SJR

6

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
JAN 3 1 2000
SENATE FINANCE COMMITEE

DATE: 1/18/01

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 31 Jan 01

Finance Committee considered SENATE JOINT RESOLUTION NO. 6

Urging the Congress of the United States to provide federal education funds as a block grant to the state.

and recommends:

[✓] be **replaced** with ____ **CS** SJR6 (FIN)

[ ] adopt **previous** ____ **CS** CS forthcoming (____)

[ ] 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
[ ] new: SCR #____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
SFC/ Education	1/29/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

[ ] **APPROPRIATION - no fiscal note**

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓		~~X~~	
			X	
			X	
	✓			
	✓			
	✓			
COCHAIR:	✓			
COCHAIR:	✓			

REPORTED OUT

JAN 3 1 2000

SENATE FINANCE COMMITEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SJR 6
(S) Publish Date:

Revision Date/Time (Note if correction): 1/29/01
Dept. Affected: EDUCATION
Title: Education Block Grants
BRU:
Component:
Sponsor: Senate Finance
Requester: Senate Finance Committee
Component Number:

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

It is estimated that there will be no fiscal impact for this resolution.

Prepared by: SENATE FINANCE COMMITTEE
Phone: 465-2327

Senator: SENATOR PETE KELLY,CO- CHAIR
SENATOR DAVE DONLEY,CO-CHAIR
Date: 1/29/2001

Amendment #1

22-LS0360\C

SENATE JOINT RESOLUTION NO. 6

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 1/18/01
Referred: Finance

A RESOLUTION

Urging the Congress of the United States to provide federal education funds as a block grant to the state.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the federal government provides funding for education to the states; and

WHEREAS the State of Alaska is a better judge of how to use funding to meet the education needs in the State of Alaska than is the federal government; and

WHEREAS the use of a block grant system is a method that maximizes control by the states and local communities; and

WHEREAS the block grant system has proven successful in other areas such as welfare funding; and

WHEREAS the United States Congress is considering legislation that would revise federal education funding to the states;

BE IT RESOLVED that the Alaska State Legislature urges the United States Congress to adopt a block grant system for distributing education funding to the states that allows the states maximum flexibility in the use of education funds.

COPIES of this resolution shall be sent to the Honorable George W. Bush, President/ delete

delete

~~elect~~ of the United States; the Honorable Rod Paige, United States Secretary of Education~~designee;~~ and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

SENATE FINANCE COMMITTEE

1 /31 / 2001 COMMITTEE ACTION

Bill Number	SJR 6			
Amendment	#1			
Motion				
Motion by	Donley			
Objection by	None			
Removed				
Second Objection by				
Committee Member	Y	***Vote***		N
Senator Austerman				
Senator Green				
Senator Hoffman				
Senator Leman				
Senator Olson				
Senator Ward				
Senator Wilken				
Co-Chair Donley				
Co-Chair Kelly				
Tally				
Yea				
Nay				
Absent				
MOTION	Passed			

SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT
SENATE JOINT RESOLUTION 6
"FEDERAL EDUCATION AND BLOCK GRANTS"

Senate Joint Resolution 6 urges Congress to provide federal education funds as block grants to the states including Alaska.

Senate Joint Resolution 6 encourages Congress to give the states greater control over the education funds provided by the federal government. By taking control of funds from federal bureaucrats thousands of miles away it will empower state officials to put these important education dollars to their most appropriate uses.

Block grants will reduce administrative expenses and allow more funds to be used in the classroom. Currently, the federal government provides many different types of funding for education that are specifically earmarked for various education uses. SJR 6 will encourage Congress to instead disburse the money in the form of a block grant, as they do with welfare funding, directly to the State of Alaska. In the 105th Congress, the House of Representatives passed HR 3248, which would have created an education block grant system. Unfortunately, the bill did not pass the Senate.

Senate Joint Resolution 6 encourages Congress to give the states maximum flexibility in the use of federal education funds. State and local governments are a better judge of how this money should be spent than distant federal bureaucrats.

A similar measure, SJR 11, passed during the 21st legislature and we should adopt a new resolution for the new President and Congress.

DD/bc

Co-Chair: Senate Finance Committee • Anchorage Caucus
Vice-Chair: Senate Judiciary Committee
Member: Legislative Budget and Audit Committee • Legislative Council

January-May: STATE CAPITOL • JUNEAU, AK • 99801 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 West Fourth Avenue • Suite 400 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238
www.akrepublicans.org/Donley.htm • www.legis.state.ak.us/senate/donley/htm

SJR

11

SJR 11

was referred to the Senate Finance Committee

No hearing was held on this bill

SJR

13

SJR 13

was referred to the Senate Finance Committee

No hearing was held on this bill

SJR

21

HOUSE COMMITTEE REPORT

(11)
Date Referred to Committee: April 18, 2001 **FURTHER REFERRALS:**

Date of Committee Action: 4/21/01

The FINANCE Committee considered: **CSSJR 21(HES)**

CS FOR SENATE JOINT RESOLUTION NO. 21(HES) **EXTEND FEDERAL TANF GRANTS**

Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

Recommends it be replaced with _____**CS**_____(_____) [ ] **Same Title** [ ] **New Title**
*For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR*_____

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____Committee

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

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

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

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Bunde	Bunde			✓	
	Whitaker	✓			
	Harris	✓			
	CROFT	✓			
	Davies	✓			
	Lancaster	✓			
	MOSES	✓			
	Hudson	✓			
Chair:					
Chair:	Williams	✓			

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SJR 21
(S) Publish Date: 3/29/01

Revision Date/Time (Note if correction): _____
Dept. Affected: Health & Social Services
Title: Urging Congress to reauthorize TANF block grant
BRU: Public Assistance
Component: ATAP
Sponsor: Senate (HES)
Requester: Senate (HES)
Component Number: 220

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

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

The federal TANF grant funds cash benefits as well as a variety of services to recipients of the Alaska Temporary Assistance Program including case management, job readiness training, supportive services, short-term job training and pregnancy prevention education. Alaska's high population supplemental TANF grant in the amount of $6,887,000 has become an integral part of the state's block grant and its loss will negatively impact the state's efforts to move recipients from welfare to work. The expiration of the supplemental grant will also result in loss of TANF funding for essential services to non-ATAP families including Head Start, Healthy Families and child protection.

Prepared by: Jim Nordlund, Director
Phone _____
Division: Public Assistance
Date/Time _____
Approved by: Elmer A. Lindstrom, Special Assistant
Date 3/26/01 3:33 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

COMMITTEE COPY

ALASKA STATE LEGISLATURE

Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
SENATOR LYDA GREEN, CHAIR

SPONSOR STATEMENT FOR SJR 21

Urging the United States Congress to Extend the Authorization Date
for Supplemental Block Grants to the State of Alaska under the
Federal Temporary Assistance to Needy Families Program

The Temporary Assistance to Needy Families (TANF) block grant established in the 1996 federal welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), included modest supplemental grants for 17 relatively poor or rapidly growing states. Alaska's TANF program, Alaska Temporary Assistance, was awarded a "high population" supplemental grant because the state's population grew by more than 10 percent between April 1, 1990 and July 1, 1994.

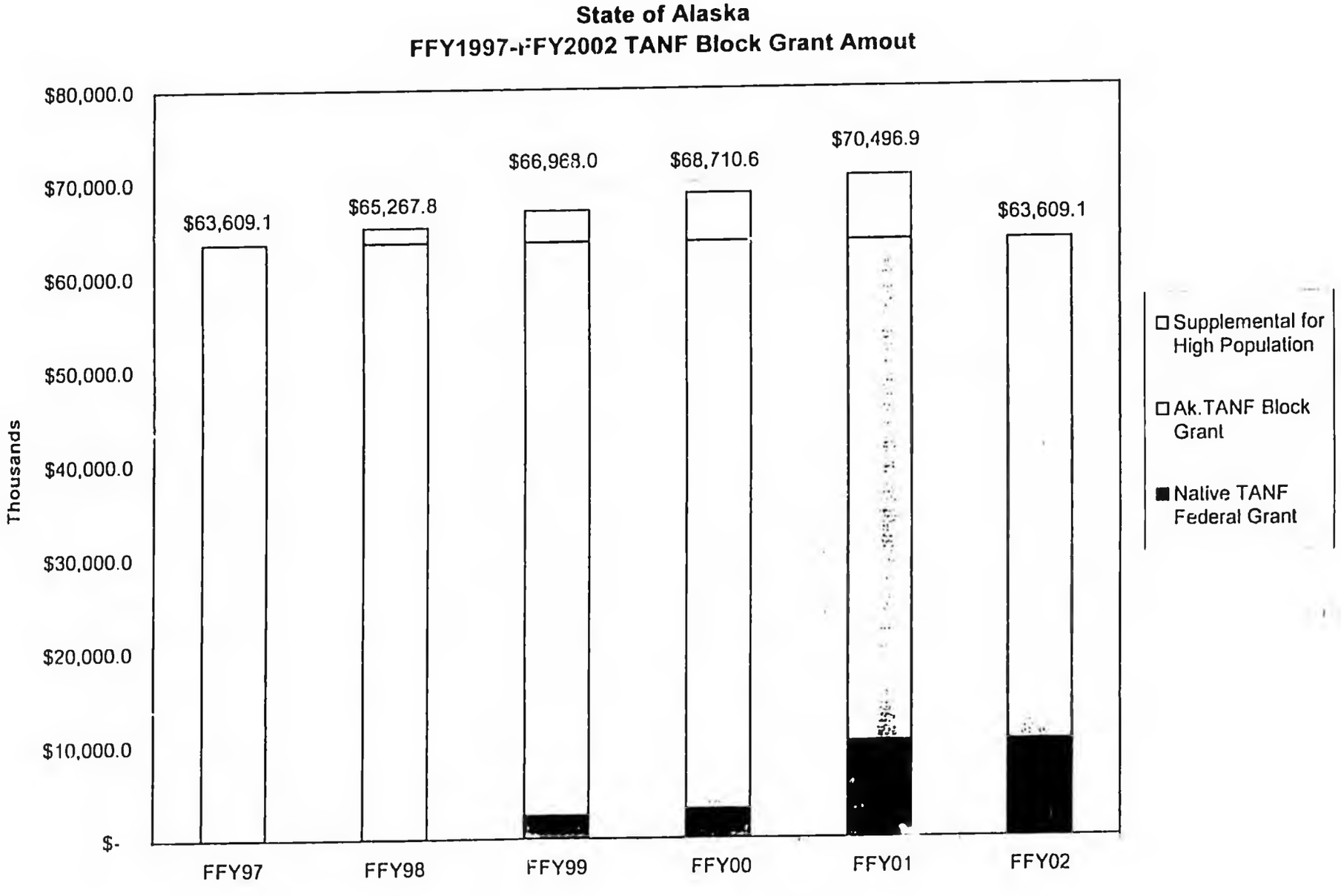
These supplemental grants included in the 1996 law were authorized only through fiscal year 2001, while PRWORA was authorized through fiscal year 2002. This means that beginning October 1, 2001, the state of Alaska will face a reduction of $6.9 million in TANF funding, or 13% of its block grant.

The term "supplemental grant" is misleading in that these grants were never intended to be merely add-ons. They were designed by the architects of welfare reform as an integral part of the formula used to determine each state's block grant allocation. Alaska is currently using these funds for employment-related and supportive services that are helping to move people off welfare and into self-sufficiency. TANF funds also support a variety of essential services to non-welfare recipients including childcare, child protection and early childhood education. The elimination of the supplemental grant will force the Department of Health and Social Services to scale back on these efforts compromising the ongoing success of welfare reform.

Many policymakers in Washington D.C. are aware of this issue and the American Public Human Services Association, the Center for Budget and Policy Priorities and the National Governor's Association support the continuation of the supplemental grants.

SJR 21 is addressed to Alaska's congressional delegation and all other members of Congress. Action to extend the supplemental grants will need to be taken by Congress this year before the new federal fiscal year begins in October.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS


State of Alaska
FFY1997-FFY2002 TANF Block Grant Amout
Thousands
$80,000.0
$70,000.0
$60,000.0
$50,000.0
$40,000.0
$30,000.0
$20,000.0
$10,000.0
$-
$63,609.1
$65,267.8
$66,968.0
$68,710.6
$70,496.9
$63,609.1
FFY97
FFY98
FFY99
FFY00
FFY01
FFY02
Supplemental for High Population
Ak.TANF Block Grant
Native TANF Federal Grant

United States Senate

WASHINGTON, DC 20510

March 9, 2001

The Honorable George W. Bush
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to call your attention to a program, which has been critical to the success of welfare reform in our states. The Temporary Assistance for Needy Families (TANF) block grant established in the 1996 welfare law included modest supplemental grants for 17 relatively poor or rapidly growing states, such as Texas and Florida. These grants were intended to reduce the very large disparity between poorer and wealthier states in TANF funding that resulted from the basic TANF funding formula. These grants have afforded states, like ours, a more adequate opportunity to achieve TANF goals.

