

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10091 SENATE JUDICIARY

HB

428

FISCAL NOTE

B. /ersion: CSHB 428 (FIN)

(H) Publish Date: 3/30/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: _____
Title: Interest on Child Support Overpayments
Sponsor: House Finance Committee
Requester: _____

Dept. Affected Revenue
BRU Child Support Enforcement Div.
Component Child Support Enforcement Div.

Component Serial No. 111

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						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY00) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by


Rep. Eldon Mulder, Co-Chair House Finance Committee


Rep. Gene Therriault, Co-Chair House Finance Committee

Phone 465-2647

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Date 3/29/00

Alaska State Legislature

REPRESENTATIVE
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House Of Representatives

While in session
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House District 33

CSHB 428(FIN)

Sponsor: Representative Gene Therriault

Sponsor Statement

CSHB428(FIN) requires the Child Support Enforcement Division to pay interest on the return of overpayments of child support when the overpayment is due to a mistake made by the agency. The agency would be required to pay obligors six percent, the same amount of interest the agency can charge on child support arrearages set out in AS 25.27.025, imposed under AS 25.27.020(a)(2)(B). The requirement to pay interest on returns of overpayment is not a new precedent; AS 43.05.280 imposes a similar requirement on the Department of Revenue when refunding or crediting an overpayment of tax.

CSHB 428(FIN) also changes the amount of interest the Division of Child Support Enforcement must pay under 25.27.062(l)(1) when it is delinquent returning overpayments that have been withheld by an employer after the support order has been satisfied. Under current law, the rate of interest is set out in AS 43.05.225 at "five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter." CSHB 428(FIN) changes the rate to a consistent six percent.

CSHB 428(FIN) is in response to an inequity in the child support collection system that allows the agency to charge interest when an obligor is late paying support, but does not require the agency to pay interest when returning overpayments that are the direct result of a mistake made by the agency. This bill would provide incentive to the agency to be more careful when calculating support and more prompt about returning overpayments. This bill carries no fiscal note as the agency would be expected to absorb the cost of paying the interest out of its annual budget.

HB

435

FISCAL NOTE

No: 1

Bill Version: CSHB 435 (JUD)

(H) Publish Date: 3/28/00

STATE OF ALASKA
000 LEGISLATIVE SESSION

Revision Date: _____
Title: Revisors Bill
Sponsor: Legislative Council
Requestor: _____

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 CF/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 (FY00) cost: -0-

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Leslie McGuire
House Judiciary Aide

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Date 3/27/00

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MEMORANDUM

March 30, 2000

SUBJECT: CSHB 435(JUD) (2000 Revisor's Bill)

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: Pamela Finley *PF*
Revisor of Statutes

The following is a sectional analysis of CSHB 435(JUD), the 2000 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 1- 3, 5, 6, 9, 11, 13, 16, 19, 23, 24, 26, 27 - 67, 70, 72, 73, 74, 79 - 82, 86, 88, 91, 94, 96, 97, 99, 102, and 105 delete, repeal, or update, provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 4, 8, 10, 12, 14, 20 - 22, 71, 76, 78, 83, 84, 87, 92, 93, 98, 100, 101 and 103 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 7, 15, 17, 18, 25, 68, 69, 75, 77, 85, 90, 95 and 104 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Sections 1 - 3 amend AS 02.15.040 and 02.15.170 and AS 02.20.040(b) by substituting "Federal Aviation Administration" for "Federal Aviation Agency". The name was changed in 1966.

Section 4 amends AS 02.35.120, which sets out penalties for violation of AS 02.35. Because AS 02.35.130 sets out a specific penalty for violations of AS 02.35.090 and 02.35.110, those

sections should be excepted from the more general provisions of AS 02.35.120. Section 4 accomplishes this by adding "other than AS 02.35.090 and 02.35.110" after "this chapter".

Sections 5 and 6 amend AS 03.20.020(a) and 03.20.050, relating to fairs, to change the references to "house election district" to "house district". When the constitutional amendments proposed by 1998 Legislative Resolve 74 were adopted by the voters in 1998, the term "house district" was substituted for "election district" in the constitution. These bill sections make conforming changes in statute.

Section 7 amends AS 06.05.230 to allow a bank to acquire, hold, or convey real or personal property in connection with a negatively amortizing loan described in AS 45.45.010(f). In ch. 51, SLA 1998, AS 45.45.010(f) was amended to allow banks and certain other institutions that make loans to accept a percentage of ownership or profits above the lending institution's interest rate in connection with negatively amortizing loans that meet certain requirements. However, AS 06.05.230 allows a bank to acquire, hold, or convey real or personal property only for certain purposes, and negatively amortizing loans are not among those purposes. Therefore, according to the Division of Banking, Securities, and Corporations, banks cannot participate in negatively amortizing loans despite the fact that in ch. 51, SLA 1998, the Legislature attempted to authorize them to do so. This bill section allows banks to acquire, hold, and convey property to the extent necessary in connection with negatively amortizing loans that are described in AS 45.45.010(f).

Section 8 amends AS 06.20.250(e) by substituting "first payment extensions" for "first payment loan extensions". The phrase "first payment loan extensions" makes no sense and it is clear that the subsection is referring to extensions for first payments, not extensions for loans.

Section 9 amends AS 08.06.030(a) to reflect changes in the name of the accrediting commission and the certifying organization for acupuncturists.

Section 10 amends AS 08.24.380 by adding a paragraph defining "commissioner" as the commissioner of community and economic development. Although the term "commissioner" is used in AS 08.24, under which the Department of Community and Economic Development is to regulate collection agencies, the term is not defined. This bill section rectifies that oversight.

Section 11 amends AS 08.32.187(a) by substituting "Department of Veterans Affairs" for "Veterans' Administration".

Section 12 amends AS 08.36.247(b) by deleting "dental examiners" before "board". AS 08.36.370 defines "board" to mean the "Board of Dental Examiners", so "dental examiners" is unnecessary and technically inaccurate.

Section 13 amends AS 08.36.350(a) by substituting "Department of Veterans Affairs" for "Veterans' Administration".

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Section 14 amends AS 08.38.100 by adding a definition of "department". Chapter 67, SLA 1999 added AS 08.38, under which the Department of Community and Economic Development is to regulate the professions of dietitian and nutritionist. Through an oversight, a definition of "department" was omitted. This bill section corrects that omission.

Section 15 amends AS 08.42.070---the reciprocity provision for embalmers and funeral directors---by adding paragraphing in order to make it easier to read.

Section 16 amends AS 08.42.100 by removing a dated reference.

Section 17 deletes "referred to in this chapter as 'department'" from AS 08.52.010, and section 18 adds the definition of "department" as a new section AS 08.52.100. This conforms AS 08.52 (concerning explosives handlers) to the normal style of the Alaska Statutes.

Section 19 amends AS 09.25.121, concerning public records, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 20 amends AS 10.06.480(a)(1) by substituting "AS 10.06.305 - 10.06.390" for "AS 10.06.405 - 10.06.438". This corrects an error in ch. 166, SLA 1988, which was derived from HB 246 and SB 199 of the 14th Legislature, SB 246 of the 13th Legislature, and SB 873 of the 12th Legislature, which is where the error arose. The original draft was taken from a model act, which had different section numbers. AS 10.06.358, 10.06.360, 10.06.363, and 10.06.365, referenced at the beginning of AS 10.06.480(a)(1), were all in article 5 of the model act. The editor correctly renumbered those sections, but where the model act referred to "article 5" at the end of AS 10.06.480(a)(1), the editor substituted "AS 10.06.405 - 10.06.438", which is article 5 under the current numbering, but not under the model act. The correct substitution for "article 5" of the model act is "AS 10.06.305 - 10.06.390", which was article 5 of the model act, although it is article 3 under current numbering. This error was brought to our attention by an attorney in private practice who noticed that the language did not make sense.

Section 21 amends AS 10.20.590 (relating to nonprofit corporations) by changing a reference to an "annual" report to a "biennial" report. AS 10.20.620 requires a biennial report, and AS 10.20.585(1) makes the failure to file the biennial report a basis for revoking the certificate of authority. This corrects an error in ch. 123, SLA 1980.

Section 22 amends AS 13.16.580 by substituting "AS 40.17" for "AS 34.15" and "filed under AS 45.09" for "AS 45.05" and by adding "or filing" after "recordation". The recording provisions of AS 34.15 were repealed in 1988 and replaced by AS 40.17. The reference to AS 45.05 became incorrect in 1980 when the Uniform Commercial Code provisions (which until that time were all in AS 45.05) were renumbered by the revisor as AS 45.01 - AS 45.09. The only provisions in AS 45.01 - AS 45.09 that provide for recordation (or more accurately,

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for filing) are those in AS 45.09 that authorize the filing of notices of security interests. Accordingly, "AS 45.09" is substituted for "AS 45.05".

Sections 23 and 24 amend AS 13.26.105(d) and 13.26.135(a), concerning guardianship, by substituting "Department of Veterans Affairs" for "Veterans' Administration" and "administrator of the federal Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs. Notice to the department, rather than the administrator, was specified because in a given situation it may be appropriate to notify a subordinate officer rather than the head of the department.

