

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9796 HOUSE COMMUNITY & REGIONAL AFFAIRS

FROM : GILLESPIE & ASSOCIATES
FEB-08-00 WED 01:31 PM AMLJIA

PHONE NO. : 907 463 5522
FAX NO. 907 210 3013

Feb. 09 2000 03:18PM P4
11 03/00

February 9, 2000
AMLJIA Position Paper

facing liabilities associated with the public infrastructure such as schools. As public sector services in Alaska continue to shift to different public sector service providers, the need for affordable coverage and loss control services continues to be an important issue. Alaska's public entity pools seem a logical mechanism to provide affordable, quality risk financing to protect municipalities, Native village government organizations, small nonprofits, and the State of Alaska's citizens.

If I can answer any questions regarding this proposal, please let me know.

Sincerely,



Eileen Terwilliger, ARM
Executive Director
AMLJIA

Alaska Municipal League Joint Insurance Association, Inc.

FY2000 Participants

- | | | |
|---|-------------------------------------|-----------------------------------|
| 51 Akhiok | 117 Gambell | 63 Nuiqsut |
| 7 Akutan | 4 Golovin | 85 Nulato |
| 89 Alakanuk * | 60 Goodnews Bay | 146 Nunapitchuk |
| 86 Aleknagik | 133 Haines * | 53 Old Harbor |
| 82 Aleutians East Borough | 134 Haines Borough/Schools | 19 Ouzinkie |
| 88 Aleu. East Boro Schools | 157 Homer - PI | 20 Palmer * |
| 118 Ambler | 160 Hoonah - SC | 57 Pelican |
| 147 Anch.SD/Aquarian Chtr - WC | 67 Hoonah Schools | 72 Pilot Point |
| 148 Anch.SD/FamilyPartnership Chtr - WC | 13 Hooper Bay | 43 Pilot Station |
| 164 Anch.SD/Village Chtr - WC | 41 Houston | 98 Platinur1 |
| 149 Anch.SD/Walden Chtr - WC | 130 Hughes | 68 Point Hope |
| 99 Anderson | 31 Huslia | 119 Port Alexander |
| 55 Aniak | 84 Hydaburg | 144 Port Heiden - BM |
| 81 Anvik | 124 Iditarod Area Schools - RL | 23 Port Lions |
| 46 Atka | 153 Kaktovik | 156 Pribilof School District - WC |
| 50 Atkasuk | 107 Kaltag | 163 Ruby/Ruby Electric - WC |
| 10 Barrow | 69 Kasann | 59 Russian Mission |
| 95 Bethel * - RL | 154 Kenai Pen. Boro/Schools | 87 St. George |
| 100 Bettles | 48 Kiana | 32 St. Mary's * |
| 101 Brevig Mission | 38 King Cove * | 137 St. Mary's Schools - RL |
| 74 Bristol Bay Borough/Schools * | 56 Klawock * | 145 St. Michael |
| 91 Buckland | 78 Kobuk | 35 Sand Point* |
| 103 Cheformak | 93 Kodiak * - B | 108 Savoonga |
| 104 Chevak | 102 Koliak Island Borough/Schools | 106 Saxman |
| 80 Chignik | 39 Kotlik | 83 Scammon Bay |
| 37 Chuathbaluk | 15 Kotzebue * | 96 Selawik |
| 167 Clark's Point | 165 Koyuk | 138 Seldovia - PI |
| 112 Coffman Cove | 155 Koyukuk | 34 Seward * |
| 47 Cold Bay | 114 Kuspuk Schools | 152 Sheldon Point |
| 131 Copper River Schools - RL | 158 Kwethluk * | 1 Soldotna * |
| 159 Cordova/Schools/Medical Ctr. * - B | 97 Lake & Peninsula Borough | 162 SW Region School District - N |
| 66 Craig Schools | 62 Larsen Bay | 94 Tanana |
| 52 Deering | 71 Lower Kalskag | 161 Tanana School District - WC |
| 141 Delta Junction - WC | 136 Lower Yukon Schools - RL | 58 Teller |
| 90 Denali Borough | 168 Manokotak | 27 Tenakee Springs |
| 36 Dillingham * | 128 Marshall * | 28 Thorne Bay |
| 109 Dillingham Schools | 110 McGrath | 65 Togiak * |
| 105 Diomede | 16 Mountain Village * | 8 Unalakleet * |
| 11 Eagle | 2 Nenana * | 122 Valdez (LELP)* - WC |
| 70 Eck | 121 Nenana City Schools - WC | 6 Wainwright |
| 113 Egegik * | 166 New Stuyahok | 79 Wasilla * |
| 151 Ekwok | 45 Newhalen | 49 White Mountain |
| 12 Elim | 17 Nikolai | 21 Whittier * |
| 5 Emmonak * | 33 Nome * | 116 Wrangell * |
| 61 False Pass | 42 Noorvik | 76 Yakutat, City & Borough * |
| 73 Fort Yukon * | 169 North Pole (LELP)* - WC | 139 Yakutat Schools - SC |
| 142 Galena * - WC | 150 North Slope Borough (LELP)* - B | 140 Yukon Flats Schools - WC |

138 CORE Participants

3 LELP only

141 Total Participants

Fw: HB 404

Subject: Fw: HB 404
Date: Mon, 6 Mar 2000 11:54:14 -0900
From: "Kevin Smith" <kev@pobox.alaska.net>
Reply-To: "Kevin Smith" <kevins@jnu.amljia.org>
To: "Rep. Gary Davis" <Representative_Gary_Davis@legis.state.ak.us>
CC: "Deb Davidson" <Deb_Davidson@legis.state.ak.us>, <ftasnvc@bristolbay.com>

Dear Rep. Davis:

I received this e-mail of support for HB404 that you might wish to add to your growing collection.

-- Kevin Smith

----- Original Message -----

From: ftasnvc
To: kevins@jnu.amljia.org
Sent: Monday, March 06, 2000 11:03 AM
Subject: HB 404

The South Naknek Village Council supports passage of HB 404. We are a federally recognized tribe and have been providing services to all community members since our inception in the early 60's. Although we are part of the Bristol Bay Borough, we provide our own water and sewer, health services and federal and state grants.

We support HB 404 since it would lower our insurance premiums.

CITY OF SOLDOTNA
177 NORTH BIRCH • SOLDOTNA, ALASKA 99669 • PHONE: (907) 262-9107

City of Soldotna



March 17, 2000

The Honorable Gary Davis
House of Representatives
State Capitol
Room 513
Juneau, Alaska 99801-1182

Dear Representative Davis:

The City of Soldotna is a charter member of the Alaska Municipal League/Joint Insurance Association and as such fully support HB404 which would allow the AML/JIA risk pool to expand to include Native associations, Native village councils and non-profits exercising at least two municipal powers as listed in AS 29.35.010.

It is our belief that adding these entities will make the pool stronger, as well as provide the needed affordable coverage and loss control services to those who are now attempting to provide such items even though they are not part of a municipality.

We support HB404 as the best way to provide them with coverage while hopefully lowering the cost of providing public services for us all.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Lancaster".

Ken Lancaster
Mayor

HB

425

FISCAL NOTE

Bill Version: HB 425

(H) Publish Date: 2/28/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL

Revision Date/Time (Note if correction) _____ Dept. Affected All
 Title "An Act relating to misrepresentation and false claims made against the state or a municipality; and providing for an effective date." BRU Centralized Administrative Services
 Component Purchasing
 Sponsor Rules Committee
 Requester Governor Component No. 60

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time	N/A					
Part-time	N/A					
Temporary	N/A					

ANALYSIS: (Attach a separate page if necessary)

This bill would amend AS 36.30.687(a) to make individuals liable to the state for false claims as provided by AS 37.10.090.

There is no fiscal impact.

Prepared by: Marsha Hubbard, Director Phone 465-5687
 Division General Services Date/Time _____
 Approved by Commissioner Robert Poe Jr. Date 1/25/00
 Agency Department of Administration

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FISCAL NOTE

Bill version: HB 425

(H) Publish Date: 2/28/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title <u>"... relating to misrepresentation and false</u>	BRU	Civil Division
<u>claims made against the state or municipality; ..."</u>	Component	Commercial
Sponsor <u>Rules Committee</u>		Governmental Affairs
Requester <u>Governor</u>	Component No.	<u>2211, 2207</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	*****	*****	*****	*****	*****	*****
-------------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would provide general statutory authority for the civil prosecution of a person who makes a false claim for, or a misrepresentation regarding, money or property against the state or a municipality. It would allow for damages of up to three times the amount suffered, a civil penalty, and court costs and attorneys fees from persons who make a representation or false claim against the state or a municipality. The new law would not apply to any controversy that involves less than \$500 and would not apply to unemployment claims, workers' compensation claims, state tax claims, public assistance claims, or temporary assistance claims.

Any potential fiscal impact or revenues resulting from passage of this legislation will be dependent on the number and magnitude of new prosecutions undertaken by the state.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>1/24/00, 9:47 AM</u>
Approved by <u>Commissioner</u> <i>Kirk</i> <u>Bruce M. Botelho, Attorney General</u>	Date <u>1/24/00</u>
Agency <u>Department of Law</u>	

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LEGAL SERVICES

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

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 8, 2000

SUBJECT: CSHB 425(CRA) on misrepresentations and false claims to the state
(Work Order No. 21-GH2029\D)

TO: Representative John Harris, Co-Chair
House Community and Regional Affairs Committee
Attn: John Manly

FROM: 
Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above. Since this bill did not originate in this office, the bill was generally reviewed while making the changes requested by the committee. The following comments are brought to your attention.

1. Title. The title appears to need some revision to satisfy the constitutional expression requirement. Currently it does not appear to cover the acts described under proposed AS 37.10.090(a)(6). It also does not appear to cover fully the former version of AS 37.10.090 that is being repealed and reenacted or AS 37.10.100, which is being repealed (and which was related to the former version of AS 37.10.090).

2. Court rule changes. The bill may be interpreted to make court rule changes that need to be disclosed in the title and in the text of the bill itself. Proposed AS 37.10.094(a) requires the attorney general to serve a copy of the complaint on the municipality and does not indicate whether the municipality must be made a party to the action or is being given the copy for informational purposes only. If the municipality is not required to be a party, these provisions appear to change Rule 5(a) of the Alaska Rules of Civil Procedure, which only requires that service be made on the parties.

Proposed AS 37.10.094(b) requires that the municipality serve a copy of the complaint on the attorney general and requires the attorney general to notify the municipality in 60 days whether the attorney general will conduct the action. Once again, if the attorney general is not a party at the outset, there may be a court rule change here. On the other hand, if (b) is interpreted to make the attorney general a party by the act of service, then the 60-day requirement may be interpreted to change the civil rules that provide for an answer to the complaint and do not provide for this type of notification.

3. Use of "violation." The use of "violation" in proposed AS 37.10.090, 37.10.092, and 37.10.094 does not appear to be an appropriate reference word for the acts covered by

Representative John Harris

March 8, 2000

Page 2

AS 37.10.090(a) of that section. The acts are not described as "violations" in (a) and, in addition, "violation" can be a technical term for the least serious of criminal offenses. It would be a good idea to use another descriptive term or phrase.

4. Drafting style. In addition to the above, there are some drafting style changes that need to be made.

Since the bill has passed out of your committee, you may wish to pass this memo along to the next committee of referral so that it can consider these issues.

If I may be of further assistance, please advise.

TLB:glc
00-115.glc

Attachment

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 6, 2000

The Honorable John Harris, Co-Chair
House Community and Regional Affairs Committee
State Capitol
Juneau, Alaska 99801

Re: HB 425

Dear Representative Harris:

Thank you for scheduling a hearing for HB 425 "An Act relating to misrepresentation and false claims made against a state or a municipality."

The Department of Law requested the governor to introduce this bill to provide clear penalties and strong incentives to prosecute persons who would present false claims for money or property to the state or a municipality. Existing state law contains authority for the attorney general to file suit to collect money of the state or a municipality that is "illegally paid or . . . diverted for an illegal purpose, or paid to a person not authorized by law to receive them." AS 37.10.090. The foregoing statute predates statehood and is in need of updating so that state and municipalities are well equipped to prosecute persons who would obtain money or other public property through fraud or misrepresentation.

We became impressed with the need for the law changes offered in this bill during the course of our investigation of the potential claim against the Bank of America. Our attention was initially directed to the Bank of America by the City of San Francisco. The city, the State of California, and hundreds of other municipalities were engaged in litigation filed by the State of California under what is commonly called the "false claims statute." The bank was alleged to have failed to pay the California government entities substantial amounts of unclaimed debt service payments held in trust for bondholders. The case presented great difficulties of proof because the bond accounting systems of the bank are largely incapable of tracing the unclaimed money held in trust.

