

ALASKA

LEGISLATURE

COMMITTEE

FILES

1991-1992

8672

7220

HOUSE

RULES

HOUSE COMMITTEE REPORT

1-29-92

(7)
Date Referred: January 15, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 1/28/92

The TRANSPORTATION Committee considered:

HB 402

HOUSE BILL NO. 402

NAME GLENN G. BRIGGS BRIDGE (EAGLE RIVER)

"An Act naming the Glenn G. Briggs Bridge."

RECOMMENDATIONS: [] the same title
 be replaced with _____ [] a new title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

zero fiscal note DOT PF

[] zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Frank ...</i>	✓				
<i>Doris D. ...</i>	✓				
<i>Eugene ...</i>	✓				
<i>Bill ...</i>	✓				
<i>Richard ...</i>	*				

Richard ...
 CHAIRMAN'S SIGNATURE



Member

House Finance Committee

Alaska State Legislature

Randy Phillips
State Representative
House District 15

Session
State Capitol
Juneau, AK 99801
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Memorandum

TO: Representative Richard Foster, Chairman
House Transportation Committee

FROM: Representative Randy Phillips

DATE: January 22, 1991

RE: Sponsor Statement in Support of House Bill 402
"An Act naming the Glenn G. Briggs Bridge."

Glenn G. Briggs was a pioneer businessman and philanthropist who made major contributions to Alaska and to the Chugiak-Eagle River area in particular. He died on May 10, 1990 at the age of 87.

In 1932, Glenn Briggs was chosen by the U.S. government to assist in the development of native-owned reindeer herds on the Seward Peninsula. With the outbreak of World War II, the reindeer project came to an end. In 1943 he decided that Eagle River was "a good place to park the pigs.", he then devoted the rest of his life to making the community a place where people like to live. Glenn Briggs purchased a 160 acre homestead in Eagle River and started a hog farm, meat packing house and smoke house.

Mr. Briggs developed one of the first subdivisions in Eagle River. He helped to develop the Eagle River Shopping Center and the Parkgate Professional Building. Mr. Briggs underwrote the costs of writing and publishing the book BETWEEN TWO RIVERS, by Marjorie Cochrane, a history of the Chugiak-Eagle River area. He was instrumental in organizing the Chugiak-Eagle River Chamber of Commerce, the Eagle River Lions Club, Knik Little League and several other organizations. He was particularly supportive of youth and established scholarships that have benefitted a number of local high school students.

The true extent of Glenn G. Briggs' philanthropy will never be known as he often used fictitious names to identify his gifts. He refused requests to be photographed in connection with contributions and asked that he not be identified for his support of non-profit organizations.

Glenn G. Briggs was a man who refused to be recognized for his contributions while living. It is fitting that we should now give him the recognition he deserved by naming the Hiland Bridge in his honor.

If you have any questions do not hesitate to call me at 4949.

Eagle River pioneer Glenn G. Briggs dies May 10 at age 87

The man who in 1943 decided Eagle River was "a good place to park the pigs" — and then devoted the rest of his life to making the community a place where people like to live — passed away May 10, 1990.

At a memorial service held yesterday (Wednesday) at Evergreen Memorial Chapel, many friends related incidents from the life of Glenn Gillen Briggs. He was a businessman, developer and leader who still had an active interest in the welfare of his community when he died at the age of 87.

Having a background in animal husbandry and the meat packing industry, Mr. Briggs was chosen by the U.S. government to assist in efforts to develop native-owned reindeer herds. One of four unit managers hired by the Bureau of Land Management, he went to Nome in 1932 aboard the steamship "Victoria."

It was during his work on the Seward Peninsula that he met Mary Louise Campbell, daughter of the owner of the trading post at Kotzebue. They were married on November 18, 1936. Four years ago the couple celebrated their golden wedding anniversary among a large crowd of friends.

The reindeer project came to an end with the outbreak of World War II. Mr. Briggs went to Juneau to enlist in the armed forces but as a married man past age 35 was rejected, according to an interview recorded in "Between Two Rivers," a history of Chugiak-Eagle River written by Marjorie Cochran.

Having been impressed with the area while traveling from Anchorage to the young agricultural project in the Matanuska Valley, Mr. Briggs had been interested in the possibility of settling here and raising animals for meat. He arranged for a contract to supply the new Ft. Richardson military base with pork. Mr. Briggs purchased the 160-acre homestead of Jack Cobol and established the hog ranch there. The couple continued the operation for several years.

At the conclusion of the war, Mr. Briggs saw the area's potential as a desirable residential community and developed one of the first Eagle River subdivisions. Even though not required at that time, he provided many amenities which added to the quality of the neighborhoods he created.



Glenn G. Briggs died at age 87.

Recognizing a need for goods and services in the growing community, Mr. Briggs joined in building Eagle River Shopping Center. It housed several businesses, including a grocery store, and the post office. He later formed a group which built

the Parkgate Professional Building.

Mr. Briggs was instrumental in organizing the Chugiak - Eagle River Chamber of Commerce and served on its first board of directors.

Cultural needs of the community were also backed by the pioneer developer who supported and contributed to various projects. He was instrumental in forming the Eagle River Lions Club, Knik Little League and other organizations. He was particularly supportive of activities for young people and through his businesses assisted with many of their financial needs.

Mr. Briggs shunned publicity for his philanthropies, in some cases inventing fictitious names to be listed as sponsors of such things as scholarships for local high school students. He declined requests to be photographed in connection with contributions and asked that he not be identified for his support of non-profit organizations.

Expanding his interest in affairs which affected the community, Mr. Briggs was active in politics. He was a staunch Republican and held local and state offices within the party. When the Greater Anchorage

Area Borough was formed in 1963, he was elected as the first assemblyman from Chugiak - Eagle River.

Mr. Briggs considered it important that the community's history be written. He underwrote printing of the "Between Two Rivers" book and provided many of the pictures it contained.

A charter member of the Chugiak - Eagle River Chamber of Commerce and Eagle River Lions Club, he held membership over the years in a number of other community groups. At the time of his death, he held a position on the board of trustees of the Chugiak Senior Center Foundation, Inc. and was active in that group.

Born November 16, 1902, in Independence, Iowa, Glenn Gillen Briggs was the son of John Damon Briggs and Nora A. Gillen. He is survived by his wife, Mary Lou Briggs of the family home in Eagle River, and two brothers, James Briggs of Valiceto, Calif. and Dale Briggs of Eagle River.

The family suggests that memorial contributions be made in his name to Chugiak Senior Center Foundation, Inc., HC78 Box 2890, Chugiak 99567.

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attention:
Randy Phillips

Rivers and the next year work began on the Palmer Highway. The highway was a joint accomplishment of Anchorage Light and Power and Alaska Road Commission. Each built twelve miles of the meandering one-lane highway.

It was a highway in name only. Mary Siebenthaler Bryant, who moved to Palmer with her husband when he was hired to help build the colony, remembered it as "the awfullest road. When it was icy, you couldn't get around the curves. The road was so bad in winter that when we got to Eklutna Flats I'd usually say, "Stop, I want to get out and walk!"

Peter Bagoy, who had gone to work for the road commission in 1927, said that after freezeup, late in the fall of 1936, motorists could drive from Anchorage to Palmer. "It was not a good road," he added, "but it was passable."

But Melva Pippel called the road "the most interesting thing that ever happened in Southcentral Alaska." Melva and her husband Walter were colonists, newly arrived from Minnesota, and a decade later, they would have ninety acres of vegetables under cultivation in Eagle River. But when they reached Palmer in 1936, there were only eighteen miles of road in the Matanuska Valley. The colonists, used to thousands of miles of highways in the states, often felt trapped.

The Palmer Highway was ". . . a little narrow road, a one-car road with turnouts," Melva said. But when it was opened, "You never saw so many happy people. They had someplace to go." She and Walter drove an old truck to Anchorage to attend their first Fur Rendezvous that winter. She wore "a long red velvet gown over that little old narrow highway and Walter was all dressed up too." The following summer they took their four children to Anchorage's Fourth of July celebration. Melva remembered "all the old gold miners and trappers" who came to town for the Fourth. "They would take our little kids and buy candy for them. They were the kindest people . . . and talk about a wonderful time!"

Another traveler on the Palmer Highway not long after it was first opened was Glenn Briggs, a reindeer unit manager for the Department of the Interior in Western Alaska. He had been in Alaska since 1932, but had not visited the Southcentral area, and he was interested in its potential for livestock raising.

Briggs had graduated from Iowa State with a major in animal husbandry and a minor in economics. After graduation, he went to

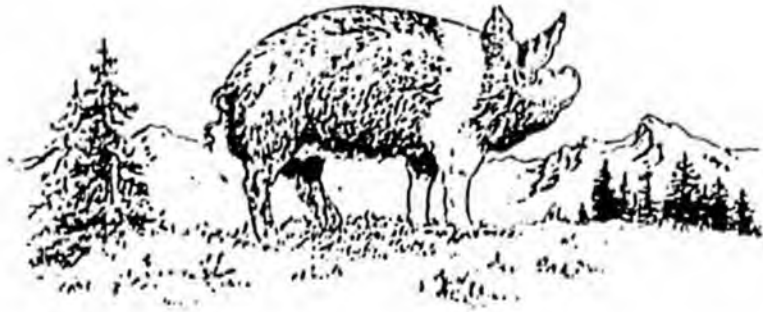
work for Armour Packing Company in Chicago. Western Alaska, at that time, was populated with reindeer which had been introduced several decades earlier to help provide Natives with a new source of meat when the area was threatened by food shortages. Gradually, many of the herds had been acquired by Lomen Company. Lomen deer and Native-owned herds had become intermixed, and by 1932, the Department of the Interior had ordered that only Natives would be allowed to own the herds. Negotiations began to return the herds of non-Natives to the Eskimos. Department of the Interior representatives visited the Mid-West, looking for persons experienced in animal husbandry who would represent the Natives during the changeover. Briggs was one of the four unit managers hired.

In Anchorage, on vacation, he met I.M.C. Anderson, head of the Farm Home Administration, and talked with him about the possibility of livestock raising in Southcentral Alaska. Anderson took him to Palmer, driving over the gravel, winding road closely bordered by willows. Briggs liked the looks of the country Anderson showed him and was convinced that he would like to return when his job with the Department of the Interior ended.

Enroute to Palmer, Briggs and Anderson probably passed a small, flat-roofed roadhouse near Upper Fire Lake. In 1934, before the bridge across Eagle River was completed, Ken Laughlin filed on 160 acres adjoining the Siebenthaler's homestead to the east. His land included Upper Fire Lake, and, in 1935, he built a small two-room cabin on a hill above the north end of the lake. The cabin was probably typical of many of the "prove-up" homestead dwellings. Its central room contained a wood stove, sink, cupboards, a small dining space and a daybed. A small bedroom opened off the main room. The floor and ceiling joists were of rough-cut spruce, and the exterior walls were covered with rounded spruce slats. Between the vertical slats and the framing was a layer of cardboard insulation.

Laughlin was an organist in the Empress Theater in Anchorage. In his free time, he hauled materials for his cabin by dog team from the Green Lake Loop Road, north of Anchorage. Laughlin had his cabin completed in time to open what might be called the first fast-food service in Chugiak - Eagle River. The new Palmer Highway was being built below the cabin, and Laughlin took over a construction campsite where he sold hotdogs and hamburgers to highway crews.

Peter Dagoy remembered stopping there for coffee. Since Laughlin



Chapter 3

Lovely Fields Below the Mountains: The Homesteading Years

ANTICIPATING THE NEED for a base in Southcentral Alaska, the federal government had withdrawn land for a military reservation by Presidential proclamation in 1939. The reservation swallowed several homesteads between Anchorage and Eagle River. North of Eagle River, between the river and Birchwood, a quarter-mile-wide strip of land along the Palmer Highway was withdrawn. The military reservation surrounded the Siebenthaler

homesteads. Frank and Fina had already given up mink farming and moved to Anchorage where Fina operated a greenhouse and Frank was a federal worker. Slim and Elsie still used their cabin for weekend outings. On May 1, 1941, both homesteads were withdrawn by executive order with the understanding that if the land were ever released, the Siebenthalers would be given the opportunity to buy it back for the same amount that the government paid them for it. The land was apparently used only for a "rest and recuperation" site for enlisted men. Not long after the war began, the cabin burned to the ground. Mary Siebenthaler suspected that "it was probably just some soldier who didn't know how to build a fire right."

Late in the fall of 1941, when Margaret and Paul Swanson were honeymooning in their one-room apartment, Glenn and Mary Lou Briggs celebrated their fifth wedding anniversary in Nome. The events that had led to their marriage began in 1930 in Kotzebue, when trader Tom Barriman's new wife Molly set out to trade for furs upriver. She paid the equivalent of \$2.50 for each of the muskrat skins she bought. When Barriman shipped them to his partner, Ernest Patterson, in Seattle, Patterson could market them for only 49 cents apiece. The financial fiasco convinced Patterson that he needed a representative in Kotzebue to handle his business. He sent his daughter, Teresa Campbell, north. A widow, Teresa was no newcomer to Alaska. She had helped her late husband run a store in Nome during the gold rush days. But there were few white women in Kotzebue when she arrived in the early '30's and she was homesick. She sent for her daughter Mary Lou to join her at the trading post."

Glenn Briggs' job with the Reindeer Service took him to most towns on the Seward Peninsula. By the time he got to Kotzebue, however, Mary Lou had left for California to study dress design and millinery. Two years later, when she returned, she and Glenn met. Mary Lou put her new dress-designing skills to work to make a street-length, coral taffeta wedding dress. The wedding ceremony was held November 18, 1936, in her mother's home. The next day Glenn left by dog team for three weeks of reindeer work.

By the time World War II began, the transfer of reindeer to Native ownership was nearly completed. In December of 1942, Glenn was released from the Reindeer Service. He went immediately to Juneau to enlist in the Army, only to learn that married men over 38 would not be accepted.

In Anchorage, 8,000 servicemen were stationed at Fort

Richardson. Glenn saw the opportunity to help supply the base with fresh meat, which was scarce during the war, by setting up the livestock operation he had planned for so many years. All non-military shipping to Alaska was prohibited during the war, but Glenn received permission from Territorial Governor Ernest Gruening to move a shipment of hogs to Alaska. He arranged with Major General Simon Bolivar Buckner to use garbage from the base to feed the pigs. He asked his brother Dale to buy a carload of hogs — 76 gilts and 4 boars — in Nebraska and ship them to Seattle. While he awaited their arrival, Glenn built special crates, each designed to hold four pigs. Glenn accompanied the hogs by ship to Seward and loaded them on a railroad car for Anchorage. But he had no place to house them once they were unloaded. He set up a makeshift corral beyond town, in the woods at the end of Merrill Field, while he looked for land.

Glenn wanted to settle as near the base as possible. The first piece of private property north of the main portion of the base was Jack Cobol's homestead in Eagle River. By luck, Cobol had already decided to sell the land. A week after Glenn reached Anchorage with his pigs, he paid Cobol \$7600 for the 160 acres, the small log cabin, an old Plymouth car, and a few pieces of equipment. On June 1, he trucked his pigs from Anchorage to Eagle River and turned their shipping crates into temporary hog houses. With the \$7600, the Cobols bought the Lane Hotel at 4th and C in Anchorage which they operated for several years.

When Glenn and Mary Lou moved onto their new homestead, the valley



Glenn and Mary Lou Briggs on the steps of the Cobol homestead cabin shortly after they purchased it in 1943.

(BRIGGS PHOTO)

The Homesteading Years



The original Jack Cobol homestead cabin on Meadow Creek, photographed in 1943.

(Briggs photo)



George Morelander, left, principal of the Eklutna Industrial School from 1942 to 1945 when students were transferred to Sitka, often visited the pig farm and Eklutna students helped harvest the Briggses' potato crops.

(BRIGGS PHOTO)

was a broad expanse almost solidly covered with timber. The only clearings were the 20 acres on their property and the 20 acres that Nyberg had cleared. Their water came from Meadow Creek which flowed down from the Chugach Mountains through their land. They hand-dug wells for water for the hogs. Glenn built a brood house and a farrowing shed. The next spring they planted potatoes in the clearing beside the cabin and that fall they hired students from Eklutna school to harvest the crop.

From the windows of the log cabin, Mary Lou could see the Palmer Highway and the treacherous hill beyond the river bridge. In the winter when the hill was icy, she watched anxiously for the garbage truck which Glenn drove each morning to the base for the day's supply of pig food. It was always a relief, she remembered, when she saw the truck safely reach the bottom of the hill.

The initial hogs which Dale Briggs had hand-picked for Glenn in Nebraska were purebred Hampshires, selected for their hardiness. Glenn brought two carloads of grain to Alaska, along with the hogs, and for the first two years he supplemented the base garbage with the grain. By the time the grain was gone, however, it was apparent that the pigs did not need it and they were fed only the Fort Richardson leftovers.

Probably no pigs ever had a more exotic diet. The Army was wasteful. Some days there would be as many as 25 or 30 carcasses of lambs tossed out almost unused "because the military didn't like lamb," Glenn said. He hauled turkey and dressing and case after case of Spam, the cans unopened but pierced so that they could not be used by civilians. Mary Lou took some of the garbage to feed the chickens which she raised both for eggs and for eating.

In the winter months, which the Briggses remembered as much colder in the 1940's than they were in later years, Glenn kept a kerosene heater burning under the garbage-hauling truck to keep the oil warm. For weeks at a time, the thermometer registered 40 below zero. After Glenn left in the mornings for the base, Mary Lou moved the heater to the middle of a washtub in the chicken coop "and the chickens perched around the edge of the tub, keeping their toes warm."

At night the pigs were bedded 30 to 40 to a shed where body heat kept them warm. In extremely cold weather, the heat the pigs generated was a problem in itself. When the hogs left the sheds to feed, the sudden exposure to the cold caused occasional cases of pneumonia in the herd.

When Glenn returned with his load of garbage, the feed was spread on eating platforms for the pigs. But the platforms attracted black bears and the bears often stole not only garbage but the pigs, too. The bears came in over the fences and dragged the pigs out. Glenn would find their carcasses later in the nearby woods. He had help, however, from Fort Richardson soldiers in controlling the bear population.