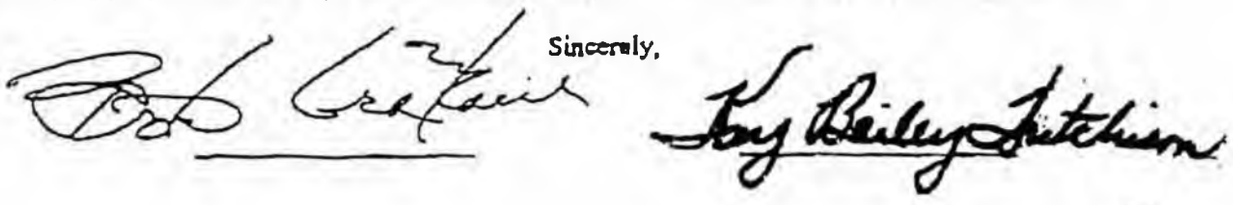
While TANF is scheduled to be reauthorized in 2002, the supplemental grants included in the 1996 law were authorized only through October, 2001. This means that under current law, the 17 states currently eligible for these grants will face a reduction in their TANF funding of as much as 10 percent of their block grant starting on October 1 of this year. The other, wealthier, lower growth states will experience no reduction.

These grants are not supplemental in the sense of being add-ons; they were designed as an integral part of the TANF allocation formula and are critical to the success of our states, and many others', TANF programs . These grants have allowed states to expand their welfare and related programs - such as child care and job training initiatives- to include a broader range of services that enable all welfare recipients to become self sufficient. Without the TANF supplemental grants these programs could not have been made available to individuals moving from welfare to work.

For these reasons, we are requesting that a one year extension of the TANF supplemental grants be included in your budget recommendations for fiscal year 2002. This step will help to ensure that high growth states can continue their welfare reform efforts and will enable the supplemental grants to be considered as part of the overall TANF reauthorization next year.

We look forward to working with you to ensure that the accomplishments that states have made in helping people move from public assistance to independence can continue *throughout* the nation.

Sincerely,



NATIONAL GOVERNORS' ASSOCIATION

Parris N. Glendening
Governor of Maryland
Chairman

John Engler
Governor of Michigan
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-1512
Telephone (202) 624-5300
http://www.nga.org

February 13, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As you know, the historic welfare reform agreement of 1996 will need to be reauthorized during the 107th Congress and the nation's Governors look forward to working with you toward that end. As you prepare to submit your budget recommendations for fiscal year 2002, we want to bring to your attention a key provision of the welfare reform agreement that must be addressed this year. Without an extension of the Temporary Assistance for Needy Families (TANF) supplemental grants, 17 states will face a reduction in TANF funding in fiscal year 2002.

The TANF supplemental grants were designed to address the needs of states with especially high population growth or historically low welfare benefits. These grants represent a significant portion of the overall level of TANF funding for the 17 states receiving supplemental grants. Cuts of this magnitude would have a significant effect on continued state implementation of welfare reform. The TANF supplemental grants are not provided to states in the form of a bonus, but rather are calculated as an integral part of the states' allocation.

We recognize that this will be one of many TANF funding issues that will be debated within the context of welfare reform reauthorization next year. But in the interim, the nation's Governors are concerned that allowing the supplemental grants to expire while reauthorization is being discussed puts a number of states at a serious disadvantage. On many occasions since the enactment of the 1996 welfare reform package, Governors have voiced strong opposition to actions that would alter the nature of the original agreement. The expiration of the TANF supplemental grants without the benefit of full debate during the reauthorization process would be a violation of the historic agreement.

On behalf of the nation's Governors, we urge you to extend the TANF supplemental grants through fiscal year 2002.

Sincerely,

Governor Parris N. Glendening

Governor John Engler

C: Secretary Tommy G. Thompson

February 26, 2001

The Honorable George W Bush
President of the United States
The White House
Washington, D.C. 20500

Dear President Bush:

As you decide on the priorities of your Administration for the next four years, the National Conference of State Legislatures (NCSL) urges you to give careful consideration to a number of issues within the U.S. Departments of Health and Human Services and Agriculture that are extremely important to state legislators. As a bipartisan organization whose members are keenly aware of how federal decisions impact the lives of America's families, we are ready to work with you on the issues raised below.

The Temporary Assistance to Needy Families (TANF) Block Grant

The bold reform of welfare in 1996 has been very successful. Welfare caseloads have declined by more than 50% since the implementation of PRWORA (the Personal Responsibility and Work Opportunity Reconciliation Act). More recipients are in the labor force. This success is the result of a federal and state partnership. Making use of the flexibility given us in the 1999 TANF regulations, states have implemented creative strategies to assist both TANF recipients and the working poor. We hope that you will firmly support full funding for the Temporary Assistance for Needy Families (TANF) block grant.

* The TANF supplemental grants were designed to ensure that certain states with rapidly growing populations had adequate resources to carry out the goals of the TANF program. TANF supplemental allocations should be made for the next fiscal year to ensure that states can continue the progress of welfare reform and to allow time to deal with this issue during welfare reform reauthorization.

As the 2002 reauthorization approaches, state legislators will have TANF funding and flexibility to administer the TANF program as their highest priorities. A key feature of the law was the devolution to the states of decision-making authority. NCSL requests that members of your domestic policy staff and HHS officials meet with a small group of legislators early in the reauthorization process. This would be an ideal opportunity to discuss state issues and concerns before you finalize your reauthorization proposal.

The Social Services Block Grant (SSBG, Title XX of the Social Security Act)

SSBG funds are a vital part of the delivery of community and home-based services to the most vulnerable segments of society including the disabled, elderly, and children in need of protective services. NCSL urges you to fund the SSBG at the $2.38 billion level as agreed to as part of the enactment of the 1996 welfare reform act. In addition, it is critical that the amount states can transfer from their TANF grants to the SSBG remains at 10% and is not reduced.

Restoration of Benefits for Legal Immigrants

NCSL urges you to restore food and health benefits for legal immigrants and end a cost-shift to the states. The 1996 welfare reform law denied food stamps to all legal immigrants and their children and denied Medicaid to certain legal immigrants and their children. While NCSL supported the 1996 welfare

reform law, NCSL opposed these particular provisions. NCSL believes that in so doing, the federal government abdicated its responsibility to fund the consequences of its decisions regarding immigration. To their credit, states rose to the challenge. Many states, for example, created their own food assistance programs or increased state funding to food banks. The 1996 immigration provisions had nothing to do with the fundamental goals of the Temporary Assistance to Needy Families program– to promote self-sufficiency and family stability through a work-first, time-limited program. Efforts to restore food stamp benefits and ensure an option for states to provide Medicaid and SCHIP have bipartisan support. NCSL asks you to consider including funding for the restoration of benefits in your budget as way of helping hard-working new Americans and restoring equilibrium to the state/federal partnership.

Food Stamps

The food stamp program is in need of reform. NCSL is concerned that many working families whose income makes them eligible for food stamps are not receiving them. From 1994 to 1998, the participation rate fell from 71% of 59% of eligible individuals. Federal law is often a barrier to state innovation. Many times federal food stamp provisions are in conflict with state welfare reform efforts. While numerous factors influence the participation rate, NCSL believes that state outreach is hampered by fear of quality control errors. We urge you to consider changes in this program and to include NCSL in the discussion.

Waivers

As a general principle, NCSL encourages you to support waiver programs at U.S. Departments of Health and Human Services and Agriculture that allow states to implement innovative approaches to the delivery of human services programs. Waivers allow states to address the unique needs of their populations, and help the federal government discern best practices. Policy flexibility will result in better outcomes for our families and children.

Thank you for yo· r attention to NCSL's concerns. NCSL is well aware that as a former governor, you understand the need for flexibility and partnership in delivering services that benefit Americans in need. If you wish to discuss these issues further, please contact Sheri Steisel, Federal Affairs Counsel, in our Washington office. Sheri can be reached at (202) 624-8693, or at sheri.steisel@ncsl.org.

Sincerely,

Senator Jim Costa
California Senate
President, NCSL

Senator Stephen Saland
New York Senate
President Elect, NCSL

cc: The Honorable Tommy Thompson
The Honorable Ann Veneman
Mitch Daniels, OMB Director
Josh Bolten, Deputy Chief of Staff for Policy

National Conference of State Legislatures
INFO@NCSL.ORG (autoresponse directory)

Denver Office:
1560 Broadway, Suite 700
Denver, CO 80202
Tel: 303-830-2200
Fax: 303-863-8003

Washington Office:
444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001
Tel: 202-624-5400
Fax: 202-737-1069

Nordlund, Jim

From: Sheri Steisel [sheri.steisel@ncsl.org]

Sent: Thursday, March 22, 2001 3:14 PM

To: Humserv-l; nalfo-dist@ncsl.org

Subject: TANF Supplemental Grants

EFFORTS UNDERWAY TO SUPPORT CONTINUATION OF TANF SUPPLEMENTAL GRANTS
3/22/2001

TANF supplemental grants were awarded to 17 states and are set to expire this year. Efforts are now underway to try to extend this grant until reauthorization of the welfare reform law next year. Under the 1996 welfare reform law, supplemental grants were provided to states with high rates of population growth and with historically low levels of welfare spending per capita. Referred to formally as the " Population Growth and Poverty Adjuster", a total of $800 million was authorized for FY 1998 to FY 2001 for the TANF supplemental. Without Congressional action, the TANF supplemental will expire at the end of FY2001.

The 17 states are Alabama, Alaska, Arizona, Arkansas, Colorado, Idaho, Louisiana, Mississippi, Nevada, Texas Utah, Florida, Georgia, Montana, New Mexico, North Carolina, and Tennessee.

NCSL included support for a one year extension of the TANF supplemental in a recent letter to President Bush on welfare-related budget issues (http://www.ncsl.org/statefed/humserv/bushltr2.htm). On March 9, a group of US Senators sent a letter to President Bush urging him to support a one year extension of the TANF supplemental grants in his budget recommendations for FY2002. The Senators signing the letter were Bob Graham, Kay Bailey Hutchison, John Ensign, Thad Cochran, Ted Stevens, Jeff Sessions, Harry Reid, John Breaux, Blanche Lincoln, Larry Craig, Fred Thompson, Jeff Bingaman, Jesse Helms and Conrad Burns. If you would like a copy of the letter, please contact Lee Posey at NCSL at 202/624-8196 or Lee.Posey@NCSL.org

This is a good time for states to contact their House and Senate delegations to support a one-year extension of the TANF supplemental grant. For further information, please contact Sheri Steisel at sheri.steisel@ncsl.org or Lee Posey at NCSL.

How States Qualify for Funding Under the TANF Supplemental

Under the "automatic qualification" criteria for grants, states qualified for full supplemental grants in all four fiscal years if the level of state welfare spending per poor person by the state in FY 1994 was less than 35% of the national average or the state's population increased by more than 10 percent between April 1, 1990 and July 1, 1994. States automatically qualified for TANF supplemental grants are Alabama, Alaska, Arizona, Arkansas, Colorado, Idaho, Louisiana, Mississippi, Nevada, Texas, and Utah.

Under the"general eligibility qualification" criteria, states qualified for a grant for a fiscal year if the level of welfare spending per poor person in the state for the previous fiscal year is less than the national average and the state's population growth in the most recent year for which data are available is greater than the national average population for all states in the same period. These states receive supplemental grants in subsequent years, but amount of the grant they can receive depends on whether or not the state remains qualified for that particular year. States that met the general eligibility criteria in FY 1998 (and thus are eligible for subsequent fiscal years) are Florida, Georgia, Montana, New Mexico, North Carolina, and Tennessee.

-- Sheri Steisel
Federal Affairs Counsel
Director, Human Services Committee
NCSL Washington DC Office
Sheri.Steisel@ncsl.org

SJR

22

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 17 2001
SENATE FINANCE COMMITEE

DATE: 4/10/01

FURTHER:

DATE TURNED IN TO OFFICE: 17 April 01

Finance Committee considered SENATE JOINT RESOLUTION NO. 22

CONSTITUTIONAL AMENDMENT:JUDICIAL OFFICERS' TERMS

Proposing an amendment to the Constitution of the State of Alaska relating to the retention elections for justices of the Alaska supreme court and judges of the superior court.

and recommends:

[ ] be **replaced** with____ **CS** _____ (_____)

[✓] adopt **previous** ____ **CS** SJR 22 (JUD)

[ ] 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
[ ] new: SCR #____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
AK Jud. Council	4/4/01	20.0		#1

[ ] **APPROPRIATION - no fiscal note**

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
			X	
			X	
			✓	
	✓			
	✓			
COCHAIR:	✓			
COCHAIR:	✓			

CS FOR SENATE JOINT RESOLUTION NO. 22(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/10/01
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A RESOLUTION

Proposing an amendment to the Constitution of the State of Alaska relating to the retention elections for justices of the Alaska supreme court and judges of the superior court.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** Article IV, sec. 6, Constitution of the State of Alaska, is amended to read:

Section 6. Approval or Rejection. Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held more than three years after **the justice's or judge's** [HIS] appointment. Thereafter, each supreme court justice shall be subject to approval or rejection in a like manner every **sixth** [TENTH] year, and each superior court judge, every **fourth** [SIXTH] year.

