

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7697 SENATE STATE AFFAIRS

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National Audubon Society

ALASKA-HAWAII REGIONAL OFFICE

308 G STREET, SUITE 219, ANCHORAGE, ALASKA 99501 (907) 276-7034

May 10, 1991

Senator Pat Rodey
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Rodey,

Thank-you for scheduling a hearing on SB 274 which addresses the operation of personal watercraft.

We commend Senator Collins for introducing this legislation which will minimize conflicts between personal watercraft operators, other recreationists, and fish and wildlife values. We support CSSB 274 in concept and recommend one additional amendment, language that would establish a "no wake" zone within 100 feet of the shoreline. This would avoid destruction of shoreline nests of waterbirds such as loons and grebes, reduce shoreline erosion and minimize conflicts with swimmers, canoeists and other recreationists.

Thank-you for your consideration..

Sincerely,

David R. Cline
Regional Vice President



DUCKS
UNLIMITED
INC.

CLARK SPRINGER
SENIOR VICE PRESIDENT
NORTH PACIFIC FLYWAY

1407 Bay Avenue
Homer, Alaska 99603
(907) 235-7121

May 10, 1991

Senator Collins
Juneau, Alaska

RE: Senate Bill CSSB 274

Dear Senator Collins:

I am in agreement with the subject bill with the exception of two parts.

Section 05.25.017 (A) The manufacturers recommendation is a minimum of 14 years of age. I feel that since a person can obtain a driving learners permit at 14, the minimum age for this bill should be 14 years old.

(D) (1) This is outrageous, we live in the land of the midnight sun. We have three short months of summer. The hours of permitted use of these machines should be governed by sunrise and sunset. If you are going to regulate these hours of operation, how about the the percentage of people that run power mowers or boats on lakes and rivers at 2:00 a.m.

Let's enjoy Alaska, not over regulate our life styles.

Sincerely yours,

Clark R. Springer



Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

May 10, 1991

Senator Pat Rodey
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Operation of Personal Watercraft

Dear Senator Rodey:

We would like to convey to you our strong interest in and support for CS for Senate Bill 274. The operation of personal watercraft has raised substantial concerns in a number of other states as well as in Alaska. Those concerns include the safety of both personal watercraft operators and others in the area; the impact on the recreational experience of other recreationists; and the impact on aquatic vegetation and fish and wildlife.

These are valid concerns. The legislatures of 12 other states agree and have enacted similar legislation. We feel confident that Alaskans support this bill. For example, in spite of substantial controversy concerning motorized vehicle use during the Recreation Rivers planning process, a measure concerning personal watercraft that was more restrictive than this bill was included in the plan with virtually no opposition. The measure was included for reasons of safety, the protection of the recreational experience, and the protection of shore nesting birds.

The proposed legislation is a fair and reasonable way to begin to deal with the problems raised by personal watercraft operation. Dealing with these craft now before their numbers greatly increase, and before people buy them believing that there will be no limits on their use, is far better than waiting until the problem is even more severe, and after people have purchased them in reliance on our non-action.

We would like to comment on two specific subjects. First, we believe the lakeshore no-wake measure suggested by others should be added to the bill. This could be accomplished by adding the following as (d)(5): "operate a personal watercraft or speciality prop-craft within 100 feet of lakeshores at a speed faster than no-wake speed."

Second, we strongly support the prohibition on personal watercraft use between the hours of 9 pm and 9 am. These craft are toys, and very noisy ones; unlike other motorboats, they are not generally used to transport their operators from one place to another for the purposes of fishing, etc. They create a

continuous, loud noise that can be extremely bothersome in the evening and early morning to people who are trying not just to sleep, although that is of course of primary importance, but also to relax and enjoy some quiet during at least a portion of the day. Twelve hours provides more than enough time to operate these craft. Furthermore, there is a precedent for this type of regulation in the very common quiet hours that are routinely enforced in campgrounds.

Thank you for your consideration of these thoughts.

Sincerely,

Cliff Eames

Cliff Eames
Issues Director

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STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 277

Revision Date: _____
Title: "An Act relating to motor vehicle registration and impoundment. . ."
Sponsor: Senate State Affairs
Requestor: Senate State Affairs

Department Affected: Public Safety
BRU: Statewide Support
Component: AK Public Safety Info. Network

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	2.0	0	0	0	0	0
TRAVEL						
CONTRACTUAL	5.0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	7.0	0	0	0	0	0

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	7.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	7.0	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 None

ANALYSIS: (Attach a separate page if necessary)

Please see attached.

Prepared by: Gavle A. Horetski Phone: 465-4322
Division: Office of the Commissioner Date: 5/14/91
Approved by Commissioner: *Gavle A. Horetski* for Richard L. Burton
Agency: Department of Public Safety Date: 5/14/91

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

SB 277 would require the Division of Motor Vehicles to refuse to register a motor vehicle if the owner has three or more unpaid fines for parking violations. The state agency or municipality reporting the unpaid fines would do so by entering a "status code" on the current information system, so that there would be no fiscal impact on the Department of Public Safety. This is similar to actions taken when a vehicle has a "stolen" or "impound" status on the record. No registration action can be taken until the status notation is removed from the record by the agency or municipality that initiated the action.

The Alaska Public Safety Information Network's (APSIN) online system must be modified to allow the placing and removing of a "Do Not Register" indicator. The issuing authority will be responsible for placing and removing this indicator. DMV counter personnel would provide the name of the issuing authority and the date the indicator was placed to the citizen wishing to register the vehicle.

Costs would be as follows:

50 person hours @ \$40.00 per hour.....	\$2,000
Disk space to house indicator, date and issuing authority name.....	5,000
	<hr/>
	\$7,000

Ongoing maintenance costs will be absorbed within the existing Information Systems budget.

Note: SB 277 contains two sections; section 1 addresses vehicle registration and section 2 addresses impoundment. It is our understanding that the State Affairs Committee will be considering a CS which deletes section 2 of the bill. This fiscal note shows the expected fiscal impact from section 1 only.

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

MEMORANDUM

DATE: May 15, 1991

TO: Committee Members
Senate State Affairs Committee

FROM: Senator Patrick M. Rodey, Chair
Senate State Affairs Committee

SUBJ: Senate Bill 277

For your consideration today is SB 277, the bill to withhold vehicle registration for overdue, unpaid municipal parking citations. See sponsor summary for information.

SB 277 contains Section 2 which would provide for the release of impounded vehicles only after payment has been made on outstanding parking citations. This section has been determined to be largely unenforceable by the Department of Public Safety. The same section was deleted from the House version of the bill (HB 270).

Should the committee desire to consider it, I have available a CS for the bill which deletes Section 2.

PMR/tb/memo002

7-LS1231ND ✓
Ford
5/14/91

CS FOR SENATE BILL NO. 277 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE STATE AFFAIRS COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle registration."

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

3 * Section 1. AS 28.10.041(a) is amended to read:

4 (a) The department may refuse to register a vehicle if

5 (1) the application contains a false or fraudulent statement;

6 (2) the applicant fails to furnish information required by the department;

7 - (3) the applicant is not entitled to the issuance of a certificate of title or
8 registration under this chapter;

9 (4) the vehicle is determined to be mechanically unsafe to be driven or moved
10 on a highway, vehicular way or area, or other public property in the state;

11 (5) the department has reasonable grounds to believe that the vehicle was stolen
12 or fraudulently acquired or that the granting of registration would be a fraud against the rightful
13 owner or other person having a valid lien upon the vehicle;

14 (6) the registration of the vehicle has been suspended or revoked for any reason

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WED

THIS DRAFT CS DROPS THE
SECOND SECTION DEALING WITH
IMPOUNDMENT. IT WAS FOUND
TO BE UNENFORCEABLE BY
PUBLIC SAFETY, AND THE
SAME SECTION WAS DELETED
BY THE HOUSE.

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1 under the laws of the state;

2 (7) the required fees or taxes have not been paid;

3 (8) the vehicle or applicant fails to comply with this chapter or regulations
4 implementing this section;

5 (9) the vehicle is without a certificate of inspection required under AS 28.32.010;

6 (10) the vehicle is subject to a state-approved local emission inspection program
7 adopted by municipal ordinance under AS 46.03.210, and the vehicle does not meet the standards
8 of that program, unless the vehicle uses a fuel source that does not primarily emit carbon
9 monoxide;

10 (11) the applicant fails to certify to the department the existence of a motor
11 vehicle liability policy that complies with AS 28.22.101 for the vehicle being registered unless
12 the owner of the vehicle qualifies as a self-insurer under AS 28.20.400 or is exempted from
13 obtaining liability insurance under AS 28.22.011;

14 (12) the applicant, after receiving notice, fails to pay three or more fines
15 imposed for parking infractions under state law or municipal ordinance; an agency of the
16 state or a municipality may report the failure to pay a fine to the department in a manner
17 prescribed by the department; the department may require electronic reporting.

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

SPONSOR SUMMARY - Senate Bill 277

SB 277 seeks to induce individuals to pay parking citations when they've accumulated three or more in the same municipality, by disallowing their vehicle registration with the Alaska Department of Motor Vehicles. The program is voluntary on the part of state or municipal entities to participate through DMV. The program does not apply to those with fewer than three unpaid citations in more than one municipality.

In 1990, Anchorage showed approximately \$316,000 in unpaid citations, 20% of those issued.

In addition, the bill would add a section that would allow for the release of impounded vehicles only after the payment of any outstanding parking fines is completed. The provisions of this section are also optional to state agencies and municipalities.

The fiscal note of \$7.0 is in data processing services for space allocation in computer records.

The participating municipality would access the DMV records electronically and input a hold on the person's vehicle record, preventing registration. Municipalities currently have authority to place other information in records directly.

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GUADALUPE, INC.
3900 WISCONSIN STREET
ANCHORAGE, ALASKA 99517

May 13, 1991

Hon. Patrick Rodey, Chairman
Senate State Affairs Committee
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Re: Senate Bill No. 279

I represent Guadalupe, Inc., but I write also on behalf of all other eleemosynary organizations similarly situated in support of Senate Bill No. 279. I request that you make these comments available to all members of the Senate State Affairs Committee prior to the Committee's consideration of Senate Bill No. 279.

Let me first introduce Guadalupe, Inc., which is an Alaska non-profit membership corporation organized to support, financially and otherwise, Our Lady of Guadalupe Parish in Anchorage. Its non-profit status is recognized by the Internal Revenue Service under Sec. 501(C)(3) of the Internal Revenue Code. The corporation's primary activity is the One More Time Gift Shop, which sells at very attractive prices the used clothing and other items donated for that purpose by parishioners and other members of the public. All proceeds of this operation beyond its modest operating expenses are used exclusively in support of the parish. The corporation and thrift shop are staffed entirely by volunteers.

Guadalupe, Inc. claims exemption from local taxes on the inventory of the thrift shop, that is, the donated merchandise it has for sale under AS 29.53.020; the Municipality of Anchorage has levied a property tax on that inventory, citing in support of that action City of Nome vs. Catholic Bishop of Northern Alaska et al., 707 P.2d 870 (Alaska 1985). The Court here distinguished between property used primarily and directly for an exempt purpose and property used to raise funds for an exempt purpose. (Syllabus, note 12, page 871, and text of opinion, notes 12 and 13, pages 879-880). This distinction is made pursuant to the rule that tax exemption statutes are narrowly construed and does not consider the legislative intent. In any case, the result of taxing the inventories of these thrift shops is to place a further burden on their already burdensome task of producing funds to support various vital and essential services.

If the thrift shop inventory of Guadalupe, Inc. is not exempt from local property taxes under AS 29.53.020, then neither are the in-

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ventories of similar enterprises in Anchorage and elsewhere in Alaska. I cite, for example, the thrift shops operated by the Salvation Army, Easter Seals, Catholic Social Services, and the Society for the Prevention of Cruelty to Animals. All of these agencies are dependent for operating funds on the earnings of their thrift shops; all are providing essential social services which would otherwise be the responsibility of government - and they provide them at less cost and with an extra dimension of humanity. To follow a tax policy which prejudices their ability to raise funds for operating expenses is clearly bad tax policy and, in fact, just bad public policy.