"It was a big deal for military people to get away from the post," Glenn said. "On weekends, they'd come out to help with the farm work, just to get away from the base and have a homecooked meal."

When the bears became a nuisance, Glenn furnished guns for bear-hunting excursions. The first few years more than 40 black bears were killed near the homestead. Mary Lou rewarded the hunters with Sunday dinners which were even more of an attraction than the hunt itself. Hungry for home-cooking, the servicemen enjoyed the pork roasts and hams she served, along with garden produce and home-baked desserts.



In 1944, the flat-topped leaking roof of the Cobol cabin was replaced by the Briggses with a new gable roof. Soldiers from Fort Richardson helped with the repairs in exchange for a home-cooked meal.

During their first winter on the homestead the Briggses discovered that the flat roof on the cabin leaked. When they decided to replace it with a gable roof, half a dozen men from the base volunteered to help. "We put the gable on in one weekend," Glenn said, "and they wouldn't take any pay."

Years later, the Briggses were still receiving letters from some of the former servicemen, telling them how much they had enjoyed the experience on the homestead.

Despite the volunteer help, there was more work than two people could handle. The need for more land for the expanding hog operation had led Glenn and Mary Lou to buy a 120 acre tract to the south of their homestead which had been staked by a man named Bailey who had never moved onto his property. In 1944, Dale Briggs

came from Kansas to join the livestock operation. He had hardly arrived before he was drafted. Dale was stationed at Fort Richardson and as soon as bans on non-military travel were lifted, his wife Ruth came to Alaska to join him. With her were their four children: Lynn (10), Glenn (8), Michael (6) and Mark (3). Dale was credited by his children with winning the war single-handed. On the day that he was drafted, Germany surrendered. The day that he was sworn in, the Japanese called it quits."

Meanwhile, Dale had filed for a 160-acre tract of land adjoining Glenn and Mary Lou's homestead to the north. During his time off from the base, Dale began building a log cabin and proving up on his land.

The shell of the cabin went up in the summer of 1946. The family lived in base housing on Fort Richardson until the house was completed. It was built on a rise overlooking the pig farm. One of the children's tasks during the summer was to haul water from Meadow Creek to the house. Mary Lou's strawberry patch bordered the creek and, in exchange for helping to tend the berries, the children were allowed to sell strawberries at a roadside stand beside the Palmer Highway. The berries were huge and beautiful, their mother remembered. A handful filled a pint-size basket, which the children sold for 50 cents.

In the early days of livestock operation, Glenn took his hogs to Palmer for butchering, but that was so expensive that he began processing the meat himself. He built a smokehouse as well as a slaughterhouse, and sold hams and sausage to most of the hotels in Anchorage. Before long he was grossing \$40,000 annually. "It was a lot of money then," he said. "The cost of operating was low."



In 1944, Dale Briggs, right, came from Kansas to join his brother Glenn in the operation of the hog ranch.

(BRIGGS PHOTO)

His only major expense was hauling the pig feed from Fort Richardson. Forty years later, Glenn said there was no chance for hog raisers to make money in Alaska's economy in the 1980's when you could buy pork cheaper in the supermarket than you could raise it.

Except for the Briggs farm, there was little other development along the first few miles of the Palmer Highway north of the Eagle River bridge until the late 1940's. But the Lars Nyberg property had changed hands. Walter Pippel had become disillusioned with the marketing restrictions imposed on farmers in the Matanuska Project. In 1936 his fields had produced the first marketable produce in the colony. "We had the most beautiful crop of vegetables in Palmer you ever saw," Melva remembered.

But Pippel did not want to be told how and when he could market the vegetables. He filed suit against the colony's regulations. Three years later, after Pippel received an out-of-court settlement, the family left Alaska to return to Minnesota. His fight with the government did not dampen Pippel's enthusiasm for the possibilities of agriculture in the territory. Shortly before World War II, the family



The one-lane "highway" between Palmer and Anchorage in the early 1940's passed through thick unbroken stands of birch and spruce. The only clearings were at the Cobol, Nyberg and Laughlin homesteads.

(BRIGGS PHOTO)

moved back to Alaska to farm in what is now the Spenard area of Anchorage where they raised potatoes and hogs. Wanting to expand his operation, Pippel bought the Nyberg homestead not long afterwards. He planted crops on the Eagle River land but the family continued to live in Spenard.

Pigs had generated the first agricultural venture on the southern end of Chugiak - Eagle River. Geese marked an early farming experiment on the north.

In 1945, Reese Tatro filed on 130 acres of land north of Peters Creek, which included all of Mirror Lake. Above the lake's eastern shore, Bear Mountain rises precipitously and on early maps the lake was called Bear Lake. Not until 1960 did the name "Mirror Lake" appear on USGS maps, but a mirror was what it most resembled. Sheltered by the mountain above it, the lake reflected the peak and the seasoned colors of the thick stands of birch that surrounded it. Reese, trucking supplies and passengers from Anchorage to Independence Mine in Hatcher Pass in the late 1930's, often stopped long enough to admire the lake's beauty.³⁰

Reese had first come to Alaska in 1934 to manage a CCC camp at Cordova and had worked on construction jobs in different parts of the state before moving to Anchorage. During the war, he met Grace, a newly-arrived payroll clerk who was employed by the district Corps of Engineers on Fort Richardson, and they were married not long afterwards. In 1946, Reese and Grace pitched a tent on Reese's Mirror Lake homestead. Grace continued to work during the winter months on Fort Richardson. She took summers off to help Reese clear and farm the land.

Reese built a frame around the tent and the couple lived in the cozy two-layer home for several years, lighting it with gas lanterns and carrying their water from the lake.

They soon discovered that the lake was an ideal home for geese, and Anchorage's growing population offered a good market during the winter holiday season. In the summer they sold goslings. The Tatro's built up a large flock: big grey Toulouses, White Chinas, Africans, a few Pilgrims. They named their homestead "Quanta La Goose Farm," a parody of a Spanish song entitled "Quanto Le Gusto" that was popular in the 1940's.

The couple raised chickens as well as geese and sold both eggs and fryers. The chickens led to one of the first experiments with solar heating in the area. Reese built coops with plexiglass windows

facing south to keep the chickens warmer in the winter.

They planted several acres of barley and other grains on the land they cleared but potatoes were their major crop. They sold the potatoes to the Army on contract. In winter, Grace remembered, it was almost a full-time job to keep the potatoes sorted. Like the Pippel fields to the south, the Tatro fields included cabbages and other hardy vegetables. The gravelled Palmer Highway bisected their homestead and Grace planted acres of daisies on either side. She sold daisy plants along with vegetables at a roadside stand.

After the cabbages were gathered in the fall, moose moved into the fields to glean the leftovers and once a moose slept under the Tatro's kitchen window all winter. Loons swam with the geese on the lake in the summer and beavers built a nearby lodge. Homesteading was not easy, but the bonuses were many. "I wouldn't take anything for those early days," Grace said 30 years later.

Between the Briggses' hog ranch and the Tatro's Quanta La Goose Farm, other pockets of land along the Palmer Highway were attracting newcomers. In 1945, small tracts legislation had been extended to Alaska by the Secretary of the Interior. It provided for the sale or lease of tracts not exceeding five acres of "vacant, unreserved, surveyed public land" as "a home, cabin, camp, convalescent, recreational or business site" at a price "which shall not be less than survey costs."³¹

The first five-acre, small-tract homesite in Chugiak - Eagle River was staked south of Peters Creek by Cloyce and Justine Parks. They were Nebraskans and, before the war, Cloyce operated a decorating business, selling draperies, rugs, and furniture. But with the war, all manufacturing that was not essential to the nation's defense stopped. Cloyce could not continue his business. He was nearing 40, the Parks had two teen-age children, and he was ineligible to enter the service. Instead, he went to work as a civilian with the Corps of Engineers and was offered a one-year assignment in Alaska.

Cloyce was sent to Fort Richardson as foreman of a roofing crew. As soon as civilian travel was permitted, Justine and the children, Virginia and Jim, joined him. Cloyce had found an unoccupied cabin which had been built by Harold Swank on federal land a few miles north of Fire Lake Lodge at mile 18.5 of the Palmer Highway. Swank had not been able to claim the land and had given up the cabin. The Parks staked five acres which included the cabin as soon as the area was opened for homesite development in January of 1945. Later,

to Eagle River could pick up their mail without driving to Anchorage.

As Christmas of 1947 approached, the families put aside their worries about power, school, and fires for a community celebration of the holidays. They planned a potluck supper and a Christmas party at which Santa would distribute presents. The Parks volunteered the use of their coffee shop. Three women agreed to make and fill 20 Christmas stockings for the smaller children. Vernon Halk donated a supply of red flaggging for stocking material. Cloyce Parks offered to cut and decorate a tree. Fred Hasekoester worked with Cloyce for several days in mid-December to build tables and benches to seat the sixty-three children and adults. Daria Alex said she would make popcorn balls for all the youngsters.

The party of December 23 was declared "a great success." Tables were decorated with candles and baskets of frosted leaves and spruce branches. A report in the Community Club minutes indicates that "Sgt. Lane carved the tasty meat loaves. Sgt. Duncan and his men brought a handsome chocolate cake which was served at the end of the party."

In the midst of after-dinner games, Santa himself arrived, looking suspiciously like Paul Swanson, who had agreed earlier to "extend a personal invitation to Santa." He distributed toys and stockings to the children and the 50-cent gifts which each adult had brought. The party broke up about midnight. "It was a Merry Christmas," the report concluded.

The Eagle River homesteaders did not join the community club until later. In 1947, the only lights to shine through the Christmas dark were from the cabins of Glenn and Dale Briggs and two new families who were homesteading to the east.

Arthur and Eleanor Braendel and Frank and Jo Brink had filed for adjoining land that summer. The two couples had become friends through a Little Theater group in Anchorage not long after they had arrived shortly after the war ended.

It was music, not drama, that had introduced Eleanor and Arthur across the continent in 1943. Both were New Yorkers. Eleanor had enrolled at Cornell University to study accounting. Arthur, who had enlisted in the Navy, was sent to Cornell for a special three-months diesel engineering course. A cellist, he began looking for string players interested in forming a string quartet. Eleanor and her viola answered his bulletin board ad.

At the end of the three months, Arthur shipped out to the South

Pacific where he spent the rest of the war in the tropics. When the war ended, he went in search of "someplace cold" to recover from the heat and humidity of the past two years." He'd planned only a short visit to Alaska. But when he reached Juneau, he was hired by the FAA as a mechanical engineer and was transferred to Anchorage not long afterwards. He proposed to Eleanor by mail.

In the fall of 1946, Eleanor set out for Seattle from her home in New York by train, lugging Arthur's cello, her viola and violin, and a 50-pound chest of silverware Arthur's mother had given them for a wedding present. The conductor let her store the cello in a closet that held dirty linens. It was empty when they left New York, but the farther west the train traveled, the more dirty linens piled up in the closet until finally the cello was crowded out. Arthur met Eleanor in Seattle where they were married. They left immediately for Anchorage and a new life together.

That winter they helped found the Anchorage Symphony, and met the Brinks when they provided music for one of the Little Theater productions that Frank was directing. The Brinks were from Pennsylvania. After he was discharged from the Navy, Frank had taken a job with war surplus in Anchorage. Later, he opened an ice cream business with four other persons on Martin's Dairy near Merrill Field. The business was not a success and Frank's partner skipped town, leaving him to pay off the debts.

Both couples shared a desire to "get out in the woods" although they had not come from farming backgrounds. Besides, housing was difficult to find in Anchorage. Early in the summer of 1947, they drove to Eagle River for a picnic and hiked from the end of the Briggses' road up the mountain, looking for a possible homesite. They chose land bordering Meadow Creek both for the water the creek would supply and for the southern exposure.

The Braendels staked 154.6 acres, the Brinks 160. Arthur hired a "taciturn" bulldozer operator, he said, to brush out a road between the two homesteads to the creek. Brink, whom Arthur described as having "an erring sense of direction," had flagged the road. Arthur, wearing a red shirt, told the dozer operator to follow him while he followed the flags. He hadn't counted on the speed of the dozer operator or the problem in locating Brink's route. "There were trees falling down right behind me and I was running as fast as I could go. Finally the dozer operator stopped to eat lunch. That's what saved me from certain death," Arthur said.

"I used to hate telling people that I lived in Peters Creek," Sunny said, "because people would say, 'Oh, you live out there with all those poor people.' That's how they thought of Peters Creek, as full of poor people.""

Bill pointed out that Peters Creek families weren't rich, but they weren't poor either. They all worked and had incomes of some sort. "But they were do-it-yourselfers. Maybe they'd go for three years with tarpaper siding on their houses. But later those places were nice homes. People enjoyed building for themselves. They were the sort of people who came up here for roughing it and for freedom."

By the time the Platzeks arrived in Alaska, Eagle River was developing as a more sophisticated part of the community, where more amenities were available and the first subdivisions with city-size lots were appearing.

Early in 1950, Glenn Briggs sold 40 acres and his hogs to John and JoAnn Vanover. The Vanovers had operated a hog ranch in Mountain View but Anchorage was growing up around them. The military population on Fort Richardson and Elmendorf was dropping and Glenn realized that there was no longer going to be enough garbage to support all of the hog farms in the area.

Not long after the Vanovers bought the Briggses' pigs, one of several sides of bacon the new owners were smoking dropped into the fire pit and blazed up. The smoke house also caught fire, burning rapidly. A year later, the log house which Jack Cobol had built in the 1930's went up in flames. The following year their brood house was destroyed by fire. To add to the Vanovers' troubles, a short time later their slaughter house in Mountain View burned to the ground.

Problems of a different kind plagued the area's largest poultry farm, which was located a mile or so to the north. Henry and Bertie Hermann started for Alaska in 1950 from Buffalo, New York, pulling a 36-foot house trailer behind their truck. When they reached Anchorage, they found that there were no trailer courts with spaces large enough to accommodate theirs. Looking for a site, they arranged with Walter Pippel to buy land from him. Hermann was a contractor and he had planned to continue in the building trade when he reached Alaska. But his arrival coincided with a prolonged carpenter's strike. The Hermanns turned to chicken-raising instead.

Before long they had hundreds of chickens housed in a 16,000-square-foot building which was described as "better quarters than a lot of people were living in then." At the peak of its produc-

tion, the firm boxed as many as 3,300 eggs a day. But the same problems that beset most agricultural ventures in Alaska plagued the Hermanns. The cost of importing feed for the chickens was prohibitively high. Merchants could buy eggs from outside cheaper than the Hermanns' poultry farm could produce them. A few years later, the farm went out of business.

Meanwhile, at the top of the grade north of Eagle River bridge, Tony Bochstahler had opened a woodcraft shop. Bochstahler's hand-made furniture was popular throughout the Anchorage area, and the cache that he built beside the shop became something of a landmark over the next two decades. Bochstahler and his wife Betty homesteaded upriver and worked for many years to preserve the natural beauty of Eagle River, as well as for other environmental causes.

The beauty of Eagle River valley was proving to be worth the difficulties of reaching it. Milford Johnson and Jack Stewart, whose brother Robert was already living in Peters Creek, built a mile and a half of road up the valley in 1952 in order to reach their new homesteads. Their cabins marked the end of the road.

"All the cars you saw coming up the road were either headed for Milford Johnson's place or mine, Jack remembered. That winter, however, a man named Kochinke and his wife mushed a dog team on past the Johnsons and Stewarts to claim land in the roadless valley and build a cabin. Before the decade ended, the valley was a patchwork of homesteads stretching a dozen miles upriver along a road that each successive settler pushed farther east.

As the population of the area grew, there was an increasing need for services closer to home and Anchorage. In the fall of 1955, construction began on a quarter-million dollar shopping center at Mile 14½ on the Glenn Highway. The *Anchorage Daily News* called the center "one of the most modern and complete in Alaska."¹⁰ The *News* reported that it would be called the Eagle River Shopping Center and would be owned and operated by Tedrow's, Inc., a local corporation, locally financed. Officers were Ray Tedrow, president; Mary Lou Briggs, vice president; Evelyn Sehm, manager, Glenn Briggs, treasurer; and Lucille Tedrow, secretary.

Mrs. Sehm said that the center was the result of three years of extensive research to be sure that it would provide "the businesses, services, and professions best suited to fill the needs and desires of our community and also to attract the general public." She

Glenn Briggs, who had worked hard for orderly growth for Eagle River, was elected as the first Assemblyman from the community. Glenn had supported the establishment of a state park along Eagle River at the Glenn Highway bridge crossing when the Division of Lands a year or two earlier made available lands dedicated to mental health uses, but he wanted to see restrictions on additional land releases proposed for residential use. In a letter he sent to the Division of Lands, Glenn noted that 1800 acres of small tracts in Birchwood and the Eagle River bridge area had been sold with no restrictions.

"Today Birchwood is a blighted area," he wrote. "Spotted throughout are some nice homes and in most instances each is surrounded by shacks, substandard dwellings, and abandoned starts. Today in the Eagle River Small Tract block there is one F.H.A. approved house and perhaps a dozen others which could with some modifications meet F.H.A. minimum requirements. Fewer than half of the original tracts have any improvements. In some instances tracts were not developed because of the impracticability or impossibility of getting access roads to them. Others did not provide reasonably suitable building sites."

He recommended that if the state disposed of the mental health land for residences, lots should be laid out with the contour of the land so each would have a suitable building site; that covenants should be established to make sure homes met minimum F.H.A. requirements and public health standards; and that roads should be roughed in to provide access to all lots.

Briggs warned that although there was justification in 1953 for making small lots available without restrictions, "there is no justification for the policy now with the Eagle River area established as a growing community."

He concluded that the sale of land for residences should be controlled over a period of several years to provide for the extension of fire protection, a school bus system, power and telephones, and during his tenure on the borough Assembly he continued to push for these improvements.

