

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6235 SENATE COMMUNITY & REGIONAL AFFAIRS

489

Position Paper  
RE: PROPOSAL TO EXEMPT NATURAL RESOURCES IN-PLACE  
November 14, 1988  
Page Four

In summary, we believe Option 3 provides the most logical way to resolve these problems. It guards against disruption of revenue sharing and education funding activities, and insures the status quo will be maintained in both municipal property taxation and the Full Value Determination.

# MEMORANDUM

State of Alaska  
Department of Law

TO: Bob Evans, Legislative Liaison  
Office of the Governor

DATE: April 26, 1988

FILE NO: 663-88-0410

TEL NO: 465-3600

SUBJECT: Exemption of "in place" natural resources

FROM: *Marjorie L. Odland*  
Marjorie L. Odland  
Assistant Attorney General  
Governmental Affairs-Juneau

You have requested our opinion regarding a draft bill exempting "in place" natural resources from municipal taxation (Our file: 773-88-0061). You have several concerns regarding the effect and necessity of this bill which will be addressed individually below.

1. What is the state's current obligation regarding the assessment of "in place" natural resources in the full-value determination of a borough or municipality?

The standard by which a local assessor must assess property is set out in AS 29.45.110(a), which reads:

The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.060 and 29.45.230. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

Under the above statute, a local assessor must assess all taxable property in accordance with the standard. The determination as to whether "in place" natural resources must be included in the assessment of property and the state's liability for insuring the inclusion of assessment of "in place" natural resources by municipalities is central to your question.

To date, municipalities have not assessed "in place" natural resources. Additionally, the state has not required municipalities to include these resources when determining full and true value of property under AS 29.45.110. There is no case law in Alaska interpreting AS 29.45.110 with respect to assessment requirements of "in place" natural resources nor is there a case

in Alaska holding that it is mandatory for these resources to be included in property assessment. However, it is the opinion of this office that "in place" natural resources may correctly be included in the full value determination of a municipality under AS 29.45.110(a) and that the Alaska Supreme Court would support this opinion.

Looking to other states' court opinions and treatise law, it is generally held that the right to tax is purely of statutory creation, and practically all of the authorities are to the effect that assessors, in valuing property, may take into consideration the fact that property contains undeveloped minerals in such quantity as to enhance the value of the land over its mere surface value. See 2 A.L.R. 1550-1553 and cases cited therein. It has also been held that minerals in place are not rendered nontaxable merely because of lack of legislative method and regulation for determining their value. Greene County v. Lattas Creek Coal Co., 100 N.E. 561 (Ind. 1913); 72 Am.Jur.2d State and Local Taxation § 764.

There is case law supporting the view that assessors are required to value for taxation all real property according to its market value. Under those decisions, value is measured by all the circumstances and advantages that tend to enhance it, of which underlying minerals, if accessible, are most important items, so that they must necessarily be included in the valuation. See, e.g., Logan v. Washington County, 29 Pa. 373, 14 Mor. Min. Rep. 108 (Penn. 1857). Any element of value tending to affect selling price "may" be taken into consideration by the assessor in arriving at a proper valuation for assessment purposes. Washington County v. Marquis, 82 Atl. 756 (Penn. 1912). The decisions of the courts in these two cases appear to have been based upon statutes similar in wording to AS 29.45.110(a).

Of main import, is that none of the authorities we found held for the premise that liability attaches to the state or local taxing entity for failure to include "in place" natural resources in their assessments. The authorities we found were based upon cases where a taxpayer was challenging the authority of the taxing jurisdiction to include the value of "in place" natural resources in the assessment of their property.

Furthermore, we found no cases holding that local or state assessors are required to search out "in place" natural resources in order to include them in the assessment of property. The cases mainly hold that it is correct for assessors to take into consideration all "facts" directly affecting the value. It is our opinion that this general rule concerns facts which affect

the value of the property that are known or prospective; not sought or speculative.

There is authority supporting the view that assessors may take into consideration prospective value of property as well as present value in making assessments and that an added value may be given property for purposes of taxation where there is "sufficient reason" to believe that the property contains mineral deposits in sufficient quantity to give it a value as a prospective mine. However, there is also authority to the effect that not only must property be valued at its present value at the time of the assessment, but that such value cannot be based on a speculative prospective value. See generally 72 Am.Jur.2d State and Local Taxation, §§ 763-764.

In summary, it is our opinion that AS 29.45.110(a) allows for "in place" natural resources to be assessed and included in the full value determination of a municipality. The issue of whether the state is mandated to assess these resources will be included under the next section dealing with any potential state liability for failure to include assessment of "in place" natural resources in the full value determination of a municipality.

2. If "in place" natural resources are not currently exempted from the full value determination, what liability may the state face if the state assessor does not include these in his assessments?

As pointed out above, the state has never required municipalities to assess "in place" natural resources in order to arrive at the full and true value of property in the municipality. The issue is not whether AS 29.45.110(a) can be interpreted to allow for assessment of "in place" natural resources, since we believe that the Alaska Supreme Court would rule that it does. The issue here centers around the state's longstanding application of this statute in not requiring these resources to be assessed and whether the state faces liability for not including "in place" resources in the assessments. In short, we do not believe that the state faces any present liability for failure to require municipalities to assess "in place" natural resources without a specific exemption in the law.

We are assuming that the liability anticipated by your question concerns a situation where one municipality complains that the state should be requiring another municipality to assess its known "in place" natural resources in the full value determination as it affects the distribution of municipal revenue sharing and education funding. However, a municipality's claim

Bob Evans, Legislative Liaison  
Office of the Governor  
663-88-0410

April 26, 1988  
Page #4

of deprivation of due process or equal protection against the state must fail. The Alaska Supreme Court recently ruled that a municipality is not a "person" and therefore may not assert due process or equal protection claims against its creator, the state. Kenai Peninsula Borough v. State, \_\_\_ P.2d \_\_\_, Op. No. 3277 (Alaska, Mar. 4, 1988).

If the state changes its application of AS 29.45.110-(a), rules of contemporaneous construction generally hold that a reversal in interpretation of a statute by the administering agency will be applied only prospectively. 2A N. Singer, Sutherland Statutory Construction § 49.05, (4th ed. 1984 rev.) (hereafter "Sutherland"). In other words, if the state reverses its interpretation and administration of AS 29.45.100(a) requiring municipalities to assess "in place" natural resources in their determinations of full value, the state's new interpretation most likely will apply only to future years; not retroactively.

We note that there is caselaw in other states supporting the following viewpoint:

the mere failure of public officers charged with the duty to enforce statutory and constitutional provisions in respect to the levy and collection of taxes, or the acquiescence of public officers in conditions that exempted certain property from taxation, should not be permitted to stand in the way of the "correct" administration of the law, or be construed to estop more diligent and efficient public officers when they attempt to perform their duty by bringing in to the revenue proper subjects of taxation that had theretofore been allowed to escape the payment of taxes.

Sutherland § 49.05 (citing Louisville v. Board of Education, 154 S.W. 379, 380-381 (Ky. 1913)).

Based upon the above viewpoint, we believe that the present state assessor has correctly pointed out that "in place" natural resources may be included in municipal assessments, and properly should be included. However, as noted above, it is the opinion of this office that no liability attaches to the state for failure to insist on the assessment of these resources at this time.

3. Is it your opinion that this exemption from municipal resources is necessary?

Bob Evans, Legislative Liaison  
Office of the Governor  
663-88-0410

April 26, 1988  
Page #5

Probably yes, for the main purpose of addressing the issue and clarifying the state's application and interpretation of AS 29.45.110(a). We do not believe any retroactive liability will attach if the state does not immediately provide for this exemption in the law. Additionally, the state may wish to consider whether it wants to make the exemption of "in place" natural resources from municipal taxation mandatory upon the municipalities or whether to allow municipalities the option of providing for the exemption of these resources from taxation.

We hope this addresses your concerns. Please do not hesitate to contact us if you need further assistance on this matter.

MLO/pig

6

Introduced by: Alaska Association of  
Assessing Officers

Date: November 17, 1988

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88 - 2

A RESOLUTION RECOMMENDING TAX EXEMPT STATUS  
OF "IN PLACE" RESOURCE RESERVES.

WHEREAS, "current Alaska law requires municipalities which levy a property tax to assess, levy, and collect property taxes on natural resources in place, except oil and gas resources which are mandatorily exempted and

WHEREAS, the Office of the State Assessor is required under current law to include values for those natural resources in place in the Full Value Determination for municipalities across the State and

WHEREAS, currently neither municipalities nor the Office of the State Assessor includes values for those resources on local assessment rolls or in the Full Value Determination, and neither has the staff or fiscal resources to value natural resources in place and

WHEREAS, the inclusion of values for those resources on local property tax rolls or in the Full Value Determination would be likely to have substantial negative tax impacts on farms, ranches, homesteads and other residential property, and substantial negative impacts on municipalities under the State Revenue Sharing and education funding formulas and

WHEREAS, municipalities already have the power to levy severance taxes and sales taxes against those resources at the time they are developed and sold;

NOW, THEREFORE, BE IT RESOLVED THAT THE Alaska Municipal League supports the passage of legislation which would require, under A.S. 29.46.030, the exemption from municipal property taxes of all natural resources in place, together with language which would insure preservation of the power of municipalities to levy severance taxes and sales taxes against the development and sale of those natural resources.

This resolution was passed by the governing body of the

Alaska Association of Assessing Officers on November 15, 1988


#7

# Alaska MUNICIPAL League

TELEPHONE  
(907) 586-1325  
FAX 461-5480

217 SECOND STREET, SUITE 200  
JUNEAU, ALASKA 99801

TO: Representative Eileen Mclean, Chair  
Members of the House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 13, 1989

SUBJECT: Sponsor Substitute for HB 159 - Municipal Property Tax Exemption  
for In Place Resources

The Alaska Municipal League supports Sponsor Substitute for HB 159. Recognizing the significance of the issue of municipalities imposing or not imposing a property tax on natural resources in place, the AML membership passed Resolution No. 89 - 21 (attached) at the annual business meeting in November 1988. After further analysis, the AML Board of Directors added the legislative resolution of the concern raised by the Department of Community and Regional Affairs earlier this year to its 1989 legislative priorities outlined in the AML Municipal Platform. SSHB 159 reflects the approach supported by the AML and the AML urges passage by the Legislature.

As outlined in AML Resolution No. 89 - 21, municipalities and the State of Alaska are required by law to include the values of natural resources in place (e.g. minerals, timber etc.) on local assessment rolls and in the full value determination, respectively, for purposes of taxation. Neither does because neither has the staff or fiscal resources to value the resources, and the inclusion of values for those resources would likely have a negative impact on residential property and on municipalities under the state revenue sharing and education funding formulas. Exempting the resources from property tax would recognize the difficulty of taxing natural resources in place and the status quo.

However, given the decline in state aid to municipalities and the increasing demand to provide additional local services with local tax dollars, limiting a potential tax base should be approached with caution. When the issue of taxing in place resources was raised earlier this year, the Department of Community and Regional Affairs stimulated significant discussion and debate around the State, especially among the municipalities and with the Department of Revenue. SSHB 159 calls for a temporary, two-year property tax exemption on natural resources in place to recognize the status quo, and it also calls for a study by the Department of Community and Regional Affairs to compare the potential effects of total exemption, partial exemption, no exemption and optional exemption. In conducting the study, DC&RA will consult with the Department of Revenue and the AML. The approach outlined in SB 159 with a temporary exemption and a study will take care of

AML Testimony on SSHB 159  
March 13, 1989  
Page 2

the immediate situation and provide for more understanding of the issue, a discussion of alternatives, and the development of a consensus on a long-term or permanent solution.

The July 1, 1991 repeal date in Section 3 would provide adequate time for the study to develop recommended long-term legislative solutions (two years) and for the legislature to act. Assessment roles are determined as of January 1st of each year; therefore, in order for the municipality to add property to the assessment rolls if required by legislation passed in 1991 session and to assess in 1992, the assessors would have to do their work during the summer and fall of 1991 and have the property on the rolls by January 1, 1992. If the 17th Legislature does not act in the First Session to implement the recommendations of the study, it will have to extend the temporary exemption.

Finally, the AML wants to clarify in its testimony that municipalities have the authority under law to place a severance tax on natural resources whether or not natural resources in place are exempt from property tax. This is confirmed in an Alaska Attorney General opinion dated April 29, 1986 to the Commissioner of Community and Regional Affairs.