* **Sec. 2.** The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

REPORTED OUT

APR 1 7 2001

SENATE FINANCE COMMITEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSJR 22(JUD)
(S) Publish Date: 4/10/01

Revision Date/Time (Note if correction):
Dept. Affected: Alaska Judicial Council
Title: Const. Am.:Judicial Officers Retention Terms
BRU:
Component:
Sponsor: Senate Judiciary
Requester:
Component Number: 0771

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual	18.5	18.5	18.5	18.5	18.5	18.5
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	20.0	20.0	20.0	20.0	20.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.0	20.0	20.0	20.0	20.0	20.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	20.0	20.0	20.0	20.0	20.0	20.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

SRJ 22 shortens retention terms for Supreme Court Justices from 10 years to 6 years; and terms for Superior Court Judges from 6 years to 4 years. This will increase the average number of judges that the Council must evaluate in each retention election by about 50%, as well as the cost of making information available to voters. The fiscal note assumes existing staff can complete the in-house work.

Prepared by: William T. Cotton, Executive Director
Phone 279-2526 Ext. 1
Division Alaska Judicial Council
Date/Time 04/04/01
Approved by: William T. Cotton, Executive Director
Date 04/04/2001
Agency Alaska Judicial Council

For distribution information, call the Governor's Legislative Office

(Rev 2/7/2001 OMB)

OMMITTEE CC

ALASKA STATE LEGISLATURE

Sen. Robin Taylor, Chairman
Sen. Dave Donley, Vice-Chair
Sen. John Cowdery
Sen. Gene Therriault
Sen. Johnny Ellis

State Capitol
Juneau, AK 99801-1182
(907) 465-3717
Fax: (907) 465-3922

Senate Judiciary Committee

SPONSOR STATEMENT
COMMITTEE SUBSTITUTE FOR SENATE JOINT RESOLUTION 22 (JUDICIARY)
(4/10/01)

CS SJR 22(Jud) proposes an amendment to the Constitution of the State of Alaska changing the length of time between retention elections for supreme court justices and superior court judges. It is designed to increase public involvement in the judicial retention process and to increase the judicial branch's accountability to Alaskans.

Currently, each superior court judge and supreme court justice is subject to approval or rejection by the voters at the first general election held more than three years after he or she is appointed. After the initial election, supreme court justices are up for approval or rejection only every tenth year and superior court judges only every sixth year. SJR 22 changes both these intervals to six years for supreme court justices and four years for superior court judges.

Alaskans need more frequent opportunities to assess the performance of those who serve us in the judicial branch of government. Unfortunately, our courts are currently failing to make all decisions in a timely manner. There is one court decision that has been pending in the supreme court for more than three years. Information like this is critical to ensure public accountability of our judicial officers. Having retention elections more frequently will help ensure that the public is basing their decisions on the most timely information.

There are twenty-two states who select their judges by public elections and another ten states where the legislature either chooses or confirms appointees. Accordingly, in the majority of the United States there is much greater public input, than in Alaska, into who becomes a judge. In Alaska, the opportunity for the public's input comes only through the retention election process. Such a low level of accountability is poor public policy, especially when retention elections are so far apart. By allowing Alaskans to evaluate supreme court justices every six years and superior court judges every four years, we will ensure increased public accountability and better job performance.

DD/kk

GENERAL INFORMATION REGARDING THE SELECTION, RETENTION AND TERMS OF OFFICE FOR JUDGES

CONTENTS

Legislative Research Report 98.047
March 3, 1998

Judicial Appointments

Legislative Research Services
Division of Legal and Research Services
Legislative Affairs Agency
Alaska State Legislature

Prepared by Patricia Young, Legislative Analyst

Legislative Research Services
130 Seward Street, Room 218
Juneau, AK 99801
907-465-3991
907-463-3351 (fax)
www.legis.state.ak.us/lrs/research.htm

JUDICIAL APPOINTMENTS

You wished to know the procedure by which judges are appointed to fill vacancies in the Alaska Court System. You were particularly interested in knowing with whom the authority for making such appointments resides.

In Alaska, only the governor has the authority to make permanent judicial appointments. Article IV, Section 5, of the Alaska Constitution specifies that the governor will choose and appoint justices to the supreme court and judges to the superior court from a list of nominees submitted by the Alaska Judicial Council.[1] Although the constitution does not require it, the legislature has provided that judgeships in the court of appeals and district court be filled in the same manner.[2] Following their appointments, justices and judges are subject to periodic retention elections.

The chief justice—who is selected by majority vote of the supreme court justices from among themselves—has the power to appoint a retired judge to serve *pro tempore* (or *pro tem*, i.e., temporarily) as a justice or judge in any court of the state.[3] Such pro tempore appointments may be made for one or more court cases or for up to two years, except that a pro tempore judge or justice may complete a trial or appeal that is in progress at the conclusion of the appointment. Appointments may also be renewed.

The chief justice also has the power to assign judges from one court or division to another for temporary service.[4] Additionally, the chief justice selects—with the approval of the supreme court—an administrative director who may, with the permission of the chief justice, assign sitting judges to serve in judicial districts outside their own when the courts are in need of assistance and the judges consent to the assignments.[5] A single temporary assignment of a judicial officer to another judicial district may not exceed 90 days, unless the judicial officer consents to the additional assignment. Assignments in excess of 90 days or any assignment to which a judicial officer has not consented may be made only by special order of the chief justice.[6]

The following table shows the method states predominantly use when selecting and appointing judges and justices. I hope this information is helpful. Please let me know if you have questions or need further information.

---

[1] States use a variety of methods to select judges. Depending on the court, however, the most commonly used selection process involves nomination of qualified candidates by a special, nonpartisan nominating body (usually composed of both attorneys and nonattorneys); appointment by the governor; and periodic voting by the electorate in regard to judges' retention of office. According to the Council of State Governments' *Book of the States, 1996-97*, nineteen states (including Alaska) and the District of Columbia use this type of selection process, which is generally known as a merit, or commission, system. Nine states select judges by partisan elections; another 13 by nonpartisan elections. The legislature is involved, to some degree, in the selection of judges in eight of the remaining nine states.

[2] Alaska Statutes 22.07.070 (vacancies in the court of appeals) and AS 22.15.170 (selection of district judges and magistrates). The presiding judge of the superior court in each judicial district appoints magistrates, who serve a judicial function at the local level. The presiding judge also may appoint persons to act for up to one year in the capacity of district judges, as needed.

[3] Alaska State Constitution, Article IV, Section 11, allows for "special assignments [of retired judges and justices] as provided by court rule." Alaska Rules of Court, Administrative Rule 23, provides for the chief justice, or another justice designated by the chief justice, to appoint, by special assignment, retired justices and judges to sit pro tempore.

[4] Alaska State Constitution, Article IV, Section 18 (court administration).

[5] Alaska State Constitution Article VI, Section 16, provides that the chief justice shall appoint an administrator. Alaska Rules of Court, Administrative Rule 1, enumerates the duties of the administrative director of the courts.

[6] Alaska Rules of Court, Administrative Rule 24 (f) (length of assignment).

Table 1: Judicial Selection—Predominant Selection Method Intermediate Appellate Court and Court of Last Resort

Partisan Election	Nonpartisan Election	Selection Commission	Elected or Appointed by Legislature	Other
Alabama	Georgia	Alaska	Connecticut (b)	California (f)
Arkansas	Idaho	Arizona	Rhode Island (c)	Maine (g)
Illinois	Kentucky	Colorado	South Carolina (d)	New Hampshire (h)
Mississippi	Louisiana	Delaware	Virginia (e)	New Jersey (g)
North Carolina	Michigan	Florida		New York (i)
Pennsylvania	Minnesota	Hawaii (a)		
Tennessee	Montana	Indiana		
Texas	Nevada	Iowa		
West Virginia	North Dakota	Kansas		
	Ohio	Maryland (a)		
	Oregon	Massachusetts		
	Washington	Missouri		
	Wisconsin	Nebraska		
		New Mexico		
		Oklahoma		
		South Dakota		
		Utah		
		Vermont (a)		
		Wyoming		
		District of Columbia (a)		

NOTES:

Many states use a variety of methods for selecting judges. We have attempted to place each state in the category that describes its most predominant practice for selecting intermediate appellate court and court of last resort judges. For more detail, see Table 4.4, "Selection and Retention of Judges," Council of State Governments, *Book of the States, 1996-97*. States in which governors appoint judges from among nominees submitted by an impartial body that screens applicants have been categorized under "Selection Commission."

(a) Appointments made with advice and consent of the senate.

(b) Appointments made by the legislature from nominations submitted by governor exclusively from candidates submitted by the selection commission.

(c) Supreme court justices elected by legislature; superior, district, and family court judges appointed by governor with advice and consent of senate.

(d) Supreme court, court of appeals, circuit court, and family court judges elected by legislature from names submitted on a nonpartisan basis by judiciary committee of legislature. Probate judges elected on partisan ballot. Magistrates are appointed by governor with advice and consent of senate.

(e) Elected by majority vote of the legislature.

(f) Supreme court and courts of appeal judges appointed by governor and confirmed by commission on judicial appointments.

(g) Appointments made by governor with advice and consent of senate; no nominating commission.

(h) Appointments made by governor and confirmed by majority vote of elected five-member executive council; no nominating commission.

(i) Court of appeals judges appointed by governor with advice and consent of senate; no nominating commission. Others elected on partisan ballot.

SOURCE:

Council of State Governments, *The Book of the States, 1996-97*.

MEMO

TO: DD
FROM:JOMO

AVERAGE TERM FOR ELECTED JUDGES

STATE	SUPERIOR	APPELLATE	SUPREME
Alabama	6	6	6
Arkansas	?	8	8
California	?	12	12
Florida	?	?	?
Georgia	4	6	6
Idaho	?	?	6
Illinois	?	?	?
Kentucky	?	?	?
Louisiana	?	?	?
Maryland	15	?	15
Michigan	?	?	8
Minnesota	6	6	6
Mississippi	?	?	8
Montana	?	?	?
Nevada	?	?	6
New Mexico	8	8	8
North Carolina	8	8	8
North Dakota	?	?	10
Ohio	?	6	6
Oklahoma	?	?	?
Oregon	6	6	6
Pennsylvania	?	?	?
Texas	?	?	6
Washington	?	?	6
West Virginia	?	?	12
Wisconsin	?	?	10
	53	66	153
average from data:	9	7	8
average without outlyers	6	7	8

