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11069 HOUSE STATE AFFAIRS

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authority thereof shall issue Writs of Election to fill such vacancies.”

Proposals to expedite special elections raise interesting concerns. What will campaigns look like in the immediate aftermath of a devastating event? Will a patriotic rally to the president bias the special elections?⁶ Will the dynamic of “normal” elections be overturned by uncertainty? Research shows that special elections to the House look very much like other open-seat congressional elections.⁷ The candidates who win often prevail because they have advantages in political experience or financial support or they run in districts biased toward their party. There is no compelling evidence of presidential referenda effects, so concerns that short-term rally effects will bias special elections appear unfounded. However, presidential approval goes up after a crisis,⁸ and elections held in the immediate aftermath of a crisis could be affected by the rally. We cannot know for sure.

The problem with special elections is that they cannot be used to reconstitute the House in a timely fashion. States often expedite special elections by eliminating party primaries in favor of party nominations, by using a first-across-the-post open election (sometimes with a runoff), or by otherwise modifying the electoral rules to minimize the time between nominations and special general elections.⁹ Ornstein’s analysis indicates that, on average, four months is needed to replace a departed member of Congress, even when states act in a timely fashion.¹⁰ If the goal is to achieve a full House in a brief period of time, the special election process is inadequate because of logistics and time demands.¹¹ Any other way of expediently reconstituting the House requires consideration of temporary, nonelected members.

How States Handle State Legislative Vacancies

As we will see below, the variety of recent proposals for dealing with sudden, massive House vacancies is interesting and creative.

Those proposals reflect a Washingtonian perspective, in that they deal with a national solution to a possible national problem. The conversation about the restoration of legislative quorums can benefit from a look inside the laboratory of federalism.

State legislatures often deal with vacancies differently than the national government does. Vacancies are more frequent, for various reasons, and the impact of a vacancy can be more telling because state legislators often meet for just a few months a year. An absence or incapacity during the legislative session can seriously debilitate a constituency.

As we look to the states for answers, we see that in 26 states the only method for filling a vacant state legislative seat is a special election.¹² Once a vacancy is established, the governor is required to call an election, assuming that there is time before the next scheduled election. Sometimes, in order to expedite filling a vacancy, special elections are conducted using rules that differ from the normal rules. Most often, though, anywhere from six weeks to four months is required to fill a seat.

Twenty-four states allow the appointment of interim legislators in the event of vacancy (Table 1).¹³ There is substantial variation in the control of the appointment. In most states governors make the appointment, though only a few states, such as Nebraska and South Dakota, allow governors substantial latitude in choosing new members. In most states with replacement by appointment, replacements are chosen from lists of potential candidates (usually three names) provided by local party committees, state party committees, county boards of supervisors, or nominating commissions. Many states require that the new member be of the same party as the departed incumbent. Some states require that the chamber confirm the appointment before the new member is seated. Candidates’ names are usually advanced by party committees or public officials who are under a high degree of control by the local constituency. The norm is to constrain executive authority with advice, consent, or direction through narrowed options.

Table 1
State Legislative Appointment Procedures

State	Appointment Procedure
Arizona	Within 10 days county board appoints member, from same party, to serve out term.
California	Senate only: Governor may appoint member to serve until next scheduled general election or until the office is filled by special election. House: Governor may fill if vacancy occurs after close of nomination period for next election.
Colorado	Provides for party vacancy committees to fill the district office with a member from the same party.
Florida	Senate: Governor may appoint a member to fill a term with less than 28 months left.
Hawaii	Appointments are made by governor if the term expires with the next general election; otherwise, appointments may be made until a special election is held.
Idaho	Legislative district party committee submits three nominees to governor, who has 15 days to choose. If committee does not act, the governor may choose on his or her own.
Illinois	Governor must appoint successor from same party within 30 days.
Indiana	District precinct committee of incumbent's party meets and chooses successor by majority vote.
Kansas	Within 21 days of vacancy, party committee of district elects member to be appointed by governor.
Maryland	Incumbent's party central committee submits name to governor.
Montana	County board(s) of commissioners submits three names, using population-weighted voting.
Nebraska	Governor appoints a qualified individual. Nevada County commissioners appoint a person of the same party as the incumbent.
New Jersey	Board of supervisors for the incumbent's party selects a candidate, who is certified by the state board of supervisors and then confirmed by the secretary of state.
New Mexico	County commissioner submits a name to the governor for appointment; in multicounty districts, the governor chooses on his or her own.
North Carolina	Party executive committee advances recommendation to governor.
Ohio	The chamber chooses an individual of the same party as the incumbent, by voice roll call.
Oregon	County commissioners must fill vacancy in 30 days. Parties nominate three to five candidates.
South Dakota	The governor appoints and fills all vacancies, or may leave seat vacant.
Utah	County/state central committee of incumbent party advances three names to governor, who picks.
Vermont	District party committees of incumbent party advance nominee to governor.
Washington	County commissioners choose a successor from the same party. If county cannot act within 60 days, the governor chooses a replacement.
West Virginia	District executive committee advances three names to governor, who chooses the successor.
Wyoming	Incumbent's party district precinct committee chooses three individuals, and the state central committee then picks a successor from the list.

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Will Appointed Members Possess an Electoral Advantage?

An implicit concern in the appointment of members of the House is that appointed legislators will accrue the advantages of incumbency without "earning" them by initially facing the electorate. Incumbent members of Congress typically accrue electoral advantages of from 8 to 12 percentage points compared with candidates for open seats.¹⁴ Almost all House incumbents who seek reelection win,¹⁵ leaving open seats as the main avenue of entry for new members.¹⁶ Lacking other knowledge, we might assume that appointed members will have a leg up in retaining the seat in a subsequent election.

Evidence from the Senate

From 1914 to 2002, 174 midterm Senate vacancies were filled through gubernatorial appointment. Of those appointees, 110 subsequently sought election in their own right. There is no evidence that appointed senators have any particular electoral advantages. Independent studies of the electoral fate of appointed senators in the 20th century indicate that appointed incumbents do worse than the proverbial coin flip at holding their seats.¹⁷ By comparison, freshmen seeking reelection have a reelection rate of 82.5 percent.¹⁸ It is worth noting that senators in general are far less secure than House members, but most nonetheless gain reelection.¹⁹

Appointed incumbents fail because they more often confront better funded or more experienced challengers, or because the electorate rejects appointing governors who either had themselves made senator or who ran after appointing a "seat warmer." Appointees of a party other than that of the previous incumbent are also less likely to win election. In sum, appointed senators perform more like candidates for open Senate seats than incumbents.

Further evidence of a responsible electorate (or skeptical electorate, if you like) comes from the treatment of corrupt bar-

gains. Self-appointed governors almost always lose, and, further, governors who run for the Senate after appointing a seat warmer usually lose nomination or election. The electorate is historically inclined to punish such political legerdemain.

Evidence from a State Legislature

How often do appointed legislators seek reelection? How often do vacancies occur? To compile complete data on state legislative vacancies, appointees, and their reelection prospects is a daunting and time-consuming task. In the absence of comprehensive evidence at present, this section presents an analysis of appointed legislators and their reelection success in one chamber, the Nebraska Unicameral Legislature.

The Nebraska appointive system is executive-strong. The governor makes an appointment from a pool of self-selected applicants and has absolute latitude in making the choice. Appointed members will not face the electorate until the next regularly scheduled general election. Elections are nonpartisan; party identification does not appear on the ballot, though candidates campaign as partisans. And incumbency is not indicated on the ballot.

Since 1993 there have been 19 vacancies in the unicameral legislature filled by gubernatorial appointment (Table 2). All 19 appointees sought subsequent election, and 5 (26.3 percent) failed to prevail. Three of twelve appointees of Gov. Ben Nelson (D, 1993-99) failed election, and two of seven appointees of Gov. Mike Johanns (F 99-) failed. Three of the four failing incumbents were beaten with over 55 percent of the vote, and five of the twelve winners had no effective opposition. The appointed incumbents lost more often than other incumbents in the unicameral, but they still fared better than the coin flip faced by candidates for open seats.

Appointed incumbents usually win election to the unicameral legislature, but they are not winning in overwhelming numbers or by consistently large margins. Members appointed by a Democratic or a Republican governor failed at similar rates in what is a decidedly

Republican state. Nebraska's experience suggests that the electorate retains control over appointed legislators.

Summary of Electoral Implications

A source of pride in the U.S. House is that no member ever served who was not chosen through popular election. The notion of appointed members, even on a temporary basis, obliterates this tradition and opens the door to legitimating less-democratic means of selecting government for the purposes of expediency. The particular concern among observers of electoral politics will be the prospect of appointed legislators accruing

advantages of incumbency without first passing competitive electoral muster.

The nearest empirical evidence, derived from legislative elections at the immediately higher level (U.S. Senate) and the immediately lower level (state legislatures), indicates that this concern is probably misplaced. In high-profile Senate contests, electorates were reluctant to retain appointed senators. Most appointees try to hang on to their seats, but they often fail nomination, and they lose general elections as often as they win. An initial examination of the success of appointed incumbents in Nebraska indicates that appointed state legislators do better than can-

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Table 2
Appointees' Election Success, Nebraska Unicameral, 1994-2002

Appointee Name (district)	Vote Share
1994	
Engel (17)	Won (vote not available)
Matzke (47)	68%
McKenzie (34)	Won (vote not available)
Monen (4)	40% (lost)
1996	
Hilgert (7)	57%
Klein (19)	47% (lost)
1998	
Pederson (42)	51%
Raires (25)	70%
Redfield (12)	57%
Suttle (10)	53%
Thompson (14)	55%
Wilhoft (34)	45% (lost)
2000	
Aguilar (35)	73%
Dickey (18)	43% (lost)
Quandahl (31)	99%
2002	
Hlava (49)	43% (lost)
Johnson (37)	100%
McDonald (41)	62%
Synowki (7)	100%

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didates for open seats but worse than other incumbents.

The true electoral implications of appointed House members are unknown. Certainly, many (if not most) appointees will be reelected, though evidence from two other legislatures with appointed members indicates that those members are not invulnerable. Competition will depend less on the presence of a designated incumbent than on the qualities of other candidates and the partisan dispositions of the constituencies. A more systematic examination of state legislative elections is called for to answer this question.

Assessment of Current Proposals

Constitutional amendments take time to ratify. They require extraordinary majorities to pass and can fail despite widespread support. The amending process is difficult in order to prevent the passage of amendments that are frivolous, topical, or driven by the passions of the moment and place crisis and urgency above sobriety and practicality. This particular debate, which seeks a remedy to a remote but real threat, also raises fundamental questions about constitutional design; federalism; and the relative power of the states, the national government, the people, and their representatives.