Again, the AML supports SSHB 159 as a legislative priority of municipalities across the State.

Attachment

Testimony\sbl81

Resolution of the Alaska Municipal League

Resolution No. 89-21

A RESOLUTION RECOMMENDING TAX-EXEMPT STATUS OF  
"IN PLACE" RESOURCE RESERVES

WHEREAS, current Alaska law requires municipalities that levy a property tax to assess, levy, and collect property taxes on natural resources in place, except oil and gas resources, which are mandatorily exempted, and

WHEREAS, the Office of the State Assessor is required under current law to include values for those natural resources in place in the full value determination for municipalities across the State, and


WHEREAS, neither municipalities nor the Office of the State Assessor includes values for those resources on local assessment rolls or in the full value determination, and neither has the staff or fiscal resources to value natural resources in place, and

WHEREAS, the inclusion of values for those resources on local property tax rolls or in the full value determination would be likely to have substantial negative tax impacts on farms, ranches, homesteads, and other residential property, and substantial negative impacts on municipalities under the state revenue sharing and education funding formulas, and

WHEREAS, municipalities already have the power to levy severance taxes and sales taxes against those resources at the time they are developed and sold;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the passage of legislation that would require, under AS 29.45.030, the exemption from municipal property taxes of all natural resources in place, together with language that would insure preservation of the power of municipalities to levy severance taxes and sales taxes against the development and sale of those natural resources.

Adopted this 18th day of November 1988 in Fairbanks, Alaska.

  
Heather Flynn, President

ATTEST:

  
Scott A. Burgess, Executive Director



P.O. BOX 129 BARROW, ALASKA 99723  
PHONE (907) 852-8533 OR 852-8833  
PANAFAX TELECOPIER (907) 852-5733

February 5, 1989

The Honorable Eileen MacLean  
State of Alaska  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

Re: Taxation of In-Place Minerals

Dear Eileen:

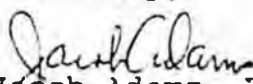
We have reviewed the proposal bill to exempt in-place minerals and natural resources from property taxation. Generally, we would support this provision. Any attempt to tax resources before they are severed would have a negative and deleterious affect on the state and industry. It would not stimulate development to impose such a tax, and it would be extremely difficult to value the resources prior to really knowing what might be produced.

One item that should be added to the list of natural resources is gravel. This is an in place natural resource that does not have significant value unless it can be mined and used. It is also often difficult to realistically determine the value of gravel until the market develops. Amounts in place, quality and costs associated with development are difficult to pre-assess.

Other major natural resources, such as oil and gas, are structured to be taxed on a severance basis, not in place. This approach is appropriate for the natural resources listed in the bill as well. I assume this section would be consistent with AS 43.56, even though it does not reference the oil and gas exemption that already exists; you may wish to have someone check that. Also, the breadth of coverage for all timber as "stumpage" and fish and shell fish "farms" might be considered.

Again, ASRC supports the proposed amendment to AS 29.45.030(a) by adding the exemption for in place natural resources. Further, we would urge the addition of gravel as an example to be clear that is included. If we can provide additional comments, please do not hesitate to contact us.

Sincerely,

  
Jacob Adams, President  
ARCTIC SLOPE REGIONAL CORPORATION

CHAIRMAN OF THE BOARD  
Edward E. Hopson, Sr.

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Jacob Adams

VICE PRESIDENTS  
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# Matanuska-Susitna Borough #3

P.O. BOX 1805, PALMER, ALASKA 99645-1808 • PHONE 745-8842

ASSESSMENT DEPARTMENT

March 9, 1989

House Community & Regional  
Affairs Committee  
P.O. Box BH  
Juneau, AK. 99811

Dear Committee Members:

The Matanuska Susitna Borough strongly supports HB159. We are a resource rich borough with very present awareness of the dilemmas regarding resource inventory regarding timber. Let us illustrate what current law requires and why taxation of resources in place should be changed through passage of this bill.

I. Consider your reaction if your assessor came to you and said:

You have 30 trees around your home; that equates to 10 cords of firewood, at \$40.00 a cord. The in place resource value of trees is \$400.00, therefore we are adding \$400.00 to your annual assessment.

Conversely if you cut down trees; the assessor says you have X number of stumps --- therefore your assessment is reduced.

Surprisingly this is a realistic extension of what current Title 29 requires. This is also true of other resources; imagine the case of gravel, gold, coal, peat, etc. Any resource that has potential present or future value, even wild grass which could be harvested for hay.

II. Unexplored resources present a different problem:

For instance, everyone knows coal seams exist in the Susitna River basin but where, how much, or what quality would require extensive drilling and sampling. Whether those seams transverse taxable property in the area is completely unknown or within the Borough's or State's reasonable capacity to identify.

Some exploration has occurred and statements made that the BTU value of those reserves equal BTU value of Prudho Bay Oil. If true, untaxed resource value exceeds total value of the Borough by many times. As the assessor I would be very presumptuous to tax private property based on speculation that someday the highest and best use may be for coal extraction. Accurate exploration information ranks very high on the list of industry secrets as the State found in relation to oil and gas reserves. The State's solution was a severance tax, which is also a better solution for municipalities.

III. Finally, I'll give you the example of Nome:

Alaska Gold Company owns mining claims under subdivisions. What is the value of the gold vs the value of displacing whole subdivisions to obtain it. This illustrates the very complex issue of surface and subsurface estates and decisions required as regards when the highest and best use of one estate supercedes the other. Also, it raises the question of division of property value of the two estates when ownership is divided.

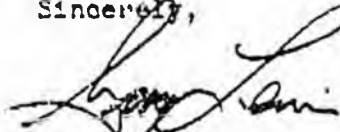
These examples are all preliminary complexities assuming one can determine a value per unit of resource reflecting markets, infrastructure, feasibility and capitalization required. As you can see, it would be prudent for the municipality required to value resources in place to plan on employing foresters, geologists and a bunch of attorneys.

Beside from the almost comical problems of implementing a program of unknown in place resource taxation, the real issue is that of equity of State DCRA Full Value Determination of untaxed or escaped in place resource value. This is the reason this bill is before you. In some cases resource values are known; MSB timber inventory studies, and Wishtone Hill coal reconnaissance, EPB Beluga coal exploration, Juneau gold mines, Nome gold fields, etc., but what resource deposits cannot be estimated nor accurately determined to be escaped property by the State Assessor. And what effect will the addition of some, but not all, resource values have on equitable School Foundation Funding distribution and Revenue Sharing distribution. These are the issues this bill seeks to resolve.

This summarizes the reasons the passage of this bill is supported by unanimous resolution of the Alaska Municipal League, Alaska Association of Assessing Officers and Alaska Association of Municipal Finance Officers.

Please: DO PASS

Sincerely,



Gary A. Lewis

Matanuska-Susitna Borough Assessor  
AML Taxation & Finance Comm. Co-Chair

**Municipality  
of  
Anchorage**



OFFICE OF THE MAYOR

P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
(907) 343-4431

TOM FINK,  
MAYOR

March 21, 1989

The Honorable Representative Eileen MacLean  
State of Alaska  
Pouch V  
Juneau, Alaska 99811

Re: House Bill No. 159 - Exemption of Natural Resources in Place

Dear Representative MacLean:

You have asked for the position of the Municipality of Anchorage regarding House Bill No. 159 which exempts from taxation undeveloped natural resources in place.

The Municipality introduced a resolution at the Alaska Municipal League at Fairbanks in November supporting this type of exemption. Although Anchorage is not considered one of the resource rich municipalities in the State, it is our position that failure to provide this exemption could be costly to those which are resource rich. To my knowledge, there is no municipality in the State which assesses and taxes undeveloped resources in place due to the complexity of a system and the expense required to make value determinations.

It is our understanding that if such an exemption is not mandated, the State Assessor's office within Community & Regional Affairs will be forced to make an estimate of the value (at an undetermined cost to the taxpayers of the state) and include that value in the full value determination which his office prepares each year. If that value were included, many municipalities would realize a reduction in revenue sharing and educational assistance.

It is for these reasons that the Municipality of Anchorage supports the passage of House Bill 159.

Sincerely,

Tom Fink  
Mayor



# Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9682

BOROUGH MAYOR

December 10, 1988

The Honorable Steve Cowper  
Governor, State of Alaska  
P. O. Box A, Mail Stop 0101  
Juneau, AK. 99811-0101

Dear Governor Cowper:

**SUBJECT: Tax Exemption of Resources In Place**

A Resolution for the state to pass legislation exempting natural resources in place from property taxation was adopted by AML in November (attached).

This emanates from realization that DCRA has not appraised or included value of untaxed or inventoried natural resources in Full Value Determination for municipalities. Likewise, because of cost of inventory and lack of verification of amount and value of particularly subsurface resources, municipalities have not taxed this form of property interest.

The issue arises as, due to ANSCA, subsurface and surface rights are divided between local and regional native owners. There are cases where mineral extraction causes identifiable taxable resources.

Current thought is that the exemption of in place natural resources will:

Avoid tremendous administrative costs involved in identifying and valuing unproven resources both by the state and municipalities.

and;

Avoid onerous disruption of formula funding program distributions between resource rich and resource poor municipalities.

A more reasonable, equitable and less regressive method of taxation appears to be severance tax applied to natural resources at time of production:

It recognizes ability to pay at time of marketability.

It will not punish (funding formulas) those municipalities which inventory and identify natural resources in efforts to diversify economic base.

It is much simpler to administer at the local level.

These may be the same reasons why the State opted to tax Oil and Gas reserves through a severance tax. The Matanuska-Susitna Borough urges your reconsideration of the introduction of legislation exempting resources in place, even with an option that municipalities adopt a severance tax in lieu of property tax.

Sincerely,

*Dorothy Jones*  
Dorothy Jones / Mayor

cc: Scott Burgess - AML Executive Director  
Gary Lewis - Taxation & Finance Co-Chairman

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

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☐ P.O. BOX 41  
NOME, ALASKA 99762-0041  
PHONE (907) 443-5457

March 15, 1989

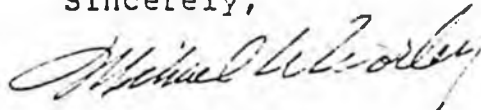
Ken Johnson  
Legislative Aide  
Representative Sam Cotten's Office  
Pouch V  
Juneau, AK 99811

Dear Mr. Johnson:

You have asked for the technical position of our office regarding the effects of sponsor substitute for House Bill 159 on the power of the State of Alaska to levy taxes against natural resources in place. The bill clearly states that the temporary tax exemption provided for is from taxation by municipal governments only. The State's authority to levy taxes against these resources is not affected in any way by this legislation.

If you have other questions, or if we can assist you on other matters, please feel free to contact me.

Sincerely,



Michael W. Worley  
State Assessor

cc: Representative Eileen MacLean

**OUTLINE FOR RESOURCES IN PLACE STUDY**

**Division of Labor:**

**Juneau DCRA**

1. Develop current practices questionnaires and mail to lower 48.
2. Develop current practices questionnaires and mail to all Alaska municipal assessors.
3. Coordinate and compile all incoming information and draft final report.
4. Develop recommendations (if any) to Legislature in conjunction with AML and DOR.

