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285

CLASS SIZE

A Background Paper for NEA-Alaska Members

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One of the most obvious and detrimental effects of the recent cut-back in Alaska school funding has been the increase in class size.

Results of the NEA-Alaska and PTA surveys show that although class size is not a problem in all of Alaska's schools, it has become a significant area of concern in many areas, particularly in urban schools.

The State Board, the Alaska Education Coalition, and the Governor's Interim Commission on Children and Youth have all recognized reduction of PTR as a primary objective. Reducing PTR from our perspective is important to the overall delivery of education as well as to dealing with at-risk youth.

Legislating class size from the State level has met, and will in the future meet, with opposition from school districts and boards. Some of that opposition is legitimate when you try to envision a bill that could cover the diversity of this state equitably.

An alternative to State legislation which would ensure local control and yet deal with the issue would be to make class size a topic for collective bargaining.

In survey after survey teachers have named class size as one of their primary concerns. Yet, since the 1977 Supreme Court Kenai Decision it has been on the list of non-negotiable items. Parents often ask teachers why we don't do something about it and why we don't attempt to deal with class size during negotiations. Our answer is, regrettably, that we can't.

The 1977 decision was the court's interpretation of an ambiguous law. If the legislature were to specify class size as a negotiable item that ambiguity would be gone.

It is likely that school districts and boards would oppose this issue because they prefer to keep the power on their side of the table on as many issues as possible. However, compared to a state mandate, it makes sense as a means to deal with the unique factors of each community and school system. The usual argument of "local control" that school boards have used against changes such as an improvement in the bargaining law would actually be reversed in this situation. Local control is not synonymous with school board control, and who better to work out a system of class size control than the teachers and board members in each district?

If legislation was introduced, would you support making class size a topic for collective bargaining?

JA/Classize/dl

RELATIONSHIP OF CLASS SIZE AND STUDENT ACHIEVEMENT

From a historical perspective, J. M. Rice is credited with conducting the first empirical study on educational processes and their effects on student achievement. This study was published in *The Forum* in 1902. Although it included virtually no numbers, Rice observed no strong relationship between class size and attainment. Since this date, the findings of voluminous research studies have been reported. In a recent review of more than 3,000 studies, Willis D. Hawley et al., explain the inconsistencies in the conclusions reached by different analysts as follows:

1. The effects of class size reductions require complex statistical analysis.
2. The better the research design, the stronger the effect of class size reductions found.
3. Older studies showed few or no effects; newer studies show generally positive effects.
4. An effect of class size seen to be significant by one researcher may be termed insignificant by another, depending on the type of analysis used.
5. In many cases, reductions in class size do not result in evidence to show changes in teacher behavior, but such changes—or the lack thereof—are frequently not studied.

Again, historically, Glass and Smith categorized the four stages of research on class size as follows:

- 1895 – 1920 = the pre-experimental era
- 1920 – 1940 = the primitive experimental era
- 1950 – 1970 = the large-group technology era
- 1970 – present = the individualization era

A continuing volume of research studies have tried to find a more comprehensive and conclusive answer to the difficult question: What is the optimum/ideal class size to improve academic performance? Cited below are the findings of some of the major research studies concerning the relationship between class size and student achievement:

Walberg, Herbert J. and Sue Pinzur Rasher, "Public School Effectiveness and Equality: New Evidence and its Implications," *Phi Delta Kappan*, 56 (September 1974), pp. 3-9.

In this study, the percentage of Selective Service draft candidates who failed the mental test in 1969 and 1970 in all 50 states was compared with nine socio-economic and educational variables. Pupil-teacher ratio was one of these educational inputs found to have affected the Selective Service examination scores of the military draftees. This test of general ability consisted of 100 vocabulary, mathematics, spatial, and mechanical items, many of which reflect specific abilities that can be acquired in school. The results of this comprehensive study show that "high pupil-teacher ratios . . . of children enrolled in public schools are associated with high rates of test failures."

In a subsequent report of this study (*Phi Delta Kappan*, May 1977), the authors state that "a reduction of one pupil per teacher is associated with an estimated 7.9 percent reduction in failure rate when the other variables are controlled. Although administrative, supportive, and capital expenditures are necessary, smaller classes may pay off because of the intensified, direct services they allow the teacher to provide the children. In particular, small classes permit more individual guidance, small-group work, and discussion without the constraints of authoritarian control often required in large groups."

Porwoll, Paul J., *Class Size: A Summary of Research*. Arlington, Va.: Educational Research Service, Inc., 1978.

This research brief is a comprehensive review of the literature on class size and achievement of elementary and secondary students as well as the effects of class size on other related areas. (Findings on the effects of class size and the educational process will be included in the next section of this report.) Based upon the analysis of 24 studies, the investigator found the relationship of class size and achievement to be inconclusive, contradictory and complex. The

tentative conclusions related to the effects of class size and pupil achievement are as follows:

- Research provides no clearcut guidelines for an "optimum" class size covering all types of students at all grade levels. Students at different levels of personal and academic development require different learning conditions in order for optimum gains in achievement to occur.
- Existing research findings do not support the contention that smaller classes will of themselves result in greater academic gains for pupils. The evidence is that within the mid-range of about 25 to 34 pupils, class size seems to have little if any decisive impact on the academic achievement of most pupils in most subjects above the primary grades.
- There is research evidence that small classes are important to increase pupil achievement in reading and mathematics in the early primary grades.
- There is some evidence of a positive relationship between small class size and pupil achievement when primary grade pupils are taught in small classes for two or more consecutive years.
- There is evidence that pupils with lower academic ability tend to benefit more from smaller classes than do pupils with average ability.
- Some research indicates that smaller classes can positively affect the scholastic achievement of economically or socially disadvantaged pupils.
- More longitudinal studies are needed to measure the relationship between achievement and instructional changes when class sizes are reduced.

Glass, Gene V. and Smith, Mary Lee, "Meta-Analysis of Research on the Relationship of Class-Size and Achievement. The Class Size and Instructional Project." San Francisco, Calif.: Far West Laboratory for Educational Research and Development, September 1978. [ED 168 129]

This is the most comprehensive research study to date on the issue of class size. It has received both

national and international attention and has provided evidence of the positive relationship between reduced class size and pupil achievement. In this meta-analysis of research, 77 empirical research studies were read, coded, and analyzed. These studies yielded over 700 comparisons that were based on data that span 70 years of research performed in more than a dozen different countries and all together incorporated achievement test results of over 900,000 pupils. This integrative analysis was unique in that it represented a statistical synthesis that revealed general trends.

The study found that small achievement advantages were noted when small reductions were made in class size in the 20-30 pupil range and large advantages resulted when class size was reduced below 20. Pupil achievement was found to be higher in small classes and highest in very small classes (under 20). The relationship between class size and achievement seems consistently stronger in the secondary grades, but it does not differ appreciably across different school subjects, levels of pupil IQ, or several other demographic features of classrooms. Overall, the researchers found that "among the 725 comparisons of pupil achievement in smaller and larger classes, 435 or 60 percent favored the smaller class."

This newly documented relationship between class size and achievement contradicts previously published reviews of research, whose authors maintained that reducing class size would not result in greater achievement. Many aspects of this study have been both heralded and criticized by many researchers and educators.

Cotton, K. and Savard, W. G., "Class Size. Research on School Effectiveness Project: Topic Summary Report." Portland, Oregon: Northwest Regional Educational Laboratory, December 12, 1980. [ED 214 705]

To answer the question, "Do small classes have a positive effect on the academic achievement of elementary and secondary students?" the authors reviewed 36 documents of which 20 were deemed

valid studies. These studies provided considerable support for the following hypotheses:

1. Small classes have a positive effect on the academic achievement of elementary and secondary students
2. Small classes have a positive effect on student attitudes and behavior, teacher morale, classroom procedures and other indicators of the quality of the classroom environment.
3. There is no optimal class size for all instructional situations. Appropriate class size is dependent on student age/grade, student aptitude, subject taught and instructional methods used.

Although "small classes" and "large classes" were inconsistently defined in the studies, in general, the research indicates that small classes can be beneficial in certain situations: For example, the achievement of disadvantaged, low-ability, special education or primary age students is enhanced by smaller classes; very small classes (5 or fewer students) appear to produce considerably higher achievement than average size classes.

Data in this study supported the conclusion that "reducing or increasing class size will not automatically produce any particular, foreseeable effect on achievement, . . . however, smaller class size has the potential for stimulating the development and use of improved instructional methods, but will not automatically do so."

Carrington, Andrew T. et al., "Class Size Project, 1980-1981. Final Report." Virginia Beach, Va.: Virginia Beach City Public Schools, August 1981. [ED 237 521]

This project resulted from a directive of the Virginia Beach school board to determine the effects of class size on the reading achievement of pupils in the lower elementary grades. The research design consisted of pairs (control and experimental groups) of first-grade classes from eight schools, each with 29 and 21 students, respectively. The student/teacher ratios in both of the groups were below the maxi-

mum of 30 students, as mandated by the Southern Association of Schools and Colleges and enacted by the Virginia General Assembly. The participating classes and teachers were chosen and assigned randomly. The first graders were administered pre- and post-tests of the California Achievement Tests to measure their reading achievement gains during the school year. The results of the study showed that:

- First-graders in smaller classes scored significantly higher on reading achievement tests than did their peers in larger classes.
- Both sexes of white first-graders scored significantly higher in small classes than in larger ones.
- There was no significant difference between the reading achievement scores of nonwhite students in small and large classes. (Only 32 nonwhite students participated in the study.)

Walberg, Herbert J., "What Makes Schooling Effective? A Synthesis and Critique of Three National Studies." *Contemporary Education Review*, Spring 1982, pp. 23-34.

H. J. Walberg, D. Schiller and G. D. Haertel recently assembled a collection of research reviews that were published from 1969 to 1979 on instructional and related research on learning, conducted in elementary, secondary and higher education schools. Table II in this article, which gives a selective summary of the research topics included in this decade of educational research, shows that 60 percent of 691 comparisons found that students in smaller classes achieved at a higher rate.

Doss, David and Holley, Freda, "A Cause for National Pause: Title I Schoolwide Projects." Austin, Texas: Austin Independent School District, Office of Research and Evaluation, March 1982. [ED 214 996]

Title I and local funds were used to establish two schoolwide projects in Austin, Texas, where pullout programs were ended and the pupil/teacher ratio was lowered to 15-1. Students in grades 2-6 from Title I

Schoolwide Project (SWP) schools were compared with comparable students from Title I Regular (TIR) schools using the Iowa Tests of Basic Skills administered in April of 1980 and 1981. Evaluation findings revealed that:

- The lower pupil/teacher ratio seems to improve achievement meaningfully in *all* basic skill areas.
- The project teachers had very high morale. They felt more effective in their work.
- The lower pupil/teacher ratio may have more impact on the quality of instruction (less off-task time, better teacher monitoring of work, earlier corrective feedback, fewer adults with instructional responsibility for the child, fewer disruptions, etc.) than on the quantity.
- Lowering the pupil/teacher ratio from 25-1 to 15-1 would increase personnel costs by 67% in the schools and grades where applied.
- Adequate classroom space can be a problem.

Hedges, Larry V. and Stock, William, "The Effects of Class Size: An Examination of Rival Hypotheses." *American Educational Research Journal*, Spring 1983, pp. 63-85.

In a current reanalysis of the statistical procedure used in the class-size meta-analysis by Glass and Smith (reviewed in this report), Hedges and Stock found no substantial changes in conclusions originally drawn. They confirmed the findings of Glass and Smith that smaller classes lead to higher expected achievement than larger classes. They concluded, however, that "the tests of significance confirm that class size accounts for a substantial amount of achievement variation, while also indicating that substantial sources of systematic variation remain to be explained."

RELATIONSHIP OF CLASS SIZE AND THE EDUCATIONAL ENVIRONMENT

Numerous research studies have investigated how reduction in class size is associated with the teaching process and affective outcomes. Data from these studies reveals that class size affects the quality of the classroom environment; pupil's attitudes, interest and motivation; teacher's morale, satisfaction, and attitudes toward their pupils; instructional techniques, etc. The findings of selected studies are summarized below.

Lindbloom, Dwight H., "Class Size as it Affects Instructional Procedures and Educational Outcomes." Minneapolis, Minn.: Educational Research and Development Council of the Twin Cities Metropolitan Area, Inc., June 1970. [ED 059 532]

The purpose of this extensive review of literature was to ascertain the relationship between educational outcomes and class size in elementary and secondary schools.

This study was based upon the assumption that if pupil behavior is to change (learning process), teacher behavior must also change (teaching process). Thus, in reviewing the literature, Lindbloom states that "the examination of the teaching process in terms of teaching methods and classroom environment measures has been separated from the examination of the learning process in terms of achievement measures."

The author concludes that the evidence advanced in appraising the teaching process and all measures other than pupil achievement overwhelmingly favor small classes. The studies report the following positive practices taking place more frequently in smaller than in larger classes:

1. Individualized instruction geared to the needs and interests of students.
2. In addition to the textbooks, wider use of a variety of educational materials to enrich teaching.
3. Increased interaction among pupils and between teacher and pupils.
4. Greater use of innovative or new materials and methods.

5. More student self-control and discipline with less teacher domination.
6. More small group work.
7. Improved human relations among students and with the teacher.
8. A greater number of instructional activities.
9. Fewer discipline problems.
10. Improved morale among teachers.

In conclusion, the author states: "merely reducing class size is no guarantee of increased pupil achievement in the smaller class. What does seem to happen (naturally, in not every case), according to the research studies, is that a reduction in class size causes teachers to adjust accordingly and modify the teaching process to a more individualistic and humanistic approach. . . . The research supports the hypothesis that small classes are superior to large classes in producing more desirable teaching practices."

Olson, Martin N., "Research Notes-Ways to Achieve Quality in School Classrooms: Some Definitive Answers." *Phi Delta Kappan*, September 1971, pp. 63-65.

One among other major purposes of the study reviewed in this article was to find an answer to the question: "What effects do class sizes of 5, 15, 25, or 36 have on classroom performance levels?" The criterion of classroom quality used in the study was Indicators of Quality—a highly reliable and valid measure of quality designed to specifically assess a school system's classroom processes.

The findings of this study were based on the results of observations conducted in 9,961 elementary and 8,567 secondary classrooms in 112 largely suburban school districts located in 11 metropolitan regions across the United States over a period of seven years. From 40 key concepts, Olson developed a list of 51 acts of student and teacher behavior that can be observed in a classroom and rated either positive or negative. He then compared the school district's

achievement scores as a whole with the classroom observations. He found certain "critical breakpoints" where performance scores drop sharply. At the elementary level, he pinpoints 5, 15, and 25 pupils per class, and at the secondary level, 10 and 16 pupils per class.