Different procedures exist for filling vacancies by appointment in the states. Is there a best way? Can we accommodate the goals of advocates of reform while making and implementing policy far from Washington? Need we do anything? Table 3 summarizes the proposed solutions to the issue of continuity of the House of Representatives. All have merits, as well as shortcomings. All can contribute to a federal solution to an admittedly remote but real threat.²⁰

Intrusion on Popular Control

Four proposals (the Baird amendment, the Lofgren amendment, the Specter amendment and the Ornstein proposal) are triggered by

excessive vacancies arising from death or incapacitation. The Baird, Lofgren, and Specter proposals are triggered by threshold portions of vacant seats; Ornstein's proposal is invoked if a majority of the seats of a majority of states are vacant and a majority of governors agree to declare an emergency. Two other proposals, the Davidson proposal and the Glennon proposal, address the problem with less specificity. Davidson's proposal mirrors the Seventeenth Amendment and grants to the state legislatures the authority to allow governors to appoint temporary members until such time as a special election can be held to fill the balance of the term.²¹ The Glennon proposal similarly empowers the national legislature to develop a statutory solution to address mass vacancies.²²

Of the latter two proposals, the Davidson proposal intrudes least on existing constitutional arrangements in that it leaves it to the individual states to decide how to fill congressional vacancies from those states. A variety of nonconstitutional, political issues—party continuity, the listing of alternates, the degree of autonomy granted to governors in making appointments—can be decided by the states themselves. This is not popular control, to be sure, but it is close; local constituents and local legislators decide how they will be represented in an epic emergency.

Only two states that permit the appointment of state legislators allow governors the same latitude afforded for congressional appointments under the Baird and Specter amendments. *None* of the states allows a deceased or incapacitated incumbent any degree of control over his or her successor, though the political parties in the district are often afforded control in determining lists of replacements for their incumbents. Incumbent preferences, party allegiance, and gubernatorial discretion are all political issues and as such require political solutions rather than constitutional solutions.

Is the Issue Vacancy or Catastrophe?

Are we concerned with the treatment of vacancies in general or vacancies in the event of great catastrophe? Differences between the

proposals rest first on this dimension. All but one, the Davidson proposal, contain triggers that are based on sudden and dramatic vacancies, or otherwise require a state of emergency. The Davidson proposal potentially alters the filling of legislative vacancies even in non-emergency situations. All of the remaining

proposals either empower Congress to craft legislation to address mass vacancies or direct a solution by amendment.

Some proposals require extraordinary levels of vacancy (25-50 percent of seats) to trigger the appointment amendment. Such bright lines could be potentially debilitating,

Table 3
Proposed Solutions to the House Vacancy Problem

Proposal (sponsor)	Description	Popular Checks
H. J. Res. 67 (Baird)	Constitutional amendment. If 50 percent or more of members are unable to serve due to death or incapacity, governors of affected states will appoint a new member within seven days.	Special election will be held within 90 days to choose a permanent replacement. Appointed incumbent is eligible to run.
H. J. Res. 77 (Lofgren)	Constitutional amendment. Congress may by law provide for the appointment of temporary members, to serve for any period in which 30 percent or more of the seats of the House are vacant due to death or resignation.	Replacement member serves until vacant seat is filled under applicable state special election law.
S. J. Res. 30 (Specter)	Constitutional amendment. If 50 percent or more of members are unable to serve due to death or incapacity, governors of affected states will appoint a new member within seven days.	Replacement member must be of same political party as previous incumbent. Special election will be held within 90 days to choose a permanent replacement. Appointed incumbent is eligible to run.
Ornstein Proposal	Constitutional amendment. In the event of an emergency, when the majority of a state's delegation is dead or incapacitated, the governors of affected states may make appointments to last until the congressional session ends. Sitting members will submit a list of 3-7 designated successors.	None.
Davidson Proposal	Constitutional amendment. Permits state legislatures to empower the governor to appoint temporary members for Special election is held, up to 90 days or until a special whichever comes first.	Initiative for filling any vacancy by means other than special election resides with the state legislature. Special election required to fill seat.
Glennon Proposal	Constitutional amendment Grants to Congress the authority to create legislation to address mass vacancies due to death or incapacitation.	Unknown.
H. Con. Res. 190 (Sensenbrenner, Dreier, Miller)	Legislative solution. Requires expedited special elections within 21 days if Speaker declares over 100 vacancies.	Consistent with electoral and legal environment, though Voting Rights Act may present challenges to implementation.

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because the absence of large numbers of members, but fewer than needed to trip the trigger, may be sufficient to debilitate the House. Where is the bright line? Ornstein's proposal avoids the bright line issue; it effectively places the designation of successors in the hands of the incumbents and leaves the declaration of an emergency to several governors.

The Ornstein proposal has two potentially huge flaws. The amendment could be triggered when the House had few vacancies but could go untriggered when the House lacked a majority of members. Imagine, for the moment, that the delegations of the 11 "Super-States"²³ are largely incapacitated or killed, but the other delegations are largely intact. The Ornstein Amendment *could not be legally triggered* and Congress would still lack a majority of members. Conversely, Congress could still have a quorum with the delegations of the smallest 26 states eliminated, but the emergency provision would nonetheless be triggered if the governors declared an emergency. The other problem is that it requires transmission of notice of vacancy to federal legislative officers who may very well be dead, and who cannot be replaced in the absence of a legislative quorum!

Should Appointed Members Be Eligible for Election?

If we allow appointed members, should they be eligible for election? Perhaps not. Appointment might translate into election. Making temporary appointees ineligible opens the doors for a competitive succession. But, if we make appointees ineligible, will the best decisionmakers accept those seats? Talented potential members of Congress may take a pass on a short-term seat in order to prepare for the special election.²⁴ And what of the members we do appoint? They will act without reelection in mind, without the check of voter ratification looming over their legislative decisions.

The electoral accountability of members must be preserved, and the only way to do that is to make temporary members eligible for election. Electoral data on appointed members of other legislatures indicate that the elec-

torate can exercise a high degree of control over gubernatorial preferences. Better to allow the electorate the chance to pass judgment on appointees than to appoint members who govern without the electorate's wishes ringing in their ears.

Should Party Be Institutionalized in the Constitution?

The concept of political party is not in the Constitution. The Specter amendment would, for the first time, institutionalize that concept by making party membership a qualification for interim members. Such a provision is often contained in state legislative appointment statutes or is implicit in a state's processes, but some states do not place that constraint on the gubernatorial appointment power.

The effect is to create the potential basis for a property right to legislative seats. Provisions of the Constitution are often stretched beyond their original intent via judicial interpretation. By indicating that vacant seats are the "property" of the party that won the previous election, a foundation of an argument for party proportionality in the apportionment of seats within a state might be created.

Issues of party continuity can be addressed through the state legislatures or by Congress. Opening the Constitution to issues of party is potentially dangerous, especially as the instrument of American government was written with an eye to taming factions rather than institutionalizing them.

Are There Differences in Efficiency among the Proposals?

There are pronounced differences in the efficiency of the proposals. The Davidson proposal is clearly the most efficient in terms of potential implementation, by virtue of expediting the filling of vacancies absent the existence of a crisis. It functions under uncertainty about the number of House vacancies and has no arbitrary trigger mechanism.

The efficiency of the Davidson proposal renders it potentially the most dangerous. Because it operates under nonemergency circumstances, it opens the door for individual

states to allow the temporary appointment of House members. If this amendment is adopted, it is certain that, under nonemergency circumstances, a governor somewhere will appoint a member to the House. The remaining amendments will likely never be triggered. But, by leaving the initiative with the states, it is also possible that an insufficient number of states will adopt statutes to allow for the speedy reconstitution of the House should the unthinkable occur.

The efficiencies of the remaining proposals are largely unknown. Although we know exactly how the remaining proposals are triggered, we cannot be sure how many vacant seats debilitate the House. Is it 50 percent? 25 percent? 10 percent? The Glennon proposal nicely sidesteps that problem by empowering Congress to regulate the filling of vacancies "in the event that a substantial number of members are killed or incapacitated." The Ornstein proposal, as I noted above, presents two inefficiencies in its trigger mechanism and could lead to a constitutional crisis.

Do We Want a National, One-Size-Fits-All Solution?

All of the proposals (except Davidson's) place the initiative with Congress or the governors to determine how to handle vacancies and require that vacancies in all places be handled in exactly the same manner. But, as noted above, different states have different approaches to dealing with legislative vacancies. There are even differences among the states that allow appointed temporary legislators. By virtue of political culture, history, experience, or executive distrust, most of the states constrain the ability of the governor to appoint members to vacancies. Those constraints are often local and are designed to ensure that local preferences are recognized, or that the party outcome of the last election is not overturned. State legislatures have initiative in determining how senators are replaced. The Davidson proposal is the only proposal that preserves the role of the states

in crafting policy in this area. It is consistent with the law governing the filling of vacancies in the Senate.

The Ornstein proposal places in the hands of state governors the ability to trigger the amendment, which is logical under the circumstances envisioned. It is, however, a national, one-size solution. It empowers incumbents to designate their successors, thereby placing the judgment of both good and flawed legislators ahead of the judgment of the electorate. If we are to have designated successors, might a logical extension of this policy be to require the designation of those individuals *before election* (or their approval on the ballot) so that voters make a potentially informed choice about their representation in an emergency?

The Sensenbrenner-Dreier-Miller Proposal

One proposal, advanced in late July 2003, comes from Reps. James Sensenbrenner (R-WI), David Dreier (R-CA), and Candice Miller (R-MI). The proposal (H. Con. Res. 190) provides for emergency special elections within 21 days of the Speaker's declaring 100 or more vacancies in the House. This proposal has many merits, among them that it does not alter the Constitution or create the prospect of nonelected members of Congress.

The proposal faces one great obstacle: the reality of undertaking special elections noted above and in Ornstein's testimony. Recent events in California drive home the challenges of holding unexpected, major elections on short notice, including issues of cost, personnel, filings, and law. There are other challenges to holding numerous special elections within three weeks of a declared vacancy. The problems to be addressed include the following:

- What will be the time frame for candidate filings? A day? A week? Every day allotted for filing is a day ballots are not printed.

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- Will states run special elections under existing state rules or under special federal rules?²⁵ If states use their own rules, a second round of elections will be required in three of the four most populous states in the union (California, Texas, and Florida), as well as in two other superstates (North Carolina and Georgia).²⁶
- Even if we assume a one-week filing period, can ballots be printed and distributed in two weeks? The shortest period between elections in runoff primary states is three weeks. States covered by the linguistic minority provisions of the Voting Rights Act will have to print ballots in multiple languages, further exacerbating the printing issue.
- California reduced the number of polling places to facilitate the 2003 recall. Will there be a reduction of polling places due to the expedited time frame for holding special elections? Consider also the complications under the Voting Rights Act. Under sec. 5 of the act, any change affecting voting in a covered jurisdiction, or any political subunit within it, cannot legally be enforced unless and until the jurisdiction first obtains preclearance from the U.S. District Court for the District of Columbia, or from the attorney general. To obtain preclearance, a jurisdiction must show that the voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group. Will the Justice Department grant blanket preclearance in states covered by sec. 5? There will be lawsuits whatever happens.
- Who will cover the costs of the expedited emergency elections?
- Will the short election calendar, combined with a state of emergency, affect the campaign and election result?

The Sensenbrenner-Dreier-Miller proposal, although arguably the most democratic,

mandates a solution that would be much vexed by the practical challenges of holding elections. If, however, Congress should provide funds for implementation—paying election personnel and upgrading voting technology—and also allow for either waivers of the Voting Rights Act or mandate expedited preclearance for VRA-covered jurisdictions, then this solution would be technically workable and constitutionally benign.

Conclusion

Considerations of democratic accountability and federalism suggest three maxims to guide Congress on questions of the continuity of the federal government.