These thrift shops function in other ways in support of sound public policies. It certainly is in the public interest that the less affluent in our society have sources of clothing and other necessities at low cost; it is likewise in the public interest that the recycling of serviceable items be facilitated. Thrift shops provide the means for both.

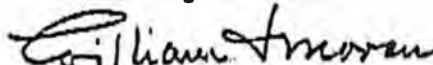
Although I am not informed as to the taxing practice elsewhere in Alaska, local governments don't determine the exemption of property from taxation. The law must be uniformly applied throughout Alaska. If the inventories of these shops are taxable in Anchorage, they are also taxable elsewhere.

I urge the members of the Senate State Affairs Committee to report his bill to the Senate with a unanimous recommendation that it pass the Senate. I further urge the members of the Committee to employ their best efforts to facilitate favorable action in the Senate Committee on Regional and Community Affairs, the next referral, and its passage by the Legislature. I know that it is late in the session, but I think the issue clear and, I should think, clothed with little or no controversy. With reasonable diligence, Senate Bill No. 279 could be enacted at this session of the Legislature.

I thank you, Mr. Chairman, and the other members of the Senate State Affairs Committee for the opportunity to be heard and for their kind consideration of these remarks.

Respectfully yours,

Guadalupe, Inc.


William J. Moran
Vice-President

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

May 15, 1991

POSITION PAPER

RE: Senate Bill 279

SPONSOR: Senate State Affairs Committee

Program Effects

Senate Bill 279 would change the fundamental concept of the property tax exemption under AS 29.45.030(c), which sets out the conditions under which certain income-producing property is required to be exempt from taxation. Under current law, the exemption is tied to the exclusive use of the property. The proposal in SB 279 would change the exemption concept from exclusive use of the property, and tie it to the type of group which would use the income derived from the property.

Comments

It is the Department's understanding that the purpose of this legislation is to correct the inequitable tax treatment of certain business inventory across the State which is similarly situated. To that end, the Department supports the concept of this proposal. While we do not in fact know of instances of inequitable tax treatment of property used exclusively for religious, charitable, or other purposes set out under AS 29.45.030(a)(3), if there is such a problem, we believe it should be corrected.

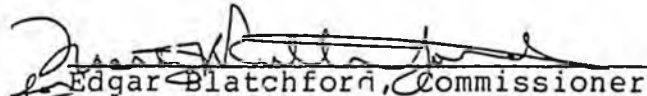
We do have serious concerns, however, with the current language in SB 279. As we read the bill, it appears to take the exemption allowance in a different direction than intended. We believe, for example, the language in the bill would allow American Legion facilities and their auxiliaries to pursue literally any type of activity on their income-producing property and still receive a mandatory tax exemption, if they could demonstrate they are a charitable organization. We also believe this proposed language would overturn the Greater Anchorage Borough versus Sisters of Charity Supreme Court case, thereby causing a required property tax exemption to attach to certain hospital property in Anchorage used for private business purposes.

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

Position Paper - SB 279
May 15, 1991
Page Two

Any time a basic concept of taxation is proposed to be changed, it is the Department's position that interested parties should proceed with the greatest care and deliberation. We therefore urge the Senate State Affairs Committee to do the necessary research and study to be certain first of all that problems of inequitable tax treatment actually exist. If they do, then we would urge the Committee to proceed with the utmost caution before amending any fundamental concept of taxation in an attempt to correct those tax inequities.

The Department stands ready to assist the Legislature in doing the necessary research and studying the issue. Then, if necessary, we would also be eager to assist you in developing bill language to resolve any problems of inequitable tax treatment which might exist.


Edgar Blatchford, Commissioner



THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99516
Phone: 562-2999

May 11, 1991

WE THE UNDERSIGNED SUPPORT SENATE BILL #279 WHICH IN EFFECT EXEMPTS NON-PROFIT, RELIGIOUS CHARITABLE, HOSPITAL OR EDUCATIONAL GROUPS FROM MUNICIPAL TAXES:

NAME	ADDRESS
Sharon Rhodes	7316 Tanaga Cir D Anch. Ak 504
Dee Kram	8420 Craigie Ct Anch Ak 502
Ronald Scougal	PO Box 520561 Big Lake AK 99561
Harold A. Polston	1705 E. Dowling Anch. AK 99507
Jucilla M. Powell	4909 E. 24 th Anch, Ak 99508
Cynthia J. Fagan	3238 hatucke #H-8, Anch AK 99508
Susan M. Sieber	8020 Huckleberry 99502
Steve Trahvac	4404 FOREST RD. APT. 1 99517
Ron. Michael	8962 Wackerling #712 99502
Ronald D. Breitenstein	2948 LORE Rd. Anch, 99507
Keith S. Hoopes	2450 Ingra St, Anch 99508
Alex P. Dillbeck	6310 E 6 th Anch 99504
Amy Low	7309 Arctic Anchorage 99518
Maria Klein	2521 Medicine Anals 99517
Hula S. (Lalorack)	1541 W. Tudor #2 Anch 99503
Don Townsend	5522 Cape St. Anch. AK 99518
William J. Moran	2631 Lord Baranof Dr, Anchorage 99517
Edith A. (Antiksen)	2748 Lore Road 99507

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 12, 1991

SUBJECT: Municipal Tax Exemption (Work Order No. 7-1189)

TO: Representative Dave Donley

FROM: Tamara Brandt Cook
Director

You have provided these facts. Anchorage levies an inventory tax on property sold by a thrift shop. The shop's earnings are used for charitable purposes. The party responsible for the shop's operation sought an exemption from the inventory tax. Citing AS 29.45.030(a)(3) and the decisions in City of Nome v. Catholic Bishop, 707 P.2d 870 (Alaska 1985) and Greater Anchorage Area Borough v. Sisters of Charity, 553 P.2d 467 (Alaska 1976), municipal officials indicated that they could not grant an exception or exemption. You have asked if this interpretation is correct. It is my opinion that the interpretation may not be correct.

AS 29.45.030(a)(3) provides "The following property is exempt from general taxation: . . . (3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes. . ." In addition, AS 29.45.030(c) provides

Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

An argument could be made that the inventory of the thrift shop qualifies for the exemption under AS 29.45.030(c) because income is derived from it and it is used solely by a nonprofit charitable group, the group running the thrift shop.

The court in City of Nome v. Catholic Bishop, supra, noted at page 889:

In sum, property will not lose an exemption under AS 29.53.020(a)(3) even if payment is received for the use of the property if: (1) the property is used exclusively for exempt purposes; (2) the payment is

Representative Dave Donley

April 12, 1991

Page 2

not sought as a result of a dominant profit motive; and (3) the payment is both incidental to and reasonably necessary for the accomplishment of the exempt activity and does not exceed the operating costs of the exempt activity for which payment is received. If all the above are met, the property does not lose its exemption on account of the income. If (3) is not met, the property is only exempt if used for classroom space. (Emphasis added)

This case was decided in 1985 and the court specifically held the language under former AS 29.53.020(c) permitting the use of property for classroom space applied regardless of the type of group that used it, not just to educational groups. Effective January 1, 1986 AS 29.53.020(c) was replaced with existing AS 29.45.030(c) quoted above. It is clear that under the new statute property no longer has to be used for classroom space to be exempt if it is used by a charitable group. Thus, under the reasoning of the City of Nome v. Catholic Bishop case and in view of the change in the statute since that case was decided, it is quite possible that the court would find an exemption for the inventory would apply.

Unfortunately, there have been no Alaska Supreme Court cases considering the relationship between AS 29.45.030(a)(3) and AS 29.45.030(c) as those provisions apply to property used by charitable groups for purposes other than classroom space. In view of the fact that the taxpayer claiming a tax exemption bears the burden of producing sufficient evidence to prove the property's eligibility for the exemption and that exemptions are narrowly construed, it cannot be determined with certainty that the court would find an exemption applies in this situation. However, there is no doubt that the language of AS 29.45.030(c) is much broader than that of the previous law.

TBC:lmb:mi
91-109.lmb

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.60.010 — 29.60.080 and state aid for miscellaneous municipal services under AS 29.60.100 — 29.60.180. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985)

Sec. 29.45.030. Required exemptions. (a) The following property is exempt from general taxation:

(1) municipal, state, or federally owned property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

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FISCAL NOTE

BILL NO. SB 282

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act relating to credited service in the PERS for employment with the BIA.

Department Affected: ALL STATE
BRU: ALL STATE

Sponsor: ADAMS
Requestor: Senate State Affairs Committee

Component: ALL STATE
COMPONENT SERIAL NO. _____

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	0	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	0	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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	0	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.) We expect that this bill will advantage less than ten people, so there will be no measurable impact to the employer's PERS contribution rate with the passage of this bill.

Prepared By: Garv Bader *Garv M. Bader*
Division: Retirement and Benefits

Phone: 465-4460

Date: January 31, 1992

Approved by Commissioner: Nancy Bear Usura
Agency: Department of Administration *Nancy Bear Usura*

Date: 2/6/92

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

FISCAL NOTE

BILL NO. SB 282

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: An act relating to credited service in the PERS for employment with the BIA.

Department Affected: Administration
BRU: Retirement and Benefits

Sponsor: Adams
Requestor: Senate State Affairs Committee

Component: Retirement and Benefits

COMPONENT SERIAL NO. 64

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	0	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	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	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: Zero

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Gary Bader *Gary M. Bader*
Division: Retirement and Benefits

Phone: 465-4460

Date: January 31, 1992

Approved by Commissioner: Nancy Bear Usher *Nancy Bear Usher*
Agency: Department of Administration

Date: 2/6/92

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



DON VALESKO
BUSINESS MANAGER

VALERIE K. BAFFONE
SECRETARY/TREASURER

HEADQUARTERS

2510 Arctic Blvd.
Anchorage, Alaska 99503

208 Wendell, Room 205
Fairbanks, Alaska 99701

710 W. 9th Street
Juneau, Alaska 99801



February 14, 1992

Senate State Affairs Committee
Chairman: Senator Pat Rodey
Vice Chairman: Senator Jim Duncan

SB - 282

Dear Senator Pourchot:

Public Employees Local 71 supports the passage of SB-282.

This bill would correct an inequitable situation wherein non-teaching employees of Mt. Edgecumbe are the only former BIA employees not able to claim credited service for time under the federal system.

We would like to thank Senator Adams for introducing SB-282 and the State Affairs Committee for it's timely hearing of the bill.

Sincerely,

Don Rouleau, Business Representative
Local 71/Southeast

DR/tc

JUNEAU
(907) 586-6993

ANCHORAGE
(907) 276-7211

FAIRBANKS
(907) 452-5024

Alaska State Legislature

Senate District L
Al Adams

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

Official Business

February 4, 1991

Honorable Pat Rodey
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Rodey:

I would appreciate it if you could schedule SB 282, "An Act relating to credited service in the public employees' retirement system for certain employment with the Alaska Bureau of Indian Affairs," for a hearing before the Senate State Affairs Committee at the earliest possible date.

Speaker Grussendorf has introduced identical legislation in the other body and the House has scheduled committee hearings on the bill Monday, February 10. If SB 282 could be scheduled on Wednesday, February 12, I believe that several interested persons from Mt. Edgecumbe High School who are coming to Juneau to testify in the House could also testify in Senate State Affairs.

Senate Bill 282 rectifies a longstanding inequity in our retirement system whereby teachers have been allowed the opportunity to claim credit for previous BIA service while non-certificated employees with BIA service have received no credit.

The original version of the bill allowing teachers to claim credit for BIA service (attached), provided similar treatment for non-certificated employees. Unfortunately, over the course of debate on the bill the provisions relating to non-certificated employees dropped out--testimony, I believe, to the relative strength of the teachers' as opposed to non-certificated employees' powers of advocacy rather than the merits of the case.

SPONSOR

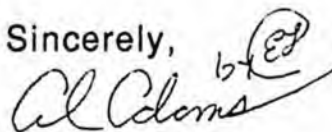
Honorable Pat Rodey

Page 2

Attached is a copy of the existing statute relating to credit for BIA service and several letters in support of the bill. My staff has contacted the Department of Administration regarding a fiscal note and you should be receiving one in the next several days.

If I can be of any further assistance at this time, please don't hesitate to contact my office. Your approval of this request will be appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Al Adams". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Senator Al Adams

(b) A teacher may not be credited with service under this section if credit for service as an employee of the Territory of Alaska was granted for the same period under the public employees' retirement system (AS 39.35).

