

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 86/2

10020 HOUSE STATE AFFAIRS

Reviewing activity for the past two years, the Commission has had between approximately 500 and 750 appeals each year. Our contractual costs for hearings have been significantly diminished due to the fact the only issue that produces significant appeals that currently go to the hearing officer is PFD garnishment. Because these actions occur simultaneously, they are adjudicated en masse allowing for peak efficiency on the part of the hearing officer without undue delays for the appellants. The average annual costs for a hearing officer (based on the past two years) is approximately \$19,000. These represent the costs for about one-half the total appeals received.

If the agency were required to revise the due process so that all appeals are routed to an administrative hearing officer, we have very serious concerns about the costs and time involved. Currently both the staff and the executive director comply with a standard internal deadline of responding to a customer's appeal within 10 business days of its receipt. The exceptions to this are requests for medical cancellation due to the complex and detailed materials required to support such a request. Appeals of default status are especially time-sensitive because certain collection options available to the Commission are only applicable to defaulted accounts.

Potential delays aside, the costs, with conservative assumptions of three hours of preparation and two hours per hearing would increase this agency expenses by more than \$125,000 per year. Because all expenses occurred in the administration of the program are paid from corporation funds, these costs would be passed along to our customers utilizing the loan program.

Lastly, as the responsible *fiduciary* of the ASLC, it would be very concerning to shift decision-making authority outside the executive staff and boards charged with managing the corporation's assets.

Thank you for the opportunity to air these issues, I'd be happy to answer any questions.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
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March 3, 1999

The Honorable Jeannette James
Chair, House State Affairs Committee
State Capitol
Juneau, AK

Re: House Joint Resolution 18 (Constitutional Amendment /
Administrative Hearings)

Dear Representative James:

I am writing to provide some preliminary legal observations on HJR 18. Under that resolution, a constitutional amendment would be placed before the voters that would vest all power to conduct administrative law hearings and to render final "agency" decisions in an office created for that purpose. The concept of a centralized hearing function is intriguing. However the scope of the proposed amendment, as well as centralization of all final decision-makers in one office, poses concerns for the functioning of state agencies and programs.

AGENCIES THAT WOULD LOSE PRIMARY FUNCTION

Some agencies exist for the primary function of conducting administrative hearings. Under HJR 18, they would no longer have that function. Those agencies include: Alaska Workers' Compensation Board, State Board of Parole, Occupational Safety and Health Review Board, Fisherman's Fund Advisory and Appeal Council, State Assessment Review Board, and Violent Crimes Compensation Board. All of these agencies are boards and commissions; most are comprised of citizen appointees.

REMOVAL OF IMPORTANT LICENSING OVERSIGHT

Certain of the citizen boards and commissions currently make final determinations regarding fitness for licensing and impose sanctions for violations of ethical or professional standards. Those boards and commissions include, for example, all occupational licensing boards, the Alcoholic Beverage Control Board, the Professional Teaching Practices Commission, and the Alaska Police Standards Council. The Commission on Judicial Conduct performs a similar function for the judiciary. Under the constitutional amendment, the boards and

commissions would no longer be able to provide their expertise and public perspective on questions of fitness and discipline.

Some licensing decisions are directed to department officials. These include facility licensing for foster care, nursing homes, substance abuse treatment centers, and a variety of other residential facilities; licensing for insurance carriers and agents, and a variety of other professions; certificates of fitness to work in the electrical wiring, hazardous painting, and plumbing trades; and licensing of gambling and tobacco sales establishments. Those agencies carry their own expertise regarding these matters.

The proposed amendment to the constitution may remove administrative review of denials of admissions to the bar, and bar discipline, from the Alaska Bar Association and vest it in the Office of Administrative Appeals. Because the Alaska Supreme Court presently exercises final authority over these decisions, a real question would exist over the allocation of constitutional power between these two bodies.

CURTAILED ENFORCEMENT RESPONSIBILITIES

A number of other agencies have statutory enforcement responsibilities that would be substantially curtailed if they lost adjudicatory functions. These include: the Alaska Labor Relations Agency, the Alaska Commission for Human Rights, Alaska Public Utilities Commission, the Alaska Commission on Postsecondary Education (regulation of institutions only), and the Alaska Public Offices Commission.

SCOPE OF APPLICATION

The proposed amendment is modeled after Art. IV, § 1 of the Alaska Constitution, giving judicial power to the courts. Both provisions have phrases that state that the "jurisdiction . . . shall be prescribed by law." The Alaska courts have held that the legislature may not, by statute, take away ultimate judicial power vested in the courts under the Alaska constitution. See, e.g., Royzkydal v. State, 939 P.2d 1091, 1094-95 (Alaska App. 1997). By including the same language in HJR 18, it would appear that the legislature could not exempt any agency or type of hearing from the proposed constitutional amendment, should it be adopted by the voters.

The proposed amendment would encompass all aspects of state programs. The proposed Office of Administrative Hearings would hear and decide in benefit determination hearings, such as public assistance and medical aid programs, vocational rehabilitation, employment security, and retirement programs. It would also replace the newly created Office of Tax Appeals. It would make final determinations on forest practices; oil, gas, and mining permits; health care facility certificates of need; aeronautic regulation; elevator safety; and concealed gun permits. Appeals from loan decisions by the state's lending agencies would be moved from the entities with responsibility for those loan funds.

The amendment would also cover all administrative due process reviews in which the state is acting as an employer, purchaser, contractor, or landowner. This would include all procurement appeals, personnel appeals, and land use disputes.

The term "administrative law hearings" could be interpreted to include any due process review currently undertaken by an agency. The term may not be to those matters currently heard under the Administrative Procedure Act or under an alternative statutory hearing process. An internal agency procedure to provide due process review of a staff decision could come within the reach of the proposed amendment.

INCREASED APPELLATE REVIEW

Although a hearing officer might develop familiarity with certain topics through case assignments, the hearing officer would not attain the agency's expertise on the subject. The individual hearing officer would also be able to set policy for the state government, rather than confirmed cabinet members or board appointees. Many of the cabinet members and board appointees have a lifetime of experience and study in their fields. On review, the courts would probably not give deference to final decisions made by the Office of Administrative Hearings and would instead conduct a trial de novo, substituting the court's judgment for the hearing officer's. This procedure would inevitably increase costs for all litigants. The judiciary, in turn, would then be setting state policy.

NEED FOR INTERIM PROCEDURES

The resolution contains no delayed start-date, so that should the proposed amendment be passed by the voters, existing administrative hearing functions would terminate without the alternative in place. A number of current agency hearing processes are conducted on an expedited schedule in order to accommodate the need for an immediate decision.

Implementation of the proposed constitutional amendment would take time. The legislature would need to rewrite all existing statutes governing administrative due process procedures. HB 232, introduced last session, attempted to address a portion of these procedures. The last draft of that bill was 202 pages long, and this office identified a long list of statutes (65, alone, for agencies under the Administrative Procedure Act) that had been omitted.

I have not addressed within the scope of these comments the question whether the courts would allow these amendments to the constitution through this procedure (Art. XIII, § 1), rather than requiring a constitutional convention (Art. XIII, § 4).

The Honorable Jeannette James

March 3, 1999
Page 4

I appreciate this opportunity to communicate with your committee and look forward to ongoing opportunities to discuss the issues raised in HJR 18.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Teresa Williams
Assistant Attorney General

TW:jem

cc: Members, House State Affairs Committee
Representative Scott Ogan
Pat Pourchot, Legislative Director, Office of the Governor
Chrystal Smith, Legislative Liaison, Department of Law
Deborah Behr, Department of Law

Re: (no subject)

Subject: Re: (no subject)

Date: Thu, 25 Feb 1999 16:09:58 -0900

From: Shari Kochman <shari_kochman@gov.state.ak.us>

Organization: Alaska Office of the Governor

To: Barbara Cotting <Barbara_Cotting@legis.state.ak.us>

request is in
thanks

Barbara Cotting wrote:

>

> *I have scheduled the following bill for hearing on March 4 and need*

> *fiscal notes:*

>

> *HJR 18, Scott ogan, Const.Am. Administrative Hearings.*

>

> *It should impact Elections and Admin.*



SPONSOR STATEMENT

HJR 18

Elimination of in-house administrative hearing officers

This constitutional amendment, if approved by voters, will establish an office of administrative hearings apart from and separate from state agencies.

All research shows significant cost savings, efficiency of process, and a re-establishment of fairness, when hearing officer functions are consolidated, held to due process standards, and politically insulated from agencies.

Benefits to the public, in addition to saving money, are extremely positive. They include less litigation, stable investment climate, comfort for small entrepreneurs, and an increase in public confidence in fair hearings.

Perhaps most importantly, full time independent hearing officers provide a level playing field for those challenging regulations. They also hold those who develop, promulgate, and enforce regulations to a higher standard. All data shows regulations become less onerous when unbiased hearing officers, governed not by commissioners, but due process, scrutinize them.

HJR 18, like due process reforms in 25 other states, will correct inefficiency, increase professional standards, save money, restore public confidence, stimulate development and restore the proper balance between the adjudicatory and prosecutorial functions of executive branch.



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

FOR IMMEDIATE RELEASE: February 24, 1999

CONTACT: 907-465-3878

Measure To Move State Hearing Officers Away From Agencies

(JUNEAU) -- A constitutional amendment introduced by Rep. Scott Ogan, Palmer will separate the administrative hearing officer functions away from the State bureaucracies that now employ them. A more economical independent hearing office headed by an administrative law judge, and confirmed by the legislature, would be established completely separate from other agencies and department heads.

"Our system is in the dark ages," said Ogan. "Alaskans are ruled by an antiquated system of hearing officers who work for the very agencies which promulgate the regulations. How can people expect fair due process when their quasi-judicial hearing officer answers to their commissioner's agenda?"

The amendment is based on changes made in at least 24 other states to create fair, efficient, professional administrative hearings. Ogan has been working closely with a number of professional persons including a nationally known expert, and an Administrative Law judge here in Alaska.

"There is broad support for separating hearing officers from their agencies. It's hard to believe 'in house' hearings provide due process," said Ogan. Winston Churchill once said, "When you have a lack of separation of powers between the executive and the judiciary, you have a tyranny."

Ogan had introduced a bill in the last legislature to initiate independent hearings but changed tactics this session. "The Knowles Administration, while saying they were supportive of the concept, ran interference with the legislature setting up the details of the plan. This new approach will avoid the criticism of micro managing. If the people approve of independent hearing officers, hopefully the administration will come to the table," said Ogan.

Ogan touts his measure as being cost efficient and points to other states that have put independent offices into place. A report from Colorado shows fewer officers, much faster hearings, high public approval, and fewer cases needing litigation.

"There is no doubt this will save the state millions of dollars. Our Court System will see fewer cases. The bureaucracy will be more cautious with regulations if they are held accountable by an independent tribunal!" said Ogan. "The biggest savings will be to the public, who will have better regulations, fair hearings, and consistent public policy."

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Broadcasters note:

Comments are available on the House Majority Actuality Line 1-800-478-6540

- **Centralized hearings save both public and private dollars**

PUBLIC SECTOR

Problem: Agency hearing officers serve a government master.

Alaska's non-centralized hearing offices mean a multitude of directions and a fragmented approach to adjudicatory functions. Each agency, hearing officer and support staff operate differently.

Solution: Independent, Centralized Hearings

States that have created central hearing functions report much higher efficiency, with cross-training, full time processing, performance budgeting, consolidated goals and high expectations.

- **Centralized hearings increase dollars and business**

PRIVATE SECTOR

Problem: Unfair regulation closes businesses.

Persons and businesses seeking redress in Alaska do not feel agency hired and managed hearing officers are impartial. When agencies sit in judgement on the regulations they promulgate it discourages those who seek fair treatment. We lose business investment and capital.

Solution: Independent Centralized Hearings

Private sector investment and development is much more likely to succeed in a predictable fair environment. Central hearing offices establish a true and impartial judgement providing the fairness investors need to finance and establish their projects.

- **Central Panels, reduce litigation, improve due process and revolutionize regulation writing and promulgation.**

Problem: Lack of due process, timely, fair hearings

Alaska's fragmented, expensive administrative hearing process serves a multitude of masters and rarely overturns or challenges the regulations they consider.

Solution: Independent, Central Hearings

Professional, fair, well-trained independent hearing officers provide real mitigation, and raise the standard of those who attempt to justify regulations. Independent officers function with due process as their guide. The citizen and the agency are on a level playing field and conflicts are more often resolved without further litigation.

WHY ALASKA NEEDS INDEPENDENT HEARING OFFICERS ?

TO DELIVER HIGH QUALITY ADJUDICATION SERVICES FOR THE STATE OF ALASKA IN A TIMELY, COST EFFICIENT AND COST EFFECTIVE MANNER, WITH RESPECT FOR THE DIGNITY OF INDIVIDUALS AND THEIR DUE PROCESS RIGHTS

When an administrative hearing process in other states gets extremely high marks from the public, legislature, administration, judiciary, as well as the State Bar Associations, while substantially reducing costs to government, and the private sector, we in Alaska need to give it close scrutiny.

BACKGROUND

At least 18 states have now adopted the Central Panel approach to handling regulation dispute resolution. While it is not possible to list all the practical and political reasons for such adoptions, the following summary of information from Colorado is a good example of both the mission and results of their administrative hearing process.

FROM COLORADO.....