Do No Harm

We need to ensure that we do not foist upon ourselves unintended legal and constitutional changes. If we are to amend the Constitution to allow for emergency measures, such changes should change the status quo no more than is necessary. The amendment should not create an unintended basis for new election law. The amendment should be as free as possible of flaws in activation, in order to avoid a constitutional crisis at the very time we do not need one. The constitutional proposals discussed above do not appear to meet the standard of nonintrusiveness.

Do It Legislatively

Nonetheless, some people might say that the current political environment requires that we do something. A legislative solution, such as the Sensenbrenner-Dreier-Miller proposal, runs up against the historic and legal realities of the conduct of special elections. However, a legislative solution does not lead to the types of unintended consequences that might arise from amending the Constitution, and it has the advantage of being quick, immediate, and harmless.

Do Nothing, Maybe

In the end, all of this may be unnecessary. The probability that we will need to replace a

large part of the House of Representatives is small. Moreover, if we are realistic, the benefits of rapidly replacing the House are also small. Congress, in the immediate wake of national crisis, acts largely as an observer and ratifying agent of executive action. In the wake of the September 11 attacks, the executive acted with tremendous independence and latitude, and Congress was left largely in the role of observer. The effect of the war rally muted almost all opposition to national security initiatives, and only now, almost two years later, do we see the emergence of a real, viable opposition to initiatives such as the Patriot Act. A fully constituted Congress was not much more of a lever against executive authority than no Congress at all would have been.

On the other hand, even the best current proposal for replacing House members, the Sensenbrenner-Dreier-Miller proposal, involves monetary costs for new technology, new procedures, and the effort to deal with the Voting Rights Act complications. Those costs are real and are perhaps greater than the benefits to be expected from new legislation. It's very unlikely that a large portion of the House will be incapacitated and very unlikely that a restocked House would serve as an effective check on executive power. Congress might be justified in concluding that real spending now for remote or nonexistent benefits in the future makes little sense.

Notes

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1. Tom Clancy, *Debt of Honor* (New York: Putnam, 1994), pp. 985-86.
2. Norman Ornstein, "What if Congress Were Obliterated? Good Question," *Roll Call*, October 4, 2001.
3. Continuity of Government Commission, *Preserving Our Institutions: The Continuity of Congress*, first report of the commission (Washington: American Enterprise Institute, 2003).
4. Even with expedited powers to fill congressional vacancies, the U.S. government will need to function for some time before vacated seats are filled. There are practical realities: The vacancy must be confirmed by a declaration of the member's death or certification of incapacitation. Then, the appointing authority must act. And the new members must join Congress and be sworn in. It will take many days or weeks to reconstitute the legislature.
5. A historic concern surrounding appointed senators is corrupt bargains. On six occasions in the 20th century, a state's governor resigned and arranged for his successor to appoint him. Nine other governors appointed weak "seat warmers" and then sought the Senate seat in a subsequent special election.
6. Walter Lippman, *Essays in the Public Philosophy* (Boston: Little, Brown, 1955); Lee Sigelman and Patricia Conover, "The Dynamics of Presidential Support during International Conflict Situations," *Political Behavior* 3 (1981): 303-18; Richard Stoll, "The Sound of Guns: Is There a Congressional Rally Effect after US Military Action?" *American Politics Quarterly* 15 (1987): 223-37; and James L. Regens, Ronald Keith Gaddie, and Brad Lockerbie, "The Electoral Consequences of Voting to Declare War," *Journal of Conflict Resolution* 39 (1994): 168-82.
7. Lee Sigelman, "Special Elections in the US House: Some Descriptive Generalizations," *Legislative Studies Quarterly* 6 (1981): 577-88; Donley Studlar and Lee Sigelman, "Special Elections: A Comparative Perspective," *British Journal of Political Science* 17 (1987): 247-56; Frank C. Feigert and Pippa Norris, "Do By-Elections Constitute Referenda? A Four-Country Comparison," *Legislative Studies Quarterly* 15 (1990): 183-200; Ronald Keith Gaddie, Charles S. Bullock III, and Scott E. Buchanan, with the assistance of Andrew Hicks, "What Is So Special about Special Elections?" *Legislative Studies Quarterly* 24 (1999): 103-12; and Ronald Keith Gaddie and Charles S. Bullock III, *Elections to Open Seats in the U.S. House: Where the Action Is* (Lanham, MD: Rowman and Littlefield, 2000).
8. See Sigelman and Conover; and Bruce Russett, *Controlling the Sword* (Cambridge, MA: Harvard University Press, 1990).
9. See Gaddie and Bullock, p. 157; and Norman Ornstein, Testimony before the Subcommittee on the Constitution of the House Committee on the Judiciary, February 28, 2002, Appendix II, pp. 14-18, <http://www.continuityofgovernment.org/pdfs/testimcnynjo020228.pdf>.
10. *Ibid.*

11. Ibid.
12. These states are Alabama, Alaska, Arkansas, Connecticut, Delaware, Georgia, Iowa, Kentucky, Louisiana, Massachusetts, Maine, Michigan, Minnesota, Missouri, Mississippi, North Dakota, New Hampshire, New York, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
13. In Arizona, California, Colorado, Idaho, Illinois, Indiana, Maryland, Nebraska, New Mexico, Nevada, North Carolina, South Dakota, Utah, Vermont, Washington, West Virginia, and Wyoming, appointment is the only mechanism for replacing departed members. In Florida, Hawaii, Kansas, Montana, New Jersey, Ohio, and Oregon, appointment and special elections are both used, depending on circumstances.
14. John Alford and David W. Brady, "Personal and Partisan Advantage in US Congressional Elections, 1846-1986," in *Congress Reconsidered*, 4th ed., ed. Lawrence C. Dodd and Bruce I. Oppenheimer (Washington: Congressional Quarterly Press, 1989); and Andrew Gelman and Gary King, "Estimating Incumbency Advantage without Bias," *American Journal of Political Science* 34 (1990): 347-62.
15. Gary C. Jacobson, *The Politics of Congressional Elections*, 4th ed. (New York: HarperCollins, 1997).
16. See Gaddie and Bullock; and Paul Herrnson, *Congressional Elections: Campaigning at Home and in Washington* (Washington: Congressional Quarterly Press, 2000).
17. James D. King, "Running on Their Own: The Electoral Success (And Failure) of Appointed US Senators," *American Politics Quarterly* 27 (1999): 434-49; and Jennifer A. Steen and Jonathan G. S. Koppell, "The Senate's Other Revolving Door: Incumbency Advantage and the Electoral Fortunes of Appointed Senators" (presentation to Annual Meeting of the Midwest Political Science Association, Chicago, April 25-28, 2002). The Continuity of Government Commission notes a 50 percent success rate for appointed senators seeking election since 1986. Continuity of Government Commission, p. 57.
18. See Steen and Koppell; and Warren Kostroski, "The Effect of the Number of Terms on the Reelection of Senators 1920-1970," *Journal of Politics* 40 (1978): 488-97.
19. Alan I. Abramowitz, "A Comparison of Voting for US Senator and Representative in 1978," *American Political Science Review* 74 (1980): 633-40; and Alan I. Abramowitz and Jeffrey A. Segal, *Senate Elections*, 2d ed. (Ann Arbor: University of Michigan Press, 1997).
20. "Federal solution," as used here, means a solution that relies on the federal system of state and national governments to find solutions, rather than just seeking a top-down national government solution.
21. The Davidson proposal is by Michael Davidson, former counsel to the U.S. Senate. His proposal takes the language governing Senate vacancies from the Seventeenth Amendment, replaces the word "Senate" or "senator" where appropriate with "House" or "representative," and empowers the states to allow the governors to appoint temporary members when any vacancy occurs. See Continuity of Government Commission, p. 51.
22. The Glennon proposal, which can be found in *ibid.*, p. 51, says, in its totality, "Congress shall have power to regulate by law the filling of vacancies that may occur in the House of Representatives in the event that a substantial number of members are killed or incapacitated." The author is Michael Glennon, who is a law professor at the Fletcher School.
23. California (53), Texas (32), New York (29), Florida (25), Illinois (19), Pennsylvania (19), Ohio (18), Michigan (15), New Jersey (13), Georgia (13), North Carolina (13)—249 members total.
24. This was certainly presumed to be the case in the early 20th century, when widows of deceased congressmen were often elected in special elections to act as seat warmers until ambitious politicians could organize for the next regular election. See Charles S. Bullock III and Patricia Lee Findley Heys, "Recruitment of Women for Congress: A Research Note," *Western Political Quarterly* 25 (1972): 416-23; and Diane D. Kincaid, "Over His Dead Body: A Positive Perspective on Widows in the U. S. Congress," *Western Political Quarterly* 31 (1978): 96-104.
25. For that matter, would special federal rules be constitutional?
26. See Gaddie and Bullock, chap. 6.

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S B

8 3

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



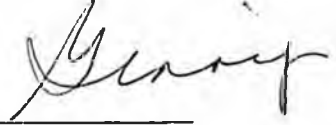
ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

STATE AFFAIRS COMMITTEE

Fax

To: Legislative Legal

From: Ginny Austerman 

Fax: 2029

Date: April 8, 2003

Phone: 2450

Pages: one

Re: CS SB 83

CC:

Urgent For Review Please Comment Please Reply

•Comments:

Today the House State Affairs Committee amended SB 83 and passed it from the Committee as amended.

Amendment # 1 – Title Change – Page 1 Line 1 - after the word “Airport” add “.” And strike “at Old Harbor”

Please complete the CS SB 83 in final form as soon as possible.

Thank you

SENATE BILL NO. 83

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR GARY STEVENS

REPRESENTATIVES Lynn, Ogg

Introduced: 2/26/03

Referred: Transportation, State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act naming the Sven Haakanson, Sr. Airport at Old Harbor."

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

3 * Section 1. AS 35.40 is amended by adding a new section to read:

4 Sec. 35.40.175. Sven Haakanson, Sr. Airport. The state airport at Old
5 Harbor is named the Sven Haakanson, Sr. Airport.

4/8/03
12:25 pm

amendment #1
(strike) per George Utermohle
leg. not necessary to amend - the law is in the title.
M

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 83
 (S) Publish Date: 3/5/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title An Act naming the Sven Haakanson, Sr. BRU Highways & Aviation
Airport at Old Harbor Component Central Region Highways & Aviation
 Sponsor G Stevens
 Requester STRA Component No. 564

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Dennis R. Poshard Phone 465-3900
 Division Special Assistant to Commissioner Date/Time 3/4/03 9:39 AM
 Approved by: Commissioner Mike Barton Date 3/4/2003
 Agency Alaska Department of Transportation and Public Facilities



Old Harbor Tribal Council

P. O. Box 62, Old Harbor, Alaska 99643
Phone: (907) 286-2215 Fax: (907) 286-2277

Honorable Gary Stevens
Alaska State Senate
State Capitol
Juneau, AK 99801

March 6th, 2003

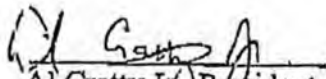
Dear Senator Stevens,

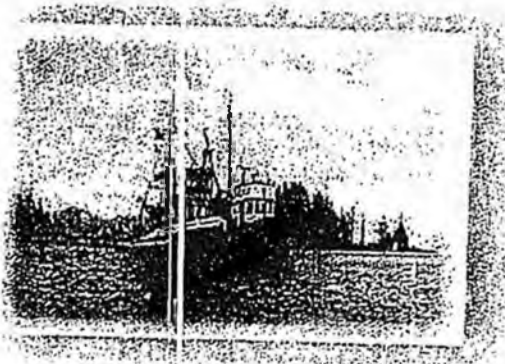
I am writing on behalf of the Old Harbor Tribal Council in full support of the Old Harbor airport being re-named the Seven Haakanson, Sr., Airport.

