

SB

1 1 2



Alaska State Legislature

Senator Con Bunde
Senate District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee

4853517

Sponsor Statement

Senate Bill 112

“An Act imposing a tax on residents of regional educational attendance areas; and providing for an effective date.”

Currently, residents who live in organized, home-rule and first class cities all contribute some amount of local revenue for the operations and capital projects of their schools. This local contribution is an important aspect of education funding, both by expressing a real desire to contribute to the quality of education for Alaskan students and by aiding in the ever-increasing cost of providing an adequate education.

SB 112 provides an equal opportunity to all residents of Alaska to support education. Currently, there are 19 Regional Education Attendance Areas (REAs) in Alaska that do not have local taxes to provide funding for local schools. SB 112 imposes an annual tax on residents living in REAs that have no local tax authority to help support their schools. The Alaska Department of Revenue estimates residents living in unorganized boroughs earned an income of \$505 million dollars in fiscal year 2004. This bill allows schools and Alaska's children to benefit from this earned income.

SB 112 provides that the annual tax will be calculated by using the average dollar amount residents of organized boroughs contribute to local schools. This number will be used as a base for the contribution of residents 21 years and older who live in REAs.

SB 112 advances the State of Alaska twofold. First, the proposed tax would generate nearly 13 million dollars in the first year alone that would directly benefit Alaska's schools. Secondly, it would bring Alaska more in line with the ideals that the Constitution of the State is founded on. Article 1, Section 1, reads, in part "...that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and the State".

I urge your support and passage of SB 112.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 112
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Tax on REAA Residents RDU Treasury and Tax
 Component Tax Division
 Sponsor Senators Bunde and Wilken
 Requester (s) CRA Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	184.3	626.0	742.1	742.1	742.1	742.1
Travel	2.0	13.0	18.0	18.0	18.0	18.0
Contractual	95.4	116.1	119.3	119.3	119.3	119.3
Supplies	5.0	9.5	11.0	11.0	11.0	11.0
Equipment	56.0	36.0	12.0			
Land & Structures						
Grants & Claims						
Miscellaneous						
TC AL OPERATING	342.7	800.6	902.4	890.4	890.4	890.4

CAPITAL EXPENDITURES	147.0					
-----------------------------	-------	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	8,400.8	12,910.9	12,910.9	12,910.9	12,910.9
-------------------------------	-----	---------	----------	----------	----------	----------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	342.7	800.6	902.4	890.4	890.4	890.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	342.7	800.6	902.4	890.4	890.4	890.4

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	5	10	11	11	11	11
Part-time						
Temporary	2	2	2	2	2	2

ANALYSIS: (Attach a separate page if necessary)

(see attached)

Prepared by: Chuck Harlamert & Brett Fried Phone 465-2320
 Division: Tax Division Date/Time 3/3/2005
 Approved by: Tom Boutin Date 3/4/2005
 Agency: Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 112

ANALYSIS CONTINUATION

Cost Discussion

We project peak filing volume under the bill at approximately 16,000 returns annually comprised of 12,000 individual filings and 4,000 returns from an estimated 1,400 employers. This volume represents a 50 percent increase over our current levels although, on average, the returns will be simpler than existing returns. Our projected operating costs are largely driven by enforcement and collection activities appropriate for collecting tax from individuals and by recognition of the challenges associated with a tax based on the place of residence within the state. These estimates assume a number of key administrative tools and requirements will be added to the bill. Foremost among these assumed changes is a requirement to report a physical place of residence data on Permanent Fund dividend applications. This information will provide the department with critical information necessary to enforce the tax and significantly reduce personnel requirements.

Capital expenditures represent the cost of incorporating the program into existing information systems and facilitation of electronic filing.

Revenue

For the revenue estimate we used the total local required contribution for boroughs in FY 2005 of \$161,743,619 divided by the 2004 organized-borough adult (21+) population of 379,136 for CY 2004. The result is an estimated per-organized-borough-adult contribution of \$426.61. This bill imposes a tax "on each individual 21 years of age or older residing in a regional educational attendance area." However, eighteen first-class and home-rule cities fall within the regional educational attendance areas and are subject to the same school contribution requirement as the organized boroughs (AS 14.17.410(b)(2)). Consequently, we adjusted the estimated total number of adults residing in REAAs (49,964) by subtracting out the estimated number of adults who reside in first class and home rule cities (19,700) for an estimate of 30,264. The source of the contribution data is the Alaska Department of Education and Early Development and population estimates are from the Alaska Department of Labor and Workforce Development. No adjustment was made for changes in population or required contribution amounts over time.

The bill has an effective date of January 1, 2006. Taxpayers have until "November 1 of the calendar year following the year for which it is imposed" to file their taxes. In the first fiscal year we assume we will receive the employer withholding. Here we are assuming that all employers withhold the required amount for all employees that reside within the unorganized borough but outside of first class or home rule cities and remit this amount to the Department within the first six months of 2006. We used a 2003 Alaska Department of Labor estimate of workers over 21 years of age (19,692) that reside within the Unorganized Borough but outside of first-class or home rule cities to derive the FY 2006 revenue estimate. In FY 2007, we assume that we will receive returns from all adults who are subject to the tax but have not had their taxes paid by an employer.

We did not adjust for noncompliance with the tax. Identifying individuals who reside in the Unorganized Borough but outside of first class or home rule cities may be difficult because many work within organized areas or cities and often list their address on their PFD application as a Post Office Box. In addition, many of these areas are remote.

24-LS0505F
Kurtz
3/9/05

CS FOR SENATE BILL NO. 112()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS BUNDE, Wilken, Wagoner

A BILL

FOR AN ACT ENTITLED

1 "An Act imposing a tax on residents of regional educational attendance areas and
2 relating to permanent fund dividend applications; and providing for an effective date."

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

4 * Section 1. AS 43.23.015(b) is amended to read:

5 (b) The department shall prescribe and furnish an application form for
6 claiming a permanent fund dividend. The application must include notice of the
7 penalties provided for under AS 43.23.035 and contain a statement of eligibility and a
8 certification of residency. The department shall require applicants to supply a
9 physical address as well as a mailing address.

10 * Sec. 2. AS 43 is amended by adding a new chapter to read:

11 Chapter 45. Regional Educational Attendance Area Tax.

12 Sec. 43.45.011. Tax imposed. (a) There is imposed a tax each year on each
13 individual who is 21 years of age or older on January 1 of the tax year and resides in a
14 regional educational attendance area.

1 (b) The commissioner shall determine the amount of tax due each year from
2 each individual subject to the tax imposed under (a) of this section by dividing the
3 amount of the total local contributions to schools required of organized boroughs
4 under AS 14.17.410(b)(2) by the estimated population of individuals 21 years of age
5 and older in the organized boroughs.

6 **Sec. 43.45.021. Collection of tax.** (a) The tax imposed under AS 43.45.011
7 shall be paid before January 15 of the calendar year following the year for which it is
8 imposed. An individual who is subject to the tax shall file a return on a form
9 prescribed by the department, and, if the individual has not had the tax withheld from
10 the individual's salary or other compensation, shall remit the tax directly to the
11 department.

12 (b) If an employee resides in a regional educational attendance area, the
13 employee's employer shall deduct and send to the department one-half of the tax or 10
14 percent of the employee's gross compensation, whichever is less, on each regular
15 payroll until the full tax due under this chapter has been deducted. The department
16 shall prescribe a return form for the tax collected under this subsection.

17 (c) A deduction of the tax may not be made in the salary or other
18 compensation of an individual who provides proof to the employer that

19 (1) the tax imposed under AS 43.45.011 for that tax year has already
20 been withheld by another employer;

21 (2) the individual has already paid the tax directly to the department; or

22 (3) the individual was not 21 years of age or older on January 1 of the
23 tax year.

