

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10468 HOUSE STATE AFFAIRS

508

SJR

14



HOUSE STATE AFFAIRS COMMITTEE

STATE CAPITOL, ROOM 102
465-4963

MEMORANDUM

COMMITTEE MEMBERS

Rep. John Coghill
Chairman
Room 102
465-3777

Rep. Hugh Fate
Vice-Chair
Room 416
465-4976

Rep. Jeannette James
Room 214
465-3743

Rep. Gary Stevens
Room 428
465-4925

Rep. Peggy Wilson
Room 409
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Rep. Harry Crawford
Room 426
465-3438

Rep. Joe Hayes
Room 422
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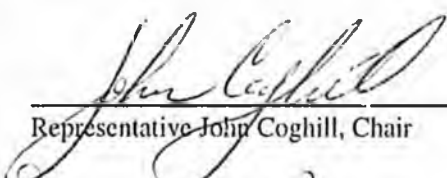
Date: April 4, 2001

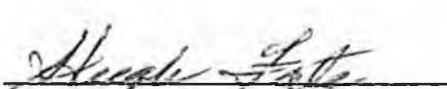
To: Speaker Porter

From: House State Affairs Committee

Re: SJR 14


Senator Taylor, sponsor of SJR 14, a resolution regarding the transport of firearms through Canada, has requested this resolution be waived from House State Affairs. The committee has agreed to waive the resolution out as we already had a hearing on HJR 16 on the same subject and passed it out of State Affairs.

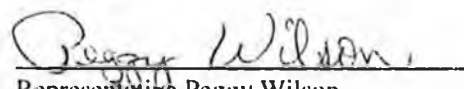

Representative John Coghill, Chair


Representative Hugh Fate, Vice-Chair


Representative Jeannette James


Representative Harry Crawford


Representative Gary Stevens


Representative Peggy Wilson


Representative Joe Hayes

Alaska State Legislature

Senator Robin Taylor

District A

State Capitol Rm 30, Juneau, Alaska 99801-1182 Phone (907)465-3873 Fax (907)465-3922



Memorandum

TO: Representative John Coghill
Chair, House State Affairs Committee

FROM: Senator Robin L. Taylor *[Signature]*

DATE: April 4, 2001

RE: SJR 14

I respectfully request the House State Affairs Committee waive SJR 14 since the House version has already passed.

Thank You

Alaska State Legislature

Chairman,
Judiciary Committee

Vice-Chairman,
Administrative Regulations
Revenue Committee

Member,
Transportation Committee
Resources Committee



Senator Robin L. Taylor

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SPONSOR STATEMENT FOR SJR 14

The United States and Canada have had an open border and friendly relations for decades. Unfortunately, forces within the Canadian National Government have implemented a new law and regulations which require visitors to Canada to declare their firearms before entering Canada at a Canadian Customs Station, complete a Non-resident Firearm Declaration Form and pay a \$50 fee.

Not only is the fee and the registration an unexpected and inconvenient process, as such was never previously required, but it is violate of certain principles held dear by Americans and constitutionally protected in the United States.

Gun registration is too often a precursor to confiscation, as most recently seen in Australia and British Columbia, Canada. Furthermore, all of the registration and personal information obtained through this process is to be shared with ABT&F and other state and federal agencies in the United States. Thus, by legally going on a guided hunt in Canada, agencies will receive information on United States citizens that they have no right to obtain under United States law. The implementation of these policies by Canada is offensive to Alaskans who must travel through Canada to reach the Lower 48 States.

It is shocking that our "friends" in Canada have chosen to treat Alaskans and all United States citizens in this manner, as there is NO history of United States citizens crossing the border to misuse firearms in Canada.

Our "friends" in Canada should remember that it was terrorists living in Canada who were recently arrested as they crossed the border in and attempt to wreak havoc in Washington State!

District A:

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

E-mail: Senator_Robin_Taylor@legis.state.ak.us

Neither Alaska nor any of the other states currently has the dubious reputation possessed by certain Canadian Provinces as a safe harbor for terrorists and violent criminals.

Alaska joins its neighbors from the Yukon who are visiting our Legislature today and who opposed this law. By passage of this Resolution today, Alaska is calling upon our "friends" in Canada to rethink, revise and repeal this law.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SJR 14
 (S) Publish Date: 2/28/01

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Oppose Canadian Fee To Transport Firearms BRU: _____
 Sponsor: Senator Taylor Component: _____
 Requester: Senate State Affairs Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4522

Senator: /s/ SENATOR THERRIault Date 2/26/01
Committee Chair

Bill History/Action Display



BILL: SJR 14

SHORT TITLE: OPPOSE CANADIAN FEE
TO TRANSPORT FIREARMS

BILL VERSION: CSSJR 14(STA)

SPONSOR(S): SENATOR(S) TAYLOR, Ward, Leman, Green, Kelly, Donley,
Pearce, Davis, Cowdery, Therriault, Halford

REPRESENTATIVE(S) Kerttula

CURRENT STATUS: (H) STA

STATUS DATE: 03/19/01

HEARING: (H) STA Apr 05 8:00 AM CAPITOL 102

TITLE: Urging President Bush, the United States Department of State, and the United States Congress to intervene and negotiate with the government of Canada to reconsider the imposition of a fee to transport firearms through Canada.

[Full Text](#)
[Fiscal Notes](#)

Bill History

Jrn-Date	Jrn-Page	Action
02/21/01	0453	(S) READ THE FIRST TIME - REFERRALS
02/21/01	0453	(S) STA
02/27/01	Text	(S) STA AT 3:30 PM BELTZ 211
02/27/01	Text	(S) Moved CS(STA) Out of Committee
02/28/01	0535	(S) STA RPT CS 5DP SAME TITLE
02/28/01	0535	(S) DP: THERRIAULT, HALFORD, PHILLIPS,
02/28/01	0535	(S) PEARCE, DAVIS
02/28/01	0535	(S) FN1: ZERO(S.STA)
03/15/01	Text	(S) RLS AT 10:45 AM FAHRENKAMP 203
03/15/01	0675	(S) RULES TO CALENDAR 3/15/01
03/15/01	0677	(S) READ THE SECOND TIME
03/15/01	0677	(S) STA CS ADOPTED UNAN CONSENT
03/15/01	0677	(S) ADVANCED TO THIRD READING UNAN CONSENT
03/15/01	0677	(S) READ THE THIRD TIME CSSJR 14(STA)
03/15/01	0677	(S) COSPONSOR(S): WARD, LEMAN, GREEN,
03/15/01	0677	(S) KELLY, DONLEY, PEARCE, DAVIS, COWDERY,
03/15/01	0677	(S) THERRIAULT, HALFORD
03/15/01	0678	(S) PASSED Y18 N- E2
03/15/01	0678	(S) ELLIS NOTICE OF RECONSIDERATION
03/15/01	Text	(S) MINUTE(RLS)
03/16/01	0698	(S) RECONSIDERATION NOT TAKEN UP
03/16/01	0698	(S) TRANSMITTED TO (H)
03/16/01	0698	(S) VERSION: CSSJR 14(STA)
03/19/01	0645	(H) READ THE FIRST TIME - REFERRALS
03/19/01	0645	(H) STA

03/19/01 [0645](#) (H) REFERRED TO STATE AFFAIRS
03/19/01 [0656](#) (H) CROSS SPONSOR(S): KERTTULA
04/05/01 [Text](#) (H) STA AT 8:00 AM CAPITOL 102

Similar Subject Match or Exact Subject Match
INTERNATIONAL RELATIONS
WEAPONS

Bill Root: [Display Bill Root](#)

BASIS HAS BEEN RE-PROGRAMMED THIS YEAR



TO REPORT PROBLEMS WITH BASIS INQUIRY

[Return to Basis Main Menu \(22 Legislature\)](#)
[Return to Legislature Home Page](#)

Alaska State Legislature

Senator Robin Taylor

District A

State Capitol Rm 30, Juneau, Alaska 99801-1182 Phone (907)465-3873 Fax (907)465-3922



Memorandum

TO: Representative Coghill, Chair
House State Affairs Committee

FROM: Senator Robin L. Taylor

DATE: March 26, 2001

RE: CSSJR 14

SJR 14 has been referred to your committee. I respectfully request a hearing at your earliest convenience.

We have attached a copy of the Sponsor Statement and the Fiscal Note for this bill.

Should you have questions or need additional information, please contact Darrell Thomas at #3717.

Thank you in advance for your consideration.

SJR

17



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

MEMORANDUM

TO: Representative John Coghill, Chair
House State Affairs Committee

FROM: Senator Dave Donley, Co-Chair
Senate Finance Committee

DATE: April 2, 2001

RE: Hearing request for CS for SJR17, "Urging President Bush to renounce and reverse Clinton Justice Department anti-gun-ownership policies"

I request that you schedule Senate Joint Resolution 17, an act requesting that President Bush direct the United States Department of Justice to acknowledge ownership of firearms by individual, law-abiding American citizens as a constitutionally guaranteed, Second Amendment freedom, for a hearing at your earliest convenience.

Under President Clinton's Administration, the United States Department of Justice advocated the legal position that the Second Amendment of the United States Constitution afforded no protection to individual citizens. Furthermore, attorneys for the Justice Department argued in open court that the Second Amendment of the Constitution was consistent with the Clinton Administration's position that the United States government could, without explanation or rational justification, relieve otherwise law-abiding American citizens of any and all firearms.

Senate Joint Resolution 17 is consistent with the popularly enacted amendment to Article I, section 19 of the Alaska State Constitution, protecting the individual's right to keep and bear arms.

Attached are copies of CS for SJR 17, a sponsor statement and a comprehensive information packet.

If you have any questions, please contact Jomo Stewart of my staff at x2705.

Thank you for your consideration.

HR: April 2, 2001

DD/jlps

Co-Chair: Senate Finance Committee
Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT SENATE JOINT RESOLUTION 17 "Urging President Bush to renounce and reverse Clinton Administration anti-gun-ownership policies"

Senate Joint Resolution 17 requests that President Bush direct the United States Justice Department to acknowledge gun-ownership to be the Constitutionally guaranteed freedom that the founding fathers intended. It reflects the belief of the Alaskan people that the writers of the United States Constitution fully intended the Second Amendment to irrevocably protect the right of individual American citizens to keep and bear arms.

Under President Clinton's Administration, the United States Department of Justice advocated the legal position that the Second Amendment of the United States Constitution afforded no protections to individual citizens: not even for members of the national Armed Services, the National Guards or states' militias. Furthermore, attorneys for the Justice Department argued in open court that the Second Amendment of the Constitution was consistent with their position that the United States government could, without explanation or rational justification, relieve otherwise law-abiding American citizens of any and all firearms. Guns liable for confiscation included not only handguns but muskets, rifles and shotguns: cherished firearms, traditionally used for hunting and self-protection, since the very inception of our nation.

From the body of historical evidence it is clear that the founding fathers of the United States were, one and all, gun users and gun owners: Mason, Madison, Monroe, Jefferson, Franklin, Hamilton, Paine, Henry, Webster, Samuel Adams, John Adams, Washington... Federalists and Anti-Federalists alike considered the right to own and bear arms, like freedom of religion, speech or the press, to be an inalienable natural right and a necessary check on the power of a potentially overreaching government.

