – hotel and restaurant employees, theme park workers, rental car dealers, souvenir sellers and a host of others – not to mention sales tax revenues for the states, would be put at risk if the smooth flow of visitors were interrupted.



Trucks are the lifeblood of Canada-U.S. trade

Eighty per cent of U.S. exports to Canada and 70 per cent of total bilateral merchandise trade is shipped by truck. More than 30,000 commercial vehicles now move across the Canada-U.S. border every day, and this number is growing by about 9 per cent a year. Any delays at the border would have a serious impact on buyers and sellers of goods in both countries and could affect hours-of-service limits for drivers, increasing operating costs for trucking

companies.



Traffic jams would hurt businesses and jobs across the United States

In 1997, the United States exported over \$150 billion worth of goods to Canada, which, according to U.S. Government calculations, supported more than 2,250,000 jobs across the country. Half of U.S. exports to Canada are produced in 14 states that are not on the border. Ranked by volume of exports to Canada in 1996, they are: Ohio, Illinois, California, Texas, Indiana, Pennsylvania, North Carolina, Massachusetts, Wisconsin, New Jersey, Tennessee, Kentucky, Missouri and Georgia. If the smooth flow of goods across the border were interrupted, jobs and economic activity in every state in the nation would be affected.

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Section 110 = Congestion

February 2000

NOW

If a Canadian in Ontario (for example) decides to take the family across the border to the U.S., the group gets in the car and proceeds to a U.S. port of entry, say Buffalo, N.Y. There the U.S. official will:

- ask a few basic questions, possibly ask to see some form of ID and perform a brief visual inspection of the vehicle;
- wave the family into the U.S.

The average inspection time now is 30 seconds or less. For 95% of the 76 million Canadians or U.S. permanent residents who enter the U.S. each year, there is no recorded entry and no documentation.

On its return to Canada, the family does not have to stop on the U.S. side of the border. It stops only at Canada Customs.

Under Section 110

If a Canadian family decides to go for an outing across the border, at the U.S. point of entry:

- each member of the family has to stop and fill out an admission form with basic biographical data;
- a U.S. official must then review the information on the form;
- he/she must cross-check the IDs of all the passengers in the vehicle against the information on the form, as well as perform a visual inspection of the vehicle;
- information on the arrival of each person must then be entered into an electronic database, 76 MILLION TIMES PER YEAR;
- finally, the family would be waved into the U.S.

The total inspection time is multiplied many times.

But this is not the end of the story. When the family gets in the car to return to Canada, it must now check in at the U.S. border station to undergo a repeat full inspection, including a cross-check of IDs and registration of all departures.

Section 110 Spells Trouble for Tourism

Section 110 of the U.S. Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires the Immigration and Naturalization Service to have in place by September 30, 1998, an automated system to document every non-U.S. citizen entering and exiting the United States. If this provision is implemented, it would cause massive congestion at land border crossings between Canada and the United States and threaten tourism industries on both sides of the border, which together bring in a total of US\$10.5 billion to the two economies.

Canadians and Americans have long enjoyed free and easy access across our shared border

Canada and the United States have a long practice of not requiring the majority of their citizens to fill out formal documentation to enter each other's country. At present, travellers leaving the U.S. do not have to stop at U.S. Customs upon departing. Under Section 110, every vehicle would have to stop in both directions, so that the entry and departure of non-U.S. citizens could be documented. It is easy to see how the inevitable massive traffic jams would discourage tourism in both directions.

Canadians and Americans love to visit each other

Canada is the most important source of foreign visitors for the United States and vice-versa. In 1997, 15 million Canadians visited the United States for at least one night, and 13 million Americans took overnight trips to Canada. These figures don't include

the 35 million Canadians and 25 million Americans who crossed the border to shop or visit for the day.

Tourists prefer to travel by car

Not surprisingly, most travellers who crossed the border for the day went by car. In addition, two-thirds of Canadians who took overnight trips to the United States — more than 10 million travellers — and 63 per cent of Americans visiting Canada overnight — over 8 million — chose to travel by car.

