

COMMITTEE REPORT  
SENATE

FURTHER:

Date \_\_\_\_\_

Mr. President

The Committee on VINANCE considered SA 308

*Commission of Federal Finance for regional educational attendance areas  
central villogas; bid.*

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_

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\_\_\_\_\_

Chairman \_\_\_\_\_

Chairman recommendation \_\_\_\_\_

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: SB-208  
 Title: ...federal transfer regional educational attendance areas  
 Sponsor: Ferguson  
 Requestor: Senate HESS  
 Date of Request: 3-21-85

**FISCAL DETAIL**

Agency Affected: Education  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: Foundation Support

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		0				
800 MISCELLANEOUS		0				
<b>TOTAL OPERATING</b>						

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill has no fiscal impact on this department so long as the present method of foundation support calculation is in effect.

Prepared By: Steve Hole Phone: 2800  
 Division: Commissioner's Office Date: 3-22-85

Approved by Commissioner: Harold Reynolds, Jr. Date: 3-22-85  
 Agency: Commissioner

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

Offered: 4/9/85  
Referred: Finance

Original sponsors: Ferguson and Sackett

1 IN THE SENATE

*FINANCE*  
BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 208 (*HESS*)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the formation of regional educa-  
7 tional attendance areas in certain villages; and  
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. FINDINGS AND PURPOSE. Federal transfer schools formerly  
11 funded through the Bureau of Indian Affairs in the villages of Akiachak,  
12 Akiak, Tuluksak, and Chevak, <sup>and Chetornak</sup> will no longer receive federal funding after  
13 fiscal year 1985. The legislature finds that these villages have  
14 successfully operated the schools on their own through contracts with the  
15 Bureau of Indian Affairs. Therefore, it is the purpose of this Act to give  
16 these villages the opportunity to continue to operate these schools on  
17 their own by forming regional educational attendance areas.

18 \* Sec. 2. (a) Notwithstanding AS 14.08.031, the villages of Akiachak,  
19 Akiak, Tuluksak, and Chevak, <sup>and Chetornak</sup> may each hold an election to determine if the  
20 village shall form its own regional educational attendance area for the  
21 purpose of operating schools in the village. The village may form a  
22 regional educational attendance area only if a majority of the qualified  
23 voters of the village vote to do so in an election held no later than  
24 August 13, 1985. If an election is not held by August 13, 1985, or if a  
25 village votes not to form a regional educational attendance area, the  
26 federal transfer schools in the village become part of the regional educa-  
27 tional attendance area in which the village is located. A regional educa-  
28 tional attendance area formed under this section is subject to the pro-  
29 visions of AS 14.08 and other provisions of law relating to regional

1 educational attendance areas.

2 (b) If a regional educational attendance area is formed in a village  
3 under this section, other schools in the village that are part of the  
4 regional educational attendance area in which the village is located and  
5 property belonging to those schools shall be transferred to the newly  
6 formed regional educational attendance area. All existing contracts and  
7 obligations of those schools shall be transferred to and honored by the  
8 newly formed regional educational attendance area.

9 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

REC'D 4/22/85  
RECEIVED APR 22 1985



UNIVERSITY OF ALASKA, FAIRBANKS  
Fairbanks, Alaska 99701

CENTER FOR CROSS CULTURAL STUDIES  
COLLEGE OF HUMAN AND RURAL DEVELOPMENT

April 18, 1985

John C. Sackett  
Co-Chairman  
Finance Committee  
Pouch V  
Juneau, AK 99811

Dear Senator Sackett:

Please find enclosed a brief summary of research that supports SB 208.

As I note in the conclusion, local control is not a panacea but for these five villages it certainly seems the best solution. Research, both from Alaska and from Outside, supports local control. My own experience as a teacher in the Chevak contract schools some years ago demonstrated to me the value of having educational policy formed by the people it would affect.

If you have any questions concerning the attached, please call me at 474-7434.

Sincerely,

G. Williamson McDiarmid  
Asst. Professor of Education  
Center for Cross-Cultural Studies  
University of Alaska  
Fairbanks, AK 99701

GWM:pt  
Enclosure

RESEARCH EVIDENCE ON LOCAL CONTROL AND ITS EFFECTS

Submitted to the House Committee  
on Health, Education and Social Services  
and the Senate Committee  
on Health, Education and Social Services

In support of HB 365 and SB 208

by

G. Williamson McDiarmid  
Assistant Professor of Education  
Center for Cross-Cultural Studies  
University of Alaska  
Fairbanks, Alaska

April, 1985

## Research Shows that Local Control Can Contribute to School Effectiveness and Community Competency

Five villages in the Kuskokwim Delta that have operated their own schools during the past five years are attempting to establish themselves as independent districts with state funding.