**Anchorage DCRA**

1. Work with DNR and local groups to estimate type and quantity of natural resources in Unorganized Borough.

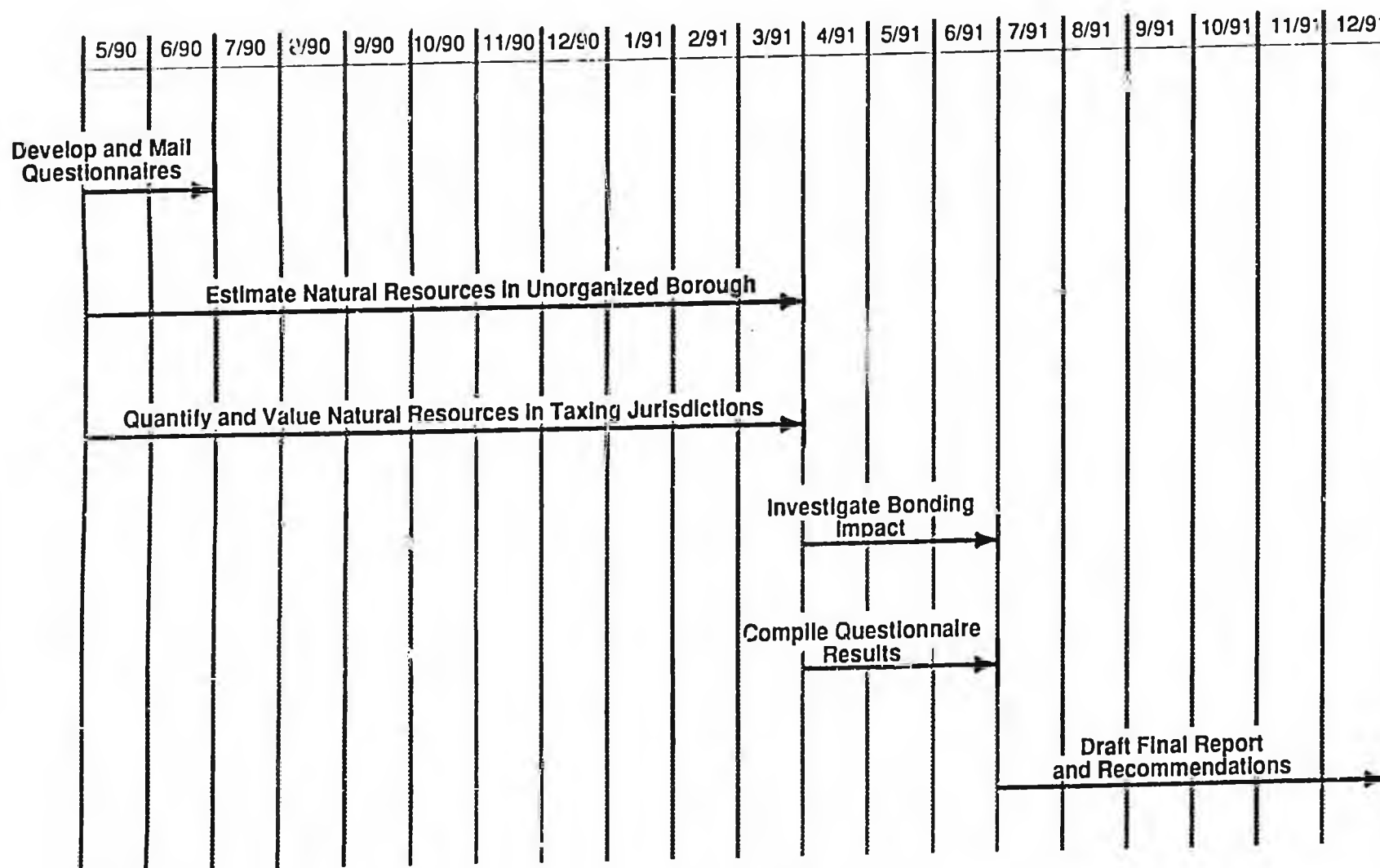
**Alaska Municipal League**

1. Attempt to quantify resources in place in respective jurisdictions (working with local assessors).
2. Describe methodology they would use in trying to estimate values of resources.
3. Estimate values of quantified resources.

**Department of Revenue**

1. Survey different types of taxation (excise, severance, income, etc.) in other states.
2. Investigate bonding impact to State (if any).

# Estimated Time Lines for Resources in Place Study



## OUTLINE ISSUES

Natural resources "in place" have not been a traditional part of local government taxation in Alaska, although they form a substantial part of local government tax bases in some counties and cities in other states.

However, total exemption of this potential source of revenue from possibility of taxation may have very serious consequences.

Existing local governments, particularly borough governments, are existing organizations with staff, funding, and political access to deal with changes in their revenue base--if a major revenue source declines or is lost, they can shift to another. Since these existing boroughs do not depend on taxation of natural resources in place today, they are not likely to be greatly affected by an outright exemption.

The real difficulty comes in for local governments that are not yet formed. Natural resources, and their taxation, are likely to be the only real possibility of a tax base that would allow or encourage formation of boroughs in the unorganized area of the state.

Prohibition of allowing taxation might simply mean prohibition of any meaningful local governments in the unorganized borough. No dough, no go.

In order to encourage local government formation, we must be careful to make sure we provide the maximum opportunity for people in rural Alaska to control their own local affairs.

Excepting the natural resource value from the full and true value count will leave the present scheme intact, and set no unfortunate precedent of prohibition. During this interim exemption, a study can be made that looks at more than limiting local government taxes on natural resources, which would be too narrow a focus. The study should include a look at what the alternatives would be or should be if local governments are prohibited in whole or in part from a property tax. On Natural Resources in place. Specific statutory authorization for a severance tax or a net profits tax might well be the proper alternatives, but they must be looked at.

Finally, we should make sure that the people who have the most to lose by any prohibition, or the most to gain if viable local government can be created, are given a solid right to participate in the study. These are the people from the unorganized borough. We must make sure they are not disenfranchised.



# Alaska State Legislature

## SENATE

### *Special Committee on International Trade and Tourism*

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State Capitol  
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FAX (907) 465-2652

Senator Mike Szymanski, Chair

Senator Rick Halford  
Senator Arliss Sturgulewski  
Senator Rick Uehling  
Senator Fred Zharoff

April 6, 1990

#### MEMORANDUM

TO: Tam Cook, LAA Legal  
FROM: Senator Mike Szymanski  
RE: Amendments to HB 159

A handwritten signature in cursive that reads "Mike".

Please add the following amendments to SB 159:

- 1) line 16: after "including," add "but not limited to,"
- 2) direct the Department of Community and Regional Affairs to include the following points in the study:
  - a) at what point are resources in place assigned value?  
If it is while the resources are still in place, then a standard assumption must be established to determine value. For timber, the value would be based on designated areas which have been cruised for value. For mineral resources, the value would be based on whether the deposit is under development or has been proven and announced.
  - b) how do other states treat similar in-place resources?



**AMENDMENT TO SCS SS HB 159 (Resources)**

Page 1, lines 25-28:

Delete all material and insert:

"(b) In conducting the study under (a) of this section, the Department of Community and Regional Affairs shall conduct the study in concert with the Department of Revenue and the Alaska Municipal League. The Department of Community and Regional Affairs will form an advisory group consisting of representatives of communities outside of the organized boroughs to advise in the design and execution of this study. By January 15, 1992, the"

**AMENDMENT TO SCS SS HB 159 (Resources)**

Page 1, line 24,

Delete "municipality" and insert "municipality;"

Page 1, after line 24:

Insert:

"(5) alternative taxes for local governments."

AMENDMENTS TO SCS SS HB 159 (RESOURCES)

NEW LANGUAGE FOR SECTION ONE

Section 1. TEMPORARY EXEMPTION OF NATURAL RESOURCES IN PLACE FROM FULL AND TRUE VALUE DETERMINATION. The full and true value of natural resources in place, including proven or unproven mineral or other deposits of valuable materials and timber stumpage, are exempt from inclusion in the full and true value determination under AS 14.17.140 (Determination of full and true value by the Department of Community and Regional Affairs) and AS 29.60.030 (Determination of millage rate equivalent) unless the property is assessed by the local government under AS 29.45 (Municipal Taxation). The primary purpose of this exemption is to provide the necessary time for an orderly and comprehensive study of the issues relating to an exemption of natural resources in place from property taxation by municipalities.

Offered: 3/6/90  
Referred: Rules

6-0723H

Original sponsor(s): REP. MACLEAN, Cato, Zawacki

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 SENATE CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an exemption from municipal  
7 property taxation for natural resources in place; and  
8 providing for an effective date."

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

10 \* Section 1. TEMPORARY TAX EXEMPTION. Natural resources in place,  
11 including proven or unproven mineral and other deposits of valuable mate-  
12 rials and timber stumpage, are exempt from property taxation by a munic-  
13 ipality.

14 \* Sec. 2. STUDY AND REPORT. (a) The Department of Community and  
15 Regional Affairs shall study and compare the potential effects of various  
16 natural resource taxation options including, but not limited to:

17 (1) total exemption from municipal property taxation for natural  
18 resources in place;

19 (2) partial exemption from municipal property taxation for  
20 natural resources in place;

21 (3) no exemption from municipal property taxation for natural  
22 resources in place;

23 (4) total or partial exemption from municipal property taxation  
24 for natural resources in place at the option of each municipality; and

25 (5) other alternatives to taxation of natural resources in place.  
(b) in conducting the study under (a) of this section, the Department

26 of Community and Regional Affairs shall consult with the Department of  
27 Revenue and ~~the~~ the Alaska Municipal League. <sup>see next page</sup> By January 15, 1992.

28 Department of Community and Regional Affairs shall report to the legis-  
29 lature its findings and recommendations regarding municipal property taxes:

1 of natural resources in place.

2 \* Sec. 3. This Act is repealed July 1, 1992.

3 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Insert line 27

This study shall take into consideration the overall effects of economic development in Alaska with respect to the various effected industries.

APR-10-90 TUE 10:58

ALASKA MINERS ASSOC.

FAX NO. 9072787997

P.02



## ALASKA MINERS ASSOCIATION, INC.

sshb159.bor

4/10/90

TESTIMONY on CS for SSHB 159 (Resources)  
and on CS for SSHB 159 (C&RA)  
NATURAL RESOURCES EXEMPT FROM PROPERTY TAX

The Alaska Miners Association supports the Resources Committee substitute for HB 159 with some minor changes and we appreciate the opportunity to testify in favor of it.

General Comments

We are very concerned regarding the in-place taxing of minerals. The entire exploration process is one of trying to learn what minerals are present, where they are concentrated, what mining methods and which metallurgical processes will be required to produce them at a profit. The mere existence of minerals does not mean that it will be economically feasible to develop them.

Taxing the minerals in the ground would place a tremendous burden on the owner and on the municipality to show what is or is not there. This effort would also detract from the goal of bringing the project into production. The effect would be that marginally economic projects or projects with geologic uncertainties, ore grade uncertainties, metallurgical uncertainties, or other disadvantages would not be explored. Companies would not be willing to pay taxes on projects that fit these situations. It has been estimated that only one out of every 1000 prospects explored actually becomes a producing mine.

The burden from taxing in-place resources falls on the companies and individuals that do not yet have revenue from their resources. Personal initiative and entrepreneurial effort are prized attributes in Alaska, but taxing in-place resources would block such efforts.

Investors will simply take their funds to Indonesia, the Phillipines, etc. and the mineral wealth of Alaska will not be developed. Along with that, the potential jobs both in the rural areas at the minesite and in the service centers of Fairbanks, Anchorage and Juneau will be lost.

It is therefore important that the taxing of in-place resources not be allowed and that the topic be thoroughly evaluated to understand its true consequences.



## ALASKA MINERS ASSOCIATION, INC.

### Specific Comments Regarding the C&RA Committee Substitute and the Resources Committee Substitute

We recommend that the C&RA Committee substitute be removed and replaced with the Resources Committee substitute.

We feel that the Community and Regional Affairs substitute reduces the clarity of the bill. In the new Section 1 PURPOSE, that substitute adds the phrase "full and true value". "Full and true value" is a real estate term but has no meaning in the minerals industry or in the courts regarding resources and is dependent on the assumptions and viewpoint being taken. "Market value" is a workable and definable term regarding natural resources. The phrase "full and true value" should therefore be dropped.

In the C&RA substitute, Section STUDY AND REPORT states in (a) "...study and compare the potential effects of various natural resource taxation options." The real issue and concern is that determining the "value" of in-place is not feasible or workable and that in-place taxation is a serious disincentive to developing minerals. This was described above in my general comments. Alternatives other than in-place taxation must also be addressed. Item (5) should be replaced with the words "alternatives other than taxation of natural resources in-place". If the study addresses only variations of in-place taxation it will not answer the real questions.

Another word change is needed in Section 3(a) where in the first paragraph it now reads "...taxation options including". This should be changed to read "...taxation options including but not limited to".

Another change is needed in Section 3 to where the Department of Natural Resources and the Department of Commerce and Economic Development along with the Department of Revenue should be a part of the study and report preparation. Inclusion of these two departments will help insure that the study provides a true and accurate report.