Section 25 amends AS 14.07.075 to change the name of the state Board of Education to the Board of Education and Early Development. Section 104 requires the revisor of statutes and the lieutenant governor generally to make the same change in the statutes and regulations. Last year, the name of the Department of Education was changed to the Department of Education and Early Development. The department and the Board have requested that the name of the Board (which is at the head of the department) also be changed.

Section 26 amends AS 14.40.325 by substituting "office of management and budget" for "division of budget review." There is no statutorily created division of budget review in the Office of the Governor, although in 1986, when AS 14.40.325 was enacted, there was an administratively created division of budget review within the office of management and budget.

Sections 27 - 29, 31 - 33, and 35 - 65 substitute "house district" for "election district" in various statutes in the Alaska Election Code. Sections 29, 30, 34 and 43 make technical changes due to the internal renumbering of paragraphs in AS 05.15.010 in section 27. Section 62 amends the definition of "senate district" for AS 15 to reflect the repeal of art. XIV of the state constitution. Section 63 adds a definition of "house district" because the 1998 amendments to the constitution substituted "house district" for "election district."

Sections 68 and 69 amend AS 16.05.340 to substitute a reference to residency under AS 16.05.415 for a reference to residency under AS 16.05.940. The change applies to members of the military service on active duty and their dependents. Chapter 38, SLA 1997 added a definition of residency for AS 16.05.330 - 16.05.430 (sport hunting and fishing licenses) and rewrote the general definition of residency in AS 16.05.940 (which applies to the rest of AS 16.05 - 16.40). Although in this particular case there is no substantive difference between the residency requirements of AS 16.05.415 and AS 16.05.940 for the military, the correct cross-reference is AS 16.05.415.

Section 70 amends AS 16.05.341, concerning hunting and sport fishing licenses for disabled veterans, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

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Section 71 amends AS 16.05.925(a) to add certain sections as exceptions to the general catchall penalty provision for violations of the fish and game code and regulations. The added sections have their own penalties, as opposed to relying on the penalties designated for a class A misdemeanor. The added sections are AS 16.05.665 (falsifying an application), AS 16.05.783 (same day airborne hunting), and AS 16.05.905 (activities by aliens).

Section 72 amends AS 17.20.130 to substitute a reference to the current federal law regulating viruses, serum, and toxins for the reference to the 1902 law.

Section 73 amends AS 18.50.070 by substituting "house district" for "election district". See explanation for bill section 27.

Section 74 amends AS 18.56.098(i) to substitute a reference to current federal law for a reference to repealed federal law. The text of the two federal laws (defining "qualified veteran") is identical.

Section 75 amends AS 18.66.990(3)---the definition of "domestic violence"---by adding "an offense under" before "a law or ordinance of another jurisdiction". A crime is not a law, but instead a violation of a law or an offense under a law.

Section 76 amends AS 21.09.150(b)(5) by substituting a reference to AS 21.34 for a reference to AS 21.33. This corrects an error in ch. 117, SLA 1984, which repealed the surplus lines provisions in AS 21.33 and enacted surplus lines provisions in AS 21.34.

Section 77 amends AS 21.39.060 by breaking subsection (a) into subsections (a) and (b) and making conforming technical changes. The division is necessary because currently there are two provisions denominated (a)(1), (2), and (3).

Section 78 amends AS 22.05.010(d) by adding a reference to the superior court in the definition of "final decision". The subsection refers to final decisions of both the superior court and the court of appeals. This corrects an error in ch. 12, SLA 1980.

Section 79 amends AS 23.15.280, concerning vocational rehabilitation by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 80 amends AS 26.05.295, concerning educational assistance for enlisted personnel, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 81 amends AS 29.45.030, concerning the definition of "disabled veteran" for municipal tax exemptions, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

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Section 82 amends AS 29.47.470 by substituting a current reference to federal law for an obsolete one. 49 U.S.C. App. 1513 was repealed in 1994. 49 U.S.C. 40116(e) is the successor of 49 U.S.C. App. 1513(b) and 49 U.S.C. 40117 covers the same material that 49 U.S.C. App. 1513(e) did.

Section 83 amends AS 32.05.435 to substitute "partnership" for "corporation." AS 32.05.435 applies to partnerships, not corporations.

Section 84 amends AS 37.06.010(c) by substituting "municipalities" for "municipality" in order to correct a grammatical error.

Section 85 amends AS 38.05.180(j)(6)(B) by substituting "Legislative Budget and Audit" for "LB&A" in order to conform the statute to the preferred style of the Alaska Statutes.

Section 86 amends AS 39.27.030 to give the term "election district" the same meaning it has in AS 39.27.020(b), i.e., those election districts established under the December 7, 1961 proclamation of reapportionment and redistricting. Although "house district" was substituted for "election district" in other statutes, that substitution did not seem appropriate in AS 29.60.160(a), 29.60.290(b), AS 39.27.020, 39.27.030, or AS 44.31.020. These five statutes all concern cost-of-living differentials based on "election districts." For your convenience, a copy of those statutes is attached. In AS 29.60.160 and 29.60.290 and AS 39.27.020, "election district" is defined as referring to election districts established under the December 7, 1961 proclamation of reapportionment and redistricting. Since the areas referred to actually were "election districts," it seems appropriate to leave the term "election district" in these three statutes. However, in AS 39.27.030 and AS 44.31.020, the term "election district" is not defined, even though AS 39.27.030 does refer to AS 39.27.020 and AS 44.31.020 refers to AS 39.27.030. Because AS 39.27.030 appears to be linked to AS 39.27.020 and because AS 44.31.020 is linked to AS 39.27.030, in both of these statutes "election district" is defined as an election district as defined under AS 39.27.020(b), i.e., one established under the 1961 proclamation.

Section 87 amends AS 39.25.125(b) by substituting "equal to what the official would have made" for "equal to what would have been made." This corrects an editorial error that was made in 1982 when the revisor substituted "equal to what would have made" for "equal to what he would have made" in accordance with instructions in sec. 4, ch. 58 SLA 1982 to remove references to "he" or "she" in the statutes. The 1982 substitution was not accurate because it assumes that only the official makes contributions to the retirement system, while in fact both the official and the employer make contributions. Although this change probably could have been corrected editorially (since it was an editorial error in the first place), the error occurred so long ago that it would be better to make the correction in the revisor's bill.

Section 88 amends AS 41.10.100(b)(6) by substituting "state" for "Alaska District". Under former AS 41.10.020, the Soil Conservation District of Alaska was established and consisted of the entire state. AS 41.10.020 was repealed in 1983, but the reference in AS 41.10.100(b)(6) was overlooked.

Section 89 amends AS 42.05.381(e) by removing an obsolete requirement at the end of the subsection. The regulations concerning adjustment of rates were enacted and can currently be found at 3 AAC 53.010 et seq.

Section 90 amends AS 42.05.531 by substituting "a public utility" for "public utilities" to conform to the rest of the sentence.

Section 91 amends AS 42.40.430 by deleting a reference to a federal statute that was repealed in 1994. There is no clear equivalent in existing federal law, but none is needed because AS 42.40.430 refers to "other law" in general.

Section 92 amends AS 43.23.065(b)(3) by substituting "education loans" for "scholarship loans" to correct an error of omission in ch. 54, SLA 1997. AS 43.23.067 used to apply to scholarship loans, but ch. 54, SLA 1997 amended it to apply to all loans covered by AS 14.43.145, so that "education loans" is a more accurate term.

Section 93 amends AS 44.28.020(c) to substitute "established" for "if such a system is established". The bill that became chapter 73, SLA 1997 originally provided for an optional automated victim notification system. In committee, the bill was changed to make the notification system mandatory, but a conforming change in AS 44.28.020(c), also enacted in ch. 73, SLA 1997, was not made.

Section 94 amends AS 44.31.020 by supplying a definition for "election district." See the discussion for bill section 86.

Section 95 amends AS 44.33.020(21) to add "or community development" in the list of programs that the Department of Community and Economic Development is to administer and for which it is to adopt regulations. In ch. 58, SLA 1999, AS 44.47.980 (which provided general authority for the Department of Community and Regional Affairs to adopt regulations) was repealed to effect the merging of the Department of Community and Regional Affairs and the Department of Commerce and Economic Development. However, there was no statute that gave the Department of Commerce and Economic Development or the Department of Community and Economic Development general regulation-making authority. This bill section gives the new department the same general authority to adopt regulations that the former Department of Community and Regional Affairs had.

Section 96 amends AS 44.62.430(b) and section 97 amends AS 46.03.313(d) by substituting "house district" for "election district". See discussion for bill section 27.

Section 98 amends AS 46.08.040(a)(2)(E) by substituting "AS 26.23.073(g)" for "AS 46.13.080". AS 46.08.040(a)(2)(E), with its reference to AS 46.13.080, was added by ch. 128, SLA 1994. However, ch. 32, SLA 1994 repealed AS 46.13.080 and reenacted its provisions, with some slight changes, as AS 26.23.073(g).