It is strongly believed by counsel to the City of San Francisco and the California Attorney General's office that the threat of treble damages under the false claims statute was the principal motivation for the bank's willingness to settle the case short of litigation.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE (907) 269-5100
FAX (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE (907) 451-2811
FAX (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE (907) 465-3600
FAX (907) 465-6735

We recommend that the public finance code would be improved by the addition of a statute similar to the California false claims statute (Cal. Government Code sec. 12652) which is the model we used in drafting this bill. Similar laws are on the books in many other states and the federal government.

A brief summary of the bill is set out below:

Section 1: This section provides that contract claims against the state will be covered by the false claims penalties in case of fraud or misrepresentation by the claimant.

Section 2: Creates civil liability for

- a. presentment of a false claim to a state or municipal officer;
- b. uses a false record or statement to obtain payment from the state or a municipality;
- c. conspires to defraud by getting a false claim allowed or paid;
- d. as a custodian of public money or property, delivers less of that money or property to the state or municipality than it is entitled by law;
- e. makes a false receipt for state or municipal property;
- f. knowingly buys or receives state or municipal property from someone who lawfully may not sell or pledge the property;
- g. makes a false record to conceal, avoid, or decrease an obligation to pay or transmit property to the state or a municipality;
- h. fails to disclose the existence of a false claim once the person knows it is false, if the person stands to benefit from the claim.

Establishes the following penalties:

- a. Treble damages,
- b. a civil penalty of up to \$10,000 for each fraudulent act; and
- c. Rule 82 attorney fees and costs.

Establishes the following incentives: damages can be reduced to double the loss incurred by the state, and civil penalties waived, if

- a. the person presenting the false claim reports that fact within 30 days after learning of the falsity of the claim;
- b. the person cooperates with investigation; and
- c. no civil or criminal proceedings had been started at the time that the person began cooperating with the investigation.

Certain claims are not covered. The false claims penalties do not apply to amounts less than \$500 or to certain claims presented under

- a. the unemployment insurance statutes
- b. Worker's compensation statutes
- c. state revenue and tax code, including permanent fund dividends;
- d. public assistance under AS 47.25
- e. Alaska Temporary Assistance Program

Section 3. Establishes a statute of limitations: six years from discovery, 10 years after commission of fraudulent act.

Establishes the following burden of proof: proof must be by a preponderance of the evidence (51%); proof of a criminal conviction for false statements or fraud stops the defendant from denying the elements of making a false claim in a civil action.

Establishes authority to prosecute: attorney general has power to investigate claims involving state property and the municipal attorney has the power to investigate claims involving municipal property. If the investigation involves a mixture of state and municipal property, notification must be made to the other government involved. Attorney general may proceed with the case or tender it to the municipality.

Section 4. Repeals: repeals the limitation period applicable to contract claims which would now be covered by the period specified in this bill; and

repeals a provision which specifies how the costs of actions to recover state or municipal property are handled.

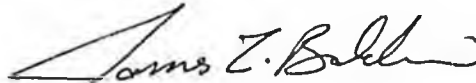
Hon. John Harris
Re: HB 425

March 6, 2000
Page 4

Again, thank you for hearing this bill. We will appear at the hearing and offer whatever assistance the committee considers appropriate.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

JLB:jn

HB 425

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

PO Box 11000
Juneau, Alaska 99811-0000
(907) 465-4500
Fax (907) 465-3532
www.gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2/25/00

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

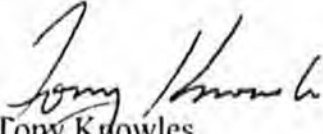
Dear Speaker Porter:

This bill I transmit today would fill a gap in our statutory law by providing general authority for the civil prosecution of a person who makes a false claim for, or a misrepresentation regarding, money or property against the state or a municipality. The public needs some way of ensuring that persons who seek to recover money or property from the state or a municipality are doing so in good faith. The most effective means of doing this is to provide for clear consequences for unlawful conduct. This bill would allow for a civil penalty of damages up to three times the amount suffered and court costs and attorneys fees from persons who make a misrepresentation or false claim against the state or a municipality.

The bill would provide incentives to cooperate in the prosecution of a misrepresentation or false claim. Also, the bill would apply only to matters involving at least \$500 and would not apply to unemployment, workers' compensation, state tax, public assistance, or temporary assistance claims. These programs have specific authority elsewhere in statute providing for the prosecution of false claims. The bill also provides procedures for circumstances in which both state and municipal money or property are involved and sets a limitation period of 10 years after which suits for misrepresentations and false claims are barred.

Nearly all states and the federal government have false claims statutes. It is time that Alaska had similar authority to protect the public treasury from wrongful claims.

Sincerely,


Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075

February 29, 2000

The Honorable John Harris, Chair
Committee on Community and Regional Affairs
Alaska House of Representatives
State Capitol, Room 110
Juneau, Alaska 99811

Dear Representative Harris:

House Bill 425 – “An Act relating to misrepresentation and false claims made against the state or a municipality” was recently referred to your committee. I am writing today to ask that you schedule this bill for a hearing at the earliest possible opportunity.

House Bill 425 will give the public a way of ensuring that persons who seek to recover money or property from the state or a municipality are doing so in good faith. The most effective means of doing this is to provide for clear consequences for unlawful conduct. This bill would allow for such consequences and would also provide incentives to cooperate in the prosecution of a misrepresentation or false claim.

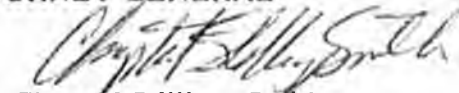
Nearly all states and the federal government have false claims statutes. This bill will give Alaska similar authority to protect the public treasury from wrongful claims. I hope your committee will consider the HB 425 in the near future.

Thank you in advance for your assistance.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Chrystal Stillings Smith
Legislative Liaison

CSS:rew

cc: Pat Pourchot, Office of the Governor
Jim Baldwin, Department of Law
Deborah Behr, Department of Law

HB

437

Alaska State Legislature

SESSION

State Capitol Building, Suite 409

Juneau, Alaska 99801-1182

Phone: 907-465-4527

Fax: 907-465-2197

Toll Free: 800-491-4527

E-mail: Representative_Carl_Morgan@legis.state.ak.us

MEMBER

Community & Regional Affairs Committee

Health, Education & Social Services Committee

House Resources Committee

Special Committee on Fisheries

INTERIM

P.O. Box 243

Aniak, Alaska 99557

Phone: 907-675-4413



Representative Carl M. Morgan, Jr. District 36

SPONSOR STATEMENT HOUSE BILL 437

An Act relating to the reinstatement of Native corporations; and providing for an effective date.

This legislation extends the date to December 31, 2000, that Native village corporations may be reinstated in accordance with State law.

In order to be reinstated, a corporation dissolved under the criteria specified in AS 10.06.633(a)(1-7) must correct all deficiencies, for example back taxes or delinquent annual reports.

AS 10.06.633(e) allows any corporation that has been involuntarily dissolved for two years or less to correct deficiencies and be reinstated. Existing law (AS 10.06.960(k)) offered a window of opportunity for Native Village Corporations involuntarily dissolved for greater than two years to apply for reinstatement, but that opportunity expired on December 31, 1998.

In summary, this legislation would therefore, provide several Native village corporations who have been involuntarily dissolved a short window of opportunity to take care of corporate business matters and once again be viable entities.

Sophie Tofford
Book keeper

OHOGAMIUT TRADITIONAL COUNCIL
P.O. BOX 49
MARSHALL, AK 99585
PHONE: (907) 679-6517
FAX: (907) 679-6516

March 17, 2000

Rep. Carl M. Morgan Jr. - District 36
State Capital Building, Suite 409
Juneau, AK 99801-1182
PHONE: (907) 465-4527
FAX: (907) 465-2197

Dear Representative Morgan;

As an original Shareholder of Ohog. Inc., I was very disturbed to find out that the Village Corporation had been dissolved. You are very well aware of the fact that we have elders in our communities who do not speak or read the english language. These elders took it upon themselves to run the Corporation with no knowledge of tax payments or deadlines we have to meet in today's world.

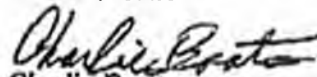
I am very concerned about the dissolution of the Ohog. Inc., because my elders claimed the land they originated from, and use it for subsistence hunting, fishing, and trapping. The land they claimed in ANCSA is in the Lower Yukon, between Marshall and Russian Mission. This area is still used as fishcamps, hunting and berrypicking areas by the shareholders as well as their children and families.

Representative Morgan, it would be tremendous service for you to do something to reinstate the Village Corporation, like HB 471, as this would not only help the shareholders, but would also help the children and their future. This would open windows of opportunities for our future generations, as we are making long term goals to reopen the old Village of Ohogamiut. It is my hope and dream to help our elders see their village come back to life. Thanking you for your time and consideration in this matter. Should you have any questions, please contact me at the above, or at home (907) 679-6513.

Respectfully,



Nick A. Isaac



Charlie Boots

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB437

Revision Date/Time (Note if correction) _____ Dept. Affected Community & Econ. Dev.
 Title Native Village Corporations BRU Banking, Securities, and Corporations
 Component Banking, Securities, and Corporations
 Sponsor (H) CRA
 Requester (H) CRA Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	9.9					
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY00) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The division does not anticipate any negative fiscal impact with passage of this legislation. However, we project that through reinstatement, there will be a one-time fee. The fee will be based on the number of years each entity is delinquent in filing reports, plus penalty and reinstatement fees. We are aware of four Native Village Corporations that might apply for reinstatement under this legislation, but there certainly could more.

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 3/21/00 8:09 AM
 Approved by Commissioner Deborah B. Sedwick Date 3/21/00
 Agency Community and Economic Development

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HCR

6

Alaska State Legislature

HOUSE OF REPRESENTATIVES

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Rep. John Harris, Co-Chair
Rep. Carl Morgan
Rep. Lisa Murkowski
Rep. Fred Dyson
Rep. Reggie Joule
Rep. Al Kookesh



State Capitol, Room 418
Juneau, Alaska
99801-1182
(907) 465-4939
Fax (907) 465-2418

COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

ADDITIONAL MATERIAL FOR HCR 6

APRIL 22, 1999 HEARING

1-LS0803\G
Cramer
4/20/99

CS FOR HOUSE CONCURRENT RESOLUTION NO. 6()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BERKOWITZ, Halcro

A RESOLUTION

1 Establishing the Task Force on the Impacts of Transfers of Governmental
2 Functions to Local Governments.

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

4 WHEREAS the legislature is considering how best to allocate functions of state
5 government given the fall in the price of oil and decline in daily production and the resulting
6 decrease in revenue to the state; and

7 WHEREAS the delegation of state functions to local governments has repercussions
8 for the local governments and individual taxpayers; and

9 WHEREAS some governmental functions are best performed by the state because the
10 state is in the best position to realize economies of scale; and

11 WHEREAS, for a variety of reasons, many governmental functions are best performed
12 by local governments;

13 BE IT RESOLVED by the Alaska State Legislature that the Task Force on the
14 Impacts of Transfers of Governmental Functions to Local Governments is established to

15 (1) study the effect on local governments of the transfer of functions now
16 performed by the state; and

1 (2) examine the roles of the federal, state, ^{Tribal} and municipal governments in
2 providing services and to determine whether changes ought to be made in those roles and
3 recommend legislation needed to accomplish those changes; and be it

4 **FURTHER RESOLVED** that the task force shall be composed of seven members, as
5 follows:

6 (1) two members of the Senate appointed by the President of the Senate; one
7 member shall be a member of the majority and one member shall be a member of the
8 minority; and

9 (2) two members of the House of Representatives appointed by the Speaker
10 of the House of Representatives; one member shall be a member of the majority and one
11 member shall be a member of the minority; and

12 (3) two members appointed by the Alaska Municipal League and one member
13 appointed by the Alaska Federation of Natives to represent the unincorporated communities
14 in the unorganized borough of the state; members appointed under this paragraph are not
15 entitled to travel or per diem payments from the state; and be it

16 **FURTHER RESOLVED** that the task force may conduct its work during the
17 legislative session and during the interim between sessions, may use the teleconference
18 network and meet by teleconference, and may conduct public hearings; and be it

19 **FURTHER RESOLVED** that the task force shall report its findings and
20 recommendations to the Speaker of the House of Representatives and the President of the
21 Senate no later than January 19, 2000; and be it

22 **FURTHER RESOLVED** that the task force is terminated at 11:59 p.m. on March 1,
23 2000.



