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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3900

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

*House Judiciary*

*3-13-85*

*3:00 pm*

COMMITTEE REPORT  
HOUSE

1/14/35

FURTHER: Judicial

Date: 1/14/35

The Committee on State Affairs has had 77-21

"An act relating to the verification of residency of candidates for certain public offices."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note 2-4-35  
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

CHAIRMAN

# REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE



HOME  
3960 REKA DRIVE B6  
ANCHORAGE, AK 99508  
PHONE 333 6990

DURING SESSION  
POUCH V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

## Alaska House of Representatives

### MEMORANDUM

To: Representative Mike Miller, Chairman  
House Judiciary Committee

From: Representative Terry Martin *TMM*

Date: January 31, 1986

Subject: H.R. 26

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 26 is necessary in order to give the Division of Elections (the agency which receives declarations of candidacy) the statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claim of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division of Elections, the Division usually states that certification is based only on the face value of the candidate's declaration of candidacy. Neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued.

I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity . . . .

. . . The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed . . . .



On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, paragraph 1). In fact, the last sentence of page 2 states:

And, indeed, if they [election officials] are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

So in the same paragraph, the Attorney General states that Division of Elections has no duty to question or determine residency, yet the Division can and should make a determination of residency if it thinks a candidate is mistaken in admitting disqualification.

The Division of Elections has suggested that the Alaska Public Offices Commission already has investigative powers, and so this function should lie with APOC. However, AS 15.13.030(8), which does give APOC investigative powers, limits those powers to AS 15.13, AS 24.45 or AS 39.50. None of these chapters covers a candidate's declaration of candidacy.

I cannot find any agency which has specific or implied authority to investigate a candidate's residency. This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant, every longevity bonus recipient, every student loan applicant to determine legal Alaskan residency, then surely we should empower our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation and its passage will be a great step toward protecting the voter in choosing a candidate who has fulfilled the legal requirements of residency for elective office.

## OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

RECEIVED  
STATE OF ALASKA  
JAN 25 1980  
LIEUTENANT GOVERNOR

TO: [ Honorable Terry Miller  
Lieutenant Governor

DATE January 23 1980

FILE NO. J-66-412-80

TELEPHONE NO.

FROM AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Constitutional resi-  
dency requirements  
for elective state  
office

By: Rodger W. Peggs  
Assistant Attorney General

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. \*/ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed. Under AS 15.25.040, an untimely filed declaration of candidacy clearly must be rejected. But there is no similar provision for rejecting a declaration which substantially complies with the prescribed requirements for filing for office. With respect to residency, those requirements are that, in substance, the candidate states that he meets "the specific residency requirements of the office for which he is a candidate." AS 15.25.030(8). Given substantial compliance by the candidate, his name must

\*/ For the legislature, three years in the State and one in the district is required. Alaska Const., art. II, § 2. For governor and lieutenant governor, seven years in the State is required. Alaska Const., art. III, §§ 2, 7.

Honorable Terry Miller  
January 22, 1980  
Page #2

be placed on the ballot. AS 15.25.060

For the most part, the Alaska Election Code, like many others, depends upon the adversarial nature of the election process for enforcement. The law reasonably assumes that a candidate's opponents will be the first to raise complaints against any false or fraudulent filing. Residence (domicile) is an elusive legal concept. Proof of residence consists of both objective facts and subjective feelings. A determination requires a full blown hearing and an independent, nonpartisan decision maker. The Election Code quite wisely does not provide for the election officials to make such determinations.

Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg

LAY S. HAMMOND, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 463-3500

July 8, 1982

The Honorable Terry Martin  
3960 Reka Drive-B6  
Anchorage, Alaska 99504

Re: ██████████'s candidacy  
Our file 366-029-83

Dear Representative Martin:

In a letter dated June 24, 1982 (received in this office on June 28, 1982), you requested that we review certain aspects of ██████████'s candidacy for the office of Representative from Election District 13, Seat B. Although you pose a number of specific questions, you appear to have two primary concerns: (1) was ██████████ a resident of Election District 13 for one year, as required by Article II, Section 2 of the Alaska Constitution, at the time she refiled her declaration of candidacy on June 1, 1982; and (2) because she was not properly a candidate before June 1, 1982, having not been a resident for a full year in Election District 13, must her campaign committee (or, in the alternative, contributors to that committee) repay to the state any campaign contribution refunds under AS 43.20.013(a)?