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Section 99 amends AS 46.08.150 by removing a reference to the Hazardous Substance Spill Technology Review Council, which expired June 30, 1995. See also discussion of the repealers in sec. 102.

Section 100 amends AS 47.12.400(a) by deleting the third occurrence of "that" in order to make the sentence grammatically correct. This corrects an error in ch. 59, SLA 1996.

Section 101 amends sec. 54(b), ch. 132, SLA 1998 so that AS 25.24.210(f)---which was added by sec. 16, ch. 132, SLA 1998---would be repealed (on July 1, 2001 under current law) along with many other provisions requiring social security numbers. The explanation for this involves both ch. 87, SLA 1997 and ch. 132, SLA 1998. Section 45, ch. 87, SLA 1997 added AS 25.24.210(e)(12), which required that a petition for dissolution of marriage contain the social security numbers of the spouses and children affected by the decree. Under sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, this amendment would be repealed as of July 1, 2001. However, because dissolution petitions are public records and the legislature wanted to allow people to keep the social security numbers as private as possible, sec. 15, ch. 132, SLA 1998 deleted AS 25.24.210(e)(12), and sec. 16, ch. 132, SLA 1998 added AS 25.24.210(f), which requires the social security numbers to be on the petition or on a document accompanying the petition. However, sec. 16 was not added to the 2001 repeal that covers sections addressing social security numbers. This bill section corrects that error.

Section 102 repeals AS 14.03.290(5). This paragraph defines "parent advisory group," but the term is not used in the relevant statutes.

Section 102 repeals AS 14.43.120(p). This subsection defines residency for the purposes of AS 14.43.120. However, residency is no longer relevant to AS 14.43.120 because subsection (j)---which set out loan forgiveness based on residency---was repealed in ch. 92, SLA 1987.

Section 102 repeals the definition of "house district" in AS 15.60.010(5). See discussion for bill section 27. Note that the definition of "election district" being repealed in sec. 102 referred to districts established by art. XIV, sec. 3---which established the original districts used to elect members to the state House of Representatives---as modified under Article VI (reapportionment).

Section 102 repeals AS 39.50.200(b)(51), 44.66.010(a)(19), and AS 46.13.100 - 46.13.900. These provisions all relate to the Hazardous Substance Spill Technology Review Council, which expired June 30, 1995.

The text of each of the provisions repealed by sec. 102 is attached.

Section 103 prevents the amendment made by sec. 28, ch. 132, SLA 1998 to AS 25.27.165(b)---which changed the deadline for a putative father to provide financial information from 20 days to 30 days---from being repealed. Section 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, requires sections amended by ch. 87, SLA

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1997 to be returned to the language that existed before the ch. 87, SLA 1997 amendments. In addition, sec. 54, ch. 132, SLA 1998 indicates that intervening amendments are not be preserved. However, the same 30 day deadline that appears in AS 25.27.165(b) also appears in AS 25.27.165(c), as amended by sec. 29, ch. 132, SLA 1998, and this amendment is not to be undone in the future. See sec. 54(b), ch. 132, SLA 1998, which provides for a repeal of certain sections of ch. 132, SLA 1998, but does not include either sec. 28 or sec. 29 of ch. 132, SLA 1998. Therefore, this bill section is added to keep AS 25.27.165 internally consistent, and follow the policy choice of retaining the sec. 28 and 29, ch. 132, SLA 1998 amendments. (The problem which this bill section seeks to correct is a good example of why we prefer to treat delayed amendments section by section, instead of by the "global" approach used in sec. 148(c), ch. 87, SLA 1997.)

Section 104. See explanation for bill section 25.

Section 105 requires the revisor of statutes to substitute "2__" for "19__" or "1___" wherever they appear in forms in statute, in order to conform the statutes to the date change that occurred this year. For instance "July 19___" would become "July 2_____".

Section 106 gives the bill an immediate effective date.

TEXT OF REPEALED PROVISIONS

AS 14.03.290(5):

(5) "parent advisory group" means a group that is recognized by the school as representative of those parents having children attending that school, that has regular meetings, and in which membership is open to all parents within that school's attendance area;

AS 14.43.120(p):

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service.

AS 15.60.010(5):

(5) "election district" means one of the districts described in art. XIV, sec. 3, of the state constitution, as may be modified under art. VI of the state constitution;

AS 39.50.200(b)(51):

(51) Hazardous Substance Spill Technology Review Council (AS 46.13.110);

AS 44.66.010(a)(19):

(19) Hazardous Substance Spill Technology Review Council (AS 46.13.110) - June 30, 1995.

AS 46.13.100:

Sec. 46.13.100. Findings and purpose. The legislature

(1) finds and declares that there exists a lack of scientific knowledge concerning the availability, properties, and effectiveness of various hazardous substance containment and cleanup technologies; and

(2) concludes that it is in the best interest of the state and its citizens to establish a Hazardous Substance Spill Technology Review Council to assist in the identification of containment and cleanup products and procedures for arctic and sub-arctic hazardous substance releases and make recommendations to the departments and agencies of the state regarding their use and deployment.

AS 46.13.110

Sec. 46.13.110. Hazardous substance spill technology review council.

(a) There is established in the Department of Environmental Conservation the Hazardous Substance Spill Technology Review Council.

(b) The council consists of the commissioner of environmental conservation, the adjutant general of the Department of Military and Veterans' Affairs, a representative of the

University of Alaska appointed by the governor, the governor's senior science advisor, a representative of the Prince William Sound Science Center in Cordova appointed by the governor, and four other members, one from each judicial district of the state, appointed by the governor, with broad experience or expertise in one or more of the following areas: physical or biological science; oil technology, transportation, or management; fisheries; economics; environmental engineering; or law. The U.S. Coast Guard and the Environmental Protection Agency may each appoint a federal employee to the council to represent their agencies as nonvoting members. Appointed state members of the council serve overlapping three-year terms.

(c) The council members shall elect from among themselves a chair and vice-chair.

(d) The oil and hazardous substance response office established under AS 46.08.100 shall serve as staff for the council.

(e) State and federal members of the council serve without compensation, but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

(f) The council shall meet regularly at the call of the commission or the chair of the council.

(g) State members of the council are subject to AS 39.50.

AS 46.13.120

Sec. 46.13.120. Duties of the council. The council shall

(1) review and recommend to the Department of Environmental Conservation research topics for it to pursue;

(2) establish testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of hazardous substance spill technologies for use in the state;

(3) identify sources of money that may be available for discharge-related research;

(4) make proposals to the governor, commission, and other entities to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances;

(5) compile and maintain information relating to

(A) containment and cleanup technology that is available in the event of a hazardous substance discharge, the extent to which current containment and cleanup technology is available and may be applied in the state, and ways to improve hazardous substance spill response technology and procedures;

(B) steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substances and to improve the statewide ability of industry and governmental agencies to respond to discharges of hazardous substances;

(C) the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharges;

(D) hazardous substances spill technology research conducted by the Department of Environmental Conservation.

(6) {{}}Repealed Sec. 28 ch 32 SLA 1994 {{}}.

AS 46.13.130:

Sec. 46.13.130. Investigations; hearings.

(a) The council may issue subpoenas, administer oaths, and conduct investigations related to its duties.

(b) The council may compel the attendance of witnesses and production of papers, books, records, accounts, documents, and testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the duties assigned to the council.

(c) On a majority vote of the council, subpoenas and subpoenas duces tecum may be issued and served in the manner prescribed by AS 44.62.430(b) and (c) and court rule. The failure, refusal, or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the council's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

(d) State agencies shall, to the extent permitted by law, cooperate with the council and provide it with information it requests for carrying out its duties.

AS 46.13.900:

Sec. 46.13.900. Definitions. In this chapter,

(1) {{}}Repealed Sec. 28 ch 32 SLA 1994 {{}}.

(2) "council" means the Hazardous Substance Spill Technology Review

Council;

(3) "hazardous substance" has the meaning given in AS 46.03.826.

STATUTES THAT REFER TO "ELECTION DISTRICTS" AND
CONCERN COLAS

AS 29.60.160:

Sec. 29.60.160. Area cost-of-living differential.

(a) Payments to a municipality or other eligible recipient under AS 29.60.110 - 29.60.130 shall reflect area cost-of-living differentials. Payments shall be based on the sum of per capita, per mile, and per bed or facility grants due each municipality or other recipient multiplied by the appropriate area cost-of-living differential. The area cost-of-living differential for each recipient shall be determined annually by election district under the provisions of AS 39.27.030. Application of the area cost-of-living differential may not result in distribution of an amount less than the amount of the payment determined without reference to application of this section.

(b) The election districts used to establish area cost-of-living differentials under (a) of this section are those designated by the proclamation of reapportionment and redistricting of December 7, 1951, and retained for the house of representatives by proclamation of the governor September 3, 1965.

AS 29.60.290:

Sec. 29.60.290. Qualification for minimum payment.