Research conducted both nationally and in Alaska offers evidence that these villages would benefit more from remaining independent and operating their own schools than from becoming part of larger REAA districts. This is not to say that the REAAs cannot — or do not — provide excellent public education. Rather, these villages may be able to realize greater benefits — both educational and non-educational — by running their own independent school districts.

Below we present evidence to demonstrate the following:

1. Structuring school districts so that parents feel more ownership and, consequently, more responsibility encourages greater parent involvement in their children's education.
2. Higher levels of parent involvement in their children's education is associated with higher achievement in reading, more positive self-concepts for both students and parents, better community-school relations, and better student work habits.
3. Teacher-community partnerships, a prime ingredient for effective schools in rural Alaska, is more likely to occur when teachers work directly for the community rather than for a distant central office.
4. Curriculum that teaches local values, that transmits skills needed in the community, and that takes advantage of local educational resources is more likely to be implemented in communities where residents have a strong voice in school matters.
5. The experience of operating their own schools contributes to a community's sense of competency. Greater community competency may enhance community mental health.

6. Because educational decisions are made locally, issues of great moment to parents, school board members, teachers or students can be dealt with expeditiously and with maximum input from the parties involved.

1. The greater parents' sense of ownership of their schools, the greater their sense of responsibility for their children's education.

McDiarmid's (1984) study of school governance in rural Alaska provides abundant evidence to show that in communities where people feel the school is "theirs," parents are more likely to feel they are instrumental in their children's education.

In their study of rural high schools, Kleinfeld and McDiarmid (1985) presented several case studies of actual rural schools. In the course of their study, the researchers surveyed all rural high schools and did fieldwork in some 32 villages. Typical of rural schools that aren't working well are fatalistic parent attitudes about their children's education. That is, they know their children are not receiving a good education yet they feel helpless to change the situation. Poor schooling is something being done to them, not by them. In these villages, the teachers typically believe that their first loyalty is not to the local community but to the distant central office.

On the other hand, in communities that have schools that are working well, Kleinfeld and McDiarmid found that parents believe their support and involvement is critical to the success of the school. These parents know what is happening in the school and derive pride and satisfaction from the performance of their children.

2. The more that parents participate in their children's education, the higher their children's achievement levels in basic skills.

The Northwest Regional Educational Laboratory reviewed some fifty research reports in 1980 and concluded that parent participation in their children's education has a positive influence on student achievement. In addition, parental

participation improves self-concepts of both children and parents, school community relations, and student work habits (Northwest Regional Education Laboratory, 1980).

A study conducted by the New York Department of Education (Heisler and Crowley 1979) showed that the positive influence of parent involvement is greatest for children who scored lowest on a pretest of verbal concepts. Given the predominance of the Yupik language in the Kuskokwim Delta region, we could expect to see similar results in the five villages seeking independent status.

Also of interest is a study that Gillum conducted in Michigan and involved some 1800 elementary students. Gillum found that parent involvement in deciding what was taught and in working directly with teachers and students resulted in the greatest reading achievement gains (Gillum 1979).

Finally, Roland Barth at Harvard reviewed 24 studies of home-reinforcement of school behaviors. He found that the most successful programs involved direct person-to-person communication between parent and teacher (Barth 1979).

Parent involvement can and does occur in all types of school districts — REAAs, city, and borough. Yet, as we argued in number 1 above, parents are more likely to feel responsible for their children's education if they are directly involved in running their schools. Independent status conveys to parents that they are in charge. More than in any other type of district organization, in locally controlled schools parents and other community members perceive themselves as directly and immediately responsible for the quality of their children's education.

3. Teacher-community partnerships in education, which have been found to be a critical element in effective rural schools, develop naturally when administrators and teachers work directly for the community.

Kleinfeld and McDiarmid (1985) found in their large-scale study of rural Alaskan high schools that good schools are created on a partnership between the community and the school. Teachers

consult with the community in organizing the academic, vocational, and cultural aspects of the school program. In return, parents and community members support the academic goals of the school.