Eagle River had formed its own volunteer fire department in the fall of 1959. Throughout the 1960's, it depended on subscriptions and donations to keep it in operation. The first fire truck was a 750-gallon, 1942 tanker which was kept in part of Walt Pippel's potato barn.

Much of the support for the fire department came from fund drives

organized by the new Lions Club. Almost as soon as the club received its charter, members began sponsoring Bingo games to finance the purchase of new equipment for the firemen. In 1965, the club applied for a long term land use permit for 40 acres near the river bluff which they could develop for recreational use. Part of the Bingo proceeds were used for the recreational program. Lions also helped buy the first Eagle River ambulance. Lion vice president Tom Slanker attended the state's first Emergency Medical Technician training in Sitka and volunteered for ambulance duty when he returned. Lions sponsored community cleanups, brought the circus to town, and conducted rabies clinics.

Little League baseball, the first organized sport in the community, pre-dated the Lions' charter. In 1959, Tom Slanker paid the \$125 sponsorship fee himself to allow local boys to join the Mountain View League. CBA members volunteered to get a field ready at Eagle River Elementary. In the meantime, youngsters practiced ball in Dale Briggs' front yard. Four years later the program had grown large enough to enable a separate Chugiak - Eagle River league to be formed.

There were no hockey rinks in the community, but at Fire Lake, where the Polyefkos had begun subdividing their property, Bob Boehm pumped water out of the lake in the winter to keep a rink on the lake ice flooded and skateable. He organized a hockey team and coached neighborhood children. In Eagle River, a 10-lane bowling alley opened for business on the hillside above the shopping center. Sled dog racing was popular and mushers organized a local club. One of its members was Shirley Gavin. She won the world's women's sled dog championships in 1966, 1969 and 1970.

East of Chugiak, where Little Peters Creek flowed down out of the Chugach Mountains, Ray Beam and his sons began planning a ski resort on their homestead in 1961. Building roads and putting in three rope tows, the longest one 2,000 feet, were costly and time-consuming. Not until 1967 did they have the area ready to open with an A-frame lodge and a ski rental shop at the base of the nearly treeless slopes.

The Ptarmigan Valley resort was short-lived, however. Plagued with conflicting land claims and beset with financial troubles, the Beams operated the ski area only one year and the land eventually became part of Chugach State Park.

In late March of 1964, when Chugiak High School was under

have given Chugiak - Eagle River direct representation in the State Legislature for the first time, had been struck down by the courts. The new Northeast District which Egan thought should be established was to extend from the Old Knik Bridge south to Mountain View in Anchorage, a distance of 40 miles, to include Fort Richardson and part of Muldoon as well as Chugiak - Eagle River. Although a number of local residents had been candidates for the legislature in primary elections, none had been successful in the at-large races in the single big district that included all of Anchorage.

When Egan's plan was rejected, the community was split instead between the Mat-Su and Anchorage districts. Under a plan formulated by the Supreme Court, Eklutna, Peters Creek, Birchwood and Chugiak were to be part of the Mat-Su District which had one representative in the state house. Fire Lake and Eagle River would be in the Anchorage Northeast district. Five hundred residents sent telegrams to the Supreme Court objecting to the division. Egan expressed concern over splitting "the natural socio-economic area." And the *Star* noted that "This community of 7500 persons, despite the hyphen we use in the name Chugiak - Eagle River, is one. The area on our side of the mountain is different from either the Anchorage or the Mat-Su areas. Our problems are different. Different solutions are needed. Solving the problems of our neighbors to the north and south does not always solve problems here."*

One long time Chugiak resident was bitter over the division because, he said, it came just when the community was beginning to pull together solidly, overcoming some of the ill feelings and jealousies of past years. Not until the end of 1973, however, was a new reapportionment plan finally approved which reunited Chugiak and Eagle River into a district that included Muldoon and Mountain View areas, with four seats in the House and two in the Senate.

In the intervening year, dissatisfaction with borough government had mounted in the community. There were controversies over where access sites from the old Glenn Highway onto the new four lane freeway should be located; where the proposed extensions of the first public sewers, built in 1972, should go; what site was best for a new elementary school, and for a fire station. Planning for the new facilities, residents felt, was too often done by borough newcomers who were unfamiliar with the community. When officials presented their proposals, residents were apt to find flaws and reject them.

In the summer of 1973, an editorial in the July 26 edition of the *Star* suggested that "The time has come for serious thought and expeditious movement toward some form of incorporation for this community." Already a group had been formed to push for secession from the Greater Anchorage Area Borough. Incorporation, the editorial continued, "would be a barrier against being swallowed up by annexations or through unification" and would allow elected local representatives "to plan for the community's needs and speak for it."

The *Star* noted disadvantages: the increased costs of local government and the possibility that it would still become part of Anchorage if a unification plan were ever accepted. But it argued that the cost of government could be absorbed, and that services which the area needed, like police protection and road maintenance, "would be grandiose" if offered by Anchorage, while local residents were more apt to favor only minimal, and less expensive, plans.

Assemblyman Ed Willis continued to advocate a second-class city as the best solution. Glenn Briggs warned, however, that "It was only with the clout and broad tax base of the Greater Anchorage Area Borough that sewer service was made available to the Eagle River area. Without sewers, the greater part of the business district of Eagle River would have died . . . and many homes . . . would now have been abandoned."

He said an incorporated city could not afford the police protection, road improvements, and public water system that were needed now more than ever.

Up and down the highway, more and more homes were going up. The construction of the oil pipeline from Prudhoe Bay to Valdez was gearing up. Although the pipeline itself would be built hundreds of miles away, many of the workers who were coming to Alaska from the southern oil states were buying homes in Chugiak - Eagle River. As the population continued to grow rapidly, there were thefts and break-ins, traffic tieups on the still-uncompleted highway between the community and Anchorage, and an alarming number of traffic accidents and deaths.

A wave of vandalism began that affected nearly every major local business. George Malekos, who had opened the North Slope Restaurant in Eagle River after a stint as a cook on the North Slope himself, described the damage. "They hit the liquor store, my

restaurant, the candy shop, the local tool rental business, the lumberyard, the taxidermist.""

In alarm, merchants and other residents formed a vigilante group that patrolled the streets at night and checked to make sure doors of businesses were locked.

Then, on December 7, 1973, an event occurred that was more earthshaking for the community than the Good Friday earthquake a decade earlier. At 2:50 a.m., 78,000 pounds of dynamite in a storage bunker on Alaska Railroad land a mile northwest of Eagle River exploded.

The blast jarred homes throughout the area, caused heavy property damage, although no lives were lost, and was felt from Palmer to Rabbit Creek. The storage bunker disintegrated, and the blast blew out a large crater in its place. Trees and brush were knocked down in a wide area.

At Eagle River Elementary, third graders reported their reactions to the explosion.

"I heard some rumbling and then I heard a big boom," one youngster wrote. "My dad told us to get some warm clothes on. We looked out the window and saw a big mushroom shaped smoke."

Another child reported that when the dynamite exploded, "our garage door fell off and flew away and my dad got excited."

A third noted that the first boom he heard "was the explosion. The next boom was my father jumping out of bed!" "

Four persons, three of them 18-year-olds from Eagle River, were arrested. They pleaded guilty to using a home-made bomb to detonate almost 40 tons of dynamite. Property owners filed claims against the railroad and the cases dragged on for several years before settlements were finally made. Despite the dangers that the blast had made apparent, other nearby bunkers continued to be used to store explosives over repeated objections from residents.

The explosion brought to a head the need for police protection for the area. Yet in a special election the following March, voters rejected extension of borough police powers by a margin of 50 votes. The measure passed in Eagle River, Fire Lake, and Chugiak precincts but failed in Eagle River Valley, Birchwood and Peters Creek. A lack of confidence in borough operation of a police department was blamed by some for the election's failure. Others feared that the costs of police protection would increase uncontrollably; some saw the results as a vote not against the proposed service area but against

the borough itself, or the possibility that it would be a step toward unification. One voter said he felt the ultimate solution was "to control our own services by forming a new borough."

Although the separatist movement was gradually gaining support, the one major argument against independence from Anchorage continued to be the lack of a broad tax base. Schools were the major employer in the community. No attempts at establishing industries had been successful. A plant opened in Eagle River to produce foam pellets but closed after only a few months when the building burned. The number of local businesses was increasing but they were small and had few employees. A corporation headed by Glenn Briggs built the community's first large office building, the Parkgate Building, and the office spaces were leased to a savings and loan institution, a travel agency, a beauty salon, a title company, a real estate firm, and others, evidence of the growing sophistication of the area.

Across the river, on its south bank, the state opened the Eagle River Correctional Center, a medium-security facility that was the first in the state to emphasize rehabilitation. Almost immediately it was criticized for its "country club" design and atmosphere. College classes and skill training for inmates were planned. It had "probably the best equipped kitchen in Alaska," a lounge, commissary, music room, library, gymnasium, shop — and a 14 foot fence surrounding it. "It's a nice place to visit," editor Lee Jordan concluded, "but I wouldn't want to live there." A third of its staff lived in Chugiak - Eagle River, but its payroll brought only a few added dollars to the area.

The only real source of income for a separate borough would be from property taxes. But so attractive was the idea of an independent government becoming, in spite of its costs, that in April of 1974, a group of Eagle River residents flew to Juneau to lobby for a bill which would put a vote on incorporation as a separate second-class borough on the ballot in the August primaries. If it failed, a second-class city within the existing borough would be proposed on the November ballot.

When the bill came up for consideration, other local residents, including Assemblyman Ed Willis, rushed to Juneau to testify against it. Willis called for an economic study before any such measure was voted on. Glenn Briggs and Stanley Nickerson warned that large tax increases would result. Anchorage Borough Mayor Jack Roderick agreed, pointing out that he saw no way that a separate Chugiak -

4-1-92

HB 187

HJR 45

Equipment

... Approval



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

MEMBERS:

REP. ELLIS, CHAIR
REP. DAVIDSON, VICE-CHAIR
REP. DONLEY
REP. GRUSSENDORF
REP. GRUENBERG
REP. MARTIN
REP. TAYLOR

HOUSE RULES COMMITTEE MEETING
WEDNESDAY, APRIL 1, 1992
CAPITOL ROOM 208
8:00 A.M.

AGENDA:

HB 187 DART TOURNAMENTS/CONTESTS OF SKILL
HJR 45 REAPPORTIONMENT BOARD & REAPPORTIONMENT
EQUIPMENT PROCUREMENT APPROVAL

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

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

Mary Van Nimwegen

House STA	9-30-91
House STA	11-12-91
House STA	1-22-92
House STA	1-24-92
House JUD	1-29-92
House JUD	1-31-92
House JUD	2-12-92
House JUD	2-28-92
House FIN	3-9-92
House RLS	4-1-92 8:00 am



HOUSE RULES COMMITTEE

JOHNNY ELLIS, CHAIR

465-3765

DATE: April 1, 1992

PLACE: Room 208

SUBJECT OF MEETING:

HB 187 Dart Tournaments/Contests of Skill
 HJR 45 Reapportionment Board & Reapportionment
 Equipment Procurement Approval

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
John Hansen	DCED	Box D Juneau			2581	Y	N	187 if needed
Hayden Kabin	House Judiciary (Rep. Training)	House Judiciary Rm. 120, St. CAT			4990	<input checked="" type="radio"/>	N	HJR 45
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

8:04 Gross, Taylor, Cliff & Ellis
Joined by Kubins, Add "last sentence" & 20
w/ me, scope bill narrow.
Blank CS - proposed Rule 21,
Division 2 →

- Joined by Max Gruen 5:16

Taylor - → 2 comm M-Nor

~~John~~

Joined by John Hanson - Cambridge.
CS is same bill except for deletions ① which
are current law, Problems

Joan Nockels - staff Donley
intent ② & ③ - 6 new of ②
Not unlicense current activities.

John Hanson

Sec. 2 - deleted races & other athletic
events

Ku

Delete and line 4 ① put bold
back in

#7 Contents of Skill

Taylor withdrew motion to G,
So withdrawn.

~~Green - Judy Fin Subs -~~
Green -

8:30 Joined by Jim - approval of equipment
Sen. approached us, G of machines
Would also be able to upgrade Pctney Boxes,
Taylor - curious - Pctney Boxes more expensive.

Green -

JM - We rely on Supply Officer G,
3 Pctney Boxes - consistent,
6500 speeds JE 5 -
~~Davidson~~

Greenberg -

} P 6500 6 G 1 E
50 see funds _____ } . . . y

8:35

2 - No objection, So ordered

Z

Agreed by Vanson, Concurs w/ Kabeiraj
with to go w/ Finance Version
Select → to rescind previous
motion & adopt Finance CS

Green - Concerns w/ term ^{his 10} physical (1) (1) (1)
- athletic -

Hanson - neither physical or athletic is defined
JE - - () → Rls. Com. Rly r Fin
CS
Max so → () - () so ()

HJR 45 -

Joined by N. Kaplan
Creating an independent reappor-
ment

JE - Why Rules Com Sub

HD - Drafts error?

JE - Where was that

Where Sect 1 (1) Judic. CS

JE - So Tech

Davidson → to adopt Rls.

JE - () return to ()

Davidson - () Rls Comm Version
() Out of Comm

Adj - 8:40 AM

Alaska State Legislature

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee



Representative Eugene Kubina

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99801
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

SPONSOR STATEMENT

Sponsor: Representative Gene Kubina

Subject: CS for House Bill 187

Date: 2 April 1992

CS for HB187 is intended to amend AS 05.15.180(b) in order to make dart matches and other contests of skill, permissible forms of charitable gaming.

In order to keep the code consistent throughout, CS for HB187 also amends 05.15.210(7) to extend the definition of contests of skill.

Rationale: this amendment clarifies the current laws in order to make certain such charitable activities, involving contests of skill, are within the proper constructs of state law.

Discussions with John Hanson, head of the charitable gaming section of the Division of Occupational Licensing, Department of Commerce and Economic Development, have resulted in the development of this bill.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



Alaska State Legislature



Representative Eugene Kubina

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

SPONSOR STATEMENT

Sponser: Representative Gene Kubina
Subject: House Bill 187 - Contests of Skill: Darting
Date: 12 February 1991

HB187 is intended to amend AS 05.15.180(b) in order to make darts, and other contests of skill, permissible forms of charitable gaming.

In order to keep the code consistent throughout, HB187 also amends 05.15.210(7) to extend the definition of contest of skill.

Rationale: this amendment clarifies the current laws in order to make certain such charitable activities, involving contests of skill, are within the proper constructs of state law.

As the law currently stands, private organizations will be unable to continue such traditional charitable functions as dart tourneys.

Discussion with John Hanson, head of the charitable gaming section of the Division of Occupational Licensing, Department of Commerce and Economic Development, have resulted in the development of this bill.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



1992 LEGISLATIVE SESSION

Revision Date: 02/21/92 Department Affected: Commerce & Economic Development
 Title: An Act relating to the definition of contest of skill in the charitable gaming statutes. BRU: Occupational Licensing
 Component: Administration
 Sponsor: Reps. Kubina, Navarre, et al
 Requestor: Rep. Kubina COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

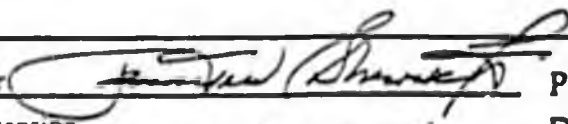
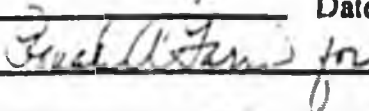
GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Jennifer Strickler  Phone: 465-2144
 Division: Occupational Licensing Date: 02/21/92
 Approved by Commissioner: Glenn A. Olds 
 Agency: Commerce & Economic Development Date: 2/24/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 187 ()
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES KUBINA, Navarre, C.Davis, Koponen, Boyer, Zawacki

A BILL

FOR AN ACT ENTITLED

1 "An Act including contests of skill as a form of charitable gaming that may be licensed
 2 regardless of whether it existed and was conducted in substantially the same form and
 3 manner in the state before January 1, 1959, and defining 'contest of skill' to mean a
 4 contest or game that is conducted to benefit a municipality or qualified organization and
 5 that consists of dart matches, bowling or billiards matches, and other games of
 6 marksmanship."

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

8 * Section 1. AS 05.15.180(b) is amended to read:


9 (b) With the exception of raffles, lotteries, bingo games, pull-tab games, rain classics,
 10 goose classics, mercury classics, salmon classics, king salmon classics, contests of skill, and
 11 other activities authorized under AS 05.15.100(b), an activity may not be licensed under this
 12 chapter unless it existed in the state in substantially the same form and was conducted in
 13 substantially the same manner before January 1, 1959.

1 * Sec. 2. AS 05.15.210(7) is amended to read:

2 (7) "contest of skill" means a contest or game that is conducted to benefit a
3 municipality or qualified organization and in which prizes are awarded for the demonstration
4 of human skills in dart matches, bowling or billiards matches, and other games of
5 marksmanship [, RACES, AND OTHER ATHLETIC EVENTS];

HB 187 An Act relating to the definition of contest of skill in the charitable gaming statutes.

The Department of Commerce and Economic Development supports passage of House Bill 187.


Glenn A. Olds, Commissioner

Date: 3-18-91

TO: ALASKAN LEGISLATORS
PO BOX V
JUNEAU, AK 99811

ATTN: *Representative Don Kubina*

FROM: CONCERNED ALASKAN DART PLAYERS

IN REGARD: REGULATIONS GOVERNING DART PLAY IN ALASKA

Recent actions by the Alcohol Beverage Control Board have brought dramatic attention to the sport of darts. Please help dart players by supporting or changing legislation which would allow tournaments to be held without violation of Alaskan statutes. The following facts and examples will illustrate why darts need and deserve your support.

Approximately 2500 Alaskan dart players participate in local and national league play. Darts is a sport like bowling and marksmanship where skill and technique are critical factors in determining the outcome of the game. Under AS 11.66.280 Dart Associations have been threatened with violations of the gambling laws. By prosecuting darts under this statute, the ABC and Gaming commission is defining darts as a game of chance. This is not the case. By adding the word "Darts" to the definition of marksmanship in Alaska Administrative Code 15 AAC 105 160, darts would be immune from prosecution and placed in the category where they belong.

