

LEG. FINANCE - BILLS 1985 - 1986 2205

~~SB / 205 / d d d t / / /~~ SB / 208 / / SB 207 - SB 208 2205

A/B

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

Page 1 of 4

REQUEST

Bill/Resolution No.: SB 207
Title: An Act relating to public employees

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Finance

Sponsor: Senate Finance
Requestor: Senate State Affairs
Date of Request: March 12, 1985

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	359.0	45.0	45.0	45.0	45.0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	359.0	45.0	45.0	45.0	45.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	359.0	45.0	45.0	45.0	45.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	359.0	45.0	45.0	45.0	45.0

POSITIONS:

FULL-TIME	0	6	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Ken Bischoff *KB* Phone: 465-2240
Division: Finance Date: March 13, 1985

Approved by Commissioner: Lisa Rudd *L. Rudd* Date: 3-13-85
Agency: Department of Administration

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

Fiscal Note
SB 207

201

Cost Calculation Summary:

One Time Costs

3 Journey level programmers 1 yr.	190.0
Admin Manual Update 6 employee months	31.0
Agency Training course development and Administering 6 employee months	31.0
Finance Participation in Coordination effort with all other affected groups (Personnel, Labor Relations, Retirement, Law unions) 12 employee months	<u>62.0</u>
	<u>314.0</u>

Ongoing Costs

Additional Manual Effort due to changes in
benefit calculation

1 position Range 16	45.0
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Additional Fiscal Note Analysis

This bill as it applies to the Division of Finance would impact us significantly as certain provisions change fundamental concepts about the methods the state uses to pay its employees. Our comments are limited to those areas where the state would be required to modify automated and manual processes in order to satisfactorily meet the provisions of this bill.

SUMMARY OF PROVISIONS AFFECTING FINANCE:

- A major target of this legislation is aimed toward changing the way in which cost of living differentials are determined and paid. The State currently maintains 60 separate salary schedules reflecting up to 30 salary ranges and 10 steps in each.
 - Cost of living differentials have always been paid according to a uniform percentage (subject to certain exceptions due to collective bargaining) to all pay schedules. This bill (sec. 2(d)) proposes to place a lid on the maximum amount that can be paid by establishing a basic annual salary limit of \$30,000.
- Section 3 of the bill would limit overtime rate determination to a calculation based upon the basic annual salary amount.
- In terms of computing retirement benefits section 4 would require the state to track base retirement contributions separately from contributions related to the cost of living differential only. The state would have to change benefit calculation algorithms to include separate calculations for base salary benefits and benefits based on area cost of living differentials for each year of service in order to satisfy the provisions of section 4 of the bill. The current benefit calculation is performed manually and requires the state to identify the number of years of creditable service and the three highest paid years for determining benefit amounts. This bill proposes a significantly more sophisticated approach that if done manually will be more subject to errors and require significantly more manual effort than before.
- Section 1, 2, 4-7 have immediate effective dates upon passage of this legislation. It is not feasible to implement the provisions of this bill immediately. The State is currently implementing a new statewide accounting system (AKSAS), the current payroll system is being modified to interface with AKSAS, there are scheduled changes to the current payroll system to accommodate the most recent labor agreements, a current area differential study is being completed which will have some impact to our payroll processes, and the current classification study will also likely have significant impact to our payroll processes.

Implementing changes required by this bill will need to be flexibly scheduled to be considered along with all other changes that will be legally and procedurally required in order to keep our state payroll processes and systems properly functioning without service interruption.

Summary analysis of changes and related fiscal impact:

- Modifications to automated systems (input form changes, file changes, program changes, analysis and design)

* 36 employee months

* ASSUMPTIONS

- State can use existing base pay schedules for each identified employee group (approximately 12 groups).
- This bill will not attempt to change any fundamental payroll processes. No major change will be required to the current pay schedules.
- This estimate does not include estimates for data processing chargeback costs.
- Changes required by this bill will be allowed to be scheduled appropriately with all other production work that is necessary to keep the state payroll systems properly operating.

- Update State Administrative Manual to include new pay calculation changes for supplemental and prepay processes.

6 employee months

- Train state agencies in new payroll calculation procedures.

6 employee months

- Coordination of affected groups to identify and mutually agree on intent of legislation (Finance, Labor Relations, Retirement, Department of Law, Unions, Legislature).

12 employee months

- Additional ongoing manual effort to calculate benefit amounts equates to one additional position.

P/R

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____ Page 1 of 2

REQUEST
 Bill/Resolution No.: SB 207
 Title: "An Act relating to public employees; and providing..."
 Sponsor: Finance Committee
 Requestor: State Affairs
 Date of Request: 3/1/85

FISCAL DETAIL
 Agency Affected: Department of Administration
 Program Category Affected: Labor Services
 BRU, Program or Subprogram(s) Affected: PERS

SB 207

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts		[10.9]	[11.8]	[12.7]	[13.7]	[14.8]
200 Travel						
300 Contractual		13.1	14.1	15.3	16.5	17.8
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 IRS Match						
TOTAL OPERATING	-0-	2.2	2.3	2.6	2.8	3.0
CAPITAL		36.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		[9.9]	[10.7]	[11.5]	[12.5]	[13.5]
FEDERAL FUNDS		[.5]	[.5]	[.6]	[.6]	[.7]
OTHER		48.6	13.5	14.7	1.9	17.2
TOTAL	-0-	38.2	2.3	2.6	2.8	3.0

POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

J.K. Humphreys

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 3/13/85

Approved by Commissioner: Lisa Rudd Date: 3-13-85
 Agency: Department of Administration

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

Senate Bill 207
 Fiscal Note Analysis
 Prepared by Division of Retirement & Benefits
 Department of Administration
 March 13, 1985

IV Analysis: With passage, sections four and five of this bill would prohibit the three highest consecutive years salary, used for benefit calculation in the Public Employees' Retirement System (PERS), to include any area cost-of-living adjustment if the member has not received an area cost-of-living differential during at least 50 percent of the members credited service. The bill would also provide for refunding any contributions paid on area-differentials if the salaries used for benefit calculation do not include area-differential.

