

04 / 13 / 16

PRESENTATION

COMMON CORE

FUNDING

<TARGET><BILL></BILL><SUBJECT>04-13-16 PRESENTATION
COMMON CORE FUNDING</SUBJECT><COMM>HEDC29</COMM></TARGET>

**Alaska State Legislature
House of Representatives
Representative Tammie Wilson**

Interim
301 Santa Claus Lane 3B
North Pole, Alaska 99705
Phone - (907) 451-2723



Session
State Capitol Rm 412
Juneau, AK 99801
Phone - (907) 465-4797

Rep.Tammie.Wilson@akleg.gov

Good Morning Members of the House and Senate Education Committees:

On March 14th, 2016, House Majority members formally requested a joint hearing of the House and Senate Education Committees. This request is included in members' packets.

This is a preliminary presentation on the matter of whether the Department of Education and Early Development expended or is still expending money in a manner that violates AS 14.07.020(b).

Due to the importance of the budget, a desire to adhere to a 90-day session, and an ongoing effort to gather more information on the issue, the purpose of this presentation will be for clarification regarding what the next hearing will cover, as well as to give the Department of Education and Early Development and the Department of Law an opportunity to prepare.

The primary issue is whether the Department of Education and Early Development expended money in violation of AS 14.07.020(b) in implementing Common Core Standards. The laws of the State of Alaska are taken seriously and should be adhered to.

Legislative intent is important when implementing state law and is referenced frequently when interpreting different statutes.

An important question to consider is:

Was it the legislature's intent with HB 278 that the state would not track what curriculum was utilized in our schools as long as the state was not paying for it?

During the discussion of HB 278 in 2014, the intent of the legislature was clear that Alaska did not want Common Core Standards used in its schools. To be more specific, the intent was that if the standards could never be implemented by the department, state schools would not have curriculum established by those standards.

- The Sitka School District, the Copper River School District, the North Slope School District and Alaska's Learning Network have adopted Common Core after this legislation was passed. As legislators, we need to find out how many other districts may have adopted these standards after HB 278 became law and where state funding to school districts is going.
- Where is the accountability of the department to adhere to state law and is the department monitoring what standards school districts adopt?

Recent opinions on the issue by Legislative Legal and The Department of Law inferred that because AS 14.07.020 (b) only applies to "implementing" the standards, the state must continue to fund districts that have already implemented Common Core Standards.

The definition of implement is: to fulfill; perform; carry out.

- The question becomes this: Does "implementing" as written in the statute apply to the purchase of new books and other materials that are used to teach Common Core? If the answer is yes, it raises additional concerns regarding ongoing expenditures by the department to school districts that may have adopted Common Core Standards.

Additionally, the same legal opinions mentioned above also indicate that 14.07.020 (b) only applies to the department's expenditures and that with respect to its applicability to school districts, it is "possible to conceive of a scenario in which the department's expenditures may be at issue."

- How can you conceive a scenario in which the department's expenditures would not be at issue when a school district that is funded by the state implements Common Core standards?

Thank you for your time and I appreciate the committee exploring this issue in future hearings.

Alaska State Legislature House of Representatives

Representative Lynn Gattis
Representative Lance Pruitt
Representative Cathy Tilton



Representative Shelley Hughes
Representative Gabrielle LeDoux
Representative Jim Colver

Representative Tammie Wilson

Date: 3/16/2016

To: Senator Dunleavy and Representative Keller

Re: Formal Request for a Joint Hearing of the Senate and House Education Committees

To the Honorable Chairmen Dunleavy and Keller,

We are formally requesting a joint hearing of the Senate and House Education Committees for the purpose of investigating allegations that were made on the House Floor on March 10th, 2016 regarding the Department of Education and Early Development expending money to implement educational curriculum standards established by the Common Core Standards Initiative; if the department expends funding under its duties in (a)(2) of AS 14.07.020 in this manner, it would constitute a violation of State law, as well as a violation of trust with our constituents.

Through the passage of House Bill 278 by the 28th Legislature and its subsequent signing into law by Governor Sean Parnell on May 13, 2014, the intent of the legislature and our constituents, as well as the requirements of the law of the State of Alaska dictate that the Department of Education and Early Development may not expend any money towards the implementation of curriculum standards established by the Common Core Standards Initiative.

Please note the applicable statutes below:

AS 14.07.020(18) [*Repealed, Sec. 5 ch 11 SLA 2010*].