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS
REPRESENTATIVE ANDREW HALCRO, REPRESENTATIVE JOHN HARRIS, CO-CHAIRMEN
STATE CAPITOL, ROOM 418
JUNEAU, ALASKA 99801-1182
(907) 465-3882

AGENDA

APRIL 20, 1999

1. Call Meeting To Order
2. Call Roll
 - a. Murkowski
 - b. Joule
 - c. Dyson
 - d. Harris
 - e. Halcro (Excused)
 - f. Morgan (Excused)
 - g. Kookesh (Excused)
3. HB 200 - Municipal Property Tax Exemptions
 - a. Tom Wright (Speaker Porter's Office)
 - b. Public Testimony
4. HCR 6 - Task Force: Transfer of State Functions
 - a. Representative Berkowitz - Sponsor
 - b. Public Testimony
5. Motion to Adjourn

Alaska State Legislature
House of Representatives
Minority Leader

Alaska State Capitol
Juneau, Alaska 99801-1182
1-888-465-4919 (toll free)
1-907-465-2137 (fax)



Interim Address
716 West Fourth Avenue
(phone) 1-907-269-0130
(fax) 1-907-269-0132

Representative Ethan Berkowitz
District 13

Legislators with Elected Municipal Government Experience

Representative Williams	Mayor of Saxman & Member, Saxman City Council
Representative Grussendorf	Mayor of Sitka & Member, Sitka Assembly
Representative Austerman	Member, Kodiak Borough Assembly
Representative Phillips	Member, Kenai Peninsula Borough Assembly & Homer City Council
Representative Davis	Mayor of Soldotna & Member, Soldotna City Council
Representative Smalley	Member, Kenai City Council
Representative Porter	Member, Anchorage Assembly
Representative Dyson	Member, Anchorage Assembly
Representative Davies	Member, Fairbanks North Star Borough Assembly
Representative Whitaker	Member, Fairbanks City Council
Representative Harris	Mayor of Valdez & Member, Valdez City Council
Representative Morgan	Mayor of Aniak
Representative Moses	Member, King Cove City Council
Senator Taylor	Member, Ketchikan Borough Assembly/City Council
Senator Elton	Member, Juneau Borough Assembly
Senator Torgerson	Member, Kenai Peninsula Borough Assembly



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

April 19, 1999

Representative Ethan Berkowitz
State Capitol
Juneau, AK 99801

Dear Representative Berkowitz:

The AML strongly supports the collaboration of municipal governments with the State to support efficient and effective state and local public services with the lowest combined state and local taxes and fees. The transfer of state services to municipalities must be carefully planned to avoid unintended negative impacts. Therefore AML supports the goals of both HCR 6 and SB 33, which support state and municipal collaboration.

We believe strong local governments are a key to the future of Alaska. Local governments provide a broad range of critical services including schools, roads, police and fire protection, water and sewer, local human services, etc. Currently, the combined total spending of local governments is approximately equal to the entire state General Fund operating budget of \$2.3 billion. Local governments and schools employ approximately 35,000 Alaskans, and local taxes and fees generate over \$1.4 billion each year, making local taxpayers a greater combined revenue source than current oil revenues and second only to the earnings of Alaska's Permanent Fund.

In 1992, the AML and Alaska Conference of Mayors initiated the Governmental Roles Task Force implemented by House Concurrent Resolution 17. HCR17 (attached) had essentially the same goals to:

- Sort out state and local roles and responsibilities for providing public services and "recommend corrections for existing inconsistencies, overlap, or duplication of governmental functions...;
- Examine state-local responsibilities in other states" and encourage "successful models and innovative ideas";
- "Ensure budget reductions be shared equitably between state and municipal governments".

Copies of the Task Force recommendations are available from AML or OMB.

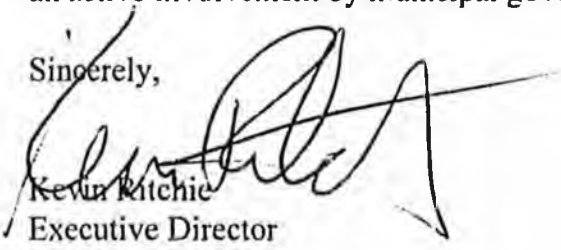
In 1996, the AML and ACoM initiated an administrative collaboration with the state administration called the "State-Local Task Force." The goals were similar and recommendations were also developed.

Neither of the above reports have been implemented, however, both contain valuable recommendations and information that are still relevant and may form a good base for new discussions. I have also attached a copy of "Sorting out State and Local Responsibilities" written by the National Conference of State Legislators.

In the years after Alaska's statehood, the evolution of local government was boldly pursued because the Constitution called for "maximum local self government." State actions to help local self-government evolve was largely dropped as oil revenues diverted attention from many critical issues.

The AML and ACoM are again willing to be involved in any effort to develop a long-range plan to deliver needed public services to Alaskans at the lowest possible cost through state-local-private partnerships. AML supports your efforts to pass HCR 6 with an active involvement by municipal governments.

Sincerely,



Kevin Ritchie
Executive Director

cc: AML Board of Directors
AML Legislative Committee

Appendix 6

Text of HCR 17

SENATE CS FOR CS FOR HOUSE CONCURRENT RESOLUTION NO. 17 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 5/15/91
Referred: Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

A RESOLUTION

1 Establishing a Task Force on Governmental Roles.

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

3 WHEREAS both the federal and state governments have reduced assistance to municipalities and
4 shifted responsibilities to municipalities; and

5 WHEREAS state agency operating funds appropriated by the legislature have increased by 19
6 percent over the past five years; and

7 WHEREAS state funds appropriated by the legislature to municipalities have been reduced by
8 40 percent over the last five years; and

9 WHEREAS during the last five years the number of state employees has increased and the
0 number of municipal employees has decreased; and

1 WHEREAS an effort is needed to sort out responsibilities for providing governmental services
2 in the most efficient and effective manner; and

3 WHEREAS the idea of undertaking a review of the roles of federal, state, and municipal
4 government in providing services is not new, but a system for providing the review has not been
5 instituted; and

6 WHEREAS the legislature needs information on the relationship between the federal, state, and
7 municipal government to ensure that residents of the state have necessary services at reasonable costs;

1 **BE IT RESOLVED** by the Alaska State Legislature that the Task Force on Governmental Roles
2 is established with the following primary purposes:

3 (1) to define local, state, and federal governmental roles taking into account differences
4 between urban and rural areas and differences between organized boroughs, the unorganized borough,
5 and regional educational attendance areas;

6 (2) to examine the roles of the federal, state, and municipal governments in providing
7 services and to determine whether changes ought to be made in those roles and recommend legislation
8 needed to accomplish those changes;

9 (3) to consider methods of providing funding for governmental services, including the
10 existing revenue sharing program and municipal assistance program, and make recommendations for
11 improved funding mechanisms;

12 (4) to identify needed governmental services and consider methods to ensure those
13 services are efficiently provided;

14 (5) to compare the relationship between local, state, and federal governments in Alaska
15 with that in other states and make suggestions regarding implementation of successful models and
16 innovative ideas;

17 (6) to classify various public services by appropriate levels of government responsibility
18 and evaluate the classification for efficient service delivery, local control, constitutional responsibilities,
19 ability of government to pay for the services, and other pertinent criteria;

20 (7) to recommend corrections for existing inconsistencies, overlap, or duplication o
21 governmental functions, and establish a proposed time frame for implementing the corrections;

22 (8) to recommend alternatives for providing services and evaluate cost and fundin
23 options;

24 (9) to recommend changes to local government structures and mandatory powers; an
25 be it

26 **FURTHER RESOLVED** that the task force shall consist of 13 members as follows:

27 (1) two members of the Senate appointed by the President of the Senate;

28 (2) two members of the House of Representatives appointed by the Speaker of the Hous

29 (3) two persons representing the executive branch, appointed by the Governor;

30 (4) four persons representing different areas of the state and different municipalitie
31 appointed by the Alaska Municipal League;

32 (5) one person representing an unincorporated community in the unorganized boroug

appointed by the Alaska Federation of Natives;

(6) two public members appointed by the Governor; and be it

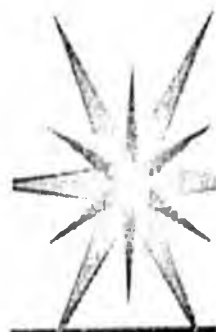
FURTHER RESOLVED that members of the task force shall elect from among themselves a chair and a vice-chair and that, within funds made available for the purpose, the task force may hire staff and, subject to approval by the Legislative Council, contract for services to perform its duties under the procurement procedures adopted by the council; and be it

FURTHER RESOLVED that each member of the task force appointed by the Alaska Municipal League should receive per diem and travel expenses from the municipality the member represents, except that the task force may, in cases of necessity and within funds made available for the purpose, approve the payment to a member of per diem and travel expenses authorized for boards and commissions under AS 39.20.180; and be it

FURTHER RESOLVED that the task force shall report its findings and recommendations to the Governor and the Legislature by June 30, 1992; and be it

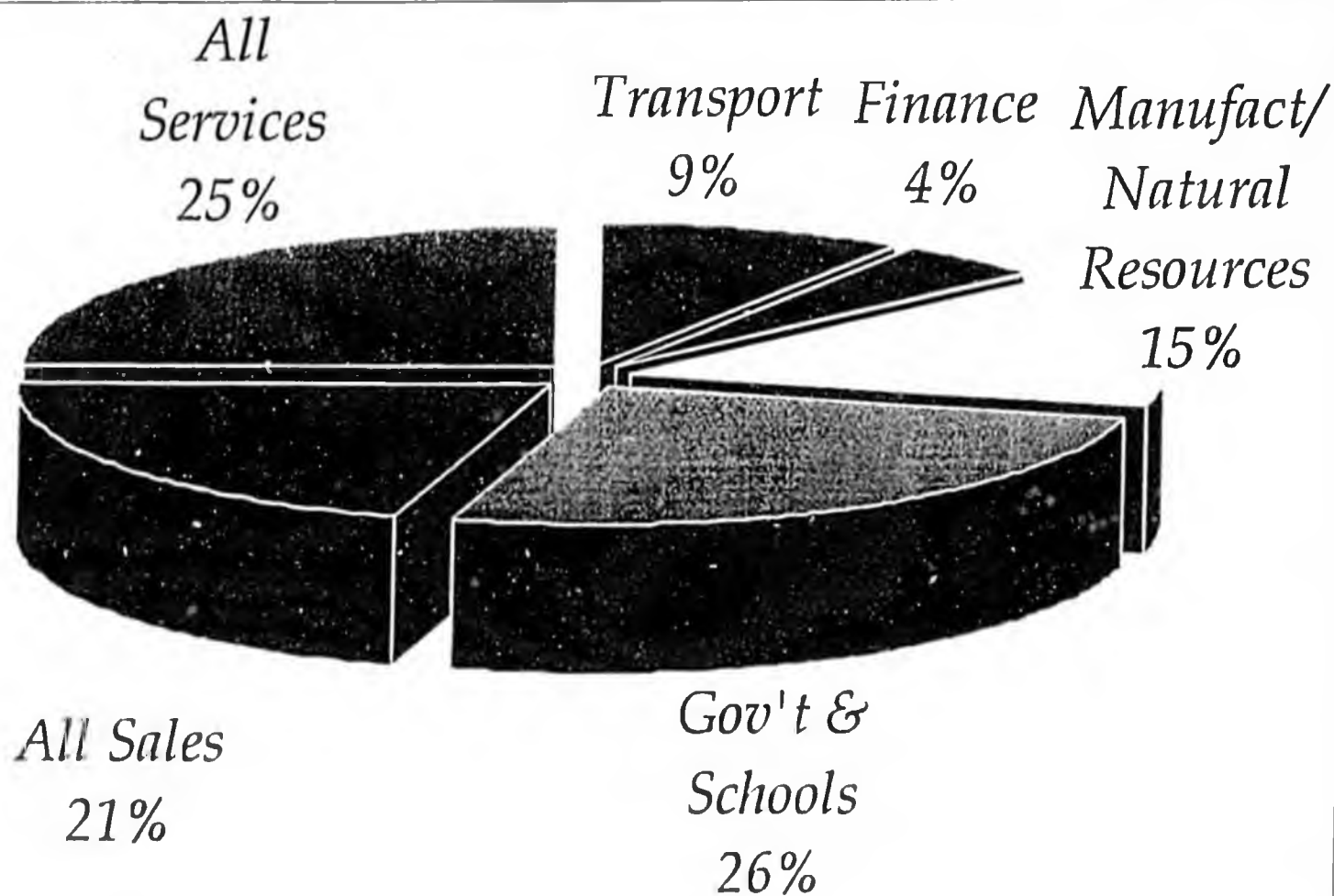
FURTHER RESOLVED that the task force report include recommendations that ensure budget reductions be shared equitably between the state and the municipal governments; and be it

FURTHER RESOLVED that the task force is terminated on June 30, 1992.