(c) A teacher who elects to receive credited service under this section for service to the Territory of Alaska shall make a retroactive contribution under this system for the period of territorial employment following June 30, 1955. (§ 1 ch 146 SLA 1980)

Sec. 14.25.107. Credit for Alaska BIA service. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. (§ 8 ch 137 SLA 1982)

Sec. 14.25.110. Retirement benefits. (a) Subject to AS 14.25.167, a member is eligible for a normal retirement benefit if the member

(1) was first hired before July 1, 1975, has attained the age of 55 years, and has at least 15 years of credited service, the last five of which have been membership service;

(2) has attained the age of 55 years and has at least eight years of membership service;

(3) has attained the age of 55 years, has at least five years of membership service, and has at least three years of Alaska BIA service;

(4) has at least 25 years of credited service, the last five of which have been membership service;

(5) has at least 20 years of membership service;

(6) has at least 20 years of combined membership service and Alaska BIA service, the last five of which have been membership service; or

(7) has at least one-half year of membership service as a part-time teacher for each of 20 school years.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement benefit upon completing any one of the service requirements in (a)(1), (2), or (3) of this section and attaining the age of 50 years.

(c) The burden is on the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator.

(d) The monthly amount of a retirement benefit for a member who has paid the full amount of any indebtedness is two percent of the member's average base salary during any three school years of membership service times the years of credited service, including credited fractional years, divided by 12. An actuarial adjustment must be made for early retirement.

Albert W. Wilson
P. O. Box 597
Sitka, Alaska 99835

Rec'd
3-1-90

February 27, 1990

The Honorable Ben Grussendorf
Alaska State Legislature
House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Mr. Grussendorf:

Thank you for working to submit a bill that would allow former Bureau of Indian Affairs non-teaching staff to claim credited service for time worked at a BIA school.

When Mt. Edgecumbe School was being closed by the BIA we were aware that teachers entering the state system from the BIA were entitled to this credited service. We were also aware that HCS CSSB (469), at the time, was being worked through the legislature and had the belief this bill would allow non-teaching staff the same entitlements. For myself, I was offered a different job by the BIA and also to continue on in the same job with the State. I elected to go with the state in essence betting the legislation in process would treat us fairly. You can imagine our disappointment when the end result of the legislation was watered down to the point no one here would receive any benefit from it. I attribute this to a more effective lobby effort by the teachers than any intentional disregard for the merits of our jobs by the legislature. Nonetheless it was a severe setback for everyone here.

The state picked up several highly qualified mid-career employees when this school transferred from the BIA. When these persons are eligible to retire from the state it will be ten years before they can receive any annuity from Civil Service. The majority will not be able to afford to do this and will work for the additional ten years. From a management standpoint, this is less than desirable considering most of these employees work in the labor, trades and crafts industry. Additionally, much has been said about Mt. Edgecumbe School becoming a separate REAA. One of the attractions of becoming a separate school district is to opt out of the expensive state employee system. Where would that leave us then? Although we have committed our careers to one job we would have a patchwork retirement program that hasn't been allowed to reach the full benefits of maturity in any one system. Whether Mt. Edgecumbe School becomes a separate REAA or not, the passage of this bill would do much to allay the uncertainties of our position.

At the time Mt. Edgecumbe School was transferred to the state, the utilities systems to the school also provided water, sewer, electricity and road service to the Public Health Service Hospital, U.S. Coast Guard, Sitka Telephone Company, Shee Atika Corporation, Sitka Community Association with all of the residential units on Charcoal and Alice Island, Sitka Council on Alcohol and Other Drug Abuse, Sitka School District and City and Borough of Sitka's waste water treatment plant and airport. As the facility manager here, I can attest that it would not have been possible to operate these World War II utility systems with all of their peculiarities with anyone other than the persons selected to do the job slated to be done by the state. It would not have been possible to

LETTERS

The Honorable Ben Grussendorf

Page 2

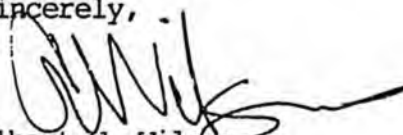
February 27, 1990

terminate the BIA employees one day and hire a totally new crew and operate the systems the next without jeopardizing or interrupting critical services provided by other agencies, not to mention the safety of the school facilities themselves. These same persons were essential to the design and orderly transition of the newly constructed utility systems that followed which could then be operated by any standard crews found in similar industry. Moreover, the congressional legislation providing for the total upgrade of the Mt. Edgumbe School facility carried with it an almost impossible deadline to open the doors for operating the school. It would not have been possible to make this deadline working with anyone that did not already have a thorough and complete knowledge of the entire complex.

For sure, on October 1, 1983, after the BIA closed this school we were glad to have jobs, however, this was a two way street as we were essential to the operation of this facility and certainly equally as important to this facility as would be the teaching staff. We are merely requesting similar treatment.

Thank you again for addressing this matter.

Sincerely,



Albert W. Wilson

February 27, 1990

Statement from Roger L. Howard, Sr., Carpenter and Locksmith, concerning the inclusion of BIA years of employment to the State of Alaska Retirement System.

I feel that the years I worked for the BIA Mt. Edgecumbe School should be credited towards my State retirement.

Legislation allowed the teachers to buy back their BIA retirement time, but didn't allow me to. My BIA employment time is 12 years, enough to be vested but not enough to be of monetary value, so I am one of the many who was recommended to cash out of the retirement system.

It would seem unfair to work at the same job and school for 32 years, yet only have 20 years credited to me. Our positions were important to keep the school ready in case the State did start up the school again. There was absolutely no break in service from the time that I worked for the BIA and the time I began working for the State of Alaska

Roger L. Howard Sr.

STATEMENT FROM HARVEY KITKA, ELECTRICIAN
CONCERNING THE INCLUSION OF BIA RETIREMENT TIME
TO THE STATE RETIREMENT SYSTEM

I feel very strongly that my BIA time should be added to my State retirement time for the following reasons:

1. The rules should be the same for me as for the teachers. The first bills allowed some people to buy back their retirement time, but did not allow me to. My BIA time was 8 years--enough time to be vested but not enough to be of monetary value, so I was recommended to cash out of the retirement system.
2. It is unfair to work at the same job and school for 28 years and yet only have 20 years credited to me. Our jobs are just as important and necessary as the teachers who were given their BIA time to add to their State time.
3. The State of Alaska benefited by keeping us on the job. We kept the building and equipment in working order. There was a deadline to meet which could not have been met if it were not for us.

Harvey Kitka

MT Edgcumbe school

DATE: February 27, 1990

FROM: ROBERT OZAWA, Groundskeeper, Glassman, Painter and other jobs.

CONCERNING: INCLUSION OF MY BIA RETIREMENT TIME TO THE STATE RETIREMENT SYTEM

The reasons I strongly believe that my BIA time should be added to my State retirement time are as follows:

- 1. The teachers were able to have their BIA service added to their State service. I should have this same opportunity. Up to the time the State took over the school, I had 13 years in. I was forced to take reduction in force and cash out of the BIA retirement system.
- 2. If I am unable to get credit for these 13 years, I will have worked at the same employment in the same location for 33 years and yet be credited only for 20 years.
- 3. We stayed on the job even when it was very uncertain that the school would continue and kept everything in good working condition and were there when the contractors needed to have information.

Robert Ozawa

P.O. Box 1144
Sitka, Alaska 99835

February 13, 1990

The Honorable Ben Grussendorf
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811


Dear Representative Grussendorf:

I would like to thank you for the work you have done on the bill concerning credited service in the public employees' retirement system for certain employment with the Alaska Bureau of Indian Affairs.

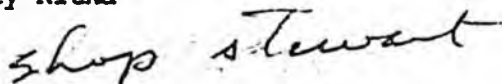
This bill would affect all BIA transfers in the State. I was very concerned when it seemed we were to be left out again. Some of us were told we didn't have enough time in Federal service to leave the money in their retirement system. Their Personnel Department was not very helpful; they seemed more interested in closing the Mt. Edgecumbe School.

For this reason, I thank you for all your help.

Sincerely,



Harvey Kitka



Introduced: 2/13/84
Referred: State Affairs
and Finance

1 IN THE SENATE

BY SACKETT AND FERGUSON

2

SENATE BILL NO. 469

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to credited service under the Public

7

Employees' Retirement System; and providing for an

8

effective date."

9

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

10

* Section 1. AS 39.35.360 is amended by adding a new subsection to

11 read:

12

(i) An employee who completes three years of credited service

13

with an employer, for which the employee makes contributions required

14

by this chapter, is entitled to credited service for service rendered

15

as a noncertificated Alaska Bureau of Indian Affairs (BIA) employee.

16

Retroactive credited service under this section must be claimed ~~before~~

17

the employee retires. When an employee claims retroactive credited

18

service under this section, an indebtedness of the employee to the

19

system shall be established. The amount of this indebtedness is equal

20

to the contributions the employee would have made if the employee had

21

been eligible for membership in the system while the employee was a

22

noncertificated Alaska BIA employee. The rate used to calculate the

23

contributions may not be less than the rate in effect on January 1,

24

1961. Interest as prescribed by regulation accrues on the indebted-

25

ness beginning on the date the employee may first claim the retroac-

26

tive credited service. Any outstanding indebtedness that exists at

27

the time the employee retires requires an actuarial adjustment to the

28

benefits that are based on retroactive credited service under this

29

section. Benefits payable under this subsection for noncertificated

1 Alaska BIA service shall be reduced by an amount equal to the retire-
2 ment benefits paid to the employee by the United States government for
3 the same service.

4 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).



LAWS OF ALASKA

1984

Source

HCS CSSB 469(Fin)

Chapter No.

170

AN ACT

Relating to credited service under the Public Employees' Retirement System; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 13, 1984
Actual Effective Date: July 14, 1984

AN ACT

Relating to credited service under the Public Employees' Retirement System; and providing for an effective date.

* Section 1. AS 39.35.125(b) is amended to read:

(b) Service as an elected official before January 1, 1981, with an employer may be included retroactively as credited service with the system if the elected official or former elected official makes retroactive contributions equal to what would have been made if the elected official or former elected official had been included in the system when the oath of office as an elected official was taken, plus accrued interest from July 1, 1984. The rate used to calculate the retroactive contributions may not be less than the rate in effect on January 1, 1961. [AN ELECTED OFFICIAL OR FORMER ELECTED OFFICIAL MUST CLAIM PRIOR SERVICE AND MAKE RETROACTIVE CONTRIBUTIONS BEFORE FEBRUARY 1, 1983]. An elected official or former elected official may not receive credited service under this subsection for any period in which the elected official or former elected official was receiving a retirement benefit from the system. An elected official or former elected official receiving a retirement benefit from the system on January 1, 1981, is not eligible to claim credited service under this subsection unless the elected official or former elected official is reemployed as an active member [AND CLAIMS THE CREDITED SERVICE BEFORE FEBRUARY 1, 1983]. Service as an elected official with an employer

constitutes employment as an active member as [SO] long as a [NO] waiver of coverage under (a) of this section is not in effect.

* Sec. 2. AS 39.35.360 is amended by adding new subsections to read:

(1) An employee who completes three years of credited service with an employer, for which the employee makes contributions required by this chapter, is entitled to credited service on a year-for-year basis for service credited in the Civil Service Retirement System, rendered as an employee of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher. Retroactive credited service under this section must be claimed before the employee retires. When eligibility for retroactive credited service under this section has been established, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is determined by multiplying six percent of the employee's actual annual compensation, or the calculated annual compensation for an employee who works fewer than 12 months, for the most recent calendar year in which service is rendered to an employer before the calendar year in which the employee first becomes eligible to claim service under this subsection, by the number of years of service in Alaska BIA schools that is credited under this subsection. Interest as prescribed by regulation accrues on the indebtedness beginning on the date the employee may first claim the retroactive credited service. Any outstanding indebtedness that exists at the time the employee retires requires an actuarial adjustment to the benefits that are based on retroactive credited service under this section. Service may not be claimed under this subsection and benefits may not be paid for service claimed under this subsection if the employee has, at any point in time, enough service credit in the Civil Service Retirement System to be eligible for a retirement benefit under that system.