(b) In implementing its duties under (a)(2) of this section, the department may not expend any money to implement the set of educational curriculum standards for grades kindergarten through 12 established by the Common Core Standards Initiative and shall develop

AS 14.07.020

(a) The department shall

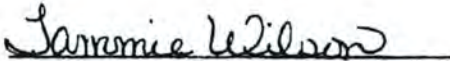
(2) study the conditions and needs of the public schools of the state, adopt or recommend plans, administer and evaluate grants to improve school performance awarded under AS 14.03.125, and adopt regulations for the improvement of the public schools;

ALASKA STATE LEGISLATURE

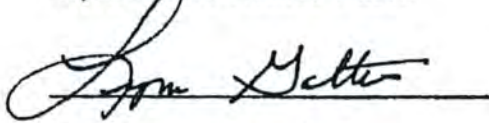
We implore you to investigate these allegations to determine whether the law and our constituents' trust has been violated. It is incumbent upon us as legislators to investigate this matter and we thank you for your consideration of a hearing to address the concerns that have been raised.

If you have any questions, please contact the office of Representative Tammie Wilson.

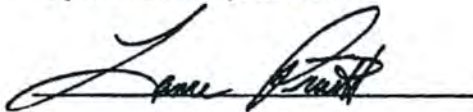
Respectfully,



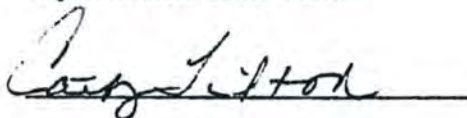
Representative Tammie Wilson



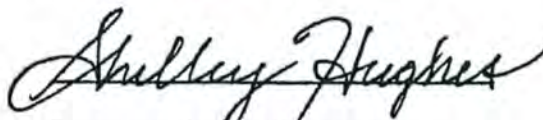
Representative Lynn Gattis



Representative Lance Pruitt



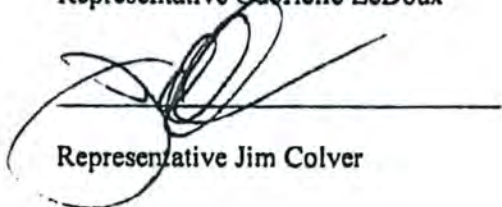
Representative Cathy Tilton



Representative Shelley Hughes



Representative Gabrielle LeDoux



Representative Jim Colver

REPRESENTATIVE
TAMMIE WILSON

R- FAIRBANKS/NORTH POLE(HD3)



PRESS RELEASE

CAPITOL ROOM 412

HOUSEMAJORITY.ORG/TWILSON
JUNEAU: 465-4797

**HEARING REQUESTED ON ALLEGED ILLEGAL SPENDING BY DEPT. OF ED.
*Action would be illegal following HB 278 passage***

Wednesday, March 16, 2016, Juneau, Alaska – A group of House Majority Members including Representatives Tammie Wilson, R-North Pole, Lynn Gattis, R-Wasilla, Lance Pruitt, R-Anchorage, Cathy Tilton, R-Wasilla, Shelley Hughes, R-Palmer, Gabrielle LeDoux, R-Anchorage, and Jim Colver, R-Palmer, have requested a joint Education Committee hearing to investigate allegations that the Department of Education and Early Development has expended funds in violation of AS 14.07.020 (b).

Through the passage of House Bill 278 in 2014, the intent of the legislature was that no money should be expended to implement educational curriculum standards established by the Common Core Standards Initiative.

Representatives were shocked to hear that legislative intent, State law, and the trust of Alaskans may have been violated and thought it was appropriate to request a hearing on the issue.

Representative Wes Keller, R-Wasilla, Chair of the House Education Committee, stated that "It is incumbent upon us as legislators to investigate these allegations and I will be discussing this matter with Senator Dunleavy, so that we can take up this issue as soon as possible."

"I applaud the forward and responsible thinking of my colleagues in the House. As legislators, it is up to us to ensure, in conjunction with the Departments of Law and Education and Early Development, that the statutory and fiduciary responsibility of this body, as well as the intent of the legislature is observed," Tammie Wilson said.

Members of the public who would like additional information are encouraged to contact Representative Tammie Wilson's office at 907-465-4797 or Rep.Tammie.Wilson@akleg.gov.

#

ALASKA STATE LEGISLATURE

LEGAL SERVICES

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

MEMORANDUM

March 22, 2016

SUBJECT: Common Core standards (Work Order No. 29-LS1589)

TO: Representative Tammie Wilson
Attn: Matt Gruening

FROM: Kate S. Glover *KG*
Legislative Counsel

You have requested an update to a memorandum you provided, which was issued to Representative Lora Reinbold on September 29, 2014 (Work Order No. 28-LS1813). The memorandum discusses AS 14.07.020(b), which prohibits the Department of Education and Early Development (the department) from expending money to implement the Common Core standards. You would like updated information regarding changes in statutes, as well as additional information related to funding for the Anchorage School District, which, according to Mr. Gruening's e-mail, has adopted the Common Core standards. I do not have any additional information to add to the memorandum you provided. The relevant statutes have not changed since the memorandum was issued, and I do not have any additional facts regarding expenditures for school districts.

