

HJR

23



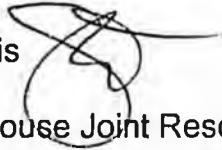
ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

May 5, 1999

MEMORANDUM

TO: Representative Pete Kott, Chair
House Judiciary Committee

FROM: Representative Gary Davis 

RE: Request for Hearing on House Joint Resolution 23, *"Proposing amendments to the constitution of the State of Alaska relating to the community development fund, the permanent fund, and the budget reserve fund"*

Please schedule a committee hearing on the Committee Substitute for House Joint Resolution 23 (C&RA) at your earliest convenience. Attached are the following materials for inclusion in the committee packet:

- Sponsor Statement
- Sectional Analysis
- Fiscal Notes from Division of Elections and the Department of Community & Regional Affairs
- Affected Constitutional Provisions
- 2 tables, one showing estimates of funds available for distribution to communities; the other showing the estimated effect on the Earnings Reserve Account
- Memorandum to members of House Community and Regional Affairs providing answers to specific questions raised in committee

I would also like to request that this hearing be teleconferenced to various sites across the state.

Thank you for your consideration of this request. If you have any questions or would like additional information, please contact Deb Davidson of my staff. Prior to the committee hearing, I will be forwarding information to your staff regarding financial projections pertaining to the legislation.

Attachment



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

COMMITTEE SUBSTITUTE TO HOUSE JOINT RESOLUTION 23 (C&RA)

SPONSOR STATEMENT

"Proposing amendments to the Constitution of the State of Alaska relating to the community development fund, the permanent fund and the budget reserve fund"

HJR 23 proposes a constitutional amendment creating a dedicated fund for payments to municipalities within the state. Principal will be invested to yield competitive market rates and the fund's income will be distributed annually to Alaska communities. Fund principal will consist of an initial \$750 million from the Budget Reserve Fund, with 2 percent of the Permanent Fund's income added to the principal for the next 20 years. As the principal of the fund increases, so too will earnings, and thus payments to communities. As payments increase, local taxes may decrease providing more money to individuals without a decrease in local services.

Local governments have individualized needs in addition to providing basic services. They do not always have sufficient land, economic or tax bases to provide the necessary funding; nor can the state continue to give it to them. With oil production decreasing, there is less general fund money available to the state. As revenues diminish, the state cannot provide adequate sustainable funding to local governments to meet their service demands.

A dedicated fund provides more funding reliability to local governments. Paying communities the income earned from the fund allows them to better estimate what they will receive. This provides a more stable and predictable stream of revenues to plan and provide services. It also gives more local control over priorities and services. With local government receiving funds directly, residents have the opportunity to be more knowledgeable about how the funds are used and are able to provide more input on how they should be spent. Local governments will answer to their citizens for the way in which it is spent. The state can then concentrate its efforts on statewide programs and support directed more to specific or specialized needs.

This also strengthens the argument that the Permanent Fund and its proceeds are used for the public's purpose and are thus eligible to retain the federal tax-exempt status. The Permanent Fund was created as a public trust, the proceeds from which were to be used for a public purpose. The principal came from resource assets received at statehood because Congress did not believe Alaska could meet its collective needs from taxes alone. Dedicating a portion of the income to communities reiterates the argument that the state fulfills the public purpose by using "income from a collective asset to meet collective needs." Citizens' approval of the dedication by a majority vote reinforces that the public believes in the purpose for which it is to be used.

HJR23/SS/05/04/99

LEGAL SERVICES

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

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 11, 1999

SUBJECT: Community Development Fund (HJR 23)

TO: Representative Gary Davis
Attn: Deb Davidson

FROM: Tamara Brandt Cook
Director

TBC

Here is the sectional summary you requested of a resolution proposing amendments to the state constitution.

Sec. 1. The community development fund is established as a separate fund in the state treasury. Money in the fund is to be invested. Appropriations may be made to the fund, but the principal of the fund may not be appropriated. Income of the fund must be distributed to municipalities as provided by law.

Sec. 2. Within 30 days after the effective date of the constitutional amendment establishing the community development fund, \$750 million or the balance in the budget reserve fund, whichever is less, shall be transferred from the budget reserve fund to the new community development fund. Two percent of the income of the permanent fund earned in fiscal year 2001 and in each fiscal year after shall be transferred to the community development fund. Transfers of permanent fund income end after fiscal year 2020. No distributions from the community development fund may be made before July 1, 2002.

