

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900

3751 HSTA SB 106 - SB 207

627



# RECORDS CERTIFICATION



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Signature of Camera Operator

  
Date

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HOUSE STATE AFFAIRS COMMITTEE

SB  
Bill Number 106 Title \_\_\_\_\_ Date Rec'd 3/8/85

| Fiscal Note | Position Paper | Date requested | From | Amount | Date Rec'd Note | Paper |
|-------------|----------------|----------------|------|--------|-----------------|-------|
|             | Admin          |                |      | 0      |                 |       |
|             | f-note         |                |      |        |                 |       |
|             | position paper |                |      |        |                 |       |
|             |                |                |      |        |                 |       |
|             |                |                |      |        |                 |       |

CONTACTS

BACKUP LIST

Suzanne Lyck 6-2401 please note.

- Back-up from Elson
- f-note Admin
- Position Paper

HEARING INFORMATION 4/10/85

NOTES:

Passed out 4/10/85  
majority "do pass"

FINAL ACTION




Position Paper  
SB 106

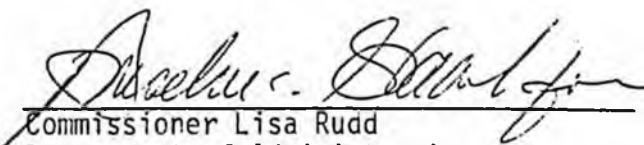
The bill affects the Alaska Bidders Preference as it applies to joint ventures. Currently Alaska bidders may enter into joint ventures with non-resident bidders. The joint venture then would qualify for the Alaska Bidders Preference. This bill would change that. This bill would require that all parties involved in a joint venture be Alaskan bidders in order to qualify for the Bidders Preference. This creates the potential of reducing competition and hence raising prices the State must pay.

As a practical matter, an Alaskan business may be unable to bid on a contract by itself and may be unable to find another Alaskan business with which to associate on the bid. The Alaskan business may thus be compelled to associate with a nonresident bidder. The bill, as written, would not permit an Alaskan business involved in a joint venture with a nonresident bidder to enjoy the benefit of the Bidders Preference.

The Department is neutral on this bill.

  
\_\_\_\_\_  
Robert J. Link, Director  
Division of General Services & Supply

2-11-85  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

2-14-85  
Date

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_ Page 1 of 1

**REQUEST**  
 Bill/Resolution No.: SB 106  
 Title: An act relating to the Alaska Bidder Preference  
 Sponsor: Eliason and Fahrenkamp  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**  
 Agency Affected: Administration  
 Program Category Affected: General Services & Supply  
 BRU, Program or Subprogram(s) Affected: Purchasing and Leasing

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

**FUNDING: (Thousands of Dollars)**

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  |   |   |   |   |   |   |
| FEDERAL FUNDS |   |   |   |   |   |   |
| OTHER         |   |   |   |   |   |   |
| <b>TOTAL</b>  | 0 | 0 | 0 | 0 | 0 | 0 |

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

**ANALYSIS: (Attach a separate page if necessary)**

N/A

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250  
 Division: General Services & Supply Date: 2-11-85

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 2-14-85  
 Agency: Department of Administration

**Distribution (by Agency preparing fiscal note):**

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


Bill No. Senate Bill No. 106  
Title "An Act relating to Alaska bidder preference."

Date March 1, 1985  
Contact: Bob Landau  
465-2700

The Department of Labor supports the passage of Senate Bill 106. This legislation would amend the Alaska bidder's preference law, AS 37.05.230(5), to require that each member of a joint venture must separately qualify as an Alaska bidder in order for the joint venture itself to qualify for the bidder preference.

The Department believes that this legislature is necessary to protect against out-of-state firms joining with a nominal Alaska partner in order to gain preferential bidder status on public contracts. In Irby-Northface vs. Commonwealth Electric Co., 664 p. 2d 557 (Alaska 1983), the Alaska Supreme court interpreted existing law to permit a joint venture to qualify for the bidder's preference even though the primary partner in the venture was a large out-of-state construction firm. Because of the higher cost of doing business for Alaska firms, as well as the high rate of unemployment among Alaskans, an amendment to the law is necessary to ensure that the benefits of a bidder's preference flow only to those persons or businesses that have established a bona fide presence in Alaska.

APPROVED:

  
Jim Robison, Commissioner  
Department of Labor

POSITION PAPER, Department of Labor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 106  
Title: "relating to Alaska bidder preference"  
Sponsor: Eliason & Fahrenkamp  
Requestor: Senate Labor & Commerce  
Date of Request: 03/01/85

FISCAL DETAIL

Agency Affected: Labor  
Program Category Affected: Social Services  
BRI, Program or Subprogram(s) Affected: Administrative Services

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    |       |       |       |       |       |       |
| 800 MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING       | 0     | 0     | 0     | 0     | 0     | 0     |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  |   |   |   |   |   |   |
| FEDERAL FUNDS |   |   |   |   |   |   |
| OTHER         |   |   |   |   |   |   |
| TOTAL         | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

Prepared By: Judy Knight, Director  
Division: Administrative Services

Phone: 465-2720

Date: 3/1/85

Approved by Commissioner: Jim Eliason  
Agency: Labor

Date: 3/1/85

Distribution (by Agency preparing fiscal note):

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

7/1/84



OFFICIAL BUSINESS

# ALASKA STATE LEGISLATURE - SENATE

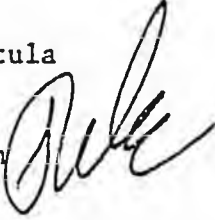
## COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811  
(907) 465-3844

### MEMORANDUM

TO: Senator Jalmar Kerttula  
Senate President

FROM: Senator Dick Eliason 

DATE: March 25, 1983

RE: Alaska Power Authority Anchorage-Fairbanks Intertie Contract  
Award

The Labor and Commerce Committee has been advised from numerous sources that the Alaska Power Authority has let the contract for the Anchorage/Fairbanks Intertie in apparent violation of AS 37.05.230. That statute provides that bids should be awarded to an Alaskan bidder if the bid submitted is within five percent of the lowest bid. An Alaska bidder is defined as a person who holds a business license and has maintained a place of business within the state "for a period of six months immediately preceding the date of his bid..."

The bid on the Intertie was awarded to a joint venture made up of an out of state corporation which did not have an Alaska business license for six months prior to the bid and a local corporation which did have such a license for six months preceding the bid. The joint venture had not been in existence for six months prior to the bid. The Power Authority concluded that for a joint venture all that is required is that one of the partners hold an Alaska business license for six months before the bid. This interpretation results in a situation where large outside corporations can gain the benefit of the Alaska bidders preference simply by linking themselves at the last moment before the bid with an Alaskan organization which would qualify for the preference.

If the Power Authority's interpretation is correct, the Committee believes that legislative action may be required to change the law to more accurately state legislative interest. However, before taking action, we would like to obtain an opinion of private counsel to advise

the Committee as to whether the Power Authority is correct in its interpretation and to advise the Committee whether or not amendments to the law are required.

We plan to retain the firm of Gross and Burke to give the Committee an opinion early next week. We are advised that the cost would be less than \$2500, and we ask your authorization to expend those funds to gain the legal assistance necessary.



Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

March 28, 1983

The Honorable Jalmar M. Kerttula  
President  
Alaska State Senate  
Juneau, Alaska 99811

Dear Senator Kerttula:

The Special Committee on the Anchorage-Fairbanks Intertie has recently reviewed the decision of the APA to award the bid on the Anchorage-Fairbanks Intertie contract. In making the award, the Authority granted an Alaska bidder's preference to a joint venture, one of whose members has not been doing business in the state for six months. AS 37.05.230(5), however, requires that a bidder who claims the five percent preference has been in business in Alaska for six months preceding the date of the bid. It is the theory of the Power Authority that a bidder's preference may be awarded to a joint venture even if one individual member of the venture would not qualify for the preference so long as another member of the joint venture is entitled to receive the preference.

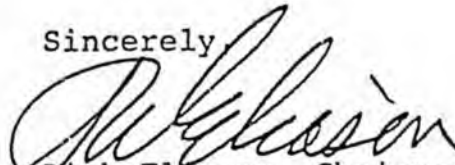
It is our belief that this interpretation is contrary to the clearly expressed intent of the legislature in AS 37.05.230(5) and would reduce the bidder's preference to a meaningless benefit. The purpose of our hearings was to determine whether it was necessary to introduce amendments to the law to clarify legislative intent. Prior to doing so, we retained the firm of Gross & Burke to review the status of the controversy and to advise us whether the interpretation placed on the law by the Power Authority was correct. If the interpretation of the Authority was valid, we asked the firm to assist us in drafting legislation to make it crystal clear that an unqualified party could not obtain an Alaska bidder's preference simply through the means of linking itself with a party that was qualified.

The firm has furnished us with the attached opinion. They are convinced, as is the Committee, that the language and intent of the law is clear and that it requires no amendments at this time. We believe the court presently reviewing this case will hold that the APA violated the terms of AS

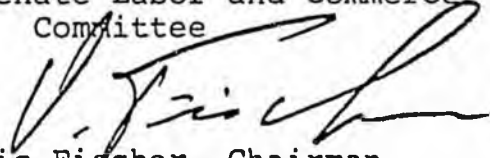
38.05.230(5) when it awarded an Alaska bidder preference to a joint venture, one of whose members was clearly unqualified to receive it.

If for any reason the court concludes that nonqualified bidders can achieve a bidder's preference simply by forming a joint venture with a qualified Alaska corporation, the Committee will immediately submit amendments to the law to make it even clearer that such a practice is not in accord with the intent of the Legislature. It appears at the present time, however, pending a court decision, that no such amendments are necessary and that the statute sufficiently expresses legislative intent.

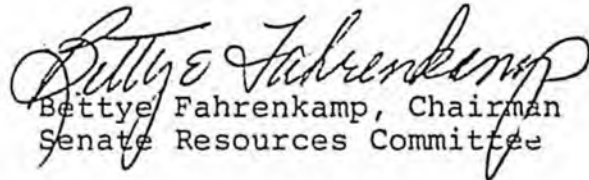
Sincerely,



Dick Eliason, Chairman  
Senate Labor and Commerce  
Committee



Vic Fischer, Chairman  
Senate State Affairs Committee



Bettye Fahrenkamp, Chairman  
Senate Resources Committee

Attachment

LAW OFFICES  
**GROSS & BURKE**  
A PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801


AVRUM M. GROSS  
SUSAN A. BURKE

(907) 586-2777

March 28, 1983

MEMORANDUM

TO: Richard I. Eliason  
Chairman, Special Committee on the Anchorage-Fairbanks  
Intertie Contract

FROM: Avrum M. Gross  
Susan A. Burke 

RE: AS 37.05.230(5) - Alaska Bidders Preference

One March 3, 1983, the Alaska Power Authority issued a notice of intent to award the bid on the Anchorage/Fairbanks Intertie to a joint venture composed of Irby Construction Company and Northface Construction, Inc. One of the joint venturers (Northface) had maintained a place of business in the state for more than six months prior to the bid. Irby Construction Company had not maintained a place of business here for six months prior to the bid. The joint venture was apparently created for the purpose of submitting the bid and as a joint venture it has not done any prior business in Alaska. APA awarded the joint venture an Alaska bid preference of five percent under the theory that since one of the joint venturers (Northface) qualified, the joint venture of which Northface was a member also qualified.

