ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672
9877 HOUSE JUDICIARY

Parris N. Glendening
Governor

John W. Hardwicke
Chief Administrative Law Judge

OFFICE OF ADMINISTRATIVE HEARINGS

ADMINISTRATIVE LAW BUILDING
11101 GILROY ROAD
HUNT VALLEY, MARYLAND 21031-8201

(410) 229-4100
(800) 388-8805

TDD (410) 229-4267
FAX (410) 229-4111

The Office of Administrative Hearings (OAH) performs hearings on behalf of state agencies. As such, it is an independent unit within the executive branch of State government. Not only has it centralized, it has also improved and reduced the costs of the administrative hearing process of Maryland government.

The Office is headed by Chief Administrative Law Judge John W. Hardwicke. A nine member State Advisory Council on Administrative Hearings meets quarterly and advises the Chief Judge.

How OAH Operates

The OAH conducts fair and timely hearings in contested cases for over 20 State agencies for over 200 different programs (see attachment for listing of case types). Except for entities exempted by statute, a Board, Commission or agency head must hear a contested case personally or must delegate authority to hear the case to the OAH or, with the permission of the Chief Administrative Law Judge, a person not employed by OAH. (State Government Article §10-205)

OAH estimates receiving approximately 42,000 cases in FY 2000. The caseload has increased in the last year due, in part, to court decisions, changes in special education law and legislative initiatives.

All administrative law judges of the OAH are cross-trained to hear many different kinds of cases. This permits OAH to consolidate regional dockets and to respond quickly to variations in volumes of case-types. This results in maximum utilization of our judges and savings to the people of Maryland.

The OAH operates with uniform rules of procedure and a code of ethics modeled on the Judicial Code of Ethics. All decisions are subject to peer review by a "subject matter specialist" and the Operations Division monitors a judge's timeliness in issuing decisions, as well as the docketing of cases to avoid backlogs.

The Division of Quality Assurance ensures on-going training for judges and oversees the quality of the written decisions. A library is maintained for the judges and those who practice before the Office.

Where Cases are Heard

Our building in Hunt Valley is accessible from I-83 North and has ample parking. There is a light rail station within walking distance of the building and bus service makes the building accessible via public transportation.

The Administrative Law Building houses 23 hearing rooms, two attorney-client meeting rooms, a clerk's office, ample public waiting areas, a law library accessible to the public during normal business hours, as well as offices and training rooms for OAH staff.

In addition to the hearings held at its headquarters location, the OAH travels throughout the State to conduct hearings in all counties. OAH operates satellite offices in Cumberland and Salisbury and has dedicated hearing space in Montgomery County.

Judges and Other Employees

The OAH has 135.5 positions. The Chief Administrative Law Judge is appointed by the Governor for a six-year term.

Of our 135.5 positions 95 are female and 34 are minority members. Of our judge staff 60% are female and 12% are minority members.

There are 60 Administrative Law Judges (judges), who are appointed by the Chief Administrative Law Judge. The judges may only be removed for cause. Prior to the creation of the OAH, 85 full-time and 5 contractual hearing examiners were employed by various State agencies to conduct administrative hearings.

Administrative Law Judges are bar-admitted attorneys. Most judges have many years of experience conducting hearings and we require our new hires to have a minimum of 3-5 years of legal experience. Judge salaries range from $43,133 to $66,221; with the average being $56,554.

Cost

OAH's requested budget for FY 2000 is $8,881,448 for all costs, including rent and staff. Funds are allocated from the agencies based on caseload and the time required to adjudicate each type of case. On July 1 of the fiscal year, each agency transfers the appropriated funds to OAH based upon previous use of OAH by the Agency.

Legislative History and Background

The Office commenced to function on January 1, 1990. It was created by Chapter 788 (SB 658) of the Laws of 1989. Its statute is codified in State Government Article, Title 9, Subtitle 16 of the Annotated Code of Maryland.

In the late 1980s, the Governor and the legislature created a Task Force to consider the then administrative hearing process within state agencies. This Task Force evaluated wide spread concerns with the fairness, effectiveness and cost of the system. Its final report endorsed the creation of a centralized administrative hearing process and identified many problems with the non-centralized system. Hearing officers lacked adequate training opportunities, suffered from poor salaries, often failed to write decisions that would withstand judicial scrutiny, were supervised by the agencies for which they issued decisions, and were not subject to uniform procedures or codes of responsibility and ethics.

In late 1991, the Commission to Revise the Administrative Procedure Act (APA) was appointed to study and update Maryland's APA to reflect the creation of the OAH. The Commission included Chief Judge Hardwicke, 2 Cabinet Secretaries, and representatives of the judiciary, business community, labor unions, bar association, and the attorney generals office. The Commission's recommended legislation, Chapter 59 of the Laws of 1993, became effective June 1, 1993. In 1994, revisions to the Office's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

Maryland is one of 25 states that has a centralized office handling administrative appeals and hearings. The OAH is currently the largest central panel agency in the country. States contemplating the establishment of a central panel view Maryland as a model and often contact or visit Maryland for information, statistics, and guidance.

REMARKS OF JOHN W. HARDWICKE,
CHIEF ADMINISTRATIVE LAW JUDGE,
OFFICE OF ADMINISTRATIVE HEARINGS, STATE OF MARYLAND

Maryland's Experience with its Administrative Law Judge Corps

I am John W. Hardwicke, Chief Administrative Law Judge of Maryland's Office of Administrative Hearings ("OAH"); I have been Chief Judge since the creation of the OAH, January 1, 1990.

My background prior to this responsibility was that of a corporate lawyer in Baltimore with a regulatory practice involving federal agencies such as the Federal Energy Regulatory Commission in Washington and Maryland's Public Service Commission in Baltimore.

Although I have been a Marylander for more than forty years, I am a North Carolinian by birth. More details of my background are provided in the attached Curriculum Vitae. (Exhibit #1)

EXECUTIVE SUMMARY

I. Forces Leading to Change

An executive agency, whether federal or state, is a microcosm of government - - it performs executive, legislative and judicial functions. Recent critics of the growth of government consider that agency assumption of the tripartite responsibilities of government is a major source of abuse and excessive governmental influence.[1] One giant step toward correction of this abuse is separation of the judicial function from the agency by the creation of an independent administrative law judge corps.

In Maryland, because of a perception of partiality and unfairness, and because of inefficiencies and external influences over administrative hearing procedures, Governor William Donald Schaefer appointed a Task Force to study administrative judicial due process in 1988.

This Task Force concluded that the system was indeed fraught with problems, with the appearance of unfairness, lack of professionalism, lack of a sense of ethics and was unduly burdensome and expensive.

II. The Traditional System

The traditional system employed approximately 91 hearing examiners, including those who worked part-time, at a cost exceeding $7 million, although the precise cost was not segregated

---

[1] See, for example, Gary Lawson, "The Rise and Rise of the Administrative State", 107 *HARV. L. REV.* 6 1231, 1249 (April 1994).

and is not known. Hearing examiners were employees within the various agencies - - some agencies employed as many as twenty-five examiners, some as few as one or two.

III. The Present: Maryland's Corps System

As a result of the study and its recommendations, the legislature created an Administrative Law Judge Corps ("ALJC") embracing the hearing/adjudicatory function of all state agencies except, primarily, the Public Service Commission and the Workers' Compensation Commission. This ALJC employs a Chief Administrative Law Judge ("Chief Judge") and 63 administrative law judges ("ALJs") who hear more than 50,000 cases per annum, and who administer flexible due process in a large variety of situations involving over 200 state programs. These ALJs are cross-trained and most are capable of hearing any kind of case within the aegis of OAH's responsibility.

Maryland's corps system was originally zero-budget based, that is, its original budget was derived by the aggregation of the various agencies' hearing budgets. The first year budget (FY 91) was approximately $7 million; the fiscal year 1996 budget is approximately $8.5 million. The dollar growth is attributable to increases in caseload and responsibilities.

IV. Original Statute and Implementation

The statute creating Maryland's ALJC was passed by the legislature in the spring of 1989. The Chief Judge interviewed the

hearing examiners among the agencies in November and December 1989. The statute was flexibly drawn giving the Chief Judge wide discretion in the employment and dismissal of ALJs.

The statute called for the creation of a Governor's nine person coordinating Commission chosen from executive agencies, the Attorney General's office, the state bar association, and the public at-large. This Commission operates loosely as a board of directors and sounding board for the public and the agencies.

V. Agency Policy and Expertise

Maryland's Office of Administrative Hearings does not attempt to make or influence executive agency policies. Its sole function is to provide due process within the executive setting. Its only policy function lies in the adoption of Rules of Procedure designed to expedite and make efficient the opportunity for hearings for citizens affected by agency actions.

Agency policy, properly enunciated, is part of the law applicable to the case and is presented by the agency within the framework of the hearing. Pro se presentations by citizen litigants are encouraged and assisted. Agency expertise is presented, on the record, at the hearing by agency witnesses. Citizen witnesses counter such expertise by their own testimony or by experts. The ALJ incorporates this expertise into the decision, as appropriate.

VI. Cross-training

Originally, most of the ALJs were hearing officers within the agencies. As these original ALJs have retired they have been replaced with well-trained, more experienced attorneys.