In schools that aren't working well, teachers are often caught between their loyalty to the local community and their loyalty to the central office. On the one hand, the central office expects the teachers to carry out its orders and implement the district school board's policies. On the other hand, the local community and the community school committee expect the teachers to conform to local values and to act in the best interest of their children. When conflicts arise between district policy and local preferences, teachers must choose one side or the other. Either way, teachers — and, therefore, students — lose.

Certainly, this situation does not arise in all REAAs. Some district school boards have granted wide latitude to local teachers and community school committees. Yet, if the local school committee is the only educational authority that teachers are responsible to, they will not experience such divided loyalties. This would eliminate one of the major sources of friction that undercuts quality education in rural Alaska.

4. Curriculum that meets local needs and exploits locally available resources is more likely to be implemented in communities in which the local board has a strong voice in school matters.

McDiarmid (1984) found that rural schools offering instruction in Native languages or locally useful skills are more likely to be found in communities with local boards that exercise strong influence on school matters. At the same time, a major source of dissatisfaction for school committee members in villages that have little say about their children's education is the absence of courses that deal with local skills and language.

As noted above, Gillum's study of 1800 students demonstrated that involving parents in deciding what should be taught results in reading achievement gains. The reason is obvious: When parents are directly involved, they feel a much higher sense of ownership of the curriculum and a

greater sense of responsibility for assuring that it is implemented than when they are not involved.

Fieldwork in both the McDiarmid study (1984) and the Kleinfeld and McDiarmid study (1985) suggests that community involvement in developing courses on local skills and values increases the chance that these courses will be seen as important and valuable by students and parents alike. Moreover, greater community support for courses dealing with local skills and language translates into greater general support for the academic curriculum and for high standards.

5. Experience in running its own schools increases a community's sense of competency. Greater community competency may enhance community mental health.

In a study of the Chevak Village Youth Association (CVYA), McDiarmid (1983) argues that the most important purpose served by indigenous youth organizations may be increasing the sense that community members have of their competency to organize and carry out critical social tasks. As he writes, "CVYA is one of a complex of organizations — which includes the autonomous school board, the village corporation, the city council and others — which serves to enhance the community's sense of control over its own destiny and to increase the number of villagers who learn to locate, marshal, and use resources" (McDiarmid 1983, 74).

By increasing the community sense of competency, such organizations may serve to enhance the community's self-image and its belief in its ability to control the institutions that affect its future. As McDiarmid writes of locally controlled organizations, they serve "to increase community self-esteem through the successful completion of planned activities" (Ibid., 73).

Other researchers (Manson, Tatum, and Dinges 1982; Mohatt and Blue 1982) argue that this sense of competency may be the most potent weapon Native communities have in combatting debilitating mental health diseases such as depression, suicide, and alcoholism.

All of these communities have already demonstrated their ability to run their own schools. To lose that control over such a vital social institution would be to decrease the opportunities these communities have to demonstrate to themselves that they can competently run social institutions not indigenous to their societies but rather thrust upon them by history.

6. When educational decisions are made locally, issues of great moment to parents, board members, teachers or students can be dealt with expeditiously and with maximum input from the people affected.

McDiarmid (1982) found in his case study of a rural school that local school board members perceived the major impediment to better education to be their inability to get the regional school board to decide on issues that the local board considered critical.

Rogers' study (1981) of the decentralization of schools in New York City mentions similar findings. Specifically, Rogers found that the "community school district system...has provided for enough social peace, local level flexibility, and openness to allow schools to respond more effectively to the needs of their local constituencies" (Educational Priorities Panel 1981). Community schools can respond more effectively because decisions can be made on the spot. Unlike large district boards that are responsible for a number of schools, local school boards must deal with the needs, concerns, and problems of only one school.

#### Conclusion

While local control of schools is not the magical cure-all that some of its proponents claim, research findings suggest that in some circumstances local control offers both educational and non-educational advantages. In rural Alaskan villages that have already had experience with running their own schools, local control offers definite advantages. Some of these advantages included increased parental involvement and, consequently, higher achievement; better teacher-community partnerships that are critical to successful rural schools; a curriculum tailored to local needs and resources; the opportunity for

communities to enhance their sense of competency;  
and greater assurance that issue of great local  
importance will be dealt with quickly and fairly.