(a) A municipality qualifying for an entitlement under AS 29.60.010 - 29.60.080 or 29.60.100 - 29.60.180 shall receive a minimum payment plus an area cost-of-living differential for each fiscal year if

(1) the municipality has conducted a regular election during the state fiscal year preceding the year in which the department's determination of the municipality's millage rate equivalent is made under AS 29.60.030 and has reported the results of the election to the commissioner;

(2) regular meetings of the governing body are held in the municipality during the state fiscal year preceding the year in which the department's determination of the municipality's millage rate equivalent is made under AS 29.60.030 and a record of the proceedings is maintained;

(3) a municipal budget has been adopted for the fiscal year during which payment of an entitlement is authorized by AS 29.60.010 - 29.60.080 or 29.60.100 - 29.60.180 and an audit or financial statement for the fiscal year preceding the year in which the department's determination of the municipality's millage rate equivalent is made under AS 29.60.030 has been prepared and furnished to the department in accordance with AS 29.20.640(a); and

(4) local ordinances adopted by the municipality have been codified in accordance with AS 29.25.050.

(b) The area cost-of-living differential payable to each municipality under this section shall be determined annually by election district under the provisions of AS 39.27.030. Except as provided in AS 29.60.300, application of the area cost-of-living differential may

not result in a payment that is less than the minimum payment determined under (a) of this section. For purposes of this subsection, the election districts used are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965.

(c) The department shall pay to each municipality eligible to receive a minimum payment under this section an amount equal to the difference between the minimum payment determined under (a) and (b) of this section and the sum of the amounts payable for the same fiscal year under AS 29.60.010 - 29.60.080 and 29.60.100 - 29.60.180.

(d) If at least \$41,472,000 is appropriated for all entitlements under AS 29.60.010 - 29.60.310 for a fiscal year, the minimum payment for a municipality under this section for that year equals \$40,000. Otherwise, the minimum payment equals \$25,000. A payment under this section may be prorated and reduced under AS 29.60.300.

(e) Payments under this section shall be made from the money allocated to the tax equalization account established in AS 29.60.060.

AS 39.27.020:

Sec. 39.27.020. Pay step differentials by election district and in other states.

(a) The following pay step differentials are approved as an amendment to the basic salary schedules provided in AS 39.27.011:

Election District	Pay Steps Above Basic Salary Schedule
1	0
2	1
3	1
4	0
5	2
6a (excluding Valdez Duty Station)	4
6b (Valdez Duty Station)	5
7	1
8	0
9	2
10	2
11	2
12	7
13	7
14	8
15a (excluding Nenana Duty Station)	9
15b (Nenana Duty Station)	8
16a (south of Arctic Circle)	4
16b (north of Arctic Circle)	9
17	9
18	9
19	8
In other states	minus 6

(b) For purposes of (a) of this section, "election district" means an election district designated in the governor's proclamation of reapportionment and redistricting of December 7, 1961.

(c) The director of the division of personnel shall establish salary differentials for positions in foreign countries. The differentials shall be adjusted annually, effective July 1, to maintain equitable relationships between salaries for positions in foreign countries and salaries for positions in Alaska.

AS 39.27.030:

Sec. 39.27.030. Cost-of-living survey. Subject to an appropriation for this purpose, the director shall conduct a survey, at least every five years, to review the pay differentials established in AS 39.27.020. The survey may address factors, as determined by the director, that are also relevant in review of state salary schedules, entitlement for beneficiaries of state programs, and payments for state service providers. The survey must reflect the costs of living in various election districts of the state, and Seattle, Washington, by using the cost of living in Anchorage as a base.

AS 44.31.020:

Sec. 44.31.020. Duties of department. The Department of Labor and Workforce Development shall

(1) enforce the laws, and adopt regulations under them concerning employer-employee relationships, including the safety, hours of work, wages, and conditions of workers, including children;

(2) accumulate, analyze, and report labor statistics;

(3) operate systems of workers' compensation and unemployment insurance;

(4) gather data reflecting the cost of living in the various election districts of the state upon request of the director of personnel under AS 39.27.030;

(5) operate the federally funded employment and training programs under 29 U.S.C. 1501 - 1792b (Job Training Partnership Act); and

(6) administer the state's program of adult basic education.

HCR

11

SENATE COMMITTEE REPORT

DATE: 5/13/99

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered HOUSE CONCURRENT RESOLUTION NO. 11

Relating to substance abuse treatment for offenders in the criminal justice system.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>J. Ellis</i>	X		
<i>Dave Dorley</i>	✓				
<i>Adrian</i>	✓				
CHAIR: <i>Adrian L. Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
		✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version: HCR 11

(H) Publish Date: 5/3/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: 4/28/99

Title: SUBSTANCE ABUSE TREATMENT FOR OFFENDERS

Sponsor: Representative Fred Dyson

Requester:

Dept. Affected _____

BRU _____

Component _____

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

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

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

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)

Prepared by

Rep. Fred Dyson
Co-Chair
House HESS



Phone _____

Phone _____

Date _____

ALICE JOHNSTONE
213 Shotgun Alley
Sitka, Alaska 99835

January 31, 2000

To: Senate Judiciary Committee
Senator Robln Taylor, Chair

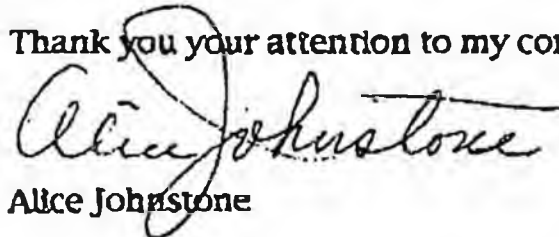
Re: HCR 11, Relating to substance abuse treatment for offenders in the
criminal justice system.

Gentlemen,

I speak to you today as a member of the Advisory Board on Alcohol and
Drug Abuse and also as a 60 year resident of this territory and this state.

Nationally over 80% of offenders are under the influence of alcohol or
other drugs when they commit a crime. The rate in our state may be even
higher. These people are often the ones who have never finished high
school, either cannot get or cannot keep a job and are not productive and
responsible citizens. Recidivism is very high. They cycle through the
correction system over and over again. Currently some substance abuse
treatment is provided in our justice system but it is not available to
everyone who wants it nor is there adequate followup. Providing
standardized screening and culturally appropriate substance abuse
treatment in the correction system could help to break this cycle of
relapse. HRC 11, Relating to substance abuse treatment for offenders in
the criminal justice system speaks to this problem. I encourage your
support of this common sense bill which will reduce recidivism, and
enable offenders to become productive, lawful citizens. These sensible
ideas, when converted into action will also reduce the cost of the criminal
justice system to our citizens.

Thank you your attention to my concerns.



Alice Johnstone



Alaska State Legislature

- Interim (May-Dec) -
10928 Eagle River Rd. Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan -May) -
Alaska State Capitol
Juneau Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HCR 11 Sponsor Statement

"Relating to substance abuse treatment for offenders in the criminal justice system."

Alaskans pay a high price when quality treatment services are not available. These significant impacts increase community hospital costs, court costs, policing and entitlement programs for the delivery of health and social services. They also increase needs for greater capacity in Alaska's correctional facilities.

Studies within the Department of Corrections show that alcoholism and other drug abuse interfere with efforts to rehabilitate offenders. They cite national data that indicate over eighty percent of offenders were either under the influence of alcohol or other drugs when they committed offenses or their addiction contributed to their criminal behavior.

At present, some treatment or education is offered in each correctional facility in the state. No prison provides services to all prisoners who need or want the service. Nor does any prison provide a continuum of services to the prison population. In addition, there are 27 treatment beds in community treatment programs set aside for prisoners after release from correctional facilities. These beds do not meet current needs. This contributes to recidivism by those who cannot receive treatment upon release.

HCR 11 encourages that effort within the criminal justice system and at the legislative level be spent on responding to substance abuse with the goal of reducing recidivism.

- e-mail -
representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akRepublicans.org>

CURRENT DRUG ALCOHOL TREATMENT SERVICES AVAILABLE IN THE CORRECTIONS SYSTEM IN ALASKA

Currently some drug alcohol treatment is available in all of the thirteen correctional institutions in Alaska. Following is a summary of those services available in Alaska:

Drug/alcohol Education: Provides inmates with education, clinical assessments and referrals to treatment after completion of sentences. These services are available in the following institutions:

Ketchikan
Mat-Su Pretrial
Point Mackenzie
Sixth Avenue
Yukon Kuskokwim

Education with introduction to Treatment: Provides inmates with education and an introduction to treatment. It does not include a complete outpatient program but does introduce inmates to a treatment regimen. These services are available at:

Cook Inlet pre-trial
Fairbanks Correctional Center

Outpatient Services: Provides of four phases of treatment; assessment, education, primary care and aftercare. The services are tailored to the inmate "turnaround" with more intensity of services for those who are available for the services for longer periods of time. These services are available at:

Anvil Mountain
Lemon Creek
Meadow Creek
Palmer
Spring Creek
Wildwood
Arizona Detention Center

Residential Services: Residential services include intensive treatment that is provided on a continuing, daily basis. It is intensive and provides a full continuum of care including psychological counseling, nutrition, education, and an introduction to support group activity. This program provides services for women only. This program was initiated in 1998 and has a connection with continuing care provided through the "links" program, which follows inmates after discharge through the cooperation of community programs. This program is available at:

Hiland Mountain Prison (for women only)

Do these programs address existing needs?