Please keep in mind that the prohibition in AS 14.07.020(b) applies only to the department, not to school districts. Specifically, AS 14.07.020(b) states: "In implementing its duties under (a)(2) of this section, the department may not expend any money to *implement* the set of educational curriculum standards for grades kindergarten through 12 *established by* the Common Core Standards Initiative . . ." (emphasis added). As discussed in the previous memorandum, this prohibition may prevent the department from providing funding to a district that adopts the Common Core standards, but only to the extent that the funding is used to *implement* those standards, and only if the standards are the standards *established by* the Common Core Standards Initiative. In addition, to the extent that a district adopted Common Core standards before AS 14.07.020(b) was enacted, there may be an issue with ex post facto legislation. These issues are discussed in greater detail in the September 29, 2014, memorandum.

If I may be of further assistance, please advise.

KSG:dla
16-326.dla

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MEMORANDUM

September 29, 2014

SUBJECT: Prohibition on expenditure to implement Common Core Standards Initiative (Work Order No. 28-LS1813)

TO: Representative Lora Reinbold
Attn: Crystal Koeneman

FROM: Jean M. Mischel
Legislative Counsel

You have asked about the effect, if any, of AS 14.07.020(b), as amended, on school districts. AS 14.07.020(b), as amended, prohibits the Department of Education and Early Development (department) from spending money to "implement the set of educational curriculum standards for grades kindergarten through 12 *established by* the Common Core Standards Initiative." (Emphasis added.) The website for the Common Core Standards Initiative at corestandards.org explains that a specific set of common core standards were developed through the National Governors Association Center for Best Practices and the Council of Chief State School Officers for English/language arts and mathematics curriculum in K-12 schools. The short answer is that the prohibition expressly limits the duties of the department, not school districts, and the prohibition may have a derivative affect on school districts as discussed below.

The current state performance standards for language arts and mathematics were established by a statewide committee, not the Common Core Standards Initiative, and adopted by the department in June 2012 to support a flexibility waiver from the United States Department of Education under the No Child Left Behind Act of 2001 that required college and career readiness standards.¹ According to the department's May 15, 2013 Revised Application, at pp 26 - 27:

The Alaska Department of Education & Early Development (EED) worked with stakeholders to develop the state's new college- and career-ready English/ language arts and mathematics standards in grades kindergarten through 12. The stakeholders used the Common Core State Standards as the lens through which to examine Alaska's previous standards and revise them. . . .

The department also developed a comparison document of the state standards and the common core standards that was attached to the federal application, that describes the

¹ Elementary and Secondary Education Act, 20 U.S.C. 6301 - 8962.

differences between the Common Core Standards Initiative and the Alaska college and career readiness standards for language arts and mathematics. The departmental standards were approved by the United States Secretary of Education for the flexibility waiver and are in the process of being implemented statewide.

In 2014, the legislature was aware of the June 2012 college and career readiness standards and the federal waiver approval when it passed HB 278. For that reason, the wording of the prohibition on expenditures was modified by the legislature before passage from a broader prohibition in an earlier version of HB 278, that read: "implementing standards that are *based on* the Common Core State Standards Initiative" (emphasis added) to a narrower prohibition on spending on standard "*established by the Common Core Standards Initiative.*" Since the state's 2012 college and career readiness standards were not *established by* the Common Core Standards Initiative, the prohibition in AS 14.07.020(b) does not apply to either the department or the school districts when implementing the Alaska standards, consistent with the legislature's intent to avoid a broad interpretation of the prohibition.

With respect to the applicability of the prohibition in AS 14.07.020(b) to school districts that may want to adopt the standards established by common core initiative, it is possible to conceive of a scenario in which the department's expenditures may be at issue. You provided an Anchorage School District (ASD) recommendation from March 2012 that it adopt the standards established by the Common Core Standards Initiative. The recommendation articulated a concern about the lower rigor of the then proposed Alaska college and career readiness standards as compared to the common core standards. I do not know which standards ASD approved and cannot verify which standards ASD intends to implement following the effective date of HB 278. If, in fact ASD intends to implement standards established by the Common Core Standards Initiative, the state funding distributed by the department through the school funding formula under AS 14.07.410(b)(1) and used for that effort may arguably be affected by the expenditure prohibition. AS 14.03.020(b)'s prohibition on expenditures would also likely affect the ability of the department to assist ASD in implementing the Common Core Standards Initiative.