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SFC 4/22/85

Excerpt From  
SENATE FINANCE COMMITTEE MINUTES  
Monday, April 22, 1985  
3:30 a.m.

COMMITTEE MEMBERS

Senator Jan Faiks, Co-chairman  
Senator John Sackett, Co-chairman  
Senator Eliason  
Senator Ferguson  
Senator P. Fischer  
Senator Halford  
Senator Kerttula

SB 208

Co-chairman Faiks moved that SB 208 (ACT RELATING TO THE FORMATION OF FEDERAL TRANSFER REGIONAL EDUCATIONAL ATTENDANCE AREAS IN CERTAIN VILLAGES) be brought on for discussion. She directed attention to CSSB 208 (HESS (ACT RELATING TO THE FORMATION OF REGIONAL EDUCATIONAL ATTENDANCE AREAS IN CERTAIN VILLAGES)) and noted that on October 1, 1985, the Federal Bureau of Indian Affairs will transfer schools formerly funded by BIA to a series of villages in the Lower Yukon and Kuskokwim areas. The purpose of the legislation is to provide the villages an opportunity to operate their schools through formation of individual REAA's.

Co-chairman Sackett advised that he and Senator Ferguson introduced the legislation because they represent five communities which currently operate, administer, and govern their own schools. With the impending BIA turn-over to the state, these villages are in danger of losing local control, and they risk incorporation within larger school districts. The Co-chairman noted that the educational philosophy statewide has always been that of keeping it as close as possible to the students, parents, and communities involved.

The Co-chairman acknowledged that the legislation poses problems in the creation of additional REAA's, especially in terms of unorganized boroughs. Two legal opinions have been prepared. The one from the Division of Legal Services, Legislative Affairs, is more comprehensive than the opinion prepared by the Office of the Attorney General.

Co-chairman Sackett requested that a representative from one of the impacted school districts speak to the method of operating the school district under the existing BIA contract.

The state Board of Education voted in opposition to the bill without benefit of testimony from impacted communities or consultation with either Senator Sackett or Senator Ferguson.

Co-chairman Faiks inquired concerning whether an analogy could be made between the situation covered by the proposed bill and efforts in the Anchorage area to wrest control of private and religious schools from the state. Co-chairman Sackett responded that the instant situation is not similar in that he would prefer to have the schools within the state system and governed by state rules, regulations, curriculum requirements, standards, etc. What is sought, however, is local management control.

Senator Eliason asked how many students would be involved in the issue. Co-chairman Sackett replied: Akiachak (130), Akiak (70), Chefornek (97), Chevak (185), and Tuluksak (115).

HOWARD DIMOND, Principal, Tulkisarmute Yup'ik Day School, appeared before committee. He advised that since the village assumed local control of its school, a nucleus of responsive, interested parents has formed which has resulted in increased attendance. SB 208 would allow these efforts to continue when the school is transferred from BIA to state control. In response to a question from Co-chairman Faiks concerning who would be running the schools, Mr. Dimond advised that authority would be vested in a local school board. Funds would continue to be received and administered by local IRA's. Senator Ferguson advised that under the proposed bill, villages would vote to determine whether they wished to create individual REAA's and elect a school board. Senator Kerttula asked if, under the proposed bill, five superintendants would be hired. Co-chairman Sackett responded affirmatively, noting that the villages are small enough that the superintendent/principal, principal/teacher concept "still works." The administrative overhead has thus not been dramatic.

Discussion followed concerning school systems under the direction of a "lead teacher" rather than a hired administrator. Mr. Dimond assured that hired administrators would have dual roles within the schools they serve. The schools also anticipate formulation of a cooperation agreement whereby they would "get together" for functions such as recruitment, purchase of supplies and fuel, etc.

Co-chairman Sackett advised that in the past the impacted school districts provided education at a cost which is less than what they will be receiving under the foundation formula. He noted that the foregoing evidences that the legislature has been generous in providing funds under the formula. He further noted that APU provides education for approximately 1/3 of what it costs the University of Alaska on a per student basis. In the end, the Co-chairman advised that regardless of whether the impacted villages choose "to go local control . . . or REAA," they will receive the same amount of funding under the formula.