Table 4.1
STATE COURTS OF LAST RESORT

State or other jurisdiction	Name of court	Justices chosen (a) At large	Justices chosen (a) By district	No. of judges (b)	Term (in years) (c)	Chief justice: Method of selection	Chief justice: Term of service as chief justice
Alabama	S.C.	*		9 (d)	6	Popular election	6 years
Alaska	S.C.	*		5	10	By court	3 years (e)
Arizona	S.C.	*		5	6	By court	5 years
Arkansas	S.C.	*		7	8	Popular election	8 years
California	S.C.	*		7	12	Appointed by governor	12 years
Colorado	S.C.	*		7	10	By court	Indefinite
Connecticut	S.C.	*		7 (f)	8	Legislative appointment (g)	8 years
Delaware	S.C.	*		5	12	Appointed by governor	12 years
Florida	S.C.	(h)		7	6	By court	2 years
Georgia	S.C.	*		7	6	By court	4 years
Hawaii	S.C.	*		5	10	Appointed by governor, with consent of Senate (i)	10 years
Idaho	S.C.	*		5	6	By court	4 years
Illinois	S.C.		*	7	10	By court	3 years
Indiana	S.C.	*		5	10 (j)	Judicial nominating commission appointment	5 years
Iowa	S.C.	*		9	8	By court	8 years or duration of te
Kansas	S.C.	*		7	6	Rotation by seniority	Indefinite
Kentucky	S.C.		*	7	8	By court	4 years
Louisiana	S.C.		*	8 (k)	10	By seniority of service	Duration of service
Maine	S.J.C.	*		7	7	Appointed by governor	7 years
Maryland	C.A.		*	7	10	Appointed by governor	Indefinite
Massachusetts	S.J.C.	*		7(l)	To age 70	Appointed by governor (m)	To age 70
Michigan	S.C.	*		7	8	By court	2 years
Minnesota	S.C.	*		7	6	Popular election	6 years
Mississippi	S.C.		*	9 (n)	8	By seniority of service	Duration of service
Missouri	S.C.	*		7	12	By court (o)	2 years
Montana	S.C.	*		7	8	Popular election	8 years
Nebraska	S.C.		*(p)	7	6 (q)	Appointed by governor from Judicial Nominating Commission	Duration of service
Nevada	S.C.	*		5	6	Rotation	2 years
New Hampshire	S.C.	*		5	To age 70	Appointed by governor with approval of elected executive council	To age 70
New Jersey	S.C.	*		7	7 (r)	Appointed by governor, with consent of Senate	Duration of service
New Mexico	S.C.	*		5 (s)	8	By court	2 years
New York	C.A.	*		7	14	Appointed by governor from Judicial Nomination Commission	14 years
North Carolina	S.C.	*		7	8	Popular election	8 years
North Dakota	S.C.	*		5	10	By Supreme and district court judges	5 years (t)
Ohio	S.C.	*		7	6	Popular election	6 years
Oklahoma	S.C.		*	9	6	By court	2 years
	C.C.A.		*	5	6	By court	2 years
Oregon	S.C.	*		7	6	By court	6 years
Pennsylvania	S.C.	*		7	10	Rotation by seniority	Duration of term
Rhode Island	S.C.	*		5	Life	Appointed by governor from Judicial Nominating Commission	Life
South Carolina	S.C.	*		5	10	Legislative election	10 years
South Dakota	S.C.		* (u)	5	8	By court	4 years
Tennessee	S.C.	*		5	8	By court	4 years
Texas	S.C.	*		9	6	Partisan election	6 years
	C.C.A.	*		9	6	Partisan election	6 years (v)
Utah	S.C.	*		5	10 (w)	By court	4 years
Vermont	S.C.	*		5	6	Appointed by governor from Judicial Nomination Commission, with consent of Senate	6 years
Virginia	S.C.	*		7	12	Seniority	Indefinite
Washington	S.C.	*		9	6	By court	4 years
West Virginia	S.C.A.		*	5	12	Rotation by seniority	1 year
Wisconsin	S.C.	*		7	10	Seniority	Until declined
Wyoming	S.C.	*		5	8	By court	At the pleasure of the c
Dist. of Columbia	C.A.	*		9	15	Judicial Nominating Commission appointment	4 years
American Samoa	H.C.	*		8 (x)	(y)	Appointed by Secretary of the Interior	(w)
Puerto Rico	S.C.	*		7	To age 70	Appointed by Governor, with consent of Senate	To age 70

Sources: Court Statistics Project, *State Court Caseload Statistics, 1998* (National Center for State Courts 1999) and State Court Organization 1998, state constitutions, statutes and court administration offices.

Key
S.C. — Supreme Court
S.C.A. — Supreme Court of Appeals
S.J.C. — Supreme Judicial Court
C.A. — Court of Appeals
C.C.A. — Court of Criminal Appeals
H.C. — High Court

(a) See Table 4.4, "Selection and Retention of Judges," for details.
(b) Number includes chief justice.
(c) The initial term may be shorter. See Table 4.4, "Selection and Retention of Judges," for details.
(d) 9 justices sit in panels of 5 or en banc.
(e) A justice may serve more than one term as chief justice, but may not serve consecutive terms in that position.
(f) 7 justices sit in panels of 5 (membership rotates daily), upon order of chief justice, 6 or 7 may sit on panel.
(g) Governor nominates from candidates submitted by Judicial Selection Commission.
(h) Regional (5), Statewide(2), Regional based on District of Appeal.
(i) Judicial Selection Commission nominates.
(j) Initial two years; retention 10 years.
(k) Includes one assigned from courts of appeal.
(l) 7 justices sit on the court, and 5 justices sit en banc.
(m) Chief Justices are appointed, until age 70, by the Governor with the advice and consent of the Exe (Governor's) Council.
(n) 9 justices sit in panels of 3 and en banc.
(o) Selection is typically rotated among the judges.
(p) Chief justice chosen statewide, associate judges chosen by district.
(q) More than three years for first election and every six years thereafter.
(r) Followed by tenure.
(s) 5 justices sit in panels of 3.
(t) Or expiration of term, whichever is first.
(u) Initially chosen by district, retention determined statewide.
(v) Presiding judge of Court of Criminal Appeals.
(w) Initial three years; retention 10 years.
(x) Chief judges and associate judges sit on appellate and trial divisions.
(y) For good behavior.

Table 4.2 7/10/00

STATE INTERMEDIATE APPELLATE COURTS AND GENERAL TRIAL COURTS
NUMBER OF JUDGES AND TERMS

	Intermediate appellate court			General trial court		
State or other jurisdiction	Name of court	No. of judges	Term (years)	Name of court	No. of judges	Term (years)
Alabama	Court of Criminal Appeals	5	6	Circuit Court	131	6
	Court of Civil Appeals	5	6			
Alaska	Court of Appeals	3	8	Superior Court	40 (a)	6
Arizona	Court of Appeals	22	6	Superior Court	136 (i)	4
Arkansas	Court of Appeals	12	8	Chancery/Probate Court and Circuit Court	106 (b)	(b)
California	Court of Appeals	93	12	Superior Court	1,012 (c)	6
Colorado	Court of Appeals	16	8	District Court	154 (d)	6
Connecticut	Appellate Court	9	8	Superior Court	167	8
Delaware				Superior Court	17	12
				Court of Chancery	(e)	12
Florida	District Courts of Appeals	61	6	Circuit Court	468	6
Georgia	Court of Appeals	10	6	Superior Court	175	4
Hawaii	Intermediate Court of Appeals	4	10	Circuit Court	27 (f)	10
Idaho	Court of Appeals	3	6	District Court	37 (g)	4
Illinois	Appellate Court	42 (h)	10	Circuit Court	497 (i)	6 (i)
Indiana	Court of Appeals	15 (k)	10 (l)	Superior Court, Probate Court and Circuit Court	279	6
Iowa	Court of Appeals	6	6	District Court	328 (m)	6
Kansas	Court of Appeals	10	4	District Court	156 (n)	4
Kentucky	Court of Appeals	14	8	Circuit Court	108	8
Louisiana	Court of Appeals	54	10	District Court	222 (o)	6
Maine				Superior Court	16	7
Maryland	Court of Special Appeals	13	10	Circuit Court	140	15
Massachusetts	Appeals Court	14	(p)	Superior Court	80	(p)
Michigan	Court of Appeals	28	6	Circuit Court	210	6
Minnesota	Court of Appeals	16	6	District Court	254	6
Mississippi	Court of Appeals	10	8	Circuit Court	49	4
Missouri	Court of Appeals	32	12	Circuit Court	135(q)	6
Montana				District Court	37 (r)	6
Nebraska	Court of Appeals	6	6 (s)	District Court	53	6 (t)
Nevada				District Court	51	6
New Hampshire				Superior Court	26(u)	(p)
New Jersey	Appellate Division of Superior Court	32	7 (v)	Superior Court	384(w)	7 (x)
New Mexico	Court of Appeals	10	8	District Court	72	6
New York	Appellate Division of Supreme Court	56	5 (y)	Supreme Court and County Court	496	(z)
	Appellate Terms of Supreme Court	15	5 (y)			
North Carolina	Court of Appeals	12	8	Superior Court	99(aa)	8
North Dakota				District Court	43	6
Ohio	Court of Appeals	66	6	Court of Common Pleas	372	6
Oklahoma	Court of Appeals	12	6	District Court	71 (bb)	4
Oregon	Court of Appeals	10	6	Circuit Court	100	6
				Tax Court	1	6
Pennsylvania	Superior Court	15	10	Court of Common Pleas	386	10
	Commonwealth Court	9	10			
Rhode Island			Life	Superior Court	22	Life
South Carolina	Court of Appeals	9	6	Circuit Court	46 (cc)	6
South Dakota				Circuit Court	37 (dd)	8
Tennessee	Court of Appeals	12	8	Chancery Court	33	8
	Court of Criminal Appeals	12	8	Circuit Court	85	8
				Criminal Court	31	8
				Probate Court	2	(ee)
Texas	Court of Appeals	80	6	District Court	396	4
Utah	Court of Appeals	7	10 (ff)	District Court	70 (gg)	6
Vermont				Superior Court and District Court	29 (hh)	6
Virginia	Court of Appeals	10	8	Circuit Court	148	8
Washington	Court of Appeals	21	6	Superior Court	167	4
West Virginia				Circuit Court	62	8
Wisconsin	Court of Appeals	16	6	Circuit Court	234	6
Wyoming				District Court	17	6
Dist. of Columbia				Superior Court	59	15
Puerto Rico	Circuit Court of Appeals	33	16	Court of First Instance	315	12

Sources: National Center for State Courts, State Court Caseload Statistics: Annual Report 1998 and State Court Organization 1998

Key

— Court does not exist in jurisdiction or not applicable

(a) Plus eight masters

(b) There are 30 circuit court judges who serve four-year terms. Chancery probate court, consists of 33 judges who serve six-year terms. (43 additional judges serve both circuit and chancery courts)

(c) Plus 205 commissioners.

(d) Plus 32 magistrates

(e) One chancellor and four vice-chancellors

(f) Plus 15 family judges.

(g) Plus 81 full-time magistrate/judges

(h) Plus 10 supplemental judges

(i) Plus 318 associate judges, and 50 permissive associate judges

(j) Associate judges 4 years

(k) Plus one tax court judge

(l) Two years initial, 10 years retention

(m) Includes 112 district judges, 54 district associate judges, 7 senior judges, 12 associate juvenile judges, 135 part-time magistrates, one associate probate judge, and 7 alternate district associate judges

(n) Plus 69 district magistrates

(o) Plus eleven commissioners

(p) To age 70

(q) Plus 175 associate circuit judges

(r) Plus six judges for water court and one for workers' compensation court

(s) More than three years for first election and every six years thereafter

(t) The initial term is for 3 years but not more than 5 years

(u) Plus 11 full-time marital masters

(v) Followed by tenure

(w) Plus 21 surrogates

(x) On reapportionment until age 70

(y) Or duration

(z) Fourteen years for Supreme Court; 10 years for county court

(aa) Plus 100 clerks with estate jurisdiction

(bb) Plus 77 associate judges and 73 special judges

(cc) Plus 21 masters-in-equity

(dd) Plus 8 law magistrates, 7 part-time law magistrates, 92 full-time clerk magistrates, and 58 part-time clerk magistrates

(ee) Locally determined

(ff) Three years initial, six years retention

(gg) Plus 7 domestic court commissioners

(hh) District and superior court judges also serve as family court judges

(ii) Plus two part-time judges

Judging How Justices Are Chosen

By Lawrence W. Reed

Some legal observers contend it's time to change the way Michigan Supreme Court justices are selected. Is this a wise idea? Let's look at the current process and its results.

Candidates for the court are nominated by political parties at summer conventions, after which they officially run and appear on the ballot as "nonpartisan." When a vacancy occurs because of death or resignation, the governor appoints a replacement, who must face voters in the next general election.

Surveying just a handful of states reveals no uniform number of justices or a standard method of selection that would appear to have decisive advantages over the others. Michigan's court has seven justices; West Virginia, Tennessee, and Indiana are among the states that have only five on their highest court; the supreme court of Texas, like its federal counterpart, has nine.

At least one state, Tennessee, requires its high court to meet in multiple locations. Some states, but not all, require state senate confirmation of gubernatorial nominations to their supreme court. In some states, justices run as partisans from the very beginning; in others, they are nonpartisan throughout the process. Michigan's partisan/nonpartisan hybrid is somewhat unusual, but there is little evidence to suggest it has produced inferior justices.

In Maryland, members of the state's highest court are initially appointed by the governor and confirmed by the state senate. After that, they run for office on their records, unopposed. If voters reject a judge's retention in office, the office becomes vacant and must be filled by a new appointee. The process may look nonpartisan because no political party officially nominates a justice, and competing court candidates don't go head-to-head in noisy elections, but governors almost always choose men and women who share their personal and political philosophies.

While the process of partisan nomination followed by nonpartisan campaigning may appear contradictory, "problems" with it are overblown. A party endorsement does not dictate how a justice may rule in any future case; rather, it is reflective of the fact that a jurist's track record and philosophy are generally compatible with a particular party's broad perspective. Requiring candidates to run on a party line in November may be more consistent, but it might also prompt too many voters to make their decisions based on party labels rather than the qualities and performance of the candidates. If voters have to dig a little bit to learn who's running and why, that's probably a healthy thing.

> ***Surveying just a handful of states reveals no uniform number of justices or a standard method of selection that would appear to have decisive advantages over all the others.***

Proposals to make Michigan Supreme Court slots purely appointive—as they are at the federal level, subject to Senate confirmation for life terms—would do away with the messy electoral process altogether. But that reform would not necessarily guarantee high-quality, squeaky-clean justices immune to either cash or politics.