Although Sven's spirit is felt around us his presence will be missed for generations to come. Sven sat on the Old Harbor Tribal Council for many years, with his history of community service to his people and all on Kodiak Island, I can't think of a more appropriate name for our airport.

The profound character of Seven Haakanson will stay in the memories and hearts of the people of our village for along time to come.

Very Respectfully,


Al Cratty Jr., President



City of Old Harbor

P.O. Box 109
Old Harbor, Alaska
99643
(907) 286-2203 OR 286-2204
Fax (907) 286-2278

City of Three Saints

March 12, 2003

The Honorable Gary Stevens
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Dear Senator Stevens;

I was very delighted to hear you have sponsored SB83 that will re-name the Old Harbor Airport the "Sven Haakansan Sr., Airport. With all that Sven did for our community and his people we will be honored to have our airport named in memory of him.

Sven served as the Old Harbor Mayor for 27 years; throughout those years he accomplished many successful projects not only for our community but Island wide. The Airport project was just one of many.

Again, we will be honored to have our local airport re-named the Sven Haakansan Sr., Airport.

Sincerely,

James A. Nestic, Mayor

MAR 10 2002



KONIAG
INCORPORATED

March 4, 2003

The Honorable Gary Stevens
Alaska State Senate
State Capitol
Juneau, AK 99801

Dear Senator Stevens:

I was very pleased to learn that you have sponsored SB 83 that would re-name the airport in Old Harbor the Sven Haakanson, Sr. Airport. I believe this is entirely appropriate given Sven's long history of service to his community of Old Harbor and all the people of Kodiak Island.

Sven was mayor of Old Harbor for over twenty years. He was one of the original members of the board of directors of Koniag, Inc. in the early 1970's. He has also served on the board of directors of KANA and as a member of the Old Harbor Tribal Council. Sven is also one of only a few residents of Kodiak Island's villages to have served on the Kodiak Island Borough Assembly.

Sven's legacy and spirit will live on in the memories and hearts of the people of Old Harbor and Kodiak Island. I look forward to landing at the Sven Haakanson, Sr. Airport on my next visit to Old Harbor.

Sincerely,

Dennis Metrokin
President

cc: KANA
Koniag Region Tribal Councils
Koniag Region Village Corporations.

4300 B Street, Suite 407
Anchorage, Alaska 99503
(907) 561-2668
FAX (907) 562-5258



OUZINKIE NATIVE CORPORATION

P.O. BOX 89
OUZINKIE, ALASKA 99644
PHONE: (907) 680-2208
FAX: (907) 680-2268
1-800-680-2208

MAR 31 2002

March 26, 2003

The Honorable Gary Stevens
Alaska State Senate
State Capitol
Juneau, AK 99801

Dear Senator Stevens:

The Ouzinkie Native Corporation was very pleased to learn that you have sponsored SB 83 that would re-name the airport in Old Harbor the Sven Haakanson, Sr. Airport.

We would like you to know that we are in support of SB 83, and feel that this would give the Community of Old Harbor pride in have the airport named after a great leader of there community.

Sincerely,

Jackie Muller
Chairman

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens
Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264

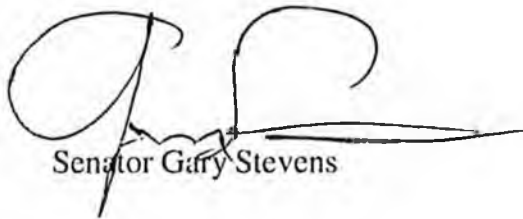
Memorandum

Date: April 4, 2003
To: Representative Bruce Weyhrauch
Chair, House State Affairs Committee
Fr: Senator Gary Stevens
Re: SB 83

I respectfully request a committee hearing on SB 83, "An Act naming the Sven Haakanson Sr. Airport at Old Harbor" at your earliest convenience.

Thank you.

Best regards,



Senator Gary Stevens

SB

146

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: May 13, 2003

FURTHER REFERRALS:

Date of Committee Action: May 14, 2003

The STATE AFFAIRS Committee considered:

SB 146

SENATE BILL NO. 146

COMMEMORATIVE VETERANS LICENSE PLATE

"An Act relating to a commemorative veterans' license plate; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 ENR
 DPS
 REV
 DOT
 UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	1	✓		

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
<i>Paul H. Seaton</i>		SEATON	✓			
<i>Bob Shively</i>		Shively				
<i>Harry Crawford Jr.</i>		HOLM CRAWFORD	✓			
Chair: <i>Billy Branch</i>		Branch	✓			
Chair:						

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 146
 (S) Publish Date: 4/9/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to commemorative BRU Motor Vehicles
veterans' license plates... Component Motor Vehicles
 Sponsor Senator Guess
 Requester (S) STA Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	2.9				2.9	
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	2.9	0.0	0.0	0.0	2.9	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	13.5	13.5	16.3	16.3	19.1	19.1

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.9				2.9	
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	2.9	0.0	0.0	0.0	2.9	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The contract cost for special-design plates is \$4.70 per pair plus a one time set-up cost of \$500.00. The initial order of plates will be 500 pairs. The initial operating budget expenditure will be \$2850.00.

Revenue - There is a one-time cost of \$100 plus \$35 at each biennial registration renewal for this special plate. It is estimated that 100 vehicle owners per year will obtain this registration. The annual revenue for the first two years would be \$13,500. After the first two years it is assumed that 80% of the owners will continue this registration.

Examples of comparable plate sales in FY02: UAF-20, UAA-4, UAS-2, Childrens' Trust-149.

Prepared by: Charles R. Hosack Phone 269-5559
 Division Motor Vehicles Date/Time 4/1/03
 Approved by: Mike Miller, Commissioner Date 4/2/2003
 Agency Department of Administration

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In Service to America®

Chapter 904 - Anchorage, Alaska "An Agenda of Service"

April 8, 2003

Senator Gretchen Guess
Alaska State Senate
Juneau, Alaska

TESTIMONY on SB146

My name is Ted Taylor and I am the President of Chapter 904 of the Vietnam Veterans of America. Our organization, although only a year plus old, has and continues to be an active and visible advocate for the development and operation of a Veterans Home in Anchorage.

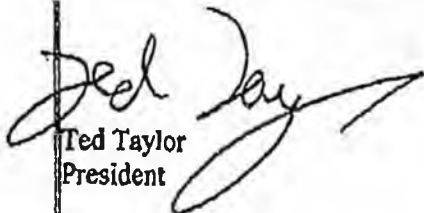
But, we have taken a different approach than what many would expect. We believe in taking care of our own and have advocated private contributions to a state fund that would augment whatever the state and the federal Veterans Administration offers for the design, construction, and operation of our first Veterans Home.

We strongly support SB146 as an appropriate means to generate recognition for our veterans and those who are still active in the armed forces of the United States, but also as a means to recognize veterans who need assistance.

We would also like to offer our services in the plate design. We have unique skills in the membership of our organization that we believe can be of significant assistance in this area.

I am also delivering today a copy of the formal position of our organization as a result of a vote of the general membership in support of SB146.

If you have any questions I would be most pleased to attempt to answer them.



Ted Taylor
President

Vietnam Veterans of America
PO Box 242552, Anchorage, Alaska 99524-2552
(907) 332-1118

Alaska Chapter 904
Web Site: www.vva904.com
Email: tayloranchorak@webtv.net



In Service to America

**Chapter 904 - Anchorage, Alaska
"An Agenda of Service"**

April 8, 2003

Senator Gretchen Guess
Alaska State Senate
Juneau, Alaska

TESTIMONY on SB 146

As you know the Vietnam Veterans of America, Chapter 904 has been a strong advocate of the development and operation of an Alaskan Veterans Home and of efforts that could provide the necessary funds. We believe SB146 will greatly assist in allowing individual Alaskans not only to express their support for our men and women in uniform, but also help provide for those veterans in need later in their lives.

We strongly support immediate passage of SB146 as it will provide one source of funding, on a voluntary basis to any Alaskan, for the much needed Alaska Veterans Home.

If it is at all possible, the Vietnam Veterans of America, Chapter 904 would like to participate in the design of the new plate.

This testimony directly reflects the unanimous vote by the general membership of Vietnam Veterans of America, Chapter 904 in support of SB146. Please submit this for the public record.

Testimony provided by:


Ric Davidge
Chairman, Legislative Affairs
VVA Chapter 904

E-mail message

From: skinnally@alaska.net (Steve Kinnally)
Date: Mon, Apr 7, 2003, 7:36pm
To: tayloranchcrak@webtv.net (Ted Taylor)
Subject: SB 146

To the Honorable Representatives and Senators,
I urge you to favorably consider SB 146, for a proposed Veterans' Commemorative License Plate, fees from which would be applied to a "Stand-alone" Alaska Veterans' Home fund. As a member of the Vietnam Veterans of America, Chapter 904 in Anchorage, it has been a primary goal of our organization to establish such a facility because, frankly, we might need it someday soon ourselves! Without detracting from the value of the current Pioneers' (and veterans) Homes, the sheer numbers of Alaska veterans will soon overcome the capacity of a "catch-all" facility. We Alaskans owe it to our veterans, as much as to our venerated Pioneers, to provide a place close to home in which to spend their final years. Please give passage of this bill your utmost, and most favorable consideration. Sincerely, Steven J. Kinnally, PA-C, CDR USNA(ret.), USMC-Vietnam, 1970-71.

Alaska State Legislature House and Senate Democrats

www.akdemocrats.org

FOR IMMEDIATE RELEASE • March 17, 2003

CONTACT: Jordan Marshall • (907) 465-3842, Toll-free (888) 465-4919, Cell: 321-3682
Fax: 465-5125, Jordan_Marshall@legis.state.ak.us

Senator Gretchen Guess Introduces Legislation Allowing Alaskans to Support Alaska's Veterans

Putting Alaskans First, Moving Alaskans Forward

JUNEAU – Senator Gretchen Guess (D-Anchorage) introduced Senate Bill 146 today, a bill to create a special request license plate commemorating Alaska veterans. The license plates could be purchased for a one-time fee of \$100, with a biennial renewal fee of \$35. The money would be available to support programs benefiting Alaska veterans, including an Alaska Veterans' Home. Currently, Alaska is the only state without a veterans' home.

"Many Alaskans would like to show support for the men and women who have served their country," said Senator Guess. "These special request license plates allow anyone to show their support for veterans by purchasing these plates, knowing their dollars will go towards supporting programs for Alaska veterans."

Currently, many special request plates exist in Alaska. License plates to benefit the Alaska children's trust, commemorating the arts, and plates to support dog mushing programs are available for purchase. Although veterans can purchase plates that recognize their military service, no license plate currently exists for Alaskans to show their support for veterans.

"With all of the uncertainties we are facing around the globe, Americans are rediscovering an appreciation for what our veterans have done for our country," said Senator Guess. "Though a small and simple gesture, purchasing an Alaska Veterans' Commemorative Plate will give people a way to express their support and thanks."