In response to a question from Senator Paul Fischer concerning current operation of impacted village schools, Mr. Dimond responded that his school has a school board which establishes policy, a principal/teacher (himself), and a group of teachers

which operate the elementary school. The state operates the high school. When the schools are combined under one entity, the superintendent/principal will administer both schools.

Co-chairman Faiks asked if it would be possible for the five impacted villages to form one REAA. Co-chairman Sackett responded that the possibility was discussed but rejected. Co-chairman Faiks asked if they had discussed joining the existing REAA for administrative purposes and then contracting through that entity for operation of the schools under existing school boards and personnel. Under such an arrangement the schools would merely transfer the relationship they now have with the BIA to the REAA. Senator Ferguson advised that the villages had attempted to contract per the above suggestion through the Dept. of Education and had been informed by the Attorney General's Office that it would be unconstitutional to contract services for education in such a manner. Under the proposed legislation, the villages would attempt to create entities which would provide local control but which would not give rise to constitutional problems. Co-chairman Sackett concurred.

Co-chairman Sackett noted that the village of Chefornak was included in the original bill but deleted from CSSB 208 (HESS) due to the fact that for a time there was controversy over whether or not the village wished to participate in the legislation. The village now wishes to be included. Co-chairman Sackett thus moved for adoption of the following amendment:

CCSB 208 (HESS)

Page 1, Lines 12 and 19

Following "Chevak" add "and Chefornak"

No objection to the amendment having been raised, it was adopted. Co-chairman Faiks directed that the amendment be incorporated within a Finance Committee Substitute for the bill.

In response to a question from Senator Halford concerning classification of the impacted villages, Co-chairman Sackett advised that they are all second class cities. In response to questions from Co-chairman Faiks and Senator Halford concerning effecting contractual arrangements with the cities for school operations, Co-chairman Sackett advised that it might be an unwise precedent to set by statute. He noted that the five villages have been grandfathered by existing local control of their schools. Of the ten BIA schools to be turned over to the state, five are currently under REAA's. The villages which are the subject of this legislation have maintained individual control.

STEVE HOLE and PAUL GOODWIN, Dept. of Education, next appeared before committee. Mr. Goodwin, Special Assistant to the Commissioner of Education, advised that he specializes in coordination of rural and native education and noted department objection to the proposed legislation.

The initial departmental concern relates to costs involved in establishing five new school districts. While the bill carries a zero fiscal note, Mr. Goodwin stated that costs would be incurred.

A second concern relates to adverse effects resulting from further "fragmenting the educational delivery system in the state." Mr. Goodwin acknowledged difficulties involved in providing a unified educational system to "such a culturally fragmented state." He advised that the proposed legislation would appear to "take an area that is culturally similar in the first place, . . . and fragment that into six separate administrative units for the provision of one educational system." This seems unnecessary. The bill would also set a precedent giving rise to concerns over local control in other villages.

In terms of technical problems relating to the bill, Mr. Goodwin stated that the schools would be transferred from the federal government on June 30. As of July 1, 1985, they would fall within REAA's or (under SB 208) provisions) there would be a period of "limbo" during which local elections would be held to decide their fate. What happens to the schools between July 1 and the election date? Who maintains the physical plant and bears responsibility for the schools?

Mr. Goodwin explained that most REAA's have superintendents and established administrative hierarchy. Administration of these units, which are political subdivisions of the state, requires considerable time involvement. Two other positions are mandated by law should the five villages elect to become individual REAA's. One relates to bilingual and the other to special education.

Senator Ferguson inquired concerning plans which the Dept. of Education and state Board of Education might have to satisfy the issue of local control. Mr. Goodwin acknowledged that by losing their "638" status, the villages would lose a substantial amount of local control over their schools. There is no question or argument here. Mr. Goodwin explained that he had tried to provide the villages with the reality of "9863"--the federal legislation transferring the schools. He explained difficulties surrounding contracts between IRA's and the department and the constitutional issues involved. He further suggested that the villages consider approaching the legislature for formation of a "coastal REAA." This would remove some communities from existing Lower Yukon and Kuskokwim School Districts, allow more local control, and provide cultural continuity.

In terms of prior statements relating to fragmentation of educational efforts, Co-chairman Sackett advised that at present IRA's control elementary schools while REAA's govern high schools. The division of control here has not been productive. The proposed bill would attempt to bring local schools in the impacted villages under one administration. Boards at the local

level are attempting to fill voids at the state level in terms of direction, policy, and specifications.