Moreover, periodically putting incumbents and wannabes before the voters gives citizens the opportunity to rectify appointive mistakes. Even though most voters spend appallingly little time learning much about who is on the ballot, Michigan citizens don't want to give up their right to vote on who serves on their highest court.

A few observers have occasionally argued that some form of "merit selection" is missing from Michigan's Supreme Court. They usually advocate that the governor name justices only from a pre-approved list, which almost always means a list approved by the State Bar or some committee thereof. Supposedly, this would assure that we get the best and most qualified . . . but the legal community is not some angelic and dispassionate group of altruists. It is made up of its own elite and factions, each with its own agenda. Governors have some incentive to choose good people for spots on the court and if they fail, at least the voters under the current system can rectify their mistakes.

If the present system unduly politicizes the Court or forces candidates to compromise their integrity by grubbing for campaign money, one small reform could ameliorate that. It would be drawn from the so-called "Missouri system" and would require that justices go before the voters in retention elections when their terms are up. By voting "yes" or "no" voters would decide whether to retain or remove a justice, but wouldn't choose between competing candidates on the ballot.

Fundamentally, however, the current process has not failed Michigan citizens. Rather, it has produced what is arguably the best state supreme court in the nation: a body of eminently qualified, experienced, and sensible jurists, the majority of whom believe in interpreting law, not manufacturing it from the bench. Let's be careful we don't "fix" what appears not to be broken.

Lawrence W. Reed is president of the Midland, Michigan-based Mackinac Center for Public Policy.

Table 4.4
SELECTION AND RETENTION OF JUDGES

State or other jurisdiction	*How selected and retained*
Alabama	Appellate, circuit, district and probate judges elected on partisan ballots. Municipal court judges appointed by the governing body of the municipality (majority vote of its members).
Alaska	Supreme Court, court of appeals, superior court and district court judges appointed by governor from nominations submitted by Judicial Council. Supreme Court, court of appeals and superior court judges approved or rejected on nonpartisan retention ballot at first general election held more than three years after appointment. Reconfirmation every 10, eight and six years, respectively. District court judges approved or rejected at first general election held more than two years after appointment. Reconfirmation every four years. District court magistrates appointed by and serve at pleasure of presiding judge of superior court in each judicial district.
Arizona	Supreme Court justices and court of appeals judges appointed by governor from a list of not less than three nominees submitted by a nine-member Commission on Appellate Court Appointments. Superior court judges (in counties with population greater than 250,000) appointed by governor from a list of not less than three nominees submitted by a nine-member commission on trial court appointments. Judges initially hold office for term ending 60 days following next regular general election after expiration of two-year term. Judges who file declaration of intention to be retained in office run at next regular general election on nonpartisan retention ballot. Superior court judges in counties having population less than 250,000 elected on nonpartisan ballot; justices of the peace elected on partisan ballot; police judges and magistrates selected as provided by charter or ordinance; Tucson city magistrates appointed and reappointed by mayor and council from nominees submitted by nonpartisan Merit Selection Commission on magistrate appointments.
Arkansas	All elected on partisan ballot.
California	Supreme Court and courts of appeal judges appointed by governor, confirmed by Commission on Judicial Appointments. Judges run unopposed on nonpartisan retention ballot at next general election after appointment. Superior court judges elected on nonpartisan ballot with counties having the option to use selection method described above; judges elected to full term at next general election on nonpartisan ballot. Municipal court and justice court judges initially appointed by governor and county board of supervisors, respectively, retain office by election on non-partisan ballot.
Colorado	Supreme Court and court of appeals judges appointed by governor from nominees submitted by Supreme Court Nominating Commission. District judges appointed by governor from nominees submitted by Judicial District Nominating Commission. After initial appointive term of two years, judges run on nonpartisan retention ballot. Municipal judges appointed by municipal governing body. Denver County judges appointed by mayor from list submitted by nominating commission; judges run on nonpartisan retention ballot.
Connecticut	Judges of the Supreme Court, appellate court, and district court appointed by Legislature from nominations submitted by governor exclusively from candidates submitted by the Judicial Selection Commission. Judicial Review Council makes recommendations on nominations for reappointment. Probate judges elected on partisan ballots.
Delaware	All appointed by governor from list submitted by a judicial nominating commission (which is established by executive order) with consent of majority of Senate.
Florida	Supreme Court and district courts of appeal judges appointed by governor from nominees submitted by appropriate judicial nominating commission. Judges run for retention at next general election preceding expiration of term. Circuit and county court judges elected on nonpartisan ballots.
Georgia	Supreme Court, court of appeals, superior court, and state court judges elected on nonpartisan ballots. For the magistrate courts, the chief magistrate is selected in a partisan election; additional magistrates are appointed by the chief magistrate with the consent of the judges of the superior court. Probate judges and justices of peace elected on partisan ballots. Juvenile and municipal court judges appointed.
Hawaii	Supreme Court and intermediate court of appeals justices and circuit court judges nominated by Judicial Selection Commission (on list of four to six names) and appointed by governor with consent of Senate. Judges reappointed to subsequent terms by the Judicial Selection Commission. District court judges nominated by Commission (on list of at least six names) and appointed by chief justice.
Idaho	Supreme Court and court of appeals justices and district court judges elected on nonpartisan ballot. Magistrates appointed on nonpartisan merit basis by District Magistrates Commission and run for retention in first general election next succeeding the 18-month period following initial appointment; thereafter, run every four years.
Illinois	Supreme Court, appellate court and circuit court judges nominated at primary elections or by petition and elected at general or judicial elections on partisan ballot. Judges run in uncontested retention elections for subsequent terms. Circuit court associate judges are appointed by circuit judges for four-year terms.
Indiana	Supreme Court justices and court of appeals judges are appointed by governor from list of three nominees submitted by seven-member Judicial Nominating Commission. Judges serve until next general election after two years from appointment date; thereafter, run for retention on record. Circuit, superior and county judges in most counties run on partisan ballot. Circuit court judges in Vanderburgh County run on a nonpartisan ballot. Superior court judges in Allen County run on a nonpartisan ballot. The majority of superior court judges in Lake County, and all superior court judges in St. Joseph and Vanderburgh counties, are appointed by the governor upon recommendation of the Judicial Nominating Commission. Probate court and city court judges are selected by partisan elections.
Iowa	Supreme Court, court of appeals and district court judges appointed by governor from lists submitted by nominating commissions. Judges serve an initial one-year term until January 1 following next general election, then run on records for retention. Judicial magistrates appointed by county judicial magistrate appointing commission. District associate judges are appointed by the district judges of the judicial election district from persons nominated by the County Magistrate Appointing Commission, and stand for retention every four years thereafter.

See footnotes at end of table.

SELECTION AND RETENTION OF JUDGES — Continued

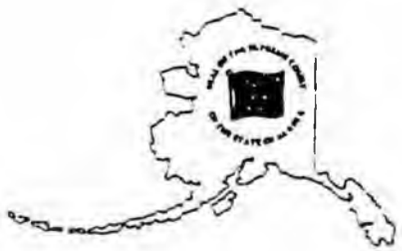
State or other jurisdiction	How selected and retained
Kansas	Supreme Court and court of appeals judges appointed by governor from nominations submitted by Supreme Court Nominating Commission. Judges serve until second Monday in January following first general election after one year in office; thereafter run on record for retention every six (Supreme Court) and four (court of appeals) years. District judges in 17 judicial districts are appointed by governor through nonpartisan commission plan. District judges in 14 judicial districts are elected on partisan ballot.
Kentucky	All judges elected on nonpartisan ballot.
Louisiana	All justices and judges elected on partisan basis, but state has open primary which requires all candidates to appear on a single ballot.
Maine	All appointed by governor with confirmation of the Senate, except probate judges who are elected on partisan ballot. Governor reappoints and Senate reconfirms for seven-year terms.
Maryland	Court of Appeals and court of special appeals judges nominated by judicial nominating commission, and appointed by governor with advice and consent of Senate. Judges run on record for retention at next general election after one year of service. Judges of circuit courts and Supreme Bench of Baltimore City nominated by commission and appointed by governor. Judges of circuit court run on nonpartisan ballot in first general election after year of service (may be challenged by other candidates). District court judges nominated by commission and appointed by governor, subject to Senate confirmation. Judges of the district court appointed by governor, with Senate confirmation. Judges of the orphans' court are selected in nonpartisan elections.
Massachusetts	All nominated and appointed by governor with advice and consent of Governor's Council. Judicial Nominating Commission, established by executive order, submits names on nonpartisan basis to governor.
Michigan	Nominated in party conventions, all except district court magistrates are elected on nonpartisan ballot at general election. District court magistrates appointed by district court judges, with approval of county board of commissioners.
Minnesota	All elected on nonpartisan ballot.
Mississippi	All elected on nonpartisan ballot, except municipal court judges who are appointed by governing authority of each municipality.
Missouri	Judges of Supreme Court, court of appeals and the circuit courts of Jackson, Clay, Platte, and St. Louis counties appointed initially by governor from nominations submitted by judicial selection commissions. Judges run for retention after one year in office. All other judges elected on partisan ballot.
Montana	All elected on nonpartisan ballot. Judges unopposed in reelection effort, run for retention. Water court judges are appointed by chief justice; Workers' Compensation judges are appointed by the governor.
Nebraska	All judges appointed initially by governor from nominees submitted by judicial nominating commissions. Judges run for retention on non-partisan ballot in general election following initial three-year term; subsequent terms are six years.
Nevada	All elected on nonpartisan ballot.
New Hampshire	All appointed by governor and confirmed by majority vote of elected five-member executive council.
New Jersey	Judges of Supreme Court, superior court, tax court and municipal court appointed by governor with advice and consent of Senate, except judges of municipal courts serving a single municipality who are appointed by the governing body. Judges are reappointed for seven-year terms by the governor (to age 70) with the advice and consent of Senate. Surrogates selected in partisan elections.
New Mexico	Supreme Court, court of appeals, district and metropolitan judges appointed by governor from list submitted by a judicial nominating commission. At next general election, after appointment, judges run for full terms in partisan, contested election. The elected judge runs for subsequent terms in uncontested retention elections. Judges of probate court and municipal and magistrate courts are selected in partisan elections.
New York	All elected on partisan ballot, except judges of Court of Appeals, who are appointed by governor from list submitted by commission on judicial nomination with advice and consent of Senate. Governor also appoints judges of court of claims and designates members of appellate division of supreme court. Mayor of New York City appoints judges of criminal and family courts in the city from list submitted by a judicial nominating commission, established by mayor's executive order.
North Carolina	All elected on partisan ballot, except special judges of superior court who are appointed by governor, and magistrates, who are appointed by senior resident superior court judge.
North Dakota	All elected on nonpartisan ballot.
Ohio	All nominated in partisan primary elections, but in general elections, party affiliations not listed on ballot. Court of claims judges may be appointed by chief justice of Supreme Court from ranks of Supreme Court, court of appeals, court of common pleas or retired judges.
Oklahoma	Supreme Court, Court of Criminal Appeals, court of appeals and Workers' Compensation Court judges appointed by governor from list of three names submitted by judicial nominating commission. Judges run for retention on nonpartisan ballot at first general election following completion of one year's service; Workers' Compensation Court judges reappointed by governor. District and associate district judges elected on nonpartisan ballot. Special judges appointed by district judges within judicial administrative districts. Municipal judges appointed by governing body of municipality.
Oregon	All judges elected on nonpartisan ballot for six-year terms, except municipal judges who are generally appointed and serve as prescribed by city council.
Pennsylvania	All initially elected on partisan ballot and thereafter on nonpartisan retention ballot, except magistrates (Pittsburgh) who are appointed by mayor with advice and consent of city council.
Rhode Island	All judges appointed by governor from list submitted by Judicial Nominating Commission, with the separate advice and consent of the Senate and House of Representatives. All judges hold office during good behavior.