The data revealed that the relationship between class size and the criterion scores was well defined and consistent throughout each level of analysis. "Any way one tries to slice it, smaller classes produced significantly higher scores than large ones" in both elementary and secondary schools. The results were so pronounced that the author suggested that school systems consider altering their class-size ratios near the critical breakpoints (where performance scores drop sharply) in the analysis. This study firmly established that smaller classes produce significantly higher performance scores. Olson states that "school system administrators and teachers should place major emphasis on *varying* class sizes that fit the unique needs of particular subjects with a careful view toward realistic, well-defined purposes for the various styles of educational activity."

Olson, Martin N., "Research Findings that Support Small Class Size." *Class Size*. Washington, D. C.: National Education Association, 1977, pp. 16-26.

Many teachers and parents believe strongly that smaller classes are vital in providing and maintaining a higher quality educational environment. Although research findings on the study of class size have been diverse, nevertheless, research and theoretical literature is replete with a great range of actual learning outcomes that are achieved when fewer students are placed with more teachers in educational settings. Based upon the findings of over 60 high quality studies, Olson developed the following nine generalizations with supportive bibliographic evidence that clearly enunciate the learning conditions and learning outcomes that are achieved when teachers have fewer rather than more students to work with (in general, approximately 25 students or less):

1. Teachers employ a wider variety of instructional strategies, methods, and learning activities and are more effective with them
2. Students benefit from more individualized instruction
3. Students engage in more creative and divergent thinking processes
4. Students learn how to function more effectively as members and leaders of groups of varying sizes and purposes
5. Students develop better human relations with and have greater interpersonal regard for other students and their teachers
6. Students learn the basic skills better and master more subject matter content
7. Classroom management and discipline are better
8. Teacher attitudes and morale are more positive
9. Student attitudes and perceptions are more positive.

Wright, Edgar N. et al., "Effects of Class Size in the Junior Grades—A Study." Toronto: Ontario Department of Education, 1977. [Ed 1-7 923]

This study, sponsored by the Toronto Board of Education, was designed to examine experimentally the differences between four class sizes which ranged from size 16 (the size of many special education classes) to size 37 (the approximate size of the largest regular classes in Toronto schools). Specifically, this study investigated the effects of class size on: teachers' expectations about the effects of specific class sizes; the attitudes and opinions of students, parents, and teachers; student achievement in reading, vocabulary, mathematics, composition, and art; the academic self-concept of students; and a variety of classroom process variables (e.g., teacher-pupil interaction, pupil participation, method of instruction, subject emphasis, use of educational resources, classroom atmosphere).

Sixty-two grade 4 and 5 classes in 11 schools in Metropolitan Toronto participated in the two-year

study. In the first year, teachers and grade 4 students were randomly assigned to classes of size 16, 23, 30, or 37. For the second year, the same teachers and students were similarly assigned to grade 5 classes, with the constraints that students should not be in a class size of 16 or 37 for both years of the study, and that teachers who taught classes of the two larger sizes receive classes of the two smaller sizes.

Prior to the study, teachers had positive expectations that the smaller classes (16, 23) would enable them to provide for more individualization, develop better rapport with pupils, resulting in academic improvement, enhanced pupil self-confidence and independence, as well as a more relaxed and enjoyable classroom environment. It was discovered that teachers' expectations remained quite stable.

Standardized tests that were used to measure academic achievement showed a statistically significant class effect in only one of four areas assessed, mathematics concepts. Scores in this area were significantly higher in classes of 16 than in classes of 30 or 37. There were no significant differences found for the measures of students' development in reading, vocabulary, mathematics problem solving, art and composition. Reading was taught more frequently in classes of 16 than in classes of larger size.

Students' attitudes toward school and their academic self-concepts were not affected by class size. Also, changing class size did not produce major changes in pupils' participation.

Reducing class size (16 or 23) made a big difference for teachers in such areas as class management and supervision. The data revealed that teachers reported making the most change in physical layout (82 percent), evaluation (72 percent), class management (71 percent) and supervision (66 percent).

This study demonstrated that within a narrower range of class size (i.e., 16 to 37), it makes a large difference to the teachers but little difference to the students or to the instructional methods used. It was a study of "what happens" when class size is changed, but not a study of "what can happen."

Porwoll, Paul J., *Class Size: A Summary of Research*. Arlington, Va.: Educational Research Service, Inc., 1978.

In this research brief, the author includes a comprehensive review of 17 research studies on the effects of class size on instruction. He states that the evidence accumulated supports the following tentative conclusions:

- Research on class size suggests the importance of an emphasis on the methods and quality of instruction in the classroom rather than on the quantity of pupils in the classroom.
- There is considerable and consistent research evidence that certain teaching procedures and practices perceived by some educators as conducive to a productive learning environment . . . occur more frequently in smaller classes than in larger classes.
- Few if any pupil benefits can be expected from reducing class size if teachers continue to use the same instructional methods and procedures in the smaller classes that they used in the larger classes.
- Some studies have found that even when teachers have small classes, many teachers do not take advantage of them to individualize instruction.
- Smaller classes appear to have a positive effect on pupil behavior in the elementary grades. At the secondary school level, some studies, but not others, have indicated that smaller classes influence student perceptions about their courses and their satisfaction with them.

Smith, Mary Lee and Glass, Gene V., "Relationship of Class-Size to Classroom Processes, Teacher Satisfaction and Pupil Affect: A Meta-Analysis." San Francisco, Ca.: Far West Laboratory for Educational Research and Development, July 1979. [1 ED 190 698 1]

This study is a companion document to the meta-analysis of the effect of class size on achievement

(Class and Smith, 1978) summarized in the previous section of this report. Using data from this previously completed research, the authors attempted to answer the question of whether decreasing the size of classes produces improvements on non-achievement outcomes—teaching processes, and student and teacher effects in the affective domain. A summary of their affirmative answer is as follows:

- On all measures, reduction in class size was associated with higher quality schooling and more positive attitudes.
- Teachers feel better and feel they perform better in smaller classes: The difference in a teacher's workload, attitudes about students, morale, and general satisfaction varied from the 50th percentile in a class of 30 pupils to the 76th percentile in a class of 15. The difference in teacher effects in a class of 10 versus a class of 40 was 49 percentile ranks.
- Class size had an impact on pupils' attitudes, interests and opinions. There also seemed to be less apathy, friction, and frustration. The difference in pupils' attitudes toward school, interest in the subject matter, classroom behavior, etc. was 14 percentile ranks between classes of size 15 and 40.
- The opportunities for individualization, varied and adaptive learning activities, social interaction, and friendly relationships were greater in the smaller classes. Classes varied on this effect between the 70th percentile in a class of 10 pupils to the 45th percentile in a class of 40 pupils.
- The class size effects were related to pupil age, with effects greatest for pupils 12 years and under, somewhat less for pupils 13 to 17, and least for pupils 18 and over.

Filby, Nikola et al., "What Happens in Smaller Classes? A Summary Report of a Field Study. Class Size and Instruction Project." San Francisco, California: Far West Laboratory for Educational Research and Development, January 1980. [Ed 219 365]

The purpose of this field study was to describe changes (and lack of changes) in instructional processes and teacher and student behavior when class size was reduced by one-third midway through the school year. Two second grade classes from two schools participated: a rural school in Virginia, and an inner-city school in California. In the Virginia school, class size began at 20 and was reduced to 13 during the second week in January. In the California school, class size began at 35 and was reduced to 22 at the end of January. Student assignments were basically random within general achievement strata, so that the range of student achievement levels remained the same before and after the split. Records of classroom observations before and after this change were compared to determine the impact of class size on such things as: the general quality of instruction, grouping and instructional activities, how lessons are conducted, classroom management techniques, how teachers monitor and evaluate student work, the nature of classroom interactions, and pupil engagement in learning activities. The personal journals of teachers and teacher interviews were also part of the research data.

The researchers found that in all four classes definite changes occurred when class size was reduced: (1) teachers were able to monitor student work more closely; (2) students were more attentive; (3) the curriculum was improved in greater depth, breadth, and richness; (4) teachers were more relaxed and positive with students; (5) teachers were better able to focus on individual student needs. On the other hand, some things remained the same regardless of class size. General instructional approaches and methods of discipline remained constant, and students seldom received more opportunities to make choices. These changes, however, were not necessarily caused by the class size reduction. Small classes gave the teachers a chance to implement an approach more fully and more effectively in accordance with their existing style and plan of instruction. In other words, easing the constraint of class size enabled teachers to do more or better what they already intended.

IMPLICATIONS OF CLASS SIZE RESEARCH

As previously stated, the issue of class-size is a continuing concern. State legislatures, school administrators, teachers in in-service programs, and professional journals have continued debating and discussing this issue. The Smith and Glass (1978) findings in their meta-analysis on class-size have given impetus to research in this area. Widely publicized national studies gave credence to the fact that teaching and learning are more effective when students are taught in smaller classes.

In this period of educational reform, class size statutes have been enacted, and school administrators have implemented organizational strategies to reduce pupil/teacher ratios in the public schools as cited below:

- A. The October 16, 1985 issue of *Education Week* reported that at least 15 states (Delaware, Indiana, Kentucky, Louisiana, Michigan, Montana, Nevada, New York, North Carolina, Ohio, Tennessee, Vermont, Washington, West Virginia, and Wisconsin) have passed measures aimed at reducing student-teacher ratios in the elementary grades. It was also reported that the governor of Alabama has called for a reduction in the size of kindergarten classes to 20 students. The majority of these measures have specified class sizes of from 20 to 29 in grades K-3, and from 25 to 31 in grades 4-6.
- B. The first state program to reduce student-teacher ratios was Indiana's PROJECT PRIME-TIME, which is now in its fourth year. The governor proposed this experimental program "to improve students basic skills in reading, writing and arithmetic by reducing class size in the critical, early-learning grades of K-2."
- C. The National Association of Elementary School Principals has launched efforts to lobby state lawmakers to reduce student-teacher ratios in the early grades. In their recently issued report, "Standards for Quality Elementary Schools, Kindergarten through Eighth Grade," they listed among the standards and indicators in describing an excellent school: "Classes have no more than 20 students—even fewer in kindergarten and the primary grades."
- D. The Board of Education in New York City has set the following goals of limiting class size:
 - Kindergarten — maximum of 25 pupils
 - First grade — an average of 25 and maximum of 28
 - Elementary grades above the first grade and in junior high — average of 29
 - High school academic classes — a maximum of 34 students
- E. An article in the Fall 1985 issue of *ERS Spectrum* reviewed the progress of an experimental study being conducted in one of the 14 Centers for Excellence in the Teaching of Basic Skills to Economically and Educationally Disadvantaged Students under the Tennessee Better Schools Program. Helen P. Bain, a former President of the National Education Association, is director of this center located at Tennessee State University in Nashville. This center launched a 3-year project in 1984 to study the effects of reducing class size from 1:25 to 1:15 in grades 1-3 on reading and mathematics achievement, behavior, attendance, and self-concept. A second purpose is to identify changes affecting the teaching-learning process and to review teachers' perceptions of classroom conditions.
- F. The William Hatch School (K-6) in Oak Park, Illinois, implemented an innovative "rescheduling" program that 1) reduces class size from 25 to 15 students per teacher, 2) increases the time teachers can spend with individual students, 3) increases the time students spend on-task, 4) increases parent and teacher expectations of students, and 5) improves student/teacher relations. The principal in this

school rescheduled the program and rearranged the instructional staff to reduce class size in the core academic subjects to 15 students per teacher. For example, the media specialist, counselor, reading specialist, art teacher, or any other teacher with dual certification may teach a class of 15 students in the morning and go back to providing their special services during the afternoon. The core subjects, with the exception of science, are taught in a 3-hour block of uninterrupted time each morning.

- G. The National Council of Teachers of English has recommended the following: (1) that secondary-level English teachers have no more

than four classes per term and no more than 25 students per class; and (2) that elementary-level teachers, who are necessarily involved in the teaching of writing, teach no more than 25 students. The Council also established a Task Force to Study Class Size in Secondary Instruction in 1984. This group was responsible for summarizing the current state of knowledge on the effects of class size and workload on secondary English instruction, describing needed research on the effects of altered class size and workload, and suggesting means of funding such studies and appropriate agencies for conducting them.

SUMMARY

Class size is a complex problem that depends on many factors. There are some uncertainties concerning the magnitude of and the precise conditions that would promote a class size effect. The central theme which runs through the current research literature is that academic achievement does not necessarily improve with the reduction of student-teacher ratio unless appropriate learning styles and effective teaching styles are utilized. It is also evident that no single class size is best for all grade levels and all subject areas. However, based upon a current summary of research studies by Hawley, et al., there is considerable agreement that:

- Smaller class size seems to result in higher achievement among students who are economically disadvantaged.
- Students with lower academic ability seem to do better in smaller classes than in larger ones.

- It may be that class size affects student attitudes more significantly than it affects achievement.
- A direct effect of large class size is to lower the morale and increase the stress of teachers.
- There is typically little to be gained from reductions in class size that do not bring class size below 30.

The literature also indicates the need for longitudinal studies on class-size in conjunction with other variables such as subject matter and instructional design which directly affect the best class size for optimal learning.

In short, the many benefits to be derived from reducing class size have been well documented by the research. The funds can be made available if there is a willingness to make the commitment and set the proper priorities.

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IN THE SUPREME COURT OF THE STATE OF ALASKA

IMPORTANT

KENAI PENINSULA BOROUGH
SCHOOL DISTRICT and KENAI
PENINSULA BOROUGH,

Appellants,

v.

KENAI PENINSULA EDUCATION
ASSOCIATION,

Appellee.

File No. 2470

HB21

ANCHORAGE BOROUGH EDUCATION
ASSOCIATION,

Appellant,

v.

GREATER ANCHORAGE AREA BOROUGH,
ANCHORAGE BCROUGH SCHOOL
DISTRICT,

Appellee.

File No. 2492

MATANUSKA-SUSITNA SCHOOL
DISTRICT,

Appellant,

v.

MATANUSKA-SUSITNA EDUCATION
ASSOCIATION,

Appellee.

File No. 2563

[No. 1537 - December 9, 1977]

Appeals from the Superior Court of the State of Alaska, Third Judicial District, at Kenai, No. 2470, James A. Hanson, Judge; at Anchorage, No. 2492, Victor D. Carlson, Judge; at Anchorage, No. 2563, C. J. Occhipinti, Judge.

Appearances: Allen McGrath and John R. Snodgrass, Jr., of Graham & James, Anchorage, for School Districts. John R. Strachan, Anchorage, for Education Associations.

Before: Boochever, Chief Justice, Rabinowitz, Connor, Erwin, and Burke, Justices.

CONNOR, Justice.