Senate Bill 146 has been referred to the Senate State Affairs committee.

###

Releases are posted online at www.akdemocrats.org

Putting Alaskans First • Moving Alaska Forward

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Gretchen Guess, Sen. Hollis French, Sen. Lyman Hoffman, Sen. Georgianna Lincoln, Sen. Donny Olson, Rep. Ethan Berkowitz, Rep. Sharon Cissna, Rep. Harry Crawford, Rep. Eric Croft, Rep. Les Gara, Rep. Max Gruenberg, Rep. David Guttenberg, Rep. Reggie Joule, Rep. Mary Kapsner, Rep. Beth Kerttula, Rep. Albert Kookesh, Rep. Carl Moses

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Memorandum

Date: May 12, 2003

To: Representative Bruce Weyhrauch
Chair, House State Affairs Committee

From: Senator Gretchen Guess

A handwritten signature in cursive script, appearing to read "Gretchen P. Guess".

Re: Hearing Request

Please consider this a formal request for a hearing of Senate Bill 146, "*An Act relating to a commemorative veterans' license plate; and for an effective date.*"

Senate Bill 146 creates a special request license plate commemorating veterans. These plates will be available for any Alaskan to purchase to show their support for Veterans and the money may be appropriated for veterans programs. A one time fee of \$100 to purchase the license plates is required; \$35 biennially to renew the license plates.

If you have any questions regarding SB 146 please feel free to contact me or my aide Maridon Boario at 2435.

Thank you very much for your consideration.

ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

Sponsor Statement SB 146

" An Act relating to commemorative veterans' license plate; and providing for an effective date."

Senate Bill 146 creates a special request license plate commemorating veterans. These plates would be available for any Alaskan to purchase to show their support for veterans and the money may be appropriated for veterans' programs. The license plates could be purchased for a one time fee of \$100, with a biennial renewal fee of \$35.

Currently, many special request plates exist in Alaska. License plates to benefit the Alaska Children's Trust, commemorating the arts, and plates to support dog mushing programs are available for purchase. Although veterans can purchase plates that recognize their military service, no license plate currently exists for Alaskans to show their support for veterans.

Proceeds from the sale of these plates as well as the renewal fees may be set aside for programs benefiting Alaska veterans, including an Alaska Veterans' Home. Alaska is the only state without a veterans' home.

SB

201

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

SENATE JUDICIARY COMMITTEE

Senator Ralph Seekins, Chairman
District D

Senate Bill 201 Sponsor Statement

“An Act relating to home care and respite care.”

Senate Bill 201 corrects errors identified by the Revisor of Statutes in Chapters 45 and 118, SLA 1994.

Specifically, Chapter 45 enacted various provisions containing a reference to a section that at the same time was repealed by Section 4 of Chapter 118. The section in question was former AS 12.62.035, relating to access to certain crime information. As a consequence of the enactment of these two bills, various sections contain a reference to something that no longer exists.

Senate Bill 201 corrects this error by replacing the repealed information with criminal history record information permitted by “Public Law 105-277 and Alaska Statute 12.62”.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB201-Law-CDCO-1-30-
Bill Version: SB201
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to home care and respite care; and providing for an effective date." RDU Criminal
Component CDCO
Sponsor Senate Judiciary
Requester Senate Health, Education and Social f Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 45.05.017 by requiring that a state funded home care provider be subject to a criminal background check under P.L. 105-277 rather than under AS 12.62.035(a).

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division: Administrative Services Date/Time 2/3/04 7:52 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/3/2004
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB201-DPS-CRI-2-2-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
Title Home & Respite Care: Criminal Records BRU Statewide Support
Component Criminal Records & ID
Sponsor Senate Judiciary
Requester Senate HSS Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The bill requires certain home health care and respite care providers to undergo national criminal record checks as authorized by federal law. Current law requires these criminal record checks, but points to a repealed state statute. It is assumed that the care providers will continue to obtain the state and national checks, both of which are authorized by law. Therefore, no change in fee receipts or service level is anticipated for the Records and Identification Bureau.

Prepared by: Diane Schenker, Criminal Justice Planner Phone 907-269-5092
Division Statewide Services Date/Time 2/2/04 4:41 PM
Approved by: Commissioner William Tandeske Date 2/2/2004
Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB201-DHSS-DPH-02-03-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title CRIMINAL HISTORY CHECKS FOR HOME AND RESPITE CARE PROVIDERS RDU Health Care Services
Component Certification and Licensing

Sponsor SENATE (JUD)

Requester SENATE (HES)

Component No. 245

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

AS 18.18 covers home health and hospice, but there are no requirements for background checks for home health or hospice providers under that statute. We do require background checks on all home health providers who provide services in the home under regulation 7 AAC 12.541. Regulations for Hospice, however, have not been adopted. Therefore, this bill would require Hospice programs to do background checks. There would be zero fiscal impact to the Department.

Prepared by: Doug Bruce, Director
Division: Public Health
Approved by: Joel S. Gilbertson, Commissioner
Agency: Department of Health and Social Services

Phone 465-3090
Date/Time 02/03/2004
Date 02/03/2004

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

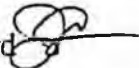
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 18, 2002

SUBJECT: 2003 Additional Revisor's Bill (Work Order No. 23-LS0118\A)

TO: Senator Robin Taylor
Chair, Legislative Council

FROM: James P. Crawford 
Assistant Revisor

The following is a sectional analysis of a draft of an additional revisor's bill submitted separately from the general 2003 Revisor's Bill drafted by Pamela Finley.

Like the general revisor's bill, this bill is prepared under AS 01.05.036. However, this bill deals with a discreet set of related errors arising from the contemporaneous enactment of ch. 45, SLA 1994 and ch. 118, SLA 1994.

Specifically, ch. 45 enacted various provisions containing a reference to a section that at the same time was repealed by sec. 4 of ch. 118. The section in question was former AS 12.62.035, relating to access to certain crime information. As a consequence of the enactment of these two bills, various sections contain a reference to something that no longer exists. The sections in question are AS 47.05.017(a), AS 47.65.050(b), and 47.65.100(e), (enacted by ch. 45 and addressed presently in sections 1, 3, and 4, respectively) and AS 47.14.100(h) (based on AS 47.10.230, also enacted in ch. 45, and addressed presently in section 2). The solution proposed in this bill simply reflects the fact that AS 12.62.035 has been repealed and makes no substantive change.

That said, there may be a greater than usual possibility that the legislature will want to reject this proposed solution and move this set of corrections to another bill in which the problem may be addressed substantively.

This possibility is suggested by the fact that starting with ch. 118, the legislature in recent years has tended to frame its crime information request statutes in more up-to-date terms of "criminal justice information," a phrase currently defined in AS 12.62.900. If this phrase were implemented in place of "former AS 12.62.035(a)" as a solution to the problem, a substantive change would occur because "criminal justice information" yields more information than that yielded under former AS 12.62.035.

For example, one sub-category of criminal justice information is "past conviction information." This one sub-category of information alone would provide information

Senator Robin Taylor
December 18, 2002
Page 2

concerning all misdemeanor offenses (as opposed to just some under former AS 12.62.035), as well as "the terms of any sentence, probation, suspended imposition of sentence, or discretionary or mandatory parole" and "information that a criminal conviction or sentence has been reversed, vacated, set aside, or been the subject of executive clemency" – information that former AS 12.62.035 did not cover.

Thus, resort to the "criminal justice information" example above as a solution to the problem, while perhaps a preferable alternative to the solution presented here, would represent a legislative policy choice more appropriately advanced through a substantive bill. However, because the possibility exists that the legislature may prefer this alternative, these related corrections have been gathered together and set out as a group in a separate revisor's bill as a means of providing a potentially convenient starting point for a substantive bill should the legislature elect to go that route.

TBC:lmb
02-167.lmb

Enclosure

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Federal Statutes Authorizing Criminal Background Checks for Nursing Facility Job Applicants and Employees

There are approximately 15 federal laws that permit criminal background checks for civil (i.e., employment and licensing) purposes. Fingerprinting, either through electronic "live scans" or paper and ink "hard cards," is required for all federal criminal background checks conducted for employment and licensing purposes.

Three of these laws permit nursing facilities to seek criminal background checks on employees and job applicants. Two of the three laws, as amended, authorize nursing facilities to seek FBI criminal background information regardless of whether the state where the facility is located has enacted its own law to permit access to state criminal background records. The third law authorizes nursing facilities to seek federal criminal background checks if the state where the facility is located has enacted a law to authorize access to state criminal background information.

Current procedures under all three federal laws require nursing facilities to channel requests for FBI criminal background information through a designated state agency. (A list of State Agency Contacts is attached.) Summaries of each law's major provisions, advantages and limitations follow.

I. Public Law 105-277

Section 124 of Pub. L. 105-277, enacted in 1998, enables nursing facilities ("NFs") and home health care agencies ("HHAs") to request fingerprint-based national criminal history checks by the FBI for employees or job applicants for positions involving direct patient care. The NF or HHA seeking the background check must contact the designated state agency to obtain fingerprint cards and then must send the completed cards along with additional information from the applicant back to the state agency for processing. The state agency then will check its own criminal history record information (CHRI) and will forward the fingerprint cards to the FBI for a check of the FBI records. If any CHRI is found by the state, FBI, or both, the designated state agency will forward it to the NF or HHA for its use in making an employment determination for the applicant.

Pub. L. 105-277 does not require states to enact implementing legislation before NFs and HHAs can request federal criminal background checks of employees or job applicants. This is intended to give all NFs and HHAs nationwide the ability to seek access to the CHRI retained by the FBI. The statute does not specify that a law enforcement agency must take the individual's fingerprints, therefore it may be permissible for a private company to perform the actual fingerprinting.

II. National Child Protection Act of 1993

The National Child Protection Act of 1993, 42 U.S.C. § 5119a, was amended by the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322 § 320928, to allow for federal criminal background checks of individuals who work for, own, or operate a business that provides care to the elderly or individuals with disabilities, as well as those who are responsible for the safety and well-being of children. This statute was amended again in 1998 by the Volunteers for Children Act, Pub. L. 105-251 § 222, to allow for federal criminal background checks even when the state does not have an authorizing statute or regulations.

Under this law, "qualified entities" (as designated by the state) may request federal criminal background checks of a "provider" pursuant to specified guidelines. If a state has a statute or regulations that require qualified entities to request such federal background checks, the state procedures must be followed in addition to the federal guidelines. A "qualified entity" is defined as a business or organization, whether public, private, for-profit, not-for-profit, or voluntary that provides (or licenses or certifies others to provide) care or care placement services to children, the elderly, or individuals with disabilities. A "provider" is defined as any person who: is an employee, an applicant for employment, or a volunteer for a qualified entity; is an owner or operator of a qualified entity; or has or may have unsupervised access to a child to whom the qualified entity provides child care. Thus, under this statute, federal criminal background checks may be obtained for owners, operators, employees, volunteers, and job applicants of entities that provide health care services to children, the elderly or disabled. It should be noted that as long as the entity is "qualified," all of its employees and volunteers are amenable to backgrounding.

Therefore, the scope of employees and/or job applicants for whom criminal background checks can be sought is broader than under Pub. L. 105-277. Under both statutes, the health care employer submits the applicant's fingerprints and identification information to the designated state agency for processing. However, the NCPA, as amended, requires that the state agency make the determination of the applicant's fitness for the job, not the employer. Both statutes allow for federal criminal background checks in the absence of state implementing legislation.

