

HB

543

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/29/88

FURTHER REFERRALS:

DATE: 4/6/88

The Finance Committee has considered HB 543

"An Act making a special appropriation to the Department of Education to satisfy a condition of a conditional determination issued by the United States Department of Education regarding the state's compliance with P.L. 81-874 in fiscal year 1987; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS [Signature]

POURCHOT [Signature]

LARSON [Signature]

GILL [Signature]

SWACK [Signature]

BOYER MARK BOYER

BROWN Tam Brown

DAVIS [Signature]

RIEGER [Signature]

SIGNING OTHER RECOMMENDATIONS:

FRANK [Signature]

WALLIS [Signature]

[Signature]
Chairman's signature

Funding Information
General Fund \$9,583,566
Other Funds -0-
\$9,583,566

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 543

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Education to satisfy a condition of a condi-
8 tional determination issued by the United States
9 Department of Education regarding the state's compli-
10 ance with P.L. 81-874 in fiscal year 1987; and
11 providing for an effective date."

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

13 * Section 1. The sum of \$9,583,566 is appropriated from the general
14 fund to the Department of Education to satisfy a condition set out in a
15 "Conditional Determination," issued by the assistant secretary for elemen-
16 tary and secondary education, United States Department of Education, on
17 March 15, 1988, regarding Alaska's compliance in fiscal year 1987 with sec.
18 5(d), Public Law 81-874, as amended. The money is allocated as follows:

19 SCHOOL DISTRICT	GENERAL FUND
20 Adak	\$ 798,962
21 Alaska Gateway	29,032
22 Aleutian Region	11,246
23 Anchorage	2,101,738
24 Annette Island	298,441
25 Bering Strait	154,627
26 Chatham	190,290
27 Cordova	483,155
28 Delta/Greely	277,889
29 Hoonah	30,358

1	Hydaburg	40,311
2	Juneau	46,199
3	Kenai	492,856
4	Ketchikan	434,060
5	Klawock	53,999
6	Lower Yukon	1,454,461
7	Mat-Su	485,911
8	Nenana	17,949
9	Pelican	21,304
10	Petersburg	449,622
11	Pribilof	261,843
12	Sand Point	144,265
13	Sitka	97,807
14	Southeast Island	71,987
15	Southwest Region	439,711
16	Unalaska	134,023
17	Valdez	68,410
18	Wrangell	371,790
19	Correspondence Study - State	121,320
20	* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).	

STEVE COWPER
GOVERNOR



146.543

cc

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 18, 1988

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill for a special appropriation to the Alaska Department of Education, to be allocated to certain school districts. The bill will satisfy a condition of a conditional determination, issued by the United States Department of Education, that Alaska's program of state aid to local school districts for fiscal year 1987 complies with federal laws and regulations governing federal impact aid to school districts.

Federal provisions permit a state to consider federal impact aid payments from the federal government to a school district when determining local need and local resources available to a district, and thus the amount of state aid to which the district is entitled, only if the state's program meets certain federal equalization criteria. Section 5(d), P.L. 81-874 (20 U.S.C. 240(d)), as amended, and regulations adopted under it. The state's fiscal year 1987 program, enacted by ch. 75, SLA 1986, arguably considered federal impact aid in determining the area differential adjustment (AS 14.17.051) to which each district was entitled.

Federal officials held a hearing in Juneau in early February 1988, at which the state attempted to show that either federal money was not considered, or that it was properly considered because Alaska's program met federal equalization criteria. Although no formal decision has been rendered, federal officials have indicated informally that they were not persuaded by the state's arguments.

Alaska has the option of waiting for a formal determination, and then taking an appeal, first to an Administrative Law Judge who advises the United States Secretary of Education,

and then, if the secretary's decision is adverse to the state, to the federal courts. If we take such an appeal, the stakes are high. If we lose, the federal government could attempt to recover all federal impact aid paid to the state local districts in fiscal year 1987 (about \$65,000,000); could perhaps do so for a similar amount for fiscal year 1988; and could withhold future impact aid until that amount was repaid, and perhaps for as long as two years afterwards. The Department of Law advises me that, based on the information it has received from the Alaska Department of Education, it cannot confidently predict that we will prevail on appeal.