24 **Sec. 43.45.031. Record of withholding.** An employer who withholds tax
25 under AS 43.45.021 shall furnish to the employee upon request a record of the amount
26 of tax withheld from the employee. The department shall provide a form for that
27 purpose.

28 **Sec. 43.45.041. Refunds.** An individual who has paid more than the amount
29 of tax due for a calendar year may claim a refund under AS 43.05.275.

30 **Sec. 43.45.051. Disposition of tax proceeds.** (a) The tax collected under
31 AS 43.45.021 shall be deposited into the general fund and accounted for separately.

1
2
3
4
5
6

(b) The legislature may appropriate the estimated amounts to be collected and separately accounted for under (a) of this section for education.

(c) The deposit required and appropriation authorized by this section are not intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State of Alaska.

* Sec. 3. This Act takes effect January 1, 2006.

March 4, 2005

Senator Con Bunde
Alaska State Legislature
Alaska State Senate
State Capital
Juneau, Alaska 99801-1182

RE: Senate Bill 112

Dear Senator Bunde:

I am writing to comment on Senate Bill 112, which you sponsored. After reviewing the context of the proposed bill, I would like to let you know that I oppose this bill. First, I would like to explain that the State Legislature tried numerous times to enact a state tax. Nobody wanted a state tax and the answer was clear. However, it seems that every time the State Legislature is in session, they are doing everything to enact some type of a tax. I don't have the slightest idea, how enacting a tax of some sort compares with the State Constitution.

I understand the provisions of the State Constitution. In my synopsis of the bill, I could not see how it would put the rural areas in line with the constitution. I understand the paragraph, which you quoted as to say that all citizens who are residents of the state of Alaska are entitled to equal rights, opportunities and protection. This provision should speak for itself. Even under the US Bill of Rights, as United States citizens, we are also guaranteed these inalienable rights.

Let me elaborate more on what I am saying. I believe that every town, village or settlements in Alaska have the same rights guaranteed under different charters and bylaws. All these cities within the State of Alaska were all first class cities at one time. I also believe that the residents of these cities voted for the form of government that best meet their needs. That is why we have boroughs. For the bigger cities, I see no problem of them becoming whatever form of government they choose.

Afterall, the bigger cities have more people, developments, businesses and other infrastructures. They can impose taxes for the services they get. If these cities didn't want this form of government, they would have voted against it. The tax base in the rural areas is different than in the cities. The cities are more economically feasible, because there are more businesses in these areas. They can sustain the taxes. If all of the remote areas in the State of Alaska wanted a different form of government, believe me, they would have pursue this a long time ago. Maybe the way the State can address budget is to start some developments in the rural areas to offset the economy.

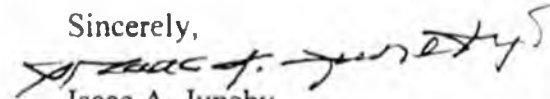
It would seem feasible for the legislature to put money into the rural areas for some prolong feasible development or business. Then it would be no problem to enact some legislation to this effect. As you stated, you believe that the State Constitution is our only option to make the rural areas more independent, then we should do some research and find a feasible means and then pour state some money into it. I think that would have more merit than imposing something, such as a tax that people don't want.

Why do I feel the way I do? It is because, under the constitution, the State of Alaska has the fiduciary responsibility for education, K-12. As I understand, this means that education should be the number one priority and the appropriations to justified this. It is the sole responsibility of the state to meet the needs of the students from K-12. If the state of Alaska does not do their fiduciary responsibilities for education, then why did they take it over from the federal government.

I am appalled at the way the legislature is going about this by either amending or enacting new laws to get at the people. Thank you for giving me the opportunity to comment. I am opposing this Senate Bill 112 as to the reasons I stated. As I read the bill, it is not right, to impose anything on people, that they do not want, which is not feasible and above all just plain failure.

If you have any questions or comments, please feel free to call me either at my (office) 907-547-2271 or (home) 907-547-3030.

Sincerely,



Isaac A. Juneby

Box 86

Eagle, Alaska 99738

C / C

File

All Member, Alaska State House of Representatives

All Members, Alaska State Senate

Conceptual Outline

Education Head Tax on Individuals 21+ Years of Age Residing in the Unorganized Borough Outside Home-Rule and First-Class Cities

Annual Determination of the Amount of the Tax.

Conceptually, it has been proposed that the amount of the education head tax would be determined annually by dividing the total local contributions required of borough school districts under AS 14.17.410(b)(2) by the total estimated population of individuals 21 years of age and older residing within organized boroughs.

Of course, the particular terms of the components of the tax formula would have to be carefully defined in the law. For example, the law might require the State Demographer to annually estimate the population of individuals 21 years of age and older residing within organized boroughs. That formal estimate might then be used in the calculation of the amount of tax to be levied annually.

Ballpark Estimate of the Amount of the Head Tax Based on Most Current Data Available.

For FY 2005, AS 14.17.410(b)(2) required a total of \$161,827,356 in local contributions from organized boroughs.

The Demographics Unit of the Alaska Department of Labor and Workforce Development, Research & Analysis, estimates that there were 574,377 individuals residing within the 16 organized boroughs in 2004. Further, the Demographics Unit also provided data that indicate, on average, approximately 66.0 percent of the population in those 16 organized boroughs was 21 years of age or older at the time of the 2000 census. Applying that percentage to the estimated 2004 population results in an estimate that 379,136 individuals 21 years of age and older resided within the 16 organized boroughs in 2004.

Using the foregoing figures, the FY 2005 local contributions in support of schools required of boroughs under AS 14.17.410(b)(2) was equivalent to \$426.83 for each of the estimated 379,136 individuals 21 years of age and older residing within the 16 organized boroughs in 2004.

Ballpark Estimate of the Amount of Revenue That Would be Generated by the Education Head Tax.

The aforementioned Demographics Unit estimates that 81,058 individuals resided within the unorganized borough in 2004. The Demographics Unit also provided data that indicate, on average, approximately 61.6 percent of the population in the unorganized borough was 21 years of age or older at the time of the 2000 census. Applying that percentage to the estimated 2004 population results in an estimate that 49,963 individuals 21 years of age and older resided within the unorganized borough in 2004.

There are 18 home-rule and first-class cities in the unorganized borough. Each of those cities is required to operate a city school district. Moreover, each city school district is subject to the same requirement as a borough school district for a local contribution under AS 14.17.410(b)(2). Thus, if the policy objectives of a head tax are strictly to (1) provide taxpayer equity statewide and (2) remove a major disincentive for borough incorporation among residents of the unorganized borough outside home-rule and first-class cities, then residents of those 18 home-rule and first-class cities should be exempt from the tax.

The Demographics Unit estimates that 28,510 individuals resided within the 18 home-rule and first-class cities in the unorganized borough in 2004. The Demographics Unit also provided data that indicate, on average, about 69.1 percent of the population within the 18 home-rule and first-class cities in the unorganized borough was 21 years of age or older at the time of the 2000 census. Applying that percentage to the estimated 2004 population, results in an estimate that 19,700 individuals 21 years of age and older resided within the 18 home-rule and first-class cities in the unorganized borough in 2004. If that figure is subtracted from the 49,963 individuals noted above, it is projected that 30,263 individuals 21 years of age and older resided within the unorganized borough outside of home-rule and first-class cities in 2004.

If each of those 30,263 individuals paid a head tax of \$426.83, it would generate \$12,917,156.