In 1997 these programs provided 1,577 clinical assessments, 1,681 inmates received education programs and 807 received outpatient services. The Hiland Mountain project is expected to provide services to 64 inmates at any given time.

We do not know what percentage of need these programs are addressing because we do not do assessments on all prisoners. If Alaska's experience is similar to the rest of the country, 70-85% of inmates are in need of treatment services (from reports from the National Center on Addiction and Substance Abuse) and our services were provided to 13% of the inmates.

How do we close the gap between services provided and service need?

In a perfect world we would simply allocate enough resources to meet the need. This is obviously not within the realm of possibility so what can be done?

- **We need to determine if the services that we provide are effective.** We need to determine whether those who participate in treatment re-offend less than those who do not participate in treatment do. The department of Corrections, the Division of Alcoholism and Drug Abuse and the Advisory Board could collaborate to examine the efficacy of the treatment provided
- **We need to determine the persuasiveness of need for treatment.** Some methodology must be put in place to assess the need for treatment among inmates as they enter the prison system. This would require limited resources.
- **We need to broaden the scope of availability of services.** We should examine the possibility of re-engineering the treatment delivery system, possibly trading "hard" prison beds for "soft" community institutions beds with treatment components of service. We should examine alternative treatment delivery systems that would centralize treatment services at fewer institutions that would offer more intensive services.

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE
Draft Resolution on Treatment In the Criminal Justice System

Position Paper

The Advisory Board has maintained an interest in ensuring that all Alaskans have access to quality treatment services. The Board is keenly aware of the high price Alaskans pay when quality treatment services are not available. These significant impacts increase community hospital costs, court costs, policing and entitlement programs for the delivery of health and social services. They also increase needs for greater capacity in Alaska's correctional facilities.

In the fall of 1997, the Advisory Board asked 1,000 "key informants" in Alaska to indicate their level of agreement with the following statement:

Those incarcerated for criminal offenses related to the abuse of alcohol or other drugs should receive appropriate treatment before release from prison.

Seventy-nine percent of the 521 respondents answered with strong agreement, seventeen percent somewhat agreed, five percent somewhat disagreed and three percent strongly disagreed. This was one of the most agreed upon responses of the fifteen questions that were asked on this survey.

Studies within the Department of Corrections show that alcoholism and other drug abuse interfere with efforts to rehabilitate offenders. They cite national data that indicate over eighty percent of offenders were either under the influence of alcohol or other drugs when they committed offenses or their addiction contributed to their criminal behavior.

With these issues in mind, and strong consensus of survey respondents, the Advisory Board seeks to engage the Alaska Legislature in a dialogue on ways to address this significant continuing problem. It is at the heart of the Advisory Board's recently drafted Alaska State Plan for Alcoholism and Drug Abuse Services, **Results Within Our Reach, 1999-2002**. The primary desired result is: **Alaskans life free from the negative consequences of alcohol and other drug use.**

At present, some treatment or education is offered in each correctional facility in the state. No prison provides services to all prisoners who need or want the service. Nor does any prison provide a continuum of services to the prison population. In addition, there are 27 treatment beds in community treatment programs set aside for prisoners after release from correctional facilities. These beds do not meet current needs. This contributes to recidivism by those who cannot receive treatment upon release.

The Advisory Board, the Department of Health and Social Services, the Department of Corrections and the Alaska Mental Health Trust Authority are currently developing a

CORRECTION

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



Rev. 6/98

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

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With these issues in mind, and strong consensus of survey respondents, the Advisory Board seeks to engage the Alaska Legislature in a dialogue on ways to address this significant continuing problem. It is at the heart of the Advisory Board's recently drafted Alaska State Plan for Alcoholism and Drug Abuse Services, **Results Within Our Reach, 1999-2002**. The primary desired result is: **Alaskans life free from the negative consequences of alcohol and other drug use.**

At present, some treatment or education is offered in each correctional facility in the state. No prison provides services to all prisoners who need or want the service. Nor does any prison provide a continuum of services to the prison population. In addition, there are 27 treatment beds in community treatment programs set aside for prisoners after release from correctional facilities. These beds do not meet current needs. This contributes to recidivism by those who cannot receive treatment upon release.

The Advisory Board, the Department of Health and Social Services, the Department of Corrections and the Alaska Mental Health Trust Authority are currently developing a

pilot program to provide a complete continuum of care for female offenders at the Hiland Mountain Prison. This program is funded by a federal grant and a small matching grant from the Alaska Mental Health Trust. In addition, the Department of Corrections, the Division of Alcoholism and Drug Abuse and the Advisory Board have developed a protocol to follow these women and provide services after release.

There is no method for determining how many prisoners are in need of service. There is no method in place to determine the effectiveness of the treatment in reducing criminal recidivism. It makes sound fiscal sense to spend money on treatment for offenders only if that treatment reduces recidivism.

Any action plan that will reduce recidivism and reduce prison costs must have the following components to meet legislative intent for outcome based funding:

- We must measure "the baseline." This is the number of persons entering the corrections system with alcohol or other drug problems. This screening should be part of the classification process for all prisoners. This will establish the universe of people needing services.
- We must offer appropriate treatment to those who screen-in with substance abuse problems.
- We must measure the recidivism rates for this population after release from prison to determine the effectiveness of the treatment
- We should only continue funding of this effort if the recidivism rates drop.

Don Dapcevich, Executive Director
November 1998

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Don Dapcevich, Executive Director
November 1998

HJR

7

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHJR 7 (FIN) AM

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment: Relating to BRU Elective Operations
initiative and referendum petitions Component Elections
 Sponsor Representative Williams
 Requester Senate 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 Fenumai Phone 465-3935
 Division Division of Elections Date/Time 1/13/00 12:49 PM
 Approved by C. Lt. Governor Fran Ulmer Date 01/13/2000
 Agency Office of the Lieutenant Governor

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**Senate Judiciary Committee Hearing – 1/25/00
Alaska Outdoor Council Testimony on HJR 7
Ballot Box Biology and the Initiative Process**

Richard Bishop, Vice President

Mr. Chairman, Committee members,

Thank you for this opportunity to testify. I am Dick Bishop, Vice President of the Alaska Outdoor Council, a statewide umbrella organization comprised of over 40 user-conservation outdoor groups plus now up to nearly 2000 individual members. Our total membership is 10 to 11,000 Alaskans and a few interested Outsiders.

Mr. Chairman, the Outdoor Council opposes the use of "Ballot Box Biology" in the management of fish and wildlife. Nationally, the initiative process has been used in a number of the 24 states where it's available to circumvent a rational public process for the management of fish and wildlife. It has become fashionable for animal protection and anti-hunting groups. It has also been effective, because an emotionally charged message can be marketed effectively on today's electronic media.

There is no law requiring truth in advertising. Fish and wildlife management policy can be flip-flopped by a barrage of 30-second sound bites influencing the "majority of the moment" – even though the sound bites misrepresent the issue.

We saw that in Alaska with proposed bans on same-day aerial shooting of wolves, where the issue was portrayed as aerial shooting, already illegal, and then a proposed ban on wolf snaring. The Legislature had to correct the first one with SB74. Fortunately, the Coalition for the Alaska Way of Life, which we support, beat the anti-snaring proposal.

If the initiative process continues to be so susceptible to irresponsible use, we expect more attacks on scientifically sound fish and wildlife management and on Alaskan's traditional values. "Ballot Box Biology" thumbs it's nose – or worse – at the most open, democratic fish and game management process in the world.

These attacks demonstrate no tolerance of, and no respect for, traditional Alaskan values that depend on sound management and responsible human uses of fish and game.

Yet to cope with these attacks drains the energies and pocketbooks of Alaskan fishers, hunters, and trappers across the state, not to mention the possibility of taking food from their tables and warm clothes from their closet.

The Outdoor Council has advocated a Constitutional amendment making fish and wildlife management ineligible for the initiative process. There is no real bar to public participation in fish and wildlife management. There is more opportunity for public participation in Alaska's fish and wildlife management through the Board and Advisory Committee process than has ever been fully used. But it is a deliberate, rational process, not easily derailed by the emotional, disinformation tactics usually employed by its detractors.

The Alaska Outdoor Council strongly recommends taking fish and wildlife off the initiative eligibility list.

If the Legislature is unable or unwilling to do so, then we urge you to beef up HJR 7 by requiring petition signatures of 15% of previous voters in each House district, from $\frac{3}{4}$ or more (7/8) of the Districts, and with total signatures equaling at least 15% of the number of previous voters in order for the petition to be accepted. HB45 should, of course, be modified accordingly.

At least this would ensure the broader public participation that Rep. Williams set out to ensure, and hopefully it would require more people to give any proposal serious thought.