The Alaska Department of Education, working with the Department of Law, has therefore negotiated a settlement (a "conditional determination") with the federal government which would eliminate the risk of more severe actions by the federal government. The assistant secretary for elementary and secondary education, United States Department of Education, has issued a "Conditional Determination" under which the Alaska Department of Education is to seek an appropriation to pay to local school districts any additional amounts they would have received in fiscal year 1987 if the area cost differentials that were later adopted, in ch. 91, SLA 1987, for fiscal years beginning with fiscal year 1988, had been in effect in fiscal year 1987. (Both state and federal officials agree that those area cost differentials were derived without considering federal impact aid payments.) In this appropriation, the amount of "unique and emergency circumstances" money a district received under former AS 14.17.023(b) for fiscal year 1987 has been deducted from the additional amount it would otherwise have received. Federal officials agreed to this deduction because the district would not have needed the unique and emergency money had it gotten the additional amount in fiscal year 1987. A district's added entitlement, before deducting the amount received under former AS 14.17.023(b), will be included in the district's state aid for fiscal year 1987 for the purpose of determining the district's eligibility for "hold harmless" funding under sec. 24(b), ch. 91, SLA 1987.

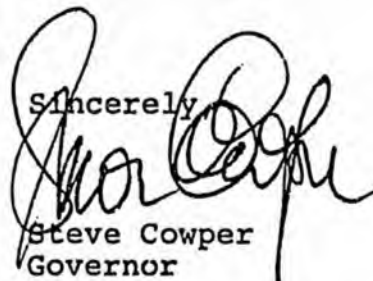
I am attaching a copy of the conditional determination of the federal government. If the legislature fails to pass this bill, the parties are free to resume an administrative and, ultimately, judicial determination of the issues.

The Honorable Ben Grussendorf,

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I believe the settlement is reasonable, not only because a very large and uncertain liability is exchanged for a smaller, definite one, but also because the settlement money would be paid to Alaska school districts rather than to the federal government. I urge your prompt and favorable consideration of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper". The signature is written in a cursive style with a large, looping initial "S".

Steve Cowper
Governor



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

M.F.S.S.

MAR 16 1983

SECRETARY'S OFFICE

CONDITIONAL DETERMINATION

1. This conditional determination concerns the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education ("the Assistant Secretary") and the state of Alaska ("the state").

2. A proceeding was initiated under 34 C.F.R. 222.68 to determine whether the state considered federal impact aid payments, as described in section 5(d) of Pub. L. 81-874 (20 U.S.C. 240(d)), when distributing state aid to school districts for state fiscal year 1987, July 1, 1986 to June 30, 1987, and the extent to which it was allowed to consider such payments under applicable federal laws and regulations.

3. A hearing was held in Juneau, Alaska, on February 3, 1988, at which the Assistant Secretary took evidence on the state's claim that it did not take into consideration impact aid payments in any way not permitted by federal laws and regulations. As a result of this hearing, I have determined that the distribution of state aid for fiscal year 1987 will be in compliance with federal laws and regulations if the state meets the following conditions:

- A. The Alaska Department of Education must seek and receive a \$9,583,566 appropriation from the state legislature. This appropriation must be used to pay each school district that was paid less in public school foundation aid for state fiscal year 1987 than it would have been paid had the area differentials in AS 14.17.051, as amended by ch. 125, SLA 1987, been used to calculate its entitlement, the additional amount it would have received under those differentials, less any amount the district received under AS 14.17.023(b) for that fiscal year, as shown in the seventh column, labelled "Proposed Redistribution, Column 5 Less Column 6," of the spreadsheet attached as Exhibit A hereto.
- B. Any amounts to which a district is entitled under paragraph 3.A. -- prior to deducting amounts received under AS 14.17.023(b) -- will be included in the district's state aid for fiscal year 1987 for the purpose of calculating the district's entitlement to "hold-harmless" aid under sec. 24(b), ch. 91 SLA 1987.

4. If the proposed appropriation is not made on or before June 30, 1988, the Assistant Secretary may make such determination as she deems appropriate. The state reserves the right, in that instance, to appeal the determination administratively, and ultimately, in court.

5. Each party shall bear its own costs and attorneys' fees incurred to date.

6. This document is for the purpose of stating the Assistant Secretary's conditional determination and may not be used as an admission.

Dated: MAR 15 1988

U.S. DEPARTMENT OF EDUCATION

Beryl Dorsett
By: Beryl Dorsett
Assistant Secretary
for Elementary and
Secondary Education

