

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11375 SENATE STATE AFFAIRS

Presented by: HRC  
Introduced: 04/28/2003  
Drafted by: HRC

## RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2201

### A Resolution Establishing Assembly Policy With Respect to Federal Antiterrorism Legislation.

WHEREAS, CBJ denounces terrorism and appreciates and supports those who defend us from terrorism and terrorist attacks: the men and women serving in our armed forces, federal, state, and local law enforcement officers, firefighters, and health service professionals, and

WHEREAS, CBJ is committed to the protection of civil rights and liberties for all people as expressed in the United States and the Alaska Constitutions, and

WHEREAS, the First Amendment to the United States Constitution states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances," and

WHEREAS, the Fourth Amendment states "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized," and

WHEREAS, the Fifth Amendment states that "no person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law," and

WHEREAS, the Sixth Amendment guarantees defendants "the right to a speedy and public trial, by an impartial jury," the right "to be informed of the nature and cause of the accusation," the right "to be confronted with the witnesses against him," and the right "to have the assistance of counsel for his defense."

WHEREAS, the Eighth Amendment states "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted," and

WHEREAS, The Fourteenth Amendment states ". . . nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws," and

WHEREAS, the Assembly recognizes Juneau's diverse population, including citizens of other nations, whose contributions to the community are vital to its character and function, and

WHEREAS, in response to the terrorist attacks of September 11, 2001, the U.S. Congress passed the USA PATRIOT Act of 2001 and the Homeland Security Act of 2002, and the executive branch has issued various Executive Orders, and

WHEREAS, due to the press of time, the USA PATRIOT Act and the Homeland Security Act did not receive the level of scrutiny that most Acts of Congress receive, and

WHEREAS, the USA PATRIOT Act at Section 412 authorizes the indefinite incarceration or deportation of non-citizens even if they have not committed a crime, and

WHEREAS, the USA PATRIOT Act at Section 216 reduces judicial supervision and civil liberties protections related to the use of devices which identify the caller, routing, and recipient of telephone and internet communications, and

WHEREAS, the USA PATRIOT Act at Section 214 expands the authority of federal courts to issue delayed-notice warrants authorizing secret searches so that the subject of a search warrant is unaware that the property has been searched, and

WHEREAS, the USA PATRIOT Act at Sections 215, 218, 219, 358, 507, and 508 grant law enforcement and intelligence agencies broader access to medical, mental health, library, business, financial, educational, and other records about individuals without first showing probable cause or evidence of a crime, and in some cases prohibits a person from disclosing to the individuals that such records have been searched, and

WHEREAS, the USA PATRIOT Act at Sections 411 redefines "terrorist activity" and "terrorist organization" so broadly that it could have a chilling effect on free speech, and

WHEREAS, The Code of Federal Regulations has been amended at 28 CFR 501.3 to allow eavesdropping on conversations between terrorist suspects and their lawyers, and

WHEREAS, the President's Military Order of November 13, 2001 provides for trial of alien terrorist suspects by military commission, and pending such trial allows the Secretary of Defense to indefinitely detain the suspect within the United States or elsewhere without express limitation or condition except with regard to food, water, shelter, clothing, medical treatment and religious exercise.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Affirmations.**

- a. CBJ affirms its strong opposition to terrorism, but also affirms that efforts to end terrorism should not be waged at the expense of the fundamental civil rights and liberties of the people of CBJ, the United States, and the world.
- b. CBJ affirms the rights of all people living within CBJ to be treated in accordance with the Bill of Rights and the Fourteenth Amendment of the U.S. Constitution.

**Section 2. Action Items.**

- a. CBJ respectfully requests that the U.S. Congress formally review, and if necessary amend, the USA PATRIOT Act and the Homeland Security Act to ensure that they are consistent with the civil liberties which so many Americans have fought to preserve; Congress is also requested to review the executive orders adopted in response to the events of September 11, 2001 to insure they also are consistent with those fundamental civil liberties.
- b. CBJ recognizes that its police officers, librarians, school officials, health workers, and other employees may receive requests for information under provisions of the USA PATRIOT Act or the Homeland Security Act and encourages CBJ employees to consult with the City Attorney's office if they have any doubts about the propriety of divulging information. The City Attorney is directed to train CBJ employees so that they are aware of their rights and responsibilities under the U.S. Constitution, the USA PATRIOT Act, and the Homeland Security Act.
- c. CBJ Human Rights Commission is requested to report to the Assembly, insofar as its duty of confidentiality permits, whenever it receives a complaint that a citizen's civil rights or liberties have allegedly been infringed due to action authorized by the USA PATRIOT Act or the Homeland Security Act.

- d. The United States Attorney for the District of Alaska is requested to provide the City Manager with an annual summary *of limited to the number of* investigations, warrants, orders, subpoenas, and arrests carried out within the City and Borough under the authority of the USA PATRIOT Act, the Homeland Security Act, and related executive orders. The City Manager shall make such information available to the public.
- e. The Clerk is directed to distribute copies of this resolution to the federal and state legislative delegations and to the United States Attorney for the District of Alaska.

Section 3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this        day of        2003.

---

Sally Smith; Mayor

Attest:

---

Laurie J. Sica, Clerk

THE SENATE  
TWENTY-SECOND LEGISLATURE,  
2003  
STATE OF HAWAII

S.C.R. NO. 18

---

# SENATE CONCURRENT RESOLUTION

reaffirming the state of hawaii's commitment to civil liberties and the bill of rights.

WHEREAS, the Hawaii State Legislature is committed to upholding the United States Constitution and its Bill of Rights, and the Hawaii State Constitution and its Bill of Rights (Article I, Sections 1-22); and

WHEREAS, the State of Hawaii has a distinguished history of safeguarding the freedoms of its residents; and

WHEREAS, the State of Hawaii is comprised of a diverse and multi-ethnic population, and has experienced first hand the value of immigration to the American way of life; and

WHEREAS, the residents of Hawaii during World War II experienced first hand the dangers of unbalanced pursuit of security without appropriate checks and balances for the protection of basic liberties; and

WHEREAS, the recent adoption of the USA Patriot Act and several executive orders may unconstitutionally authorize the federal government to infringe upon fundamental liberties in violation of due process, the right to privacy, the right to counsel, protection against unreasonable searches and seizures, and basic First Amendment freedoms, all of which are guaranteed by the Constitutions of Hawaii and the United States; and

WHEREAS, the citizens of Hawaii are concerned that the actions of the Attorney General of the United States and the United States Justice Department pose significant threats to Constitutional protections; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, the House of Representatives concurring, that the State of Hawaii urges its Congressional delegation to work to repeal any sections of the USA Patriot Act or recent executive orders that limit or violate fundamental rights and liberties protected by the Constitutions of Hawaii and the United States; and

BE IT FURTHER RESOLVED that to the extent legally possible, no state resources - including law enforcement funds and educational administrative resources - may be used for unconstitutional activities, including but not limited to the following under the USA Patriot Act:

- (1) Monitoring political and religious gatherings exercising their First Amendment Rights;
- (2) Obtaining library records, bookstore records, and website activities without proper authorization and without notification;
- (3) Issuing subpoenas through the United States Attorney's Office without a court's approval or knowledge;
- (4) Requesting nonconsensual releases of student and faculty records from public schools and institutions of higher learning; and
- (5) Eavesdropping on confidential communications between lawyers and their clients.

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to Hawaii's delegation in the United States Congress.

OFFERED BY: \_\_\_\_\_

PASSED SENATE APRIL 3, 2003 21-3-1  
PASSED HOUSE APRIL 25, 2003 35-12-4 E



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate for State Affairs  
 Committee Name  
 Committee on SJR-15 / HJR 22 Dated 5-13-03  
 Bill / Subject

*Thank you for hearing these resolutions during this session of this legislature. Momentum is building to review the PATRIOT act, and it is entirely appropriate that it is reviewed. The act was passed when emotions were high because of an attack on the World Trade Center. We often regret the long term effects of laws that are passed in haste.*

*The patriot act poses some constitutional questions, it also raises questions of cost to the economy that should be addressed.*

*Please pass this resolution out of committee so that the senate can vote on it.*

SIGNED:

*J. L. M. P. ...*

Testifier

*Self*

Representing

*1015 Meadow Rue North, Fairbanks, AK 99705*

Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs

Committee on SJR 15 Committee Name Senate State Affairs  
Dated May 13, 2003  
Bill / Subject

Please accept my appreciation to the Chair and members of the Senate State Affairs Committee for the speed in which SJR 15 appears to be travelling through legislative levels, hopefully to pass and make Alaska the 2nd state to question the USA PATRIOT and Homeland Security Acts. This voluminous set of bills, including attendant executive orders, were passed without sufficient oversight by Congress. May, I'm not sure if any body save the authors read through it all. Most of Congress is comprised of attorneys, trained in the gymnastics of the language of law and its application.

I would prefer to see stronger language re: probable cause on page 2, line 20. The pre-

SIGNED:

Testifier

Elizabeth Freig  
FBORDC - Fairbanks Bill of Rights Defense Committee

Representing

FBKS / 456-2641

Address / Phone Number

①



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs  
 Committee on SJR 15 Committee Name  
 Dated May 13, 2003  
 Bill / Subject

sence or "absence of probable cause indicating criminal activity", in that language, leaves a gaping hole in interpretation. Items 1-6 could be enumerated at greater length.

B particularly like page 3, lines 10-13, re: urging Alaska's Congressional delegation to work actively on the correction of civil liberties' infringement passages of the USA PATRIOT & Homeland Security Acts, plus Executive Orders, and opposition of DSEA of 2003.

How can we not oppose DSEA of 2003 if the previous 2 have inspired 103 communities to pass resolutions? 150 more are working on future passage of resolutions.

SIGNED: Elizabeth Greig  
 Testifier

FBORDC - Fairbanks Bill of Rights Defense Committee  
 Representing

PHS/456-2691  
 Address / Phone Number

2



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs  
 Committee on SJR 15 Committee Name Dated May 13, 2003  
Bill / Subject

Thank you very much for your diligence on SJR 15 - please pass it through today, if possible.

Thank you to Senator Johnny Ellis for instituting this process, and Elton for co-sponsoring.

SIGNED: Elizabeth Greig  
 Testifier  
FBORDC - Forwards Bill of Rights Defense Committee  
 Representing  
FBRS / 456-2641  
 Address / Phone Number

Susan & Jeffrey Sloss, 740 Fifth St., Juneau, Alaska 99801  
Ph/fax (907)586-4275, email: [jssloss@uci.net](mailto:jssloss@uci.net)

Senate  
FAX TO: State Affairs Committee Members  
and Senator Ralph Seekins, Chairman, Senate Judiciary Comm.  
Message: re: HJR 22

Dear Senators,

Please adopt the language of HJR 22 word-for-word, because it is an excellent version and was adopted by a nearly unanimous majority in the House. Please do not introduce a different version which, at this late date, would kill the resolution entirely.

