

SB

135

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/6/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY

**FISCAL NOTE(S) ATTACHED 1 **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE 3/13/87

Mr. President:

HESS Committee considered SB 135

limiting recruitment and employment of teachers who are not residents of the state.

and recommended:

replace with CS CS SB 135 (HESS) same title
 attached amendment(s) and new title

^{majority} do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich Halford
[Signature]

Paul Fink Do Pass
Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : CS SB 135 (HESS)
 Title : "An Act limiting recruitment
 and employment of school administrators
 and teachers."
 Sponsor : _____
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : _____
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Senate HESS Phone : 465-3762
 Division : _____ Date : 3/13/87

Approved by ~~Commissioner~~ : Senator G. Frink Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____
 Revision Date: _____
 Title: ...limiting recruitment and
employment of teachers
 Sponsor: Senator Josephson
 Requestor: Senate HESS

Bill Version: SB-135
 Publish Date: _____

Agency Affected: Education
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill has no fiscal impact on this department.

Prepared by: Steve Hole *Steve Hole*
 Division: Commissioner's Office

Phone: 465-2800
 Date: March 13, 1987

Approved by Commissioner: for Marshall L. Lind
 Agency: Education

Date: March 13, 1987

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 7, 1987

SUBJECT: CSSB 135 (HESS)
Limiting recruitment and hiring of
teachers and administrators

TO: Senator Paul Fischer, Chair
Senate HESS Committee

FROM: Teresa B. Cramer *ABC*
Legislative Counsel

Enclosed is the committee substitute you requested, adding administrators to the limitation on recruitment and employment of nonresidents. The prohibition against hiring a nonresident teacher or administrator if a qualified resident has applied for a job may be subject to challenge under the federal privileges and immunities clause, Article IV, Section 2 of the federal constitution, and under the equal protection clauses of the state and federal constitution. The resolution of the question would turn on the facts that support the need for discriminating against out-of-state teachers and administrators.

If the state is making employment decisions solely on the basis of state residence, the state must be able to justify the discrimination against nonresidents. Under privileges and immunities analysis, the state would have to show that nonresidents were a "peculiar source of the 'evil'" at which the bill is addressed and that the means chosen by the statute to remedy the problem were closely related to solving the problem.

The United States Supreme Court in Hicklin v. Orbeck, 437 U.S. 518, 57 L.Ed.2d 397, 98 S.Ct. 2482 (1978), examined the causes of unemployment in Alaska and found that lack of training and geographical remoteness was the problem, not out-of-state workers. The same legal standard would apply here and a court might find that unemployment among state teachers and administrators is not caused by nonresidents

Senator Fischer
March 7, 1987
Page 2

who are taking jobs away, but by the economic conditions in the state. If that were the finding, then discrimination would be prohibited under the privileges and immunities clause.

The legislation may also be subject to challenge under the state's equal protection clause. In Lynden Transport, Inc. v. State, 532 P.2d 700, at 710, (Alaska 1975), the court held that a discrimination between residents and nonresidents based solely on the object of assisting the one class over the other economically cannot be upheld under either the privileges and immunities or equal protection clauses. To support the validity of this legislation, the state would have to show that there was a relationship between the danger presented by the nonresident teachers or administrators as a class and the discrimination practiced against them. The evidence would have to be more than a showing that limiting competition for employment to state residents will improve the chances that those residents will be hired.

If I may be of further assistance, please advise.

TC:mkr
m9/109

Enclosure



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

March 10, 1987

To: Senator Paul Fischer, Chair
Members, Senate HESS Committee

Re: Senate Bill No. 135; "An Act limiting recruitment and employment of teachers who are not residents of the State."

NEA-Alaska supports the concepts contained in SB 135. We do make some suggestions for change to the proposed legislation.

As a result of declining revenues, school districts are looking closely at personnel cost containment as a means of reducing overall expenses. This may lead to reductions in the employee work force beyond that which can be achieved by natural attrition.

As the number of unemployed certificated teachers increases it is appropriate that employers be required to utilize the pool of teachers who have been non-retained for reasons other than cause before being permitted to recruit and hire through customary and regular procedures and from outside.

Fischer
Further, we encourage the Committee to expand the purpose and intent as stated in Section 2 at line 16, page 1, by making the legislation applicable to nonresident administrators as well as teachers.

Finally, at line 26, page 1, we propose that the term "certification" be substituted for the words "particular skills necessary."

Thank you for your consideration.