III. Public Law 92-544

Passed by Congress in 1972, Pub. L. 92-544 is an appropriations statute that provides funding to the FBI for acquiring, collecting, classifying, preserving, and exchanging identification records with duly authorized officials of the federal government, the states,

cities, and other institutions. Under this federal law, health care employers have the ability to obtain federal criminal background checks of employees and job applicants, under certain conditions. First, there must be a state law authorizing health care employers to request such background checks from state and local government officials. Second, the authorizing state statute must be approved by the Attorney General of the United States.

Regulations implementing this law give the Director of the FBI the power and authority of the Attorney General to approve and conduct exchanges of identification records with officials of state and local governments for employment and licensing purposes if authorized by a state statute that has met the approval of the Attorney General. See 28 C.F.R. § 0.85(j). Pub. L. 92-544 and its implementing regulation do not provide guidelines for obtaining federal criminal background checks. Presumably, such guidelines or procedures would be established under the enabling (or other) state statute.

The FBI, consistent with several legal opinions from the U.S. Department of Justice, has established the mandatory elements of a state statute enacted under the auspices of Pub. L. 92-544. The state statute must:

- (1) Exist as a result of a legislative enactment;
- (2) Require that the criminal background check be fingerprint-based;
- (3) Authorize the submission of fingerprints to the State Identification Bureau for forwarding to the FBI for a national criminal history check;
- (4) Identify the categories of licensees amenable to backgrounding; and
- (5) Provide that an authorized government agency be the recipient of the results of the record check.

Pub. L. 92-544 does not allow federal criminal records to be shared directly with health care employers. Like the NCPA, as amended, Pub. L. 92-544 requires that the state agency make the determination of the applicant's fitness for the job, not the employer. A table listing those states which have enacted laws authorizing criminal background checks pursuant to Pub. L. 92-544 follows as Attachment C.

Attachment A

Public Law 105-277

The steps for conducting a background check include:

- (1) The NF or HHA contacts the state Control Terminal Officer ("CTO") and/or State Identification Bureau ("SIB") to request fingerprint cards (which bear a state-of-origin number for tracking purposes);
- (2) The NF or HHA gives the fingerprint cards to the applicant;
- (3) The applicant goes to the local police department or sheriff's office to get fingerprinted, which involves:
 - (a) Providing his/her name, address, and date of birth as they appear on a government document (e.g., a driver's license);
 - (b) Certifying that he/she has not been convicted of a crime and is not under indictment for a crime, or describing the crime and facts involved; and
 - (c) Having his/her fingerprints "rolled" onto the fingerprint cards;
- (4) The applicant returns the fingerprint cards and supporting information to the NF or HHA;
- (5) The NF or HHA sends the fingerprint cards, supporting information, and FBI fee (currently \$24) to the state agency (e.g., CTO, SIB) or other agency designated by the Attorney General no more than 7 business days after the fingerprints were taken;
- (6) The FBI conducts a check of its criminal history records (which include records of serious state offenses) and provides the results of the search to the submitting state agency;
- (7) The state agency receives the federal results from the FBI and forwards them with the state results to the NF or HHA; and
- (8) The NF or HHA makes the determination whether the applicant has a criminal record which would adversely affect the employment decision. In other words, the facility does not get a yes/no answer on whether to hire the individual. The statute provides immunity to the NF or HHA for making this determination based on incomplete or inaccurate information.

*Note: the local law enforcement agency and state agency may charge separate fees. Although the statute is silent as to additional fees, the FBI has concluded that such fingerprinting and processing fees are not limited by federal law.

Attachment B

National Child Protection Act of 1993

The steps for conducting a background check include:

- (1) The NF or HHA must seek and obtain from the appropriate state agency "qualified entity" status under 42 U.S.C. § 5119(a)(1).
- (2) The qualified entity obtains from the provider (i.e., employee or applicant):
 - (1) Fingerprints (presumably taken at a local law enforcement agency or by a private company);
 - (a) A signed statement to the qualified entity that:
 - (1) Contains the name, address, and date of birth of the provider as it appears on a valid I.D.;
 - (i) The provider has not been convicted and is not under pending indictment for a crime, or a description of the crime and conviction must be given;
 - (ii) Notifies the provider that the qualified entity may request a background check;
 - (iii) Notifies the provider of the provider's rights to: obtain a copy of any background check report, challenge the accuracy and completeness of any information contained in any report, and obtain a prompt decision on that challenge before a final determination is made by the state agency; and
 - (iv) Notifies the provider that before the background check is complete, the qualified entity may restrict the provider's access to a person to whom the qualified entity provides care;
- (3) The qualified entity submits the background check request, provider's fingerprints and supporting documentation to the state agency designated to report, receive, or disseminate background check information (an "authorized agency");
- (4) The authorized agency will review state records and also transmit the fingerprints to the FBI for a national check (which will be returned to the state). The state will make a reasonable effort to provide a consolidated response to the request within 15 days;
- (5) The authorized agency makes a determination whether the provider has been convicted of, or is under indictment for, a crime that bears upon the provider's fitness to be responsible for the safety and well-being of children, the elderly, or individuals with disabilities, and conveys that determination to the qualified entity. The qualified entity then notifies the provider of the determination.

Attachment C State Agency Contacts

State contacts to facilitate the processing of nursing facility / home health care applicant fingerprints to the FBI for national criminal history background checks are listed below. States that submit or exchange fingerprint information electronically with the FBI for civil purposes, which expedites processing time, are identified by "yes" or "no." States with background check statutes enacted pursuant to Public Law 92-544 for nursing facility and/or home health employees and applicants are identified by "yes," "no," or "may." (It was not clear to the FBI whether laws in the latter category applied specifically to nursing facility personnel.)

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Alabama	No	No	Alabama Bureau of Investigation Post Office Box 1511 Montgomery, AL 36102-1511 (334) 395-4340 Att: James Potts
Alaska	Yes	Yes	Department of Public Safety 5700 Tudor Road Anchorage, AK 99507 (907) 269-5708 Att: Kathy Monfreda
Arizona	No	Yes	Arizona Department of Public Safety Post Office Box 6638 Phoenix, AZ 85005-6638 (602) 223-2400
Arkansas	No	Yes	Arkansas State Police/ID Bureau #1 State Police Plaza Drive Little Rock, AR 72209 (501) 618-8500 Att: Sherrie Ewing
California	Yes	Yes	Department of Justice, BCII Post Office Box 903417 Sacramento, CA 94203-4170 (916) 227-3324 Att: Applicant Processing Program
Colorado	No	No	Colorado Bureau of Investigation Suite 300 690 Kipling Street Denver, CO 80215 (303) 239-4301 Att: AIC R. Armstrong

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Connecticut	Yes	No	Department of Public Health 410 Capitol Avenue Hartford, CT 06134 (860) 509-7218 Att: Bureau of Admin. and Support Services
Delaware	No	Yes	Delaware State Police Headquarters Department of Public Safety Post Office Box 430 Dover, DE 19903-0430 302-739-5960 Att: Major Michael J. McDonald
District of Columbia	No	No	Dist. of Columbia Metropolitan Police Dept. 300 Indiana Avenue, NW Washington, DC 20001 202-727-4110 or 5516 Att: Deloris Hunter
Florida	No	Yes	Criminal Justice Information Services Florida Department of Law Enforcement P.O. Box 1489 Tallahassee, FL 32302 850-410-7100 Attn: Donna M. Uzzell
Georgia	Yes	No	Georgia Bureau of Investigation P.O. Box 370748 Decatur, GA 30037-0748 404-244-2601 Attn: Paul C. Heppner
Hawaii	No	No	Hawaii Criminal Justice Data Center Room 101, Kekuanao'a Bldg. 465 South King Street (808) 587-3100 Att: Hannah Kawakami
Idaho	No	Yes	Idaho State Police Bureau of Criminal Identification Post Office Box 700 Meridian, ID 83680 (208) 884-7130 Att: Maria Wiley

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Illinois	Yes	No	Illinois State Police Division of Administration P.O. Box 19461 Springfield, IL 62794-9461 217-524-4432 Att: Ted L. Stoica
Indiana	No	No	Indiana State Police 100 N. Senate Ave. Rm. 302 Indianapolis, IN 46204 (317) 232-8263 Att: Major Karen Butt
Iowa	No	No	Division of Criminal Investigation Wallace State Office Bldg. Des Moines, IA 50319 (515) 281-4776 Att: Angell Magnani
Kansas	No	No	Kansas Bureau of Investigation 1620 SW Tyler Topeka, KS 66612-1837 Att: Adult Record Unit
Kentucky	No	No	Kentucky State Police 1250 Louisville Road Frankfort, KY 40601 (502) 227-8700 Att: Lieut. Tommy Burris
Louisiana	Yes	No	Louisiana Department of Public Safety Communications Division of State Police P.O. Box 66614 Baton Rouge, LA 70896 504-925-6325 Attn: Lieutenant Jerry Patrick
Maine	Yes	No	Maine State Police 36 Hospital Street Augusta, ME 04333 207-624-7062 Artn: Major Jeffrey Harmon

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Maryland	No	May	Department of Public Safety and Correctional Services 1201 Reisterstown Rd. Pikesville, MD 21208 (410) 764-5160 x 305 Att: Mike Tarlton
Massachusetts	Yes	No	Criminal History Systems Board Criminal Justice Information Systems 200 Arlington Street Chelsea, MA 02150 617-66C 4713 Attn: John MacPherson
Michigan	Yes	No	Michigan State Police Criminal Justice Information Center 7150 Harris Dr. Lansing, MI 48913 (517) 322-1038 Att: AIT
Minnesota	Yes	Yes	Minnesota Department of Public Safety 1246 University Avenue Saint Paul, MN 55104-4197 (651) 603-0670
Mississippi	Yes	No	MS Department of Public Safety Post Office Box 958 Jackson, MS 39205 (601) 933-2600 Att: Applicant Processing Unit
Missouri	No	May	Missouri State Highway Patrol 1510 East Elm Street Jefferson City, MO 65102 573-526-6140 Att: Major William K. Seibert, Jr.
Montana	Yes	No	Justice Information Services 303 N. Roberts Street Helena, MT 59620 (406) 444-3625 Att: CSB - Records Section

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Nebraska	Yes	No	Nebraska State Patrol Post Office Box 94907 Lincoln, NE 68509 (402) 471-4545 Att: Ms. Marlene Dailey
Nevada	No	Yes	NV Highway Patrol Records and Identification Services 808 W. Nye Lane Carson City, NV 89703 (775) 687-1600
New Hampshire	No	No	New Hampshire State Police Support Services Bureau 10 Hazen Drive Concord, NH 03305 603-271-2151 Att: Major Frederick H. Booth
New Jersey	Yes	Yes	CJIS Control Unit New Jersey State Police P.O. Box 7068 West Trenton, NJ 08628-0068 609-882-2000 Ext. 2294 Att: Lieutenant Russell Dunfee
New Mexico	Yes	No	Department of Public Safety Technical and Emergency Support Division Communication Management Bureau P.O. Box 1628 Santa Fe, NM 87504-1628 505-827-9026 Att: Jeffery Wilkerson
New York	No	No	New York State Police Building #22 1220 Washington Avenue Albany, NY 12226 518-457-6811 Att: Steven Cumoletti

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
North Carolina	Yes	May	North Carolina State Bureau of Investigation Division of Criminal Information 407 North Blount Street Raleigh, NC 27601 919-733-3171 Att: Ronald P. Hawley
North Dakota	Yes	No	North Dakota State Radio Communications P.O. Box 5511 Bismark, ND 58502-5511 701-328-9628 Att: James D. Lueder
Ohio	No	Yes	Bureau of Criminal Identification Post Office Box 365 London, OH 43140 (740) 845-2200 Att: Bill Webb
Oklahoma	No	No	Oklahoma State Bureau of Investigation 6600 N. Harvey Oklahoma City, OK 73111 (405) 848-6724 Att: Ms. Debra Cooper
Oregon	Yes	Yes	Oregon State Police Identification Services 3772 Portland Road NE Salem, OR 97303 (503) 378-3070 ext. 223 Att: Lieut. Cliff Daimler
Pennsylvania	No	Yes	Pennsylvania State Police Bureau of Technology Services Operations Division 1800 Elmerton Avenue Harrisburg, PA 17110 717-787-1330 Att: Corporal John Albring

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Puerto Rico	No	No	Puerto Rico Criminal Justice Information Services G.P.O. Box 9020192 San Juan, PR 00902-0192 787-729-2121 Att: Alfonso Golderos
Rhode Island	No	No	Rhode Island State Police Technical Services Unit 311 Danielson Pike North Scituate, RI 02857 401-444-1033 Att: Brian J. Glancy
South Carolina	Yes	Yes	SC Department of Social Services Post Office Box 1520 Columbia, SC 29202 (803) 898-7635 Att: Helen Lebby, Director, Division of Child Day Care Licensing or Teresa Childers-Arnold, Legislative Liaison
South Dakota	Yes	No	South Dakota Division of Criminal Investigation 500 East Capitol Avenue Pierre, SD 57501 605-773-4636 Att: Delton K. Tipton
Tennessee	Yes	No	TN Bureau of Investigation 901 R.S. Gass Blvd. Nashville, TN 37216-2639 (615) 744-4004 Att: Mona Jamison
Texas	Yes	May	TX Department of Protective and Regulatory Services 701 West 51st Austin, TX 78751 (512) 438-4800 Att: Craig Phillips

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Utah	No	Yes	Utah Department of Public Safety Bureau of Criminal Identification 3888 West 5400 South Salt Lake City, UT 84118 (801) 965-3858 Att: Alice Emerson, Supervisor, Fingerprint Section
Vermont	No	No	VT Crime Information Center 103 S. Main Street Waterbury, VT 05671 (802) 244-8727 Att: Max Schlueter
Virginia	No	No	Virginia State Police Post Office Box 27472 Richmond, VA 23261-7472 (804) 674-2147 Att: Lieut. T.W. Turner
Washington	No	May	Washington State Patrol Post Office Box 42619 Olympia, WA 98504-2619 (360) 570-5250 Att: Identification Section
West Virginia	Yes	No	West Virginia Division of Public Safety Communications Section 725 Jefferson Road South Charleston, WV 25309 304-746-2154 Att: Sergeant Roy L. McCallister
Wisconsin	No	No	DOJ Crime Information Bureau 123 W. Washington Avenue Madison, WI 53701-2718 (608) 266-7399 Att: Dir. Michael Moschkau
Wyoming	No	May	WY Division of Criminal Investigation 316 W. 22nd Street Cheyenne, WY 82002 (307) 777-7523 Att: Criminal Records

Contact Steven G. Shandy, Program Analyst, U.S. Department of Justice, 202-514-9577 or Steve.Shandy@usdoj.gov for PL 92-544 state law citations or if you have questions.

SB

223

*needs story
insert letter
passed out
moved Halm
5/19/03*

23-LS1147A

SENATE BILL NO. 223

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Introduced: 5/14/03

Referred: State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act naming the state ferry first operating to serve between Metlakatla and
2 Ketchikan; and providing for an effective date."

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

4 * Section 1. AS 19.65.020 is amended by adding a new subsection to read:

5 (f) The Motor Vessel Lituya is the authorized name for the state ferry first
6 operating as part of the Alaska marine highway system to serve between Metlakatla
7 and Ketchikan on or after the effective date of this section.

8 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB223
() Publish Date: _____

Revision Date/Time (Note if correction): 05/07/03 Dept. Affected: DOT&PF
Title Naming the Ferry Lituya BRU Marine Highway System
Component Marine Vessel Operations
Sponsor SRUL
Requester SSTA Component No. 2604

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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	0.0	0.0	0.0	0.0	0.0	0.0
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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 (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Dennis R. Poshard Phone 465-3900
Division: Special Assistant to Commissioner Date/Time 5/16/03 10:34 AM
Approved by: Commissioner Mike Barton Date 5/16/2003
Agency: Alaska Department of Transportation and Public Facilities



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STATE OF ALASKA
OFFICE OF THE LT. GOVERNOR
JUNEAU

May 16, 2003

Senator Gary Stevens, Chairman
Senate State Affairs Committee

Dear Senator Stevens: *Gary*

It is late in the session, however I ask your cooperation in getting passage of legislation to name a state ferry currently under construction. The only way this can be accomplished is through legislation. Schoolchildren in Metlakatla are awaiting the Legislature's action.

The ferry to serve Metlakatla and Ketchikan will be launched in October 2003 and should be in service by May 2004.

A selection committee commissioned under the Office of the Lieutenant Governor selected the name *M/V Lituya* from a number of essay nominations written by the school children of Metlakatla. I have attached a copy of the selected essay from second grader Josiah Milne.

As also required by the statute (AS 19.65.020), maritime vessels are to be named after glaciers. Lituya Glacier is located near Mount Fairweather and Glacier Bay National Park in Southeast Alaska.

Thank you for your consideration and assistance in officially naming this new State ferry to improve the marine transportation system of Alaska.

Sincerely,

Loren Lemman
Lieutenant Governor

All ferries in Alaska are named after glaciers.

I picked Lituya Glacier. It is in Glacier Bay

National Monument. It was named in 1917 by

J.B. Mertle, Jr.

A glacier is a big river of ice that slides down a mountain. It carries rocks and trees down.

When glaciers calve into the water, they become icebergs.

I chose "Lituya" because it was where the biggest tsunami hit. It happened on July 1, 1958, after an 8.0 earthquake hit. It caused a large landslide in the bay. I think that we should name the new ferry "Lituya" because that was where the biggest wave hit.

Josiah Milne
2nd Grade - Moran

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99901-7898

TEXT: (907) 465-3632
FAX: (907) 586-8365
PHONE: (907) 465-3900

VIA FACSIMILE: 465-2273

May 19, 2003

The Honorable Bruce Weyhrauch
Chairman, State Affairs Committee
Alaska State Legislature
State Capitol, Room 102
Juneau, Alaska 99801-1182

Dear Representative Weyhrauch:

As with all vessels of the Alaska Marine Highway System, the Alaska Department of Transportation and Public Facilities reserves the right to utilize the M/V Lituya between communities that best serves the interest of the residents of Alaska. Initially, the M/V Lituya will serve the residents between the communities of Metlakatla Indian Community and the City of Ketchikan.

Sincerely,



Mike Barton
Commissioner

cc: Tom Briggs, Director of Marine Operations, DOT&PF

SB

227

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 27, 2004

FURTHER REFERRALS:

Date of Committee Action: April 30, 2004

The STATE AFFAIRS Committee considered:

CSSB 227(STA) am

CS FOR SENATE BILL NO. 227(STA) am

MUNICIPAL ELECTIONS

"An Act relating to municipal runoff elections and to municipal initiative and referendum elections."

Recommends it be replaced with HCS or CS for CSSB 227 _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
<u>CED</u>	<u>1</u>			<input checked="" type="checkbox"/>

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<u>[Signature]</u>	<u>Greenberg</u>				<input checked="" type="checkbox"/>
<u>[Signature]</u>	<u>SEATON</u>				<input checked="" type="checkbox"/>
<u>[Signature]</u>	<u>HOLM</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<u>LYNN</u>				<input checked="" type="checkbox"/>
Chair: <u>[Signature]</u>	<u>[Signature]</u>			<input checked="" type="checkbox"/>	
Chair: <u>[Signature]</u>	<u>[Signature]</u>				

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens

Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264



Sponsor Statement CSSB 227 (STA) am

Senate Bill 227: "An Act relating to municipal runoff elections and to municipal initiative and referendum elections".

SB 227 was introduced specifically to help local governments avoid costly special initiative elections and referendums brought forward by voters. In many cases, these measures are not so pressing in nature that they could not wait for the regular municipal election.

Special Elections are costly and generally result in a lower voter turnout than the regular election. Recently, the Fairbanks North Star Borough had over 46 petitions filed in a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was a potential for many more special elections at great cost to the municipality.

This bill could result in cost savings to municipalities who could choose to wait until the next regular election, typically in October, to consider an issue. This legislation would give the municipal governing body the option of calling a special election if the Council or Assembly wished to have the initiative and referendum considered in a more timely manner.

SB 227 will also require communities over 100,000 residents to hold a runoff election if no candidate received over 50 percent of the votes cast for the office of mayor.

This bill is supported by the Alaska Municipal League and the Kenai Peninsula Borough. I ask for your support of this important measure.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 31, 2004

SUBJECT: Sectional summary (CSSB 227(STA) am)

TO: Senator Gary Stevens
Attn: Doug

FROM: Tamara Brandt Cook
Director

Sec. 1. Adds as a new limitation on home rule municipalities the new provision dealing with runoff elections for mayors added in bill sec. 3.

Sec. 2. Technical change to accommodate the amendment under bill sec. 3.

Sec. 3. The existing runoff election requirement for the office of mayor continues to apply to general law municipalities with less than 100,000 residents. However, for home rule and general law municipalities with at least 100,000 residents a runoff election must be held if no candidate received over 50 percent of the votes cast for the office of mayor.

Sec. 4. Requires an initiative question to be presented at the next regular or special municipal election that occurs at least 60 days after certification of the initiative petition. If no election is scheduled within 75 days after certification, the governing body by ordinance may order a special election to be held.

Sec. 5. Technical correction.

Sec. 6. Requires a referendum question to be presented at the next regular or special municipal election that occurs at least 60 days after certification of the referendum petition. If no election is scheduled within 75 days after certification, the governing body by ordinance may order a special election to be held.

TBC:med
04-350.med

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 227
 (S) Publish Date: 2/19/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Muni Initiative & Referendum Elections RDU Comm Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Senator Gary Stevens
 Requester Senate Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation relates to municipal initiatives and referendum elections.

This legislation has no impact on the operations of this division.

Prepared by: Gene Kane, Director Phone (907) 269-4580
 Division Community Advocacy Date/Time 2/18/04 8:45 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/18/2004
 Agency Department of Community & Economic Development



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 10, 2004

Senator Gary Stevens
State Capitol
Juneau, AK 99801

Re: Support for SB 227

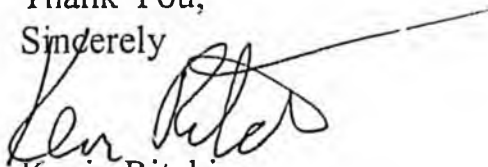
Dear Senator Stevens,

Thank you for introducing SB 227. This bill primarily removes the unfunded state mandate that municipalities hold special elections, and allows municipalities, with citizen input, to make their own decision regarding the scheduling of an election.