Dart Associations in this state are run as non-profit organizations. Positions on the Board of Directors and Executive Board are voluntary positions whose sole purpose is to manage and formulate league play and tournaments, not unlike softball, bowling, and pool. Dart Associations throughout the state host many charitable tournaments such as; Darts for Diabetes, Hospice of Tanana Valley, Jerry's Kids (MS), Youth League, Child Abuse and Youth Scholarship Programs.

Thank you for the opportunity to explain why dart players need changes made if the sport is to continue to grow and flourish in Alaska. Please inform me of actions needed to correct this inappropriate persecution. Dart players and their supporters are more than willing to advocate and support any legislator or agency that will benefit the sport of darts.

Thank you for your support.

Sincerely,

Agnes W. Hughes
PO Box 1564
Valdez AK 99286

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 45

Revision Date: _____
Title: Amendment to the Constitution-Reapportionment of the legislature.
Sponsor: House Judiciary Committee
Requestor: House State Affairs

Department Affected: Office of the Governor-Elections
BRU: Division of Elections
Component: II - Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for Datavote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing of an additional ballot card, the fiscal impact would be: 53.6.

Prepared by: Elizabeth Ziegler, Deputy Director
Division: Elections

Phone: 465-6611

Date: 01/10/92

Approved by Commissioner: *Charles E. Thielen*
Agency: Office of the Governor

Date: 01/10/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Alaska State Legislature



House of Representatives
House Judiciary Committee
Chairman Dave Donley

State Capitol
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

TO: Representative Mike Navarre, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee

FROM: Representative Dave Donley, Chair DB
House Judiciary Committee

RE: Scheduling CSHJR 45 (JUD), "Proposing amendments
to the Constitution of the State of Alaska
relating to reapportionment of the legislature".

DATE: March 3, 1992

The House Judiciary Committee has completed its work on CSHJR 45 (Jud) and, on behalf of the committee, I am requesting an expeditious hearing on this important piece of legislation.

After more than three decades of contentious debate and litigation over every reapportionment effort, we felt that it was time to recognize that our constitution's reapportionment framework does not and cannot work in the manner envisioned by the framers.

Why amend the state constitution regarding reapportionment?

First

Much of the Alaska Constitution's language on reapportionment is in violation of the federal constitution or is obsolete. Because of this, it is impossible by reading our state constitution to obtain an accurate explanation of the reapportionment process in Alaska. The following sections or portions of sections of Article VI of the Alaska Constitution are either unconstitutional or are obsolete:

Section 2, Senate Districts, is not constitutional as written. In Wade v. Nolan, 414 P.2d 689 (Alaska 1966), the Alaska Supreme Court concluded that the state's senate districts did not comport with the U.S. Constitution.

Section 3, Reapportionment of House, is outmoded in part and unconstitutional in part. The constitution gives reapportionment authority to the governor and the board only as to the house. However, since Nolan, this authority has been interpreted to allow reapportionment of the senate as well as the house. The second sentence, requiring reapportionment to be based solely on civilian population, was declared unconstitutional in Egan v. Hammond, 502 P.2d 856 (Alaska 1972), because it disenfranchises the military.

Sections 4 and 5, Method of Reapportionment and Districts, are inconsistent with U.S. Supreme Court decisions and are no longer considered by the reapportionment boards or cited by the courts in their reapportionment decisions.

Section 6, Redistricting, insofar as it refers to the retaining or combining of election districts provided for in Sections 4 and 5 and refers to civilian population, is unconstitutional. Otherwise Section 6 is still viable.

Section 7, Modification of Senate Districts, is clearly unconstitutional and dead. Its intent was to preserve senate districts based on geographic area and not population.

Sections 8 - 11 retain their viability.

Second

Alaska is the only state which places exclusive power of reapportionment with the governor. The reason for this unique system no longer exists and Alaska should adopt a fairer system in conformity with other states.

The framers of the Alaska Constitution decided to provide for reapportionment of the legislature through a reapportionment board in the executive branch rather than allowing the legislature to reapportion itself, as is the case in a vast majority of the states.

The Alaska Supreme Court addressed this question in Wade v. Nolan, 414 P.2d 689, 694-695, which concerned reapportionment of the Alaska Senate after the U.S. Supreme Court's "one person, one vote" decisions: "... the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion."

At the time of the drafting of Alaska's Constitution, the U.S. Supreme Court had consistently held that suits challenging malapportionment of state legislatures were nonjusticiable. However, in 1962, in Baker v. Carr, 369 U.S. 186, the U.S. Supreme Court reversed several decades of precedent to the contrary and held that federal courts could indeed hear such suits on equal protection grounds. Then, in 1964 the court upheld the authority of a federal district court to impose its own interim reapportionment plan on a state legislature that had been unable to reapportion itself constitutionally. Reynolds v. Sims, 377 U.S. 533. Thus, if the legislature had the responsibility of reapportioning itself and it failed to do the job adequately, either federal or state courts could step in, as was definitely not the case when our constitution was written.

Changing circumstances have basically done away with the reasons for reapportionment being a function of the executive branch in Alaska. These circumstances, when combined with the fact that not a single gubernatorial reapportionment since Statehood has ever failed to be followed by a judicial challenge, should say to us that we need to get politics out of this process to as great an extent as we can and look for a new way of accomplishing redistricting and reapportionment.

That is why an independent board under the legislative branch was chosen for this task. Eighteen states use independent boards or commissions in some manner and half of these give the boards the absolute responsibility for developing those states' plans. We have combined what seemed like the best of those plans, with particular emphasis on Hawaii's framework, to come up with HJR 45.

What does this amendment do?

I. It provides for a reapportionment board to develop and establish a redistricting and reapportionment plan after each decennial census. In addition to most of the existing criteria for drawing boundaries, a new criterion of political fairness is added.

II. Makeup of board (nine members).

A. Appointed by:

1. governor - one member;
2. majority caucus in house - two members;
3. minority caucus in house (second largest number of representatives) - two members;
4. majority caucus in senate - two members;
5. minority caucus in senate (second largest number of senators) - two members.

B. Qualifications and disqualifications.

1. Can't be public official or public employee.
2. Can't run for legislative office in the next two elections after term of office on board expires.
3. No more than five members can be members of the same political party.*
4. No more than five can be from the same judicial district and there must be at least one member from each judicial district.

C. Chairperson - elected by the board from the members.

III. Reapportionment plan.

A. Public hearings must be held in each judicial district after issuance of draft plan and before issuance of

B. Draft plan must be completed 18 months before the date of the first general election following the official reporting of each decennial census.

C. Final plan must be completed 14 months before the general election.**

* Currently, there is no absolute restriction on party membership.

** This shortens the current time provisions to provide the greatest possible public notice of changes. This is possible largely because of computerization of the reapportionment process.

D. Adoption of final plan takes votes of 6 of the 9 members. If any one plan is unable to get 6 votes:

1. the Supreme Court shall appoint a three judge panel;
2. within 45 days, the three judge panel shall select one proposal from the three proposals receiving the most number of votes by the board; and
3. the proposal selected may not be changed and becomes the final plan.

IV. Provides for expedited hearings and appeals if the final plan is challenged in the state courts.

V. Repeals existing sections of the constitution which have been found unconstitutional by Alaska and federal courts.

In conclusion, Alaska needs a fairer and less political way of accomplishing reapportionment, recognizing that the process is political per se. However, the system proposed attempts to balance a variety of interests which will require compromise in order to craft a solution. We certainly don't have such a system now and desperately need one.

Alaska State Legislature



House of Representatives
House Judiciary Committee
Chairman Dave Donley

State Capitol
Juneau, Alaska 99801-1182
(907) 465-4990

CSHJR 45 (JUD) REAPPORTIONMENT

In May of last year, the House Judiciary Committee introduced HJR 45, proposing constitutional amendments relating to reapportionment of the legislature. CSHJR 45(JUD) is now in the Rules Committee awaiting scheduling for the House Floor. In order to have an informed debate, it is very important that members read this memorandum and familiarize themselves with the provisions of the proposed constitutional amendments.

After more than three decades of contentious debate and litigation over every reapportionment effort, we felt that it was time to recognize that our constitution's reapportionment framework does not work in the manner envisioned by the framers.

Why amend the state constitution regarding reapportionment?

First

Much of the Alaska Constitution's language on reapportionment is in violation of the federal constitution or is obsolete. It is impossible to read our state constitution and understand the reapportionment process in Alaska. The following sections or portions of sections of Article VI (the Reapportionment Article) of the Alaska Constitution are either unconstitutional or are obsolete:

Section 2, Senate Districts, is not constitutional as written. In Wade v. Nolan, 414 P.2d 689 (Alaska 1966), the Alaska Supreme Court concluded that the state's senate districts did not comport with the U.S. Constitution.

Section 3, Reapportionment of House, is outmoded in part and unconstitutional in part. The constitution gives reapportionment authority to the governor and the board only as to the house. However, since Nolan, this authority has been interpreted to allow reapportionment of the senate as

well as the house. The second sentence, requiring reapportionment to be based solely on civilian population, was declared unconstitutional in Egan v. Hammond, 502 P.2d 856 (Alaska 1972), because it disenfranchises the military.

Sections 4 and 5, Method of Reapportionment and Districts, are inconsistent with U.S. Supreme Court decisions and are no longer considered by the reapportionment boards or cited by the courts in their reapportionment decisions.

Section 6, Redistricting, insofar as it refers to the retaining or combining of election districts provided for in Sections 4 and 5 and refers to civilian population, is unconstitutional. Otherwise Section 6 is still viable.

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Sections 8 - 11 retain their viability.

Second

Alaska is the only state which places exclusive power of reapportionment with the governor. The reason behind this atypical system no longer exists and Alaska should adopt a fairer system in conformity with other states.

The framers of the Alaska Constitution decided to provide for reapportionment of the legislature through the governor rather than allowing the legislature to reapportion itself, as is the case in a vast majority of the states.

The Alaska Supreme Court addressed this question in Wade v. Nolan, 414 P.2d 689, 694-695, which concerned reapportionment of the Alaska Senate after the U.S. Supreme Court's "one person, one vote" decisions: "... the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion."

At the time of the drafting of Alaska's Constitution, the U.S. Supreme Court had consistently held that suits challenging malapportionment of state legislatures were nonjusticiable. However, in 1962, in Baker v. Carr, 369 U.S. 186, the U.S. Supreme Court reversed several decades of precedent to the contrary and held that federal courts could indeed hear such suits on equal protection grounds. Then, in 1964 the court upheld the authority of a federal district court to impose its own interim reapportionment plan on a

state legislature that had been unable to reapportion itself constitutionally. Reynolds v. Sims, 377 U.S. 533. Thus, if the legislature had the responsibility of reapportioning itself and it failed to do the job adequately, either federal or state courts could step in, as was definitely not the case when our constitution was written. The Alaska Constitutional Convention copied Hawaii's original constitution which gave the power to its governor.

Accordingly, the entire premise behind giving the governor the reapportionment power is archaic. In fact, following these legal changes in the 1960's, Hawaii amended its constitution to take the power completely away from their governor and create an independent board.

These circumstances, and the fact that every gubernatorial reapportionment since Statehood has been followed by a successful legal challenge, makes it clear that Alaska needs to look for a new, less political way of accomplishing reapportionment.

That is why the Judiciary Committee chose an independent board for this task. Eighteen states use independent boards or commissions in some manner and half of these give the boards the absolute responsibility for developing those states' plans. The best of those plans, with particular emphasis on Hawaii's framework, were combined to come up with HJR 45.

What does this amendment do?

I. It provides for a reapportionment board to develop and establish a redistricting and reapportionment plan after each decennial census. In addition to most of the existing criteria for drawing boundaries, extensive new safeguards to promote political fairness were added.

II. Makeup of board (nine members).

A. Appointed by:

1. governor - one member;
2. majority caucus in house - two members;
3. minority caucus in house (second largest number of representatives) - two members;
4. majority caucus in senate - two members;
5. minority caucus in senate (second largest number of senators) - two members.

B. Qualifications and disqualifications.

1. Can't be public official or public employee.
2. Can't run for legislative office in the next two elections after term of office on board expires.
3. No more than five members can be members of the same political party.*

* Currently, there is no absolute restriction on party membership.

4. No more than five can be from the same judicial district and there must be at least one member from each judicial district.

C. Chairperson - elected by the board from the members.

III. Reapportionment plan.

A. Public hearings must be held in each judicial district after issuance of draft plan and before issuance of final plan.

B. Draft plan must be completed 18 months before the date of the first general election following the official reporting of each decennial census.

C. Final plan must be completed 14 months before the general election.**

D. Adoption of final plan takes votes of 6 of the 9 members. If any one plan is unable to get 6 votes:

1. the Supreme Court shall appoint a three judge panel;
2. within 45 days, the three judge panel shall select one proposal from the three proposals receiving the most number of votes by the board; and
3. the proposal selected may not be changed and becomes the final plan.

IV. Provides for expedited hearings and appeals if the final plan is challenged in the state courts.

V. Adds a transitional section regarding reapportionment following the 1990 census.

A. Provides that existing reapportionment proclamation remains in effect if court has upheld it or timely appeal from unfavorable ruling has not been made.

B. Requires reapportionment to be conducted under this constitutional amendment if the court has made significant and substantial changes in the existing proclamation.

VI. Repeals existing sections of the constitution which have been found unconstitutional by Alaska and federal courts.

Conclusion

Alaska needs a fairer and less political way of accomplishing reapportionment, recognizing that the process is political per se. However, CSHJR 45(JUD) uses the best ideas we could find to create the fairest, least political process possible for reapportionment.

** This shortens the current time provisions to provide the greatest possible public notice of changes. This is possible largely because of computerization of the reapportionment process.

TIME FRAMES UNDER HJR 45 FOR REAPPORTIONMENT PLAN IF THE
AMENDMENT HAD BEEN IN EFFECT AT THE TIME OF 1990 CENSUS

Official reporting of 1990 census - January 1991

Next general election - November 1992

Board shall adopt proposed reapportionment plan - May 1991
(18 months prior to '92 general election)

Final plan must be adopted - September 1991
(14 months prior to '92 election)

If board unable to adopt final plan, three judge panel has
45 days to adopt final plan. (mid- to end of Oct.)

If data from census is not available by July 1991, plan
doesn't take effect until second general election
following census and previous reapportionment plan
stays in effect til then.

Board must adopt a proposed plan within four months of
receipt of census data and a final plan within four
months of the adoption of a proposed plan.

An appeal to superior court to correct errors in
redistricting or reapportionment must be filed within
30 days following adoption of final plan.

Superior court has 90 days to make a decision.

The Supreme Court has 45 days to decide an appeal from the
Superior Court.

7-LS1035V
Chenoweth
3/19/92

CS FOR HOUSE JOINT RESOLUTION NO. 45 (RULES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

Adopted

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to
2 reapportionment of the legislature.

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

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

5 SECTION 1. ELECTION DISTRICTS. Members of the house of representatives shall
6 be elected by the qualified voters of the respective election districts. The boundaries of the
7 election districts shall be set under this article after each decennial census of the United
8 States [UNTIL REAPPORTIONMENT, ELECTION DISTRICTS AND THE NUMBER OF
9 REPRESENTATIVES TO BE ELECTED FROM EACH DISTRICT SHALL BE AS SET
10 FORTH IN SECTION 1 OF ARTICLE XIV].

11 * Sec. 2. Article VI, sec. 2, Constitution of the State of Alaska, is amended to read:

12 SECTION 2. SENATE DISTRICTS. Members of the senate shall be elected by the
13 qualified voters of the respective senate districts. The boundaries of the senate districts shall
14 be set under this article after each decennial census of the United States [SENATE
15 DISTRICTS SHALL BE AS SET FORTH IN SECTION 2 OF ARTICLE XIV, SUBJECT TO
16 CHANGES AUTHORIZED IN THIS ARTICLE].

1 * Sec. 3. Article VI, sec. 3, Constitution of the State of Alaska, is amended to read:

2 SECTION 3. REAPPORTIONMENT OF HOUSE AND SENATE. The
3 Reapportionment Board [GOVERNOR] shall reapportion the house of representatives and the
4 senate immediately following the official reporting of each decennial census of the United
5 States. Reapportionment shall be based upon resident [CIVILIAN] population within each
6 election district as reported by the census.

7 * Sec. 4. Article VI, sec. 4, Constitution of the State of Alaska, is amended to read:

8 SECTION 4. METHOD. Reapportionment shall be by the method of equal proportions.
9 The Reapportionment Board shall establish single-member election districts unless, in the
10 judgment of the board, circumstances require the use of dual-member election districts or
11 a combination of single-member and dual-member election districts. A dual-member
12 election district may not elect more than two representatives. A senate district shall be
13 composed of one dual-member election district or two contiguous single-member election
14 districts, but each senate district shall elect only one senator [, EXCEPT THAT EACH
15 ELECTION DISTRICT HAVING THE MAJOR FRACTION OF THE QUOTIENT OBTAINED
16 BY DIVIDING TOTAL CIVILIAN POPULATION BY FORTY SHALL HAVE ONE
17 REPRESENTATIVE].

18 * Sec. 5. Article VI, sec. 6, Constitution of the State of Alaska, is amended to read:

19 SECTION 6. DISTRICT BOUNDARIES. Election districts and senate districts
20 [REDISTRICTING. THE GOVERNOR MAY FURTHER REDISTRICK BY CHANGING THE
21 SIZE AND AREA OF ELECTION DISTRICTS, SUBJECT TO THE LIMITATIONS OF THIS
22 ARTICLE. EACH NEW DISTRICT SO CREATED] shall be formed of contiguous and compact
23 territory containing as nearly as practicable a relatively integrated socio-economic area. [EACH
24 SHALL CONTAIN A POPULATION AT LEAST EQUAL TO THE QUOTIENT OBTAINED
25 BY DIVIDING THE TOTAL CIVILIAN POPULATION BY FORTY.] Consideration may be
26 given to local government boundaries. Drainage and other geographic features shall be used in
27 describing boundaries wherever possible. Election district and senate district boundaries may
28 not be drawn with the intent of giving an advantage to a political party.