Senator Halford voiced his opinion that the department alternative would not adequately address local control. He asked if the state could contract with village corporations for educational services. Co-chairman Sackett responded that it would be unwise to set a precedent allowing for educational contracts with private corporations.

STEVE HOLE explained that primary objections voiced by communities, in terms of local control over schools, relate to maintaining veto power over selection of the principal and instructional staff. He further advised of his understanding that the Lower Kuskokwim School District has agreed to permit local villages to select instructional staff. Co-chairman Sackett responded that current committees which would review teacher selection are now only advisory and have no status in law. Local control would thus be tenuous at best. Senator Ferguson added that the proposed legislation would apply only to the five villages mentioned. It was introduced on their behalf as a result of inaction by the Dept. of Education in terms of evolving a solution to the issue of local control.

Discussion followed concerning the unconstitutional nature of contracting a public function to a private corporation.

Senator Ferguson explained that REAA's are school districts within unorganized boroughs. The legislature sits as the assembly for the unorganized borough. Under the constitution, there is no power to create school districts in unorganized boroughs.

Senator Paul Fischer asked if the villages would be able to band together to meet statutory REAA requirements and cut costs such as hiring a bilingual teacher and sharing the cost jointly on a 1/20 basis. Mr. Hole replied that they could do so.

Senator Kerttula moved for passage of CS for SB 208 (Finance) with individual recommendation. No objection having been raised, CS for SB 208 (Finance) (same title as CSSB 208 (HESS) was reported out of committee. Co-chairman Sackett and Senators Eliason and Ferguson signed the committee report with a "do pass" recommendation. Co-chairman Faiks and Senators Kerttula and Paul Fischer signed "no recommendation." Senator Halford signed "no recommendation (do pass something)."

## SECTIONAL ANALYSIS FOR SENATE BILL 208

An Act relating to the formation of regional education attendance areas in certain villages

### Section 1

As of October 1, 1985, the federal transfer schools formerly funded through the BIA in the villages of Akiachak, Akiak, Tulaksak and Chevak will no longer receive federal funding. The purpose of SB 208 would be to provide these villages with the opportunity to operate their own schools by forming REAA's.

### Section 2

Each of the aforementioned villages may hold an election to decide whether to form their own REAA. An election must be held by August 13, 1985. A majority of the qualified voters in the village must approve the establishment of an REAA. If there is no majority or no election is held, the existing schools become a part of the larger current REAA in which the village is located.

If the village votes to form an REAA, any other schools in the village that are part of an existing REAA shall be transferred to the newly created REAA.

### Section 3

Immediate effective date.

Currently, the types of schools in each of these villages are as follows:

Akiachak	K - 8 (Contract) 9 - 12 (Lower Kuskokwim REAA)
Akiak	K - 8 (Contract) 9 - 12 (Lower Kuskokwim REAA)
Chefornak	K - 8 (Contract) 9 - 12 (Lower Kuskokwim REAA)
Tulaksak	K - 8 (Contract) 9 - 12 (Lower Kuskokwim REAA)
Chevak	K - 12 (Contract but is located in the Lower Yukon REAA)

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
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1st NATIONAL CENTER  
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**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

April 22, 1985

Hon. Arliss Sturgulewski  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Re: SB 208, formation of REAAs in  
certain villages  
Our file: 366-466-85

Dear Senator Sturgulewski:

Pursuant to your request, we have reviewed SB 208 (An Act relating to the formation of regional educational attendance areas in certain villages). We believe that the bill, as currently drafted, raises legal issues which should be considered by the legislature before final passage. The bill purports to form four small regional education attendance areas (REAAs) for unincorporated villages currently situated in REAAs established under AS 14.08. The bill may constitute local legislation. See Alaska Const. art. II, § 19.

A bill may be characterized as "local" under the prohibition if it is possible to enact a general law concerning the function of REAAs in the state. The Alaska Supreme Court has held that a constitutional provision giving the legislature broad powers over the formation of boroughs did not empower it to designate specific localities when addressing the issue. Abrams v. State, 534 P.2d 91, 95 (Alaska 1975). It could be argued that this principle applies equally to the formation of an REAA.