These cases present important questions of labor law and constitutional law concerning the collective bargaining requirements for teachers in the public schools. Two of these cases are before us because the teachers' associations (the unions) have sued school districts and boroughs (the school boards) to compel collective bargaining in good faith under AS 14.20.550. In the third, a school board seeks a declaratory judgment that certain issues are not bargainable. The school boards, while not disputing the unions' right to collective bargaining on a number of employment-related issues, contend that they should not be forced to bargain collectively on various items which they regard as affecting educational policy. Educational policy, the

school boards contend, must be determined only by the public through the legislature and, by delegation, through the school boards. We will examine the more specific issues later in this opinion. They include such items as class size and the use of teacher specialists and para-professionals. Of the three trial courts which passed on the matter, one ruled in favor of the school boards,^{1/} one ruled in favor of the teachers' union,^{2/} and one split the various items,^{3/} ruling for the board on some and the unions on others.

I. Introduction

To facilitate the understanding of our more detailed legal discussion later in this opinion, we will summarize at the outset the contentions of the parties. The statutes at issue in this litigation are AS 14.20.550 and .610, which provide:

"Sec. 14.20.550. Negotiation with certificated employees. Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (§ 1 ch 18 SLA 1970; am § 3 ch 71 SLA 1972; am § 21 ch 124 SLA 1975)."

^{1/} Anchorage Borough Ed. Ass'n v. GAAB, Anchorage Borough School Dist., No. 2492 (hereinafter Anchorage).

^{2/} Kenai Pen. Borough Sch. Dist. and Kenai Pen. Borough v. Kenai Pen. Ed. Ass'n, No. 2470 (hereinafter Kenai).

^{3/} Matanuska-Susitna Sch. Dist. v. Matanuska-Susitna Ed. Ass'n, No. 2563 (hereinafter Mat-Su).

"Sec. 14.20.610. Legal responsibilities of boards. Nothing in §§ 550-600 of this chapter may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (§ 1 ch 18 SLA 1970)."

The boards contend, using labor cases from the private sector, that the requirement of collective bargaining in good faith is a term of art in labor law. Unlike a simple "meet and confer" requirement, to negotiate in "good faith" entails a duty to make concessions. Thus, management does not have the final decisions on matters subject to good faith collective bargaining, since if management adheres to its determined policies, it violates the law.

The school boards contend that the submission of educational policies to a good faith collective bargaining requirement would remove the final decisions on such matters from the boards, contrary to the intent of the legislature expressed in AS 14.20.610. The boards contend that to require bargaining on questions of educational policy would also contravene the Alaska Constitution, art. VII, § 1, which makes education the exclusive domain of the legislature.^{4/}

^{4/} Alaska Constitution, art. VII, § 1 states:

"The legislature shall by general law establish and maintain a system of public schools open to all children of

See Macaulley v. Hildebrand, 491 P.2d 120 (Alaska 1971).

Delegation of part of the decision-making power on educational policy to labor unions is unconstitutional, they urge, because the union is a private organization, unaccountable to the public. The union can use the power for its own ends, and is under no duty to foster educational policies which are in the general public interest.

The unions argue that such delegation is perfectly proper, and that there is no delegation of decision-making power inherent in a labor negotiations requirement. They further argue that they represent professional employees, and that their participation in good faith collective bargaining labor negotiations is an attempt by the legislature to provide professional advice to school boards on the management of the schools. They assert that this is a legislative policy judgment, in no way inimical to the Alaska Constitution. Also relying on labor cases, they discount the importance of any "management prerogative" to determine educational policy under AS 14.20.610, and assert

4/ Cont'd.

the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution."

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that labor's concerns with working conditions override any management prerogative as to basic policy.

The unions argue that the Alaska teachers' collective bargaining statutes are more comprehensive than those found elsewhere, and hence the scope of bargaining should be interpreted broadly. The school boards assert that the Alaska Constitution as interpreted in Macauley v. Hildebrand, supra, is more adamant than provisions in other states in placing education firmly within the legislative prerogative. Therefore, collective bargaining must yield across a wide range of issues affecting educational policy.

II. Scope of the Duty to Bargain

If we were to look to the law concerning bargaining between labor unions and private employers, we would conclude that the scope of negotiable issues is broad. The law relating to the private sector has always contained, and still does contain, uncertainties. But the general trend has been to require that employers bargain in good faith on a wide range of items with respect to wages, hours, and other conditions of employment, without regard to whether the employers consider the items bargained for to be within

the prerogatives of management.^{5/} Moreover, some cases hold that for an employer or a union to avoid being found to have bargained in bad faith, the parties must make some reasonable effort to compose their differences. While the good faith standard of collective bargaining does not compel either party to make concessions, intransigent positions, adopted in an effort to avoid any agreement, are disfavored.^{6/}

Thus a legal determination that a matter is subject to good faith collective bargaining may narrow the policy-making powers of an employer by curtailing any absolute directives on his part.

When we turn to employment in the public sector, and particularly in education, the question of what is properly bargainable is thrown into more doubt. If teachers'

5/ *Fibreboard Paper Products Corp. v. N.L.R.B.*, 379 U.S. 203 (1964) (management decision to subcontract out the work of some employees must be bargained); *International Ladies' Garment Workers Union v. N.L.R.B.*, 463 F.2d 907 (D.C. Cir. 1972) (decision to relocate the business to another state subject to bargaining); *Royal Typewriter Co.*, 209 N.L.R.B. 1006, 1012 (1974) (decision to close a plant subject to bargaining). But see *General Motors Corp.*, 191 N.L.R.B. 951 (1971), aff'd sub nom. *International Union, United Auto. A. & A. Imp. Wkrs. v. N.L.R.B.*, 470 F.2d 422, 425 (D.C. Cir. 1972) (decision to sell part of business not bargainable).

6/ *Sign and Pictorial Union Local 1175 v. N.L.R.B.*, 419 F.2d 726, 731 (D.C. Cir. 1969); *N.L.R.B. v. General Electric Co.*, 418 F.2d 736, 756-62 (2d Cir. 1969), cert. denied, 397 U.S. 965 (1970); *N.L.R.B. v. McLane Co.*, 405 F.2d 483, 484 (5th Cir. 1968); *N.L.R.B. v. Reed & Prince Mfg. Co.*, 205 F.2d 131, 134-35 (1st Cir. 1953), cert. denied, 346 U.S. 887 (1953) ("the employer is obliged to make some reasonable effort in some direction to compose his differences with the union"; emphasis in original); *Majure v. N.L.R.B.*, 198 F.2d 735 (5th Cir. 1952). See generally Swerdlow, *Freedom of Contract in Labor Law*, 51 Tex. L. Rev. 1 (1972).

unions are permitted to bargain on matters of educational policy, it is conceivable that through successive contracts the autonomy of the school boards could be severely eroded, and the effective control of educational policy shifted from the school boards to the teachers' unions. Such a result could threaten the ability of elective government officials and appointive officers subject to their authority, in this case the school boards and administrators, to perform their functions in the broad public interest.^{7/}

Recently the United States Supreme Court had occasion to comment upon the differences between collective bargaining in the public and private sectors. In Abood v. Detroit Board of Education, ___ U.S. ___, 52 L.Ed.2d 261, 279-80 (1977), the Court, speaking through Mr. Justice Stewart, observed:

"A public employer, unlike his private counterpart, is not guided by the profit motive and constrained by the normal operation of the market. Municipal services are typically not priced, and where they are they tend to be regarded as in some sense 'essential' and therefore are often price inelastic. Although a public employer, like a private one, will wish to keep costs down, he lacks an important discipline against agreeing to increases in labor costs that in a market system would require price increases. A public sector union

^{7/} As one commentator has noted, "what is in the best interest of the students and the community is not always in the best interests of teachers." Rund, Symposium on Teacher Bargaining: Commentary, 50 Ind. L.J. 344, 350 (1975).

is correspondently less concerned that high prices due to costly wage demands will decrease output and hence employment.

The government officials making decisions as the public 'employer' are less likely to act as a cohesive unit than are managers in private industry, in part because different levels of public authority -- department managers, budgetary officials, and legislative bodies -- are involved, and in part because each official may respond to a distinctive political constituency. And the ease of negotiating a final agreement with the union may be severely limited by statutory restrictions, by the need for the approval of a higher executive authority or a legislative body, or by the commitment of budgetary decisions of critical importance to others.

Finally, decisionmaking by a public employer is above all a political process. The officials who represent the public employer are ultimately responsible to the electorate, which for this purpose can be viewed as comprising three overlapping classes of voters -- taxpayers, users of particular government services, and government employees. Through exercise of their political influence as part of the electorate, the employees have the opportunity to affect the decisions of government representatives who sit... on the other side of the bargaining table. Whether these representatives accede to a union's demands will depend upon a blend of political ingredients, including community sentiment about unionism generally and the involved union in particular, the degree of taxpayer resistance, and the views of voters as to the importance of the service involved and the relation between the demands and the quality of service."

In a concurring opinion in that case Mr. Justice Powell noted the similarity between a public sector union and a conventional political party:

"The ultimate objective of a union in the public sector, like that of a political party, is to influence public decision-making in accordance with the views and perceived interests of its membership. Whether a teachers' union is concerned with salaries and fringe benefits, teacher qualifications and in-service training, pupil-teacher ratios, length of the school day, student discipline, or the content of the high school curriculum, its objective is to bring school board policy and decisions into harmony with its own views. Similarly, to the extent that school board expenditures and policy are guided by decisions made by the municipal, state and federal governments, the union's objective is to obtain favorable decisions -- and to place persons in positions of power who will be receptive to the union's viewpoint. In these respects, the public sector union is indistinguishable from the traditional political party in this country."

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52 L.Ed.2d at 298.

8/ The holding of the majority in Abood was that a union shop or agency shop agreement for public employees, requiring all employees in the bargaining unit to make financial contributions to the union, did not violate the first amendment rights of employees who objected to the union. The same rule obtains for unions in the private sector. Although Justice Powell concurred in the majority's decision to remand the case for further proceedings, he disagreed with this constitutional holding. Unlike the majority, he felt that the differences between public and private employment compelled a holding that agency shop or union shop agreements in the public sector are forbidden by the first amendment.

See generally Rehmus, Constraints on Local Governments in Public Employee Bargaining, 67 Mich. L. Rev. 919 (1959); Shaw and Clark, The Practical Differences Between Public and Private Sector Collective Bargaining, 19 U.C.L.A. L. Rev.

The legislature was evidently cognizant of this concern when it enacted AS 14.20.550 and .610, stating two goals which apparently conflict. We must now proceed to interpret what we believe the legislature meant by these provisions.

The school boards initially argue that to make matters of school operation and educational policy subject to collective bargaining amounts to an unconstitutional delegation of governmental power to the unions.

While courts in an earlier era often held laws unconstitutional on the ground that they delegated legislative power to private persons or groups, e.g., Carter v. Carter Coal Co., 298 U.S. 238, 311 (1936), the trend has been to uphold such delegations, even when the power is delegated to a group with an economic interest in the decisions to be made. E.g., United States v. Rock Royal Cooperative, Inc., 307 U.S. 533, 577-78 (1939) (cooperative marketing program from agricultural products); Agricultural Prorate Comm'n v. Superior Court, 55 P.2d 495, 504-06 (Cal. 1936) (same); Potter v. New Jersey Supreme Court, 403 F.

8/ Cont'd.

867 (1972); Summers, Public Sector Bargaining: Problems of Government Decisionmaking, 44 U. Cinn. L. Rev. 669 (1975); Summers, Public Employee Bargaining: A Political Perspective, 93 Yale L.J. 1156 (1974); Wellington & Winter, The Limits of Collective Bargaining in Public Employment, 78 Yale L.J. 1107 (1969); Project, Collective Bargaining and Politics in Public Employment, 19 U.C.L.A. L. Rev. 887, 1010-51 (1972).

Supp. 1036, 1039-40 (D.N.J. 1975), aff'd, 546 F.2d 418 (3d Cir. 1976) (requirement that attorneys have graduated from law schools accredited by the American Bar Association). See generally, 1 K. Davis, Administrative Law Treatise § 2.14 (Supp. 1970) (collecting cases). See also 1 Id. § 2.15 (1958).

★ Furthermore, the statute merely requires the school board to negotiate with the union. It does not require the board to accept any particular proposal the union might offer. It does not require, and probably does not permit, the board to delegate to the union the sole power to make any decision. Therefore, cited cases invalidating outright grants of governmental power to private groups, e.g., Hetherington v. McHale, 329 A.2d 250 (Pa. 1974), and Bayside Timber Co. v. Bd. of Supervisors, 97 Cal. Rptr. 431 (App. 1971), are not apposite.

The cases in other states rejecting the argument that collective bargaining with teachers' unions is an unconstitutional delegation of power, all involve statutes which fairly narrowly constrict either the scope of bargainable issues, or the school boards' duty to accede to union proposals, or both. Chicago Div. of Ill. Ed. Ass'n v. Board of Ed., 222 N.E.2d 243, 251 (Ill. App. 1966); Joint School Dist. No. 8 v. Wisc. Emp. Rel. Bd., 155 N.W.2d 78, 83 (Wisc. 1967); State v. City of Laramie, 437 P.2d 295, 300 (Wyo. 1968) (firemen).

In this opinion, we similarly construe the Alaska statute. A statute defining the scope of collective bargaining as broadly as the union would have us do, might well present a more troubling constitutional question. But we find no * // constitutional infirmity in AS 14.20.550 and .610. The delegation of power problem still bears upon our task of statutory interpretation, however, for in interpreting the relevant statutes we will not readily assume that the legislature intended to divest the school boards of their power to determine matters of educational policy and school system management.

Courts in other jurisdictions have considered problems similar to those which we confront here. It is instructive, though not determinative, to look to the case law of other jurisdictions as an aid to interpretation.

The court in Dunellen Bd. of Education v. Dunellen Ed. Ass'n, 311 A.2d 737 (N.J. 1973), dealt with a conflict between a requirement to bargain about "terms and conditions" of employment (without further definition) and the broad managerial power over schools entrusted to local school boards. The court noted that "terms and conditions" of employment without further definition does not furnish a dispositive guideline. It held that the decision whether to consolidate chairmanships of the social studies department

and English department was not a subject of mandatory bargaining. It was a matter predominately of educational policy and thereby fell within the exclusive prerogative of management.^{9/}

National Ed. Ass'n of Shawnee Mission, Inc. v. Board of Ed., 512 P.2d 426 (Kansas 1973), is closely analogous to the case at bar. The teachers' association negotiated under a statute which permitted it to "participate in professional negotiation with boards of education . . . for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service." The state constitution, like Alaska's, gave the legislature the power to provide for public schools. The negotiations reached an impasse after the board took the position that all matters, whether negotiable under the statute or not, were of policy nature subject to unilateral change by the board and could not be incorporated into a contract, while the teachers asserted that nearly everything pertaining to school operations was negotiable.