In times of great fiscal stress, allowing communities and citizens to save money by making local decisions on local issues is much appreciated.

The concept of the bill is strongly supported in the 2004 AML Policy Statement. The bill was also discussed again fully and endorsed by the AML Local Government Legislative Subcommittee on February 9, 2004.

Thank You,
Sincerely



Kevin Ritchie
Executive Director

By:	FNSB Assembly
Introduced:	02/12/04
Adopted:	02/12/04

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2004-15

A RESOLUTION SUPPORTING HB 322, "AN ACT REQUIRING A MUNICIPAL INITIATIVE OR MUNICIPAL REFERENDUM TO BE SUBMITTED TO THE VOTERS AT THE NEXT REGULAR ELECTION OCCURRING NOT SOONER THAN 60 DAYS AFTER CERTIFICATION OF THE INITIATIVE OR REFERENDUM PETITION" AND SB 227, "AN ACT RELATING TO MUNICIPAL INITIATIVE AND REFERENDUM ELECTIONS".

WHEREAS, AS 29.26.270 and 29.26.280 mandate that a municipality conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, special elections are costly, consume staff time for extended periods, and result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is difficult to obtain election officials and polling locations for special elections; and

WHEREAS, many municipality's are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

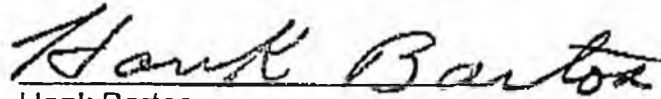
WHEREAS, HB 322 and SB 227 do not effect the right of the local governing body to call a special election if necessary.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports the passage of HB 322 and SB 227 and urges the State Legislature to expeditiously move these bills through their respective bodies.

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the Honorable Governor Murkowski and the Alaska State Legislature.

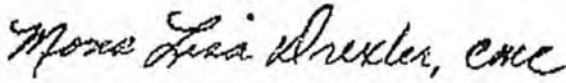
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PASSED AND APPROVED THIS 12th DAY OF FEBRUARY 2004.



Hank Bartos
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

Ayes: Hutchison, Sattley, Rex, Henry, Williams, Beck, Frank, Aldridge, Cummings, Eartos
Noes: None

ALASKA ASSOCIATION OF MUNICIPAL CLERKS

RESOLUTION NO. 2004-01

**A RESOLUTION OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS
SUPPORTING SB 227 AND HB 322 RELATING TO MUNICIPAL INITIATIVE
AND REFERENDUM ELECTIONS**

WHEREAS, municipal clerks in the State of Alaska strongly support the right of its citizens to petition the government through the initiative and referendum process; and

WHEREAS, AS 29.26.270 and 29.26.280 mandate that a municipality to conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, there is no such requirement that mandates a special election for initiative and referendum questions submitted to the state for state elections; and

WHEREAS, special elections are costly, consume staff time for extended periods, and often result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is often difficult to obtain election officials for multiple elections; and

WHEREAS, many municipalities are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

WHEREAS, in recognition of these factors, Senator Gary Stevens and Representative Paul Seaton have sponsored SB 227 and HB 322 respectively to eliminate the mandate that a municipality call a special election after certification of an initiative or a referendum petition; and

WHEREAS, nothing in these bills eliminates the local government option to call a special election if one is deemed necessary or advisable by the governing body;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS (AAMC):

SECTION 1. That AAMC supports the passage of SB 227 and HB 322 and urges the State Legislature to expeditiously move these bills through their respective houses.

SECTION 2. That a copy of this resolution shall be mailed to each member of the Alaska Senate and the Alaska House of Representatives.



KENAI PENINSULA BO

144 N. BINKLEY • SOLDOTNA, ALASKA •
 BUSINESS (907) 262-8608 FAX (907)
 EMAIL: assemblyclerk@borough.kenai.ak.us

PostNet	Date	# of pages
Fax Note R7873	1/15/04	2
To	Doug	
From	Linda S. Murphy	
Priority		

LINDA MURPHY, MMC
 BOROUGH CLERK

April 29, 2003

The Honorable Gary Stevens
 Alaska State Senate
 State Capitol, Room 417
 Juneau, AK 99801-1182

RE: Requested Changes to Title 29 (Municipal Initiative and Referendum Elections)

Dear Senator Stevens:

It was a pleasure to meet with you in Juneau last week. As I discussed with you at that time, I am hopeful that you will sponsor legislation for the 2004 session that will eliminate the requirement that municipalities call a special election to consider an initiative or referendum brought forward by the voters. As you know, special elections are costly and generally result in a lower voter turnout than the regular election. In addition, most measures brought forward using the initiative or referendum process are not so pressing in nature that they could not wait for the regular municipal election. Of course, nothing in the change I am suggesting would prohibit the governing body from calling a special election if the Council or Assembly wished to have the matter considered in a more timely manner.

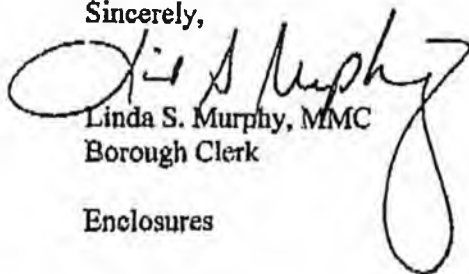
This amendment is supported by the Alaska Municipal League and is included in its 2003 policy statement. I have enclosed that portion of the policy statement for your information. I have also enclosed some language I drafted to make the requisite changes to AS 29.26.170 and AS 29.26.180.

You can expect support for this legislation from members of the Fairbanks North Star Borough delegation. Last year, the FNSB had a total of 46 petitions filed over a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was the potential for many more at great cost to the municipality.

I will be asking Representative Seaton to sponsor a companion bill in the Senate. It is my hope that this bill can be prefiled in both houses this winter and move expeditiously through the legislature.

Thank you once again for your assistance.

Sincerely,


 Linda S. Murphy, MMC
 Borough Clerk

Enclosures

SB

231

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 231
(S) Publish Date: 5/21/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Unclaimed Property Time Periods BRU Revenue Operations
Component Treasury Division
Sponsor House Rules
Requester Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()		2,000.0	2,000.0			
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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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years.

Abandoned property transferred to the state averages around \$2 million per year. Changing the abandonment time two years could increase revenue to the general fund for one to two years for a total of \$4 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
Division Treasury Date/Time 5/20/03 12:07 PM
Approved by: Steve Porter, Deputy Commissioner Date 5/20/2003
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 231(STA)
 (S) Publish Date: 4/2/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Decrease Time to Report Unclaimed Property RDU Revenue Programs & Services
 Component Treasury Management
 Sponsor Senate Rules
 Requester Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	50.0					
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	60.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1,000.0	1,500.0	500.0			
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	60.0					
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	60.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0.75					

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years. The first couple of years will see a strong increase in property reported due to the changes in dormancy requiring additional personal and contractual services. Subsequent years should not see major impacts.

Abandoned property transferred to the state averages around \$2.5 million per year. Changing the abandonment time by two years could increase revenue to the general fund for a few years for a total of \$1 to \$3 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
 Division Treasury Date/Time 3/29/04 7:58 AM
 Approved by: Steve Porter, Deputy Commissioner Date 3/29/2004
 Agency Department of Revenue

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

May 3, 2004

The Honorable Bruce Weyhrauch,
Chair -- House State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: SB 231, relating to unclaimed property.

Dear Mr. Chair:

SB 231, relating to unclaimed property, is the companion bill to HB 330, which presently resides in the House State Affairs Committee. SB 231 passed the Senate today, 19 yes, 0 no. I anticipate SB 231 will be referred to the House State Affairs Committee and to the House Finance Committee.

This legislation is unopposed. It benefits Alaskans individually and collectively. Under the current statute, businesses having unclaimed intangible property of an Alaskan, and an insufficient mailing address for the Alaskan, report the unclaimed property to the business's state of incorporation or state of business domicile, instead of the individual's last known state of residence in Alaska.

Example: A Delaware corporation holds unclaimed intangible property of Alaskan. (Some examples of intangible property include stocks, mutual funds, life, auto and medical insurance payments, uncashed miscellaneous checks, bank accounts, dividends, and vendor checks.) Corporation does not have sufficient mailing address for Alaskan. The corporation reports the unclaimed property to the State of Delaware. State of Delaware increases its treasury because the value of the unclaimed property is deposited in the State of Delaware's Treasury, and the State of Delaware earns interest on that property value. The State of Delaware also benefits because of their ability to appropriate those funds.

Under the proposed statute, corporations having unclaimed intangible property of Alaskans will now report within a shorter time period under jurisdictional rules. Those jurisdictional rules will require the corporation to use information derived from their records such as computer codes, points of sale transactions, office locations, zip code indicators, email addresses, or other information the corporation has on file, to establish an Alaskan owns the property.

Example: A Delaware corporation holds unclaimed property of Alaskan. Corporation does not have sufficient mailing address, for the purpose of delivery for the Alaskan. The Corporation will now use other information to identify the Alaskan, and turn over that property to State of Alaska, Department of Revenue, Treasury Division.

Benefits: During the last nine years of Rachel Lewis' experience as the Unclaimed Property Manager, she has worked on unclaimed property cases where:

* Individual Alaskans have been able to claim a \$40 utility deposit which that Alaskan was able to use to buy shoes for their children.

* An Alaskan was able to claim property to pay for burial costs of a relative.

* The Child Support Enforcement Division has been able to claim child support for Alaska children.

* The Court System is able to claim property to enforce restitution orders to pay damages Alaskans have incurred in criminal cases.

* The Unclaimed Property procedures in Alaska have helped reunite families, and the shorter time periods will aid in that important side benefit to the Unclaimed Property Program.

Additionally, guardians, custodians, and others having fiduciary duties will be able to receive property easier and faster on behalf of incapacitated Alaskans, Alaska children, and elderly Alaskans.

The proposed legislation's shortened reporting times will bring Alaska's Unclaimed Property Act in conformance with the Revised Uniform Unclaimed Property Act of 1995. (Alaska's Unclaimed Property Act was enacted in 1986, based upon the Uniform Act of 1981, and is substantially outdated.)

With SB 231, the Department of Revenue will be able to evaluate and utilize the most current technology and outreach programs to promote the claiming of property.

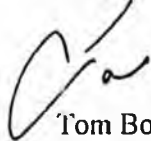
This legislation will ensure that the State of Alaska's Treasury has the benefit of interest, rather than the state of incorporation or domicile. Interest will then be available to the general fund, and available for appropriations, a benefit to all Alaskans.

(Property for Alaskans is held in perpetuity, in a trust account, by the Department of Revenue, for the owner or their heirs. Each year, the Department keeps a working balance in the trust account, and transfers the remaining balance to the General Fund.)

Since 1986, \$37 million has been transferred into the General Fund, and \$16 million has been returned to Alaska property owners.

I urge you to either waive this important legislation, or schedule it for a hearing at your earliest possible convenience. If you require additional information, or if you have questions, please do not hesitate to contact me at 465-3669 or Landa Baily at 465-2302.

Very truly yours,



Tom Boutin
Deputy Commissioner

SB

270