Cross-training consisted of ALJs "going to school" to classes provided by colleague ALJs from the respective agencies. These classes consisted of studies of statutes and agency regulatory law, agency policies and procedures, understanding of programs, and agency objectives. By the end of the first two years, all ALJs were required to be proficient in hearings for at least six agencies and for all of the programs for those agencies. By the third year of the ALJC, most ALJs could hold hearings for all agencies and all programs.

VII. Savings and Efficiencies

The savings are obvious and easy to identify. The organizational existence of a professional ALJC employing a corps of cross-trained, well qualified judges can be used more efficiently and precisely across an array of hearing schedules and programs. Such a corps can effectuate settlements, and eliminate unnecessary postponements. It can employ computer technology. It can program a large cadre of judges to a myriad of hearings in numerous locations and settings. In addition, and as a fall-out benefit, agencies are more efficient and fair minded in their dealings with citizens whose hearings are to be held outside of the

agency. Agency executives are more sensitive in the performance of their duties; agency presenters are better prepared for their due process hearing.

Attached to this presentation is an exhibit detailing costs associated with Maryland's ALJC. (Exhibit #2)

VIII. Conclusion

In these times of diminished government, achievement of savings and efficiencies through the creation of an ALJC is plainly demonstrable. The Federal Government employs fewer than 300 ALJs other than the approximately 1,000 employed by the Social Security Administration. Modern sophisticated computer and information technology make possible the assimilation of vast quantities of data and the systemization of multiple judicial procedures and complex dockets. The very size of the federal administrative machinery is a challenge, not an obstacle.

More than sixty years ago Justice Brandeis' observed that it is "one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory."[2] The transformation from the traditional in-house hearing system to the corps system is now accelerating among the states - most recently in South Carolina, Georgia and Texas - making a total of approximately twenty-two corps states. (Exhibit #3)

---

[2] Concurring in *New State Ice Co. v. Liebman,* 285 U.S. 262, 311 (1932).

The federal government may now safely follow the leadership of the states in the adoption of this proven re-origination of its administrative judiciary. [3] [4]

---

[3] A word of caution: The statute should not be drawn so tightly with such specific detail as to micromanage the Corps. Permit flexibility, and above all else, choose a knowledgeable and practical Chief Judge who will administer the administrative judicial process with understanding and common sense.

[4] For an exhaustive, detailed account of Maryland's OAH see my article, "The Central Hearing Agency: Theory and Implementation in Maryland", 14 *Journal of the National Association of Administrative Law Judges* (Spring 1994).

TESTIMONY OF GUY J. AVERY BEFORE THE COMMITTEE ON THE JUDICIARY OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 18, 1993

Good morning. My name is Guy J. Avery. I am an administrative law judge with the Office of Administrative Hearings of the State of Maryland. I am pleased to have this opportunity to appear before you and comment on Bill 10-25, the "Office of Administrative Appeals Establishment Act of 1992."

As you may know, Maryland enacted a law similar to Bill 10-25 in 1989, and began operations as a "central panel state," that is , a state with a centralized administrative appeals office, known as the Office of Administrative Hearings (OAH), in 1990. Our experience will, I hope, be of interest to you as you consider this legislation.

Rather than attempting to cover all aspects of the establishment and current operations of the OAH, a task that would require much more testimony than would be appropriate today, I would like to describe, in summary form, the process and philosophy behind the OAH, and refer you to the package of exhibits which I brought. I will then be glad to answer any questions that you might have.

The exhibits include:

- ☐ The OAH brochure.
- ☐ Media comment on the OAH.
- ☐ A chart showing the structuring of central hearing agencies in 16 other jurisdictions.
- ☐ A budgetary overview of the OAH, showing the savings accomplished by the establishment of the OAH.

☐ The OAH statute.

☐ The Report of the Commission to Revise The Administrative Procedure Act. Maryland's Administrative Procedure Act was revised effective June 1, 1993. The revision specifically incorporates the OAH into the law's provisions.

These exhibits contain a good deal of practical information concerning the formation and operations of the OAH, as well the philosophy behind its creation. I would like to expand on that a little.

In an increasingly complex society, governmental regulation touches more and more aspects of our lives. Activities ranging from driving a car to practicing medicine must be licensed; entitlements to public assistance, medical insurance, and other benefits must be fairly determined; various business and individual activities must be regulated for environmental and other purposes; government employees must be fired only for just cause; people with mental illness must be protected and, if dangerous to themselves or others, committed to mental hospitals; non-discriminatory workplaces must be maintained; a disabled child's right to a free, appropriate education must be protected; and so on. All of these activities and interests are crucially important to the individuals involved, and most, if not all, involve constitutional protections. Thus, when there are disputes involving these interests, a fair and efficient adjudicatory procedure is required.

In most instances, as everyone is aware, hearing officers, employed by the same agency whose actions are disputed, conduct a hearing and make recommended or final decisions regarding these issues. This system presents real or perceived problems of bias, of course, and, in the opinion of many, is inadequate to protect the interests

involved. Let me emphasize that most hearing officers, in my experience at least, are competent, professional people; the problem lies not so much with them as with the system. The furnishing of due process to someone contesting its actions is simply not the overriding goal of most government agencies. Although judicial review of agency decisions is always available, it is not, as a practical matter, an adequate substitute for a fair, impartial and professional *de novo* hearing. The courts, rightly or wrongly, generally give extreme deference to administrative agency decisions, and courts cannot assume initial fact-finding duties in such hearings, even if they were allowed to do so by law, because of the sheer volume of cases.

In brief, an independent agency of administrative law judges, professional and highly trained, dedicated to the task of providing due process, and not beholden to any other governmental agency, is best equipped to protect the vital interests of citizen and government alike. This was the concept which motivated the creation of the OAH and, I am happy to report, our actual experience has confirmed its validity.

It might be useful to summarize the accomplishments of the OAH in terms of the "Purposes" listed in your bill at §3:

> **In enacting this act, the Council of the District of Columbia supports the following statutory purposes:**
>
> **(1) To establish a central independent office staffed by professionals with the sole function of conducting administrative hearings;** This is exactly what we did in Maryland. No judge may engage in the private practice of law; all have as their "sole function" the conducting of administrative hearings (of course, some judges have managerial and training duties, as well).

(2) **To improve the quality of justice with respect to administrative hearings;** We feel that we have accomplished this goal, and our feedback from bench and bar, as well as the agencies, has been positive. Quality has been improved through professionalization of the entire process, including training in adjudicatory and writing skills, the enforcement of mandatory time frames for decisions, training in substantive law, the express statutory power to administer oaths and issue subpoenas, etc.

(3) **To rectify the apparent lack of fairness caused by the adjudicator's employment by the agency responsible for the substantive decision in dispute;** As mentioned above, the OAH is a completely independent executive agency. Our statute expressly protects our independence.

(4) **To make more uniform the growing complexity and diversity of individual agency rules governing the administrative hearing process;** We have accomplished this by adopting our own Rules of Procedure.

(5) **To improve the cost effectiveness of the administrative hearing process in the District;** Despite adding more types of cases, the OAH has effected significant cost savings to the State of Maryland. We now have some 35 fewer administrative law judges than there were hearing officers under the old system.

(6) **To reduce delay in the holding of administrative hearings;** We have virtually eliminated all case backlogs in all agencies; decisions are timely issued and hearings are held well within mandated time frames.

(7) **To position the District in the vanguard of new developments in administrative adjudication.** The concept of a centralized hearing agency has been approved by many commentators in the field of administrative law, and, because of the significance of the interests involved, and the savings which can be realized, more and more jurisdictions will undoubtedly adopt such a system. Interestingly, no jurisdiction has ever abandoned a central system, once it was adopted.

In closing, let me offer some brief, specific comments on your bill. I recommend that you include express subpoena and oath-administering powers for the Office of Administrative Appeals. This avoids possible problems with adopting such provisions through the regulatory process. Also, include express language protecting the independence of the administrative law judges. A statutory barrier against undue influence and *ex parte* communications more clearly defines the role of the Office and may prove useful in ambiguous situations. Finally, eliminate the terms "Hearing Examiner" and "Hearing Officer," which appear in the bill, unless there is some overriding reason why they must be retained. "Administrative law judge" is much more descriptive of the function actually performed, and is, I believe, more professional.

This is a good bill and an important advance in improving the quality of administrative adjudication. Once again, thanks for the opportunity to testify. I will be glad to answer any questions you may have on Maryland's Office of Administrative Hearings.

"WHITE PAPER" FOR CENTRAL HEARING AGENCY PRESENTATION

The American Bar Association (ABA) has adopted a Proposed Model Statute for adoption by the approximately twenty-five states which do not have a Central Hearing Agency ("OAH"). This Proposed Model Statute is intended to be sufficiently flexible to permit any state to adjust centralized administrative adjudication to the governmental set-up within the state. This flexibility is assured by:

I. Scope of Model Act:

A. Permits exclusion of various agencies as political policy within the state may require.

B. Permits the Governor to exempt additional agencies temporarily.

C. Provides for a Chief Administrative Law Judge (CALJ) to be appointed for a term of years by the Governor with approval by the state Senate.

