

HOUSE
COMMITTEE REPORT

(7)

Date referred: 3/26/86

FURTHER REFERRALS:

DATE: 4-24-86

The FINANCE Committee has considered HB 688

"An Act allowing tax credits for contributions to educational institutions."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 688 (Fin) same title
- new title

and recommends No Recommendation

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note Indeterminate - 2 ea.
 - zero fiscal note

SIGNING DO PASS:

Albert P. Adams

John J. Serrano

John J. Serrano

John J. Serrano

SIGNING OTHER RECOMMENDATIONS:

John J. Serrano NO REC

John J. Serrano NO REC

John J. Serrano No Recommendation

John J. Serrano NO REC

John J. Serrano NO REC

John J. Serrano

Albert P. Adams
Chairman

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 4/22/86

REQUEST

Bill/Resolution No. : CSHB 688(FIN) #1
 Title : Tax credits for educational institutions
 Sponsor : Gruenberg
 Requestor : House Finance Committee
 Date of Request : 4/22/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

CAPITAL		0	0	0	0	0
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REVENUE		(---)	(---)	(---)	(---)	(---)
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FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER		0	0	0	0	0
TOTAL		0	0	0	0	0

POSITIONS. :

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : Attach a separate page if necessary

See attached analysis.

Prepared by : Al Adams, Chair *APA* Phone : 465-3706
 Division : House Finance Committee Date : 4/22/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

FISCAL NOTE CONTINUATION
CS HB 688 (FINANCE) #1
ANALYSIS

There will be revenue loss from this bill but it is impossible to predict the actual loss since it depends on how many taxpayers use the credit and how much they choose to credit against their tax liabilities. If all current taxpayers took the maximum credit allowed, the annual revenue loss would be about \$7.6 million.

No funds are needed to operate the tax credit program provided for in this bill.

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 4/22/86

REQUEST

Bill/Resolution No. : CSHB 688(FIN) #2
 Title : Tax credits for educational institutions

Sponsor : Gruenberg
 Requestor : House Finance Committee
 Date of Request : 4/22/86

FISCAL DETAIL

Agency Affected : University
 BRU : _____

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		---	---	---	---	---
TRAVEL		---	---	---	---	---
CONTRACTUAL		---	---	---	---	---
SUPPLIES		---	---	---	---	---
EQUIPMENT		---	---	---	---	---
LAND & STRUCTURES		---	---	---	---	---
GRANTS, CLAIMS		---	---	---	---	---
MISCELLANEOUS		---	---	---	---	---
TOTAL OPERATING		---	---	---	---	---

CAPITAL		--	---	---	---	---
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REVENUE		---	---	---	---	---
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FUNDING : (Thousands of Dollars)

GENERAL FUND		---	---	---	---	---
FEDERAL FUNDS		---	---	---	---	---
OTHER		---	---	---	---	---
TOTAL		---	---	---	---	---

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The University will probably gain funds, which in turn will be used for operating expenses, from passage of this bill. The actual amount of funds earned is impossible to accurately predict. See fiscal note #1.

Prepared by : Al Adams, Chair Phone : 465-3706
 Division : House Finance Committee Date : 4/22/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

Original sponsors: Gruenberg, Koponen,
Ringstad, et al

IN THE HOUSE

BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 688 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act allowing tax credits for contributions to
educational institutions."

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

* Section 1. PURPOSE. It is the purpose of this Act to provide col-
leges and universities with a private source of funding for direct instruc-
tion and instructional support purposes during this period of declining
state revenue.

* Sec. 2. INTENT. It is the intent of the legislature that contri-
butions received by a public college or university under this Act may be
offset by the legislature in appropriations to the public college or uni-
versity in future years.

* Sec. 3. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.014. INCOME TAX EDUCATION CREDIT. (a) A taxpayer is
allowed as a credit against the tax due under this chapter 50 percent
of cash contributions accepted for direct instruction and instruction-
al support purposes by an accredited, nonprofit, public or private,
Alaska, two- or four-year, college or university. The credit may not
exceed the lesser of 10 percent of the amount of tax due under this
chapter or \$10,000. A contribution claimed as a credit under this
section may not be claimed as a credit under another provision of this
title. A deduction is not allowed under 26 U.S.C. 170, where the
credit provided by this section is claimed.

(b) A public college or university that accepts a contribution
under this section may only spend the cash received for direct

instruction and instructional support purposes, and must spend the amount within one year of receiving it. The cash received may not be put in an endowment.

(c) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received under this section and how the contributions were spent.