285,700 Jobs in Alaska -

(9/98 AK-DOL - Non-Agricultural Employment)



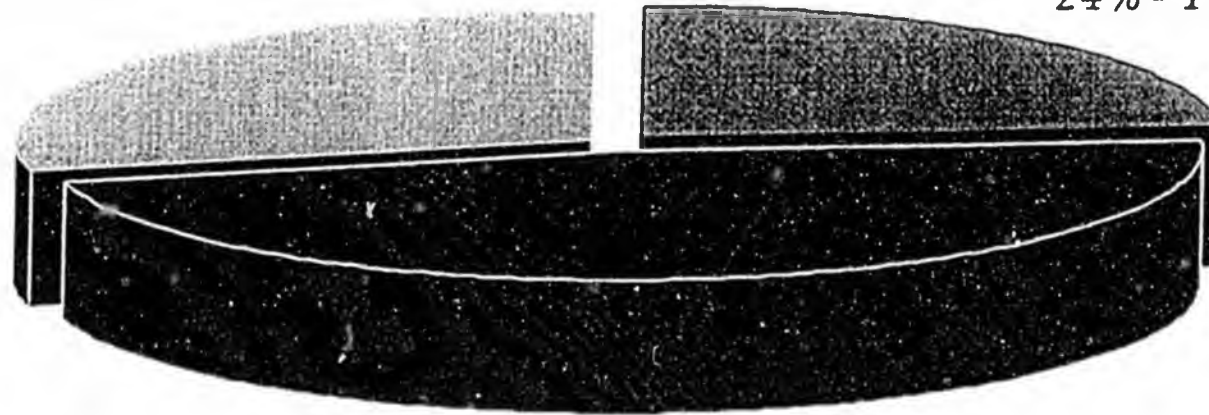


State/Local Government Jobs in Alaska - 73,200 Jobs

*Government Jobs in Alaska
AKDOL September 1998*

*State Jobs
29% - 21,100*

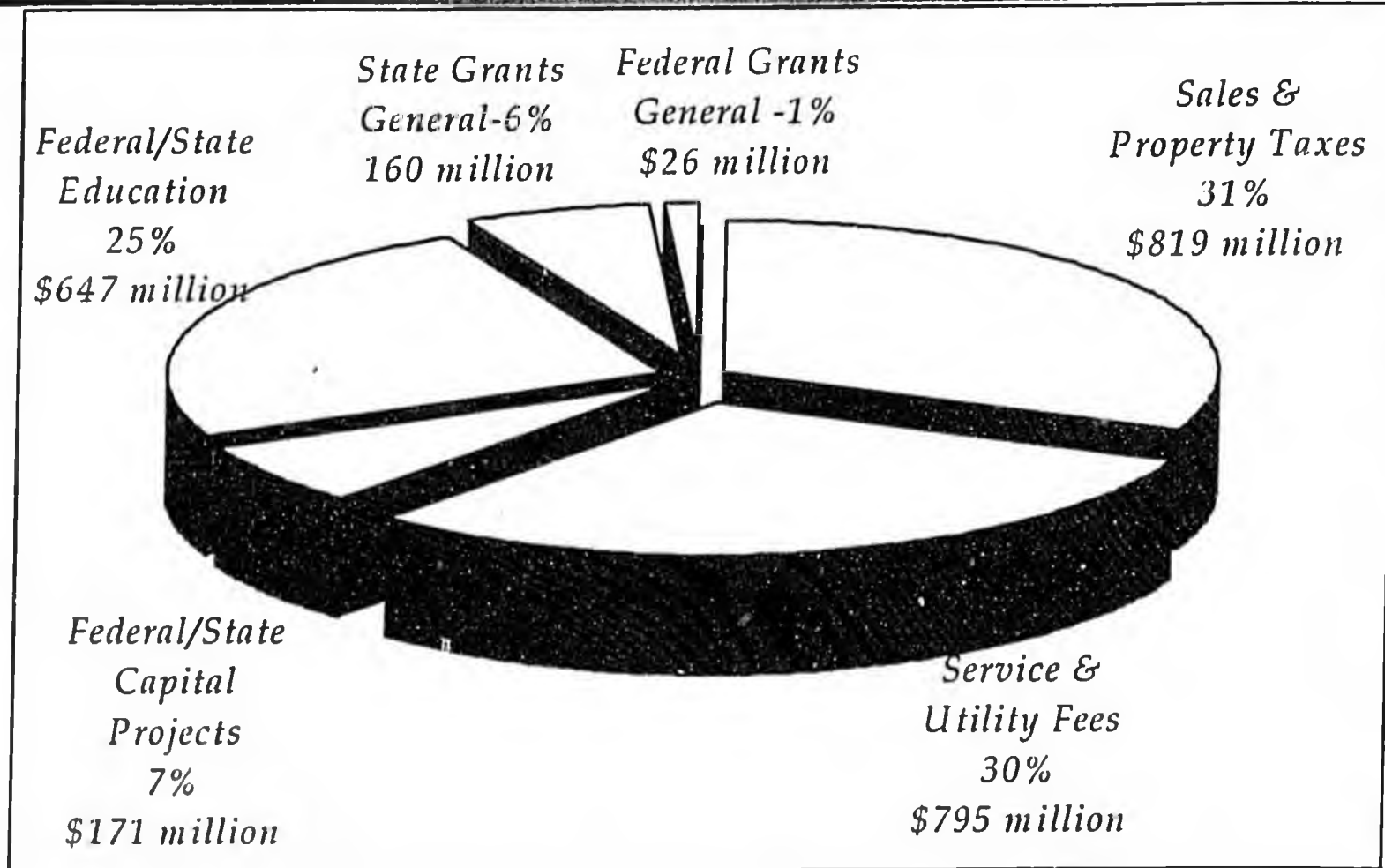
*Federal Jobs
24% - 17,500*

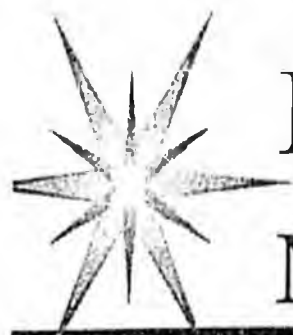


*Local Gov't
and Schools
47% - 34,600*

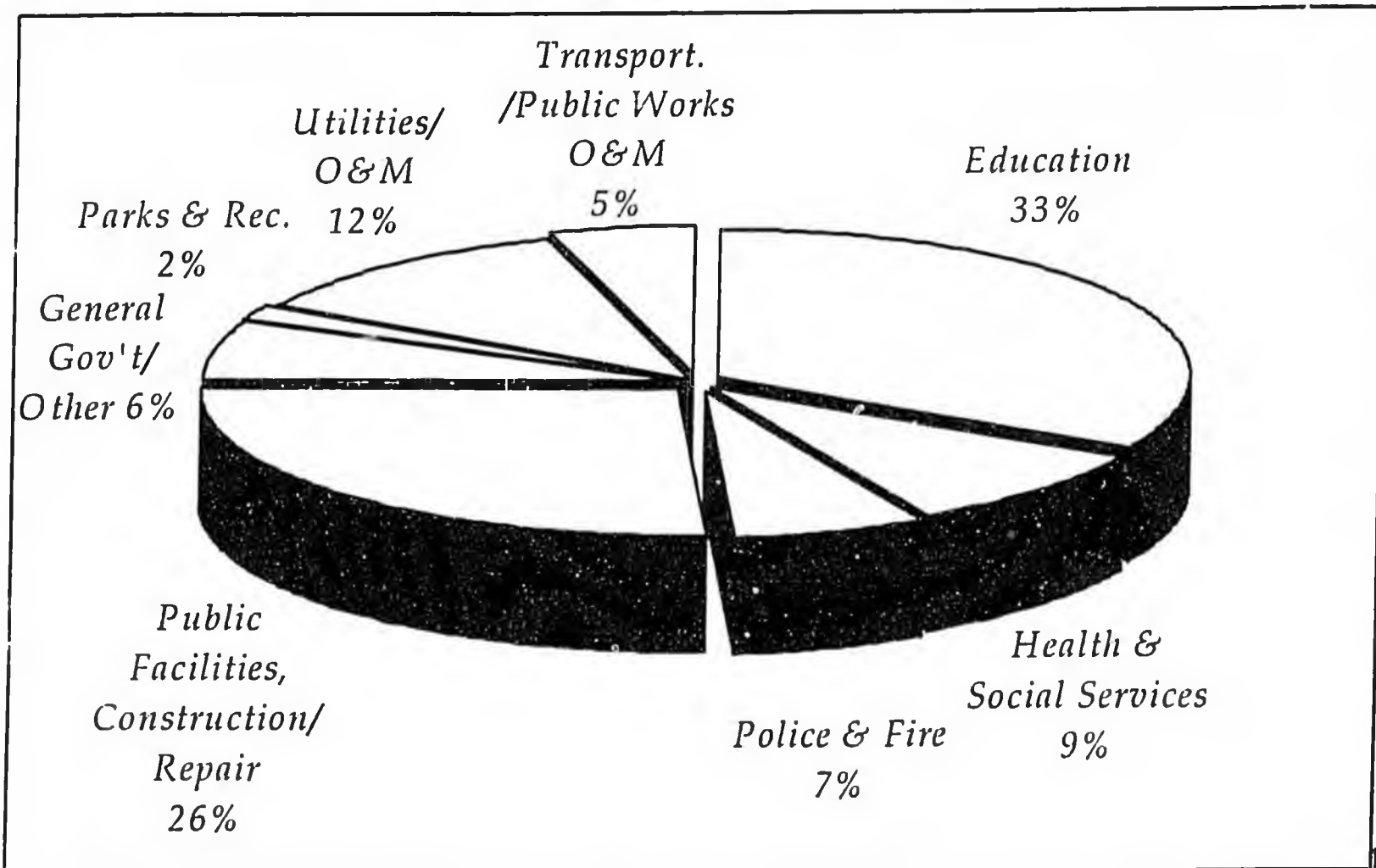


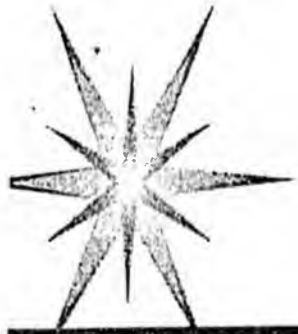
Local Government - Where the Money Comes From (\$2.6 Billion)





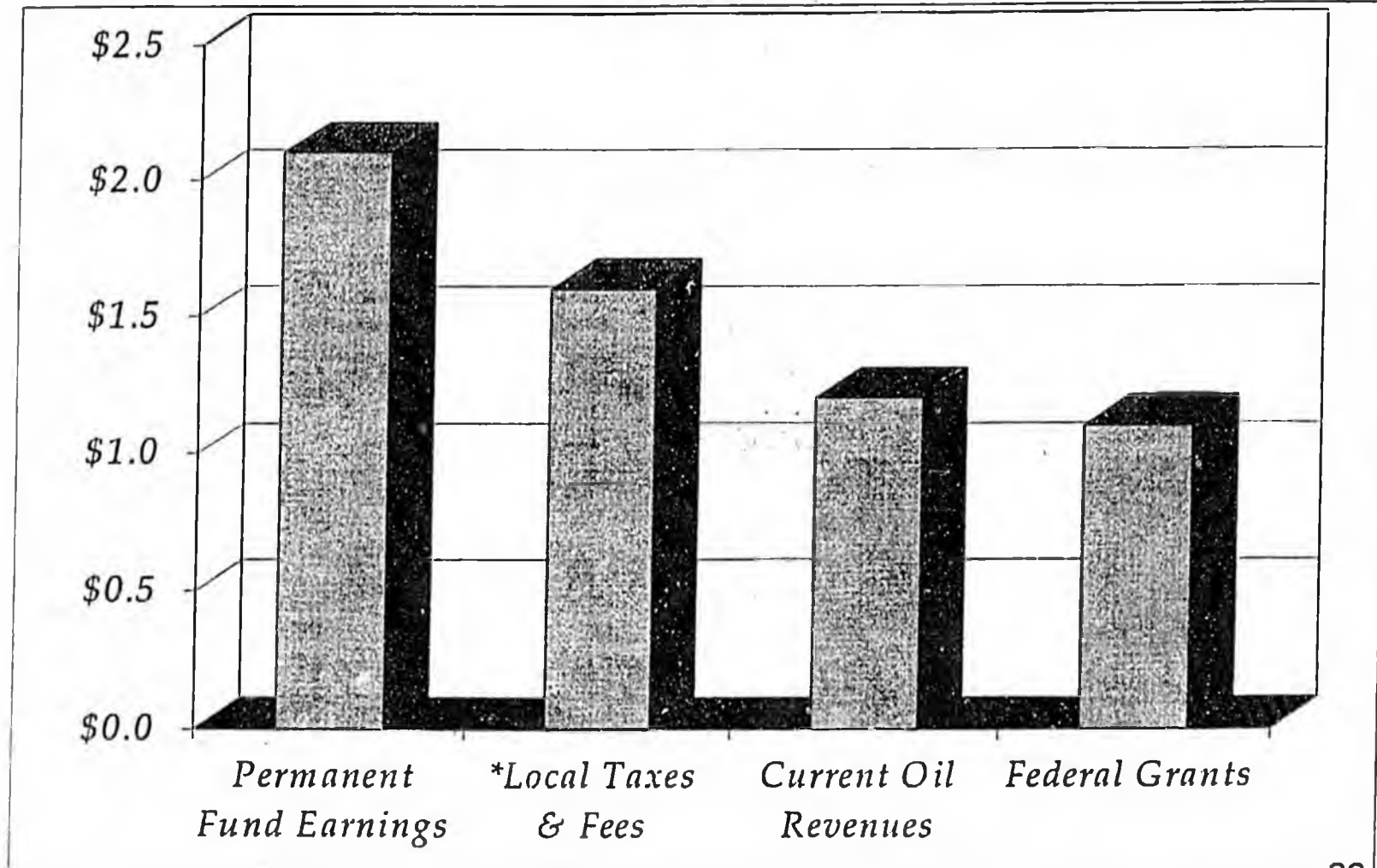
Local Government - Where the Money Goes - \$2.6 Billion





Top Alaska Current Revenues

(in \$ billions)



State of the

A New Alaska Fiscal Plan and

“... municipalities now provide approximately half of all state/local public services with a smaller percentage of state financial support than ever before.”