D. Requires that the administrative adjudicatory function be separated from the agency for which the hearings are held and guarantees independence for the agency adjudicatory process.

E. Requires that the OAH and the executive agency work together cooperatively in providing fair and impartial hearings.

F. Permits the agency to delegate to the OAH final decision making authority or, alternatively, delegate the authority to make recommended decisions only as the agency may elect. (See Section 1-10)

G. Provides for a state advisory council made up of agency designees, members of the bar, and representatives of the attorney general's office to assist the CALJ in administering the OAH.

H. Assures the integrity of the Agency's policy making function and authority.

II. General Comments about the creation of an OAH:

A. Separates adjudication from the executive agency's policy making functions thus guaranteeing independence in the hearing process without threatening the agency's executive responsibilities.

B. Provides a democratic balance within the operation of executive agencies.

C. Provides public assurance of a fair and impartial hearing.

D. Relieves agencies of pressures from individual legislators with respect to constituents involved in the hearing process.

E. Is a cost savings device in that hearing officers (administrative law judges) can be cross-trained to hear many kinds of cases.

F. Provides for better trained hearing officers with higher professional standards and ethical responsibilities.

G. Relieves the constitutional courts of the burden of retrying poorly decided administrative cases on appeal from the agencies.

H. Furnishes the courts with better reasoned decisions and with better attention to legal principles.

III. Experiences of Other States with an OAH.

A. California was the first state to adopt an OAH in 1946.

B. The separation of judging from the executive agency has now been adopted in 25 states almost unanimously in the south and southwest although the most recent states are Alaska and Michigan. (See attached list)

C. No state which has adopted a OAH has abandoned it.[1]

The Proposed Model Statute of the American Bar Association has the unanimous support of the bar and the bench alike.

Developed by:

John W. Hardwicke
Chief Administrative Law Judge
Office of Administrative Hearings
11101 Gilroy Road
Hunt Valley, Maryland 21031

11/21/97
Date

[1] South Dakota nominally repealed its statute but re-adopted the principle of separation the following year.

COUNCIL FOR COURT EXCELLENCE, WASHINGTON, DC
SITE VISIT TO THE MARYLAND OFFICE OF ADMINISTRATIVE HEARINGS
JULY 21, 1999

QUESTIONS FOR CONSIDERATION

I. Present
- A. Inventory of Judges
- B. Inventory of Space
- C. Inventory of Equipment
- D. Existing Budget of All Agencies – Individually and collectively

II. Creation of Central Hearing Agency (CHA)
- A. DC Constitution – Separation of Powers?
- B. Court Framework – where does it fit
- C. Separate Agency
- D. Existing Department of Consumer & Regulatory Affairs
- E. Staffing of the Agency
- F. Transition

III. How Structured
- A. Chief Judge
- B. Deputy ?
- C. Operations
- D. Quality Assurance
- E. Administration
- F. Committees
- G. Clerk's Office
- H. Docket Control
- I. Employment of Judges
- J. Dismissal
- K. Evaluations

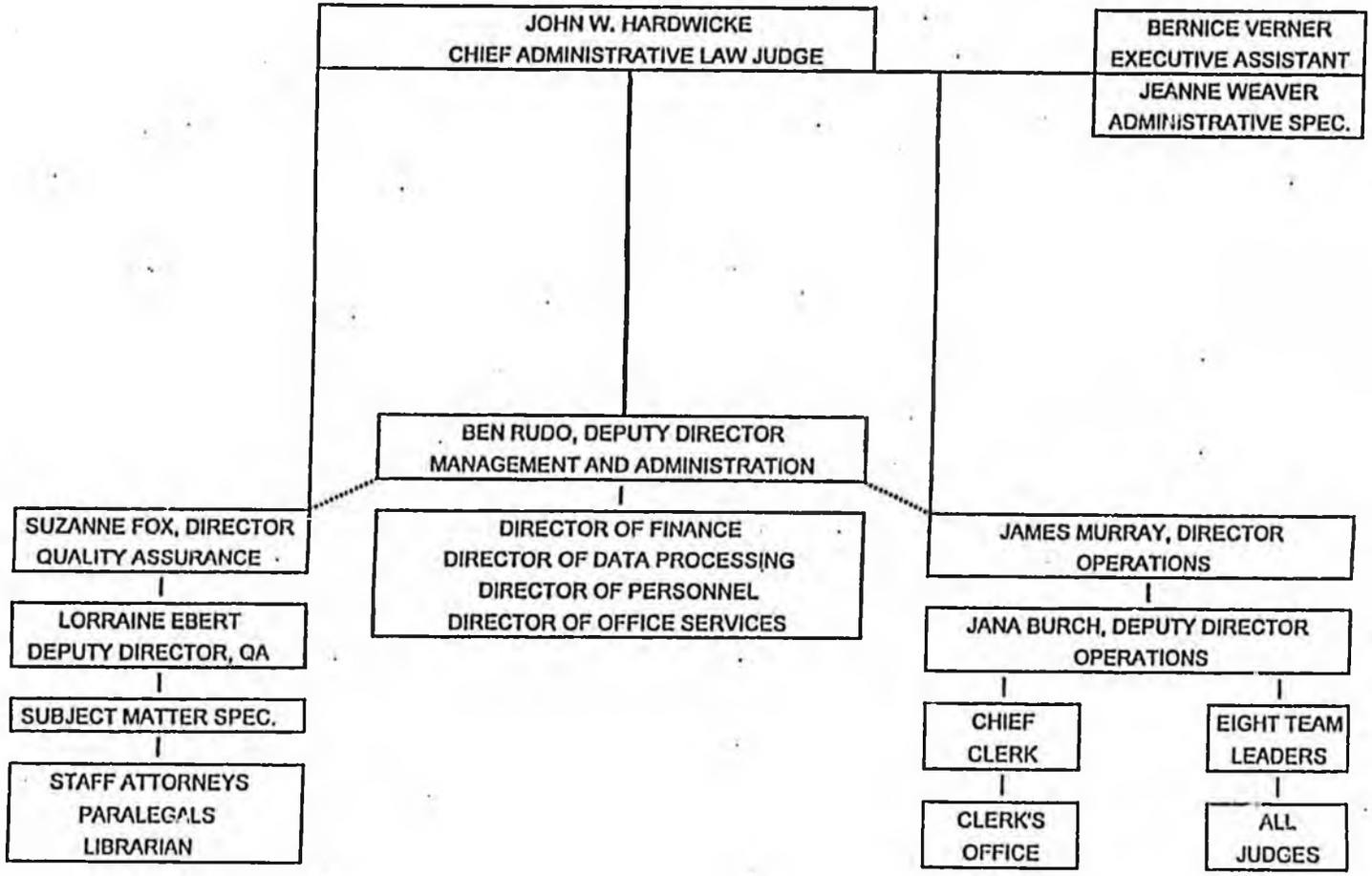
IV. Jurisprudence
- A. Judicial Review
- B. Record
- C. Recommended vs. Final Decisions
- D. Ethics
- E. Training of Judges
- F. Postponement Policy

V. Budget
- A. Allocation of Costs
- B. Calculation of Charges
- C. Judge Hours
- D. Fees for Users

VI. Oversight Committee
- A. Agency Relations
- B. Report to Mayor
  to City Council
  to Courts

VII. Other
- A. Robes
- B. Centralized Location
- C. Date for Consolidated Function

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART



— Coordination
— Direct Supervision

HJR

23

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

May 5, 1999

M E M O R A N D U M

TO: Representative Pete Kott, Chair
House Judiciary Committee

FROM: Representative Gary Davis

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

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

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

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

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

Attachment

Session: State Capitol, Juneau, AK 99801 • Phone 907/465-2693 or 800/463-2693 • Fax 907/465-3835
Interim: 145 Main St. Lp., Ste. 223, Kenai, AK 99611 • Phone 907/283-7095 or 907/224-2051 • Fax 907/283-3075
Email: Representative_Gary_Davis@legis.state.ak.us

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

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

SPONSOR STATEMENT

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

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

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

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

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

HJR23/SS/05/04/99

Session: State Capitol, Juneau, AK 99801 • Phone 907/465-2693 or 800/463-2693 • Fax 907/465-3835
Interim: 145 Main St. Lp., Ste. 223, Kenai, AK 99611 • Phone 907/283-7095 or 907/224-2051 • Fax 907/283-3075
Email: Representative_Gary_Davis@legis.state.ak.us

LEGAL SERVICES

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

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

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

MEMORANDUM March 11, 1999

SUBJECT: Community Development Fund (HJR 23)

TO: Representative Gary Davis
Attn: Deb Davidson

FROM: Tamara Brandt Cook
Director TBC

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

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

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

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

TBC:lmb
99-027.lmb

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR23

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

Expenditures/Revenues (Thousands of Dollars)

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

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

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

STATE OF ALASKA
1999 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO: HJR 23

Revision Date:

Dept. Affected: Community & Regional Affairs

Title: Proposing amendments to the Constitution of the State of Alaska relating to the ...

BRU:

Component:

Sponsor: REPRESENTATIVE DAVIS

Requestor: House CRA Committee

COMPONENT SERIAL NO.