SENATE COMMITTEE REPORT

DATE: 5/16/99

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE JOINT RESOLUTION NO. 7(FIN) am

Proposing an amendment to the Constitution of the State of Alaska relating to initiative and referendum petitions.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>[Handwritten signature]</i>	✓		
		<i>[Handwritten signature]</i>		✓	
		<i>[Handwritten signature]</i>		✗	
CHAIR:		CHAIR: <i>[Handwritten signature]</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHJR 7 (FIN) AM

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Constitutional Amendment: Relating to</u>	BRU <u>Elective Operations</u>
<u>initiative and referendum petitions</u>	Component <u>Elections</u>
Sponsor <u>Representative Williams</u>	
Requester <u>Senate Judiciary Committee</u>	Component No. <u>21</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	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: <u>Gail Fenumai</u> <i>Gail Fenumai</i>	Phone <u>465-3935</u>
Division <u>Division of Elections</u>	Date/Time <u>1/13/00 12:49 PM</u>
Approved by C <u>Lt. Governor Fran Ulmer</u> <i>Fran Ulmer</i>	Date <u>01/13/2000</u>
Agency <u>Office of the Lieutenant Governor</u>	

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SANDRA MATTIE

HJR 7

Testimony before Senate Judiciary Committee, Juneau, AK on February 2, 2000

Mr. Chairman and members of the committee:

I appreciate the opportunity to testify today. My name is Sandra Mattie. I'm a local business owner and involved with the Coalition for the Alaskan Way of Life, the Caribou Calf Protection Program and the Alaska Trappers Association. I am here to talk to you today about House Joint Resolution No. 7.

First hand experience in the battle against **Ballot issue #9** in the November 98 election has made me keenly aware that the provision in our Alaskan Constitution for a **Ballot Initiative Process must be preserved . . .** and although this is an excellent process that was established to ensure a more **inclusive voice for all Alaskans**, it is unfortunately flawed, and designed in a way that has left it wide open for abuse and exploitation: and that's exactly what animal rights groups are doing . . . **exploiting and abusing Alaska's Ballot Initiative Process to promote their Agenda here in Alaska.**

How is it possible for this to happen here? Alaska has small rural populations outside Anchorage and a growing urban/suburban population in Anchorage, Fairbanks and Juneau. This type population base makes it easy for a group to obtain the required signatures needed to get an initiative on the ballot without having the broad perspective that the Ballot Initiative Process was intended to represent. The way the process stands now . . . the signature gathering portion allows for only one signature from 2/3rds of the 40 voting districts and all the rest can be gathered in only one district with a sufficient Urban population like Anchorage. This makes Alaska and easy and inexpensive win for special interest groups from Outside Alaska, while creating a very, very expensive and time consuming battle for Alaskans . . . especially for those RURAL COMMUNITIES who NEVER HAD AN OPPORTUNITY TO SAY WHETHER THESE ISSUES SHOULD BE ON THE BALLOT IN THE FIRST PLACE. This is totally unacceptable and very UNFAIR. In fact, this portrays an Urban priority. We expect RURAL EQUALITY and will except nothing less.

I would like to add, apponents of HJR7 have said proposed changes would make it to expensive for them to travel to Districts that include Rural/Bush communities. I would like to point out that Rural Alaskans spend a lot of money everyday, traveling village to village and to and from Urban Areas, just to get many of their every day needs met, for medical, shopping etc. The expense of travel in this way is already a part of our Alaskan way of life. Perhaps it would be a good, a very good decision to give Outside special interest groups the opportunity to experience some of this Alaskan Way of life before giving them an opportunity to impose their abuse and misuse of the initiative process on Rural Alaskans. Ultimately it's a far greater expense for us to fight a Ballot Initiative that Rural Alaskans NEVER had an opportunity to have a voice on in the first place.

Through abusing and exploiting our Ballot Initiative Process, outside special interest groups have shown a lack of respect, not only for Alaskans and our way of life, but also their lack of respect for the wildlife they claim to be saving. They have turned our Ballot Initiative Process into a well-publicized political fundraising tool that has shackled our states ability to properly manage our fish and game. This has been a real wake up call for myself and many, many other Alaskans. As guardians, not only of Alaska's wildlife and wilderness areas, but also of our Alaskan Way of Life, we have vowed to do whatever we can to insure this will not

happen again. Alaskas' wildlife management policies and practices will not be decided by special interest animal rights activists from outside Alaska. We need to put an end to their exploitation and abuse of our Ballot Initiative Process and our wildlife treasures.

We must have opportunity for ballot initiatives that reflect the desires, concerns and values of a true representation of ALL Alaskans -- Urban and Rural alike. I believe that to be the intent of the original framers of our constitution and that - requiring signatures to be collected from qualified voters from ALL Alaska voting districts equal in number to a minimum of 10 to 15% of those who voted in the preceding general election is the only way to do insure this.

I support House Joint Resolution 7, by representative Williams, with any reasonable changes in language that would insure Rural Equality and Fair representation in the Ballot Initiative Process.

We ask the committee to allow the opportunity for Rural as well as Urban Alaskans to be FAIRLY represented in getting initiatives on the ballot.

You can do this by giving Alaskans an opportunity to vote on changes to the Ballot Initiative Process that will insure and INCLUSIVE REPRESENTATION of people from All walks of the "Alaskan Way of Life.

Thank you

GPVD090P X31U

VIEW PETITION TOTALS

01/31/2000 09:09

PETITION ID: 99PTAR

TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

REQUIRED SIGNATURES: 22715

NUMBER OF QUALIFIED: 23592

NUMBER OF UNQUALIFIED: 7590

(Q) COMPUTER QUALIFIED 23592

(D) DUPLICATE 1418

(M) MANUALLY QUALIFIED 0

(J) NOT IN JURISDICTION 0

(I) INACTIVE 162

TOTAL SIGNATURES: 31182

(N) NOT REGISTERED 1601

(A) ADDRESS NOT PROVIDED 939

(U) UNABLE TO IDENTIFY 0

QUALIFIED SPONSORS 258

(X) NOT YET COUNTED 0

UNQUALIFIED SPONSORS 49

() OTHER 3470

(W) WITHDRAWN 0

PF1-MENU PF2-HELP

ID: 99PTAR
TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

NUMBER OF DISTRICTS IN STATE: 40
NUMBER OF DISTRICTS REQUIRED: 27
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT:	DIST	SIGNATURES
	1	24
	2	26
	3	38
	4	37
	5	52
	6	102
	7	435
	8	428
	9	272
	10	1043
	11	969
	12	898
	13	794
	14	585
	15	708
	16	837
	17	1141
	18	1197
	19	1114
	20	779
	21	921
	22	1057
	23	597
	24	1017
	25	1184
	26	1223
	27	1895
	28	1443
	29	304
	30	284
	31	290
	32	183
	33	400
	34	220
	35	245
	36	177
	37	157
	38	180
	39	194
	40	142

Alaska State Legislature

Member:
House Finance
Subcommittee Chair:
Transportation
Environmental Conservation
Subcommittee Member:
Fish and Game



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-7157

Sponsor Statement HJR 7/HB 45

HJR 7 and HB 45 were introduced to ensure statewide consideration and discussion of an initiative petition before it is put on the ballot. The legislation requires signatures equal to 10% ballots cast in the prior General Election (same as current law) and 4% of ballots cast from 30 of the 40 Election Districts.

In past elections the greatest support for initiatives has come from one general area of the State, the Anchorage-MatSu region. The legislation is intended to further statewide discussion of an issue before it reaches the voters on Election Day.

Alaska's population distribution is much different now than it was when our Constitution was approved. Today, initiative supporters can collect signatures in a limited area and get a question on the ballot. The legislation will facilitate a broader discussion of potential ballot questions, thus helping to create a balanced question which considers effects on all the citizens of Alaska.

As we write laws in the Capitol many perspectives are taken into account as issues are discussed through the committee process. During this process healthy debate, from representatives of all areas of the state, is conducted. This healthy debate gives all members opportunity to see how their lawmaking will affect areas that they do not represent. Pertinent questions are asked and legislation is constantly amended to take into account those concerns.

Currently, initiatives can be put onto the ballot with very limited perspective. Constructive analysis of a question, from a statewide perspective, does not currently occur. Right now signatures equaling 10% of ballots cast is required. In addition, initiative sponsors must obtain one signature from 27 districts. One signature from a district is hardly representative of a districts opinion on an issue.

In closing, this legislation would get people from all over the state more involved in the initiative process. This in turn can create an atmosphere of healthy debate and ensure questions which reach the ballot have a statewide perspective.

ARTICLE XI.
INITIATIVE, REFERENDUM, AND
RECALL.

SECTION 1. INITIATIVE AND REFERENDUM. The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

SECTION 2. APPLICATION. An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

SECTION 3. PETITION. After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

SECTION 4. INITIATIVE ELECTION. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred-twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

SECTION 5. REFERENDUM ELECTION. A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held more than one hundred-eighty days after adjournment of that session.

SECTION 6. ENACTMENT. If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law.

SECTION 7. RESTRICTIONS. The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

SECTION 8. RECALL. All elected public officials in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by the legislature.

