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March 5, 2018

Representative Sam Kito, Chair  
House Labor and Commerce Committee  
State Capitol Room 403  
Juneau AK, 99801

Dear Chairman Kito:

Re: HB 309

I write to express my support for passage of HB 309 rejecting the state officers compensation commission recommendations issued in January.

The commission has been entrusted with the responsibility to make recommendations regarding legislators' compensation and that of certain executive branch officials. These recommendations are binding unless rejected within 60 days of presentment. This power has been circumscribed in two major respects: First, AS 39.23.580 directs that the commission recommend "an equitable rate and form of compensation, benefits, and allowances for legislators." Second, AS 39.23.540 describes how the commission is to exercise its responsibility:

- It shall review the salaries, benefits and allowances
- It may request reports or studies
- It shall prepare preliminary findings and recommendations
- It shall make available a final report of its findings and recommendations.

I was appalled when the commission made its preliminary recommendations to reduce the salary and per diem of all legislators without any study that suggested this action was warranted. The commission's work product was devoid of facts and stood in dramatic contrast to the recommendations of previous commissions that had thoroughly examined salaries and developed well-reasoned findings supportive of their recommendations. Ultimately the commission withdrew its recommendations, except to eliminate per diem for legislators living within 50 miles of the legislature in session.

Whether you agree or disagree with the commission's recommendation, the report remains fundamentally flawed because it lacks any findings based in fact.

One of the fundamental tenets of our democracy has been its opposition to the tyranny of arbitrary government. That principle has long been incorporated into our federal and state structures. Thus, for example, since the earliest days of statehood, Alaska law has required—and our courts have long enforced—administrative agencies to make decisions that include findings of fact based on substantial evidence in the record. There are several reasons for it—two of which are especially applicable here:

- (1) so that agencies don't make decisions that have no adequate basis in fact; and
- (2) so that opposing parties have an opportunity to challenge the agency's reasoning process as to the correctness of its decision.

It is in this regard that the state officers compensation commission has failed you and the Alaska public. It must anchor its recommendations on a factual record. If you ignore this failure, you invite more pernicious outcomes that you will find politically difficult to oppose. For that reason, I urge you to enact HB 309 and encourage you to append a letter of intent that asks the commission to make findings based on facts presented to and developed by the commission to accompany future recommendations.

Sincerely yours,



Bruce Botelho