

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3231

LEGAL SERVICES

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

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Mail Stop 3101

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

MEMORANDUM

January 29, 2008

SUBJECT: Employment of a concurrent resolution in disapproving the recommendations of a State Officers Compensation Commission (CSHB 260(STA); Work Order No. 25-LS0659\K)

TO: Representative Mike Doogan
Attn: Ryan Jager

FROM: Alpheus Bullard *ALB*
Legislative Counsel

You have asked whether the recommendations of the State Officers Compensation Commission (commission) could be disapproved by concurrent resolution rather than a bill.

It is my opinion that while the legislature may grant to a commission the power to set salaries for certain state office holders and public officials, it may not reserve to itself the power to disapprove the commission's recommendations by resolution.

In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the extent of the power of the legislature to take action by resolution as opposed to by law. At issue in the A.L.I.V.E. case was the power of the legislature to annul the regulation of an executive agency by concurrent resolution. The court held that the legislature could not exercise its legislative power without following the provisions of the constitution governing the enactment of a bill, i.e. single-subject, descriptive title, three readings in both houses, presentation to the governor, and opportunity for the governor to veto the bill. Id. at 772. "[W]hen the legislature wishes to act in an advisory capacity it may act by resolution. However, when it means to take action having binding effect on those outside the legislature it may do so only by following the enactment procedures." Id. at 773.

Applying the reasoning in the A.L.I.V.E. case, it is my opinion that if a commission that has the power to recommend salaries for legislators, the governor, the lieutenant governor, and each executive department head is established by law, the legislature would not be able to disapprove the recommendations except through the enactment of a bill, since the legislature does not have the power to authorize itself to take action by less formal means than that prescribed by the constitution. "The legislature is bound to act in accordance with constraints provided in article II of the [Alaska] constitution. The fact that [the legislature] can delegate legislative powers to others who are not bound by

Representative Mike Doogan
January 29, 2008
Page 2

article II does not mean that it can delegate the same power to itself and avoid the constraints under which it must operate." Id. at 777.¹

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:ljw
08-044.ljw

¹ In A.L.I.V.E., the Alaska Supreme Court distinguished Atkins v. United States, 556 F.2d 1028 (1977); cert. den. 434 U.S. 1009 (1978) (an en banc decision of the federal Court of Claims upholding a one-house veto of proposed salary increases) on the ground that the federal case involved proposed administrative action. "In contrast, the annulment provisions [at issue in A.L.I.V.E.] permit the legislature to void administrative regulations which are in effect. Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law." A.L.I.V.E., 606 P.2d at 777; footnote omitted. The essential aspect of Atkins for the federal Court of Claims and the court in A.L.I.V.E. was that the one-house veto at issue merely preserved the status quo by preventing a proposed administrative action from becoming final rather than annulling or suspending law already in effect. Though the court did not comment on the precedential value of the Atkins case for Alaska, the decision in Atkins suggests that there is a possibility that the legislature may have the latitude to use less formal procedures to decline the recommendations of a compensation commission. Interpretation of such a possibility should be conditioned by the knowledge that the continued vitality of the Atkins decision itself is unclear following the decision of the U.S. Supreme Court in Immigration and Naturalization Service v. Chadha, 462 U.S. 919, 103 S.Ct. 2764 (1983), where the court held that for an effective legislative veto of administrative decision making, the United States Congress must comply "with express procedures of the Constitution's prescription for legislative action: passage by a majority of both houses and presentment to the President." Id. at 349.



COMPENSATION COMMISSIONS

By Johanna Donlin

Legislators' pay is one of the more politically charged issues in today's state legislatures. Just the mention of a possible pay raise causes an instant rise in constituent mail and phone calls, not to mention the interest of the media. And a vote for an increase can have serious repercussions when the next election rolls around. Given these factors, legislators clearly recognize the difficulty in raising their own pay.

Twenty-one states use compensation commissions to provide an objective evaluation of legislators' salary levels.

In order to remove the issue from the political arena, 21 states currently use a compensation commission to provide an objective evaluation of legislators' salary levels. Members of the commissions are generally appointed by legislative leaders or the governor and represent a cross section of the citizenry. Sometimes, former legislators are included, but current elected officials and state employees generally are not. The commissions are given the charge to evaluate legislators' compensation, and make recommendations to the legislature based on a variety of objective criteria.

As they begin their evaluation process, the commissions collect a wide variety of information that usually includes the state's history on legislators' pay, how the current salaries compare with the executive branch officials, and whether or not salaries have kept pace with the consumer price index. Through public hearings, citizens have the opportunity to voice their opinions. Commissions make other comparisons between citizen and full-time legislatures, legislative session lengths, and salary and per diem levels in other states as reported in an annual survey by NCSL. They may also evaluate other aspects of compensation, such as travel and staff allowances, and supplemental stipends given to leaders or committee chairs. Each state's statutes or rules dictate the scope of the commission's jurisdiction.

One of the most important aspects of the commissions is their level of authority.

One of the most important aspects of the commissions is their level of authority. In California, Oklahoma and Washington, the commission has complete control over legislators' salaries. Their decisions cannot be overruled by the legislature. In Delaware and Utah, the recommendations take effect unless the Legislature votes against them. In many states, the commissions play a purely advisory role. The recommendations are presented to the legislature and the legislators are put in the position of voting on their own pay. Arizona is the only state that places the commission's recommendation on the ballot for a vote of the people.

States with Compensation Commissions

- Alabama
- Alaska *
- Arizona
- California
- Connecticut
- Delaware
- Hawaii
- Idaho
- Illinois
- Iowa
- Kentucky
- Maine
- Maryland
- Michigan
- Minnesota
- New Jersey
- North Dakota
- Oklahoma
- Utah
- Washington
- West Virginia

Source: NCSL, 1999

* Never implemented; required a constitutional amendment that never passed.

Generally, compensation commissions assess legislators' salaries and offer recommendations to their respective legislatures. The challenge comes when the recommendations are thrown back into the political arena and the members must once again address the question of raising their own pay. The legislators must find a salary level that will attract a diverse group of candidates and still be acceptable to the public. If the salary is too low, many smaller states fear that public office will only be an option for the affluent who can afford to take time off from their permanent jobs. If the salary is too high, the public will react negatively and voice their opinions through the ballot box. Depending on the current political climate, a pay raise may not be passed, despite a commission's strong recommendation to do so.

Compensation commissions assess legislators' salaries and submit recommendations.

In some states, the commissions are dormant. Colorado passed its recent pay raise through the legislative process, despite the presence of a commission in its statutes. Kentucky and Massachusetts both have commissions, but they have not met in several years. In fact, Massachusetts voters passed a measure in 1998 that gives legislators an automatic increase or decrease according to the median household income for the preceding two-year period.

Still, other states continue to explore the compensation commission option or refine their current commission's structure. Maine established their commission in 1998 and New Jersey passed legislation in 1999 to create its commission.

In 1999, Utah legislators changed the authority level of the compensation commission. Before 1999, the commission's recommendations were only advisory and the commission met every year. Now, the commission's recommendations will take effect unless the Utah Legislature votes against them and the commission will meet every two years. As in most states, any change in Utah legislators' salaries cannot go into effect until after the next election.

Selected Reference

Legislative Management Program. *1999 Legislators' Compensation and Benefits Survey*. Denver: National Conference of State Legislatures, 1999.

Contact for More Information

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Distributed by Rep. Mike Deogan 465-4998



Legislator Compensation 2007

Updated March 2007

State	Salary	Per Diem
Alabama	\$10/day (C)	\$2,280/month plus \$50/day for three days during each week that the legislature actually meets during any session (U).
Alaska	\$24,012/year	\$163 or \$218 /day (depending on the time of year) tied to federal rate. Legislators who reside in the Capitol area receive 75% of the federal rate.
Arizona	\$24,000/year	\$35/day for the first 120 days of regular session and special session. \$10/day thereafter. Members residing outside Maricopa County receive an additional \$25/day for the first 120 days of regular session and special session. An additional \$10/day thereafter (V). Set by statute.
Arkansas	\$14,765/year	\$130/day (V), plus mileage tied to federal rate.
California	\$113,098/year	\$162/day for each day they are in session.
Colorado	\$30,000/year	\$45/day for members living in the Denver metro area, \$99/day for members living outside Denver (V).
Connecticut	\$28,000/year	No per diem is paid.
Delaware	\$42,000/year	No per diem is paid.
Florida	\$30,996/year	\$126/day (V) tied to federal rate. Based on the number of days in session. Travel vouchers are filed to substantiate.
Georgia	\$17,342/year	\$173/day (U) set by the Legislative Services Committee.
Hawaii	\$35,900/year	\$120/day for members living outside Oahu. \$10/day for members living on Oahu (V). Set by the legislature.
Idaho	\$16,116/year	\$122/day for members establishing second residence in Boise. \$45 /day if no second residence is established and up to \$25/day travel (V) set by Compensation Commission.
Illinois	\$57,619/year	\$125/per session day.
Indiana	\$11,600/year	\$137/day (U) tied to federal rate.
Iowa	\$25,000/year	\$118/day (U). \$88.50/day for Polk County legislators (U) Set by the legislature to coincide with federal rate. State mileage rates apply.

Kansas	\$84.80/day (C)	\$99/day (U) tied to federal rate.
Kentucky	\$180.54/day (C)	\$108.90/day (U) tied to federal rate (110% Federal per diem rate).
Louisiana	\$16,800/year	\$138/day (U) tied to federal rate (26 U.S.C. Section 162(h)(1)(B)(ii))
Maine	\$12,713/year	\$38/day housing, or mileage and tolis in lieu of housing (at rate of \$0.36/mile up to \$38/day) plus \$32/day for meals. Per diem limits are set by statute.
Maryland	\$43,500/year	Lodging \$116/day. Meals \$41/day maximum.
Massachusetts	\$58,237.15/year	From \$10/day-\$100/day, depending on distance from State House (V) set by the legislature.
Michigan	\$79,650/year	\$12,000 yearly expense allowance for session and interim (V) set by compensation commission.
Minnesota	\$31,140.90/year	Senators receive \$96/day and Representatives receive \$77/legislative day (U) set by the legislature.
Mississippi	\$10,000/year	\$91/day (U) tied to federal rate.
Missouri	\$31,351/year	\$79.20/day (U) tied to federal rate. Verification of per diem is by roll call.
Montana	\$82.67/day (L)	\$98.75/day (U)
Nebraska	\$12,000/year	\$99/day outside 50-mile radlus from Capitol. \$39/day if member resides within 50 miles of Capitol (V) tied to federal rate.
Nevada	\$137.90/day	Federal rate for Capitol area (U). Legislators who live more than 50 miles from the capitol, if require lodging, will be paid HUD single-room rate for Carson City area for each month of session.
New Hampshire	\$200/two-year term	No per diem is paid.
New Jersey	\$49,000/year	No per diem is paid.
New Mexico	None	\$142/day (V) tied to federal rate and the constitution.
New York	\$79,500/year	Varies (V) tied to federal rate.
North Carolina	\$13,951/year	\$104/day (U) set by statute. \$559.00/month expense allowance.
North Dakota	\$125/day (session) (C)	Lodging reimbursement up to \$900/month (V).
Ohio	\$58,933.56/year	No per diem is paid.
Oklahoma	\$38,400/year	\$122/day (U) tied to federal rate.
Oregon	\$18,408/yr	\$59/day (U) tied to federal rate.
Pennsylvania	\$73,613/year	\$129/day (V) tied to federal rate. Legislators can receive actual expenses or per diem.
Rhode Island	\$13,089.44/year	No per diem is paid.