These figures add up to a lot of people in both countries who would be seriously inconvenienced by Section 110 traffic jams. How many would decide that crossing the border is just too much trouble?

Canadian tourists inject billions into the U.S. economy

In 1996, Canadian visitors spent a total of \$7.3 billion in the United States, not including international transportation fares.

The livelihoods of millions of workers in the tourism industries across the United States — hotel and restaurant employees, theme park workers, rental car dealers, souvenir sellers and a host of others — not to mention sales tax revenues for the states, would be put at risk if the smooth flow of visitors were interrupted.

Section 110 takes us in the wrong direction

Section 110 goes against years of cooperative efforts between the United States and Canada to cut red tape at the border. We need laws to make travel between our countries easier, not more difficult.

For more information, visit the Canadian Embassy's web site at:

www.cdnemb-washdc.org/section110

Canada

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501 Pennsylvania Avenue, NW
Washington, D.C. 20001
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February 1998

U.S. Congress

S. 745

Recommended amendments
to IIRIRA of 1996

Bill Summary & Status for the 106th Congress

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S.745

Sponsor: [Sen Abraham, Spencer](#) (introduced 3/25/1999)

Latest Major Action: 3/25/1999 Referred to Senate committee

Title: A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system.

Jump to: [Titles](#), [Status](#), [Committees](#), [Related Bill Details](#), [Amendments](#), [Cosponsors](#), [Summary](#)

TITLE(S): *(italics indicate a title for a portion of a bill)*

- **SHORT TITLE(S) AS INTRODUCED:**
Border Improvement and Immigration Act of 1999
 - **OFFICIAL TITLE AS INTRODUCED:**
A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system.
-

STATUS: *(color indicates Senate actions)* [\(Floor Actions/Congressional Record Page References\)](#)

3/25/1999:

Read twice and referred to the Committee on Judiciary.

COMMITTEE(S):

Committee/Subcommittee:	Activity:
Senate Judiciary	Referral

RELATED BILL DETAILS:

NONE

AMENDMENT(S):

NONE

COSPONSORS(27), ALPHABETICAL: (Sort: [by date](#))

Sen Burns, Conrad R. - 3/25/1999	Sen Cochran, Thad - 3/25/1999
Sen Collins, Susan M. - 3/25/1999	Sen Craig, Larry E. - 3/25/1999
Sen DeWine, Michael - 3/25/1999	Sen Dorgan, Byron L. - 3/25/1999
Sen Durbin, Richard J. - 4/19/1999	Sen Gorton, Slade - 3/25/1999
Sen Graham, Bob - 3/25/1999	Sen Grams, Rod - 3/25/1999
Sen Hagel, Chuck - 4/19/1999	Sen Inouye, Daniel K. - 3/25/1999

Sen Jeffords, James M. - 3/25/1999

Sen Kennedy, Edward M. - 3/25/1999

Sen Leahy, Patrick J. - 3/25/1999

Sen Levin, Carl - 3/25/1999

Sen Mack, Connie - 3/25/1999

Sen McCain, John - 3/25/1999

Sen Moynihan, Daniel Patrick - 3/25/1999

Sen Murkowski, Frank H. - 3/25/1999

Sen Murray, Patty - 3/25/1999

Sen Robb, Charles S. - 7/22/1999

Sen Santorum, Rick - 3/25/1999

Sen Schumer, Charles E. - 3/25/1999

Sen Smith, Gordon - 3/25/1999

Sen Snowe, Olympia J. - 3/25/1999

Sen Voinovich, George V. - 6/7/1999

MOST RECENT SUMMARY:

3/25/1999--Introduced.

Border Improvement and Immigration Act of 1999 - Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 with respect to the automated entry-exit control system to exempt from required recordkeeping: (1) land border crossings and seaports; and (2) permanent resident and certain other aliens.