Sincerely,  
Jeff Sloss from S. Sloss

To: <i>Sen. Gary Stevens</i>		From: <i>June Pinnell-Stephens</i>	
Company:		Company: <i>Alaska Library Assn</i>	
Location:		Location: <i>Dept. Chair</i>	
FAX #: <i>907-465-3517</i> Telephone #		Fax #: Telephone #	
Comments: <i>Sen. Stevens</i>		Original Disposition: <input type="checkbox"/> Destroy <input type="checkbox"/> Return <input type="checkbox"/> Call for pickup	
<p><i>I understand that some people had problems with the attachment I sent earlier via email, so I'm resending via fax. Please distribute copies to the other committee members. Thank you June Pinnell-Stephens</i></p>			



Alaska Library Association • P.O. Box 81084, Fairbanks, AK 99708 • www.alaska.net/~akla

May 12, 2003

Sen. Gary Stevens  
Chair, State Affairs Committee  
Alaska State Senate

Dear Sen. Stevens,

I am writing to urge you to support the bipartisan version of the resolution concerning the USA PATRIOT Act that just passed the House and which is now before your committee.

As you may know, Congress passed the PATRIOT Act before there were enough copies printed for all members to read, much less understand, before voting. The consequences have been alarming. Although Tim Burgess, US Attorney for Alaska, claims that the library community is over-reacting because libraries aren't even mentioned in the PATRIOT Act, they are definitely included in its scope because no entity is excluded.

A survey conducted by the University of Illinois Graduate School of Library and Information Studies revealed that almost 200 public libraries had been contacted by law enforcement agents for user records within 3 months of 9/11. That figure rose to nearly 600 libraries after a year. Whenever users know or fear that records of what they read or examine may be scrutinized, freedom of inquiry no longer exists, and the role of the library – one of our country's greatest democratizing institutions – is diminished through a chilling effect.

At its annual conference in March, the Alaska Library Association unanimously passed a resolution requesting that Congress amend the PATRIOT Act to address the problems that have come to light since its passage. Concern about abuse of privacy and confidentiality of library records resonates deeply with Americans, and I urge you to send a strong message about this and other problems with the PATRIOT Act by supporting the resolution.

Thank you for your consideration.

Sincerely,

*June Pinnell-Stephens*

June Pinnell-Stephens, Chair  
AkLA Intellectual Freedom Committee  
907-479-5820

WRITTEN TESTIMONY TO THE  
SENATE STATE AFFAIRS COMMITTEE

May 12, 2003

ON HJR 22, as passed today by the Alaska House 32 to 1**URGENT – Please help protect our Constitutional rights  
against Federal Government overreaching.**Senator  
Gary Stevens  
FAX 465-3517

Dear Senators:

I ask that your committee pass a version of SJR 15 that is worded identically  
with the text of HJR 22 as passed today, May 12, by the House.

Senator Ellis has indicated he would be amenable to text changes to match his bill with the text of HJR 22 as passed today by the House. In their original forms, HJR 22 and SJR 15 were identically worded, but HJR 22 has improved substantially as a result of work by several members of the House and their staffs, and is now excellent.

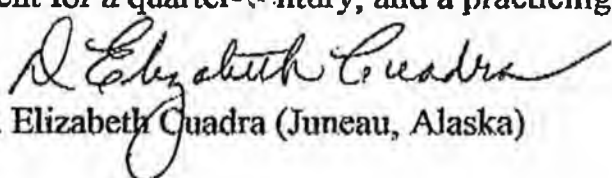
Passage of this legislation yet this year is essential. Even now, Ashcroft and his staff are working on yet more egregious draft legislation to demand Congress pass.

We can defend ourselves against terrorism without sacrificing any of our Constitutional rights. Yet, even the so-called "USA PATRIOT Act" (which Congressman Young has called the worst thing Congress ever did) already undermines our rights under the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution and the corresponding portions of the Alaska Constitution! We need to send a strong and swift message to Congress to fix this problem, caused by their having rubber-stamped a more than 300 page piece of legislation without ever reading it or understanding its implications.

Before the Legislature goes home this year, it needs to adopt this legislation. To do so in the days remaining, it is essential that the Senate's version be not one word different from what the House has passed. There is not time for a conference committee and revote. Individual Senators who may be thinking of sponsoring their own versions of this legislation should, instead, sign on as cosponsors of the text in HJR 22.

I have been an Alaska resident for a quarter-century, and a practicing attorney here for most of those years.

Sincerely yours,

  
D. Elizabeth Quadra (Juneau, Alaska)

**Anchorage Bill of Rights Defense Committee**

**P.O. Box 200552**

**Anchorage, AK 99520-0552**

**<http://www.anch-ak.bordc.org> 907-222-0434**

May 13, 2003

To: Senate State Affairs Committee

Senator Ralph Seekins, Senator John Cowdry, Senator Gary Stevens, Senator Fred Dyson, Senator Gretchen Guess, Senator Lyman Hoffman

Dear Ladies and Gentlemen:

On behalf of the Anchorage Bill of Rights Defense Committee, I am writing to strongly urge that the language of HJR 22 be adopted by the Senate word-for-word for SJR 15. As one of the founding members of the Anchorage Bill of Rights Defense Committee, I have reviewed over 100 different resolutions passed by communities around the nation addressing our concerns with the USA PATRIOT Act. Currently, HJR 22 is one of the strongest resolutions in the nation in addressing the most invasive sections of the PATRIOT Act and the allocation of state resources for PATRIOT Act investigations.

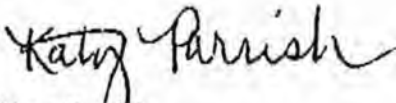
I implore you to use this strong boilerplate for the senate version and not waste time trying to reinvent the wheel. Let's take advantage of the momentum of this truly grassroots effort to, as Don Young stated two weeks ago in a meeting with me, "fix this."

Attached please find a one page summary of the impact of the PATRIOT Act to our civil liberties.

Thank you.

I appreciate your time and consideration.

Sincerely,



Katy Parrish

Mother

1440 W 26<sup>th</sup>, #3

Anchorage, AK 99503

## **The USA PATRIOT Act**

### **Government Actions that Threaten Our Civil Liberties**

#### **New legislation takes away our freedoms**

With great haste and secrecy and in the name of the "war on terrorism", the federal government passed legislation with sweeping new powers that undermine the Bill of Rights without demonstrating that these powers are necessary to keep us safe. This 342-page law was passed on October 26, 2001 by the US Congress and signed by the President *without even being read and debated by Members of Congress*. Many of its provisions had been declared unconstitutional in the past.

#### **What are the rights that are being threatened?**

- **First Amendment** - Freedom of religion, speech, assembly, and the press.
- **Fourth Amendment** - Freedom from unreasonable searches and seizures without probable cause.
- **Fifth Amendment** - No person to be deprived of life, liberty or property without due process of law.
- **Sixth Amendment** - Right to a speedy public trial by an impartial jury, right to be informed of the facts of the accusation, right to confront witnesses and have the assistance of counsel.
- **Eighth Amendment** - No excessive bail or cruel and unusual punishment shall be imposed.
- **Fourteenth Amendment** - All persons (citizens and non-citizens) within the US are entitled to due process and the equal protection of the laws.

#### **The USA PATRIOT Act**

- Creates a new crime of "domestic terrorism" that labels lawful advocacy groups as "terrorist" bodies and subjects them to surveillance, wiretapping, harassment, and criminal action for legal political advocacy.
- Allows FBI spying on religious and political organizations and individuals without having evidence of wrongdoing.
- Expands the ability of law enforcement to conduct secret searches, gives them wide powers of phone and internet surveillance, and access to highly personal medical, financial, mental health, and student records with minimal judicial oversight.
- Allows investigation of American citizens for criminal matters without probable cause if they say it is for "intelligence purposes".
- Permits non-citizens to be jailed based on mere suspicion and to not be allowed readmission to the US for engaging in "free speech". Suspects may be detained indefinitely without charges or court review even if they have never been convicted of a crime.

#### **New Federal Executive Orders**

- 8,000 Middle Eastern and South Asian immigrants have been interrogated because of their religion or ethnic background, not because of actual wrongdoing.
- Thousands of men, mostly of Arab and South Asian origin, have been held in secretive federal custody for weeks and months, sometimes without any charges filed against them. The government has refused to publish their names and whereabouts, even when ordered to do so by the courts.
- The press and the public have been barred from immigration court hearings of those detained after September 11<sup>th</sup> and the courts are ordered to keep secret that the hearings are taking place.
- The government is allowed to monitor communications between federal detainees and their lawyers, destroying the rights of attorney-client privilege.
- President Bush has ordered military commissions to be set up to try suspected terrorists who are not citizens, with the accused being convicted on hearsay and secret evidence by only two-thirds vote.
- American citizens suspected of terrorism are being held indefinitely in military custody without being charged and without access to lawyers.

#### **What can be done?**

This lack of due process and accountability violates the rights extended to all persons, citizens and non-citizens, by the Bill of Rights. It resurrects the illegal COINTELPRO-type programs of the '50's, '60's, and '70's, where the FBI sought to disrupt and discredit thousands of individuals and groups engaged in legitimate political activity.

The American Civil Liberties Union along with Alaskans for Peace and Justice and thousands of organizations and individuals concerned with protecting our civil rights and civil liberties, are campaigning to repeal the Act.

Join us in this effort to regain our hard-won freedoms.

- Join the Anchorage Bill of Rights Defense Committee - <http://www.anch-ak.bordc.org>
- Support: A Resolution Regarding the USA PATRIOT Act and the Protection of Civil Rights and Liberties, which asks the City of Anchorage to join communities across the US in upholding the Bill of Rights.
- Contact your elected representatives and the President to express your opposition to the USA PATRIOT Act. Send letters to local newspapers. Organize discussions in your schools, organizations and religious institutions.

**Anchorage Bill of Rights Defense Committee**  
**katyparrish@gci.net - 222-0434**  
**<http://www.anch-ak.bordc.org>**

## Elizabeth Belknap

Box 82562 Fairbanks, Alaska 99708 U.S.A.  
(907) 456-6358 email: [meltalaska@pci.net](mailto:meltalaska@pci.net)

---

To: Senator Gary Stevens  
Fax: 465-3517  
Date: May 13, 2003  
Pages: 1

Dear Senator Stevens:

I urge you to support the adoption of HJR 22 regarding the Patriot Act. I have read the bill and believe it should be adopted by the Senate exactly as it is written.

There is bi-partisan support in the legislature and statewide support of Alaskans for HJR 22. It may be a long time before we see another fine example of bi-partisan cooperation between a Democrat and a Republican with such often opposing views as Rep. John Coghill and Rep. David Guttenberg. It is to the great credit of our state legislature that such bi-partisan cooperation is possible. Please support bi-partisan cooperation with your support of the existing HJR 22.

In March, a few of us US citizens were exercising our right to freedom of speech in a law-abiding manner on the sidewalk near the Federal Bldg in Fairbanks. The security guard demanded our identification, which we presented. When the guard began copying down my personal information, I snatched my ID back. Why was I afraid? I live in America, the land of the free. I'm not a terrorist. I love my country.

But for the first time ever, I am afraid of what my government will do with my name. How much more would I have cause to fear if I were not a white middle-class native-born American with the education to know what my rights are? The Patriot Act sacrifices our political freedoms in the name of national security. My companions at the federal building that day were told that their names would be submitted to the Defense Information Systems Agency under the US Dept. of Defense. I find that appalling.

These kinds of actions upset the democratic values that define our nation -- the nation that we present to the world as a model of democracy. Unless we speak out, our freedoms will continue to erode until we have nothing left to distinguish our country from the repressive governments the US fights against.