South Carolina	\$10,400/year	\$119/day for meals and housing for each session day and committee meeting tied to federal rate.
South Dakota	\$12,000/two year term	\$110/legislative day (U) set by the legislature.
Tennessee	\$18,123/year	\$153/legislative day (U) tied to federal rate.
Texas	\$7,200/year	\$139/day (U) set by Ethics Commission.
Utah	\$130/day (C)	\$90/day (U) lodging for each calendar day. Tied to federal rate. \$54/day meals (U).
Vermont	\$600.78/week (session)	Federal per diem rate for Montpelier is \$88/day for lodging and \$51/day for meals for non-commuters. Commuters receive \$51/day for meals plus mileage.
Virginia	\$18,000/year (Senate) \$17,640/year (House)	House \$135/day (U) tied to federal rate. Senate \$140/day (U) tied to federal rate.
Washington	\$36,311/year	\$90/day
West Virginia	\$15,000/year	\$115/day during session (U) set by compensation commission.
Wisconsin	\$47,413/year	\$88/day maximum (U) set by compensation commission (90% of federal rate).
Wyoming	\$150/day (L)	\$85/day(V) Includes travel days for those outside of Cheyenne.

L = Legislative day

C = Calendar day

(V) Vouchered (U) Unvouchered

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Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Alaska Legislators' Sources of Income

Salary

Currently, Alaska legislators' salaries are set at \$2,001 per month, or \$24,012 per year (AS 24.10.100). This salary was established by the 19th legislature in 1996. The Speaker of the House and the President of the Senate earn an additional \$500 a year in salary. Legislators' salaries are subject to withholdings and income tax.

Session Per Diem

Legislators earn *session per diem* for expenses incurred in Juneau during regular and special legislative sessions. It is tied to a per diem rate calculated for the city of Juneau by the federal government. Currently, that figure is \$163 per day during winter months, and \$218 a day during summer months. Legislators representing Juneau receive three quarters of the session per diem amount, or \$122.25 per day in winter months and \$163.50 in summer months. For non-Juneau legislators, session per diem is not subject to withholdings or income tax. Juneau legislators' session per diem is subject to withholdings and income tax.

Long Term Per Diem

Legislators earn *long term per diem* as compensation for individual days of service during the interim period. The rate is \$150 per day for all legislators. It is subject to federal withholdings and income tax. A legislator must submit a claim for each day of long term per diem. Consequently, not all legislators receive the same amount of long term per diem on an annual basis.

Annual Allowance Payment

Each year, legislators receive an allowance option payment. The allowance payment can be taken as income subject to taxes and withholdings, issued as a taxable check, or deposited in an accountable office plan used for legislative office expenditures. Members of the House receive \$8,000. Members of the Senate receive \$10,000.

(Continued on next page)

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2006 Alaska Legislators' Compensation

This table summarizes effective pay for all 60 Alaska legislators in 2006. The National Conference of State Legislatures (NCSL) calculates effective pay by

adding legislators nominal salary and the amount of long term per diem they claim during the interim. They do not count session per diem or the annual allowance payment when calculating pay because not all legislators choose to use their session per diem or allowance option in the same way. The minimum values tell us the lowest salary, amount of long term per diem, and lowers effective pay earned by legislators. The maximum values tell us the highest salary, long term per diem, and effective pay earned by legislators. The average values tell us the average salary, long term per diem, and effective pay earned by legislators.

	Salary	Long Term Per Diem	Effective Pay
Minimum	\$24,012	\$0	\$24,012
Average	\$24,029	\$9,608	\$33,637
Maximum	\$24,512	\$22,200	\$46,212

Sources: 2006 Alaska Legislature Salary & Business Expense Report; Alaska Statutes; Legislative Affairs Agency



Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Legislative pay and comparably compensated state jobs

Job Title: Alaska State Legislator (Alaska State Legislature)

Pay: \$12.51/hr.
\$2,001.00/mo. (\$24,012/yr.)

Description: Writes and passes laws, makes appropriations, provides oversight of and check on executive and judicial branches.

Job Title: Administrative Clerk II (Clerical/Administrative)

Pay: \$12.81/hr.
\$2,082/mo. (\$24,984/yr.)

Description: Perform office clerical assignments and services. Type and produce reports, perform complex data entry assignments, receive and review or compare documents, receive, receipt, and account for money.

Job Title: Environmental Services, Journey II (Labor/Trades)

Pay: \$13.32/hr.
\$2,131/mo. (\$25,574/yr.)

Description: Maintain and clean State facilities, institutions and hospitals. Work includes laundry service, furniture and carpet cleaning, and minor equipment maintenance and building repairs.

Job Title: Accounting Clerk I (Clerical/Administrative)

Pay: \$14.42/hr.
\$2,344/mo. (\$28,128/yr.)

Description: Perform clerical accounting work involving financial documents.

Job Title: PFD Technician I (Clerical/Administrative)

Pay: \$14.42/hr.
\$2,344/mo. (\$28,128/yr.)

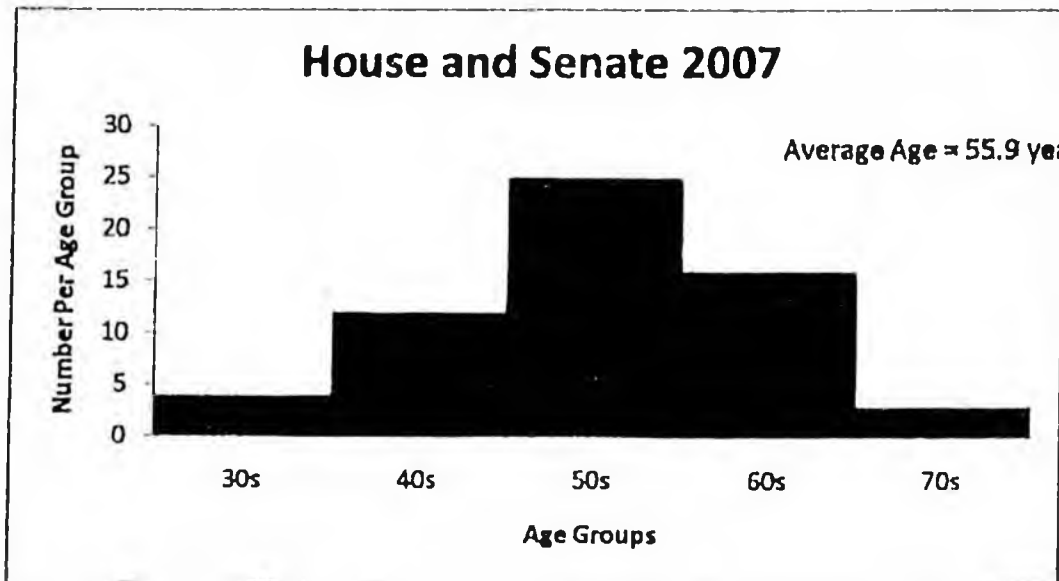
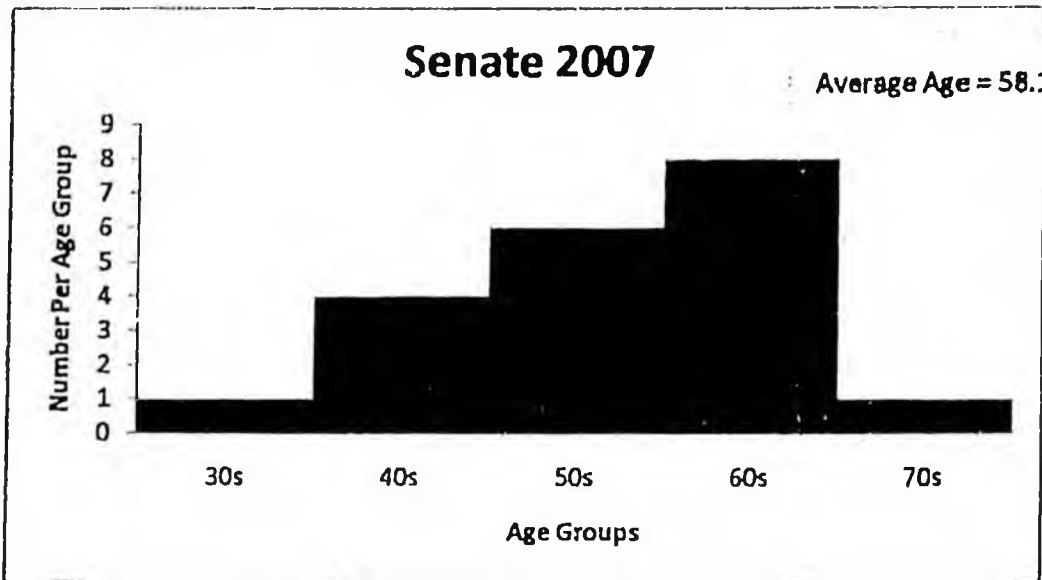
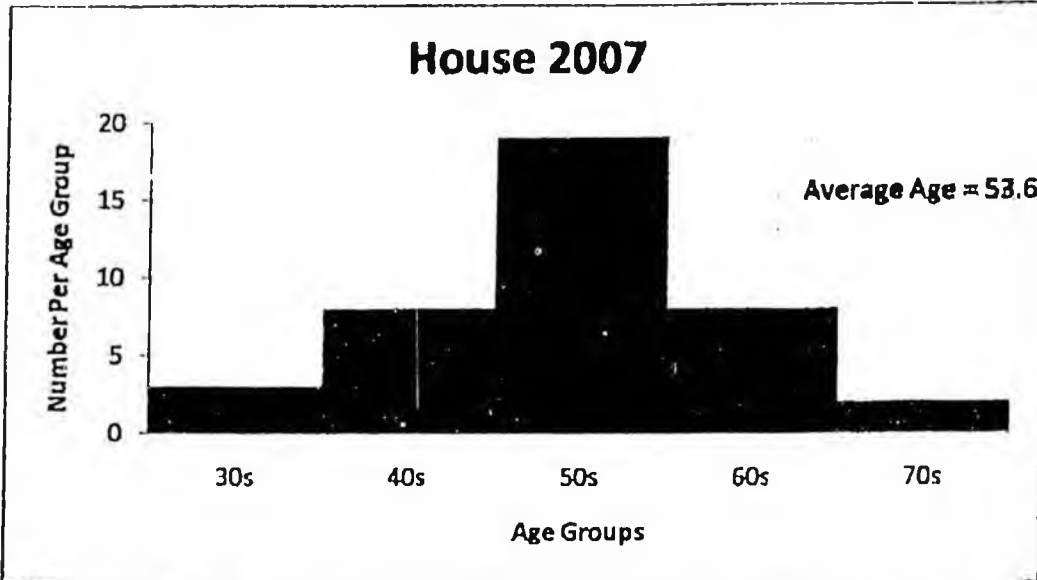
Description: Examine applications and supportive documents submitted by individuals applying for the Permanent Fund Dividend.