The Alaskan people positively recognized the true spirit of the United States Constitution when they voted overwhelmingly to amend the Alaska State Constitution to specifically protect the right of individual citizens to keep and bear arms. Senate Joint Resolution 17 urges President Bush to bring renewed honor to the office of the Presidency by joining us in this reaffirmation of the true meaning of Article II of the Bill of Rights, the Second Amendment of the United States Constitution.

Senate Joint Resolution 17 was drafted in consultation with the National Rifle Association.

DD/jlps

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

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TESTING THE LIMITS OF THE SECOND AMANDMENT

United States v. Emerson

On August 28, 1998, Sacha Emerson filed a petition for a divorce from her estranged husband, Timothy Joe, in the 119th District Court of Tom Green County, Texas. At the same time she also submitted an application for a temporary restraining order to be placed against her husband pending divorce proceedings.

On September 4, 1998 the hearing on Mrs. Emerson's application for a temporary restraining was heard before the Honorable John E. Sutton. The court granted Mrs. Emerson's application for a temporary restraining order.

Unknown to Mr. Emerson, who had appeared at the hearing without council, being subject to the restraining order immediately barred him from the possession of firearms. Judge Sutton did not inform him of this fact and Mr. Emerson soon found himself indicted for possession of a firearm while being under a restraining order, in violation of **TITLE 18, Section 992 (g) (8)** of the U.S. Code.

The case was heard in United States District Court for the Northern District of Texas, San Angelo Division, the Honorable Sam R. Cummings presiding. Emerson asked that the charges be Dismissed because prosecution under 18 U.S.C. Sec. 992 (g) (8) would violate his Second Amendment freedoms.

In **Judge Cummings' opinion**, "only if the Second Amendment guarantees Emerson a personal right to bear arms can he claim a constitutional violation." The Memorandum Opinion that followed analyzed this question on several levels: scholastically, textually, historically, structurally and in the light of contemporary societal concern. In the end, Judge Cummings dismissed the case against Emerson concluding that **the Second Amendment of the Constitution was intended to, and did indeed, protect a personal and individual right of firearm ownership.**

The United States appealed Judge Cummings' decision to the **5th Circuit, U.S. Court of Appeals**. At these proceedings, Assistant United States Attorney William Mateja argued that it was the opinion of the United States government that the Second Amendment does not protect individual gun-ownership rights.

In response to a letter of inquiry sent by members of the NRA, asking if Assistant U.S. Attorney Mateja had accurately represented the policy position of the Justice Department, former **Solicitor General Seth P. Waxman** responded that it definitely was the opinion of the DOJ that the Second Amendment did not protect individual gun-ownership rights.

TITLE 18 USC Sec. 922 (g) (8)

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 44 - FIREARMS

Sec. 922 - UNLAWFUL ACTS

(g) It shall be unlawful for any person -

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien -

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that -

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to

participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Information and opinion unrelated to Second Amendment not included.

Expanded opinion available upon request.

KEY QUOTES:

U.S. v. EMERSON

"In retrospect, the framers designed the Second Amendment to guarantee an individual's right to arms for self-defense. Such an individual right was the legacy of the English Bill of Rights. American colonial practice, the constitutional ratification debates, and state proposals over the amendment all bear this out. *Id.* at 162. The American Second Amendment also expanded upon the English Bill of Rights' protection; while English law allowed weapons "suitable to a person's condition" "as allowed by law", the American right forbade any "infringement" upon the right of the people to keep and bear arms. *Id.*

"Justice Scalia concludes by stating that "[i]t is very likely that modern Americans no longer look contemptuously, as Madison did, upon the governments of Europe that 'are afraid to trust the people with arms,' The Federalist No. 46; and the . . . Constitution that Professor Tribe espouses will probably give effect to that new sentiment by effectively eliminating the Second Amendment. But there is no need to deceive ourselves as to what the original Second Amendment said and meant. Of course, properly understood, it is no limitation upon arms control by the states." *Id.*

Thus, concerns about the social costs of enforcing the Second Amendment must be outweighed by considering the lengths to which the federal courts have gone to uphold other rights in the Constitution. The rights of the Second Amendment should be as zealously guarded as the other individual liberties enshrined in the Bill of Rights."

"The structure of the Second Amendment within the Bill of Rights proves that the right to bear arms is an individual right, rather than a collective one. The collective rights' idea that the Second Amendment can only be viewed in terms of state or federal power "ignores the implication that might be drawn from the Second, Ninth, and Tenth Amendments: the citizenry itself can be viewed as an important third component of republican governance as far as it stands ready to defend republican liberty against the depredations of the other two structures, however futile that might appear as a practical matter." Sanford Levinson, *The Embarrassing Second Amendment*, 99 YALE L.J. 637, 651 (1989)."

"It is absurd that a boilerplate state court divorce order can collaterally and automatically extinguish a law-abiding citizen's Second Amendment rights, particularly when neither the judge issuing the order, nor the parties nor their attorneys are aware of the federal criminal penalties arising from firearm possession after entry of the restraining order. That such a routine civil order has such extensive consequences totally attenuated from divorce proceedings makes the statute unconstitutional. There must be a limit to government regulation on lawful firearm possession. This statute exceeds that limit, and therefore it is unconstitutional."

On February 26, 1999, the Court granted Defendant's Motion to Dismiss. The following is the Court's memorandum opinion of the Order.

UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

UNITED STATES OF AMERICA v. TIMOTHY JOE EMERSON
Judge Samuel E. Cummings

MEMORANDUM OPINION

Second Amendment

Emerson claims that 18 U.S.C. § 922(g)(8) violates his rights under the Second Amendment to the United States Constitution. The Second Amendment states that:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. CONST. amend. II.

Only if the Second Amendment guarantees Emerson a personal right to bear arms can he claim a constitutional violation. Whether the Second Amendment recognizes an individual right to keep and bear arms is an issue of first impression within the Fifth Circuit. Emerson claims that he has a personal right to bear arms which the Act infringes, while at oral argument on the Motion to Dismiss, the Government claimed it is "well settled" that the Second Amendment creates a right held by the States and does not protect an individual right to bear arms.

1.

Second Amendment Schools of Thought

Two main schools of thought have developed on the issue of whether the Second Amendment recognizes individual or collective rights. These schools of thought are referred to as the "states' rights", or "collective rights", school and the "individual rights" school. The former group cites the opening phrase of the amendment, along with subsequent case law, as authority for the idea that the right only allows states to establish and maintain militias, and in no way creates or protects an individual right to own arms. David E. Johnson, Note, *Taking a Second Look at the Second Amendment and Modern Gun Control Laws*, 86 KY. L.J. 197, 198 (1997-98) (citing Andrew D. Herz, *Gun Crazy: Constitutional! False Consciousness and Dereliction of Dialogic Responsibility*, 75 B.U.L. REV. 57 (1995)). Due to changes in the political climate over the last two centuries and the rise of National Guard organizations among the states, states' rights theorists argue that the Second Amendment is an anachronism, and

that there is no longer a need to protect any right to private gun ownership.

The individual rights theorists, supporting what has become known in the academic literature as the "Standard Model", argue that the amendment protects an individual right inherent in the concept of ordered liberty, and resist any attempt to circumscribe such a right. *Id.* (citing Glenn Harlan Reynolds, *A Critical Guide to the Second Amendment*, 62 TENN. L. REV. 461, 464-88 (1995); Robert Dowlut, *The Right to Keep and Bear Arms: A Right to Self-Defense Against Criminals and Despots*, 8 STAN. L. & POL'Y REV. 25 (1997))

2.

Textual Analysis

A textual analysis of the Second Amendment supports an individual right to bear arms. A distinguishing characteristic of the Second Amendment is the inclusion of an opening clause or preamble, which sets out its purpose. No similar clause is found in any other amendment. Stanford Levinson, *The Embarrassing Second Amendment*, 99 YALE L.J. 637, 644 (1989). While states' rights theorists seize upon this first clause to the exclusion of the second, both clauses should be read in *pari materia*, to give effect and harmonize both clauses, rather than construe them as being mutually exclusive.

The amendment reads "[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. CONST. amend. II. Within the amendment are two distinct clauses, the first subordinate and the second independent. If the amendment consisted solely of its independent clause, "the right of the people to keep and bear Arms, shall not be infringed", then there would be no question whether the right is individual in nature. David E. Johnson, Note, *Taking a Second Look at the Second Amendment and Modern Gun Control Laws*, 86 KY. L.J. 197, 200 (1997-98).

Collective rights theorists argue that addition of the subordinate clause qualifies the rest of the amendment by placing a limitation on the people's right to bear arms. *Id.* However, if the amendment truly meant what collective rights advocates propose, then the text would read "[a] well regulated Militia, being necessary to the security of a free State, the right of the *States* to keep and bear Arms, shall not be infringed." However, that is not what the framers of the amendment drafted. The plain language of the amendment, without attenuate inferences therefrom, shows that the function of the subordinate clause was not to qualify the right, but instead to show why it must be protected. *Id.* The right exists independent of the existence of the militia. If this right were not protected, the existence of the militia, and consequently the security of the state, would be jeopardized. *Id.* at 201.

The Supreme Court recently interpreted the text of the Second Amendment and noted that the phrase "the people" in the Second Amendment has the same meaning in both the Preamble to the Constitution and in the First, Fourth, Fifth, and Ninth Amendments. <http://www.supremecourt.gov/supremecourt.html?case=/us/494/259.html> "*United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990). The Court held that the phrase "the people" "seems to have been a term of art employed in select parts of the Constitution."

The Second Amendment protects "the right of the people to keep and bear Arms", and the Ninth and Tenth Amendments provide that certain rights and powers are retained by and reserved to "the people."

* * *

While this textual exegesis is by no means conclusive, it suggests that "the people" protected by the Fourth Amendment, and by the First and Second Amendments, . . . refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community. See *United States ex rel. Turner v. Williams*, 194 U.S. 279, 292 (1904).

The Court has also held that given their contemporaneous proposal and passage, the amendments of the Bill of Rights should be read in *pari materia*, and amendments which contain similar language should be construed similarly. *Patton v. United States*, 281 U.S. 276, 298 (1930), cited by David Harmer, *Securing a Free State: Why the Second Amendment Matters*, 1998 BYU L. REV. 55, 61 (1998). The Court's construction of "the people" as used in the Second Amendment supports a holding that the right to keep and bear arms is a personal right retained by the people, as opposed to a collective right held by the States. Thus, a textual analysis of the Second Amendment clearly declares a substantive right to bear arms recognized in the people of the United States.

3.

Historical Analysis

"[T]here is a long tradition of widespread lawful gun ownership by private individuals in this country."

[graphurl=&court=US&case=/us/000/u10420.html](#)" *Staples v. United States*, 511 U.S. 600, 610 (1994). A historical examination of the right to bear arms, from English antecedents to the drafting of the Second Amendment, bears proof that the right to bear arms has consistently been, and should still be, construed as an individual right.

a.