In brief, the Attorney General's office cannot make the residency determination you desire. We are the attorney for the Division of Elections, and as such have no greater powers than the division possesses to make such inquiries. As you note in your letter, the division cannot go beyond the statements in the declaration of candidacy. If you have a disagreement with the statements in that declaration of candidacy, one remedy which you may pursue is to file a lawsuit in the Superior Court. The answer to your question regarding repayment to the state for refunds given to campaign contributors is not as clear. However, on the basis of our research and consideration of the facts presented, we believe it is extremely unlikely that a court would require contributors to repay the refunds, and even more unlikely that the court would require the campaign committee to do so. A more detailed analysis of these issues follows.

REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
YUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE



HOME  
3960 REKA DRIVE 26  
ANCHORAGE, AK 99508  
PHONE 333-6990

DURING SESSION  
POUCH 7  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

Alaska House of Representatives

MEMORANDUM

To: Representative Katie Hurley, Chairman  
House State Affairs Committee

From: Representative Terry Martin *T.M.*

Date: April 23, 1985

Subject: HB 26

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 26 is necessary in order to give the Division of Elections (the agency which receives declarations of candidacy) the statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claim of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division of Elections, the Division usually states that certification is only based on the face value of the candidate's declaration of candidacy. Neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued.

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. . . The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed . . . .

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The Division of Elections has suggested that the Alaska Public Offices Commission already has investigative powers, and so this function should lie with APOC. However, AS 15.13.030(8), which does give APOC investigative powers, limits those powers to AS 15.13, AS 24.45 or AS 39.50. None of these chapters covers a candidate's declaration of candidacy.

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Your careful consideration of this legislation and its passage will be a great step toward protecting the voter in choosing a candidate who has fulfilled the legal requirements of residency for elective office.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

# MEMORANDUM

TO: [ Honorable Terry Miller  
Lieutenant Governor


DATE: January 27, 1980

FILE NO: J-66-412-80

TELEPHONE NO.

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Constitutional resi-  
dency requirements  
for elective state  
office

By:   
Rodger W. Pegg  
Assistant Attorney General

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. \*/ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

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RECEIVED  
STATE OF ALASKA  
JAN 23 1980  
LIEUTENANT GOVERNOR

Honorable Terry Miller  
January 22, 1980  
Page #2

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Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg

LAY S. HANCOCK, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 463-3500

July 8, 1982

The Honorable Terry Martin  
3960 Reka Drive-B6  
Anchorage, Alaska 99504

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Our file 366-029-83

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# Alaska State Legislature

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4453/4530  
  
2201 ROOSEVELT DRIVE  
ANCHORAGE, ALASKA 99503  
(907) 248-4234



MEMBER  
HOUSE RESOURCES COMMITTEE  
MEMBER  
HOUSE STATE AFFAIRS COMMITTEE

## Representative Roger Jenkins

DISTRICT 11

April 22, 1985

### MEMORANDUM

TO : Representative Katie Hurley, Chairman, State Affairs  
Representative Mike Navarre, Vice Chairman  
Representative Bette Cato  
Representative Virginia Collins  
Representative Red Boucher  
Representative M. M. Miller

FROM : Representative Roger Jenkins 

SUBJECT: HB 26 - Verification of Residency of Candidates for Certain  
Public Offices

Under current law no state agency is authorized to check a candidate's eligibility to seek office. The Constitution of the State of Alaska clearly lists the requirements that a person must meet in order to be a member of the legislature. However, it does not address who will verify the statements made by a candidate on the filing affidavit upon filing for office and before certification for the election ballot.

This problem has never been addressed by the legislature although the courts have time and time again said the legislature must define residency and determine who will check the information provided by candidates. Please note the attached memorandums which outline the problems and opinions expressed in January, 1980.

I am aware that the question of residency does not come up in small communities where the general population is much more aware of a person's resident status but it is a problem in Anchorage. This is an area of election law that has been abused on at least 5 different occasions that may have altered the outcome of an election.