Expenditures/Revenues: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY99) impact $ none

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

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

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

Approved by Commissioner: [signature] — Date: 4/7/99

Agency: Community & Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

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.

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

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

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

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

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

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

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

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

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

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

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

Only rarely can an appropriation for state expenses be spent before the effective date of the law containing the appropriation. August 7, 1985 Op. Att'y Gen.

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

Table 1

HJR 23: Community Development Fund

Deposits, Earnings and Distributions

FY 00 - FY 21 (in millions)

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

Source: Department of Revenue

Assumptions

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

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

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

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

Table 2

HJR 23: Community Development Fund

Effect on Earnings Reserve Account Balance and Amounts Available for Permanent Fund Dividend

FY 00 - FY 21 (in millions)

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

Source: Department of Revenue

Assumptions

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

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

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

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

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

MEMORANDUM

April 29, 1999

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

FROM: Representative Gary Davis

RE: HJR 23, Community Development Fund

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

Unincorporated Communities Eligibility to Receive Funds

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

How Will the Fund be Invested and Who Will Administer It

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

Session: State Capitol, Juneau, AK 99801 • Phone 907/465-2693 or 800/463-2693 • Fax 907/465-3835
Interim: 145 Main St. Lp., Ste. 223, Kenai, AK 99611 • Phone 907/283-7095 or 907/224-2051 • Fax 907/283-3075
Email: Representative_Gary_Davis@legis.state.ak.us

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

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

How will the Fund Earnings be Distributed

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

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

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

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

Distributed by the Alaska Municipal League 5/4/99

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 governemnts.

ALASKA MUNICIPAL LEAGUE
Alaska Conference of Mayors
217 Second Street, Suite 200 ▪ Juneau, Alaska 99801 ▪ Tel (907)586-1325, Fax (907)-463-5480

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

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

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

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

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

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

Now, therefore, be it resolved:

1. That the Governor and Legislature expand the concept of the "state" fiscal plan, to a "state/local" long-range fiscal plan.

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

Adopted May 5, 1999.

Alaska Municipal League/Alaska Conference of Mayors

HJR 23
Community Development Fund Constitutional Amendment

Part of a State-Local Long Range Fiscal Plan:

- In two years it would eliminate General Funds for the Safe Communities, State Revenue Sharing, and Capital Matching Grants.

- It would ensure stronger local governments, reverse the trend to dissolve municipalities, and encourage new municipalities to form.

- A Community Development Fund would form a vehicle for transitioning additional state service responsibilities to local governments. The biggest problem now in accepting additional responsibilities from the state is that the State cannot commit funding beyond one year.

- Without healthy communities, Alaska will not be healthy. Local economies and jobs are very sensitive to increases in local taxes.

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

- Yes, the "Healthy Plan" is an endowment. The creation of a Community Development Fund would simply be a separate part of that endowment to:
  1. Ensure local taxpayers that they will be able to continue receiving critical basic services.
  2. Create a vehicle to gradually transfer more service responsibilities to local governments where they can be delivered more efficiently and with full control by local citizens.

- A Community Development Fund would not reduce the ability to balance the state budget because it transfers revenue and current state expenses.

- A Community Development Fund would enhance a long-range fiscal plan because it furthers the goal of reducing the size of state government, increases efficiency, and evolves stronger local governments that provide more local service.

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

HJR

25

No: 1

FISCAL NOTE

Bill Version: HJR 25
(H) Publish Date: 3/16/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
Title Constitutional Amendment relating to initiative or referendum regarding fish or wildlife BRU Elective Operations
Component General and Primary
Sponsor Representative Ogan
Requester House Resources Committee Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

Prepared by Gail Fenumiai Phone 465-3935
Division Division of Elections Date/Time 3/10/99 11:21 AM
Approved by Lt. Governor Fran Ulmer Date 3/10/99
Agency Office of the Lieutenant Governor

COMMITTEE COPY PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

(Rev 10/98) 99fnform.xls/OMB

HJR

29

Alaska State Legislature

House of Representatives
House Judiciary Committee

SPONSOR STATEMENT

HJR 29 - Endorsing S.253 and the division of the Ninth Circuit Court of Appeals

The United States Court of Appeals for the Ninth Circuit encompasses nine states and two territories: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, and the Northern Mariana Islands. The circuit contains nearly 14 million square miles and 50 million people, and is the largest US court of appeals by any measure.

HJR 29 endorses S.253, introduced by Senators Frank Murkowski and Slade Gorton, which proposes to divide the ninth circuit into three regional divisions and a fourth circuit division. The states of Alaska, Idaho, Montana, Oregon, and Washington would be in one of the regional divisions.

S.253 proposes to adopt the recommendations of a congressionally mandated commission, chaired by retired Supreme Court Justice Byron R. White. The commission has addressed many of the shortcomings of the present Ninth Circuit Court. The division of the Court of Appeals for the Ninth Circuit into regions would benefit Alaska by providing speedier and more consistent rulings by the jurist who have greater familiarity with the social, geographical, political, and economic life in Alaska.

The legislature should support S.253 because the ninth circuit is simply too large to respond to the needs of Alaska.

Alaska State Capitol, Room 120 • Juneau, Alaska 99801
(907) 465-3777 phone • (907) 465-2819 fax

S 253 IS1S

(Star Print)

106th CONGRESS

1st Session

S. 253

To provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 19, 1999

Mr. MURKOWSKI (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Federal Ninth Circuit Reorganization Act of 1999'.

SEC. 2. DIVISIONAL ORGANIZATION OF THE COURT OF APPEALS FOR THE NINTH CIRCUIT.

(a) REGIONAL DIVISIONS- Effective 180 days after the date of enactment of this Act, the United States Court of Appeals for the Ninth Circuit shall be organized into 3 regional divisions designated as the Northern Division, the Middle Division. and the Southern Division, and a nonregional division designated as the Circuit Division.

(b) REVIEW OF DECISIONS-

(1) NONAPPLICATION OF SECTION 1294- Section 1294 of title 28, United States Code, shall not apply to the Ninth Circuit Court of Appeals. The review of district court decisions shall be governed as provided in this subsection.

(2) REVIEW- Except as provided in sections 1292(c), 1292(d), and 1295 of title 28, United States Code, once the court is organized into divisions, appeals from reviewable decisions of the district and territorial courts located within the Ninth Circuit shall be taken to the regional

divisions of the Ninth Circuit Court of Appeals as follows:

(A) Appeals from the districts of Alaska, Idaho, Montana, Oregon, Eastern Washington, and Western Washington shall be taken to the Northern Division.

(B) Appeals from the districts of Eastern California, Northern California, Guam, Hawaii, Nevada, and the Northern Mariana Islands shall be taken to the Middle Division.

(C) Appeals from the districts of Arizona, Central California, and Southern California shall be taken to the Southern Division.

(D) Appeals from the Tax Court, petitions to enforce the orders of administrative agencies, and other proceedings within the court of appeals' jurisdiction that do not involve review of district court actions shall be filed in the court of appeals and assigned to the division that would have jurisdiction over the matter if the division were a separate court of appeals.

(3) ASSIGNME..T OF JUDGES- Each regional division shall include from 7 to 11 judges of the court of appeals in active status. A majority of the judges assigned to each division shall reside within the judicial districts that are within the division's jurisdiction as specified in paragraph (2), except that judges may be assigned to serve for specified, staggered terms of 3 years or more, in a division in which they do not reside. Such judges shall be assigned at random, by means determined by the court, in such numbers as necessary to enable the divisions to function effectively. Judges in senior status may be assigned to regional divisions in accordance with policies adopted by the court of appeals. Any judge assigned to 1 division may be assigned by the chief judge of the circuit for temporary duty in another division as necessary to enable the divisions to function effectively.

(4) PRESIDING JUDGES- Section 45 of title 28, United States Code, shall govern the designation of the presiding judge of each regional division as though the division were a court of appeals, except that the judge serving as chief judge of the circuit may not at the same time serve as presiding judge of a regional division, and that only judges resident within, and assigned to, the division shall be eligible to serve as presiding judge of that division.

(5) PANELS- Panels of a division may sit to hear and decide cases at any place within the judicial districts of the division, as specified by a majority of the judges of the division. The divisions shall be governed by the Federal Rules of Appellate Procedure and by local rules and internal operating procedures adopted by the court of appeals. The divisions may not adopt their own local rules or internal operating procedures. The decisions of 1 regional division shall not be regarded as binding precedents in the other regional divisions.

(c) CIRCUIT DIVISION-

(1) IN GENERAL- In addition to the 3 regional divisions specified under subsection (a), the Ninth Circuit Court of Appeals shall establish a Circuit Division composed of the chief judge of the circuit and 12 other circuit judges in active status, chosen by lot in equal numbers from each regional division. Except for the chief judge of the circuit, who shall serve ex officio, judges on the Circuit Division shall serve nonrenewable, staggered terms of 3 years each. One-third of the judges initially selected by lot shall serve terms of 1 year each, one-third shall

serve terms of 2 years each, and one-third shall serve terms of 3 years each. Thereafter all judges shall serve terms of 3 years each. If a judge on the Circuit Division is disqualified or otherwise unable to serve in a particular case, the presiding judge of the regional division to which that judge is assigned shall randomly select a judge from the division to serve in the place of the unavailable judge.