Dated: 3/16/88

ACCEPTANCE AS SETTLEMENT, FOR
STATE OF ALASKA

Thomas E. Wagner
By: Thomas E. Wagner
Assistant Attorney General

PUBLIC SCHOOL FOUNDATION PROGRAM
 PREPARED 2/21/88

FY87 AREA DIST FY88 MEJ

PROPOSED
 REDISTRIBUTION

SCHOOL DISTRICT	REVISED/TOTAL STATE AID FY87	REVISED STATE AID FY88	FY88 AREA DIST LESS FY87 AREA DIST	TOTAL OF FY88 POSITIVES	FY87 20% DIST.	COLLAPSE LESS COLLAPSE 6
ADAK	11,922,173	12,721,337	1798,962	1798,962		1798,962
ALASKA GATEWAY	13,628,253	13,637,287	129,032	129,032		129,032
ALUTIAN REGION	11,261,263	11,377,326	116,101	116,101	1124,833	111,266
ANCHORAGE	1118,110,731	1118,212,669	102,101,738	12,101,738		12,101,738
ANNETTE ISLAND	11,609,251	11,707,731	1298,661	1298,661		1298,661
BERENDE STRAIT	110,300,626	110,433,051	1154,627	1154,627		1154,627
BRISTOL BAY	11,631,676	11,608,233	(1713,221)	0		0
CHITYNAI	12,100,569	12,290,139	1190,290	1190,290		1190,290
CHUGACH	11,261,263	11,198,607	(142,631)	0		0
COPPER RIVER	13,528,955	13,062,117	(1446,339)	0	1213,156	0
CORDOVA	12,037,207	12,520,662	1443,155	1443,155		1443,155
CRAIG	11,634,286	11,321,689	(1132,594)	0		0
DELTA GREELY	14,084,631	14,562,539	1777,889	1777,889		1777,889
OTLI DIGHAN	13,199,723	13,064,170	(1331,552)	0		0
FALSBOROUGH	142,222,703	141,113,770	(11,076,933)	0	191,500	0
GALERA	11,611,841	11,253,711	(1158,060)	0		0
HAINES	11,939,307	11,923,050	(116,257)	0	1121,752	0
HODDGMAN	11,444,936	11,675,294	130,358	130,358		130,358
HYDABURG	1423,687	1464,917	140,311	140,311		140,311
EDITHRUD	14,537,228	13,877,421	(1664,807)	0		0
JUNEAU	116,416,177	116,877,128	1798,969	1798,969	1214,700	166,199
KAKE	11,279,114	11,263,326	(155,788)	0		0
KASHOONMUT	11,336,725	11,344,591	17,865	17,865	1104,709	0
KENAI	127,227,872	127,720,748	1497,856	1497,856		1497,856
KETCHIKAN	17,378,810	17,812,870	1434,060	1434,060		1434,060
KING COVE	11,163,094	11,119,079	(144,015)	0		0
KLUKOK	11,110,076	11,164,072	153,999	153,999		153,999
KODIAK	111,196,619	109,577,044	(17,624,595)	0	110,000	0
KULUK	13,971,964	13,195,936	(1476,048)	0		0
LAKE & POLKOWILLA	14,374,911	14,183,013	(1909,898)	0		0
LOWER KUSKOKWIM	121,252,024	122,616,920	1962,329	1962,329		1962,329
LOWER TUGSON	17,607,877	17,607,877	11,456,661	11,456,661		11,456,661
MAT-SU	126,844,201	127,330,112	1485,911	1485,911		1485,911
NEKOMA	11,089,637	11,107,585	117,949	117,949		117,949
NOPE	15,096,333	14,646,689	(1431,644)	0		0
NORTH SLOPE	16,298,391	17,280,281	1981,890	1981,890		1981,890
NORTHEAST ARCTIC	111,010,798	110,908,349	(102,450)	0		0
PELICAN	1538,337	1539,641	121,306	121,306		121,306
PETERSBURG	12,567,630	12,997,431	1449,622	1449,622		1449,622
PHILLOP	1842,137	11,103,903	1281,863	1281,863		1281,863
RAILBELT	13,274,177	12,637,767	(1837,730)	0		0
SAND POINT	1452,067	1496,332	1144,265	1144,265		1144,265
SITKA	15,103,366	15,928,171	177,807	177,807		177,807
SKAGWAY	1627,275	1671,729	1244,156	1244,156	1251,326	0
SOUTHEAST ISLAND	13,671,030	13,713,017	171,987	171,987		171,987
SOUTHWEST REGION	14,010,176	14,649,887	1639,711	1639,711		1639,711
ST. MARY'S	11,371,778	11,049,008	(1322,770)	0		0
TANANA	11,008,258	11,191,314	116,961	116,961		116,961
UNALASKA	11,111,392	11,263,616	1134,023	1134,023		1134,023
VALDEZ	13,110,064	13,178,459	168,110	168,110		168,110
WRANGELL	12,106,785	12,678,573	1371,790	1371,790		1371,790
YAKUTAT	11,135,097	11,128,712	(16,385)	0	139,300	0
YUKON FLATS	14,600,245	14,309,949	(1798,276)	0		0
YUKON-KOTLIK	15,786,111	15,677,989	(1313,122)	0		0
YUPIIT	13,391,463	12,734,899	(1454,564)	0		0
CCS	12,062,376	12,183,696	1121,320	1121,320		1121,320
TOTAL	1408,801,227	1408,801,226	0	110,173,688	11,176,146	19,563,564