29 * Sec. 6. Article VI, sec. 8, Constitution of the State of Alaska, is amended to read:

30 SECTION 8. REAPPORTIONMENT BOARD. (a) There shall be a Reapportionment
31 Board [THE GOVERNOR SHALL APPOINT A REAPPORTIONMENT BOARD TO ACT IN
32 AN ADVISORY CAPACITY TO HIM]. It shall consist of nine [FIVE] members, all of whom

1 shall be residents of the state and none of whom may be public employees or officials. At
2 least one member [EACH] shall be appointed from each judicial district established by law
3 under Section 1 of Article IV and no more than five members shall be appointed from a
4 judicial district. Members shall be residents of the judicial district from which appointed
5 [THE SOUTHEASTERN, SOUTHCENTRAL, CENTRAL, AND NORTHWESTERN SENATE
6 DISTRICTS]. Appointments shall be made without regard to political affiliation, and no more
7 than five members may be members of the same political party. Board members shall be
8 compensated as provided by law.

9 (b) Board members shall be appointed during the first fifteen days of the first
10 regular session of the legislature that convenes in a year following a year in which the
11 census is taken. Board members shall be appointed as follows:

12 (1) one member shall be appointed by the governor;

13 (2) two members shall be appointed by a caucus of the members of the house
14 of representatives representing the political party with the largest number of members in
15 the house of representatives;

16 (3) two members shall be appointed by a caucus of the members of the house
17 of representatives representing the political party with the second largest number of
18 members in the house of representatives;

19 (4) two members shall be appointed by a caucus of the members of the senate
20 representing the political party with the largest number of members in the senate; and

21 (5) two members shall be appointed by a caucus of the members of the senate
22 representing the political party with the second largest number of members in the senate.

23 (c) The legislature shall provide by law for a random selection process to make the
24 appointments of board members under this section. If the legislature fails to make
25 provision by law, the governor may establish a random selection process to make the
26 appointments.

27 (d) A board member may be removed for misfeasance or nonfeasance in office by
28 the entity that appointed the member. A vacancy on the board shall be filled by the entity
29 that appointed the member whose seat is vacant.

30 (e) A member of the Reapportionment Board may not be a candidate for the
31 legislature in the two general elections following the adoption of a final reapportionment
32 plan under this article.

1 • Sec. 7. Article VI, sec. 9, Constitution of the State of Alaska, is amended to read:

2 SECTION 9. ORGANIZATION. The board shall elect one of its members chairman and
3 may employ temporary assistants. Concurrence of five [THREE] members is required for a
4 ruling or determination, except for the adoption of a final reapportionment plan, but a lesser
5 number may conduct hearings or otherwise act for the board.

6 * Sec. 8. Article VI, sec. 10, Constitution of the State of Alaska, is amended to read:

7 SECTION 10. REAPPORTIONMENT PLAN [AND PROCLAMATION]. (a) Except
8 as provided under (c) of this section, no later than the date that is eighteen months before
9 the date of the first general election following the official reporting of each decennial census,
10 the Reapportionment Board shall adopt a proposed reapportionment plan. The board shall
11 hold public hearings on the proposed plan and shall hold at least one hearing in each
12 judicial district established by law under Section 1 of Article IV. No later than the date
13 that is fourteen months before the date of the first general election following the official
14 reporting of each decennial census, the board shall adopt a final reapportionment plan
15 [WITHIN NINETY DAYS FOLLOWING THE OFFICIAL REPORTING OF EACH
16 DECENNIAL CENSUS, THE BOARD SHALL SUBMIT TO THE GOVERNOR A PLAN FOR
17 REAPPORTIONMENT AND REDISTRICTING AS PROVIDED IN THIS ARTICLE. WITHIN
18 NINETY DAYS AFTER RECEIPT OF THE PLAN, THE GOVERNOR SHALL ISSUE A
19 PROCLAMATION OF REAPPORTIONMENT AND REDISTRICTING. AN
20 ACCOMPANYING STATEMENT SHALL EXPLAIN ANY CHANGE FROM THE PLAN OF
21 THE BOARD]. The final reapportionment plan adopted under this section shall set out
22 election district and senate district boundaries and [REDISTRICTING] shall be effective for
23 the election of members of the legislature until after the official reporting of the next decennial
24 census.

25 (b) Adoption of a final reapportionment plan shall require the affirmative votes of
26 six members of the board.

27 (c) If the board is unable to adopt a final plan by the date specified in (a) or (d)(3)
28 of this section, the supreme court shall appoint a panel of three superior court judges. The
29 board shall, within ten days, transmit to the panel the three proposed plans receiving the
30 greatest number of votes by the board. Within forty-five days of the transmittal, from
31 among the plans received from the board the panel shall adopt one of the proposed plans
32 without change as a final plan. The supreme court shall adopt rules for proceedings before

1 the three-judge panel under this subsection.

2 (d) If the data from a decennial census is not available to the board by the date that
3 is sixteen months before the date of the first general election following a decennial census
4 year,

5 (1) a plan adopted shall not take effect until the second general election
6 following the decennial census year;

7 (2) for the first general election following the decennial census year, members
8 of the legislature shall be elected from districts in existence as a result of the previous
9 reapportionment plan or proclamation; and

10 (3) the board shall adopt a proposed plan within four months of the receipt
11 of the census data and shall adopt a final plan within four months of the adoption of the
12 proposed plan.

13 * Sec. 9. Article VI, sec. 11, Constitution of the State of Alaska, is amended to read:

14 SECTION 11. ENFORCEMENT. Any qualified voter may apply to the superior court
15 to compel the governor, the members of the legislature, or the Reapportionment Board [BY
16 MANDAMUS OR OTHERWISE,] to perform their [HIS] reapportionment duties or to correct
17 any error in redistricting or reapportionment. Application to compel performance of [THE
18 GOVERNOR TO PERFORM HIS] reapportionment duties must be filed within thirty days of
19 the date that an act is required to be done under [EXPIRATION OF EITHER OF THE TWO
20 NINETY-DAY PERIODS SPECIFIED IN] this article. Application to compel correction of any
21 error in redistricting or reapportionment must be filed within thirty days following the adoption
22 of the final plan by the Reapportionment Board or by the three-judge superior court panel
23 appointed by the supreme court under Section 10 of this article [PROCLAMATION].
24 Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause
25 shall be reviewed by the supreme court upon the law and the facts. A disposition by the
26 superior court and an appeal before the supreme court under this section shall have priority
27 over all other matters pending before the respective court. The superior court shall render
28 a decision in a matter before it under this section not more than ninety days after
29 application is made to compel correction, and the supreme court shall render a decision in
30 a matter on appeal not more than forty-five days after submission of a complete record of
31 appeal.

32 * Sec. 10. Article XV, Constitution of the State of Alaska, is amended by adding a new section to

1 read:

2 SECTION 29. REAPPORTIONMENT OF LEGISLATURE FOLLOWING 1990
3 CENSUS. (a) A proclamation of reapportionment issued by the governor following the 1990
4 census shall remain in effect until the decennial census in the year 2000 if, on the effective date
5 of the 1992 amendments to Article VI,

6 (1) the proclamation has been in effect for over thirty days without judicial review
7 being sought;

8 (2) the proclamation has been upheld by the superior court under Section 11 of
9 Article VI and the time for appeal to the supreme court has run without an appeal being taken;

10 (3) the proclamation has been upheld by the supreme court and the time to request
11 reconsideration of the supreme court's ruling has run;

12 (4) the proclamation is still subject to a request for judicial review under Section
13 11 of Article VI and a request is not made in a timely fashion; or

14 (5) the proclamation is undergoing judicial review under Section 11 of Article VI
15 and the proclamation is upheld by the courts.

16 (b) Reapportionment of the legislature following the 1990 census shall be done by the
17 Reapportionment Board established in Section 8 of Article VI, as amended by the 1992
18 amendments, if, on the effective date of the 1992 amendments to Article VI,

19 (1) there is no valid proclamation of reapportionment in effect because of judicial
20 invalidation of a prior proclamation; or

21 (2) a proclamation of reapportionment is undergoing judicial review under Section
22 11 of Article VI and that judicial review results in the invalidation of that proclamation or results
23 in a court order making significant and substantial changes to that proclamation.

24 * Sec. 11. Article VI, secs. 5 and 7, and Article XIV, Constitution of the State of Alaska, are
25 repealed.

26 * Sec. 12. The amendments proposed by this resolution shall be placed before the voters of the state
27 at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and
28 the election laws of the state.

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MEMORANDUM

February 5, 1991

SUBJECT: Constitutionality under U.S. Constitution of Article VI sections of Alaska constitution (Work Order No. 7LS0653)

TO: Representative Dave Donley
Attn: Laurie Otto

FROM: John B. Gaguine *JBG*
Legislative Counsel

Since the "one person, one vote" decisions of the U.S. Supreme Court in the early 1960s (Baker v. Carr, 369 U.S. 186, 7 L.Ed.2d 663 (1962); Reynolds v. Sims, 377 U.S. 533, 12 L.Ed.2d 506 (1964); and many others), it is obvious that many of the provisions of the reapportionment article of the Alaska Constitution, article six, are unconstitutional under the federal constitution. Some of these have been specifically held unconstitutional by the Alaska Supreme Court, and others have been simply ignored. You have asked for an analysis of the constitutionality of Article VI, sections 1 - 7.

Section 1 is still constitutional. That section provides that members of the house of representatives shall be elected by the qualified voters of the respective election districts. Under section 3, the election districts are to be reapportioned "immediately following the official reporting of each decennial census of the United States." This has been done by the governor and the Reapportionment Board (sections 8 - 10), and the most recent reapportionment of house districts (Article XIV, Sections 1 and 3, proclaimed by the governor in 1984) has been upheld by the Alaska Supreme Court. Kenai Peninsula Borough v. State, 743 P.2d 1352, 1358-61 (Alaska 1987).

Section 2 is not constitutional as written. It provides that members of the senate shall be elected by the qualified voters of the respective senate districts set forth in Article XIV, Section 2 of the original constitution, subject to changes authorized in Article VI. In Wade v. Nolan, 414 P.2d 689 (Alaska 1966), the Alaska Supreme Court reached the inescapable conclusion that those senate districts did not comport with the U.S. Constitution. The court also ruled that the governor and the Reapportionment Board could reapportion the senate on a constitutional basis, even though the

Representative Dave Donley

February 5, 1991

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Alaska Constitution only gave the governor and the board reapportionment authority as to the house.

Since Wade the Alaska constitution has been treated as though amended. The governor and the Reapportionment Board are now seen by all, including the courts, as having the power to reapportion the senate as well as the house. Thus, for instance, current Article XIV, Section 2, relating to senate districts, was promulgated by the governor, with the advice of the board, under Article VI, Section 10. Kenai Peninsula Borough, supra at 1364 (citing Egan v. Hammond, 502 P.2d 856, 874 (Alaska 1972)), notes that because the constitution has never been amended with regard to senate reapportionment, "the governor's implied power to reapportion senate districts therefore remains in force under Wade."

The first sentence of section 3 ("The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States") is still constitutional, although, as noted, it is now being interpreted as allowing reapportionment of the senate as well. The second sentence ("Reapportionment shall be based upon civilian population within each election district as reported by the census") was ruled unconstitutional by the Alaska Supreme Court in Egan v. Hammond, supra at 868-69, because it totally disenfranchised the military in Alaska, in violation of several decisions of the U.S. Supreme Court. Egan also ruled that the portion of the sentence requiring use of census data in reapportionment was also unconstitutional, because it could not be severed from the unconstitutional "civilian population" part. Id. at 870-71.

However, the Egan court ruled, id. at 869, that the state could legitimately exclude some (but not all) military personnel as a permissible device for limiting the impact of transients and non-residents; specific formulas for such exclusion were upheld by the court in Groh v. Egan, 526 P.2d 863, 869-74 (Alaska 1974), and in Carpenter v. Hammond, 667 P.2d 1204, 1210-13 (Alaska), appeal dismissed, 464 U.S. 801, 78 L.Ed.2d 67 (1983). And the Groh v. Egan court ruled that, although the Reapportionment Board was not constitutionally required to use 1970 census data when it reapportioned in 1973, it did not abuse its discretion in using this data, especially since it explained in its order why using more recent data would be impractical. 526 P.2d at 867-69. Thus, the second sentence of section 3 still has considerable validity.

Sections 4 and 5 are rather turgid. I believe that their intent is that the governor, in reapportioning, should adhere to the election districts set out in original Article XIV even if such adherence leads to districts with quite different populations. If my reading is correct, then these sections are inconsistent with the U.S. Supreme Court decisions, which have only tolerated very small variances. At any rate, sections 4 and 5 appear to be a dead letters, no longer considered by the reapportionment boards or cited by the courts in their reapportionment decisions.

Representative Dave Donley

February 5, 1991

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Insofar as section 6 refers to the retaining or combining election districts provided in sections 4 and 5, it too is unconstitutional and a dead letter. Its reference to the "civilian" population is also unconstitutional. Other than that, section 6 appears alive and well. No one has argued that the governor and the board may not or should not give consideration to local government boundaries, or that they may not or should not use drainage and other geographic features wherever possible in describing district boundaries. As to the requirement that house election districts contain "as nearly as practicable a relatively integrated socio-economic area," that was upheld in Carpenter, supra (where the court held that Cordova was improperly joined with House District 2, the Southeast "iceworm" district), even though the likely result would be to increase the population disparities between house districts. (The court in Kenai Peninsula Borough, supra at 1358-61, upheld a smaller "iceworm" district established by the Reapportionment Board as the result of Carpenter. Kenai Peninsula Borough also ruled, at 1364-65, that the "integrated socio-economic area" requirement did not apply to senate districts.)

Section 7 is clearly unconstitutional and dead. Like Section 2, its intent was to preserve senate districts based on geographic area and not population. Thus, although it allowed the governor to modify senate districts based on changes in election (house) districts, it required that each senate district retain its total number of senators and its approximate perimeter.

I hope that this memorandum has been of assistance to you. Please let me know if I can be of further assistance.

JBG:mi

91-020.mai

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MEMORANDUM

February 5, 1991

SUBJECT: Reason for reapportionment board (W.O. 7LS0652)

TO: Representative Dave Donley
Attn: Laurie Otto

FROM: John B. Gaguine ^{JBG}
Legislative Counsel

You have asked why the framers of the Alaska constitution decided to provide for reapportionment of the legislature through a reapportionment board in the executive branch, rather than allowing the legislature to reapportion itself, as is the case in the vast majority of states. The Alaska Supreme Court addressed this question in Wade v. Nolan, 414 P.2d 689, 694-95 (Alaska 1966), which concerned reapportionment of the Alaska Senate after the U.S. Supreme Court's "one person, one vote" decisions: "Whereas, traditionally, reapportionment had been made the responsibility of state legislatures, the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion." I am attaching the relevant portion of the Wade opinion, where the court quotes at length from the comments of the Chairman of the Committee on Suffrage, Elections and Apportionment of the Alaska Constitutional Convention.

You have also asked whether the concerns that led to the establishment of the Reapportionment Board still exist. They do not. In 1962, in Baker v. Carr, 369 U.S. 186, 7 L.Ed.2d 663, the U.S. Supreme Court overruled several decades of precedent and held that federal courts could hear suits challenging on equal protection grounds the malapportionment of state legislatures. (Such suits had previously been held non-justiciable.) Two years later the Court upheld the authority of a federal district court to impose its own interim reapportionment plan on a state legislature that had been unable to reapportion itself constitutionally. Reynolds v. Sims, 377 U.S. 533, 12 L.Ed.2d 506 (1964). Thus, if the legislature had the responsibility of reapportioning

• Representative Dave Donley
February 5, 1991
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itself, and it failed to do the job adequately, the courts, either federal or state, could step in, as was decidedly not the case when the Alaska constitution was written and adopted.

If I may be of further assistance, please advise.

JBG:pl
91-067.plm

Enclosure

than according to population, the Convention was following the pattern established by the United States Constitution and later followed by many of the states of the Union with respect to one or the other of their legislative bodies. The Convention obviously did not want the Senate apportioned on a population basis; it had practical reasons for not doing so and had no reason to anticipate that it would ever be necessary to reapportion the Senate on a population or on any other basis, hence no specific provision was made for its reapportionment.

The question which is squarely presented is whether the acts of the Governor and his advisory Reapportionment Board in reapportioning the Senate were authorized by the Alaska Constitution.

Before attempting to discuss this question it is well to explain the origin of a unique feature of the reapportionment provisions of the Alaska Constitution. Whereas, traditionally, reapportionment had been made the responsibility of state legislatures, the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion. The Alaska Convention's reason for placing reapportionment responsibility in the Governor was well stated by its Chairman of the Committee on Suffrage, Elections and Apportionment, John S. Helleenthal, as follows:

HELLEENTHAL: • • • Now on the method of the composition of the reapportionment and redistricting board, because redistricting, as we have explained would be necessary, the Committee recommends that the stress be placed on the executive in determining which of these election districts and where redistricting shall take place, or reapportionment, and it recommends the creation of

a five-man advisory board to advise the governor with regard to the redistricting and reapportionment. • • • The reason that this plan was adopted is that the students and writers seem generally in accord that reapportionment, for some reason or other, I don't know why, but it has been neglected where it has been left to the legislators. Maybe it's that human element I spoke of earlier, but anyway the experience of the nation shows that the thing is delayed—procrastination; that in the State of Washington they waited for years and years and years, and finally, only by resorting to the courts and the initiative were they able to reapportion Washington. It was costly, the people suffered. And based on that experience and the recommendations, and it's almost universal of the advisors, and by advisors I don't mean the men that were here necessarily—but the writers throughout the country, the executive board was chosen, an advisory board. (Minutes of the Alaska Constitutional Convention, January 11, 1956, at 1839).