(2) JURISDICTION- The Circuit Division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the Circuit Division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The Circuit Division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

(3) PROCEDURES- The Circuit Division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the division's business. The Circuit Division shall not function through panels. The Circuit Division shall decide issues of law on the basis of the opinions, briefs, and records in the conflicting decisions under review, unless the Circuit Division determines that special circumstances make additional briefing or oral argument necessary.

(4) EN BANC PROCEEDINGS- Section 46 of title 28, United States Code, shall apply to each regional division of the Ninth Circuit Court of Appeals as though the division were the court of appeals. Section 46(c) of title 28, United States Code, authorizing hearings or rehearings en banc, shall be applicable only to the regional divisions of the court and not to the court of appeals as a whole. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, and the authorization for a limited en banc procedure under section 6 of Public Law 95-486 (92 Stat. 1633), shall not apply to the Ninth Circuit. An en banc proceeding ordered before the divisional plan is in effect may be heard and determined in accordance with applicable rules of appellate procedure.

(d) CLERKS AND EMPLOYEES- Section 711 of title 28, United States Code, shall apply to the Ninth Circuit Court of Appeals, except the clerk of the Ninth Circuit Court of Appeals may maintain an office or offices in each regional division of the court to provide services of the clerk's office for that division.

(e) STUDY OF EFFECTIVENESS- The Federal Judicial Center shall conduct a study of the effectiveness and efficiency of the divisions in the Ninth Circuit Court of Appeals. No later than 8 years after the effective date of this Act, the Federal Judicial Center shall submit to the Judicial Conference of the United States a report summarizing the activities of the divisions, including the Circuit Division, and evaluating the effectiveness and efficiency of the divisional structure. The Judicial Conference shall submit recommendations to Congress concerning the divisional structure and whether the structure should be continued with or without modification.

SEC. 2. ASSIGNMENT OF JUDGES; PANELS; EN BANC PROCEEDINGS; DIVISIONS; QUORUM.

(a) IN GENERAL- Section 46 of title 28, United States Code, is amended to read as follows:

`Sec. 46. Assignment of judges; panels; en banc proceedings; divisions; quorum

`(a) Circuit judges shall sit on the court of appeals and its panels in such order and at such times as the court directs.

`(b) Unless otherwise provided by rule of court, a court of appeals or any regional division thereof shall consider and decide cases and controversies through panels of 3 judges, at least 2 of whom shall be judges of the court, unless such judges cannot sit because recused or disqualified, or unless the chief judge of that court certifies that there is an emergency including, but not limited to, the unavailability of a judge of the court because of illness. A court may provide by rule for the disposition of appeals through panels consisting of 2 judges, both of whom shall be judges of the court. Panels of the court shall sit at times and places and hear the cases and controversies assigned as the court directs. The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel-to-panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than 2, who constitute a panel.

`(c) Notwithstanding subsection (b), a majority of the judges of a court of appeals not organized into divisions as provided in subsection (d) who are in regular active service may order a hearing or rehearing before the court en banc. A court en banc shall consist of all circuit judges in regular active service, except that any senior circuit judge of the circuit shall be eligible to participate, at that judge's election and upon designation and assignment pursuant to section 294(c) and the rules of the circuit, as a member of an en banc court reviewing a decision of a panel of which such judge was a member.

`(d)(1) A court of appeals having more than 15 authorized judgeships may organize itself into 2 or more adjudicative divisions, with each judge of the court assigned to a specific division, either for a specified term of years or indefinitely. The court's docket shall be allocated among the divisions in accordance with a plan adopted by the court, and each division shall have exclusive appellate jurisdiction over the appeals assigned to it. The presiding

judge of each division shall be determined from among the judges of the division in active status as though the division were the court of appeals, except the chief judge of the circuit shall not serve at the same time as the presiding judge of a division.

`(2) When organizing itself into divisions, a court of appeals shall establish a circuit division, consisting of the chief judge and additional circuit judges in active status, selected in accordance with rules adopted by the court, so as to make an odd number of judges but not more than 13.

`(3) The circuit division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the circuit division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The circuit division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

`(4) The circuit division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the circuit division's business. The circuit division shall not function through panels. The circuit division shall decide issues of law on the basis

of the opinions, briefs, and records in the conflicting decisions under review, unless the division determines that special circumstances make additional briefing or oral argument necessary.

`(e) This section shall apply to each division of a court that is organized into divisions as though the division were the court of appeals. Subsection (c), authorizing hearings or rehearings en banc, shall be applicable only to the divisions of the court and not to the court of appeals as a whole, and the authorization for a limited en banc procedure under section 6 of Public Law 95-486 (92 Stat. 1633), shall not apply in that court. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, but an en banc proceeding already ordered may be heard and determined in accordance with applicable rules of appellate procedure.

`(f) A majority of the number of judges authorized to constitute a court, a division, or a panel thereof shall constitute a quorum.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 3 of title 28, United States Code, is amended by amending the item relating to section 46 to read as follows:

`46. Assignment of judges; panels; en banc proceedings; divisions; quorum.'.

(c) MONITORING IMPLEMENTATION- The Federal Judicial Center shall monitor the implementation of section 46 of title 28, United States Code (as amended by this section) for 8 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Judicial Conference to assess the effectiveness and efficiency of this section.

SEC. 3. DISTRICT COURT APPELLATE PANELS.

(a) IN GENERAL- Chapter 5 of title 28, United States Code, is amended by adding after section 144 the following:

`Sec. 145. District Court Appellate Panels

`(a) The judicial council of each circuit may establish a district court appellate panel service composed of district judges of the circuit, in either active or senior status, who are assigned by the judicial council to hear and determine appeals in accordance with subsection (b). Judges assigned to the district court appellate panel service may continue to perform other judicial duties.

`(b) An appeal heard under this section shall be heard by a panel composed of 2 district judges assigned to the district court appellate panel service, and 1 circuit judge as designated by the chief judge of the circuit. The circuit judge shall preside. A district judge serving on an appellate panel shall not participate in the review of decisions of the district court to which the judge has been appointed. The clerk of the court of appeals shall serve as the clerk of the district court appellate panels. A district court appellate panel may sit at any place within the circuit, pursuant to rules promulgated by the judicial council, to hear and decide cases, for the convenience of parties and counsel.

`(c) In establishing a district court appellate panel service, the judicial council shall specify the categories or types of cases over which district court appellate panels shall have appellate jurisdiction. In such cases specified by the judicial council as appropriate for assignment to district court appellate panels, and notwithstanding sections 1291 and 1292, the appellate panel shall have

exclusive jurisdiction over district court decisions and may exercise all of the authority otherwise vested in the court of appeals under sections 1291, 1292, 1651, and 2106. A district court appellate panel may transfer a case within its jurisdiction to the court of appeals if the panel determines that disposition of the case involves a question of law that should be determined by the court of appeals. The court of appeals shall thereupon assume jurisdiction over the case for all purposes.

`(d) Final decisions of district court appellate panels may be reviewed by the court of appeals, in its discretion. A party seeking review shall file a petition for leave to appeal in the court of appeals, which that court may grant or deny in its discretion. If a court of appeals is organized into adjudicative divisions, review of a district court appellate panel decision shall be in the division to which an appeal would have been taken from the district court had there been no district court appellate panel.

`(e) Procedures governing review in district court appellate panels and the discretionary review of such panels in the court of appeals shall be in accordance with rules promulgated by the court of appeals.

`(f) After a judicial council of a circuit makes an order establishing a district court appellate panel service, the chief judge of the circuit may request the Chief Justice of the United States to assign 1 or more district judges from another circuit to serve on a district court appellate panel, if the chief judge determines there is a need for such judges. The Chief Justice may thereupon designate and assign such judges for this purpose.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 5 of title 28, United States Code, is amended by adding after the item relating to section 144 the following:

`145. District court appellate panels.'.

(c) MONITORING IMPLEMENTATION- The Federal Judicial Center shall monitor the implementation of section 145 of title 28, United States Code (as added by this section) for 8 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Conference to assess the effectiveness and efficiency of this section.

END

Bill Summary & Status for the 106th Congress

NEW SEARCH | HOME | HELP | ABOUT DIGESTS

S.253
SPONSOR: Sen Murkowski, Frank H. (introduced 01/19/99)

RELATED BILLS: S.186

SUMMARY:

(AS INTRODUCED)

Federal Ninth Circuit Reorganization Act of 1999 - Organizes the United States Court of Appeals for the Ninth Circuit into three regional divisions, designated as the Northern, Middle, and Southern Divisions, and a nonregional Circuit Division. Makes provisions of the Federal judicial code regarding circuits in which decisions are reviewable inapplicable to the Ninth Circuit, with such review instead governed by this Act.

Directs that appeals from: (1) the districts of Alaska, Idaho, Montana, Oregon, Eastern Washington, and Western Washington be taken to the Northern Division; (2) the districts of Eastern California, Northern California, Guam, Hawaii, Nevada, and the Northern Mariana Islands be taken to the Middle Division; (3) the districts of Arizona, Central California, and Southern California be taken to the Southern Division; and (4) the Tax Court, petitions to enforce the orders of administrative agencies, and specified other proceedings befiled in the court of appeals and assigned to the division that would have jurisdiction if the division were a separate court of appeals.

