

# LEGAL SERVICES

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## MEMORANDUM

March 26, 2026

**SUBJECT:** Including Mt. Edgecumbe High School in the REAA and small municipal school district fund and the *Kasayulie* consent decree (HCS SB 146( ); Work Order No. 34-LS0717I)

**TO:** Representative Neal Foster  
Co-Chair of the House Finance Committee  
Attn: Brodie Anderson

**FROM:** Allison Radford  
Legislative Counsel



The draft committee substitute you requested, removing teacher housing maintenance as an allowable use of the REAA fund, is attached. As drafted, the committee substitute authorizes the Department of Education and Early Development (DEED) to expend money from the fund on construction and major maintenance projects for Mt. Edgecumbe High School.

Funding Mt. Edgecumbe High School projects may revive constitutional concerns identified in *Kasayulie v. State* and may implicate the consent decree between the state and the plaintiffs in that case. Under art. VII, sec. 1, of the Alaska Constitution, the legislature has an obligation to "establish and maintain a system of public schools open to all children of the State . . . ." In *Kasayulie*, the superior court held that the state failed to meet its constitutional obligation because the state failed to provide funding for adequate educational facilities in rural areas.<sup>1</sup> The superior court decision did not examine whether a particular amount of funding was required to meet this obligation. Rather, the decision was based on the state's complete failure to provide facilities funding for rural schools. As the court noted, although the state capital improvement program (CIP) process allowed schools to submit applications for grants, the CIP program, at that point, had never been funded.<sup>2</sup> This meant that rural schools received little to no funding and facilities were in a state of disrepair.

In response to the *Kasayulie* decision, the legislature enacted AS 14.11.025 and 14.11.030 to provide funding for rural school construction projects based on the amount of funding appropriated for bond debt reimbursement for municipal projects. The consent

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<sup>1</sup> See *Kasayulie*, 3 AN-97-3782 CIV, 1999 WL 34793400 (Sept. 1, 1999) at 4 - 6.

<sup>2</sup> *Id.* at 2.

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decree between the *Kasayulie* plaintiffs and the state provides: "The adoption of these statutes [AS 14.11.025 and AS 14.11.030] paved the way for settlement of this case by establishing a systematic mechanism for identifying funding amounts for rural school construction."<sup>3</sup>

The Consent Decree in the *Kasayulie* case acknowledged that the funding mechanism in the statutes is an agreed upon remedy for constitutional violations.<sup>4</sup> If the changes to AS 14.11.025 and 14.11.030 made in the enclosed draft were challenged, a court might review how much from the fund is spent on Mt. Edgecumbe High School and consider whether, with less available to spend on REAAs and small municipal schools, the state is still providing equitable and adequate funding to rural schools through the CIP process and the grants under AS 14.11.

You may wish to consult with DEED to evaluate the impacts that the draft committee substitute may have on the consent decree and the general constitutional concerns addressed in *Kasayulie*.

If I can be of further assistance, please let me know.

ALR:boo  
26-108.boo

Attachment

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<sup>3</sup> *Kasayulie*, Consent Decree and Settlement Agreement, 4 (Aug. 10, 2011).

<sup>4</sup> *Id.* at 7.