- * The model act they have provided for our review has been unanimously adopted by the American Bar Association House of Delegates (1997)
- * The Colorado Division of Independent Hearing Officers (Central Panels) reports the following effects of their efforts:
 1. *Increases efficiencies in all segments of the hearing process*
 2. *Substantially reduces typical hearing delays*
 3. *Reestablishes public confidence in government*
 4. *Builds a better business and investment climate in state*
 5. *Relieves agencies of a burdensome, unpopular process*
 6. *Provides all segments of government large or small, with same high quality of adjudication services*
 7. *Provides for clear budgeting by legislature and agencies*
 8. *Eliminates undue agency influence*
 9. *Reduces court costs by avoiding protracted litigation*
 10. *Reduces agency costs both internally and externally*
 11. *Encourages less controversial regulation*
 12. *Reduces political bias in hearing process*

SPECIFIC FINDINGS BASED ON PUBLIC SURVEYS AND AUDITS

- * Worker's comp. Premiums have been reduced by 22%
- * Prior to establishing the Division the State had 40 Hearing Officers for workers comp. Including full time, part time, and contract personnel. After consolidation there were 12 full time Hearing Officers on state payroll. Backlogs have now been reduced by 95%, with average hearing times of 88 days instead of the previous 263 days.
- * The Hearing Office functions at a 97% approval rating as indicated by those they serve in the public and government.
- * The Hearing Office has set a goal to not satisfy, but to delight those they serve.
- * The Hearing Office staff's mission is to further the goal of quality and timely adjudications.
- * The Hearing Office constantly attempts to match the delivery of services with client expectations.
- * The overall approval rating for judges is 97% and 96% for staff.
- * All complaints filed against the Hearing Office are thoroughly investigated, and the complaint process is well advertised and easy to use.

The Colorado Hearing Office operates on the premise, "When quality culture exists in an adjudication organization, it's accomplishments can be measured and it's successes proven, the organization will survive and prosper in the 21st. century."

Perhaps that is why the private sector development interests, have been the driving force in the adoption of these new adjudication procedures which focus not on what is right for government, but what is fair to the citizen under their rights of "due process".



NFIB Alaska

Statement of Support of HJR 18

A resolution calling for a constitutional amendment to create an office of administrative hearings separate from state agencies.

March 3, 1999

The Alaska Chapter of the National Federation of Independent Business has 3,700 members, making it the largest small-business advocacy group in the state. The legislative agenda of NFIB is determined by ballot. The following question was contained in the 1998 ballot:

Should in-house state agency hearing officers be moved to an independent office in the Department of Administration in order to foster an impartial hearing process when citizens challenge government decisions? **Seventy-nine percent of the members voted yes, 7% voted no and 14% were undecided.**

NFIB/Alaska supports the formation off an Office of Administrative Hearings and additionally supports HJR 18, which would place the question before the citizens of the state of Alaska.

Background: State legislatures and administrations in many states are reforming their administrative hearing process to separate the appeal process from the agency making the decision in dispute. Currently a citizen who wishes to appeal a state agency decision must petition a hearing officer from the same agency with which they have the disagreement. NFIB believes the current process does not provide for a fair and impartial hearing process when a person must appeal to the same agency they are disputing with. Creating a central hearing adjudication system with highly skilled hearing officers who are not connected to the agencies will provide a more objective process. Other states that have implemented an independent central hearing system have experienced efficiencies in all segments of the hearing process with an overall reduction in costs. Additionally, they have seen a reduction in hearing delays and less litigation.

NFIB/Alaska urges support for HJR 18.

Submitted by Thyas Shaub on behalf of NFIB/Alaska.

Table 1
Expenditures for Administrative Adjudications
Fiscal Years 1994 - 1996
(dollars in thousands)

Department	Fiscal Year 1994	Fiscal Year 1995	Fiscal Year 1996
Administration (a)	727.8	886.6	812.8
Commerce and Economic Development (b)	837.4	928.1	1,056.6
Community and Regional Affairs (c)	0.0	0.0	0.0
Corrections (d)	64.5	0.0	0.0
Education (e)	63.7	172.0	190.3
Environmental Conservation (f)	5.0	7.4	75.0
Fish and Game (g)	629.2	614.5	612.6
Health and Social Services (h)	341.7	296.0	353.4
Labor (i)	1,684.7	1,781.6	2,041.0
Law (j)	0.0	0.0	0.0
Military and Veterans' Affairs (k)	0.0	0.0	0.0
Natural Resources (l)	7.0	7.8	0.8
Public Safety (m)	15.0	18.0	32.1
Revenue (n)	370.7	374.1	352.6
Transportation and Public Facilities (o)	114.7	46.0	137.3
University of Alaska (p)	276.2	192.2	205.6
Alaska Court System (q)	2.9	5.3	12.3
Office of the Governor, Lt. Governor, and Division of Elections (r)	16.8	9.6	46.3
Total	5,157.3	5,339.2	5,928.7

NOTES:

Departments responded to a survey asking for administrative appeals expenditures for fiscal years 1994 through 1996. Data include amounts spent for personal services (hearing officers, persons serving in that capacity, and support personnel); contractual arrangements; and associated costs including travel, equipment, and supplies. Costs associated with judicial review of administrative procedures were not included.

- (a) Administration--Most expenditures were for labor-related appeals. The department is responsible for mediation and arbitration in labor relations disputes for all departments.
- (b) Commerce and Economic Development--Most expenditures were for occupational licensing appeals, and at least 60 percent of these expenditures were for investigations regarding licensing and disciplinary actions. The department total does not include complete data for the Alaska Public Utilities Commission because of changes in their accounting system.
- (c) Community and Regional Affairs--No expenditures for administrative appeals during fiscal years 1994-1996.
- (d) Corrections--Most 1994 expenditures were for an RSA with the Department of Law for prisoner rights litigation.
- (e) Education--Most expenditures were for special education and vocational rehabilitation related appeals. The department continues to compile data for 1994; consequently, the 1994 data is incomplete.
- (f) Environmental Conservation--Most expenditures were for air quality, water quality, or solid waste permit appeals.
- (g) Fish and Game--Most expenditures were for permit appeals before the Commercial Fisheries Entry Commission.
- (h) Health and Social Services--Most expenditures were for appeals concerning Medicaid and cash benefits for public assistance programs.
- (i) Labor--Most expenditures were for workers' compensation and unemployment benefit appeals.
- (j) Law--No expenditures for administrative appeals during fiscal years 1994-1996.
- (k) Military and Veterans' Affairs--No expenditures for administrative appeals during fiscal years 1994-1996.
- (l) Natural Resources--Most expenditures were for appeals concerning procurement disputes or land use permits.
- (m) Public Safety--Most expenditures were for hearings before the Violent Crimes Compensation Board.
- (n) Revenue--Most expenditures concerned permanent fund dividend eligibility and child support enforcement.
- (o) Transportation and Public Facilities--Most expenditures were for construction and lease appeals.
- (p) University of Alaska--Most expenditures were for labor relations, procurement-related appeals, and student grievances.
- (q) Alaska Court System--Expenditures were for procurement-related appeals.
- (r) Office of the Governor--Expenditures were for hearings before the Human Rights Commission.

SOURCES: Directors of Administrative Services for each department.

TABLE 2
Expenditures for Administrative Adjudications (a)
Fiscal Years 1994-1996
(dollars in thousands)

Department	Fiscal Year 1994				Fiscal Year 1995				Fiscal Year 1996			
	Federal Receipts	General Fund	Other Receipts (b)	Total	Federal Receipts	General Fund	Other Receipts (b)	Total	Federal Receipts	General Fund	Other Receipts (b)	Total
Administration	0.0	727.8	0.0	727.8	0.0	886.6	0.0	886.6	0.0	812.8	0.0	812.8
Commerce and Economic Development	0.0	820.4	17.0	837.4	0.0	911.1	17.0	928.1	0.0	1,056.6	17.0	1,056.6
Community and Regional Affairs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Corrections	0.0	64.5	0.0	64.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Education	46.5	0.0	17.2	63.7	138.9	10.0	23.1	172.0	123.1	20.0	47.2	190.3
Environmental Conservation	0.0	5.0	0.0	5.0	0.0	7.4	0.0	7.4	0.0	75.0	0.0	75.0
Fish and Game	0.0	629.2	0.0	629.2	0.0	614.5	0.0	614.5	0.0	612.6	0.0	612.6
Health and Social Services	170.3	171.4	0.0	341.7	147.3	148.7	0.0	296.0	142.0	162.2	49.2	353.4
Labor	682.7	1,002.0	0.0	1,684.7	735.1	1,048.5	0.0	1,781.6	852.1	1,188.9	0.0	2,041.0
Law	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Military and Veterans' Affairs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Natural Resources	0.0	7.0	0.0	7.0	0.0	7.8	0.0	7.8	0.0	0.8	0.0	0.8
Public Safety	0.0	0.0	15.0	15.0	0.0	0.0	18.0	18.0	2.0	1.6	28.5	32.1
Revenue	0.0	90.3	280.4	370.7	101.4	39.2	233.5	374.1	123.5	39.5	189.8	352.6
Transportation and Public Facilities	114.7	0.0	0.0	114.7	14.4	9.6	22.0	46.0	112.2	0.7	24.4	137.3
University of Alaska	0.0	276.2	0.0	276.2	0.0	192.2	0.0	192.2	0.0	205.6	0.0	205.6
Alaska Court System	0.0	2.9	0.0	2.9	0.0	5.3	0.0	5.3	0.0	12.3	0.0	12.3
Office of the Governor, Lt. Governor, and Division of Elections	0.0	16.8	0.0	16.8	0.0	9.6	0.0	9.6	0.0	46.3	0.0	46.3
Total	1,014.2	3,813.5	329.6	5,157.3	1,137.1	3,888.5	313.6	5,339.2	1,354.9	4,234.9	356.1	5,928.7

NOTES:

(a) Departments responded to a survey asking for data on expenditures for administrative appeals for fiscal years 1994 through 1996, including amounts spent for all personal services, contractual arrangements, and all associated costs such as travel, equipment, and supplies. Departments excluded costs associated with judicial review of administrative procedures. See Table 1 for additional notes.

(b) "Other" receipts include Reimbursable Service Agreements (RSA) from other agencies (for DCED and DHSS), administrative funds from the Permanent Fund (for Revenue), and an RSA of lease receipts from Anchorage International Airport (for DOT/PF).

SOURCES: Directors of Administrative Services in each department

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSHJR 18(STA)

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Constitutional Amendment relating to</u>	BRU <u>Elective Operations</u>
<u>an office of administrative hearings</u>	Component <u>General and Primary</u>
Sponsor <u>Representative Ogan</u>	
Requester <u>House State Affairs Committee</u>	Component Serial No. <u>22</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by <u>Gail Fenuma</u> <i>Gail Fenuma</i>	Phone <u>465-3935</u>
Division <u>Division of Elections</u>	Date/Time <u>3/17/99 8:34 AM</u>
Approved by <u>Lt. Governor Fran Ulmer</u> <i>Fran Ulmer</i>	Date <u>3/17/99</u>
Agency <u>Office of the Lieutenant Governor</u>	

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR18

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment relating to BRU Elective Operations
an office of administrative hearings Component General and Primary
 Sponsor Representative Ogan
 Requester House State Affairs Committee Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by Gail Fenumiai Phone 465-3935
 Division Division of Elections Date/Time 2/26/99 10:05 AM
 Approved by Lt. Governor Fran Ulmer Date 2/26/99
 Agency Office of the Lieutenant Governor

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HJR

21

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 10, 1999

FURTHER REFERRALS:

Date of Committee Action: 3/16/99

The STATE AFFAIRS Committee considered:

HJR 21

HOUSE JOINT RESOLUTION NO. 21

MILITARY BASE REALIGNMENT/CLOSURE ACTIONS

Relating to new evaluation and selection criteria for military base realignment and closure actions.

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) MVA Committee

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jannette James</i>	✓			
<i>Hal Smallas</i>	✓			
<i>Bern Kerstida</i>	✓			
<i>John Lippert</i>	✓			
<i>M. A. A.</i>	✓			
<i>Scott Ogden</i>	✓			

CHAIR'S SIGNATURE *Jannette James*



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT
HOUSE JOINT RESOLUTION NO. 21

This resolution asks the leaders of the Federal Government to reform the selection and evaluation criteria used in any future military base closure actions.

Previous Base Realignment and Closure (BRAC) Commissions allowed each of the military services to develop categories for its own bases and then evaluate and rank their bases applying criteria established by the Department of Defense and Congress. Under these single service evaluations, the concerns of individual services often overshadowed total force considerations.

This process also seriously shortchanged Alaska's bases. Strategic location and established Army-Air Force compatibility, our bases' strongest points, were not fully recognized while their high cost in relation to other bases, our weakest point, was overemphasized.

HJR 21 calls for the President, the Secretary of Defense, and the Congress to establish Joint Cross Service Groups this year to study the issues which shape our Armed Forces in the Twenty-first Century: power projection and deployment, joint training, joint operations and other total force considerations. These Joint Cross Service Groups will then develop new evaluation and selection criteria and procedures for future BRAC Commissions to ensure that total force and power projection factors receive increased consideration in future base closure decisions.



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT
HOUSE JOINT RESOLUTION NO. 21

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Bill History/Action Display



BILL: HJR 21 SHORT TITLE: MILITARY BASE REALIGNMENT/CLOSURE ACTIONS
 BILL VERSION:
 SPONSOR(S): REPRESENTATIVES(S) MULDER, Murkowski, Kott, James, Phillips,
 Foster

CURRENT STATUS: (H) STA STATUS DATE: 3/10/99

TITLE: Relating to new evaluation and selection criteria for military base realignment and closure actions.