* Sec. 4. AS 43.20.036 is amended by adding a new subsection to read:

(j) For purposes of calculating the tax payable under this chapter, a deduction under 26 U.S.C. 170 may only be taken if payment is made on or before the last day of the taxable year.

* Sec. 5. AS 43.31 is amended by adding a new section to read:

Sec. 43.31.014. ESTATE EDUCATION CREDIT. (a) The estate of a person who was a resident at the time of death, is allowed as a credit against the tax due under this chapter 50 percent of cash bequests accepted for direct instruction and instructional support purposes by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$10,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received under this section and how the contributions were spent.

* Sec. 6. AS 43.55 is amended by adding a new section to read:

Sec. 43.55.019. OIL OR GAS PRODUCER EDUCATION CREDIT. (a) A producer of oil or gas is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for

direct instruction and instructional support purposes by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may only be applied against the tax liability accruing during the month the contribution is made. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$1,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) A public college or university that accepts a contribution under this section may only spend the cash received for direct instruction and instructional support purposes, and must spend the amount within one year of receiving it. The cash received may not be put in an endowment.

(c) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received under this section and how the contributions were spent.

* Sec. 7. AS 43.55 is amended by adding a new section to read:

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Sec. 43.56.018. OIL OR GAS PROPERTY EDUCATION CREDIT. (a) The owner of property taxable under this chapter is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction and instructional support purposes by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may only be applied against the tax liability accruing during the month the contribution is made. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$1,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

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(b) A public college or university that accepts a contribution under this section may only spend the cash received for direct instruction and instructional support purposes, and must spend the amount within one year of receiving it. The cash received may not be put in an endowment.

(c) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received under this section and how the contributions were spent.

* Sec. 8. AS 43.65 is amended by adding a new section to read:

Sec. 43.65.018. MINING BUSINESS EDUCATION CREDIT. (a) A person engaged in the business of mining in the state is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction and instructional support purposes by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$10,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

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(b) A public college or university that accepts a contribution under this section may only spend the cash received for direct instruction and instructional support purposes, and must spend the amount within one year of receiving it. The cash received may not be put in an endowment.

(c) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received under this section and how the contributions were spent.

* Sec. 9. AS 43.75 is amended by adding a new section to read:

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Sec. 43.75.018. FISHERIES BUSINESS EDUCATION CREDIT. (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction and instructional support purposes by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$10,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) A public college or university that accepts a contribution under this section may only spend the cash received for direct instruction and instructional support purposes, and must spend the amount within one year of receiving it. The cash received may not be put in an endowment.

(c) By September 30 of each year each public college or university shall report to the Legislative Budget and Audit Committee the contributions received and how the contributions were spent.

* Sec. 10. AS 43.75.130 is amended by adding a new subsection to read:

(b) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.015.

* Sec. 11. The provisions of this Act apply to contributions made after December 31, 1986.

TABLE I
General Fund Unrestricted Revenues
(Thousands of Current Dollars)

<u>Taxes</u>	<u>FY 1985 Actual March</u>	<u>FY 1986 Estimate March</u>	<u>FY 1987 Estimate March</u>	<u>FY 1988 Estimate March</u>
<u>Income</u>				
Corporate-General	36,000	20,000	20,000	20,000
Corporate-Petroleum	168,600	200,000	180,000	170,000
<u>Gross Receipts</u>				
Alaska Business License(1)	38,800	2,000	2,000	2,000
Fish-Canned Salmon	5,600	5,200	5,200	5,200
Fish-Shorebased	8,300	9,000	9,000	9,000
Fish-Floating	4,800	5,000	5,000	5,000
Seafood Marketing	1,000	1,000	1,000	1,000
Salmon Enhancement (2)	2,600	4,200	4,200	4,200
Insurance Companies(3)	17,500	18,000	18,000	18,000
Electric & Telephone Co-ops	1,800	1,800	1,800	1,800
Mining License Tax	300	300	300	400
<u>Severance</u>				
Oil & Gas Production (4)	1,388,700	1,114,300	770,500	533,000
Oil & Gas Conservation	700	700	700	700
<u>Property</u>				
Oil & Gas (5)	128,400	98,500	89,000	81,000
<u>Sale/Use</u>				
Alcoholic Beverages	13,900	13,900	13,900	13,900
Fuel Taxes-Aviation (6)	8,000	8,000	8,000	8,000
Fuel Taxes-Highway (6)	23,700	22,500	22,500	23,000
Fuel Taxes-Marine (6)	4,300	4,600	4,700	4,700
Tobacco Products (7)	2,000	5,700	7,500	7,500
<u>Other</u>				
Estate	500	600	600	600
<u>Total Taxes</u>	<u>1,855,500</u>	<u>1,535,700</u>	<u>1,163,900</u>	<u>909,000</u>
<u>Licenses & Permits</u>				
<u>Business</u>	11,900	12,000	12,000	12,000
<u>Non-Business</u>	17,000	17,500	18,300	18,300
<u>Total Licenses & Permits</u>	<u>28,900</u>	<u>29,500</u>	<u>30,300</u>	<u>30,300</u>
<u>Intergovernmental Receipts</u>				
Federal Shared Revenues (8)	10,500	10,000	9,500	9,500
<u>State Resource Revenue</u>				
<u>Sale/Use</u>				
Bonus Sales (8) (9) (10)	11,500	9,600	-0-	-0-
Investment Earnings	253,500	200,000	190,000	120,000
Rents (8) (9) (10)	5,100	5,500	6,000	6,000
Royalties (4) (8)	1,034,000	854,700	594,900	460,900
Sale of State Property	8,500	8,000	8,500	9,000
Gravel, Timber, etc. (11)	3,100	3,600	8,400	2,400
<u>Facilities Related Charges</u>				
Airports	1,600	1,600	1,700	1,700
Ferry System-Southeast	29,600	31,100	33,300	34,000
Ferry System-Southwest	3,800	3,800	3,900	4,100
Other	7,900	7,900	6,800	6,600