English History

A review of English history explains the founders' intent in drafting the Second Amendment. As long ago as 690 A.D., Englishmen were required to possess arms and to serve in the military. David T. Hardy, *Armed Citizens, Citizen Armies: Toward a Jurisprudence of the Second Amendment*, 9 HARV. J.L. & PUB. POL'Y 559, 562 (1986) (citing 1 JOHN J. BAGLEY & PETER B. ROWLEY, A DOCUMENTARY

HISTORY OF ENGLAND 1066-1540, at 152 (1965)). This obligation continued for centuries, requiring nobility, and later commoners, to keep arms and participate in the militia. *Id.* at 563-65. The obligation to keep arms was not simply to provide military service in the king's army; English citizens were also required to provide local police services, such as pursuing criminals and guarding their villages. CLAYTON E. CRAMER, FOR THE DEFENSE OF THEMSELVES AND THE STATE: THE ORIGINAL INTENT AND JUDICIAL INTERPRETATION OF THE RIGHT TO KEEP AND BEAR ARMS 24-25 (1994); JOYCE LEE MALCOLM, TO KEEP AND BEAR ARMS: THE ORIGINS OF AN ANGLO-AMERICAN RIGHT 2 (1994).

By the middle of the seventeenth century, however, the sovereign jeopardized the individual right to bear arms. Charles II, and later James II, began to disarm many of their Protestant subjects. Hardy, *supra*, at 574-79. James II was an unpopular king whose policies stirred great resentment among both the political and religious communities of England. David E. Murley, *Private Enforcement of the Social Contract: Deshaney and the Second Amendment: Right to Own Firearms*, 36 DUQ. L. REV. 15, 19 (1997). Eventually, James II fled England during what was later termed the Glorious Revolution. Hardy, *supra*, at 579. In the aftermath of the Glorious Revolution, Parliament passed the English Bill of Rights in 1689, codifying the individual right to bear arms. *Id.* at 580. The Bill of Rights provided that "the subjects which are Protestant may have arms for their defense suitable to their conditions and as allowed by law." *Id.* at 581.

b.

The Colonial Right To Bear Arms

The American colonists exercised their right to bear arms under the English Bill of Rights. Indeed, the English government's success in luring Englishmen to America was due in part to pledges that the immigrants and their children would continue to possess "all the rights of natural subjects, as if born and abiding in England." MALCOLM, *supra*, at 138. As in England, the colonial militia played primarily a defensive role, with armies of volunteers organized whenever a campaign was necessary. *Id.* at 139. Statutes in effect bore evidence of an individual right to bear arms during colonial times. For example, a 1640 Virginia statute required "all masters of families" to furnish themselves and "all those of their families which shall be capable of arms . . . with arms both offensive and defensive." *Id.* (citing THE OLD DOMINION IN THE SEVENTEENTH CENTURY: A DOCUMENTARY HISTORY OF VIRGINIA, 1606-1689, at 172 (Warren M. Billings ed., 1975)). A 1631 Virginia law required "all men that are fittinge to beare armes, shall bring their pieces to church . . . for drill and target practice." Hardy, *supra*, at 588 (quoting 1 WILLIAM W. HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA FROM THE FIRST SESSION OF THE LEGISLATURE IN THE YEAR 1619, at 173-74 (reprint. 1969) (1823)). These laws served the twofold purpose of providing individual self-defense while giving England a reserve force available in time of war. Murley, *supra*, at 20.

Following the French and Indian War, England increased taxes and stationed a large army in the colonies. On April 3, 1769, the *Boston Evening Post* announced that colonial authorities urged the citizenry to take up arms. In reply to the claim that this request was unlawful, the newspaper observed that:

It is certainly beyond human art and sophistry, to prove the British subjects, to whom the privilege of possessing arms as expressly recognized by the Bill of Rights, and who live in a province where the law requires them to be equipped with arms, are guilty of an illegal act, in calling upon one another to be provided with them, as the law directs.

Hardy, *supra*, at 589-90 (quoting OLIVER M. DICKERSON, BOSTON UNDER MILITARY RULE 61 (1936)). Shortly after the "Boston Tea Party", British soldiers, led by General Gage, attempted to disarm the colonists. MALCOLM, *supra*, at 144. The British Parliament banned all exports of muskets and ammunition to the colonies and began seizing the colonists' weapons and ammunition. *Id.* The British efforts to disarm the colonists hardened American resistance. At that point, the colonists began to form the "minutemen", a nationwide select militia organization. Hardy, *supra* at 890. In February 1775, a colonial militia prevented the British from seizing weapons at an armory in Salem, Massachusetts. Two months later, the colonists defeated British troops at Concord. *Id.* at 591. Distinguished colonial leaders, such as George Washington and Samuel Adams, strongly influenced the organization of these local militias. STEPHEN P. HALBROOK, THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT 60-61 (1984).

The "militia" which won the Revolutionary War consisted of all who were treated as full citizens of the community. George Mason stated, "Who are the militia? They consist now of the whole people." Sanford Levinson, *The Embarrassing Second Amendment*, 99 Yale L.J. 637, 647 (1989) (citing statement of George Mason (June 14, 1788), in 3 JONATHAN ELLIOTT, DEBATES IN THE GENERAL STATE CONVENTIONS 425 (3d ed. 1937)). Similarly, the Federal Farmer referred to a "militia, when properly formed, [as] in fact the people themselves." *Id.* (quoting RICHARD HENRY LEE, OBSERVATIONS LEADING TO A FAIR EXAMINATION OF THE SYSTEM OF GOVERNMENT PROPOSED BY THE LATE CONVENTION: LETTERS FROM THE FEDERAL FARMER TO THE REPUBLICAN 123 (Walter H. Bennett ed., 1978)).

The individual right to bear arms, a right recognized in both England and the colonies, was a crucial factor in the colonists' victory over the British army in the Revolutionary War. Without that individual right, the colonists never could have won the Revolutionary War. After declaring independence from England and establishing a new government through the Constitution, the American founders sought to codify the individual right to bear arms, as did their forebears one hundred years earlier in the English Bill of Rights.

c. The Ratification Debates

A foundation of American political thought during the Revolutionary period was the well justified concern about political corruption and governmental tyranny. Even the federalists, fending off their opponents who accused them of creating an

oppressive regime, were careful to acknowledge the risks of tyranny. Against that backdrop, the framers saw the personal right to bear arms as a potential check against tyranny. Theodore Sedgwick of Massachusetts expressed this sentiment by declaring that it is "a chimerical idea to suppose that a country like this could ever be enslaved . . . Is it possible . . . that an army could be raised for the purpose of enslaving themselves or their brethren? or, if raised whether they could subdue a nation of freemen, who know how to prize liberty and who have arms in their hands?" MALCOLM, *supra* at 157 (citing 2 JONATHAN ELLIOT, THE DEBATES IN THE SEVERAL STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL CONSTITUTION 97 (2d ed. 1863)). Noah Webster similarly argued:

Before a standing army can rule the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretence, raised in the United States.

Id. (citing NOAH WEBSTER, AN EXAMINATION INTO THE LEADING PRINCIPLES OF THE FEDERAL CONSTITUTION (1787), reprinted in PAMPHLETS ON THE CONSTITUTION OF THE UNITED STATES, PUBLISHED DURING ITS DISCUSSION BY THE PEOPLE, 1787-1788, at 56 (Paul L. Ford, ed. 1971) (1888)). Richard Lee Henry's view that a well regulated militia was the entire armed populace rather than a select body of men was reiterated by proponents to a bill of rights. As "M.T. Cicero" wrote to "The Citizens of America":

Whenever, therefore, the profession of arms becomes a distinct order in the state . . . the end of the social compact is defeated . . . No free government was ever founded, or ever preserved its liberty, without uniting the characters of the citizen and the soldier in those destined for the defence of the state . . . Such are a well regulated militia, composed of the freeholders, citizen and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen.

HALBROOK, *supra* at 72 (citing STATE GAZETTE (Charleston), Sept. 8, 1788).

George Mason argued the importance of the militia and right to bear arms by reminding his compatriots of England's efforts "to disarm the people; that it was the best and most effectual way to enslave them . . . by totally disusing and neglecting the militia." *Id.* at 74 (citing 3 JONATHAN ELLIOT, THE DEBATES IN THE SEVERAL STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL

CONSTITUTION 380 (2d ed. 1863)). He also clarified that under prevailing practice the militia included all people, rich and poor. "Who are the militia? They consist now of the whole people, except a few public officers." *Id.* (citing 3 ELLIOT at 425-26). Because all were members of the militia, all enjoyed the right to individually bear arms to serve therein.

The framers thought the personal right to bear arms to be a paramount right by which other rights could be protected. Therefore, writing after the ratification of the Constitution, but before the election of the first Congress, James Monroe included "the right to keep and bear arms" in a list of basic "human rights" which he proposed to be added to the Constitution. HALBROOK, *supra* at 223 n. 145 (citing James Monroe Papers, New York Public Library (Miscellaneous Papers of James Monroe)).

The framers also saw an armed populace as the safeguard of religious liberty. Zachariah Johnson told the Virginia convention their liberties would be safe because

the people are not to be disarmed of their weapons. They are left in full possession of them. The government is administered by the representatives of the people, voluntarily and freely chosen. Under these circumstances should anyone attempt to establish their own system [of religion], in prejudice of the rest, they would be universally detested and opposed, and easily frustrated. This is the principle which secures religious liberty most firmly. The government will depend on the assistance of the people in the day of distress.

MALCOLM, *supra* at 157 (citing 3 ELLIOT 646)).

Patrick Henry, also in the Virginia convention, eloquently argued for the dual rights to arms and resistance to oppression: "Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are ruined." HALBROOK, *supra* at 73 (citing 3 ELLIOT at 45). Thus, the federalists agreed with Blackstone that an armed populace was the ultimate check on tyranny. MALCOLM, *supra* at 157.

While both Monroe and Adams supported ratification of the Constitution, its most influential framer was James Madison. In *The Federalist* No. 46, he confidently contrasted the federal government of the United States to the European despotisms which he contemptuously described as "afraid to trust the people with arms." He assured his fellow citizens that they need never fear their government because of "the advantage of being armed." Don B. Kates, Jr., *Handgun Prohibition and The Original Meaning of The Second Amendment*, 82 MICH. L. REV. 204, 228 (1983) (quoting THE FEDERALIST NO. 46, at 371 (James Madison) (John C. Hamilton ed., 1864)). Many years later, Madison restated the sentiments of *The Federalist* No. 46 by declaring: "[A] government resting on a minority is an aristocracy, not a Republic, and could not be safe with a numerical and physical force against it, without a standing army, an enslaved press, and a disarmed populace." *Id.* (quoting RALPH L. KETCHAM, JAMES MADISON: A BIOGRAPHY 64, 640 (1971)).

Although on the other side of the ratification debate, Anti-Federalist Patrick Henry was unequivocal on the individual right to bear arms. During the Virginia ratification convention, he objected to the Constitution's inclusion of clauses specifically authorizing a standing army and giving the federal government control of the militia. He also objected to the omission of a clause forbidding disarmament of the individual citizen. "The great object is that every man be armed. O. [e]veryone who is able may have a gun." *Id.* at 229 (citing 3 J. ELLIOTT, *supra*, at 45).

By January of 1788, Delaware, Pennsylvania, New Jersey, Georgia and Connecticut ratified the Constitution without insisting upon amendments. Several specific amendments were proposed, but were not adopted at the time the Constitution was ratified. The Pennsylvania convention, for example, debated fifteen amendments, one of which concerned the right of the people to be armed, another with the militia. The amendment on the right to bear arms read:

That the people have a right to bear arms for the defence of themselves and their own State, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military shall be kept under strict subordination to and be governed by the civil power.

MALCOLM, *supra* at 158 (citing PENNSYLVANIA AND THE FEDERAL CONSTITUTION, 1787-1788, at 422).