Alaska's municipal governments have accepted the challenge of being full partners with state government in providing public services to Alaskans.

To help balance the state budget, municipalities and local taxpayers have “stepped up to the plate.” After many difficult local choices, **municipalities now provide approximately half of all state/local public services** with a smaller percentage of state financial support than ever before. The price has been steadily rising local taxes to pay for the same, or fewer, public services.

Despite federal mandates and accelerating transfers of responsibility from the State for key services such as roads, harbors, and education, municipalities have kept the growth of their combined **budgets to an average of approximately 1% per year** for the past five years. However, significant cuts in state financial support for stabilizing local taxes have caused local taxes and fees to rise at a much higher rate.

In 1997, **total municipal taxes and other local fees rose to over \$1.6 billion**, surpassing projected oil revenues for the first time.

In the past, the State failed to analyze the impacts of its budget decisions on local services, local economies, and local taxpayers. It can no longer fail to do so, nor can it solve Alaska's future problems without asking for help from Alaska's communities.

Municipalities in 1999

the Growing Role of Local Government

The most critical issue facing Alaskans in 1999 is the need for the people to agree to a fiscal plan for public services that is affordable to individuals and businesses. This is not just a state government issue, but one that impacts every Alaskan.

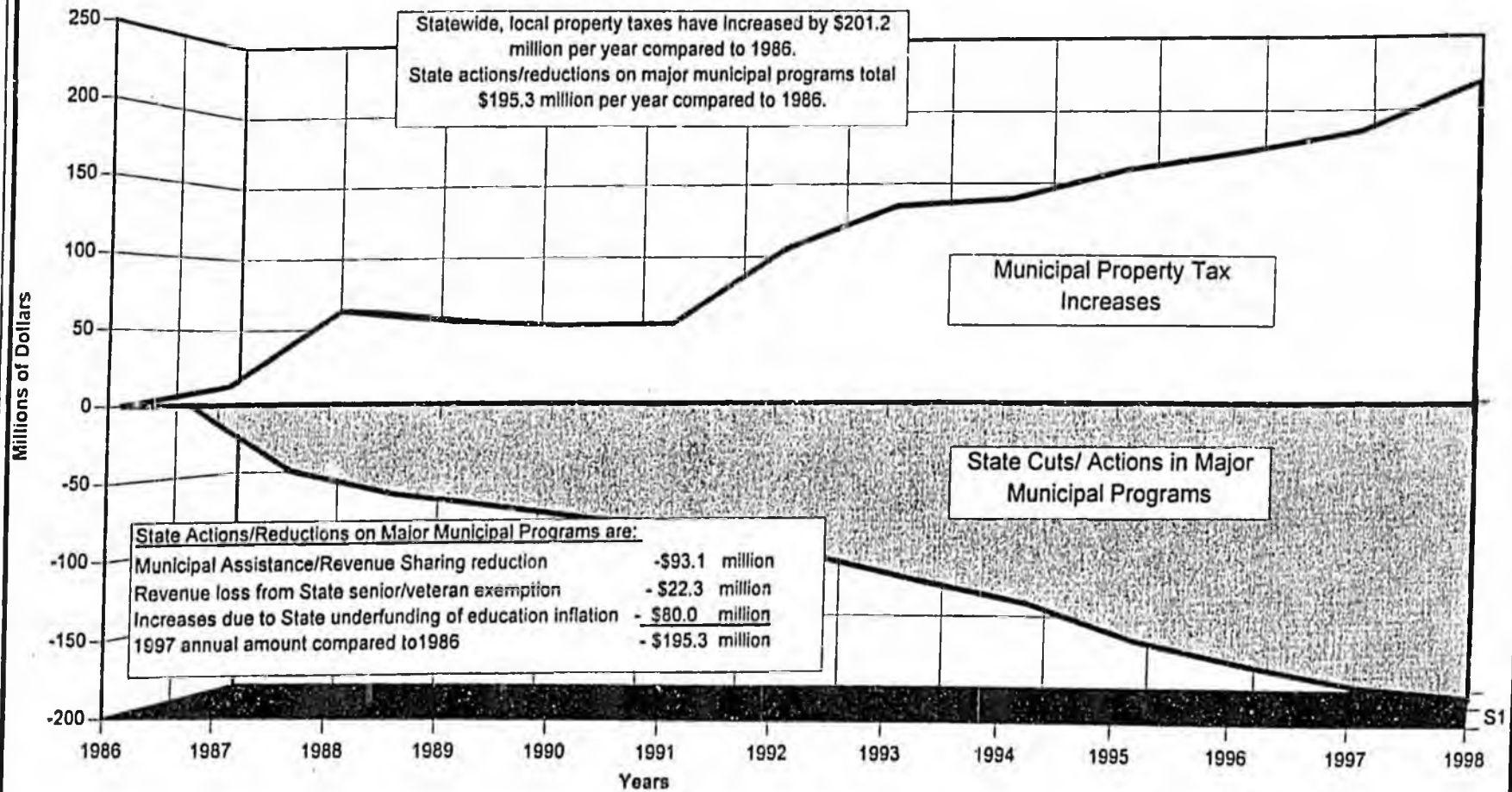
The Alaska Municipal League and Alaska Conference of Mayors believe we must all work together to resolve this issue while Alaska still has a strong economy and a full range of financial and economic options available. We are asking **every community to involve its citizens in understanding the benefits of, and the need for, a fiscal plan** and evaluating the options to keep Alaska's communities and economy strong.

In any fiscal plan, it is critical that all tax and service **impacts on citizens, businesses, and communities be openly and fully evaluated**. State budget decisions have a direct impact on local economies, critical local services, and local taxes.

Municipalities are willing to debate reductions to state programs that stabilize local property taxes, **however, the property tax and service impacts of those cuts must be openly analyzed** so the public can compare increased local taxes to other options in the fiscal plan.

"Municipalities are willing to debate reductions to state programs that stabilize local property taxes, however, the property tax and service impacts of those cuts must be openly analyzed..."

State Actions on Major Municipal Programs are the Primary Factor in Local Property Tax Increases
 (Increase in Property Taxes vs State Actions/ Reductions on Major Municipal Programs)



Source: "Alaska Taxable" 1986 to 1998, Dept. of Community & Regional Affairs; Department of Education funding reports 1986 to 1997.

Property Tax Facts: Comparisons With Other States¹

- Since 1986, every dollar paid by Alaskans in increased property taxes is approximately equal to state budget reductions and other actions impacting municipal revenues. This comparison does not include transfers of state service responsibilities to municipalities, or increased state and federal mandates.

- According to the National Association of State Legislatures (NCSL), **Alaska has raised property taxes as a percentage of total state and local revenues more than any other state since 1970.** Twenty-one states reduced property tax reliance by more than 10 percent. Only eight states increased the role of the property tax in state-local finance, with Alaska leading the nation.

- According to the NCSL, in 1970, Alaska was 42nd out of 50 states in state-local reliance on property taxes; in 1992, it was 20th.

- According to *Governing Magazine*, "1999 State & Local Sourcebook," in FY 95, **Alaska was 6th highest in per capita property tax out of the 50 states.** (If you exclude oil and gas property taxes, Alaska is approximately 25th.)

- The NCSL report also states that nationwide "property tax reliance will show a further decline when the statistics from the late 1990's become available." However, **Alaska is continuing the fiscal policy of disproportionately cutting municipal revenues, which causes an increase in local property taxes.**

¹ "Critical Issues in State-Local Fiscal Policy- A Guide to Local Option Taxes", National Conference of State Legislatures (NCSL), November, 1997; *Governing Magazine* "1999 State & Local Sourcebook" in FY95.

"Alaska has raised property taxes as a percentage of total state and local revenues more than any other state since 1970. "

“Seamless” State/Local Public Services Affect Local Taxpayers

Most key state/local services are jointly funded and delivered by both state and local government, or “seamless.” The public is generally not aware of which government supplies the service. Road maintenance is a good example of a “seamless” service. Most citizens travel on both state and local roads. If either the state or local government fails to maintain its portion of the road system, the entire road system fails. Other examples of “seamless” state/local services include:

- schools and school construction
- deferred maintenance of public facilities
- police/troopers
- jails
- roads and harbors
- airports
- water and sewer construction
- health care and clinics
- social services and alcohol/mental health treatment
- environmental regulation
- economic development

State cuts in “seamless” state/local services require the impacted municipalities to fill the “service gap,” or accept elimination of a service deemed critical to local citizens.

State cuts to municipal revenue sharing and “seamless” state/local services **may “seem less” in terms of the State budget, but the problem is just shifted to local communities and taxpayers.”**

“State cuts to municipal revenue sharing and “seamless” state/local services may “seem less” in terms of the State budget, but the problem is just shifted to local communities and taxpayers.”

Alaska State Legislature
House of Representatives
Minority Leader

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Representative Ethan Berkowitz
District 13

House Concurrent Resolution 6

"Establishing a Task Force on the Impacts of Transfers of Governmental Functions to Local Governments."

Sponsor Statement

As the State of Alaska works to reduce spending we contemplate cessation of certain services. Local governments, by necessity or by desire, will provide some services eliminated in state government.

These changes have significant effects on both the local governments and Alaskan taxpayers. For example, reductions in Municipal Assistance by the State of Alaska have resulted in corresponding increases in taxes collected by municipalities.

While this devolution is not necessarily a bad idea, the Legislature needs to work with local governments to mitigate the effects of transferring, or eliminating, state services to local governments.

House Concurrent Resolution 6 establishes a Task Force consisting of three Senators and three Representatives, two majority members and one minority member of the respective bodies, to study the effects of transferring services from state to local government. The Task Force will work during the interim between the first and second sessions of the 21st Alaska State Legislature and report its findings in the spring of 2000. The goal is to assure that budget reductions and transfers of state functions take place in an orderly and well thought out manner.

I would appreciate your support of this legislation.

CRITICAL ISSUES IN STATE- LOCAL FISCAL POLICY

Sorting Out State and Local Responsibilities

Foundation for State Legislatures
and
National Conference of State Legislatures



National Conference of State Legislatures
William T. Pound, Executive Director

1560 Broadway, Suite 700
Denver, Colorado 80202

444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001

July 1997



The National Conference of State Legislatures serves the legislators and staffs of the nation's 50 states, its commonwealths, and territories. NCSL is a bipartisan organization with three objectives:

- To improve the quality and effectiveness of state legislatures,
- To foster interstate communication and cooperation,
- To ensure states a strong cohesive voice in the federal system.

The Conference operates from offices in Denver, Colorado, and Washington, D.C.