Service Related Charges

Court System	4,500	5,100	5,400	5,700
Other	5,200	5,000	5,000	5,000
Total State Resources				
Revenues	1,348,300	1,135,900	863,500	655,400
Miscellaneous Revenues	16,700 (12)	10,000	10,000	10,000
Total Unrestricted Revenues (13)	3,260,000	2,721,100 (14)	2,077,600	1,614,200

(1) The large amounts in FY 85 are the result of litigation in favor of the State on gross receipts taxes for years prior to 1979. The amounts shown for FY 86, FY 87, and FY 88 do not include any estimate of proceeds from cases which are still in litigation.

(2) The FY 86 and subsequent estimates reflect the approval by the Prince William Sound Aquaculture Corporation to assess a 2% salmon enhancement tax.

(3) The estimate of tax receipts for insurance premiums is subject to a great deal of uncertainty for all years of the forecast period. Unprecedented underwriting losses in the industry, rapidly increasing rates and shortages of coverage in some insurance lines have combined to make the situation extremely volatile. The outlook for the next several years is one of continued instability. Our view, given this situation, is that the approximate level of tax collected in FY 85, represents the best estimate possible given the circumstances.

(4) The January forecast for FY 86 assumed the 30 percent case; however, the FY 86 March estimates have been changed to reflect the mean or average case. The forecasted numbers for FY 87 and FY 88 continue to assume the 30 percent case; however, if the mean case had been utilized for FY 87 and FY 86, the production taxes would change to \$935.6 million and \$746.6 million, respectively. The royalty figures would change to \$724.2 million and \$690.3 million, respectively. All of the forecasted numbers include the estimated TAPS settlement.

(5) The downward revision in the property taxes, net to the State, is due to several factors: (a) the TAPS settlement itself will result in lower future TAPS values, (b) the anticipated inflation factor is 2%, and (c) the North Slope Borough's "Capital Improvements Program (FY 1986-FY 1991)" was recently released by their planning department.

(6) Revenues from the three main categories of fuel tax are shown separately. However, under the provisions of AS 43.40.010(h), all refunds are made from the highway fuel tax account. If gross collections of highway fuel taxes remain constant, an increase in refunds for aviation and marine fuels could lower the net revenues shown for highway fuels. Also, increasing use is being made of tax credits, which can be taken in lieu of claiming a refund on certain non-taxable use of fuel (15 AAC 40.200). The figure does not include actual or estimated revenue for marine fuel tax collections on fuel purchased out-of-state but which is used in Alaska waters. A number of returns for taxes levied on in-state usage are currently in the appeal process and revenues will not be revised upward until that process is completed.

(7) SLA 85, Ch. 24 raised the general fund portion of the cigarette tax from a rate of 1-1/2 mills (\$.0015) to 5-1/2 mills (\$.0055) per cigarette. The Act took effect October 1, 1985.

(8) Net Permanent Fund contribution by Ch. 16 SLA 1980.