The Massachusetts convention also ratified the Constitution with an attached list of proposed amendments. *Id.* In the end, the ratification convention was so evenly divided between those for and against the Constitution that the federalists agreed to amendments to assure ratification. *Id.* Samuel Adams proposed that the Constitution

[B]e never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms; or to raise standing armies, unless when necessary for the defence of the United States, or of some one or more of them; or to prevent the people from petitioning, in a peaceable and orderly manner, the federal legislature, for a redress of their grievances: or to subject the people to unreasonable searches and seizures.

Id. (citing DEBATES AND PROCEEDINGS IN THE CONVENTION OF THE COMMONWEALTH OF MASSACHUSETTS, HELD IN THE YEAR 1788, at 198-99 (Bradford Pierce and Charles Hale, ed., 1856)).

Other states which had not yet ratified the Constitution followed the Maryland convention's practice of ratifying the Constitution while submitting proposed amendments. The New Hampshire convention, for example, adopted the nine Massachusetts amendments and added three others: one to limit standing armies, a second to ensure an individual right to bear arms, and a third to protect freedom of conscience. *Id.* The proposed amendment on freedom to bear arms read: "Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion." *Id.* at 158-59 (citing 2 DOCUMENTARY HISTORY OF THE CONSTITUTION OF THE UNITED STATES, 1787-1870, at 143 (1894)).

d.

Drafting the Second Amendment

When the first Congress convened on March 4, 1789, James Madison, who had previously advocated passage of the Constitution without amendments, now pressed his colleagues to act on a bill of rights. MALCOLM, *supra* at 159. When his initial efforts failed to produce any response, he drafted his own version of a bill of rights and presented them to members of Congress on June 8 of that year. *Id.* He explained to Jefferson that he deliberately drafted the amendments to be unexceptional and therefore likely to win approval. *Id.* (citing RONALD RUTLAND, THE BIRTH OF THE BILL OF RIGHTS 209 (1991)). His version of what would later be the second amendment read:

The right of the people to keep and bear arms shall not be infringed; a well armed, and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms, shall be compelled to render military service in person.

MALCOLM, *supra* at 159.

That Madison envisioned a personal right to bear arms, rather than merely a right for the states to organize militias, is evident from his desired placement of the right in the Constitution. Madison's original plan was to designate the amendments as inserts between specific sections of the existing Constitution, rather than as separate amendments added to the end of the document. Hardy, *supra* at 609 (citing 1 ANNALS OF CONGRESS 707-08 (Joseph Gales ed., 1789)). Madison did not designate the right to keep and bear arms as a limitation of the militia clause of Section 8 of Article I. Rather, he placed it as part of a group of provisions (with freedom of speech and the press) to be inserted in "Article 1st, Section 9, between Clauses 3 and 4." *Id.* (quoting 5 DOCUMENTARY HISTORY OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA 186-87 (1905)). Such a designation would have placed this right immediately following the few individual rights protected in the original Constitution, dealing with the suspension of bills of attainder, habeas corpus, and ex post facto laws. Thus Madison aligned the right to bear arms along with the other individual rights of freedom of religion and the press, rather than with congressional power to regulate the militia. *Id.* This suggested placement of the Second Amendment reflected recognition of an individual right, rather than a right dependent upon the existence of the militia.

At that point, the Senate took up the Bill of Rights. Unfortunately, Senate debate on the issue was held in secret, and therefore no record exists of that body's deliberations. CRAMER, *supra* at 58 (citing HELEN VEIT ET AL., *CREATING THE BILL OF RIGHTS: THE DOCUMENTARY RECORD FROM THE FIRST FEDERAL CONGRESS* xix (1991)). The Senate form of the second amendment now described the militia not as "the best security" of a free state, but as "necessary to the security" of a free state, an even stronger endorsement than Madison's original description. MALCOLM, *supra* at 161. The Senators also omitted the phrase describing the militia as "composed of the body of the people." Elbridge Gerry's fear that future Congresses might expand on the religious exemption clause evidently convinced the Senate to eliminate that clause as well. *Id.* Even more important, however, was the Senate's refusal of a motion to add "for the common defense" after the phrase "to keep and bear arms." *Id.* (citing HALBROOK, *supra* at 81, n. 167). Thus the American Bill of Rights, like the English Bill of Rights, recognized the individual's right to have weapons for his own defense, rather than for collective defense. *Id.* In this form, Congress approved the Second Amendment and sent the Bill of Rights to the state legislatures for ratification. *Id.*

In retrospect, the framers designed the Second Amendment to guarantee an individual's right to arms for self-defense. Such an individual right was the legacy of the English Bill of Rights. American colonial practice, the constitutional ratification debates, and state proposals over the amendment all bear this out. *Id.* at 162. The American Second Amendment also expanded upon the English Bill of Rights' protection; while English law allowed weapons "suitable to a person's condition" "as allowed by law", the American right forbade any "infringement" upon the right of the people to keep and bear arms. *Id.*

In his influential *Commentaries on the Constitution*, Joseph Story emphasized the importance of the Second Amendment. He described the militia as the "natural defence of a free country" not only "against sudden foreign invasions" and "domestic insurrections", but also against "domestic usurpations of power by rulers." He went on to state that "[t]he right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them." 3 J. Story, *Commentaries* § 1890, p. 746 (1833).

4.

Structural Analysis

The structure of the Second Amendment within the Bill of Rights proves that the right to bear arms is an individual right, rather than a collective one. The collective rights' idea that the Second Amendment can only be viewed in terms of state or federal power "ignores the implication that might be drawn from the Second, Ninth, and Tenth Amendments: the citizenry itself can be viewed as an important third component of republican governance as far as it stands ready to defend republican liberty against the depredations of the other two structures, however futile that might appear as a practical matter." Sanford Levinson, *The Embarrassing Second Amendment*, 99 YALE L.J. 637, 651 (1989).

Furthermore, the very inclusion of the right to keep and bear arms in the Bill of Rights shows that the framers of the Constitution considered it an individual right. "After all, the Bill of Rights is not a bill of states' rights, but the bill of rights retained by the people." David Harmer, *Securing a Free State: Why The Second Amendment Matters*, 1998 BYU L. REV. 55, 60 (1998). Of the first ten amendments to the Constitution, only the Tenth concerns itself with the rights of the states, and refers to such rights in addition to, not instead of, individual rights. *Id.* Thus the structure of the Second Amendment, viewed in the context of the entire Bill of Rights, evinces an intent to recognize an individual right retained by the people.

5.

Prudential Concerns

Some scholars have argued that even if the original intent of the Second Amendment was to provide an individual right to bear arms, modern-day prudential concerns about social costs outweigh such original intent and should govern current review of the amendment. However, there is a problem with such reasoning. If one accepts the plausibility of any of the arguments on behalf of a strong reading of the Second Amendment, but, nevertheless, rejects them in the name of social prudence and the present-day consequences of an individual right to bear arms, why do we not apply such consequentialist criteria to each and every part of the Bill of Rights? Levinson, *supra* at 658.

As Professor Ronald Dworkin has argued, what it means to take rights seriously is that one will honor them even when there is significant social cost in doing so. Protecting freedom of speech, the rights of criminal defendants, or any other part of the Bill of Rights has significant costs---criminals going free, oppressed groups having to hear viciously racist speech and so on--- consequences which we take for granted in defending the Bill of Rights. This mind-set changes, however, when the Second Amendment is concerned. "Cost-benefit" analysis, rightly or wrongly, has become viewed as a "conservative" weapon to attack liberal rights. Yet the tables are strikingly turned when the Second Amendment comes into play. Here "conservatives" argue in effect that social costs are irrelevant and "liberals" argue for a notion of the "living Constitution" and "changed circumstances" that would have the practical consequence of erasing the Second Amendment from the Constitution. Levinson, *supra* at 657-58.

Other commentators, including Justice Scalia, have argued that even if there would be "few tears shed if and when the Second Amendment is held to guarantee nothing more than the state National Guard, this would simply show that the Founders were right when they feared that some future generation might wish to abandon liberties that they considered essential, and so sought to protect those liberties in a Bill of Rights. We may tolerate the abridgement of property rights and the elimination of a right to bear arms; but we should not pretend that these are not reductions of rights." Sanford Levinson, *Is the Second Amendment Finally Becoming Recognized As Part of the Constitution? Voices from the Courts*, 1998 BYU L. REV. 127, 132 (1998) (quoting Antonin Scalia, *Common-Law Courts in a Civil-Law System: The Role of United States Federal Courts in Interpreting the Constitution and Laws, in A Matter of Interpretation: Federal Courts and the Law* 3, 43 (Amy Gutmann, ed. 1997).

In response to arguments propounded by Professor Laurence Tribe and others describing the Second Amendment as being simply "seemingly state-militia-based" rather than "supporting broad principles" of private ownership of guns, Justice Scalia pointed out that it is incorrect to assume that the word "militia" refers only to "a select group of citizen-soldiers . . . rather than, as the Virginia Bill of Rights of June 1776 defined it, 'the body of the people, trained to arms.'" Antonin Scalia, *Response, in A Matter of Interpretation, supra* at 129, 136 n.13 (quoting JOYCE LEE MALCOLM, *TO KEEP AND BEAR ARMS* 136, 148 (1994)).

Justice Scalia also notes that "[t]his was also the conception of 'militia' entertained by James Madison", citing *The Federalist* No. 46 for support. *Id.* "It would also be strange", he goes on to say, "to find in the midst of a catalog of the rights of individuals a provision securing to the states the right to maintain a designated 'Militia.' Dispassionate scholarship suggests quite strongly that the right of the people to keep and bear arms meant just that." *Id.* at 137 n.13 (citing JOYCE LEE MALCOLM, *TO KEEP AND BEAR ARMS* (1994); William Van Alstyne, *The Second Amendment and the Personal Right to Arms*, 43 *DUKE L.J.* 1236 (1994)).

Justice Scalia concludes by stating that "[i]t is very likely that modern Americans no longer look contemptuously, as Madison did, upon the governments of Europe that 'are afraid to trust the people with arms,' *The Federalist* No. 46; and the . . . Constitution that Professor Tribe espouses will probably give effect to that new sentiment by effectively eliminating the Second Amendment. But there is no need to deceive ourselves as to what the original Second Amendment said and meant. Of course, properly understood, it is no limitation upon arms control by the states." *Id.*

Thus, concerns about the social costs of enforcing the Second Amendment must be outweighed by considering the lengths to which the federal courts have gone to uphold other rights in the Constitution. The rights of the Second Amendment should be as zealously guarded as the other individual liberties enshrined in the Bill of Rights.

CONCLUSION

Because 18 U.S.C. § 922(g)(8) violates the Second and Fifth Amendments to the United States Constitution the court **GRANTS** Emerson's Motion to Dismiss the Indictment. A judgement shall be entered in conformity with this opinion.

SO ORDERED.

Dated March 30, 1999.

United States V. Emerson
5th Circuit Court of Appeals, New Orleans
June, 13 2000

Presiding Judges: Garwood, DeMoss & Parker
Council for the

United States: Assistant U.S. Attorney William Mateja

Judge DeMoss: I have a 16 gauge shotgun in my closet at home. I have a 20-gauge shotgun. I also have a 30-caliber rifle at home. Are you saying these are "in or affecting interstate commerce"?