Selected 2000 Census Characteristics & 2004 Estimates for Boroughs/Census Areas

Organized Boroughs	April 1, 2000 Census				
	Total Population	Age 18+	% of Pop	Age 21+	% of Pop
Aleutians East	2,697	2,243	83.2	2,136	79.2
Anchorage	260,283	184,212	70.9	173,564	66.7
Bristol Bay	1,258	864	68.7	825	65.6
Denali	1,893	1,443	76.2	1,398	73.9
Fairbanks North Star	82,840	57,921	69.9	53,732	64.9
Haines	2,392	1,779	74.4	1,719	71.9
Juneau	30,711	22,294	72.6	21,153	68.9
Kenai Peninsula	49,691	34,832	70.1	33,091	66.6
Ketchikan Gateway	14,070	10,106	71.8	9,594	68.2
Kodiak Island	13,913	9,399	67.6	8,901	64.0
Lake & Peninsula	1,823	1,134	62.2	1,043	57.2
Mat-Su	59,322	40,212	67.8	37,938	64.0
North Slope	7,385	4,566	61.8	4,229	57.3
Northwest Arctic	7,208	4,218	58.5	3,881	53.8
Sitka	8,835	6,436	72.8	6,063	68.6
Yakutat	808	581	71.9	560	69.3

Unorganized Borough	April 1, 2000 Census				
	Total Population	Age 18+	% of Pop	Age 21+	% of Pop
Aleutians West	5465	4526	82.8	4374	80
Bethel	16006	9629	60.2	8909	55.7
Dillingham	4922	3045	61.9	2871	58.3
Nome	9196	5780	62.9	5405	58.8
Prince of Wales-Outer Ketchikan	6146	4243	69	4024	65.5
Skagway-Hoonah-Angoon	3436	2516	73.2	2397	69.8
Southeast Fairbanks	6174	4150	67.2	3925	63.6
Valdez-Cordova	10195	7176	70.4	6824	66.9
Wade Hampton	7028	3754	53.4	3416	48.6
Wrangell-Petersburg	6684	4699	70.3	4530	67.8
Yukon-Koyukuk	6551	4257	65	3972	60.6

Source: 2000 Census of Population & Housing, Demographic Profiles & Dept. of Labor & Workforce Development, Research & Analysis, Demographics Units

Selected 2000 Census Characteristics & 2004 Estimates for Home Rule & First Class Cities with less than

Home Rule & First Class Cities	April 1, 2000 Census				
	Total Population	Age 18+	% of Pop	Age 21+	% of Pop
Total Pelican	163	123	75.5	120	73.6

Tanana	308	201	65.3	185	60.1
Hydaburg	308	201	65.3	185	60.1
Skagway	862	685	79.5	671	77.8
St. Mary's	862	685	79.5	671	77.8
Klawock	854	597	69.9	562	65.8
Kake	710	470	66.2	452	63.7
Hoonah	860	609	70.8	562	65.3
Nenana	402	291	72.4	279	69.4
Galena	675	422	62.5	392	58.1

Selected 2000 Census Characteristics & 2004 Estimates for Home Rule & First Class Cities with more th

Home Rule & First Class Cities	April 1, 2000 Census				
	Total Population	Age 18+	% of Pop	Age 21+	% of Pop
Craig	1,397	952	68.1	907	64.9
Wrangell	2,308	1,630	70.6	1,574	68.2
Unalaska	4,283	3,659	85.4	3,549	82.9
Cordova	2,454	1,768	72.0	1,677	68.3
Dillingham	2,466	1,612	65.4	1,538	62.4
Petersburg	3,224	2,263	70.2	2,177	67.5
Nome	3,505	2,387	68.1	2,268	64.7
Valdez	4,036	2,838	70.3	2,702	66.9

DOLWD 2004
Population Estimate

	Projected 2004 Population Age 21+
2,629	2,088
277,498	185,091
1,096	719
1,842	1,361
84,979	55,151
2,245	1,614
30,966	21,336
50,980	33,952
13,030	8,886
13,466	8,618
1,603	917
70,148	44,895
7,104	4,071
7,306	3,931
8,805	6,040
680	471
574,377	379,136

DOLWD 2004
Population Estimate

5,239	4,191
16,853	9,387
4,845	2,825
9,403	5,529
5,548	3,634
3,101	2,164
6,192	3,938
9,959	6,663
7,394	3,593
6,247	4,235
6,277	3,804
81,058	49,863

in 250 Resident Students Enrolled
DOLWD 2004
Population Estimate

304	78
304	1
870	5
870	5
848	558
663	422
841	549
394	273
717	417
5,929	4,025

an 250 Resident Students Enrolled

DOLWD 2004

Population Estimate

1,127	731
2,023	1,380
4,366	3,619
2,298	1,570
2,422	1,511
3,123	2,108
3,473	2,247
3,749	2,508
22,581	15,675

Appendix B

Synopsis of *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391 (Alaska 1997)

In 1997, the Alaska Supreme Court ruled on an appeal over whether the divergent funding scheme violated the equal-protection clause under Alaska's Constitution. *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391 (Alaska 1997).

The ruling, written by Justice Compton, followed a number of prior cases by employing "a sliding scale approach to determine the level of scrutiny that is required in reviewing a challenged statute." *Id.*, 396. That approach involved three steps.

The initial step was to determine "what weight should be afforded the constitutional interest impaired by the challenged enactment." *Id.* The Court noted that this first step was "the most important variable in fixing the appropriate level of review." *Id.*

In undertaking that first step, the Court followed its 1985 ruling on the constitutionality of the State oil and gas corporation income tax in *Atlantic Richfield Co. v. State*, 705 P.2d 418, 437 (Alaska 1985), holding that " '[t]he interest involved here, freedom from disparate taxation, lies at the low end of the continuum of interests protected by the equal protection clause.' "¹ *Matanuska-Susitna*, 398.

The second step in determining the level of scrutiny to be given by the Court was an examination "of the purposes served by a challenged statute." *Id.*, 396.

¹ This holding that "[t]he interest involved here, freedom from disparate taxation, lies at the low end of the continuum of interests protected by the equal protection clause." was from *Atlantic Richfield* in which the statement was followed by footnote 55. That footnote stated, "See *Regan v. Taxation with Representation of Washington*, 461 U.S. 540, 547, 103 S.Ct. 1997, 2002, 76 L.Ed.2d 129, 138 (1983). See generally P. Hartman, *supra* note 8, § 3.1, at 131-38."

In applying the second step in *Atlantic Richfield*, the Court addressed the purpose of the statute in terms of why oil companies were treated differently than other corporations with respect to taxation.

Regarding the statute's purpose, the oil companies claim that greed and other improper motives led the Alaska legislature to enact the Oil Tax. The state, however, has adequately established that a primary purpose of the Oil Tax was to rectify a perceived underestimation of oil production and pipeline transportation income that occurred with the application of an apportionment formula. The goal was to insure that the tax rate assessed to the oil companies on this income was commensurate with the rate applicable to the income of other corporations in the state. Ch. 110, § 1, SLA 1978. Taxing the oil companies differently to rectify a perceived inequity was the legislature's attempt to prevent disparate treatment; thus, the validity of this purpose in light of the companies' interest is established.

Atlantic Richfield, 437.

In terms of the second step undertaken with respect to the disparate taxation issue in *Matanuska-Susitna*, the Court held that:

Because the individual plaintiffs' interests affected lie "at the low end of the continuum," we need only examine whether the state's objectives were legitimate. . . . The stated purpose of the public school foundation program that provides for operating cost aid is "to assure an equitable level of educational opportunities for those in attendance in the public schools of the state." AS 14.17.220. This purpose easily meets the required standard of legitimacy.