The first instance of problem with residency that I am aware of occurred in the 1970 election. I believe the time has come for the legislature to address this issue and provide the necessary guidance to potential candidates.

sla

Introduced: 1/14/85  
Referred: State Affairs and  
Judiciary

1 IN THE HOUSE

BY MARTIN AND JENKINS

2

HOUSE BILL NO. 26

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the verification of residency of  
7 candidates for certain public offices."

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

9 \* Section 1. AS 15.25 is amended by adding a new section to read:

10 Sec. 15.25.031. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

11 The director shall verify that each candidate who files a declaration  
12 of candidacy under AS 15.25.030 meets the specific residency require-  
13 ments for the office for which the declaration is filed.

14 (b) The director shall adopt regulations establishing procedures  
15 for the verification of residency under this section.

16 \* Sec. 2. AS 15.25 is amended by adding a new section to read:

17 Sec. 15.25.181. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

18 The director shall verify that each candidate who files a petition for  
19 nomination under AS 15.25.180 meets the specific residency require-  
20 ments for the office for which the petition is filed.

21 (b) The director shall adopt regulations that establish the  
22 procedures for the verification of residency.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

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I would appreciate your prompt attention to this matter.

Thanks!

# MEMORANDUM

RECEIVED  
STATE OF ALASKA  
JAN 25 1980  
08:50  
LIEUTENANT GOVERNOR

TO: [ Honorable Terry Miller  
Lieutenant Governor

DATE January 20

FILE NO J-66-412-80

TELEPHONE NO.

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Constitutional resi-  
dency requirements  
for elective state  
office

By: *[Signature]*  
Rodger W. Pegg  
Assistant Attorney General

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Honorable Terry Miller  
January 22, 1980  
Page #2

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RWP/pjg

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 26  
 Title: Relating to verification of  
residency of candidates for . . .  
 Sponsor: Martin & Jenkins  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
Independent Operations  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Alaska Public Offices Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>	-	-	-	-	-	-	-	-
100 PERSONAL SERVICES	-	-	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-

<b>POSITIONS:</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME	-	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

No effect on the Alaska Public Offices Commission, Department of Administration.

Prepared By: Theda S. Pittman Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/11/85  
 Approved by Commissioner: Lisa Rudd Date: 2-21-85  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Alaska State Legislature

REPRESENTATIVE  
TERRY MARTIN

2 DISTRICT  
MANUFACTURING AND COMMERCE COMMITTEE  
PHONE 463-2873



3750 REKA DRIVE—58  
ANCHORAGE, AK 99554  
PHONE 333-6900

DURING LEGISLATURE  
POUCH #  
STATE CAPITOL  
JUNEAU, AK 99801  
PHONE 463-3734

MEMORANDUM

To: Senator Vic Fischer, Chairman  
Senate State Affairs Committee

From: Representative Terry Martin *TMM*

Date: February 3, 1984

Subject: HB 29

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 29 is necessary in order to give the Division of Elections statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claims of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division, the Division asks the candidate to verify the statements made at the time of filing for office. If the candidate says that the statements made are true, then neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued. I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

"As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity....

...The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed....

On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, para. 1).

This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant's right to a permanent fund dividend based on that applicant's legal Alaskan residency, then we surely should enable our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation is greatly appreciated. Please contact me if I can offer any assistance to you with regard to HB 29. It is most important to expedite hearing on this bill so that implementation can be assured before the upcoming election.

# STATE OF ALASKA

DIVISION OF ELECTIONS  
POUCH AF  
JUNEAU, ALASKA 99811-9974

## OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

### POSITION PAPER HB 26

Prepared by  
Division of Elections  
April 23, 1985

The Division of Elections has reviewed House Bill 26, and raises certain concerns for consideration by the committee in its deliberations. The division offers no opinion as to the circumstances or specific concerns which prompted the introduction of this bill, however, poses its concerns on the basis of critically important legal and philosophic issues.

Our first concern is that this bill offers no guidelines as to what would constitute adequate "verification" of residency. The state's experience with the residency issue has left us with definitions as nebulous and vague as "intent to return". Because of the legal complexities of the residency question, it does not lend itself to resolution through rote application of uniform rules implemented through regulation, as this bill proposes. We could anticipate that virtually any determination made by the division would be open to legal challenge, especially where individuals were denied access to the ballot on the basis of such a determination.