Law Office of  
RICHARD H. ERLICH

333 SHORE AVE., SUITE 400  
P.O. BOX 565  
KOTZEBUE, ALASKA 99752

PHONE (907) 442-3070  
(800) 478-3090  
FAX (907) 442-3072

April 12, 1990

Senator Szymanski, Chrm.,  
Comm. & Reg. Aff. Comm.,  
P.O. Box V,  
Juneau, AK 99811

RECEIVED

APR 18 1990

re: Comments on CS for H.B. 15<sup>0</sup> dated 4/7/90 (4/7/90)

Dear Senator Szymanski:

Per your request, attached is Mayor Greene's statement for the record. Alternative language for Section 3(a)(5) follows:

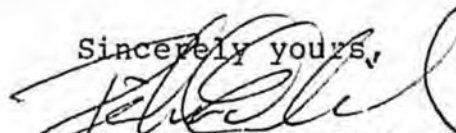
(5) revenue alternatives for municipalities regarding natural resources in place other than property taxation and the impacts of such alternatives on both the industry and municipalities.

Please understand the perspective of the Northwest Arctic Borough. The Assessor has informed us that, if legislation is not adopted this session, he intends to assess resources in place. As you suggested at the hearing, the NAB does not want to waste funds suing the State over this issue. It is absolutely essential that some type of resource exemption legislation pass this session! It is our hope that Revenue, the Assessor, and the Committee will be able to resolve their differences.

There is a difference between the House version and the Committee Substitute. The Borough's objective is to have legislation adopted which prohibits the value of resources in place from being included in the full and true value determination, pending the study. We understand that both the Assessor and mining industry have difficulty with the present legislation. However, from a pragmatic perspective, the present legislation meets the Borough's objective, if it is passed.

Again, thank you for your courtesy and do not hesitate to contact the Borough if we can be of any assistance.

Sincerely yours,



Richard H. Erlich

Encl:  
cc: Mayor Greene  
Senator Adams  
Rep. MacLean

STATEMENT OF THE HONORABLE CHARLES GREENE,  
MAYOR OF THE NORTHWEST ARCTIC BOROUGH  
BEFORE THE SENATE COMMUNITY & REGIONAL AFFAIRS COMM.  
ON CS FOR HOUSE BILL NO. 159, APRIL 10, 1990

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY APOLOGIES FOR NOT BEING PRESENT, HOWEVER, A SUBSISTENCE MEETING IS BEING HELD IN ANCHORAGE WHICH IS ALSO OF IMPORT TO OUR CITIZENS. I HAVE AUTHORIZED MR. ERLICH, BOROUGH ATTORNEY, TO PRESENT THESE COMMENTS AND ANSWER ANY QUESTIONS.

THE LEGISLATION YOU HAVE BEFORE YOU WILL AFFECT THE DEVELOPMENT OF NATURAL RESOURCES WITHIN THE ENTIRE STATE. ALTHOUGH IT MAY IMPACT THE FORMATION OF NEW BOROUGHES, THE MAJOR EFFECT OF THIS LEGISLATION WILL BE ON THE ORGANIZED BOROUGHES. IT IS ABSOLUTELY ESSENTIAL THIS LEGISLATION, PROVIDING FOR A MANDATORY TAX EXEMPTION OF RESOURCES IN PLACE, BE ADOPTED AT THIS LEGISLATIVE SESSION.

THE STATE ASSESSOR DETERMINES THE FULL AND TRUE VALUE (FTV) OF EACH BOROUGH. IN ADDITION TO OTHER LEGISLATIVE MANDATES, THIS VALUATION IS PART OF THE REQUIRED 4 MIL LOCAL CONTRIBUTION TO EDUCATION. THE UNORGANIZED BOROUGH IS NOT REQUIRED TO MAKE THIS MANDATORY 4 MIL CONTRIBUTION TO EDUCATION. IT IS ONLY THE ORGANIZED BOROUGHES WHICH ARE REQUIRED TO MAKE THIS MANDATORY CONTRIBUTION BASED UPON THE ASSESSED VALUATION.

WITHIN THIS STATE, MANY BOROUGHES HAVE BOTH DEVELOPED AND UNDEVELOPED NATURAL RESOURCE PROPERTIES. THE NORTHWEST ARCTIC BOROUGH IS ONLY ONE OF THE MUNICIPALITIES AFFECTED BY THIS LEGISLATION. YOU ARE ALL AWARE OF POTENTIAL COAL AND OTHER MINING DEVELOPMENTS WITHIN THE STATE. PRESENTLY, ALTHOUGH THESE INDUSTRIES ARE VALUED AND TAXED BASED UPON THEIR DEVELOPMENT, RESOURCES IN PLACE ARE NOT VALUED OR TAXED. IT IS OUR UNDERSTANDING THAT NO MUNICIPALITY PRESENTLY IMPOSES TAXES ON NATURAL RESOURCES IN PLACE. HENCE, ANY ACTION IN THIS AREA MAY AFFECT THE FUTURE DEVELOPMENT OF THE STATE BY THE NATURAL RESOURCE INDUSTRY.

TAXATION IS THE MEANS BY WHICH GOVERNMENTS FINANCE THEIR OPERATIONS. ONLY THE ORGANIZED BOROUGHES WHICH ARE REQUIRED TO MAKE THE MANDATORY FOUR MIL CONTRIBUTION TO EDUCATION. THIS IS OBVIOUSLY AN ADDITIONAL OBLIGATION FOR LOCAL GOVERNMENT, FOR WHICH ADDITIONAL REVENUES ARE REQUIRED.

Mayor Greene,  
April 10, 1990,  
Page 2

ALTHOUGH MUNICIPALITIES MAY CONTROL EXPENDETURES, BASED UPON INCOME, THE MANDATORY FOUR MIL EDUCATIONAL CONTRIRUTION IS BASED UPON VALUATION NOT INCOME. THIS IS A SIGNIFICANT PROBLEM. IF THE VALUE OF RESOURCES IN PLACE ARE COMPUTED AS PART OF THE FTV, THEN OBVIOUSLY THERE IS A CORRESPONDING INCREASE IN THE MANDATORY EXPENSES OF THE ORGANIZED BOROUGHES IN MAKING THE LOCAL EDUCATION PAYMENT.

AS THESE COMMENTS INDICATE, THE REAL PURPOSE OF THIS LEGISLATION IS THE STUDY, SECTION 3! IT IS INTENDED THAT THE STUDY WILL GIVE YOU BOTH POLICY AND PRAGMATIC OPTIONS TO CONSIDER REGARDING THE ISSUES OF VALUATION, TAXATION AND THEIR IMPACT ON BOTH THE ORGANIZED AND UNORGANIZED BOROUGHES. IT IS OUR EXPECTATION THAT THE STUDY WILL ADDRESS THE FOLLOWING ISSUES:

1. THE STUDY SHOULD MAKE RECOMMENDATIONS AS TO WHAT VALUATION METHODOLOGY WILL BE USED STATEWIDE. A UNIFORM METHODOLOGY MUST BE USED. IF NOT, THE OPPORTUNITY FOR ABUSE AND DISPARATE TREATMENT IS TOO GREAT.

2. THE STUDY SHOULD MAKE RECOMMENDATIONS AS TO WHETHER THESE RESOURCES SHOULD BE VALUED AND SHOULD BE PRAGMATICALLY BASED. THERE ARE MANY UNDEVELOPED RESOURCES WITHIN THIS VAST STATE. IF MUNICIPALITIES MUST ASSESS THESE UNDEVELOPED AND SOMETIMES UNKNOWN RESOURCES THEN THERE MUST BE A PRAGMATIC METHODOLOGY DEVELOPED.

3. THE IMPACT OF SUCH VALUATION AND METHODOLOGY IN BOTH THE ORGANIZED AND UNORGANIZED BOROUGH MUST BE EXAMINED. WHATEVER IS FINALLY DONE, MUST BE ACCOMPLISHED IN A NEUTRAL MANNER, SUCH THAT THERE IS NO GREATER BENEFIT TO DEVELOP RESOURCES IN THE UNORGANIZED BOROUGH OVER THE ORGANIZED BOROUGH BECAUSE OF STATE VALUATION OR TAXATION POLICY.

4. SECTION 3(a)(5), ON PAGE 2, SHOULD BE BROADER IN SCOPE. THERE IS PRESENTLY AN A.G.'S OPINION REGARDING TAXATION OF RESOURCES BY LOCAL MUNICIPALITIES. BROADER LANGUAGE: SUCH AS "REVENUE ALTERNATIVES" NOT ONLY EXPANDS THE SCOPE OF THE INQUIRY, BUT ALSO DOES NOT SUBVERT THE PRESENT A.G.'S OPINION.

BY EXPANDING THE SCOPE OF THIS SECTION TO INCLUDE OTHER ALTERNATIVES, IN ADDITION TO TAXATION, AGREEMENTS IN LIEU OF TAXES CAN ALSO BE EXPLORED. PRESENTLY AGREEMENTS IN LIEU OF

MAYOR GREENE,  
APRIL 10, 1990,  
PAGE 3

TAXATION ARE ONLY RECOGNIZED FROM STATE OR FEDERAL ENTITIES. THE AIDEA STATUTE ALSO PROVIDES FOR SUCH AGREEMENTS. SUCH AN OPTION MAY BE OF VALUE TO BOTH THE ORGANIZED AND UNORGANIZED BOROUGH AND SHOULD BE EXPLORED.

SO YOU CAN BETTER UNDERSTAND THE PRACTICAL SITUATION CONFRONTED BY THE NORTHWEST ARCTIC BOROUGH, LET ME BRIEFLY DESCRIBE OUR SITUATION. THE ASSESSED VALUATION OF THE BOROUGH EXCLUDING THE MINE IS APPROXIMATELY \$143 MILLION. THIS IS ESTIMATED TO BE APPROX. ONE-THIRD OF THE TOTAL BOROUGH VALUATION, INCLUDING THE MINE. THIS ESTIMATE DOES NOT INCLUDE THE VALUATION OF THE RESOURCES IN PLACE AT THE MINE.

WITH THE INCLUSION OF RESOURCES IN PLACE AS PART OF THE VALUATION FIGURE, IT IS ANTICIPATED THAT OUR LOCAL CONTRIBUTION TO EDUCATION WILL CORRESPONDINGLY BE INCREASED. HOWEVER, THE UNCERTAINTY FROM NOT KNOWING WHETHER RESOURCES IN PLACE WILL BE INCLUDED IN THE VALUATION AND THE VALUE OF SUCH VALUATION CAUSES ANXIETY IN PLANNING OUR LOCAL OBLIGATIONS.

I CANNOT UNDERSTATE OUR CONCERNS REGARDING POTENTIAL FEARS REGARDING THE IMPACT OF THIS STUDY. IF RESOURCES IN PLACE ARE TO BE VALUED, THEN THERE MUST BE A UNIFORM METHODOLOGY AND THERE MUST BE A UNIFORM IMPACT IN BOTH THE ORGANIZED AND UNORGANIZED BOROUGH. ADDITIONALLY, THE ISSUE OF DEVELOPED AND UNDEVELOPED RESOURCES MUST BE RESOLVED. OUR NIGHTMARE IS THAT AFTER THE STUDY IS COMPLETE, THE EFFECT OF YOUR POLICY DECISIONS WILL BE TO PROMOTE RESOURCE DEVELOPMENT IN THE UNORGANIZED BOROUGH WHILE STIFLING SUCH DEVELOPMENT IN THE ORGANIZED BOROUGH; YOU WILL INCREASE THE OBLIGATIONS OF THE ORGANIZED BOROUGH WHILE THERE IS NO CORRESPONDING INCREASE IN THE OBLIGATIONS OF THE UNORGANIZED BOROUGH AND FINALLY YOU WILL FORCE THE ORGANIZED BOROUGH TO FINANCE SUCH INCREASED OBLIGATIONS WHILE IMPOSING NO SUCH PRESSURE ON THE UNORGANIZED BOROUGH.

IT IS OUR HOPE THAT THE RESULTS OF THIS STUDY WILL PROVIDE SUFFICIENT INFORMATION TO DEVELOP EQUITABLE POLICIES FOR THE ORGANIZED BOROUGH. ACCORDINGLY, IT IS ESSENTIAL THIS LEGISLATION BE ADOPTED. IT ALLOWS US ALL TO FURTHER EXPLORE THE ISSUES IN AN OBJECTIVE AND EQUITABLE MANNER.

MR. RICHARD ERLICH IS AVAILABLE TO ANSWER ANY QUESTIONS YOU MAY HAVE.