9/ The teachers' unions in the case at bar argue that Dunellen was overruled by later legislation. The statute in question dealt with only a limited aspect of bargaining; and Dunellen has been followed by the courts despite the statutory amendment. See, e.g., Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Ass'n, 343 A.2d 133 (N.J. Super. 1975).

On appeal the Kansas Supreme Court was confronted with the same problem that we are: how to frame a test which would delimit those matters which are bargainable from those which are not. The Kansas court held that salaries, vacations, and sick leave are negotiable. In so doing it pointed out that the term "policy" is not helpful, because even salaries are a matter of policy. It drew the following distinction:

"The key, as we see it, is how direct the impact of an issue is on the well-being of the individual teacher, as opposed to its effect on the operation of the school system as a whole." 512 P.2d at 435.

While the Shawnee Mission case represents a commendable attempt to balance competing claims, it does not provide a test which is useful in determining the negotiability of specific subjects. In other words, it does not provide any comforting guidance in determining how, in the last analysis, the balance should be weighed between the school boards and the teachers.

Put another way, a matter is more susceptible to bargaining the more it deals with the economic interests of employees and the less it concerns professional goals and methods. Bargaining over the latter topics presents particular

problems because there is less likely to be any politically organized interest group other than the union concerned with these issues. The salaries of public employees have a direct financial effect on the taxpayers; on the other hand, a question such as teacher evaluation of administrators is unlikely to have any impact sufficiently direct to be discernible by laymen. Furthermore, it is such an abstract and abstruse subject that it is unlikely that any appreciable portion of the public will either understand it or care greatly about it. In such circumstances, the risk that effective power over the governmental decision will come to rest with the union is significantly greater. Moreover, it is more likely that there will be disagreements among union members on questions of this nature than on "bread and butter" issues; the risk that minority viewpoints within the union will not be meaningfully represented in the bargaining is a real one. See Summers, supra, 83 Yale L.J. at 1181-82, 1194-95. But see Wollett, The Coming Revolution in Public School Management, 67 Mich. L. Rev. 1017 (1969) (argues that these subjects should be bargainable).

III. Specific Issues

We will now consider the Alaska situation in more detail. At the outset it appears to us that questions concerning salaries, the number of hours to be worked, and

amount of leave time are all so closely connected with the economic well-being of the individual teacher that they must be held negotiable under our statutes. The troubling question is what other items are bargainable.

The various trial courts in these cases considered such items as (1) relief from non-professional chores, (2) elementary planning time, (3) para-professional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees.

The testimony adduced in the trial courts does not provide us with much enlightenment as to why any of these items should fall on one side of the line or another. Realistically the two areas, i.e., (1) educational policy, and (2) matters pertaining to employment and professional duties, merge and blend with each other at many points. Logically and semantically it is nearly impossible to assign specific items to one category and not the other. Certain examples may make this point more clearly.

In the Mat-Su case the teachers have asked for a planning period of 45 minutes "to be taken during the academic portion of the day." Were this merely a request for planning time, it might be considered negotiable. The demand that it be during the academic portion of the day, however, presents an additional complication: whether, as a matter of educational policy, elementary school children should have one teacher with them throughout the day or whether they are old enough to be taught by different people. This presents a basic educational decision. While the amount of paid time available to a teacher for preparation of lesson plans affects the teacher directly, the demand that such time be available "during the academic portion of the day" presents a policy question.

Similarly, the question of class size affects directly the amount of work a teacher must perform. But the determination of optimum class size is quite basic to school policy and management, and potentially has a substantial impact on the school district's personnel expenditures. A number of courts have found this to be clearly non-negotiable. See National Ed. Ass'n. of Shawnee Mission, Inc. v. Board of Ed., 512 P.2d 426, 435 (Kan. 1973); West Irondequoit Teachers Ass'n v. Helsby, 315 N.E.2d 775, 777-78 (N.Y. App. 1974);

School Dist. of Seward Ed. Ass'n v. School Dist. of Seward,
199 N.W.2d 752, 759 (Neb. 1972); City of Biddeford v.
Biddeford Teachers Ass'n, 304 A.2d 387, 403 (Maine 1973).

An examination of the other specific items listed above yields equally indefinite answers. We are confronted, then, with a situation in which the legislature has not spoken with clarity and concerning which we possess no expertise. We can only conclude that salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. In view of the concerns expressed on pages 7-10 supra, we conclude that the other specific items listed on page 17 are, under the existing statutory language, non-negotiable. Class size student teacher ratio

It would be helpful if the legislature, through future enactments, provided more specific guidance on a number of the items which the unions seek to negotiate. Lacking that guidance, however, we cannot confidently say that the legislature intended any of these items to be bargainable. We cannot, therefore, read the statutes expansively as to the scope of what is negotiable.

10/ In the list of proposals submitted in the Kenai case, for example, it appears that some 38 of the 47 proposals would come within the categories of items we have concluded are negotiable. These items are set forth in the appendix to this opinion.

As to matters which affect educational policy and are, therefore, not negotiable, we believe that there is nevertheless implicit in our statutes the intention that the school boards meet and confer with the unions. It is desirable that the boards consider teacher proposals on such questions. This will encourage teachers to give the boards the benefit of their expertise, and to make their positions known for the board's use in establishing educational policy.

One minor question remains. In the Kenai case the trial court, in construing the statutes, relied upon the privately expressed opinion, by means of a letter, of a former legislator. The legislator's opinion was not a matter of public record, subject to judicial notice, nor was it introduced in evidence. Even if it were placed in evidence, reliance upon it would be impermissible under Alaska Public Employees Ass'n v. State, 525 P.2d 12, 16 (Alaska 1974). Resort to the letter as a means of legal interpretation was, therefore, error.

AFFIRMED IN PART, REVERSED IN PART.

APPENDIX

LIST OF NEGOTIABLE AND NON-NEGOTIABLE ITEMS

Those items which are non-negotiable are as follows:

1. Relief from Non-Professional Chores ^{11/}
 2. Class Size and Teacher Load
 3. Ombudsman
 4. Evaluation of Administrators
 5. Teacher Aides
 6. Para-Professionals
 7. PTR Formula
 8. Specialists
 9. Calendar
-

11/ In the Kenai case this item was described in the negotiating document as follows:

"RELIEF FROM NON-PROFESSIONAL CHORES

The Board and Association acknowledge that a teacher's primary responsibility is to teach and that his energies should be utilized to this end, therefore, they agree as follows:

Teachers shall not be required to perform the following duties:

- A. Non-instructional assignments, including but not limited to, supervising of cafeterias, sidewalks, bus loading, or unloading, or playgrounds of more than fifteen (15) minutes daily.
- B. Collecting money from students.
- C. Cumulative record cards and other clerical and/or custodial functions."

These matters seem so closely related to school board policy as to be non-negotiable. We do not pass upon other conceivable non-professional functions. We also do not know what is specifically meant by "custodial" functions, and do not, therefore, pass upon that aspect of this item.

Those items which are negotiable are:

1. Recognition
2. Negotiation Procedures
3. Grievance Procedures
4. Salary Schedule Conditions
5. Salary Schedule
6. Automatic Cost of Living
7. Extra Curricular and Extra Duty
8. Extended Contract
9. Additional Educational Employment
10. Life Insurance
11. Health Insurance
12. Liability Insurance
13. Automobile Allowance
14. Tuition/In-Service Workshops
15. Reimbursement for Physical Examinations
16. Sabbatical Leave
17. Career Development
18. Administrative Leave
19. Personal Leave
20. Sick Leave and Bereavement
21. Personal and Sick Leave for Half-Time Employees
22. Unpaid Leave of Absence
23. Maternity Leave
24. Political Leave
25. Duty-Free Lunch
26. Teacher Preparation Periods
27. Monthly Planning Time
28. In-Service Days
29. Discretionary Materials
30. Personnel Files
31. Teacher Transfer
32. Teacher Retention
33. Job Openings
34. Reduction of Staff
35. Teacher Contracts
36. Association Rights and Privileges
 - (a) Information
 - (b) Release Time for Meetings
 - (c) Use of School Buildings
 - (d) Use of School Equipment
 - (e) Supplies
 - (f) Mail Facilities
 - (g) Subcontracting
 - (h) Non jeopardy
 - (i) Exclusive Rights
 - (j) KPEA Professional Leave
 - (k) Dues Deduction/Continuing Membership

- (l) Other Deductions
 - (m) Conformity to Law
 - (n) School Board Agenda
 - (o) Preliminary Draft of Budget
37. Agreement Print-up and Dissemination
38. Duration of Contract



• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite 408 Juneau, Alaska 99801 586-9702

POSITION PAPER

THE ALASKA COUNCIL OF SCHOOL ADMINISTRATORS REQUESTS
THE LEGISLATURE NOT TAKE FURTHER ACTION ON HB 21, " AN
ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND
THEIR EMPLOYEES"

RATIONAL

1. Class size should not be a part of the negotiations process because of the efforts already being made by all parts of the educational community to address the issue on it's own merits of educational value, it's complexity of styles of classroom teaching and make-up of students' abilities and behaviors. The effort is being addressed in an atmosphere of shared views, cooperation, team building and collegiality. Once the issue becomes a negotiated item, it becomes a labor issue . It is our position that this issue must continue to be discussed in the arena of a sound professional research based forum and that it be equally shared with teachers, administrators and elected school board members.
2. If the legislature passes this bill, they will be removing the right and responsibility the local elected board of education has to act on policy development based of the desires of the citizens they were elected by. As long as we all believe in the democratic process of government of the people and by the people, we must believe the local electorate is also capable of developing sound educational policies which will guarantee, to the best of their ability, a quality educational program for their children in their respective communities.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

POSITION PAPER

CSHB21

"AN ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND THEIR EMPLOYEES"

The Association of Alaska School Boards encourages the Legislature to **oppose passage of CSHB21**, which would make class size and workload a negotiable item with certificated employees, for the following reasons:

The Alaska Supreme Court, in *Kenai Peninsula Borough School District v. Kenai Peninsula Education Association*, 1977, described class size specifically as non-negotiable.

Pupil-teacher ratio is a programmatic issue, clearly within the realm of policy, an area over which board members, like legislators, have been elected to preside. By making class size negotiable, it becomes a labor issue. As a labor issue, both class size and workload would be grievable under Alaska statutes, and subject to binding arbitration.

Making class size and employee workload negotiable, and therefore grievable under Alaska statutes, would make those issues subject to binding arbitration.

In August 1988 AASB published survey results of a class size study of Alaska districts that showed the exorbitant costs of reducing class size to 20 students. The total costs of limiting class size to 20 pupils in Alaska is estimated at \$117.8 million, which includes increased salaries, construction and maintenance and operation costs—nearly one quarter of last year's education budget.

Workload, a matter of policy, would be subject to binding grievance arbitration by an outside party if it were negotiable, and would inevitably **result in increasing staff while decreasing productivity.**

The vast body of research on the class size issue does not support the notion that pupils benefit from smaller classes or justify the great expense involved in reducing class size. The Educational Research Service (ERS), in its exhaustive study of 100 research studies on class size from 1950 to 1985, concludes: "Existing research findings do not support the contention that smaller classes will of themselves result in greater academic achievement gains for pupils."

Policy decisions concerning class size and pupil-teacher ratios involve factors that are complex, varied, and often emotionally charged. These require the weighing of possible pupil benefits, possible teacher benefits, facilities utilized, financial costs, and political consequences which are best made at the local level by elected school boards.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

POSITION PAPER

HB21

"AN ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND THEIR EMPLOYEES"

The Association of Alaska School Boards **opposes passage of HB21**, which would make class size and workload a negotiable item with certificated employees, and would make workload a negotiable item with noncertificated employees for the following reasons:

The Alaska Supreme Court, in **Kenai Peninsula Borough School District v. Kenai Peninsula Education Association, 1977**, described class size specifically as non-negotiable. States Justice Connor, "... the determination of optimum class size is quite basic to school policy and management, and potentially has a substantial impact on a school district's personnel expenditures. A number of courts (in various states) have found this to be clearly non-negotiable."

Pupil-teacher ratio is a programmatic issue, clearly within the realm of policy, an area board members, like legislators, have been elected to preside over. By making class size negotiable, it becomes a labor issue. Concerned citizens are presently afforded the opportunity to discuss the implications and conditions of classroom size with district officials.

Making class size and employee workload negotiable, and therefore grievable under Alaska statutes, would make those issues subject to binding arbitration. A decision made by a disinterested, party, possibly inexperienced in education/administration/finances issues, who, furthermore, is not held accountable to the voting public during election time, circumvents local government, and the checks and balances that public accountability assures.

In August 1988 AASB published survey results of a class size study of Alaska districts that showed the exorbitant costs of reducing class size to 20 students. Forty-one (41) districts indicated a total need of 336 additional teachers to reduce class sizes to 20 pupils. That translates into an additional \$16.3 million using an average teacher salary within each district reporting. Construction costs alone totalled nearly \$94.4 million. The total costs of limiting class size to 20 pupils in Alaska is estimated at \$117.8 million, nearly one quarter of last year's education budget. In short, class size is a significant determinant of school budgets. Even small system-wide changes in a pupil-teacher ratio can have a significant impact on a school district's budget. (These figures do not include additional costs that would result from negotiating workload.)

Workload, a matter of policy, would be subject to binding grievance arbitration by an outside party if it were negotiable, and would inevitably result in increasing staff while decreasing production. When boards "win" an arbitration they maintain the status quo; when employee groups "win" an arbitration they receive something they did not have before. Employee groups are not known to ask for increased workloads. Who will foot the bill?

The vast body of research on the class size issue does not support the notion that pupils benefit from smaller classes or justify the great expense involved in reducing class size. One education journal editor has written, "it may come as a surprise to many parents and taxpayers to discover that every conceivable test on the notion of class size and its effect on learning has proven unequivocally that class size does not make a significant difference. According to research studies, a class size of less than 10 pupils is necessary for anything approaching individual attention to be given." That was written 10 years ago and still holds true today. The Educational Research Service (ERS), in its exhaustive study of 100 research studies on class size from 1950 to 1985, concludes: "Existing research findings do not support the contention that smaller classes will of themselves result in greater academic achievement gains for pupils. Policy decisions concerning class size and pupil-teacher ratios involve factors that are complex, varied, and often emotionally charged. These require the weighing of possible pupil benefits, possible teacher benefits, facilities utilized, financial costs, and political consequences."



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

January 13, 1989

To: Rep. Johnny Ellis, Chair
Members, House HESS Committee

Re: House Bill No.21; "An Act relating to negotiations
between school boards and their employees."

NEA-Alaska supports and encourages your favorable response
to HB 21.

This legislation is important because it establishes a
process for solving problems attendant to class size and
teacher load but does not impose a particular solution on
the parties.

As a result of funding cuts at both the state and local
level, class sizes and teacher load have been increasing.
Because of the Kenai decision by the Supreme Court in the
late 1970's both of these issues were determined to be non-
negotiable. The Court further suggested that there was
enough ambiguity on these issues that clarification by the
legislature would be an appropriate consideration.