I urge you to support adoption by the Senate of HJR 22 exactly as it is currently written. Thank you for your efforts.

Sincerely,

Elizabeth Belknap

May 12, 2003

Dear Senator:

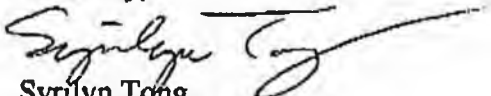
I have never written my state senator before, but I write you at this time urging you to please adopt the wording from House Joint Resolution 22 for the Senate's version of the same bill SJR 15, dealing with the United States PATRIOT Act. It is my understanding that if a single word is changed from the passed version of HJR22, then both houses must re-vote on the issue, leaving perilously little time to debate and re-vote a changed version before the end of session.

As an Alaskan and an American, I take my civil liberties to heart. I believe in and support the Constitution whole-heartedly, but I believe the U.S. PATRIOT Act, as it was written and quickly passed after the horrible tragedies of 9-11-01, does a grave disservice to the citizens of this great country. I, too, believe those who act criminally against the United States should be sought out and punished, but within the boundaries and protections of our laws (minus the PATRIOT Act). I believe the PATRIOT Act goes too far by extending powers of a secret court, erasing the checks and balance of justice as it pertains to law enforcement, surveillance and detention, and basically tramples the civil rights of citizens without probable cause.

It is with these thoughts in mind that I implore you to adopt the House's version of the bill without change so that Alaskans can stand up to our Federal Government and state that we are against terrorism and criminals who commit terrorist acts, but we don't want our inherent Constitutional rights granted to us by our nation's fore-fathers to be taken away by the U.S. PATRIOT Act, or PATRIOT II.

Thank you very much for your time and consideration.

Sincerely,



Syrilyn Tong  
Fairbanks, Alaska

**Karen Parr**  
**909 John Kalinas Rd.**  
**Fairbanks, AK 99712**  
**(907) 488-2555**  
**kparr@polarnet.com**

May 10, 2003

Sen. Gary Stevens, Chairman  
Senate State Affairs Committee  
fax: 465-3517

Dear Senator Stevens:

SJR 15 is before the Senate Affairs Committee. Its companion HJR 22 (Guttenberg) just sailed through House State Affairs Committee, along with HJR 23 (Coghill). Rep. Coghill then withdrew his, and worked with Rep. Guttenberg to draft a version they could both support, which was quickly passed by House Judiciary. It is expected to pass the full House with little if any dissent.

Please do what you can to get SJR 15 before Senate State Affairs quickly, and substitute a version that matches that of the House. I realize it is very late, but this is one issue that is beyond partisan politics: the need to protect our Constitutionally guaranteed freedoms. Don Young is said to be drafting legislation to amend the Patriot Act along these lines, and I'm sure could use this support.

I remember meeting you briefly in Juneau on the weekend the Democrats held their state board meeting. I have been working since December with a group in Fairbanks calling attention to recent federal actions which infringe on the Constitutional rights of all Americans.

The City Councils of North Pole and Fairbanks and the Juneau/Douglas Borough Assembly have all passed resolutions that these acts be reviewed and brought into compliance with Constitutional law. So have 100 other local governments around the nation, and the Legislature of Hawaii.

Thank you for helping a worthy and nonpartisan effort.

Sincerely,

Karen Parr

MAY 19 2003



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Sen. State Affairs  
 Committee on Patriot Act & Defending Civil Liberties Committee Name  
 Dated 5-13-03  
Bill / Subject /

- Thank you for holding this teleconference
- I urge you to support a substitute for SJR 15 with a Senate version of HJR 22. This bill had strong bipartisan support in the House.
- We support the Congress's intent when they passed the US Patriot Act but in their rush to do something after 9-11 many voted for this act without reading it or understanding its implications. The Patriot Act takes away important civil rights given to us in our Bill of Rights.
- If you pass this resolution, sending it to our Washington delegation and the President, you will be sending them a message that Alaskans do not accept the loss of these civil rights and Alaskans want those parts of the →

SIGNED: Hilda Melchior  
 Testifier

Representing  
2721 HORSETAIL TRAIL FAIRBANKS  
 Address / Phone Number 455-6615



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs  
Committee Name  
 Committee on CS HJR 22 / SJR 15 / USA Patriot Act Dated 05/13/03  
Bill / Subject

I recommend Senate State Affairs adopt CS HJR 22 as a substitute for SJR 15 and forward this substitute to the Senate for passage.

The "USA Patriot Act," is 342 pages long and makes changes to over 15 different statutes, many of these changes appear to be in conflict with the US and Alaska Constitutions.

Adoption of this resolution will send an important message to Congress to revisit the USA Patriot Act and correct those sections that are in conflict with our constitutions.

SIGNED: HERB MELCHIOR  
 Testifier

Representing

2721 Horsetail Trail, Fairbanks, AK 99709 / 907-455-6615  
 Address / Phone Number

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs  
 Committee on Patriot Act & Defending Civil Liberties Committee Name  
 Bill / Subject / Charters Dated 5-13-30

- Thank you for holding this teleconference

- I urge you to support a substitute for SJR 15 with a Senate version of HJR 22. This bill had strong bipartisan support in the House.

- We support the Congress's intent when they passed the US Patriot Act but in their rush to do something after 9-11 many voted for this act without reading it or understanding its implications. The Patriot Act takes away important civil rights given to us in our Bill of Rights.

- If you pass this resolution, sending it to our Washington delegation and the President, you will be sending them a message that Alaskans do not accept the loss of these civil rights and Alaskans want those parts of the →

SIGNED: Hilda Melchior  
 Testifier

Representing

2721 HORSETAIL TRAIL FAIRBANKS  
 Address / Phone Number 455-6615

Patriot Act that deny us these rights, to be  
VOIDED. This resolution will also be letting them  
know that Alaskans will find any more  
legislation like this unacceptable.



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate State Affairs  
 Committee on CSHJR 22 / SJR 15 / USA Patriot Act Dated 05/13/03  
Committee Name  
Bill/ Subject

I recommend Senate State Affairs adopt CSHJR 22 as a substitute for SJR 15 and forward this substitute to the Senate for passage.

The "USA Patriot Act," is 342 pages long and makes changes to over 15 different statutes. Many of these changes appear to be in conflict with the US and Alaska Constitutions.

Adoption of this resolution will send an important message to Congress to revisit the USA Patriot Act and correct those sections that are in conflict with our constitutions.

SIGNED: HERB MELCHIOR  
 Testifier

Representing  
2721 Horsetail Trail, Fairbanks, AK 99709 / 907-455-6615  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Jodi Olmstead  
 Committee on HJR 22 SJR 15 Committee Name  
Bill / Subject Dated May 13, 2003

Please pass the Resolution  
 of HJR 22 & SJR 15, without "Reasonable  
 Suspicion", clause in it,  
 our Rights we are fighting for  
 abroad are being given-up if we  
 continue to follow the <sup>Federal</sup> Patriot Act.  
 Please support the huge #'s of  
 Resolutions Nationwide as the voice  
 of The USA, And why we live here  
 for our freedoms! we want our  
 Rights preserved as citizens of our  
 country, to continue our Free-Country

SIGNED: Jodi Olmstead (Formerly Delaney)  
 Testifier  
Self  
 Representing PO 568530 North Pole AK 99705  
488-2389  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE  
 Committee on STATE AFFAIRS Committee Name  
 Dated 5-13-03  
Bill / Subject

~~CSM JR~~ CSM JR 22 (RLS) - VERSION "I".  
AND SB 15 [RE: U.S.A. PATRIOT ACT]  
 ? JR

THE CHANGE, TO SUBSTITUTE  
 "REASONABLE SUSPICION" LANGUAGE,  
 FOR "PROBABLE CAUSE", IS AN  
 ERROR WHICH WE CHOOSE TO  
 EXCUSE, IN THE INTERESTS  
 OF MAKING A FORMAL STATEMENT.  
 I WAS COERCED TO WITHHOLD  
 MY TESTIMONY ON THIS POINT BY  
 PROPONENTS OF THE RESOLUTION; BUT,  
 YOU SHOULD PASS IT.

SIGNED: Scott Trafford Calder - SCOTT TRAFFORD CALDER  
 Testifier (SELF)

Representing  
P.O. 75011 / FAIRBANKS 99707  
 Address / Phone Number (907) 474-0174

HJR

30

# SENATE COMMITTEE REPORT

DATE: 1/30/04

FURTHER: Health, Education and Social Services

DATE TURNED IN TO OFFICE: 2/11/04

State Affairs Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 30(STA) am

## HJR 30 ELIMINATE SOCIAL SECURITY OFFSET

Relating to supporting the repeal of the Government Pension Offset and the Windfall Elimination Provisions from the Social Security Act.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	Indet.	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	Indet.	FN#
<i>Admin.</i>	<i>1/20/03</i>		✓		<i>1</i>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>John J. Kauder</i>	✓			
<i>Bob K. Staben</i>	✓			
CHAIR: <i>[Signature]</i>	X			

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHJR 30(STA)  
(H) Publish Date: 1/23/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title Repeal of the Government Pension Offset and the Windfall RDU Various  
Elimination Provisions from the Social Security Act. Component Various  
Sponsor Rep. Galto  
Requester State Affairs Component No. 64

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any curren. 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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This resolution would have no affect on benefits computed by the Public Employees' or Teachers' Retirement Systems. Repeal of the Government Pension Offset and the Windfall Elimination Provision would affect the calculation of Social Security benefits.

Prepared by: Melanie Millhorn Phone 465-4408  
Division Retirement and Benefits Date/Time 1/20/03 1:06 P.M.  
Approved by: Mike Miller, Commissioner Date \_\_\_\_\_  
Agency Administration

**NEA ALASKA POSITION PAPER**  
**HR 30 By Representative Gatto**

When the state of Alaska opted out of Social Security in the early 1980's, members of the Public Employee's Retirement System (PERS) and the Teacher's Retirement System (TRS) no longer had to make Social Security contributions. However, many of the members of those systems have earned Social Security benefits through work in the private sector, in other retirement systems that did contribute to Social Security or through their spouses. However, due to two provisions of the Social Security Act, Alaskans will be unable to collect the Social Security benefits for which they have paid.

The Government Pension Offset affects the survivor's benefit that a spouse would receive upon the death of his or her spouse. In 90% of the cases where a spouse is due a survivor benefit, the spouse will receive nothing. The Windfall Elimination Provision affects the Social Security benefit that a member would receive through their earnings record by reducing the benefit, in most cases, by 60%. The only reason for these penalties is that Alaskan public employees and teachers belong to retirement systems that don't contribute to Social Security.

Besides the affect of unfairly penalizing Alaska's public sector employees, the state of Alaska is being penalized. As the word gets out about the Social Security offsets, it becomes more difficult to recruit people from the private sector to become teachers. It also becomes more difficult to persuade potential employees to move from other states that do contribute to Social Security, as those employees do not want to jeopardize their earned benefits. We have even had teachers leave the state in order to protect their earned Social Security benefit.

Alaska is also penalized monetarily. With over 7000 affected retired PERS and TRS members and an unknown number of retired federal employees over the age of 65 the loss of income to the Alaskan economy runs into the millions. It is estimated that the average loss per member nationally is \$3600.