**Н В**

**203**

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
P.O. Box 290  
Barrow, Alaska 99723



Chairman  
Community & Regional Affairs  
Committee

Vice-Chairman  
State Affairs Committee  
Bush Caucus

Member Finance Subcommittee  
Community & Regional Affairs  
Education  
Corrections

WHILE IN JUNEAU

Box V  
Juneau, Alaska 99811  
465-4525  
465-4833

## HOUSE OF REPRESENTATIVES

District 22  
Ambler  
Anaktuvik Pass  
Atkasuk  
Barrow  
Buckland  
Deering  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotzebue  
Noatak  
Noorvik  
North Slope  
Borough  
Northwest Arctic  
Borough  
Nuiqsut  
Point Hope  
Point Lay  
Selawic  
Shungnak  
Wainwright

February 21, 1990

Honorable Mike Szymanski, Chair  
Senate Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: CSHB 203 (HESS)

Dear Senator Szymanski,

Thank you for scheduling a hearing of CSHB 203 (HESS), an act that would allow the State Board of Education to issue limited teacher certificates to persons teaching Alaska Native language or culture, military science, or a vocational or a technical course.

The bill also provides:

- a definition of "teacher";
- a sunset requirement for the limited teacher certificate provision; and,
- a requirement for a report on the implementation of the limited teacher certificate provision.

I respectfully request that the committee address two proposed changes.

The first proposed change would address concerns expressed recently about the potential implications of the bill relating to tenure and bargaining. Enclosed please find a copy of an amendment I have drafted for your consideration on this matter.

Senator Mike Szymanski  
Senate Community and Regional Affairs  
Committee

February 21, 1990  
Page 2

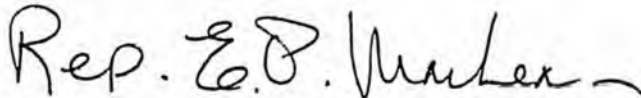
The second proposed change would respond to the Department of Education's request to add the following language:

"an evaluator who has primary responsibility to plan, instruct, and evaluate student learning in the class room or equivalent setting"

I have no objection to such language.

Again, thank you for scheduling a hearing of the bill. I look forward to answering any questions you or the members of your committee may have regarding this bill.

Cordially,



Rep. Eileen Panigeo MacLean

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 203(HESS)

Page 1, line 15, after "CERTIFICATES.":

Insert "(a)"

Page 1, after line 27:

Insert a new subsection to read:

"(b) <sup>(1)</sup>A person holding a certificate under this section may not acquire tenure rights under AS 14.20.150 and <sup>(2)</sup>may only participate in education employee negotiation and mediation under AS 14.20.550 - 14.20.600 as a member of a bargaining unit composed of noncertificated employees."

Page 2, line 11:

Delete "1995"

Insert "1996"

Page 2, line 13:

Delete "1994"

Insert "1995"

Page 2, line 16:

Delete "1989"

Insert "1990"

1 IN THE HOUSE

BY THE C&RA COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 203 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to requirements for limited teacher  
7 certificates; defining 'teacher'; and providing for  
8 an effective date."

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

10 \* Section 1. PURPOSE. The purpose of this Act is to provide for the  
11 certification of teachers in certain limited fields where baccalaureate  
12 degree training is not sufficiently available, so long as the person demon-  
13 strates both subject matter expertise and teaching competency.

14 \* Sec. 2. AS 14.20 is amended by adding a new section to read:

15 Sec. 14.20.025. OTHER TEACHER CERTIFICATES. Notwithstanding  
16 AS 14.20.020(b), a person may be issued a limited certificate, valid  
17 only in the area of expertise for which it is issued, to teach Alaska  
18 Native language or culture, military science, or a vocational or  
19 technical course for which the board determines by regulation that  
20 baccalaureate degree training is not sufficiently available. A person  
21 who applies for a limited certificate must demonstrate, as required by  
22 regulations adopted by the board, instructional skills and subject  
23 matter expertise sufficient to ensure the public that the person is  
24 competent as a teacher. The board may require a person issued a  
25 limited certificate to undertake academic training as may be required  
26 by the board by regulation and make satisfactory progress in the  
27 academic training.

28 \* Sec. 3. AS 14.20.215(6) is repealed and reenacted to read:

29 (6) "teacher" means an individual who, for compensation

1 has primary responsibility to plan, instruct, and evaluate learning of  
2 elementary or secondary school students in the classroom or an equiva-  
3 lent setting and also includes

4 (A) an individual serving in an administrative capac-  
5 ity who supervises teachers;

6 (B) a provider of special education and related ser-  
7 vices;

8 (C) a school counselor;

9 (D) a school nurse; and

10 (E) a school psychologist.

11 \* Sec. 4. AS 14.20.025 is repealed June 30, 1996.

12 \* Sec. 5. The Board of Education shall report to the legislature on or  
13 before January 15, 1995, concerning the implementation of AS 14.20.025,  
14 enacted by sec. 2 of this Act. The report must include the number of  
15 certificates issued under that section and other relevant information.

16 \* Sec. 6. This Act takes effect July 1, 1990.

# FAX TRANSMITTAL INFORMATION SHEET

## ALASKA DEPARTMENT OF EDUCATION

### P.O. Box F

### Juneau, Alaska 99811-0500

FAX NUMBER: (907) 463-5279

DATE: 3/28/90 TIME: 4:30

TO: Name: MARY M.  
 Title: SENATOR SZYMANSKI  
 Agency/Office \_\_\_\_\_  
 Fax Phone Number 465-2652  
 Subject: \_\_\_\_\_  
 Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

FROM: Name: JOHN ANTONER  
 Division: EF-SS  
 Office Telephone Number: 465-2865  
 Financial Coding (CC & LC): \_\_\_\_\_

NUMBER OF PAGES INCLUDING THIS COVER LETTER: 3

IF YOU DO NOT RECEIVE THE TOTAL NUMBER OF PAGES FOLLOWING THIS COVER LETTER, PLEASE TELEPHONE OUR OFFICE. OTHERWISE WE WILL ASSUME YOU HAVE RECEIVED THIS TRANSMITTAL SATISFACTORILY.

RESULTS OF A SURVEY CONDUCTED BY  
THE TEACHER CERTIFICATION SECTION  
ALASKA DEPARTMENT OF EDUCATION

1) Does the district have any Alaska native language and/or culture teachers?

Districts report approximately 135 teachers and/or instructional aides that are currently teaching Alaska native language or culture.

2) Are the Alaska native language and culture teachers independently responsible for classroom instruction?

Districts report 67 individuals independently responsible for classroom instruction.

3) Are the Alaska native and language culture teachers classified aides or certificated teachers?

Districts reported 65 classified staff and 47 certificated staff.

4) Does your district feel they might have individuals eligible for certification under HB203?

Out of the 39 districts surveyed, 18 indicated that they did not know if staff would be eligible for certificates under HB 203. 6 districts indicated staff would be eligible for HB 203 certification. 5 Districts indicated staff would not be eligible.

5) Do the native language and culture teachers in your district currently hold a type "A" certificate or type "L" letter of authorization?

Districts indicated that currently 47 hold certificates; 15 hold type "A" certificates; 32 hold type "L" letters of authorization; and 65 are currently classified or non-certificated aides teaching Alaska native languages.

49 "recognized experts" language and culture teachers  
135 teachers reported in survey.

150 individuals acting as recognized experts  
if these people were currently being paid classified salaries &  
are then paid as certified teacher → big increase in  
budget

# North Slope Borough School District



RECEIVED

APR 17 1990

April 2, 1990

Senator Mike Szymanski  
Chairman, Community and Regional  
Affairs Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Szymanski:

Thank you for taking the time in your busy schedule to meet with the NSB School District officials during our recent trip to Juneau. We appreciate the efforts you made regarding the passage of CSHB 203 (HESS), on teacher certification requirements, out of the Community and Regional Affairs Committee.

It is our hope that you will continue supporting the passage of this bill on behalf of the Native language and culture teachers throughout the State of Alaska. As we stated, we have been attempting to have the Legislature address this unresolved issue for the past several years.

Again, thank you for the kind hospitality you gave us during our meeting with you.

Sincerely,

Charlotte Brower  
President, Board of Education

Patsy Aamodt  
Superintendent

cc: Senator Al Adams  
Representative Eileen MacLean  
Brenda Itta, Special Assistant to the Superintendent  
Ashley Reed, NSBSD Lobbyist

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 203 (HESS)

Page 1, line 20, after ".":

Insert "The board may issue a limited certificate to a person only if the school board through the chief school administrator of the district or regional educational attendance area has requested its issuance."

# North Slope Borough School District



RECEIVED

March 21, 1990

March 21, 1990

Senator Mike Szymanski  
Chairman, Community and Regional Affairs  
Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Szymanski:

The Board of Education and the Administration of the North Slope Borough School District has gone on record to strongly support the passage of CS for HB 203 (HESS), related to Teacher Certification requirements. This bill, as proposed, would allow the instructors of the Alaskan Native languages and cultures to receive teaching certificates from the State of Alaska.

The NSB School District is committed to the teaching of the Inupiaq language and culture to our school children, as reflected in the enclosed Board philosophy and goals.

We currently employ 15 Inupiaq Language Teachers, located in all our nine schools throughout the North Slope. These teachers are required to earn at least six semester hours every year in order to improve their instructional competencies and are geared toward teacher certification. In addition, these instructors are required to attend workshops and seminars sponsored by the District. These courses include staff development, classroom management, various language teaching techniques and the Inupiat writing system.

The Inupiaq language has been taught on the North Slope for the past 21 years. This program is an integral part of the District's instructional program for students in grades ECE through 12. It is not an extra-curricular nor a co-curricular activity; it is a part of the daily schooling of our young people. The Inupiaq language teachers are specifically hired to teach and maintain the Native language and culture in our schools; they are not hired to assist classroom teachers in teaching English as a second language.

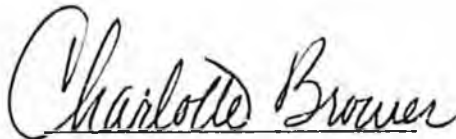
Over the years, the District has consistently worked hard to establish and recognize our Inupiaq language teachers as professional equals to our certified staff. The Inupiaq language teachers have their own classrooms, with the same teaching responsibilities as the certified staff which include lesson planning, evaluation of students, developing materials, etc. Their job descriptions are the same as the certified type A teachers' job descriptions.

Senator Mike Szymanski  
March 21, 1990  
Page Two--

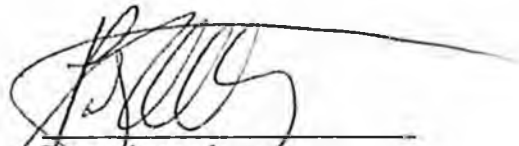
In order to achieve the District's educational goals, we are totally dependent on our local people who are fluent in English and Inupiaq to teach the North Slope's Native language and culture to our students.

We respectfully urge you and members of the Senate Community and Regional Affairs Committee to pass CS for HB 203 out of your Committee. We are available to answer any questions you may have.

Sincerely,



Charlotte Brower  
President, Board of Education

  
Patsy Aamodt  
Superintendent

Enclosures

cc: Senator Al Adams  
Representative Eileen MacLean  
Members, Senate Community and Regional Affairs Committee  
Molly Pederson, NSBSD Bilingual/Bicultural Coordinator  
Ashley Reed, District Lobbyist

## EDUCATIONAL PHILOSOPHY

Education, a lifelong process, is the sum of learning acquired through interaction with one's environment, family, community members, schools and other institutions and agencies. Within the Home Rule Municipality of the North Slope Borough, "schooling" is the specific, mandated responsibility of the North Slope Borough School District Board of Education.

The Board of Education is committed to providing academic excellence in the "schooling" environment. This commitment to academic excellence shall focus on the learner, recognizing that each student brings to the "schooling" environment his own interests, learning styles, cultural background and abilities.

Adopted: 10/13/76

Revised: 2/10/86

Revised: 8/11/87

## SCHOOL DISTRICT GOALS

The Board believes the "education" of the children on the North Slope is everyone's responsibility. The "schooling" of children is the responsibility of the North Slope Borough School District Board of Education. The Board is committed to working in cooperation and unity with parents to assist students in reaching their maximum potential.

The Board believes ALL children can learn and is committed to providing quality schooling. This quality schooling means establishing standards of excellence for students with the expectation that all children can achieve.