*Source: State of Alaska, Department of Administration, Division of Personnel website
<http://dop.state.ak.us/>*

**Age Comparison: Alaska State Legislators
vs. Statewide Population Ages 30+**

Age Group	Alaskans 30+	%	Legislators	%
30-39	92,975	25.4%	4	6.7%
40-49	108,638	29.6%	12	20.0%
50-59	93,470	25.5%	25	41.7%
60-69	42,632	11.6%	16	26.7%
70+	28,902	7.9%	3	5.0%
	366,617	100.0%	60	100.0%

Compiled and distributed by Rep. Mike Doogan
(907) 465-4998
5/15/2007





Alaska State Legislature

Mike Doogan

Representative
District 25, Anchorage

Compensation Commission History in Alaska

The following timeline describes the history of major changes to legislative pay, and the last active commission on compensation, the Alaska Salary commission:

- 1975** Legislature passes SB 404, "Relating to the compensation and retirement of judicial officers, legislators, and public officer and employees." This bill established legislative pay at \$14,720, and established the "Elected Public Officers Retirement System."
- Aug. 1976** SB 404 is struck down by referendum, with over 80% of voters opposing the plan. Legislative pay returns to \$9,000.
- 1976** Legislature passes SB 499, "Relating to compensation, benefits, and classifications of public officers and employees; creating the Alaska Salary Commission."
- 1977** Alaska Salary Commission releases first preliminary report. Report is submitted by commissioners Kathleen Diebels, Chairman, Kim Elton, Connel Murray, and Robert Heath.
- 1977** Legislature passes HCR 45, "Approving certain recommendations of the Salary Commission." Legislative pay set at \$11,750 plus office expense and per diem. Legislature specifically rejected recommendations for biannual pay increases, mandatory PERS membership, and reimbursement of round trip travel to the capital.
- 1979** Alaska Salary Commission releases second report.
- 1980** Legislature passes SB 182, "Relating to the compensation of public officers...and repealing the Alaska Salary Commission." Adopts some of the 1979 recommendations, set legislative pay at \$15,500, and dissolved the commission. Commission's demise attributed to complexity and breadth of its mandate (addressing pay of division directors, retirement system, etc.)
- 1986** Legislature passes HB 454, creating a new commission contingent on passing a constitutional amendment – which never occurred.
- 1996** Legislature passes SB 1003, setting legislative salary at \$24,012.

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HB

260

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/27/08

FURTHER:

DATE TURNED
IN TO OFFICE: 3-31-08

Finance Committee considered CS FOR HOUSE BILL NO. 260(STA)

HB 260 STATE OFFICERS COMPENSATION COMMISSION

"An Act relating to a State Officers Compensation Commission and establishing how legislators, the governor, the lieutenant governor, and executive department heads shall be compensated; providing for an effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	1/11/08	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Dyson	✓			
	Dyson				✓
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Sherman	✓			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CASHB 260(STA)
(H) Publish Date: 1/22/08

Identifier (file name): HB260-DOA-DOP-1-11-08 Dept. Affected: Administration
Title: State Officer Compensation Commission RDU: Central Administrative Services
Component: Personnel
Sponsor: Representative Doogan
Requester: (H)State Affairs Component Number: 56

(Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	7.0	0.0	7.0	7.0	7.0	7.0	7.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.5	0.0	0.5	0.5	0.5	0.5	0.5
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	7.5	0.0	7.5	7.5	7.5	7.5	7.5

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE	(Thousands of Dollars)						
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	7.5	0.0	7.5	7.5	7.5	7.5	7.5
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	7.5	0.0	7.5	7.5	7.5	7.5	7.5

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*
This fiscal note assumes two meetings per year and includes associated travel and supply expenses.

Prepared by: Nicki Neal, Director Phone: 907-465-4429
Division: Division of Personnel Date/Time: 1/11/08 12:00 AM
Approved by: Kevin Brooks, Deputy Commissioner Date: 1/11/2008
Department of Administration

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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It is my opinion that while the legislature may grant to a commission the power to set salaries for certain state office holders and public officials, it may not reserve to itself the power to disapprove the commission's recommendations by resolution.

In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the extent of the power of the legislature to take action by resolution as opposed to by law. At issue in the A.L.I.V.E. case was the power of the legislature to annul the regulation of an executive agency by concurrent resolution. The court held that the legislature could not exercise its legislative power without following the provisions of the constitution governing the enactment of a bill, i.e. single-subject, descriptive title, three readings in both houses, presentation to the governor, and opportunity for the governor to veto the bill. Id. at 772. "[W]hen the legislature wishes to act in an advisory capacity it may act by resolution. However, when it means to take action having binding effect on those outside the legislature it may do so only by following the enactment procedures." Id. at 773.

Applying the reasoning in the A.L.I.V.E. case, it is my opinion that if a commission that has the power to recommend salaries for legislators, the governor, the lieutenant governor, and each executive department head is established by law, the legislature would not be able to disapprove the recommendations except through the enactment of a bill, since the legislature does not have the power to authorize itself to take action by less formal means than that prescribed by the constitution. "The legislature is bound to act in accordance with constraints provided in article II of the [Alaska] constitution. The fact that [the legislature] can delegate legislative powers to others who are not bound by

Representative Mike Doogan
January 29, 2008
Page 2

article II does not mean that it can delegate the same power to itself and avoid the constraints under which it must operate." Id. at 777.¹

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:ljw
08-044.ljw

¹ In A.L.I.V.E., the Alaska Supreme Court distinguished Atkins v. United States, 556 F.2d 1028 (1977); cert. den. 434 U.S. 1009 (1978) (an en banc decision of the federal Court of Claims upholding a one-house veto of proposed salary increases) on the ground that the federal case involved proposed administrative action. "In contrast, the annulment provisions [at issue in A.L.I.V.E.] permit the legislature to void administrative regulations which are in effect. Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law." A.L.I.V.E., 606 P.2d at 777, footnote omitted. The essential aspect of Atkins for the federal Court of Claims and the court in A.L.I.V.E. was that the one-house veto at issue merely preserved the status quo by preventing a proposed administrative action from becoming final rather than annulling or suspending law already in effect. Though the court did not comment on the precedential value of the Atkins case for Alaska, the decision in Atkins suggests that there is a possibility that the legislature may have the latitude to use less formal procedures to decline the recommendations of a compensation commission. Interpretation of such a possibility should be conditioned by the knowledge that the continued vitality of the Atkins decision itself is unclear following the decision of the U.S. Supreme Court in Immigration and Naturalization Service v. Chadha, 462 U.S. 919, 103 S.Ct. 2764 (1983), where the court held that for an effective legislative veto of administrative decision making, the United States Congress must comply "with express procedures of the Constitution's prescription for legislative action: passage by a majority of both houses and presentment to the President." Id. at 349.



Alaska State Legislature

Mike Doogan

Representative
District 25, Anchorage

SPONSOR STATEMENT

HB 260

An Act relating to the State Officers Compensation Commission

Alaska's only real success in setting fair compensation for public officials came in 1977 and 1979, when the citizen members of the Alaska Salary Commission released reports on how, and how much, certain public officials should be paid.

There has been no impartial review of public officials' compensation since. A 1986 attempt to create a salary commission failed, because it was contingent on passage of a constitutional amendment that never passed. No subsequent attempt has gotten even that far, unless you count a 2006 executive decision that raised the salaries of commissioners.

Twenty eight years is a long time between salary reviews, and in the ensuing years a series of stop-gaps have grown up to meet immediate needs. House Bill 260 is an attempt to take a comprehensive look at the compensation the Governor, Lieutenant Governor, executive department heads, and legislators.

HB 260 creates a five-member commission appointed by the governor, with one of the members recommended by the presiding officer of each legislative house. The compensation commissioners serve without compensation and are staffed by the Department of Administration.

Under the bill, the commissioners would study state officers' compensation and submit a report at least every two years. The recommendations in the report will take affect unless specifically rejected by legislative action. Any increases in salary and benefits are subject to appropriation.

The unworkable provisions of the 1986 salary commission law, including the eternally delayed effective date, are repealed.

This is not an attempt to increase, reduce, or otherwise drive the direction of legislative and executive pay in Alaska. Significant trust is placed in this commission to come up with an equitable solution. But the problems with legislators establishing a compensation system that includes their own pay and benefits seem obvious – and unsolvable. It is the sponsor's view that the State Officers Compensation Commission is the best way to craft a viable long term solution.



Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Changes in HB 260

House State Affairs committee

The House State Affairs committee considered version 25-LS0659\M. The committee amended language stipulating members of the Commission may never have served in any of the offices or positions for which the Commission makes a compensation recommendation to state that members of the Commission may not have served in any of those offices or positions within the 4 years prior to their appointment to the Commission. (Page 2, Lines 18-19)

The version before the House Finance committee is 25-LS0659\K.



Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Compensation Commission History in Alaska

The following timeline describes the history of major changes to legislative pay, and the last active commission on compensation, the Alaska Salary commission:

- 1975 Legislature passes SB 404, "Relating to the compensation and retirement of judicial officers, legislators, and public officer and employees." This bill established legislative pay at \$14,720, and established the "Elected Public Officers Retirement System."
- Aug. 1976 SB 404 is struck down by referendum, with over 80% of voters opposing the plan. Legislative pay returns to \$9,000.
- 1976 Legislature passes SB 499, "Relating to compensation, benefits, and classifications of public officers and employees; creating the Alaska Salary Commission."
- 1977 Alaska Salary Commission releases first preliminary report. Report is submitted by commissioners Kathleen Diebels, Chairman, Kim Elton, Connel Murray, and Robert Heath.
- 1977 Legislature passes HCR 45, "Approving certain recommendations of the Salary Commission." Legislative pay set at \$11,750 plus office expense and per diem. Legislature specifically rejected recommendations for biannual pay increases, mandatory PERS membership, and reimbursement of round trip travel to the capital.
- 1979 Alaska Salary Commission releases second report.
- 1980 Legislature passes SB 182, "Relating to the compensation of public officers...and repealing the Alaska Salary Commission." Adopts some of the 1979 recommendations, set legislative pay at \$15,500, and dissolved the commission. Commission's demise attributed to complexity and breadth of its mandate (addressing pay of division directors, retirement system, etc.)
- 1986 Legislature passes HB 454, creating a new commission contingent on passing a constitutional amendment - which never occurred.
- 1996 Legislature passes SB 1003, setting legislative salary at \$24,012.

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Alaska State Legislature

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District 25, Anchorage

SECTIONAL ANALYSIS

HB 260

An Act relating to the State Officers Compensation Commission

- Section 1:** Changes the section describing legislative salaries, from a fixed \$2,001 to an amount determined by the commission.
- Section 2:** Changes legislative moving and per diem from a mandatory to an optional payment. Legislative council policy for these items shall be adopted in accordance with commission recommendations.
- Section 3:** Changes the pay of the governor from a fixed amount to an amount determined by the commission.
- Section 4:** Changes the pay of the lieutenant governor from a fixed amount to an amount determined by the commission.
- Section 5:** Changes the pay of department heads from a limited range of options based on the salary schedule, to an amount determined by the commission.
- Section 6:** Establishes a State Officers Compensation Commission in AS 39.23.
- .500 Commission has five members, state residents, appointed by the governor without confirmation. One member appointed from a list of two or more candidates selected by Senate President, one member appointed from a list of two or more candidates selected by Speaker of the House. Members serve staggered four year terms, two term limit, chair selected by members. Commission established in the Department of Administration.
 - .510 Members may not be state employees or serve on any other board or commission. Members may not have served in an office for which the commission makes a compensation recommendation in the four years prior to their appointment.
 - .520 Members serve without compensation but may receive travel and per diem.

- .530 The Commissioner of Administration shall serve as ex-officio secretary of the commission, and provide staff and administrative services as necessary.
- .540 The Commission shall review the salaries, benefits, and allowances of legislators, the governor, lieutenant governor, and commissioners and prepare a report of their findings at least every two years. They may request reports and other information from state departments. The Commission prepares findings by November 15, gives public notice, and solicits public comments. The Commission provides a final report and recommendations by the 10th day of a legislative session. Unless disapproved by law within 60 days, the recommendations take effect at the beginning of the next session (for legislators), or at the beginning of the next fiscal year (for executive branch employees.) There is no partial approval; either the entire set of recommendations is accepted, or none. A commissioner who disagrees with the majority may attach written objections to the report and recommendations. Recommendations that increase pay are not effective unless all increases are fully funded by legislative appropriations.
- .545 Recommendations may not reduce the salary or benefits of a governor, lieutenant governor, or department head who took office before the effective date of the recommendations.
- .550 Recommendations are filed with the lieutenant governor. Once effective, the commission shall certify them.
- .560 Affirms Legislative policy that the commission shall recommend an equitable compensation package for legislators.
- .600 Definition: "Commission" means "State Officers Compensation Commission."