On the other hand, if ASD uses only local contributions to implement the Common Core Standards Initiative, the department is not spending money as prohibited, and AS 14.07.020(b) does not seem to apply. By its terms, AS 14.07.020(b) does not directly apply to school districts but affects only the duties of the department. The school district may also claim that applying the prohibition to a decision made before the prohibition was enacted violates the rule against ex post facto legislation in art. I, sec. 15 of the Constitution of Alaska if ASD is under a contractual obligation that arose before the effective date of the prohibition. In addition, AS 01.10.090 provides generally that if a law is intended to apply retroactively that intention must be expressly provided for. The prohibition in AS 14.07.020(b) was not made expressly retroactive by HB 278.

Representative Lora Reinbold
September 29, 2014
Page 3

You asked a follow-up question about the effect of the prohibition on assessments of students that will be aligned to the 2012 college and career readiness standards, required by AS 14.07.020(b). For the reasons articulated above and because the legislature expressly directed the department to implement the assessments, even if assessments are interpreted as implementation of the college and career readiness standards, a recent contract to develop the assessments is unaffected by the prohibition.

If I may be of further assistance, please advise.

JMM:lnd
14-275.lnd



THE STATE
of **ALASKA**

GOVERNOR BILL WALKER

Department of Law

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March 31, 2016

SENT VIA FIRST CLASS MAIL AND EMAIL TRANSMISSION

Representative Tammie Wilson
State Capitol Room 412
Juneau, Ak 99801-1182

Re: Common Core Standards Initiative

Dear Representative Wilson,

I am writing in response to your request for information related to AS 14.07.020(b). I have also received a copy of a memorandum to Senator Berta Gardner from Legislative Counsel Kate Glover, dated March 21, 2016. This memorandum addresses the same issues related to the Common Core Standards Initiative.

I have attached the Legal Services memorandum to this letter, but in summary, it concludes that "[a]lthough the current state education standards may be similar to the Common Core standards, it is my understanding that the state standards are not the standards *established by* the Common Core Standards Initiative."¹ I concur with the memorandum's analysis and conclusion.

You have also inquired about the Anchorage School District's 2008 adoption of the Common Core Standards Initiative and whether or not this local decision would prohibit the Department of Education and Early Education from providing foundation funds to that district. A review of the legislative history that preceded the passage of HB 278 leads me to conclude that it would not.

I would draw your attention to an April 2, 2014 meeting of the House Finance Committee, specifically at 3:00:01, and 7:15:25. This legislative history also supports our reading of the statute (i.e., the statute applies to the State's implementation, not individual school districts).

¹ Emphasis in original memorandum.

I hope this information is of assistance.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

By: 
Rebecca E. Hattan
Assistant Attorney General
Bar No. 0811096

REH/mgd

Enclosures: 3/21/16 Legal Services Memorandum; Transcription HB 278

cc: w/o encl.

Cori Mills, Assistant Attorney General, Alaska Dept. of Law, (via email only)
Susan McCauley, Interim Commissioner, Alaska Dept. of Education & Early
Development, (via email only)

2014-04-07

Amendment No. 16 was offered by Representatives T. Wilson, Costello, Munoz, Gattis, Feige, and Kreiss-Tomkins:

Page 9, line 10:

Delete "may not spend money on implementing standards that are based on the Common Core State Standards Initiative and"

Insert "shall not expend any money to implement the set of educational curriculum standards for grades kindergarten through 12 established by the Common Core Standards Initiative and"

Representative T. Wilson moved and asked unanimous consent that Amendment No. 16 be adopted.

Representative Josephson objected.

The question being: "Shall Amendment No. 16 be adopted?" The roll was taken with the following result:

CSHB 278(FIN) am
Second Reading
Amendment No. 16

YEAS: 38 NAYS: 2 EXCUSED: 0 ABSENT: 0

2014-04-07

House Journal

Page

2257

Yeas: Austerman, Chenault, Costello, Edgmon, Feige, Foster, Gara, Gattis, Gruenberg, Guttenberg, Hawker, Herron, Higgins, Holmes, Hughes, Isaacson, Johnson, Kawasaki, Keller, Kito III, Kreiss-Tomkins, LeDoux, Lynn, Millett, Munoz, Nageak, Neuman, Olson, Pruitt, Reinbold, Saddler, Seaton, Stoltze, Tarr, Thompson,

Tuck, P.Wilson, T.Wilson

Nays: Drummond, Josephson

And so, Amendment No. 16 was adopted.