However, the state constitution confers broad powers upon the legislature to govern the unorganized borough of the state. Alaska Const. art. X, § 6. In governing the unorganized borough, the "[legislature] may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough." Id. Consideration should be given to the limits of the legislature's power to provide for education in the unorganized borough. If the legislature's power is equivalent to that of the assembly of an organized borough, then it may not be proper for the legislature to authorize governance on a less than areawide basis within a special service area. See AS 29.33.050. The creation of an REAA within an REAA could be construed to vio-

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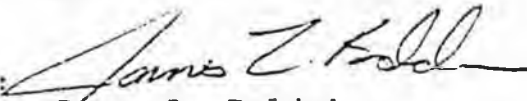
lars this power.

While we cannot with absolute certainty advise you that this bill would violate the local and special legislation prohibition, we believe it is appropriate to put you on notice that these legal questions are present.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
James L. Baldwin  
Assistant Attorney General

JLB/pjs

POSITION PAPER RD  
LOWER KUSKOKWIM SCHOOL DISTRICT

SB 208 basically provides for three things. First, it establishes the potential for the creation of federal transfer regional attendance areas in the villages of Akiachak, Akiak, Tuluksak, Chevak and Chefornek. Presently, each of those villages operates local schools under contract from BIA. In the cases of Akiachak, Tuluksak, and Chefornek, the villages operate elementary schools only. In Akiak, the village operates an elementary program separate and distinct from an elementary/secondary program provided by the state. In Chevak, the village operates both elementary and secondary programs.

Secondly, the bill establishes the requirement of a local election in each of the five villages to determine whether the village wishes to establish a federal transfer REAA. Failure to have that election or a vote in opposition to that establishment would result in the schools becoming part of the REAA in which the villages are geographically located. Thirdly, the bill establishes a deadline for those local elections of October 10, 1985.

Because four of the affected villages lie within the boundaries of the Lower Kuskokwim School District and because the outcome of this legislation would have a profound effect on the operation of that REAA, this position paper has been prepared for the benefit of the sponsors, Senators Ferguson and Sackett, and other legislators considering this legislation.

The principal issue involved is how to address the apparent desire of these five villages to operate their own schools. The policy issue of whether to allow the establishment of these small REAA's is strictly legislative prerogative. From a cost perspective, it is obviously more expensive to have a large number of separate school districts. From a local control perspective, if every city and village in the state operated its own schools, we would indeed maximize local control. It has been the policy of the LKSD board in the past to encourage local input through local advisory boards.

From a purely administrative standpoint, the proposed legislation presents a number of problems. It is unclear at this time as to the applicability of this bill to schools already operated by LKSD. It seems that the bill is only addressing those schools that have not yet been transferred to the state. If that is the case, would these new REAA's include only the elementary schools in most cases? If secondary schools would also be included in the new REAA's, there are some real administrative problems. Teachers contracts are up for renewal by the end of March, 1985 for the 1985-86 school year. Unless those contracts are terminated by the end of March, they are binding for the next year. However, this bill would potentially move these schools out of LKSD. The problem there is obvious.

If LKSD is to operate the elementary schools next year, it is vital that both contract negotiations and facility upgrade begin immediately. Substantial work will be necessary in all locations this summer in order to comply with state life/safety codes.

A potential solution to these problems would be to provide interim funding for the operation of the elementary schools to either the villages or the LKSD. A local election in February of 1986 could allow for a smoother transition of school operations and still recognize local will.

In any case, it is imperative that either the legislature or the administration make a decision on this matter immediately. To delay that decision will only reduce the ability of whichever entity is deemed appropriate for operating those schools to adequately prepare for the next school year.

POSITION PAPER OF THE DEPARTMENT OF EDUCATION

FOURTEENTH ALASKA LEGISLATURE

Senate Bill 208

April 1, 1985

The State Board of Education is opposed to this bill. Predicated upon the assumption that one or more of the five communities will exercise the option to become an REAA, the three overriding reasons for the Board's position are:

- 1) the cost involved in establishing five new school districts;
- 2) the adverse effects of fragmentation of our existing delivery system in a manner not contemplated by existing municipal or education law; and
- 3) the potentially dangerous precedent the bill would create respecting relationships between the REAAs and their respective communities.