- Section 7:** Repeals AS 39.23.200-400, the 1986 compensation commission law that was never implemented due to a delayed effective date clause.
- Section 8:** Repeals uncodified portions of the 1986 compensation commission law related to procedure, timing, and effects of commission reports.
- Section 9:** Uncodified section concerning staggered terms of initial appointments and procedure for calling the commission's first meeting.
- Section 10:** Uncodified section making Sections 1 through 5 (amendments to salary statutes) conditional on the receipt, acceptance, and funding of the recommendations described in Section 6.

Section 11: Repeals uncodified portions of the 1986 compensation commission law concerning the delayed effective date contingent on a constitutional amendment.

Section 12: Effective date of Sections 1 through 5 (amendments to salary statutes) is the same as the effective date of the appropriation that would follow acceptance of the Commission's recommendations.

Section 13: Immediate effective date for the rest of bill.

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Legislator Compensation 2007

Updated March 2007

State	Salary	Per Diem
Alabama	\$10/day (C)	\$2,280/month plus \$50/day for three days during each week that the legislature actually meets during any session (U).
Alaska	\$24,012/year	\$163 or \$218 /day (depending on the time of year) tied to federal rate. Legislators who reside in the Capitol area receive 75% of the federal rate.
Arizona	\$24,000/year	\$35/day for the first 120 days of regular session and special session. \$10/day thereafter. Members residing outside Maricopa County receive an additional \$25/day for the first 120 days of regular session and special session. An additional \$10/day thereafter (V). Set by statute.
Arkansas	\$14,765/year	\$130/day (V) plus mileage tied to federal rate.
California	\$113,098/year	\$162/day for each day they are in session.
Colorado	\$30,000/year	\$45/day for members living in the Denver metro area. \$99/day for members living outside Denver (V).
Connecticut	\$28,000/year	No per diem is paid.
Delaware	\$42,000/year	No per diem is paid.
Florida	\$30,996/year	\$126/day (V) tied to federal rate. Based on the number of days in session. Travel vouchers are filed to substantiate.
Georgia	\$17,342/year	\$173/day (U) set by the Legislative Services Committee.
Hawaii	\$35,900/year	\$120/day for members living outside Oahu. \$10/day for members living on Oahu (V). Set by the legislature.
Idaho	\$16,116/year	\$122/day for members establishing second residence in Boise. \$45/day if no second residence is established and up to \$25/day travel (V) set by Compensation Commission.
Illinois	\$57,619/year	\$125/per session day.
Indiana	\$11,600/year	\$137/day (U) tied to federal rate.
Iowa	\$25,000/year	\$118/day (U). \$88.50/day for Polk County legislators (U) Set by the legislature to coincide with federal rate. State mileage rates apply.

Kansas	\$84.80/day (C)	\$99/day (U) tied to federal rate.
Kentucky	\$180.54/day (C)	\$108.90/day (U) tied to federal rate (110% Federal per diem rate).
Louisiana	\$16,800/year	\$138/day (U) tied to federal rate (26 U.S.C. Section 162(h)(1)(B)(ii))
Maine	\$12,713/year	\$38/day housing, or mileage and tolls in lieu of housing (at rate of \$0.36/mile up to \$38/day) plus \$32/day for meals. Per diem limits are set by statute.
Maryland	\$43,500/year	Lodging \$116/day. Meals \$41/day maximum.
Massachusetts	\$58,237.15/year	From \$10/day-\$100/day, depending on distance from State House (V) set by the legislature.
Michigan	\$79,650/year	\$12,000 yearly expense allowance for session and interim (V) set by compensation commission.
Minnesota	\$31,140.90/year	Senators receive \$96/day and Representatives receive \$77/legislative day (U) set by the legislature.
Mississippi	\$10,000/year	\$91/day (U) tied to federal rate.
Missouri	\$31,351/year	\$79.20/day (U) tied to federal rate. Verification of per diem is by roll call.
Montana	\$82.67/day (L)	\$98.75/day (U)
Nebraska	\$12,000/year	\$99/day outside 50-mile radius from Capitol. \$39/day if member resides within 50 miles of Capitol (V) tied to federal rate.
Nevada	\$137.90/day	Federal rate for Capitol area (U). Legislators who live more than 50 miles from the capitol, if require lodging, will be paid HUD single-room rate for Carson City area for each month of session.
New Hampshire	\$200/two-year term	No per diem is paid.
New Jersey	\$49,000/year	No per diem is paid.
New Mexico	None	\$142/day (V) tied to federal rate and the constitution.
New York	\$79,500/year	Varies (V) tied to federal rate.
North Carolina	\$13,951/year	\$104/day (U) set by statute. \$559.00/month expense allowance.
North Dakota	\$125/day (session) (C)	Lodging reimbursement up to \$900/month (V).
Ohio	\$58,933.56/year	No per diem is paid.
Oklahoma	\$38,400/year	\$122/day (U) tied to federal rate.
Oregon	\$18,408/yr	\$99/day (U) tied to federal rate.
Pennsylvania	\$73,613/year	\$129/day (V) tied to federal rate. Legislators can receive actual expenses or per diem.
Rhode Island	\$13,089.44/year	No per diem is paid.

South Carolina	\$10,400/year	\$119/day for meals and housing for each session day and committee meeting tied to federal rate.
South Dakota	\$12,000/two year term	\$110/legislative day (U) set by the legislature.
Tennessee	\$18,123/year	\$153/legislative day (U) tied to federal rate.
Texas	\$7,200/year	\$139/day (U) set by Ethics Commission.
Utah	\$130/day (C)	\$90/day (U) lodging for each calendar day. Tied to federal rate. \$54/day meals (U).
Vermont	\$600.78/week (session)	Federal per diem rate for Montpelier is \$88/day for lodging and \$51/day for meals for non-commuters. Commuters receive \$51/day for meals plus mileage.
Virginia	\$18,000/year (Senate) \$17,640/year (House)	House \$135/day (U) tied to federal rate. Senate \$140/day (U) tied to federal rate.
Washington	\$36,311/year	\$90/day
West Virginia	\$15,000/year	\$115/day during session (U) set by compensation commission.
Wisconsin	\$47,413/year	\$88/day maximum (U) set by compensation commission (90% of federal rate).
Wyoming	\$150/day (L)	\$85/day(V) Includes travel days for those outside of Cheyenne.

L = Legislative day

C = Calendar day

(V) Vouchered (U) Unvouchered

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Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Alaska Legislators' Sources of Income

Salary

Currently, Alaska legislators' salaries are set at \$2,001 per month, or \$24,012 per year (AS 24.10.100). This salary was established by the 19th legislature in 1996. The Speaker of the House and the President of the Senate earn an additional \$500 a year in salary. Legislators' salaries are subject to withholdings and income tax.

Session Per Diem

Legislators earn *session per diem* for expenses incurred in Juneau during regular and special legislative sessions. It is tied to a per diem rate calculated for the city of Juneau by the federal government. Currently, that figure is \$163 per day during winter months, and \$218 a day during summer months. Legislators representing Juneau receive three quarters of the session per diem amount, or \$122.25 per day in winter months and \$163.50 in summer months. For non-Juneau legislators, session per diem is not subject to withholdings or income tax. Juneau legislators' session per diem is subject to withholdings and income tax.

Long Term Per Diem

Legislators earn *long term per diem* as compensation for individual days of service during the interim period. The rate is \$150 per day for all legislators. It is subject to federal withholdings and income tax. A legislator must submit a claim for each day of long term per diem. Consequently, not all legislators receive the same amount of long term per diem on an annual basis.

Annual Allowance Payment

Each year, legislators receive an allowance option payment. The allowance payment can be taken as income subject to taxes and withholdings, issued as a taxable check, or deposited in an accountable office plan used for legislative office expenditures. Members of the House receive \$8,000. Members of the Senate receive \$10,000.

(Continued on next page)

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2006 Alaska Legislators' Compensation

This table summarizes effective pay for all 60 Alaska legislators in 2006. The National Conference of State Legislatures (NCSL) calculates effective pay by

	Salary	Long Term Per Diem	Effective Pay
Minimum	\$24,012	\$0	\$24,012
Average	\$24,029	\$9,608	\$33,637
Maximum	\$24,512	\$22,200	\$46,212

adding legislators nominal salary and the amount of long term per diem they claim during the interim. They do not count session per diem or the annual allowance payment when calculating pay because not all legislators choose to use their session per diem or allowance option in the same way. The minimum values tell us the lowest salary, amount of long term per diem, and lowers effective pay earned by legislators. The maximum values tell us the highest salary, long term per diem, and effective pay earned by legislators. The average values tell us the average salary, long term per diem, and effective pay earned by legislators.

Sources: 2006 Alaska Legislature Salary & Business Expense Report; Alaska Statutes; Legislative Affairs Agency