SELECTION AND RETENTION OF JUDGES — Continued

State or other jurisdiction	*How selected and retained*
South Carolina	Supreme Court, court of appeals, circuit court and family court judges elected by legislature from names submitted on a nonpartisan basis by Judicial Merit Selection Commission. Probate judges elected on partisan ballot. Magistrates appointed by governor with advice and consent of Senate. Municipal judges appointed by mayor and aldermen of city.
South Dakota	Supreme Court justices appointed by governor from nominees submitted by Judicial Qualifications Commission. Justices run for retention at first general election after three years in office. Circuit court judges elected on nonpartisan ballot. Magistrates appointed by presiding judge of judicial court with approval of Supreme Court.
Tennessee	Judges of the Supreme Court and intermediate appellate courts appointed initially by governor from list of three nominees submitted by Appellate Court Nominating Commission. Judges run on nonpartisan retention ballot at biennial general election held more than 30 days after occurrence of vacancy. All other judges elected on partisan ballot, except some municipal and city court judges, who are appointed by governing body of city.
Texas	All elected on partisan ballot (method of selection for municipal judges determined by city charter or local ordinance).
Utah	Supreme Court, district court, circuit court and juvenile court judges appointed by governor from list of at least three nominees submitted by Judicial Nominating Commission. Judges run unopposed for retention in general election following initial three-year term; thereafter run on record for retention every 10 (Supreme Court) and six (other courts of record) years.
Vermont	Supreme Court justices, superior court and district and family court judges nominated by Judicial Nominating Board and appointed by governor with advice and consent of Senate. Judges retained by vote of general assembly for six-year terms.
Virginia	All full-time judges elected by majority vote of legislature.
Washington	Supreme Court, court of appeals, superior court and district court judges elected on nonpartisan ballot. Municipal judges in cities having a population greater than 400,000 are elected on nonpartisan ballot; municipal judges in cities of less than 400,000 appointed in manner determined by city legislative body.
West Virginia	Supreme Court of Appeals judges, circuit court judges and magistrates elected on partisan ballot. Municipal judges selected according to city charter.
Wisconsin	Supreme Court, court of appeals and circuit court judges elected on nonpartisan ballot. Municipal court judges selected according to bylaw or ordinance adopted by city council, town board or village board.
Wyoming	Supreme Court justices, district and county court judges appointed by governor from list of three nominees submitted by Judicial Nominating Commission. Judges run for retention on nonpartisan ballot at first general election occurring more than one year after appointment. Justices of the peace elected on nonpartisan ballot. Municipal (police) judges appointed by mayor with consent of council.
Dist. of Columbia	Court of Appeals and superior court judges nominated by president of the United States from a list of persons recommended by District of Columbia Judicial Nominating Commission; appointed upon advice and consent of U.S. Senate.
American Samoa	Chief justice and associate justice(s) appointed by the U.S. Secretary of the Interior pursuant to presidential delegation of authority. Associate judges appointed by governor of American Samoa on recommendation of the chief justice, and subsequently confirmed by the Senate of American Samoa.
Guam	All appointed by governor with consent of legislature from list of nominees submitted by Judicial Council; thereafter, run on record for retention every seven years.
No. Mariana Islands	All appointed by governor with advice and consent of Senate.
Puerto Rico	All appointed by governor with advice and consent of Senate.
U.S. Virgin Islands	All appointed by governor with advice and consent of legislature.

Sources: Judicial Selection in the United States: A Compendium of Provisions, 3rd Edition (Chicago: American Judicature Society), Forthcoming 2000; "Judicial Selection in the States: Appellate and General Jurisdiction Courts," American Judicature Society.

Note: Unless otherwise specified, judges included in this table are in the state courts of last resort and intermediate appellate and general trial courts.



ALASKA COURT SYSTEM
State of Alaska Court System
Office of the Administrative Director

303 K Street
Anchorage, Alaska 99501
(907) 264-0547
(907) 264-0881
scole@courts.state.ak.us

Stephanie J. Cole
Administrative Director

THE ALASKA COURT SYSTEM OPPOSES SJR 22

SJR 22 would shorten the periods between retention elections for supreme court justices and superior court judges. **The proposed shortened retention periods would increase costs to the state, lower voters' scrutiny of individual judges, and are not in line with retention terms in other merit selection states.**

The people of Alaska have the opportunity to approve or reject judges at periodic retention elections. Alaska has the nation's most extensive system for seeking public input on retention. The Judicial Council surveys lawyers, law enforcement officers, jurors, court employees and children's caseworkers. It looks at a judge's disciplinary record, disqualifications from assigned cases, appellate record, and the evaluation by the CourtWatch program. The Judicial Council holds public hearings to allow people to testify about their experiences with judges who are standing for retention. Most of this information is made available to the voters. A judge will be voted out of office if enough voters are unhappy with the judge's performance.

The following periods between retention elections are established in the Alaska Constitution:

- Supreme Court Justice: At first general election held more than three years after appointment, and then every 10th year
- Superior Court Judge: At the first general election held more than three years after appointment, and then every 6th year

Alaska's Constitution strikes the right balance between public accountability and judicial independence. Alaska's Constitutional delegates worked hard to create a judicial merit and selection system that delicately balances the public's right to an accountable judiciary with the important goal of a strong and independent judiciary. The current proposal to change retention terms would upset that balance and damage the integrity of Article IV. The convention minutes show that the drafters specifically considered and rejected a proposal to decrease the retention term for supreme court justices to six years.

Shortening retention terms would decrease voters' scrutiny of individual judges. Shortening retention terms would cause more judges to be on the ballot at each general election. Voters are bombarded with information about candidates and ballot propositions. Voters have limited time to study information on judges standing for retention, and increasing the number of judges on the ballot would only exacerbate that problem.

Shorter retention terms increase costs. The judicial evaluation process is integral to retention elections. The Judicial Council provides voters with important information on the performance of each judge or justice, so that voters can make informed retention decisions. Increasing the frequency of retention elections would increase the number, and thus the cost, of these evaluations.

Alaska's current retention terms are in line with retention terms in other merit selection states. Twenty other states have merit selection and retention laws similar to Alaska's. Retention terms in many of those states are similar to or longer than Alaska's current terms.

Retention terms in Colorado, South Carolina and Utah are identical to Alaska's. Six states have retention terms longer than Alaska's: California (12 years supreme, 6 years trial court), Hawaii (10 year terms), Indiana (10 years supreme court, 6 years superior courts), Maryland (10 years), Massachusetts (to age 70) and Missouri (12 years supreme court, 6 years circuit court).

Retention terms in eight other states are significantly longer than the terms proposed in SJR 22: Florida (6 years supreme, 6 years circuit), Iowa (8 years, 6 years), Nebraska (6 years), New Mexico (8 years for appellate, 6 years for district), South Dakota (8 years for supreme court), Tennessee (8 years supreme court), Vermont (6 years), Wyoming (8 years for supreme, 6 years for district court).

Even the states with the shortest retention terms have longer terms than are proposed in SJR 22: Arizona (6 years supreme, 4 years superior), Kansas (6 years supreme court, 4 years district court), Oklahoma (6 years supreme court, 4 years district court).

Shorter terms will tend to discourage the most highly qualified people from seeking judicial office. Short-term positions are inherently less attractive because of the lack of job security. Highly skilled attorneys with well established practices will be less inclined to leave their private-sector positions knowing that they must stand for retention at four year intervals.

Voters already have an early opportunity to vote on supreme court justices and superior court judges. Alaska's retention system requires newly appointed superior court judges and justices to first stand for retention after a short, probationary term (three years after appointment). This evaluation period gives judges early feedback on their performance and gives voters an early chance to unseat them if necessary.

The Alaska Judicial Council opposes shortening retention terms to four years as proposed by SJR 15

Alaska's Constitution strikes the right balance between public accountability and judicial independence. Even a cursory review of the minutes of the Constitutional convention shows that Alaska's Constitutional delegates worked hard to create a judicial merit selection system that delicately balances the public's right to an accountable judiciary with the important goal of an independent judiciary able to protect the Constitutional rights of citizens. The current proposal to change retention terms would upset that balance and damage the integrity of Article IV. Indeed, the drafters of our constitution specifically considered and rejected lowering the retention term for supreme court justices to even six years. The American Judicature Society recommends retention terms of at least eight years.

Shorter terms discourage qualified attorneys from applying. Shorter retention terms, with the lesser job security they entail, will discourage highly qualified judicial applicants. This will be especially true for experienced and successful private practitioners. The result of SJR 15 may be a lesser qualified judiciary with less experience representing private citizens.

Increased numbers of judges on the ballot decrease voters' scrutiny of individual judges. At each general election voters are bombarded with information about candidates and ballot propositions leading to what are referred to as "bed-sheet ballots." Voters already have limited time to study information on judges standing for retention. (There are 33 judges now scheduled to be on the ballot this year.) Increasing the numbers of judges on the ballot would only exacerbate that problem.

Shorter retention terms increase costs. An integral part of retention elections is the retention evaluation process. The Judicial Council gathers extensive information on each judge or justice and provides that information to the voters so that they can make informed retention decisions. Increasing the frequency of retention elections would increase the costs of the evaluation or, in the alternative, lead to a less intensive evaluation. Election costs also would increase.

Alaska's current retention terms are in line with retention terms in other merit selection states. Twenty other states have merit selection and retention laws similar to Alaska's. Retention terms in many of those states are similar to or longer than Alaska's current terms, while only three of those states have terms even approaching the four years proposed in SJR 15. No other merit selection states have terms as short as proposed by SJR 15.

Retention terms in Colorado, Indiana, South Carolina and Utah are identical to Alaska's. Five states have longer retention terms longer than Alaska's: California (12 years supreme, 6 years trial court), Hawaii (10 year terms), Maryland (10 years), Massachusetts (to age 70) and Missouri (12 years supreme court, 6 years circuit court).

☐ require Senate confirmation of appointees.

Retention terms in eight other states are significantly longer than the terms proposed in SJR 15: Florida (6 years supreme, 6 years circuit), Iowa (8 years, 6 years), Nebraska (6 years), New Mexico (8 years for appellate, 6 years for district), South Dakota (8 years for supreme court), Tennessee (8 years supreme court), Vermont (6 years), Wyoming (8 years for supreme, 6 years for district court).

Only three states have retention terms even approaching the terms proposed in SJR 15: Arizona (6 years supreme, 4 years superior), Kansas (6 years supreme court, 4 years district court), Oklahoma (6 years supreme court, 4 years district court).

The Judicial Council's thorough evaluation process is more effective in ensuring public accountability than shorter retention terms. Alaska has a system of judicial performance evaluation that is used as a model throughout the United States and in many other countries. The Judicial Council has created a system in which more than 7,500 people in 1998 had an opportunity to critique judicial performance. Citizens commenting included jurors, citizens at public hearings, police, probation officers, social workers, court employees, attorneys and independent court watchers. Their input was summarized and considered by the Judicial Council along with detailed information about appellate affirmances and reversals, peremptory challenges, promptness, conflicts of interest and other aspects of performance. The information was available throughout the state in news articles, on the Internet, in the Alaska Voters' Pamphlet and through other media.

The Judicial Council already conducts mid-term evaluations of judges. The Council conducts attorney and peace officer surveys every two years of judges who are on the ballot that year, or who will be on the ballot 2 ½ years in the future. The mid-term evaluation gives judges a chance to improve performance and the Council advance notice of any problems.

Voters already have an early opportunity to vote on supreme court justices and superior court judges. Alaska's retention system requires newly appointed superior court judges and justices to first stand for retention after a short, probationary term (three years after appointment). This evaluation period gives judges early feedback on their performance and gives voters an early chance to assess the judges.

Conclusion. Alaska already has a system that emphasizes both judicial accountability and judicial independence. A thorough evaluation gives Alaska voters more information on judicial performance than is available anywhere else in the world. The judicial independence so prized by our constitutional drafters allows courts to protect the constitutional rights of Alaskans. Shortening retention terms as proposed in SJR15, shorter than in any merit selection state, will upset this delicate balance. The change is unnecessary, expensive, and would discourage quality judicial applicants. Ultimately, the goal of the Judicial Council is to maximize judicial excellence. This proposal is counterproductive to that goal.

Sponsor Statement – SJR 15 (1999)

SJR 15 proposes amendments to the Constitution of the State of Alaska that are designed to bring a measure of public involvement to the judicial selection process, and to increase the judicial branch's accountability to Alaskans. It does so in three ways.

First, SJR 15 allows the governor to fill court vacancies by appointing any attorney who meets the qualifications set out in the constitution and state statutes. This differs from the current system, in which the governor's choices are limited to only those nominees selected by the Alaska Judicial Council (AJC), a body which has little political accountability. Three of the six voting members on the AJC are selected by the Alaska Bar Association and are not required to undergo any type of confirmation process. The other three are non-attorney members appointed by the governor and subject to legislative confirmation. Since AJC members serve lengthy six-year terms, and only half are chosen by elected officials accountable to the voters, opportunities to change the composition of the council are exceedingly rare.

Under Article IV, Section 5 of the Alaska Constitution, the AJC is allowed to submit as few as two names to the governor to fill each judicial vacancy. Out of the thousands of attorneys in Alaska, the governor can choose only among those hand-picked few approved by AJC. This makes the governor's appointment power largely ceremonial. A committee of six persons exercises near total control over who is permitted to serve in one of the three branches of state government. There is no other example in our constitutional order of such enormous power being concentrated in the hands of a few non-elected functionaries. It is also noteworthy that three of the six AJC members are attorneys who are permitted to represent clients in the courtrooms of judges who may some day apply and be considered by the AJC to fill future vacancies on higher courts.