It is estimated that this bill would result in a .002% reduction in the State contribution rate in the PERS. We also estimate that the computer system enhancements needed would result in a one year \$36,000 FY 86 cost and a cost of \$13,100 for FY 86 maintenance. The costs are estimated to increase by 8% each year.

The \$38.2 FY 86 costs are calculated as follows:

The estimated decrease in FY 86 State contribution rate (.002%) times the FY 86 estimated state payroll (\$544,046,592)	[\$10.9]
Plus the estimated FY 86 system maintenance costs	\$13.1
Plus the estimated one year FY 86 system enhancement costs	<u>\$36.0</u>
Total FY 86 estimated costs	<u><u>\$38.2</u></u>

Introduced: 3/1/85
Referred: State Affairs
and Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

SENATE BILL NO. 207

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to public employees; and providing
7 for an effective date."

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

9 * Section 1. AS 23.40.210 is amended to read:

10 Sec. 23.40.210. AGREEMENT. Upon the completion of negotiations
11 between an organization and a public employer, if a settlement is
12 reached, the employer shall reduce it to writing in the form of an
13 agreement. The agreement may include a term for which it will remain
14 in effect, not to exceed three years. The agreement shall include a
15 pay plan designed to provide for a cost-of-living differential between
16 the salaries paid employees residing in the state and employees resid-
17 ing outside the state. The cost-of-living differential or other
18 geographic cost-of-living adjustment may not be considered part of the
19 basic salary for purposes of calculating overtime compensation or
20 other salary adjustments. The plan shall provide that the salaries
21 paid, as of August 26, 1977, to employees residing outside the state
22 shall remain unchanged until the difference between those salaries and
23 the salaries paid employees residing in the state reflects the differ-
24 ence between the cost of living in Alaska and living in Seattle,
25 Washington. The agreement shall include a grievance procedure which
26 shall have binding arbitration as its final step. Either party to the
27 agreement has a right of action to enforce the agreement by petition
28 to the labor relations agency.

29 * Sec. 2. AS 39.27.020 is amended by adding a new subsection to read:

1 (d) If an employee's basic annual salary is no more than
2 \$30,000, the pay step differential shall be calculated using the
3 employee's basic salary. If the employee's basic annual salary is
4 greater than \$30,000, then the employee's pay step differential shall
5 be calculated on the differential for a basic salary of \$30,000.

6 * Sec. 3. AS 39.27 is amended by adding a new section to read:

7 Sec. 39.27.027. OVERTIME COMPENSATION. Overtime compensation
8 shall be calculated on the basic salary of an employee before the
9 addition of any adjustments including pay step differentials and shift
10 differentials.

11 * Sec. 4. AS 39.35 is amended by adding a new section to read:

12 Sec. 39.35.675. INCLUSION OF COST-OF-LIVING DIFFERENTIALS IN
13 COMPENSATION AND BENEFITS. (a) An employee shall make contributions
14 to the system based on compensation including a cost-of-living differ-
15 ential.

16 (b) The amount of a cost-of-living differential may not be in-
17 cluded in the employee's compensation for purposes of calculating
18 benefits under this chapter unless the employee has received a cost-
19 of-living differential in a comparable amount or of at least that many
20 steps for at least 50 percent of the employee's credited service.

21 (c) When an employee receives a benefit, and if the employee's
22 compensation for purposes of calculating the benefit does not include
23 a cost-of-living differential, then the administrator shall refund to
24 the employee the amount of contributions the employee made based on
25 the differential.

26 (d) In this section "cost-of-living differential" means an
27 adjustment to salary based on the cost of living in the geographic
28 region where the employee works and includes a pay step differential
29 under AS 39.27.020.

1 * Sec. 5. AS 39.35.680(8) is amended to read:

2 (8) "compensation" means the total remuneration earned by
3 an employee for personal services rendered, including cost-of-living
4 differentials only as provided in AS 39.35.675, payments for leave
5 that is actually used by the employee, the amount by which the em-
6 ployee's wages are reduced under AS 39.30.150(c), and any amount
7 deferred under an employer-sponsored deferred compensation plan, but
8 does not include retirement benefits, welfare benefits, per diem,
9 expense allowances, workers' compensation payments or payments for
10 leave not used by the employee whether those leave payments are sched-
11 uled payments, lump-sum payments, donations, or cash-ins;

12 * Sec. 6. (a) Unless the budget specifically provides or the legisla-
13 ture approves, the state may not

14 (1) reclassify a position;

15 (2) change the salary range of a job class unless the change is
16 required to comply with AS 18.80.220(a)(5);

17 (3) promote a person to the next step of a flexibly staffed
18 position if the person was first hired in the flexibly-staffed position
19 after the effective date of this section; or

20 (4) award a person a merit increase.

21 (b) In this section, "state" means the executive, legislative and
22 judicial branches of state government and includes the University of
23 Alaska.

24 * Sec. 7. The amendments made by secs. 4 and 5 of this Act apply only
25 to members first hired under the Public Employees' Retirement System on or
26 after the effective date of secs. 4 and 5 of this Act.

27 * Sec. 8. Nothing in this Act terminates or modifies a collective
28 bargaining agreement in existence on the effective date of secs. 1, 2 and
29 4 - 7 of this Act.

- 1 * Sec. 9. Section 3 of this Act takes effect January 1, 1987.
- 2 * Sec. 10. Sections 1, 2 and 4 - 7 of this Act take effect immediately
- 3 in accordance with AS 01.10.070(c).