The Board is committed to the achievement of the following goals:

1. Upon completion of elementary school, students will have **MASTERED** the basic skills: reading, language arts, math and computer technology at a level necessary for entering high school classes. Because of the unique cultural environment of the North Slope Borough School District, students will be offered the opportunity to gain skills in subsistence hunting, fishing and other skills related to the maintenance of the Inupiat lifestyle and oral fluency of the Inupiaq language. These opportunities will promote participation of students in the Inupiat traditional lifestyle.
2. Upon completion of high school, students will have mastered the competencies necessary to succeed in college, vocational training or work. In addition, students will have had the opportunity to acquire skills in the Inupiat traditional lifestyle.
3. Upon completion of high school, students will have developed the self confidence and responsibility to enable them to be happy, productive citizens in their community, state and nation.

Adopted: 8/13/84

Revised: 2/10/86

Revised: 8/11/87

A M E N D M E N T

OFFERED IN THE SENATE

BY RODEY

TO: CSHB 203(HESS)

Page 1, after line 13:

Insert a new bill section to read:

"\* Sec. 2. AS 14.20.020(d) is amended to read:

(d) The board may by regulation establish various classes of certificates. The board may by regulation establish a class of limited lifetime certificates, valid for employment as a substitute teacher. A person who is retired under AS 14.25 with at least 20 years of membership service under that chapter is eligible for the certificate. Notwithstanding AS 14.20.020(b), a person who does not hold a baccalaureate degree is eligible for a limited lifetime certificate if the person meets the other requirements of this subsection."

Renumber the following bill sections accordingly.

Page 2, line 14:

Delete "2"

Insert "3"

Add on page 1, line 22

After the word "regulations" add "and policies"

After the word "the" add "state and local"

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
P.O. Box 290  
Barrow, Alaska 99723



WRITE IN JUNEAU  
Box V  
Juneau, Alaska 99811  
465-4525  
465-4833

## HOUSE OF REPRESENTATIVES

Chairman  
Community & Regional Affairs  
Committee

Vice-Chairman  
State Affairs Committee  
Bush Caucus

Member Finance Subcommittee  
Community & Regional Affairs  
Education  
Corrections

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Kivalina  
Kobuk  
Kolzebue  
Noatak  
Noorvik  
North Slope  
Borough  
Northwest Arctic  
Borough  
Nulqsut  
Point Hope  
Point Lay  
Selawic  
Shungnak  
Wainwright

February 21, 1990

Honorable Mike Szymanski, Chair  
Senate Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: CSHB 203 (HESS)

Dear Senator Szymanski,

Thank you for scheduling a hearing of CSHB 203 (HESS), an act that would allow the State Board of Education to issue limited teacher certificates to persons teaching Alaska Native language or culture, military science, or a vocational or a technical course.

The bill also provides:

- a definition of "teacher";
- a sunset requirement for the limited teacher certificate provision; and,
- a requirement for a report on the implementation of the limited teacher certificate provision.

I respectfully request that the committee address two proposed changes.

The first proposed change would address concerns expressed recently about the potential implications of the bill relating to tenure and bargaining. Enclosed please find a copy of an amendment I have drafted for your consideration on this matter.

Senator Mike Szymanski  
Senate Community and Regional Affairs  
Committee

February 21, 1990  
Page 2

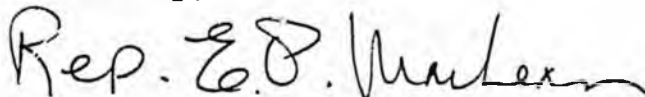
The second proposed change would respond to the Department of Education's request to add the following language:

"an evaluator who has primary responsibility to plan, instruct, and evaluate student learning in the class room or equivalent setting"

I have no objection to such language.

Again, thank you for scheduling a hearing of the bill. I look forward to answering any questions you or the members of your committee may have regarding this bill.

Cordially,



Rep. Eileen Panigeo MacLean

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 203(HESS)

Page 1, line 15, after "CERTIFICATES.":

Insert "(a)"

Page 1, after line 27:

Insert a new subsection to read:

"(b) A person holding a certificate under this section may not acquire tenure rights under AS 14.20.150 and may only participate in education employee negotiation and mediation under AS 14.20.550 - 14.20.600 as a member of a bargaining unit composed of noncertificated employees."

Page 2, line 11:

Delete "1995"

Insert "1996"

Page 2, line 13:

Delete "1994"

Insert "1995"

Page 2, line 16:

Delete "1989"

Insert "1990"

**Chapter 20. Teachers and School Officials.**

**Article**

- 1. Teacher Certification (§§ 14.20.010 — 14.20.040)
- 2. Employment and Tenure (§§ 14.20.095 — 14.20.215)
- 3. Salary Scales (§ 14.20.220)
- 4. Sabbatical Leave (§§ 14.20.280 — 14.20.350)
- 5. Professional Teaching Practices Act (§§ 14.20.370 — 14.20.510)
- 6. Negotiation and Mediation (§§ 14.20.550 — 14.20.610)
- 7. Interstate Agreement on Qualification of Educational Personnel (§§ 14.20.620 — 14.20.650)

**Article 1. Teacher Certification.**

**Section**

- 10. Teacher certificate required
- 20. Requirements for issuance of certificate

**Section**

- 30. Causes for revocation and suspension
- 40. Applicability of the Administrative Procedure Act

**Collateral references.** — 68 Am. Jur. 2d Schools, §§ 128-143.  
 78 C.J.S. Schools and School Districts, §§ 154-182.  
 Matters proper for consideration in appointment of teachers. 94 ALR 1484.  
 Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Bias of members of license revocation board. 97 ALR2d 1210.  
 Actionability of statements imputing inefficiency or lack of qualification to public school teacher. 40 ALR3d 490.  
 Self-defense or defense of another as justification, in dismissal proceedings, for use or threat of use of force against student. 37 ALR4th 842.

**Sec. 14.20.010. Teacher certificate required.** A person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate except that a person who has made application to the department for a teacher certificate or renewal of a teacher certificate which has not been acted upon by the department may be employed as a teacher in the public schools of the state until the department has taken action on the application, but in no case may employment without a certificate last longer than three months. (§ 37-5-3 ACLA 1949; am § 9 ch 98 SLA 1966; am § 1 ch 165 SLA 1976)

**Sec. 14.20.020. Requirements for issuance of certificate.**  
 (a) The department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.  
 (b) A person is not eligible for a teacher certificate unless that person has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However, this subsection is not applicable to

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates, including the fees to be charged for each certificate.

(d) The board may by regulation establish various classes of certificates.

(e) The commissioner of administration shall separately account for teacher certification fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section and to support the activities of the Professional Teaching Practices Commission under AS 14.20.460, 14.20.470, and 14.20.500. (§ 37-5-4 ACLA 1949; am § 1 ch 76 SLA 1962; am § 10 ch 98 SLA 1966; am §§ 13, 14 ch 32 SLA 1971; am §§ 19, 20 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment added "including the fees to be charged for each certificate" at the end of subsection (c) and added subsection (e).

**Sec. 14.20.030. Causes for revocation and suspension.** The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state or the regulations of the department; or

(4) upon a determination by the Professional Teaching Practices Commission that there has been a violation of ethical or professional standards or contractual obligations. (§ 11 ch 98 SLA 1966; am § 1 ch 9 SLA 1975; am § 1 ch 103 SLA 1976)

#### NOTES TO DECISIONS

Quoted in *Watts v. Seward School Bd.*,  
Sup. Ct. Op. No. 380 (File No. 427), 421  
P.2d 296 (1966).

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3860

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1989

SUBJECT: Sectional summary of CSHB 203 (HESS)  
(Requirements for limited teacher  
certificates)

TO: Representative Eileen MacLean

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 sets out the purpose of the bill.

Section 2 permits the Board of Education to issue limited certificates in the areas of Alaska Native language or culture, military science, or vocational or technical courses to persons who do not hold baccalaureate degrees. A limited certificate is valid only in the area of expertise for which the certificate was issued. The board may require applicants to demonstrate skills and subject matter expertise and may require those issued certificates to undertake academic training.

Section 3 amends the definition of "teacher" for the statutes concerning teacher certification and employment.

Section 4 repeals the limited certificate statute enacted in sec. 2 of the bill on June 30, 1995.

Section 5 requires the Board of Education to report to the legislature by January 15, 1994, on the department's experience with the limited certificate program.

Representative Eileen MacLean  
Page 2  
May 8, 1989

Section 6 gives the bill an effective date of July 1, 1989.  
If I may be of further assistance, please advise.

TBC:gc  
WKG10/077

RECEIVED  
FEB 28 1990



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

RECEIVED  
FEB 28 1990

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February 27, 1990

To: Mike Szymanski, Chair, and members of Senate Community & Regional Affairs Committee; Steve Frank, Drue Pearce, Pat Pourchot and Al Adams.

From: Bill Potter, NEA-Alaska

RE: HB 203 "An Act relating to teachers."

I want to thank you for asking me to provide additional written comment on Rep. MacLean's proposed amendment to CSHB 203, which was offered during the hearing on February 22, 1990.

I now have a copy of the proposed amendment before me. NEA-Alaska has no problems with the date changes on Page 2, lines 11, 13 and 16 of the bill.

The proposed amendment on Page 1 creating a sub section (b) contains two parts. First, the proposal would deny tenure rights to holders of this new class of certificated teachers. As the rest of the education statutes stand, this language is unnecessary because the current tenure statute (14.20.150) denies tenure to those without a "Standard Certificate", and a "Standard Certificate" is further defined in 4AAC 12.900 as one that is "based on a baccalaureate or higher degree."

The second part of the suggested amendment to create a new subsection (b) provides that holders of this new class of teaching certificates would only bargain as members of a non-certificated bargaining unit. NEA-Alaska strongly opposes this portion of the amendment.

With this amendment, the holders of this new class of certificates will in fact be certificated teachers, and as such should be treated for negotiations purposes just as are all other certificated employees, as currently required in 14.20.560. Creating a class of certificated teachers who must bargain with non-certificated personnel rather than with other certificated personnel seems to create two classes of teachers; one of which is unequal (more equal) to the other. We believe such a distinction is divisive among teachers, and creates confusion in the public's perception of what it means to have two classes of teachers. NEA-Alaska strongly opposes this proposed amendment.

Thank you again for offering us this opportunity to respond in more detail to these proposed amendments, and if we can be of further assistance, please do not hesitate to ask.

LE03/Hb203/dl



RECEIVED

FEB 28 1990



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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FAX: (907) 456-2159

February 27, 1990

**To: Mike Szymanski, Chair, and members of Senate Community & Regional Affairs Committee; Steve Frank, Drue Pearce, Pat Pourchot and Al Adams.**

**From: Bill Potter, NEA-Alaska**

**RE: Suggested amendments to CSHB 203 "An Act relating to teachers."**

My testimony before your committee on February 22, 1990, suggested an amendment to Section 3; a new definition of "teacher".

As proposed, CSHB 203, Section 3., fleshes out the definition of teacher with the inclusion of those who supervise teachers, providers of special education and related services, school counselors, school nurses, and school psychologists (Section 3., A, B, C, D, and E). This is very appropriate and probably should have been done years ago.

The part of the definition that is missing from CSHB 203 and is found in current statute (14.20.215) is the restriction that a teacher is "required to be certificated in order to hold the position". Since CSHB 203 provides certificates for those categories of people who were previously left out, it seems prudent to continue the requirement that "teachers" have certificates. I believe that the goal we all seek is to have all teachers possess certificates.

If section 3., (6) of CSHB 203 was not a "repeal and reenact", but rather an amendment adding to the current definition of "teacher" it would remove the concerns of NEA-Alaska.

I want to thank you very much for asking for our further expansion on our recommendation for change to this bill, and our input on how to make it right.

If we can be of further assistance, do not hesitate to ask.

LE03/Hb203/d1



(1)

Good afternoon Senator Mike Szymanski  
Chairman of Community and Regional  
Affairs Committee.

My name is Martha Aiken - present-  
ly presently a School bd member in the  
NSBSP. I was born and raised in  
Barrow and I am a full blooded  
Eskimo.

I strongly support and demand the  
passage of CS for H B 203 Hres related  
to Teacher requirements as it is.

I have been previously involved ~~with~~ <sup>with</sup> the  
Inupiaq Language Teacher since the Bilingual Program  
when it first began in Barrow under BIA of 1971.