Sec. 3. The proposed amendment will be placed on the ballot during the 2000 general election.

TBC:lmb
99-027.lmb

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR23

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment relating to the BRU Elective Operations
community development fund, PFD and budget reserve Component General and Primary
 Sponsor Representative Davis
 Requester House Community & Regional Affairs Comm. Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by Gail Fenumia *Gail Fenumia* Phone 465-3935
 Division Division of Elections Date/Time 4/7/99 12:41 PM
 Approved by Lt. Governor Fran Ulmer *Fran Ulmer* Date 4/7/99
 Agency Office of the Lieutenant Governor

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FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: Proposing amendments to the Constitution BRU: _____
of the State of Alaska relating to the ... Component: _____
 Sponsor: REPRESENTATIVE DAVIS
 Requestor: House CRA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY04	FY 05
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY99) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

Prepared by: Yvonne Chase, Acting Director Phone: 465-4709

Division: Division of Administrative Services Date: 4/7/99

Approved by Commissioner: M. J. ... Date: 4/7/99

Agency: Community & Regional Affairs

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Constitution of Alaska
Article IX, Sections 7 and 13

Section 7. Dedicated Funds. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Cross references. — For an exception to the prohibition against dedicated funds, see § 15 of this article which establishes the permanent fund.

Effect of amendments. — The amendment effective February 21, 1977 (9th Legislature's SCS CSSHJR 39 (Res) am S (1976)) inserted "as provided in section 15 of this article or" in the first sentence.

Opinions of attorney general. — Among the reasons such a prohibition, as is found in this section, was recommended are the following: (1) flexibility of budgeting; (2) financial control; and (3) lack of relationship between the tax and purpose. 1959 Op. Att'y Gen. No. 7.

Delegates to the constitutional convention were desirous of eliminating dedications so that the legislature would have the greatest flexibility in allocating tax revenues on a basis of need. 1959 Op. Att'y Gen. No. 7.

A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. 1959 Op. Att'y Gen. No. 7.

As a matter of compromise, a grandfather clause was included in this section to permit all dedications existing on the date of ratification of the constitution (April 24, 1956) to continue. 1959 Op. Att'y Gen. No. 7.

The intent of the drafters of the state constitution was to permit the continuance of existing dedications at the then existing rates until the legislature saw fit to exercise the only power retained in relation to them: That is, the power to repeal. 1959 Op. Att'y Gen. No. 7.

This section had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes, and (2) to prevent the creation of new special funds separate from the general fund. May 2, 1975 Op. Att'y Gen.

This section of the state constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues. May 2, 1975, Op. Att'y Gen.

The dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever, is limited by the state constitution to those existing when the constitution was ratified or required for participation in federal programs. May 2, 1975 Op. Att'y Gen.

The real concern at the constitutional convention was about earmarked funds, not taxes or licenses, but funds. May 2, 1975 Op. Att'y Gen.

Dedication of the revenues from the lease or sale of state natural resources offends the state constitutional prohibition against dedicated funds. May 2, 1975 Op. Att'y Gen.

The practice of appropriating to a separate fund an amount to be ascertained by reference to receipts from a specified source does not violate the dedication prohibition of the constitution. November 30, 1982 Op. Att'y Gen.

Language of this section prohibiting dedication of proceeds of any state tax or license must be read as embodying certain implied exceptions, specifically

Section 13. Expenditures. No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

Opinions of attorney general. — This provision gives the legislature total and absolute power over the expenditure of state funds. February 28, 1977 Op. Att'y Gen.

It is the duty of the Department of Revenue to recover amounts erroneously refunded to a municipality. 1963 Op. Att'y Gen. No. 20.

The University of Alaska is similar in all or most respects to other state executive agencies for purposes of budgeting and accounting; it does not have any peculiar status by virtue of being constitutionally established. February 28, 1977 Op. Att'y Gen.

Only rarely can an appropriation for state expenses

be spent before the effective date of the law containing the appropriation. August 7, 1985 Op. Att'y Gen.