Mateja: Yes.

Judge Garwood: You are saying that the Second Amendment is consistent with a position that you can take guns away from the public? You can restrict ownership of rifles, pistols and shotguns from all people? Is that the position of the United States?

Mateja: Yes.

Judge Garwood: Is it the position of the United States that persons who are not in the National Guard are afforded no protections under the Second Amendment?

Mateja: Exactly.

Mateja then said that even membership in the National Guard isn't enough to protect the private ownership of a firearm. It wouldn't protect the guns owned at the home of someone in the National Guard.

Judge Garwood: Membership in the National Guard isn't enough? What else is needed?

Mateja: The weapon in question must be used in the National Guard. No one, even if a member of the National Guard, has a right to own guns privately.

U. S. Department of Justice
Office of the Solicitor General
Solicitor General
Washington, D.C. 20530

August 22, 2000

Dear Mr. (Name Deleted):

Thank you for your letter dated August 11, 2000, in which you question certain statements you understand to have been made by an attorney for the United States during oral argument before the Fifth Circuit in *United States v. Emerson*. Your letter states that the attorney indicated that the United States believes "that it could 'take guns away from the public,' and 'restrict ownership of rifles, pistols and shotguns from all people.'" You ask whether the response of the attorney for the United States accurately reflects the position of the Department of Justice and whether it is indeed the government's position "that the Second Amendment of the Constitution does not extend to the people as an individual right."

I was not present at the oral argument you reference, and I have been informed that the court of appeals will not make the transcript or tape of the argument available to the public (or to the Department of Justice). I am informed, however, that counsel for the United States in *United States v.*

Emerson, Assistant United States Attorney William Mateja, did indeed take the position that the Second Amendment does not extend an individual right to keep and bear arms.

That position is consistent with the view of the Amendment taken both by the federal appellate courts and successive Administrations. More specifically, the Supreme Court and eight United States Courts of Appeals have considered the scope of the Second Amendment and have uniformly rejected arguments that it extends firearms rights to individuals independent of the collective need to ensure a well-regulated militia. See *United States v. Miller*, 307 U.S. 174 (1939) (the "obvious purpose" of the Second Amendment was to effectuate Congress's power to "call forth the Militia to execute the Laws of the Union," not to provide an individual right to bear arms contrary to federal law"); *Cases v. United States*, 131 F.2d 916, 921 (1st Cir. 1942) ("The right to keep and bear arms is not a right conferred upon the people by the federal constitution."); *Eckert v. City of Philadelphia*, 477 F.2d 610 (3rd Cir. 1973) ("It must be remembered that the right to keep and bear arms is not a right given by the United States Constitution."); *United States v. Johnson*, 497 F.2d 548, 550 (4th Cir. 1974); *United States v. Warin*, 530 F.2d 103, 106-07 (6th Cir. 1976) ("We conclude that the defendant has no private right to keep and bear arms under the Second Amendment."); *Stevens v. United States*, 440 F.2d 144, 149 (6th Cir. 1971) ("There can be no serious claim to any express constitutional right of an individual to possess a firearm."); *Ouilici v. Village of*

Morton Grove, 695 F.2d 261, 270 (7th Cir. 1982) ("The right to keep and bear handguns is not guaranteed by the second amendment."); United States v. Hale, 978 F.2d 1016, 1019 (8th Cir. 1992) ("The rule emerging from Miller is that, absent a showing that the possession of a certain weapon has some relationship to the preservation or efficiency of regulated militia, the Second Amendment does not guarantee the right to possess the weapon."); United States v. Tomlin, 454 F.2d 176 (9th Cir. 1972); United States v. Swinton, 521 F.2d 1255, 1259 (10th Cir. 1975) ("There is no absolute constitutional right of an individual to possess a firearm.").

Thus, rather than holding that the Second Amendment protects individual firearms rights, these courts have uniformly held that it precludes only federal attempts to disarm, abolish, or disable the ability to call up the organized state militia. Similarly, almost three decades ago, the Department of Justice's Office of Legal Counsel explained:

The language of the Second Amendment, when it was first presented to the Congress, makes it quite clear that it was the right of the States to maintain a militia that was being preserved, not the rights of an individual to own a gun...[and] [there is no indication that Congress altered its purpose to protect state militias, not individual gun ownership [upon consideration of the Amendment] Courts...have viewed the Second Amendment as limited to the militia and have held that it does not create a personal right to own or use a gun In light of the constitutional history, it must be considered as settled that there is no personal constitutional right, under the Second Amendment, to own or to use a gun.

Letter from Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, to George Bush, Chairman, Republican National Committee (July 19, 1973) (citing, inter alia, Presser v. Illinois, 116 U.S. 252 (1886), and United States v. Miller, 307 U.S. 174 (1939)). See also, e.g., Federal Firearms Act, Hearings before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, United States Senate 41 (1965) (Statement of Attorney General Katzenbach) ("With respect to the second amendment, the Supreme Court of the United States long ago made it clear that the amendment did not guarantee to any individuals the right to bear arms.").

I hope this answers your question. Thank you again for writing.

Yours sincerely,

Seth P. Waxman

SJR

28

During Session, January - May:
State Capitol, Room 115
Juneau, Alaska 99801
(907) 465-2095
465-3810 FAX

During Interim, June - December:
716 W 4th Ave, Suite 520
Anchorage, Alaska 99501
(907) 269-0240
269-0242 FAX

Senator Loren Leman

Memorandum

To: Representative John Coghill, Chairman
House State Affairs Committee

From: Senator Loren Leman *L. Lemman*

Date: February 14, 2001

Re: Hearing request for SJR 8: Voting Sites at Military Installations

Please schedule a committee hearing for SJR 8 at your earliest convenience.

SJR 8 expresses the Legislature's support for voting at military installations.

I have attached a copy of the sponsor statement and the resolution. Please contact my staff aide Paul Roetman at extension 3712 if you require additional information.

ALASKA STATE HOUSE OF REPRESENTATIVES


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



Session
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 102

HOUSE STATE AFFAIRS COMMITTEE Representative John Coghill, Chairman

MEMORANDUM

Date: May 4, 2001
To: Suzi Lowell, Chief Clerk
From: Representative John Coghill, Chairman
House State Affairs Committee 
Re: House State Affairs Committee Schedule

Schedule for House State Affairs Committee:

Saturday, May 5th at 1:30 p.m. Room 102

SJR 28 Urging dissemination of information about the costs of long-term care services and the availability of long-term care insurance for individuals.

GARY WILKEN

SENATOR
West Fairbanks

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: (907) 451-4347
Fax: (907) 456-8163



During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

MEMORANDUM

TO: Representative Fred Dyson, Chairman
House HESS Committee

FROM: Gary Wilken
Senator, West Fairbanks

DATE: May 4, 2001

RE: Senate Joint Resolution 28
Long-Term Care Insurance

I respectfully request that Senate Joint Resolution 28 "Long-Term Care Insurance" be scheduled for a hearing before the House HESS Committee.

Senate Joint Resolution 28 directs appropriate state and federal agencies to inform the public about the high cost of long-term care services and the need for families to plan, in advance, for their long-term care needs.

Alaska's high cost of providing long-term care and our rapidly growing senior population accentuates the necessity of educating Alaskans on the availability of private, long-term care insurance and the importance of planning for their health care needs in the future.

Thank you for your assistance in this request.

GARY WILKEN

SENATOR
West Fairbanks

Interim:
1851 Fox Ave.
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During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Sponsor Statement

SJR 28: Long-Term Care Insurance

Senate Joint Resolution 28 directs appropriate state and federal agencies to inform the public about the high cost of long-term care services and the need for families to plan, in advance, for their long-term care needs.

The fastest growing population group in Alaska is people who are 65 years or older. The senior community is growing about 5 percent annually while the rest of the population is increasing but a slight 2 percent. This growth rate could almost triple to 12 percent by the year 2018. In less than 20 years, seniors will comprise a significant proportion of Alaska's total population.

These rapid growth rates are coupled with the high cost of providing long-term care in Alaska. At an average of over \$210 per day, Alaska's nursing home costs rank Number 1 nationwide; twice the national average cost of \$92 per day. This incredible expense can have a disastrous effect on families, wiping out a lifetime of savings before the elder becomes eligible for Medicaid.

Widespread use of private, long-term care insurance has the potential to protect families from the catastrophic costs of long-term care services while, at the same time, reduce the burden on Medicaid as Alaska ages. But most Americans, 76 percent, do not believe they will ever need long-term care and, therefore, do not explore the option of obtaining private, long-term care insurance.

Senate Joint Resolution 28 directs the beginning of an educational campaign to inform Alaskans about the realities of aging and how individuals can protect themselves for the future.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SJR 28
 (S) Publish Date: 4/28/01

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Long-Term Care Insurance BRU: _____
 _____ Component: _____
 Sponsor: Senator Wilken _____
 Requester: Senate HESS Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE HEALTH, EDUCATION & SOC.AL SERVICES COMMI Phone 465-3009

Senator: /s/ SENATOR GREEN Date 4/26/01
Committee Chair

LTC **TASK FORCE**
Long-Term Care Task Force



FINAL REPORT
January 1999

Representative Con Bunde, Co-chairman
Senator Gary Wilken, Co-chairman

State Capitol Building
Juneau, Alaska 99801-1182

INFORMATION ON PRIVATE LONG-TERM CARE INSURANCE

RECOMMENDATION
29

The Task Force requests the Division of Insurance compile relevant information on the need for and availability of long-term care insurance in Alaska and disseminate the information to the general public.

On March 9, 1998 Mr. Paul Willging, Ph.D., executive vice-president of the American Health Care Association, testified before the U.S. Senate Special Committee on Aging. "Most Americans (76 percent) do not believe they will ever need long-term care, but the facts are that two out of five will at some point in their lives, and that one in five over the age of 50 is at risk of needing long-term care within 12 months. None-the-less, few take any steps to plan for the possibility, believing Medicare will provide for their needs. Medicare, of course, will not. It only provides limited long-term care, so government help for most Americans comes only when they have exhausted their personal savings and are forced onto welfare."⁸¹

"Most Americans (76%) do not believe they will ever need long-term care, but the facts are that two out of five will at some point in their lives."

Private long-term care insurance coverage, must be considered as another option. Although the market is still small – the American Association of Retired Persons

ltc TASK FORCE

The Long-Term Care Task Force

"In Alaska in 1997, approximately 80 percent of nursing home costs were paid by the Medicaid program."

estimates 6 percent of older people have private policies – interest is growing. The Health Insurance Association of America (HIAA) data revealed that in 1986, fewer than 125,000 policies were in effect. Eleven years later, roughly 5 million policies had been written.⁸²

Private long-term care insurance usually pays for skilled, intermediate, or custodial care in a nursing home. It can also cover a variety of home and community-based care services. Typically, long-term care policies pay up to a specific dollar amount for covered services per day, reimbursing policy owners for expenses they incur. Annual premiums for long-term care insurance policies can range from \$250 to over \$2,500 depending on age, waiting periods, and the duration and amount of benefits.⁸³

According to the Health Care Financing Administration, approximately 80 percent of nursing home costs were paid by the Medicaid program in Alaska in 1997, while only 10 percent were paid by either private long-term care insurance or out-of-pocket. This federal-state welfare system cannot continue to exist unless a change is made. The private sector must begin to shoulder a greater portion of the financial burden. As shown, private long-term care insurance is affordable if purchased early in life. Unfortunately, many people believe that long-term care insurance is unnecessary and display a basic unwillingness to face up to their own future frailty.⁸⁴

"Alaskans should be encouraged to examine the options available through private long-term care insurance."