Therefore employees have not had a forum or means to
effectively address issues which are basic to their terms
and conditions of employment. The performance evaluation of
teachers is impacted by the number of students in their
classrooms, the number of different preparations which they
have been assigned, and whether or not they have been
assigned to a teaching area which might be outside their
area of certification.

It is the position of NEA-Alaska that these issues are so
basic to the conditions of employment that employees should
minimally have the right to address them through the
collective bargaining process.

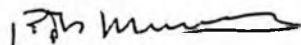
Since the diversity of our state practically precludes a
legislative or regulatory resolution the only other option
as a means to dealing with the issue for employees is
through negotiations on a district by district basis.

The public wants lower class sizes and more teacher time for individual students. Lower class sizes are clearly a significant factor in improved student performance.

This bill assumes that the best solution is the one which is tailored to meet the individual needs of each district while not setting specific standards or even mandating criteria. It only provides a process which can lead to the resolution of these problems where they exist.

Thank you for your consideration of our position.

Respectfully submitted,



Bob Manners
Executive Secretary

cc: Rep. Johnny Ellis

f6j89h21



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

January 20, 1989

To: Rep. Johnny Ellis, Chair
Members, House HESS Committee

Re: CS for HB 21 (HESS); "An Act relating to
negotiations between school boards and their
employees."

As a result of the materials presented and testimony given at the HESS hearing on January 19, it is appropriate for NEA-Alaska to submit additional materials and information for your consideration.

For Committee members please find a background paper by NEA-Alaska President, Judy Salo, which summarizes various research reports on the topic of class size.

For the Committee file I have also enclosed an NEA summary of various public opinion surveys on class size.

Some of the testimony given to the Committee suggested that HB 21 should be considered in the context of cost projections and/or passage of an interest arbitration bill.

NEA-Alaska feels very strongly that this kind of testimony reflects serious distortions and misrepresentations of the intent, purpose, and effect of HB 21.

HB 21 only provides employees with a process to address employment concerns as they pertain to class size and teacher load. Such a process is not available to employees as a result of the 1977 Kenai Supreme Court decision. In that decision the Court asked for further legislative direction.

Contrary to the testimony of the AASB, HB 21 will not increase staff, increase costs, and decrease production. It will provide a mechanism for employees to seek solutions to problems which derive from excessively large classes and inordinately heavy teaching loads.

Further, HB 21 will force employees into making increasing harder choices between class size and work load improvements

and the potential improvements to their salaries and fringe benefit packages.


Unfortunately, "equal sharing" in class size/load decisions is not a reality in very many districts.

Through HB 21, employees are simply seeking the right through the bilateral process of negotiations to have the opportunity to participate in a process which determines some of their most basic conditions of employment, the size of their classes, the magnitude of their teaching load, and how these components will impact their teaching environment.

It does not unilaterally impose any pre-determined position, outcome, or burden on the school district.

Thank you for your consideration of our position. We encourage your expeditious passage of HB 21.

Respectfully submitted,



Bob Manners
Executive Secretary



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

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JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

February 20, 1989

To: Representative Johnny Ellis, Chair
Members, House HESS Committee

Re: House Bill No. 21; "An Act relating to
negotiations between school boards and
their employees."

Per request of the Committee NEA-Alaska has provided you with information regarding research reports on the issue of class size as well as recent summaries of public opinion on this issue.

You have also asked for clarification or definition of the term "teacher load." Since the term was first used by the Supreme Court in the 1977 Kenai decision in which the Court found that class size and teacher load were not mandatory subjects of negotiations the clarification which I now attempt is the result of our cumulative experience in negotiations in which various school boards have refused to negotiate on certain issues because they pertain to teacher load.

While class size itself is certainly a primary component of teacher load there are other consequences of the term which do not necessarily call for more teachers and more classrooms and buildings.

When a teacher has an inordinately heavy "teacher load" such things as additional clerical support, assistance with the compliance requirements of PL 94-142 (special education) regulations, classroom aides, relief from that heavy load after a semester or a year, relief from other duties (study halls, homeroom, lunch duty, bus duty, etc), extra compensation, qualification of the criteria used in performance evaluation, the number of different preparations, whether or not a person is required to teach outside their area of certification, access to additional preparation time, weighted student contact time, and team teaching are just a few of the components which could be considered.

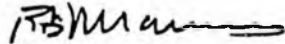
The "26th" student in a classroom where the parties have established a 25-student maximum certainly does not necessarily mean another teacher or another classroom or another building in light of the above.

It is important to emphasize that mere negotiability of class size and teacher load does not carry with it an automatic increase in operating costs. It is highly likely that when employees seek to negotiate on these issues that they will be faced with a school district bargaining position which will cause them to have to make hard choices between these issues and additional compensation.

The issue in HB 21 is nothing more than whether employees should have the right to negotiate on basic and fundamental conditions of their employment. The collective bargaining process itself will then establish the balance and priorities regarding compensation and basic opportunity for students.

Thank you for your consideration of our position.

Respectfully submitted,



Bob Manners
Executive Secretary



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

P.O. Box 1250 Fairbanks, Alaska 99707-1250 (907) 452-2000

February 1, 1989

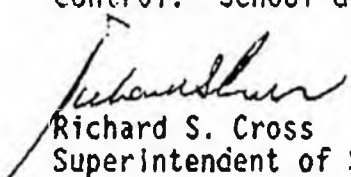
Health, Education, & Social Services Committee
P. O. Box V
Juneau, AK 99811

RE: House Bill 21

This letter is being written to urge you to oppose House Bill 21 and its inclusion of class size and work load as mandatory subjects of collective bargaining.

Class size language has the effect of determining the size of a school district's work force (example: If the class size language states that the pupil teacher ratio will be 25:1 and there are 300 pupils in the district, at least 12 teachers are required to meet the class size ratio.) School districts are already required to bargain salaries for teachers. Therefore, if class size language were negotiated, the size of a school district's payroll would be determined by the class size language and the salary schedule.

In times of financial crisis districts could be put in the position of having payrolls that exceed revenues. This loss of local control would be irresponsible. If the legislature is going to pass House Bill 21, it must agree to appropriate whatever funds are required to pay for the impact of maintaining bargained class size language. I am sure that the legislature would feel it irresponsible to pass such appropriating legislation because it would lose control. School districts would lose control if House Bill 21 is passed.


Richard S. Cross
Superintendent of Schools

RSC/pkr

cc: Board of Education
Linda Anderson
Barbara Martin

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

January 31, 1989

Jim/Jam

REC'D FEB 02 1989

Representative Johnny Ellis
House HESS Committee Chairman
P.O. Box V
Juneau, Alaska 99811

Dear Representative Ellis:

This letter is in response to questions raised by House HESS Committee members regarding HB 21, an act relating to negotiations between school boards and their employees. This bill adds class size and workload as negotiable items between local school boards and school employees. Since this legislation affects the negotiation process at the local level the Department cannot estimate what, if any, financial impact it would have on school districts or the State. The impact is likely to vary significantly from district to district, dependent on the local circumstances and negotiation process. Attached is a copy of the Department's zero fiscal note which reflects the direct and foreseeable cost of the legislation to the State. However, there are potential, but indeterminate, costs to the State if local negotiations result in added school construction costs reimbursed under AS 14.11, or operating costs which require additional State aid under AS 14.17.

Please contact me if you need further information or clarification.

Sincerely,



William G. Demmert
Commissioner

JUNEAU SCHOOL DISTRICT BOARD OF EDUCATION

RESOLUTION #7-89

A RESOLUTION OF THE BOARD OF EDUCATION OF THE CITY AND BOROUGH OF JUNEAU OPPOSING HOUSE BILL 21, LEGISLATION MANDATING CLASS SIZE AND WORKLOAD AS NEGOTIABLE ITEMS.

Whereas, the Alaska Supreme Court has determined that class size is a policy issue and therefore non-negotiable; and

Whereas, the research on the effect of decreased class-size is mixed, at best; and

Whereas, the increased cost of substantial decreases in class size could even double the educational cost in the State of Alaska due to increased numbers of teachers and classrooms; and

Whereas, the determination of class size and teacher workload is a management decision; and

Whereas, most school districts already negotiate on extra duty responsibilities as "workload;" and

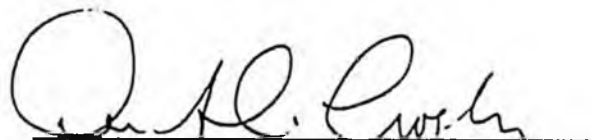
Whereas, these issues can already be negotiated if both sides are desirous of so doing;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Board of Education of the City and Borough of Juneau opposes the passage of House Bill 21 allowing for class size and work load to become a part of the negotiations between school boards and their teachers.

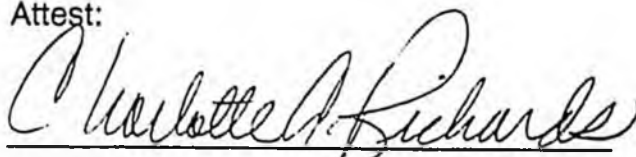
2. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 7th day of February, 1989.



David Crosby, President

Attest:



Charlotte Richards, Clerk

Charlotte Richards, Clerk



ANCHORAGE SCHOOL DISTRICT

4800 DeBarr Avenue
P.O. Box 196614
Anchorage, Alaska 99519-6614
AREA CODE (907) 333-9581

February 13, 1989

SCHOOL BOARD

William Fick
President

Bonnie Davis
Vice President
Past President
1983-88

Carol Stolpe
Clerk

Darryl Jordan
Treasurer

Betty Bruckman

Jean Buchanan
Past President
1983-84, 1986-87

Sharon Richards

SUPERINTENDENT

William Coats, Ph.D.

Representative Walt Furnace
Alaska State Legislature
P. O. Box V (MS3100)
Juneau, AK 99811

Dear Rep. Furnace:

You have requested information on the cost of reducing class size within the Anchorage School District. An estimate has been prepared by the Finance Division and is attached. The total cost is approximately \$5 Million (or \$4.836 million, to be more precise).

The School Board may take a position on H.B. #21 this evening. Please let me know if you have any additional questions. We appreciate your continued support of education.

Sincerely,

Michael P. Malone, Executive Director
Planning, Communications, and Development

MPM/ik

cc: William Coats, Superintendent
Guy Bellville, Chief Financial Officer
Sharon Macklin, Lobbyist

Anchorage School District

Anchorage, Alaska

FY 1989-90

COST OF REDUCING CLASS SIZES

ANNUAL COSTS**Cost of Reducing Regular Class
Sizes by One (1) Student**

Elementary	38 Teachers	\$1,876,900
Secondary	22 Teachers	1,156,800

**Cost of Reducing Special
Education, Gifted, and Bilingual
Class Sizes by Equivalent of One
(1) Student**

Special Education/Services	22 Teachers	1,082,800
	13 Assistants	277,300
Gifted and Bilingual	2 Teachers	98,400
	2 Tutors	<u>44,200</u>
Annual Additional Cost		<u>\$4,536,400</u>

Annual Ongoing Staff Needs:
84 Teachers
15 Assistants and Tutors

START-UP COSTS

The formation of up to 84 additional classrooms would require additional classroom supplies, furniture and equipment. Approximately \$300,000 for these initial costs is estimated.

Prepared 2/09/89

North Slope Borough School District



January 31, 1989

RECEIVED
RECEIVED
JAN 31 1989
FEB 01 1989
am

Representative Eileen MacLean
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: House Bill 21, Class Size/Workload

Dear Eileen:

The North Slope Borough School District opposes the passage of House Bill 21 which proposes to add class size and teacher load to negotiations between School Boards and certificated employees.

A mandate from the Legislature to add class size and teacher workload interferes with local control and the Board's decision-making process. The NSBSD Board of Education currently considers class size and teacher workload in making staffing and other educational decisions. In addition, the current pupil/teacher ratio in this District adequately meets our students' educational needs.

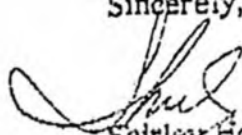
Passage of this bill would also create potentially very high capital and operational cost to local governments and to the State of Alaska, with negotiated class size. Adding more classrooms would also mean hiring more teachers. In light of the consistently declining revenues from Federal, State, and local funding sources, this Legislation proposes to place more undue financial constraints.

In response to your thoughts of possibly amending this bill to include "mandatory teacher aides", we feel that most school districts, including ours, would not be supportive of mandating local schools to hire teacher aides. North Slope residents are very fortunate that we are able to provide teacher aides in virtually every classroom. Most schools in Alaska and the Nation do not hire teacher aides because of more restrictive budgets. Most importantly, school boards make the ultimate decision regarding the expenditure of school funds to provide effective schooling, including the hiring of staff.

Representative Eileen MacLean
January 31, 1989
Page Two—

Your interest in education is deeply appreciated. Again, please help us defeat the passage of HB 21.

Sincerely,



Shirley Holloway, Ed.D.
Superintendent

BI/ma

cc: Senator Al Adams
Ashley Reed, Lobbyist, NSBSD
Carl Rose, Executive Director, AASB

Original sponsors: Ellis, Koponen,
and Gruenberg

1 IN THE HOUSE

BY THE HEALTH, EDUCATION, AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 21 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to negotiations between school
7 boards and their employees."

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

9 * Section 1. AS 14.20.550 is amended to read:

10 Sec. 14.20.550. NEGOTIATION WITH EMPLOYEES. A school board
11 shall negotiate with its certificated employees in good faith on
12 matters pertaining to their employment and the fulfillment of their
13 professional duties, including class size and teacher load. A school
14 board shall negotiate in good faith with its noncertificated employees
15 on matters of wages, hours, and other terms and conditions of employ-
16 ment.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House A.E.S.S.

January 19, 1989	8:30 AM
February 2, 1989	8:30 AM

HB 21

HB

27

Alaska State Legislature



REPRESENTATIVE BILL HUDSON

P.O. BOX V
Juneau, Alaska
99811
(907)465-3744 or 4991

COMMITTEES:
Transportation
HESS
Telecommunications
Fisheries
International Trade

January 19, 1989

Representative Dave Donley, Chairman
House Labor and Commerce Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 27, Regulation of Bulk Fuel
Suppliers.

Dear Representative Donley:

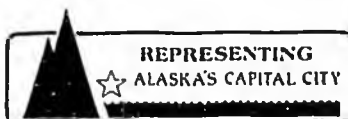
HB 27, "An Act relating to regulation of certain bulk fuel suppliers by the Alaska Public Utilities Commission" was referred to the House Labor and Commerce Committee. It would be very much appreciated if you would schedule this bill for a hearing as soon as possible.