(j) An employee who has not completed three years of credited service with an employer may claim credited service as an employee of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher under (i) of this section if, on the date of transfer of the Alaska BIA school to the state, the employee is employed at the school and needs fewer than three additional years of continuous full-time employment for normal retirement in the federal Civil Service Retirement System, and the employee completes a period of service with an employer, for which the employee makes contributions required by this chapter, equal to the additional period of service that would have been required for that employee's normal retirement under the federal Civil Service Retirement System. An employee who claims credited service under this subsection must provide federal government verification of the employee's federal Civil Service Retirement System status when the claim is filed.

* Sec. 3. Section 1 of this Act takes effect July 1, 1984.

* Sec. 4. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

S B

2 9 7

7-LS1939G ✓
Casey
2/14/92

**CS FOR SENATE BILL NO. 297 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATE STATE AFFAIRS COMMITTEE**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to primary election ballots, nomination proceedings administered by**
2 **political parties, and nomination for general elections."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. AS 15.25.010 is amended to read:**

5 **Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective**
6 **state executive and state and national legislative offices who state an affiliation with a political**
7 **party in a declaration of candidacy under AS 15.25.030 may [SHALL] be nominated in a**
8 **primary election by direct vote of the people in the manner prescribed by this chapter or**
9 **nominated as otherwise prescribed in AS 15.25.065.**

10 * **Sec. 2. AS 15.25.060 is amended to read:**

11 **Sec. 15.25.060. PREPARATION AND DISTRIBUTION OF PRIMARY ELECTION**
12 **BALLOTS. There shall be only one ballot for a primary election. The primary election ballot**
13 **shall be prepared and distributed by the director in the manner prescribed for general election**
14 **ballots except as specifically provided otherwise for the primary election. Except as provided**

1 in (b), the [THE] director shall place the names of all candidates who have properly filed under
2 AS 15.25.030 in groups according to offices filed for, without regard to party affiliation. The
3 names for each office shall be rotated as provided for the general election ballot. No blank
4 spaces shall be provided on the ballot for the writing or pasting in of names.

5 * Sec. 3. AS 15.25.060 is amended by adding a new subsection to read:

6 (b) A candidate declaring affiliation, under AS 15.25.030(a), with a political party
7 choosing to conduct an alternative nomination proceeding under AS 15.25.065 may not be placed
8 on a primary election ballot.

9 * Sec. 4. AS 15.25 is amended by adding a new section to read:

10 Sec. 15.25.065. ALTERNATIVE NOMINATION PROCEEDING CONDUCTED BY A
11 POLITICAL PARTY. (a) A political party may choose to nominate one candidate for an office
12 in a proceeding other than a primary election administered by the director. A party that chooses
13 to nominate a candidate under this subsection shall serve written notice of its decision to do so
14 no later than 180 days before the date of the primary election.

15 (b) A political party that chooses to nominate a candidate under (a) of this section is
16 responsible to conduct the political party's nomination proceedings and to determine the political
17 party's own nomination procedures. A political party whose nomination procedures include
18 polling by the party at the same times and locations as primary election pollings administered by
19 the director shall include a description of the political party's polling procedure in the written
20 notice required under (a) of this section.

21 (c) Except as otherwise provided in this subsection, a political party shall complete
22 nomination under (a) of this section by delivering written notice identifying the political party's
23 nominee to the director on or before five o'clock in the evening on the day of the primary
24 election. A party whose alternative nominating proceeding consists of polling by the party at the
25 same times and locations as primary election pollings administered by the director shall deliver
26 written notice identifying the political party's nominee on or before five o'clock in the evening
27 on the Thursday immediately following the primary election.

28 * Sec. 5. AS 15.25.090 is amended by adding new subsections to read:

29 (b) A person qualified to vote in a primary election may vote for a candidate whose
30 name appears on the primary election ballot without regard to political party affiliation.

31 (c) A person registered as affiliated with a political party conducting an alternative

1 nominating proceeding under AS 15.25.065 may vote for a candidate in the primary election
2 unless the party's alternative nominating proceeding includes polling by the party at the same
3 times and locations as primary election pollings administered by the director.

4 * Sec. 6. AS 15.25.100 is repealed and reenacted to read:

5 Sec. 15.25.100. PLACEMENT OF NOMINEES ON GENERAL ELECTION BALLOT.

6 (a) Except as provided under (b) if this section, a candidate receiving the highest number of
7 votes in a primary election among all candidates for an office who declared affiliation with the
8 same political party under AS 15.25.030 is nominated for the general election ballot.

9 (b) A candidate nominated by a political party under AS 15.25.065(a) is nominated for
10 the general election ballot. A candidate declaring affiliation under AS 15.25.030(a) with a
11 political party that chooses to conduct an alternative nomination proceeding under AS 15.25.065
12 may not be nominated for the general election ballot from the primary election ballot.

13 (c) A candidate who does not declare affiliation with a political party under
14 AS 15.25.030(a) may be nominated for the general election ballot as provided in AS 15.25.140 -
15 15.25.190.

16 * Sec. 7. AS 15.25.150 is amended to read:

17 Sec. 15.25.150. DATE OF FILING PETITION. The petition is filed with the director
18 by actual physical delivery in person at or before 5:00 p.m., prevailing time, on the Friday
19 immediately preceding the day of the primary election [AUGUST 1 IN THE YEAR IN
20 WHICH A GENERAL ELECTION IS HELD FOR THE OFFICE], or by actual physical delivery
21 to the director by registered or certified mail, return receipt requested that [WHICH] is
22 postmarked at or before 5:00 p.m., prevailing time, on the Friday immediately preceding the
23 day of the primary election [AUGUST 1 IN THE YEAR IN WHICH A GENERAL
24 ELECTION IS HELD FOR THE OFFICE], and received not more than 15 days after that time.
25 If the postmark is illegible, a dated receipt from the post office where dispatched shall be
26 acceptable as evidence of mailing. [IF AUGUST 1 IS A SUNDAY OR HOLIDAY, THE
27 DEADLINES FOR POSTMARKING AND RECEIPT OF THE PETITION SHALL BE
28 EXTENDED 24 HOURS IN EACH INSTANCE.]

ONE BALLOT FOR ALL

Proposed Draft: CSSB-297(STA)

ONE BALLOT System would provide one ballot for everyone regardless of political affiliation. Ballots should remain virtually the same as ballot style used in previous elections.

WHO IS ON THE BALLOT ? The names of all candidates affiliated with a recognized political party seeking nomination for partisan political office.

BALLOT WILL BE KEYED ACCORDING TO PARTY AFFILIATION. The poll worker will key your ballot according to your party affiliation (Alaska Independent Party, Democrat, Green, Republican, non-partisan). Your name will not appear on the ballot.

YOU MAY VOTE FOR THE CANDIDATE OF YOUR CHOICE REGARDLESS OF YOUR PARTY AFFILIATION. While political parties may adopt rules governing which votes may be counted in their primary Alaskans will be able to cast their vote for the candidate of their choice.

PARTY RULES WILL DETERMINE WHICH BALLOTS ARE TO BE COUNTED TO NOMINATE CANDIDATES. The Division of Elections will make every effort to educate voters about party rule changes which may result in limiting which ballots cast are counted in selecting partisan political nominees at the primary.

EXAMPLE. Joe and Jane seek the Republican nomination for a House seat. Joe receives 4,000 votes and Jane gets 3,500 vote after all the votes are counted. But **REPUBLICAN PARTY RULES** only permit counting votes cast by registered Republicans or non-partisans for the purpose of nominating a Republican candidate for partisan political office. Division of Elections runs the ballots again counting only Republican and non-partisan ballots. Now, Jane has 3,100 votes while Joe only has 2,800. Jane would be the Republican party nominee.

GOOD POINTS:

- ✓ Little or no increase in election costs
- ✓ Alaskans are free to vote for whom they wish
- ✓ Preserves simple, one ballot system
- ✓ Accommodates political parties wishing to limit or close their primary nominating process
- ✓ No objections with Division of Elections
- ✓ No initial objections from Law

QUESTIONS:

How will party rules be impacted by this system?

ALASKA INDEPENDENT PARTY : Rules permit counting votes from any source regardless of political affiliation as long as voter has not voted in another primary ballot.

DEMOCRATIC PARTY : Rules permit votes from any source regardless of political affiliation as long as voter has not voted in another primary ballot.

GREEN PARTY OF ALASKA : Permits only Greens and non-partisan registrants to participate in nominating their candidates. Greens spokespersons have indicated they would consider rule changes in the event an open ballot system was adopted.

REPUBLICAN PARTY: Permits counting only registered Republican and non-partisans ballots cast for Republican candidates.

Can voters cross party lines and vote for candidates of different parties?

Voters can vote for the candidates of their choice. Party rules will determine whether the vote counts toward the nominating process or not. A vote cast by a Democratic voter for a Republican candidate, for example, will not count towards the Republican candidate's nomination but the voter will certainly have made a statement.

I'm a Republican. Will my ballot be completely disqualified if I vote for just one candidate who is not a Republican?

Good question. Political parties have the right to establish their own rules with respect to who can vote for their candidates in the nominating process. This is a matter of interpretation. There are those who have suggested a political party could adopt rules that would disqualify counting any ballot that contains a vote for a candidate not affiliated with their party.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

Date: Friday, February 14, 1992 - 1:15 p.m. Beltz

Senate State Affairs Committee

AGENDA

- SB-336 PERS credit for certain seasonal employees (Duncan)
CS offered by sponsor Fiscal Note (other funds)
- SCR-30 Support Open Primary (Cotten, Eliason, Rodey)
Fiscal Note ZERO
- SB-297 Primary Election Law (St. Affairs) CS offered.....
New Fiscal Note to original 95.0
- SB-338 PERS credit for temporary service (Duncan)
TELECONFERENCE
- SB-282 PERS credit for BIA service (Adams)
TELECONFERENCE
- HB-266 BIA School Contract Employment (Navarre)
TELECONFERENCE

Next Scheduled Meeting: Friday, February 21 1992 - 2 p.m. Beltz Room

Senators Rodey, (Chair), Duncan (V.Chair), Fischer, Uehling, Pourchot



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 14, 1992

To: Members, Senate State Affairs

From: Senator Pat Rodey
Committee Chair

Subj: CSSB-297(STA) / Primary Election Law

The CS before you attempts to accommodate both the desire to maintain a single open primary ballot system for the voters while also offering an option to political parties that decide to limit participation in their candidate nominating process.

ONE BALLOT. (Sec. 2) Very simply, the state will provide one primary nominating ballot open to all candidates affiliated with legally recognized political parties. (A recognized political party is a party whose candidate for governor received at least 3% of the vote cast in the previous general election for governor; AS 15.60.010 (20).

CANDIDATES AFFILIATED WITH POLITICAL PARTIES NOT PARTICIPATING IN PRIMARY MAY NOT APPEAR ON THE PRIMARY ELECTION BALLOT (Sec. 3)

PARTIES MAY DECIDE TO NOT PARTICIPATE IN THE PRIMARY ELECTION. (Sec. 4) A political party may choose to not participate in the state primary election. They are responsible for conducting their own nominating system which may be by any method they choose (nominating convention(s), private ballot, other means). Political Parties nominating by means other than the open primary ballot must notify the Division of Elections of their intent not to use the state ballot 180 days before the date of the primary election. (Sec. 4 (a))

CSSB-297(STA)

page 2

Senator Rodey

- 1) party may choose to hold a separate, limited or closed primary election simultaneously with the state primary election but is responsible for its conduct. (Party may use voter rosters, at the polling place, etc., but is responsible for ballots, and all other arrangements, including distribution, collection, and counting of ballots). (Sec. 4 (b))
- 2) if a party holds a separate, but simultaneous election, the party deliver notice of the nominees to the director by 5 p.m. on Thursday following the primary election. (Sec. 4 (c))

PERSONS MAY VOTE IN PRIMARY BALLOT WITHOUT REGARD TO PARTY AFFILICATION (Sec. 5 (b))

Note: Sec. 5 (c) states: a person can vote in the primary election unless the person's party elects to have a separate but simultaneous ballot as the primary election - they are then restricted to voting in their party's closed election. STA CS may want to provide the voter with an option - choose own ballot or be forced to take party ballot. (If Division allows same day reregistration that is a partial solution but there may be those who wish to vote in open ballot rather than on their parties closed/limited ballot.)