There is currently proposed legislation in the United States Congress to repeal these offsets with bipartisan support of over 300 congressmen and senators. NEA Alaska would appreciate your support for HR 30, urging our congressional delegation to voice Alaska's support for the repeal of these onerous Social Security offsets.

HJR 30

Testimony from Jerry Patterson  
Representing NEA Alaska Retired

I am one of those that will be penalized by the Windfall Elimination Provision (WEP) of the Social Security law. I have earned over 50 quarters of Social Security credit over the years working summer jobs while going to college, teaching in Washington state, and working after retiring from the Juneau School District. While my Social Security earnings statement says I will receive \$400 a month at age 66, I will lose \$240 of that due to the WEP. A 60% loss is very common for those people being penalized. I know that a \$240 a month loss doesn't sound like much but there are over 7000 potentially affected educators and state workers over 65 along with another 6000 federal retirees in the state of Alaska. There are also another 11,000 educators and state employees between the ages of 55 to 65 that will soon be affected. Taken together, the loss of income to Alaska's economy is substantial.

There is a second provision of the Social Security law that is even more unfair. The Government Pension Offset (GPO) affects surviving spouses and in nine out of ten cases results in the spouse receiving no survivor's benefit. A friend of mine in Juneau paid into Social Security for 44 years before retiring. He drew on the fund for two years before passing away and his wife, a teacher, receives no survivor's benefit.

The trigger for these penalties is to become vested in Alaska's retirement systems. As for myself, I began teaching in 1971 and was vested in 1979. The Social Security offset law was passed in 1983 and at that point I was committed to Alaska and to finishing my teaching career here. But in today's world the penalties are no longer a secret and it is becoming a factor in choosing whether or not to stay in Alaska. These penalties could affect the hiring of teachers from outside or a program such as Troops to Teachers where retiring military personnel are being encouraged to go into teaching. It could play a part in whether or not the state can replace key people that they need to bring in from the private sector or from outside. So the impact of the Social Security offsets is more than a question of fairness or economic impact. It has a recruiting and retention impact.

Currently there are 284 representatives and 29 senators signed on to the repeal bills now in congress. Senator Murkowski is a co-sponsor, having signed on in October. Senator Stevens aide said that while he is sympathetic but he thought the cost would be too much and that the issue would be better dealt with after the election when the whole Social Security package is expected to be brought up. Representative Young's aide says that he will vote for the repeals if it comes to the floor.

The cost of the repeal is estimated to be \$50 billion over ten years. However, this cost will not change the current projections for Social Security. The Social Security Administration has already accounted for people like me at the full cost. It is only when I go to apply do they know that my benefit will be reduced. For me and the thousands of others in Alaska like me, collecting what we paid for will not shorten the life of the trust fund as currently projected.

Because of the unfairness, the economic impact, and the impediment that it can have on our recruiting of new employees, I urge the committee to approve this resolution.

Mr. CHAIRMAN AND MEMBERS OF THE COMMITTEE

Feb. 10, 2004

My name is Marie Darlin, and today I am representing the Alaska Federation of Retired Federal Employees. I am their Legislative Chairman.

Alaska has over 6,600 annuitants in the state (of which 1,336 are survivor annuitants) and they bring about \$12.5 million monthly to the economy of Alaska. About 1500 are members of NARFE, a national organization since 1917, and our Alaska Federation was formed in 1987.

NARFE has been working for years to get Congress to repeal these pension offsets since they began in 1982. They are intended to reduce the Social Security annuities of anyone who also receives a government annuity. This is totally unfair because those Social Security payments were made by these workers and their employers. The government pension offset (GPO) reduces or eliminates the social security benefit from the spouse social security. The windfall elimination provision (WEP) reduces a persons own earned benefit by using a formula that can result in a loss of as much as 60% of their own social security benefits. Just because their career or part of it was as a government employee.

Once Again, they paid into that fund for social security benefits. Many <sup>pensions</sup> government/(city, state, or federal) are not that much if you were in a lower paying position with not too many years of service. Many times those most affected by these offsets are low income widows.

These offsets affect thousands of not only our federal retirees but state and municipal workers, as well as teachers and school district employees.

I urge your support of this resolution to show Congress that states are also concerned about their retirees.

Thank you.

*Marie Darlin*

Marie Darlin, NAREF Alaska Federation Legislative Chair

SOCIAL SECURITY  
GOVERNMENT PENSION OFFSET  
(GPO)

WHO IS AFFECTED?

GOVERNMENT EMPLOYEES FIRST ELIGIBLE TO  
RETIRE DECEMBER 1982 OR LATER.

HOW MANY ARE AFFECTED?

335,000 SOCIAL SECURITY BENEFICIARIES  
APPROXIMATELY 15,000 MORE EACH YEAR

HOW ARE THEY AFFECTED?

SOCIAL SECURITY SPOUSAL BENEFIT (WIFE,  
HUSBAND, WIDOW, OR WIDOWER) IS OFFSET  
BY TWO-THIRDS OF THE ANNUITANT'S OWN  
GOVERNMENT ANNUITY - THIS CAN REDUCE  
OR ELIMINATE THE SOCIAL SECURITY  
BENEFIT

## TALKING POINTS for the SOCIAL SECURITY GOVERNMENT PENSION OFFSET (GPO)

Present law prevents government retirees (who were first eligible to retire in December 1982 and later) from collecting both a government annuity based on their own work and Social Security benefits based on their spouse's work record.

This law provides that two-thirds of the government annuity offsets whatever Social Security benefits would be payable to the retired government worker as a spouse (wife, husband, widow, etc.).

A federal retiree with a monthly annuity of \$900 and no Social Security coverage of her own would receive a greatly reduced widow's benefit from the program on the death of her husband as a result of GPO.

Example: the husband, a private-sector retiree, received a \$1,100 monthly Social Security benefit. A spouse who worked in the private sector would be entitled to receive this entire \$1,100 per month benefit. However, because the widow is a federal annuitant, she will receive only \$500 a month from Social Security, since two-thirds of her own \$900 annuity -- \$600 -- offsets the \$1,100.

The Government Pension Offset most drastically affects low-income widows.

**Action Requested:** Legislation to eliminate the GPO, as well as the Windfall Elimination Provision (WEP), has been introduced in the House, by Congressman Howard "Buck" McKeon (R-CA) as **H.R. 594** (staff contact: Kurt Courtney 202/225-1956). Senator Dianne Feinstein (D-CA) has introduced the GPO/WEP repeal companion bill, **S.349**, in the Senate, (staff contact: Michael Schiffer 202/224-3841). Ask your Representative and Senators to cosponsor and push for passage of the above referenced bills.

**SOCIAL SECURITY**  
**WINDFALL ELIMINATION PROVISION**  
**(WEP)**

**WHO IS AFFECTED?**

GOVERNMENT EMPLOYEES FIRST ELIGIBLE TO RETIRE AFTER 1985 AND WHO BECAME 62 OR DISABLED AFTER 1985

**HOW MANY ARE AFFECTED?**

- 635,000 SOCIAL SECURITY BENEFICIARIES
- APPROXIMATELY 60,000 MORE EACH YEAR

**HOW ARE THEY AFFECTED?**

WEP REDUCES A PERSON'S OWN EARNED SOCIAL SECURITY BENEFIT BY USING A COMPUTATION FORMULA.

IT CAN RESULT IN A LOSS OF AS MUCH AS 60% OF THE PERSON'S SOCIAL SECURITY BENEFIT, TO A MAXIMUM OF \$301.

## TALKING POINTS for the SOCIAL SECURITY WINDFALL ELIMINATION PROVISION (WEP)

Present law greatly reduces the Social Security benefit of a retired or disabled worker who also receives a government annuity based on his/her own earnings.

It applies to anyone who becomes 62 (or disabled) after 1985 and becomes eligible for her/his government annuity after 1985.

This windfall reduction can reduce the worker's earned Social Security benefit by as much as 60 percent.

For example, an annuitant with 30 years of federal service could receive a monthly benefit of \$405 based on the formula used by Social Security. However, since this annuitant falls under the Windfall Elimination Provision, her month Social Security benefit is cut to \$180.

**Action Requested:** Legislation to eliminate the Windfall Elimination Provision (WEP), as well as the Government Pension Offset (GPO), has been introduced in the House, by Congressman Howard "Buck" McKeon (R-CA) as **H.R. 594** (staff contact: Kurt Courtney 202/225-1956). Senator Dianne Feinstein (D-CA) has introduced the WEP repeal companion bill, **S.349**, in the Senate, (staff contact: Michael Schiffer 202/224-3841). Ask your Representative and Senators to cosponsor and push for passage of the above referenced bills.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

## The Government Pension Offset and Windfall Elimination Provision

### What are the Government Pension Offset and Windfall Elimination Provision?

The Government Pension Offset (GPO) reduces public employees' Social Security spousal or survivor benefits by two-thirds of their public pension.

The Windfall Elimination Provision (WEP) reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security.

### Who do the GPO and WEP Affect?

The GPO affects people who work as federal, state, or local government employees, including educators, police officers, and firefighters, if the job is not covered by Social Security.

The WEP affects people who worked in jobs not covered by Social Security and in jobs in which they earned Social Security benefits – such as educators who do not earn Social Security in the public schools, but who work part-time or during the summer in jobs covered by Social Security. The WEP also affects people who move from a job in which they earn Social Security to a job, such as teaching, in which they do not.

The impact of the GPO and WEP is primarily felt in those states in which public employees like educators are not covered by Social Security (Alaska, California, Colorado, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Nevada, Ohio, Rhode Island, and Texas). However, because people move from state to state, there are affected individuals everywhere.

### How do the GPO and WEP work?

The GPO reduces Social Security spousal or survivor benefits by two-thirds of the individual's public pension.

The WEP reduces the factor by which average earnings are multiplied to determine Social Security benefits. The amount of reduction depends on when the person retires and how many years of earnings he or she has accumulated.

### What is the Impact of the GPO and WEP?

Estimates indicate that 9 out of 10 public employees affected by the GPO lose their entire spousal benefit, even though their deceased spouse paid Social Security taxes for many years. According to the Congressional Budget Office, the GPO reduces benefits for some 300,000 individuals by more than \$3,600 a year. The GPO has the harshest impact on those who can least afford the loss: lower-income women.

The WEP causes low-paid public employees outside the Social Security system, like educators, to lose up to sixty percent of their Social Security benefits. The WEP also impacts the teaching profession, as people are less likely to leave other careers, in which they earn Social Security benefits, to become educators.

### What Can be Done to Address the GPO and WEP?

Congress can pass legislation to repeal the GPO and WEP. Representatives McKeon (R-CA) and Berman (D-CA) and Senators Feinstein (D-CA) have introduced bills (H.R. ~~2038/S-1523~~ <sup>HR. 5741/S. 349</sup>) to repeal the GPO and WEP. *and Susan Collins (R-ME)*

# Social Security



## The Windfall Elimination Provision How It Affects Your Social Security Retirement Or Disability Benefits

If you work for an employer who doesn't withhold Social Security taxes, such as a government agency or an employer in another country, the pension you get based on that work may reduce your Social Security benefits.

Your benefit can be reduced in one of two ways. One is the "government pension offset" and applies only if you receive a government pension and are eligible for Social Security benefits as a spouse or widow(er). For more information on the offset, ask Social Security for the fact-sheet, *Government Pension Offset* (Publication No. 05-10007).