However, this does not mean that the issue should be dropped. Indeed, Alaskans should be encouraged to examine the options available through private long-term care insurance and ultimately, if appropriate, purchase policies that meet their individual needs. Accurate, concise, and unbiased information about long-term care insurance and the alternatives available is invaluable in this decision-making process. State government, especially through its annual publications, mailings, and mass media campaigns, has the ability to inform all residents about this issue.

The Task Force requests the Division of Insurance compile relevant information on the need for and availability of long-term care insurance in Alaska and disseminate the information to the general public by January 1, 2000. ❖

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Are you prepared for long-term care?

By Kristin Hilderbrand
For the Journal

WEALTHBUILDERS



Statistics indicate we will all feel the effects of long-term care — whether you are in need of long-term care yourself, a caregiver, an employer who experiences a loss in employee productivity, or an employee who loses valuable wages due to an obligation to provide care to a loved one.

According to the American Health Care Association, "Half of all Americans will need some form of long-term care and of that number, 40 percent will be under the age of 65."

It is important to understand what defines long-term care. LTC is the assistance you need with a lengthy illness, disability, or cognitive disorder. You might receive care in your home, in an extended care facility or a nursing home.

The type of care and the cost of that care will range from region to region. In 1999, the average cost for LTC in the Lower 48 was \$50,000 a year, while in Alaska, it runs \$143,000 a year. If you take into consideration that the average stay in a nursing home is more than two years, this is a costly proposition.

Of the \$82.8 billion spent on LTC in 1997, the federal government paid for 60 percent,

with individuals assuming 31 percent, insurance companies covering 5 percent, and other sources accounting for the remaining 4 percent. The federal government can not afford this financial burden and has responded by providing tax incentives for employers and individuals to assume more of the risk.

With the passage in 1996 of the Health Insurance Portability and Accountability Act, C-corporations can deduct 100 percent of the premium expense for LTC premiums paid on officers, owners and employees for qualified LTC plans. For pass-through entities they can deduct 60 percent of the premium expenses, with the percentage increasing to 100 percent deductibility by 2003.

In both cases, the premium contributions are generally excludable from the employee's income. For individuals who pay the premiums themselves and itemize, they can deduct the cost of LTC premiums as a medical expense, with an age-based limit guiding the eligible amount.



Hilderbrand

How will you pay for LTC? As previously mentioned, the federal government can foot the bill through its welfare program, Medicaid. However, you must spend down all your assets to \$2,000, and you may only retain your home if your spouse continues to

live there.

Be aware that while these provisions may protect these few assets while you're alive and receiving care, many states have taken the federal mandate very seriously and recouped their costs by putting liens on the homes. Furthermore, by accepting Medicaid assistance you give up to the state your right to choose the type of care you will receive.

Medicare is not designed to provide support for long-term care needs. It is designed to cover major medical, and at that it only provides 100 days of coverage, with the first 20 days at no cost to you and the remaining 80 days at \$97 per day. After the first 100 days, you will incur all of the cost.

In addition to the common

Continued on Page 8

Now's the time to decide how to pay for your long-term care

Continued from Page 4

misunderstanding that Medicare provides long-term care, Medicare Supplement Insurance only supplements your Medicare co-pay expenses. Medicare Supplement Insurance does not extend coverage.

Your final option to cover LTC expenses is to self-insure or transfer the risk to an insurance company. The best strategy for outlining whether self-insurance is the right option for you is to determine based on family medical history: "How long will

you need the coverage?" and "Where do you intend to be when you need the coverage?"

Realize that these are crystal ball scenarios but the worst thing you can do is put it off because you just can't decide. Develop a financial plan that takes into account cost and duration, then assess how much money will need to be set aside and what kind of return you can expect to cover that annual expense.

Employers need to be prepared for the impact on productivity and the bottom-line effect of

having employees exposed to the requirements of being caregivers.

The National Center for Women and Aging at Brandeis University and the National Alliance for Caregivers conducted a survey in 1999 and found that employees who served either in whole or in part as caregivers lost, over a life-

time, \$650,000 in wages.

That figure takes into account passed-over promotions and excess hours gone from work on family medical leave, including limited dollars contributed to retirement plans due to the financial burden of covering a loved-ones' long-term care expenses.

Are you prepared for the financial risks of long-term care?

Kristin Hilderbrand is an associate at The Wilson Agency in Anchorage. She can be reached at 907-277-1616 or by e-mail at kristinh@thewilson-agency.com.

Insurance Company Information

1. Name of the insurance company

The following companies that sell long-term care insurance in Alaska were identified through a November 1999 survey conducted by the Division of Insurance. This list may not include all companies offering long-term care insurance in Alaska and it does not represent an endorsement of a particular company by the division.

Aid Association For Lutherans (AAL) (This company only sells to the specific group members.)	800-225-5225
AIG Life Insurance Company	800-710-9876
Allianz Life Insurance Company of North America	800-814-8841
American Family Life Assurance Company of Columbus (AFLAC)	800-992-3522
Bankers Life and Casualty	360-254-6311
Bankers United Life Assurance Company	800-672-7202
CNA	800-775-1541
Conseco Senior Health Insurance Company	800-441-3978
Continental General Insurance Company	800-545-8905
Country Life Insurance Company	309-821-3000
GE Financial Assurance / Long Term Care Division	800-456-7766
Golden Rule Insurance Company (This company offers long-term care benefits only through life insurance policies.)	317-297-4179
Great American Life Insurance Company	800-854-3640
Hartford Life Insurance Company	800-454-4582
Life Investors Insurance Company of America	800-524-9902
Lincoln Benefit Life Company	877-525-4582

Lutheran Brotherhood	800-990-6290
(This company only sells to the specific group members.)	
Metropolitan Life Insurance Company (METLIFE)	800-308-0179
Monumental Life Insurance Company	800-821-9580
Mutual of Omaha Insurance Company	800-775-6000
Mutual Protective Insurance Company	800-228-6080
New York Life Insurance & Annuity Corporation	800-624-2570
(This company offers long-term care benefits only through annuity contracts.)	
New York Life Insurance Company	800-224-4582
Northwestern Long Term Care Insurance Company	907-272-3591
Peoples Benefit Life Insurance Company	800-698-7851
PFL Life Insurance Company	800-338-0257
Physicians Mutual Insurance Company	800-228-9100
Pioneer Life Insurance Company	800-759-7007
Protective Life Insurance Company	800-866-9933
(This company offers long-term care benefits only through life insurance policies.)	
Prudential Insurance Company of America	800-732-0416
Security Financial Life Insurance Company	800-284-8575
(This company offers long-term care benefits only through life insurance policies.)	
Teachers Insurance & Annuity Association (TIAA)	800-223-1200
(This company only sells to the specific group members.)	
Transamerica Occidental Life Insurance Company	800-690-2758
Travelers Insurance Company	800-334-4298
Unum Life Insurance Company of America	800-672-1600

SJR

31



SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT

Senate Joint Resolution No. 31

"Urging the United State Congress to permit the use of tax exempt bonds to fund loans for veterans who served after 1976."

Alaska has chosen to offer state veterans' loan programs to resident veterans who have provided faithful service while in the U.S. armed forces before 1977. These programs have existed for many years and have assisted veterans to obtain affordable housing and make better lives for themselves and their dependents. SJR 31 would urge the United States Congress to extend these benefits to the men and women that served after 1976.

Thousands of men and women have provided faithful service to our nation after 1976, serving in peacetime as well as in hostile military confrontations in locations such as Beirut, Grenada, Latin America, the Persian Gulf, Somalia, Bosnia, and now Afghanistan. Alaska has the highest percentage of veterans per capita in the nation. Approximately 70,000 veterans in our state could potentially use the lower interest rates from this program toward home ownership. These veterans and their families are being denied under current law the opportunity to participate in these state veterans' home loan programs.

The United State Congress is considering measures to extend the authorization to serve this new, large group of veterans that have served our country since 1977. We respectfully urge the 107th United States Congress to support H.R. 959 and S. 615 to remove the discriminatory portion of the Internal Revenue Code in order that veterans who served after 1976 and their families may enjoy the same benefits as their earlier counterparts.

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-4940 • FAX (907) 465-3766

ANCHORAGE: 716 W. 4th AVE. • STE. 450 • ANCHORAGE, AK 99501 • (907) 269-0106 • FAX (907) 269-0109

KENAI: 145 MAIN STREET LOOP • KENAI, AK • 99611 • (907) 283-7996 • FAX (907) 283-3075

Vice-Chair, Senate Finance Committee • Vice-Chair, Senate Transportation • Member, Senate Health Education & Social Services
Senator_Jerry_Ward@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SJR 31
 (S) Publish Date: 2/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Tax Exempt Bonds to Fund Veterans I BRU _____
 Component _____
 Sponsor Senator Ward _____
 Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4797
 Division _____ Date/Time _____
 Approved by: /S/ Senator Theriault, Chair Date 2/6/02
 Agency _____




SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

MEMORANDUM

TO: Representative John Coghill, Chair
House State Affairs

FROM: Senator Jerry Ward 

DATE: March 15, 2002

SUBJECT: Request for Hearing – SJR 31

I respectfully request a hearing for SJR 31, "Urging the United State Congress to permit the use of tax exempt bonds to fund loans for veterans who served after 1976." Enclosed is a copy of the bill, Sponsor Statement and fiscal note.

Thank you for your consideration of this request. If you or your staff should have any questions, please contact me at 465-4940.

SJR

37

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2327
Fax: (907) 465-5241



Interim:
119 N. Cushman
Fairbanks, AK 99701
Phone: (907) 456-8161
Fax: (907) 456-8163

Senator Pete Kelly
District P

SJR 37 Sponsor Statement

Proposing an amendment to the Constitution of the State of Alaska relating to officers and employees of the executive branch.

The State of Alaska is facing a budget gap that is unprecedented in its history. The Constitutional Budget Reserve cannot continue to fill this deficit under current projection scenarios and is anticipated to run out in the near future.

A reduction of state government growth is imperative in the face of continuous budget deficits. One of the most logical first steps to address these budgetary problems is to introduce a hiring freeze. Unfortunately, because of the separation of powers doctrine the legislature cannot set policies such as a hiring freeze without the specific constitutional authority set out in SJR 37.

Though SJR 37 will have no impact on the current administration it will be a useful tool future legislatures can employ to address potential budgetary problems.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR 37
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title Constitutional amendment BRU Elections
officers/employees of the executive branch Component Elections
 Sponsor Senator Kelly
 Requester Senate State Affairs Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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--Do not abbreviate)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

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. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumiai, Election Administrative Supervisor
 Division: Division of Elections
 Approved by: Lieutenant Governor Fran Ulmer
 Agency: Office of the Lieutenant Governor

Phone 465-3935
 Date/Time 2/22/02 12:28 PM
 Date 02/22/2002



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • TTY/TDD (360) 753-6466

GOVERNOR'S DIRECTIVE No. 02-01

TO: State Elected Officials
Agency Directors
Presidents of Higher Education Institutions
State Boards and Commissions

FROM: Gary Locke, Governor

DATE: February 21, 2002

SUBJECT: Directive to Freeze Hiring, Travel and Equipment Purchases

A worsening state revenue outlook requires immediate action to freeze hiring, travel, and equipment purchases. We are now looking at a deficit of more than \$1.6 billion in the 2001-03 biennial budget as a result of a lower revenue forecast and higher forecasts for public school enrollment, social service caseloads, and juvenile rehabilitation and prison populations.