• • • • •
Now there are other plans. There is no end of variations of plans that can be devised for the reapportionment with the mandamus feature, and you could have variance where a board can be picked—three from the legislature, three nominated by the judicial council, if you want, three of them nominated by some other group of civilians, some appointed by the governor, and get a good cross-section, and they could have the authority themselves to make the redistricting and reapportionment. There is no end to it, but the best thought seemed to indicate that the people would be best helped if it [reapportionment] were an executive function. • • • But it is the inaction of the legislature, as testified to by the universal history of the 48 states, that we're trying to overcome. [Id. at 1859.]
HELLEENTHAL: It was felt that it [reapportionment] was a proper executive

function as contrasted to the legislative.
• • • [Id. at 1853.]

In its "Report to the People of Alaska" issued in February of 1956 the Constitutional Convention stated:

Representation [in the legislature] will be kept up to date every ten years by an automatic reapportionment carried out by the governor on the advice of a board representing each of the four major districts and subject to review by the courts. Thus, the constitution guards against what has become a great evil in many states: a legislature that becomes more and more unrepresentative and loses public confidence because it refuses to reapportion itself. Alaska Legislative Council, Legislative Apportionment in Alaska, 1912-1961, p. 4 (1962).

A reading of the Convention minutes, in relation to the reapportionment provisions makes it abundantly clear that it was the specific intent of the Convention to grant no authority to and to place no responsibility in the legislature with respect to reapportionment. In a clear and clean-cut departure from tradition, all of the authority and responsibility for reapportionment granted or assigned was placed in the Governor, assisted by a Reapportionment Board, including the authority to make minor changes in Senate districts. In an effort to make the reapportionment provisions as nearly self executing as possible, the Convention provided that the Reapportionment Board should automatically commence to function after the decennial census, without any direction from the Governor; that it must submit its plan within ninety days and that the Governor must proclaim a plan within ninety days of receipt from the Board, explaining any deviation from the Board's plan. Any qualified voter was empowered to resort

to the courts to force the Governor to perform his reapportionment duties or to correct any error in redistricting or reapportionment.

Baker v. Carr and Reynolds v. Sims resulted in court declarations in many states that one or both of the legislative bodies was malapportioned. In almost every instance the state constitution had made no provision for reapportioning the "frozen" body on an interim basis until the constitution could be amended. Because of the wide variations in factual situations, most of the court decisions dealing with the question of where the authority lay to reapportion a frozen legislative body on an interim basis are not of great assistance.

It is significant, however, that in some states where reapportionment was a legislative responsibility, the courts have approved reapportionment by those state legislatures on an interim basis even though the respective state constitutions gave no specific authority to reapportion the particular frozen legislative body. Illustrative is Buckley v. Hoff¹² decided by the United States District Court in Vermont. In a previous decision, that court had declared both the House and the Senate malapportioned. The constitution required the legislature to reapportion the Senate after each United States census, but the House was frozen to provide one representative for each inhabited town, forever. The General Assembly, consisting of the members of the Senate and House, was only empowered by the constitution to regulate the mode of filling vacancies in House seats. Without any specific constitutional authority, the General Assembly provided reapportionment plans for the Senate and the House which were approved by the court. The authority of the General Assembly to reapportion was not questioned.¹³

12. 243 F.Supp. 373 (D.Vt.1964).

13. See: Robert B. McKay, Reapportionment: The Law and Politics of Equal Representation where reapportionment of "frozen" legislative bodies by the legisla-

tures of New Jersey, Connecticut and North Dakota, was accomplished even though the constitutions gave no such specific authority. Pages 295-297, 374-375 and 304-306.

HJR 45 -- "Reapportionment Board and Reapportionment"

Number 076

[The testimony of Brian Rogers appears in verbatim form at the request of the House Judiciary Committee]

"Thank you Mr. Chairman. I'm Brian Rogers from Fairbanks, here representing myself and not the institution for whom I work. What I want to bring today is some information which I think may be helpful to the committee's consideration and then highlight one area where amendment is needed to this amendment in order to make it functional. As some of you know, last fall a conference was held sponsored by the Office of the Lieutenant Governor, University of Alaska, League of Women Voters, Commonwealth North and the AFN, entitled "Shall There Be a Constitutional Convention?" It was a conference on the future of Alaska's Constitution. I was the conference convener and moderator and I know that several of you attended some of the sessions. What I wanted to report to you today is that the article that this resolution addresses was highlighted as the article most in need of amendment in Alaska's Constitution. As I was looking over my notes from all of the committees that reported, let me quote what I got from the chair of the apportionment committee, and this was open to anybody that wanted to attend. We had legislators, former executives, general public, a fairly broad representation. That committee reported that the apportionment article is badly in need of repair. If there is a constitutional convention held, pursuant to a vote this fall, this article needs attention--really for two reasons.

First, the method of reapportionment laid out in Article 6 has been held to be unconstitutional by the United States Supreme Court. There's a sense by a lot of us, and there was at the time, that Alaska lost something in the requirement that the Senate not be apportioned as set out. But the fact is that is what the Supreme Court has ruled; that is the law of the land. Now there may be an issue as to how much leeway there is under federal law under one person-one vote, but clearly for twenty-five years we've had a section of the constitution that is inoperative. The legislature has not chosen to fix it, and one of the arguments that was made very persuasively by some members that were there--the late, former Senator Ed Murdy spoke on this--the legislature can't fix this article. The people have to by a constitutional convention.

The second issue was regarding the mechanism for reapportionment, there was a sense that it was not working well; that the gubernatorial appointed panel and the governor

issuing the proclamation was a mechanism that's not working well. In talking with the experts from other states, we had two constitutional experts--Janice May from the University of Texas and Sam Gobe from the University of Illinois--they said that when the legislature does the reapportionment, people generally feel that doesn't work well either. Reapportionment's a very tough thing because it is so important to the people who are being reapportioned as voters and so vitally important to those who are being reapportioned as legislators. The one suggestion that came out of the committee was for an independent, reapportionment authority. The suggestion again came out of the committee that it may require a constitutional convention to do so because this committee felt that probably the legislature would never address this issue. You have one method of creating an independent reapportionment authority before you, and I think to that extent, it's consistent with what came out of that conference this fall. Certainly, a convention is another way of addressing this issue, but I think that many people would like to see this dealt with as a separate issue and one that you can deal with and correct a twenty-five year old problem with Alaska's constitution.

I said I would also speak on a technical amendment. I see one defect that's a perfect one for this committee to address. I'm going to speak to section 7 which begins at the bottom of page two, but my concern is really on page three. On page three, line two through nine, this provides that of a nine member reapportionment board at least one member has to be appointed from each judicial district and no more than five from a single district and no more than five from the same political party. I think--and I would support that--I think that's a very good section. We then go on, on the same page, section (b) on line ten through twenty-three, saying one member's appointed by the governor, two from the majority caucus and, two from the minority caucus in each House. Hypothetically, every one of those appointing authorities could appoint someone from the same judicial district, and my question to you is which one of those appointments are invalid because in section one no more than five can be from the same district? So there is a defect in the drafting, and I don't have a suggestion--I'm sorry--except that one could say once the governor appoints one and maybe the two majority parties each appoint their two, then the minority parties have to pick people from other districts or something like that. Or, once the Senate appoints, the House has to. But section (b) and section (a) do not work together, and that does need amendment. And I really don't have the right answer for you. I do think that the independent board as set out in this does meet the suggestions from the conference last fall. Once again, Article Six came in first, I think, Article Two--the legislature--is the second one that people would like to change in a convention, but everyone seemed to agree on this article.



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STATE HOUSE

WILLIAM RYDUND
LEGISLATIVE RESEARCH

MEMORANDUM

To: Hayden Kaden
From: Tim Storey
Date: February 4, 1992
Re: Proposed House Joint Resolution No. 45

As you requested, I have reviewed the proposed amendments to the Alaska Constitution regarding the establishment of a reapportionment commission. Currently, nine states have some type of commission with original authority for producing a state legislative redistricting map. The enclosed parts, which I think you may already have, describe the commissions in those states.

I strongly encourage you to contact some legislative staff colleagues in a sample of the states that presently utilize commissions. They will be able to give you insight into the advantages and disadvantages of a commission system as compared with redistricting within the traditional legislative process. I have attached a list of contacts to assist you.

I realize that Alaska is unique in this area since the governor actually has the authority to issue the final plan. In no other state does the governor have such powers in relation to redistricting. Of course in most states, the governor has veto power over any plan enacted by the legislature. In Maryland, the governor drafts the initial legislative maps, but they must then be approved by the legislature. Arkansas's governor also has considerable influence by virtue of his seat on their redistricting commission with only the attorney general and the secretary of state as the other members.

Having read through your proposal, I note that it incorporates aspects of various commissions in other states. For example, three states preclude commissioners from running for the legislature under the lines that they draw. Your proposal also is commendable for establishing specific deadlines for action. And, your attention to public input is important to the process. A notable change in the 1990's round of redistricting has been the emphasis placed on the issue of public access, so it is good that your proposal addresses this issue. You may even want to consider public hearings after the proposed plan has been issued by the commission. It is also noteworthy that you have provided a mechanism in the event that the commission is unable to come up with a plan. In many states there is no formal backup, so it requires parties to file suit in either state or federal court.

Please feel free to contact me if you have further questions. I am eager to assist in any way I possibly can.

Contacts from other states with redistricting commissions:

Colorado:

**Becky Lennahan
Deputy Director
Office of Legislative Legal Services
(303) 866-2045**

***** Becky is the lead staff person for the Colorado commission.**

Hawaii:

**Anne Lee
League of Women Voters
(808) 395-0115**

***** She is very knowledgeable on the Hawaii system and was an active participant in their process.**

New Jersey

**Donald Stokes
Dean of the Woodrow Wilson School
Princeton University
(609) 258-4800**

***** Stokes was the "public member" of New Jersey's commission in both 1980 and 1990. He believes strongly that the commission model is the best way to go.**

Ohio

**Jim Tilling
Chief of Staff
Ohio Senate President's Office
(614) 466-2510**

***** Jim was the key staff person to Ohio's commission from the Ohio Senate and is a long time observer of redistricting. He is currently the Vice-Chair of NCSL's Reapportionment Task Force.**

Pennsylvania:

**Barbara Brown
(215) 875-7038**

***** She was the independent counsel to Pennsylvania's commission.**

**Mark McKillop
(717) 783-5193**

***** Mark works for the Pennsylvania House Democrats and has some strong opinions about the role of politics in redistricting whether by commission or not.**

Washington:

**Jennifer Helget
(206) 786-7935**

***** Jennifer staffs Washington's rather unique public redistricting commission.**

Iowa:

Gary Kaufman
Legal Counsel
Legislative Service Bureau
(515) 281-3994

*** Although Iowa does not have a commission system per se, their method is very unique and eliminates much of the political discord that often accompanies redistricting.

DRAFT

INTRODUCTION

This report focuses on the role that independent redistricting commissions play in the state legislative redistricting process. It does not deal with reapportionment. Redistricting and reapportionment, while often used interchangeably, are two different things. Reapportionment is the process of allotting the seats of a legislative body among a given number of units. Redistricting is the redrawing of the boundary lines after the number of seats has been allotted through reapportionment.

Goals

While independent commissions are a relatively new phenomena, this report describes what caused their creation, their roles in redistricting today, and the advantages and disadvantages of using an independent redistricting commission.

HISTORY/BACKGROUND

The history of legislative redistricting has been one of the legislature itself doing the redistricting.¹ Since the formation of the nation, legislatures have redistricted themselves based on a variety of criteria and they had free reign to do so in whatever manner they pleased.

As a result, prior to thirty years ago, there were several examples of districting plans based on malapportionment. The most common was where a small minority of the population could elect a majority of the lawmakers based on districting plans that held an overwhelming rural bias.

Such a case existed in Missouri. Before the courts stepped into the redistricting arena, the Missouri Constitution guaranteed every county, regardless of population, at least one seat in the House of Representatives. The result was that in 1965, 82 rural counties, which contained less than one-fifth of the state's total population, controlled a majority of seats in the house.² The vote of the rural voter carried more clout than that of the urban dweller.

Redistricting Changes

In the early 1960s, the United States Supreme Court intervened in the redistricting process to change the rules of how a legislature could redistrict. Starting with the case of Baker v. Carr (1962), where the Supreme Court held that

1. "Independent Commissions: The Next Step in the Reapportionment Revolution?" McGehee, John Michael. p. 2.
2. Reapportionment Politics: The History of Redistricting in the 50 States. p. 181.

redistricting plans could be challenged in court, the methods of legislative redistricting began to change drastically. Later cases include Gray v. Sanders (1963), which established the "one man, one vote" rule, and Reynolds v. Sims (1964), which declared that the constitutional standard of equal protection required that both houses of a bicameral state legislature had to be reapportioned, and therefore redistricted, on a population basis. The Supreme Court ruled that the equal protection clause of the Fourteenth Amendment to the Constitution meant that every person's vote had to have equal weight. Chief Justice Warren wrote, "An individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the state."³ Therefore, the only practical way to have equality in voting strength was to have population equality between districts.

With the major changes brought about by the court decisions mandating population equality as the dominant factor in redistricting, gerrymandering was brought to the forefront of the redistricting process. A gerrymander is defined as the process of drawing districts with odd shapes to create an unfair partisan advantage.⁴ The party in power, seeking to maintain its majority in the legislature, creates districts that favor the election of a candidate from its party. While the political gerrymander enrages the opposing party and disturbs the proponents of "good government," the plans have withstood legal challenges, with the courts saying that redistricting is a political decision that should be handled in the political arena. (However, this may change with the recent Supreme Court decision, Davis v. Bandemer (1986), which held that a redistricting plan resulting from a partisan gerrymander is now a justiciable issue).

The result of these changes is that legislative redistricting has been turned on its head. All plans now must consider equality of population as the major factor in any redistricting plan and the court has demonstrated that it is willing to step in and take part in the redistricting process. In addition, legislatures have the ability to gerrymander districts, which gives them a powerful, and many would say unfair, tool in the redistricting process. These changes have resulted in the opening up of a brave new world of redistricting which bears little resemblance to the redistricting of prior years.

Independent Commissions

A new option coming out of the redistricting upheaval of the 1960s was the use of an independent redistricting commission. While a few states used one before the 1960s, their existence expanded after the redistricting revolution. Many states saw the

3. Reynolds v. Sims

4. Wattson, Peter S. "How To Draw Redistricting Plans That Will Stand Up In Court." p. 2.

new problems that existed with the legislatures developing redistricting plans and decided that it was impossible for a legislature to draw a fair plan. These states opted to remove redistricting from the hands of the legislature and place it in the care of an independent redistricting commission. The commission was free of the legislature and it had the sole responsibility for redistricting. The hope was that the establishment of an independent commission would fix the perceived problems of the redistricting process.

Commission creation developed with the intention of having a disinterested body draw up the redistricting plan. One of the major causes of a gerrymander is that the legislators drawing up the plan have a direct interest in its operation. They create the districts that regulate upcoming elections. The worry is that incumbents will sculpt districts that best suit their desires to be re-elected, rather than develop districts that will be fair and competitive. The general feeling is that the gerrymander subverts the democratic process. It is hoped that independent commissions will make redistricting a technical and scientific exercise and eliminate the partisanship and gerrymandering that exist when the legislature is in charge of promulgating the redistricting plan.

While the independent commission is the more popular name for this redistricting body, some states have chosen to form an independent redistricting board. Despite the difference in the name, both have the same function: to redistrict the state independent of the legislature.

REDISTRICTING COMMISSIONS IN THE STATES

Today, eighteen states use independent redistricting boards or commissions in some manner. Of those eighteen, nine have given the commission the responsibility for developing the redistricting plan, thereby totally removing the legislature from the redistricting process; four states use commissions to advise the redistricting authority; and five states use them as backups in case the redistricting authority fails to act by a certain deadline. Here are some charts that briefly describe their composition and deadlines.