Original sponsor: Finance Committee

1
2 IN THE SENATE

BY THE FINANCE COMMITTEE

3 CS FOR SENATE BILL NO. 207 (Finance)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to calculation of the cost-of-living
8 and pay step differentials for the compensation and
9 retirement benefits of certain public employees;
10 limiting the state's power to change the cost to the
11 state of compensation for certain positions; and
12 providing for an effective date."

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

14 * Section 1. AS 37.07 is amended by adding new sections to read:

15 Sec. 37.07.085. LIMITATIONS ON STATE PERSONNEL ACTIONS. (a)

16 Unless the budget specifically provides or the legislature approves,
17 the state may not

18 (1) reclassify a position to a higher salary range after
19 September 1, 1985 unless the reclassification is consistent with
20 policies established in AS 39.25.150(1) for a position classification
21 plan;

22 (2) change the salary range of a job class unless the
23 change is required to comply with AS 18.80.220(a)(5), AS 39.25.010 or
24 39.25.150(2); or

25 (3) promote a person to the next step of a flexibly staffed
26 position if the person was first hired in the flexibly-staffed posi-
27 tion after the effective date of this section.

28 (b) In this section, "state" means the executive, legislative
29 and judicial branches of state government and includes the University
of Alaska.

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2 Sec. 37.07.087. LISTING OF PERMANENT POSITIONS. (a) On or
3 before September 15 of each year, each department shall deliver to the
4 division of budget review in the Office of Management and Budget a
5 list of permanent positions in the department on July 31 of that year.
6 The list shall include for each position the position control number
7 (PCN), title, salary range, pay step, location, time status, bargain-
8 ing unit if any, and position funding source. A department shall
9 remove from the list a PCN that is not funded and shall revise the
10 listing of other PCN's to be consistent with the positions authorized
11 in the budget. The department shall report to the legislature each
12 year the positions removed from its list.

13 (b) After conforming the list of permanent positions to the
14 budget, a department may not establish a new permanent PCN or change
15 the salary range, pay step, location, or time status of an existing
16 PCN unless the division of budget review concurs.

17 (c) A department shall maintain the master list of the depart-
18 ment's positions as an automated position accounting control system
19 file in accordance with instructions from the Office of Management and
20 Budget.

21 * Sec. 2. AS 39.25.010(b) is amended to read:

22 (b) The merit principle of employment includes the following:

23 (1) recruiting, selecting, and advancing employees on the
24 basis of their relative ability, knowledge, and skills, including open
25 consideration of qualified applicants for initial appointment;

26 (2) regular integrated salary programs based on the nature
27 of the work performed;

28 (3) retention of employees with permanent status on the
29 basis of the adequacy of their performance, reasonable efforts of
temporary duration for correction in inadequate performance, and

1 separation for cause;

2 (4) equal treatment of applicants and employees with regard
3 only to consideration within the merit principles of employment; [AND]

4 (5) selection and retention of an employee's position
5 secure from political influences; and

6 (6) classification and pay plans designed to provide pay
7 equity by using judgments and factors free of biases based on race or
8 sex and determining job worth for all job classifications based on a
9 single set of criteria.

10 * Sec. 3. AS 39.27.020 is amended by adding a new subsection to read:

11 (d) If an employee's basic annual salary is no more than
12 \$30,000, the pay step differential shall be calculated using the
13 employee's basic salary. If the employee's basic annual salary is
14 greater than \$30,000, then the employee's pay step differential shall
15 be calculated on the differential for a basic salary of \$30,000.

16 * Sec. 4. AS 39.35 is amended by adding a new section to read:

17 Sec. 39.35.675. INCLUSION OF COST-OF-LIVING DIFFERENTIALS IN
18 COMPENSATION AND BENEFITS. (a) An employee shall make contributions
19 to the system based on compensation including a cost-of-living differ-
20 ential.

21 (b) The amount of a cost-of-living differential may not be in-
22 cluded in the employee's compensation for purposes of calculating
23 benefits paid under this chapter unless the employee has received a
24 cost-of-living differential in a comparable amount or of at least that
25 many steps for at least 50 percent of the employee's credited service.

26 (c) When an employee receives a benefit, and if the employee's
27 compensation for purposes of calculating the benefit does not include
28 a cost-of-living differential, then the administrator shall refund to
29 the employee the amount of contributions the employee made based on

1
2 the differential.

3 (d) In this section "cost-of-living differential" means an
4 adjustment to salary based on the cost of living in the geographic
5 region where the employee works and includes a pay step differential
6 under AS 39.27.020.

7 * Sec. 5. AS 39.35.680(8) is amended to read:

8 (8) "compensation" means the total remuneration earned by
9 an employee for personal services rendered, including cost-of-living
10 differentials only as provided in AS 39.35.675, payments for leave
11 that is actually used by the employee, the amount by which the em-
12 ployee's wages are reduced under AS 39.30.150(c), and any amount
13 deferred under an employer-sponsored deferred compensation plan, but
14 does not include retirement benefits, welfare benefits, per diem,
15 expense allowances, workers' compensation payments or payments for
16 leave not used by the employee whether those leave payments are sched-
17 uled payments, lump-sum payments, donations, or cash-ins;

18 * Sec. 6. The legislature shall review the pay step differentials
19 provided under AS 39.27.020 and under collective bargaining contracts
20 between the state and employee bargaining organizations following the
21 release of a comprehensive study of the geographic differentials by the
22 state.

23 * Sec. 7. By September 15, 1985, the division of budget review in the
24 Office of Management and Budget shall develop a master position control
25 system with the capability of matching permanent positions listed in an
26 automated position accounting control system against the state's master
27 payroll record.

28 * Sec. 8. The amendments made by secs. 4 and 5 of this Act apply only
29 to members first hired under the Public Employees' Retirement System on or
after the effective date of secs. 4 and 5 of this Act.

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* Sec. 9. Nothing in this Act terminates or modifies a collective bargaining agreement in existence on the effective date of secs. 1 - 3, 6 and 7 of this Act.

* Sec. 10. Sections 4, 5, and 8 of this Act take effect January 1, 1987.

* Sec. 11. Sections 1 - 3, 6, 7 and 9 of this Act take effect immediately in accordance with AS 01.10.070(c).

Position Paper
Cost of Living (Geographic) Differential in Compensation
and Benefits: SB 207, Sections 4 and 5, CSSB 207 (Finance),
Sections 5 and 6; Work Draft CSSB121 (Finance),
February 12, 1986, Sections 32 and 34.

The Senate Finance Committee staff has requested the position of the Department of Administration on the topic shown above.

This proposal would amend the Public Employees' Retirement Systems. The amendment is to calculate retirement benefits using salaries including geographic differentials only if 50% or more of the credited service was at a location where a comparable geographic differential was paid. Only State employees are affected (there are no known geographic differentials within the participating political subdivisions). This proposal would also provide for refunding any contributions paid on geographic differential if the salary used for benefit calculation does not include the geographic differential.

This proposal does not affect current employees, only future employees.

This proposal has an impact in two areas. First, retirement benefits for some employees are affected and other will receive refunds; and second, the maintenance of records necessary for calculating benefits is greatly increased.

In preparation of this Position Paper, the Division of Retirement and Benefits researched the files of 34 terminated, vested former Alaska State Troopers and the files of the last 40 state employees retired in the Public Employees' Retirement System (PERS) to determine what effect this provision would have had on their retirement or projected retirement benefit.

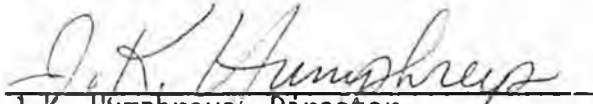
Even assuming that all of these employees were "new employees" and therefore subject to the proposal, we found that only two of them, both former Alaska State Troopers, would have their retirement benefits potentially affected. In one case, the benefit would have dropped from \$1,306.77 to \$1,108.60 (\$198.17 per month) and in the other case from \$1,073.60 to \$935.25 (\$138.35 per month). The only other employees affected are those that would have received refunds on their differential contributions--20 of the 74 individuals.

In terms of computing retirement benefits this proposal would require the State to track base retirement contributions separately from contributions related to the cost of living differential only. The State would have to change the benefit calculation algorithms to perform separate calculations cost of living differentials for each year of service. The attached Fiscal Note for the Division of Retirement and Benefits details these costs. The net first year costs are \$23.2.

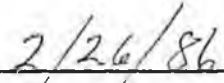
The current verification of service is performed manually and requires the State to identify the number of years of creditable service. This proposal would require a significantly more laborious approach with more manual steps and will be more subject to errors than before. The Division of Finance has calculated the costs for these recordkeeping requirements to be \$286.5 in FY 87, \$77.5 in FY 88 through FY 91, and require an increasing staff in FY 92 and beyond as employees become vested under this proposal (see attached Fiscal Note for the Division of Finance).

Position

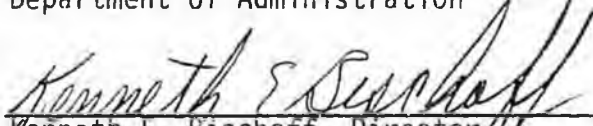
It is our belief that any savings in benefit costs will be more than offset by refunds and the cost of maintaining the additional detail that would be needed for all new employees. We do not support this provision due to the cost of achieving a minor reduction in the benefit of so few employees.



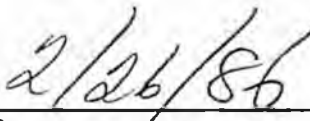
J.K. Humphreys, Director
Division of Retirement and Benefits
Department of Administration




Date




Kenneth E. Bischoff, Director
Division of Finance
Department of Administration



Date



Commissioner Eleanor Andrews
Department of Administration



Date

Attachments: Fiscal Notes (2)

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: _____
 Title: Cost of living differential
in compensation and benefits

 Sponsor: _____
 Requestor: Senate Finance
 Date of Request: February 24, 1986

FISCAL DETAIL
 Agency Affected: Administration
 BRU: Retirement and Benefits

 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		(20.0)	(21.6)	(23.3)	(25.2)	(27.2)
TRAVEL						
CONTRACTUAL		43.2				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	23.2	(21.6)	(23.3)	(25.2)	(27.2)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		21.0	(19.5)	(21.1)	(22.8)	(24.6)
FEDERAL FUNDS		1.0	(1.0)	(1.0)	(1.1)	(1.3)
OTHER		1.2	(1.1)	(1.2)	(1.3)	(1.3)
TOTAL	-0-	23.2	(21.6)	(23.3)	(25.2)	(27.2)

POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Kenneth J. Humphreys Phone: 465-4460
 Division: Retirement and Benefits Date: _____
 Approved by Commissioner: Eleanor Andrews Date: 2/27/86
 Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

Cost of Living Differential in Compensation and Benefits

This Fiscal Note is limited to the proposal found in sections 4 and 5 of SB 207, sections 5 and 6 of CSSB 207 (Finance) and section 32 and 34 of work draft CSSB 121 (Finance), dated February 12, 1986. It is further limited to the impact on the Division of Retirement and Benefits.