The Special Committee has expressed concern that through granting a bidder's preference to a joint venture, one of whose members is clearly unqualified to receive the preference, the APA has violated the terms of AS 37.05.230(5). You have asked our opinion on the validity of APA's grant of the bidder's preference and our advice as to whether the bidder's preference statute requires amendment to insure that only qualified Alaskan companies, in whatever legal form they choose to bid, receive the preference.

It is our opinion that the grant of an Alaska bid preference by the Power Authority to Irby-Northface was contrary to the terms of the bidder's preference statute; that only qualified Alaskan bidders are entitled to the preference; and that if bidders choose to submit a bid as a joint venture, all members of the joint venture must qualify for the preference in order for the joint venture to receive the preference. We believe the terms of the statute are clear, and no amendment of those terms is presently required.

In reaching this conclusion, we have reviewed all of the briefs in the litigation presently pending before Judge Johnstone in Anchorage and have independently researched the legislative history of relevant statutes. We will not in this opinion, however, cite extensive legal authority. Suffice it to say that what we say here has been adequately researched and can be supported if necessary.

I. The Wording of AS 37.05.230(5) - The Bidders Preference Statute

AS 37.05.230(5) defines an Alaska bidder as

a person who

- (A) holds a current Alaska business license,
- (B) submits a bid for goods or services under the name as appearing on his current Alaska business license,
- (C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid...

The words of the statute are clear. They require that a bidder hold an Alaska business license, that the bid be submitted in the name on that license, and finally, that the bidder have maintained a place of business within the state for a period of six months. In the case of an individual bidder, there is no problem whatsoever in determining whether the requirements have been met. In the case of a joint venture, the situation is slightly more complex but still, we believe, obvious. There can be three possible alternatives. The first is that a joint venture itself has been in business for six months prior to the submission of a bid. Such a joint venture would clearly qualify as would all of its component parts since through the mechanism of the joint venture, all parties to it would have been doing business in the state for more than six months. The second alternative is a

joint venture formed less than six months before a bid but made up of parties who were all doing business in the state for more than six months prior to the bid. As the APA mentions in its brief to the court, many joint ventures are formed solely for the purpose of bidding on specific jobs, so the situation presented in this second alternative is not unusual. We believe this type of joint venture would also qualify for the preference. If both firms to a joint venture meet all the requirements of the statute, the fact that they combine into a particular legal organization for the purpose of one job should not in any way affect their status. The whole, in short, is the sum of its parts; and if two firms which would qualify for a bidder's preference set up a legal entity in which they are the only members, that entity should also receive the preference.

The third situation is that found in the Anchorage-Fairbanks Intertie case. The joint venture that was awarded the bid has been in existence for less than six months. One party to the joint venture qualifies for the preference -- the other party does not. In essence, we have a situation where one party seeks to obtain a bidder preference to which it would otherwise not be entitled solely by selecting a particular form of business organization with which to submit its bid.

If the purpose of the bidders preference statute was to encourage the creation of joint ventures, the action of APA in granting a bidder's preference to this particular joint venture might make some sense. But the intent behind the statute has nothing to do with encouraging one particular legal structure as cyposed to another. The obvious intent underlying the statute is to insure that Alaska businesses, which have furnished employment to Alaskans but whose costs of doing business here are much higher than elsewhere in the nation, will be able to compete fairly with outside firms who can frequently offer lower bids than Alaska firms. That purpose is only served by granting the preference to Alaska businesses which have been in past operation. As previously noted, the whole is comprised of its parts, and since a part of the joint venture at issue here cannot qualify for the preference, the joint venture itself cannot qualify.

The only conceivable ambiguity in AS 37.05.230(5) is over the question of whether joint ventures, which themselves have not been in existence for six months but both of whose members have been doing business in Alaska for at least six months, qualify for a bidder preference. The ambiguity stems from the fact that a literal reading of AS 37.05.230(5) suggests that if a joint venture has not been in operation for six months, it could not receive a preference no matter how long the members of the venture had done business in the state. As previously noted, we believe that such a literal reading would be contrary to the purpose of the act and that

a joint venture whose individual members would qualify would itself qualify for the preference. But no matter how that question is resolved, we believe there is no ambiguity as to the question of whether nonqualified bidders can gain the benefits of the statute simply by linking themselves in legal organization with a bidder who could so qualify. A contrary interpretation would render the bidder's preference a sham. Large outside corporations could link up with tiny Alaskan firms who by themselves could not even consider bidding on such jobs as the Intertie solely for the purpose of gaining a bidder's preference. The result would be that qualified Alaskan firms which had previously rendered employment opportunities to Alaskans and been subject to the higher costs of doing business in Alaska would not receive the benefits of a statute specifically aimed at affording them those benefits. That was clearly not the legislature's intent when they passed the act, and we are sure it is not the intent today.

## II. The Interpretation of the APA

The Power Authority has attempted to justify its interpretation of the act on two primary grounds. First, APA argues that since under AS 08.18.011 (registration of contractors) a joint venture is considered to be registered if only one party to the joint venture is registered, the same theory would allow APA to extend a bidder's preference to a joint venture in which only one party is entitled to the preference. Second, APA argues that whatever the statutes may appear to mean, an administrative agency is

permitted to make reasonable interpretations of the law, and its past interpretations have extended the bidders preference to joint ventures which included only one party which by itself would qualify. APA then argues that the past practice of administrative agencies are given great weight by the courts in interpreting the terms of a statute and should be given similar weight here.

Neither of these arguments has any real merit. The contractors registration statute, for instance, has no logical or legal relation to the bidders preference statute -- they are entirely different statutory provisions with entirely different purposes, and the interpretation of one has no bearing on the interpretation of the other. AS 08.18.011 requires the registration of contractors for the purpose of insuring fiscal responsibility. It is no surprise, therefore, that only one member of a joint venture need be registered for the joint venture itself to be registered. All members of a joint venture bear responsibility for the debts of the venture, and if one registered party can insure the financial security of those with whom the venture deals, it is not important whether other members of the venture would also be able to post the necessary proof of financial ability. The bidders preference statute, however, is a special benefit awarded because of past activities within the state, and it makes a great deal of difference whether all parties in the venture are entitled to that benefit. If one party could

simply qualify by joint venturing with a qualified bidder, the otherwise unqualified party would receive a legislatively conferred benefit that they have not earned and to which they are not entitled.

There is another basic flaw in APA's attempting to link the contractors' registration statute with the bidders preference statute. The Alaska bidders preference law covers all bidders for state contractor purchases. If the Authority is correct in applying the interpretation of AS 08.18.011 to the bid preference statute, then an out of state contractor who has never done business in Alaska can obtain the preference simply through linking itself with a qualified Alaska bidder. But what of bidders who are not contractors and are not required to register under AS 08.18.011? Suppose for instance the state seeks a bid for providing office equipment for all state buildings, and an outside office supply firm seeks to form a joint venture with an Alaskan office supply firm which by itself would qualify for a bidder's preference. Since office supply firms are not required to post financial security, there is no comparable provision to AS 08.18.011 for office supply firms, and, therefore, no justification for arguing by analogy that a joint venture made up of qualifying and nonqualifying firms qualifies for a preference. This would mean (at least according to the Power Authority's theory) that outside contractors can achieve an Alaska bidders preference through

means denied to every other outside firm that seeks to bid on state contracts. That makes no sense and it makes no sense because the contractors registration statute has nothing to do with the Alaska bidders preference act. The purposes of the two acts are different, and arguments made by analogy from one to the other inevitably lead to illogical conclusions.

The second argument of APA based on its past interpretations of the bidder's preference statute is also without merit. It is true that a settled administrative interpretation of the terms of an act made by an agency particularly entrusted with its enforcement is given weight by the courts in interpreting the act. That rule has no application if the statute is clear on its face and the agency's interpretation is clearly erroneous as it is in this case. But even if the statute were ambiguous, this is not a situation where agency interpretation would be given any weight at all. The "settled interpretation" of the agency appears to consist of two decisions made roughly six years ago under unknown circumstances by one official in the Department of Administration. There has been no attempt to establish that interpretation as a settled agency interpretation by reducing it to written form or adopting it as a regulation. What we have here is one state employee stating that he interpreted the act this way six years ago as justification for a present judicial interpretation of the act. When one reviews the cases in which

agency interpretations have been given some weight by the court, it becomes clear that this is not remotely like the situation envisioned by those cases.

One further point bears some mention in this analysis because it is raised in the arguments of all the parties to the Intertie litigation. On September 25, 1981 the Superior Court in Anchorage in an unrelated case, concluded that the Power Authority did not violate the law when it awarded a contract to a joint venture, one of whose members apparently did not qualify for the preference at the time the bid was submitted (Pacific Ventures and Dillingham Corporation v. APA et al. and Southeast-Harrison Western, case #3AM-81-6291). The case, however, is entitled to very little weight for two reasons. First, no real analysis of the issue involved here was made by the court. Second, the case is completely confusing on just why the court reached its conclusion. The court held that one of the parties qualified for the preference prior to the submission of the bid and that at the time of the actual award of the contract, the joint venture qualified through having been in existence for more than six months. It is not clear what the court would have done if the joint venture had been in existence for less than six months at the time of the award, nor is it clear why this point was given any significance whatsoever,

since AS 37.05.230(5) requires that a party seeking a preference have been doing business for six months prior to the date of the bid. We do not believe under these circumstances that the decision will be given any real weight by a court resolving the present controversy.

It is, therefore, our view that the statute is clear on its face and that no legislative action at this time is required to clarify its meaning. We are confident that the courts will hold that a joint venture, one of whose members do not qualify for the preference, is not in itself a bidder entitled to the preference.

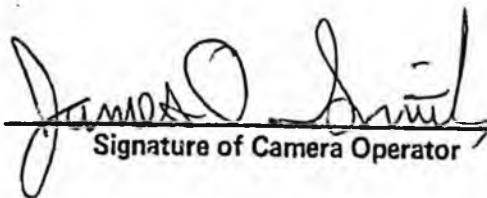
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# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

9/11/89  
Date

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COMMITTEE REPORT  
HOUSE

4/30

(7)

FURTHER: FINANCE

3/13/85

Date: April 30 1985

The Committee on STATE AFFAIRS has had CSSB 122(SA)

"An Act placing division of geological and geophysical surveys petroleum engineers and petroleum geologists in the exempt service and including the professional staff of the Oil and Gas Conservation Commission in the listing of members of the exempt service; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

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[Signature]

CHAIRMAN

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 1, 1985

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to petroleum engineers and petroleum geologists in state service. Current law provides that these professionals are in the exempt service, except for those employed in the division of geological and geophysical surveys (GGS) in the Department of Natural Resources. The attached bill would delete this exception, thus bringing all these professionals within the exempt service.