The other way—the "windfall elimination provision"—affects how your retirement or disability benefits are figured if you receive a pension from work not covered by Social Security. The formula used to figure your benefit amount is modified, giving you a lower Social Security benefit. This factsheet explains the formula.

### Who Is Affected?

The windfall elimination provision primarily affects people who earned a pension from working for a government agency and also worked at other jobs where they paid Social Security taxes long enough to qualify for retirement or disability benefits. It also may affect you if you earned a pension in any job where you didn't pay Social Security taxes, such as in a foreign country.

The modified formula applies to you if you reach 62 or become disabled after 1985 and first become eligible after 1985 for a monthly pension based in whole or in part on work, where you did not pay Social Security taxes. You're considered eligible for a pension if you meet the pension requirements, even if you continue to work.

**An important point:** The windfall elimination provision affects Social Security benefits when any part of a person's federal service after 1956 is covered only under Civil Service Retirement System (CSRS) deductions. However, federal service where Social Security taxes are withheld (Federal Employee Retirement System or CSRS Offset) do not reduce Social Security benefit amounts.

The modified formula is used to figure your Social Security benefit beginning with the first month you get both a Social Security benefit and the other pension.

### Why Is A Different Formula Used?

The modified formula prevents a windfall to people who would unfairly benefit from provisions aimed at low-income workers. Social Security benefits replace a percentage of a worker's pre-retirement earnings and the benefit computation formula includes factors that make sure lower-paid workers get a higher return than highly paid workers. For example, lower-paid workers could get a Social Security benefit that equals about 60 percent of their pre-retirement earnings. The average replacement rate for highly paid workers is about 25 percent.

Before 1983, people who worked in jobs not covered by Social Security received benefits that were computed as if they were long-term, low-wage workers. They received the advantage of higher percentage benefits in addition to their other pension. The modified formula eliminates this windfall.

### How Does It Work?

Social Security benefits are based on the worker's average monthly earnings adjusted for inflation. We separate your average earnings into three amounts and multiply the amounts using three factors. For example, for a worker who turns 62 in 2001, the first \$561 of average monthly earnings is multiplied by 90 percent; the next \$2,820 by 32 percent; and the remainder by 15 percent.

The 90 percent factor is reduced in the modified formula and phased in for workers who reached age 62 or became disabled between 1986 and 1989. For those who reach 62 or become disabled in 1990 or later, the 90 percent factor is reduced to 40 percent.

There are exceptions to this rule. For example, the 90 percent factor is not reduced if you have 30 or more years of "substantial" earnings in a job where you paid Social Security taxes. See the table on the back that lists the amount of "substantial" earnings for each year.

If you have 21 to 29 years of substantial earnings, the 90 percent factor is reduced to between 45 and 85 percent. The second table shows the percentage used depending on the number of years of "substantial" earnings.

Year	Substantial Earnings
1937-50	\$ 900 <sup>1</sup>
1951-54	900
1955-58	1,050
1959-65	1,200
1966-67	1,650
1968-71	1,950
1972	2,250
1973	2,700
1974	3,300
1975	3,525
1976	3,825
1977	4,125
1978	4,425
1979	4,725
1980	5,100
1981	5,550
1982	6,075
1983	6,675
1984	7,050
1985	7,425
1986	7,875
1987	8,175
1988	8,400
1989	8,925
1990	9,525
1991	9,900
1992	10,350
1993	10,725
1994	11,250
1995	11,325
1996	11,625
1997	12,150
1998	12,675
1999	13,425
2000	14,175
2001	14,925

<sup>1</sup>Credited earnings from 1937-50 are divided by \$900 to get the years of coverage (maximum 14 years).

Years of Substantial Earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

## Some Exceptions

The modified formula does not apply to survivors benefits. It also does not apply to you if:

- you are a federal worker first hired after December 31, 1983;
- you were employed on December 31, 1983 by a nonprofit organization that was exempt from Social Security and it became mandatorily covered under Social Security on that date;
- your only pension is based on railroad employment;
- your only work where you did not pay Social Security taxes was before 1957; or
- you have 30 or more years of substantial earnings under Social Security.

## Guarantee

Workers with relatively low pensions are protected because the reduction in the Social Security benefit under the modified formula cannot be more than one-half of that part of the pension attributable to earnings after 1956 not covered by Social Security.

## For More Information

Visit [www.ssa.gov](http://www.ssa.gov) for more Social Security information. You also can get recorded information 24 hours a day, including weekends and holidays, by calling 1-800-772-1213. You can speak to a service representative between 7 a.m. and 7 p.m. on business days. Our lines are busiest early in the week and early in the month, so, if your business can wait, it's best to call at other times. Whenever you call, have your Social Security number handy.

People who are deaf or hard of hearing may call our toll-free TTY number, 1-800-325-0778, between 7 a.m. and 7 p.m. on business days.

We treat all calls confidentially. We also want to make sure that you receive accurate and courteous service. That's why we have a second Social Security representative monitor some incoming and outgoing telephone calls.

Social Security Administration  
SSA Publication No. 05-10045  
July 2001 (Recycle prior editions)  
ICN 460275  
Unit of Issue: HD (one hundred)



## Social Security Administration

SSA Publication No. 05-10007

August 2000

*(January 1999 edition may be used)*

---

### Government Pension Offset

#### A Law That Affects Spouse's Or Widow(er)'s Benefits

If you worked for a federal, state or local government where you did not pay Social Security taxes, the pension you receive from that agency may reduce any Social Security benefits for which you are qualified.

There are two laws that may reduce your benefits. One of them affects the way your Social Security retirement or disability benefits are figured. For more information about that provision, contact Social Security for the factsheet, *A Pension From Work Not Covered By Social Security* (Publication No. 05-10045).

The second law affects Social Security benefits you receive as a spouse or widow(er). This factsheet provides answers to questions you may have about this provision.

#### **I Receive A Government Pension. Will I Receive Any Social Security On My Spouse's Record?**

Maybe not. Some or all of your Social Security spouse's or widow(er)'s benefit may be offset if you receive a pension from a job where you did not pay Social Security taxes.

#### **How Much Is The Offset?**

The offset will reduce the amount of your Social Security spouse's or widow(er)'s benefits by two-thirds of the amount of your government pension. In other words, if you get a monthly civil service pension of \$600, two-thirds of that, or \$400, must be used to offset your Social Security spouse's or widow(er)'s benefits. If you're eligible for a \$500 widow(er)'s benefit, you'll receive \$100 per month from Social Security ( $\$500 - \$400 = \$100$ ).

If you take your annuity in a lump sum, the offset is figured as if you chose to receive regular monthly benefits.

#### **Why Is There An Offset?**

Social Security spouse's benefits provide income to wives and husbands who have little or no Social Security benefits of their own. From the beginning of the Social Security program, spouse's benefits were intended for women and men who were financially dependent on their husbands or wives who worked at jobs covered by Social Security.

Before the offset provisions were enacted, many government employees qualified for a pension from their agency and for a spouse's benefit from Social Security, even though they were not dependent on their husbands or wives.

This example helps clarify why there is an offset.

Bill Smith collects a Social Security benefit of \$600 per month. His wife, Mary, is potentially eligible for a wife's benefit of up to 50 percent of Bill's, or \$300. However, Mary also worked and paid into Social Security, qualifying for her own retirement benefit of \$400. By law, Mary can only receive the higher of the two benefits she is eligible for, not both. She will not receive any wife's benefits because her \$400 retirement benefit, in effect, "offsets" her \$300 wife's benefit.

Bill's neighbor, Tom, also gets a Social Security benefit of \$600 per month. But his wife, Nancy, had a job with the federal government, instead of one where she paid Social Security taxes, and earned a civil service pension of \$800 per month. Before the government pension offset provisions were in place, Nancy would have been eligible for both her \$800 civil service pension and a \$300 wife's benefit on Tom's Social Security record. With the offset provision, Nancy does not qualify for a wife's benefit from Social Security and is treated the same as Mary.

### Who Is Exempt?

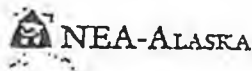
- Any state, local or military service employee whose government pension is based on a job where he or she was paying Social Security taxes on the last day of employment. (Some government entities were not initially covered by Social Security, but chose to participate in Social Security at a later date.)
- Anyone whose government pension is not based on his or her own earnings.
- Anyone who received or who was eligible to receive a government pension before December 1982 and who meets all the requirements for Social Security spouse's benefits in effect in January 1977.
- Anyone who received or was eligible to receive a federal, state or local government pension before July 1, 1983, and was receiving one-half support from her or his spouse.
- Federal employees, including Civil Service Offset employees, who are mandatorily covered under Social Security. (Civil Service Offset employees are federal employees rehired after December 31, 1983, following a break in service of more than 365 days and who had five years of prior Civil Service Retirement System [CSRS] employment.)
- Federal employees who chose to switch from CSRS to the Federal Employees' Retirement System (FERS) on or before December 31, 1987, as well as those employees who were allowed to make a belated switch to FERS through June 30, 1988. Employees who switched outside of these periods, including those who switched during the open season from July 1, 1998 through December 31, 1998, need five years under FERS to be exempt from the government pension offset.

### What About Medicare?

Even if you do not receive cash benefits on your spouse's record, you can still get Medicare at age 65.

### Can I Still Get Benefits On My Own Record?

The offset applies only to Social Security benefits as a spouse or widow(er). However, your own benefits may be reduced due to another provision of the law. Contact Social Security for the factsheet, *A Pension From Work Not Covered By Social Security* (Publication No. 05-10045).



March 2003

Dear Friend,

We, of NEA-Alaska/Retired, are asking for your help to pass two bills in Congress which will affect your retirement income. The bills, HR594 and SB349, will repeal two provisions which determine the amount you will receive from Social Security. These two provisions, the Government Pension Offset (Spousal or widow's offset) and the Windfall Elimination Provision, may reduce your Social Security Benefit by as much as two-thirds of the amount you expect to receive. ***IT IS IMPORTANT THAT YOU CONTACT EACH MEMBER OF OUR DELEGATION, MURKOWSKI, STEVENS AND YOUNG, AND ASK THEM TO SIGN ON TO THIS LEGISLATION AND TO VOTE FOR ITS PASSAGE.***

Many of you have earned government pensions in Alaska, a non-Social Security state, many of you have worked extra jobs in the summer or after work to get Social Security credits - ***YOU WILL BE AFFECTED.*** Some of you retired from other states where you contributed to Social Security and you moved to Alaska to teach or work in the school system to get additional retirement - ***YOU WILL BE AFFECTED.*** I applied for Social Security at age 62 and 65 and was denied the spousal benefit both times because I chose to teach. My mother who is 94 and never worked has drawn a spousal benefit for almost 30 years. It is not fair that we are not only denied because we chose a specific profession but must also send a check for \$171 every three months to pay for Medicare Part B. Please help us eliminate these unfair provisions.

You can get all the information you need on this bill, including definitions, from [www.nea.org](http://www.nea.org) and then, click on government. You can write your message and email, fax or mail it right from that web site. ***Please help by doing it NOW.*** You can keep track of current federal legislation by calling NEA's Legislative Hotline at 1-800-833-4000.

If you have the time and if Murkowski, Stevens and Young have offices in your city, please visit the offices personally, get to know the aides and deliver your message or letter in person. Let them know you want our delegation to sign on to this legislation and to work for its passage. Tell your personal story of how the two unfair provisions affect or will affect you.