INITIAL REDISTRICTING COMMISSIONS: STATE LEGISLATIVE PLANS

<u>STATE</u>	<u>ROLE</u>	<u>NUMBER OF MEMBERS</u>	<u>SELECTION REQUIREMENTS</u>	<u>FORMATION DATE</u>	<u>INITIAL DEADLINE</u>	<u>FINAL DEADLINE</u>
Arizona	Develop a plan	3	Commission is the governor, secretary of state, and the attorney general	none listed	by February 1, 1981	plan becomes official 30 days after it is filed
Colorado	Develop a plan	11	<ul style="list-style-type: none"> -Legislature selects 4 (speaker of the house, house minority leader, senate majority and minority leaders, or their delegates) -Governor selects 3 -Judiciary selects 4 -Maximum of 4 from the legislature -Maximum of 8 from the same political party -Each congressional district must have at least 1 person, but no more than 4 people representing it on the commission -At least 1 member must live west of the continental divide 	by August 1, 1981	80 days after the availability of the census data, or after the formation of the committee, whichever is later	March 15, 1982
Hawaii	Develop a plan	8	<ul style="list-style-type: none"> -President of the senate selects 2 -Speaker of the house selects 2 -Minority senate party selects 2 -Minority house party selects 2 -These 8 select the 8th member, who is the chair -No commission member may run for the legislature in the two elections following redistricting 	by March 1, 1981	80 days after the commission forms	180 days after commission formation
Missouri	Develop a plan	House - 18 Senate - 10	<ul style="list-style-type: none"> -There are two separate redistricting committees -Governor picks one person from each list of two submitted by the two main political parties in each congressional district to form the house committee -Governor picks 8 people from two lists of 10 submitted by the two major political parties in the state to form the senate committee -No commission member may hold office in the legislature for 4 years after redistricting 	within 80 days of the census data becoming available	8 months after the commission forms	8 months after formation
Montana	Develop a plan	5	<ul style="list-style-type: none"> -Majority and minority leaders of both houses of the legislature each select one member -These 4 select a 5th, who is the chair -If the 4 cannot select a 5th within 20 days, then a majority of the supreme court will select the chair -Members cannot be public officials -Members cannot run for public office in the two years after the completion of redistricting 	the legislative session after the census data is available	The commission must give the plan to the legislature at the first regular session after its appointment	30 days after the plan is returned by the legislature
New Jersey	Develop a plan	10	<ul style="list-style-type: none"> -The chairs of the two major parties select 8 members each -If these 10 members cannot develop a plan in the allotted time, the chief justice of the state supreme court will appoint an 11th member 	December 1, 1980	February 1, 1981, or one month after the census data becomes available	The initial deadline, or one month after the 11th member is picked
Ohio	Develop a plan	5	Board is the governor, auditor, secretary of state, and two people selected by the legislative leaders of each major political party	Between August 1 and October 1, 1981		October 5, 1981
Maryland	Develop a plan	8	<ul style="list-style-type: none"> -Majority and minority leaders of the legislative houses each select 1 member -These 4 select a 5th to chair -If they fail to do so within 45 days, a majority of the state supreme court will select the 5th member -The chair cannot be a public official 	none listed	80 days after the availability of the census data or after the commission formation, initial plan whichever is later	30 days after the public inspection is filed against the initial plan
Washington	Develop a plan	4	<ul style="list-style-type: none"> -Majority and minority leaders of the house and senate each select one -These 4 select a non-voting 5th to chair the commission -If they fail to do so by January 1, 1981, the state supreme court will select the 5th by February 5, 1981 -No commission member may be a public official 	January 31, 1981	none listed	January 1, 1982

ADVISORY COMMISSIONS: STATE LEGISLATIVE PLANS

<u>STATE</u>	<u>ROLE</u>	<u>NUMBER OF MEMBERS</u>	<u>SELECTION REQUIREMENTS</u>	<u>INITIAL DEADLINE</u>	<u>FINAL DEADLINE</u>
Alaska	Advisory to the governor	5	<ul style="list-style-type: none"> -Governor selects all 5 -Members cannot be public officials or public employees -Each of the 4 regions of the state must have at least one representative on the board 	The board submits a plan to the governor within 30 days of receiving the census data	<ul style="list-style-type: none"> -Governor issues the final plan within 30 days after receiving the board's plan -Governor must justify any changes that he makes in the board's proposal
Idaho	Advisory to the legislature	5	<ul style="list-style-type: none"> -Senate majority leader selects 1 -Senate minority leader selects 1 -House majority leader selects 1 -House minority leader selects 1 -These 4 select the 5th, who is chair -Commission members cannot hold public office or political party office 	This commission is advisory only and does not draw up any plans	
Maine	Advisory to the legislature	15	<ul style="list-style-type: none"> -3 from the majority party in the house -3 from the minority party in the house -3 from the majority party in the senate -3 from the minority party in the senate -The chairs of the 2 major political parties -3 members from the public (1 democrat, 1 republican) -These 2 pick a third member from the public 	90 days after the 1980 legislature convenes	-Legislature must enact a plan by a 2/3 vote by 30 days after receiving the commission plan
Vermont	Advisory to the legislature	6	<ul style="list-style-type: none"> -Chief justice appoints the chair -Governor appoints 1 member from each political party who received 25% of the vote in the last gubernatorial election -Those parties then each select 1 -Secretary of state is a non-voting member -No commissioner may be a member of the legislature 	February 1, 1981	Legislature must adopt the official plan at the biennial session following the decennial census

BACKUP COMMISSIONS: STATE LEGISLATIVE PLANS†

<u>STATE</u>	<u>ROLE</u>	<u>NUMBER OF MEMBERS</u>	<u>SELECTION REQUIREMENTS</u>	<u>FORMATION DATE</u>	<u>FINAL DEADLINE</u>
Connecticut	Backup to the legislature	3	-President pro tem selects 2 -Speaker of the House selects 2 -Senate minority leader selects 2 -House minority leader selects 2 -These 8 must select the 3 within 30 days	After the legislative deadline which is August 1, 1991	October 31, 1991
Illinois	Backup to the legislature	4	-Senate president selects 2 -Speaker of the House selects 2 -Senate minority leader selects 2 -House minority leader selects 2 -In each pairing of two, one is to be a legislator and the other is not -Maximum of 4 from the same political party -If the commission cannot develop a plan by August 10, 1991, then the state supreme court will select 2 people and one of the pair will be chosen at random to be the commission chairman	July 10, 1991, which follows the legislative deadline of June 30, 1991	October 6, 1991
Mississippi	Backup to the legislature	5	-Commission is composed of the chief justice of the supreme court (chair), attorney general, secretary of state, speaker of the house, and president pro tempore of the senate	60 days after the legislative deadline, which is the last day of the regular session	180 days after legislative adjournment
Oklahoma	Backup to the legislature	3	-Board is composed of the attorney general, superintendent of public instruction, and state treasurer	60 days after the convening of the first regular session following the decennial census	None listed, but the state supreme court has the right to compel the commission to act
Texas	Backup to the legislature	5	-Board is composed of the lieutenant governor, speaker of the house, attorney general, comptroller of public accounts, and commissioner of the general land office	Within 60 days after the final adjournment of the 1991 legislative session	60 days after formation

†The responsibility for redistricting in these states originally lies with the legislature. These commissions take action only if the legislature fails to develop a plan by its redistricting deadline.

Role

Of the eighteen states, half use commissions to develop the entire plan, four use commissions to advise the redistricting authority, and five have commissions to redistrict only if the legislature fails to redistrict by its deadline. The commissions that promulgate a redistricting plan have the most power because the legislature has been removed from the redistricting process. The advisory commissions are influential only to the extent that the redistricting authority listens to them. The commissions that draw up an initial plan are more powerful than those that draw no plans. The backup commissions only comes into play after the legislature fails to enact a plan. They act as a safety valve, providing the state another opportunity to redistrict before the court system becomes involved.

Composition

The number of commission members ranges from three in Arkansas to eighteen in Missouri. Even though the numbers span this wide range, commissions and boards separate into two basic categories: "small" and "large." The small commission has less than six members while the large commission has more than eight members. A small commission has an advantage in that it should have an easier time developing a plan because it has fewer people that have to reach agreement. Its disadvantage comes from the fact that with the fewer members it has, the fewer viewpoints that are represented. A large commission benefits from the fact that many viewpoints are represented on the commission. Technically, the more viewpoints on the commission, the better represented the people of the state will be in the redistricting process. Some states [Alaska, Colorado, and Missouri (senate)] write this into law by requiring that each segment of the state be represented on the redistricting commission. That way, the viewpoints of the whole state, rather than just one segment, are represented on the commission. The drawback of a large commission is that with more people, it is harder to get them all to agree on a plan.

These commissions may not be as independent as they appear. Even though commissions were established to be independent of legislatures, certain legislators hold great influence over their formation. Of the nine states that have commissions which develop the plan, six commissions have members who are either legislators or chosen by the legislature. Of the three states remaining, two of them have their composition dictated by the executive branch and only one commission, New Jersey, has its composition determined by a group outside of the direct political process. But even in that case the members are determined by the heads of the two major parties, so the influence is shifted from members of the government to the political parties themselves. Very likely, the result is that these independent commissioners will be tied to the political agenda of the people who select

them and that greatly restricts the independence of the commission.

Direct Comparison

While eighteen states choose to use commissions in some form, most states leave redistricting responsibilities with the legislature. By no means is there a consensus on the effectiveness of these commissions. Many good government groups, such as Common Cause, feel that commissions are the best way to redistrict; while other interests feel that commissions are unnecessary and anti-democratic. The use of an independent commission has many pros and cons. Here is a brief summary of both sides:

PROS

- An ideal redistricting plan is drawn by a body that has no direct stake in the final outcome
- A commission takes the politics out of an extremely political and divisive issue, and the process would become scientific and technical, thereby enabling a fair plan to be drawn
- Commissions are more willing to create a plan where the districts would be more balanced, thereby allowing for competitive elections
- Commission creation serves the public interest and its operation is in the best interests of good government
- Incumbents who redraw the political map are made the judge and jury; and are thus susceptible to exploiting this conflict of interest, which undermines the democratic process

CONS

- The reliance on a commission assumes that the public has little ability to look out for its own interest
- Redistricting will always be a political issue. It is not possible to take the politics out of it. Therefore, the legislature, which is best equipped to deal with political issues, should redistrict
- Commissions are anti-democratic in their nature and less accountable to the public than the legislature
- Bipartisan commissions will inevitably feel the strains of partisan discord. Therefore, the process should be left to the legislature, which is designed to deal with partisanship
- Pluralism requires that policy be created by the give and take of groups in competition. By creating a commission, pluralism is undermined

-Commissions reduce the need for court intervention because the plans they draw will be fair to start with

-Redistricting is not a perfectible exercise. Conflict will exist, so the best that can be done is to manage the conflict through the legislature

-As long as legislatures redistrict, the specter of a gerrymander will hang over any plan drawn. The only way to eliminate the gerrymander is to have an independent commission redistrict

-While the idea of a gerrymander is distasteful to most people, giving redistricting to a commission may be going a step too far. The court system is a sufficient check on the temptation for the legislature to gerrymander

PERFORMANCE TEST

Purpose

One way to judge whether or not using an independent redistricting commission is better than having the legislature redistrict is to see how effective each method has been. This is done by judging whether or not the redistricting authority in each state has lived up to its redistricting expectations. Those that meet expectations are rated as "successful" and those that have not are judged as failing. This test judges successes to be only those states who meet the strict criteria of a redistricting success. Those that do not meet these criteria will be classified as having failed to successfully redistrict.

Methodology

Most states conduct legislative redistricting every ten years, after the data from the Federal Census becomes available. The results of the redistricting process in the 1970s and 1980s are used to judge the effectiveness of a state's redistricting body. A success is achieved when the body responsible for legislative redistricting develops the final plan without any interference from an outside force (i.e. the court system); and that final plan is the one that lasts through the decade. A failure is any state whose legislative redistricting is done by a group other than the one that was originally responsible for it (i.e. a backup commission developing a plan after the legislature fails to enact one); or if a body outside of the redistricting process forces the redistricting authority to alter its final plan (i.e. the court system overturning a plan and forcing the redistricting authority to draw a new one). This test only considers 48 states because the redistricting power in Alaska and Maryland rests with the governor. In the two decades, these are the results:

LEGISLATIVE SUCCESSES

1980s

Connecticut
Delaware
Florida
Georgia
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Massachusetts (house)
Mississippi
Nebraska (unicameral)
Nevada
New Hampshire
New York
North Dakota
Oklahoma
Rhode Island (house)
South Carolina (house)
Utah
Vermont
Virginia (senate)
Washington
West Virginia
Wisconsin
Wyoming

1970s

Arizona
Colorado
Delaware
Florida
Georgia
Idaho
Illinois
Indiana
Kentucky
Massachusetts
Nebraska (unicameral)
Nevada
New Hampshire
New York
North Carolina
Oklahoma
Rhode Island
South Carolina
South Dakota
Tennessee
Texas (house)
Utah
Vermont
Virginia (house)
West Virginia
Wisconsin
Wyoming

1980s*

House plan success rate: 66% (25 of 38)
Senate plan success rate: 62% (24 of 39)
Overall success rate: 64% (49 of 77)

1970s

House plan success rate: 67% (26 of 39)
Senate plan success rate: 63% (25 of 40)
Overall success rate: 65% (51 of 79)

5. All data on the 1970s comes from "Independent Commissions: The Next Step in the Redistricting Revolution?" by John Michael McGehee

*Percentages are formulated by dividing the number of total plans into the number of successful plans. In 39 states, there are 77 plans (Each state must draw a house and a senate plan, with the exception of Nebraska, which is unicameral)

COMMISSION SUCCESSES

<u>STATE</u>	<u>REDISTRICTING AUTHORITY</u>
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1980s

Colorado	Commission
Missouri	Commission
Montana	Commission
New Jersey	Commission
Ohio	Board
Pennsylvania	Commission

1970s

Arkansas	Board
Hawaii	Commission
Missouri (senate)	Commission
Montana	Commission
Ohio	Board
Pennsylvania	Commission

1980s

Commission/Board success rate: 67% (12 of 18)

1970s

Commission/Board House success rate: 63% (5 of 8)

Commission/Board Senate success rate: 75% (6 of 8)

Combined commission/board success rate: 69% (11 of 16)

LEGISLATIVE FAILURES

<u>STATE</u>	<u>CAUSE OF FAILURE</u>
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1980s

Alabama	Justice Department forced two redraws
Arizona	District Court overturned both plans
California	Voters rejected initial plan in 1982
Idaho	Court overturned both plans
Illinois	Legislature failed to act by the deadline
Massachusetts (senate)	Court overturned plan
Minnesota	Legislature failed to meet the deadline
New Mexico	Court forced a redraw
North Carolina	Court forced a redraw
Oregon	Court forced a redraw
Rhode Island (senate)	Court forced a redraw
South Carolina (senate)	Court forced a redraw
South Dakota	Court forced a partial redraw

Tennessee	Court forced a redraw
Texas	Court forced a redraw after the 1982 election
Virginia (house)	Court forced a redraw

House failures: 34% (13 of 38)
 Senate failures: 38% (15 of 39)
 Overall failure rate: 36% (28 of 77)

1970s

Alabama	Court drew the plan
California	Court drew the plan
Connecticut	Legislature failed to meet deadline
Iowa	Court drew the plan
Kansas	Court drew the plan
Louisiana	Court forced a redraw
Maine	Court drew the plan
Minnesota	Court drew the plan
Massachusetts	Court drew the plan
New Mexico	Court forced a redraw
North Dakota	Court drew the plan
Oregon	Court forced a redraw
Texas (senate)	Legislature failed to meet deadline
Virginia (senate)	Court drew the plan
Washington	Court drew the plan

House failures: 33% (13 of 39)
 Senate failures: 37% (15 of 40)
 Overall failure rate: 35% (28 of 79)

COMMISSION FAILURES

<u>STATE</u>	<u>REDISTRICTING AUTHORITY</u>	<u>CAUSE OF FAILURE</u>
	<u>1980s</u>	
Arkansas	Board	Court forced a partial redraw in 1989
Hawaii	Commission	Court overturned plans
Michigan	Commission	Court ruled the commission was unconstitutional, so it drew the plan

Commission failures: 33% (3 of 9)

1970s

Michigan	Commission	Court drew plan
Missouri (house)	Commission	Court drew plan
New Jersey	Commission	Court forced a redraw

Commission failure: 31% (5 of 16)

Summary

The data shows that the ratings are stable from one decade to the next. Commissions have a slightly better percentage point rating than do legislatures. On average, for every three plans that a commission draws, it succeeds on slightly more than two. For every three plans the legislature draws, it succeeds on slightly less than two. Overall, it appears that no matter who does the redistricting, the overall success rate percentage will hover in the mid-sixties.

These statistics deal with just two rounds of redistricting. While the statistics show that commissions and legislatures have had about the same success rate in the past (about two out of three), that could change drastically in the next redistricting period. The existence of commissions has been brief and it will take more redistricting rounds before their success rate can be definitively judged. The best one can do now is look at the data and form some preliminary conclusions.

CONCLUSION

Commissions were created in the hope of reforming the redistricting process, however there are pros and cons to using these commissions. There is no evidence that commissions are free of the evils of gerrymandering, nor does the performance test show that one redistricting method outperforms the other. The jury remains out as to whether or not independent legislative redistricting commissions are the way to go.

The rise in the creation of independent redistricting commissions came out of the desire to correct the problems that existed in redistricting when the legislature did it. However, even if a state opts to use an independent commission, these problems may remain. There are other factors that influence the redistricting process regardless of what the redistricting authority is. The main factor is the composition of the state's population. A state with a homogenous population should have an easier redistricting job than a state with a heterogeneous population. Heterogeneity can arise from differences in ethnicity, political affiliation, and geography. States with such a diversity in population will encounter redistricting controversy no matter what the redistricting authority is. Redistricting is the process of drawing lines. When many groups need to be considered, the process of drawing a line will give an advantage to one group over another. No plan can satisfy everyone because there will always be some group who feels that the redistricting plan is unfair. States must be cautious and realize that redistricting problems may not be controllable by the redistricting authority. The creation of an independent commission may not cure the redistricting problems that exist within a state.

Section 4 - Method.

Reapportionment shall be by the method of equal proportions, except that each election district having the major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

Section 5 - Combining Districts.

Should the total civilian population within any election district fall below one-half of the quotient, the district shall be attached to an election district within its senate district, and the reapportionment for the new district shall be determined as provided in Section 4 of this article.

Section 6 - Redistricting.

The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

Section 7 - Modification of Senate Districts.

The senate districts, described in Section 2 of Article XIV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter.

Section 8 - Reapportionment Board.

The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central, and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

Article VI

Legislative Apportionment

Section 3 - Methods of Voting; Election Contests.

Methods of voting, including absentee voting, shall be prescribed by law. Secrecy of voting shall be preserved. The procedure for determining election contests, with right of appeal to the courts, shall be prescribed by law.

Section 4 - Voting Precincts; Registration.

The legislature may provide a system of permanent registration of voters, and may establish voting precincts within election districts.

Section 5 - General Elections.

General elections shall be held on the second Tuesday in October of every even-numbered year, but the month and day may be changed by law.

Revisor's note - Exercising its authority under this section, the legislature has provided that the date of general elections is the Tuesday after the first Monday in November in every even-numbered year. See AS 15.15.020.

Article VI

Legislative Apportionment

Section 1 - Election Districts.

Members of the house of representatives shall be elected by the qualified voters of the respective election districts. Until reapportionment, election districts and the number of representatives to be elected from each district shall be as set forth in Section 1 of Article XIV.

Section 2 - Senate Districts.

Members of the senate shall be elected by the qualified voters of the respective senate districts. Senate districts shall be as set forth in Section 2 of Article XIV, subject to changes authorized in this article.

Section 3 - Reapportionment of House.

The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States. Reapportionment shall be based upon civilian population within each election district as reported by the census.

Article XIV

Apportionment Schedule

Section 1 - Election Districts.