The petroleum engineers and geologists employed in the division of geological and geophysical surveys handle sensitive and confidential oil and gas data, and are involved in deciding what tracts the state should lease. It is important that the state have the flexibility to employ the best professionals available for these positions. The petroleum engineer and geologist positions within the GGS division have evolved to a level of responsibility commensurate with those professionals employed elsewhere in the Department of Natural Resources and by the Oil and Gas Conservation Commission -- all of whom are presently in the exempt service. There is no reason to exempt some of these positions but not all of them.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 122  
 Title: petroleum engineers and Geologists  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Natural Resources  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Resource Inventory

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>CAPITAL</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>REVENUE</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |   |   |   |   |   |
|---------------|--|---|---|---|---|---|
| GENERAL FUND  |  |   |   |   |   |   |
| FEDERAL FUNDS |  |   |   |   |   |   |
| OTHER         |  |   |   |   |   |   |
| <b>TOTAL</b>  |  | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Ned Farguhar *B*  
 Division: Commissioner's Office

Phone: 465-2400  
 Date: 23 January 85

Approved by Commissioner: *Arthur C. Williams*  
 Agency: Natural Resources

Date: 23 January 85

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

7/1/84

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 1, 1935

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to petroleum engineers and petroleum geologists in state service. Current law provides that these professionals are in the exempt service, except for those employed in the division of geological and geophysical surveys (GGS) in the Department of Natural Resources. The attached bill would delete this exception, thus bringing all these professionals within the exempt service.

The petroleum engineers and geologists employed in the division of geological and geophysical surveys handle sensitive and confidential oil and gas data, and are involved in deciding what tracts the state should lease. It is important that the state have the flexibility to employ the best professionals available for these positions. The petroleum engineer and geologist positions within the GGS division have evolved to a level of responsibility commensurate with those professionals employed elsewhere in the Department of Natural Resources and by the Oil and Gas Conservation Commission -- all of whom are presently in the exempt service. There is no reason to exempt some of these positions but not all of them.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: AB 122  
 Title: Petroleum engineers and Geologists  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Natural Resources  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
 Resource Inventory: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>CAPITAL</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>REVENUE</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |   |   |   |   |   |
|---------------|--|---|---|---|---|---|
| GENERAL FUND  |  |   |   |   |   |   |
| FEDERAL FUNDS |  |   |   |   |   |   |
| OTHER         |  |   |   |   |   |   |
| <b>TOTAL</b>  |  | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Ned Farguhar <sup>B</sup> Phone: 465-2400  
 Division: Commissioner's Office Date: 23 January 85

Approved by Commissioner: Esther A. Whinnicki Date: 23 January 85  
 Agency: Natural Resources

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

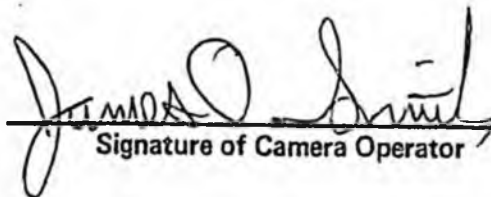
7/1/84



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

9/11/89  
Date

S B

1 5 0

# COMMITTEE REPORT

## HOUSE

TRANSPORTATION

(7)

FURTHER: JUDICIARY

3/8/85

Date: \_\_\_\_\_

The Committee on STATE AFFAIRS has had CSSB 130(SA)

"An Act relating to a new definition for 'motor-driven cycle'."

under consideration and recommends:

do pass  do not pass

do pass with attached amendments(s)

replace with CS for \_\_\_\_\_  same title

and recommends Do Pass  new title

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation  Zero Fiscal Note Attached

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Steve Hurley  
\_\_\_\_\_  
W. H. W.  
\_\_\_\_\_  
Robert L. Jenkins  
\_\_\_\_\_  
David M. Collins  
\_\_\_\_\_  
Walter D. ...  
\_\_\_\_\_  
John ...  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

Steve Hurley  
\_\_\_\_\_  
CHAIRMAN

Offered: 3/6/85  
Referred: Rules

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 130 (State Affairs)  
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 a new definition for 'motor-  
7 driven cycle'."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 28.40.100(a)(9) is amended to read:  
10 (9) "motor-driven cycle" means a motorcycle, motor scooter,  
11 motorized bicycle, or similar conveyance with a motor attached and  
12 having an engine with 50 or less [THAN 150] cubic centimeters of  
13 displacement [OR WITH NOT TO EXCEED FIVE BRAKE-HORSEPOWER];

DEPARTMENT OF PUBLIC SAFETY  
POSITION PAPER - CSSB130(SA)

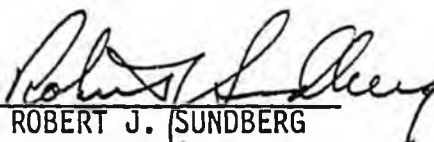
March 14, 1985

CSSB130(SA), An Act relating to a new definition for 'motor-driven cycle'.

Present definition is unclear and has been subject to different interpretations. This bill clarifies the definition by deleting the brake horsepower, which is extremely difficult to determine by law enforcement officers, driver's license examiners and the general public.

This bill will also reduce the size of cycle that 14 and 15 year old drivers may operate from 150 cc to 50 cc. This will bring Alaska statutes in line with the majority of other states in defining a motor-driven cycle, and will also increase highway safety. Over the last five years 14 and 15 year old drivers have been involved in over 10 percent of the motorcycle accidents while this same age group is less than one percent of the total licensed motorcycle operators.

If the size of cycle is reduced to 50 or less cc, DMV would amend regulation to permit operation of a motor-driven cycle by the holder of a basic license. This will also bring Alaska in line with the majority of other states and would be beneficial to commercial operators who wish to rent mopeds to tourists and the general motoring public.

  
ROBERT J. SUNDBERG  
Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSSB130(SA)  
 Title: An Act relating to a new definition for 'motor-driven cycle'  
 Sponsor: Abood  
 Requestor: House State Affairs  
 Date of Request: 3-15-85

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: Life and Property Protection  
 BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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| <b>CAPITAL</b> |  |  |  |  |  |  |
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|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>REVENUE</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|
| GENERAL FUND  |  |  |  |  |  |  |
| FEDERAL FUNDS |  |  |  |  |  |  |
| OTHER         |  |  |  |  |  |  |
| <b>TOTAL</b>  |  |  |  |  |  |  |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Bill Brown Phone: 465-4335  
 Division: Motor Vehicle Date: 3-14-85

Approved by Commissioner: [Signature] Date: 3/15/85  
 Agency: Public Safety

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



Dept. of Transportation & Public Facilities

# Position Paper

**BILL NO:** Senate Bill 114

**APPROVED:** *R. J. Knapp*  
R. J. Knapp  
Commissioner

**TITLE:** An act relating to the registration of heavy vehicles; and providing for an effective date.

**DATE:** March 1, 1985

The Alaska Department of Transportation and Public Facilities urges speedy passage of Senate Bill (SB) 114. SB 114 enables the Division of Motor Vehicles in the Department of Public Safety to require proof-of-payment of the federal heavy vehicle use tax before registering heavy vehicles in the State of Alaska. The heavy vehicle use tax is one of a number of user fees that fund highway improvements through the federal Highway Trust Fund. The State of Alaska receives a very favorable distribution from the Highway Trust Fund; this distribution is over nine times the amount collected through federal taxes on highway use in Alaska.

If SB 144 is not enacted, Alaska will be subject to a reduction in our Interstate apportionments from the highway trust fund. This reduction in funds will hurt the Department's efforts to improve Alaska's Interstate System, consisting of the Parks, Alaska, Glenn and Tok Cut-off highways and portions of the Richardson, Seward, and Sterling highways. The Department estimates that withholding, when applied, will cost the state over \$10 million a year in Interstate apportionments. In a time of declining oil revenues and pressing road improvement needs, the state can ill afford any loss of federal-aid highway funds.

DEPARTMENT OF PUBLIC SAFETY  
POSITION PAPER - CSSB130(SA)

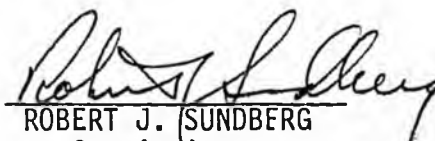
March 14, 1985

CSSB130(SA), An Act relating to a new definition for 'motor-driven cycle'.

Present definition is unclear and has been subject to different interpretations. This bill clarifies the definition by deleting the brake horsepower, which is extremely difficult to determine by law enforcement officers, driver's license examiners and the general public.

This bill will also reduce the size of cycle that 14 and 15 year old drivers may operate from 150 cc to 50 cc. This will bring Alaska statutes in line with the majority of other states in defining a motor-driven cycle, and will also increase highway safety. Over the last five years 14 and 15 year old drivers have been involved in over 10 percent of the motorcycle accidents while this same age group is less than one percent of the total licensed motorcycle operators.

If the size of cycle is reduced to 50 or less cc, DMV would amend regulation to permit operation of a motor-driven cycle by the holder of a basic license. This will also bring Alaska in line with the majority of other states and would be beneficial to commercial operators who wish to rent mopeds to tourists and the general motoring public.

  
ROBERT J. SUNDBERG  
Commissioner

or to court-appointed counsel. The action is brought in the name of the state; it is commenced by the filing of a complaint by a law enforcement official; it is prosecuted by the district attorney. The exceptions appear to merely codify existing constitutional law. *State v. Clayton*, Sup. Ct. Op. No. 1734 (File No. 3983), 584 P.2d 1111 (1978).

Applied in *Manderson v. State*, Ct. App. Op. No. 198 (File No. 6894), 655 P.2d 1320 (1983).

Stated in *Francis v. Municipality of Anchorage*, Ct. App. Op. No. 70 (File No. 5659), 641 P.2d 226 (1982).

Cited in *Lowry v. State*, Ct. App. Op. No. 181 (File Nos. 6328, 6434), 655 P.2d 780 (1982).

Collateral references. — 7A Am. Jur. 61A C.J.S., Motor Vehicles, §§ 588 to 595.  
2d, Automobiles and Highway Traffic, § 204.

**Sec. 28.40.100. Definitions for title.** (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means the annulment or termination by formal action of the department of a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commissioner" means the commissioner of public safety;

(3) "department" means the Department of Public Safety;

(4) "driver" means a person who drives or is in actual physical control of a vehicle;

(5) "driver's license", or "license" when used in relation to driver licensing, means a license, permit or privilege, whether or not a person holds a valid license issued in this or another jurisdiction, to drive a motor vehicle under the laws of this state;

(6) "highway" means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, including but not limited to every street and the Alaska state marine highway system but not vehicular ways or areas;

(7) "motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power;

(8) "motorcycle" means a vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; the term does not include a tractor;

(9) "motor-driven cycle" means a motorcycle, motor scooter, motorized bicycle, or similar conveyance with a motor attached and having an engine with less than 150 cubic centimeters of displacement or with not to exceed five brake-horsepower;

(10) "municipality" means a home rule or general law borough or city including, but not limited to, a unified municipality organized under AS 29.68;

Motorcycle/Motorscooter

| <u>Manufacturer</u> | <u>Model/Name</u> | <u>CC's</u> | <u>Brake Horsepower</u> |
|---------------------|-------------------|-------------|-------------------------|
| Honda               | MB 5              | 50          | 7.90                    |
| Honda               | NH50-AERO50       | 50          | 4.90                    |
| Honda               | CT70-TRAIL 70     | 72          | 4.90                    |
| Honda               | XL 80             | 79          | 4.90                    |
| Honda               | XL 100            | 98          | 8.20                    |
| Honda               | CT110-TRAIL 110   | 110         | 6.90                    |
| Honda               | CB 1255           | 125         | 8.90                    |
| Yamaha              | LB 50             | 50          | 1.5                     |
| Yamaha              | QT 50             | 50          | 1.5                     |
| Yamaha              | RX 50             | 50          | 6.8                     |
| Yamaha              | DT 80             | 80          | 5.6                     |
| Yamaha              | DT 100            | 100         | 8.2                     |
| Yamaha              | XT 125            | 125         | 13.0                    |
| Suzuki              | SP100 D           | 100         | 10.4                    |
| Suzuki              | SP125 D           | 125         | 13.0                    |
| Suzuki              | GN125 D           | 125         | 13.0                    |

Kawasaki:

Does not manufacture a motorcycle/motorscooter with less than 5 brake horsepower.