Respectfully submitted,

Robert Manners
Executive Secretary

BM48/dl

MAR 11 1987



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
328 Fourth St., Suite #211 Juneau, Alaska 99801 586-9702

March 9, 1987

The Honorable Paul Fischer, Chairman
Senate HESS Committee
Alaska State Legislature
Juneau, AK 99801

Dear Senator Fischer:

Because of a previous commitment, I will be unable to testify at the first reading of SB 135, Limiting Hire of Non-Resident Teachers. Therefore, I submit this memo as our statement of opposition to the bill.

First, you should be aware of the statistics published by U of A Career Placement Center. There were 422 educators hired new to districts all around Alaska. Of these 422 educators, 305 were Alaskans. In addition, there were 438 internal transfers, meaning teachers already working in a district were reassigned to fill vacancies. So when you add up the total vacancies for 1986-87 school year, there were 860. Of that number, only 117 were from out of state.

The Alaska Council of School Administrators feel this trend will continue. Especially, as certified staff are RIFed and will be eligible for rehire as vacancies become available.

In addition to this standard practice, it should also be noted that Alaskan schools of higher education do not have the capability of providing all the areas of teaching discipline needed.

Also, we believe the hiring of teachers should be based on competence as a teacher, skills, and teaching ability. Just certification alone cannot qualify a person for a job.

This piece of legislation can only hamper the ability of school districts to be able to hire the best candidate for the job.

March 9, 1987

We believe that a concerted effort has been made to hire Alaskans. This effort has been borne out of a willingness and a need by districts across Alaska. It has been done without legislation.

If we can provide you with any additional information, please feel free to contact my office.

Sincerely,


Stephen T. McPhetres
Executive Director

STM:clc

5-0558B
Cramer
3/9/87

Original sponsors: Josephson and Kelly

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 135 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting recruitment and employment of school
7 administrators and teachers."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) there are great numbers of qualified Alaskans who have
11 teaching certificates but cannot find employment in the state as teachers
12 or school administrators; and

13 (2) there is a trend in the state to reduce the number of class-
14 room teachers, which will increase the number of unemployed or underem-
15 ployed Alaskan teachers.

16 * Sec. 2. AS 14.20 is amended by adding a new section to read:

17 Sec. 14.20.115. EMPLOYMENT OF NONRESIDENT TEACHERS AND ADMINIS-
18 TRATORS. (a) An employer may not recruit or hire a teacher or admin-
19 istrator who is not a state resident unless the employer certifies to
20 the commissioner of education and the commissioner approves the re-
21 cruitment or hiring after finding that

22 (1) the employer has advertised the position in at least
23 one newspaper published in each judicial district in the state at
24 least once a week for four weeks;

25 (2) either no state residents have applied for the position
26 or if a state resident has applied for the position, the applicant
27 does not have the ^{certification and} particular skills necessary for that position; and

28 (3) the district has made a bona fide effort to fill the
29 position with a state resident.

1 (b) An employer may recruit and hire a teacher or administrator
2 who is a state resident but who is living outside the state. In
3 determining whether the person is a state resident, the employer may
4 consider evidence of receipt of a permanent fund dividend under
5 AS 43.23, registration to vote in this state, qualification for a
6 postsecondary loan under AS 14.43, or other reliable evidence.

7 (c) A resident teacher or administrator may bring suit to enjoin
8 the employer from hiring a nonresident and for damages if the teacher
9 or administrator

10 (1) applied for a position that has been offered to a
11 nonresident;

12 (2) is qualified to perform the particular duties of the
13 position; and

14 (3) was not offered the position.

15 (d) A bargaining organization may bring suit on behalf of a
16 resident teacher or administrator who is qualified to bring an indi-
17 vidual suit under (c) of this section.

18 (e) In a suit brought under (c) or (d) of this section, the
19 district has the burden of establishing compliance with this section.

20 * Sec. 3. AS 14.20.130 is amended to read:

21 Sec. 14.20.130. EMPLOYMENT OF TEACHERS AND ADMINISTRATORS. An
22 employer may, after January 1, issue contracts for the following
23 school year to employees regularly qualified in accordance with the
24 regulations of the department. The contract [FOR A SUPERINTENDENT MAY
25 BE FOR MORE THAN ONE SCHOOL YEAR BUT] may not exceed one [THREE CON-
26 SECUTIVE] school year [YEARS].

27 * Sec. 4. AS 14.20.115 is repealed June 30, 1992.
28
29