CANDIDATES NOMINATED AT OPEN PRIMARY ARE ON GENERAL ELECTION BALLOT (Sec. 6 (a))

CANDIDATE AFFILIATED WITH POLITICAL PARTY NOT PARTICIPATING IN PRIMARY BALLOT MAY NOT BE NOMINATED FOR GENERAL ELECTION FROM THE PRIMARY BALLOT (Sec. 6(b))

NON-PARTISAN CANDIDATES MAY PETITION FOR GENERAL ELECTION BALLOT (Sec. 6 c)

CSSB-297(STA)

pg. 3

Senator Rodey

NON-PARTISAN CANDIDATES PETITIONING FOR GENERAL ELECTION BALLOT must submit their petition on the Friday **BEFORE** primary election (Division requested this date rather than primary election day to avoid confusion at election office on election day.) (Sec. 7)

- end -

Notes:

- 1) June 1st, is the deadline for primary ballot candidates to file with the division of elections. Committee may wish to consider requiring same deadline for candidates affiliated with political parties not participating in primary election.
- 2) Question: Can a candidate not nominated by a political party not participating in the primary election then re-register as non-partisan and petition to be on the general election ballot?

DIVISION OF LEGAL SERVICES

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STATE OF ALASKA**

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M E M O R A N D U M

February 13, 1992

SUBJECT: Alternative draft of bill relating to primary elections
(Work Order No. 7-LS1939)

TO: Senator Pat Rodey
Attention: Max Gifford

FROM: Robert Glennon Casey *RGC 2-13-92*
Legislative Counsel

The bill draft accompanying this memorandum is the alternative version containing the changes you requested. At present, it is not styled "CS TO SENATE BILL 297 (STATE AFFAIRS)," although I understand that it may become such a committee substitute.

The severability clause that we discussed is not included in the bill draft, since the following language from AS 01.10.030 provides automatic severability:

Sec. 01.10.030. CONSTITUTIONALITY AND SEVERABILITY.
Any law heretofore or hereafter enacted by the Alaska legislature which lacks a severability clause shall be construed as though it contained the clause in the following language, "If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby."

RGC:gc
92-125.glc

Enclosure

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to primary election ballots, nomination proceedings administered by
2 political parties, and nomination for general elections."

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

4 * Section 1. AS 15.25.010 is amended to read:

5 Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective
6 state executive and state and national legislative offices who state an affiliation with a political
7 party in a declaration of candidacy under AS 15.25.030 may [SHALL] be nominated in a
8 primary election by direct vote of the people in the manner prescribed by this chapter or
9 nominated as otherwise prescribed in AS 15.25.065.

10 * Sec. 2. AS 15.25.060 is amended to read:

11 Sec. 15.25.060. PREPARATION AND DISTRIBUTION OF PRIMARY ELECTION
12 BALLOTS. There shall be only one ballot for a primary election. The primary election ballot
13 shall be prepared and distributed by the director in the manner prescribed for general election
14 ballots except as specifically provided otherwise for the primary election. Except as provided

1 in (b), the [THE] director shall place the names of all candidates who have properly filed under
2 AS 15.25.030 in groups according to offices filed for, without regard to party affiliation. The
3 names for each office shall be rotated as provided for the general election ballot. No blank
4 spaces shall be provided on the ballot for the writing or pasting in of names.

5 * Sec. 3. AS 15.25.060 is amended by adding a new subsection to read:

6 (b) A candidate declaring affiliation, under AS 15.25.030(a), with a political party
7 choosing to conduct an alternative nomination proceeding under AS 15.25.065 may not be placed
8 on a primary election ballot.

9 * Sec. 4. AS 15.25 is amended by adding a new section to read:

10 Sec. 15.25.065. ALTERNATIVE NOMINATION PROCEEDING CONDUCTED BY A
11 POLITICAL PARTY. (a) A political party may choose to nominate one candidate for an office
12 in a proceeding other than a primary election administered by the director. A party that chooses
13 to nominate a candidate under this subsection shall serve written notice of its decision to do so
14 no later than 180 days before the date of the primary election.

15 (b) A political party that chooses to nominate a candidate under (a) of this section is
16 responsible to conduct its own nomination proceedings to determine the political party's own
17 nomination procedures.

18 (c) A political party shall complete nomination under (a) of this section by delivering
19 written notice containing the name of the party's nominee to the director on or before five
20 o'clock in the evening on the day of the primary election.

21 * Sec. 5. AS 15.25.090 is amended by adding new subsections to read:

22 (b) A person qualified to vote in a primary election may vote for a candidate whose
23 name appears on the primary election ballot without regard to political party affiliation.

24 (c) A person registered as affiliated with a political party conducting an alternative
25 nomination proceeding under AS 15.25.065 may vote for a candidate in the primary election.

26 * Sec. 6. AS 15.25.100 is repealed and reenacted to read:

27 Sec. 15.25.100. PLACEMENT OF NOMINEES ON GENERAL ELECTION BALLOT.

28 (a) Except as provided under (b) if this section, a candidate receiving the highest number of
29 votes in a primary election among all candidates for an office who declared affiliation with the
30 same political party under AS 15.25.030 is nominated for the general election ballot.

31 (b) A candidate nominated by a political party under AS 15.25.065(a) is nominated for

1 the general election ballot. A candidate declaring affiliation under AS 15.25.030(a) with a
2 political party that chooses to conduct an alternative nomination proceeding under AS 15.25.065
3 may not be nominated for the general election ballot from the primary election ballot.

4 (c) A candidate who does not declare affiliation with a political party under
5 AS 15.25.030(a) may be nominated for the general election ballot as provided in AS 15.25.140 -
6 15.25.190.

Implementation plan for Primary Election for individual political parties.

Reference Senate Bill Number 297 and House Bill Number 327.

Submitted under the Employee Incentive Award Program,

by Steven Endorf, 465-4881.

Steven Endorf

Background:

In previous elections, the Candidate Ballot card, had each race, for an office, listed separately with the candidate's names rotated on top. The race with the most candidates determines the number of sequences. Each ballot card has an identifying sequence, a three-digit number, punched at the bottom of the card (See Figure 1.). This sequence is used by the ballot counting program to identify which punched hole goes with which candidate's name in which race.

The voter was allowed to select any candidate in a particular race. The Republican primary restriction rule and subsequent changes by the other political parties in Alaska has made a dramatic change in voting for candidates in a primary election. How these changes are implemented by the Legislature and the Division of Elections can be expensive burden or an efficient bargain.

Proposal:

I am proposing an alternative implementation to the one given by the Division of Elections, whose reported estimate of expenses is \$633,000. Of that \$633,000, Elections estimated about \$64,000 to train additional election workers, \$60,000 to educate voters and \$180,000 to print multiple sets of ballots, among other costs (Juneau Empire, 2/11/92). One of the unreported costs is modifying the vote counting software.

The alternative I am proposing is simple and its implementation and continuous costs should be minimal. It basically consists of putting a fixed area at the top of each Candidate ballot listing

each recognized political party, with a punch spot next to the political party's name (See Figure 2.).

This punch spot would be punched, corresponding to the voter's party registration, by the election worker who hands the ballot to the voter. If the voter has not previously declared a party then the voter would specify a party to the election worker, who would punch the ballot, prior to the voter entering the voting booth.

The vote counting software would only count votes for the candidates' of the political party selected on the ballot, depending on the political party's primary rules. If more than one political party was selected then no votes on that ballot would be counted.

There should not be a need to have additional election workers. Educating the voter should not cost anywhere near the \$60,000. All that would be needed would be a poster, in large type, that had wording very similar to the above italicized paragraph. In most cases, the number of different sequences would be reduced and there would be no need for multiple, separate ballots, so printing costs might actually be reduced. The only possible cost increase would be the modifications to the ballot counting software, which might run as much as ~~\$15,000~~^{\$7,000*}. All the other costs should be severely reduced or eliminated. The estimated cost savings is approximately ~~\$600,000~~^{* \$80,000+}. Some small changes would have to be made to Senate Bill #297 and House Bill #327 to allow for the above method instead of forcing separate ballots for each political party.

* based on new estimates by Div. of Elections, Juneau Empire, 2-18-92.

Figure 1.
 Example of the Current Ballot structure
 (Five different sequences)

Race 1		
Candidate 1	[]	
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
	[]	
Race 2		
Candidate 1	[]	
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
Candidate 5	[]	
Race 3		
Candidate 1	[]	
#		2
	#	0
#		1

Race 1		
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
Candidate 1	[]	
	[]	
Race 2		
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
Candidate 5	[]	
Candidate 1	[]	
Race 3		
Candidate 1	[]	
#		2
	#	0
#		2

Race 1		
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
Candidate 1	[]	
	[]	
Race 2		
Candidate 5	[]	
Candidate 1	[]	
Candidate 2	[]	
Candidate 3	[]	
Candidate 4	[]	
Race 3		
Candidate 1	[]	
#		2
	#	0
#		5

Figure 2.
 Example of the Proposed Ballot structure
 (Three different sequences)

Primary Election		
Political Pty 1	[]	
Political Pty 2	[]	
Political Pty 3	[]	
Political Pty 4	[]	
Race 1		

Political Party 1		
Candidate 1	[]	

Political Party 2		
Candidate 1	[]	
Candidate 2	[]	
Candidate 3	[]	[]

Race 2		

Political Party 1		
Candidate 1	[]	
Candidate 2	[]	
Candidate 3	[]	

Political Party 3		
Candidate 1	[]	
Candidate 2	[]	

Race 3		
Candidate 1	[]	

#		2
	#	0
#		1

Primary Election		
Political Pty 1	[]	
Political Pty 2	[]	
Political Pty 3	[]	
Political Pty 4	[]	
Race 1		

Political Party 1		
Candidate 1	[]	

Political Party 2		
Candidate 2	[]	
Candidate 3	[]	
Candidate 1	[]	[]
		[]

Race 2		

Political Party 1		
Candidate 2	[]	
Candidate 3	[]	
Candidate 1	[]	

Political Party 3		
Candidate 2	[]	
Candidate 1	[]	

Race 3		
Candidate 1	[]	

#		2
	#	0
#		2

Primary Election		
Political Pty 1	[]	
Political Pty 2	[]	
Political Pty 3	[]	
Political Pty 4	[]	
Race 1		

Political Party 1		
Candidate 1	[]	

Political Party 2		
Candidate 3	[]	
Candidate 1	[]	
Candidate 2	[]	[]
		[]

Race 2		

Political Party 1		
Candidate 3	[]	
Candidate 1	[]	
Candidate 2	[]	

Political Party 3		
Candidate 1	[]	
Candidate 2	[]	

Race 3		
Candidate 1	[]	

#		2
	#	0
#		3


STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

MEMORANDUM

To: Senator Patrick Rodey, Chairperson
Senate State Affairs Committee
Alaska State Legislature

From: Charlot E. Thickstun, Director 
Division of Elections
Office of the Governor

Subj: Status of Primary Rule Changes

Date: January 24, 1992

Since the last Senate State Affairs Committee hearing, the Division of Elections has been working closely with the political parties regarding implementation of the semi-closed primary system.

The Alaska Democratic Party (ADP) Alaska Independence Party (AIP) and the Green Party of Alaska (GPA) were sent letters requesting that they indicate to the Division how they would proceed regarding any primary rule changes. The Senate State Affairs Committee was sent copies of these letters.

The ADP informed the Division in late December that it would send its September primary rule changes to the Department of Justice for preclearance. As you recall the Democrats adopted a rule change which would allow any voter, regardless of registration to vote for its candidates in the primary as long as the voter had not voted in another primary or at a convention.

The Green Party contacted the Division last week. Its Chair, Joni Whitmore requested information on preclearance by Justice and the Division sent out the information that day. We expect the Green Party to also submit its rule changes for preclearance in the very near future. The Green Party adopted a rule change that would allow only registered Greens and nonpartisan and undeclared voters to vote for its candidates in the primary.

The Division has not heard from the AIPs as yet, but has been informed that the party will meet in February to discuss primary rule changes.

The Division still maintains that political parties should finalize any rule changes that affect the conduct of the primary

by March of this year. If possible, we would like this date to include preclearance by the Department of Justice.