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CONTENTS

Foreword.....	v
Preface and Acknowledgments.....	vii
Participating Legislators and Legislative Staff	vii
Representatives of the Foundation Fiscal Partners.....	viii
Sorting Out State and Local Responsibilities.....	1
What is Sorting Out?.....	1
Government or Not?	1
Cases in Sorting Out: The V'Burg Initiative, a Public-Private Partnership	2
State or Local Responsibility?.....	2
Setting the Stage for Sorting Out	3
Principles for Sorting Out.....	3
Principle 1.....	4
Cases in Sorting Out: The Special Case of Education	5
Principle 2.....	6
Cases in Sorting Out: Jails and Corrections Spending.....	7
Principle 3.....	8
Cases in Sorting Out: What Are Mandates?	9
Principle 4.....	10
Cases in Sorting Out: Trial Court Funding in California.....	11
Cases in Sorting Out: General Assistance Programs	12
Principle 5.....	14
Cases in Sorting Out: Minnesota's Fiscal Disparities Program	15
Conclusion.....	16

FOREWORD

Ten years ago, the National Conference of State Legislatures convened a Task Force on State-Local Relations to examine critical issues in state-local relations. The task force issued a 1987 report that challenged states to reassess their policies toward local governments, and it developed a set of recommendations and principles designed to guide this process. Task force members were convinced that reduced federal aid for state and local governments, combined with public concern about state and local government accountability and efficiency, would provide the impetus for changes in established state-local relationships.

The changing legislative and economic environment of the late 1990s has brought new urgency to the challenges addressed by the task force 10 years ago. Some of the major challenges facing state and local governments in the late 1990s include the following:

- New federal laws will completely revamp the welfare system and pave the way for deregulation of the telecommunications and electric utility industries. These changes have implications for state and local revenues and expenditures.
- The health care industry is transforming itself through consolidation and managed care, and cost containment efforts will intensify in the next five years. State and local governments will continue to play major roles in health care financing and service delivery, even if the current Medicaid program is restructured.
- Technology is altering the way Americans shop and do business, with implications for how state and local governments deliver services and raise revenues to pay for those services.
- State and local governments face more constitutional and statutory constraints on their ability to tax and spend.

These issues have important consequences for state and local governments, which will assume more responsibility for funding services at a time when their ability to raise revenue is constrained. To manage this period of transition, state and local governments must review their systems for delivering and funding services with the goal of improving efficiency and accountability to the taxpayers.

This Fiscal Foundation Partners project—*Critical Issues in State-Local Fiscal Policy*—builds upon the earlier work of the Task Force on State-Local Relations, recognizing the realities of today's environment.

The project consists of two reports. This first report includes principles to evaluate the sorting out of state and local government responsibilities. The second report discusses the evolution of state-local revenue systems and provides guidelines for evaluating local revenue diversification proposals.

These reports are not intended to provide a prescription for state action or to recommend a specific set of state-local policies. Rather, they provide state legislators with a framework for evaluating their state-local fiscal policies. The unique traditions, values and fiscal characteristics of each state will ultimately determine the design of its state-local system.

PREFACE AND ACKNOWLEDGMENTS

Several members of the National Conference of State Legislatures' (NCSL) Foundation for State Legislatures convened in 1991 to discuss how they could assist in the development of sound state fiscal policy. They concurred that they could pool their resources to examine specific areas of state fiscal policy and then make recommendations on these state fiscal policy issues. This group, known as the Foundation Fiscal Partners, supports the NCSL Fiscal Affairs Program in an ongoing effort to improve the quality of fiscal information available to state policymakers.

A key goal of the partnership is to improve the dialogue among state legislators, business representatives and other organizations interested in state fiscal policy decisions. By increasing awareness among the participants, these groups have developed an effective partnership to address such concerns as fair and stable tax systems and strengthening the budget process.

Critical Issues in State-Local Fiscal Policy is the fourth Foundation Fiscal Partners project. Previous Foundation Fiscal Partners' projects include:

- *Principles of a High Quality State Revenue System* (November 1992)
- *Fundamentals of Sound State Budgeting Practices* (May 1995)
- *State Strategies to Manage Budget Shortfalls* (December 1996)

Participating Legislators and Legislative Staff

Senator Charles Horn, Ohio

Representative Willie Logan Jr., Florida

Senator David Nething, North Dakota

Senate President Tom Norton, Colorado

Delegate Howard P. Rawlings, Maryland

Representative Ann Rest, Minnesota

Paul Dlugolecki, Executive Director, Senate Minority Appropriations, Pennsylvania

Ted Ferris, Staff Director, Joint Legislative Budget Committee, Arizona

Jamie Franklin, Staff Administrator, Legislative Research Commission, Kentucky

Harry A. Green, Executive/Research Director, Advisory Commission on Intergovernmental Relations, Tennessee

Robert Keaton, Director, Senate Office of Fiscal and Policy Development, Louisiana

Stephen A. Klein, Legislative Fiscal Officer, Joint Fiscal Office, Vermont

Alan Kooney, Legislative Budget and Finance Officer, New Jersey

Abraham Lackman, Secretary, Senate Finance Committee, New York

Philip Leone, Director, Joint Legislative Audit and Review Commission, Virginia
Leo Memmott, Legislative Fiscal Analyst, Utah
Dennis Prouty, Director, Legislative Fiscal Bureau, Iowa
Stephen Price, Staff Director, House Appropriations Committee, Missouri
Gary Olson, Director, Senate Fiscal Agency, Michigan
Peter Schaafsma, Executive Director, California Debt and Investment Advisory Commission

Representatives of the Foundation Fiscal Partners

American Federation of State, County and Municipal Employees: Marcia Howard, Economic Policy Analyst, Department of Public Policy; Marie Monrad, Associate Director, Department of Public Policy
Committee on State Taxation: Douglas Lindholm, Legislative Director, representing AT&T, Ford Motor Company, American Express, Coca Cola and General Electric
International Council of Shopping Centers: Russell Pratt, Staff Vice President; Richard Warren, Director of State Relations
National Education Association: Joseph A. Falzon, Research Specialist; Janis Hagey, State Policy Affairs Coordinator; Ed Hurley, Research Specialist
National Soft Drink Association: Kevin Perry, State and Local Affairs
NCSL Foundation for State Legislatures: Jerry Sohns
Philip Morris Management Corporation: Derek Crawford, Director, Government Affairs Planning; John Dunham, Fiscal Issues Manager

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SORTING OUT STATE AND LOCAL RESPONSIBILITIES

The nation is experiencing a transition as state governments take back some of the responsibilities that the federal government had assumed between the 1930s and the 1970s. Voter pressure for fiscal discipline at all levels of government is causing state and local governments to assess (and possibly rearrange) their varied responsibilities for funding and delivering services. In sorting out, legislatures have a responsibility to determine the roles of the public and private sectors in service delivery and assign financing responsibility. This report provides five principles as a framework to help guide the sorting out process.

What is Sorting Out?

Sorting out is the process of deciding two critical issues in the relationship between state and local government:

- Which level of government should finance services, and
- Which level of government should deliver those services.

Sorting out governmental responsibilities presumes that a more fundamental question—whether government should provide the service at all—has been considered and answered affirmatively. Because local governments derive their powers from the states, it is then the responsibility of the state legislature to sort out the roles and responsibilities of state and local governments.

A major benefit of sorting out government responsibilities is to make governments accountable to taxpayers for the quality, effectiveness and efficiency of services. Alice Rivlin, in her 1992 book *Reviving the American Dream*, argues that the overlapping responsibilities of federal and state governments make it impossible for citizens to assign responsibility for the success or failure of programs. The same argument applies to state and local governments.

Government or Not?

Any sorting out process must begin with the fundamental question: Should government provide this service? Growing fiscal constraints at all levels of government in the coming years may prompt policymakers to ask this question more frequently and, in some cases,

respond that the private or nonprofit sectors are the most appropriate providers. The government's contribution to this process may be simply to provide incentives or reduce regulatory obstacles. Whether government has a role in financing services provided by private or nonprofit providers is another question. Government responses will vary, depending upon such factors as efficiency levels, cost effectiveness, accountability and political considerations.

Partnerships that combine government and nongovernment efforts are common. And, in many instances, these public-private partnerships have been successful.

Cases in Sorting Out: The V'Burg Initiative, a Public-Private Partnership

A unique combination of transitional housing, support services, and education and training in Vicksburg, Miss., was created through a public-private partnership with the purpose of moving low-income women out of welfare and toward self-sufficiency.

The V'Burg Initiative, a nonprofit development organization, was founded in 1989 by the city. Its Self-Sufficiency Committee, which represents 13 human service agencies, coordinates services provided by a network of 28 county agencies. Several federal programs subsidize child care, transportation, meals and social services, supplemented by the United Way and other private sources. The nine-unit housing development, including a child care and adult training facility, cost \$1.1 million. It was constructed debt-free with financing that included \$500,000 from the state's Community Development Block Grant program. The state made these funds available under a special competition to select innovative projects that proposed linking affordable housing and comprehensive services as a model for helping Mississippi's low-income population gain economic independence. Other financing included \$453,233 from the city, \$430,000 from the county, donations by the local utility of heating systems worth \$62,400, a \$30,282 grant from the regional Public Housing Authority, and contributions totaling \$18,000 from banks and local businesses. Professionals donated their services—such as appraisal and environmental impact assessment—to many elements of the development.

State or Local Responsibility?

Once the decision is made that government should provide a service, legislatures have an important responsibility to design a financing and delivery system that is rational, efficient and accountable. This first requires a state to determine which level of government should provide a service. If local government is determined to be the appropriate provider, the next decision must be whether the state should assist with financing.

For some state and local programs, such as education, the state constitution provides explicit guidance about the responsibility for funding and delivering services. In most cases, however, state constitutions are silent on the issue. It is then up to policymakers to determine the appropriate mix of service delivery and financing.

The sorting out process requires an explicit recognition of the disparities in the wealth of local governments. A legislative decision to shift program responsibility to local

governments could mean that certain services would no longer be provided because some local governments could not afford them, while other more affluent localities become magnets for people in need of these services. To address this concern, some states have adjusted their aid programs or have allowed local option taxes.

The sorting out process often involves weighing the tradeoffs between important, but sometimes contradictory, principles. For example, local governments may better understand the public's needs because they are closer to the citizens they serve. On the other hand, local viewpoints may not take into account the priorities of a broader state constituency. Ultimately, state traditions, values and fiscal systems will lead policymakers to decide which principles will guide their sorting out decisions.

Setting the Stage for Sorting Out

Policymakers first need to decide whether government should have a role in providing a service. If a government role is appropriate, sorting out principles can provide guidance in deciding which level of government is appropriate to finance and deliver the program or service.

Principles for Sorting Out

The following five principles constitute a framework for sorting out responsibilities between state and local governments. They encourage states to review the goals of the state-local government system and to evaluate how proposed changes in the roles and responsibilities of state and local governments can further those goals.

The five sorting out principles are these:

1. Provide the clearest possible separation of responsibility between state and local governments.
2. Assign program responsibility to the lowest possible level of government unless there is an important reason to do otherwise.
3. Consider the fiscal effects of state mandates on local governments, and either assume financing responsibility for costly mandates, allow local discretion in implementing them or repeal them.
4. Assume state responsibility for programs where uniformity or statewide benefits will result.
5. Provide state financial assistance to local governments that have the lowest capacity to raise their own revenue.

PRINCIPLE 1

Provide the clearest possible separation of responsibility between state and local governments.

When the responsibilities of state and local governments overlap, citizens have difficulty recognizing and assigning responsibility for the success or failure of programs. A key goal of sorting out should be to provide the clearest possible separation of responsibility between state and local governments.

The primary benefits of separate responsibilities are administrative efficiency, accountability and a reduced potential for cost shifting. Having fewer governments involved in programs should reduce paperwork, minimize duplication and decrease administrative costs. Separation also allows the public to hold a single government accountable for the success or failure of programs. Finally, separation eliminates the cost shifting that can occur when state and local governments share financial responsibility.

Ideally, separation should apply to both the financing and delivery of services. Policymakers should reexamine jointly funded programs to determine if justification still exists for state aid. Legislators may find programs that once needed state support may have met their funding or programmatic goals.

Resistance to change can complicate sorting out decisions. Attempts to modify existing state-local systems of financing and delivering programs that are the results of earlier political decisions and processes will create significant practical problems, particularly in areas like education and social services. Joint arrangements to share data or offer one-stop services may make fiscal sense.

Additionally, strict adherence to the separation principle may be inappropriate for certain programs or services. Application of this principle, for example, would require states to stop providing aid for K-12 education or assume responsibility for education from local school boards. Neither of these alternatives is likely to be acceptable from either a policy or a political perspective.

Cases in Sorting Out: The Special Case of Education

The special case of elementary and secondary (K-12) education illustrates the tradeoffs states face when trying to sort out the roles of state and local governments in financing and delivering services.

Although primary responsibility for delivering educational services rests with local school districts, the average state spends about one-third of its total general fund budget on state aid for K-12 education. This funding plays an important role in equalizing disparities between rich and poor communities, as well as in minimizing the burden of the local school property tax.