Matanuska-Susitna, at 399.

The LBC perceives a critical distinction between the two cases in terms of the second step. In *Atlantic Richfield*, the Court clearly established that the purpose of the challenged statute had a direct bearing on the different tax treatment accorded oil companies as compared to other corporations. The Court noted that the "primary purpose" of the statute "was to rectify a perceived underestimation of oil production and pipeline transportation income." Moreover, the Court observed that the goal of the statute "was to insure that the tax rate assessed to the oil companies on this income was commensurate with the

rate applicable to the income of other corporations in the state." Indeed, the Court even stated that "[t]axing the oil companies differently to rectify a perceived inequity was the legislature's attempt to prevent disparate treatment."

However, the second step taken in *Matanuska-Susitna*, offers no explanation as to how the imposition of a tax burden on one group of Alaskans (i.e., citizens of boroughs and city school districts) but not on others (i.e., citizens of REAAs and FTREAAAs) serves the purpose of the statute (i.e., "to assure an equitable level of educational opportunities for those in attendance in the public schools of the state." ²). Instead, the Court simply declared that the statement of purpose covering the entire chapter in AS 14.17 "easily meets the required standard of legitimacy." Again, the stated purpose of AS 14.17 was "to assure an equitable level of educational opportunities for those in attendance in the public schools of the state." The LBC does not perceive how disparate treatment of Alaskans with respect to taxation promotes "an equitable level of educational opportunities."

It is particularly puzzling when juxtaposed with the *Regan* case cited in *Atlantic Richfield* (see n. 6 above) on which the Court relied in its analysis. In *Regan* the U.S. Supreme Court stated:

The broad discretion as to classification possessed by a legislature in the field of taxation has long been recognized ... The passage of time has only served to underscore the wisdom of that recognition of the large area of discretion which is needed by a legislature in formulating sound tax policies. Traditionally classification has been a device for fitting tax programs to local needs and usages in order to achieve an equitable distribution of the tax burden. It has, because of this, been pointed out that in taxation, even more than in other fields, legislatures possess the greatest freedom in classification. Since the members of a legislature necessarily enjoy a familiarity with local conditions which this Court cannot have, **the**

²It should be noted that in 1998, AS 14.17.010 - 14.17.250, including this "purpose" statement, were repealed. New provisions were enacted and are codified as AS 14.17.300 - 14.17.490. The statement of the legislative purpose of the new provisions is substantially similar to the one examined by the Court. The new statement is set out in sec. 1, ch. 83 Temporary and Special Acts.

presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and classes. The burden is on the one attacking the legislative arrangement to negate every conceivable basis which might support it." *Madden v. Kentucky*, 309 U.S. 83, 87-88, 60 S.Ct. 406, 407-408, 84 L.Ed. 590 (1940) (footnotes omitted).

Regan, at 547 (emphasis added).

It is certainly arguable that requiring a local contribution for education only by boroughs and home-rule and first-class cities in the unorganized borough and none by REAAs and FTREAAAs is a type of classification. Given the increasing burden that the "local contribution" requirement (i.e., tax) has placed on boroughs and cities that operate schools – more than \$800 million over the past five years alone – it is further arguable that it has become an oppressive discrimination that should be remedied.

In terms of the final step in *Matanuska-Susitna*, the Court again followed rulings in several previous cases. The Court stated:

Because the individual interests affected lie "at the low end of the sliding scale," we need only find a "fair and substantial relationship" between means and ends. . . .

. . . REAAs are constitutionally unable to tax. Alaska Const. Art. X, § 2. The State argues that "[t]he statutory treatment of municipal districts and REAAs is warranted based on the constitutional differences between these two entities." The individual plaintiffs argue that the State itself could tax REAAs for REAA school expenses, since "[t]he legislature . . . may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough." Alaska Const. Art. X, § 6. They argue that the availability of this option of directly taxing REAAs for REAA school purposes undermines the State's justification for the disparate treatment inherent in the means chosen.

The plaintiffs demand more of the State than equal protection requires, however.

Id., at 399.

The same conclusions regarding the *Regan* analysis applies equally here.

While the Court determined in *Matanuska-Susitna* that concerns over perceived inequities regarding taxation did not violate the equal-protection clause under Alaska's Constitution, concerns over the issue remain. As noted by Justices Matthews and Rabinowitz in their concurring statements in *Matanuska-Susitna*, the proper venue for resolution of the issue is the Alaska Legislature. Justices Matthews and Rabinowitz noted that "any available remedy must be pursued through majoritarian processes rather than through the courts." *Id.*, at 406.

It is noteworthy that no fewer than nine proposals were introduced in the Alaska Legislature over the past decade to address the issue of equity. For example Senate Bill No. 30 in the 20th Legislature included a finding that "the rights, opportunities, and obligations of borough residents are not equal to those of residents in the unorganized borough, particularly in respect to education, taxation, and land use regulation, and that this is not in keeping with art. I, sec. 1, of the Constitution of the State of Alaska, that states in part, ' . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.'" SB 30 provided for the levy of a six-mill property tax levy within each of several unorganized boroughs (excluding the territory within home-rule and first-class cities) established along the model boundaries identified by the LBC.³

While not addressed by the Court in *Matanuska-Susitna*, adding to the concerns over inequity is the fact that the overwhelming majority of those subject to the local contribution requirement live in districts that were incorporated by a 1963 legislative mandate to incorporate eight specific areas of Alaska. More than 95 percent of borough residents live in boroughs that were mandated to incorporate under the 1963 Mandatory Borough Act. The Legislature has made no similar enactment subsequent to 1963 to ensure that residents of other areas of the unorganized borough that possess the fiscal and administrative capacity to operate boroughs incorporate boroughs.

³Other bills addressing the issue of equity include HB 470 in the 23rd Legislature; HB 2, in the 22nd Legislature; SB 142, SB 146, SB 337, and HB 205 in the 20th Legislature; and SB 280 and HB 250 in the 19th Legislature.

troubled state of affairs regarding incorporation of boroughs is viewed by some as the product of deferring difficult decisions over challenging issues. If progress is going to be made in that regard, those challenging issues must be addressed.

Senator Sturgulewski remarked in that



regard to the LBC at its January 5, 2005, meeting that ". . . about the controversy, it's never easy, but you're also in a position as members of this constitutionally-mandated commission

to take the overview and to really identify those areas that need to be taken care of."

1. Tax the Unorganized Borough.

The previously cited Task Force of Governmental Roles established by the 1991 Legislature took the position that, "All citizens should bear a fair portion of the cost of basic health, education and public protection services." *Task Force Final Report*, p. 2. Moreover, the Final Report of the Task Force stated:

Task Force members stopped short of endorsing mandatory borough formation legislation but agreed that continued formation of additional borough governments should be a primary state policy goal.

Experience has shown establishment of boroughs to be primarily a function of the economic self-interest of residents. While local control is an incentive, it is generally outweighed by residents' aversion to paying local taxes for services (e.g., education in [regional educational attendance areas]) that are currently provided by the state at no cost.

The Task Force position is that the inequity in tax burden between residents of municipalities and residents of the unorganized borough is better addressed via state fiscal policies (taxes, shared revenue programs, education foundation funding and municipal grants) than by imposing areawide government on people who do not want it.

Id., at 15, emphasis added.

An example of such aversion is readily apparent in a bulletin furnished to LBC staff in 2004 and set out on page 117. It is noteworthy that the bulletin opposes borough formation but at the same time acknowledges that the economy of the area (Delta/Greely) is prosperous. A sound economy is one

"All citizens should bear a fair portion of the cost of basic health, education and public protection services."