The second change proposed by SJR 15 is to require legislative confirmation of the governor's appointments to fill vacancies on the superior court and supreme court. This is similar to the federal system, in which the president's appointees to fill vacancies on the federal bench are confirmed by the U.S. Senate. Many other states also require some form of legislative confirmation, which allows the public to participate in the process through their elected representatives. Confirmation hearings provide a valuable opportunity for judicial nominees to be questioned about their philosophy on interpreting and applying statutory and constitutional law.

Finally, SJR 15 would increase the frequency of judicial retention elections. Currently, each superior court judge and supreme court justice is subject to approval or rejection by the voters at the first general election held more than three years after he or she is appointed. After the initial retention election, supreme court justices are up for approval or rejection every tenth year and superior court judges every sixth year. SJR 15 changes these intervals to six years for supreme court justices and four years for superior court judges. This change will provide Alaska voters more frequent opportunities to assess the performance of those who serve us in the judicial branch of government.

Prepared by Mike Pauley, Staff Aide to Senator Loren Leman (907-465-3841)
Last updated: March 22, 2000

(1999)

Resolution Proposes Increased Accountability from Judiciary

Juneau – A proposed constitutional amendment introduced today by Senator Loren Leman (R-Anchorage) and Senator Dave Donley (R-Anchorage) will provide increased accountability from state judges and change the process for filling judicial vacancies.

"The role of the court system in Alaska government has changed in recent years, and this change has not been for the better," stated Senator Leman. "Increasingly, state judges have abandoned their constitutional role as *interpreters* of the law, and are instead beginning to *write* the law. But this is the responsibility of elected public officials, who are accountable to the people. If judges continue to act as policymakers, then we need to allow the voters and the other two branches of government to place some checks on their growing power."

Senate Joint Resolution 15 provides for more frequent retention elections of judicial officers. Supreme court justices would appear on the ballot once every six years, instead of the current ten year term. Likewise, superior court judges would appear on the ballot every fourth year instead of every six years. SJR 15 also changes the judicial appointment process by allowing the governor to appoint any licensed attorney in Alaska to fill judicial vacancies, instead of limiting the governor's selection to a small list of nominees approved by the attorney-dominated Alaska Judicial Council. The governor's judicial appointees would not take office until confirmed by a majority of the legislature meeting in joint session, just as the U.S. Senate confirms all Presidential appointees to the federal courts.

"This amendment will help restore the delicate balance of power between our three branches of government," commented Senator Leman. "Judges are servants of the people, similar to other government officials, and must be accountable to the people." SJR 15 will allow the governor, the legislature, and the voters to have greater input in the judicial selection process.

Senator Donley noted that the Supreme Court's *Bess v. Ulmer* decision last year provides a vivid example of why judicial reform is needed. "In the *Bess* decision, the Supreme Court denied the people of Alaska their right to vote on a constitutional amendment related to prisoners' rights, without even allowing the parties to brief the issue. This amendment was designed to correct the worst excesses of the flawed *Cleary* settlement, as well as several other court decisions giving convicted prisoners in Alaska special rights. With the *Bess* ruling, voters have been denied the opportunity to correct this court's previous flawed decisions. That sets a dangerous precedent that undermines democratic self-government in Alaska."

###

alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1969 (907) 279-2526 FAX (907) 276-5046
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

EXECUTIVE DIRECTOR
William T. Cotton

NON-ATTORNEY MEMBERS
Eleanor Andrews
Katie Hurley
Gigi Pilcher

ATTORNEY MEMBERS
Geoffrey G. Currall
Robert B. Groseclose
Robert H. Wagstaff

CHAIR, EX OFFICIO
Dana Fabe
Chief Justice
Supreme Court

The Alaska Judicial Council Opposes Shortening Retention Terms as Proposed by SJR 22

Alaska's Constitution strikes the right balance between public accountability and judicial independence. Even a cursory review of the minutes of the Constitutional convention shows that Alaska's Constitutional delegates worked hard to create a judicial merit selection system that delicately balances the public's right to an accountable judiciary with the important goal of an independent judiciary able to protect the Constitutional rights of citizens. The current proposal to change retention terms would upset that balance and damage the integrity of Article IV. Indeed, the drafters of our constitution specifically considered and rejected lowering the retention term for supreme court justices to six years. The American Judicature Society recommends retention terms of at least eight years.

Shorter terms discourage qualified attorneys from applying. Shorter retention terms, with the lesser job security they entail, will discourage highly qualified judicial applicants. This will be especially true for experienced and successful private practitioners. The result of SJR 22 may be a lesser qualified judiciary with less experience representing private citizens and businesses.

Increased numbers of judges on the ballot decrease voters' scrutiny of individual judges. At each general election voters are bombarded with information about candidates and ballot propositions leading to what are referred to as "bed-sheet ballots." Voters already have limited time to study information on judges standing for retention. (There were 30 judges on the ballot this past year.) Increasing the numbers of judges on the ballot would only exacerbate that problem.

Shorter retention terms increase costs. An integral part of retention elections is the retention evaluation process. The Judicial Council gathers extensive information on each judge or justice and provides that information to the voters so that they can make informed retention decisions. Increasing the frequency of retention elections would increase the costs of the evaluation or, in the alternative, lead to a less intensive evaluation. Election costs also would increase.

Alaska's current retention terms are in line with retention terms in other merit selection states. Twenty other states have merit selection and retention laws similar to Alaska's Retention terms. In many of those states they are similar to or longer than Alaska's current terms, while only three of those states have terms as short as the six years proposed in SJR 22.

ALASKA COURT SYSTEM
State of Alaska Court System
Office of the Administrative Director

303 K Street
Anchorage, Alaska 99501
(907) 264-0547
(907) 264-0881
scole@courts.state.ak.us

Stephanie J. Cole
Administrative Director

THE ALASKA COURT SYSTEM OPPOSES CSSJR 22 (JUD)

CSSJR 22 (JUD) would shorten the periods between retention elections for supreme court justices and superior court judges. **The proposed shortened retention periods would increase costs to the state, lower voters' scrutiny of individual judges, and are not in line with retention terms in other merit selection states.**

The people of Alaska have the opportunity to approve or reject judges at periodic retention elections. Alaska has the nation's most extensive system for seeking public input on retention. The Judicial Council surveys lawyers, law enforcement officers, jurors, court employees and children's caseworkers. It looks at a judge's disciplinary record, disqualifications from assigned cases, appellate record, and the evaluation by the CourtWatch program. The Judicial Council holds public hearings to allow people to testify about their experiences with judges who are standing for retention. Most of this information is made available to the voters. A judge will be voted out of office if enough voters are unhappy with the judge's performance.

CORRECTION

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

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

Rev. 6/98

alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1969 (907) 279-2526 FAX (907) 276-5046
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

The Alaska Judicial Council Opposes Shortening Retention Terms as Proposed by SJR 22

Alaska's Constitution strikes the right balance between pubiic accountability and judicial independence. Even a cursory review of the minutes of the Constitutional convention shows that Alaska's Constitutional delegates worked hard to create a judicial merit selection system that delicately balances the public's right to an accountable judiciary with the important goal of an independent judiciary able to protect the Constitutional rights of citizens. The current proposal to change retention terms would upset that balance and damage the integrity of Article IV. Indeed, the drafters of our constitution specifically considered and rejected lowering the retention term for supreme court justices to six years. The American Judicature Society recommends retention terms of at least eight years.

Shorter terms discourage qualified attorneys from applying. Shorter retention terms, with the lesser job security they entail, will discourage highly qualified judicial applicants. This will be especially true for experienced and successful private practitioners. The result of SJR 22 may be a lesser qualified judiciary with less experience representing private citizens and businesses.

Increased numbers of judges on the ballot decrease voters' scrutiny of individual judges. At each general election voters are bombarded with information about candidates and ballot propositions leading to what are referred to as "bed-sheet ballots." Voters already have limited time to study information on judges standing for retention. (There were 30 judges on the ballot this past year.) Increasing the numbers of judges on the ballot would only exacerbate that problem.

Shorter retention terms increase costs. An integral part of retention elections is the retention evaluation process. The Judicial Council gathers extensive information on each judge or justice and provides that information to the voters so that they can make informed retention decisions. Increasing the frequency of retention elections would increase the costs of the evaluation or, in the alternative, lead to a less intensive evaluation. Election costs also would increase.

Alaska's current retention terms are in line with retention terms in other merit selection states. Twenty other states have merit selection and retention laws similar to Alaska's Retention terms. In many of those states they are similar to or longer than Alaska's current terms, while only three of those states have terms as short as the six years proposed in SJR 22.

Retention terms in Colorado, Indiana, South Carolina and Utah are identical to Alaska's. Five states have longer retention terms longer than Alaska's: California (12 years supreme, 6 years trial court), Hawaii (10 year terms), Maryland (10 years), Massachusetts (to age 70) and Missouri (12 years supreme court, 6 years circuit court).

Retention terms in eight other states are longer than the terms proposed in SJR ~~15~~ 22: Florida (6 years supreme, 6 years circuit), Iowa (8 years, 6 years), Nebraska (6 years), New Mexico (8 years for appellate, 6 years for district), South Dakota (8 years for supreme court), Tennessee (8 years supreme court), Vermont (6 years), Wyoming (8 years for supreme, 6 years for district court).

Only three states have retention terms as short as the terms proposed in SJR ~~15~~ 22: Arizona (6 years supreme, 4 years superior), Kansas (6 years supreme court, 4 years district court), Oklahoma (6 years supreme court, 4 years district court).

The Judicial Council's thorough evaluation process is more effective in ensuring public accountability than shorter retention terms. Alaska has a system of judicial performance evaluation that is used as a model throughout the United States and in many other countries. The Judicial Council has created a system in which about 10,000 Alaskans in 2000 had an opportunity to critique judicial performance. Citizens commenting included jurors, citizens at public hearings, police, probation officers, social workers, court employees, attorneys and independent court watchers. Their input was summarized and considered by the Judicial Council along with detailed information about appellate affirmances and reversals, peremptory challenges, promptness, conflicts of interest and other aspects of performance. The information was available throughout the state in news articles, on the Internet, in the Alaska Voters' Pamphlet and through other media.

The Judicial Council already conducts mid-term evaluations of judges. The Council conducts attorney and peace officer surveys every two years of judges who are on the ballot that year, or who will be on the ballot 2 ½ years in the future. The mid-term evaluation gives judges a chance to improve performance and the Council advance notice of any problems.

Voters already have an early opportunity to vote on supreme court justices and superior court judges. Alaska's retention system requires newly appointed superior court judges and justices to first stand for retention after a short, probationary term (three years after appointment). This evaluation period gives judges early feedback on their performance and gives voters an early chance to assess the judges.

Conclusion. Alaska already has a system that emphasizes both judicial accountability and judicial independence. A thorough evaluation gives Alaska voters more information on judicial performance than is available anywhere else in the world. The judicial independence so prized by our constitutional drafters allows courts to protect the constitutional rights of Alaskans. Shortening retention terms as proposed in SJR 22 will upset this delicate balance. The change is unnecessary, expensive, and would discourage quality judicial applicants. Ultimately, the goal of the Judicial Council is to maximize judicial excellence. This proposal is counterproductive to that goal.

ALASKA COURT SYSTEM
State of Alaska Court System
Office of the Administrative Director

302 K Street
Anchorage, Alaska 99501
(907) 264-0547
(907) 264-0881
scole@courts.state.ak.us

Stephanie J. Cole
Administrative Director

THE ALASKA COURT SYSTEM OPPOSES CSSJR 22 (JUD)

CSSJR 22 (JUD) would shorten the periods between retention elections for supreme court justices and superior court judges. **The proposed shortened retention periods would increase costs to the state, lower voters' scrutiny of individual judges, and are not in line with retention terms in other merit selection states.**

The people of Alaska have the opportunity to approve or reject judges at periodic retention elections. Alaska has the nation's most extensive system for seeking public input on retention. The Judicial Council surveys lawyers, law enforcement officers, jurors, court employees and children's caseworkers. It looks at a judge's disciplinary record, disqualifications from assigned cases, appellate record, and the evaluation by the CourtWatch program. The Judicial Council holds public hearings to allow people to testify about their experiences with judges who are standing for retention. Most of this information is made available to the voters. A judge will be voted out of office if enough voters are unhappy with the judge's performance.

The following periods between retention elections are established in the Alaska Constitution:

- Supreme Court Justice: At first general election held more than three years after appointment, and then every 10th year
- Superior Court Judge: At the first general election held more than three years after appointment, and then every 6th year

Alaska's Constitution strikes the right balance between public accountability and judicial independence. Alaska's Constitutional delegates worked hard to create a judicial merit and selection system that delicately balances the public's right to an accountable judiciary with the important goal of a strong and independent judiciary. The current proposal to change retention terms would upset that balance and damage the integrity of Article IV. The convention minutes show that the drafters specifically considered and rejected a proposal to decrease the retention term for supreme court justices to six years.