Members of the house of representatives shall, according to the reapportionment proclamation of the governor, dated February 15, 1984, be elected from the election districts and in the numbers shown below:

Election District	Name of District	Number of Representatives
1	Ketchikan-Wrangell-Petersburg	2 (Seats A & B)
2	Inside Passage	1
3	Baranof-Chichagof	1
4	Juneau	2 (Seats A & B)
5	Kenai-Cook Inlet	2 (Seats A & B)
6	Prince William Sound	1
7	North Kenai-South Anchorage	1
8	Campbell-Hillside	2 (Seats A & B)
9	Turnagain-Sand Lake	2 (Seats A & B)
10	Mid-Town	2 (Seats A & B)
11	Spennard	2 (Seats A & B)
12	Downtown	2 (Seats A & B)
13	Elmendorf AFB-Mountain View	2 (Seats A & B)
14	South Muldoon	2 (Seats A & B)
15	Chugiak-Eagle Rivers-Ft. Richardson	2 (Seats A & B)
16	Matanuska-Susitna	2 (Seats A & B)
17	Interior Highways	1
18	Southeast North Star Borough	1
19	Outer Fairbanks	1
20	Fairbanks City	2 (Seats A & B)
21	West Fairbanks	1
22	North Slope-Kotzebue	1
23	Norton Sound	1
24	Interior Rivers	1
25	Lower Kuskokwim	1
26	Bristol Bay-Aleutian Islands	1
27	Kodiak-East Alaska Peninsula	1

In all two member house districts candidates will run for designated seats indicated by Seat A and Seat B. Candidates will file for one of the available seats. Each qualified voter in the district may cast one vote for their choice among the candidates for each seat. The candidate receiving the greatest number of votes cast for each seat is elected.

Section 2 - Senate Districts.

Members of the senate shall, according to the reapportionment proclamation of the governor, dated February 15, 1984, be elected from the election districts and in the numbers shown below:

Senate District	Composed of Election Districts	Number of Senators
A	Ketchikan-Wrangell-Petersburg	1
B	Inside Passage-Baranof-Chichagof	1
C	Juneau	1
D	Kenai-Cook Inlet	1
E	Prince William Sound-North Kenai-South Anchorage-Matanuska-Susitna	2 (Seats A & B)
F	Campbell-Hillside-Mid-Town	2 (Seats A & B)
G	Turnagain-Sand Lake-Spenard	2 (Seats A & B)
H	Downtown-Elmendorf AFB-Mountain View	2 (Seats A & B)
I	Muldoon-Chugiak-Eagle River-Fort Richardson	2 (Seats A & B)
J	Interior Highways-Southeast-North Star Borough	1
K	Outer Fairbanks-Fairbanks City-West Fairbanks	2 (Seats A & B)
L	North Slope-Kotzebue-Norton Sound	1
M	Interior Rivers-Lower Kuskokwim	1
N	Bristol Bay-Aleutian Islands-Kodiak-East Alaska Peninsula	1

In all two member senate districts candidates will run for designated seats indicated by Seat A and Seat B. Candidates will file for one of the available seats. Each qualified voter may cast one vote for their choice among the candidates for each seat. The candidate receiving the greatest number of votes cast for each seat is elected.

Section 3 - Description of Election Districts.

The election districts set forth in Section 1 shall include the following territory:

1. **Ketchikan-Wrangell-Petersburg** - District 1 is an area within a line proceeding from Dixon Entrance in a northerly direction up Clarence Strait, passing west of Zarembo Island, northerly up Duncan Canal, across Frederick Sound to a point west of Cape Fanshaw, then north-easterly to the Canadian border and southerly along the Canadian border to the point of beginning at Dixon Entrance, excluding the area on Annette Island. The district includes the Ketchikan Gateway Borough, Wrangell, Petersburg, Hyder, Saxman, Meyers Chuck, and Kupreanof. It has a population of 16,601.58 and a variance of -9.9 percent. It will elect two house members to designated seats and one senator.

2. **Inside Passage** - District 2 is composed of that portion of Southeast Alaska between Dixon Entrance and Boundary Point 187 on the U.S./Canadian International Boundary that is not contained in Districts 1, 3, and 4. Included within its boundaries are the communities of Yakutat, Haines, Skagway, Klukwan, Gustavus, Hoonah, Angoon, Kake, Metlakatla, Thorne Bay, Klawock, Craig, and Hydaburg. The district has a population of 8,924.35 and a variance of -3.1 percent. It will elect one house member and, with District 3, one senator.

3. **Baranof-Chichagof** - District 3 consists of Baranof Island, Yakobi Island, Chichagof Island, and all of the smaller adjacent islands offshore, excluding the area within the City of Hoonah. The communities on the islands include Sitka, Pelican, Elfin Cove, Tenakee Springs, and Port Alexander. The district has a population of 8,448.97 and a variance of -8.3 percent. It will elect one house member and, with District 2, one senator.

4. **Juneau** - District 4 boundaries coincide with those of the City and Borough of Juneau. The district has a population of 19,332.75 and a variance of +4.9 percent. It will elect two house members to designated seats and one senator.

5. **Kenai-Cook Inlet** - District 5 includes all of the coastal areas on the east and west sides of Cook Inlet inside the Kenai Peninsula Borough, that lie south and west of Nikiski. Communities within the district include Kenai, Soldotna, Sterling, Ninilchik, Anchor Point, Homer, Seldovia, Port Graham, and English Bay. The district has a population of 19,189.95

and a variance of +4.2 percent. It will elect two house members to designated seats and one senator.

6. **Prince William Sound** - District 6 includes the area along Prince William Sound from Boundary Point 187 on the U.S./Canadian International boundary on the east to the Kenai National Moose Range boundary on the west. Included in the district are the communities of Hope, Cooper Landing, Moose Pass, Seward, Whittier, Valdez, Chitina, McCarthy, Tatitlek, and Cordova. It has a population of 8,753.19 and a variance of -4.9 percent. It will elect one house member, and with Districts 7 and 16, two senators to designated seats.

7. **North Kenai-South Anchorage** - District 7 contains the Nikiski area on the northern Kenai Peninsula, and the southeastern reaches of the Municipality of Anchorage, including the community council areas of Old Seward/Oceanview, Rabbit Creek, Turnagain Arm, and Girdwood Valley. Its northern boundary proceeds east from Turnagain Arm along Klatt Road to the New Seward Highway, southerly on the New Seward Highway to Huffman Road, westerly along Huffman Road to the Old Seward Highway, southerly on the Old Seward Highway to DeArmoun Road, east on DeArmoun Road to Rabbit Creek, and easterly and southerly along Rabbit Creek. The district has a population of 9,580.1 and a variance of +4.0 percent. It will elect one house member and, with Districts 6 and 16, two senators to designated seats.

8. **Campbell-Hillside** - District 8 is bounded on the south by Rabbit Creek, DeArmoun Road, the Seward Highway, and Klatt Road, and on the west by Turnagain Arm. Dimond Boulevard and Abbott Road form the northern boundary, and the Chugach Mountains are the eastern boundary. This district includes the neighborhood council areas of Bayshore/Klatt, Huffman/O'Malley, Mid-Hillside, Hillside East and Glen Alps. The district has a population of 19,230.7 and a variance of +4.4 percent. It will elect two house members to designated seats and, with District 10, two senators to designated seats.

9. **Turnagain-Sand Lake** - District 9 is bounded by a line beginning at Turnagain Arm and proceeding east on Dimond Boulevard to Arctic Boulevard, then north to International Airport Road, then west to Spenard Road, then northerly to Fish Creek and continuing north to W. 36th Avenue, then west to Wisconsin Street and north on Wisconsin to Northern Lights Boulevard, then east on Northern Lights to Minnesota Drive and north on Minnesota Drive to Chester Creek, then west on

Chester Creek to Kalk Arm. The district includes the community council areas of Turnagain and Sand Lake. It has a population of 19,155.9 and a variance of +4.0 percent. It will elect two house members to designated seats and, with District 11, two senators to designated seats.

10. **Midtown** - District 10 is bounded by a line beginning at the intersection of Arctic Boulevard and Dimond Boulevard, then north to International Airport Road, east to the Old Seward Highway, north to Chester Creek, easterly to Bragaw Street and E. 20th Avenue, east to Pine Street, south to Tudor Road, then westerly and southerly along the Bureau of Land Management boundary to Birch Road, south to Abbott Road, and west along Abbott Road to the New Seward Highway, north to Dimond Boulevard, and west to the point of beginning. The district includes the community council areas of Rogers Park, Tudor, Taku-Campbell, Lake Otis, and University. It has a population of 18,183.5 and a variance of -1.3 percent. It will elect two house members to designated seats and, with District 8, two senators to designated seats.

11. **Spenard** - District 11 is bounded by District 10 on the east, International Airport Road on the south, Wisconsin Street, Fish Creek, and Spenard Road on the west, and Chester Creek and W. 23rd Avenue on the north. It includes the community council areas of Spenard and North Star. It has a population of 18,804.1 and a variance of +2.1 percent. It will elect two house members to designated seats and, with District 9, two senators to designated seats.

12. **Downtown** - District 12 is bounded by Chester Creek on the south, Bragaw Road on the east, Commercial Drive and the Elmendorf reservation boundary on the north and the inlet on the west. Included are the community council areas of Government Hill, Downtown, Penland Park, South Addition, Fairview, and parts of the areas of North Mountain View and Airport Heights. The district has a population of 18,678.4 and a variance of +1.4 percent. It will elect two house members to designated seats and, with District 13, two senators to designated seats.

13. **Elmendorf Air Force Base-Mountain View** - District 13 is bounded by a line beginning at the intersection of Bragaw Street and E. 20th Avenue proceeding east to Baxter Road, north to DeBarr Avenue, east to Muldoon Road, north to E. 4th Avenue, west to Patterson Street, north to the Glenn Highway, east on the Glenn Highway to the common boundary between Elmendorf Air Force Base and Fort Richardson, then following the Elmendorf military reservation boundary to Commercial

Drive, then east to Mountain View Drive, then southwesterly to the Glenn Highway, then east to Bragaw Road and south to the point of beginning. The district includes the community council areas of Russian Jack Park, North and South Mountain View, Airport Heights, and North Muldoon. It has a population of 19,173.1 and a variance of +4.1 percent. It will elect two house members to designated seats and, with District 12, two senators to designated seats.

14. **South Muldoon** - District 14 includes Stuckagain Heights and the community council areas of Northeast, South Muldoon, and Scenic Park. The District is bounded by District 13 on the north, District 15 on the north and east, District 8 on the east and south, and District 10 on the south and west. District 14 has a population of 18,265.4 and a variance of -.8 percent. It will elect two house members to designated seats and, with District 15, two senators to designated seats.

15. **Chugiak-Eagle River-Fort Richardson** - District 15 includes the northern portion of the Municipality of Anchorage from Fort Richardson on the west to the municipality's border on the north and east, and by District 14 on the south. It includes the community council areas of Eklutna Valley, Chugiak, Birchwood, and Eagle River Valley. Also included are Fort Richardson, and the area of the North Muldoon community council area bounded by Chester Creek, Muldoon Road, E. 4th Avenue, Patterson Street, and the Glenn Highway. The district has a population of 18,395 and a variance of -.1 percent. It will elect two house members to designated seats and, with District 14, two senators to designated seats.

16. **Matanuska-Susitna** - District 16 is comprised of the Matanuska-Susitna Borough, including the communities of Talkeetna, Willow, Houston, Big Lake, Wasilla, Bodenburg Butte, Palmer, Sutton, Peter's Creek, Montana, and Chickaloon. It has a population of 17,692.23 and a variance of -3.9 percent. It will elect two house members to designated seats and, with Districts 6 and 7, two senators to designated seats.

17. **Interior Highways** - District 17 is made up of those areas outside of the Matanuska-Susitna Borough and the Fairbanks North Star Borough which are along the Glenn, Parks, Richardson, and Alaska Highways. Included are Paxson, Gulkana, Glennallen, Copper Center, Tonsina, Tazlina, Eagle, Delta, Fort Greely, Tanacross, Tok, Tellin, Northway, Nenana, Anderson, Healy, and Cantwell. The district has a population

of 8,753.57 and a variance of -4.9 percent. It will elect one house member and, with District 18, one senator.

18. **Southeast North Star Borough** - District 18 encompasses the southeast section of the Fairbanks North Star Borough. It includes North Pole, Eielson Air Force Base, Salcha, and Haruing Lake. Its population is 9,300, with a variance of +.9 percent. It will elect one house member and, with District 17, one senator.

19. **Outer Fairbanks** - District 19 includes Livengood, Ester, Goldstream Road, the Steese Highway, the eastern half of Farmers Loop Road, Fort Wainwright, Chena Hot Springs Road, Circle, Central, and Circle Hot Springs. It has a population of 8,934.3 and a variance of -.30 percent. It will elect one house member and, with Districts 20 and 21, two senators to designated seats.

20. **Fairbanks City** - District 20 is bounded by the Noyes Slough and University Avenue on the west, the Fairbanks International Airport on the southwest, the Tanana River on the south, and Fort Wainwright on the east. The Creamers Field area is included as the northern edge of the district. The district has a population of 18,319.7 and a variance of -.5 percent. It will elect two house members to designated seats and, with Districts 19 and 21, two senators to designated seats.

21. **West Fairbanks** - District 21 includes the western half of Farmers Loop Road and the area west of Noyes Slough and University Avenue to, but not including, the Ester area. It has a population of 9,247.1 and a variance of +.4 percent. It will elect one house member and, with Districts 19 and 20, two senators to designated seats.

22. **North Slope-Kotzebue** - District 22 includes the areas of the North Slope Borough, Arctic Slope Regional Corporation, and the Northwest Alaska Native Association. It has a population of 8,999.06 and a variance of -.23 percent. The district will elect one house member and, with District 23, one senator.

23. **Norton Sound** - District 23 includes the area of the Bering Straits Regional Corporation; Shishmaref, Diomedes, Teller, Nome, Koyuk and Saint Michael, and the coastal communities as far south as Hooper Bay and Paimiut. Chevak is also included along with Yukon River villages down river from Mountain Village. The district has a population of 9,338.86 and a variance of +1.4 percent. It will elect one house member and, with District 22, one senator.

24. **Interior Rivers** - District 24 includes the communities on or near the great interior rivers, the Yukon, the Koyukuk, and the Kuskokwim, as far down river as Mountain Village on the Yukon and Tuluksak on the Kuskokwim. The district has a population of 8,936.12 and a variance of -.30 percent. It will elect one house member and, with District 25, one senator.

25. **Lower Kuskokwim** - District 25 includes the Kuskokwim River communities down river from Akiak and Akiachak, and the coastal communities from Newtok to Platinum. It has a population of 9,432.35 and a variance of +2.4 percent. It will elect one house member and, with District 24, one senator.

26. **Bristol Bay-Aleutian Islands** - District 26 includes all of the Bristol Bay Native Corporation area except Ivanof Bay, Perryville, Chignik Lake, Chignik, and Chignik Lagoon. Included are the remainder of the Alaska Peninsula communities, the Aleutian communities, the Bristol Bay communities as far west as Twin Hills, and communities as far up river as Aleknagik and Koliganek. The Bristol Bay Borough is also included. The district has a population of 9,157.61 and a variance of -.6 percent. It will elect one house member and, with District 27, one senator.

27. **Kodiak-East Alaska Peninsula** - District 27 covers the Kodiak Island Borough and the Alaska Peninsula communities of Ivanof Bay, Perryville, Chignik Lake, Chignik, and Chignik Lagoon. It has a population of 9,592.4 and a variance of +4.1 percent. It will elect one house member and, with District 26, one senator.

Article XV

Schedule of Transitional Measures

Section 1 - Continuance of Laws.

All laws in force in the Territory of Alaska on the effective date of this constitution and consistent therewith shall continue in force until they expire by their own limitation, are amended, or repealed.

Section 2 - Saving of Existing Rights and Liabilities.

Except as otherwise provided in this constitution, all rights, titles, actions, suits, contracts, and liabilities and all civil, criminal, or administrative proceedings shall continue unaffected by the change from territorial to

Leg. Ref. 3808
A.G. 206-753-6804

To:

CC:

Subject:

Mass. Wins Redistricting Fight

BOSTON (AP) - Massachusetts on Thursday won the right to keep its 11 congressional seats in a court ruling that could set the stage for a Supreme Court battle with Washington state over representation in Congress.

Massachusetts was to lose one seat this year, due to population shifts calculated in the 1990 U.S. Census, while Washington gained a seat.

But a special panel of three federal judges agreed with Massachusetts that ~~it was improper to include people living overseas, such as soldiers, in apportioning congressional seats.~~ State officials claimed the census undercounted the number of overseas residents from Massachusetts, leading to the loss of a seat.

Washington officials said they would appeal the decision to the U.S. Supreme Court, which on March 4 is hearing a congressional apportionment case filed by Montana. It, also, is challenging the apportionment of the 435 House seats.

If Massachusetts wins, Washington state would lose a ninth seat it gained.

Officials in both Massachusetts and Washington expressed confidence their states would win a Supreme Court showdown.

Washington officials say they already have certification from the chief clerk of the U.S. House of Representatives saying Washington is entitled to a ninth congressional seat.

"We feel we're on fairly firm ground in claiming that there's no way to alter that," said David Brine, spokesman for Washington's Secretary of State.

The federal court gave Massachusetts until March 30 to come up with an 11-district plan. Failure to do so would cost the state the seat.

~~Washington state officials said they would appeal the decision to the U.S. Supreme Court, which on March 4 is hearing a congressional apportionment case filed by Montana. It, also, is challenging the apportionment of the 435 House seats.~~

The three judges agreed in a unanimous decision, saying the Census Bureau relied on "precisely the same data that it had consistently found to be too unreliable" in the past.

All states must redraw their congressional districts after the federal census, which takes place every 10 years. The apportionment of seats is based on the census numbers as well as a complex formula that assures that the U.S. House of Representatives remains at 435 members.

The panel included U.S. Circuit Judge Hugh Bowmer of New Hampshire, U.S.

District Judge Francis Boyle of Rhode Island and U.S. District Judge Douglas Woodlock of Massachusetts.

Assistant Attorney General James Johnson of Washington said he didn't believe the three-judge panel had jurisdiction.

Joseph Krovisky, a spokesman for the U.S. Department of Justice, which represented the federal government in the case, had no comment on any future action.

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