(Sec. 3) Requires the Attorney General to report: (1) on the feasibility of implementing an automated entry-exit control system that would include land border and seaport arrivals and departures; and (2) annually on the development status of the automated entry-exit control system, and on visa overstays identified through such system. Requires integration of overstay information into Department of State and Immigration and Naturalization Service (INS) databases.

(Sec. 5) Authorizes appropriations for INS and United States Customs Service border control and enforcement activities. Sets forth specified set-asides. Authorizes: (1) use of equipment funds for new technologies; and (2) transfer up to ten percent of specified set-asides for other equipment uses. Sets aside specified funds for peak hours and investigative resource enhancement.

Provides for increased numbers of full-time INS and Customs inspectors at U.S. land borders.

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S.745

Border Improvement and Immigration Act of 1999 (Introduced in the Senate)

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Border Improvement and Immigration Act of 1999'.

SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL- Section 110(a) of the **Illegal Immigration Reform and Immigrant Responsibility Act of 1996** (8 U.S.C. 1221 note) is amended to read as follows:

'(a) SYSTEM-

'(1) IN GENERAL- Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will--

'(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

'(B) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

'(2) EXCEPTION- The system under paragraph (1) shall not collect a record of arrival or departure--

'(A) at a land border or seaport of the United States for any alien; or

'(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the **Immigration and Nationality Act** have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the **Immigration and Nationality Act**.'

(b) **EFFECTIVE DATE**- The amendment made by subsection (a) shall take effect as if included in the enactment of the **Illegal Immigration Reform and Immigrant Responsibility Act of 1996** (division C of Public Law 104-208; 110 Stat. 3009-546).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) **REQUIREMENT**- Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) **CONTENTS OF REPORT**- Such report shall--

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring--

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 4. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) **ANNUAL REPORTS ON IMPLEMENTATION OF ENTRY-EXIT CONTROL AT AIRPORTS**- Not later than 30 days after the end of each fiscal year until the fiscal year in which the Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the **Illegal Immigration Reform and Immigrant Responsibility Act of 1996**, as amended by section 2 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that--

Bill History/Action Display



BILL: HJR 48 SHORT TITLE: ACCESS ACROSS UNITED STATES/CANADA BORDER
 BILL VERSION:
 SPONSOR(S): REPRESENTATIVES(S) PHILLIPS

CURRENT STATUS: (H) RLS STATUS DATE: 2/23/00

TITLE: Relating to the free flow of people and the fair trade of goods and services across the border between the United States and Canada.

[Full Text](#) Detailed 2000 fiscal note information currently not available on-line.

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
1/26/00	<u>2006</u>	(H) READ THE FIRST TIME - REFERRALS
1/26/00	<u>2006</u>	(H) WTR
2/23/00	<u>2276</u>	(H) WTR RPT 5DP 2NR
2/23/00	<u>2276</u>	(H) DP: COWDERY, BARNES, GREEN, MASEK,
2/23/00	<u>2276</u>	(H) PHILLIPS; NR: BERKOWITZ, JOULE
2/23/00	<u>2276</u>	(H) ZERO FISCAL NOTE (H.WTR)
2/23/00	<u>2276</u>	(H) REFERRED TO RULES

Similar Subject Match or Exact Subject Match

ALIENS

BOUNDARIES

BUSINESS

INTERNATIONAL RELATIONS

Bill Root:

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House SP CMTE WRLD TRADE & STATE/FED RELATIONS Minutes



HOUSE SPECIAL COMMITTEE ON WORLD TRADE
AND STATE/FEDERAL RELATIONS

February 22, 2000

5:10 p.m.

BILL: HJR 48

SHORT TITLE: ACCESS ACROSS UNITED STATES/CANADA BORDER

Number 1811

CHAIR BARNES announced that the next resolution before the committee would be House Joint Resolution 48, "A Resolution Relating to the Free Flow of People and Fair Trade of Goods and Services across the Border between the United States and Canada."