Full Text Bill/Resolution has Zero Fiscal Note(s).

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
2/26/99	323	(H) READ THE FIRST TIME - REFERRAL(S)
2/26/99	324	(H) MLV, STA
3/10/99	406	(H) MLV RPT 5DP
3/10/99	407	(H) DP: MURKOWSKI, KOTT, JAMES, FOSTER,
3/10/99	407	(H) PHILLIPS
3/10/99	407	(H) ZERO FISCAL NOTE (H.MLV)
3/10/99	407	(H) REFERRED TO STA
3/10/99	417	(H) COSPONSOR(S): MURKOWSKI, KOTT, JAMES
3/10/99	417	(H) PHILLIPS, FOSTER

Similar Subject Match or Exact Subject Match
INTERGOVERNMENTAL RELATIONS
MILITARY

Bill Root:

Return to BASIS Main Menu(21th Legislature)
 BASIS Last Updated 3/11/99 4:02 AM



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

Memorandum

To: Representative Jeannette James

Chair House State Affairs Committee

From: Representative Eldon Mulder

Date: 02/26/99

Re: HJR 21

We expect HJR 21 to be reported out of House Military and Veterans Affairs Committee March 9, 1999 in anticipation of that, please schedule HJR 21 for a hearing as soon as possible. Please let me know if I may be of any assistance. Please find attached a copy of HJR 21 for your convenience. Thank You.

*Schedule for
March 16
(David)*

FISCAL NOTE

No: 1

B Version: HJR 21
 (H) Publish Date: 3/10/99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Revision Date:
 Title: HJR 21 - EVAL & SELECTION CRITERIA FOR BRAC ACTIVITIES.
 Sponsor: REP. MULDER
 Requestor: MLV COMMITTEE

Dept. Affected N/A
 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						
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)

Prepared by CASPER SULLIVAN / HOUSE SPECIAL COMMITTEE MILITARY & VETIC AFFAIRS. Phone x 3785

Phone _____

Date 3/9/99.

COMMITTEE COPY

HJR

26

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 6, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/13/99

The STATE AFFAIRS Committee considered:

HJR 26

HOUSE JOINT RESOLUTION NO. 26

ALASKA MARITIME BOUNDARY WITH CANADA

Relating to establishing maritime boundaries with Canada.

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) WTR

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>	✓			
<i>Hal Smalley</i>			✓	
<i>Bern Bertu</i>			✓	
<i>John Elliott</i>	✓			
<i>Brian Hude</i>			✓	
<i>Scott Orr</i>	✓			

CHAIR'S SIGNATURE *Janette James*

Reynnera

Carl Olson 818-223-8080 } California
Mark Seidenberg 944-770-6058 }

1-800-368-8772

Tell them to call this #
at 8:00 am Tuesday.
Barbara

Committees:

Health, Education & Social Services
Co-Chair

State Affairs
Vice Chair

Military & Veterans Affairs
Vice Chair

Alaska State Legislature



District 32
Representative John Coghill

During Interim: (June-Dec.)
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(907) 456-5081
Fax (907) 456-8245

During Session: (Jan.-May)
State Capitol, Room 416
Juneau, Alaska 99801-1182
(907) 465-3719
Fax (907) 465-3258
1-877-465-3719

March 10, 1999

Honorable Madeline Albright
U.S. Secretary of State
2201 C Street
Washington, D.C. 20520

Dear Secretary Albright:

In recent years there has been a dialog between the United States and Russian government concerning the sea boundary of Alaskan boundaries with Russia. Unfortunately, the State of Alaska has not been a party to the discussions with Russia, therefore, we do not know what activities have occurred other than what I have researched in newspaper archives.

According to a news article dated March 9, 1997, the State Department has considered further negotiations with Russia over the maritime issue and the Russians are now demanding that the maritime boundary be moved even closer to Alaska so that it can get another 300 million pounds of fish per year from the American side.

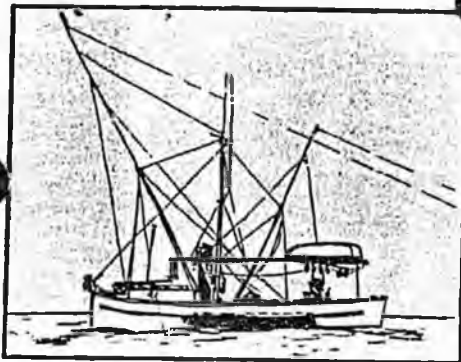
As a new legislator, I am interested in keeping current with any international activities that will affect Alaska. I am, therefore, requesting any information you can provide me on State Department activities regarding the maritime boundary between the Alaska and Russia, and for that matter, between the State Department and Canada.

I would appreciate this information as soon as possible and I thank you for your assistance in this matter. I would also welcome an invitation on the part of the State Department for the State of Alaska to participate in the discussions with Russia and Canada.

Sincerely,

A handwritten signature in cursive script that reads "John Coghill".

Representative John Coghill



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

December 2, 1997

Secretary Madeline Albright
U.S. State Department
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Albright:

I am writing to inform you about the concerns of commercial fishermen operating in the disputed waters between Alaska and Canada. Our association has requested relief on this issue since the late 1970s. Since that time, the U.S. and Canada have come no closer to resolving the maritime boundary dispute. The Alaska troll fleet has essentially been forced out of U.S. waters in Dixon Entrance, due to harassment by Canadian fishermen and enforcement officials. The Alaska Trollers Association (ATA) remains deeply concerned about the safety of Alaska fishermen who operate in Dixon Entrance and requests your assistance to ensure our boats can freely conduct their business.

This summer, at least one sport and four commercial fishermen were harassed by Canada's Department of Fisheries and Oceans Enforcement (DFO) while fishing legally in the disputed area of Dixon Entrance. DFO's conduct underscores the failure of reciprocal flag state enforcement, as agreed to by the U.S. and Canada in the 1978 Exchange of Diplomatic Notes.

Since signing the Reciprocal Fisheries Agreement with Canada in 1977, the U.S. has allowed Canadian vessels to operate within its EEZ at Dixon Entrance, in contravention of Section 307(2) of the Stevens-Magnuson Fishery Conservation and Management Act. This agreement and the subsequent exchange of diplomatic notes on June 2, 1978, provided for reciprocal flag state enforcement at Dixon Entrance. Simply put, Canada is to enforce fisheries regulations only on its fishing vessels and the United States is to enforce only on U.S. vessels fishing in the disputed area. However, by both its stated policy and enforcement conduct, Canada has clearly demonstrated its disregard for flag state enforcement in the disputed area.

DFO claims the Alaska troll fishery is not a "traditional" fishery subject to flag state enforcement. This is absurd. Our 120 year old troll fishery is neither new, nor should its "traditional" status be a matter of debate in this case, as is clearly pointed out in former Secretary Alexander Haig's July 13, 1981 memo to the U.S. Coast Guard. While the 1977 Reciprocal Fisheries Agreement included a provision on "traditional" fisheries, the more recent set of diplomatic notes includes only one element of that agreement, Article IX Reciprocal Flag State Enforcement.

ATA believes the U.S. must reaffirm its commitment to reciprocal flag state enforcement, by stating its expectation that Canada return to reciprocal procedures by January 1, 1998. In addition, the U.S. should insist that Canada recognize all U.S. fisheries presently operating in the disputed area. If Canada refuses to recognize the Alaska troll fleet, the U.S. should, in turn, consider the Canadian troll fleet to be illegally operating in Dixon Entrance and take appropriate enforcement action.

Furthermore, Canada should be reminded that the parties agreed to flag state enforcement only as an interim measure, *pending the resolution of questions pertaining to the delimitation of areas subject to the respective fisheries jurisdiction of each party*. In its own 1978 diplomatic note Canada stated it, *"reaffirms its commitment to pursue negotiations on maritime boundaries"*. It was on the basis of this commitment that the U.S. agreed in its responding diplomatic note to continue reciprocal flag state enforcement. Accordingly, in October 1985, Secretary Schultz suggested to Canadian Foreign Minister Joe Clark that the two countries attempt to resolve the boundary dispute. Late in 1986, Minister Clark informed the Secretary that it was not an opportune time for Canada to negotiate. To date, Canada has consistently refused to begin negotiations with the U.S. and remains unwilling to submit the matter to the World Court for resolution. Unless Canada honors its commitments to flag state enforcement and negotiation of the maritime boundary, the U.S. should not hesitate to enforce its EEZ in Dixon Entrance, as it deems appropriate.

The importance of this issue to U.S. fishermen should not be under-estimated. What effectively forced the U.S. fleet out of Dixon Entrance is not just the sporadic harassment of a few fishermen by DFO, but daily harassment by the Canadian fishing fleet. Canada's troll fleet did not have a large presence in the area until after the U.S. claimed its 200 mile limit. Since that time, the Canadian fleet has grown to the detriment of U.S. fishermen. The majority of the Canadian boats are large, efficient processor/trollers operations, fishing six lines of gear (U.S. trollers are limited to only 2 or 4 lines, depending on permit type). They target U.S. origin salmon to, redress "equity imbalances", as stated by Canada in Pacific Salmon Treaty negotiations. Apparently, some Canadian fishermen have come to believe that these waters are sovereign Canadian waters, and that U.S. vessels are fishing there illegally. The Canadian fishermen are not at all shy about taking matters into their own hands when it comes to driving out U.S. boats. We cannot expect the U.S. Coast Guard to referee chronic right of way skirmishes, nor can we expect U.S. trollers to subject themselves to intimidation in order to fish U.S. waters.

Management of the coastwide salmon resource has been confounded by Canada's unwillingness to provide timely and meaningful harvest and coded wire tag data from its boundary area fleet. This is particularly galling to U.S. fisherman, who must often release chinook salmon to rebuild runs, while the Canadian fisherman fishing next to him continues to catch chinook all summer long. Also disturbing is when U.S. fishermen are stopped from fishing to conserve weak coho salmon runs in both countries, as they were in 1997, and Canada continues to fish our waters for the same fish. In contrast, Alaska closed

part of its troll fishery this year to protect coho stocks, and voluntarily managed both the seine and gillnet fisheries to assist in the conservation of salmon stocks bound for the Nass River in Canada.

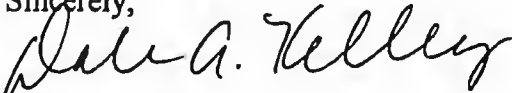
Not only does the presence of the Canadian fleet in Dixon Entrance violate the Stevens-Magnuson Act, it also poses an enforcement dilemma for the State of Alaska. By catching and transporting unprocessed fish within state waters, and by failing to report information about any processed catch aboard, Canadian fishermen operate in violation of Alaska's statutes and regulations. Furthermore, a U.S. Customs policy permits these vessels to bypass clearance at a port of entry and routinely anchor in U.S. harbors. This creates a safety threat for U.S. fishermen who must compete for scarce anchorages, particularly during foul weather. In addition, Canadians use our harbors as staging areas for their fishing operations, which is illegal under both federal and state law.

Finally, tension over this issue contributes to our inability to effectively engage Canada in discussions in important fisheries management forums, such as the Pacific Salmon Commission.

It is the hope of our members that you will assist us by finally bringing resolution to this long-standing disagreement. Our hope is that timely resolution will assist in securing long-term goodwill between the two countries.

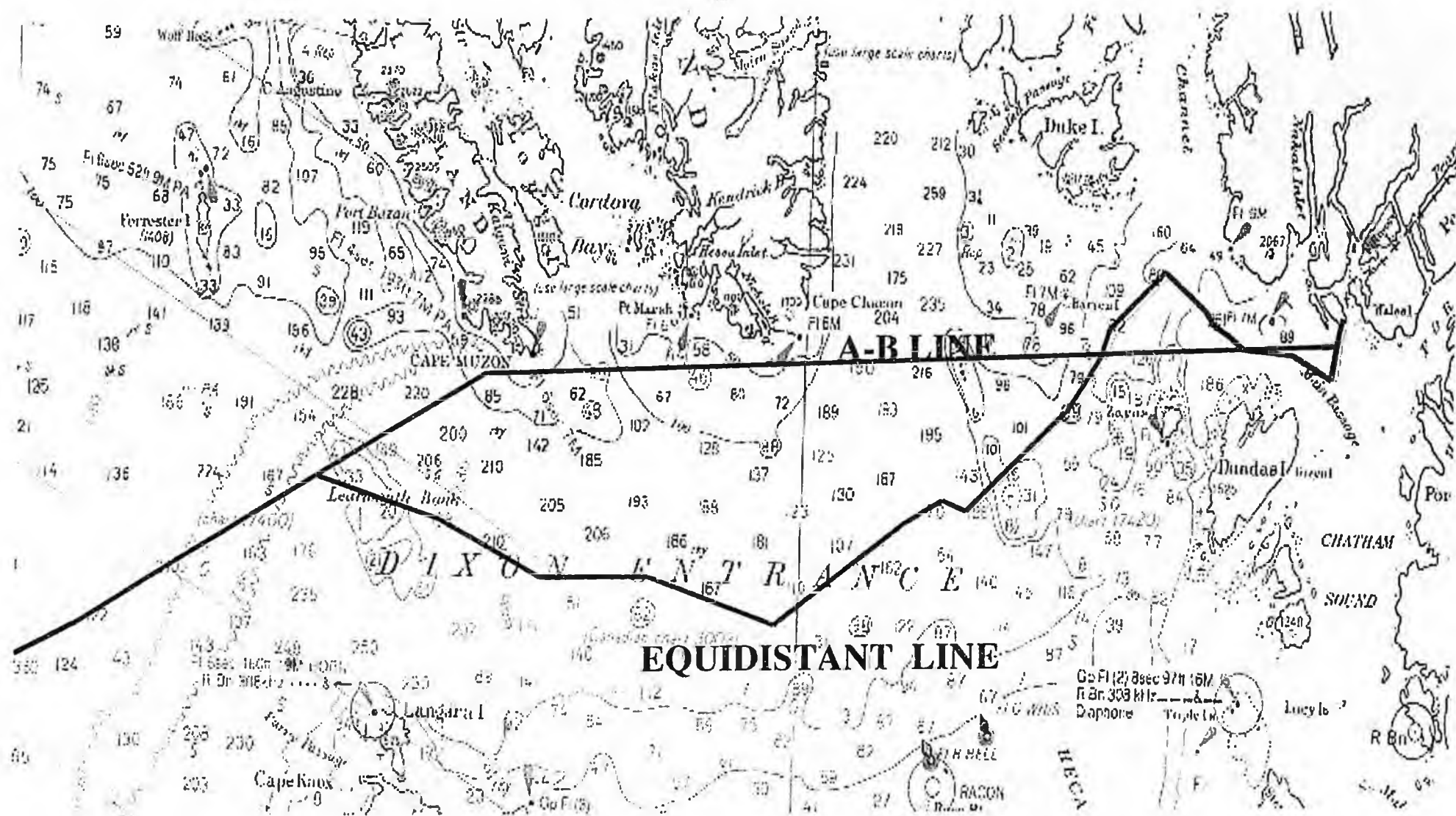
Thank you in advance for considering the perspective of ATA. If I can provide additional information on this or other issues of concern to our industry, please don't hesitate to contact me.