The Alaska Safety Advisory Council (ASAC) cannot legally spend program receipts without going through the state budgetary or other administrative process. By statute, program receipts must be deposited with the Department of Revenue. Authority to receive and expend funds for a state agency must be through legislative appropriation. ASAC is a state body and the purchase of goods and services by the ASAC must conform with the State Procurement Code. January 4, 1991, Op. Att'y Gen.

Table 1
HJR 23: Community Development Fund
Deposits, Earnings and Distributions
FY 00 - FY 21 (in millions)

End of	Without Inflation Proofing				With Inflation Proofing of 3 percent				
	Community Development Fund Principal	Deposit to Principal 2%	Total Earnings	Available for Distribution	Community Development Fund Principal	Deposit to Principal	Total Returns	Inflation Proofing	Available for Distribution
FY 00	750	750			750	750			
FY 01	845	37	58		845	37	58	23	
FY 02	832	38	65	117	880	38	65	25	69
FY 03	875	40	64	61	950	40	68	26	38
FY 04	921	42	68	64	1024	42	74	28	41
FY 05	968	44	71	67	1103	44	79	31	44
FY 06	1018	46	75	71	1186	46	85	33	48
FY 07	1071	48	79	75	1275	48	92	36	51
FY 08	1126	50	83	78	1369	50	99	38	55
FY 09	1183	53	87	83	1469	53	106	41	59
FY 10	1243	55	92	87	1574	55	114	44	64
FY 11	1306	58	96	91	1685	58	122	47	68
FY 12	1371	60	101	96	1803	60	131	51	73
FY 13	1440	63	106	101	1927	63	140	54	78
FY 14	1512	66	112	106	2059	66	149	58	83
FY 15	1586	69	117	111	2198	69	160	62	89
FY 16	1665	72	123	116	2344	71	170	66	95
FY 17	1746	75	129	122	2499	75	182	70	102
FY 18	1831	78	135	128	2662	78	194	75	108
FY 19	1920	81	142	134	2835	81	206	80	115
FY 20	2013	85	149	141	3016	85	220	85	123
Total				1849				973	1403

Source: Department of Revenue

Assumptions

All transfers into the CDF happen at the end of the fiscal year

Transfers earn no money the year they are transferred into the Community Development Fund

Withdrawals from the Community Development Fund happen at the end of fiscal year 02

2 percent of the realized income is transferred from the Permanent Fund to the Community Development Fund beginning in FY 01.

Table 2
HJR 23: Community Development Fund
Effect on Earnings Reserve Account Balance and Amounts Available for Permanent Fund Dividend
FY 00 - FY 21 (in millions)

End of	Earnings Reserve Account Balance			Amount Available for Permanent Fund Dividends		
	Currently	With 2% of PF Earnings to CDF	Difference	Currently	With 2% of PF Earnings to CDF	Difference
FY 00	2,288	2,288	0	1,074	1,074	0
FY 01	2,452	2,415	-37	1,082	1,082	0
FY 02	2,681	2,604	-77	1,069	1,069	0
FY 03	3,030	2,911	-119	1,007	1,006	-1
FY 04	3,446	3,280	-166	1,012	1,011	-1
FY 05	3,893	3,676	-217	1,057	1,055	-2
FY 06	4,375	4,102	-273	1,106	1,103	-3
FY 07	4,887	4,555	-332	1,160	1,154	-6
FY 08	5,431	5,035	-396	1,216	1,209	-7
FY 09	6,008	5,542	-466	1,275	1,266	-9
FY 10	6,620	6,080	-540	1,337	1,326	-11
FY 11	7,269	6,648	-621	1,401	1,387	-14
FY 12	7,956	7,249	-707	1,467	1,451	-16
FY 13	8,683	7,883	-800	1,536	1,516	-20
FY 14	9,451	8,551	-900	1,607	1,584	-23
FY 15	10,267	9,260	-1,007	1,681	1,655	-26
FY 16	11,128	10,008	-1,120	1,758	1,728	-30
FY 17	12,037	10,794	-1,243	1,838	1,804	-34
FY 18	12,999	11,626	-1,373	1,921	1,883	-38
FY 19	14,015	12,501	-1,514	2,008	1,965	-43
FY 20	15,089	13,427	-1,662	2,098	2,050	-48

Source: Department of Revenue

Assumptions

All transfers into the CDF happen at the end of the fiscal year

Transfers earn no money the year they are transferred into the Community Development Fund

Withdrawals from the Community Development Fund happen at the end of fiscal year 02

2 percent of the realized income is transferred from the Permanent Fund to the Community Development Fund beginning in FY 01.




ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

MEMORANDUM

April 29, 1999

TO: Representative Andrew Halcro, Co-Chair
Representative John Harris, Co-Chair
Representative Fred Dyson
Representative Carl Morgan
Representative Lisa Murkowski
Representative Reggie Joule
Representative Albert Kookesh

FROM: Representative Gary Davis 

RE: HJR 23, Community Development Fund

Several questions came up during the April 8 Community and Regional Affairs Committee meeting on HJR 23. Specifically, the committee requested additional information on the following: 1) will unincorporated communities be eligible to receive money from the fund; 2) how will the fund be invested and who will administer it; and 3) what is the projected distribution schedule. These questions and my initial intentions regarding the resolution are addressed in order below.

Unincorporated Communities Eligibility to Receive Funds

I understand that a draft committee substitute will be offered clarifying that the fund earnings shall be distributed to "some or all of the following: organized boroughs, cities, and unincorporated communities in the unorganized borough," as provided by law. This change will allow unincorporated communities as well as municipalities to receive funds, but leaves the actual distribution scheme to the discretion of the legislature.

How Will the Fund be Invested and Who Will Administer It

Unless otherwise provided for in law, the commissioner of revenue is responsible for the investment and administration of state funds. These funds are invested according to the principles set out in AS 37.10.071 and other provisions as set out for the fund. In this instance, the Community Development Fund would be invested to yield competitive market rates to the fund (this is the same language as that contained in the constitutional provision establishing the Constitutional Budget Reserve Fund).

Representative Davis

April 29, 1999

Page 2

The legislature could, in the years following the adoption of this amendment, enact legislation forming an investment board similar to the Permanent Fund Corporation, the Alaska State Pension Investment Board, the Alaska Mental Health Trust Authority, or any of the other state investment boards. If this were to occur, I envision the board would include representatives of the Alaska Municipal League or individual municipalities.

For the purpose of deciding whether or not to create the Community Development Fund, I prefer working on the premise that the Department of Revenue would act as the fund administrator. This enables us to obtain information on the investment principles currently in use and calculate fund projections using a variety of scenarios.

How will the Fund Earnings be Distributed

I intend for the earnings from the Community Development Fund to be distributed with no restrictions. Each local government will individually decide on the best ways to use the fund they receive. I envision the distribution formula consisting of two calculations. The first calculation would be on a purely per capita basis, recognizing that the more people there are in a municipality, the more services are required to be provided. The second calculation would be based geographically, perhaps taking into account the number of square miles of land receiving municipal services. This recognizes the fact that it is more expensive to provide over large tracts of land than it is within a compact area.

There are a variety of distribution options available to the legislature. I hesitate to put forward a specific plan of distribution for fear of overshadowing the discussion of whether or not to create a fund with a debate on the best way in which to distribute funds in the event HJR 23 was approved by voters. Additionally, this gives the specific formula options the flexibility to meet future needs and goals.

I hope this memorandum answers the questions to your satisfaction. If you would like further information, please contact Deb Davidson with my staff. Additionally, my office is willing to request distribution options and projected payments to local governments based on your specific scenarios.

As I stated in committee, my purpose in bringing forth this legislation is to discuss the advisability and viability of this type of fund. I believe that this is a responsible use of Permanent Fund earnings that can provide a more stable revenue stream for local governments. I believe it is best to leave the actual mechanics of the investment and distribution of the fund to a later date so that we can focus on one issue at a time. The legislature in partnership with local governments could develop a fair and equitable plan for the distribution of the earnings within the 2-year window given in this legislation.

HJR 23

Community Development Fund Constitutional Amendment

Part of a State-Local Long Range Fiscal Plan:

- In two years it would eliminate General Funds for the Safe Communities, State Revenue Sharing, and Capital Matching Grants.
- It would ensure stronger local governments, reverse the trend to dissolve municipalities, and encourage new municipalities to form.
- A Community Development Fund would form a vehicle for transitioning additional state service responsibilities to local governments. The biggest problem now in accepting additional responsibilities from the state is that the State cannot commit funding beyond one year.