(9) Reflects state lease sales of \$33.8 million held May 22, 1984 (Sale 43 and 43A-Beaufort Sea), \$0.8 million held September 18, 1984 (Sale 41-Bristol Bay), \$2.5 million held February 26, 1985 (Sale 46A-Upper Cook Inlet), \$16.3 million held September 24, 1985 (Sale 45A-North Slope Onshore and Sale 47 - Kuparuk Uplands), and \$3.0 million held February 25, 1986 (Sale 48 - Kuparuk Uplands and Sale 48A - Mikkelsen). Due to the timing of collections, some receipts from the May 1984 lease sale are shown as FY 85 revenue. The FY 85 and FY 86 figures represent the General Fund's 50 percent share.

(10) The Department of Natural Resources projects the following FY 86, FY 87, and FY 88 state lease sales: FY 86 (Sale 49 - Cook Inlet); FY 87 (Sale 52 - Beaufort Sea, Sale 52A - Kechelik, Sale 51 - Prudhoe Bay Uplands, Sale 50 - Camden Bay); and FY 86 (Sale 53 - Icy Cape, Sale 46 - Holitna Basin, Sale 54 - Kuparuk Uplands, Sale 62 - Cook Inlet, Sale 55 - Demarcation Point). However, bonus bids are impossible to anticipate prior to sales, and, therefore, no estimates are provided.

(11) Estimates reflect increased construction of roads and drilling pads as projected by the Department of Natural Resources; however, some of these projects may be delayed or changed due to permit denials or environmental impact statement requests.

(12) The FY 85 figure reflects the termination of the Alaska Resources Corporation (ARC). Corporate assets (\$0.2 million) were deposited in the General Fund per Ch. 161, SLA 1984. Additional corporate assets (\$5.6 million) of ARC were received and recorded under a general ledger account (repayment of loans).

(13) The State, per AS 36.05.180, will be granting incentive credits against royalties, severance taxes, and rentals to the oil companies for drilling exploratory wells. The anticipated deduction is approximately \$15.3 million which has not been subtracted from the aforementioned FY 85 figure of \$3,260.0 million and \$0.7 million which has not been subtracted from the aforementioned FY 86 figure of \$2,721.1 million. Additional credits are anticipated in FY 86 and subsequent years.

(14) The FY 86 figure does not include the estimated General Fund portion from refunds and expenses for prior years, relative to the TAPS case. It is assumed that approximately \$216 million will be received during FY 86.

SECTIONAL ANALYSIS FOR HB 688 - RELATING TO TAX CREDITS FOR CONTRIBUTIONS TO EDUCATIONAL INSTITUTIONS

The aim of the bill is to provide a new revenue stream for higher education in Alaska, while providing considerable state and federal tax benefits for individuals making contributions.

- SECTION 1 Provides that a person engaged in trade or business is allowed a credit against their tax due for 50% of their contribution to a qualified college or university.
- SECTION 2 Provides that 10% of a bequest to a qualified college or university is allowed as a credit towards estate tax.
- SECTION 3 Provides for a tax credit of 50% of the contribution to a qualified college or university for an oil and gas producer.
- SECTION 4 Provides for a tax credit of 50% of the contribution to a qualified college or university by an owner of taxable oil and gas property.
- SECTION 5 Provides for a tax credit of 50% of the contribution to a qualified college or university towards the mining business tax.
- SECTION 6 Provides for a tax credit of 50% of the contribution to a qualified college or university towards the state share of the raw fish tax.
- SECTION 7 Defines "tax revenue collected" under the raw fish tax.

CHANGES IN THE HESS COMMITTEE SUBSTITUTE:

1. Provides in each section that the contributions must be cash and must be accepted by the college or university.
2. Prevents one contribution from being charged under more than one tax credit category.
3. Section 3 was amended, at the request of the Department of Revenue, to provide that the credit may be applied against the tax liability accruing during the month the contribution was made.
4. A new section 8 was added to the bill which provides that the Act applies to contributions made after December 31, 1986.

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 22, 1986

SUBJECT: Tax credits for contributions to
educational institutions
CSHB 688(Fin)

TO: Representative Al Adams, Chairman
House Finance Committee
Attn. Louann Cutler

FROM: Joyce James 
Legislative Counsel

I spoke with Kerry Romesburg in Postsecondary Education who informed me of the meaning of commonly understood budget terms. He said that "direct instruction" refers purely to faculty salaries, and "instructional support" refers to laboratory equipment, supplies, or anything necessary to support a faculty member in the classroom. Accordingly, I have used these terms in the bill without defining them further.