States have a well-established role in funding K-12 education. In some states this role is determined by the state constitution, which explicitly assigns responsibility for providing "adequate" or "efficient" education. In others, state supreme courts have assigned this responsibility to state government with little guidance on how to implement the court's ruling to achieve adequacy or efficiency.

K-12 education clearly violates the separation principle, sometimes creating friction between the state and those local school districts that want local control. States have increased the use of mandates to impose educational standards, rules and procedures on local governments. In Michigan, several school districts are suing the state because they claim the state has violated a constitutional prohibition against unfunded mandates. The state claims that state aid provided over the years has been more than adequate to fund these mandates.

State education programs clearly provide an important statewide benefit—an educated work force and citizenry. State aid programs also use the redistributive power of state government to target aid to the poorest school districts.

Most states have decided that the benefits of state education aid programs outweigh the problems they create and have determined that a joint state-local role is appropriate. There are two exceptions, however. In Hawaii, the state fully funds and delivers educational services without local government involvement. In New Hampshire, local school districts have almost complete control over educational funding and delivery decisions. A state foundation program provides just 8 percent of education funding, mostly for special education programs that have been mandated in local districts by federal court orders.

PRINCIPLE 2

Assign program responsibility to the lowest possible level of government unless there is an important reason to do otherwise.

Program responsibilities should be assigned to the lowest possible level of government to foster accountability and best meet local citizens' needs.

This principle fosters greater accountability because local government officials typically are more visible and accessible to citizens than state government officials. At the same time, local governments often have a better understanding of the service needs of local citizens. When the state determines service levels, citizens in different regions may receive more or fewer services than they want or need. Additionally, many types of local services such as public safety, fire protection and street repair are funded by property taxes or user fees collected locally. In many instances, local taxpayers determine their levels of service by accepting or rejecting local tax proposals.

An important caveat in principle 2 is the qualifying phrase "...unless there is an important reason to do otherwise." There are some basic issues that policymakers should consider when deciding if there is an important reason for a state role.

First, economies of scale in certain government functions may allow the state to provide services more efficiently than local governments. For example, the state may provide collection and audit services for local governments levying a local sales tax. Duplication of functions thus can be avoided, saving taxpayer dollars. Advances in technology may create additional savings if local governments can benefit from linkages to state computer systems and technology.

Second, some programs create spillover benefits or costs in a region that encompasses many local jurisdictions. This often occurs in large metropolitan areas. A single local government within the region may not respond at the optimum level if it takes into account only the effects on its residents. In such cases, regional or state financing and delivery of services may be preferable.

Finally, fiscal disparities—mismatches between needs and resources—among local governments might lead policymakers to conclude that a state role is necessary. Poorer jurisdictions often have higher service needs but lack the funding to finance them. Many states have assumed full funding of health and social service programs because of such fiscal disparities. Principle 5 further addresses the role of fiscal disparities between local governments and state policies to alleviate such disparities.

Cases in Sorting Out: Jails and Corrections Spending

Jails serve a local public safety function. They usually are county institutions. Their main purpose is to confine people awaiting trial or other legal disposition, adults serving short sentences (generally one year or less) or some combination of both. Local funding and operation of jails is probably appropriate to the extent that these corrections expenses depend on local preferences about strict law enforcement and sentencing.

Six states—Alaska, Connecticut, Delaware, Hawaii, Rhode Island and Vermont—have assumed full responsibility for the jail function. Four of these states are geographically small. Prisons and jails form one integrated system, so they have no local spending. There are significant variations among the other 44 states in terms of how responsibilities for particular functions are assigned. For example, some prisoners who would be held in state prisons in some states may be housed in local jails in others.

Local governments fund about one-third of direct state and local corrections spending, most of which is used to operate local jails. In 1991, the level of real per capita local corrections spending varied widely, ranging from \$56.01 in New York to \$4.20 in Mississippi. Local corrections spending generally is higher in states with large urban areas. California, New York and Texas have some of the largest jails in the country.

Local governments assumed a much larger share of responsibility for corrections spending between 1980 and 1991, possibly because of increased placement of state prisoners in local jails due to overcrowding in state facilities. State reimbursement to localities for the cost of housing these prisoners often does not cover the full cost. In 1992, Texas had the largest number of state prisoners in local jails, followed by Louisiana, New Jersey and Virginia. Virginia has provided local governments with financial incentives to organize regional jails to achieve economies of scale and improve service levels. As new state prisons become operational, it is likely that some of the pressure on local jails will ease.

Sources: *Jails: Intergovernmental Dimensions of a Local Problem*. Washington, D.C.: U.S. Advisory Commission on Intergovernmental Relations (n.d.).

Analyzing the Growth of State-Local Corrections Spending. Albany: Center for the Study of the States, 1995.

State Aid to Local Governments for Corrections Programs. Denver: National Conference of State Legislatures, 1989.

PRINCIPLE 3

Consider the fiscal effects of state mandates on local governments, and either assume financing responsibility for costly mandates, allow local discretion in implementing them or repeal them.

States sometimes impose requirements—mandates—on local governments to meet state social or economic policy objectives. These can create a hardship for local governments when they are given service responsibilities without adequate means to finance the delivery. Local officials argue that state mandates override local service needs and spending priorities, increase local tax burdens and are an inappropriate use of state power. From the state perspective, because local governments derive their powers from the state, mandating certain services and procedures is a legitimate use of state authority either to ensure uniformity or equity, achieve statewide benefits or encourage good public administration procedures.

Not all mandates are equally onerous in their financial effects on local governments. “Good government” mandates like those requiring public meetings or requiring minimum qualifications for local officeholders, for instance, may not impose significant expense upon local governments and presumably benefit all citizens.

States may want to consider at least three options with respect to mandates.

- Assume state responsibility for financing the mandated programs and services.
- Allow local governments discretion in implementing mandated programs and services.
- Repeal the mandates.

At a minimum, policymakers should closely examine any requirements that could impose significant costs on local governments. These decisions should generally reflect policymakers’ decisions under Principle 1—separation of responsibility.

Assessment of the fiscal effects of mandates on local governments is an important step in determining whether the state should assume financing responsibility. The fiscal note process that many states use during the development of legislation can alert state and local governments about the costs of new mandates. Some states—Virginia and South Carolina, for example—catalog existing mandates as an initial step to keep mandates under control. Other states have taken a different approach. At least 15 states have a constitutional or statutory requirement that the state assume some financial responsibility for mandates on local governments.

Cases in Sorting Out: What Are Mandates?

The U.S. Advisory Commission on Intergovernmental Relations (ACIR) has defined mandates as "constitutional, statutory or administrative action that limits or places requirements on local governments." Key categories of mandates include:

- Entitlement mandates that qualify all citizens who meet state-imposed guidelines to be eligible for locally funded services or benefits.
- Service level mandates that require certain minimum service or benefit levels to be provided by local governments.
- Personnel mandates that impose personnel procedures, guidelines, or salary and benefit requirements on local governments.
- Structural mandates that dictate how local government functions must be organized and structured.
- "Good government" mandates that impose public notice, open meeting, open records or other similar requirements.
- Tax base mandates that either provide certain exemptions from local tax bases—usually property tax exemptions—or restrict local revenue raising options.

PRINCIPLE 4

Assume state responsibility for programs where uniformity or statewide benefits will result.

As part of the sorting out process, state policymakers may want to ask whether some level of uniformity is needed when considering program responsibilities. If statewide uniformity is a goal or if there are statewide benefits in providing programs and services, the state may want to assume the responsibility for financing those programs and services.

State-determined uniformity in program benefits may prevent undesirable service level variations, particularly in programs that provide transfer payments to households. Uniformity also may minimize administrative costs and discourage migration by those seeking higher benefits. Voluntary uniformity and cost savings might result from the threat of migration, with local governments reducing benefits to stay in line with neighboring jurisdictions. The potential effects of migration may vary by state size and level of urbanization.

States that do establish uniform benefit levels will need to provide funding for those programs. Imposing uniformity requirements without funding can cause significant financial hardship in some localities. Localities with low fiscal capacity due to few taxable resources often have less flexibility to accommodate additional spending than those with a more valuable revenue base.

State policymakers also will want to consider the values and traditions of the state in determining how broadly to define "statewide benefits." For example, states may choose to establish minimum standards in areas such as air and water quality to ensure that all state citizens benefit equally.

Cases in Sorting Out: Trial Court Funding in California

Policymakers in California are considering uniformity in the context of sorting out state and local responsibilities for trial court funding. The 1997-98 California Governor's Budget proposes to address several problems with the trial court funding system. According to the California Legislative Analyst's Office, the current system of funding fails to promote equal access to justice, does not adequately provide for accountability, and strains county finances and state-county relationships.

Three levels of courts comprise California's judicial system—the state Supreme Court, the courts of appeals and the trial courts. The state funds the first two, while state and county resources together fund the trial courts. The Legislative Analyst's Office points out that the state has a clear interest in equal access to justice. Those accused of comparable crimes expect state laws to be applied uniformly, regardless of the county in which the crime occurs. Under the current trial court system, which depends on county fiscal capacity and budget priorities, disparities in access to the courts and the administration of justice may occur.

In addition, neither the state nor the counties can exercise effective fiscal oversight of court operations. Counties have limited ability to control court costs and review court operations. The state is limited as well. Since individual court system funding levels are determined by individual counties, the state may have difficulty using fiscal incentives or sanctions to promote its goals for court operations.

The governor's proposal would transfer funding responsibility from the counties to the state to ensure uniformity. Policy control and funding responsibility would be consolidated with the same level of government, thus improving accountability.

Source: California Legislative Analyst's Office, Sacramento, 1997.

Cases in Sorting Out: General Assistance Programs

The passage of comprehensive federal welfare reform legislation in 1996 prompted some states to review state and local roles in providing cash assistance to the poor. Federal welfare reform created a new state block grant program—Temporary Assistance to Needy Families (TANF). TANF replaced a federal entitlement program jointly funded by federal and state governments (and local governments in some states). TANF places a five-year limit on federal welfare benefits and removes most legal immigrants from eligibility for federal welfare benefits.

Many state and local governments provide assistance to poor citizens who are not eligible for TANF. These general assistance (GA) programs currently operate in at least one locality in 41 states and the District of Columbia. The programs are administered and funded either by the state or by local governments (usually counties) or a combination of the two. General assistance programs fall into five categories: state control and state funding, state control and state-local funding, state-local control and state-local funding, local control and local funding, and no program (see map).

The repeal of federal welfare entitlement status and the elimination of benefits for legal immigrants has prompted concern by local governments that former TANF recipients may transfer to GA programs, especially where states set most program guidelines but local governments provide much of the funding. This arrangement provides little discretion for local governments to adjust benefit levels or eligibility criteria to meet their budget constraints unless the states modify program requirements. State concerns about local control of benefits and eligibility focus on lack of uniformity.

The majority of the states—38 in all—either have no program or have programs that assign both funding and program control to a single level of government.