In addition to working with the parties, the Division has been reviewing all its operations to determine what changes will need to be made to implement the new party rules.

The following is an analysis of what operational changes must occur to implement the party rule changes for the 1992 primary. These procedures have been designed with the intent to minimize confusion and election worker discretion at the polls.

ABSENTEE BALLOT APPLICATIONS

The Division is required by statute to send absentee ballot applications to all those who request one so that the voter can receive a ballot for all elections occurring in a calendar year. The Division has normally sent this form in January to all voters in our database who have sent in requests for application.

The primary rule changes will require the Division to ask the applicant to indicate which ballot type he or she wants in the primary election. Since only one election is scheduled in January for which we have already sent out the absentee ballots, and no elections are scheduled for February, the Division will postpone sending out its applications until late spring of 1992.

ELECTION WORKER TRAINING

The Division typically trains all of its 3,500 poll workers every two years in all precincts in the spring of an election year. This year the Division will add about 50 new precincts to its current total of 438 due to reapportionment. New instruction material will need to be developed to explain the differing procedures for the primary and general. This material will be color-coded for each election process. Additionally, election workers will be instructed not to discuss with voters who is on what ballot because this would constitute a form of electioneering at the polls. The workers will tell the voter which ballot type they are eligible to receive based on their current registration and then also instruct the voter that they may change their affiliation in the Questioned Ballot line and receive a different ballot type.

BALLOTS

Since the Democrats, Greens and Republicans have changed their primary rules and have either had them sent to DOJ or intend to, the Division anticipates that there will be four candidate ballots for the primary election. The AIP will receive a separate party ballot by default.

The addition of three extra ballots will cost the Division

\$180,000 over its usual expense of ballot printing.

PRECINCT REGISTERS

The precinct registers used by the election workers at the polls will be redesigned to allow for accounting of ballot type given to the voter. An additional column will be added with the symbols, "AI," "D," "G" or "R." The election worker will circle the ballot type given the voter. The number of each type will be accounted for when the polls close.

Additionally, the Voter Registration and Election Management Systems (VREMS) will be reprogrammed to print out what ballot type each individual voter is eligible to receive based on their current registration and the political party rules. This should help alleviate election worker error when giving a particular party ballot to a voter.

VOTE COUNTING EQUIPMENT

The Division will need to modify its vote counting computer program to count multiple candidate ballots. This will increase the usual cost of programming by about \$20,000.

VOTER EDUCATION

When the Division opposed the RPA's motion to implement its 1990 party rule change, the Division testified that rural voters would be disenfranchised because they would not know about the primary rule changes. This concern was also expressed to the Department of Justice. The Division will conduct a voter education program in order to inform voters about how the primary will be different. We anticipate that this will increase our usual advertising costs by about \$25,000.

REGISTRATION FORM

The current registration form is being updated to inform voters that their party affiliation may effect who they can vote for in the primary election. Currently, party affiliation choice on the form is optional. About 45% of the 287,071 registered voters have indicated a party choice. Fifty-five percent are either nonpartisan or undeclared.

The Division will instruct voters to contact the political party of their choice to determine whether they can vote in the party's primary election.



Official Business

Alaska State Legislature

Senate

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SENATE STATE AFFAIRS COMMITTEE

Primary Election Law (SB-297, HB-327)

(Materials for Joint H/S State Affairs)

Attached Materials:

- Feb. 4 **Gaguine (A.G.) to Coghill:** "Whether political parties can choose candidates through conventions"
- Jan. 31 **Casey (Leg. Counsel) to Kubina:** "Political party's constitutional right to nominate candidates by means of party convention."
- Jan. 24 **Sykes (Green Party) to Kubina:** Commentary on proposed legislation / suggests Australian System
- Oct. 25 '91 **Harrison (Leg. Research) to Kubina:** Preferential Ballots (Australian systems and others)
- Attached **Procedures for Party Primaries in other States**
- SB-297 **Bill file from earlier committee meeting, 1/24/92**
- Bill File **File from May 8, 1991, Div. of Elections overview at end of last year's session**

MEMORANDUM

State of Alaska

Department of Law

TO: Hon. J.B. Coghill
Lieutenant Governor

DATE: February 4, 1992

FILE NO:

TEL. NO: 465-3600

SUBJECT: Whether political parties
can choose candidates
through conventions

FROM: John B. Gaguine
Assistant Attorney General
Governmental Affairs - Juneau

You have asked whether a political party, as defined in AS 15.60.010(20) ("an organized group of voters that represents a political program and that nominated a candidate for governor who received at least three percent of the total votes cast at the preceding general election for governor"), can under current law choose to forego a primary election and instead choose its candidates by convention. We believe that the answer is no.

AS 15.25.010 - 15.25.130 clearly provides that political parties choose their candidates through the primary process. The question is whether the decision of the United States Supreme Court in Tashjian v. Republican Party of Connecticut, 479 U.S. 208, 93 L.Ed.2d 514 (1986), gives the parties the right to override this law and opt for a convention. We believe that a court would answer this question in the negative.

In Tashjian, as you are aware, the Court held that a party's rules regarding who may vote in its primary override state laws specifying who may vote. It could be argued that Tashjian also gives the party the power to choose its nominating procedures altogether, and thus forego a statutorily mandated primary. However, we do not believe that a court would read Tashjian this broadly.

Cases like Tashjian require a balancing of the party's First Amendment interest in free association with the state's interest in prescribing nominating procedures. In Tashjian the State of Connecticut could not advance any interest in its law, which limited a party's primary to registered members of that party, sufficiently compelling to override the party's choice to open its primary to independents. However, no one in Tashjian was trying to do away with a primary altogether. If a party in Alaska did request to forego the primary, we believe that a court would probably find that the state's interest in insisting on a public primary election -- instead of allowing a small number of party members to choose its candidates in the proverbial "smoke-filled room" -- would be sufficiently compelling to override the party's wishes. The history of the United States clearly illustrates the potential evils of nomination by convention, and nearly all, if not

Hon. J.B. Coghill
Lieutenant Governor

February 4, 1992
Page 2

all, states now choose their party nominees by primary election. Since, however, there is no authority on this point, we are not prepared to say absolutely that the state would win a court case on this issue.

You also have asked whether the legislature could choose to abolish the primary election process, and leave parties to choose their nominees as they see fit (likely through a convention). We believe that the answer is yes. As a matter of federal constitutional law, Tashjian states that a state is under no obligation to hold a primary. 479 U.S. at 218, 93 L.Ed.2d at 526. And there is nothing in the state constitution that requires primary elections. It is possible that an Alaska court might interpret some provision of the state constitution as requiring a primary, but we think that this is highly unlikely, as we cannot think of a constitutional provision that the court could read as guaranteeing such a right.

Please let us know if we can be of further assistance.

cc: Charlot Thickstun, Director
Division of Elections

JBG:lmk

DIVISION OF LEGAL SERVICES

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MEMORANDUM

January 31, 1992

SUBJECT: A political party's constitutional right to nominate candidates by means of party convention (Work Order No. 7-LS1920)

TO: Representative Gene Kubina
Attn: Annie

FROM: Robert Glennon Casey *RGC 1-31-92*
Legislative Counsel

I. INTRODUCTION

You have requested a discussion of three related constitutional issues surrounding control of nomination processes by political parties. This memorandum addresses those issues.

II. SUMMARY

Under the federal constitution, a political party has the right to determine the process by which its "nominees" are chosen. Thus a party would have the right to do so by party convention. The state constitution contains no conflicting provision. If there were conflict, however, between state and federal constitutional law, federal constitutional law would predominate.

On the other hand, this constitutional right is less potent than it might appear to be. Presence on a general election ballot of a party's "nominee" is a privilege conferred by statute, but it is not a right guaranteed under the state or federal constitution. This statutory privilege could probably be withdrawn under certain circumstances. That would leave a party with ability to "nominate" a candidate according to its own procedures but no particular ability to ensure that the candidate's name appeared on the general election ballot. Such difficulty is already faced by minor political parties in Alaska.

III. DISCUSSION

1. The federal constitutional right of association includes the right of a political party to nominate its candidates by party convention. The First Amendment includes the

right to "associate" with whomever one chooses. This is generally classified as a "fundamental right" under prevailing constitutional analysis. That means that a statute or state constitutional provision that compromised the right of association would probably be ruled unconstitutional.

Nomination of candidates by political parties was held to be an exercise of that right in Tashjian v. Republican Party of Connecticut, 479 U.S. 208 (1986). The U.S. Supreme Court ruled that a political party had discretion to design the mechanism for determining its "nominees." (Enclosed is a copy of the decision.)

A political party could apply the right observed in Tashjian in several different directions. For example, a party could open an otherwise closed primary election for its own candidates. That is what the Republican Party of Connecticut succeeded in doing in Tashjian. Alternatively, a party could close an otherwise open primary election for its candidates. Such a situation is brewing in Alaska. A major political party in Alaska could simply dispense with primary elections and nominate its candidates at a party convention. In any of these cases, a state law that interfered with a party's right to determine the manner of nominating its candidates would be declared unconstitutional.

Applying the constitutional right announced in Tashjian to AS 15.25.100, once a major political party (see definition of "political party" at AS 15.60.010(0)) selected a nominee at its own convention, Alaska's elections authorities would be required to place the nominee's name on the general election ballot.

2. Lack of Contrary Provision in the Alaska Constitution. I do not find any conflicting provision in the Alaska Constitution. The state constitution does not address party control of nominations.

If anything, the Alaska Constitution accords with the federal constitutional right described above. Several sections in Art. I probably affirm by implication the right of a political party to associate and thus determine by itself the manner of choosing its nominees for public office.

The most straightforward example of this would be Art I, § 6:

The right of the people peaceably to assemble, and to petition the government shall never be abridged.

The right of Republicans to assemble, for example, would include their right to assemble with persons (including nominees selected at party convention) of their own choosing.

Other portions of the Alaska Constitution affirm the right of expression (which Tashjian used as an alternative ground for justifying its ruling) and natural rights of liberty, pursuit of happiness, and enjoyment of the fruits of one's own industry. A court would probably find a right of association implicit in these provisions and then follow the Tashjian's application of that right to the nomination process.

In sum, the Alaska Constitution accords with the federal constitution that a political party has the right to nominate its candidates by party convention.

3. Supremacy of Federal Constitutional Law in the Event of Conflict. If Alaska law (whether appearing in the Alaska Constitution or Alaska Statutes) conflicted with the federal constitutional right described in Tashjian, then federal law would prevail. That would be required by the supremacy doctrine based on Art. VI, § 2 of the federal constitution. Under the supremacy doctrine, the constitution and statutes of the United States are "the Supreme Law of the Land" and conflicting state laws must give way, McCulloch v. Maryland, 1859.

4. The Right of a Party to Determine Its Own Manner of Nominating a Candidate Does Not Necessarily Assure a Political Party's Ability to Place Its Nominee on the Ballot in the General Election. Under existing Alaska statute, nominees of major political parties go on to the general election. The highest vote-getter of each major political party is deemed to be "nominated" and placed on the run-off ballot, AS 15.25.100.

It is significant that this privilege is not shared by all political parties and that it arises by statute rather than by constitutional law. It is arguable that AS 15.25.100 is the only assurance that a candidate can run in a general election simply by virtue of being a major party's highest vote-getter.

According to this argument, AS 15.25.100 could be replaced by some other basis for determining which candidates were placed on general election ballots without violating the constitutional rights described above. For example, the two highest vote-getters from a primary election, regardless of party affiliation, could be placed on the run-off ballot.

Nothing in such a scheme would prevent a political party from announcing to the world who its "nominee" was. By the same token, nothing in such a scheme would assure that a party's nominee would qualify for a general election.

Such a scheme might seem to stifle the power of political parties, but the current law already manages to stifle the power of minor political parties. Since a major political party probably holds no greater constitutional right than a minor political party, the theory outlined in the three preceding paragraphs would probably be upheld in court.

The significance of that theory would be as follows: a political party's right to nominate a candidate and to choose the procedure for making such a nomination is no guarantee of a party's right to place such a nominee on the general election ballot.

There is a small possibility that a court would rule in the opposite direction. A court might rule that a political party's right to determine the manner of nominating a candidate included the right to have that candidate's name placed on the general election ballot. Although such a ruling would not be likely, it should be considered a remote possibility.

In sum, Tashjian's ruling empowers political parties in some ways but probably not all ways. Alaska's statutes have conferred a privileged position on major political parties that might not be constitutionally required.

IV. CONCLUSION

Under present circumstances, a major political party in Alaska would be constitutionally entitled to nominate a candidate by means of party convention and have that candidate's name placed on the general election ballot.

RGC:gc
92-078.glc

Enclosure

COVER TAB

TO: Annie
House State Affairs
RE: HB327 FAX 465-2287



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

January 24, 1992

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

Rep. Gene Kubina, and
House State Affairs Committee
Juneau, AK 99811-1182

Dear Chairman Kubina,

The Green Party of Alaska has been following two bills heard by your committee on Friday, HB327 and HJR45. After hearing the meeting I felt some comments and observations might be helpful.

First, regarding HB327, it seems the committee is struggling with a lot of mechanical details, including the structure of the gubernatorial election. It seems that the objectives of the primary election need to be clarified--why we are having it, who participates, and how they participate.

In preparation for Sykes v. State of Alaska in 1990, I learned that the constitutional right of all citizens to freely associate with the candidate of their choice is a highly held principle. It seemed like the committee was searching for a litigation-free quick fix. This particular issue is one that needs thorough thinking, understanding and consent of the citizens. If the legislature comes up with a sound concept for elections, I think the effect of the recent supreme court case, (Tashian?) may be overestimated.

Someone specifically mentioned a ballot for the nonpartisan voters. The Green Party rule at present specifically provides that Green candidates can appear on such a nonpartisan ballot if it becomes a reality.

Wednesday, I heard for the first time that the committee was taking a look at the "Louisiana system". It doesn't sound like it has much to offer over our present system. Louisiana is basically a two-party state, we are a four-party state and must make provisions to ensure equal opportunity for all existing and future parties.

It occurred to me that one way of holding an election without the primary would be to use the Australian ballot system. Voters would prioritize their vote, by number, and if no one achieved a majority, the lowest vote getter would be eliminated, and the second choice on those ballots would be recounted and added to the election results. This would happen until the 40 or 50% threshold were reached.

Such a system would do two things, it would give the voters maximum choice and freedom to associate with the candidate of their choice, and it would also allow the voters to have some say in who was elected even if it were their second or third choice.

It seems the two most moneyed parties (R & D) are still the most likely to end up in a runoff using the "Louisiana system". The legislature is charge with protecting all our rights, not just those of Republicans and Democrats. The Green Party would certainly like to be kept abreast of any future considerations, since our input might help resolve the problem.

Since there are many conceptual and structural problems with Title XV, you might also wish to consider a 120 day campaign limit so that people don't start their campaigns as soon as the previous election is over.

I know that the Division of Elections wants to keep everything simple, however a bandaid won't do when there is needed major surgery. The required change in computer format and voter education would certainly be cheaper than runoff elections. Over the long term it would be a great deal less expensive.

In reference to HB32 CS dated 1/23/92 I see a few problems.

1) On page 1 line 1, I think blocking write-ins is probably unconstitutional. The same with page 2 line 3.

2) Page 3 line 17, the notation of official endorsement by a political party may be giving unequal treatment to candidates who run by petition, since they theoretically have no party affiliation, but may have endorsements that may be better than that of a political party.

3) Page 4 line 5, appears to be in conflict with statements on page one and page 2 prohibiting write-ins.

5) Page 5 section (g). This section gives unequal treatment to other candidate provisions. This section would allow a candidate to choose a running mate without going through the primary or petition process, essentially avoiding the scrutiny of the voting public. It is vastly discriminatory to the petition candidate who must fill and file the petition with a Lieutenant Governor's name. This is still different than the candidates who win the primary, where two people are brought together after winning a party primary. This is also discriminatory against the petition candidates, since the petition candidates must be a team before they can even get petitions signed, before they campaign. While the court did not consider this aspect in Sykes v. State, it was raised in argument, and would be very ripe for litigation. The legal concept is that a petition is a selection process equal to that of the primary.

6) Page 5 line 26, seems to tell who the state will recognize. "any two members of the (central) committee" may or may not mean an adequate representation of party officials has been consulted. Remember the Republicans in 1990?

The above mentioned legal opinions are those of a lay person who has only been to court once, but has done some legal research. They may be more accurately only a lay person's observations.

I understand the packet of rather detailed information regarding the Australian ballot which was sent isn't available to the committee. We will try to put together another one soon and get it to you for your perusal and consideration. The Australian ballot system may have more to offer than previously contemplated.

Regarding HJR 45, the idea is good to get the reapportionment process out of the hands of the governor. The bill's stated goal is to depoliticize the process, however it is readily apparent that it simply allows the legislature to politicize it instead of the governor.

I cite specifically the paragraph on page three outlining the makeup of the reapportionment board. If the goal is truly to depoliticize the process, why not have representative from each party and five nonpartisans? Since the majority of voters are not registered to any party, why have not nine people who have records of not affiliating with any party?

You have some serious work ahead of you. The Green Party will be happy to answer any questions and work with the legislature, Division of Elections and other political parties to find a workable election system and reapportionment structure that assures everyone's rights. Please send a copy of this letter to all committee members. Thank you.

Most sincerely,



Jim Sykes, Spokesperson
Green Party of Alaska

cc: Elizabeth Ziegler, Division of Elections
Joni Whitmore, Green Party of Alaska Chair

Alaska State Legislature

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Legislative Research Agency



October 25, 1991

MEMORANDUM

TO: Representative Eugene Kubina

FROM: Gordon S. Harrison, Director 

RE: Preferential Ballots
Research Request 92.064

You asked for information about the so-called preferential ballot that is used widely in Australia. This memorandum describes the system of preferential voting used in Australia as well as several other preferential systems that have been used from time to time in the United States and other western democracies.

Application of Preferential Voting

Preferential ballots allow voters to rank their preference for candidates standing for an office. It is applicable only to electoral systems that require the winning candidate to obtain a *majority* of the votes cast. Most elections in the United States are held under the *plurality* rule, according to which the candidate with the highest number of votes wins the seat, whether or not he has obtained a majority of the votes cast. When there are only two candidates standing for election, the plurality rule has the same effect as the majority rule. But when there are more than two candidates in a contest, the plurality system is likely to produce a winner who is not the first choice of a majority of the voters. Majority vote requirements are intended to produce a candidate who is an acceptable compromise candidate to a majority of the electorate.

Preferential voting techniques of the type described in this memorandum also apply only to elections with single-member districts (that is, in situations where residents of a district elect a single official to represent them, in contrast to situations where residents of a district elect several people to represent the district). There is a preferential voting technique applicable to multi-member district elections, but a description of it is beyond the scope of this memorandum.¹

¹The technique is the "single transferable vote" system, also known as the Hare system, Hare-Andrae system, and Hare-Clarke system. It is used in Ireland and in the elections for the upper chamber in the Australian federal and some Australian state governments. A good explanation of it is found in Enid Lakeman and James D. Lambert, *Voting in Democracies* (London: Faber and Faber, 1959), pp. 98 - 131.

Rationale of Preference Ballot: Avoiding a Run-off Election

A conventional majority vote system calls for a run-off election if no candidate in the first round of voting obtains a majority of the votes cast. There are drawbacks to run-off elections, however. The most serious problem is retaining the interest of the electorate: where voting is voluntary, the turn-out for run-off elections typically declines from the first round of voting. Another problem with run-off elections is the continued burden of campaigning it imposes on candidates and voters alike. Also, from the perspective of the leading candidate, the hiatus between the first and second round of voting can spell disaster. Public sentiment is never static, and the front-runner cannot be sure that his support will remain solid until the run-off. Thus, the necessity for a run-off election introduces an additional element of uncertainty and instability in the polling process.

By allowing the voters to indicate their second or third choice as well as their first choice on the same ballot, the preferential system fulfills the function of the run-off election without the necessity of a second polling.

Types of Preference Ballots

There are several voting rules that allow the voter to express more than his first preference among candidates. Discussed below are two versions of the *alternative preference ballot*, the *second-choice ballot* (Bucklin rule), and the *Borda count*. Also, brief mention is made of the *exhaustive ballot* voting method.

Alternative Preference Ballot

There are two versions of the so-called alternative preference ballot (also referred to as the preference ballot, the alternative ballot, and sometimes the contingent ballot). The least complicated of these comes closest to duplicating the function of the run-off election. If there are more than two candidates, voters mark their ballots with their first preference and their second preference. In the first count, only first preference votes are scored. If one of the candidates receives a majority of these votes, he or she is declared the winner. However, if no candidate receives a majority on the first count, all candidates except the two with the highest number of first preference votes are declared defeated and their second preference votes are distributed to the two finalists as if they were first choices.

The purpose of a run-off election is to give those voters whose candidate(s) were defeated in the first round a chance to express their preference between the two most popular candidates. This preference ballot has the same effect.

A slightly more complicated version of the alternative preference ballot is the one used in Australia.² In this case, when any candidate fails to obtain a majority in the first count, the candidate with the fewest first preference votes is declared defeated and the second preference votes on that candidate's ballot are distributed to the remaining candidates. If this distribution fails to produce a majority winner, the remaining candidate with the fewest number of votes is declared defeated and the second preference indicated on that candidate's first preference ballots are distributed, and so on until a candidate receives a majority of the vote.³

In cases where there are only three candidates for a seat, both versions of the alternative preference ballot will produce the same outcome. In situations with more than three candidates, however, the Australian version may produce a different result from the simplified version. The potential difference is the treatment of the third-ranking candidate after the first count: with the simplified version, the third-ranking candidate is dropped from the running, while the Australian version gives that candidate a chance to win through the distribution of the lowest ranking candidate's second preferences. In a close contest among the top three candidates, the fourth's second-choice votes could easily result in victory for the candidate in third place after the first count.

²The alternative preference ballot is used to elect the lower house of the federal government and the lower houses of most of the state legislatures in Australia.

³It is not clear from the information at hand about the alternative preference ballot whether, in the case of four or more candidates, voters are to indicate a third, fourth, etc. preference, and if so, whose are to be counted at what point. Presumably preferences beyond first and second are asked for on the ballot, as it is possible that the redistribution of second preference votes only from defeated candidates will not produce a majority winner. Suppose, for example, four candidates are standing for election. In the first count (the count of first-choice votes), candidate A receives 10,000 votes, candidate B 9,000, candidate C 8,000, and candidate D 2,000. Candidate D is declared defeated. In the second count (the distribution of second preferences shown on first-choice ballots for D), candidate D's votes are evenly split between candidate B and C. This outcome fails to produce a majority winner. Therefore, candidate C is declared defeated. In the third count (the distribution of second preferences shown on C's first-place ballots), candidate C's votes are distributed evenly between A and B. Now, candidate A has 14,000 votes and candidate B has 14,000 votes, and 14,501 constitute a majority. At this point it would seem reasonable to conduct a fourth count that distributes the third choice indicated on ballots originally cast for C and D, and presumably that is the rule. However, we have not found a sufficiently detailed description of the system to be sure of this point.

Second-Choice Ballot

Another voting rule that allows second preferences to be scored when a clear majority does not result from the first count in a multi-candidate contest is the Bucklin rule, or "second-choice ballot." In this case, voters indicate their first and second preference on the same ballot, regardless of the number of candidates. In the absence of a majority winner of first choice ballots in the first count, all first and second choice votes are tallied in the second count for the two candidates receiving the most votes in the first count. The candidate receiving the highest number of first and second choice votes in the second count is the winner.

This system differs from the alternative preference ballot discussed above because the second choices on the ballots cast for the two top candidates also enter into the final scoring. In the alternative preference ballot (and the conventional run-off election), it is the second choice only of the voters for the defeated candidates that are decisive in the second and subsequent counts.

As a means of producing an acceptable compromise candidate, this system has much to recommend it. However, an objection to the scoring rule used above is that the most acceptable compromise candidate could easily be one excluded from the second count. It is possible, for example, that Senator Arliss Sturgulewski was the preferred compromise candidate in the 1990 Alaska general election for governor, but she would have been excluded if first and second preference votes were scored only for the two front runners. However, this objection could be met by scoring all of the candidates' first and second preferences in the second count. In this case, a candidate with strong second preference support who was not among the top two finishers could win.