The Legislation Information Office is also a good source of information and help. Call them and they will help you get your message to DC.

***PLEASE ACT NOW.*** We need to let the delegation know the issues and concerns - we need to tell our stories. Please help and pass the word to others. Thank you in advance for taking time out of your busy schedules - ***IT WILL MAKE A DIFFERENCE TO YOU AND YOUR FUTURE EARNINGS.***

*Gayle W. Harbo*

Gayle Harbo, Vice President of NEA-Alaska/Retired

States in Which Public Employees are  
Not Covered by Social Security

Alaska

Maine

California

Massachusetts

Colorado

Missouri

Connecticut

Nevada

Georgia (certain local  
governments)

Ohio

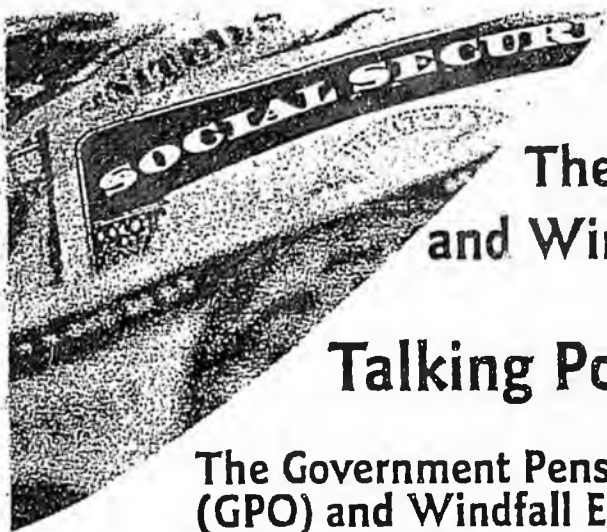
Illinois

Rhode Island (certain local  
governments)

Louisiana

Texas

Kentucky (certain local  
governments)



## The Government Pension Offset and Windfall Elimination Provision

### Talking Points

**The Government Pension Offset (GPO) and Windfall Elimination Provision (WEP) penalize people who have dedicated their lives to public service by taking away benefits they have EARNED.**

- Nine out of ten public employees affected by the GPO lose their entire spousal benefit, even though their spouse paid Social Security taxes for many years.
- The WEP causes hard-working people to lose up to sixty percent of the benefits they earned themselves.
- Many workers rely on misleading Social Security Administration statements that fail to take into account the GPO and WEP when projecting benefits.

**This is a national problem – there are affected people in all states.**

- The impact of the GPO and WEP is not just felt in those states in which public employees like educators are not covered by Social Security. Because people move from state to state, there are affected individuals everywhere.
- The number of people impacted across the country is growing every day as more and more people reach retirement age.

**The loss of income forces some people into poverty.**

- Some 300,000 individuals lose an average of \$3,600 a year due to the GPO – an amount that can make the difference between self-sufficiency and poverty. Impacted people have less money to spend in their local economy and sometimes have to turn to expensive government programs like food stamps to make ends meet.

**We have a national teacher shortage, but the GPO and WEP discourage people from entering/ staying in the profession.**

- Individuals who worked in other careers are less likely to want to become teachers if doing so will mean a loss of earned Social Security benefits. The GPO and WEP are also causing current educators to leave the profession, and students to choose courses of study other than education.
- Non-Social Security states are going to find it increasingly difficult to attract quality educators as more folks learn about the GPO and WEP.

**The GPO and WEP don't only impact educators – other public employees like police officers and firefighters are hurt.**

- We should respect, not penalize, public service.

**Congress can take immediate action.**

Congress should pass legislation that would completely repeal the GPO and WEP.



# Respect Public Service!

## Repeal the Government Pension Offset and Windfall Elimination Provision

### What are the Government Pension Offset and Windfall Elimination Provision?

The Government Pension Offset (GPO) reduces public employees' Social Security spousal or survivor benefits by two-thirds of their public pension. The Windfall Elimination Provision (WEP) reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security.

The GPO affects people who work as federal, state, or local government employees, including educators, police officers, and firefighters, if the job is not covered by Social Security. The WEP affects people who worked in jobs not covered by Social Security and in jobs in which they earned Social Security benefits – such as educators who do not earn Social Security in the public schools, but who work part-time or during the summer in jobs covered by Social Security. The WEP also affects people who move from a job in which they earn Social Security to a job, such as teaching, in which they do not.

### Why Should these Offsets be Repealed?

The offsets penalize people who have dedicated their lives to public service by taking away benefits they have EARNED. Nine out of ten public employees affected by the GPO lose their entire spousal benefit, even though their

spouse paid Social Security taxes for many years. The WEP causes hard-working people to lose up to sixty percent of the benefits they earned themselves.

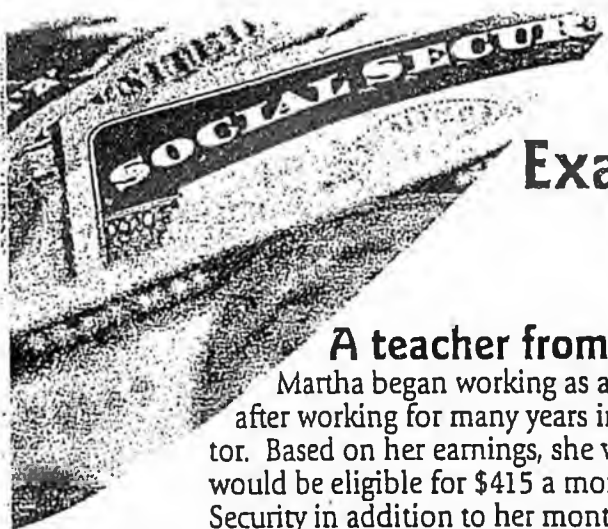
This is a national problem —there are affected people in all states. The impact of the GPO and WEP is not just felt in those states in which public employees are not covered by Social Security. Because people move from state to state, there are affected individuals everywhere. The number of people impacted across the country is growing every day as more and more people reach retirement age.

The loss of income forces some people into poverty. Some 300,000 individuals lose an average of \$3,600 a year due to the GPO – an amount that can make the difference between self-sufficiency and poverty. Impacted people have less money to spend locally and sometimes have to turn to expensive government programs like food stamps to make ends meet.

We have a national teacher shortage, but the GPO and WEP discourage people from entering/staying in the profession. Individuals who worked in other careers are less likely to want to become teachers if doing so will mean a loss of earned Social Security benefits. The GPO and WEP are also causing current educators to leave the profession, and students to choose courses of study other than education. Non-Social Security states are going to find it increasingly difficult to attract quality educators as more folks learn about the GPO and WEP.

Please support legislation to repeal the GPO and WEP.





## Examples of Impact

### **A teacher from Texas:**

Martha began working as a teacher in 1978, after working for many years in the private sector. Based on her earnings, she was told she would be eligible for \$415 a month in Social Security in addition to her monthly teaching pension of \$1423. Martha's husband also worked in the private sector and paid into Social Security. Based on his earnings, Martha should have been eligible for \$970 in widow's benefits. However...

### **Impact of the WEP:**

A loss of \$209. Because of the WEP, Martha has been notified that her own earned Social Security benefits will be reduced to \$206, a loss of \$209 each month.

### **Impact of the GPO:**

A loss of over \$900 a month. Martha has also been told that, should she outlive her spouse, her widow's benefits would be reduced by 2/3 of her public pension, or by \$949 a month. ( $\$1423 \times 2/3 = \$949$ ). Therefore, her \$970 benefit would be reduced to only \$21 a month.

### **A teaching assistant from Colorado:**

Stella worked for over 20 years in the Colorado public school system. She receives a monthly pension of \$637. Her husband worked in the private sector, paying into Social Security for 50 years. After her husband's death, Stella expected to receive \$520 a month in survivor benefits. However...

### **Impact of the GPO:**

A loss of \$424 a month. The GPO reduced Stella's survivor benefits by 2/3 of her public pension. ( $\$637 \times 2/3 = \$424$ ). As a result, Stella only receives \$96 a month in Social Security. Her total monthly income is \$733, instead of the \$1157 she would have gotten if not for the GPO.

### **A school bus driver from Georgia:**

Debbie worked for several years in the private sector and then for 14 years as a school bus driver. She expected to receive a monthly Social Security benefit of \$600. However...

### **Impact of the GPO and WEP:**

A loss of over \$500 a month. Debbie's actual Social Security benefit is only \$61 a month because of the GPO and WEP.

### **A teacher who moved from Oklahoma to California:**

Bob worked for many years in Oklahoma in jobs covered by Social Security before moving to California and becoming a teacher. He was informed by the Social Security Administration that he would receive approximately \$360 a month based on his earlier earnings in the private sector. However...

### **Impact of the WEP:**

A loss of \$183 a month. When he retired, Bob discovered his Social Security benefit was reduced to \$172 a month because of the WEP. Bob calculates he loses \$2196 a year, and will have lost nearly \$11,000 by October 2002.

### **A new teacher in Maine:**

Paul changed careers when he left the military and is now teaching high school math. However...

### **Impact of the WEP:**

Loss of a good teacher. Because he has learned that the WEP will dramatically reduce the Social Security he earned if he remains a teacher, Paul does not intend to stay in the teaching profession.

**nea**

NATIONAL EDUCATION ASSOCIATION

[www.nea.org](http://www.nea.org)

Making Public Schools Great for Every Child

NEA Government Relations 202-822-7300,

[www.nea.org/lac/socsec](http://www.nea.org/lac/socsec)

January 2003



## Quick Links

[SEND  
CONGRESS A  
MESSAGE](#)

[What are the  
GPO and WEP?](#)

[Coalition Partners](#)

[Congressional  
Leaders](#)

[2003 Supporters](#)

[-House](#)

[-Senate](#)

[2002 Supporters](#)

[History](#)

[How to Fix It](#)

[Impact on  
Education](#)

[Impact on  
Individuals](#)

[Non-Social  
Security States](#)

[Real Stories](#)

[Take the Quiz](#)

[Talking Points](#)

[Testimony Before  
Congress](#)

[What can I do?](#)

[Who Is Affected](#)

## Real Stories from Real People Affected by the GPO and WEP

I worked both as a teacher and as a Registered Nurse and I have paid fully and completely into both Social Security and my teacher's pension fund for retirement.

I will be penalized unjustly in my own Social Security benefit for having worked as a teacher. The offset is much greater when they take away your justly earned Social Security.

We need teachers and we need nurses. Must I live in poverty in my retirement because I worked hard in both these areas but will only be compensated for one?

- An educator from Texas

[Click here for next story](#)

[Click here to return to Real Stories from Real People](#)



## Quick Links

[SEND  
CONGRESS A  
MESSAGE](#)

[What are the  
GPO and WEP?](#)

### Coalition Partners

[Congressional  
Leaders](#)

[Current  
Congressional  
Supporters](#)

[Congressional  
Supporters Last  
Year](#)

[History](#)

[How to Fix It](#)

[Impact on  
Education](#)

[Impact on  
Individuals](#)

[Non-Social  
Security States](#)

[Real Stories](#)

[Take the Quiz](#)

[Talking Points](#)

[Testimony Before  
Congress](#)

[What can I do?](#)

[Who is Affected](#)

## Real Stories from Real People Affected by the GPO and WEP

I have worked since 1961 including fifteen years in the private sector where the only retirement was Social Security. I also held summer jobs that required Social Security payments. For the past 14 years I have been teaching in public schools and participating in my state's retirement system.