For two years I have tried to find ways to lower the embarrassingly high cost of fuel in our capital city. I operated a gasoline hot line for one full year and have petitioned our mayor and assembly to find a solution to the siting problems that appear to keep out one or more bulk fuel providers and a free competitive spirit.

I visited both bulk fuel dealers and have talked to most of our retail fuel dealers and have concluded we must take some constructive action to halt the exceptionally high pricing habits in this and other districts in our state.

I have also heard from other Alaskans in smaller isolated communities where gasoline and diesel prices are both much lower and higher than ours. Barring some regulation action, it appears our citizens are at the mercy of those who control the supply of this vital commodity.

With this in mind, I have concluded that the public's best interest will be served by treating fuel under certain circumstances as a public utility and subject it to price controls where necessary.



In a free market private enterprise system, competition is relied upon to promote the public welfare. It has long been accepted that some industries, in which competition is not fully effective, government regulations are necessary to protect the public interest.

Public utilities normally refer to a diverse group of businesses long subjected to detailed local, state and federal regulation as to rates and services. These generally accepted public utilities include electricity, natural gas, telephone, water and sewer or those that provide public transportation such as railroads, motor freight and gas and oil pipelines.

These public utilities generally tend to operate more effectively as a monopoly and since their economic power cannot be controlled by free competition, they must be controlled by public authority to protect the public welfare.

The legislature usually decides what industries should be regulated, based upon economic characteristics, social philosophies and other political considerations.

The characteristics of the Southeast Alaska fuel market, especially those communities with two or fewer fuel distributors and exceptionally high prices, appear to meet the economic criteria for regulation. This would equally apply to other areas with similar market characteristics.

High fuel costs to the consumer in all but our major urban centers simply are not justified by transportation, operations and reasonable profit costs.

From my conversations with both Juneau bulk fuel distributors, I came away with the sense that price was more a product of "what the market will bear" rather than reasonable pricing structure. No wonder then that Juneau leads the nation in gasoline prices.

House Research Report 88.114 supports the theory that Southeast fuel distributors as well as distributors in other similar areas could fall under regulatory control while holding out the question as to whether we have the power to regulate wholesale profit levels.

An article in Western Energy Update dated March 22, 1988 states, "The Supreme Court has ruled that states may regulate gasoline prices and profits."

Representative Donley

-3-

January 19, 1989

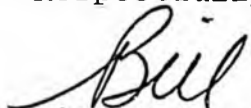
I believe we owe it to the Alaska people to properly research this question and if these vital fuels are, as I believe, similar to natural gas and electricity, they should be regulated to protect the general public interest.

Given the fact that not only Juneau, but several other largely rural land-locked communities are so highly dependent upon gasoline and home heating and power generating fuels, and so often no competitive reason exists for some pricing practices, I believe this is a matter of vital interest to the citizens of this state and regulations are necessary to protect Alaska's consumers.

I am enclosing several documents in support of HB 27.

Your scheduling HB 27 for deliberation by the House Labor and Commerce Committee as soon as possible, will be very much appreciated.

Respectfully,


Bill Hudson

BH:lkh

Enclosures

Juneau gasoline prices among highest in nation

According to a list compiled by the Alaska Public Interest Research Group, Juneau consumers are paying the highest gasoline prices in the nation — about 20 cents a gallon higher than Anchorage and 35 cents higher than Seattle.

The AKPIRG research found local retailers earn an average gross profit of 21 cents a gallon, compared to 4-3 cents a gallon in Anchorage

and Seattle, while wholesalers are earning 25 cents a gallon profit. The cost of transportation is estimated to be 7-8 cents a gallon.

The following are the retail self-serve gas prices for Juneau's nine outlets, according to the survey:

- Valley Chevron: Regular 131.9 cents, unleaded — 137.9 cents.

- Downtown Chevron: Regular — 125.9 cents, unleaded — 130.9 cents.

- Downtown Union: Regular — 125.9 cents, unleaded — 130.9 cents.

- Airport Union: Regular 125.9 cents, unleaded — 130.9 cents.

- Paul's Chevron: Regular 125.9 cents, unleaded — 130.9 cents.

- Woodsey's Union: Regular 123.9 cents, unleaded — 128.9 cents.

- Gas 'n Go: Regular — 120.9 cents, unleaded — 126.9 cents.

- Fisherman's Bend: Regular —

- 116.9 cents, unleaded — 120.9 cents.

- Dehart's: Regular — 115.9 cents, unleaded — 119.9 cents.

Diesel is available at three local outlets. The cheapest is at Downtown Union at 126.9 cents a gallon, while the most expensive is 144.9 cents a gallon at Valley Chevron. The other diesel outlet is Paul's Chevron, which sells the fuel for 131.9 cents a gallon.

9-4-87

DELTA AIR LINES, INC.
HARTSFIELD ATLANTA INTERNATIONAL AIRPORT
ATLANTA, GEORGIA 30320

ROBERT W. COGIN
ASSISTANT VICE PRESIDENT
MARKETING DEVELOPMENT

August 31, 1987

Representative Bill Hudson
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811

Dear Mr. Hudson:

Your letter of July 20 regarding the cost of air travel out of Juneau has been brought to my attention. While I know that you have received responses from our Juneau Station Manager and District Marketing Manager in Anchorage, I wanted to pass on a few comments which may be of some help in understanding the fare situation in Juneau.

In answer to the question you raised in your letter regarding fuel prices, our average cost for jet fuel in Juneau is currently over 83¢ per gallon, nearly 46% above our system average of 57¢ per gallon. Since fuel comprises over 40% of our direct operating expenses in Juneau, our costs per operation there are significantly higher than our system average.

Another major factor which reflects itself in the price of any product is potential sales volume. Juneau has a relatively small traffic base, and Delta (formerly Western) has typically averaged less than thirty Juneau passenger enplanements per flight over the past two years. With this small traffic base, opportunities to recover price reductions through increases in volume are very limited. I should also point out that Delta has always been fully price competitive with Alaska Airlines in all markets we serve out of Juneau.

I hope that the foregoing has provided some of the reasons and information you were seeking relative to Juneau air fares, and I want to assure you of Delta's continued interest and commitment to Alaska.

Sincerely,

Bob Coggin

78 cents in two days, on the New York Mercantile Exchange. ("Oil Daily," April 13; "Wall Street Journal," April 12 & 21)

Meanwhile, the Texas Railroad Commission, is seeking a role in the OPEC-led drive to cut world oil production and lift petroleum prices. A representative of the TRC plans to attend the conference with OPEC and non-OPEC producers. It is not the first time the TRC has acted unconventionally. In the early, 1930s, when oil prices dipped below 10 cents a barrel and anarchy and violence plagued the Texas oil fields, the TRC -- backed by the state militia -- stabilized prices and restored order. "Historically, from 1933 to 1973, the TRC, through conservation practices, in effect set world oil prices," said TRC Commissioner Kent Hance. ("Denver Post," April 20; "The Energy Report," April 18)

* The Supreme Court has ruled that states may regulate gasoline prices and profits. The unanimous decision reinstated such controls imposed by the Puerto Rico Department of Consumer Affairs. The oil industry had argued that Congress, by deregulating gasoline prices, mandated a free market in petroleum products. In his opinion for the court, Justice Antonin Scalia said that while there may have been a "general congressional desire" for a free market, "Without a text that can...plausibly be interpreted as prescribing federal pre-emption (of state power) it is impossible to find that a free market was mandated by federal law. ("Denver Post," April 20)

The House Merchant Marine and Fisheries Committee's Subcommittee on Fisheries and Wildlife began discussions this week on a new proposal to open the Arctic National Wildlife Refuge to oil and gas development. The subcommittee rejected an attempt to delay development for 21 months; instead, the subcommittee authorized phased development as long as the activities do not significantly harm the ecology of ANWR. The subcommittee's proposal would also: eliminate the requirement for an independent National Academy of Sciences study and a revision of the Interior Department's 1002 report; make the leasing program contingent on Alaska not challenging the 50-50 royalty split; require full compliance with the National Environmental Policy Act for all lease sales; reduce the size of the proposed Protective Management Zone to 247,000 acres; create a Reclamation Liability Trust Fund (from a 5-cent per barrel royalty) to ensure reclamation is completed; add new bonding requirements to ensure emergency response to spills and other incidents; increase the 2-mile development ban to three miles, but loosen the restrictions; and eliminate non-government members from the proposed ANWR Scientific Advisory Panel. ("The Oil Daily," April 18; "Denver Post," April 22)

Like a voice from the past, the U.S. Energy Association, an organization of 90 energy trade groups and companies, is calling for an energy mobilization board to cut red tape for new energy projects. The group is also calling for a 50 cent/gallon gasoline tax that would cut the national deficit by \$50 billion per year. More fuel efficient cars, clean coal development, oil and gas production incentives, "reinstatement" of the nuclear option, intensified R&D, and regulatory reform for the electric power industry were also on the group's suggestion list. The group's report noted: "An annual oil import bill ranging from \$150 billion to \$200 billion is projected within the next 10 years -- an amount greater than our total trade deficit today, raising serious questions about our ability to reduce the trade deficit." ("Energy Report," April 11; "Oil Daily," April 11)

Western energy update
4/22/88

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

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March 4, 1988

Hon. Bill Hudson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: House Research Agency Report
88.114 (Feb. 16, 1988)

Dear Representative Hudson:

The House Research Agency kindly sent me a copy of Report 88.114, "Gasoline and Fuel Oil Price Regulation," prepared at your request.

This otherwise very thorough survey of the arguments for and against regulation of fuel prices failed to point out that Alaska law presently provides for regulation of fuel distributors in certain situations. The definition of "public utility" in AS 42.05.720 states:

(4) "public utility" or "utility" includes every corporation (whether public, cooperative, or otherwise), company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages or controls any plant, pipeline or system for

...

(E) furnishing for distribution or by distribution petroleum or petroleum products to the Alaska public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price....

AS 42.05.720(4)(E).

In most coastal communities of Alaska, other than those in the Southcentral region connected to the road system, consumers do not have any choice of fuel supplier. This is particular-

Hon. Bill Hudson
Alaska State Legislature
Re: House Research Report 88.114

March 8, 1988
Page #2

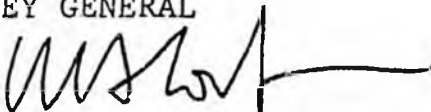
ly true in Western Alaska and in the smaller communities of Southeast. However, it is my understanding that the Alaska Public Utilities Commission does not presently regulate fuel distributors, despite the many local monopoly situations that exist.

The House Research Agency's conclusion that "consumers of fuel products can shift freely between providers and there potentially are many different suppliers of fuel" would be hotly disputed in many communities across the state. Moreover, its conclusion that "it does not appear that fuel is a public necessity" would come as a surprise to Alaska citizens living in the colder regions of our state, where fuel for home heating, as well as for transportation, is a vital necessity of life.

Please let me know if you have any questions or comments. I am available at your convenience to discuss this matter further, if you feel that would be helpful.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Richard D. Monkman
Assistant Attorney General

FDM/pjg

cc: Commissioner Susan M. Knowles
APUC - Anchorage

Hon. Mike Davis
Alaska House of Representatives - Juneau

Ginny Fay, Legislative Analyst
House Research Agency - Juneau



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

February 16, 1988

MEMORANDUM

TO: Representative Bill Hudson
ATTN: Landa Krossa-Holtan
FROM: Ginny Fay *GFay*
Legislative Analyst
RE: Gasoline and Fuel Oil Price Regulation
Research Request 88.114

You requested information on the potential for regulation of gasoline and fuel oil prices when only one or two distributors provide fuel to a community. You specifically want to know if regulation is possible and, in general, what effects regulation might have. To respond to your questions, this memorandum first provides a brief overview of the Southeast Alaska fuel market.¹ This is followed by a discussion on the role of government regulation. In light of characteristics of the Southeast Alaska fuel market, this section also discusses the desirability and potential effects of regulation. The final section suggests an alternative to regulation. This memorandum primarily addresses the economic justification for regulation as opposed to its legality.

Southeast Alaska Fuel Market²

The Southeast Alaska fuel market extends from Ketchikan north to Yakutat, and consists of a handful of larger communities and numerous small villages and logging camps scattered throughout the region. Fuel products are

¹This memorandum reviews bulk fuel regulation in light of the Southeast Alaska fuel market. Its general applicability, however, extends to other areas of the state with similar market characteristics.

²This section summarizes information in the House Research Agency Memorandum 88.016 (attached).

imported by a few distributors via marine barges and tankers from distant West Coast refineries (or from Tesoro's equally distant Southcentral Alaska refinery).

The Southeast Alaska fuel market is relatively small. The most recent records readily available indicate that net fuel supplies into Southeast Alaska in 1981 were only 15 percent of those used in Southcentral Alaska and about 60 percent of the Western Alaska fuel market.³ Unocal and Chevron were the major fuel distributors in Southeast Alaska for several decades. In 1986, Chevron began to divest its bulk fuel tank farms state-wide; Delta Western purchased Chevron plants in Juneau, Wrangell, Yakutat, Dutch Harbor, Naknek, and Dillingham, while White Pass Alaska bought Chevron facilities in Ketchikan, Sitka, Petersburg, Haines, and Skagway. Both Delta Western and White Pass Alaska continue to sell Chevron products as branded wholesalers in the Southeast Alaska market.⁴ Unocal's Southeast Alaska tank farms are located in Ketchikan, Sitka, Juneau, Petersburg, and Wrangell. Unocal recently announced that, except for its Southeast Alaska operation, it is pulling out of Alaska. Sitka Fuels is a Texaco wholesaler in the Sitka vicinity and Mobil Oil Company has a wholesale plant in Ketchikan; each maintains a small share of the fuel markets in those communities.

Notwithstanding the recent departure of Chevron as a regional fuel wholesaler, the Southeast Alaska fuel market has undergone little change since the Alaska Department of Law conducted an investigation in early 1985 at the request of several legislators.⁵ Then, as now, there were typically two fuel wholesalers (Unocal and Chevron) in each larger community--with the exception of Sitka (Texaco) and Ketchikan (Mobil) which each have a third distributor. The Department of Law concluded that the few wholesalers do not have to compete strongly with each other to maintain their market share.

³Fuel Consumption and Pricing in Alaska: A Regional Analysis. House Research Agency Report 83-C, January 1984, pp. 23-29.

⁴As Chevron branded "jobbers" in Southeast Alaska, Delta Western and White Pass Alaska are committed to sell only Chevron products at their facilities that bear the Chevron logo. They are not restricted, however, from marketing other fuel products under their own company logo by expanding into additional communities or by seeking fuel contracts with, for example, logging or mining operations.

⁵Letter from Attorney General Norman Gorsuch to Representative Mike Miller, re: Southeast Alaska Gasoline Price Investigation, May 13, 1985.