Motorcycle/Motorscooter

| <u>Manufacturer</u> | <u>Model/Name</u> | <u>CC's</u> | <u>Brake Horsepower</u> |
|---------------------|-------------------|-------------|-------------------------|
| Honda               | MB 5              | 50          | 7.90                    |
| Honda               | NH50-AERO50       | 50          | 4.90                    |
| Honda               | CT70-TRAIL 70     | 72          | 4.90                    |
| Honda               | XL 80             | 79          | 4.90                    |
| Honda               | XL 100            | 98          | 8.20                    |
| Honda               | CT110-TRAIL 110   | 110         | 6.90                    |
| Honda               | CB 1255           | 125         | 8.90                    |
| Yamaha              | LB 50             | 50          | 1.5                     |
| Yamaha              | QT 50             | 50          | 1.5                     |
| Yamaha              | RX 50             | 50          | 6.8                     |
| Yamaha              | DT 80             | 80          | 5.6                     |
| Yamaha              | DT 100            | 100         | 8.2                     |
| Yamaha              | XT 125            | 125         | 13.0                    |
| Suzuki              | SP100 D           | 100         | 10.4                    |
| Suzuki              | SP125 D           | 125         | 13.0                    |
| Suzuki              | GN125 D           | 125         | 13.0                    |

Kawasaki:

Does not manufacture a motorcycle/motorscooter with less than 5 brake horsepower.



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

9/11/89  
Date

SB

2017

Cramer  
5/8/85✓

Original sponsor: Finance Committee

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 207 (State Affairs)

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

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

14 \* Section 1. AS 23.40 is amended by adding a new section to read:

15 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties  
16 may not negotiate terms contrary to the limitations on state personnel  
17 actions under AS 37.07.085.

18 \* Sec. 2. AS 37.07 is amended by adding new sections to read:

19 Sec. 37.07.085. LIMITATIONS ON STATE PERSONNEL ACTIONS. (a)  
20 Unless the budget specifically provides or the legislature approves,  
21 the state may not

22 (1) reclassify a position to a higher salary range after  
23 September 1, 1985 unless the reclassification is consistent with  
24 policies established in AS 39.25.150(1) for a position classification  
25 plan; or

26 (2) change the salary range of a job class unless the  
27 change is required to comply with AS 18.80.220(a)(5), AS 39.25.010 or  
28 39.25.150(2).

29 (b) In this section, "state" means the executive, legislative

1 and judicial branches of state government.

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 add a position to the list or change  
15 information about a position on the list if the change affects the  
16 cost of the position 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. 3. 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

1 temporary duration for correction in inadequate performance, and  
2 separation for cause;

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

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

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

11 \* Sec. 4. The governor shall submit to the legislature by January 15,  
12 1986, the comprehensive study on pay step differentials based on geograph-  
13 ical cost-of-living differences together with recommendations on changes to  
14 the methods for calculating the differential for compensation and retire-  
15 ment benefits.

16 \* Sec. 5. The legislature shall review the pay step differentials  
17 provided under AS 39.27.020 and under collective bargaining contracts  
18 between the state and employee bargaining organizations following the  
19 release of the comprehensive study on geographic differentials and receipt  
20 of the governor's recommendations.

21 \* Sec. 6. By September 15, 1985, the division of budget review in the  
22 Office of Management and Budget shall develop a master position control  
23 system with the capability of matching permanent positions listed in an  
24 automated position accounting control system against the state's master  
25 payroll record.

26 \* Sec. 7. Nothing in this Act terminates or modifies a collective  
27 bargaining agreement in existence on the effective date of this Act.

28 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
29 10.070(c).

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CSSB 207 (FIN)

SUPPORT

May 7, 1985

The Department of Administration's position paper adequately expresses the Department of Public Safety's concern and position. Several departments including Public Safety have employees in duty stations which are currently eligible for pay step differentials.

Program operations of the Trooper divisions require movement of personnel to fill program needs and to provide career depth. This process will continue. Because of budgetary constraints, transfers are more closely monitored and have been curtailed in recent years to minimize multiple transfers wherever possible. Trooper transfers will continue without regard to the provisions of this bill.

  
Robert J. Sundberg  
Commissioner



# Alaska State Legislature

## House of Representatives

### Committee on State Affairs

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

1907: 465-4963

April 22, 1985

Mr. Norman Gorsuch  
Attorney General  
Pouch K  
Juneau, Alaska 99811

Re: CSSB 207 (Fin) "An Act relating to calculation of the cost-of-living and pay step differentials for the compensation and retirement benefits of certain public employees; and limiting the state's power to change the cost to the state of compensation for certain positions; and providing for an effective date."

Dear Mr. Gorsuch:

The House State Affairs Committee is considering scheduling Committee Substitute for Senate Bill 207 (Fin).

It has been brought to our attention that Section 2 of the committee substitute raises constitutional questions relating to legislative infringement of administrative powers. Additionally, Sections 3 and 4 of the committee substitute raise equal protection questions.

As Chair of the House State Affairs Committee, I respectfully request an opinion from your office addressing these two areas of concern.

Noting the lateness in the session, your prompt response would be most appreciated.

Sincerely,

Katie Hurley  
Chair, House State Affairs Committee

CSSB 207 fin

IT IS MY INTENT TO RECEIVE PUBLIC TESTIMONY AT THIS TIME FROM AROUND THE STATE AND TO HOLD ANOTHER HEARING TO LISTEN TO EXPERT TESTIMONY.

CSSB 207 (FIN) ATTEMPTS TO ACCOMPLISH SEVERAL THINGS \_ I WILL TRY TO BRIEFLY OUTLINE ITS MAJOR PROVISIONS TO PROVIDE SOME BACKGROUND BEFORE WE BEGIN. STAFF HAS SENT COPIES OF A SECTIONAL ANALYSIS TO THE LEGISLATIVE INFORMATION OFFICES AROUND THE STATE.

(CSSB 207 (fin))

\* Limits the amount that an employee may receive as a pay step differential to the first \$30,000 of basic salary and mandates that the legislature review the differential upon completion of the study to be completed later this year.

REQUIRES THAT EMPLOYEE BENEFITS WILL BE BASED ON ENTIRE COMPENSATION INCLUDING A COST OF LIVING DIFFERENTIAL ONLY IF THE EMPLOYEE RECEIVED A COMPARABLE COST OF LIVING DIFFERENTIAL FOR AT LEAST 50% OF HIS OR HER CREDITED SERVICE. IF AN EMPLOYEE DOES NOT MEET THESE REQUIREMENTS, THE DIVISION MUST REFUND THE AMOUNT OF CONTRIBUTIONS THE EMPLOYEE MADE FOR THE DIFFERENTIALS. THIS PROVISION APPLIES ONLY TO NEW EMPLOYEES. IT ALSO RAISES EQUAL PROTECTION QUESTIONS WHICH I HAVE ASKED THE ATTORNEY GENERAL'S OFFICE TO ADDRESS.

PROVIDES FOR FISCAL CONTROLS ON THE NUMBER OF RECLASSIFICATION, CREATION AND DELETIONS OF STATE JOBS. ACCORDING TO LEGAL SERVICES, THE REGULATION OF EMPLOYMENT PRACTICES MAY BE VIEWED AS LEGISLATIVE INFRINGEMENT BY ON THE ADMINISTRATIVE POWERS OF THE EXECUTIVE BRANCH, THE COURT SYSTEM AND THE UNIVERSITY. (UNCONSTITUTIONAL). A SEVERABILITY CLAUSE HAS BEEN ADDED SHOULD PROVISIONS IN THIS BILL BE FOUND INVALID BY THE COURTS THEREBY ALLOWING OTHER PROVISIONS IN THE BILL TO REMAIN IN EFFECT.

REQUIRES DEPARTMENTS TO PROVIDE INFORMATION ON PCN'S TO ~~THE~~ OMB FOR ITS REVIEW BASED ON CURRENT BUDGET AUTHORIZATIONS. THE DEPARTMENTS MAY NOT CHANGE THE LIST UNLESS OMB CONCURS. REQUIRES THAT OMB DEVELOP A SYSTEM SO THAT IT CAN MATCH PERMANENT POSITIONS AGAINST THE MASTER PAYROLL RECORD.

PROVIDES FOR COMPARABLE WORTH CRITERIA IN CLASSIFICATION AND PAY PLANS FOR STATE JOBS.

---

THIS BILL COVERS ONLY NEW EMPLOYEES AS TO THE RETIREMENT PROVISIONS.

~~ONLY~~ 100 EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING WILL BE AFFECTED THIS YEAR. THE AREA DIFFERENTIAL WILL BE REVIEWED NEXT SESSION WHICH IS 1 YEAR BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENTS. IT IS MY UNDERSTANDING THAT THE PUSH BEHIND THE BILL THIS YEAR IS TO ALLOW FOR LEAD TIME TO CONVERT THE COMPUTER PROGRAM.

CS SB 207(FIN)

IMPORTANT TO REMEMBER ABOUT LEGISLATION: 1. COVERS ONLY NEW EMPLOYEES CONCERNING THE RETIREMENT BENEFITS. 2. THE AREA DIFFERENTIAL WILL BE REVIEWED NEXT SESSION BY THE LEGISLATURE WHICH IS ONE YEAR BEFORE THE EXPIRATION OF THE UNION COLLECTIVE BARGAINING AGREEMENTS. THEREFORE, ONLY NON-COVERED EMPLOYEES WILL BE AFFECTED IMMEDIATELY. THE DEPARTMENT OF ADMINISTRATION ESTIMATES THAT ABOUT 100 EMPLOYEES ARE AFFECTED IN THE NON-COVERED CLASS. THE REASON WE ARE DOING THE CHANGE NOW IS TO ALLOW FOR LEAD TIME TO CONVERT THE COMPUTER PROGRAM TO HANDLE THE CHANGES. 3. MERIT PAY AND OVERTIME PROVISIONS ARE NOT COVERED UNDER THIS LEGISLATION. 4. THROUGH OMB, WILL ALLOW THE LEGISLATURE TO GET A BETTER HANDLE ON THE NUMBER OF POSITION RECLASSIFICATIONS, CREATIONS AND DELETIONS DONE WITHOUT THE PRIOR CONSENT OF THE LEGISLATURE. EACH OF THOSE PERSONNEL ACTIONS HAVE SOME TYPE OF FISCAL IMPACT ON THE NEXT YEAR'S BUDGET.