Our major concern regarding this bill is rooted in a critically important philosophic point. Under our current structure, the Division of Elections serves strictly as an administering agency responsible for the conduct of the election itself. In that role, the division remains totally impartial with no discretionary influence as to any candidate's access to the ballot, or the final outcome of the election. We believe that our impartiality is crucial to the conduct of fair and open elections, and critical in maintaining public confidence in the election process. We feel this bill would erode that confidence by jeopardizing the integrity of our neutral status.

Under the current procedures, the division accepts the sworn affidavit of the candidate on its face value. Because of the adversarial nature of the campaign process, any claims made by one candidate are occasionally challenged by an opposing

candidate. Under Title 15 candidates or 10 qualified voters may contest the nomination or election of a person on various grounds, including issues of their qualification. AS 15.20.550 places the jurisdiction for such contests with the superior court. While these challenges usually occur following certification, there is nothing to preempt a candidate from filing a declaratory action with the court prior to the election.

Because of the legal complexities of the residency issue, the courts are better able to interpret the validity of a candidate's residency claim on a case by case basis.

We believe that the authority given to the division under the provisions of this bill are misplaced. The division must be left free to fulfill the responsibility with which we are charged; that is, the impartial administration of the election process. We would hope that the committee places equal value to our neutrality in the performance of this critical function.



---

Sandra J. Stout, Director  
Division of Elections

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/resolution No.: HB 26  
 Title: An Act relating to verification of residency/candidates  
 Sponsor: Martin  
 Requestor: Martin  
 Date of Request: 4/23/85

FISCAL DETAIL

Agency Affected: Office of Governor  
 Program Category Affected: Elections  
 BRU, Program or Subprogram(s) Affected: Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 87	FI 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	0	176.6	145.1	194.2	159.6
200 TRAVEL	0	0	39.6	15.8	43.6	17.4
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>			<b>216.2</b>	<b>160.9</b>	<b>237.8</b>	<b>177.0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND			216.2	160.9	237.8	177.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME			1	1	1	1
PART-TIME						
TEMPORARY			5	3	5	3

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED

Prepared By: Linda Edgeworth Phone: 65-4611  
 Division: Division of Elections Date: 4-24-85

Approved by Commissioner: [Signature] Date: 4-24-85  
 Agency: Office of the Governor

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Fiscal Note Detail

House Bill 26

The accompanying fiscal note for House Bill 26 includes costs for staffing which would be required to create an investigative arm for the Division of Elections. The staffing anticipated is described as follows:

MAJOR ELECTION YEARS

- 1 Full Time Investigator  
Range 18
- 1 Temporary Investigator, 6 months  
Range 16, Juneau
- 2 Temporary Investigator, 6 months  
Range 16, Anchorage
- 1 Temporary Investigator, 6 months  
Range 16, Fairbanks
- 1 Temporary Investigator, 6 months  
Range 16, Nome

Travel is calculated at 10 trips per person @ \$500 ea. plus \$80 per diem x 2 days.

INTERIM YEARS

- 1 Full Time Investigator  
Range 18
- 1 Temporary Investigator, 6 months  
Range 16, Juneau
- 1 Temporary Investigator, 6 months  
Range 16, Fairbanks
- 1 Temporary Investigator, 6 months  
Range 16, Nome

Travel is calculated at 6 trips per person @ \$500 ea. plus \$80 per diem x 2 days.

In addition, the Department of Law informs us that there would be extensive legal fees anticipated to be charged back to the division based on challenges to our determinations as to residency qualifications.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 26  
 Title: Relating to verification of  
residency of candidates for . . .  
 Sponsor: Martin & Jenkins  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
Independent Operations  
 BRU, Program or Subprogram(s) Affected:  
Alaska Public Offices Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>	-	-	-	-	-	-
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>POSITIONS:</b>	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

No affect on the Alaska Public Offices Commission, Department of Administration.