District Summary

At 3%

Wolf-35 Districts
Term Limits-36 Districts
Marijuana-32 Districts
English Only-32 Districts
Billboards-30 Districts

At 4%

Wolf-30 Districts
Term Limits-32 Districts
Marijuana-27 Districts
English Only-32 Districts
Billboards-27 Districts

At 5%

Wolf-27 Districts
Term Limits-26 Districts
Marijuana-24 Districts
English Only-30 Districts
Billboards-27 Districts

At 6%

Wolf-25 Districts
Term Limits-26 Districts
Marijuana-24 Districts
English Only-26 Districts
Billboards-25 Districts

At 7%

Wolf-22 Districts
Term Limits-24 Districts
Marijuana-23 Districts
English Only-25 Districts
Billboards-23 Districts

At 8%

Wolf-21 Districts
Term Limits-24 Districts
Marijuana-23 Districts
English Only-22 Districts
Billboards-23 Districts

At 9%

Wolf-21 Districts
Term Limits-23 Districts
Marijuana-22 Districts
English Only-21 Districts
Billboards-21 Districts

At 10%

Wolf-20 Districts
Term Limits-22 Districts
Marijuana-22 Districts
English Only-21 Districts
Billboards-20 Districts

Qualified Under New Law?							
District	4%	5%	6%	7%	8%	9%	10%
1	NONE	NONE	NONE	NONE	NONE	NONE	NONE
2	W	NONE	NONE	NONE	NONE	NONE	NONE
3	W,T,E,B	W,T,M,B	W,T,M,B	W,T,M,B	W,T,M,B	W,T,M	W,M
4	W,T,E,B	W,T,M,B	W,T,M	W,T,M	W,T,M	W,T,M	W,T,M
5	W	NONE	NONE	NONE	NONE	NONE	NONE
6	T,M	T,M	T,M	T,M	T,M	T,M	T,M
7	ALL	W,T,E,B	W,T,E,B	E,B	B	B	B
8	ALL	ALL	ALL	W,T,E,B	T,E,B	E,B	E
9	ALL	T,E,B	W,T,E,B	T,E	T,E	T,E	T,E
10	ALL	ALL	ALL	ALL	ALL	ALL	ALL
11	ALL	ALL	ALL	ALL	ALL	ALL	ALL
12	ALL	ALL	ALL	ALL	ALL	ALL	ALL
13	ALL	ALL	ALL	ALL	ALL	ALL	ALL
14	ALL	ALL	ALL	ALL	ALL	ALL	ALL
15	ALL	ALL	ALL	ALL	ALL	ALL	ALL
16	ALL	ALL	ALL	ALL	ALL	ALL	ALL
17	ALL	ALL	ALL	ALL	ALL	ALL	ALL
18	ALL	ALL	ALL	ALL	ALL	ALL	ALL
19	ALL	ALL	ALL	ALL	ALL	ALL	ALL
20	ALL	ALL	ALL	ALL	ALL	ALL	ALL
21	ALL	ALL	ALL	ALL	ALL	ALL	ALL
22	ALL	ALL	ALL	ALL	ALL	ALL	ALL
23	ALL	ALL	ALL	ALL	ALL	ALL	ALL
24	ALL	ALL	ALL	ALL	ALL	ALL	ALL
25	ALL	ALL	ALL	ALL	ALL	ALL	ALL
26	ALL	ALL	ALL	ALL	ALL	ALL	ALL
27	ALL	ALL	ALL	ALL	ALL	ALL	T,M,E,B
28	ALL	ALL	ALL	ALL	ALL	ALL	ALL
29	ALL	W,E,B	W,B	NONE	NONE	NONE	NONE
30	W,E	W,E	E	E	NONE	NONE	NONE
31	W,T,E	W,E	E	E	E	NONE	NONE
32	E	E	E	NONE	NONE	NONE	NONE
33	E	E	E	E	NONE	NONE	NONE
34	E	E	NONE	NONE	NONE	NONE	NONE
35	T,M,E,B	E,B	NONE	NONE	NONE	NONE	NONE
36	T,M	NONE	NONE	NONE	NONE	NONE	NONE
37	T,M	NONE	NONE	NONE	NONE	NONE	NONE
38	NONE	NONE	NONE	NONE	NONE	NONE	NONE
39	T	NONE	NONE	NONE	NONE	NONE	NONE
40	W,T,E,B	ALL	B,M,T	M,B	M,B	NONE	NONE

W=Wolf Snare
T=Term Limits
M=Marijuana
E=English Only
B=Billboards

Election 1998-(Based on Ballots Cast in 1996 General Election)

Information formatted by Representative Williams based on data from the Division of Elections

District		Ballots						
		Cast '96	4%	5%	6%	7%	8%	9%
1	Ktn	6358	254	318	381	445	509	572
2	Sitka	6810	272	341	408	477	544	613
3	Juneau	7388	296	369	443	517	591	665
4	Juneau	7143	286	357	429	500	571	643
5	POW	5406	216	270	324	378	432	487
6	Kodiak	4667	187	233	280	327	373	420
7	Kenai	6750	270	338	405	473	540	608
8	Kenai	5943	238	297	357	416	475	535
9	Kenai	5404	216	270	324	378	432	486
10	Anch	6676	267	334	401	467	534	601
11	Anch	5242	210	262	315	367	419	472
12	Anch	5505	220	275	330	385	440	495
13	Anch	6507	260	325	390	455	521	586
14	Anch	4271	171	214	256	299	342	384
15	Anch	4293	172	215	258	301	343	386
16	Anch	3049	122	152	183	213	244	274
17	Anch	5324	213	266	319	373	426	479
18	Anch	6194	248	310	372	434	496	557
19	Anch	5367	215	268	322	376	429	483
20	Anch	5369	215	268	322	376	430	483
21	Anch	5004	200	250	300	350	400	450
22	Anch	6723	269	336	403	471	538	605
23	Anch	3134	125	157	188	219	251	282
24	Eagle River	5753	230	288	345	403	460	518
25	Eagle River	6159	246	338	370	431	493	554
26	Wasilla	5974	239	299	358	418	478	538
27	Palmer	7245	290	362	435	507	580	652
28	Willow	7058	282	353	423	494	565	635
29	FBX	6973	279	349	418	488	558	628
30	FBX	5007	200	250	300	350	401	451
31	FBX	4903	196	245	294	343	392	441
32	N. Pole	4189	168	209	251	293	335	377
33	N. Pole	6571	263	329	394	460	526	591
34	N. Pole	5450	218	273	327	382	436	491
35	Valdez	5205	208	260	312	364	416	468
36	Tanana	4611	184	231	277	323	369	415
37	Kotzebue	3995	160	200	240	280	320	360
38	Nome	4161	166	208	250	291	333	374
39	Akiak	4543	182	227	273	318	363	409
40	Unalaska	2104	84	105	126	147	168	189

Total	218,428	8,737	10,951	13,103	15,289	17,473	19,657
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of signatures by district-1998 Ballot

	District	Wolf	Terms	Marijuana	English	Billboards		
	1	48	28	34	24	31		
	2	475	52	50	27	103		
	3	1354	678	798	36	630		
	4	1266	746	823	36	409		
	5	224	91	100	25	163		
	6	144	540	520	115	100		
	7	438	421	314	504	1095		
	8	418	508	385	855	540		
	9	243	808	254	588	346		
	10	1027	958	957	1090	1162		
	11	1095	979	1070	1003	1030		
	12	1027	935	1046	980	1017		
	13	1440	966	1136	1013	1569		
	14	821	745	685	645	553		
	15	1432	934	1147	1077	1043		
	16	1403	1154	1369	1099	586		
	17	1253	1193	1327	1228	1011		
	18	1291	972	1132	1096	1640		
	19	1227	1105	1238	1163	1069		
	20	1181	954	1068	1142	1032		
	21	1138	1098	1130	1027	1002		
	22	1106	985	972	995	1142		
	23	640	677	608	614	454		
	24	977	1053	932	871	1072		
	25	863	1059	974	1006	995		
	26	765	870	895	1033	939		
	27	691	963	940	1053	1180		
	28	919	1006	1070	998	851		
	29	481	302	280	407	419		
	30	252	193	174	393	147		
	31	251	205	180	425	150		
	32	121	151	73	284	58		
	33	214	198	166	465	148		
	34	180	153	108	312	98		
	35	205	227	236	271	297		
	36	124	202	214	136	124		
	37	140	180	186	124	113		
	38	113	146	162	87	126		
	39	113	217	161	152	112		
	40	110	145	173	125	182		

		27,210	24,797	25,087	24,524	24,738
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Election 1998-(Based on Ballots Cast in 1996 General Election)

Information formatted by Representative Williams based on data from the Division of Elections