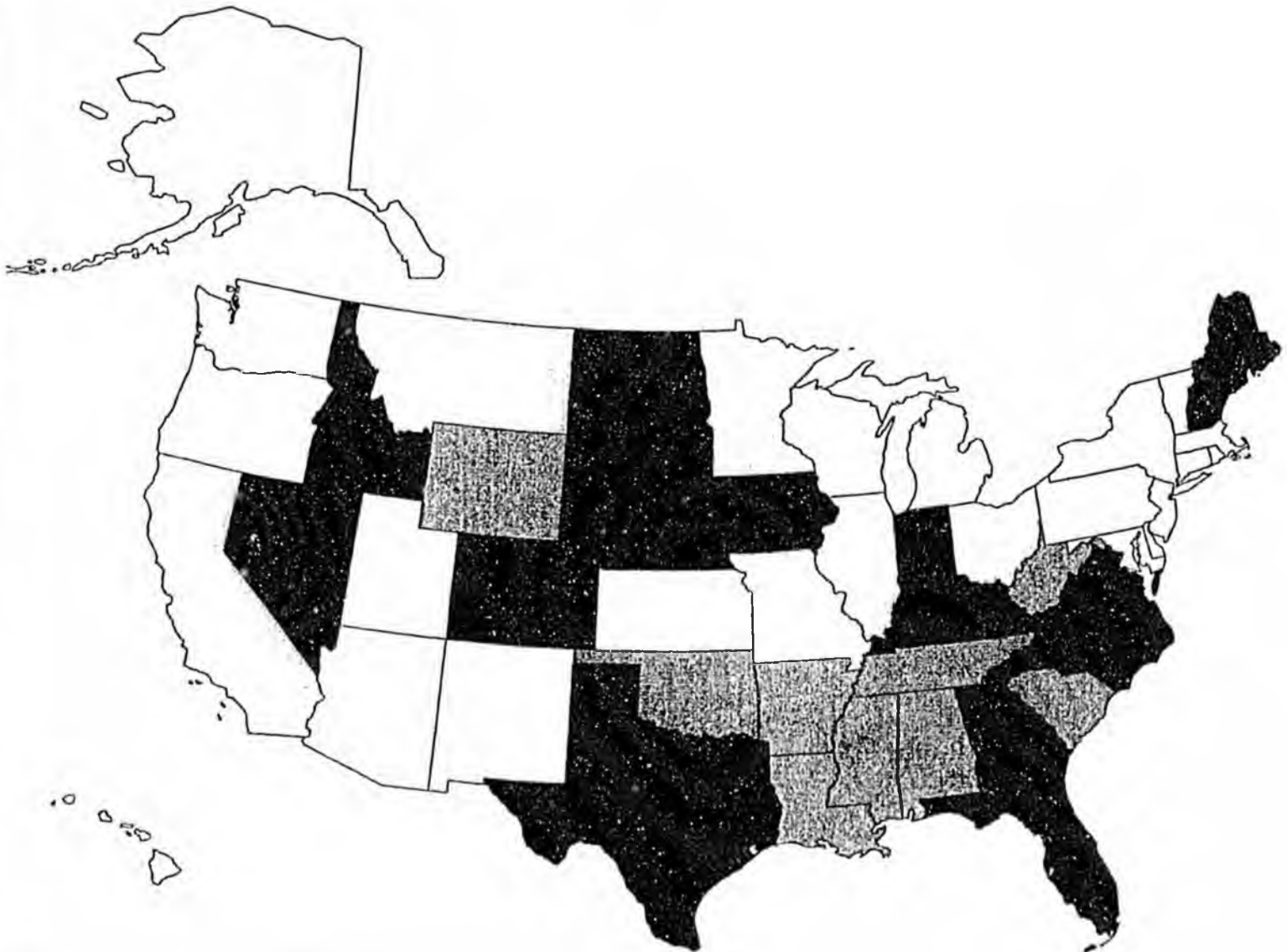
Since 1992, several states have acted to give local governments more control over GA programs. California allowed counties to reduce benefit levels below previously mandated state levels. Three other states—Connecticut, Minnesota and Ohio—eliminated the requirement that local GA programs provide benefits to able-bodied adults without children. Wisconsin replaced its mandated county GA program with a program of optional block grants that allow counties to set benefit levels.

Principles of sorting out would support program funding and control at the same level of government. In those states that decide uniformity is needed, the program should be administered and funded at the state level. Otherwise, the principles support devolving program control and funding to local governments.

Sources: National General Assistance Survey, 1992. Washington, D.C.: Center on Budget and Policy Priorities and National Conference of State Legislatures.

Uccello, Cori E. and L. Jerome Gallagher. "General Assistance Programs: The State-Based Part of the Safety Net." Washington, D.C.: The Urban Institute, 1997.

State General Assistance Programs: Control and Funding



State General Assistance		
□	State Control and State Funding	(17)
□	State Control and State-Local Funding	(9)
■	State-Local Control and State-Local Funding	(4)
■	Local Control and Local Funding	(12)
▨	No Program	(9)

Note: No information is available for Puerto Rico.

Sources: *National General Assistance Survey, 1992.* Washington, D.C.: Center on Budget and Policy Priorities and National Conference of State Legislatures.

PRINCIPLE 5

Provide state financial assistance to local governments that have the lowest capacity to raise their own revenue.

Poorer localities may have difficulty raising revenues from their own sources. As states consider sorting out, they need to recognize that poorer localities are likely to be disproportionately burdened by new responsibilities. At the same time, these local governments may face a greater demand for poverty related services. State aid programs should serve an equalizing function by attempting to minimize, rather than exacerbate, fiscal disparities between wealthier and poorer localities.

The ability of local governments to raise revenue from their own sources depends upon many factors. The relative wealth of a local jurisdiction—as measured by its tax base—is probably the most important factor. Limits on property taxes and the availability of local option taxes, however, also can affect local government fiscal resources. Some restrictions on local revenues are constitutional, while others are imposed by the legislature.

States are well suited to minimize fiscal disparities between wealthy and poor local jurisdictions. The state tax base is spread over a large geographical area that includes both wealthy and poor regions. Many states also rely upon the income tax for a significant share of their revenues. Income taxes tend to be less burdensome on poorer residents. This combination allows states to use both expenditure and tax policy to alleviate fiscal disparities.

Cases in Sorting Out: Minnesota's Fiscal Disparities Program

Fiscal disparities—imbalances between public service needs and financial resources in certain communities—are addressed in Minnesota through a property tax base sharing program that involves seven metropolitan counties. The shared tax base is redistributed to all municipalities on the basis of a formula that uses as its factors population and market value of taxable real property. It is designed to redress the problem of uneven distribution of property tax base that results from concentrations of commercial-industrial development in some areas. "Fiscal capacity is defined as equalized market value per capita. Equalized market value is market value adjusted for differential assessment levels between jurisdictions," explain Karen Baker and Stephen Hinze, Minnesota House legislative analysts. "Other things being equal, businesses are more likely to expand in communities with high fiscal capacity (because of low tax rates), further exacerbating differences in fiscal well-being." A disadvantage of the program is its administrative complexity. Advantages are that tax base sharing can spread the fiscal benefits of business development and encourage orderly growth. Older areas in need of redevelopment also can receive additional resources.

Source: Research Department, Minnesota House of Representatives, St. Paul, Minn.

CONCLUSION

The nation is moving into what economist John Shannon has called "middle of the road federalism," in which neither the federal government nor state governments clearly dominate the fiscal landscape. States are responding to technological, political and fiscal changes by reevaluating services and making new decisions about which level of government should have which responsibilities. State legislatures must design service delivery systems that encourage rational and efficient actions by state and local governments. They must consider the effect of state decisions on the ability of local governments to respond to community needs. They must determine the appropriate source of funding for programs. Five principles to guide the sorting out of these responsibilities are discussed in this report. The principles assume that policymakers have decided that government is the appropriate financing and delivery system for the services under consideration.

The sorting out process involves tradeoffs; the relative importance of these tradeoffs will depend upon existing state fiscal systems, traditions and values. A state's responsibility for uniformity, for example, may have to be weighed against local autonomy. On one hand, local governments may better understand the public's needs because they are closer to the citizens they serve. On the other hand, local viewpoints may not take into account the priorities of a broader state constituency. Accountability may be easiest to determine when only one level of government—preferably the lowest level—has funding and service responsibilities. However, not all local governments have the same service needs and financing capacity. These are some of the considerations that state lawmakers must weigh as they reshape our complex state-local fiscal system.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HCR 6

Revision Date: 4/20/99

Dept. Affected _____

Title: Task Force: Transfer State Functions

BRU _____

Sponsor: Berkowitz

Component _____

Requestor: CRH - House

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact

Prepared by

Jonathan W. Cook

Phone: 465-4939

JONATHAN LACK

Phone _____

House Community & Regional Affairs

Date: 4/20/99

HCR

23

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

March 24, 1999

M E M O R A N D U M

TO: Representative Andrew Halcro, Co-Chair
Representative John Harris, Co-Chair
House Community and Regional Affairs Committee

FROM: Representative Gary Davis 

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

Please schedule a committee hearing on the House Joint Resolution 23 at your earliest convenience. Attached are the following materials for inclusion in the committee packet:

- Sponsor Statement
- Sectional Analysis
- Affected Constitutional Provisions

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

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

Attachment



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

HOUSE JOINT RESOLUTION 23

SPONSOR STATEMENT

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

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

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

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

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

HJR23/SS/03/95/99

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3 :

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

MEMORANDUM

March 11, 1999

SUBJECT: Community Development Fund (HJR 23)

TO: Representative Gary Davis
Attn: Deb Davidson

FROM: Tamara Brandt Cook
Director

TBC

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

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

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

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

TBC:lmb
99-027.lmb

Constitution of Alaska
Article IX, Sections 7 and 13

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

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

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

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

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

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

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

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

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

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Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK. 99801-1182

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

REPRESENTATIVE ANDREW HALCRO, REPRESENTATIVE JOHN HARRIS, CO-CHAIRMEN

STATE CAPITOL, ROOM 418

JUNEAU, ALASKA 99801-1182

(907) 465-3882

AGENDA

MAY 4, 1999

1. Call Meeting To Order
2. Call Roll
 - a. Murkowski
 - b. Joule
 - c. Dyson
 - d. Morgan
 - e. Kookesh
 - f. Harris
 - g. Halcro
 - h.
3. HB 215 - Appropriation: Renter's Equivalency Rebate Program
 - a. Representative Ethan Berkowitz - Sponsor
 - b. Public Testimony
4. HJR 23 - Community Development Fund (Second Hearing)
 - a. Representative Gary Davis - Sponsor
 - b. CS - D Version
5. Motion to Adjourn




ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

March 24, 1999

MEMORANDUM

TO: Representative Andrew Halcro, Co-Chair
Representative John Harris, Co-Chair
House Community and Regional Affairs Committee

FROM: Representative Gary Davis 

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

Please schedule a committee hearing on the House Joint Resolution 23 at your earliest convenience. Attached are the following materials for inclusion in the committee packet:

- Sponsor Statement
- Sectional Analysis
- Affected Constitutional Provisions

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

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

Attachment



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

HOUSE JOINT RESOLUTION 23

SPONSOR STATEMENT

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

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

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

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

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

HJR23/SS/03/95/99

LEGAL SERVICES

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

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

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

MEMORANDUM

March 11, 1999

SUBJECT: Community Development Fund (HJR 23)

TO: Representative Gary Davis
Attn: Deb Davidson

FROM: Tamara Brandt Cook
Director

TBC

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

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

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

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

TBC.lmb
99-027.lmb

Constitution of Alaska
Article IX, Sections 7 and 13

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

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

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

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

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

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

As a matter of compromise, a grandfather clause was included in this section to permit all dedications existing at the date of ratification of the constitution (April 2, 1956) to continue. 1959 Op. Att'y Gen. No. 7.

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HJR 23
Community Development Fund Constitutional Amendment

Part of a State-Local Long Range Fiscal Plan:

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

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

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

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

Example of a \$1.077 Billion Long Range State-Local Fiscal Plan

Every Alaskan is **both**: a state citizen and taxpayer; **AND** a local citizen and taxpayer. A true Alaska Long-range Fiscal Plan cannot exist unless it also considers local government services and taxes. Below is an example of a State-Local Plan that increases local responsibility and considers how much Alaskans must pay in state **and** local taxes and fees. **Local Government services and taxes must be considered in any true Long-range Fiscal Plan!**

(in millions of dollars)	State GF Reduction	Municipal Share
Budget Plan similar to All-Alaska Plan -		
Use of PF Earnings for schools+school tax -	(\$850)	\$0
Income Tax as % of Federal	(\$100) -	\$0
Harbor Transfer to Municipalities -		
Increase Marine Fuel Tax to \$.10/gal	\$0	\$7
Local Maintenance/Repairs to harbors		(\$7) -
Airport Maintenance and Operation		
Statute to allow state to collect landing fees and Increase in Aviation Fuel Tax (state operation or incentive for transfer to municipalities)	(\$14)	\$0
<u>Eliminate \$68 million State GF to:</u>		
Safe Communities/ Revenue Sharing	(\$48)	(\$48)
and Municipal Capital Matching Grants	(\$20)	(\$20)
<u>AND replace State GF with:</u>		
Motor Fuel Tax Increase for Alaska's Roads and Highways (increase to \$.21/gal) - shared with municipalities based on % of total miles and average cost of maintenance by class of road (total increase \$42)	(\$22)	\$20
Alcohol Tax (\$.10/drink) - 50% for municipal alcohol impacts (total increase \$20)	(\$10)	\$10
Community Development Fund capitalized at \$750 million, plus 2% PF earnings per year	\$0	\$50
Increase <u>minimum</u> revenue sharing to \$60,000/year	\$0	\$0
Transfer of service responsibility to municipalities (Class III roads, public safety, etc.)	(\$13)	(-\$13)
Net State GF Increase/ (decrease) (in Billions of \$)	(\$1.077)	\$0**

****NO NET REVENUE INCREASE FOR LOCAL GOVERNMENTS**

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Rep. Andrew Halcro, Co-Chair
Rep. John Harris, Co-Chair
Rep. Carl Morgan
Rep. Lisa Murkowski
Rep. Fred Dyson
Rep. Reggie Joule
Rep. Al Kookesh

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COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE

ADDITIONAL MATERIALS
FOR

HJR 23

MAY 4, 1999