1991 Task Force on Governmental Roles

of the key reasons supporting borough formation. This issue is well-covered in *Borough Government in Alaska*:

it was decided that, although voluntary incorporation would be preferable, organized boroughs could be created without the approval of the people within the area. The rationale behind this position of unilateral state actions was that the borough:

. . . is more than just a unit of local government. It is also a unit for carrying out what otherwise got carried out as state functions; and **when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own government.**

Id., at 61, emphasis added, footnotes omitted.


A 1984 study by the University of Alaska concluded that the prospect of taxes was one of the foremost disincentives to borough formation. See *Alaska's Urban and Rural Governments*, p. 43.

The State could eliminate that fundamental deterrent to borough formation by imposing an appropriate tax burden on the unorganized borough. Four options are explored below.

(a) Property Taxes.

Among the various tax options, the LBC anticipates that residents of the unorganized borough might least prefer property taxes, because all residents would not uniformly share the burden of such. That concern, however, exists with respect to property taxes levied by any municipal government in Alaska. (See AS 29.45.030 for mandatory exemptions from municipal property taxes.) Thus, the anticipated concern is not unique to the unorganized borough.

Notwithstanding its anticipated unpopularity, imposition of a property tax on the unorganized borough would aid the Legislature and executive branch in planning. (See AS 14.17.510(a)). Moreover, establishment of property tax rolls for the unorganized borough would facilitate transition of areas to



**WILL YOU SURRENDER YOUR FREEDOM?
or STAND FAST in your LIBERTY?**
*Is there freedom in a society where one is
held hostage by PROPERTY TAX?*

Anyone could have hardship and loose their property. It could be you!
Most boroughs result in property taxation which makes you a permanent renter.

Откажитесь ли Вы от Вашей Свободы? Или Постоите за Свою Свободу?
Есть ли свобода в обществе где каждый является заложником таксы на землю?
Любого могут постичь финансовые проблемы и потерять свою землю. Это может случится с Тобой!
Большинство областей (boroughs) принуждают земляную таксу и делают Тобя вечным квартирантом

HISTORY SPEAKS FOR ITSELF.
Government always grows and reaches deeper into your pockets. Do not believe
otherwise. Have you ever seen property taxes decrease? A resource tax could hinder business growth
you now have a prosperous economy without oppressive government interference. Keep it!

**DID YOU KNOW THE ALASKA CONSTITUTION PROVIDES FOR THE UNORGANIZED
BOROUGH TO CONTINUE INDEFINITELY?**

Any mandatory borough legislation would be ruled as unconstitutional. This is the opinion shared by many
great Alaskans including one of the writers of the Constitution, former Lt. Governor, Jack Coghé. He said
"nobody, not the Legislature, not the Governor, not the Local Boundary Commission... nobody can force local
government on people without their consent. It's all in our Constitution, Article IX, Sec. 2, Source of Government."

**Will you abandon apathy and join the effort to educate Delta and strengthen
the statewide WOLFPAC (Watching Over the Last Frontier Preserving Alaska's
Constitution) movement? For more information call 895-4647, 895-5076 or 895-5011.
www.watchingovertheiastrontier.org**

2004 WOLFPAC bulletin opposing borough formation

organized status, since local contributions required of boroughs under AS 14.17.410(b)(2) are based on the taxable value of property.

Given the general lack of property tax rolls for the unorganized borough, the LBC recognizes that an *ad valorem* property tax on the unorganized bor-

ough would require an inaugural investment.⁵¹ To pay the cost of establishing the tax, the State could use what would be a relatively small portion of its windfall from recent higher oil prices. Any cost could be recovered through future tax levies on the unorganized borough.

The LBC notes that a property tax on territory, including that which today is the entire unorganized borough, has a precedent. The Territory of Alaska established a territory-wide property tax fifty-six years ago. As noted below, that tax was specifically intended to address the very issue of tax inequity:

⁵¹The office of the State Assessor, currently staffed by two individuals, has spent considerable time since August 2004 estimating the value of taxable property in the Upper Tanana Basin portion of the unorganized borough (Delta Greely REAA and Alaska Gateway REAA). The effort is designed to give local residents (including those developing a petition for borough incorporation) and State policy makers an up-to-date estimate of the region's tax base. The project does not, however, involve the development of formal tax rolls. The State Assessor projects that the field work will be completed by the end of January 2005 and that the property value estimates will be prepared by mid-February. To undertake similar efforts throughout the remainder of the unorganized borough would require additional resources for the office of the State Assessor.



The 1949 Territorial Legislature eliminated inequities in taxes for schools through a Territory-wide property tax.

Under Territorial law, those who lived in a city or school district were required in all instances to provide a substantial portion of the cost of education. . . .

The Territorial Legislature of 1949, which was controlled by the Democratic Party and operated under the influence of a strong Democratic governor, Ernest Gruening (now United States Senator), made an initial attempt to provide some relief from these inequities by enacting a Territory-wide general property tax. The proceeds were refunded to the local entity if collected in an incorporated city, school district, or public utility district. If the area was not incorporated, the proceeds went into the treasury of the Territory. The merits of a property tax are not germane to this chapter. What is pertinent

is that the measure was an attempt to equalize the tax burden by requiring those in the unincorporated areas to contribute something to the cost of the services received. This reform, however, was short-lived.

The matter of a Territorial tax became a partisan political issue. The election of a Republican President of the United States and the appointment of a Republican governor for the Territory of Alaska resulted in the repeal of the property tax act by the 1953 Republican-controlled Territorial Legislature. There were substantial mining and fishing interests which were greatly opposed to the tax; as were the homesteaders, trappers, Indians, and Eskimos. This combination firmly re-established the tax inequity

favoring those who were getting free services from the Territory by refusing and failing to incorporate. It appeared that to equalize taxes in Alaska one would need – and perhaps must create – a vested interest to protect the tax reform and combat the interests which benefited financially from the inequity.

Metropolitan Experiment, pp. 87 - 88.

State Legislators have introduced a number of proposals to impose property taxes on the unorganized borough in the past. None, however, has passed. A recent example of such a proposal is House Bill No. 2 introduced in the 22nd Legislature, which proposed a 10-mill property tax on the unorganized borough outside home-rule and first-class cities.

The provision in House Bill No. 2 exempting home-rule and first-class cities in the unorganized borough presumably stemmed from the fact that those cities have most of the same duties as organized boroughs (education, platting, planning, and land use regulation). While justified if the policy debate is limited strictly to the issue of equity, such an exemption eliminates the incentive for residents of those cities to become part of a borough government.



House Bill No. 2, 22nd
Legislature

If the Legislature considers a property tax levy on the unorganized borough in the future, the LBC urges prudent consideration of alternatives to an across-the-board exemption for home-rule and first-class cities in the unorganized borough. If inclined to recognize the local responsibilities of home-rule and first-class cities in the unorganized borough but retain some degree of incentive, the Legislature could provide for a *partial* rebate of taxes to home-rule and first-class cities. Given the public policy set long ago by the Legislature in AS 14.12.025 to promote new school districts with at least 250 students, the Legislature might consider limiting any partial rebate to just those home-rule or first-class cities with at least 250 resident students.⁵²

⁵²Ten of the eighteen home-rule and first-class cities in the unorganized borough have fewer than 250 resident students.

(b) Sales Taxes.

The 1991 Task Force on Governmental Roles offered the following insights regarding the prospect of a sales tax:

The sales tax is not particularly costly or difficult for the state to administer, hence its popularity among states. Since it is collected from sellers at the retail level, there are fewer returns to deal with than in the case of an income tax. Many states with both state and local general sale taxes gain administrative efficiency by piggybacking local tax collection onto the state tax system. The main advantages of a sales tax are that it can be designed so that revenue grows in proportion with the economy, it is relatively popular with voters (probably because it is paid in small amounts), and it captures revenues from nonresidents. The main disadvantages are its regressivity [sic] and the fact that it is not deductible from federal income tax.