REPRESENTATIVE PHILLIPS explained that House Joint Resolution 48 had come about from Alaska's involvement in the Council of State Governments (CSG) and concerns the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996. In that federal act, there is a provision, Section 110, that would restrict the free flow and movement of people across the Canadian border. When the act was written, Congress did not look at it as affecting the Canadian border, but other borders. By March 31, 2001, an automated system is intended to be put into place to document every non-United States citizen entering and exiting the US border.

REPRESENTATIVE PHILLIPS pointed out that the United States has free trade with people across the Canadian border on a regular basis, and it [the new system] would cause a huge bottleneck. So the Western states and the states bordering Canada all are in the process of adopting resolutions to ask Congress to re-write Section 110. The CSG West, the National Governors' Association, and the Cascadia Mayors' Council all have adopted resolutions in favor of this change. Canadian neighbors have asked Alaska for help on this. Representative Phillips thinks it would be very beneficial to pass a resolution in support.

REPRESENTATIVE PHILLIPS illustrated the volume of movement and trade across the US-Canada border by providing statistics from 1998. Bilateral trade [between the United States and Canada] was worth \$397 billion. With Alaska alone, Canada traded a total of \$492 million worth of goods. Alaska exported \$91 million in metals to Canada and imported \$140 million worth of machinery from Canada. Sixty-two thousand Canadians and 109,000 Alaskans crossed their mutual borders in 1998.

REPRESENTATIVE PHILLIPS said House Joint Resolution 48 supports action by CSG West, passed in Anchorage in 1998. She said that again in Quebec in December, 1999, the overall CSG reiterated this resolution, as Congress has not yet taken action.

Number 2004

CHAIR BARNES invited questions.

REPRESENTATIVE COWDERY mentioned problems at the Alaska-Canada border related to the salmon fishery issue.

REPRESENTATIVE PHILLIPS said that following the [Alaska State Ferry] Malaspina incident about two years ago, there were a few incidents of Alaskans being challenged. She said she went to the State Department, and there have not been any complaints [since].

CHAIR BARNES noted for the record that Representative Berkowitz had joined the meeting some time ago.

Number 2062

REPRESENTATIVE PHILLIPS called attention to a new sponsor statement on committee members' desks. There is one word change in the third paragraph from the bottom where it says, "Canada and the United States share the longest undefended border in the world and bilateral trade exceeds \$1 billion every day, supporting over 10 million jobs." The old sponsor statement said "\$1 billion every year," and it is "\$1 billion every day."

REPRESENTATIVE BERKOWITZ asked if House Joint Resolution 48 would affect crossings only at US-Canadian borders, or if it also would affect any Canadian entering the United States at any point of entry?

REPRESENTATIVE PHILLIPS said House Joint Resolution 48 applies only to the US-Canadian borders.

SCOTT PETSEL, legislative aide to Representative Phillips, said his interpretation is that House Joint Resolution 48 is referring only to the land borders between the United States and Canada, as mentioned in the first and second lines of the resolution.

REPRESENTATIVE PHILLIPS referred committee members to copies before them of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and, specifically, to Section 110 therein.

REPRESENTATIVE BERKOWITZ said he understood the intent, but that as he reads section 110, it is collecting the record of departure for every alien in the United States. It does not specify that it applies only to the US-Canadian border.

MR. PETSEL said that might be a valid interpretation.

REPRESENTATIVE PHILLIPS emphasized that House Joint Resolution 48 addresses only the land borders between the US and Canada. She had been in contact with CSG West and there is agreement that Congress did not mean for this to apply to the Canadian borders with the United States. For the record, all of the committees with which she had been involved -- the National Conference of State Legislatures, CSG West and CSG nationally -- take the same tack that this [the federal Illegal Immigration Reform and Immigrant Responsibility Act] was intended to stop illegal immigration across the United States' southern borders.

Number 2254

REPRESENTATIVE COWDERY moved to report House Joint Resolution 48 out of committee with individual recommendations and accompanying fiscal notes. There being no objection, it was so ordered.

There being no further business before the committee, the Committee meeting was adjourned at 5:45 p.m.