Allows judges to be assigned: (1) to serve for specified, staggered terms of three years or more in a division in which they do not reside; and (2) at random, by means determined by the court, in such numbers as necessary to enable the divisions to function effectively.

Directs the Ninth Circuit to establish a Circuit Division which shall have jurisdiction to review, and to affirm, reverse, or modify, any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court.

Requires: (1) the Federal Judicial Center to study the effectiveness and efficiency of the Ninth Circuit divisions, and report to the Judicial Conference of the United States; and (2) the Judicial Conference to submit recommendations to the Congress.

(Sec. 2) Rewrites provisions regarding the assignment of judges to direct a court of appeals or any regional division thereof to consider and decide cases and controversies through three judge panels, at least two of whom shall be judges of the court, with exceptions. Directs the United States Court of Appeals for the Federal Circuit to determine a procedure for the rotation of judges.

(Sec. 3) Amends the judicial code to authorize the judicial council of each circuit to establish a district court appellate panel service. Directs the judicial council to specify the categories or types of cases over which such panels shall have appellate jurisdiction.

Directs the Federal Judicial Center to monitor the implementation under this section and to report to the

Judicial Conference.

HJR

30

Article IX

Finance and Taxation

SECTION 1. TAXING POWER. The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

SECTION 2. NONDISCRIMINATION. The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to the residents of the State.

SECTION 3. ASSESSMENT STANDARDS. Standards for appraisal of all property assessed by the State or its political subdivisions shall be prescribed by law.

SECTION 4. EXEMPTIONS. The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

SECTION 5. INTERESTS IN GOVERNMENT PROPERTY. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

SECTION 6. PUBLIC PURPOSE. No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

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.

SECTION 8. STATE DEBT. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

SECTION 9. LOCAL DEBTS. No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

SECTION 10. INTERIM BORROWING. The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

SECTION 11. EXCEPTIONS. The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

SECTION 12. BUDGET. The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

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

SECTION 14. LEGISLATIVE POST-AUDIT. The legislature shall appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct post-audits as prescribed by law and shall report to the legislature and to the governor.

SECTION 15. ALASKA PERMANENT FUND. At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

SECTION 16. APPROPRIATION LIMIT. Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a nonstate source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed $2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations. The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

SECTION 17. BUDGET RESERVE FUND. (a) There is established as a separate fund in the State treasury the budget reserve fund. Except for money deposited into the permanent fund under Section 15 of this article, all money received by the State after July 1, 1990, as a result of the termination, through

settlement or otherwise, of an administrative proceeding or of litigation in a State or federal court involving mineral lease bonuses, rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments or bonuses, or involving taxes imposed on mineral income, production, or property, shall be deposited in the budget reserve fund. Money in the budget reserve fund shall be invested so as to yield competitive market rates to the fund. Income of the fund shall be retained in the fund. Section 7 of this article does not apply to deposits made to the fund under this subsection. Money may be appropriated from the fund only as authorized under (b) or (c) of this section.

(b) If the amount available for appropriation for a fiscal year is less than the amount appropriated for the previous fiscal year, an appropriation may be made from the budget reserve fund. However, the amount appropriated from the fund under this subsection may not exceed the amount necessary, when added to other funds available for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

Return to Alaska Constitution table of contents.

HTML mark-up by: M. Knutson, 5/21/95

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HJR30

Revision Date/Time (Note if correction) _____
Dept. Affected Office of the Governor
Title Constitutional Amendment relating to budget reserve fund
BRU Elective Operations
Component General and Primary
Sponsor Representative James
Requester House Judiciary Committee
Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

Prepared by Gail Fenumiai
Phone 465-3935
Division Division of Elections
Date/Time 4/8/99 12:21 PM
Approved by C. Lt. Governor Fran Ulmer
Date 4/8/99
Agency Office of the Lieutenant Governor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office

(Rev 10/98) 99/inform #is/OMB

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271

Alaska State Legislature

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

DATE: **March 26, 1999**

TO: **Representative Pete Kott**
House Judiciary Committee

FROM: **Representative Jeannette James**

RE: **Request for Hearing HJR 30**

Please schedule the following bill for hearing in the House Judiciary Committee at your earliest convenience:

HJR 30, Const. Amendment: Repeal Budget Reserve Fund

Copies of the bill and sponsor statement are attached.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jeannette James

P.O. Box 56622
North Pole, AK 99705
TEL 488-1546, FAX 488-4271

State Capitol
Juneau, AK 99801
TEL 465-3743, FAX 465-2381

SPONSOR STATEMENT

HJR 30
Constitutional Amendment to
Repeal the Constitutional Budget Reserve Fund

3/26/99

During the 1980's there was an enormous backlog of oil tax disputes, equaling billions and billions of dollars. These disputes were partially a result of our inexperience in establishing workable tax policies, and the complicated calculations required. Collection of these tax settlements was anticipated as a result of litigation or negotiation. These large amounts of collected funds were seen as windfalls and, since the Legislature might be tempted to rapidly spend them, the Constitutional Budget Reserve (CBR) fund was devised to collect these funds and make them difficult to access. This fund did several things:

1. Funds would be available to fill the gap between the amount available for appropriation in a given year which is less than the previous year's budget, with a majority vote.

2. Any other use of the fund would require a three-quarters vote.

3. All money that is used is considered borrowed and must be paid back.

4. Any money available for appropriation at June 30, fiscal year end, will be automatically swept into the CBR to pay back any money borrowed.

The constitutional amendment authorizing the CBR passed the voters in 1990. I voted for it. It was a good idea. However, a ballot measure hastily and not carefully crafted left implementation of the fund deposits or withdrawals questionable in the minds of the Administration and the Legislature. Disputes arose over what specific tax settlements should be deposited in this account, as well as what specific pots of money would be available for appropriation. The big question was how the earnings from the permanent fund factored in to these decisions.

A 1993 judicial decision provided the guidelines.

The courts ruled that the balance in the earnings reserve of the permanent fund is counted when determining whether or not income is less than the previous year's budget – with that figure determining how much could be spent with a majority vote. But, when it comes time to figure "the sweep" to repay the CBR, the earnings reserve of the permanent fund can not be counted. That really means any borrowing from the CBR always requires a three-quarters vote.

Every year, the three-quarters vote requirement has caused much dissent and struggle when the Legislature tries to pass a budget, and in many cases has resulted in more spending rather than less. The purpose of the CBR was to protect these windfalls from the legislature's appetite for spending, but just the opposite result has actually occurred.

Today, we don't need the CBR. All of the anticipated tax windfalls have been collected, except for a predictable $106 million per year reflecting the ordinary course of doing business. During the life of the CBR, we have borrowed almost half the money. There is a balance of $3.8 million, and we have spent about $3.4 million.

The CBR has out-lived its purpose. We need to repeal it. It complicates our budget process and stymies our efforts to create a long-term spending plan. It interferes with valid budget negotiations between the majority and the minority.

When the CBR is repealed, just where these funds should be deposited is a decision open for discussion in the committee process. I believe it should be placed where it will earn the most interest AND be reasonably available.

HJR

31

Alaska State Legislature

House of Representatives
House Judiciary Committee

SPONSOR STATEMENT – HJR 31

HJR 31 is a corollary bill to HB 141 *Preferential Voting*, which permits instant run-off voting for offices within Alaska. However, the Constitution of Alaska Article III Section 3 permits a *plurality* to elect the governor. This HJR would change the language of the Constitution, allowing for preferential (or instant run-off) voting for the Governor of Alaska. Preferential Voting re-enfranchises voters, and encourages a democratic system based upon a majoritarian voting standard.

Alaska State Capitol, Room 120 • Juneau, Alaska 99801
(907) 465-3777 phone • (907) 465-2819 fax

HJR

35

No: 1

FISCAL NOTE

Ltr Version: HJR 35
(H) Publish Date: 2/23/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date:
Title: Requesting repeal of Brady Law
Sponsor: COGHILL
Requester: H WTR

Dept. Affected
BRU
Component
Component Serial No.

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
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						
CHANGE IN REVENUES [ ]						

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 resolution would not have a significant fiscal impact on any state agency.

Prepared by Donald M. Riehle staff
Phone 465 6643

Donald M. Riehle WTR
CMTE.

Phone

Date 2-8-00

m

Page 1 of 1

COMMITTEE COPY

Alaska State Legislature

Interim:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907) 456-5081 - Phone
(907) 456-8245 - Fax

Session:
State Capitol, Room 416
Juneau, AK 99801
(907) 465-3719 - Phone
(907) 465-3258 - Fax

Representative John Coghill

HJR 35 REPEAL THE BRADY ACT

Sponsor Statement

I have introduced House Joint Resolution 35 to encourage Congress to repeal the Brady Handgun Protection Act because it has directly undermined a fundamental protection each citizen has under the supreme law of the land.