Since the 1985 Department of Law report, Chevron has been replaced by Delta Western and White Pass Alaska without a dramatic change apparent in the regional wholesale fuel market. Delta Western and White Pass Alaska are essentially middlemen tied to Chevron's Seattle refinery prices, which, in turn, largely reflect the overall West Coast Market. Unocal distributors are in a similar situation. Tesoro's fuel product deliveries are unlikely to have a measureable effect on competition in the Southeast Alaska fuel market. According to Wade Rogers at Tesoro, Tesoro is not interested in establishing itself as a fuel wholesaler in Southeast Alaska and, therefore, is not likely to displace the present distribution and retail networks.

Regulation

The economy of the United States is often described as a competitive, private enterprise system. In such a system, the economy is organized on the decentralized lines of private property and private enterprise. Since competition is relied upon to promote the public welfare, the market is the central institution regulating economic activity. But it has long been accepted that some industries, in which competition is not fully effective, must be regulated by the government to protect the public interest. By common usage, those businesses which have been subjected to detailed public regulation are known collectively as "public utilities."⁶

Public utilities, as commonly used, refers to a diverse group of businesses which have been subjected over several decades to detailed local, state, and federal regulation as to rates and services. These businesses generally fall into two major classes: 1) those which provide, directly or indirectly, continuous or repeated services through a more or less permanent connection between the supplier and buyer (e.g., electricity, natural gas, telephone, water, and sewer) and 2) those that provide public transportation services (e.g., airlines, bus companies, motor freight carriers, railroads, and gas and oil pipelines). In these respects, public utilities differ in several ways from other industries in the economy. These public utilities generally tend toward monopoly or, more accurately, the firms in these industries seem to operate more efficiently as monopolies. If their economic power is not controlled by the competitive market, it must be controlled by public authority to protect the public welfare. The need for regulation of these industries in the United States is compelling because the majority are under private ownership; in most other Western countries, the need for regulation is eliminated by the public ownership of these natural monopolies.

⁶Charles F. Phillips, The Regulation of Public Utilities, Arlington, Virginia: Public Utility Reports, Inc., 1985, pp. 3-4.

Regulation is an economic, legislative, and legal concept. The legislature usually decides what industries should be regulated. Such decisions may be based upon the economic characteristics of certain industries, prevailing social philosophies, or political considerations. From an economic standpoint, regulation applies to situations in which competition, as a practical matter, cannot exist or survive for long, and in which an unregulated market will not produce competitive results. Such an inherently noncompetitive market structure is due to the technology of an industry, so that one ("natural monopoly") or a small number ("natural oligopoly") of optimum-size firms have adequate productive capacity to supply the demand in a market. Under these circumstances, there is an economic justification for regulation. The justification for regulation, however, neither implies the degree of regulatory activity that is desirable nor the goals that public policy should seek.

The characteristics of the Southeast Alaska fuel market, especially those communities with two or fewer fuel distributors and exceptionally high prices, certainly meet the economic criteria for regulation. The fuel market is not unlike a number of other product markets in Alaska--higher prices cannot be accounted for simply by transportation and operating costs. Population growth during the 1980s has resulted in lower prices of a variety of commodities because market expansion increased competition. From a public policy perspective, relevant questions regarding fuel regulation are--"do market barriers exist that prevent the entry of potential competitors despite high industry profits that should, theoretically, attract competition?" and "is fuel a public necessity--such as water or electricity--that justifies regulation?"

A potential barrier to entry into the fuel market in Southeast Alaska is the high upfront costs of building fuel storage facilities. This agency estimates that the cost to build a 500,000 gallon tank farm (less than one-quarter the size of the existing tank farm in Juneau) is about \$360,000 (\$30/barrel). At 12 percent interest, loan repayments (20-year term) would be about \$48,000 annually, or about three cents per gallon if the annual plant throughput were 1.5 million gallons.⁷ Given the high level of profit (about 15-20 cents per gallon wholesale and another 5-10 retail in Juneau), this cost does not appear to be a major economic barrier to entry. It is likely that there are obstacles to entry other than construction costs. This is discussed in the following section of this memorandum.

⁷For more details, see House Research Agency memorandum 88.016, attached.

Although one could argue that fuel is a public necessity similar to electricity, there is a major difference. Unlike electricity consumers, purchasers of fuel are not permanently connected to providers. Thus, consumers of fuel products can shift freely between providers and there potentially are many different suppliers of fuel. In this regard, it does not appear that fuel is a public necessity requiring regulation.

It is also questionable that the State of Alaska would have the authority to regulate wholesale prices for fuel that is shipped to Alaska from the West Coast. Generally speaking, the federal government, rather than individual states, has the jurisdiction to regulate interstate commerce. States have the authority to regulate intrastate commerce. The state might have the jurisdiction to regulate retail rates but given the high wholesale profit level, the benefit to consumers would be minimal. No other states regulate fuel prices.⁸

It should also be noted that while regulation is intended to protect consumers from excessive prices when a competitive market fails to provide this protection, regulation also protects the provider of services or commodities from competition. Generally speaking, a company that is regulated is also certified to provide a service. For example, providers of electricity, natural gas, and garbage services in Alaska are certified to provide services in their exclusive areas at rates to be reviewed and approved by the Alaska Public Utilities Commission (APUC). The APUC statutes require that certificated utilities be granted: (1) a reasonable return on their investments and (2) rates that allow recovery of justifiable operating costs. The competitive market offers no such guarantees. Therefore, regulation of fuel prices may in the short-run provide consumers with more reasonable prices, but erect a long-run barrier to increased competition that would result in lower prices. As part of the certification process, regulated utilities have an obligation to serve all customers. It is questionable whether the fuel industry has an obligation to serve since it is not a natural monopoly providing an essential service.

⁸Michael Foley, National Association of Regulatory Utility Commissioners, stated that, at least in the rest of the country, gasoline distribution does not constitute a natural monopoly that justifies regulation. Therefore, fuel prices are not regulated in any other states.

Representative Hudson
February 16, 1988
Page 6

Alternative To Regulation

While the cost of construction might not constitute an economic barrier to competition, the availability of suitable land is a major obstacle to tank farm development in Juneau. The City and Borough of Juneau does not currently have a long range port plan to offer clear guidance on a siting location. Rather than impose regulation, the long-term best interests of consumers may be better served if local government clarified policy and planning for industrial port development. This would decrease siting uncertainty and make entry into the fuel market more economically appealing.

It should also be noted, that differences in gasoline prices at the retail level do not have a major impact on the behavior of the majority of Juneau gas consumers. This does not necessarily imply that Juneau consumers are price insensitive--given the short distances driven and the high percentage of small fuel efficient cars, the price differentials are probably inadequate to justify travelling to a different part of town to buy gasoline at a slightly lower price.

* * *

I hope this information is useful. Please do not hesitate to contact us if you have additional questions.

Attachment



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

September 28, 1987

MEMORANDUM

TO: Representative Bill Hudson

ATTN: Sioux Plummer

FROM: Gretchen Keiser
Legislative Analyst *GK*

RE: Wholesale and Retail Fuel Prices in Juneau
Research Request 88.016

You requested us to examine the fuel product market in Juneau in order to explain the relatively high retail prices paid by local consumers for gasoline. You were also interested in information about Tesoro Alaska Petroleum's intentions with respect to the Southeast Alaska fuel market. In order to answer your request, we gathered information from several sources: the major wholesale fuel distributors in Southeast Alaska; a regional fuel barge line; West Coast refineries; Tesoro; the Alaska Departments of Law and Revenue; the City and Borough of Juneau and local retail fuel outlets.

This memorandum first provides background information about the Southeast Alaska fuel market. We discuss current fuel product distribution and marketing, specifically highlighting the changes which have occurred in the two years since the Attorney General's office investigated the regional fuel market in 1985. The second section of this memorandum considers in greater detail the Juneau fuel market at both the wholesale and retail levels. Our research has been constrained somewhat by the confidential nature of company data and local sales tax records as well as by an understandable reluctance of private businesses to offer detailed information. To the extent possible, we provide recent price data from the refinery gate to the retail outlets in Juneau, with a discussion of the costs involved at each level of the distribution chain.

THE REGIONAL FUEL MARKET IN SOUTHEAST ALASKA

The Southeast Alaska fuel market extends from Ketchikan north to Yakutat, and consists of a handful of larger communities and numerous small villages and logging camps scattered throughout the region. Fuel products are imported by a few distributors via marine barges and tankers from distant West Coast refineries (or from Tesoro's equally distant Southcentral Alaska refinery).

The Southeast Alaska fuel market is relatively small. The most recent records readily available indicate that net fuel supplies into Southeast Alaska in 1981 were only 15 percent of those used in Southcentral Alaska and about 60 percent of comparable figures for the Western Alaska fuel market.¹ Records from 1981 and 1982 further showed the following pattern of consumption by fuel type: diesel (61 percent); jet fuel (10 percent); and gasoline (29 percent). The development of several hydroelectric power projects in Southeast Alaska during the 1980s has undoubtedly reduced the proportion of fuel consumption currently attributable to diesel fuels. Regional marine shipment data and State motor fuel tax records from 1981 and 1982 peg annual fuel consumption at roughly 70 - 85 million gallons (192,000 - 233,000 gallons/day). Unfortunately, there are no readily available records of current fuel consumption throughout the region.

Unocal and Chevron were the major fuel distributors in Southeast Alaska for several decades. In 1986, Chevron began to divest its bulk fuel tank farms statewide; Delta Western purchased Chevron plants in Juneau, Wrangell, Yakutat, Dutch Harbor, Naknek and Dillingham, while White Pass Alaska bought Chevron facilities in Ketchikan, Sitka, Petersburg, Haines and Skagway. Both Delta Western and White Pass Alaska continue to sell Chevron products as branded wholesalers in the Southeast Alaska market.² Unocal's Southeast Alaska tank farms are located in Ketchikan, Sitka, Juneau, Petersburg, and Wrangell. Sitka Fuels is a Texaco wholesaler in the Sitka vicinity and Mobil Oil Co. has a wholesale plant in Ketchikan; each maintains a small share of the fuel markets in those communities.

At this time, the refined fuel products consumed in Southeast Alaska are imported primarily from Washington (Chevron, Mobil and Texaco) and California (Unocal) refineries. Delta Western receives Chevron fuel via a 900,000 gallon contract barge owned by Ketchikan-based South Coast, Inc. A

¹Fuel Consumption and Pricing in Alaska: A Regional Analysis. House Research Agency Report 83-C, January, 1984, p 23-29.

²As Chevron branded "jobbers" in Southeast Alaska, Delta Western and White Pass Alaska are committed to sell only Chevron products at their facilities which bear the Chevron logo. However, they are not restricted from marketing other fuel products under their own company logo by expanding into additional communities or by seeking major fuel contracts with, for example, logging or mining operations.

typical Seattle-Southeast Alaska run includes stops in Wrangell, Juneau, Yakutat, Hoonah and Pelican, although Delta Western sometimes dedicates a full barge load solely to its Juneau market.³ White Pass Alaska brings Chevron products from Seattle and Vancouver into its major terminals in Ketchikan and Skagway. White Pass supplies other Southeast communities out of Ketchikan; the Skagway bulk plant supplies the Yukon Territory. Unocal products entering Southeast Alaska originate primarily from the Los Angeles, California area. A typical fuel shipment averages about 2.5 million gallons and is delivered to the company's Ketchikan facility. A smaller company barge distributes Unocal's fuel products throughout the region.

According to Wade Rogers, Marketing Manager for Tesoro Alaska Petroleum, Tesoro is interested in supplying fuel products to Southeast distributors from its Nikiski refinery on the Kenai Peninsula. Tesoro has been increasing its refinery throughput in recent months to fulfill military contracts for jet fuel A/arctic diesel and is undoubtedly looking for customers for its gasoline and diesel No. 2 products. In fact, Tesoro recently delivered a barge load of gasoline and diesel products to Unocal's regional distribution facility in Ketchikan.

Notwithstanding the recent departure of Chevron as a regional fuel wholesaler, the Southeast Alaska fuel market has undergone little change since the Alaska Department of Law conducted an investigation in early 1985 at the request of several legislators.⁴ Then, as now, there were typically two fuel wholesalers (Unocal and Chevron products) in each larger community--with the exception of Sitka (Texaco) and Ketchikan (Mobil) which each have a third distributor. The Department of Law concluded that the few wholesalers do not have to compete strongly with each other to maintain their market share.

Since the 1985 Law report, Chevron has been replaced by Delta Western and White Pass Alaska without a dramatic change apparent in the regional wholesale fuel market. It is important to keep in mind the small size of the Southeast Alaska fuel market. For a major, vertically integrated oil company such as Unocal, Southeast Alaska is a miniscule portion of its U.S. market. Unocal corporate decisions regarding the pricing of fuel products sold here are undoubtedly based, to a considerable extent, on larger West Coast refining and marketing strategies, rather than Southeast Alaska

³Mr. Richard Standifer, owner of South Coast, Inc., personal communication, September 17, 1987.

⁴Letter from Attorney General Norman Gorsuch to Representative Mike Miller, Re: Southeast Alaska Gasoline Price Investigation. May 13, 1985. See Attachment A.

regional market forces. The replacement of the second major oil company (Chevron) with two smaller fuel wholesalers suggests that, in theory, fuel prices may become more sensitive to regional market forces in the future. Nevertheless, Delta Western and White Pass Alaska are essentially middlemen presently tied to Chevron's Seattle refinery prices, which also largely reflect the overall West Coast market.

The ability of Delta Western and White Pass Alaska to aggressively compete with the long-established Unocal depends to a large extent on their willingness to accept lower returns on their recent capital investments in Southeast fuel facilities. An informal survey (conducted by telephone in early September) of wholesale unleaded gasoline prices in the major Southeast communities indicates that White Pass Alaska is undercutting or matching Unocal's gasoline prices, whereas Delta Western's prices tend to be slightly higher than Unocal's in the communities where they are competitors. As a general observation, it appears that White Pass Alaska is more willing and/or able to compete with Unocal than Delta Western at this time.

Tesoro's fuel product deliveries are unlikely to have a measureable effect on competition in the Southeast Alaska fuel market. Tesoro is not interested in establishing itself as a fuel wholesaler in Southeast Alaska and, therefore, is not likely to displace the present distribution and retail networks. Furthermore, Tesoro refinery prices generally track prices at West Coast refineries--the primary sources of fuel products in Southeast Alaska. Also, Tesoro does not have a transportation advantage because the shipping distance between Nikiski and Ketchikan is roughly the same as that between Los Angeles and Ketchikan. To the extent that Tesoro has fuel products surplus to its Railbelt/Southcentral and Western Alaska markets, it will presumably seek to ship products to Southeast Alaska--even at close to cost--rather than reduce prices in the Railbelt.