About 69 and 70; a certificated Principal/Teacher  
was interested in the Inupiaq language, so he  
began to study the Inup instructional books of  
Inupiaq, that were made available by the NT  
Bible translators. The teacher studied the grammar  
books and could read & write fluently. He began  
to teach and worked with the HS students, so  
together they learned to read & write the Inup language.  
He really believed that he could teach the  
HS students by following these instructional  
books for the Inup language, but he began

(2)

to have problems!! He could've mastered it if he had hired a <sup>Inup</sup> teacher aide that was literate in both Inup & Eng speaker.

So, what could he do, but hire Inup ppl who were fluent in both Inup & English languages. He realized that the only way to teach Inupiaq was for an Inup person to be one of 3 Inupiaq speakers that he hired to teach the Inupiaq Literacy to the HS students in 1971.

Although he ~~was~~ a certificated teacher he was faced with problems that could only be solved by hiring non certificated Inup teachers. They were the only ones that had the knowledge of teaching Inup to any age groups.

The problems the certificated teacher experienced were:

- a) he learned to read the Inup with fluency eg. one day he approached me and read a whole page of Inup with fluency - I was surprised & excited because he was talking like a pro Inup so I asked - You mean to tell me you are also understanding every word you are reading? He flatly replied - NO; not a word! and

b) he was making up words = what he thought to be real words following the grammar were nonsense words that the HS students never heard before, and

(c) he had previously acquired the degree of a master teacher - but had no qualifications to teach Inup.

It was evident that with all this degrees he was good many grade levels lower in comparison to the Inup teachers.

So, with this knowledge of personal experience I saw as an Inupiaq Teacher with 11+ yrs. of teaching Inupiaq within our school

I appeal to whoever is responsible for the Inupiaq Language Teacher Certification to consider this HB 203.

I appeal to you as a parent, GRMO, college student and bd member; to consider the 2 straight forward facts of Inup language teachers

1) Presently; the Inup teachers has the qualifications to explicitly substitute for a certificated teacher on duty and

2) Not one of the certificated teachers with all their doctorate degrees has no qualifications to substitute for an Inup Teacher.

Please consider the passage of CS for HB 203 related to teacher certification requirements because it is important to all of our Inupiaq speakers in AK.

④  
Thank you for giving me this opportunity  
to speak on behalf of this bill.

If you have any questions - I'll try  
- answer them - if not, I can always  
relay the question to my fellow  
NSBSP Bd of Education members.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 203(HESS)

Page 1, line 15, after "CERTIFICATES.":

Insert "(a)"

Page 1, after line 27:

Insert a new subsection to read:

"(b) A person holding a certificate under this section may not acquire tenure rights under AS 14.20.150 and may only participate in education employee negotiation and mediation under AS 14.20.550 - 14.20.600 as a member of a bargaining unit composed of noncertificated employees."

Page 2, line 11:

Delete "1995"

Insert "1996"

Page 2, line 13:

Delete "1994"

Insert "1995"

Page 2, line 16:

Delete "1989"

Insert "1990"



# Alaska State Legislature

Senator Mike Szymanski

**While in Session:**

P.O. Box V  
State Capitol, Room 11  
Juneau, Alaska 99811  
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FAX (907) 465-2652

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3111 C Street, Suite 510  
Anchorage, Alaska 99503  
(907) 561-7617

165 E. Parks Highway  
Legislative Information Office  
Wasilla, Alaska 99687  
(907) 376-MIKE

MEMORANDUM

TO: Senator Tim Kelly  
President of the Senate

FROM: Senator Mike Szymanski  
Chairman  
Senate Community & Regional Affairs Committee

DATE: *Mike Szymanski*  
May 9, 1989

SUBJECT: Referral - CSHB 203 (HESS)

I am requesting a referral to the Community & Regional Affairs Committee on CSHB 203 (HESS), an Act relating to requirements for limited teacher certificates; defining 'teacher'; and providing for an effective date.

There is no companion bill in the Senate and there have been no public hearings on CSHB 203 (HESS). The Bill has far reaching impact on all school districts within the State. It was strongly opposed by school district administrators and as such deserves a public hearing by the Community & Regional Affairs Committee.

Senate District E

Mat-Su • So. Anchorage • Bird/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
P.O. Box 290  
Barrow, Alaska 99723



Chairman  
Community & Regional Affairs  
Committee

Vice-Chairman  
State Affairs Committee  
Bush Caucus

Member Finance Subcommittee  
Community & Regional Affairs  
Education  
Corrections

WHILE IN JUNEAU  
Box V  
Juneau, Alaska 99811  
465-4525  
465-4833

## HOUSE OF REPRESENTATIVES

### MEMORANDUM

District 22  
Ambler  
Anaktuvik Pass  
Atkasuk  
Barrow  
Buckland  
Deering  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotzebue  
Noatak  
Noorvik  
North Slope  
Borough  
Northwest Arctic  
Borough  
Nulqsut  
Point Hope  
Point Lay  
Selawic  
Shungnak  
Wainwright

TO: All Senators *Honorable Senators*  
FR: Representative Eileen P. MacLean *Eileen P. MacLean*  
DATE: Monday, May 8, 1989  
SUBJ: HB 203 Teacher Certification and the  
definition of "teacher"

HB 203 has generated support and enthusiasm from educators, professional organizations, school districts, and individuals. Their support stems from the bill's purpose which legalizes the process of issuance of teacher certificates and also clearly defining the definition of teacher.

HB 203 broadens the State Board of Education's authority to issue limited certificates, valid only in the areas of expertise for which it is issued. The limited certificates will be issued only to instructors of Alaska Native Language and Culture, Military Science, or a Vocational or Technical

course. For each of the three new classes, the state board will establish regulations and the criteria if a baccalaureate degree is not available. The board may establish criteria which identifies needs for teacher training and/or college courses.

The definition of teacher clearly defines what a teacher is.

The definition of "teacher" will include instructors of Alaska Native Language and Culture, Vocational and Technical Education and ROTC. These instructors teach specific courses on subjects based on experience, skills and expertise that is not necessarily obtained in a university setting.

On June 30, 1995, AS 14.20.025 (issuance of 3 new classes of certificates) will be repealed.

HB 203 is asking the State Board of Education to report to the legislature on or before January 15, 1994 concerning the implementation of AS 14.20.025, section 2 of this act (issuance of 3 new certificates).

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 28, 1989

FURTHER REFERRALS:

Date of Committee Action: 4/30/89

The FINANCE Committee considered:

HB 203

HOUSE BILL NO. 203

[TEACHER CERTIFICATION]

"An Act relating to requirements for teacher certificates and accounting for teacher certificate fees; and defining teacher."

**RECOMMENDATIONS:**

- [ ] be replaced with CSHB 203 (HESS) [ ] the same title
- [ ] have attached amendment(s) [X] a new title
- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [X] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS: (Date, Dept)

- [ ] fiscal impact \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_
- [X] zero fiscal note(s) DOE
- [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**  
(Check approp. column)

[Signature] Hoffman  
~~[Signature]~~  
[Signature] Sunckhammer  
[Signature] Wallis  
[Signature] Peger

|                            | Do Not Pass | No Rec | Amend |
|----------------------------|-------------|--------|-------|
| <u>[Signature]</u> Larson  |             | X      |       |
| <u>[Signature]</u> Brown   |             | X      |       |
| <u>[Signature]</u> Kaponch | X           |        |       |
| <u>[Signature]</u> Ulmer   |             |        | X     |
| <u>[Signature]</u> Barnes  |             | X      |       |
|                            |             |        |       |
|                            |             |        |       |
|                            |             |        |       |

[Signature]  
Chairman's Signature  
[Signature]

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4/27/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 203

HOUSE BILL NO. 203

[TEACHER CERTIFICATION]

"An Act relating to requirements for teacher certificates and accounting for teacher certificate fees; and defining teacher."

### RECOMMENDATIONS:

replaced with CS HB 203 (HESS)  the same title  
 a new title  
have attached amendment(s)

do pass

do not pass

no recommendation

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Education

zero fiscal note(s) \_\_\_\_\_

zero with analysis \_\_\_\_\_

zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### SIGNING:

(Check approp. column)

|  | Do Not Pass | No Rec | Amend |
|--|-------------|--------|-------|
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|  |             |        |       |

[Signature]  
Chairman's signature

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Education  
 Title: Requirements for Teacher Certificate BRU: Education Finance and Support  
Fees: Defining Teacher Services  
 Sponsor: MacLean Components: District Support  
 Requestor: MacLean

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

| OPERATING              | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
| <b>CAPITAL</b>         |       |       |       |       |       |       |
| <b>REVENUE</b>         |       |       |       |       |       |       |

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

Prepared by: Marv Hakala Phone: 465-2800  
 Division: Commissioner's Office Date: 3/28/89  
 Approved by Commissioner: William G. Demmert Date: 3/28/89  
 Agency: Education

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

Ma

Here's your sectional on SB 193. There are further changes needed to clean up this bill. We had a proposed HESS committee substitute that removed the word "written" from any references to the test so that it could be administered orally to those teachers for whom English is a second language.

Steve Hole had some additional language changes that would clarify the bill:

In section 3, lines 23 and 24...after "persons" delete "employed in the state public school system on" and insert "who possess certificates issued before"

In section 3, lines 25 and 26, after "issued" delete "an emergency". After "certificate" delete "as set out in (b)(2) of this section." Insert "based upon criteria which do not include at least a baccalaureate degree, if authorized by law." This one is important as it would blend with HB 203's subject matter.

It looks to me like you might run into title problems with HB 203 particularly where it refers to "limited teacher certificates".

Call me if questions...Ma...na

**Sectional Analysis for  
Sponsor Substitute for Senate Bill 193:  
An Act relating to requirements for issuance of a teacher  
certificate.**

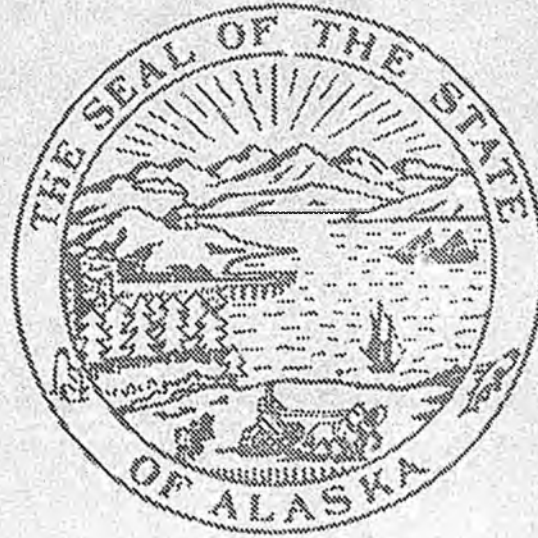
Section 1: Adds to the duties of the Department of Education a provision that it will develop and administer a written test to applicants of teacher certificates to determine competence.

Section 2: Reference section to what is added in Section 3. Adds to the requirements for issuance of a teacher certificate that a person is not eligible unless they have passed the competency test.

Section 3: Adds a new subsection regarding competency testing to the requirements for issuance of a teacher certificate. Grandfathers in those employed in the public school system on May 1, 1992. Makes the testing requirement not applicable to those who are issued emergency teaching certificates.

# **Excellence in School Performance: The Role of the Legislature**

## **Executive Summary**



**A Report of the Joint Committee  
on School Performance**

**Sixteenth Alaska Legislature**

## **Members of the Joint Committee on School Performance**

Senator Lloyd Jones, Co-Chair  
Representative Eileen Panigeo MacLean, Co-Chair

Senator Al Adams  
Senator Jack Coghill  
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**to the  
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**January 1990**

*"In Today's world, a youngster who leaves school unable to read, write, and do simple arithmetic faces a bleak future. When a substantial proportion of boys and girls leave school uneducated, the rest of us face a bleak future."*

Lisbeth Shore, 1989

## EXECUTIVE SUMMARY AND RECOMMENDATIONS

### Introduction

Increasingly, Alaskans are becoming aware that there are unacceptable levels of educational achievement among a significant portion of Alaska youth. Not only are individual youth at risk, so too is society as a whole. Left uncorrected, the cost to the state will be immeasurable in unfulfilled human potential and millions of dollars spent on remedial programs that will never restore what has been lost. Corrected now, the cost still will be high, as much as \$65,000,000 over the next five years. Ignored, it will be many times that figure.