Because of this I will not be allowed to receive my own Social Security. This is so unfair. I have paid into the system and now I will not be allowed to collect what belongs to me.

I have been advised to quit teaching and take another job, so that when I retire, I might get my teacher's pension and my Social Security. Is this fair when there is a teacher shortage and I love my job?

- An educator from California

[Click here for next story](#)

[Click here to return to Real Stories from Real People](#)

# Alaska State Legislature

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801  
Phone: (907) 465-3743  
1-800-565-3743  
Fax: (907) 465-2381



INTERIM ADDRESS:  
600 E Railroad Avenue  
Wasilla, AK 99654  
Phone : 907-376-3725  
Fax: (907) 376-4768

## Representative Carl Gatto

### HJR 30

*Relating to supporting the repeal of the Government Pension Offset and the Windfall Elimination Provisions from the Social Security Act.*

#### Sponsor Statement

There are those Alaskans who, whether retired or nearing retirement, are examining the issues on income in retirement and measuring it against expenses. Generally retirees consider two major sources of retirement income, pensions and social security. Added together retirement becomes a better alternative to continuing on the job, especially when the job was a long career in public service. There are a pair of flies in the ointment, and very large ones at that. The flies in the ointment are two federal social security requirements that effectively say that if you receive a pension, the social security you have come to believe you deserve is reduced or eliminated. The effect is that spouses or surviving members are being unreasonably penalized because they earned a pension to help them in retirement.

The Government Pension Offset reduces public employees' Social Security spousal or survivor benefits by two-thirds of their public pension. The Windfall Elimination Provision reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security. Too many of these retired individuals whose spouses had chosen careers as teachers, policemen, firemen and other public service positions find that at the age of retirement that they are unfairly being penalized by an offset that takes away their Social Security benefits. For many retired and widowed members this reduction in spousal or survivor benefits can mean the difference between retirement that allows you to be at a level of self-sufficiency or at a level of poverty. This offset has the harshest effect on those who can least afford it: widowed lower-income women.

Estimates indicate that 9 out of 10 public employees affected by the Government Pension Offset lose their entire spousal benefit, even though their deceased spouses paid Social Security taxes for the required number of years. According to the Congressional Budget Office, the Government Pension Offset reduces benefits for some 300,000 individuals by more than \$3,600.00 a year. The impact of this offset in benefits is felt primarily in states which public employees like educators are not covered by Social Security, this includes 15 other states widespread from Alaska to Maine. This impact affects at least one-third of America's education workforce.

At a time when we are faced with a national teacher shortage the Government Pension Offset and Windfall Elimination Provision directly impacts not only the efforts for recruitment of quality teachers but also discourages qualified professional people from changing career paths to enter into the teaching profession. A critical effort to reduce class sizes, and meet the requirements of the No Child Left Behind Act necessitates the need for additional teachers. Estimates for the number of new teachers needed nationally range from 2.2 to 2.7 million by the year 2009.

We ask for your support for House Joint Resolution 30 so that our Congressional Delegation can take swift action to repeal the Government Pension Offset and Windfall Elimination Provision. We ask this on behalf of the many retired and respected public service members of our community, our firemen, police officers, educators and other public employees that should not be penalized for their years of dedication and public service.

HJR

36

## SENATE COMMITTEE REPORT

DATE: 04/7/04

FURTHER: Resources

DATE TURNED  
IN TO OFFICE: 4/30/04

**State Affairs Committee considered HOUSE JOINT RESOLUTION NO. 36**

### HJR 36 MITIGATING GLACIER BAY FISHING CLOSURES

Requesting the National Park Service to mitigate the adverse economic effects of commercial fishing closures and restrictions in Glacier Bay National Park and Preserve.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
<i>Leg.</i>	<i>4/10/04</i>			<input checked="" type="checkbox"/>	<i>1</i>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>John J. Caudrey</i>	<input checked="" type="checkbox"/>			
<i>Bill Stump</i>	<input checked="" type="checkbox"/>			
<i>Paul ...</i>			<input checked="" type="checkbox"/>	
<b>CHAIR:</b> <i>[Signature]</i>	<input checked="" type="checkbox"/>			

# ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH  
HOUSE DISTRICT 4



ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

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

## Sponsor Statement

### HJR 36

This Resolution asks the National Park Service to take simple steps to mitigate the adverse consequences that fishing closures in Glacier Bay have had on the folks who once participated.

Beginning in 1999, the commercial fisheries in Glacier Bay have been either restricted or closed in Glacier Bay by the National Park Service. Commercial fishermen, their crew members and those who supported commercial fishing operations were among those paid compensation because of the closures. However, the payments, many of those who claimed or received compensation will continue to be economically affected in the long term by the closures, which will eventually forever prohibit commercial fishing in Glacier Bay.

In the meantime, the National Park Service will continue to procure goods and services to manage and administer the Glacier Bay National Park and Preserve. For example, the Park Service will continue to lease or purchase boats for various reasons including research, tours, maintenance or law enforcement. This resolution requests that the Park Service obtain these goods, materials or vessels that they need, use, purchase, or lease from those who have been negatively affected by commercial fishery closures and restrictions first, before any other person.

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HJR 36  
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title "Requesting the National Park Service BRU Legislative Council  
to mitigate the adverse economic effects of commercial..." Component: Council and Subcommittees  
Sponsor "Representative Ogg by request..." Session Expenses  
Requestor House Special Committee on Fisheries Component No. 783

**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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626  
Division: Administrative Services Date/Time 2/10/04 2:58 PM

Approved by: Pamela Varni, Executive Director Date 2/10/2004  
Agency: Legislative Affairs Agency

HJR

41

# SENATE COMMITTEE REPORT

DATE: 04/8/04

FURTHER: Resources

DATE TURNED IN TO OFFICE: 4/30/04

State Affairs Committee considered **CS FOR HOUSE JOINT RESOLUTION NO. 41(RES)**

## HJR 41 LAND RECREATIONAL VISITOR PROTECTION ACT

Relating to support for the Federal Land Recreational Visitor Protection Act.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
H. Res.	3/21/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Casden</i>			✓	
<i>Bill ...</i>			✓	
<i>...</i>	✓			
CHAIR: <i>[Signature]</i>			✗	

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHJR 41(RES)  
 (H) Publish Date: 4/1/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Relating to Support for the Federal BRU \_\_\_\_\_  
Land Recreational Visitor Protection Act Component \_\_\_\_\_  
 Sponsor Rep. Kertula \_\_\_\_\_  
 Requester \_\_\_\_\_ 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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)

Prepared by: Rachel Essen Phone 465-3783  
 Division: House Resources Date/Time 3/31/04 3:00 PM  
 Approved by: Representative Nancy Dahlstrom, Co-Chairman Date 3/31/2004  
 Agency: House Resources Committee



# Representative Beth Kerttula

---

Alaska State Legislature District 3

## **Sponsor Statement House Joint Resolution 41 Land Recreational Visitor Protection Act**

Winter recreation is an important part of most Alaskan's lives. Unfortunately, Alaska has the highest avalanche death rate in the nation, but there is virtually no avalanche forecasting. Unlike other states with a significant number of deaths from avalanches, Alaska has no federally funded program for forecasting and education. The Legislature has recognized the importance of avalanche awareness and safety by designating November as Avalanche Awareness Month. However more can and should be done to reduce the threat of avalanches to Alaskans and visitors to our great state.

In April 2003, U.S. Senator Ted Stevens introduced the Federal Land Recreational Visitor Protection Act of 2003 (S 931), which is sitting in the Senate Committee on Energy and Natural Resources awaiting its first hearing. S 931 would direct the Secretary of the Interior to work with the Secretary of Agriculture to establish an avalanche protection program that provides early identification of potential avalanches that could endanger the safety of visitors to public lands and to reduce the risks of avalanches to visitors, recreational users, neighboring communities, private operations, and transportation corridors. It also would authorize federal grants to be used for preventing, forecasting, detecting and mitigating avalanches, including the use of artillery or explosives for avalanche control; maintaining essential transportation and communications that could be affected by avalanches; and assisting public or private research on avalanche control methods.

Alaska would get a large percentage of the grant money available, which could be used by avalanche safety groups, private industry, communities, and transportation entities as well as government programs.

House Joint Resolution 41 affirms our support for this important federal legislation. I would appreciate your support.

# Southeast Alaska Avalanche Center

PO Box 20578, Juneau, Alaska 99802 (907) 586-5699 ph & fax e-mail: seavalanche@gci.net

An educational nonprofit corporation <http://www.avalanche.org>; click on Southeast Alaska link

---

March 25, 2004

Rep. Beth Kerttula  
Alaska House of Representatives  
State Capitol, Room 430  
Juneau, Ak 99801-1182

## Letter of Support for HJR 41

Alaska loses more people to avalanches than any other state, regardless of population, yet we are the one state with no federally funded statewide program to reduce that death toll.

Senator Stevens' S.931 sets up the programs and funding that will make a concrete difference, and Representative Kerttula's HJR 41 helps support and move that bill toward passage.

S.931 directs the Secretaries of Interior and Agriculture to coordinate with the US Forest Service National Avalanche Center to develop a program of grants to governments, communities, transportation systems, and private businesses affected by avalanches to set up the safeguards they need to maintain public safety and the flow of commerce, and apportions funding by each state's area of avalanche zones, which ensures that Alaska will get the large share of the funding that it needs and deserves to address our problem.

As a nonprofit dedicated to avalanche education, we strongly support both bills.

thank you

Bill Glude  
SAAC Director & lead avalanche specialist



## **B.A.A.R.T.**

BACKCOUNTRY AVALANCHE AWARENESS & RESPONSE TEAM

3-26-04

Subject: HJR 41

### **MISSION STATEMENT**

Backcountry Avalanche Awareness and Response Team (B.A.A.R.T.) is a partnership of backcountry travelers and their families that provides Education, support, training and response throughout Alaska.

BAART is a non-profit organization.

BAART helps backcountry travelers and their families by offering information, training, support, and field response equipment services.

BAART works with the Alaska State Troopers, Alaska State Parks, and Alaska Mountain Safety Center as well as individuals to promote safe backcountry travel and to provide trained response team members to the site of an incident.

BAART believes that education and training is the best response to the increasing number of Alaskans dying as a result of avalanches.

As an organization dedicated to reducing Alaska's highest number of annual avalanche deaths among all the states, we support HJR 41."

Regards,

Bob Schmidt  
President

PMB 403 1830 E. PARKS HWY. A-113  
WASHILA, AK 99654  
(907) 352-3777

From: smith.blaine@att.net  
Date: March 27, 2004 7:48:43 AM AST  
To: Juli\_Lucky@legis.state.ak.us  
Cc: snownerd@mac.com

Representative Kerttula,

As a long time educator of avalanche hazard recognition, avoidance, and rescue, I see the need, and support your efforts to provide increased avalanche services to the State of Alaska through HJR41.

Thank you.