Prepared By: Theda S. Pittman Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/11/85  
 Approved by Commissioner: Lisa Rudd Date: 2-21-85  
 Agency: Department of Administration/

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4/29/85

REQUEST

Bill/resolution No.: HB 26  
 Title: An act relating to  
verification of residency/Candidates  
 Sponsor: Martin  
 Requestor: House State Affairs  
 Date of Request: 4/26/85

FISCAL DETAIL

Agency affected: Office of the Governor  
 Program Category Affected: Elections  
 BRU, Program or Subprogram(s) Affected: Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 89	FI 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		-0-	16.6	8.3	18.2	9.1
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES			1.5			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS			4.2			
<b>TOTAL OPERATING</b>			<b>22.3</b>	<b>8.3</b>	<b>18.2</b>	<b>9.1</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND			22.3	8.3	18.2	9.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Linda Aguirre  
 Division: Division of Elections

Phone: 465-4611  
 Date: 4/29/85

Approved by Commissioner: [Signature]  
 Agency: Office of the Governor

Date: 4/29/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

HOUSE BILL 26

Amended Fiscal Note

Division of Elections

This fiscal note has been amended to reflect reduced costs based on the restricted level of responsibility as described in the letter of intent which accompanies this bill. Because the realm of responsibility is to be restricted to those levels of verification which can be handled through normal administrative channels, the division has anticipated that this function can be handled by one seasonal Range 13 assistant. During fiscal years covering major election cycles this individual would be utilized over a 6 month period. During even fiscal years these services would be covered for a 3 month period.

Other costs included in FY87 include costs of reprinting "Running for Office" books to include new residency verification requirements and procedures, as well as new filing forms which include revised residency data. During the first year in which the new procedures would be implemented an allowance is made for advertising the regulatory changes statewide.

This fiscal note does not cover legal costs charged back to the division to cover legal review and representation which the Department of Law anticipates will be necessary as candidates challenge the determinations made by the division on the basis of the verification process mandated by this bill.

# STATE OF ALASKA

DIVISION OF ELECTIONS  
POUCH AF  
JUNEAU, ALASKA 99811-9974

## OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

### POSITION PAPER HB 26

Prepared by  
Division of Elections  
April 23, 1985

The Division of Elections has reviewed House Bill 26, and raises certain concerns for consideration by the committee in its deliberations. The division offers no opinion as to the circumstances or specific concerns which prompted the introduction of this bill, however, poses its concerns on the basis of critically important legal and philosophic issues.

Our first concern is that this bill offers no guidelines as to what would constitute adequate "verification" of residency. The state's experience with the residency issue has left us with definitions as nebulous and vague as "intent to return". Because of the legal complexities of the residency question, it does not lend itself to resolution through rote application of uniform rules implemented through regulation, as this bill proposes. We could anticipate that virtually any determination made by the division would be open to legal challenge, especially where individuals were denied access to the ballot on the basis of such a determination.

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candidate. Under Title 15 candidates or 10 qualified voters may contest the nomination or election of a person on various grounds, including issues of their qualification. AS 15.20.550 places the jurisdiction for such contests with the superior court. While these challenges usually occur following certification, there is nothing to preempt a candidate from filing a declaratory action with the court prior to the election.

Because of the legal complexities of the residency issue, the courts are better able to interpret the validity of a candidate's residency claim on a case by case basis.

We believe that the authority given to the division under the provisions of this bill are misplaced. The division must be left free to fulfill the responsibility with which we are charged; that is, the impartial administration of the election process. We would hope that the committee places equal value to our neutrality in the performance of this critical function.



---

Sandra J. Stout, Director  
Division of Elections

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 26  
 Title: An Act relating to verification of residency/candidates  
 Sponsor: Martin  
 Requestor: Martin  
 Date of Request: 4/23/85

FISCAL DETAIL

Agency Affected: Office of Governor  
 Program Category Affected: Elections  
 BRU, Program or Subprogram(s) Affected: Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 85	FI 86	FI 87	FI 88	FI 89	FI 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	0	176.6	145.1	194.2	159.6
200 TRAVEL	0	0	39.6	15.8	43.6	17.4
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>			<b>216.2</b>	<b>160.9</b>	<b>237.8</b>	<b>177.0</b>

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND			216.2	160.9	237.8	177.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME			1	1	1	1
PART-TIME						
TEMPORARY			5	3	5	3

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED

Prepared By: Linda Edgeworth Phone: 465-4611  
 Division: Division of Elections Date: 4-24-85

Approved by Commissioner: Linda Edgeworth Date: 4-24-85  
 Agency: Office of the Governor

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

Fiscal Note Detail

House Bill 26

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Range 16, Nome

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