Alaska State Legislature

Mike Doogan
Representative
District 25, Anchorage

Legislative pay and comparably compensated state jobs

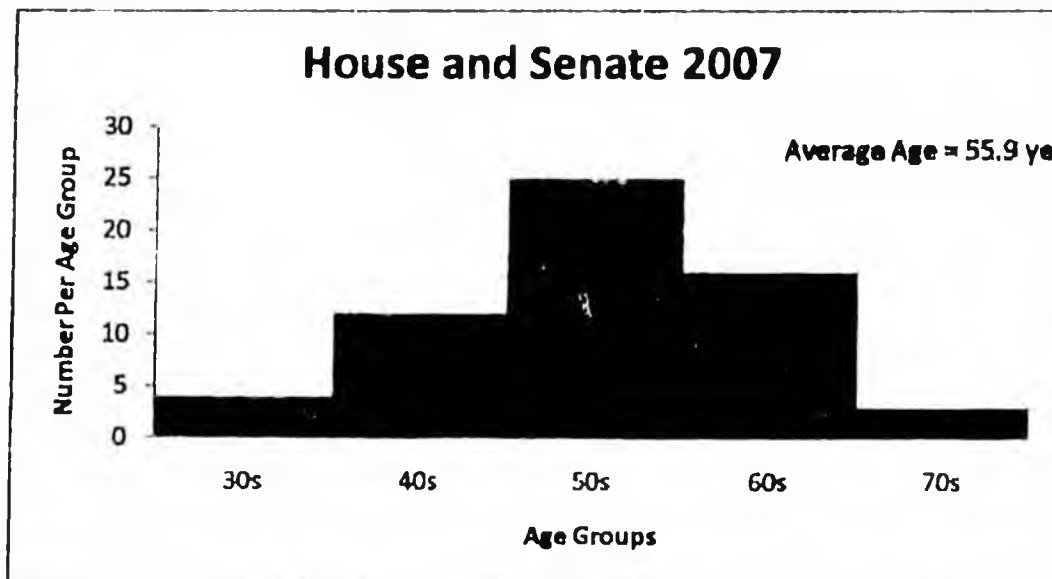
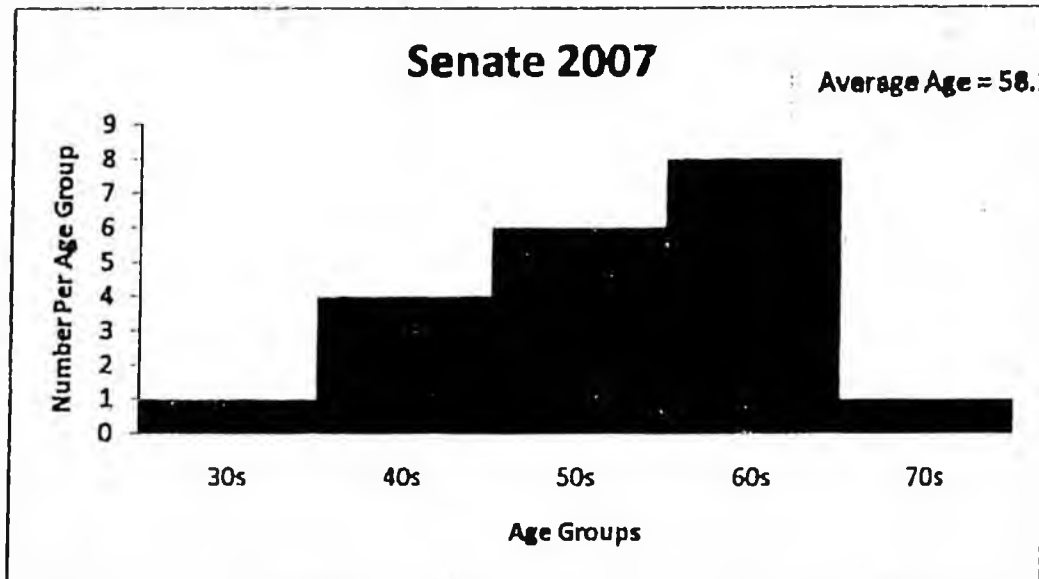
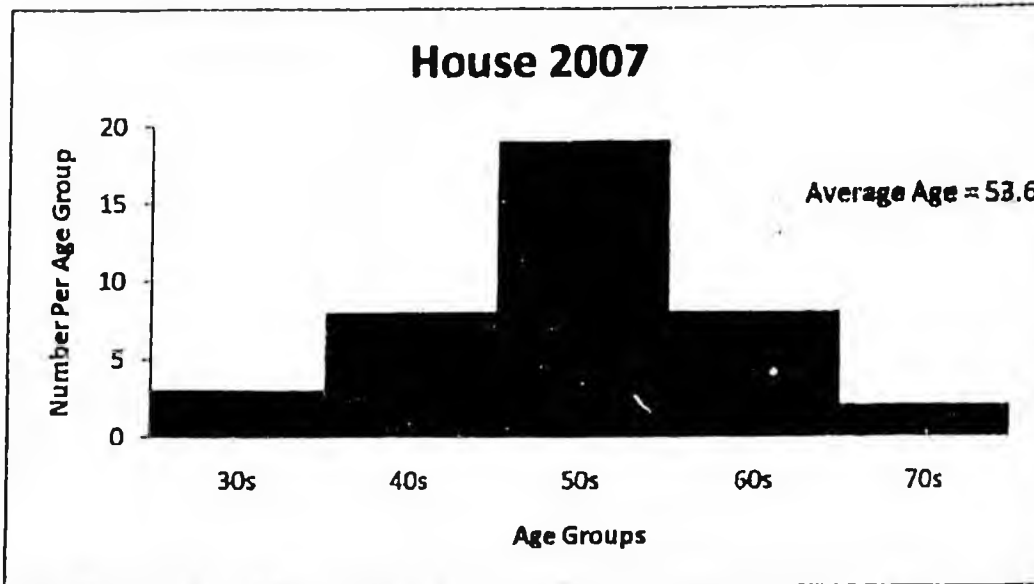
- Job Title:** Alaska State Legislator (Alaska State Legislature)
Pay: \$12.51/hr.
\$2,001.00/mo. (\$24,012/yr.)
Description: Writes and passes laws, makes appropriations, provides oversight of and check on executive and judicial branches.
- Job Title:** Administrative Clerk II (Clerical/Administrative)
Pay: \$12.81/hr.
\$2,082/mo. (\$24,984/yr.)
Description: Perform office clerical assignments and services. Type and produce reports, perform complex data entry assignments, receive and review or compare documents, receive, receipt, and account for money.
- Job Title:** Environmental Services, Journey II (Labor/Trades)
Pay: \$13.32/hr.
\$2,131/mo. (\$25,574/yr.)
Description: Maintain and clean State facilities, institutions and hospitals. Work includes laundry service, furniture and carpet cleaning, and minor equipment maintenance and building repairs.
- Job Title:** Accounting Clerk I (Clerical/Administrative)
Pay: \$14.42/hr.
\$2,344/mo. (\$28,128/yr.)
Description: Perform clerical accounting work involving financial documents.
- Job Title:** PFD Technician I (Clerical/Administrative)
Pay: \$14.42/hr.
\$2,344/mo. (\$28,128/yr.)
Description: Examine applications and supportive documents submitted by individuals applying for the Permanent Fund Dividend.

*Source: State of Alaska, Department of Administration, Division of Personnel website
<http://dop.state.ak.us/>*

**Age Comparison: Alaska State Legislators
vs. Statewide Population Ages 30+**

Age Group	Alaskans 30+	%	Legislators	%
30-39	92,975	25.4%	4	6.7%
40-49	108,638	29.6%	12	20.0%
50-59	93,470	25.5%	25	41.7%
60-69	42,632	11.6%	16	26.7%
70+	28,902	7.9%	3	5.0%
	366,617	100.0%	60	100.0%

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COMPENSATION COMMISSIONS

By Johanna Donlin

Legislators' pay is one of the more politically charged issues in today's state legislatures. Just the mention of a possible pay raise causes an instant rise in constituent mail and phone calls, not to mention the interest of the media. And a vote for an increase can have serious repercussions when the next election rolls around. Given these factors, legislators clearly recognize the difficulty in raising their own pay.

Twenty-one states use compensation commissions to provide an objective evaluation of legislators' salary levels.

In order to remove the issue from the political arena, 21 states currently use a compensation commission to provide an objective evaluation of legislators' salary levels. Members of the commissions are generally appointed by legislative leaders or the governor and represent a cross section of the citizenry. Sometimes, former legislators are included, but current elected officials and state employees generally are not. The commissions are given the charge to evaluate legislators' compensation, and make recommendations to the legislature based on a variety of objective criteria.

As they begin their evaluation process, the commissions collect a wide variety of information that usually includes the state's history on legislators' pay, how the current salaries compare with the executive branch officials, and whether or not salaries have kept pace with the consumer price index. Through public hearings, citizens have the opportunity to voice their opinions. Commissions make other comparisons between citizen and full-time legislatures, legislative session lengths, and salary and per diem levels in other states as reported in an annual survey by NCSL. They may also evaluate other aspects of compensation, such as travel and staff allowances, and supplemental stipends given to leaders or committee chairs. Each state's statutes or rules dictate the scope of the commission's jurisdiction.

One of the most important aspects of the commissions is their level of authority.

One of the most important aspects of the commissions is their level of authority. In California, Oklahoma and Washington, the commission has complete control over legislators' salaries. Their decisions cannot be overruled by the legislature. In Delaware and Utah, the recommendations take effect unless the Legislature votes against them. In many states, the commissions play a purely advisory role. The recommendations are presented to the legislature and the legislators are put in the position of voting on their own pay. Arizona is the only state that places the commission's recommendation on the ballot for a vote of the people.

States with Compensation Commissions

Alabama
Alaska *
Arizona
California
Connecticut
Delaware
Hawaii
Idaho
Illinois
Iowa
Kentucky
Maine
Maryland
Michigan
Minnesota
New Jersey
North Dakota
Oklahoma
Utah
Washington
West Virginia

Source: NCSL, 1999

* Never implemented; required a constitutional amendment that never passed.

Generally, compensation commissions assess legislators' salaries and offer recommendations to their respective legislatures. The challenge comes when the recommendations are thrown back into the political arena and the members must once again address the question of raising their own pay. The legislators must find a salary level that will attract a diverse group of candidates and still be acceptable to the public. If the salary is too low, many smaller states fear that public office will only be an option for the affluent who can afford to take time off from their permanent jobs. If the salary is too high, the public will react negatively and voice their opinions through the ballot box. Depending on the current political climate, a pay raise may not be passed, despite a commission's strong recommendation to do so.

Compensation commissions assess legislators' salaries and submit recommendations.

In some states, the commissions are dormant. Colorado passed its recent pay raise through the legislative process, despite the presence of a commission in its statutes. Kentucky and Massachusetts both have commissions, but they have not met in several years. In fact, Massachusetts voters passed a measure in 1998 that gives legislators an automatic increase or decrease according to the median household income for the preceding two-year period.

Still, other states continue to explore the compensation commission option or refine their current commission's structure. Maine established their commission in 1998 and New Jersey passed legislation in 1999 to create its commission.

In 1999, Utah legislators changed the authority level of the compensation commission. Before 1999, the commission's recommendations were only advisory and the commission met every year. Now, the commission's recommendations will take effect unless the Utah Legislature votes against them and the commission will meet every two years. As in most states, any change in Utah legislators' salaries cannot go into effect until after the next election.

Selected Reference

Legislative Management Program. *1999 Legislators' Compensation and Benefits Survey*.
Denver: National Conference of State Legislatures, 1999.

Contact for More Information

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Perspectives on Legislative Compensation

NCSL Fall Forum
Phoenix, November 2007
Karl Kurtz

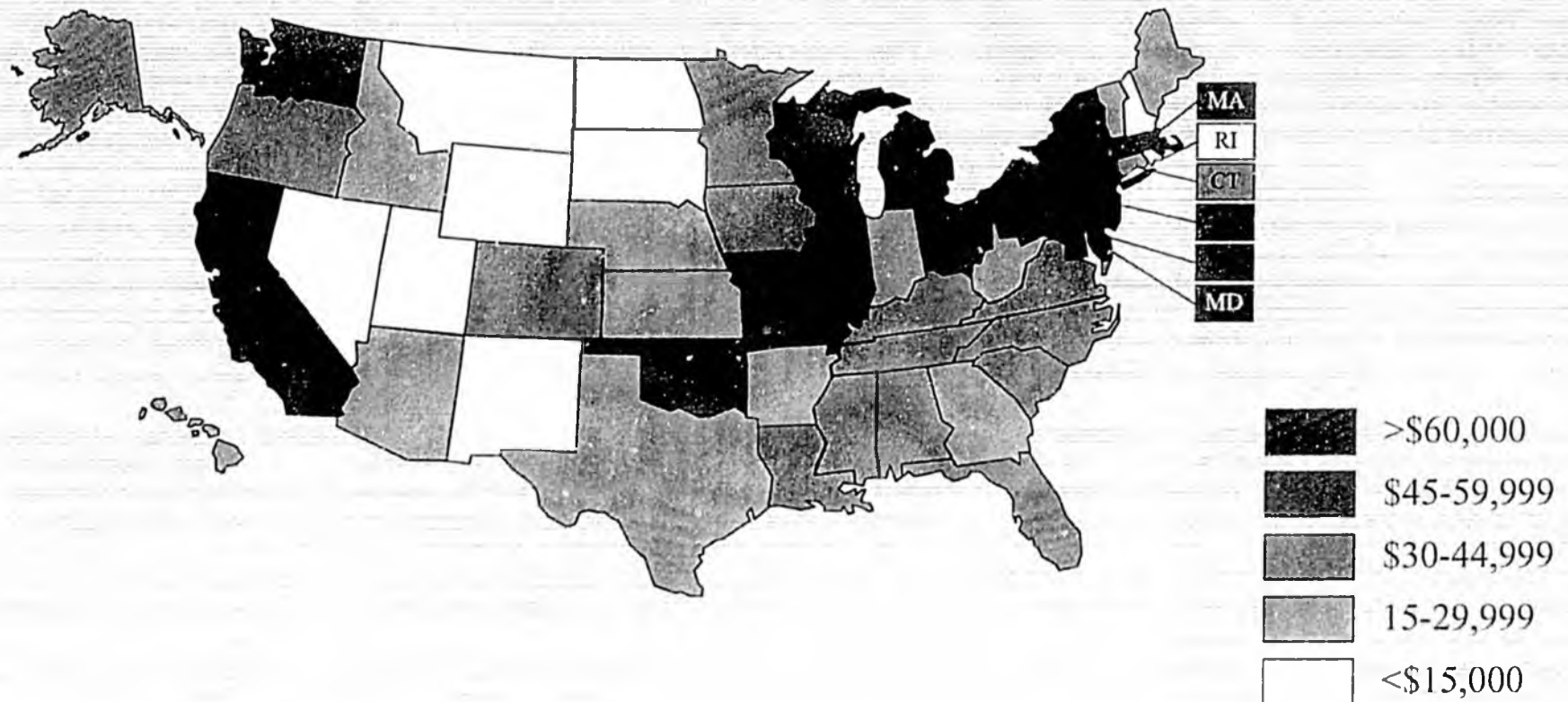
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Estimating Compensation

- What the IRS counts as compensation
 - Salary
 - Per diem—session and interim
 - Unvouchered expense payments
 - Excludes special leadership or committee chair compensation
-
-

Estimated Annual Compensation, 2007



Red, White & Blue Legislatures

Red

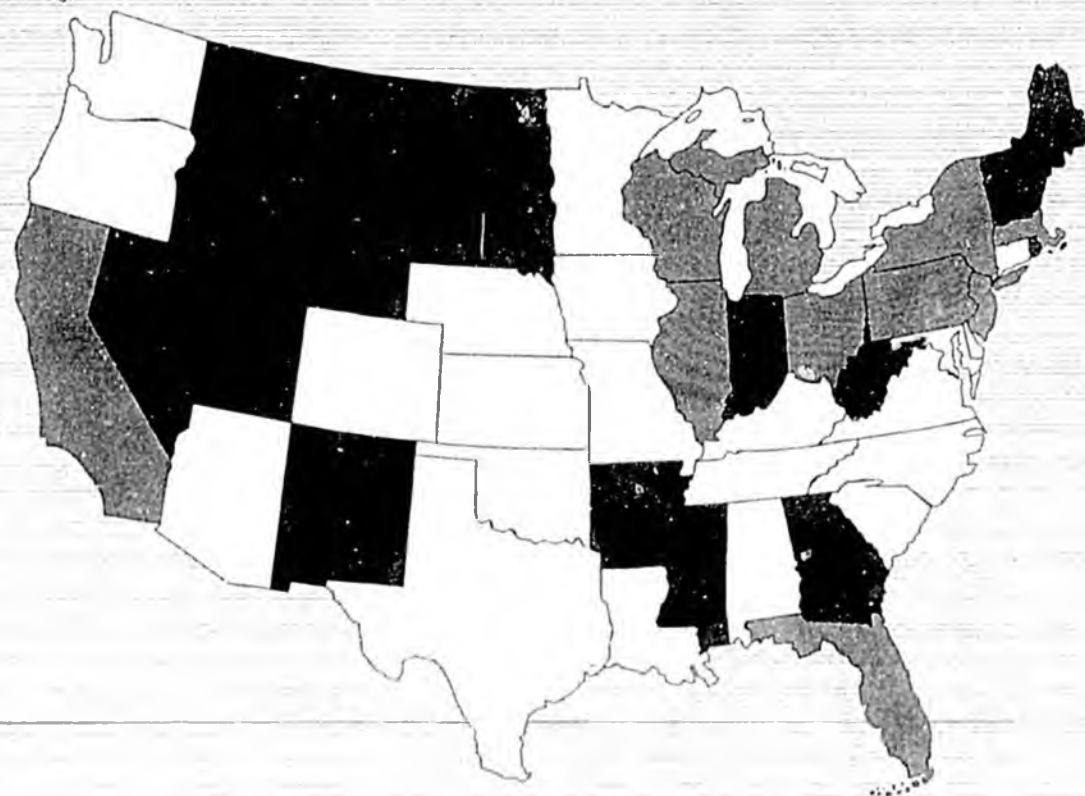
Full-time, well paid, large staff

White

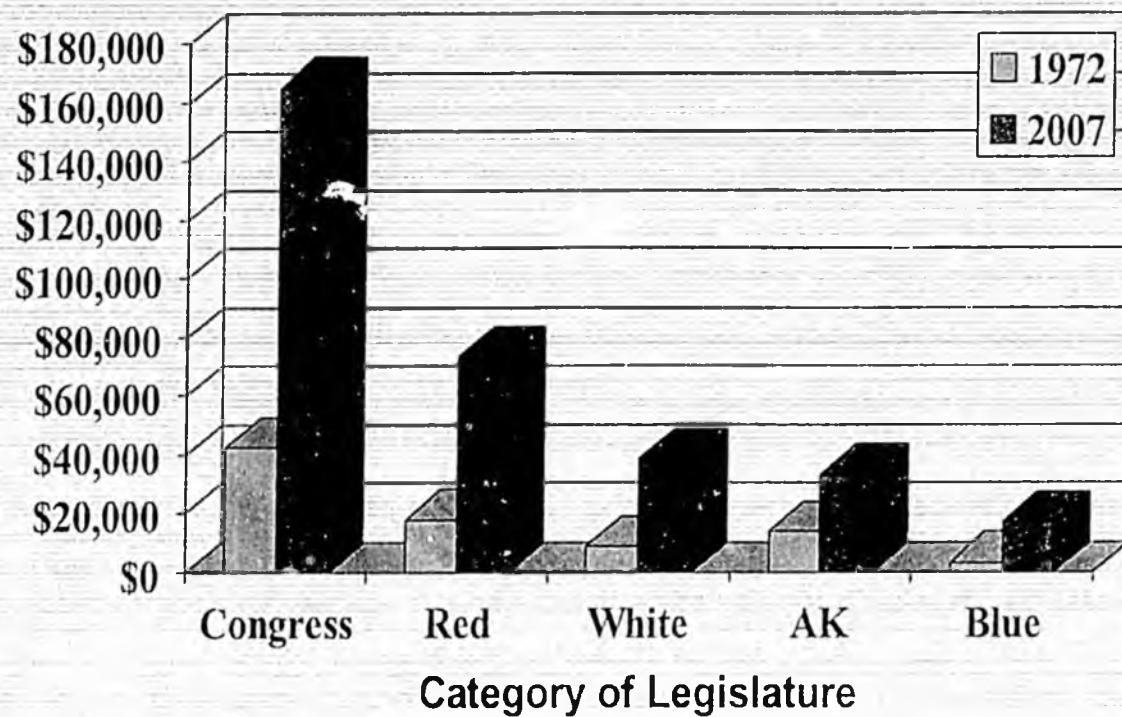
Hybrid

Blue

Part-time, low pay, small staff

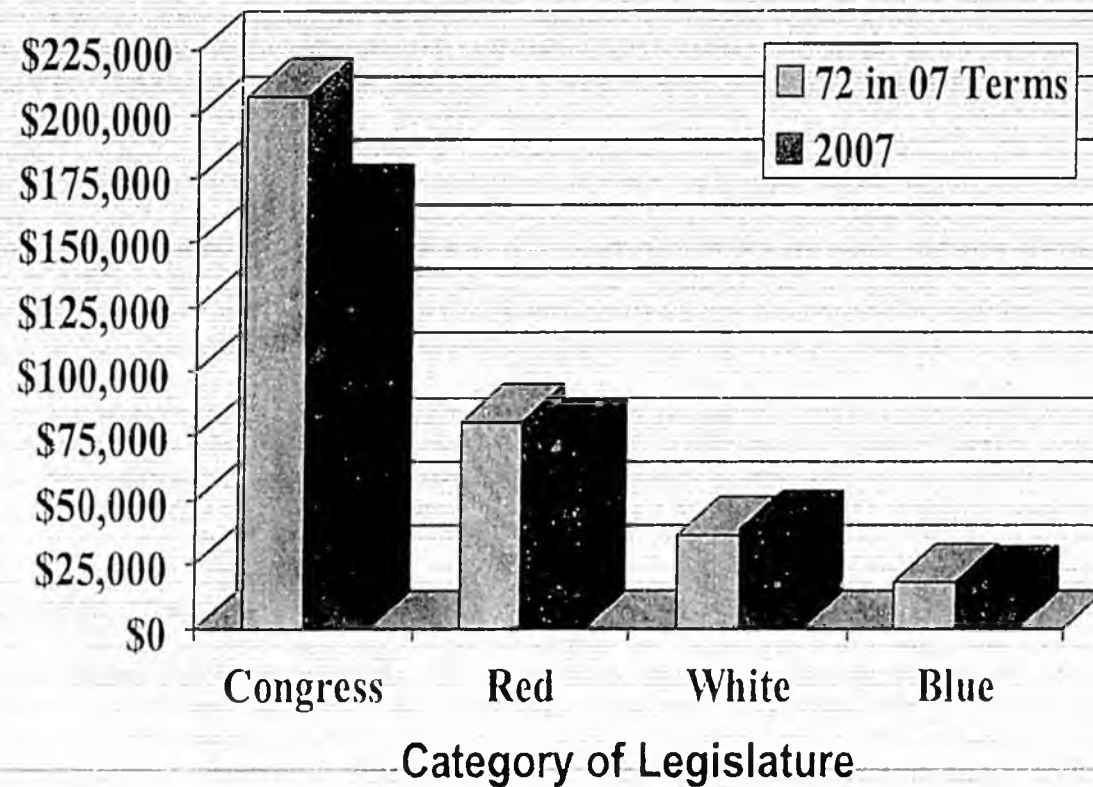


Compensation of Legislators

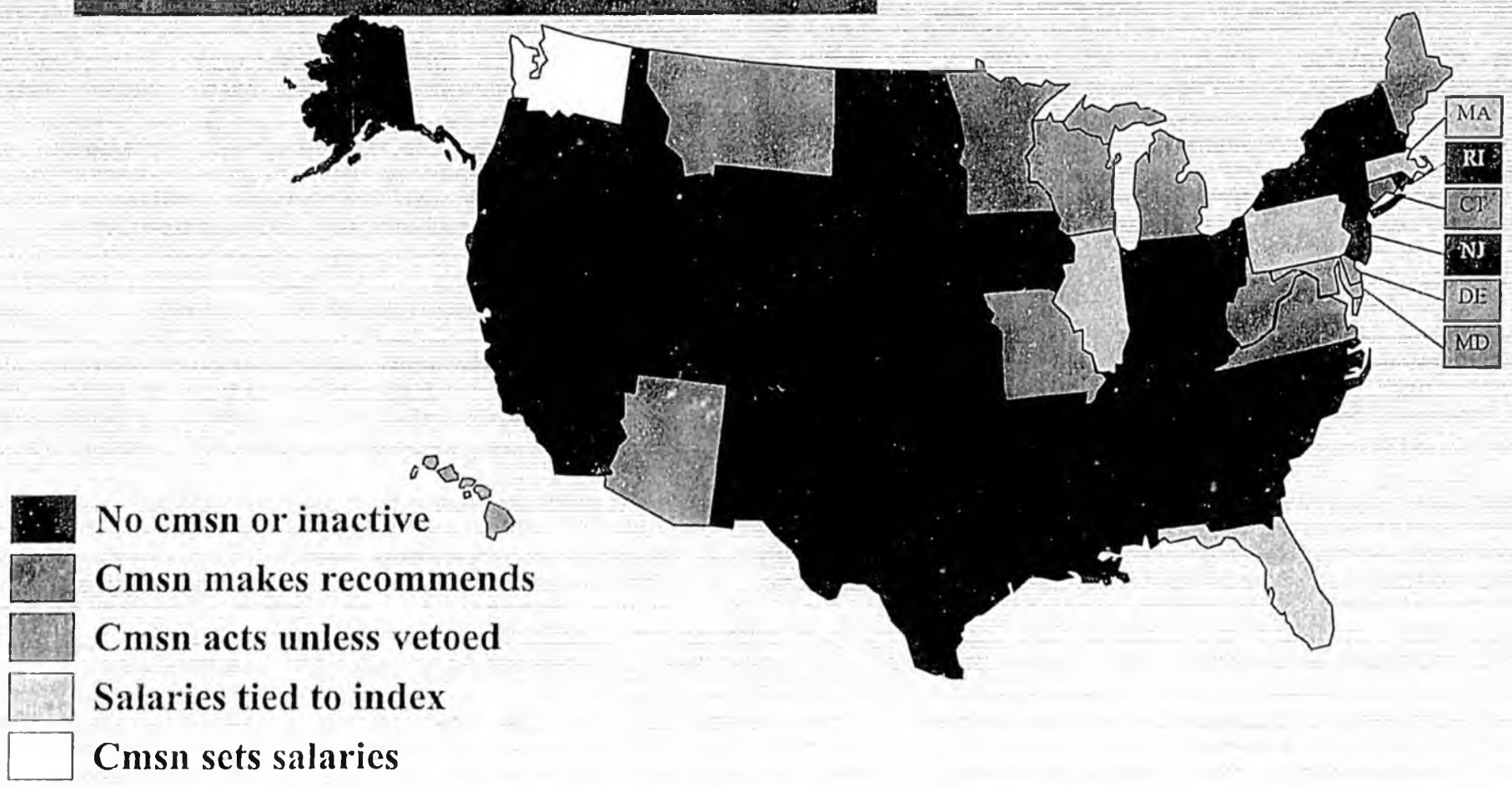


Real Compensation

Compensation in Constant Dollars



Compensation Methods



Compensation Methods

- Commission makes recommendations only:
CT, ME, MN, VA, WV
- Commission action implemented unless
rejected by leg/gov/voters: AZ, DE, HI, MD,
MI, MO
- Commission sets salaries: WA
- Salaries tied to state workers/economic
index: FL, IL, MA, MT, PA, WI
- Inactive commissions: AK, KY, TX



Alaska State Legislature

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States with compensation commissions

This table contains a list of the other 20 states which possess compensation commissions. It also states whether the compensation commission is established in the state's statutes or constitution, and offers a brief explanation of how the commission works.

State	Statute or Constitution?	How does it work?
Alaska	Statute	Never implemented. Required passage of a constitutional amendment that was never ratified.
Arizona	Constitution	Commission recommendations are put on the ballot for a vote of the people.
California	Constitution	Decision of commission binding; has the effect of law.
Connecticut	Statute	The General Assembly takes independent action pursuant to recommendations of a Compensation Commission.
Delaware	Statute	Are implemented automatically if not rejected by resolution.
Hawaii	Constitution	Commission recommendations take effect unless rejected by concurrent resolution or the governor. Any change in salary that becomes effective does not apply to the legislature to which the recommendation was submitted.
Idaho	Statute	Information not available.
Illinois	Statute	Tied to employment cost index, wages and salaries for state and local government workers.
Kentucky	Statute	The Kentucky committee has not met since 1995. The most recent pay raise was initiated and passed by the General Assembly.

State	Statute or Constitution?	How does it work?
Maine	Constitution	Presented to the Legislature in the form of legislation, the legislature must enact and the Governor must sign into law.
Maryland	Constitution	Commission meets before each four-year term of office and presents recommendations to the General Assembly for action. Recommendations may be reduced or rejected.
Michigan	Constitution	If resolution is offered, it is put to legislative vote; if legislature does not vote recommendations down, the new salaries take effect 1/1 of the new year.
Minnesota	Statute	By May 1 in odd numbered years the Council submits salary recommendations to the presiding officers.
Missouri	Constitution	Recommendations are adjusted by legislature or governor if necessary.
New Jersey	Constitution	Information not available.
North Dakota	Statute	Information not available.
Oklahoma	Statute	Information not available.
Oregon	Statute	Nonbinding recommendation to the legislature.
Utah	Statute	Information not available.
Washington	Constitution	Salary commission sets salaries of legislature and other state officials based on market study and input from citizens.
West Virginia	Statute	Submits by resolution and must be concurred by at least four members of the commission. The Legislature must enact the resolution into law and may reduce, but shall not increase, any item established in such resolution.

Source: National Conference of State Legislatures

HB

267

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 267(RES)
(H) Publish Date: 2/8/08

Identifier (file name): HB267CS(RES)-DFG-DWC-02-08-08 Dept. Affected: Fish and Game
Title: Wildlife Violator Compact RDU: Wildlife Conservation
Component: Wildlife Conservation
Sponsor: Representative Johnson
Requester: House Finance Committee Component Number: 473

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will not have any fiscal impact on the Department of Fish and Game.

Prepared by: Doug Larsen, Director
Division: Wildlife Conservation
Approved by: Denby Lloyd, Commissioner
Department of Fish and Game

Phone: 465-4191
Date/Time: 2/8/08 3:00 PM
Date: 2/8/2008

Ostnes

2/19/08

The wildlife violator compact is patterned after the driver's license compact which all other states have entered into. If a person's driver's license is revoked in one state in the United States, that person cannot go to another state and get a driver's license. The compact started in 1985 between Nevada and Colorado. In 1989, the three states of Nevada, Colorado, and Oregon passed legislation and the program began in those states in 1991. Immediately afterward, many states recognized that this would be a very valuable tool to deter serious wildlife violators everywhere in the nation.

In the Alaska example, a group of poachers from Alabama killed 11 illegal caribou and entirely wasted the meat of nine. The problem is that poachers like these can immediately move to another state. For instance, despite being jailed and fined in Alaska, the Alabama poachers were able to return to their state and obtain licenses for the fall Alabama hunting season. The biggest reason for the compact is to stop the inter-state travel of