District		Ballots					
		Cast '96	3%	4%	5%	10%	15%
1	Ktn	6358	191	254	318	636	954
2	Sitka	6810	204	272	341	681	1022
3	Juneau	7388	222	296	369	739	1108
4	Juneau	7143	214	286	357	714	1071
5	POW	5406	162	216	270	541	811
6	Kodiak	4667	140	187	233	467	700
7	Kenai	6750	203	270	338	675	1012
8	Kenai	5943	178	238	297	594	891
9	Kenai	5404	162	216	270	540	811
10	Anch	6676	200	267	334	668	1001
11	Anch	5242	157	210	262	524	786
12	Anch	5505	165	220	275	551	826
13	Anch	6507	195	260	325	651	976
14	Anch	4271	128	171	214	427	641
15	Anch	4293	129	172	215	429	644
16	Anch	3049	91	122	152	305	457
17	Anch	5324	160	213	266	532	799
18	Anch	6194	186	248	310	619	929
19	Anch	5367	161	215	268	538	805
20	Anch	5339	161	215	268	537	805
21	Anch	5004	150	200	250	500	751
22	Anch	6723	202	269	336	672	1008
23	Anch	3134	94	125	157	313	470
24	Eagle River	5753	173	230	288	575	863
25	Eagle River	6159	185	246	338	616	924
26	Wasilla	5974	179	239	299	597	896
27	Palmer	7245	217	290	362	725	1087
28	Willow	7058	212	282	353	706	1059
29	FBX	6973	209	279	349	697	1046
30	FBX	5007	150	200	250	501	751
31	FBX	4903	147	196	245	490	735
32	N. Pole	4189	126	168	209	419	628
33	N. Pole	6571	197	263	329	657	986
34	N. Pole	5450	164	218	273	545	818
35	Valdez	5205	156	208	260	521	781
36	Tanana	4611	138	184	231	461	692
37	Kotzebue	3995	120	160	200	400	599
38	Nome	4161	125	166	208	416	624
39	Akiak	4543	136	182	227	454	681
40	Unalaska	2104	63	84	105	210	316

Total	218,428	6,552	8,737	10,951	21,843	32,764
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Districts Qualified Summary

At 3%	At 4%	At 5%
Wolf-35 Districts	Wolf-30 Districts	Wolf-27 Districts
Term Limits-36 Districts	Term Limits-32 Districts	Term Limits-26 Districts
Marijuana-32 Districts	Marijuana-30 Districts	Marijuana-24 Districts
English Only-32 Districts	English Only-30 Districts	English Only-30 Districts
Billboards-30 Districts	Billboards-27 Districts	Billboards-27 Districts

of signatures gathered, by district, for initiatives on the 1998 General Election Ballot

District	Wolf	Terms	Marijuana	English	Billboards
1	48	28	34	24	31
2	475	52	50	27	103
3	1354	678	798	36	630
4	1266	746	823	36	409
5	224	91	100	25	163
6	144	540	520	115	100
7	438	421	314	504	1095
8	418	508	385	855	540
9	243	808	254	588	346
10	1027	958	957	1090	1162
11	1095	979	1070	1003	1030
12	1027	935	1046	980	1017
13	1440	966	1136	1013	1569
14	821	745	685	645	553
15	1432	934	1147	1077	1043
16	1403	1154	1369	1099	586
17	1253	1193	1327	1228	1011
18	1291	972	1132	1096	1640
19	1227	1105	1238	1163	1069
20	1181	954	1068	1142	1032
21	1138	1098	1130	1027	1002
22	1106	985	972	995	1142
23	640	677	608	614	454
24	977	1053	932	871	1072
25	863	1059	974	1006	995
26	765	870	895	1033	939
27	691	963	940	1053	1180
28	919	1006	1070	998	851
29	481	302	280	407	419
30	252	193	174	393	147
31	251	205	180	425	150
32	121	151	73	284	58
33	214	198	166	465	148
34	180	153	108	312	98
35	205	227	236	271	297
36	124	202	214	136	124
37	140	180	186	124	113
38	113	146	162	87	126
39	113	217	161	152	112
40	110	145	173	125	182

27,210	24,797	25,087	24,524	24,738
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At 10%

Wolf-21 Districts
 Term Limits-22 Districts
 Marijuana-22 Districts
 English Only-21 Districts
 Billboards-20 Districts

1-C

District	Qualified Under New Law?				
	3%	4%	5%	10%	
1	NONE	NONE	NONE	NONE	
2	W	W	NONE	NONE	
3	W,T,M,B	W,T,E,B	W,T,M,B	W,M	
4	W,T,M,B	W,T,E,B	W,T,M,B	W,T,M	
5	W,B	W	NONE	NONE	
6	W,T,M	T,M	T,M	T,M	
7	ALL	ALL	W,T,E,B	3	
8	ALL	ALL	ALL	E	
9	ALL	ALL	T,E,B	T,E	
10	ALL	ALL	ALL	ALL	
11	ALL	ALL	ALL	ALL	
12	ALL	ALL	ALL	ALL	
13	ALL	ALL	ALL	ALL	
14	ALL	ALL	ALL	ALL	
15	ALL	ALL	ALL	ALL	
16	ALL	ALL	ALL	ALL	
17	ALL	ALL	ALL	ALL	
18	ALL	ALL	ALL	ALL	
19	ALL	ALL	ALL	ALL	
20	ALL	ALL	ALL	ALL	
21	ALL	ALL	ALL	ALL	
22	ALL	ALL	ALL	ALL	
23	ALL	ALL	ALL	ALL	
24	ALL	ALL	ALL	ALL	
25	ALL	ALL	ALL	ALL	
26	ALL	ALL	ALL	ALL	
27	ALL	ALL	ALL	T,M,E,B	
28	ALL	ALL	ALL	ALL	
29	ALL	ALL	W,E,B	NONE	
30	W,T,M,E	W,E	W,E	NONE	
31	ALL	W,T,E	W,E	NONE	
32	T,E	E	E	NONE	
33	W,T,E	E	E	NONE	
34	W,E	E	E	NONE	
35	ALL	T,M,E,B	E,B	NONE	
36	T,M	T,M	NONE	NONE	
37	W,T,M,E	T,M	NONE	NONE	
38	T,M,B	NONE	NONE	NONE	
39	T,M,E	T	NONE	NONE	
40	ALL	W,T,E	ALL	NONE	

W=Wolf Snare
T=Term Limits
M=Marijuana
E=English Only
B=Billboards

Election 2000-(Based on Ballots Cast in 1998 General Election)

Information formatted by Representative Williams based on information provided by the Division of Elections

<u>District</u>		<u>Ballots</u>	<u>3%</u>	<u>4%</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
		<u>Cast '98</u>					
1	Ktn	5025	151	201	251	503	754
2	Sitka	5890	177	236	295	589	884
3	Juneau	7198	216	288	360	720	1080
4	Juneau	6712	201	268	336	671	1007
5	POW	4924	148	197	246	492	739
6	Kodiak	4025	121	161	201	403	604
7	Kenai	6832	205	273	342	683	1025
8	Kenai	5917	178	237	296	592	888
9	Kenai	5223	157	209	261	522	783
10	Anch	6932	208	277	347	693	1040
11	Anch	5299	159	212	265	530	795
12	Anch	5791	173	232	290	580	869
13	Anch	6331	190	253	317	633	950
14	Anch	3258	98	130	163	326	489
15	Anch	4292	129	172	215	429	644
16	Anch	3162	95	126	158	316	474
17	Anch	5328	160	213	266	533	799
18	Anch	7814	234	313	391	781	1172
19	Anch	5573	167	223	279	557	836
20	Anch	5332	160	213	267	533	800
21	Anch	4973	149	199	249	497	746
22	Anch	6666	200	267	333	667	1000
23	Anch	2694	81	108	135	269	404
24	Eagle River	5666	170	227	283	567	850
25	Eagle River	6103	183	244	305	610	915
26	Wasilla	6401	192	256	320	640	960
27	Palmer	7868	236	315	393	787	1180
28	Willow	7772	233	311	389	777	1166
29	Fbx	6931	208	277	347	693	1040
30	Fbx	4751	143	190	238	475	713
31	Fbx	4688	141	188	234	469	703
32	N. Pole	3618	109	145	181	362	543
33	N. Pole	6388	192	256	319	639	952
34	N. Pole	4650	140	186	233	465	698
35	Valdez	5015	151	201	251	502	752
36	Tanana	4762	143	190	238	476	714
37	Kotzebue	4059	122	162	203	406	609
38	Nome	4412	132	176	221	441	662
39	Akiak	4708	141	188	235	471	706
40	Unalaska	2556	77	102	128	256	383
Total		215,539	6,470	8,622	10,833	21,555	32,328

HJR

29

FISCAL NOTE

No: 1

E Version: CSHJR 29 (JUD)
 (H) Publish Date: 3/31/99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Revision Date: 7/24/99
 Title: Relating to the Division of the 6th Circuit Court of Appeals
 Sponsor: House Judiciary Committee
 Requester: _____

Dept. Affected _____
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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)

Prepared by Cory N. Winchell

Phone 465-4990

House Judiciary Committee

Phone _____

Date 7/24/99

COMMITTEE COPY

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.

Bill Summary & Status for the 106th Congress

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S.253SPONSOR: 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 be filed 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.

S 253 ISIS

(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) ASSIGNMENT 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