THE BILL DOES SEVERAL THINGS:

\*\* PROVIDES FOR FISCAL CONTROLS ON THE NUMBER OF RECLASSIFICATIONS, CREATION AND DELETIONS OF STATE JOBS.

\*\* PROVIDES FOR COMPARABLE WORTH CRITERIA IN CLASSIFICATION AND PAY PLANS FOR STATE JOBS.

\*\* LIMITS THE AMOUNT OF GEOGRAPHIC DIFFERENTIAL TO THE FIRST \$30,000 OF BASIC SALARY AND MANDATES THAT THE LEGISLATURE SHALL REVIEW THE DIFFERENTIAL UPON COMPLETION OF THE STATE'S DIFFERENTIAL STUDY THAT WILL BE COMPLETED LATER THIS YEAR.

\*\* PROVIDES THAT NEW EMPLOYEES MUST WORK 50% OF THE TIME IN THE AREA WHERE THEY WILL RECEIVE THEIR RETIREMENT BENEFITS BASED UPON THE HIGHEST THREE YEARS OF PAY.

\*\* A SEVERABILITY CLAUSE IS ADDED SHOULD A PROVISION BE FOUND INVALID BY THE COURTS THEREBY ALLOW THE OTHER PROVISIONS OF THE BILL TO REMAIN IN EFFECT.

*Senator Sackets office*

# STATE OF ALASKA THE LEGISLATURE

FOURTH STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May, 8, 1985

SUBJECT: Application of Section 2 to the University  
of Alaska (CSSB 207 (Finance))

TO: Representative Katie Hurley  
Chair, House State Affairs Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked in what respect Sec. 37.07.085 in section 2 of CSSB 207 (Finance) applies to the University of Alaska, given that employees of the University are exempt under the State Personnel Act, AS 39.25.110. Sec. 37.07.085 prohibits a state agency, including in the University, from taking certain personnel actions unless the budget specifically provides for the actions or the legislature approves them.

Paragraph (1) prohibits a reclassification of a position to a higher salary range unless the reclassification is consistent with policies established in AS 39.25.150(1). Although that section does not apply to the University, the University could adopt policies consistent with those stated in the cited paragraph and, on the basis of those policies, reclassify a position.

Paragraph (2) prohibits an agency from changing the salary range of a job class unless the change is required to comply with AS 18.80.220(a)(5) (requiring equal pay for work of comparable character), AS 39.25.010 (setting out the elements of the merit system for state employment) or AS 39.25.150(2) (requiring that the state pay plan reflect the principle of like pay for like work).

The University is clearly subject to AS 18.80.220 and therefore could change a salary range to comply with that section. The other sections cited are part of the State Personnel Act which does not apply to university employees

Representative Katie Hurley  
May 8, 1985  
Page 2

and therefore the University could not use those criteria to justify a change in salary range.

Paragraph (3) prohibits an agency from promoting a person to the next step of a flexibly staffed position and contains no exceptions to the prohibition. This paragraph would apply to the University.

If I may be of further assistance, please advise.

TBC:ojb  
J14/103

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

### DIVISION OF PERSONNEL

BILL SHEFFIELD, GOVERNOR

POUCH C (MS 0201)  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4430

May 8, 1985

Honorable Katherine T. "Katie" Hurley  
Chairman House State Affairs Committee  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 99811

Dear Representative Hurley:

I am pleased to provide the following information in response to your staff's request. The request was for some information about the frequency of local hires in positions affected by the geographic differential cap found in CS SB 207 (Fin).

We have sampled 125 new hires for the period of January 1, 1984, to April 1, 1985, in salary ranges 15 to 30 in locations that are paid a geographic differential. These are the appointments that would be affected by the proposed change. Forty-eight of the appointments were in Fairbanks and College. We made no further investigation into the location of the applicant at the time of appointment for these. Of the remaining 77 appointments, 36 were of applicants living in the same location as the position, and 41 were not. Two job classes contributed a high number of these appointments. There were seven attorneys and eight Public Health Nurses hired during this period.

The following table summarizes the above information.

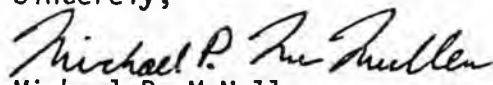
Summary of Selected New Hires Between January 1, 1984, to April 1, 1985.

|                      |     |
|----------------------|-----|
| Fairbanks            | 48  |
| Hired Locally        | 36  |
| Hired Non-locally    | 41  |
| Attorneys            | 7   |
| Public Health Nurses | 8   |
| Other                | 26  |
| Total                | 125 |

Enclosed is a detailed listing of the 125 appointments. You will note that only 17 of the non-local appointments were from Anchorage, five of which were attorneys or Public Health Nurses.

I would be happy to provide any further information you may need.

Sincerely,

  
Michael P. McMullen  
Deputy Director

MPM/sg  
8/4D2/0507-01  
Enclosure

Detail of Selective New Hires Between  
January 1, 1984, to April 1, 1985

| <u>Location of Position</u> | <u>Location of Applicant at Time of Appointment</u> | <u>Noted Classes</u> | <u>Total By Applicant Location</u> | <u>Total By Position Location</u> |
|-----------------------------|---|----------------------|------------------------------------|-----------------------------------|
| Bethel                      | Bethel  |                      | 9                                  |                                   |
|                             | Anchorage   | Attorney             | 2                                  |                                   |
|                             | Kodiak  | Attorney, PHN III    | <u>2</u>                           | 13                                |
| Fairbanks (College)         |   |                      |                                    | 48                                |
| Nome                        | Anchorage   | Attorney             | 2                                  |                                   |
|                             | Nome  |                      | 2                                  |                                   |
|                             | Bethel  |                      | <u>1</u>                           | 5                                 |
| Sitka (Mt. Edgecumbe)       | Sitka   |                      | 4                                  |                                   |
|                             | Juneau  | Attorney             | 1                                  |                                   |
|                             | Metlakatla  |                      | 1                                  |                                   |
|                             | Nilnilchik  | PHN III              | 1                                  |                                   |
|                             | Kotzebue  |                      | <u>1</u>                           | 8                                 |
| Palmer                      | Anchorage   | Attorney             | 5                                  |                                   |
|                             | Palmer  |                      | 2                                  |                                   |
|                             | Eielson AFB   |                      | 1                                  |                                   |
|                             | Juneau-Douglas                                      |                      | 1                                  |                                   |
|                             | Fairbanks   |                      | <u>1</u>                           | 10                                |
| Valdez                      | Valdez  |                      | 1                                  |                                   |
|                             | Anchorage   |                      | <u>1</u>                           | 2                                 |
| Glennallen                  | Anchorage   |                      | <u>1</u>                           | 1                                 |
| Delta Junction              | Anchorage   |                      | <u>1</u>                           | 1                                 |
| Dillingham                  | Denver  | PHN III              | 1                                  |                                   |
|                             | Dillingham  |                      | <u>1</u>                           | 2                                 |
| Fort Yukon                  | Oregon  | PHN III              | <u>1</u>                           | 1                                 |

Detail of Selective New Hires Between  
January 1, 1984, to April 1, 1985

| <u>Location of Position</u> | <u>Location of Applicant at Time of Appointment</u> | <u>Noted Classes</u>   | <u>Total By Applicant Location</u> | <u>Total By Position Location</u> |
|-----------------------------|---|------------------------|------------------------------------|-----------------------------------|
| Naknek                      | Soldotna  |                        | <u>1</u>                           | 1                                 |
| Tok                         | California  | PHN III                | <u>1</u>                           | 1                                 |
| Barrow                      | Barrow<br>Fairbanks                                 | Attorney               | 4<br><u>1</u>                      | 5                                 |
| Kenai                       | Anchorage<br>Kenai<br>Barrow<br>Soldotna            | Attorney<br><br>PHN II | 2<br>6<br>1<br><u>1</u>            | 10                                |
| Kotzebue                    | Kotzebue  |                        | <u>3</u>                           | 3                                 |
| Petersberg                  | Oregon<br>Petersburg                                | PHN III                | 1<br><u>1</u>                      | 2                                 |
| Haines                      | Anchorage<br>Petersburg                             | PHN III                | 1<br><u>1</u>                      | 2                                 |
| Wasilla                     | Wasilla   |                        | <u>1</u>                           | 1                                 |
| Ketchikan                   | Ketchikan   |                        | <u>1</u>                           | 1                                 |
| Soldotna                    | Willow  |                        | <u>1</u>                           | 1                                 |
| Homer                       | Nilnilchik  |                        | <u>1</u>                           | 1                                 |
| Kodiak                      | Kodiak<br>Montana                                   |                        | 1<br><u>1</u>                      | 2                                 |

Detail of Selective New Hires Between  
January 1, 1984, to April 1, 1985

| <u>Location<br/>of Position</u> | <u>Location of<br/>Applicant at<br/>Time of<br/>Appointment</u> | <u>Noted<br/>Classes</u> | <u>Total By<br/>Applicant<br/>Location</u> | <u>Total By<br/>Position<br/>Location</u> |
|---------------------------------|---|--------------------------|--|---|
| Cannery Creek                   | Cordova   |                          | <u>1</u>                                   | 1   |
| Unalaska                        | Anchorage   |                          | <u>1</u>                                   | 1   |
| Goose Bay                       | Anchorage<br>Fort Yukon   |                          | <u>1</u><br><u>1</u>                       | <u>2</u>                                  |
|                                 |   |                          |  | 125                                       |

ME

Position Paper  
CSSB 207 (Fin)

This Bill deals with four distinct topics. This position paper deals with those topics by discussing the various sections of the Bill that deal with a topic under the topic heading. Notation is made of fiscal impacts which are further detailed in two 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.

Limitation on Actions

Sections 1, 2, 8, 10, 11, and 13 deal with placing certain limitations on the executive, legislative, and judicial branches and the University of Alaska. Section 2 of the Bill adds two sections to the Executive Budget Act (AS 37.07.010-.130). Proposed AS 37.07.085 limits: reclassification of positions unless the action is provided for in the budget, approved by the legislature, or consistent with the policies established under AS 39.25.150(1); changes in a salary range unless provided in the budget, approved by the legislature, or required for compliance with AS 18.80.220(a)(5), AS 39.25.010, or AS 39.25.150(2); and promotion of an incumbent, hired after the effective date, of a flexibly staffed position unless provided in the budget, or approved by the legislature. Proposed AS 37.07.087 provides a mechanism for annually reconciling departmental listings of positions with positions authorized in the budget. After the reconciliation, "a department may not establish a new permanent PCN or change the salary range, pay step, location, or time status of an existing PCN unless the division of budget review concurs."

Section 8 requires the Division of Budget Review to develop an automated system for the above reconciliation, with the capability of matching against payroll records, by September 15, 1985.

Section 10 "grandparents" current collective bargaining agreements from changes otherwise required by the Bill.

Section 1 prohibits future collective bargaining agreements from containing terms contrary to proposed AS 37.07.085.

Section 11 is a severability clause added by CSSB 207 (Fin) based on our testimony, discussed below, that a specific provision may violate the separation of powers doctrine.

Section 13 makes the limitation on actions provisions effective immediately.

Position

The Department of Administration supports the concept of reconciling budget and position information. The Department also supports the requirement that actions to reclassify positions or change salary ranges be taken in accordance with existing statutes, policies, and regulations.