SB

141

LAW OFFICES
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AVRUM M. GROSS
SUSAN A. BURKE

(907) 586-2777

May 7, 1999

HAND DELIVERED

Honorable John Cowdery
Chairman, House Rules Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: House Judiciary Committee Proposed Changes to
CS SB 141

Dear Representative Cowdery:

You have asked whether it would be constitutionally permissible for the House of Representatives to add certain provisions to Senate Bill 141 without changing the existing title of the bill. The specific question is whether the existing title sufficiently describes the proposed additions so as to comply with the so-called "descriptive title" requirement of Article II, sec. 13, of the Alaska Constitution, which provides, "The subject of each bill shall be expressed in the title." In our opinion, one of the two proposed additions can be included in Senate Bill 141 without changing the existing title of the bill. We do not, however, believe that the second proposed addition is sufficiently related to the subject of the bill, as expressed in the existing title, to pass muster under the descriptive title requirement of Article II, sec. 13.

The existing title of Senate Bill 141 is "An Act relating to construction contracts and subcontractors; relating to design-build construction contracts; and providing for an effective date." There are currently two proposed additions to the bill. Both are contained in the House Judiciary Committee Substitute for CS SB 141. The first is found in Section 7 of the Judiciary bill and proposes to amend Section 4 of Chapter 15, SLA 1998, by adding a new subsection to read:

(d) The adoption by a municipality, when exercising its powers under AS 29.35.020(a), of an ordinance for a procurement of a facility or operation on a design-build construction contract basis satisfies the procurement requirements under (b) of this section. 1/

We believe that this provision is adequately described by the phrase, "relating to design-build construction contracts" contained in the existing title of Senate Bill 141. The second proposed addition is contained in Section 6 of the Judiciary Committee Substitute. This provision would add an additional

1/ Section 4 of Chapter 15, SLA 1998 authorizes the Department of Corrections to enter into an agreement with the City of Delta Junction to lease corrections space in facilities located on the realigned Fort Greely military reservation under certain conditions. Section 4(b) of Chapter 15 provides that the commissioner of corrections must require, as part of the lease agreement, that the City of Delta Junction procure a private third-party operator of the facility "through a process similar to the procedures established in AS 36.30 (State Procurement Code)." This proposed amendment to Section 4 would make it clear that the procurement procedures required in Section 4(b) are satisfied if the municipality adopts an ordinance to procure the "facility or operation" through a design-build construction contract.

Hon. John Cowdery
May 7, 1999
Page -3-

condition to the authorization given in Section 4, Chapter 15, SLA 1998, for the commissioner of corrections to enter into a lease with the City of Delta Junction for corrections space. The proposed new condition would require the lease agreement to provide for a fixed rate for each prison bed per day, with the first year's rate not to exceed \$70 per bed per day. We do not believe that this provision is sufficiently related to the subject of Senate Bill 141 as expressed in its existing title.

The Alaska Supreme Court has adopted a deferential standard for determining whether legislation conforms to the descriptive title requirement contained in Article II, sec. 13. By "deferential," we mean that the Court is extremely reluctant to invalidate legislation by "second guessing" the choices that the legislature makes about what provisions should be included in a piece of legislation and what should be included in its title. In State v. First National Bank of Anchorage, 660 P.2d 406, 414-15 (Alaska 1982), the Court rejected the argument that the title, "An Act Relating to Land" did not sufficiently describe the bill's substantive contents, which included amendments to the Uniform Land Sales Practices Act as well as amendments to statutes dealing with the zoning power of the Department of Natural Resources and its power to lease state lands. In rejecting the argument, the Court noted that the purpose of the descriptive title requirement is "to prevent surreptitious

introduction of legislation not indicated by the title." 2/ That purpose is achieved, according to the court, if there are "no hidden provisions unrelated to its title." 3/ Thus, the provisions need only "relate" to the subject that is expressed in the title. It is not necessary that all of the particulars of the legislation be described or included in the title. The court went on to note that a bill title is sufficiently descriptive if "'anyone interested in any of the particulars of the bill would be advised by this title to look to the body of the law'" 4/ In the context of the legislation at issue in the case, then, the Court found that a person interested in consumer protection laws relating to land sales would be alerted to read all of the sections of a bill whose title was simply "an act relating to land."