It is estimated that the savings in PERS would be approximately \$40,000 minus the refund of contributions of approximately \$20,000 for a net savings of \$20,000 in FY 87 (exclusive of administrative costs) and increasing by 8% each year thereafter.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

<p>REQUEST</p> <p>Bill/Resolution No.: _____</p> <p>Title: <u>Cost of Living Differential</u> <u>in Compensation and Benefits</u></p> <p>Sponsor: _____</p> <p>Requestor: <u>Senate Finance</u></p> <p>Date of Request: <u>February 24, 1986</u></p>	<p>FISCAL DETAIL</p> <p>Agency Affected: <u>Administration</u></p> <p>BRU: <u>Finance</u></p> <p>Components: _____</p>
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	286.5	77.5	77.5	77.5	77.5
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	286.5	77.5	77.5	77.5	77.5
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	286.5	77.5	77.5	77.5	77.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	286.5	77.5	77.5	77.5	77.5

POSITIONS:

FULL-TIME	0	1 (12)	1 (6)	1 (12)	1 (12)	1 (12)
PART-TIME	0	0	1 (6)	1 (6)	1 (6)	1 (6)
TEMPORARY	0	5 (42)	0	0	0	0

ANALYSIS: Attach a separate page if necessary

See attached analysis

Prepared By: Kenneth E. Bischoff *KES* Phone: 465-2240
 Division: Director Date: February 24, 1986
 Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: 2/26/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

Fiscal Note
Cost of Living Differential in Compensation and Benefits

Cost Calculation Summary:

One Time Costs

3 Journey level programmers 10 months each	162.5
Administrative Manual update 6 employee months	31.0
Agency training course development and administering 6 employee months	31.0
Finance participation in coordination effort with all other affected groups (Personnel, Labor Relations, Retirement and Benefits, Law, unions) 12 employee months	62.0
	<u>286.5</u>

Ongoing Costs

Additional manual effort required to maintain additional historical data needed to verify length of service and contributions with and without geographic differentials 1 position, range 16	45.0
Additional 6 month/year for payroll system, maintenance i position (6 month) Analyst/Programmer (65.0 x 1/2)	32.5
	<u>77.5</u>

Additional Fiscal Note Analysis

This Fiscal Note and the following comments are limited to the proposal found in sections 4 and 5 of SB 207, sections 5 and 6 of CSSB 207 (Finance) and sections 32 and 34 of work draft CSSB121 (Finance), dated February 12, 1986. They are further limited to the impact on the Division of Finance which would be required to modify automated and manual processes in order to satisfactorily meet the provisions.

- ° The proposal changes the way in which retirement benefits are calculated. It significantly impacts methods used by the State to pay its employees by requiring the complete separation of differential pay from other types of pay and requiring additional record keeping over an employee's entire employment history in order to be able to compute retirement benefits.
- ° The verification of length of service, including the calculation of periods with and without differentials, will essentially be a manual process. These calculations will start in approximately five years when new hires start becoming vested. At that time a new unit within the payroll section of the Division of Finance would be needed. It would probably be one or two employees initially and grow as more and more employees falling under the proposed law decide to retire. This cost occurs beyond the time frame shown on page one of this Fiscal Note.

Summary analysis of changes and related fiscal impact:

One time costs:

Modifications to automated systems (input form changes, file changes, program changes, analysis and design).

* 30 employee months.

◦ ASSUMPTIONS

- State can use existing base pay schedules for each identified employee group (approximately 12 groups).
- This bill will not attempt to change any fundamental payroll processes. No major change will be required to the current pay schedules.
- This estimate does not include estimates for data processing chargeback costs.
- Changes required by this bill will be allowed to be scheduled appropriately with all other production work that is necessary to keep the State payroll systems properly operating.

Update State Administrative Manual to include new pay calculation changes for supplemental and prepay processes.

* 6 employee months.

Train state agencies in new payroll calculations procedures.

* 6 employee months.

Coordination of affected groups to identify and mutually agree on implementation of legislation (Divisions of Personnel, Labor Relations, and Retirement and Benefits, Department of Law, unions).

* 12 employee months.

Ongoing costs:

Additional manual effort in the payroll section in order to maintain the additional historical data in a form that can be used to verify length of service including periods with and without differentials (one additional position).

Additional payroll systems maintenance due to increased complexity (6 month per year).

After five years when new employees start to retire, a new unit will need to be established to extract from the employment histories the data needed to verify length of service with and without differential which must be provided to the Public Employees' Retirement System.

POSITION PAPER
SB 207
(With Proposed State Affairs Amendments)

This bill deals with four distinct topics. This position paper is prepared on a sectional basis to deal with the individual topics. Notation is made of fiscal impacts which are further detailed in accompanying fiscal notes. In general, the Department of Administration supports the intent of the legislation. We believe, however, that there are several areas that should receive more attention.

SECTION 1:

This Section is aimed toward changing the way in which cost of living differentials are determined and paid. The State currently maintains 60 separate salary schedules reflecting up to 30 salary ranges with 10 steps in each.

The purpose of the proposed change to AS 23.40.210 appears to be to require that future collective bargaining agreements with State employees exclude geographic cost-of-living differentials/adjustments from any overtime or premium pay entitlements of employee. Overtime and other "premium pay" would be calculated only on the basic pay/wage schedule.

The concept of excluding geographic differentials from premium pay calculations may have merit. Since cost-of-living differences tend to stem from geographic price differences in basic commodities and services, their effect on employees is not in direct relation to earning levels. A pound of hamburger, a kilowatt hour of electricity, and a gallon of gasoline cost the same for every employee in a duty station, regardless of income. Consequently, there is a strong equity argument for paying every affected employee a differential which is separate and apart from the employee's earning level. (See also Section 2 below.) However, it is employees on the mid-to-lower ranges of the pay scales who typically earn overtime/premium pay. Calculating overtime/premium pay on a base schedule could produce a true income reduction for present employees.

Calculating overtime/premium pay only on a base schedule should result in a reduction in Personal Services expenses of the State. The amount of the reduction and its distribution have not been calculated yet.