Position Paper  
CSSB 207 (Fin)

The Department believes that the provision in proposed AS 37.07.085(a)(3) (p.2, 11. 1-3) is an undue infringement of the legislative branch into decisions of the executive branch. The decision to promote an employee is a fundamental decision of an appointing authority. The proposed requirement of legislative or budget approval for such actions, in our view, violates the separation of powers doctrine. The appointing authority for the three branches of government and the University of Alaska is contained in AS 39.25.070. Proposed AS 37.07.085(a)(3) shifts some of the authority of the Governor, the Chief Justice and the Board of Regents to the legislature. We believe this subsection should be deleted.

The Department also has a concern about proposed AS 37.07.087(b) (p.2, 11. 18-21). This subsection would require the Division of Budget Review's concurrence before a department could change a salary range, award a merit increase (pay step) or relocate a position. While the intent of proposed AS 37.07.087 appears to be the maintenance of an accurate system of position accounting for budget purposes, the language in subsection (b) appears to place on the Division of Budget Review a requirement to review and act on substantive decisions normally made by departments. This conflicts with proposed AS 37.07.085(a)(1) and (2) where the State may reclassify positions and change salary ranges consistent with statute. It puts a limitation of the authority of the principal executive officer of agencies found in Title 44.

We believe proposed AS 37.07.087 should be amended to reflect the authority of the Division of Budget Review to control changes to the automated position accounting system, but not the actions of agencies taken under proper authority.

Our suggested language follows: "(b) After conforming the list of permanent positions to the budget, a department may not add a position to the list or change information about a position on the list which affects the cost of the position unless the division of budget review concurs."

#### Limit on Geographic Differential

Sections 1, 4, 7, 10, and 13 deal with limiting the payment of geographic differential to the first \$30,000 of an employee's salary. Section 4 contains the substance of the proposed law. Section 10 again "grandparents" current collective bargaining agreements, while Section 1 requires future agreements to comply with this proposed law. Section 13 makes the provision effective immediately for those not currently covered by a collective bargaining agreement. Section 7 provides a commitment by the legislature to review geographic differentials following the release of a comprehensive study of the subject.

#### Position

There is a strong argument for paying the same dollar differential to all employees at a duty station. Since cost-of-living differences tend to stem

Position Paper  
CSSB 207 (Fin)

from geographic price differences in basic commodities and services, their effect on employees is not in direct relation to earning levels. A quart of milk, 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. The State uses one method of doing so in its collective bargaining contract with the Labor, Trades and Crafts bargaining unit.

The Department of Administration supports Section 4. We further support the commitment of the legislature to review the issue once the study of geographic differential funded by the legislature in 1984 is available. We believe that would be an appropriate time to address the question of an inflation/deflation factor for the \$30,000 limit.

The Department has a concern with the effective date of Section 4. It is impossible to put the provisions into effect the day after the Governor signs the Bill. Computer system changes will take time. The prospect of manually adjusting the pay for each employee affected immediately would require additional staff beyond the needs shown in the fiscal note. The alternative prospect of maintaining two automated systems, one for those affected immediately and one for those affected with future collective bargaining agreements, is also more costly. Finally, there is an equity consideration. Only approximately 93 employees will be affected immediately. The vast bulk of employees, those in the General Government and Supervisory bargaining units, will not be affected until January 1, 1987, under current collective bargaining agreements. By that time, the legislature will have probably reviewed the issue under Section 7. The Department urges the adoption of an effective date for Section 4 that will allow uniform and well-planned implementation of this provision. An effective date of January 1, 1987, would be most equitable. However, January 1, 1986, would allow sufficient time for an orderly implementation.

The Department also has a concern about specifying a specific dollar limit. At the present time, there is no range and step on any schedule that corresponds to exactly \$30,000 per year. It would be administratively cumbersome to work from a fixed dollar amount versus using existing pay schedules as the State's automated pay processes are programmed to use existing schedules. We therefore recommend that the second sentence of Section 4 be amended to read: "If the employee's basic annual salary is greater than \$30,000, then the employee's pay step differential shall be calculated on the highest range and step that does not exceed \$30,000."

#### Merit Principle

Sections 3 and 13 deal with the merit principle of employment. Section 3 adds a sixth specific factor included within the merit principle. Section 13 provides an immediate effective date.

Position Paper  
CSSB 207 (Fin)

Position

Section 3 provides that the merit principle of employment includes classification and pay plans free of race or sex biases and a single set of classification criteria. The Department of Administration supports this provision. The legislature provided \$500,000 in funding in 1983 for development of a new classification system. Recommendations will be made to Governor Sheffield in August for the implementation of a classification system using a single set of factors.

Retirement Changes

Sections 5, 6, 9 and 12 propose amendments to the Public Employees' Retirement System.

The amendments in Sections 5 and 6 are 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.

Section 9 makes the provision applicable only to employees hired after the effective date of the amendments. Section 12 makes the effective date January 1, 1987.

Position

Sections 5 and 6 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 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 small cost to the State. (See Division of Retirement and Benefits' Fiscal Note.)

In terms of computing retirement benefits, Section 5 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 and would actually increase employer costs, not reduce costs.





UNIVERSITY OF ALASKA — FAIRBANKS  
Fairbanks, Alaska 99701

May 3, 1985

Representative Katie Hurley  
Chair, House State Affairs Committee  
Pouch V IMS 3100  
Juneau, AK 99811

Dear Representative Hurley:

I am writing to you concerning CSSB207 since I was unable to testify at the Thursday, May 2, 1985 teleconference.

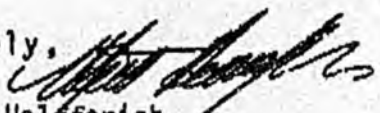
I see CSSB207 as expressing legislative frustration with the executive branch, but doing so in an inappropriate manner. CSSB207, Section 2, places the legislature in the position of making administrative decisions which properly should be made within agencies and under the direction of the administration. I believe the legislature is not properly constituted to efficiently, rapidly, and correctly decide day to day management decisions.

Section 2, paragraph 3 also raises a specter of great concern both to the university and to the state as a whole. As I interpret this paragraph, university faculty are in flexibly staffed position. If this is true, faculty promotions from assistant to associate and to full professor would require legislative approval. This bill would tend to introduce control of a faculty member's activities by the legislature. Those faculty members who spoke their mind in an area of their training would be subject to effective censure by the legislature. I can see non-tenured faculty members awarding high grades to poorly performing students if there were any hint of potential legislature contact. This section could lead to significant evils if it were applied to the university, and I suggest for this reason and others that it be deleted.

The bill is contradictory to the present senate legislative intent in the university's appropriation. That intent statement directs the university to reduce or reclassify existing positions prior to creating or filling new positions in FY86. This is in conflict with Section 2 of the bill.

For these and other reasons expressed at your teleconference, I suggest that CSSB207 not pass the House, and I request your assistance in defeating it.

Sincerely,

  
Merritt Helfferich  
Assistant to the Chancellor  
University of Alaska-Fairbanks

474 6402



# Alaska State Legislature

## House of Representatives

### Committee on State Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

(907) 465-4865

#### Official Business

To: Terry Cramer  
Legal Services

From: Nevette Bowen  
House State Affairs

Date: May 8, 1985

Re: CSSB 207 (FIN)

Please draft appropriate language to accomplish the following changes in a State Affairs Committee Substitute work draft:

Section 2. Delete Sec. 37.07.085. (a) (3)

Section 2. Sec. 37.07.085. (b) Page 2 line 5 delete the University from the definition.

~~Section 2.~~ Amend Sec. 37.07.085 (b) to read "(b) After conforming the list of permanent positions to the budget, a department may not add a position to the list or change information about a position on the list which affects the cost of the position unless the division of budget review concurs."

Section 4 Delete Replace with language similar to Section 7. Add new language to require the Department of Administration (Governor) to submit legislation at the beginning of next session based on results from the comprehensive state study on geographic differentials.

I am unclear on how to approach this. Basically, Representative Hurley would like the Department of Administration. to submit a proposal to the legislature to be included in its review of pay step differentials as outlined in Sec. 7.

Section 5 Delete

Section 6 Delete

Section 9 Delete

Section 10 Is this Section still necessary after the above changes have been accomplished?

Section 11 Delete

Section 12 Delete

Section 13 Draft accordingly

John N. Trent  
P.O. Box 939  
Barrow, AK 99723  
Phone 352-6875

3 May 1985

Representative ~~John N. Trent~~, Chair  
House State Affairs Committee

Dear Madame Chairman and Members of the Committee:

I am writing to express grave concern over CSBB 207 in its present form. My specific opposition to this bill is where it would eliminate the geographical cost of living differential for employees who earn more than \$30,000 a year.

In Barrow, where I live with my family, the cost of living is extraordinarily high, probably higher than anywhere else in Alaska. The local bank here says that living costs in Barrow are 96% higher than they are in Anchorage. Last year I earned \$47,000 as a state game biologist. I am the only biologist who actually lives on the north slope. My wife added \$21,000 to our income as a registered nurse for the Public Health Hospital. I am sure this seems like a lot of money to some but it does not go very far in Barrow.

Here are two examples of the kinds of income-related problems my family has had in Barrow. We have lived here nearly 24 years and have taken only one family vacation--to Fairbanks. A round-trip ticket there now costs \$500. During that vacation an orthodontist took the tooth-straightening appliances out of my son's mouth because we couldn't afford to send my son on monthly visits to the orthodontist. The boy still does not have braces.

As another example, we are trying to buy a house in Barrow. A three-bedroom house on its own lot costs about \$200,000 here. We don't have the earning power to save or borrow that much money. As non-natives we cannot borrow money on lots with restricted deeds so that title-free land is rarely available to us. Yet for me to be truly effective in my job I have to live in and be a part of this community. I cannot afford to be viewed by Inupiat eskimo residents as an outsider who is telling them what to do with their precious wildlife resources.

Let me summarize why I think 207 is a bad bill:

1. It will have an enormous demoralizing and fiscal impact on the community of state employees living in Barrow.

I calculate that the bill would cause me about a \$6,000 reduction in annual pay. The bill will snuff out any

hope my family has of buying a home in Barrow and will eventually force us to live elsewhere in the state.

2. Bill 207 would certainly contribute to the decline in quality and quantity of state government services in rural communities.

State employees in rural communities like Barrow provide services that generally compliment but do not compete with the services of municipal governments. In many cases it probably would take a long time or great expense to replace state services with local services. Passage of 207 would also make it harder to hire local employees to fill state office positions.

3. The bill places an unfair burden for reducing state expenditures on a small minority of Alaskans who are generally working hard to provide essential services and improve the quality of life in rural Alaska.

More equitable measures for reducing state government expenditures or generating income should be seriously reviewed first.

4. The bill appears to be poorly thought out regarding the relative costs and benefits that would actually accrue to various groups of Alaskans.

For example what is the reasonable probability that rural residents would actually fill positions left open by this bill? Would new positions really be created in rural communities or would they simply be filled by a more transient and less qualified cadre of "outsiders"? Also what are the differential effects of the bill on different communities; how will Kodiak be affected as compared with Barrow, for example?