Would a Community Development Fund fit into a plan like the "All-Alaska" Plan?

- Yes, the "Alaska Plan" is an endowment. The creation of a Community Development Fund would simply be a separate part of that endowment to:
 1. Ensure local taxpayers that they will be able to continue receiving critical basic services.
 2. Create a vehicle to gradually transfer more service responsibilities to local governments where they can be delivered more efficiently and with full control by local citizens.
- A Community Development Fund would not reduce the ability to balance the state budget because it transfers revenue and current state expenses.
- A Community Development Fund would enhance a long-range fiscal plan because it furthers the goal of reducing the size of state government, increases efficiency, and evolves stronger local governments that provide more local service.

Example: Currently there are separate state and local road maintenance crews in many communities. Local governments cannot negotiate with the state to consolidate road maintenance under local control because historically the state has not been able to commit funds beyond one year. A Community Development Fund would allow a stable source of funding for road maintenance consolidation under local governments.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

**A Resolution of the Alaska Conference of Mayors
and the Alaska Municipal League Board of Directors
Resolution 99-01**

**Urging the Governor and Legislature to Work with
Local Governments to Develop a State/Local Long-Range Fiscal Plan**

Whereas, a responsible long-range fiscal plan is critical for a strong and sustainable Alaska economy.

Whereas, all Alaskans are both local and state citizens and taxpayers, and local and state elected officials serve the same constituency.

Whereas, there is an urgent need to solve this problem now to avoid depletion of Alaska's critical economic and financial resources.

Whereas, all local officials have pledged their support for a responsible Alaska long range fiscal plan.

Now, therefore, be it resolved:

1. That the Governor and Legislature expand the concept of the "state" fiscal plan, to a "state/local" long-range fiscal plan.
2. A "state/local" long range fiscal plan should strongly consider:
 - Use of Permanent Fund/Constitutional Budget Reserve earnings while continuing a reduced Permanent Fund Dividend.
 - Institution of a reasonable statewide income tax that is a fixed percentage of the federal income tax.
 - Endow a Community Development Fund to replace revenue sharing by 2002 and provide a vehicle for negotiating a gradual assumption of additional municipal service responsibilities.
 - Share increased statewide gas taxes with municipalities, as most states do.
 - Allow a local ballot vote to tax alcohol sales at a higher rate than other sales.
 - Fund the Senior/Disabled Veteran exemption or make it a local option.

Adopted May 5, 1999.

Alaska Municipal League/Alaska Conference of Mayors

HJR 23

Community Development Fund Constitutional Amendment

Part of a State-Local Long Range Fiscal Plan:

- In two years it would eliminate General Funds for the Safe Communities, State Revenue Sharing, and Capital Matching Grants.
- It would ensure stronger local governments, reverse the trend to dissolve municipalities, and encourage new municipalities to form.
- A Community Development Fund would form a vehicle for transitioning additional state service responsibilities to local governments. The biggest problem now in accepting additional responsibilities from the state is that the State cannot commit funding beyond one year.
- Without healthy communities, Alaska will not be healthy. Local economies and jobs are very sensitive to increases in local taxes.

Would a Community Development Fund fit into a plan like the "Healthy Alaska" Plan?

- Yes, the "Healthy Plan" is an endowment. The creation of a Community Development Fund would simply be a separate part of that endowment to:
 1. Ensure local taxpayers that they will be able to continue receiving critical basic services.
 2. Create a vehicle to gradually transfer more service responsibilities to local governments where they can be delivered more efficiently and with full control by local citizens.
- A Community Development Fund would not reduce the ability to balance the state budget because it transfers revenue and current state expenses.
- A Community Development Fund would enhance a long-range fiscal plan because it furthers the goal of reducing the size of state government, increases efficiency, and evolves stronger local governments that provide more local service.

Example: Currently there are separate state and local road maintenance crews in many communities. Local governments cannot negotiate with the state to consolidate road maintenance under local control because historically the state has not been able to commit funds beyond one year. A Community Development Fund would allow a stable source of funding for road maintenance consolidation under local governments.