Beginning February 22, 2002, all state agencies under my direction will impose a hiring freeze. Exempted from this freeze are positions that directly serve public safety and essential health and welfare activities of state government. I also call upon the presidents of higher education institutions, boards and commissions, and our separately elected officials to impose similar restrictions within their agencies and jurisdictions.

Additional exemptions from the hiring freeze may be granted as vacancies occur in critical areas in the rest of government based on a written justification provided to and approved by the director of the Office of Financial Management.

We all recognize the practical difficulties and complications of implementing a hiring freeze. While this is not going to be easy, I ask each manager to use common sense, good judgment, and creativity to aggressively accomplish the ultimate goal of this directive: to save taxpayer dollars through FTE reductions. In addition, non-essential travel and non-essential equipment purchases made with state funds are frozen until further notice.

In implementing this order, agencies shall comply with the appropriate contractual provisions of any current collective bargaining agreement made with their employees. Agencies shall also comply with guidelines and reporting requirements as directed by the Office of Financial Management in separate instructions.

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Office of Governor Gary Locke

FOR IMMEDIATE RELEASE - February 19, 2002

Contact: Governor's Communications Office, 360-902-4136

Locke may order across-the-board budget cuts

OLYMPIA – Gov. Gary Locke today said a worsening state revenue outlook will likely mean deeper budget cuts and may require him to order an across-the-board budget reduction.

"Today's announcement by the state Office of the Forecast Council is sobering," Locke said, referring to the official state revenue forecast downturn of \$246.8 million. "We are now looking at a deficit of more than \$1.5 billion in the 2001-03 biennial budget and that deficit may grow with tomorrow's forecast on school enrollment, rising social service caseloads and increasing prison populations."

Noting that Washington's situation is not unique, Locke said, "A national economic recession intensified by the events of September 11 has left our state and 39 others facing budget shortfalls in the billions of dollars. Today's revenue announcement means we must tighten our belts even more."

Locke said he already has taken action to impose a hiring freeze in addition to the 1,685 full-time equivalent (FTE) reductions since July. He also restricted state employee travel and imposed a freeze on equipment purchases. He added that more severe measures will be necessary to offset the serious revenue losses caused by the effect of the Sept. 11 terrorist attacks on the national and state economies.

The governor met this morning with legislative leadership and budget chairs and pledged to work with them to find a solution to the growing budget problem.

"As I have said all along, it remains my hope that the state budget be balanced without a general tax increase," Locke said.

The governor also will ask the Legislature to consider eliminating cost of living adjustments (COLAs) for state workers and state vendors.

Locke suggested other cost-saving options including an additional across-the-board reduction in all state agency budgets.

In addition to budget cuts, Locke suggested increasing revenue by closing outdated tax exemptions. The governor has asked the Office of Financial Management to review the tax exemptions and report back on its findings.

"These are difficult times but we have gotten through them before and we will get through them again if we work together," Locke concluded.

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsourc.com/local/59009_revenue20.shtml

Locke puts a freeze on state hiring

Also possible: Tax increase, program cuts, delayed raises

Wednesday, February 20, 2002

By ANGELA GALLOWAY
SEATTLE POST-INTELLIGENCER REPORTER

OLYMPIA -- Gov. Gary Locke yesterday imposed an immediate state hiring freeze and said the state may need to raise taxes, make sweeping program cuts and stall pay raises for state workers -- even blocking voter-mandated teacher raises -- to fill a budget gap of \$1.6 billion.

While saying it's still his "hope" that he and the Legislature can avoid a broad tax increase, such as to sales or business taxes, Locke offered his softest stance on that yet. "Any general tax increase should be a last resort," the Democratic governor said. "And I'm not prepared to say that we need to go there."

But he did say that it is time to consider repealing more state tax exemptions, as many lawmakers -- particularly Democrats -- have said for weeks.

State officials yesterday announced the third consecutive drop in the state's revenue forecast. Projected tax income over the next 16 months -- which had already dropped by \$914 million since September -- fell another \$247 million to below \$21 billion yesterday.

Today, another forecast council is expected to announce about \$100 million in unanticipated state program cost increases, such as for health care for the poor and public school enrollments.

That would bring the state's budget gap of \$1.25 billion in January up to \$1.6 billion. Most of that would have to be made up in the second year of the current \$23 billion biennial operating budget.

"It's very, very grave," said Rep. Jack Cairnes, R-Covington, a leader of the House Finance Committee.

In some corners, the news has even spurred new interest in one proposal to temporarily raise sales tax by about half a cent, dubbed the "freedom surcharge."

In addition to softened anti-tax rhetoric -- including from the GOP -- substantial spending cuts are on the table:

- Locke said he is "actively" considering across-the-board cuts of about 6 percent to all state programs -- including public schools and prisons -- although basic education would be protected. But some leading Democrats said that's too Draconian. "It's like taking a machete to the budget," said Seattle Democrat Helen Sommers, chairwoman of the House Appropriations Committee.
- Lawmakers agreed that substantial cuts to state programs would be necessary, from slashes in social services to temporary park closures, said Spokane Democratic Sen. Lisa Brown, the upper chamber's budget writer. Also, the Senate probably will propose triple the public school cuts that Locke recommended in December, and colleges probably face both tuition increases and funding cuts, she said.
- In December, Locke proposed stalling July cost-of-living raises for state employees by two months.,,

Yesterday, he suggested skipping altogether the 2.6 percent raises for the state's 100,000 workers next year -- saving about \$85 million but raising the specter of worker walkouts. In addition, Locke said the state might need to save \$90 million by blocking the 3.4 percent raises for public schoolteachers that voters approved in a November 2000 statewide initiative. That would require a two-thirds vote of the Legislature.

- In addition to freezing hiring, Locke froze equipment purchases and restricted state worker travel. Critical services such as prison guards and Washington State Patrol troopers are exempt from the hiring freeze, he said.

The revenue forecast was not the only bad news yesterday. The state continues to have among the worst unemployment rates in the country, with a new 8.2 percent jobless rate.

State figures also show that 65,000 jobs were lost last year, barely counting recent layoffs at The Boeing Co. Of those, 85 percent were in King County. Many were in construction and Internet-related businesses, said Chang Mook Sohn, the state's chief economist.

Unlike in the national economy, there's no indication that Washington will recover anytime soon from its recession, officials said.

"King County is clearly leading the rest of the state into a much deeper recession than any time since the 1980s," Sohn said.

It adds up to a grim political battle facing the Legislature and governor. Senate Democrats had planned to release their budget proposal next week -- but now predict delay while they hammer out unpopular spending cuts and politically painful tax increases.

And both sides staked out traditional but sobered partisan positions. Democrats said tax hikes must be on the table. Republicans said all state spending should be re-examined.

"I don't see how it is possible to tax ourselves out of this," Cairnes said. "My caucus will not look at significant tax increases until we see a good-faith effort on the part of the Democrats to control spending."

But he did not rule out at least incremental tax increases, saying, "I'm not sure we can get through this just strictly with cuts."

Rep. Lynn Kessler, Democratic majority leader, said it's time to revive proposals to expand gambling to raise more in taxes, such as a bill that would allow thousands of slot machines in mini-casinos, bars and restaurants. "We have to go scouring through and see what we can dig out," Kessler said.

And some are interested in the two- or three-year sales tax surcharge suggested by Sen. James Hargrove, D-Hoquiam, she said. "I don't know if we have to do that. We don't want to close the door on anything," Kessler said.

Brown, the budget chairwoman, yesterday introduced legislation to allow the Legislature to raise taxes and take money out of reserves by a simple majority -- rather than the two-thirds vote required by 1993's voter-approved Initiative 601.

"It just gives us some flexibility for solving the budget crisis," Brown said. "I'm just putting a couple options out there."

GOP lawmakers -- who had been calling for a state hiring freeze for months -- said it was about time Locke responded.

But the governor needs to offer more than talk on the other ideas he floated yesterday, such as state worker pay freezes, some said.

"He's been considering it for the last year. It's time to make a recommendation or not," said Rep. Barry Sehlin, R-Oak Harbor. "But I certainly endorse the ideas."

Greg Devereux, of the largest state employee's union, said walkouts are possible if the state freezes pay. Weeks ago, the union backed a hiring freeze, he added. But "eliminating (cost-of-living adjustments) is just another tax on state employees," Devereux said.

Rich Wood, spokesman for the statewide teachers' union, the Washington Education Association, said, "Now is not the time to cut public education."

The state's economic pain is most obvious in the job market. The Washington jobless rate jumped to 7.5 percent last month, fueled in part by mass Boeing layoffs.

The state job market for seasonal workers is even worse. The unemployment rate unadjusted for seasonal variations, such as holiday hiring and construction work, soared to 8.2 percent in January from 7.3 percent in December, according to state data.

Since the state economy began cooling early last year, the unemployment rate has steadily risen, from 5.5 percent last January to 7.4 percent in December, the Employment Security Department reported yesterday. The rates are adjusted for seasonal changes.

Last month, the jobless rate stood at its highest point in nine years, according to one local economist.

"The overall picture remains the same: namely, a recession more severely concentrated in the metropolitan Seattle economy than in the rest of the state," said Roberta Pauer, a Seattle-based economist for the Employment Security Department.

Pauer predicts Washington will remain mired in recession at least through this summer.

Seattle continues to experience the most severe contraction, absorbing 78 percent of the 63,700 jobs lost around the state in the past year, Pauer said.

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SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsource.com/local/58441_welfare15.shtml

Locke cuts back welfare programs

Demand outstrips money available; subsidized child care takes a hit

Friday, February 15, 2002

By ANGELA GALLOWAY
SEATTLE POST-INTELLIGENCER REPORTER

OLYMPIA -- Gov. Gary Locke is eliminating nearly \$60 million in welfare reform programs -- partly by cutting 1,000 working poor families off subsidized child care -- to fill a new deficit in welfare money.

For years, Washington state enjoyed surpluses of \$200 million a year in its \$900 million annual budget for welfare reform, thanks to a drop in caseloads of more than 40 percent.

And the Legislature and Locke diverted much of the state's share of the surpluses into social and other programs. About \$200 million went to education, officials said.

But, in recent months, demand for the WorkFirst reform program has outstripped what's left of the money. For example, the state underestimated demand for child care assistance -- today the largest program within welfare, even surpassing cash grants -- by \$35 million over the next 18 months. In August, 43,000 families received such subsidies -- 2,000 more than anticipated.

In addition, demand in the last two months for public assistance has grown because of the recession. In December and January alone, 2,800 new families qualified for Temporary Assistance for Needy Families (TANF).

"We told them this would happen...that when the economy went down there would be more people in there," said Sen. Darlene Fairley, D-Lake Forest Park.

Yakima Republican Sen. Alex Deccio added that the state should have waited to see how the first five years of welfare reform went before raiding the surpluses.

The federally mandated program aims to move people off public assistance rolls and into jobs through training, child care and other help. About 60 percent of the money comes from the federal government and the rest is from the state.