5. The bill will have a detrimental effect on wildlife management in northwestern Alaska, including the north slope.

The bill will discourage the very best state wildlife biologists from working in these rural areas. "Management from afar" does not work well in rural Alaska. People from that part of the state do not want outsiders controlling their lives. If state wildlife biologists are to be effective in places like Barrow, Kotzebue and Nome, they have to live there, they have to be competent and they must be truly concerned not only with protecting wildlife but in helping local people solve their wildlife-related problems.

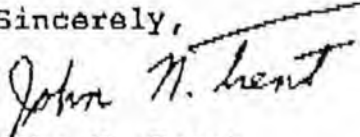
6. The bill appears to be a breach of the current contract with state employees.

I agree that it is essential to bring the State of Alaska's expenditures into line with declining oil revenues. I am willing to do my share to help. But a reduction in spending has to be fair to everyone, it has to be carefully thought out and it has to be preceded by adequate public discussion. I don't think CSSB 207 meets any of these requirements.

If you care to take a close look at what State of Alaska employees are doing in Barrow, I think you will find a small group of people who are trying to provide essential State services to a boomtown community under very difficult working conditions. I think that the largest of these state offices, the court system, is an important role model that demonstrates what good government can and should do in a rural Alaskan community. 207 is really going to hurt a lot of us here. Worse, it sends the message that the rest of the state really doesn't care what we are trying to accomplish.

Please do not pass 207 out of your committee, at least in its present form. Thank you for your time and consideration.

Sincerely,

  
John N. Trent

POLARIS DATA SYSTEMS

DIVISION OF POLARIS BUSINESS SYSTEMS

P. O. Box 80175 Fairbanks, AK 99708 (907)479-3661  
=====

May 3, 1985

Representative Katie Hurley, Chairperson  
House State Affairs Committee  
State Capitol  
Pouch V  
Juneau, AK 99811

Dear Representative Hurley,

I was unable to participate in yesterday's teleconference on Senate Bill 207 as time ran out before I could testify. I was advised that written testimony would be accepted.

I wrote you briefly on the subject before I was advised of this opportunity, and would now like to address the issue in somewhat greater depth.

I own and operate a small business in Fairbanks, and hold a night job as well in order to pay the bills. I was formerly employed as a bush pilot, and am familiar with conditions in rural areas of interior Alaska. The effect of Senate Bill 207 on the economy of Fairbanks and other communities in the interior and western Alaska would be disastrous.

State employees, unlike many in construction and the oil industry, spend their money at home. When state salaries drop, so do the economies of those communities in which state employees reside. In a number of the smaller communities, the State payroll is a major factor, as unemployment is endemic. The loss to the Fairbanks economy alone I estimate to be in excess of a million dollars a year. We can ill afford such a depletion of consumer dollars, and many smaller communities would be even harder hit in terms of percentage of the local economy.

Consider also the effect of this bill on the necessary services provided by State employees to residents of rural Alaska. I know that a cut in purchasing power would, in many cases, provide the "straw that broke the camel's back" in terms of finding qualified people to fill technical positions in the Bush. Recruitment is already a problem, and with SB207 in effect it would become a disaster. This is false economy - it would in many cases cost the State as much to recruit and train replacements for employees in rural areas as would be saved by the salary cuts, and in the interim the citizens would be the ones to suffer. This is a very poor management practice.

State employees in rural areas provide a major portion of the available health care. They operate and maintain the airports, without which commerce comes to a standstill. Work done by State fisheries biologists makes it possible to have a commercial fishing industry, and ensures food stocks for those who must live a subsistence lifestyle. In many cases, the only law enforcement is provided by State Troopers, and of course State employees staff the correctional facilities. Environmental protection, occupational health and safety, mental health care and counseling . . . the list goes on and on. And in almost every case, these services are provided only by State employees.

A research project in which I recently participated provided strong indications that, indeed, living costs in areas outside the Anchorage metro area are extremely high. When you attempt to persuade a trained and qualified individual to serve in a rural area, you most emphatically do not do so by promising to cut that person's purchasing power! In many cases, the only incentive which works is to provide a sufficient salary to make it worthwhile to give up many of the accustomed "comforts" of urban life. While it would make it much simpler if such personnel could be locally recruited at the "village" level, it is at that level that you do not find personnel in the over-\$30,000 salary ranges available! A remark recently overheard makes the point very plainly: "I have 15 years experience, three degrees, and over 1,000 hours special training in order to do my job, and they're going to make me take that elsewhere."

I am truly surprised that SB207 was most strongly supported by Senators Sackett and Ferguson, for it is precisely their constituents who would suffer the most. When a family reaches a point where expenses exceed income, it is far wiser to cut out the Saturday night movies and restaurant dinners than to refuse to pay the electric bill. I suggest that the State adhere to a similar philosophy in seeking reductions in the budget - you cut the frills, not the necessities.

If I might recommend some areas which deserve investigation as potential sources of savings: topheavy administrative staffs rather than the "working troops" who perform the labor; non-essential "public information" appointees who happen to be relatives of politically-connected individuals; unnecessary "studies" which simply prove the obvious; expensive and unattractive works of "art" stuck in front of public buildings, later to be removed at further high cost; unnecessary regulatory bodies which stifle rather than assist the economy.

I would strongly urge you to work for defeat of Senate Bill 207. The effect of that legislation would be counterproductive to our economy and to the quality of State services.

Sincerely,



R. E. Thalmann  
Senior Partner

HOUSE STATE AFFAIRS COMMITTEE  
Chairperson, Katie Hurley, Navarre, Cato, Boucher  
and Committee Members

I have lived and worked in Barrow for the past 2 1/2 years as the only Probation Officer on the North Slope and please believe me, the cost of living here is expensive.

Please find enclosed a comparative price list of Fairbanks to Barrow prices used in an Economics Class through the University of Alaska.

Hopefully you will see from this that it does cost much much more to live and work in the bush and how important the Geographical Differential really is.

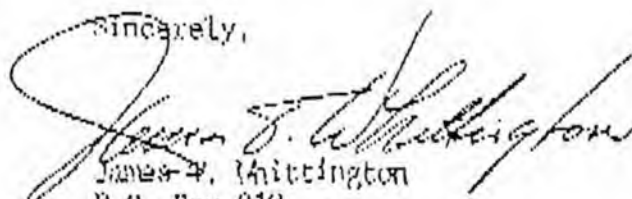
I would say that the average cost of housing, if it can be found here in Barrow, is between \$1,200 and \$1,500 per month.

Most of the State jobs held by non-natives in Barrow are those that most native Alaskans do not want in that they are enforcement type jobs requiring those under their supervision to follow certain rules and regulations.

Please vote against Senate Bill 207.

Thank you for any consideration in this matter.

Sincerely,



James F. Whittington  
P.O. Box 810

Barrow, Alaska 99723

Form III

Price Survey Form

(All package prices must be converted into per pound or per quart prices)

Student's name \_\_\_\_\_

Village \_\_\_\_\_

Date \_\_\_\_\_

| Item                                 | Borrow Price | Fairbanks Price | Price Index<br>(% of Fkbn Price) |
|--------------------------------------|--------------|-----------------|----------------------------------|
| 1. white potatoes(fresh)             | 1.00/lb      | .37/lb.         | 270%                             |
| 2. french fried potatoes<br>(Frozen) | 1.49/lb.     | .64/lb.         | 225%                             |
| 3. carrots (fresh)                   | 1.99/lb.     | .58/lb.         | 243%                             |
| 4. onions                            | 1.89/lb.     | .53/lb.         | 357%                             |
| 5. green beans, canned               | 1.49/lb.     | .52/lb.         | 287%                             |
| 6. peas, canned                      | 1.29/lb.     | .55/lb.         | 235%                             |
| 7. tomato juice                      | .80/lb.      | .46/lb.         | 174%                             |
| 8. potato chips                      | 6.58/lb.     | 3.04/lb.        | 216%                             |
| 9. catsup                            | 2.60/lb.     | 1.14/lb.        | 175%                             |
| 10. apples, fresh                    | 1.69/lb.     | .51/lb.         | 331%                             |
| 11. oranges, fresh                   | 1.59/lb.     | .63/lb.         | 252%                             |
| 12. applesauce, canned               | 1.49/lb.     | .66/lb.         | 226%                             |
| 13. fruit cocktail, canned           | 1.89/lb.     | .71/lb.         | 266%                             |
| 14. peaches, canned                  | 1.69/lb.     | .68/lb.         | 249%                             |
| 15. apple juice, canned              | .96/lb.      | .53/lb.         | 181%                             |
| 16. orange juice, canned             | 1.30/lb.     | .55/lb.         | 236%                             |
| 17. cornflakes                       | 2.79/lb.     | 1.25/lb.        | 223%                             |
| 18. oatmeal, old fashioned           | 2.39/lb      | .69/lb.         | 333%                             |
| 19. white flour, all purp            | .62/lb       | .24/lb.         | 259%                             |
| 20. rice, white                      | 1.12/lb      | .55/lb.         | 204%                             |
| 21. spaghetti, dry, plain            | 1.99/lb      | .71/lb.         | 280%                             |
| 22. white bread                      | 1.92/lb      | .75/lb.         | 256%                             |
| 23. crackers, saltines               | 2.99/lb      | .93/lb.         | 326%                             |
| 24. cookies, vanilla wafers          | 4.16/lb      | 1.78/lb.        | 234%                             |
| 25. macaroni & cheese mix            | 2.56/lb.     | .83/lb.         | 308%                             |
| 26. whole milk, fresh                | 1.50/qt.     | .87/qt.         | 172%                             |
| 27. powdered milk                    | 4.00/lb      | 1.88/lb.        | 213%                             |
| 28. natural cheese, cheddar          | 6.00/lb.     | 2.66/lb.        | 226%                             |
| 29. american cheese, sliced          | 3.79/lb.     | 2.59/lb.        | 146%                             |
| 30. ground beef, regular             | 2.29/lb.     | 1.19/lb.        | 192%                             |
| 31. pork chops                       | 3.39/lb.     | 1.56/lb.        | 217%                             |
| 32. ham, boneless                    | 3.29/lb.     | 2.16/lb.        | 152%                             |
| 33. bacon, sliced                    | 3.89/lb.     | 1.86/lb.        | 209%                             |
| 34. frankfurters                     | 3.59/lb.     | 2.16/lb.        | 166%                             |
| 35. hotogna                          | 4.18/lb.     | 1.52/lb.        | 275%                             |

| Item                                | Barrow Price | Fairbanks Price | Price Index<br>(% of Barrow Price) |
|-------------------------------------|--------------|-----------------|------------------------------------|
| 36. chicken, whole or cut           | 1.99/lb.     | .59/lb.         | 201%                               |
| 37. tuna, canned                    | 5.00/lb.     | 1.99/lb.        | 251%                               |
| 38. canned chili/beans              | 1.39/lb.     | .66/lb.         | 162%                               |
| 39. eggs, large                     | 2.25/doz.    | 1.30/dozen      | 173%                               |
| 40. nature beans, canned,<br>kidney | 1.29/lb.     | .66/lb.         | 195%                               |
| 41. peanut butter                   | 3.69/lb.     | 1.73/lb.        | 213%                               |
| 42. butter                          | 5.19/lb.     | 2.27/lb.        | 229%                               |
| 43. shortening                      | 2.09/lb.     | 1.03/lb.        | 203%                               |
| 44. mayonnaise                      | 2.49/lb.     | .91/lb.         | 274%                               |
| 45. sugar, granulated               | .82/lb.      | .44/lb.         | 186%                               |
| 46. soda pop, coke or popst         | 2.00/qt.     | 1.25/qt.        | 160%                               |
| 47. Tang drink mix                  | 2.00/lb.     | 1.37/lb.        | 146%                               |
| 48. ground coffee                   | 5.08/lb.     | 2.89/lb.        | 176%                               |
| 49. tea bags                        | 8.18/lb.     | 4.35/lb.        | 188%                               |
| 50. pickles, dill, whole            | 2.00/lb.     | .73/lb.         | 274%                               |

NOTE: for our purposes in this exercise, use the following conversion table:

32 fluid ounces = 1 quart

16 ounces = 1 pound

1 fluid ounce = 1 ounce of weight

If you need to convert from the metric system, look up a conversion table in a dictionary.