HJR 35 is a resolution requesting the United State Congress uphold the Second Amendment to the Constitution of the United States and repeal the Brady Act. The law is unconstitutional because it violates the provisions of U.S. Constitution and the Alaska Constitution guaranteeing the right to keep and bear arms.

The Second Amendment protects a fundamental right. There's something wrong when a government assumes having a handgun makes you a criminal. Well over 90 % of all crimes are committed without the use of a handgun.

Amendments to the Brady Act have further limited ownership and use of rifles and shotguns. Now the FBI further invades the privacy of citizens through FBI maintained registration checks.

It's time to repeal the law that would be used against citizens instead of against criminals.

###

Representative_John_Coghill@LEGIS.state.ak.us

Folder: Inbox

From: "Dave Williams" <dlwillms@mosquitonet.com> Save Address Block Sender
To: "Dave Williams" <dlwillms@mosquitonet.com> Save Address
Subject: UofA Student Newspaper on Handguns
Date: Sat, 5 Feb 2000 19:20:58 -0900

Re: HJR 35

Self-control needed, not handgun control

By Anna Waschke
Editorial writer
Sun Star (University of Alaska student newspaper)

A transformation has occurred in the "reasonable adult citizen" of the last decade. It seems as though this same "reasonable citizen" for whom the Constitution was drafted, for whom the Bill of Rights was designed, and for whom hundreds of thousands of other "reasonable citizens" have died, has become a helpless child awash in a toxic sea of peril.

The last decade has seen a barrage of legal action taken sometimes by the citizen, sometimes by the state, against several corporate entities whose normal business activity is supposed to constitute a threat to public safetv. We've seen the obscene financial sums awarded to individuals who were scalded, insulted, burned or otherwise injured by private businesses, the feeding frenzy engaged in by private lawyers contracted to sue tobacco companies under the direction of several state, and most recently, the full assault on gun manufacturers by nationwide cities.

The latest development may be the most chilling feat of all in the circus of modern Tort law. Several U.S. cities (including Chicago, Atlanta, Bridgeport, Cincinnati, Cleveland,, Detroit, Miami and New Orleans) have filed suit against gun manufacturers, claiming that their products are "defective and unreasonably dangerous" and that they should be held responsible for any misuse of their product. The mayor of Bridgeport is even considering a civil rights claim, as most gun violence occurs in minority neighborhoods. This trend has been picked up by the NAACP as well, as they initiate their own lawsuit against gun manufacturers. Lawyers for the cities will try to argue that because the misuse of handguns by children and adults is foreseeable to the makers of guns, each gun should be equipped with technology that would prevent such misuse, such as fingerprint-reading or voice-identifying analysis programs which would prevent the firing of the weapon in the hands of an unauthorized user. That this technology is not currently commercially available seems to be beside the point.

Some of the new tactics that have popped up in these lawsuits include the attempt to sue under Tort law for indirect harm. For 150 years, Tort law cases have required evidence of direct harm, yet cities in these new suits are claiming millions of dollars in damages lost to costs incurred in sweeping up city streets after shootings, absence of city workers due to

shootings and other lost revenue they claim is attributable to instances in which firearms were involved, all of which are indirect damages. Also new to this rash of lawsuits is the concept of "collective liability", which reasons that since each gun manufacturer shares a percent of the firearms market, so each manufacturer should pay a percentage of the total damages awarded a plaintiff in a lawsuit involving the misuse of a firearm. This makes about as much sense as forcing every coffee roaster in the U.S. to pay damages because one roaster sold a pound of beans to a café who made a hot pot of coffee and sold it to someone who spilled it and burned themselves. It is at this point that the hideous thrust behind the movement comes into view; these lawsuits aren't really about money, like the big tobacco suits were. They are about side-stepping the Constitution and getting rid of legal guns, once and for all.

Most anti-gun activists realize the futility of battling the second amendment head-on, and have begun to adopt this devious practice with the aid of their mayors; they realize that gun manufacturers have considerably less money than big name (and sometimes federally subsidized) tobacco companies. A few legal fees, some time tied up in court and other litigation costs can easily put the smaller gun manufacturers out of business and damage the larger ones. They reason that this spells a decrease in overall gun ownership, and they are right about part of it: most likely, the disappearance of smaller gun manufacturers will drive the cost of firearms up, and will decrease the number of gun purchases among the cost-sensitive citizens. The problem is that the cost-sensitive citizens are those who would most likely use the weapon responsibly; a rise in gun costs will not affect the purchase of firearms by criminals. After enough of these law suits render legal gun markets effectively defunct, the only market for guns will be the black market; most of us can anticipate the results of that kind of development. The most sever restrictions on the sale and ownership of guns are found in California, Maryland, Illinois, New Jersey, New York and Washington D.C., yet the homicide rate in these states is 23% higher than for the rest of the states.

More children die in bicycle accidents a year than in gun accidents, but bicycle accidents do not get the attention of the national news. The emotional weight of highly publicized events like the Littleton and Columbine shootings have given anti-gun activists the public sympathy needed to push their agenda forward in the absence of supporting evidence that tighter gun control equals less crime. You will notice that those in favor of gun control will pick a few saddening cases of children shooting children in their homes in order to make you admit that "gee, guns are bad". They will point to a few cases (around 0.5%) in which guns were sold to convicted felons. They will hope that you are ignorant of, and remain ignorant of, the actual statistics of current gun handling., including the facts that handguns are the only consumer product that requires it manufacturers, wholesaler and retailers to have federal licenses, or that every new model must be reviewed by the Bureau of Alcohol, Tobacco and Firearms.

What is more frightening than this abuse of Tort law and Constitutional provision is what it reveals about the "reasonable adult citizen" of contemporary America. Is it true that the modern U.S. adult cannot be trusted to own a piece of molded steel and some lead shot? Must all objects that pose physical harm be kept from us, like small plastic toys from small children? By claiming that gun manufacturers are responsible for the manner in which we employ their product, we are implicitly stating that we cannot be trusted to use safe or responsible judgement, that we must be babysat, that we cannot be expected to look after ourselves. Once the helpless nature of the average citizen is established, the road will be clear for those who will thoughtfully take it upon themselves to look after our safety and protect us to dictate to us exactly what we need to be protected from. If we cannot be reasonably expected to maintain firearms in a responsible manner, then what on earth are we doing in possession of nuclear weapons? Will the military be considered more responsible that the average citizen, and be authorized to carry guns, or will we replace them with 1-oz. bottles of

mace? Will we lose the right to possess matches, knives, forks, fishing hooks, screwdrivers, heavy blunt objects or automobiles because of their potential to cause harm? Will we actually admit that we need to be protected from an inanimate object, and that we cannot be expected to protect our children from our possessions?

This is not the "reasonable adult citizen" for whom the constitution was written, this is the citizen for whom fascist states were established: the citizen who needs protection, who cannot suffer beneath responsibility, and cannot be trusted with rights. If this is the citizen who makes up the greater body of the American public, then it is a sad day for democracy. If we cannot trust ourselves with guns, we cannot trust ourselves with a vote, but then, perhaps that is what those behind this movement are counting on.

Anna Waschke (Editorial writer for the Sun Star)
Sun Star
Printed on Volume XIX No. 11 - February 1, 2000
Fairbanks, Alaska
907-474-7540

HJR

47

Alaska Permanent Fund Corporation
P.O. Box 25500 Juneau, Alaska 99802-5500
(907) 465-2047

MEMORANDUM

DATE: January 18, 2000

TO: Senator Mackie

FROM: Jim Kelly
Director of Communications

SUBJECT: **APFC Financial Projection**

You have asked the Alaska Permanent Fund Corporation (APFC) to do a financial projection using certain assumptions which you provided.

You asked us to draw down all Fund income and as much principal as necessary in order to pay each Alaskan a $25,000 dividend in 2001. You have also asked us to assume that all Fund income in subsequent years would be used first to inflation-proof Fund principal, and the balance then would be transferred to the General Fund. You asked us to assume that the Fund earned a rate of return of 8%, 10% and 12%. Based on these assumptions, the table below indicates the amount of income in millions of dollars that would be transferred to the General Fund each year beginning in 2002:

Year	8%	10%	12%
2002	588	884	1,200
2003	615	923	1,252
2004	642	962	1,304
2005	671	1,004	1,360
2006	699	1,046	1,416
2007	729	1,090	1,474
2008	759	1,132	1,530
2009	788	1,176	1,580
2010	817	1,219	1,646
TOTALS:	**6,308**	**9,436**	**12,762**

- or personal use
- student loans
- child support

You have also asked our estimate of per capita dividends for the projection period, based on the status quo. These numbers appear in the following table:

2000	1,888.77
2001	1,900.53
2002	1,877.56
2003	1,772.58
2004	1,695.11
2005	1,768.48
2006	1,828.57
2007	1,894.01
2008	1,962.86
2009	2,034.48
2010	2,108.06
TOTAL:	20,731.00

Senator, I should point out that the rates of return you have asked us to assume – 8%, 10% and 12% – are in excess of what the APFC expects to earn given current Fund asset allocation and capital market assumptions. In addition, these projections represent only our best estimate of the median case; actual performance will vary with market volatility.