Shortening retention terms would decrease voters' scrutiny of individual judges. Shortening retention terms would cause more judges to be on the ballot at each general election. Voters are bombarded with information about candidates and ballot propositions. Voters have limited time to study information on judges standing for retention, and increasing the number of judges on the ballot would only exacerbate that problem.

Shorter retention terms increase costs. The judicial evaluation process is integral to retention elections. The Judicial Council provides voters with important information on the performance of each judge or justice, so that voters can make informed retention decisions. Increasing the frequency of retention elections would increase the number, and thus the cost, of these evaluations.

Alaska's current retention terms are in line with retention terms in other merit selection states. Twenty other states have merit selection and retention laws similar to Alaska's. Retention terms in many of those states are similar to or longer than Alaska's current terms.

Retention terms in Colorado, South Carolina and Utah are identical to Alaska's. Six states have retention terms longer than Alaska's: California (12 years supreme, 6 years trial court), Hawaii (10 year terms), Indiana (10 years supreme court, 6 years superior courts), Maryland (10 years), Massachusetts (to age 70) and Missouri (12 years supreme court, 6 years circuit court).

Retention terms in eight other states are longer than the terms proposed in CSSJR 22 (JUD): Florida (6 years supreme, 6 years circuit), Iowa (8 years, 6 years), Nebraska (6 years), New Mexico (8 years for appellate, 6 years for district), South Dakota (8 years for supreme court), Tennessee (8 years supreme court), Vermont (6 years), Wyoming (8 years for supreme, 6 years for district court).

Only three states have retention terms similar to those proposed in CSSJR 22 (JUD): Arizona (6 years supreme, 4 years superior), Kansas (6 years supreme court, 4 years district court), Oklahoma (6 years supreme court, 4 years district court).

Shorter terms will tend to discourage the most highly qualified people from seeking judicial office. Short-term positions are inherently less attractive because of the lack of job security. Highly skilled attorneys with well established practices will be less inclined to leave their private-sector positions knowing that they must stand for retention at four year intervals.

Voters already have an early opportunity to vote on supreme court justices and superior court judges. Alaska's retention system requires newly appointed superior court judges and justices to first stand for retention after a short, probationary term (three years after appointment). This evaluation period gives judges early feedback on their performance and gives voters an early chance to unseat them if necessary.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/23/01

FURTHER: Finance

Date of 5-Day Notice: 3/29/01
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/10/01

Judiciary Committee considered SENATE JOINT RESOLUTION NO. 22

CONSTITUTIONAL AMENDMENT: JUDICIAL OFFICERS' TERMS

Proposing an amendment to the Constitution of the State of Alaska relating to the retention elections for justices of the Alaska supreme court and judges of the superior court.

and recommends:

[ ] be **replaced** with____ **CS** SJR 22 (JUD)

[ ] 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
[ ] new: SCR #____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
COURT	4/4/01	✓		1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

[ ] **APPROPRIATION - no fiscal note**

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			—	
	✓			
			X	
CHAIR:	✓			

DISTRIBUTED BY SEN DONLEY

Subject: SJR 22
Date: Fri, 13 Apr 2001 10:16:31 -0800
From: Kristina Johannes <kdj@gci.net>
To: Senator_Dave_Donley@Legis.state.ak.us

I would like to testify in favor of SJR 22, judicial retention. Most of the individuals who have testified thus far have all agreed that some accountability of judges to the electorate is desirable. Indeed several who have testified have made reference to the minutes of our Constitutional Convention, which clearly show this concern was also shared by many of the delegates. Our founders were far-sighted in adopting a system in which accountability was to be balanced by stability in order to attract qualified candidates. However, circumstances have demonstrated that what they were trying to achieve has not completely transpired. The current terms are too long to render any meaningful accountability to the electorate.

It has become clear over time that there are two main judicial philosophies: strict interpretation versus judicial activism. These two philosophies are diametrically opposed to each other. They are analogous to the fundamental differences of opinions one finds between two political parties. In a real sense, a partisan spirit can be said to exist in the judiciary with these two philosophies. Therefore I think it is entirely appropriate to increase the accountability of judges to the electorate, who have a great stake in this issue.

To which of these philosophies a particular judge subscribes is a worthy and important issue that the voter takes into consideration in a retention election. Since the philosophy of judicial activism ascribes more power to the judiciary and less to the people through their elected representatives, it is important that voters have a more timely opportunity to weigh in on the actions of the judiciary through more frequent retention elections. Much damage can be done to the Constitution while the electorate is patiently waiting to express their opinion on the matter. Since the Constitution belongs to the people, we should allow the people a greater role in its protection from particular judicial philosophies.

I believe that judicial activism does great harm to our system. If the meaning of a document can be changed by a single person, a judge, why did we put such safeguards on the amendment process? The answer of course is that our founders never envisioned a single person having so much power. The Constitution is like a contract that we have all made with each other. If we want to change the terms of the contract, we should all have a say in it. That's the whole purpose of representative government. Judicial activism seems to be growing in Alaska. Because of this, it is essential that the people have an increased opportunity to express their satisfaction or dissatisfaction with this trend. More frequent judicial retention elections would achieve this.

Thank you,

Kristina Johannes
2928 McCollie Ave
Anchorage, AK 99517

12/25

SJR

23

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
FURTHER: MAY 03 2001
SENATE FINANCE COMMITEE

DATE: April 9, 2001

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 3 May 01

Finance Committee considered SENATE JOINT RESOLUTION NO. 23

CONSTITUTIONAL AMENDMENT: APPROPRIATION LIMIT

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

and recommends:

[ ] be **replaced** with ____ **CS** SJR 23 (FIN)

[ ] adopt **previous** ____ **CS** CS forthcoming (____)

[ ] 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
[ ] new: SCR #____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
GOV./Elections	4/10/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

[ ] **APPROPRIATION - no fiscal note**

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
			✓	
		+		
		⊗		
			?	
	✓			
	✓✓✓			
COCHAIR:	✓			
COCHAIR:			✓	

SENATE JOINT RESOLUTION NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS DONLEY, Halford, Ward, Taylor, Cowdery, Phillips

Introduced: 4/9/01
Referred: Finance

A RESOLUTION

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** Article IX, sec. 16, Constitution of the State of Alaska, is repealed and readopted to read:

Section 16. Appropriation and Spending Limit. (a) Except for appropriations for Alaska permanent fund dividends, appropriations to the Alaska permanent fund, appropriations to meet a state of disaster declared by the governor as prescribed by law, appropriations for the Alaska Railroad, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from the federal government, appropriations made for a fiscal year shall not exceed $3,100,000,000 by more than fifty percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

(b) An appropriation that exceeds the limit established under (a) of this section may be made for any public purpose upon affirmative vote of two-thirds of the members of each house of the legislature. However, the total amount of appropriations made under this subsection for a fiscal year that exceeds the limit of (a) of this section, when added to other appropriations made for that year that are within the limit of (a) of this section, may not exceed $3,100,000,000 by more than seventy-five percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000.

(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) or (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) or (b) of this section. ~~The operating expenditures of each of the principal departments established by law under Section 22 of Article III shall be reduced by an equal percentage.~~ Delete ← This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house.

* **Sec. 2.** Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

Section 30. Reconsideration of Appropriation and Spending Limit. If the 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2010 and every eight years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, the amendment shall be repealed and Section 16 of Article IX shall be reenacted to read exactly as it did when it was first adopted in 1982.

* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

SENATE FINANCE COMMITTEE

~~2000~~ COMMITTEE ACTION

7/3/01

Bill Number	SJR 23
Amendment	#1
Motion	adopt
Motion by	Kelly
Objection by	—
Removed	
Second Objection by	

Committee Member	Y	***Vote***	N
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Co-Chair Donley			
Co-Chair Kelly			

Tally	
Yea	
Nay	
Absent	
MOTION	PASS

delete ~~sentences~~ sentence

page 2, lines 13 & 14

"The operating... equal percentage"

AMEND #2

(b) An appropriation that exceeds the limit established under (a) of this section may be made for any public purpose upon affirmative vote of two-thirds of the members of each house of the legislature. However, the total amount of appropriations made under this subsection for a fiscal year that exceeds the limit of (a) of this section, when added to other appropriations made for that year that are within the limit of (a) of this section, may not exceed $3,100,000,000 by more than seventy-five percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000.

(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) or (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) or (b) of this section. The operating expenditures of each of the principal departments established by law under Section 22 of Article III shall be reduced by an equal percentage. This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house.

* **Sec. 2.** Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

Section 30. Reconsideration of Appropriation and Spending Limit. If the 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2010 and every eight years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, the amendment shall be repealed ~~and Section 16 of Article IX shall be reenacted to read exactly as it did when it was first adopted in 1982~~. delete

* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Repeal Sec. 16 of Art IX per Sen. Donley

CORRECTION

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

SENATE JOINT RESOLUTION NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS DONLEY, Halford, Ward, Taylor, Cowdery, Phillip

Introduced: 4/9/01
Referred: Finance

A RESOLUTION

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** Article IX, sec. 16, Constitution of the State of Alaska, is repealed and readopted to read:

Section 16. Appropriation and Spending Limit. (a) Except for appropriations for Alaska permanent fund dividends, appropriations to the Alaska permanent fund, appropriations to meet a state of disaster declared by the governor as prescribed by law, appropriations fo e Alaska Railroad, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from the federal government, appropriations made for a fiscal year shall not exceed $3,100,000,000 by more than fifty percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

AMEND #2

(b) An appropriation that exceeds the limit established under (a) of this section may be made for any public purpose upon affirmative vote of two-thirds of the members of each house of the legislature. However, the total amount of appropriations made under this subsection for a fiscal year that exceeds the limit of (a) of this section, when added to other appropriations made for that year that are within the limit of (a) of this section, may not exceed $3,100,000,000 by more than seventy-five percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000.

(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) or (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) or (b) of this section. The operating expenditures of each of the principal departments established by law under Section 22 of Article III shall be reduced by an equal percentage. This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house.

*** Sec. 2.** Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

Section 30. Reconsideration of Appropriation and Spending Limit. If the 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2010 and every eight years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, the amendment shall be repealed~~, and Section 16 of Article IX shall be reenacted to read exactly as it did when it was first adopted in 1982~~. delete

*** Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Repeal Sec. 16 of Art IX per Sen. Donley

SENATE FINANCE COMMITTEE

~~2000~~ COMMITTEE ACTION

5/3/01

Bill Number	SJR 23
Amendment	#2
Motion	adopt
Motion by	Donley
Objection by	—
Removed	
Second Objection by	

Committee Member	Y	***Vote***	N
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Co-Chair Donley			
Co-Chair Kelly			

Tally	
Yea	
Nay	
Absent	
MOTION	PASS

22-LS0734\J
Cook
5/3/01

CS FOR SENATE JOINT RESOLUTION NO. 23(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DONLEY, Halford, Ward, Taylor, Cowdery, Phillips, Austerman

A RESOLUTION

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** Article IX, sec. 16, Constitution of the State of Alaska, is repealed and readopted to read:

Section 16. Appropriation and Spending Limit. (a) Except for appropriations for Alaska permanent fund dividends, appropriations to the Alaska permanent fund, appropriations to meet a state of disaster declared by the governor as prescribed by law, appropriations for the Alaska Railroad, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from the federal government, appropriations made for a fiscal year shall not exceed $3,100,000,000 by more than fifty percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

(b) An appropriation that exceeds the limit established under (a) of this section may be made for any public purpose upon affirmative vote of two-thirds of the members of each house of the legislature. However, the total amount of appropriations made under this subsection for a fiscal year that exceeds the limit of (a) of this section, when added to other appropriations made for that year that are within the limit of (a) of this section, may not exceed $3,100,000,000 by more than seventy-five percent of the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 2000.

(c) If appropriations for a fiscal year exceed the amount that may be appropriated under (a) or (b) of this section, the governor shall reduce expenditures by the executive branch for its operation and administration to the extent necessary to avoid spending more than the amount that may be appropriated under (a) or (b) of this section. This subsection does not apply to expenditures that are approved by a resolution concurred in by at least two-thirds of the members of each house.

#1 deleted sentence

* **Sec. 2.** Article XV, Constitution of the State of Alaska, is amended by adding a new section to read:

Section 30. Reconsideration of Appropriation and Spending Limit. If the 2002 amendment relating to an appropriation and spending limit (art. IX, sec. 16) is adopted, the lieutenant governor shall place the ballot title and proposition for the amendment on the ballot again at the general election in 2010 and every eight years thereafter unless it is rejected. If the majority of those voting on the proposition rejects the amendment, Section 16 of Article IX is repealed on the date the election is certified.

#2

* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.