In its current form, this Section may be read to apply only to the pay differential provided between employees residing in Alaska and those residing outside the state. If the intent is to exclude internal (within Alaska) geographic differentials as well, then the proposed new language should be redrafted to read:

Cost-of-living differentials or other geographic cost-of-living adjustment, whether applicable within or outside the state, which provide compensation in excess of that provided in the basic pay plan may not be considered part of the basic salary for purposes of calculating overtime compensation or other salary adjustments.

POSITION PAPER
SB 207

Section 1 has an immediate effective date, but applies only to future collective bargaining agreements (see Sections 8 and 10).

SECTION 2:

This Section of the bill would limit the application of the statutory pay step differentials to the first \$30,000 of an employee's base salary. There may be an argument for paying the same dollar differential to all employees at a duty station. This provision would do that once the \$30,000 cap is reached.

The Legislature in 1984 funded a study of the geographic differentials. The study is currently in process and is expected to be completed in April. We recommend that the Legislature be willing to give further consideration to the question of geographic differential when the results of the study are available.

This Section amends Title 39, Chapter 27 of the Alaska Statutes: Pay Plan for State Employees. There is no similar amendment to AS 23.40.070 through 260 of the Public Employees' Relation Act. Therefore, there is no requirement that future collective bargaining agreements comply with this Section. Section 8 of the bill clearly indicates the intention that Section 2 apply to collective bargaining agreements. To formally give this effect, AS 24.40.210 should be amended to require future agreements to not conflict with proposed AS 39.27.020.

Section 2 sets a cap of \$30,000 in basic salary for the payment of geographic differential. Over time, this cap will affect more and more employees. As salaries rise, the differential would therefore become a smaller and smaller portion of income. This will have an adverse effect on employees at the lower end of the salary schedule who are most affected by higher costs. In order to neutralize this effect, we recommend that the differential be applied to a fixed range and step of the statutory pay schedule. The closest current range and step to \$30,000 is range 15, step B. We therefore, recommend that Section 2 of the bill be amended to read:

- (d) If an employee's basic annual salary is no more than the basic salary provided by range 15, step B of the salary schedule in AS 39.27.011, the pay step differential shall be calculated using the employee's basic salary. If the employee's basic annual salary is greater than the basic annual salary provided by range 15, step B of the salary schedule in AS 39.27.011, then the employee's pay step differential shall be calculated on the differential for range 15, step B, of the salary schedule in AS 39.27.011.

Section 2 has an immediate effective date.

SECTION 3:

This Section of the bill is a companion provision to Section 1. This Section applies a restriction to overtime compensation calculation for employees not covered by collective bargaining in the Executive Branch. Section 1 applies a similar restriction to those employees covered by collective bargaining agreements.

POSITION PAPER
SB 207

Again, this Section would primarily affect employees in the mid-to-lower ranges of the pay scales.

Section 3 has an immediate effective date.

SECTIONS 4 and 5:

These Sections amend the Public Employees' Retirement Systems. The amendment is to calculate retirement benefits using salaries including geographic differentials only if 50% or more of the credited service was at a location where a comparable geographic differential was paid. Only State employees are affected (there are no known geographic differentials within the participating political subdivisions). These Sections would also provide for refunding any contributions paid on area differential if the salary used for benefit calculation does not include area differential.

Sections 4 and 5 would not affect current employees; therefore the immediate impact will be relatively small. The long term impact will be greater because of the requirement to calculate retirement benefits differently for employees hired after the effective date of this bill.

The computer programs of the Public Employees' Retirement System will need substantial revision to accommodate the proposed changes to the method of calculating retirement benefits and refunds for employees hired before the effective date of this bill. These costs would be substantial relative to the perceived cost savings; the net effect would be a cost to the State.

In terms of computing retirement benefits Section 4 would require the State to track retirement contributions on base salaries separately from contributions related to the cost-of-living differential only. The current benefit calculation is performed manually and requires the State to identify the number of years of creditable service and the three highest paid years for determining benefit amounts. Amending these retirement sections would significantly complicate the system without achieving a significant program impact.

Section 4 and 5 have an effective date of January 1, 1987.

SECTION 6:

This Section of the bill would require the Legislature to take an active role in the day-to-day management of all branches of government.

The Department of Administration opposes this Section. We believe this provision violates the separation of powers doctrine. It would provide an unwarranted intrusion of the Legislature into the management prerogatives of the Executive Branch.

SECTION 7:

This Section makes the retirement provisions of Sections 4 and 5 apply only to members of the Public Employees Retirement System first hired after the effective date of Sections 4 and 5.

POSITION PAPER
SB 207

SECTION 8:

Section 8 provides "grandparent" rights to current collective bargaining agreements.

SECTION 9:

This Section makes Sections 4 and 5 effective January 1, 1987.

SECTION 10:

Sections 1-3, and 6 and 7 have immediate effective dates upon passage of this legislation. It is not feasible to implement the provisions of this bill immediately. The State is currently implementing a new statewide accounting system (AKSAS), the current payroll system is being modified to interface with AKSAS, there are scheduled changes to the current payroll system to accommodate the most recent labor agreements, and a current area differential study is being completed which will have some impact on payroll processes. This bill provides different actual effective dates. For example: Overtime and premium pay for those not covered by collective bargaining, immediately; overtime and premium pay for those covered by collective bargaining, next contract; geographic differential cap of \$30,000 for those not covered by collective bargaining, immediately; geographic differential cap of \$30,000 for those covered by collective bargaining, not required.

Staggered implementation of the same requirement only makes implementation more difficult.

The current collective bargaining agreements for the General Government, Supervisory, Confidential and Labor, Trades and Crafts bargaining units all expire on December 31, 1986. In order to affect most employees covered by collective bargaining as well as those not covered by collective bargaining at one time, we recommend that the entire bill have an effective date of January 1, 1987. Not only will this apply a common effective date, but will allow the department sufficient time to implement the changes in an orderly fashion.