Gasoline - \$2.65 gal.

Water - 17¢ gal.

Sewage Disposal - 10¢ gal.

TO: [REDACTED]  
[REDACTED]

DATE: 5/3/85

FROM: DAVID L. ARRANTS *DJA*  
P.O. box 470  
BARROW, AK. 99723

SUBJECT: 9B 207

I am writing to voice my opposition to SB 207

I am a State Trooper stationed at Barrow. I have over 14 years with the Department, the last year and a half of that in Barrow. All my time prior to this I was stationed in Fairbanks. When I originally bid on the Barrow post, the increase in pay was a known factor, and I was able to determine that I could afford to live here. I have since found that I am able to get by financially in about the same manner as I did in Fairbanks, but I am missing a lot of the comforts of a larger population center. It is definitely not money that brought me here or is keeping me here. Now I find myself in a situation where I am not allowed to transfer, because there is no money in the budget, and I may not be able to afford to live here. Our State subsidized housing is currently under attack, and now our pay and retirement benefits. I believe other people from Barrow will give a list of living expenses, so I won't go into it deeply. My house costs the State \$1600 a month and around \$200 or so for utilities. My share of this bill comes to \$550, and I can assure you it is nothing fancy. Food is at least 1/3rd higher here than in Fairbanks. Gasoline is \$2.60 a gallon and maintenance on a car can run up to \$90 an hour. If I have to leave I am sure the post would remain vacant, because no one could afford to come here.

Since I have been here we have also had a problem with the court system. We have been unable to keep qualified secretaries in the court system because of the low pay. As soon as they get a little training they are able to find a better job. Lowering the wages will force an exodus of State workers who will be replaced by poorly trained people. I have heard that the savings to the State by this legislation will be in the neighborhood of 3.7 million dollars. I believe that transportation costs to fly trained people in and out of Barrow to straighten things out will eat up a good share of our savings. Some thought should also be given to the possibility of lawsuits caused by these poorly trained and unsuitable people. One big lawsuit could take almost that whole 3.7 million.

I believe the pay differential in some areas could possibly be changed, it may well be too high in some places. But, each area should be studied well before the change is made.

## CSSE 207 FIN

AN ACT RELATING TO CALCULATION OF THE COST-OF-LIVING AND PAY STEP DIFFERENTIALS FOR THE COMPENSTION AND RETIREMENT BENEFITS OF CERTAIN PUBLIC EMPLOYEES, CLASSIFICATION SYSTEM; LIMITING THE STATE'S POWER TO CHANGE THE COST TO THE STATE OF COMPENSATION FOR CERTAIN  
 PRIME SPONSOR: FINANCE COMMITTEE  
 CO-SPONSORS:

CURRENT STATUS: (H) SA

| DATE     |     | PAGE | ACTION                                 |
|----------|-----|------|--|
| 03/01/85 | (S) | 444  | READ THE FIRST TIME                    |
| 03/15/85 | (S) | 554  | SA RPT 3DP W/AMENDMENT, 2NR            |
| 03/15/85 | (S) | 554  | FISCAL NOTES SS#20                     |
| 04/12/85 | (S) | 779  | FIN RPT CS 6 DP 1 NR, NEW TITLE        |
| 04/16/85 | (S) | 812  | RLS RPT CALENDAR TODAY                 |
| 04/16/85 | (S) | 815  | READ THE SECOND TIME                   |
| 04/16/85 | (S) | 815  | FIN CS ADOPTED UNAN CONSENT            |
| 04/16/85 | (S) | 815  | ADVANCED TO THIRD READING UNAN CONSENT |
| 04/16/85 | (S) | 815  | READ THE THIRD TIME, NEW TITLE         |
| 04/16/85 | (S) | 816  | PASSED Y15 N3 X2                       |

SB 207

MEASURE HISTORY

PAGE 02 OF 02

| DATE     |     | PAGE | ACTION                          |
|----------|-----|------|---------------------------------|
| 04/16/85 | (S) | 816  | EFFECTIVE DATES SAME AS PASSAGE |
| 04/16/85 | (S) | 821  | TRANSMITTED TO (H)              |
| 04/17/85 | (H) | 960  | READ THE FIRST TIME             |
|          |     |      | STATE AFFAIRS                   |
|          |     |      | FINANCE                         |
|          |     |      | RULES                           |

Offered: 4/12/85  
Referred: Rules

Original sponsor: Finance Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 207 (Finance)

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

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

14 \* Section 1. AS 23.40 is amended by adding a new section to read:

15 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties  
16 may not negotiate terms contrary to the limitations on state personnel  
17 actions under AS 37.07.085 or on pay step differential calculations  
18 under AS 39.27.020(d).

19 \* Sec. 2. AS 37.07 is amended by adding new sections to read:

20 Sec. 37.07.085. LIMITATIONS ON STATE PERSONNEL ACTIONS. (a)  
21 Unless the budget specifically provides or the legislature approves,  
22 the state may not

23 (1) reclassify a position to a higher salary range after  
24 September 1, 1985 unless the reclassification is consistent with  
25 policies established in AS 39.25.150(1) for a position classification  
26 plan;

27 (2) change the salary range of a job class unless the  
28 change is required to comply with AS 18.80.220(a)(5), AS 39.25.010 or  
29 39.25.150(2); or

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

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

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

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

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

26 \* Sec. 3. AS 39.25.010(b) is amended to read:

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

28 (1) recruiting, selecting, and advancing employees on the  
29 basis of their relative ability, knowledge, and skills, including open

1 consideration of qualified applicants for initial appointment;

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

4 (3) retention of employees with permanent status on the  
5 basis of the adequacy of their performance, reasonable efforts of  
6 temporary duration for correction in inadequate performance, and  
7 separation for cause;

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

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

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

16 \* Sec. 4. AS 39.27.020 is amended by adding a new subsection to read:

17 (d) If an employee's basic annual salary is no more than  
18 \$30,000, the pay step differential shall be calculated using the  
19 employee's basic salary. If the employee's basic annual salary is  
20 greater than \$30,000, then the employee's pay step differential shall  
21 be calculated on the differential for a basic salary of \$30,000.

22 \* Sec. 5. AS 39.35 is amended by adding a new section to read:

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

27 (b) The amount of a cost-of-living differential may not be in-  
28 cluded in the employee's compensation for purposes of calculating  
29 benefits paid under this chapter unless the employee has received a

1 cost-of-living differential in a comparable amount or of at least that  
2 many steps for at least 50 percent of the employee's credited service.

3 (c) When an employee receives a benefit, and if the employee's  
4 compensation for purposes of calculating the benefit does not include  
5 a cost-of-living differential, then the administrator shall refund to  
6 the employee the amount of contributions the employee made based on  
7 the differential.

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

12 \* Sec. 6. AS 39.35.680(8) is amended to read:

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

23 \* Sec. 7. The legislature shall review the pay step differentials  
24 provided under AS 39.27.020 and under collective bargaining contracts  
25 between the state and employee bargaining organizations following the  
26 release of a comprehensive study of the geographic differentials by the  
27 state.

28 \* Sec. 8. By September 15, 1985, the division of budget review in the  
29 Office of Management and Budget shall develop a master position control

1 system with the capability of matching permanent positions listed in an  
2 automated position accounting control system against the state's master  
3 payroll record.

4 \* Sec. 9. The amendments made by secs. 5 and 6 of this Act apply only  
5 to members first hired under the Public Employees' Retirement System on or  
6 after the effective date of secs. 5 and 6 of this Act.

7 \* Sec. 10. Nothing in this Act terminates or modifies a collective  
8 bargaining agreement in existence on the effective date contained in  
9 sec. 13 of this Act.

10 \* Sec. 11. If any provision of this Act, or the application thereof to  
11 any person or circumstance is held invalid, the remainder of this Act and  
12 the application to other persons or circumstances shall not be affected  
13 thereby.

14 \* Sec. 12. Sections 5, 6, and 9 of this Act take effect January 1,  
15 1987.

16 \* Sec. 13. Sections 1 - 4, 7, 8, 10, and 11 of this Act take effect  
17 immediately in accordance with AS 01.10.070(c).



employees political information committee

MEMORANDUM

TO: Representative Katie Hurley

FROM: Employees Political Information Committee

SUBJECT: Senate Bill 207 - Changes to the Geographic  
Differential System

DATE: April 23, 1985

The Employees Political Information Committee, the political action arm of the Alaska Public Employees Association, is opposed to Senate Bill 207. It not only discriminates against employees working and living in rural areas, it impinges upon and erodes the concept of collective bargaining.

This legislation defeats the intent of the negotiated geographic differential system. The differentials were implemented in the first collective bargaining contract in 1974 to compensate for the high cost of living in certain areas of the state. The system was established to equalize the purchasing power of the wages earned by the state employees no matter in what area they live. If this bill passes, it automatically curtails negotiations surrounding geographic differential and negates a collective bargaining precedent that was set in 1974.

Limiting the geographic adjustment for the first \$30,000 of salary

This would affect employees in range 10 and above. Unlike employees working in urban areas, they would be unable to maintain their current living standards. The system was designed to increase an employee's salary in an amount equal to the difference in living cost between Anchorage and the worksite location. If the differential is limited to a portion of salary, the result will be pay adjustment equal to less than the difference of living cost.

### Side Effects on Communities

The reduction of current salaries in the rural areas would have an effect on the economy of the community itself. If the buying power of the state employee is cut, then business in the communities would have to anticipate a decline in their revenues at a time when growth in Alaska is the key phrase of the Administration.

### Geographic Differential Study underway

The state is currently conducting a geographic differential study to determine the validity of the current schedule. The report on the study will possibly be released sometime next month. It would seem appropriate and prudent to read the report before contemplating changes to the system.

### Differential not calculated for retirement purposes

The legislation proposes that the differential not be included for the purpose of calculating retirement benefits unless the employee has received a differential in a comparable amount, or, of at least that many steps for at least 50 percent of the employee's credited service. This will create two classes of beneficiaries and will pose considerable problems in the administration of funds. These proposed changes will be challenged as they establish residency requirements for retirement benefits not unlike the longevity bonus program which the courts have rejected unconstitutional.

### Legislative approval on classification, ranges and flexing

This will undoubtedly be challenged as an unconstitutional intrusion by the legislature on the administrative powers of the executive branch, the court system and the university.