9 pages
after
fiscal
note

ON FILE

serious poachers, he said. Had Alaska been a member of the compact, the hunting licenses of these caribou poachers would have been revoked in the 26 compact member states instead of only in Alaska.

The compact's foundation has tremendous value for three reasons. **First** and foremost, it prevents poachers revoked in one member state from hunting or fishing, depending on which activity was violated, in any of the other member states. **Second**, the compact provides for the issuance of citations to nonresidents versus having to arrest them. This is a big issue in Alaska and many other states because in order to prevent a violator from fleeing across state lines to avoid the consequences of the citation, the wildlife authorities must stop their field patrol, place the violator under arrest, and immediately take the violator before a magistrate. **Third**, the compact provides a tremendous deterrent for serious fish and wildlife crimes. People who know that Alaska is a member of the compact would think twice before

coming up to illegally harvest game, for selling the parts or conducting other illegal activities.

The current provisions of the Wildlife Violator Compact

- 1) Anyone revoked in one compact state can be revoked in all other compact states if the conviction is a basis for revocation in that state.
- 2) Each state will treat the conviction as if it occurred in their state.
- 3) A violator of a compact state is treated as a resident if he violates in any other compact state.
- 4) If a violator fails to appear and take care of the citation, then the state issuing the citation may notify the violator's home state.
- 5) The home state then notifies the violator that his or her license will be suspended until the terms of the citation are complied with.

Who makes the determination as to whether the violation that occurred in one state is bad enough to revoke the license in Alaska?

Compact Administrator Procedures [page 7, line 29, to page 8, line 30], provides for an administrator to be selected from the Department of Public Safety (DPS). This administrator would be someone of command level, probably a lieutenant or above. A DPS clerk would receive downloads of the most recent revocation information to give to the compact administrator. The administrator would consult with the director's staff in the Division of Alaska Wildlife Troopers to determine whether to revoke an Alaska resident's license based on revocation issued outside the state. Based on the authority in the compact when someone is revoked in another state, Alaska can simply administratively adopt and accept that revocation based on the screening of the compact administrator. For example, if an Alaska resident committed a violation in Wyoming for which he or she was convicted after returning to Alaska, Wyoming

would send that conviction information to Alaska and Alaska would then notify the violator and that is when a court hearing would be involved. So, the court hearing is in the violator's home state.

The authorization for due process and court proceedings in the home state is located in Section 3 of the bill, page 10, line 27, where the penalty provisions in Title 16 are amended, thus giving Alaska, as the home state, the authority to revoke a license based on a conviction in another state. The person must actually be convicted in another state of something revocable, he said. Then that state would notify Alaska and Alaska could take action as the home state. Section 1 of the Wildlife Violator Compact itself gives Alaska the authority to adopt the revocation of a Nevada resident who is convicted of a violation and revoked in Nevada.

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2/19/08

ALASKA STATE LEGISLATURE

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Fax (907) 269-0204
Rep_Craig_Johnson@legis.state.ak.us



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State Capitol, Room 126
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99801-1182
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Fax (907) 465-3872

REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

Sponsor Statement Wildlife Violator Compact HB 267

This legislation would allow Alaska to join other states in entering into a Wildlife Violator Compact. The Wildlife Compact (WVC) was created in 1989 when passed into law in Colorado, Utah and Oregon and currently there are 26 states participating in the compact. Ohio will be the 27th state joining in January of 2008. The WVC is an interstate agreement to enhance compliance with the hunting, fishing and other wildlife laws, ordinances and regulations of participating states, while providing for the fair and impartial treatment of wildlife violators.

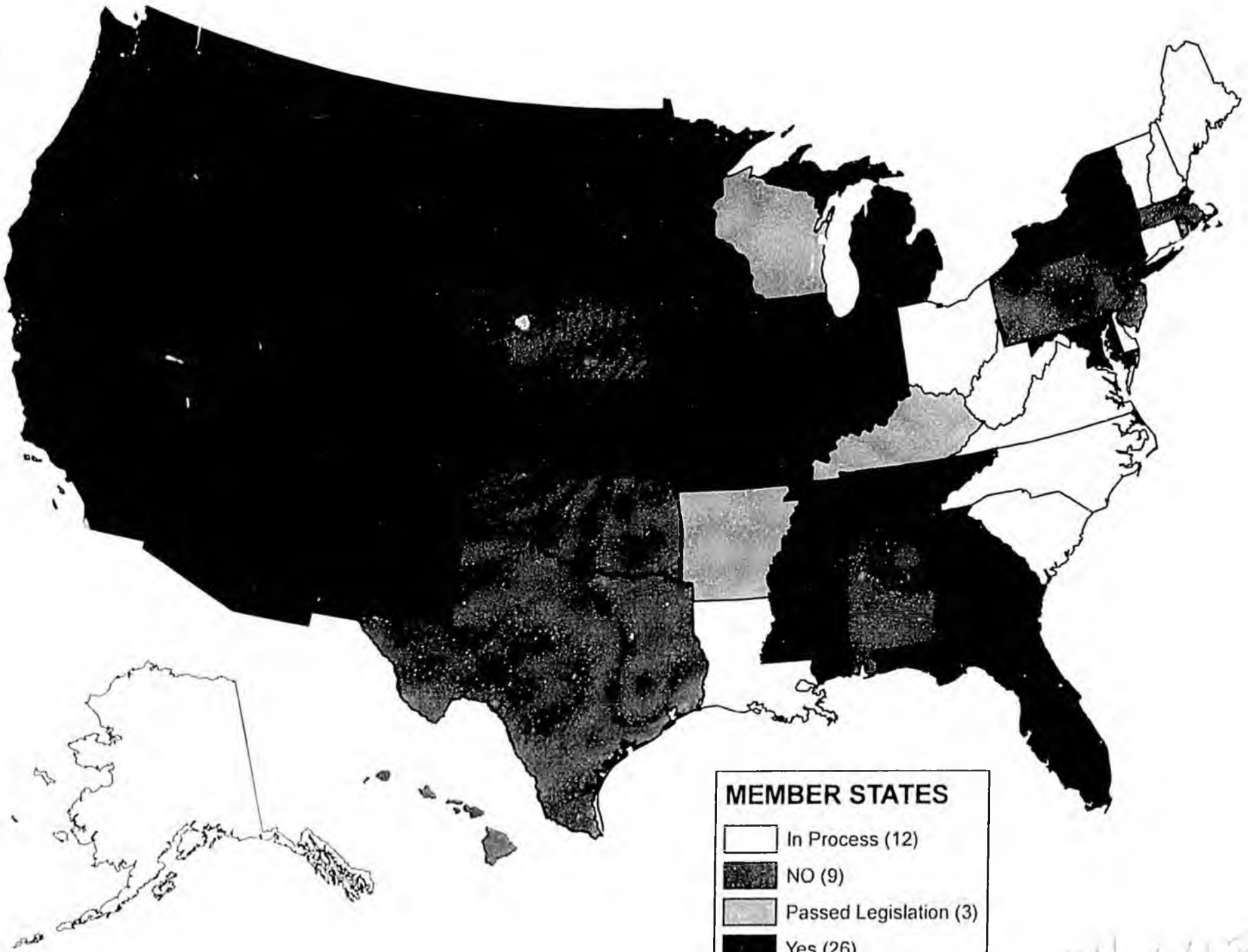
Compact Benefits for the Consumer:

- Delays and or the inconvenience involved with the processing of a violation are comparable for residents and non-residents of participating states.
- Personal recognizance is permitted in many cases involving wildlife violations. Certain violations and circumstances still require an immediate appearance or bonding.