Implementing changes required by this bill will need to be flexibly scheduled to be considered along with all other changes that will be legally and procedurally required in order to keep the state payroll processes and systems properly functioning without service interruption.

Position Summary

We support the primary concept of this bill that attempts to distinguish payment for wages versus payment for cost-of-living differentials. We support the idea that the cost-of-living in a given geographical location is the same for all in that location and the way employees are currently paid is not consistent with that idea.

However, we need to emphasize that this is a significant departure from the way our current collective bargaining agreements and statutes read and how our employees are paid. We will need some time to consider how we can best implement the intent of this bill without causing significant disparity

POSITION PAPER
SB 207

between covered and noncovered groups of employees or without violating certain constitutional provisions. Additionally, this bill has certain provisions which go into effect immediately upon passage. It is not possible to implement them immediately as the changes significantly impact our automated and manual payroll processes. We recommend that implementation be scheduled to coincide with the time when appropriate collective bargaining changes can be made as covered employees are 95% of the work force. If this group is not included, this bill will quite likely cost more money than it will save.

Frank Raye

Frank Raye, Director
Department of Administration

3/18/85

Date

J. K. Humphreys

J. K. Humphreys, Director
Department of Administration

3/18/85

Date

Kenneth E. Bischoff

Kenneth E. Bischoff, Director
Department of Administration

3/18/85

Date

Lisa Rudd

Commissioner Lisa Rudd
Department of Administration

3/18/85

Date

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

3/1/85

Date 03/14/85

Mr. President

The Committee on STATE AFFAIRS considered SB 207

relating to public employees; efd.

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

do pass

do pass with attached amendment(s)

replace with/or adopt CS for _____

new title

same title and recommends _____

and attached a "LETTER OF INTENT"

NEW FISCAL NOTES

reports it back without recommendation

recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

Edna De Vries

Tim Kelly

MEMBERS HAVING

OTHER RECOMMENDATIONS

Missler - NO REC

Until Constitutional Questions Resolved

Bill Ray DO NOT PASS in form it leaves STATE AFFAIRS

Michael Reed

Chairman

Debra Donohue with Rice

Chairman recommendation

do pass with Finance Committee

Page 1, lines 6-7: Delete title and insert:

"An Act relating to overtime compensation for public employees; calculation of cost-of-living and pay step differentials for the compensation and retirement benefits of public employees; limiting the state's power to change the cost of the compensation for certain positions; and providing for an effective date."

Page 3, line 14: after "position" insert "to a higher salary range"

Page 3, lines 28-29: Delete "1, 2 and 4 - 7" and insert "1 - 3 and 6, 7"

Page 4, line 1: Delete "Section 3" and insert "Sections 4, 5"

Page 4, line 2: Delete "1, 2 and 4 - 7" and insert "1 - 3 and 6, 7"

SENATE AMENDMENT

By STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 6,7

DELETE: THE PRESENT TITLE

ADD NEW TITLE: "AN ACT RELATING TO OVERTIME COMPENSATION FOR PUBLIC EMPLOYEES; CALCULATION OF COST-OF-LIVING AND PAY STEP DIFFERENTIALS FOR THE COMPENSATION AND RETIREMENT BENEFITS OF PUBLIC EMPLOYEES; LIMITING THE STATE'S POWER TO CHANGE THE COST TO THE STATE OF COMPENSATION FOR CERTAIN POSITIONS; AND PROVIDING FOR AN EFFECTIVE DATE."

SENATE AMENDMENT

By STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 3 LINE: 14

AFTER "POSITION"

ADD: "TO A HIGHER SALARY RANGE;"

SENATE AMENDMENT

By: STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 3 LINE: 28

DELETE: [1, 2]

ADD: 1 - 3

SENATE AMENDMENT

By STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 3 LINE: 29

DELETE: [4 - 7]

ADD: 6, 7

SENATE AMENDMENT

By STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 4 LINE: 1

DELETE: [3]

ADD: 4, 5

SENATE AMENDMENT

BY STATE AFFAIRS

To: _____ SENATE BILL No. 207

To: _____ HOUSE BILL No. _____

PAGE: 4 LINE: 2

DELETE: [1,2] [4 - 7]

ADD: 1 - 3 ; 6, 7

Introduced: 3/1/85
Referred: State Affairs
and Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

SENATE BILL NO. 207

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to public employees; and providing

7

for an effective date."

8

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

9

* Section 1. AS 23 40.210 is amended to read:

10

Sec. 23.40.210. AGREEMENT. Upon the completion of negotiations

11

between an organization and a public employer, if a settlement is

12

reached, the employer shall reduce it to writing in the form of an

13

agreement. The agreement may include a term for which it will remain

14

in effect, not to exceed three years. The agreement shall include a

15

pay plan designed to provide for a cost-of-living differential between

16

the salaries paid employees residing in the state and employees resid-

17

ing outside the state. The cost-of-living differential or other

18

geographic cost-of-living adjustment may not be considered part of the

19

basic salary for purposes of calculating overtime compensation or

20

other salary adjustments. The plan shall provide that the salaries

21

paid, as of August 26, 1977, to employees residing outside the state

22

shall remain unchanged until the difference between those salaries and

23

the salaries paid employees residing in the state reflects the differ-

24

ence between the cost of living in Alaska and living in Seattle,

25

Washington. The agreement shall include a grievance procedure which

26

shall have binding arbitration as its final step. Either party to the

27

agreement has a right of action to enforce the agreement by petition

28

to the labor relations agency.

29

* Sec. 2. AS 39.27.020 is amended by adding a new subsection to read:

1 (d) If an employee's basic annual salary is no more than
2 \$30,000, the pay step differential shall be calculated using the
3 employee's basic salary. If the employee's basic annual salary is
4 greater than \$30,000, then the employee's pay step differential shall
5 be calculated on the differential for a basic salary of \$30,000.