The cost of the legislation, while bearing a zero fiscal note, will in fact be substantial. Because the present foundation program pays on a per-student basis, the cost to the state in FY 86 would be the same for the five new districts as it would if the communities were absorbed by the surrounding REAAs. However, there will be five new superintendents, five new school boards, and five new delivery systems for special and bilingual education. These personnel, functions and services are all required by law and cost money. The amounts-per-student the new REAAs would receive are based upon much larger district operations, with the costs of administration spread over literally hundreds of students. While the new foundation program, when it is written, will presumably accommodate the small sizes of the five new REAAs and their individual administrative needs, until that happens the five REAAs created by this Act may not have sufficient revenues under the existing system to operate adequate programs. To the extent that there will be an increased cost to the state as a result of this bill, it will occur after the new foundation program goes into effect.

The present delivery system for public elementary and secondary education in the Unorganized Borough is based upon the factors set out at AS 14.08.031, most notably the boundaries and sub-boundaries of the regional corporations, and the socio-economic, linguistic and cultural characteristics of the area. It was within the context of considerations such as these that the 21 REAAs were formed, with the understanding that the interests of the region would prevail in education policy decision making. That system seems to have worked as well as any other democratic entity in Alaska, and it is the view of the Department that the five communities can fit into that system, particularly since the social, cultural, economic and linguistic characteristics of the communities appear to be harmonious with those of the respective REAAs.

The precedent set by this Act could have alarming consequences for the balance of the Unorganized Borough. Rather than encourage conciliatory methods of conflict resolution and problem solving, communities would be encouraged to seek legislative solutions to their problems. What is to keep every community in the Unorganized Borough from attempting to form its own REAA?

The rationale for the Bill includes the statement that the five communities successfully operated their school systems under federal contract. This consideration alone does not seem sufficient to warrant the establishment of five new administrative units any more than it justified the continuation of municipal school districts which became parts of borough governments.

There are several technical problems inherent in the bill. For instance, what happens between July 1, 1985, when the federal support for the existing contracts is withdrawn, and the local option election is conducted. Who, if anyone, maintains the physical plants, pays the staff, and carries out the day-to-day operations of the schools?

The very nature of the bill, i.e., it appears to be local or special legislation, may give rise to constitutional issues. A general act, ch 142, SLA 1975, would seem to apply to the communities involved.



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Harold Reynolds, Jr.  
Commissioner

COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

3/4/85

Date 4-4-85

Mr. President

The Committee on HESS considered SB 208

formation of federal transfer regional educational attendance areas in certain villages; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt (CS for SB 208 (HESS))
- new title
- same title and recommends ~~\_\_\_\_\_~~
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

3 Edo W. Urie Do Not Pass  
3 Paul Frick " " "  
2 Julius Stangulinski Do not  
Pass unless amended  
3 Joe Josephson - Do NOT PASS

1 Arthur Faber Kemp  
Chairman  
Do Pass  
Chairman recommendation

Introduced: 3/4/85  
Referred: Health, Education & Social Services  
and Finance

1 IN THE SENATE

BY FERGUSON AND SACKETT

2

SENATE BILL NO. 208

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the formation of federal transfer  
7 regional educational attendance areas in certain  
8 villages; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. FINDINGS AND PURPOSE. Federal transfer schools formerly  
11 funded through the Bureau of Indian Affairs in the villages of Akiachak,  
12 Akiak, Tuluksak, Chevak, and Chefornak will no longer receive federal  
13 funding after fiscal year 1985. The legislature finds that these villages  
14 have successfully operated the schools on their own through contracts with  
15 the Bureau of Indian Affairs. Therefore, it is the purpose of this Act to  
16 give these villages the opportunity to continue to operate these schools on  
17 their own by forming federal transfer regional educational attendance  
18 areas.

19 \* Sec. 2. Notwithstanding AS 14.08.031, the villages of Akiachak,  
20 Akiak, Tuluksak, Chevak, and Chefornak may each hold an election to deter-  
21 mine if the village shall form its own regional educational attendance area  
22 for the purpose of operating federal transfer schools in the village. The  
23 village may form a regional educational attendance area only if a majority  
24 of the qualified voters of the village vote to do so in an election held no  
25 later than October 10, 1985. If an election is not held by October 10,  
26 1985, or if a village votes not to form a regional educational attendance  
27 area, the federal transfer schools in the village become part of the  
28 regional educational attendance area in which the village is located. A  
29 regional educational attendance area formed under this section is subject

1 to the provisions of AS 14.08 and other provisions of law relating to  
2 regional educational attendance areas.

3 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
4 10.070(c).