Task Force members brought up additional considerations. To be efficiently collected by the state, a sales tax would have to be uniform with respect to exemptions. This would eliminate the local option to apply the sales tax narrowly (e.g., only on fish sales, hotel/motel use, tobacco sales, etc.) or broadly. A state-



wide sales tax would infringe on municipalities' ability to express social policy with respect to taxation of food, residential rent, home heating oil, etc. Municipal officials might also be leery of piggybacking onto a state sales tax for fear that the state would gradually take over the entire sales tax and leave little or nothing for municipalities.

Task Force Final Report, pp. 41-42.

The LBC is aware that the Alaska Municipal League opposes the prospect of a statewide sales tax:

The League vigorously defends sales tax as a local option to maintain control over this key

local revenue source. Imposition of a State sales tax would jeopardize local economics and cause a reduction in municipal sales tax.

Alaska Municipal League, *2005 Policy Statement*, Part I-A-1-e.

The Alaska Municipal League might oppose a sales tax on the unorganized borough as well. The LBC notes, however, that such a tax would be the equivalent of a sales tax imposed by a borough assembly, since it would be enacted by the Legislature under its authority to act as the assembly of the unorganized borough.

The preceding comments by the LBC regarding the prospect of exempting home-rule and first-class cities in the unorganized borough from a property tax apply here as well. In the Commission's view, there is yet another significant reason for not exempting home-rule and first-class cities from a sales tax on the unorganized borough. Unorganized borough residents who live in areas adjoining home-rule and first-class cities in the unorganized borough, but shop in those cities, would effectively receive the exemption. For example, an estimated 162 individuals reside in the unincorporated area adjoining the boundaries of the home-rule City of Petersburg. *See: Petition for Annexation to the City of Petersburg*, October 2004, p. 8.

(c) Employment Tax.

As is the case with property taxes, legislators have previously introduced measures to levy employment taxes on the unorganized borough. For example, Senate Bill No. 146, introduced in the 20th Legislature, proposed to levy an employment tax upon each employee who receives compensation for services performed in the unorganized borough outside of a home-rule or first-class city. Earnings from business activities of self-employed individuals conducted in the unorganized borough outside of a home-rule or first-class city would also have been subject to the tax.

The Commission's views regarding the prospect of exempting home-rule and first-class cities in the unorganized borough from a property tax or sales tax apply here as well. Residents of the unorganized borough who live in unincorporated areas adjoining home-rule and first-class cities in the unorganized borough but are employed in those cities would have, effectively, received the exemption. As noted above, for example, an estimated 162 individuals reside in the unincorporated area adjoining the boundaries of the home-rule City of Petersburg.

A head tax on the unorganized borough is equivalent to the school tax paid by residents of organized boroughs would generate between \$15 million and \$23 million annually, depending on policy decisions regarding applicability of the tax.

(d) Head Tax.

Imposition of a uniform tax on residents of the unorganized borough is another option. One of the obvious advantages of such a tax is its simplicity.

As was previously discussed with regard to other prospective taxes on the unorganized borough, a policy determination would be necessary to decide who would be subject to the tax. If the purpose of the tax were limited to equity and fiscal considerations, the tax might apply only to those residents of the unorganized borough outside of home-rule and first-class cities. If, in addition to equity and fiscal considerations, the tax policy were aimed at promoting consolidation of small school districts (those with fewer than 250 resident students per AS 14.12.025), the tax might also apply to residents of the ten home-rule and first-class cities that serve fewer than 250 resident students. If the tax

policy were also intended to promote borough incorporation, the tax might apply to all residents of the unorganized borough.

In FY 2005, organized boroughs were compelled by AS 14.17.410(b)(2)

to pay \$161,827,356 in "local contributions" for schools. That is equivalent to \$285.24 for each of the 567,343 residents of organized boroughs. An equivalent tax on each of the 52,618 individuals residing in the unorganized borough outside of home-rule and first-class cities would generate \$15,008,758. If the 5,869 residents of city school districts with fewer than 250 resident students were also subject to the tax, it would increase the annual revenue by \$1,674,074. If the tax were applied to all residents of the unorganized borough, it would generate an additional \$6,557,097. Thus, a head tax on the unorganized borough that is equivalent to the school tax paid by residents of organized boroughs would generate between \$15 million and \$23 million annually, depending on policy decisions regarding applicability of the tax.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.431 shall be treated as taxable property under this section.

3. Concerns Over the Required Local Contribution Provision.

Concerns have long been expressed by some that the "required local contribution" (i.e., the "State tax" selectively levied on organized boroughs and cities that operate school districts) is problematic in two fundamental respects. The first is that it is inequitable – perhaps even unconstitutional. The second is that it amounts to a breach of promise on the part of the State of Alaska.

(a) Concerns Over Inequity.

The concerns over inequity stem from the fact that the provision for the required local contribution applies only to a particular class of Alaskans (i.e., residents of boroughs and residents of home-rule and first-class cities in the unorganized borough) and that no rational basis exists (e.g., fiscal capacity to support schools) to distinguish that class from the remainder of Alaskans (i.e., residents of REAAs and FTREAs).

In 1997, the Alaska Supreme Court ruled on an appeal over whether the divergent funding scheme violated the equal-protection clause under Alaska's Constitution. *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391 (Alaska 1997). In large part because the Court held that "freedom from disparate taxation, lies at the low end of the continuum of interests protected by the equal protection clause," the Court concluded that there was no violation of the equal protection clause. A synopsis of the *Matanuska-Susitna* case is provided in this report as Appendix B. Readers are encouraged to review the synopsis when considering the issue of equity.

The Court ruling has certainly not curtailed concerns over the issue. The conclusion by the 1991 Task Force on Governmental Roles that such inequity "is a perennial area of conflict in Alaska politics is as true today as it was then.

In their concurring statements in *Matanuska-Susitna*, Justices Matthews and Rabinowitz indicated that the proper venue for resolution of the issue is the Alaska Legislature. Justices Matthews and Rabinowitz noted that "any available remedy must be pursued through majoritarian processes rather than through the courts." *Id.*, at 406.

It is noteworthy that no fewer than nine proposals were introduced in the Alaska Legislature over the past decade to address the issue of equity. For example, Senate Bill No. 30 in the 20th Legislature included a finding that:

[T]he rights, opportunities, and obligations of borough residents are not equal to those of residents in the unorganized borough, particularly in respect to education, taxation, and land use regulation, and that this is not in keeping with art. I, sec. 1, of the Constitution of the State of Alaska, that states in part, . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State'.

SB 30 provided for the levy of a six-mill property tax levy within each of several unorganized boroughs (excluding the territory within home-rule and first-class cities) established along the model borough boundaries identified by the LBC.⁶⁹



Members of the 1963 Legislature.

While not addressed by the Court in *Matanuska-Susitna*, adding to the concerns over inequity is the fact that the overwhelming majority of those subject to the local contribution requirement live in districts that were incorporated by the 1963 legislative mandate to incorporate eight specific areas of Alaska. More than 95 percent of borough residents live in boroughs that were mandated to incorporate under the 1963 Mandatory Borough Act. The Legislature has made no similar enactment subsequent to 1963 to ensure that residents of other areas of the unorganized borough that possess the fiscal and administrative capacity to operate boroughs incorporate boroughs.