Blaine Smith  
32789 Cumulus Road  
Eagle River Alaska 99577  
(907) 696-3480

Subject: support for HJR41  
Date: Wed, 31 Mar 2004 14:32:13 -0900  
From: W Joe Westfall CSP / CSSI <Joe@Westfalia-Werke.US>  
To: Juli\_Lucky@legis.state.ak.us  
CC: 'Bill Glude' <snownerd@mac.com>, Rep\_Beth\_Kerttula@legis.state.ak.us

Hello Juli.

I was contacted by Bill Glude to ask for support on the bill introduced by Rep Kerttula. I understand this is a support effort that will additionally help federal Senate bill S.931 for funding.

As the co-founder of the Alaska Snowmachine Search Rescue & Recovery Team, I am very much in favor of legislation that would potentially reduce the number of avalanche fatalities in Alaska (as well as any other state).

Personally, I am sick and tired of going out on missions to recover the 'death by avalanche' victims. I would much rather our team be able to focus on rescuing live people that are happy to see us.

I teach numerous avalanche awareness, avoidance, and rescue classes throughout the winter seasons. I have concentrated on the snowmachine community, as they are the highest fatality rate and the least educated about the risks they bring upon themselves.

Only in the last few years has the cost of this instruction and expenses been somewhat offset by a grant from the Alaska State Troopers. Prior to that is has all been out of mine and my co-founders' pockets. It is way past time to consider both federal and state funding for avalanche issues in the state.

As an educator and rider dedicated to reducing Alaska's highest number of annual avalanche deaths among all the states, I support HJR 41.

Best Regards...

W Joe Westfall CSP(ICCP) CSSI(IASA)  
907.333.0739(voice) 413.473.5503(fax)  
Bluffs on Susitna & Anchorage Alaska  
Joe @Westfalia-Werke.US

108TH CONGRESS  
1ST SESSION

# S. 931

To direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 29, 2003

Mr. STEVENS (for himself, Mr. CAMPBELL, Mr. DOMENICI, Mr. HATCH, Mr. INOUE, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Federal Land Rec-  
5 reational Visitor Protection Act of 2003".

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) PROGRAM.—The term “program” means  
2           the avalanche protection program established under  
3           section 3(a).

4           (2) SECRETARY.—The term “Secretary” means  
5           the Secretary of the Interior.

6 **SEC. 3. AVALANCHE PROTECTION PROGRAM.**

7           (a) ESTABLISHMENT.—The Secretary shall establish  
8           a coordinated avalanche protection program—

9                   (1) to provide early identification of the poten-  
10                  tial for avalanches that could endanger the safety of  
11                  visitors to units of the National Park System and  
12                  recreational users of public land, including skiers,  
13                  backpackers, snowboarders, and campers; and

14                   (2) to reduce the risks and mitigate the effects  
15                  of avalanches on visitors, recreational users, neigh-  
16                  boring communities, and transportation corridors.

17           (b) COORDINATION.—

18                   (1) IN GENERAL.—In developing and imple-  
19                  menting the program, the Secretary shall consult  
20                  with the Secretary of Agriculture, and coordinate the  
21                  program, to ensure adequate levels of protection for  
22                  recreational users of public land and forests under  
23                  the jurisdiction of the Secretary of Agriculture, in-  
24                  cluding National Recreation Areas, wilderness and  
25                  backcountry areas, components of the National Wild

1 and Scenic Rivers System, and other areas that are  
2 subject to the potential threat of avalanches.

3 (2) RESOURCES.—In carrying out this section,  
4 the Secretary and the Secretary of Agriculture—

5 (A) shall, to the maximum extent prac-  
6 ticable, use the resources of the National Ava-  
7 lanche Center of the Forest Service; and

8 (B) may use such other resources as the  
9 Secretary has available in the development and  
10 implementation of the program.

11 (c) ADVISORY COMMITTEE.—

12 (1) IN GENERAL.—The Secretary and the Sec-  
13 retary of Agriculture shall jointly establish an advi-  
14 sory committee to assist in the development and im-  
15 plementation of the program.

16 (2) MEMBERSHIP.—

17 (A) IN GENERAL.—The Advisory Com-  
18 mittee shall consist of 11 members, appointed  
19 by the Secretaries, who represent authorized  
20 users of artillery, other military weapons, or  
21 weapons alternatives used for avalanche control.

22 (B) REPRESENTATIVES.—The membership  
23 of the Advisory Committee shall include rep-  
24 resentatives of—

1 (i) Federal land management agencies  
2 and concessionaires or permittees that are  
3 exposed to the threat of avalanches;

4 (ii) State departments of transpor-  
5 tation that have experience in dealing with  
6 the effects of avalanches; and

7 (iii) Federal- or State-owned railroads  
8 that have experience in dealing with the ef-  
9 fects of avalanches.

10 (d) CENTRAL DEPOSITORY.—The Secretary, the Sec-  
11 retary of Agriculture, and the Secretary of the Army shall  
12 establish a central depository for weapons, ammunition,  
13 and parts for avalanche control purposes, including an in-  
14 ventory that can be made available to Federal and non-  
15 Federal entities for avalanche control purposes under the  
16 program.

17 (e) GRANTS.—

18 (1) IN GENERAL.—The Secretary and the Sec-  
19 retary of Agriculture may make grants to carry out  
20 projects and activities under the program—

21 (A) to assist in the prevention, forecasting,  
22 detection, and mitigation of avalanches for the  
23 safety and protection of persons, property, and  
24 at-risk communities;

1 (B) to maintain essential transportation  
2 and communications affected or potentially af-  
3 fected by avalanches;

4 (C) to assist avalanche artillery users to  
5 ensure the availability of adequate supplies of  
6 artillery and other unique explosives required  
7 for avalanche control in or affecting—

8 (i) units of the National Park System;  
9 and

10 (ii) other Federal land used for recre-  
11 ation purposes; and

12 (iii) adjacent communities, and essen-  
13 tial transportation corridors, that are at  
14 risk of avalanches; and

15 (D) to assist public or private persons and  
16 entities in conducting research and development  
17 activities for cost-effective and reliable alter-  
18 natives to minimize reliance on military weap-  
19 ons for avalanche control.

20 (2) APPORTIONMENT OF FUNDS.—

21 (A) IN GENERAL.—Subject to subpara-  
22 graph (B), for each fiscal year for which funds  
23 are made available under section 4, the Sec-  
24 retary shall apportion the amount of funds  
25 made available for the fiscal year among States

1 with avalanche zones based on the ratio that  
2 the total area of avalanche zones located in  
3 each State bears to the total area of all ava-  
4 lanche zones in all States.

5 (B) PRIORITY.—In providing grants under  
6 this subsection, the Secretary shall give priority  
7 to projects and activities carried out in ava-  
8 lanche zones—

9 (i) with a high frequency or severity  
10 of avalanches; or

11 (ii) in which deaths or serious injuries  
12 to individuals, or loss or damage to public  
13 facilities and communities, have occurred  
14 or are likely to occur.

15 (f) SURPLUS ORDINANCE.—Section 549(e)(3) of title  
16 40, United States Code, is amended—

17 (1) in subparagraph (A), by striking “or” after  
18 the semicolon at the end;

19 (2) in subparagraph (B), by striking the period  
20 at the end and inserting “; or”; and

21 (3) by adding at the end the following:

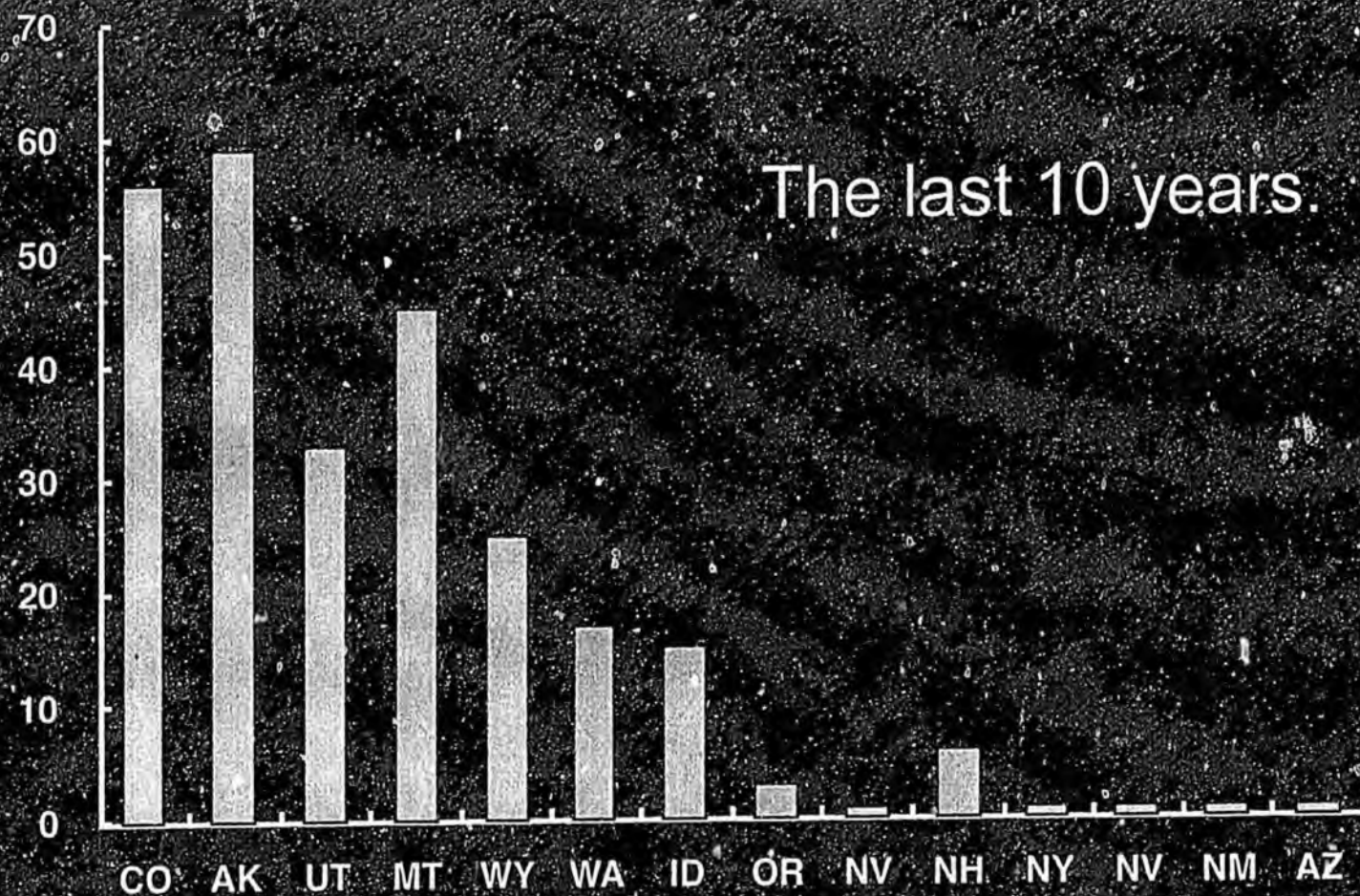
22 “(C) in the case of surplus artillery ordi-  
23 nance that is suitable for avalanche control pur-  
24 poses, to a user of such ordinance.”.

1 SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

2       There are authorized to be appropriated such sums  
3 as are necessary to carry out this Act.

○

# US Avalanche Fatalities By State



Colorado Avalanche Information Center

1993/94 to 2002/03