Compact Benefits for the Agency:

- Wildlife law enforcement officers are able to devote more time to patrol, surveillance and apprehension of violators since they are not burdened with violator processing procedures.
- The burden on courts and jail facilities is reduced because of the decreased case load involving immediate appearances, bonding and incarceration.
- Public relations are improved by not having to subject as many violators to the inconveniences of immediate appearance, bonding or incarceration.
- The numbers of "Failure to Appear" cases are reduced because non-residents cannot ignore a citation from participating states without facing the suspension of their wildlife license privileges in their home state.
- Wildlife law violators are put on notice that their activities in one state can affect their privilege to recreate in all participating states.

80/61/c



MEMBER STATES

	In Process (12)
	NO (9)
	Passed Legislation (3)
	Yes (26)

ON FILE

2/19/08

This nonresident poacher from Alabama is posing with an illegal cow caribou. He and his hunting companions took a total of 11 illegal caribou and entirely wasted the meat of 9. If Alaska were a compact member, their hunting licenses would have been revoked in 26 states instead of Alaska only.

ALASKA



HB 267

Wildlife Violator Compact

Representative Craig Johnson

465-6871

ON FILE

TWENTY-SIX STATES

2/19/08



MEMBER STATES

NO
 Yes

WILDLIFE VIOLATOR COMPACT STATES
OCTOBER 20, 2005

ARIZONA
CALIFORNIA
COLORADO
GEORGIA
IDAHO
INDIANA
IOWA
KANSAS
MARYLAND
MICHIGAN
MINNESOTA
MISSOURI

MONTANA
NEVADA
NEW MEXICO
NORTH DAKOTA
OREGON
SOUTH DAKOTA
UTAH
WASHINGTON
WYOMING

2006 AND 2007 ADDITIONS

MISSISSIPPI
ILLINOIS
TENNESSEE
FLORIDA
NEW YORK

2/19/08

WILDLIFE VIOLATOR COMPACT NOTICE OF APPLICABILITY AND DUE PROCESS

This is official notice that the member states of the Interstate Wildlife Violator Compact, as listed below, have agreed to recognize, as applicable, the attached wildlife license suspension or revocation notice and/or order as if the qualifying offense, conviction, and suspension or revocation had occurred in those states. Obtaining or attempting to obtain any license, tag or permit that is prohibited by the attached notice may be an additional and separate violation if the license, tag or permit is obtained from any of the member states. Any license, tag or permit obtained in violation of the attached notice and/or order may be invalid.

It is your responsibility to contact any member state where you intend to obtain or attempt to obtain any license, permit or tag to determine your eligibility to purchase that license, permit or tag, or to determine if appeal procedures are available. You may determine your eligibility by inquiring in writing to the specific member state at the address listed below.

Interstate Wildlife Violator Compact member states include:

Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Tennessee, Utah, Washington, and Wyoming.

Member states contact information is as follows:

Arizona Game and Fish Department
Law Enforcement Branch – IWVC
2221 W. Greenway Road
Phoenix, AZ 85023

Florida Fish and Wildlife Conservation
620 South Meridian Street
Tallahassee, FL 32399-1600

California Dept. of Fish & Game
Law Enforcement Branch
1416 Ninth St., Ste. 1326
Sacramento, CA 95814

Georgia Dept. of Natural Resources
Wildlife Resources Division
2070 US Hwy 278 S.E.
Social Circle, GA 30025

Colorado DNR, Division of Wildlife
6060 Broadway
Denver, CO 80216

Idaho Fish & Game
Enforcement Bureau
600 S. Walnut Box 25
Boise, ID 83707

Member states contact information is as follows:

Illinois Department of Natural Resources
Office of Law Enforcement
One Natural Resources Way
Springfield, IL 62702

Indiana Department of Natural Resources
Law Enforcement Division
402 W. Washington St. Room W255D
Indianapolis, IN 46204

Iowa DNR/Fish & Wildlife Division
Law Enforcement Bureau
Wallace State Office Bldg.
E 9th & Grand Ave
Des Moines, IA 50319

Kansas Department of Wildlife and Parks
512 S.E. 25th Avenue
Pratt, KS 67124-8174

Maryland Natural Resources Police
Tawes State Office Bldg., E-3
580 Taylor Ave.
Annapolis, MD 21401

Michigan Department of Natural Resources
Law Enforcement Division
530 W. Allegan
P.O. Box 30031
Lansing, MI 48909

Minnesota DNR, Enforcement Division
500 Lafayette Rd, Box 47
St. Paul, MN 55155

Missouri Department of Conservation
Protection Division
PO Box 180
Jefferson City, MO 65102

Mississippi Department of Wildlife, Fisheries and Parks
1505 Eastover Drive
Jackson, MS 39211-6374

Montana Dept. of Fish, Wildlife & Parks
Enforcement Division
PO Box 200701
Helena, MT 59620

Nevada Department of Wildlife
1100 Valley Rd
Reno, NV 89512

Member states contact information is as follows:

New Mexico Department of Game & Fish
PO Box 25112
Santa Fe, NM 87504

New York State Dept. of Environmental
Conservation
Division of Law Enforcement
625 Broadway
Albany, NY 12233-2500

North Dakota Game & Fish Dept.
Chief of Law Enforcement
100 N. Bismarck Expressway
Bismarck, ND 58501

Oregon Dept. of Fish & Wildlife
3406 Cherry Ave NE
Salem, OR 97303

Tennessee, Wildlife Resources Agency
Ellington Agricultural Center
P.O. Box 40747
Nashville, TN 37204

South Dakota Game, Fish & Parks
Division of Wildlife
523 E. Capital Avenue
Pierre, SD 57501

Utah Division of Wildlife Resources
Interstate Wildlife Violator Compact
P.O. Box 146301
Salt Lake City, UT 84114-6301

Washington Department of Fish & Wildlife
Enforcement Program
600 Capitol Way N.
Olympia, WA 98501-1091

Wyoming Game & Fish Dept.
5400 Bishop Blvd.
Cheyenne, WY 82006

2/19/08

WILDLIFE VIOLATOR COMPACT



Why should Alaska join?

PRESENTED BY

Alan G. Cain

*Statewide Law Enforcement Specialist
Alaska Dept. of Fish & Game*



HISTORY

- PATTERNED AFTER THE DRIVERS LICENSE COMPACT

- LEGISLATION DRAFTED BY NEVADA & COLORADO IN 1985

- LEGISLATION PASSED IN 1989 IN COLORADO, NEVADA, & OREGON

- OFFICIALLY STARTED 1991 BETWEEN COLORADO, NEVADA, & OREGON



WHY?

- Two poachers from Missouri convicted of taking two bighorn sheep w/o licenses in Wyoming. Both fined \$19,800 and loss of hunting privileges for 10 years



WYOMING

- Two habitual wildlife violators convicted of taking two bighorn rams out of season on Christmas eve in Wyoming



IDAHO

- A spike bull elk killed during closed season in Idaho and hauled back into Montana with Montana elk tag
- Group consisted of eight Montana residences that had been illegally killing 5-10 bulls in Idaho during closed season for 10-15 years having a significant impact on the bull population in the area



COLORADO

- This individual was convicted in Arizona. He was then convicted of illegal guiding in Colorado



MISSOURI

- Shooting deer illegally in Iowa and bringing them to the Missouri to be checked as legal kills may have seemed like a slick idea to three Missouri men, but the scheme cost them more than \$20,000



ARIZONA

- This poacher is posing with 4 deer and 3 javelina. All were taken on one hunting trip. This guy had been poaching for years, until an informant told officials about him



This nonresident poacher from Alabama is posing with an illegal cow caribou. He and his hunting companions took a total of 11 illegal caribou and entirely wasted the meat of 9. If Alaska were a compact member, their hunting licenses would have been revoked in 26 states instead of Alaska only.

ALASKA



FOUNDATION

- PREVENT POACHERS REVOKED IN ONE STATE FROM HUNTING OR FISHING IN OTHER STATES
- PROVIDE FOR ISSUANCE OF CITATION TO NON-RESIDENTS VERSUS ARREST
- PROVIDE STRONG DETERRANCE FOR SERIOUS FISH & WILDLIFE CRIMES

CURRENT PROVISIONS

- ANYONE REVOKED IN ONE COMPACT STATE IS REVOKED IN ALL OTHER COMPACT STATES IF THE CONVICTION IS A BASIS FOR REVOCATION IN THAT STATE
- EACH STATE WILL TREAT THE CONVICTION AS IF IT OCCURRED IN THEIR STATE
- A VIOLATOR OF A COMPACT STATE SHALL BE TREATED AS A RESIDENT IF HE VIOLATES IN ANY OTHER COMPACT STATE
- IF THE VIOLATOR FTA'S THEN THE STATE ISSUING THE CITATION MAY NOTIFY THE HOME STATE

CURRENT PROVISIONS (cont'd)

- THE HOME STATE NOTIFIES THE VIOLATOR THAT HE WILL BE SUSPENDED UNTIL THE TERMS OF THE CITATION ARE COMPLIED WITH.
- REVOCATION INFORMATION IS ENTERED INTO UTAH'S DATA BASE
- EACH COMPACT STATE ENTERS & CONTROLS THEIR OWN INFORMATION. EACH STATE CAN ACCESS INFORMATION ON ALL THE REVOKEES IN THE DATABASE AND SORT BY VIOLATION IF THEY WISH
- THIS ALLOWS FOR VIEWING ONLY THOSE VIOLATIONS WHICH ARE REVOCABLE IN YOUR STATE

TECHNICAL ASPECTS

- BASIC VIOLATOR INFORMATION STORED ON A MAINFRAME COMPUTER HOSTED BY THE UTAH DEPARTMENT OF PUBLIC SAFETY
- ACCESS TO MAINFRAME IS GRANTED TO COMPACT ADMINISTRATORS AND LAW ENFORCEMENT PERSONNEL IN MEMBER STATES
- PERIODIC AND ON-DEMAND DOWNLOADS OF CURRENT REVOKEE INFORMATION ARE PROVIDED TO MEMBER STATES

TECHNICAL ASPECTS (cont'd)

- DOWNLOADS OF VIOLATOR INFORMATION MAY BE INCORPORATED IN TO DRAWING AND AUTOMATED LICENSING SYSTEMS TO PREVENT REVOKES FROM OBTAINING LICENSES IN MEMBER STATES