No one will lose those TANF grants in Locke's cuts, officials said. The cuts to child care subsidies amount to \$22.6 million from an annual budget of \$300 million.

But some politicians and social service advocates say the cuts could have been prevented -- particularly cuts Locke made to child care and education programs.

"This does have grave implications -- there's no doubt," Rep. Kip Tokuda, D-Seattle, said of the cuts.

And some lawmakers say it's time to rein in the sole discretion they granted the governor in how to spend surpluses in 1997. "It's a consideration -- which I wasn't willing to say several months ago," Tokuda said.

Locke's cuts include:

Reducing income eligibility for subsidized child care from 225 percent of the federal poverty level to 200 percent, saving \$3 million. For a family of three, the top allowed income drops from nearly \$33,000 a year to \$29,260.

Increasing co-payments for child care by \$5 a month, up to between \$15 and about \$300 a month, to raise \$13.5 million.

\$7.5 million for Families That Work, which helped parents with literacy, parenting and basic job skills. Ken Miller, Locke's welfare adviser, said the program hasn't failed, but its benefits aren't enough to justify its cost in the current budget climate.

\$5.4 million for the Job Success Coach program, designed to keep people in jobs.

\$3 million for a practice job program that placed welfare reform participants in unpaid work so they could learn job skills. The program hasn't worked, Miller said.

\$3.1 million for new pilot projects. The welfare reform program was constantly trying new ways to move people from public assistance to the work force, Miller said, but can't afford to experiment now.

In addition to diverting hundreds of millions of welfare surplus dollars into the general fund, the state used them to create other programs for the poor. That's in part because federal officials warned states to spend down surpluses because they wouldn't look good in welfare reform budget talks in Congress this year, said Marty Brown, Locke's budget director.

Miller said, "There are a lot of things to use the money for and we think they were used wisely."

For example, \$24 million a year went to tuition and child care assistance for vocational students of community colleges, he said. Another \$2.4 million went to legal aid for the poor. Locke cut the legal aid yesterday.

"I can't disagree with how the state spent (that) money," said Jean Colman, director of the Welfare Rights Organizing Coalition. "I do argue with the state putting TANF dollars into some (other welfare) programs and moving those dollars into state general fund programs.

"Making it harder for families to receive assistance in a recession is just really mean-spirited."



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

February 22, 2002

TO: State Elected Officials
Agency Directors
Presidents of Higher Education Institutions
State Boards and Commissions

FROM: Marty Brown
Director

A handwritten signature in cursive script that reads "Marty Brown".

**SUBJECT: IMPLEMENTATION INSTRUCTIONS RELATED TO
GOVERNOR'S DIRECTIVE NO. 02-01 TO FREEZE HIRING,
TRAVEL AND EQUIPMENT PURCHASES**

In response to recent revenue and caseload forecasts, the Governor has imposed a hiring, travel and equipment purchase freeze on agencies under his direction. The following instructions provide guidelines regarding the implementation of his directive.

Basic Provisions of Directive 02-01

Beginning February 22, 2002, all executive agencies are prohibited from filling new or vacant positions unless directly related to public safety, or essential health and welfare activities.

Requests for exemption from the hiring freeze for the purpose of maintaining critical services may be approved by the Office of Financial Management (OFM).

The hiring freeze applies to all positions, regardless of fund source.

Non-essential travel and equipment purchases made with any state funds are also frozen until further notice.

Agencies shall comply with the appropriate contractual provisions of current collective bargaining agreements in implementing the Governor's directive.

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Monitoring

OFM is not requiring special reports from agencies, but my staff and I will regularly monitor statewide accounting data (FTEs, travel, equipment) and, in consultation with the Department of Personnel, will review hiring, payroll and headcount reports. Inquiries may be directed to agencies based on this information. I encourage agency directors to maintain sufficient internal records for monitoring implementation of the freeze.

Activities Exempt from the Hiring Freeze

Because of their connection to the health and safety of state citizens, or to the protection of public assets, the following direct service activities are exempt from the hiring freeze:

- Direct custody, supervision and patient care in corrections and juvenile rehabilitation programs; community programs and institutions for the care of veterans, the elderly, the mentally ill, and the developmentally disabled; and the School for the Blind and School for the Deaf
- Child and adult protective services in the Department of Social and Health Services
- Washington State Patrol Crime Lab and field enforcement (troopers)
- Emergency Management within the Military Department
- Hazardous materials and methamphetamine lab response
- Fire fighting
- Public health laboratory, and emergency public health response
- Child support enforcement
- Unemployment and workers compensation payments
- Safety inspections
- Department of Fish and Wildlife enforcement officers, and park rangers

Exemption is also granted for activities directly involved in producing revenues:

- Tax and fee collection and auditing
- Financial and estate recovery

Specific hiring authorization from OFM is not required for activities that agency directors determine match the above descriptions.

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Process and Criteria for Requesting Additional Hiring Freeze Exemptions

Agencies may request additional hiring freeze exemptions from OFM for critical activities that are necessary:

- For the immediate health, safety or welfare of state citizens, or for the protection of critical state assets.
- For production or collection of state or federal revenue.
- To respond to unforeseen, emergent circumstances.

Requests for exemption should consist of the completed OFM form (attached) addressed to me and signed by the director of the agency making the request. The form must contain the following elements: description of activity requested for exemption and why it qualifies as an essential state service, number of staff involved, how the activity matches the above exemption criteria, why other staff could not be transferred within the agency to perform this service, and the consequences of not granting the exemption.

Process and Criteria for Requesting Exemptions from the Travel and Equipment Purchase Freeze

Agency directors are responsible for complying with the directive freezing non-essential travel and non-essential equipment purchases made with state funds. ("Essential" travel or equipment is that which is necessary to carry out critical state services.) I expect any out-of-state travel or significant equipment purchases to be scrutinized and decided upon by high level agency management. In addition, the agency should keep information about the nature and purpose of these expenses.

At a minimum, agencies should consider whether each travel and equipment request is absolutely necessary for maintaining essential state operations, and whether all alternatives have been exhausted.

Travel and equipment purchases in the following categories must receive pre-approval from the Office of Financial Management:

- Travel outside the continental United States
- Equipment purchases in excess of \$10,000

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Questions

Questions about budget or FTE issues can be communicated to your assigned OFM budget analyst or to the OFM compensation analyst.

Please direct personnel or human resource management questions to your agency personnel officer, or the Rules Unit at Department of Personnel.

I appreciate the challenges these actions create for state managers and am willing to assist you in whatever way possible. We are making every effort to impose realistic expectations on agencies, at the same time maintaining a commitment to the high standards of the Governor's directive. In the end, it will be the responsibility of every state manager to pursue the most frugal and practical measures to sustain critical operations.

We will continue to monitor these efforts through the end of the biennium and will re-assess the freeze as the budget situation warrants.

Agency Name: _____

**REQUEST FOR EXEMPTION FROM DIRECTIVE NO. 02-01
(2/22/02 HIRING, TRAVEL AND EQUIPMENT FREEZE)**

In order to be considered for exemption beyond those provided by the February 22 OFM Implementation Instructions, agencies must complete this form and submit it to the director of OFM.

Identify Type of Request for Exemption:

HIRING FREEZE TRAVEL EQUIPMENT

HIRING FREEZE

Description of activity requested for exemption

Identify under which exemption criteria the request is being made

Justification (why it qualifies as an essential state service)

Number of staff positions involved

Explanation of why other staff could not be transferred within the agency to perform this service

Consequences of not granting the exemption

TRAVEL

Destination:

Number of staff traveling:

Justification for Travel (Why is this essential?):

Applicable Exemption Criteria:

Explanation of why alternatives to travel won't work:

EQUIPMENT

Justification for Equipment purchase (Why is this essential?):

Applicable Exemption Criteria:

Signature of Agency Director

Tony Knowles
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE

State of Alaska
Office of the Governor



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Deputy Press Secretary
907-465-3500
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For Immediate Release: February 4, 1999

KNOWLES ANNOUNCES BUDGET AUSTERITY MEASURES

Includes Hiring Freeze, Travel and Purchasing Restrictions in Current Budget

As part of his overall plan to achieve a balanced, sustainable budget in the wake of declining oil revenues, Gov. Tony Knowles today announced \$6.25 million in cuts for the current budget year, including an immediate freeze on state hiring, travel restrictions and cutbacks in state purchasing and contracting.

"While much progress has been made over the past several years in reducing the cost of state services, more needs to be done as part of our overall plan for a long-term, sustainable, balanced budget," Knowles said. "Alaskans want assurance that as their employers, businesses and families tighten their belts, the state is doing the same."

Cuts in the current year budget include a reduction in personnel services totaling \$2.5 million, a 10 percent reduction in travel expenses of \$1.2 million, and a reduction in contracts, supplies and equipment, totaling \$2.6 million. Since there are fewer than 5 months left in the current fiscal year, the reductions have an annualized impact of about \$15 million.

Although these amounts are specific to the state's general funds, belt-tightening measures will apply to all areas of state government, regardless of funding sources.

"These cuts will involve reduced service and may require some layoffs," Knowles said. "I have asked departments to manage these reductions carefully, such as through attrition, to minimize impacts on the public."

In announcing his austerity actions, Knowles said public safety would not be compromised. Areas excluded from the cuts include trooper detachments, child protection and child support enforcement, and 24-hour institutions such as Pioneer Homes, prisons, community jails, youth correction facilities and the Alaska Psychiatric Institute. Similarly, travel for needed prisoner transfers will not be affected.

Cuts will not be made in current year funding for education and municipal grants.

Knowles said the hiring freeze applies to existing vacant positions and to new positions. Exceptions will only be allowed for positions affecting life, health and safety, such as child protection workers and public health nurses, and only at the express direction of department commissioners.

"Budget cuts alone will not solve the state's current fiscal dilemma, but are necessary given the current drop in oil prices," Knowles said. "By taking these steps in cooperation with the Legislature, I want to

show Alaskans we're serious about cutting the budget, eliminating the fiscal gap and improving on the most cost-effective delivery of state services. I believe Alaskans will support the long-range balanced budget plan I outlined last month as they see us taking the actions we do today."

The governor said he is working cooperatively with the Legislature to achieve the cuts. In recent meetings and communications with legislative leaders, including Senate President Drue Pearce, House Speaker Brian Porter and finance committee chairs, Knowles and legislators have agreed on the need for further cuts. The governor also noted he is working with Senate Minority Leader Johnny Ellis, House Minority Leader Ethan Berkowitz, and minority Democrats to achieve responsible reductions.

Knowles said today's budget cuts are the first in a series he will announce in coming weeks. Next week, he plans an announcement about efforts to work with the Legislature to reduce the size of the supplemental spending request. He will follow that with specific details about Budget Year 2000 cuts.

The governor said the austerity measures announced today should be extended to other quasi-state agencies, including the University of Alaska, Permanent Fund Corporation, Alaska Housing Finance Corporation, Alaska Industrial Development and Export Authority, Alaska Railroad and others. Reductions in their operations will produce benefits for their customers and ratepayers.

The two other branches of government, the Legislature and court system, are not covered by the governor's action.

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Broadcasters: Video excerpts from this morning's news conference with Gov. Knowles will be broadcast on the Governor's window on ARCS at 3:30 today. Radio actualities will be available on the Governor's Information Line at 800-478-5669 or 465-5213 in Juneau.