Sincerely,



Dale A. Kelley
Executive Director

DIXON ENTRANCE



Committee
Approved
Unanimously.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: HJR 27

1 Page 1, Line 9:

2 Delete "Wrangel"

3 Insert: Wrangell

4

5 Page 2, line 26, after the word "have":

6 Delete: "failed to"

7 Insert:

8 (and add ^{not} "d" to "approve")

9 Page 3:

10 Delete Lines 6 thru 8

11

12 Page 3:

13 Delete Lines 14 thru 30

14 Insert:

15 BE IT RESOLVED by the Alaska State Legislature that, because the proposed

16 United States - U.S.S.R. maritime Boundary Agreement has not been put into force,

17 negotiations for the proposed treaty should include participation by the State of

18 Alaska, and terms in a new proposed treaty regarding Alaska's territory,

19 sovereignty, or property should involve representatives of the State of Alaska; and

20 be it

21 FURTHER RESOLVED that the Alaska State Legislature considers participation

22 of the State of Alaska to be essential to the validity of the executive agreement,

23 requests the United States Department of State to report any and all acts and

1 directives regarding implementation of the executive agreement, and respectfully

2 requests the Govenror and the Attornev General of Alaska to in~~v~~estigate whether

3 any actions in this matter are not consistent with law and to report on their findings

4 to the Legislature prior to the next regular session; and be it

5 FURTHER RESOLVE~~S~~ that the Alaska State Legislature urges the Alaska

6 delegation in the United State Congress to promote and pursue the views expressed

7 in this resoltuion, especially the need for Alaska representation in negotiations over

8 setting a maritime boundary between the state and eastern Russia; and be it

9

10 Page 4:

11 Delete: Line 1

12 Insert:

13 maritime boundary between Alaska and eastern Russia is a constitutional issue of

14 states' rights and

Alaska State Legislature



Interim:
19 N. Cushman, Suite 211
Fairbanks, AK 99701
(907) 456-5081 - Phone
(907) 456-8245 - Fax

Session:
State Capitol, Room 416
Juneau, AK 99801
(907) 465-3719 - Phone
(907) 465-3258 - Fax

Representative John Coghill

HJR 26 Maritime Boundary Between Canada and Alaska Sponsor Statement March 10, 1999

I have introduced HJR 26 to encourage the federal government to begin a dialog with Canada and Alaska over the disputed maritime boundaries between Canada and Alaska.

The federal government established a maritime boundary with Canada between Maine and Nova Scotia fourteen years ago. Since the late 1970's the Alaska Trollers Association has requested assistance from the U.S. State Department but Alaska has received no assistance in resolving the problem.

In 1976 the United States unilaterally expanded its territorial waters from the 12-mile traditional limit to the 200-mile Exclusive Economic Zone (EEZ) in hopes that everyone else would follow suit. Canada, however, maintains the A/B Line in the Dixon Entrance as its maritime boundary.

On February 25, 1998, Captain Vince O'Shea, Chief of Maritime Operations Plans and Policy Division of the 17th District United States Coast Guard, testified about the problem before the House Special Committee on Fisheries. He said that the U.S. has had an agreement with Canada since 1977 as to how to enforce laws in the disputed waters. Under the agreement each country enforces its fishing rules on its own vessels in the disputed area. In 1980 Canadian officers took law enforcement action against U.S. trollers operating in the disputed waters claiming the agreement did not apply to nontraditional fisheries in the area. The issue has been debated every since.

The only solution to the ongoing disputes over fishing rights, mineral rights, transportation rights, and other rights of Alaskans, Canadians and the federal government is the establishment of a maritime boundary.

This resolution also clarifies that the sovereignty, territory, jurisdiction, and property rights of Alaska must be protected. It resolves that any negotiations on a maritime boundary with Canada must include participation of representatives of the State of Alaska.

FISCAL NOTE

No: 1

Version: CSHJR 26(WTR)

(H) Publish Date: 4/6/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: _____
 Title: Establishing Maritime Boundaries
with Canada
 Sponsor: Rep. John Cognill
 Requester: WTR

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 [1]						

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 D. Mark Riehle, WTR Aide

Mark Riehle

Phone 465-6643

Phone _____

Date 3-29-99

HJR

27

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 1, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/8/99

The STATE AFFAIRS Committee considered:

HJR 27

HOUSE JOINT RESOLUTION NO. 27

ALASKA/RUSSIA MARITIME BOUNDARY

Relating to the maritime boundary between Alaska and the former Union of Soviet Socialist Republics.

recommends it be replaced

with the following committee substitute

CS HJR 27 (STA)

the same title

a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) WTR

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>	✓			
<i>Bill Hudis</i>	✓			
<i>John C. Hill</i>	✓			
<i>Bob Stettula</i>				✓
<i>Pat Smalley</i>			✓	
	✓			

CHAIR'S SIGNATURE *Jeannette James*

Alaska State Legislature



Interim:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907) 456-5081 - Phone
(907) 456-8245 - Fax

Session:
State Capitol, Room 416
Juneau, AK 99801
(907) 465-3719 - Phone
(907) 465-3258 - Fax

Representative John Coghill

HJR 27 Maritime Boundary Dispute between Alaska and Russia Sponsor Statement March 10, 1999

HJR 27 explains the boundary dispute between Russia and Alaska and requests the Governor and Attorney General to actively pursue resolving the problem.

The current boundary dispute arises from two sources. First, when the United States acquired much of Alaska from Russia in 1867, no boundary line was established since no land areas of Russia and the United States touched each other. Secondly, additional islands in the Arctic were added to Alaska in 1881, including Wrangell, Bennett, Jeannette, and Henrietta. Equal in size to Rhode Island and Delaware combined, Wrangell was discovered by the U.S. Revenue Marine ship Corwin commanded by Captain Calvin Leighton Hooper, whose landing party included the famed naturalist John Muir. The other three islands were discovered by the U.S. Navy expedition aboard USS Jeannette commanded by Lt. George Washington DeLong and the island group still bears the name of DeLong Islands. These additions to the United States were reflected in official territorial records, and much American activity was conducted in and around them. In 1924, Soviet Forces invaded Wrangell Island and interned the American inhabitants. The United States has never relinquished sovereignty over these islands to the Russians.

These areas became more valuable in 1976 when international law established the 200 nautical mile fishery conservation zones from every country's coasts. In 1983 the exclusive economic zones (EEZ) were added that gave countries the rights to seabeds and below. Thus any small island would have 125,000 square miles of ocean resources inside its 100 nautical mile radius. The disputed seabeds in the Arctic and Bering Sea amount to an area the size of Texas.

Because the U.S. and the former Soviet Union were within 400 nautical miles, it became necessary to negotiate a maritime boundary extending over 1200 miles. The U.S. and the former Soviet Union started boundary discussions in the late 1970's, but never invited the State of Alaska to participate in any negotiations despite the fact that the potential maritime boundaries would significantly affect Alaska's territorial, sovereignty, and property rights. The public and the U.S. Congress were also excluded from any knowledge or input. The negotiations extended over 10 years, consisting mostly of disagreements about how to draw a 1000-mile diagonal line from the Bering Strait to the end of the Aleutian Islands.

In 1990, an executive agreement was reached between the U.S. State Department and the Soviet Foreign Ministry on a maritime boundary, and at the same time a proposed treaty was signed with the same provisions. This proposed treaty has never been ratified by the Russians and thus is not in force. The Russians are now demanding that the maritime boundary be moved even closer to Alaska so that it can get another 300 million pounds of fish per year from the American side and the State Department seems ready to concede to it.

The maritime boundary between Alaska and Russia thus remains unresolved, as does the status of the islands in the Arctic Ocean and at the end of the Aleutians. Under Constitutional principles, Alaska has the right to participate in any negotiations that affect its territory, sovereignty, or property, and consent to the terms of any agreement. California has passed resolves supporting Alaska's rights in this matter, and Idaho is anticipating passing a resolve on our behalf. The Governor and Alaska State Legislature cannot continue to stand by and allow the United States government to encroach any more on its states rights and valuable economic resources.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

The Wrangle over Wrangell

A treaty proposing the most disgraceful surrender of U.S. territory and economic interests since the surrender of the Panama Canal is now pending in the Senate. Hearings were held in mid-June and the pact, titled the "Soviet Union-United States Maritime Boundary Agreement," could soon be sent to the floor for debate and a ratification vote.

The agreement was signed on June 1, 1990 by Secretary of State James Baker and then-Soviet Foreign Minister Eduard Shevardnadze, and transmitted to the Senate by President Bush on September 26th. At first glance, it may appear innocuous, since it merely seeks to establish a maritime boundary between the U.S. and USSR that would eliminate existing disputes regarding sea, continental shelf, and economic jurisdictions in the Arctic Ocean, Bering and Chukchi Seas, and a portion of the North Pacific Ocean. But when closely scrutinized, it becomes shockingly apparent that what it amounts to is a willing capitulation by our government to Soviet demands.

Surrendering U.S. Soil

Although the treaty does not specifically say so, one of its effects would be to surrender to the Soviets sovereign control of five islands, including huge Wrangell (often spelled "Wrangel") Island off the northeast coast of Siberia. Four of the five islands were discovered by Americans; all of them became part of the U.S. in the last half of the 19th Century.

The treaty would establish as the maritime boundary line between the two countries the demarcation line defined in the 1867 treaty that transferred Alaska to the United States for the "Seward's folly" sum of \$7.2 million. The demarcation line terminated all Russian claims to sovereignty to the east, but had absolutely no bearing on future U.S. claims on as yet undiscovered territories to the west. At the time, four of the five islands affected by the pending treaty



had not been discovered. In 1924, State Department Solicitor F. M. Anderson reviewed documents leading to the 1867 treaty, and the treaty itself, and confirmed (in a memorandum dated November 25, 1924), "The Emperor of all the Russias ceded to the United States certain territories, [while] the United States in its part entered into no commitment which could be interpreted as an undertaking not to press claims to any land west of the particular line above described [the demarcation line]."

The question today is whether the 1867 demarcation line should become a formal maritime boundary line between the U.S. and USSR. That is what the pending treaty would do, and should it be ratified, the five Alaskan islands situated west of the line would become Soviet territory.

The State Department, always anxious to protect Soviet interests when they conflict with those of the U.S., has for more than a decade contended that the 1867 line is already a legal maritime boundary.

The language of the 1867 treaty, however, does not even hint that the

demarcation line could serve as a boundary line. In 1978, Dr. William E. Butler, dean of the faculty of law at University College in London, wrote in the authoritative *International Straits of the World*: "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated." And, as we shall see shortly, in 1984 the Interior Department admitted that there is no maritime boundary between the U.S. and USSR (or its Russian predecessor). The pending treaty would establish one for the first time, on terms stacked heavily in favor of the Soviets.

Startling Claim

Negotiations regarding the maritime boundary line began in 1981. They were conducted in strictest secrecy. It was only by chance that the scheming came to light. Mark Seidenberg, who is today vice-chairman of State Department Watch (the organization most responsible for keeping Americans informed about

in 1916, 1924 and 1925, and have "occupied" Wrangell Island since 1924. (As we shall see, the term "occupied" to describe the Soviet presence on Wrangell is indeed appropriate).

Wrangell Island is located some 155 miles off the northeast coast of Siberia, and 270 miles northwest of Cape Lisburne, Alaska, in the Chukchi Sea. It covers about 2,800 square miles, making it slightly smaller than Delaware and Rhode Island combined. It, and nearby Herald Island, are collectively called the Chukchi Sea Islands. Bennett, Henrietta and Jeanette Islands are located farther northwest, in the East Siberian Sea near the East Siberian Islands. Collectively, they comprise the De Long Islands. Herald Island was discovered by British Captain Henry Kellett in 1849, and was later acquired by the U.S. when the initial claim was abandoned.

On August 14, 1867, while searching for whales, Captain Thomas Long of New London, Connecticut sailed his whaling bark *Nile* within sight of an unfamiliar land that he named "Wrangell's Land" in honor of the famed Russian Arctic explorer Baron Ferdinand Petrovich von Wrangell. The Baron, who had heard rumors of the island's existence from some Chukchi chiefs of Siberia, conducted a number of vallant (but unsuccessful) expeditions to find it between 1820 and 1824.

Other U.S. whalers later confirmed the sighting, and the rumor spread that the large land mass was actually an undiscovered frozen continent similar to Antarctica. That exciting possibility prompted *New York Herald* publisher James Gordon Bennett to cooperate with the Navy in outfitting an expedition in 1879 led by Naval Lieutenant George Washington De Long. In June and July 1881, during the search for the new "continent," De Long discovered Bennett, Henrietta and Jeanette Islands (he named them for, respectively, publisher Bennett and Bennett's mother and sister). Shortly thereafter, De Long's ship, the *Jeannette*, met a tragic fate when it became trapped in ice floes, drifted westward past Wrangell, and was crushed and sunk. Fearing the worst,

Congress had already appropriated funds to finance a search by two of the vessel's relief ships, the *Thomas Corwin* and the *John Rodgers*.

Captain Calvin Leighton Hooper commanded the *Thomas Corwin*. At the time, Hooper also headed the Bering Sea Patrol of the U.S. Revenue Marine, thereby making him the de facto governor of Alaska (the District of Alaska was under jurisdiction of the Treasury Department, which had placed Alaska under the charge of the U.S. Revenue Marine). Hooper had full authority to discover and claim sovereignty over land on behalf of the United States.

While searching for the *Jeannette*, Hooper and his crew (which included John Muir, the renowned naturalist) landed on Wrangell Island on August 12, 1881. It was the first time on record that man had set foot on the island. Hooper and his fellow officers raised the American flag and took possession of the island in the name of the United States. Crew member William Reynolds later recalled: "I had the flag and with the Captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America. I planted the flag on a bluff a little to the northwest of our landing place and left it there together with a record of our visit." And naturalist John Muir would later write in his book *The Cruise of the Corwin* that "a notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land and took formal possession in the name of the United States."

Captain Hooper renamed the island New Columbia. He meant no offense to Baron von Wrangell, but believed that since it had become, "by our act of landing upon it, a part of the United States," a name reflecting that national character was more appropriate. But custom prevailed, and Wrangell Island it has remained.

On August 26, 1881 a party from the *John Rodgers* landed on Wrangell and, by September 13th, completed an official U.S. government survey. The ship's crew also raised the American flag and confirmed that the new U.S. possession was merely a large island, not a continent.

The chief of the U.S. Revenue Marine Service informed the U.S. Coast and Geodetic Survey in 1881 that Wrangell Island had been annexed to the United States, and determined that it should be included in the District of Alaska (along with the three islands discovered by De Long). In 1884 the Departments of the Treasury, Navy and War, as well as the U.S. Coast Survey and the Smithsonian Institution, listed Wrangell Island as part of Alaska, and therefore U.S. territory. U.S. Geological Survey Bulletins Nos. 169 (1900), 187 (1902), and 274 and 299 (1906) included the island as part of the United States, as did Russian naval maps and encyclopedias at the turn of the century.

Russian Claim

The first visit to the island by Russians occurred in mid-September 1911, when the ice-breaker *Vaigach* took shelter from a storm at the southwest corner of the island. A landing party was sent ashore, and the ship subsequently circumnavigated the island. But the crew made no claim of discovery.

On November 13, 1916 the Imperial Russian Embassy in Washington wrote a memorandum to the U.S. State Department, claiming that Wrangell Island (and the other four as well) belonged to Russia. The memorandum claimed that the islands "form an extension Northward of the Continental tableland of Siberia," a contention that had no validity in international law. Today, the State Department implies that when the U.S. did not respond to the Russian memo, it agreed to its terms, which is nonsense, since the memo became moot within a few months when the Russian government was booted out in March 1917.

Great Britain, Japan and the United States formally opposed the Bolsheviks. In 1920, Vilhjalmur Stefansson, a Canadian who had led an earlier, unsuccessful expedition to Wrangell, became concerned with the prospect that the Japanese government might attempt to grab Wrangell Island as part of its designs on eastern Siberia. Stefansson met in Michigan with a Canadian (Alan Crawford) and the British ambassa-

torical record to the contrary, beginning with the first "claim" by Captain Hooper in 1881.

The Department also contends that "discovery itself is not sufficient to establish a right of sovereignty over or valid title to territory not already under the sovereignty of a country." Discovery must be followed by "effective occupation by which the claimant nation exercises the actual, continuous, and peaceful display of the functions of a state over the territory." The Soviet invasion was hardly peaceful. And the Americans who were kidnapped could reasonably be regarded as the nucleus of a valid settlement which might have matured and expanded had it been allowed to do so.

In 1959, the Foreign Claims Settlement Commission, a U.S. government agency, ruled that personal property confiscated by the Soviets from the American fur trappers on Wrangell in 1924 had been illegally expropriated. The Lomen company was granted compensation. While, as the State Department now contends, "the Board's decision did not address the question of the island's sovereignty," the conclusion that the Soviets acted illegally would indeed seem to have implications for the sovereignty issue.

Nixonian Protocol

Today, wildly exaggerated environmental concerns (about ozone, global warming, acid rain, etc.) are serving as the excuse for international agreements that are seriously eroding our national sovereignty and independence. Such use of environmentalism is not new. In 1972, President Richard Nixon and Soviet President Nicolai Podgorny signed an Agreement on the Cooperation in the Field of Environmental Protection. A protocol under the agreement falsely described Wrangell Island as being "in the USSR." The protocol's stated objectives included: "To study the ecological problems associated with the expansion of muskoxen populations into new areas of the Arctic. It is planned to prepare for and execute a transplant of muskoxen from Junivak Island in Alaska to Wrangell Island and the Taimyr Peninsula in the USSR." The protocol was ap-

proved by President Gerald Ford on November 24, 1974 and on December 12th of that year then-Environmental Protection Agency Administrator Russell Train signed an "environmental protection" memorandum which included the text of the protocol. On April 14, 1975 our government gave the Soviets formal use of Wrangell Island during an airport ceremony in Bethel, Alaska. Using the appeal of "environmental cooperation," those involved apparently intended to mislead the American people into believing that Wrangell Island had belonged to the Soviets all along. Thanks to the courageous and persistent efforts of such groups as State Department Watch, and legislators like Senator Helms, it didn't work.

Gulag Expansion Project

Not only have the Soviets occupied Wrangell Island, there is also compelling evidence that they have extended their gulag there. On February 2, 1973 Avraham Shifrin, who was imprisoned for many years in the USSR at the height of Josef Stalin's anti-Jewish campaign, testified before the Senate Internal Security Subcommittee. He asserted that he had a decade earlier met a new group of prisoners who told him they had been transferred from a concentration camp on Wrangell Island, and that there were "three concentration camps for prisoners of war" on the island. Shifrin did not believe them, but in 1971 he received a letter from a man who (in Shifrin's words) "was also on Island of Wrangell in 1962 and he have [sic] seen there three concentration camps with thousands of prisoners of war," in one of which there was an "atomic reactor, and they make experiments on the live people with radiation." In another "they have experiments with physicians on the people and in third they have submarines and they have experiments with live people under water."

In a sworn statement dated December 15, 1977 given to the American consul in Tel Aviv, Efim Moshinsky (a former operative of SMERSH, a Stalin-era division of Soviet intelligence, who was arrested by the KGB and imprisoned in 1958)

asserted (with spelling errors in the original corrected) that he "was transferred, through a deportation prison in Vladivostok, to the Wrangell Island; this happened in May 1958." Moshinsky claimed that there had been "one huge concentration camp divided into three separate camp zones for prisoners with whom I had many opportunities to communicate." At one such zone, "prisoners were sometimes transferred for some experiments the essence of which the prisoners did not know."

The most famous prisoner believed to have served time on Wrangell Island was Raoul Wallenberg, the Swedish diplomat noted for his efforts to save 100,000 Hungarian Jews during World War II. In 1988, Soviet officials claimed that Wallenberg had died in a Soviet prison in Moscow in 1947. But Moshinsky claims that Wallenberg was among the prisoners on Wrangell Island while he himself was there.

According to the *Anchorage Times* for November 18, 1990, a "Hungarian who had been a prisoner at a different Soviet camp in Siberia claimed to have met Wallenberg in 1967. He reportedly said he [Wallenberg] had just been transferred from Wrangell Island."

The *Anchorage Times* also reported that in "1975 Simon Wiesenthal, the head of the Nazi-hunting Jewish Documentation Center, located another prisoner from Wrangell Island who heard about a Swedish inmate when he was on the island in the 1960s."

To sum-up, the Soviets, in illegally annexing Wrangell Island, invaded U.S. territory, kidnapped the Americans they found, then apparently established concentration camps that included Nazi-like experimentation. Our State Department responded to all of this by offering to give the Soviets Wrangell, the other four U.S.-owned islands, and vast areas of oil-rich seabed.

In his September 26, 1990 message transmitting the proposed U.S.-USSR Maritime Boundary Treaty to Congress, President Bush stated: "I believe the agreement to be fully in the United States interest." Those who disagree are letting their senators know about it without delay. ■

Anch
D. News

3-8-97

Russians rethink boundary

Nationalists attack Bering Sea treaty

By DAVID WHITNEY
Daily News reporter

WASHINGTON — A Bering Sea boundary agreement between the United States and the former Soviet Union is in danger of unraveling, raising fears that Russian nationalists will assert fishing rights in areas that now are under U.S. jurisdiction.

U.S. Sen. Ted Stevens, a key player on fisheries issues in Congress, described Russian opposition to the 1990 agreement as "a most difficult and dangerous situation."

The U.S. Senate ratified the treaty in 1991. Stevens, R-Alaska, said the Russian legislature is opposed to the deal because it "believes their negotiators gave away too much."

State Department sources, speaking on condition they not be quoted by name, said the Clinton administration is working furiously to rescue the agreement.

But they acknowledged that the dispute poses a serious diplomatic difficulty that may only be resolved with concessions to the Russians.

"Opposition to the treaty has emerged on the Russian side," a State Department source said. "It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea.

"We have engaged in informal negotiations to see if there is some way to deal with the opposition on the political side, recognizing that some of the (fish) stocks are on both sides of the boundary," the source said.

RUSSIANS: Nationalists

Continued from Page B-1.

At stake is the Bering Sea's huge pollock fishery, which many believe is being overfished.

The North Pacific Fishery Management Council, which regulates the commercial pollock fishery in U.S. waters, is under pressure to drastically reduce harvesting. In Russian waters, the concern is that young pollock spawned in U.S. waters are being overexploited to raise cash for Russia's sputtering economy.

The dispute has the American Factory Trawler Association on edge. The association represents factory ships that fish pollock in U.S. waters off the Alaska coast.

"There's a possibility of them moving the boundary line to take fishing grounds from us," said the association's lobbyist, Jim Gilmore.

Greenpeace, an environmental group that has targeted pollock fishing by the factory ships as the culprit in the collapse of the Steller sea lion population, is concerned that the negotiations could lead to increased fishing in the U.S. zone.

"The last thing we need is an agreement that brings more boats in," said Gerry Leape, Greenpeace's legislative director. "If the Russians insist on fishing in the U.S. zone, we'd insist on a comparable reduction in U.S. fishing effort."

The 1990 boundary agreement, reached after 10 years of negotiations, was initiated by President George Bush and former Soviet President Mikhail Gorbachev during a 1990 summit in Washington, D.C. It was one of the last bilateral agreements before

the Soviet Union's collapse.

The agreement clarified the boundary left fuzzy for more than a century after the \$7.2 million purchase of Alaska from Russia in 1867.

The impetus was settlement of increasing competition over Bering Sea fishing grounds and the ownership of subsea areas of the Navarin Basin of the Chukchi Sea where U.S. companies had bid \$108 million for oil-development rights in 1984.

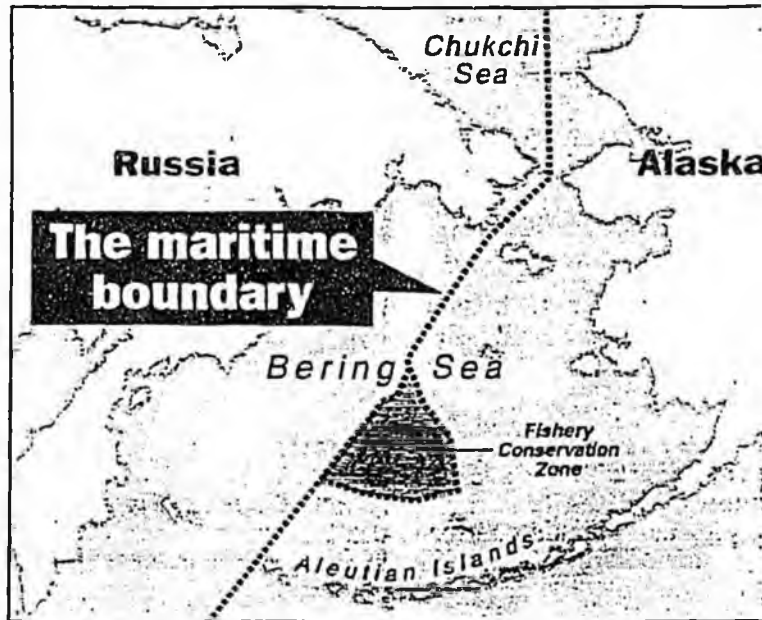
The negotiations centered on a difference of opinion between the countries on how to interpret a convention line cited in the 1867 agreement. The Soviets believed that the line should be fixed closer to the Alaska mainland while the United States said it belonged closer to the Russian shore.

The overlapping areas involved about 21,000 square nautical miles. The disagreement was resolved basically by splitting the difference. That agreement left an area north of the "donut hole," which is international water in the center of the Bering Sea, under U.S. control even though it fell within Russia's 200-mile territorial limit.

If the treaty collapses, Russia most likely would reassert its jurisdiction over those waters, opening them to foreign fishing. But there are some indications that Russian nationalists believe that the boundary should be even closer to the U.S. mainland than the U.S.-Soviet negotiators contemplated when the talks began in the early 1980s.

The best hope of the United States now is that the Russians can be persuaded to ratify the 1990 treaty by negotiating a broader Bering Sea fisheries management plan that would reduce fishing for

unhappy with 1990 treaty



“Opposition to the treaty has emerged on the Russian side. It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea.”

— State Department official

underage pollock in Russian waters in exchange for additional fishing rights on the U.S. side of the border.

But no one seems confident now that such a deal can be struck because of sentiments in the Russian Far East that the former Soviet regime gave up legitimate territorial claims.

The dispute has been simmering for several years but only now seems to be nearing a boiling point because of the growing nationalist fervor against Russian President Boris Yeltsin and the country's worsening financial cri-

sis.

Stevens raised the dispute with Secretary of State Madeleine Albright in a meeting this week and with Russian Prime Minister Viktor Chernomyrdin earlier this year. Later this month, Stevens heads for Russia on a fact-finding trip as chairman of the Senate Appropriations Committee.

“I intend to raise this issue when I'm there,” Stevens said, declining to say more because of what he and the State Department described as the “extremely sensitive” nature of the negotiations.

MAR 1 / 1997

WATCH STATE DEPARTMENT

NEWS RELEASE
For immediate release
March 17, 1997
Contact: Carl Olson
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CLINTON ADMINISTRATION PLANS EVEN BIGGER GIVEAWAY OF 8 ALASKAN ISLANDS AND VAST OIL-RICH SEABEDS IN FACE OF RUSSIAN DEMANDS OVER MARITIME BOUNDARY BETWEEN ALASKA AND SIBERIA

The Clinton Administration is threatening an expanded giveaway of 8 Alaskan islands and vast oil and fishery rich seabeds to the Russians, it was charged by Carl Olson, Chairman of State Department Watch, a nonpartisan foreign policy watchdog group headquartered in Washington, D.C.

Reacting to the Russian government's demands for even more seabeds than were agreed to in 1990, the U.S. State Department proposes further concessions for the maritime boundary between Alaska and Siberia without any quid pro quo from the Russians.

Negotiations are scheduled in Moscow aimed at signing a new agreement in Petropavlosk in May, though the State Department refuses to name the members of the negotiating team or allow for input from the public or the State of Alaska. "If the U.S. has won the Cold War, why is the Clinton Administration in such a rush to appease the Russians' overreaching demands?" questioned Olson. "We deserve a much better deal for the American side."

A major flaw in the 1990 proposed maritime boundary agreement was that it placed on the Russian side the Alaskan islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta in the Arctic, and Copper Island, Sea Otter Rock, and Sea Lion Rock at the western end of the Aleutians. Along with the islands went the 200 nautical miles of seabeds around them with billions of dollars of oil, fishery, and other resources at stake.

Alaskan officials have complained for years about the arrogant and unconstitutional treatment that the State of Alaska has received from the U.S. State Department over the 1990 agreement. State Representatives Al Vezey (R-Fairbanks) and Joe Ryan (R-Anchorage) have led the campaign to reverse the threatened giveaway. A resolution toward this end (House Concurrent Resolution 22) passed the House 38-1 in early March and it expected to pass the Senate shortly. It notes that the 1990 maritime boundary agreement was signed by Secretary of State James A. Baker III without any participation or consent by the State of Alaska, even though it impacts heavily on Alaskan territory, seabeds, and boundaries.

In Congress, the 1990 agreement was opposed by the current chairman of the Senate Foreign Relations Committee Jesse Helms (R-North Carolina), who stated, "Unfortunately, past experience has shown that the State Department frequently regards legitimate American interests as obstacles to accomplishments of its grandiose plans for an international order based upon the subordination of national sovereignty to a global governmental regime. ... I intend to vote against the treaty."

Circumventing the constitutional requirement for the State Department to seek prior advice of the Senate during any negotiations over a treaty, the State Department refused to do so for the 1990 agreement and has repeated this failure for the new negotiations.

Also brought into question is the State Department's secret 1990 side agreement with the Russians which stated that pending the ratification of the maritime boundary agreement treaty the two governments would abide by the terms anyway. This is a direct threat by an executive agency to give itself the power that only the Senate and President have under the constitution, and makes the ratification of the agreement a mockery. For the past 7 years the State Department has secretly been enforcing the flawed maritime boundary agreement and expects to continue.

###END###

#15
 Journal of Commerce
 4 September 1997
 (for personal use only)
 Russians set to go on the offensive in US fish dispute=20
 BY JOHN HELMER
 JOURNAL OF COMMERCE SPECIAL

MOSCOW — Russian officials believe the 18-day detention of a Russian=20 trawler by the U.S. Coast Guard will trigger parliamentary demands for=20 renegotiation of the Bering Sea economic zone.

In a front-page report this week, the Moscow daily newspaper Izvestia=20 charged the U.S. arrest of the Chernyaev was due to the "unwise=20 policies of Moscow," claiming "temporary" concession of a 40,000 square=20 kilometer zone of the Bering Sea to the United States was costing the=20 Russian Far Eastern fishing fleet an annual catch of 150,000 tons of=20 fish.

Foreign Ministry official Vladimir Sinitsin confirmed that the=20 Chernyaev was in Russian territorial waters on the night of Aug. 15,=20 when a Coast Guard cutter ordered the vessel into the Alaskan Port of=20 Kodiak, where it remains today. U.S. officials say the Russians had=20 earlier been detected fishing in the American zone. Mr. Sinitsin did not=20 dispute the claim. He regretted that so far efforts by officials on both=20 sides had failed to secure the release of the ship and crew.

Russian officials in Moscow speculate that the Chernyaev incident,=20 coming soon after First Deputy Foreign Minister Igor Ivanov discussed=20 the territorial waters issue on a visit to the United States, is=20 intended to pressure the government into accepting permanent American=20 control of the disputed zone. Izvestia editorialized that the United=20 States was "confirming agreements by scaring the Russians with a show of=20 force."

According to Mr. Sinitsin, the first concessions to allow American=20 fishing in Russian waters of the Bering Sea were granted by Leonid=20 Brezhnev in 1977. This was followed, he said, by an agreement in 1990=20 between Soviet Foreign Minister Eduard Shevardnadze and U.S. Secretary=20 of State James Baker. Mr. Sinitsin emphasized this "temporary"=20 arrangement was approved by President Mikhail Gorbachev and President=20 Reagan in Washington that year.

Legally, however, the Russian Foreign Ministry's position is that=20 without parliamentary ratification, there is no American right to=20 continue fishing in the concessionary zone.

Legislative jurisdiction over the continental shelf agreements is=20 exercised in the Duma, Russia's lower house of parliament, by the=20 Committee on Geopolitical Issues, which is a bastion of opposition=20 sentiment. The Duma resumes after its summer recess this week, and it is=20 expected Chairman Alexei Mitrofanov will go on the offensive, attacking=20 the Foreign Ministry for failing to recover the Chernyaev, and=20 insisting on the cancellation of the Shevardnadze-Baker agreement.

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From Russia Today press summaries

<http://www.russiatoday.com>

Izvestiya

September 1997

Lead story

Russia Can Lose One More Alaska

Summary

More than 40,000 square kilometers of the Russian continental shelf, rich with fish, oil and gas, may pass to the United States as the result of the unwise policies of Moscow, the daily wrote.

The U.S. Coast Guard in the Alaskan port of Kodiak continues to hold the Russian trawler "Chernyaev," which was seized on Aug. 15 in Russian waters of the Bering Sea. The Russian government has yet to receive an answer from the U.S. administration to its official request that the trawler be released.

The trawler belongs to the collective enterprise "50 Years of October." It was seized by a U.S. patrol boat. The daily wrote that if anything like that had been tried on an American schooner, the U.S.'s Seventh Fleet would be at Russia's borders immediately.

The trawler incident is another episode in the long controversy over delineation of the Bering Sea, which Russian and U.S. representatives drew up in a 1990 agreement. Russians in the Far East were angered at the agreement and at Eduard Shevardnadze, who signed it as head of the Soviet Foreign Ministry.

The pact has not yet been ratified by the Russian side, because it means large territorial concessions to the U.S. It is only in effect temporarily. If the agreement really had taken force, the U.S. would gain 40,000 square kilometers of continental shelf in the open part of the Bering Sea, which is rich with oil and gas.

Russia has, in fact, already been deprived of its annual catch of 50,000 tons of fish in the waters, the daily said. The Russian economic zone in the region is less than 200 miles, while the American zone is much greater.

After the memorable sale of Alaska, this was another act of idiccy on the part of Russia, Izvestiya wrote. The excesses of the American Coast Guard against Russian fishing boats are aimed at confirming the agreements by simply scaring the Russian side with a show of force.

Russians won't back sea boundary

Scrippo-McClatchy Western Service

WASHINGTON—A Bering Sea boundary agreement between the United States and the former Soviet Union is in jeopardy of unraveling, raising fears that Russian nationalists will assert fishing rights in areas that now are under U.S. jurisdiction.

Alaska Sen. Ted Stevens, a key player on fisheries issues in the Congress, described Russian opposition to the 1990 agreement as "a most difficult and dangerous situation."

The U.S. Senate ratified the treaty in 1991. Stevens said the Russian legislature is opposed to the deal because it "believes their negotiators gave away too much."

State Department sources, speaking on the condition that they not be quoted by name, said the Clinton administration is working furiously to rescind the agreement.

But they acknowledged that the dispute poses a serious diplomatic difficulty that can be resolved only through economic concessions to the Russians.

"Opposition to the treaty has emerged on the Russian side," a State Department source said. "It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea."

"We have engaged in informal negotiations to see if there is some way to deal with the opposition on the political side, recognizing that some of the (fish) stocks are on both sides of the boundary," the source said.

At stake is the Bering Sea's huge pollock fishery, which many believe is being over-fished.

The North Pacific Fishery Management Council, which regulates the commercial pollock fishery in U.S. waters, is under pressure to drastically reduce harvesting. In Russian waters, the concern is that young pollock spawned in U.S. waters are being over-exploited to raise cash for Russia's sputtering economy.

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The impetus was settlement of increasing competition over Bering Sea fishing grounds and the ownership of subsea areas of the Navarin Basin of the Chukchi Sea, where U.S. companies had bid \$108 million for development rights in 1984.

The negotiations centered on a difference of opinion between the two countries on how to interpret a convention line cited in the 1867 agreement. The Soviets believed that the line should be fixed closer to the Alaska mainland while the United States said it belonged closer to the Russian shore.

The overlapping areas involved about 21,000 square nautical miles.

up to 200,000 acres of land, some of it in the Tongass National Forest. Hearings on that bill are scheduled for September in Washington, D.C.

Ongoing, responsible harvesting of the forest is in keeping with the variety of uses the forest can provide the people of Southeast Alaska. If landholders work together, they will be able to attract the business needed to make several small logging operations add up to a worthwhile business endeavor.

—Juneau Empire, Aug. 28,

locked bedroom for the Chris Foote and his 20-year-old girlfriend, Spring Wright.

The bound hostages were screaming warnings to Foote and Wright. Police said Foote reached for his 9-millimeter handgun and began firing as the bounty hunters burst into the bedroom. Two of the intruders were wounded before the bounty hunters returned fire, killing Foote and Wright.

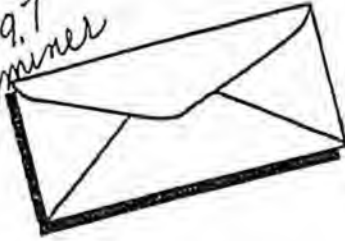
Later it would be learned that the whole thing was a mistake.

spokesman for the Association of Criminal Lawyers in Washington. The bail bondsman said you agree that if you abscond with any reasonable person you to the jurisdiction. That is U.S.

The term "reasonable" is very loosely.

"Some states have restrictions on bail. King. "But if the one of those states you back to a

9/8/97
Newsminer



LETTERS TO THE EDITOR

Biggest ever

Sept. 4, 1997

To the editor:

The Labor Day Committee is a group of individuals that come together every year in the weeks before Labor Day to plan the annual Labor Day Parade and Picnic.

As a member of the Labor Day Committee, I was very pleased to see so many people at Alaskaland to celebrate this important day for all working families.

Many factors combined to make this year's parade and picnic the biggest ever. The location of the picnic was changed to Alaskaland, more advertising was used, and the weather was perfect. Thank you to all the volunteers who did everything from planning to clean-up. Special thanks to our cooks who served some 3,000 people—great job!

To everyone who attended: thank you for showing such patience while waiting to be served. Planning for next year's picnic has already started and we will be better prepared, so that lines are not so long. Thank you Fairbanks, John S. Brown Member Labor Day Committee Fairbanks

Russian rip-off

Sept. 2, 1997

To the editor:

An extensive rip-off of Alaska

in the Bering Sea is being urged by the Russian newspaper Izvestiya. The current maritime boundary is bad enough as a giveaway to Russia, but now the Russians want even more seabeds with 150,000 tons of American fish catch annually. The real tragedy is that the U.S. State Department is vigorously working to deliver this additional giveaway to the Russians.

Fortunately for Alaska, two members of the House, Al Vezey of North Pole and Joe Ryan of Anchorage, have spearheaded the drive in the Legislature to halt these giveaways and make sure the state of Alaska gets to participate in any deals setting a maritime boundary with the Russians. Their House Joint Resolution 22 passed the House overwhelmingly last spring, and it awaits Senate action when the Legislature reconvenes in January.

In the meantime, it is absolutely essential for all Americans to speak out against any further concessions to the Russians. Sens. Ted Stevens and Frank Murkowski and Rep. Don Young must be pressed to defend the United States' interest. After all, who won the Cold War anyway?

Sincerely,
Carl Olson
Chairman
State Department Watch
Woodland Hills, Calif.

Land grant

Sept. 4, 1997

To the editor:

Southeast Alaska Conservation Council inaccurately criticizes this writer, Sen. Frank Murkowski and the University of

Alaska regents for seeking a larger land grant to support the university, 250,000 federal acres.

Ordinance of 1785 specified that land west of Ohio be surveyed into townships composed of 36 sections of 640 acres. Every Section 16 would be set aside for "maintenance of public schools."

The 1842 Morrill Act dedicated land to states for "agriculture and mechanic arts" based on population with 30,000 acres per member of Congress. In 1848, the 1785 Ordinance was amended to double the section grant to two—Sections 16 and 36. Three of the last four states admitted to the Union—Utah, New Mexico, and Arizona—each received four. Under that formula, Alaska's grant for public schools would exceed 40 million acres.

Alaska never received title to specific sections because the territory was unsurveyed. So in the 1950s, Congress rejected section grants and substituted quantity grants for Alaska. That meant 100 million acres of a general grant plus specific acreage for prisons, schools, asylums, pioneers homes, and 500,000 acres for the university and 500,000 acres for a teachers college.

In the final Statehood Act in 1958, all were rolled into a single land grant to Alaska. The Statehood Act also canceled all unsurveyed land grants. That reduced the university's federal land grant from 360,000 acres it had received under earlier legislation, to 112,000 acres.

We urge Alaskans to read Senate Bill 660. When he introduced it, Sen. Murkowski stated

that most of the "would stem from acres of uncommenced under current of Land Restrictions, a series of hearings and reports by the Secretary of the SEACC is concerned

It offers a challenge to join in a matching up to with another 2 acres.

Remember, the UA seeks to assure a state education in the UA adequately funded. Sincerely,
Lew M. Williams
UA regent
Ketchikan

Family right

To the editor:

Regarding Dan's letter (Sept. 4). I'm the only one this has happened to and you won't be fighting the most four years but happened to me by the same person friend.

I've joined an organization called Guardian Rights, every day about two calls per lawfully accused person

But the most horrible can happen to anyone any attention from need people by the we can continue to laws as they are written.

Russians set to go on the offensive in US fish dispute

BY JOHN HELMER
JOURNAL OF COMMERCE SPECIAL

MOSCOW — Russian officials believe the 10-day detention of a Russian trawler by the U.S. Coast Guard will trigger parliamentary demands for renegotiation of the Bering Sea economic zone.

In a front-page report this week, the Moscow daily newspaper *Izvestia* charged the U.S. arrest of the *Chernyaev* was due to the "unwise policies of Moscow," claiming "temporary" concession of a 40,000 square-kilometer zone of the Bering Sea to the United States was costing the Russian Far Eastern fishing fleet an annual catch of 150,000 tons of fish.

Foreign Ministry official Vladimir Sinitsin confirmed that the *Chernyaev* was in Russian territorial waters on the night of Aug. 15, when a Coast Guard cutter ordered the vessel into the Alaskan Port of Kodiak, where it remains today. U.S. officials say the Russians had earlier been detected fishing in the American zone. Mr. Sinitsin did not dispute the claim. He regretted that so far efforts by officials on both sides had failed to secure the release of the ship and crew.

Russian officials in Moscow speculate that the *Chernyaev* incident, coming soon after First Deputy Foreign Minister Igor Ivanov discussed the territorial waters issue on a visit to the United States, is intended

to pressure the government into accepting permanent American control of the disputed zone. *Izvestia* editorialized that the United States was "confirming agreements by scaring the Russians with a show of force."

According to Mr. Sinitsin, the first concessions to allow American fishing in Russian waters of the Bering Sea were granted by Leonid Brezhnev in 1977. This was followed, he said, by an agreement in 1980 between Soviet Foreign Minister Eduard Shevardnadze and U.S. Secretary of State James Baker. Mr. Sinitsin emphasized this "temporary" arrangement was approved by President Mikhail Gorbachev and President Reagan in Washington that year.

Legally, however, the Russian Foreign Ministry's position is that without parliamentary ratification, there is no American right to continue fishing in the concessionary zone.

Legislative jurisdiction over the continental shelf agreements is exercised in the Duma, Russia's lower house of parliament, by the Committee on Geopolitical Issues, which is a bastion of opposition sentiment. The Duma resumes after its summer recess this week, and it is expected Chairman Alexei Mitrofanov will go on the offensive, attacking the Foreign Ministry for failing to recover the *Chernyaev*, and insisting on the cancellation of the Shevardnadze-Baker agreement.

From Russia Today press summaries
<http://www.russiatoday.com>

→Izvestiya

1 September 1997

Lead story

→Russia Can Lose One More Alaska ←

Summary

More than 40,000 square kilometers of the Russian continental shelf, rich with fish, oil and gas, may pass to the United States as the result of the unwise policies of Moscow, the daily wrote.

The U.S. Coast Guard in the Alaskan port of Kodiak continues to hold the Russian trawler "Chernyaevo," which was seized on Aug. 15 in Russian waters of the Bering Sea. The Russian government has yet to receive an answer from the U.S. administration to its official request that the trawler be released.

The trawler belongs to the collective enterprise "50 Years of October." It was seized by a U.S. patrol boat. The daily wrote that if anything like that had been tried on an American schooner, the U.S.'s Seventh Fleet would be at Russia's borders immediately.

The trawler incident is another episode in the long controversy over delineation of the Bering Sea, which Russian and U.S. representatives drew up in a 1990 agreement. Russians in the Far East were angered at the agreement and at Eduard Shevardnadze, who signed it as head of the Soviet Foreign Ministry.

The pact has not yet been ratified by the Russian side, because it means large territorial concessions to the U.S. It is only in effect temporarily. If the agreement really had taken force, the U.S. would gain 40,000 square kilometers of continental shelf in the open part of the Bering Sea, which is rich with oil and gas.

→ Russia has, in fact, already been deprived of its annual catch of 150,000 tons of fish in the waters, the daily said. The Russian economic zone in the region is less than 200 miles, while the American zone is much greater.

After the memorable sale of Alaska, this was another act of idiocy on the part of Russia, Izvestiya wrote. The excesses of the American Coast Guard against Russian fishing boats are aimed at confirming the agreements by simply scaring the Russian side with a show of force.

Alaska State Legislature



Interim:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907) 456-5081 - Phone
(907) 456-8245 - Fax

Session:
State Capitol, Room 416
Juneau, AK 99801
(907) 465-3719 - Phone
(907) 465-3258 - Fax

Representative John Coghill

Date: March 31, 1999

To: Representative Jeannette James, Chairman
House State Affairs Committee *JJB*

From: Representative John Coghill

Re: Scheduling HJR 26 & HJR 27 for hearing

Representative Coghill is requesting that HJR 26, "Relating to establishing maritime boundaries with Canada", and HJR 27, "Relating to the maritime boundary between Alaska and the former Union of Soviet Socialist Republic", be heard in the House State Affairs Committee.

I have enclosed the resolutions, sponsor statements, and additional back up information.

Thank you for your assistance.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: HJR 27

Bill drafter:
Please make these
changes as a (STA)
CS, FINAL, +
deliver to Rm 102 -
Thanks,

1 Page 1, Line 9:

2 Delete "Wrangel"

3 Insert: Wrangell

5 Page 2, line 26, after the word "have":

6 Delete: "failed to"

7 Insert: not

8 (+ add "d" to "approve")

Barbara Coughing
6822

9 Page 3:

10 Delete Lines 6 thru 8

12 Page 3:

13 Delete Lines 14 thru 30

14 Insert:

15 BE IT RESOLVED by the Alaska State Legislature that, because the proposed
16 United States - U.S.S.R. maritime Boundary Agreement has not been put into force,
17 negotiations for the proposed treaty should include participation by the State of
18 Alaska, and ^{discussing} terms in a new proposed treaty regarding Alaska's territory,
19 sovereignty, or property should involve representatives of the State of Alaska; and

20 be it

21 FURTHER RESOLVED that the Alaska State Legislature considers participation

22 of the State of Alaska to be essential to the validity of the executive agreement,

23 requests the United States Department of State to report any and all acts and

1 directives regarding implementation of the executive agreement, and respectfully

2 requests the Govenror and the Attorney General of Alaska to in~~x~~vestigate whether

3 any actions in this matter are not consistent with law and to report on their findings

4 to the Legislature prior to the next regular session; and be it

5 FURTHER RESOLVED that the Alaska State Legislature urges the Alaska

6 delegation in the United State Congress to promote and pursue the views expressed

7 in this resolution, especially the need for Alaska representation in negotiations over

8 setting a maritime boundary between the state and eastern Russia; and be it

9

10 Page 4:

11 Delete: Line 1

12 Insert:

13 maritime boundary between Alaska and eastern Russia is a constitutional issue of

14 states' rights and

HOUSE JOINT RESOLUTION NO. 27**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIRST LEGISLATURE - FIRST SESSION****BY REPRESENTATIVE COGHILL**

Introduced: 3/10/99

Referred: House Special Committee on World Trade and State/Federal Relations, State Affairs

A RESOLUTION

1 Relating to the maritime boundary between Alaska and the former Union of
2 Soviet Socialist Republics.

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

4 **WHEREAS**, on June 1, 1990, United States Secretary of State James A. Baker III
5 signed the United States - U.S.S.R. Maritime Boundary Agreement without the participation
6 or consent of Alaska in the negotiations or terms of the proposed treaty agreement; and

7 **WHEREAS** the maritime boundary described in the proposed treaty agreement places
8 on the U.S.S.R. side the following eight islands and their entire territorial seas and seabeds:
9 Wrangel, Herald, Bennett, Henrietta, and Jeannette Islands in the Arctic, and Copper Island,
10 Sea Lion Rock, and Sea Otter Rock on the west end of the Aleutian Chain; and

11 **WHEREAS** the maritime boundary described in the proposed treaty agreement
12 delimits the territorial sea and seabeds of Little Diomedede Island at less than the normal 3-mile
13 or 12-mile extent; and

14 **WHEREAS** Alaska has sovereignty and potential or actual property interests in these
15 islands and their territorial seas and seabeds; and

16 **WHEREAS** the Fifteenth Alaska State Legislature unanimously passed Senate Joint

1 Resolution 12, which requested that a representative of Alaska be included in the United States
2 Department of State's negotiations on setting a maritime boundary between Alaska and the
3 Soviet Union; however, a reply was never received from the United States Department of
4 State, and a representative of Alaska was never included in the negotiations; and

5 **WHEREAS** the views of 28 bipartisan members of the Alaska House of
6 Representatives and eight bipartisan members of the Alaska Senate were expressed on the
7 proposed treaty agreement in a letter dated May 17, 1991, to Senator Joseph Biden, Jr., of the
8 United States Senate Committee on Foreign Relations, stating in part:

9 "We firmly believe United States interests and Alaskan interests are at stake
10 and in jeopardy in the proposed treaty. . . No Alaskan official has ever been
11 invited to participate in the treaty negotiations, in spite of abiding Alaskan
12 interests in fisheries, petroleum and other potential continental shelf resources
13 and the considerations of navigation in the area. In the entire history of the
14 treaty negotiations, Alaska has had no official voice. Alaska has not been fully
15 consulted in the entire matter. . . It is our purpose to urgently recommend that
16 the presently-proposed treaty not be ratified by the U.S. Senate, and that
17 negotiations be continued to include appropriate Alaskan officials and current
18 United States and Alaskan historic, territorial, and resource interests";

19 and

20 **WHEREAS** the California Legislature unanimously passed in 1991 Senate Joint
21 Resolution 20 supporting Alaska, and the resolution requested the President to withdraw the
22 proposed treaty agreement from consideration by the United States Senate and requested the
23 United States Senators from California to decline to consider the proposed treaty agreement
24 until Alaska has been able to participate fully in negotiations and has been guaranteed that its
25 consent will be required for any agreement affecting its boundaries; and

26 **WHEREAS** the U.S.S.R. and its successor, Russia, have ~~failed to~~ ^{not} approved the
27 proposed treaty agreement, and the agreement has not been put into force as a treaty; and

28 **WHEREAS**, at the same time he signed the proposed treaty agreement on June 1,
29 1990, Secretary of State Baker signed an executive agreement with the U.S.S.R. Foreign
30 Minister that stated that, pending the entry into force of the proposed treaty agreement, the
31 two governments agreed to abide by the terms of the proposed treaty agreement as of June 15,

1 1990; and

2 WHEREAS the executive agreement was not publicly revealed at the time or
3 mentioned in the transmittal of the proposed treaty agreement to the United States Congress;
4 in the United States Department of State testimony to the United States Senate Committee on
5 Foreign Relations, in the committee report, or in the Senate floor debate; and:

Delete

6 ~~WHEREAS the authority of the Secretary of State to establish on his own a maritime~~
7 ~~boundary that has implications for land territory, seabed jurisdiction, sovereignty, and Alaska~~

8 property raises questions of constitutionality and personal culpability; and

9 WHEREAS the United States Department of State is currently negotiating with the
10 Russian government over its demand to redraw the maritime boundary under the executive
11 agreement so as to take from the American side and give to the Russians an additional 40,000
12 square miles of ocean and seabed that would yield 300,000,000 pounds of fish a year without
13 any quid pro quo for the United States;

14 **BE IT RESOLVED** by the Alaska State Legislature that, because the proposed United
15 States - U.S.S.R. Maritime Boundary Agreement has not been put into force, the proposed
16 treaty should be rescinded, new negotiations must include the participation by the State of
17 Alaska, and terms in a new proposed treaty regarding Alaska's territory, sovereignty, or
18 property should require the consent of the State of Alaska; and be it

Replace

19 **FURTHER RESOLVED** that the Alaska State Legislature considers null, void, and
20 nonbinding on the State of Alaska the executive agreement requiring the two governments to
21 abide by the proposed treaty agreement pending its entry into force, requests the United States
22 Department of State to reveal any and all acts, directives, and reports regarding
23 implementation of the executive agreement, and respectfully requests the Governor and the
24 Attorney General of Alaska to investigate whether any actions in this matter may have
25 violated state law and to report on their findings to the Legislature within 120 days after
26 passage of this resolution; and be it

27 **FURTHER RESOLVED** that the Alaska State Legislature urges the Alaska delegation
28 in the United States Congress to promote and aggressively pursue the views expressed in this
29 resolution, especially the need for state representation in any negotiations over setting a
30 maritime boundary between the state and eastern Russia; and be it

31 **FURTHER RESOLVED** that the Alaska State Legislature finds that setting a

1 maritime boundary between ^{Alaska} ~~the state~~ and eastern Russia is a ^{Constitutional} states' rights issue and ^{1-LS0584/D} ^{issue of}
2 respectfully requests the Governor and the Attorney General of Alaska to actively pursue the
3 matters described in the previous resolves; and be it

4 **FURTHER RESOLVED** that the current negotiations by the United States Department
5 of State with the Russian government over conceding more seabed and fishing rights to the
6 Russians under the executive agreement on the maritime boundary should be opened to
7 include representatives of the State of Alaska and to provide hearings for public input before
8 signing.

9 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
10 United States; the Honorable Madeleine K. Albright, U.S. Secretary of State; the Honorable
11 Janet Reno, Attorney General of the United States; the Honorable Jesse Helms, Chair of the
12 U.S. Senate Committee on Foreign Relations; the Honorable Benjamin A. Gilman, Chair of
13 the U.S. House Committee on International Relations; the Honorable Joseph R. Biden, Jr.,
14 Ranking Minority Member of the U.S. Senate Committee on Foreign Relations; the Honorable
15 Sam Gejdenson, Ranking Minority Member of the U.S. House Committee on International
16 Relations; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
17 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
18 delegation in Congress.

FISCAL NOTE

No: 2

Version: HJR 27

(H) Publish Date: 4/1/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: _____
 Title: Maritime Boundary between Alaska and
the former Union of Soviet Socialist Rep.
 Sponsor: Rep. John Coghill
 Requester: WTR

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						
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 D. Mark Riehle

Phone 465-6643

Mark Riehle

Phone _____

House Special Committee on World Trade and
State/Federal Relations

Date March 29, 1999

HJR

49

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 31, 2000

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/6/00

The STATE AFFAIRS Committee considered:

HJR 49

HOUSE JOINT RESOLUTION NO. 49

CONST AM: PERM FUND INCOME DISTRIBUTION

Proposing an amendment to the Constitution of the State of Alaska to guarantee the permanent fund dividend, to provide for inflation proofing, and to require a vote of the people before changing the statutory formula for distribution that existed on January 1, 2000.

recommends it be replaced with the following committee substitute CS HR 49 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) ADV

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Jeannette James</u>	WAC	<input checked="" type="checkbox"/>		
<u>John S. Kelley</u>		<input checked="" type="checkbox"/>		
<u>Bob Kostulas</u>		<input checked="" type="checkbox"/>		
<u>Joseph [unclear]</u>			<input checked="" type="checkbox"/>	
<u>Bill Hunt</u>		<input checked="" type="checkbox"/>		
<u>[unclear]</u>			<input checked="" type="checkbox"/>	
<u>Scott [unclear]</u>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Jeannette James

This is the CS

NO

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES OGAN, Kohring, Sanders, Coghill, Dyson, Masek, Kott

Introduced:

Referred:

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska to guarantee the
2 permanent fund dividend, to provide for inflation proofing of the permanent fund,
3 and to require a vote of the people before changing the statutory formula for
4 distribution of permanent fund income that existed on January 1, 2000; and
5 providing for an effective date.

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

7 * **Section 1.** This resolution shall be known as an amendment to guarantee the permanent
8 fund dividend, to provide for inflation proofing of the permanent fund, and to require a vote
9 of the people before changing the statutory formula for distribution of permanent fund income
10 that existed on January 1, 2000.

11 * **Sec. 2.** Article IX, sec. 15, Constitution of the State of Alaska, is amended to read:

12 **Section 15. Alaska Permanent Fund.** At least twenty-five per cent of all
13 mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing
14 payments and bonuses received by the State shall be placed in a permanent fund, the
15 principal of which shall be used only for those income-producing investments

1 specifically designated by law as eligible for permanent fund investments. All income
2 from the permanent fund shall be distributed as provided for by statutory formula
3 that existed on January 1, 2000 (AS 37.13.140 and 37.13.145) [DEPOSITED IN
4 THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW].

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

7 **Section 30. Effective Date of Permanent Fund Amendment.** The 2000
8 amendment to the Alaska permanent fund (art. IX, sec. 15) takes effect on the day
9 after the date of a final decision by the Internal Revenue Service deciding that, under
10 the language of the 2000 amendment, the income of the permanent fund will not be
11 subject to federal taxation while it is under the control of the State or an entity of the
12 State. In this section, "final decision" means a ruling, order, or decision that cannot
13 be appealed to the Internal Revenue Service because the ruling, order, or decision may
14 not be appealed to the agency, all possible appeals to the agency have been taken, or
15 the time for taking an appeal to the agency has expired without appeal.

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

*add this as amendment # 1
(with title change)*

To: House State Affairs

April 4, 2000

I am opposed to HJR49.

HJR49 is a poor idea from a policy perspective because it takes away the Legislature's authority to appropriate funds.

HJR49 is a poor idea from a financial perspective for all the reasons that changing to a percentage of market value distribution is a better idea. Although there are no performance guarantees with the market value approach, it does remove the dependence on volatile realized earnings and offers a more stable dividend distribution based on the real return of the Permanent Fund investments. By guaranteeing the dividend in the Constitution, this bill may also trigger a federal income tax assessment on the Permanent Fund's earnings.

However, the most important consideration of HJR49 is a philosophical one: whether decreasing our Permanent Fund dividend should be an option to help bridge our growing fiscal gap. I support a healthy dividend distribution. I think a long range fiscal plan including better control of government spending and a combination of reasonable taxes should be developed before the dividend program or the fund's undistributed income is tapped. However, adjusting the dividend should remain a legislative option for balancing personal benefit and the common good for all Alaskans as other General Fund revenue sources are depleted. Shortchanging funding for essential public services or raising exorbitant taxes in order to sustain a large personal dividend does not serve our best interests or the purposes for which the Permanent Fund was established.

Many people who support HJR49 believe it will preserve the value of their dividend. There are no guarantees for a continued high dividend, no matter what formula is applied. Other people want the government to keep its hands off the dividend program, no matter how much essential public services must be cut. I hope that with continued discussion the public will come to understand the real fiscal picture and agree to a well-reasoned long-term financial plan that controls spending, taps additional sources of revenue including a combination of taxes, and then uses Permanent Fund earnings to balance personal and common good for the benefit of all Alaskans. I think you have your work cut out for you to develop this plan and sincerely hope you are willing to tackle it soon.

Thank you.

Maryetta
2267

MARY GRISWOLD
BOX 1417
HOMER 99603



HJR - 49

People's Dividend Protection Plan

Sponsor Statement

HJR - 49 was conceived and introduced to make sure the Permanent Fund Dividend enjoys constitutional protection. Currently the dividend exists at the sole pleasure and protection of a simple majority of the legislature.

1. The primary motivation is to protect the dividend.
2. The sponsor believes that protecting the permanent fund dividend will also assist in limiting unwarranted government growth.
3. HJR - 49 will not alter the existing PFD. It simply provides constitutionally guaranteed voter protection of the existing program.

Here's how HJR - 49 will protect your PFD:

- 18 years of PFD earnings will be preserved and given voter protection.
- No elected official can touch the PFD without voter approval.
- Even with voter approval, it will take a two-thirds, instead of a simple legislative majority to change the PFD.
- The principle of the fund will be "inflation-proofed" unless a majority of Alaskans vote otherwise.

("inflation-proofing" is a fancy term for making sure inflation does not diminish the principal of the fund and the PFD)

In summary, passage of HJR - 49 gives the people an opportunity to make their Permanent Fund Dividend a **Constitutional mandate** instead of a **legislative option**.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

*This would
allow RS to
tax Perm
Fund!*

Memorandum

To: Representative Jeanette James / Chair, House State Affairs
Date: March 8, 2000
Re: HJR - 49 Permanent Fund Protection

We would sincerely appreciate your taking up HJR - 49 as soon as possible.

It is important to let the public process work and give Alaskans an opportunity to let the legislature know how they feel about this measure. If all we do in the House is hear ideas on how to change the fund or raise revenue, we will give the impression that no other idea is worthy of discussion. This would be most unfortunate.

Thank you.

Pete Kott
Representative Pete Kott

Beverly Masek
Representative Beverly Masek

Fred Dyson
Representative Fred Dyson

John Coghill
Representative John Coghill

Jerry Sanders
Representative Jerry Sanders

Scott Ogan
Representative Scott Ogan

Vic Kohring
Representative Vic Kohring

Bill History/Action Display

BILL: HJR 49 SHORT TITLE: CONST AM: PERM FUND INCOME DISTRIBUTION
 BILL VERSION:
 SPONSOR(S): REPRESENTATIVES(S) OGAN, Kohring, Sanders, Coghill, Dyson,
 Masek, Kott

CURRENT STATUS: (H) STA
 THEN JUD, FIN

STATUS DATE: 1/31/00

TITLE: Proposing an amendment to the Constitution of the State of Alaska to guarantee the permanent fund dividend, to provide for inflation proofing, and to require a vote of the people before changing the statutory formula for distribution that existed on January 1, 2000.

No Fiscal Information for Bill/Resolution

Jrn-Date	Jrn-Page	Action
1/31/00	<u>2044</u>	(H) READ THE FIRST TIME - REFERRALS
1/31/00	<u>2044</u>	(H) STA, JUD, FIN
1/31/00	<u>2044</u>	(H) REFERRED TO STATE AFFAIRS
2/02/00	<u>2075</u>	(H) COSPONSOR(S): DYSON
2/11/00	<u>2188</u>	(H) COSPONSOR(S): MASEK
2/21/00	<u>2259</u>	(H) COSPONSOR(S): KOTT

Similar Subject Match or Exact Subject Match
CONSTITUTIONAL AMENDMENTS
PERMANENT FUND

Bill Root:

[Return to BASIS Main Menu\(21st Legislature\)](#)
[Return to the Legislature Home Page](#)
 Information in BASIS is in Real Time.
 Please use your 'Reload' button to update this page.

March 28, 2000

Jeannette,

I need an answer ASAP - -

Jim Kelly (Permanent Fund) called to let us know their lawyer is out of town and will be unable to attend or testify at a hearing next Tuesday. He doesn't want to have State Affairs executive session without having the lawyer present.

? He requested that we delay hearing Ogan's bill until Tuesday, April 11. I told him if we did that, we'd have to talk to Scott Ogan first since you made a public commitment to him.

I said I'd let him know.

Barbara

(Call Jim Kelly at 2059)

*Told him will hear it
April 4 - I then
had it until
April 11.*

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HJR 49

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment: relating to the BRU Elective Operations
permanent fund income distribution Component Elections
 Sponsor Representative Ogan
 Requester House State Affairs Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenwick *Gail Fenwick* Phone 465-3935
 Division Division of Elections Date/Time 3/31/00 2:46 PM
 Approved by Lt. Governor Fran Ulmer *Fran Ulmer* Date 03/31/2000
 Agency Office of the Lieutenant Governor

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