Following this general discussion of the Southeast Alaska regional fuel market, we now examine in greater detail the fuel market in Juneau. We first consider the annual volume sales, the wholesale distributors and retail outlets. We then present recent heating fuel and gasoline price data as a framework for our discussion of costs and competition in the Juneau fuel market. Finally, we consider the possibility of a third fuel wholesaler entering the Juneau market.

JUNEAU'S FUEL MARKET

Annual fuel sales in Juneau total about 24 million gallons, including:

7 million gals.	motor gasoline (30 percent)
2 "	gals. aviation gasoline (two percent)
11 "	gals. diesel fuels (46 percent)
4 "	gals. jet fuel (16 percent)

Wholesale Distributors.

Delta Western brings Chevron products into Juneau from the Seattle area via contract barge (at six days travel time) to their marine terminal and Willoughby Avenue wholesale plant. Fuel deliveries occur about every three to four weeks and average 500,000 gals. Delta Western's storage capacity is about 2.2 million gals. (580,000 gals. motor gasoline, 1.7 million gals. diesel/jet fuels, and 125,000 gals. aviation gasoline). The tank farm, which is located on property leased from Alaska Electric Light and Power, was purchased from Chevron in April, 1986. The facility was built about 30 years ago, although individual storage tanks are 8 - 25 years old. Delta Western serves several heating fuel and gasoline retailers in Juneau as well as filling a number of commercial/industrial and government contracts.

Unocal barges fuel products to its company-owned tank farm in Juneau about every 35 to 45 days from its regional distribution center in Ketchikan. As noted previously, most of the Unocal products sold in Southeast Alaska are refined in the Los Angeles area and tankered to Ketchikan. An average shipment into Juneau is about 486,000 gals. Unocal's Juneau plant, built in the mid 1930s and remodeled in 1971, can accommodate 800,000 gals. of gasoline and 1.7 million gals. of diesel fuel. While Unocal owns the tank farm and the 10-acre site, Taku Oil Sales (the Unocal distributor in Juneau) leases the facility and purchases the Unocal products for resale to commercial customers and local retailers.

Heating Fuel and Gasoline Retailers.

There are two heating fuel distributors (Taku Oil Sales and Douglas Oil Heat) and four gasoline retailers (Downtown Union, Airport Union, Woodsey's Union, and DeHart's) selling Unocal products in Juneau at this time. Chevron products are currently sold by three heating fuel companies (Chilkat Fuel, Reliable Transfer and Ike's Fuel) and four gasoline retailers (Gas 'n Go, Paul's Chevron, Valley Chevron and Fishermen's Bend).⁵ About two-thirds of the motor gasoline and diesel fuel products sold in Juneau carry the Chevron brand name, with the remaining one-third being Unocal products.

⁵According to Dominic Tagliavento, local manager for Delta Western, the company intends to break ground in the near future on the construction of a new downtown gasoline station/convenience store at 8th Street and Egan Drive. At this time, Delta Western intends to own and operate the retail outlet.

Wholesale and Retail Fuel Prices in Juneau.

Table 1 presents unleaded regular gasoline prices at Seattle and Los Angeles refineries, Seattle retail stations, Juneau wholesale distributors and at Juneau retail outlets during the period June - mid September, 1987. We present these data in order to discuss competition in Juneau's gasoline pricing in relation to West Coast trends during the past few months. Upon examination of the data, we offer the following observations regarding unleaded regular gasoline prices:

1. West Coast refinery gate prices have generally moved upwards since June, most notably during July and August and in the Seattle area;
2. the significant drop in Juneau's wholesale gasoline prices during the third week of August occurred independent of general price trends at the refinery sources, even if the roughly 30 to 60 day lag between refinery pickup and wholesale distribution is taken into consideration;
3. the decrease in Juneau wholesale prices (which averaged about 5.8 cents/gal.) was not passed through in its entirety by all local retail outlets. Only two of the eight gasoline retailers fully passed on the reduction in their wholesale price to consumers at the pump (Attachment B provides recent gasoline prices for Juneau's retail outlets).

The August decrease in Juneau's wholesale gasoline prices appears more anomalous when one understands that wholesale diesel prices increased at the same time. Records indicate that the wholesale price for diesel No. 2 increased an average of 9 cents/gallon during the third week of August in Juneau. One explanation offered for the increase in diesel prices by a local wholesaler indicates a major oil company reaction in mid-summer to the potential for crude oil supply constraints due to Middle East unrest which could, in turn, disrupt company cash flow 6 to 12 months in the future. We do not find the increase in diesel prices to be particularly unusual given the general upward trend in refinery prices mid-summer as well as the fact that we are now entering the winter heating season.

TABLE 1
 UNLEADED REGULAR GASOLINE PRICES AT WEST COAST AND JUNEAU LOCATIONS: SUMMER 1987
 (In cents/gallon)

Date	Los Angeles, CA. Refinery Gate Ave.	Los Angeles Retail Ave. (exc. taxes)	Seattle, WA. Refinery Gate Ave.	Seattle Retail Average (exc. taxes)	Juneau Wholesale Ave.	Juneau Average (exc. taxes)	Juneau Retail Range (exc. taxes)	Juneau Average (inc. taxes)	Juneau Retail Range (inc. taxes)
Month of June	55.38		53.22						
June 1		--		--	91.3	109.8	100.8-115.8	131.9	122.9-137.9
June 10		79.6		64.3					
Month of July	55.2		54.3						
July 1		77.5		65.2	91.3	unchanged	unchanged	unchanged	unchanged
July 15		76.6		65.5					
July 29		77.9		67.9					
Month of August	59.62		58.19						
August 12		78.6		69.3	91.3	unchanged	unchanged	unchanged	unchanged
Approx. Aug 19					85.5	na	na	na	na
Through Sept 14	58.78		59.29						
September 1-2		76.5		71.0	85.5	106.8	98.8-115.5	128.9	120.9-137.9
September 9		76.5		71.3					
September 17			60.4						
September 23						unchanged	unchanged	unchanged	unchanged

Notes: Los Angeles and Seattle refinery gate prices represent averages of Monday prices reported in Platt's Oilgram.

Los Angeles and Seattle retail prices were obtained from the Oil and Gas Journal.

Juneau wholesale prices are averages of Delta Western and Unocal prices to local retailers.

Juneau retail prices were collected through informal telephone surveys. The final columns include about 22 cents/gal. of federal, state and local taxes.

Prepared by the House Research Agency, September 1987 (88.016; 870509-06).

The decrease in wholesale gasoline prices in Juneau (and Ketchikan) suggests to us that Unocal is flexing its muscles in the local/regional marketplace. Dropping prices in light of increasing refinery prices demonstrates a considerable degree of pricing flexibility on Unocal's part (and may also illustrate the profitability of the Southeast market at the wholesale level). Unocal appears to be the price leader in Juneau; once they dropped prices, Delta Western lowered prices. Given that Delta Western followed with price reductions, it is unlikely that Unocal's pricing strategy was based on an attempt to increase its share of the gasoline market (particularly when retail outlets failed to pass through the entire price reduction). A plausible explanation suggested to us is that Unocal, in effect, may be reprimanding the other fuel wholesalers (particularly Delta Western) for successfully outbidding Unocal on some large fuel contracts. We believe that the gasoline price decrease is probably temporary, especially if West Coast refinery prices remain at current levels or continue to drift upward.

We calculate that the markup between the Seattle and Los Angeles refinery prices and the Juneau wholesale prices is currently about 28 - 29 cents/gal.(excluding all taxes in each location). Prior to the August wholesale price reduction, the markup was roughly 33-35 cents/gal. There are a number of costs to be accounted for in these markups, including:

SUPPLY COSTS: the expenses of supplying a market (shipping, handling, wharfage fees, administration, insurance, facility operation and maintenance, and leases);

CAPITAL COSTS: the cost of storage facilities and holding an inventory; and

PROFIT: an investor expects to earn a competitive rate of return on his capital investment.

A fuel wholesaler will set his prices, over the long term, so he can recover all operating costs plus a reasonable rate of return on his investment. We were not able to obtain detailed cost data, but we do know that shipping costs between Seattle and Juneau are 7 to 8 cents/gal., whereas fuel products coming from Ketchikan bear about 5.5 cents/gal. in shipping and handling costs.

It is difficult to judge the "reasonableness" of the rate of return on investment--or profit--enjoyed by the local fuel wholesalers. The recent entry of Delta Western and White Pass Alaska into the Southeast Alaska market in 1986 and 1987 suggests that historic fuel pricing in the region was attractive to these newcomers and demonstrated an ability to generate

an acceptable return on their investments. The Department of Law concluded in the report of its previously cited 1985 investigation of the Southeast wholesale fuel market that: "...competition at the wholesale level in Southeast is low, and both wholesale and retail prices are higher as a direct result." In the course of our research, we did not discover information which suggests that the wholesale fuel market had undergone any fundamental change (toward widespread competition) since the Department of Law's 1985 analysis.

Retail Gasoline Prices.

We note a persistent disparity in retail gasoline prices throughout the Juneau market. Self-service unleaded regular gasoline currently costs between \$1.209/gal. and \$1.379/gal., depending upon which of eight retail outlets one patronizes (Attachment A provides retail prices at all stations). A spread of at least 15 cents/gal. in the pump price for unleaded regular gasoline at the different retail outlets has occurred in Juneau at least back to the Department of Law's April 1985 investigation. This retail price spread provokes several observations:

1. retail gasoline pricing in Juneau appears to be unaggressive; each retailer more or less maintains his place in the price range and presumably his share of the market;
2. in order for the highest priced retailers to stay in business, a sizable portion of Juneau gasoline customers appear to be quite insensitive to, or ignorant of, the price range; and
3. the cheapest gasoline can generally be purchased from the retailers who sell gasoline as only one aspect of a broader, nongasoline business (i.e., Fishermen's Bend, DeHart's and Gas 'n Go). On the other hand, gasoline prices tend to be higher at the other traditional stations (with sales and service) where, according to city records, gasoline sales represent, on average, about 85 percent of the gross sales reported.

If we examine the difference between Juneau's wholesale and retail unleaded regular gasoline prices, typically called the gross profit margin, we estimate that the current average gross profit margin in Juneau to be about 21 cents per gallon (with a range of 17 to 34 cents per gallon). Earlier this summer, prior to the August reduction in wholesale prices, the average gross profit margin was about 19 cents per gallon. In comparison, the Department of Law estimated a 21 cents per gallon average gross profit margin for Juneau's gasoline retailers in April, 1985. In the 1985 report, the department noted that gross profit per gallon in Anchorage and Seattle was 4 to 8 cents. At that time, the department concluded that "...high

profit margins are primarily due to a lack of vigorous competition on the retail level." Further, "...most gasoline in Southeast is sold by traditional service stations enjoying relatively stable market shares. The boat does not get rocked too often." Current gross profit margins in Juneau suggest that the situation has changed very little during the past two and one-half years.

One additional observation regarding Juneau's retail gasoline market can be made. If one compares average unleaded gasoline prices in the Juneau, Seattle and Los Angeles markets, we note that the gaps between both Juneau-Seattle prices and Juneau-Los Angeles prices have widened during the past four years. In early September 1987, Juneau's unleaded regular gas was about 36 cents per gallon higher than Seattle's and 30 cents per gallon higher than the average price in Los Angeles. However, in April 1985 the differences amounted to 29 cents per gallon (Juneau-Seattle) and 21 cents per gallon (Juneau-Los Angeles).

After examining the price trends in the three retail markets, we can offer two explanations for this trend. Whereas retail (unleaded) gasoline prices dropped about 24 percent in Seattle and Los Angeles between April 1985 and June 1986, Juneau customers experienced only a 15 percent reduction in gasoline prices. Since 1986, retail prices in Seattle have dropped further--apparently due to fierce competition--whereas Juneau's prices have increased (except for the very recent decrease which is likely to be temporary). These retail gasoline price trends suggest a sluggish retail market in Juneau and decreasing correlation between Seattle retail prices and those in Juneau. It appears, in some respects, as though our fuel market is becoming more isolated from market forces operating elsewhere on the West Coast.

A THIRD FUEL WHOLESALER IN JUNEAU

There is considerable discussion and speculation about town with respect to the possibility of a third fuel wholesaler opening business in Juneau. We have talked with three parties looking at the wholesale market, including White Pass Alaska and Sitka Fuels, and have heard of a fourth party as well. At this time, Tesoro does not want to establish a wholesale distributorship in Juneau, but expressed interest in considering any proposal to supply some other new Juneau wholesaler with fuel products from their Nikiski refinery.

Based on several conversations, we offer the following observations regarding the prospects for a third fuel wholesale plant in Juneau:

1. Juneau is Southeast Alaska's largest fuel market. Nevertheless, Juneau's market is still relatively small, which suggests that a third wholesaler attracted to this market will also probably be relatively small.
2. A fundamental roadblock at this time appears to be a suitable and available waterfront location. Trucano Construction's tank farm proposal at their West Juneau site is currently under administrative appeal, while the acreage for sale at the "rock dump" immediately south of town along the Thane Road is potentially complicated due to financial difficulties of the present owner. Trucano's location would be attractive only to an outfit interested in a landlord-tenant arrangement, which may be unacceptable to someone considering a significant capital investment in the bulk storage facility. Furthermore, at this time the City and Borough of Juneau does not have a long range port plan to offer clear guidance on a siting decision.
3. A tank farm requires considerable up front capital--which might cost a party 9 to 14 percent currently, depending on their corporate track record. For example, a 500,000 gallon tank farm (less than one-quarter the size of either existing tank farm in Juneau) would require about \$360,000 to build at a ballpark figure of \$30/barrel.⁶ At 12 percent interest, loan repayments (20-year term) would equal \$43,200 annually, or about 3 cents per gallon if the annual plant throughput were 1.5 million gallons. The overall feasibility would be highly sensitive to interest rates, property costs, and facility size.
4. The size of the new wholesale storage facility, in turn, depends upon the transportation economies of scale and shipping scheduling, as well as targeted market share. One hurdle mentioned is retailer loyalty to existing wholesalers and their concerns about uninterrupted deliveries from a new wholesaler.
5. The newcomer would have to have considerable financial "staying power" to accommodate the enhanced competition which would likely ensue from the existing fuel wholesalers. It appears that Unocal has more pricing flexibility and greater potential for inflicting hardship on a new wholesaler than does Delta Western.

⁶A barrel in the crude oil and refined product business typically holds 42 gallons.

Representative Hudson
September 28, 1987
Page 12

Beyond clarification and perhaps facilitation by the local government with regard to municipal policy and planning for industrial port development in Juneau, it appears that the decision will be determined in the marketplace. If a third party decides there is enough money to be made to warrant investment in a tank farm, a third wholesaler will appear on the local scene.

I hope this information is useful to you. Please contact me if I can be of further assistance.

Attachments

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Representative Hudson
September 28, 1987
Page 12

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Attachments

ATTACHMENT A
Memo to Representative Miller from
Attorney General Norman Gorsuch