The title of the Senate Bill 141 is "An Act relating to construction contracts and subcontracts; relating to design-build construction contracts; and providing for an effective date." We believe that the proposed amendment contained in Section 7 of the House Judiciary Committee Substitute is adequately described in the existing title of Senate Bill 141. As we have noted, the descriptive title requirement is satisfied if the substantive

2/ Id., at 415 n. 19

3/ Id. (emphasis added).

4/ Id. (citation omitted).

Hon. John Cowdery

May 7, 1999

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provisions of the bill are "related" to the subject as expressed in the title. In this instance, the proposed amendment contained in Section 7 is clearly related to the subject of "construction contracts" and "design-build construction contracts." In fact, without the reference in the proposed amendment to a "design-build construction contract," it would not be possible to give effect to the underlying purpose of the amendment -- to make it clear that this particular type of procurement is "similar to" the procedures set out in the State procurement code. It is true that the proposed amendment in Section 7 deals only with one particular type of design-build construction contract -- one for the construction and operation of a prison facility -- and that that particular type of design-build contract is not described in the bill's title. However, as the Alaska Supreme Court made clear in the First National Bank decision, it is not necessary that the title of a bill describe or list all of the particulars or various sub-sets of the general subject that are included in the legislation. In our view, the provisions of Section 7 of the House Judiciary Committee Substitute are sufficiently related to the subject of Senate Bill 141, as expressed in its existing title, to comply with the descriptive title requirement of Article II, sec. 13, of the Alaska Constitution.

At the same time, we think that the proposed addition to Senate Bill 141 contained in Section 6 of the House Judiciary Committee Substitute is not sufficiently described or covered by

Hon. John Cowdery
May 7, 1999
Page -6-

the subject expressed in the title of Senate Bill 141. The sole purpose of the provision contained in Section 6 is to set out the maximum allowable price for which the State may lease prison space at Fort Greely from the City of Delta Junction. The price to be paid for the facility and related corrections services has nothing to do with whether the procurement of the facility and services is done on the basis of a design-build construction contract or under any other procurement method. The lease price provision, in our opinion, has no logical connection with construction contracts, subcontractors, or design-build construction contracts -- the subject expressed in the existing title of Senate Bill 141. As a result, we believe that even under a deferential standard of review, the Alaska Supreme Court would likely hold that this provision is unconstitutional under the descriptive title requirement of Article II, sec. 13, of the Alaska Constitution.

Please let us know if we can provide any additional information on this subject.

Very truly yours,

GROSS & BURKE


Susan A. Burke

SAB:ps

LEGAL SERVICES

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


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

MEMORANDUM

May 7, 1999

SUBJECT: HCS CSSB 141(RLS) (Work Order No. 21-LS0827S)

TO: Representative John Cowdery, Chair
House Rules Committee
Attn: Marco

FROM: Theresa Bannister
Legislative Counsel 

This memo accompanies a draft of the bill described above. Please be aware of the following issues present in the bill.

1. Title expression problem. The bill may violate the expression requirement of art. II, sec. 13 of the state constitution. Even though sec. 6 authorizes procuring on a "design-build construction contract basis," the inclusion of "design-build construction contract" in the title may be considered misleading because "design-build construction contract" does not normally connote an operating contract, and that appears to be involved in the contract to be procured under sec. 6. The court has been reluctant to find a violation of art. II, sec. 13, and I do not know whether the court would consider this problem to be substantial and plain enough to constitute a violation of the expression requirement. However, I advise either (1) changing the bill's title and filing a concurrent resolution to allow suspension of the uniform rules to do this in the second house, or (2) placing the sec. 4, ch. 15, SLA 1998 amendment in its own bill