PLEASE NOTE THAT THE CORPORATION NEITHER SUPPORTS NOR OPPOSES ANY PROPOSED CHANGES TO THE CURRENT USE OF FUND EARNINGS, EXCEPT AS THEY MAY RELATE TO THE PROPER EXERCISE OF THE TRUSTEES' FIDUCIARY RESPONSIBILITIES AS REQUIRED UNDER THE PRUDENT INVESTOR RULE.

c: APFC Acting Executive Director
APFC Director of Finance

Fairbanks Daily News-Miner, Tuesday, February 1,2000

Federal windfall

Jan. 25, 2000

To the editor:

Bengt heard in Minnesota that an Alaska legislator proposed cashing out the permanent fund and giving $25,000 to everyone who happens to be here this year. He called to say that if this actually occurred it would immediately, and unavoidably, send about $5 billion from the principal of our permanent fund directly to the IRS of the U.S. government. Over and above normal taxes, it would be the biggest transfer of money from any state to the federal government in history.

Sincerely,
Carl S. Benson
Fairbanks

Carl S. and Ruth Benson
1551 Farmers Loop
Fairbanks, Alaska 99709

907 479 6912

We know IRS collects income tax on our dividends from earnings (last year nearly $300 million), but to send $5,000 million from our principal would be extremely foolish.

The very fact that Sen. Mackie could propose such a wackie plan indicates an incompetent legislature. Let's get to raising revenue, like the real states do,

1. Reinstate our previous income tax.
2. Raise the gasoline tax (from the lowest in the nation)
3. Raise the vehicle registration fee (also ")
4. Use some of the Permanent Fund EARNINGS for their intended purpose of funding (in part) State Government
5. Stop the witless, counterproductive, cuts to State Government.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HJR 47

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor

Title Constitutional Amendment: relating to the permanent fund and payments to certain residents

BRU Elective Operations

Component Elections

Sponsor Representative Davis

Requester House Judiciary Committee

Component No. 21

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	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Gail Fenumiai Phone 465-3935

Division: Division of Elections Date/Time 2/25/00 10:06 AM

Approved by: Lt. Governor Fran Ulmer Date 02/25/2000

Agency: Office of the Lieutenant Governor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

(Rev 10/99) 2000fnform.xls/OMB

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

HOUSE JOINT RESOLUTION 47
SPONSOR STATEMENT

House Joint Resolution 47, if passed by the legislature and approved by the voters in the 2000 general election, will amend the constitutional provision relating to the Alaska Permanent Fund. Section 15 of Article 9 will be amended to require all realized income from the Permanent Fund principal to be deposited directly into the general fund. It allows the income to be used for any public purpose except for any program that provides dividends or other payments to all Alaska residents. This terminates the Permanent Fund dividend program as it is today and allows the earnings to be used to inflation-proof the Permanent Fund principal and to fund state services.

The resolution also provides for the payment of $25,000 to each individual eligible to receive a 2001 Permanent Fund dividend (PFD). This is equivalent to more than 10 years of Permanent Fund dividends. It provides an opportunity for citizens to manage their own funds and make decisions that are best for their families. By requiring an individual to be eligible to receive a PFD in 2001, it removes the incentive for an influx of people coming to the state in the hopes of receiving the payment. Applicants would have needed to establish residency by January of 2000.

House Joint Resolution 47 sets the stage for another balanced budget proposal. It is a huge step towards addressing the budget deficit. It takes the constant debate over the permanent fund dividend program off the table. With that debate removed, the legislature can concentrate on dealing with the state's essential needs without being distracted by the effects of withdrawals from the earnings reserve account on the PFD program.

House Joint Resolution 47 offers an opportunity to expand the Permanent Fund's purpose: to utilize revenue from non-renewable resources to assist funding state government services now that oil production and revenues are declining and new revenues are needed.

HJR47022500

Session: State Capitol, Juneau, AK 99801 • Phone 907/465-2693 or 800/463-2693 • Fax 907/465-3835
Interim: 145 Main St. Lp., Ste. 223, Kenai, AK 99611 • Phone 907/283-7095 or 907/224-2051 • Fax 907/283-3075
Email: Representative_Gary_Davis@legis.state.ak.us

ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

HOUSE JOINT RESOLUTION 47
SECTIONAL ANALYSIS

Section 1: Amends Article 9, Section 15 of the Alaska Constitution to state that all realized income from the permanent fund shall be deposited in the general fund. Additionally the income may be used for any public purpose except for any program that provides dividends or other payments to all state residents.

Section 2: Adds a new section Article 15, Transitional Measures, to provide a 1-time, $25,000 payment to each individual eligible to receive a 2001 Permanent Fund dividend under current statute.

Provides that funds in any Alaska Permanent Fund account are to be used for these payments and allows the additional amount necessary to make these payment to be withdrawn from the Permanent Fund principal.

HJR47022500

Session: State Capitol, Juneau, AK 99801 • Phone 907/465-2693 or 800/463-2693 • Fax 907/465-3835
Interim: 145 Main St. Lp., Ste. 223, Kenai, AK 99611 • Phone 907/283-7095 or 907/224-2051 • Fax 907/283-3075
Email: Representative_Gary_Davis@legis.state.ak.us

Estimate of Permanent Fund Income Transferred to the General Fund
If HJR 47/SJR 33 Receives Voter Approval
(in Millions of Dollars)

Fiscal Year	Annual Rate of Return			
	7.97%	8.00%	10.00%	12.00%
2002	584.0	588.0	884.0	1,200.0
2003	610.0	615.0	923.0	1,252.0
2004	638.0	642.0	962.0	1,304.0
2005	665.0	671.0	1,004.0	1,360.0
2006	695.0	699.0	1,046.0	1,416.0
2007	723.0	729.0	1,090.0	1,474.0
2008	754.0	759.0	1,132.0	1,530.0
2009	782.0	788.0	1,176.0	1,580.0
2010	812.0	817.0	1,219.0	1,646.0

Source: Alaska Permanent Fund Corporation, 1/26/00

Comparison of $25,000 Lump Sum Payout to 10-year annual Permanent Fund Dividend

	Before Taxes	After Federal Income Taxes				
		15.0%	28.0%	31.0%	36.0%	39.6%
Lump Sum	25,000	21,250	18,000	17,250	16,000	15,100
	Would receive:					
Annual PFDs						
2001	1,900.53	1,615.45	1,368.38	1,311.37	1,216.34	1,147.92
2002	1,877.56	1,595.93	1,351.84	1,295.52	1,201.64	1,134.05
2003	1,772.58	1,506.69	1,276.26	1,223.08	1,134.45	1,070.64
2004	1,695.11	1,440.84	1,220.48	1,169.63	1,084.87	1,023.85
2005	1,768.48	1,503.21	1,273.31	1,220.25	1,131.83	1,068.16
2006	1,828.57	1,554.28	1,316.57	1,261.71	1,170.28	1,104.46
2007	1,894.01	1,609.91	1,363.69	1,306.87	1,212.17	1,143.98
2008	1,962.86	1,668.43	1,413.26	1,354.37	1,256.23	1,185.57
2009	2,034.48	1,729.31	1,464.83	1,403.79	1,302.07	1,228.83
2010	2,108.06	1,791.85	1,517.80	1,454.56	1,349.16	1,273.27
Total Received	18,842.24	16,015.90	13,566.41	13,001.15	12,059.03	11,380.71

If after tax PFD's were invested annually with a 5% rate of return						
2001		1,615.45	1,368.38	1,311.37	1,216.34	1,147.92
2002		3,292.15	2,788.64	2,672.45	2,478.79	2,339.36
2003		4,963.45	4,204.33	4,029.15	3,737.19	3,526.97
2004		6,652.47	5,635.03	5,400.24	5,008.92	4,727.16
2005		8,488.30	7,190.09	6,890.50	6,391.19	6,031.68
2006		10,467.00	8,866.16	8,496.74	7,881.03	7,437.72
2007		12,600.25	10,673.16	10,228.44	9,487.25	8,953.59
2008		14,898.70	12,620.07	12,094.24	11,217.84	10,586.84
2009		17,372.94	14,715.90	14,102.74	13,080.80	12,345.01
2010	Cumulative Total	20,033.44	16,969.50	16,262.44	15,084.00	14,235.53

If after tax $25,000 payment was invested to yield 5% annually						
2001		21,250.00	18,000.00	17,250.00	16,000.00	15,100.00
2002		22,312.50	18,900.00	18,112.50	16,800.00	15,855.00
2003		23,428.13	19,845.00	19,018.13	17,640.00	16,647.75
2004		24,599.53	20,837.25	19,969.03	18,522.00	17,480.14
2005		25,829.51	21,879.11	20,967.48	19,448.10	18,354.14
2006		27,120.98	22,973.07	22,015.86	20,420.51	19,271.85
2007		28,477.03	24,121.72	23,116.65	21,441.53	20,235.44
2008		29,900.88	25,327.81	24,272.48	22,513.61	21,247.22
2009		31,395.93	26,594.20	25,486.11	23,639.29	22,309.58
2010	Cumulative Total	32,965.72	27,923.91	26,760.41	24,821.25	23,425.06

NOTE: assumes that no money is withdrawn from the ERA between now and 2010 for any reason

HJR47compare.xls
2/25/00