⁶⁹Other bills addressing the issue of equity include HB 470 in the 23rd Legislature; HB 2, in the 22nd Legislature; SB 142, SB 146, SB 337, and HB 205 in the 20th Legislature; and SB 280 and HB 250 in the 19th Legislature.

Suzanne Mullen

From: Terry and Krystie Depue [eagle123@gci.net]

Sent: Tuesday, March 08, 2005 9:43 PM

To: Sen. Ben Stevens; Sen. Gary Stevens; Sen. Johnny Ellis; Sen. Con Bunde; Sen. Kim Elton; Sen. Charlie Huggins; Sen. John Cowdery; Sen. Hollis French; Sen. Albert Kookesh; Sen. Bette Davis; Sen. Lyda Green; Sen. Donny Olson; Sen. Gene Therriault; Sen. Fred Dyson; Sen. Gretchen Guess; Sen. Ralph Seekins; Sen. Tom Wagoner; Sen. Lyman Hoffman; Sen. Bert Stedman; Sen. Gary Wilken

Subject: Senate Bill 112 - REAA tax

Dear Senator,

I am writing to urge you to vote against SB 112 – REAA Tax.

*Spoke
the*
I live in a rural community and am continually baffled by the idea that we do not help pay our "fair share" for education and other programs simply because we are not in an organized borough. Although I live in Eagle, I do 90 % of my grocery, clothes, building supplies and other shopping in either Anchorage or Fairbanks. The \$1000's that I spend each year in Anchorage or Fairbanks helps the economy of both communities and it is people who live in the bush communities that bring extra funds into an area, but do not use the services (fire, medical, trash etc).

The second reason I urge you not to vote in favor of the bill – is simply this – we need to cut spending, not find new ways to bring in money – cut something out to help fund education. Let's be reasonable and cut a few things rather than put extra burdens on individuals who have chosen to live more simply and who cannot afford the additional tax.

Krystie DePue
P.O. Box 123
Eagle, AK 99738
9075472306

Suzanne Mullen

From: Terry and Krystie Depue [eagle123@gci.net]

Sent: Tuesday, March 08, 2005 10:39 PM

To: Sen. Ben Stevens; Sen. Ben Stevens; Sen. Gary Stevens; Sen. Johnny Ellis; Sen. Con Bunde; Sen. Kim Elton; Sen. Charlie Huggins; Sen. John Cowdery; Sen. Hollis French; Sen. Albert Kookesh; Sen. Bettyo Davis; Sen. Lyda Green; Sen. Donny Olson; Sen. Gene Therriault; Sen. Fred Dyson; Sen. Gretchen Guess; Sen. Ralph Seekins; Sen. Tom Wagoner; Sen. Lyman Hoffman; Sen. Bert Stedman; Sen. Gary Wilken

Subject: Senate Bill 112 - REAA tax

Dear Senator,

Please vote against SB112, which taxes bush residents. This tax will cause many people to not be able to live in the bush of Alaska as they traditionally have. We have a very low income, as do many people in the bush because that is the only way to make it in our communities. We don't take in much money but can afford to live here because we do not spend much either. We work hard for the minimal income that we make and do not take any assistance from the State for our income, we are not on welfare. Most taxes are based on income so those that do not have do not get taxed. A blanket tax unfairly hits the low income households the hardest and is the worst type of tax. Frankly, I do not know where we would get the money to pay this tax. Life here is hard enough without adding a flat state tax.

Thank you for your consideration. Please do not make Alaska another tax burdened state.

Sincerely,

Terry J. Depue

P.O. Box 123

Eagle, AK 99738

Barry Westphal

From: "Barry Westphal" <bweagle@aptalaska.net>
To: <frank.murkowski@gov.state.ak.us>
Cc: <Senator Albert Kookesh@legis.state.ak.us>; <Senator Ben Stevens@legis.state.ak.us>; <Senator Gary Stevens@legis.state.ak.us>; <Senator Johnny Ellis@legis.state.ak.us>; <Senator Lyda Green@legis.state.ak.us>; <Senator Gary Wilken@legis.state.ak.us>
Sent: Tuesday, March 08, 2005 11:56 AM
Subject: SB112

car leaders.

SB112 is being heard Wednesday by the Community & Regional Affairs Committee. Please take the time to consider the circumstances of rural dwelling people. Most cannot afford to pay \$426 per year. For a couple, that means \$852 per year. Most of these people live on a very limited income. Their lifestyle consists of using subsistence means to eat and put a roof over their head. They cut wood to heat their cabins, carry water to drink and wash, and go to the outhouse when nature calls. What will it mean to them to have to pay such a tax? Will it be clothes on their back? The few tangibles they may be able to buy and have shipped to them? Maybe just their kid's Christmas. Not everyone in the rural areas are as such but many are. Many have retired here and live off limited incomes.

To relieve a "head tax" is unfair and will put a huge burden on many. If we must be taxed in a state that has huge income from oil and mineral revenues, there must be a reasonable way to do this. Maybe based on property or income. Still, just what is the reasoning?

When our school was built here, the city of Eagle objected to it on the grounds that one day the state would want to tax us some way to pay for it and we would never be able to afford such taxation. We were assured this would never be the case but it seems that day has come if SB112 is passed.

In the rural world, we don't have running water unless we drill a well. We don't have sewers unless we put in a septic stem. We don't have paved roads. We don't have the services that are paid for by local taxes. Our community is run on volunteers.

This money would in most likelihood not be spent to meet the unmet needs in our school. Our kids do have running water at the school but they can't drink it because of the plumbing. Their drinking water has to be brought from the community well and often run out. The boiler system is faulty and there is often no hot water for washing dishes or taking showers or washing towels. Our funds are annually cut past the point of meeting the children's basic needs. This past year, it was a choice of buying some much needed books or keep our teacher aids. We compromised, cut aid time and bought a few books. We only have two teachers for k-12. Yet, in other schools, they even have athletic teams that can travel to other schools for games. We have a food program in our school now that never has the supplies that it needs or the equipment. Our district buys us equipment that we can't even use because the kitchen isn't wired for it. Sports in our school means someone is volunteering to organize it and supervise. There are no special ed teachers but we have kids with special needs. We do the best we can.

It could go on and on but I hope you are understanding our situation here a little better. We feel as if we are being betrayed by those who would impose such a tax on us. Will you bring some paying jobs so we can earn the \$426 per person, per year?

Please consider the minority here. We seem to be at your mercy.

BARRY -

3/8/2005

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 9, 2005

SUBJECT: CSSB 112 () (Work Order No. 24-LS0505F)

TO: Senator Con Bunde
Attn: Lauren Wickersham

FROM: Kathryn L. Kurtz *KLK*
Legislative Counsel

Enclosed is the draft bill you requested.

You asked about whether the bill could be interpreted to impose the tax on individuals in cities with school districts. The bill imposes a tax on individuals residing in regional educational attendance areas. By definition, a regional educational attendance area (REAA) is an educational service area in the unorganized borough containing one or more public schools under the management and control of a single school board. AS 14.60.010. So, an REAA is a type of school district. See AS 14.30.350(8), 14.30.720(2), AS 29.60.599(7). Boroughs are school districts, AS 29.35.160, as are home rule and first class cities located outside organized boroughs. AS 29.35.260(b). Second class cities located outside an organized borough, however, are NOT school districts, AS 29.35.260(b), and so are within REAAs. So, the tax in the enclosed bill would fall on residents of second class cities in the unorganized borough, but not on residents of home rule and first class cities, as those would not be within an REAA.

Also, I have not made any changes in the bill relating to the appeals process; this means that appeals would proceed under the statutory default mechanism, which I believe is the same as for permanent fund dividend appeals.