Just as Alaska is made up of many diverse subregions and population groups, so too are its schools diverse in such areas as their student bodies, programs of instruction, methods of organization and levels of success. There is ample evidence to show that many schools in Alaska are doing well; many students, based on national test norms, are achieving at the fiftieth percentile or better. The legislature needs to acknowledge the success of these programs and assure that these schools have the means to continue to provide adequate or better programs of education.

However, a large body of evidence shows that many students are not doing well; unquestionably, many are at or nearing crisis levels. These are the students whose educational needs perennially

have not been served well. At best, many will be unable to function as productive members of contemporary society or in the future. At worst they will become wards of the state in one way or another, victims of low self-esteem, of substance abuse, of violent crime, of suicide.

These students are found in all school districts of Alaska, although in much greater proportions in some than others, especially where high levels of poverty are endemic or inadequate second language development is a factor. Two years ago, in twenty-eight of Alaska's fifty-five school districts, the average percentile of students' achievement scores was acutely and chronically below the level of the national average, as was the percentage of students that scored below the national 50th percentile. In the Department of Education's forthcoming report of the 1989 statewide standardized testing program it is shown that average scores of Alaska students has continued to decline and that the range in student performance between districts remains great; from a low average of twentieth percentile in some districts to an average of seventy-fifth percentile in the highest achieving districts.

One of the reasons for the current interest in the need for improved schooling came about because of the legislature's requirement that the Department of Education compile and report statewide standardized test results. However, reliance on standardized tests as a means to assess the worth of Alaska's school programs has been widely criticized. The Joint Committee agrees that these tests may not necessarily be the most satisfactory or accurate measure of school performance required of Alaskan youth. But regardless of how standardized tests are perceived, by several other measures of educational achievement it can be said that school performance is not at a satisfactory level. Simply put, many pupils are not acquiring the intellectual skills necessary to succeed in any sense of the word. For instance, in some communities as many as 60 to 70 percent of Alaska Native students drop out of the system prior to high school completion.

Although in recent years Alaska has relied entirely on the traditional system of local control of education as a means to organize, deliver, and evaluate public education, it has become increasingly apparent that the legislature, as the body constitutionally responsible for public education, must review the condition of schooling

and where necessary take appropriate remedial measures. Alaska's young people deserve the profound attention of the legislature and the full resources of the state if they eventually are to lead satisfying personal lives and if the state is to thrive in the future. It may cost more to remedy the situation than some are now prepared to spend. But one way or the other, now or later, more will have to be spent on today's youth at risk. Either we must improve schooling now, or provide more social welfare, public health, and law enforcement programs in the future. It has been estimated that intervention now may be five to ten times less costly than repairing or coping with damage through remedial welfare and judiciary programs in the future, not to mention individual personal losses to many.

It was on the premise that the legislature has an obligation to invoke its oversight responsibilities by "helping schools succeed at helping all children learn" that the Joint Committee on School Performance was established by passage of Committee Substitute for House Concurrent Resolution 18. In that resolution the Joint Committee was charged with reviewing the work of the Senate Special Committee on School Performance and identifying subjects for priority legislative attention that might improve schooling in Alaska.

In so doing, the Joint Committee was instructed to submit two reports on its findings, the first due on January 23, 1990 (the report in hand), and a final report on the first day of the First Regular Session of the Seventeenth Legislature. Although the Joint Committee has had only a few months to develop the positions taken in this report and has made plans to continue with the remaining issues in its final report, there are some subjects that cannot wait until 1991 to be addressed. Thus, the recommendations made at this time are considered to be of the highest priority and address the root causes of the most vexing problems yet identified by the Joint Committee.

## **Recommendations**

Generally school reform movements can be divided into four basic categories: (1) control, organization and structure; (2) professional development of school staffs; (3) the academic experience of students, and (4) financing. Since these are not mutually exclusive categories, that is, each depends on the other to make up a school system, the Joint Committee identified subjects in need of immediate attention that are interrelated and cut across all four of these categories.

**IN PRIORITY ORDER, THE MOST URGENT TOPICS FOR LEGISLATIVE CONSIDERATION ARE:**

### **1. MANDATED ALASKA STATE GOALS OF EDUCATION**

[Referenced to pages 20 through 26 in the main report.]

It is recommended that a bill on the goals of education be enacted by the Sixteenth Alaska Legislature. Such a bill must declare the purposes of education as prescribed by the legislature. It shall require that the State Board of Education adopt the goals it has developed in its statement of educational outcomes and it shall require all local districts and REAAs to establish local goals of education that reflect needs consistent with local conditions and expectations.

### **2. LEGISLATIVELY MANDATED MEASURES OF ACHIEVEMENT**

[Referenced to pages 26 through 30 in the main report.]

It is recommended that the legislature require by statute that each school district and REAA in Alaska shall submit to parents and other interested members of the local community, the State Board of Education, the Governor, and the Legislature a "school report card" assessing the performance of its schools and students. The report card shall be an index of school performance measured against statewide and local standards and will provide information to make prior year comparisons and set future year targets. The report card shall be developed by the State Board of Education in consultation with appropriate representatives from the education profession, local school boards, and local citizens at large and be

available for use in time for reporting on school performance at the close of the 1991 school year.

### **3. SCHOOL PERFORMANCE IMPROVEMENT INCENTIVES**

[Referenced to pages 30 through 32 in the main report.]

It is recommended that legislation be enacted that will empower the Commissioner of Education to initiate an incentive grants program with a fund separate from the foundation program. The State Board of Education shall establish the particulars of the program in regulation that will enable advisory boards, teachers, and principals to apply for funds under the program so as to acquire the financial resources necessary to carry out school improvement initiatives. Such initiatives shall be designed to remediate or prevent shortcomings in schooling among that portion of the school population that fits the State Board's definition of "at risk" students.

The Commissioner shall not award more than two grants in each five year period to the same applicant. Furthermore, the Commissioner shall provide for the evaluation and dissemination of findings of each project funded in such a way that all districts will have the opportunity to profit from the program. The Joint Committee recommends that no less than \$3,000,000 be appropriated annually to this fund over the next five years. (Prorated, this amount is equivalent to approximately \$100.00 per year.)

### **4. HEALTH AND FAMILY SERVICE PROGRAMS RELATED TO SCHOOL PERFORMANCE**

[Reference to pages 33 through 35 in the main report.]

It is recommended that the legislature establish a special inter-agency coordinating committee headed by a commissioner and consisting of representatives of the Departments of Education, Health and Social Services, Law, Community and Regional Affairs, and others who may have appropriate roles in addressing the problems of overcoming physical and social environmental responsible for inadequate school performance. This group shall be required to identify the most critical social and health barriers to learning, establish plans to overcome them, be responsible for their implementation, and issue annual reports on activities and programs.

## **5. LONG TERM AND IMMEDIATE NEEDS FOR STATE SUPPORTED AND COORDINATED EARLY CHILDHOOD AND PARENTING EDUCATION**

[Referenced to pages 36 through 39 in the main report.]

Two recommendations, one short term and one long term, are necessary under this heading:

1. It is recommended that the legislature augment existing funds for Head Start by making up the difference between the amount now provided by the federal government and the amount necessary to fully fund programs consistent with existing standards and qualifying conditions as now administered by the Department of Community and Regional Affairs. Estimates place this cost at \$10,000,000.
2. It is recommended that the legislature, by resolution, establish a Commission to address the issues and questions on early childhood and parenting education that pertain to the education of Alaska's young children, with particular attention given to those children with environmental handicaps. Included among the Commission's responsibilities shall be the development of plans for statewide programs of early childhood education and parenting education and preparation of a report on its findings with recommendations to the legislature no later than May, 1991.

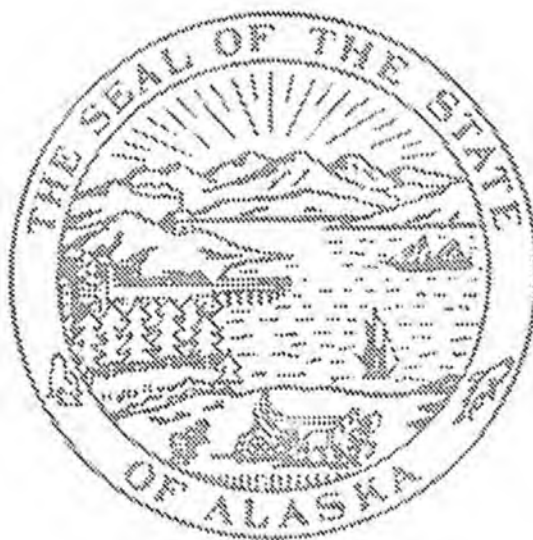
### **Summary**

The recommendations itemized above are only some of the topics for priority legislative consideration identified by the Joint Committee. They are, however, the subjects believed to be the ones most urgently in need of attention if the decline in student academic performance is to be reversed and social dysfunction due to insufficient schooling is to be decreased. It may be argued that other subjects identified for legislative action are of equal or near equal importance. All together, including the topics discussed above, the Joint Committee has identified eight broad categories for priority legislative attention. They are:

1. Mandated school district accountability set against state goals of education.
2. State-supported and coordinated early childhood and parenting education.
3. Coordinated education, health, and family service programs.
4. Improved school personnel professional development and competency.
5. Improved school governance and administrative organization.
6. Mandated programs of instruction, especially expanded and enhanced programs of Alaska studies that include Alaska history, government, geography, cultures, and economics.
7. Improved distance education including educational television by satellite.
8. Improved and expanded educational research, evaluation, and dissemination.

The first three of these categories have been covered in the first report and have given rise to six recommendations covering five subjects. Only the constraints of time have prevented the remaining topics from being advanced to the recommendation stage in this report. All subjects must eventually be addressed in full.

# **Excellence in School Performance: The Role of the Legislature**



**A Report of the Joint Committee  
on School Performance**

**Sixteenth Alaska Legislature**

January 1990

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**to the  
Sixteenth Alaska Legislature**

January 1990

*"If a nation expects to be ignorant and free  
in a state of civilization, it expects what never  
was and never will be."*

Thomas Jefferson, 1816

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# TABLE OF CONTENTS

|   |    |
|---|----|
| ACKNOWLEDGEMENTS .....  | 2  |
| INTRODUCTION .....  | 3  |
| Chapter 1 — ORIGIN AND PURPOSES OF THE COMMITTEE.....   | 7  |
| • Reasons for establishing the committee .....  | 7  |
| • Role of the legislature in school performance issues .....  | 9  |
| • Recent legislative interest in improved school performance .....  | 12 |
| Chapter 2 — SCHOOL PERFORMANCE SUBJECTS IDENTIFIED<br>AND ANALYZED, WITH RECOMMENDATIONS .....              | 17 |
| • Alaska state goals of education and school district accountability .....                                  | 20 |
| • Legislatively mandated measures of achievement.....   | 26 |
| • School performance improvement incentives .....   | 30 |
| • Health and family service programs related to school performance .....                                    | 33 |
| • Long-term and immediate needs<br>for state coordinated early childhood and parenting education .....      | 36 |
| CONCLUSION TO THE FIRST REPORT .....  | 39 |
| EXECUTIVE SUMMARY .....   | 43 |
| APPENDIX (A collection of supporting documents and transcripts of hearings—<br>bound as a separate volume.) |    |

## INTRODUCTION

The Joint Committee on School Performance was established on the grounds that there is widespread public concern for the condition of school performance in Alaska. As one means for the legislature to fulfill its responsibility to maintain a system of public schools, the Committee was instructed to identify those subjects for priority legislative attention that might enable school performance to be improved. To accomplish this task it first was necessary to find out what really is in need of betterment. The Committee has been going about this job by holding public hearings, attending professional education association meetings, conferring with school and university personnel, meeting with the state board of education, reviewing the literature and holding internal work sessions. Much of what we have learned about schooling is commendable, but we have also determined that all districts need to rethink some of their approaches to school improvement.

The Committee has attempted to avoid the shortcomings of previous school reform movements, especially those where immediate results were expected. Too often hastily and inadequately planned improvement efforts have been worse than none at all. The president of the National School Boards Association has cautioned that it will take years to enable schools to attain a level of performance equal to the task of preparing youth for the 21st Century, if this goal is to be accomplished at all. The process of providing the best possible school system for Alaska will require time, sound methodology and patience.

With these needs in mind, three basic beliefs have guided the Committee during its deliberations and the preparation of this report: