

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10024 HOUSE STATE AFFAIRS

# FISCAL NOTE

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

**BILL NO. SJR3**

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>the repeal of regulations by the legislature</u>	Component <u>General and Primary</u>
Sponsor <u>Senator Taylor</u>	
Requester <u>Senate 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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Since the state has transferred to an optical scan ballot tabulation system, fiscal notes for constitutional amendments will be zero. The optical scan ballot tabulation system allows for greater flexibility in ballot printing.

Prepared by Gail Fenumiai  
 Division Division of Elections  
 Approved by C Lt. Governor Fran Ulmer  
 Agency Office of the Lieutenant Governor

Phone 465-3935  
 Date/Time 2/2/99 10:32 AM  
 Date 2/2/99

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# Alaska State Legislature

Chairman,  
Judiciary Committee  
Administrative Regulations  
Revenue Committee

Vice Chairman,  
Resources Committee



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Fax: (907) 465-3922

50 Front Street  
Suite 203  
Ketchikan, Alaska 99901  
(907) 225-8088  
Fax: (907) 225-0713

*Senator Robin L. Taylor*

---

## M E M O R A N D U M

---

TO: Representative Jeannette James  
House State Affairs  
FROM: Senator Robin L. Taylor  
DATE: February 25, 1999  
RE: Hearing Request

---

Request that you hear Senate Joint Resolution No. 3 Proposing and amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the Legislature at your earliest convenience.

A handwritten signature in cursive script that reads "Robin L. Taylor".

Robin L. Taylor

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 25, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

Hon. Jeannette James  
Chair  
House State Affairs Committee  
State Capitol, Rm 102  
Juneau, Alaska 99801

Re: SJR 3

Dear Representative James:

SJR 3 has been referred to the House State Affairs Committee.

SJR 3 is a resolution to place before the voters, for the fourth time, an amendment to the Constitution of the State of Alaska to allow repeal of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of the state constitution to allow the legislature, by joint resolution to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. The voters of Alaska have already voted down this type of constitutional amendment three times, in the 1980, 1984, and 1986 general elections. Two of those defeats were by margins of four to three to two. We assume that the public means what its votes have indicated and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

2. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an executive-branch regulation is adopted, if the legislature believes that the regulations not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the legislature with the power to guide regulations formation.

3. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing a regulation changes law. The state constitution presently grants the power to the legislature to change law by passing a bill, which is then subject to the governor's review and possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without the action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislature and executive branches.

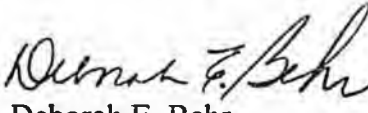
4. Significantly, by repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's lawmaking function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

5. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. Agencies of the executive branch consider comments in the development of the final content of regulations. In this way, the legislature and public have input into the rulemaking process.

If you have additional questions, please let me know.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Deborah E. Behr  
Assistant Attorney General

DEB:jf

cc: Hon. Robin Taylor  
Alaska State Senate

Hon. Beth Kerttula  
Alaska State House

Hon. Jeannette James, Chair  
House State Affairs Committee

March 25, 1999  
Page 3

Hon. Harold Smalley  
Alaska State House

Pat Pourchot, Legislative Director  
Office of the Governor

Bruce M. Botelho, Attorney General  
Barbara Ritchie, Deputy Attorney General  
Chrystal Smith, Legal Administrator  
Dept. of Law

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. SJR3**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title Constitutional Amendment relating to BRU Elective Operations  
the repeal of regulations by the legislature Component General and Primary  
 Sponsor Senator Taylor  
 Requester Senate 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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

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Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time					
Part-time					
Temporary					

**ANALYSIS:** (Attach a separate page if necessary)

Since the state has transferred to an optical scan ballot tabulation system, fiscal notes for constitutional amendments will be zero. The optical scan ballot tabulation system allows for greater flexibility in ballot printing.

Prepared by Gail Fenumiai *Gail Fenumiai* Phone 465-3935  
 Division Division of Elections Date/Time 2/2/99 10:32 AM  
 Approved by C Lt. Governor Fran Ulmer *Fran Ulmer* Date 2/2/99  
 Agency Office of the Lieutenant Governor

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**SJR**

**8**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 25, 1999

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/8/99

The STATE AFFAIRS Committee considered:

SJR

SENATE JOINT RESOLUTION NO. 8

FAIR AND ACCURATE CENSUS

Relating to the 2000 decennial United States census and to the development of redistricting data for use by the state in legislative redistricting.

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) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Monnette James</i>	✓			
<i>Hal Smalley</i>			✓	
<i>Bern Bestul</i>			✓	
<i>John Behr</i>	✓			
<i>Scott Dan</i>	✓			

CHAIR'S SIGNATURE *Monnette James*

# Alaska State Legislature

## Senate

**JERRY WARD**

State Capitol  
Juneau, AK 99801-1182  
Phone (907) 465-4940  
Fax (907) 465-3766

716 W. 4th Ave., Ste. 450  
Anchorage, AK 99501-2133  
Phone (907) 258-8183  
Fax (907) 258-0820

145 Main Street Loop  
Kenai, AK 99611  
Phone (907) 283-7996  
Fax (907) 283-3075



### SPONSOR STATEMENT SJR 8

SJR 8 is a resolution urging Congress and the Bureau of the Census to conduct the 2000 decennial census consistent with the ruling in *Department of Commerce v. United States House* and with the Constitution of the United States.

The Bureau of Census plans on using random sampling techniques or other statistical methods instead of an "actual enumeration," meaning a physical head count of the population. A random sampling technique or other statistical methods of census could raise serious issues of vote dilution and violate "one person, one vote" legal protections, expose the state to protracted and costly litigation over redistricting, and ultimately result in a court ruling invalidating the redistricting plan.

SJR 8 opposes the use of P.L. 94-171 data for state legislative redistricting based on census figures determined in whole or part by the use of statistical inferences derived by means of random sampling techniques or other statistical methodologies that add or subtract persons, not based on a physical head count.



# SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

March 30, 1999

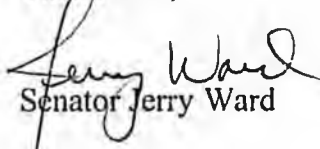
Representative Jeannette James, Chair  
House State Affairs Committee

Representative Jeannette James,

SJR 8 is a resolution urging Congress and the Bureau of the Census to conduct the 2000 decennial census using actual enumeration rather than a statistical method of counting.

Please schedule SJR 8 in the House State Affairs Committee at your earliest convenience.

Thank You,

  
Senator Jerry Ward

# Alaska State Legislature

## Senate

**JERRY WARD**

State Capitol  
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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 1  
Bill Version: STR 8  
(S) Publish Date: 3/12/99

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_  
Title Senate Joint Resolution relating BRU \_\_\_\_\_  
to fair count census Component \_\_\_\_\_  
Sponsor Senator Jerry Ward  
Requester Senate State Affairs Committee Component Serial No. \_\_\_\_\_

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Senator Jerry Ward *Jerry Ward* Phone 465-4940  
Division Senate State Affairs Committee Date/Time 3/9/99 10:07 AM  
Approved by Commissioner Senator Jerry Ward, Chair Date 3/12/99  
Agency Senate State Affairs Committee

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