KLK:m .d
05-168.med

Enclosure

Fairbanks Daily News-Miner

Head tax to pay for schools proposed for unorganized areas

By DANIEL RICE

Thursday, March 10, 2005 - News-Miner Juneau Bureau

JUNEAU--Residents of unorganized areas have so far reacted with strong opposition to forced borough formation and its ensuing property taxes. But now one state senator has plans for collecting taxes from those residents to pay for schools even if they don't incorporate into a borough.

Sen. Con Bunde, R-Anchorage, is floating a bill to charge a head tax on all people 21 or older who live outside an organized borough, a move he estimated could generate about \$12 million to \$13 million extra for education every year.

Residents would be required to pay regardless of whether they have a job, with the exact figure calculated based on the average amount that residents of organized boroughs contribute to schools.

That would currently amount to an annual tax of a little more than \$400 for every person required to pay.

Bunde said his proposal, Senate Bill 112, is intended as a means for collecting alternative sources of education funding. Every year, school districts come to the state pleading for more money, he said, while local areas are not contributing what they could.

"It's not something that they relish," Bunde said of residents in unorganized areas paying a head tax. "But we have to point out that the state treasury is not the only source of funding for education."

Bunde's head tax proposal is being considered by the Senate Community and Regional Affairs Committee, the first panel to hear the bill. To pass the Legislature, the bill would need the support of that committee, at least one other Senate panel, the full Senate, plus committees in the House of Representatives and the full House.

Although Bunde considers a head tax a separate issue from mandatory borough formation, many are already drawing direct links. One of the Legislature's leading proponents of creating new boroughs, Sen. Gary Wilken, R-Fairbanks, has signed on to Bunde's bill as a co-sponsor.

Richard Schultz of Tok, a former state senator, said he opposes the idea of borough formation and would be willing to pay a head tax to get supporters of the idea to back off.

"I would rather pay up than be forced into a borough," Schultz said.

Schultz's view is opposite from the connection that the state's Local Boundary Commission hoped for when members proposed a head tax in the unorganized areas in an annual report to the Legislature that detailed ways to promote more borough government.

The constitutionally mandated body that handles municipal incorporation and boundary issues wrote in the report, released prior to Bunde's bill, that the concept of a head tax could remove a disincentive to becoming a borough.

Many areas are discouraged from becoming boroughs because they don't want taxes that would come with the new government, said commission chair Darroll Hargraves.

If a head tax were in place, people might be more agreeable to the idea of living in a borough because they would already be paying taxes anyway, said Hargraves.

Hargraves' commission considers more boroughs consistent with the vision of framers of the Alaska Constitution. Alaska's unorganized areas are currently grouped together in state law as one giant "unorganized borough," with the Legislature considered its assembly.

Wilken has tried in the past to push legislation through to turn some of that unorganized borough into new organized boroughs, but his efforts have been unsuccessful.

According to Bunde, many residents in unorganized areas see a head tax as a way to address the criticism that they don't pay their fair share to education but avoid the forced imposition of a new local government.

"More than once I've heard them say, 'You, the Legislature, sit as our assembly. If you feel we should pay more taxes or taxes at all, you as our assembly impose them. Just don't add another layer of government,'" Bunde said.

But Sen. Albert Kookesh, D-Angoon, noted that nothing in Bunde's bill guarantees that a head tax will end forced borough formation efforts.

Kookesh, whose huge district covers many rural unorganized areas, said he opposes the head tax bill for several reasons.

For one, he said, the money collected would go to the education pot used to fund all state schools, not directly to the schools in the area where the money comes from. Unorganized areas would receive less money than they put in.

If the Legislature is truly interested in making education contributions fairer between residents of organized and unorganized areas, Kookesh said, it should implement a statewide income tax.

Bunde's bill is not the only proposal in the Legislature that could have an impact on the future of new boroughs or the expansion of existing ones.

Another bill by Rep. John Coghill, R-North Pole, would require residents of an affected area to vote in favor of an annexation or new borough before the process could proceed, a change from current policy allowing the changes to be considered without the consent of the affected residents.

If House Bill 133 is approved and withstands legal scrutiny, the change could carry significant repercussions for the Fairbanks North Star Borough and Mayor Jim Whitaker's idea for annexing a massive block of land that would roughly double the size of the borough.

Coghill's bill passed the first panel to consider it and is scheduled to be heard next by the House State Affairs Committee.

Reporter Daniel Rice can be reached at drice@newsminer.com or (907)463-4893.

DOT LAKE VILLAGE COUNCIL
BOX 2279
DOT LAKE, AK 99737
phone (907) 882-2693

Reply to
attr. of: William Miller
Subject: SB 112
To: SCRA COMMITTEE

03/09/05
~~03/09/05~~

MY NAME IS WILLIAM MILLER, I AM PRESIDENT OF DOT LAKE VILLAGE COUNCIL, THE LEGAL GOVERNING BODY FOR THE NATIVE VILLAGE OF DOT LAKE. I ALSO SERVE ON THE ALASKA GATEWAY SCHOOL DISTRICT (REAA).

RECOMMENDATIONS FOR CHANGES TO SB 112:

1. PAGE 1, LINE 6 & 7: DELETE "RESIDING" AND INSERT "EMPLOYED"
2. PAGE 1, LINE 8: AFTER "TAX" INSERT " NOT TO EXCEED 1% OF INDIVIDUALS GROSS INCOME".
3. PAGE 1, LINE 9 THRU 11: PLACE A PERIOD AFTER "SECTION" AND DELETE REMAINDER OF THE SECTION.
4. PAGE 2, LINE 6: AFTER THE WORD "DEPARTMENT", ADD "ALL TAXES WITHHELD EACH QUARTER" (THESE TAXES COULD BE SUBMITTED ALONG WITH EMPLOYER'S UNEMPLOYMENT CONTRIBUTIONS)
5. PAGE 2, LINE 6 THRU 8: AFTER THE WORD DEPARTMENT, DELETE REST OF SENTENCE.

QUESTIONS

1. THE BILL DOES NOT ADDRESS INDIVIDUALS THAT ARE DISABLED, UNEMPLOYED, ON SOCIAL SECURITY, RETIRED, ETC.
2. I FEEL THAT THIS TYPE TAX SHOULD BE BASED ON A PERCENTAGE OF INCOME AND WITHHELD FROM EACH PAYCHECK. THIS WOULD BE LESS OF A BURDEN ON THE INDIVIDUAL.
3. TAX COULD BE SUBMITTED QUARTERLY TO THE STATE ALONG WITH EMPLOYER'S UNEMPLOYMENT CONTRIBUTIONS, ON A FORM PROVIDED BY THE STATE.
4. SELF-EMPLOYED INDIVIDUALS COULD ESTIMATE THEIR GROSS INCOME AND MAKE ADJUSTMENTS AT THE END OF THE YEAR.
5. BILL DOES NOT ALLOW FOR SCHOOLS AND CHILDREN TO BENEFIT, BECAUSE THE TAXES ARE NOT DEDICATED FOR SCHOOL USE.
6. AS NOTED ON THE "FACT SHEET" BASED ON 505 MILLION INCOME 13 MILLION COULD BE COLLECTED IN TAX. THIS WOULD BE 2.5% OF THE EARNED INCOME.

7. I FEEL THAT IF WE ARE TO PAY A TAX, WE SHOULD BE ON EQUAL FOOTING WITH ANCHORAGE, FAIRBANKS AND OTHER AREAS, AND BE ABLE TO RAISE FUNDS FOR SCHOOL REPAIRS AND PAY A PERCENTAGE OF THE REQUIRED COST AND HAVE THE STATE PAY THE REST. SOMETHING LIKE THE 30 - 70 OR 20 - 80 SPLIT.