6 * Sec. 3. AS 39.27 is amended by adding a new section to read:

7 Sec. 39.27.027. OVERTIME COMPENSATION. Overtime compensation
8 shall be calculated on the basic salary of an employee before the
9 addition of any adjustments including pay step differentials and shift
10 differentials.

11 * Sec. 4. AS 39.35 is amended by adding a new section to read:

12 Sec. 39.35.675. INCLUSION OF COST-OF-LIVING DIFFERENTIALS IN
13 COMPENSATION AND BENEFITS. (a) An employee shall make contributions
14 to the system based on compensation including a cost-of-living differ-
15 ential.

16 (b) The amount of a cost-of-living differential may not be in-
17 cluded in the employee's compensation for purposes of calculating
18 benefits under this chapter unless the employee has received a cost-
19 of-living differential in a comparable amount or of at least that many
20 steps for at least 50 percent of the employee's credited service.

21 (c) When an employee receives a benefit, and if the employee's
22 compensation for purposes of calculating the benefit does not include
23 a cost-of-living differential, then the administrator shall refund to
24 the employee the amount of contributions the employee made based on
25 the differential.

26 (d) In this section "cost-of-living differential" means an
27 adjustment to salary based on the cost of living in the geographic
28 region where the employee works and includes a pay step differential
29 under AS 39.27.020.

1 * Sec. 5. AS 39.35.680(8) is amended to read:

2 (8) "compensation" means the total remuneration earned by
3 an employee for personal services rendered, including cost-of-living
4 differentials only as provided in AS 39.35.675, payments for leave
5 that is actually used by the employee, the amount by which the em-
6 ployee's wages are reduced under AS 39.30.150(c), and any amount
7 deferred under an employer-sponsored deferred compensation plan, but
8 does not include retirement benefits, welfare benefits, per diem,
9 expense allowances, workers' compensation payments or payments for
10 leave not used by the employee whether those leave payments are sched-
11 uled payments, lump-sum payments, donations, or cash-ins;

12 * Sec. 6. (a) Unless the budget specifically provides or the legisla-
13 ture approves, the state may not

14 (1) reclassify a position;

15 (2) change the salary range of a job class unless the change is
16 required to comply with AS 18.80.220(a)(5);

17 (3) promote a person to the next step of a flexibly staffed
18 position if the person was first hired in the flexibly-staffed position
19 after the effective date of this section; or

20 (4) award a person a merit increase.

21 (b) In this section, "state" means the executive, legislative and
22 judicial branches of state government and includes the University of
23 Alaska.

24 * Sec. 7. The amendments made by secs. 4 and 5 of this Act apply only
25 to members first hired under the Public Employees' Retirement System on or
26 after the effective date of secs. 4 and 5 of this Act.

27 * Sec. 8. Nothing in this Act terminates or modifies a collective
28 bargaining agreement in existence on the effective date of secs. 1, 2 and
29 4 - 7 of this Act.

1 * Sec. 9. Section 3 of this Act takes effect January 1, 1987.

2 * Sec. 10. Sections 1, 2 and 4 - 7 of this Act take effect immediately

3 in accordance with AS 01.10.070(c).

COMMITTEE REPORT
SENATE

FURTHER:

Date

Mr. President

The Committee on VINANCE considered SA 308

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

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

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

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

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

Prepared By: Steve Hole Phone: 2800
 Division: Commissioner's Office Date: 3-22-85
 Approved by Commissioner: Harold Reynolds, Jr. Date: 3-22-85
 Agency: Commissioner

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

7/1/84

Offered: 4/9/85
Referred: Finance

Original sponsors: Ferguson and Sackett

1 IN THE SENATE

FINANCE
BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

1 educational attendance areas.

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

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

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



UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

CENTER FOR CROSS CULTURAL STUDIES
COLLEGE OF HUMAN AND RURAL DEVELOPMENT

April 18, 1985

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

Dear Senator Sackett:

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

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

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

Sincerely,

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

GWM:pt
Enclosure

RESEARCH EVIDENCE ON LOCAL CONTROL AND ITS EFFECTS

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

In support of HB 365 and SB 208

by

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

April, 1985

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

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

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

Below we present evidence to demonstrate the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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

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SFC 4/22/85

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

COMMITTEE MEMBERS

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

SB 208

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CCSB 208 (HESS)

Page 1, Lines 12 and 19

Following "Chevak" add "and Chefornak"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTIONAL ANALYSIS FOR SENATE BILL 208

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

Section 1

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

Section 2

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

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

Section 3

Immediate effective date.

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

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

BILL SHEFFIELD, GOVERNOR

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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 22, 1985

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

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

Dear Senator Sturgulewski:

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

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

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

Hon. Arliss Sturgulewski
Alaska State Senate
366-466-85

April 22, 1985
Page #2

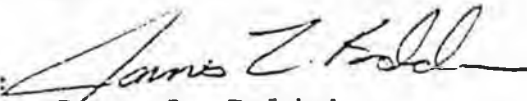
lars this power.

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

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


James L. Baldwin
Assistant Attorney General

JLB/pjs

POSITION PAPER RD
LOWER KUSKOKWIM SCHOOL DISTRICT

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

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

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

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

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

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

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

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

POSITION PAPER OF THE DEPARTMENT OF EDUCATION

FOURTEENTH ALASKA LEGISLATURE

Senate Bill 208

April 1, 1985

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

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

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

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

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

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

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

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



Harold Reynolds, Jr.
Commissioner

COMMITTEE REPORT SENATE

FURTHER:

FINANCE

3/4/85

Date

4-4-85

Mr. President

The Committee on HESS considered SB 208

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

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

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

1 Arthur Faber-Kemp
Chairman
Do Pass
Chairman recommendation

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

1 IN THE SENATE

BY FERGUSON AND SACKETT

2

SENATE BILL NO. 208

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

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

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

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

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