Borda Count

An objection to all the foregoing preference voting arrangements is that second preferences have the same relative value as first preferences. This objection is dealt with by the voting scheme proposed in the eighteenth century by the French philosopher Borda. According to Borda's method, usually referred to as the Borda count, voters award points to the candidates according to their preference ranking. Thus, for example, in a contest with three candidates, the voters would assign three points to their favorite candidate, two to their second choice, and one to their third choice (or two, one, zero points, for example). The candidate with the highest total number of points is declared the winner.

It should be noted that the point system used can influence the outcome of the election. Lakeman and Lambert illustrate this characteristic of the Borda count with the example of three candidates whose first choice preferences among voters are as follows: candidate A, 14; candidate B, 2; and candidate C, 15. If candidate B were the second choice of voters for A and C (candidate Sturgulewski in our example above), and the Borda point scale were three, two,

Representative Kubina
October 25, 1991
Page 5

one, candidate B wins. But if the Borda point scale were a geometrical progression such as four, two, one, candidate C wins.⁴

Exhaustive Ballot Method

To round out this discussion of majoritarian, single-member constituency voting methods, mention should be made of the so-called exhaustive ballot. In this case, with n candidates, voters cast ballots for $n-1$ candidates, $n-1$ times, and the surviving candidate is the winner. Thus, for example, if there are four candidates standing for election, in the first round voters cast one ballot for three of the four. The candidate with the fewest votes is declared defeated. In the second round, with three surviving candidates, voters cast ballots for two. The lowest ranking is eliminated, and finally the voters against cast a ballot for one of the two remaining candidates. The candidate with the most votes wins. This method is impractical for legislative elections where voters would have to return to the polls again and again. However, it is an effective technique used at conventions, for example, to elect presiding officers or leaders of an organization.

Use of Preferential Ballots in the United States

We found little information about the use of preferential voting in the United States. The following statement is from a reference work: "Preferential voting has been tried on and off in the United States. At least 50 cities and counties have adopted it at one time, but very few continue to use it."⁵

Apparently a type of second-choice voting was used for primary elections in North Dakota for a few years in the early 1900s, and it was used in Wisconsin around the same time.⁶

I hope this information is helpful to you. We would happy to provide more detailed description and analysis of any of these systems if you wish to pursue the matter.

⁴Lakeman and Lambert, *Voting in Democracies*, op. cit., pp. 288 - 289.

⁵Michael D. Young, *The American Dictionary of Campaigns and Elections*, (New York: Hamilton Press, 1987), p. 202.

⁶Personal communication, Dan Rylance, Editorial Page editor, Grand Forks Herald (North Dakota), October 23, 1991. Mr. Rylance has promoted the concept of second-choice ballots for North Dakota primaries in recent newspaper columns.

Page 17

PROCEDURES FOR PARTY PRIMARIES IN OTHER STATES

ALABAMA as of: 5/11/90

TOTAL 2,294,193

Party primaries:

No record of party is kept by the State of Alabama Elections Division. A voter need only declare either Democrat or Republican at the polls and he will be given the corresponding ballot.

ARKANSAS as of: 5/1/90

TOTAL 1,171,027

Party primaries:

In the state of Arkansas, voters are not required to indicate a party preference, however, the state has only two official parties: Democrat and Republican. There is no state-wide standard for holding party primaries-- each county is responsible for its own procedure. In counties where joint primaries are held, the voter must request to vote either Republican or Democrat.

CALIFORNIA

Democrat	49.94%
Republican	39.20%
American Independent	1.17%
Libertarian	.36%
Peace & Freedom	.34%

Party primaries:

At the primary the voter must request a ballot for the party with which he is affiliated. In the California primary there are five such parties which participate (see above). If a voter is not a member of one of these five parties, he may only vote for non-partisan candidates and for or against ballot propositions and other issues. Otherwise the non-partisan voter must wait until the general election. If a voter wishes to request a primary election ballot for a party of which he is not a member, he must change his affiliation at least 29 days prior to the state-wide election.

CONNECTICUT

as of: 2/90

Democrat	681,306 - 39%
Republican	468,517 - 27%
Minor Parties	972
Unaffiliated	577,071 - 33%
TOTAL	1,727,866

Party primaries:

Only Democrats may vote in Democratic primaries; in Republican primaries for some offices, both Republicans and voters who are unaffiliated with any party may vote. These offices are: Governor, Lt. Governor, Secretary of State, Treasurer, Comptroller, Attorney General, U.S. Senator, and U.S. Representative. In Republican primaries for such offices as state legislator, city mayor, or city council member, only Republicans may participate.

DELAWARE

as of: 11/88

Democrat	125,297 - 43%
Republican	110,301 - 38%
Other	58,095 - 20%
TOTAL	293,693

Party primaries:

Only Democrats may vote in Democratic primaries, only Republicans may vote in Republican primaries.

DISTRICT OF COLUMBIA

Democrat	214,283 - 79%
Republican	25,194 - 9%
Statehood	2,054
Independent	33,695 - 12%
Other Parties	174
TOTAL	275,400

Party primaries:

In the District of Columbia primary, the Democratic, Republican, and Statehood parties each have a separate ballot. A voter must be a member of the party for which he requests a ballot. If not, he must change his affiliation at least 30 days prior to the election.

FLORIDA

Democrat	3,037,978 - 53%
Republican	2,312,735 - 40%
Other	400,441 - 7%
TOTAL	5,751,154

Party primaries:

A voter must be a member of the party for which he requests a ballot. If not, he must change his affiliation at least 30 days prior to the election. If a run-off election should occur, the voter may not cross parties. Voter~~s~~ affiliated with political parties other than Democrat and Republican may only vote in the general election.

GEORGIA

as of: 11/88

TOTAL	2,941,339
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Party primaries:

No record of party is kept by the Georgia Elections Division. A citizen need only be registered to participate in either primary.

KENTUCKY

Democrat	1,233,230 - 68%
Republican	538,859 - 30%
No Preference	41,151 - 2%
Other	13,259
TOTAL	1,826,499

Party primaries:

A voter in Kentucky must be a member of either the Republican or Democratic party in order to vote in the primary election. If he is not he may only vote in the general election. If he should wish to change his political affiliation after the general election, it will not become effective until ~~after~~ the following primary election; until then his status will be listed as non-partisan. However, if a voter chooses to change his affiliation between the dates of the primary and general elections, his party status will become effective by the date of the general election.

ILLINOIS

TOTAL 6,014,961

Party primaries:

No record of party is kept by the Illinois Board of Elections. However, voters must declare a party to vote in a primary election.

INDIANA as of: 1/90

TOTAL 2,839,561

Party primaries:

No record of party is kept by the Indiana State Election Board. Voters participate in primaries by requesting a ballot for either primary at the polls.

IOWA as of: 5/1/90

Democrat	549,176	- 37%
Republican	477,375	- 32%
No Party	475,861	- 32%

TOTAL 1,502,412

Party primaries:

A registered voter may vote in any primary. However, if he is not already a member of the party in whose primary he wishes to vote, he must declare at the polls.

MASSACHUSETTS as of: 2/90

Democrat	1,390,785	44.22%
Republican	424,800	13.50%
Unenrolled	1,328,863	42.26%

TOTAL (as of 10/89) 3,268,017

Party primaries:

Voters may chose to vote in either primary regardless of their party affiliation.

MISSISSIPPI

as of: 5/88

TOTAL 1,595,826

Party primaries:

No record of party is kept by the State of Mississippi Elections Division. In the first of the two Mississippi primaries a voter requests either a Republican or Democratic ballot. In the second primary the voter must vote the same way; he cannot cross parties.

NEVADA

Democrat	202,343 - 46%
Republican	192,155 - 43%
Non-Partisan	48,941 - 11%
TOTAL	443,439

Party primaries:

Only Democrats may vote in the Democratic primary, only Republicans may vote in the republican primary. Non-Partisans may not vote unless they change their affiliation at least 30 days prior to the primary.

NEW HAMPSHIRE

as of: 5/24/90

Democrat	197,409 - 30%
Republican	252,720 - 39%
Undeclared	199,651 - 31%
TOTAL	649,780

Party primaries:

On the day of the primary, a voter, regardless of party declaration, may request a ballot for either primary. The voter then automatically becomes a member of that party in whose primary he participated.

NEW JERSEY

Democrat	1,199,098	- 32%
Republican	787,822	- 21%
Unaffiliated	1,727,107	- 46%
Independent	4,571	
TOTAL	3,718,598	

Party primaries:

Unaffiliated and independents cannot vote in party primaries.

NEW YORK

Democrat	3,904,183	- 47%
Republican	2,640,179	- 32%
Right-to-Life	23,973	- 1%
Conservative	113,756	- 2%
Liberal	61,101	- 1%
Non-in-Roll	1,502,641	- 18%
TOTAL	8,255,833	

Party primaries:

If a candidate is running for an office unopposed, no primary for that office is held. If a party nominates no candidates for a specific office voters registered under that party will not participate in the primary for that office. If a voter wishes to change his affiliation, he must have done so prior to the previous general election.

OHIO

Democrat	1,802,977	- 31%
Republican	1,165,141	- 20%
Independent	2,814,895	- 49%
TOTAL	5,783,079	

Party Primaries:

A voter must declare a party (either Democrat or Republican) at the polls on election day. Independents who don't declare a party may not vote.

RHODE ISLAND

as of: 11/7/89

TOTAL:

536,406

Party primaries:

No official record of party is kept by the Rhode Island Division of Elections. However, while a voter may vote in either primary, whichever primary he participates in will act as a declaration of party. His party affiliation is then handwritten on the original voter registration form/card. If the voter wishes to vote in a party primary different from his affiliation, he must disaffiliate at least 90 days before that primary is held.

SOUTH CAROLINA

as of: 4/4/90

TOTAL

1,290,869

Party primaries:

No record of party is kept by the South Carolina State Election Commission. A citizen need only be registered to participate in either primary.

TENNESSEE

as of: 12/89

TOTAL

2,521,996

Party primaries:

No record of party is kept by the Tennessee Elections Division. A citizen need only be registered to participate in either primary.

TEXAS

as of: 3/15/90

TOTAL

8,285,308

Party primaries:

No record of party is kept by the Texas Elections Division. On the day of the primary election a registered voter votes at either a Democratic poll or a Republican poll. These polls are either located together or at separate sites. Each party controls its own primary. In the event of a run-off election, voters may not cross parties when they vote in the second election.

Alaska State Legislature



Legislative Research Agency

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January 15, 1991

MEMORANDUM

TO: Representative Mike Navarre
FROM: Gordon S. Harrison, Director *(gsh)*
RE: Alaska's Blanket Primary and the *Tashjian* Decision
Research Request 91.080

You asked for a description of the various methods used throughout the country to conduct primary elections for state offices. You also asked for a review of the effect on state primaries of recent U.S. Supreme Court decisions that have given state parties substantial prerogatives to determine the rules for nominating their own candidates, notably the *Tashjian* decision [*Tashjian v. Republican Party of Connecticut*, 479 U.S. 208 (1986)]. Finally, you asked if there is a need to modify Alaska's primary election laws in the wake of the challenge last summer to those laws by the Republican Party of Alaska armed with the *Tashjian* decision (*Doyle v. State of Alaska*).

This memorandum will discuss these matters under the following five subject headings: 1) classification of state primaries, 2) legislative history of Alaska's blanket primary, 3) freedom of association and the *Tashjian* decision, 4) Alaska's primary and *Doyle v. State of Alaska*, and 5) revision of Alaska's primary election laws. The recommendation of the memorandum is that--presuming the legislature wants to retain the blanket primary--revision of Alaska's current statute should wait until after the courts have ruled on the constitutionality of the blanket primary. To modify Alaska's primary election laws prior to court action would prematurely, and perhaps unnecessarily, concede that the blanket primary has constitutional defects.

Classification of State Primaries

The direct primary is used to nominate party candidates for state office in virtually all of the states today.¹ It replaces nomination by party convention and caucus, methods prevalent throughout the country in the last century. Nomination of candidates by popular vote in a party primary was a key political reform of the progressive movement early in this century. It opened the

¹In a few states conventions are still used to nominate candidates for certain offices, or under special circumstances. See Council of State Governments, *Book of the States 1990-91*, Table 5.2: pp. 234-35.