2. Local and special issue. Sec. 6 of the bill raises a local and special issue under art. II, sec. 19 of the state constitution, primarily because of its connection with sec. 4, ch. 15, SLA 1998. How a court would ultimately rule on this issue is unclear. Sec. 4, ch 15, SLA 1998 does appear to address a matter of statewide concern, and the Fort Greely correctional facility situation does appear to have some unique features that may make it inappropriate for general legislation. However, because the issue depends so much on the specific facts of the case, it is not really possible to predict whether the approach taken by sec. 4, ch. 15, SLA 1998, as amended by sec. 6 of the bill, would be considered to bear a fair and substantial relationship to legitimate state purposes for the legislation.

If I may be of further assistance, please advise.

TLB:glc
99-249.glc

Attachment

HOUSE CS FOR CS FOR SENATE BILL NO. 141(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR LEMAN BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to construction contracts and subcontractors; relating to design-
2 build construction contracts; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 36.30.115(b) is amended to read:

5 (b) A construction contractor or the [THE] apparent low bidder for a
6 construction contract may replace a listed subcontractor if the subcontractor

7 (1) fails to comply with AS 08.18;

8 (2) files for bankruptcy or becomes insolvent;

9 (3) fails to execute a contract with the construction contractor or
10 bidder involving performance of the work for which the subcontractor was listed and
11 the construction contractor or bidder acted in good faith;

12 (4) fails to obtain bonding;

13 (5) fails to obtain insurance acceptable to the state;

14 (6) fails to perform the contract with the construction contractor or

1 bidder involving work for which the subcontractor was listed;

2 (7) must be substituted in order for the [PRIME] contractor to satisfy
3 required state and federal affirmative action requirements;

4 (8) refuses to agree or abide with the [BIDDER'S] labor agreement of
5 the construction contractor or bidder; or

6 (9) is determined by the procurement officer not to be a responsible
7 subcontractor.

8 * Sec. 2. AS 36.30.115 is amended by adding new subsections to read:

9 (f) In addition to the circumstances described in (b) of this section, a
10 construction contractor may request permission from the procurement officer to add
11 or replace a listed subcontractor. The request must be in writing, specifically detailing
12 the basis for the request, and include appropriate supporting documentation. The
13 procurement officer shall approve the request if the procurement officer determines in
14 writing that the requested addition or replacement is in the best interest of the state.

15 (g) The requirements of this section do not apply to a design-build construction
16 contract.

17 (h) In this section, "construction contractor" means a person who enters into
18 a construction contract with an agency.

19 * Sec. 3. AS 36.30.210(b) is amended to read:

20 (b) An offeror for a construction contract shall submit evidence of the offeror's
21 registration under AS 08.18. A request for sealed proposals for a construction
22 contract, except a design-build construction contract, must require the offeror, no
23 later than five working days after the proposal that is the most advantageous to the
24 state is identified, to list subcontractors the offeror proposes to use in the performance
25 of the construction contract. The list must include the information required under
26 AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to a
27 construction contractor or an apparent low bidder [AS 36.30.115(b) - (e)] apply
28 to offerors submitting competitive sealed proposals for construction contracts, except
29 design-build construction contracts.

30 * Sec. 4. AS 36.30.210 is amended by adding a new subsection to read:

31 (f) In this section, "construction contractor" has the meaning given in

1 AS 36.30.115.

2 * Sec. 5. AS 36.30.990 is amended by adding a new paragraph to read:

3 (23) "design-build construction contract" means a contract to provide
4 construction in accordance with a design provided by the contractor.

5 * Sec. 6. Section 4, ch. 15, SLA 1998, is amended by adding a new subsection to read:

6 (d) The adoption by a municipality, when exercising its powers under
7 AS 29.35.020(a), of an ordinance for procurement of a facility or operation on a
8 design-build construction contract basis satisfies the procurement requirements under
9 (b) of this section.

10 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

1-LS0827S
Bannister
5/7/99

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IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

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