I bring to your attention a separate issue that has been lurking, but in my opinion is brought more to the forefront with the inclusion of the purpose language. This involves the constitutional provision that prohibits public money being spent "for the direct benefit of any religious or other private educational institution." Alaska Const. art. VII, sec. 1.

I have not yet been able to find authority either way that addresses whether tax credits are considered an expenditure of public money. In a grant situation, the Alaska Supreme Court held that "merely channeling the funds through an intermediary will not save an otherwise improper expenditure of public monies." Sheldon Jackson College v. State, 599 P.2d 127, 130 (Alaska 1979).

My concern is with whether a court considering this legislation would find that tax credits were an expenditure of

Representative Al Adams
Page 2
April 22, 1986

public monies. With no stated purpose, it could be argued that the bill is to encourage private support of education which benefits the state without involving public monies. With the proposed purpose and intent language the connection between tax credits and direct aid to private education seems clearer, and harder to defend against a constitutional challenge.

You are aware that tax deductions are allowed for contributions to charitable organizations including church run educational institutions. There is no clear reason why these are constitutional and other church-state involvements are not. In a United States constitutional challenge, one justice wrote that granting tax exemptions to churches gave rise to less church-state involvement than taxing them. Walz v. Tax Commission, 397 U.S. 664 (1970). One commentator has suggested that where an aid program causes an undue amount of political division along religious lines the program is likely to be invalidated. Nowak, Constitutional Law, 1035 (2nd ed., 1983). In sum, where contributions are to a very broad category, charitable organization worldwide, they are more likely to be found constitutional than contributions to a narrower class of institutions, such as private educational institutions in Alaska.

While this bill is not clearly unconstitutional, without knowing whether the court would consider tax credits as an expenditure of public monies I cannot unequivocally state that it is constitutional. Of course, deleting private colleges and universities from those available to receive the contributions would cure any potential problem.

If I may be of any further assistance, please advise.

JJ:mkr
m5/005

Enclosure

Changes made in proposed CS HB 688 (FIN):

1. Purpose section added stating that credits are an incentive to increase private contributions in an era of declining revenues.
2. Intent section added indicating that if the program does provide lots of money to the University, then the legislature may reduce general fund support.
3. Credits are only available for funds provided for direct instruction (faculty salaries) and instructional support (lab equipment, supplies, other classroom support).
4. The amount of each allowable credit is capped. For the income, estate, mining, and fish taxes, the cap is the lesser of \$10,000 or 10% of annual tax liability. For the severance and property taxes, the cap is the lesser of \$1,000 or 10% of monthly tax liability. These caps mean that maximum revenue loss is estimated at \$7.6 million.
5. For the income tax, an amount taken as a charitable deduction cannot also be taken as an educational credit.
6. Money accepted by a public school can only be spent on direct instruction and instructional purposes. It cannot be put in an endowment (except for money received that is taken as a credit against the estate tax) and it must be spent within one year of receipt. Each year, the public school must report to the legislature on how the money is spent.

hb 688

beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) Definition of grain-storage facility.

"For purposes of this section, the term 'grain-storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof);

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain.

"The construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodeling shall be treated as the construction of a grain-storage facility. The term 'grain-storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 167. The term 'grain-storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 168 of this title.

"(e) Determination of adjusted basis.

"(1) Original owners. For purposes of subsection (a)(1)—

"(A) in determining the adjusted basis of any grain-storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, or erection after December 31, 1952; and

"(B) in determining the adjusted basis of any facility which is a grain-storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain-storage facility as defined in the first sentence of subsection (d) is altered or remodeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain-storage facility.

"(2) Subsequent owners. For purposes of subsection (a)(2), the adjusted basis of any grain-storage facility shall be whichever of the following amounts is the smaller:

"(A) The basis (unadjusted) of such facility for purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substituted basis within the meaning of section 1016(b), or

"(B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) Depreciation deduction.

"If the adjusted basis of the grain-storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the depreciation deduction provided by section 167 shall, despite the provisions of subsection (a)(3) of this section, be allowed with respect to such grain-storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) Life tenant and remainderman.

"In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary.

(2) Corporations on accrual basis. In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) the board of directors authorizes a charitable contribution during any taxable year, and

(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the Secretary shall by regulations prescribe.

(3) Future interests in tangible personal property. For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b) or 707(b). For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(b) Percentage limitations.

(1) Individuals. In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

(A) General rule. Any charitable contribution to—

(i) a church or a convention or association of churches,

(ii) an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

(iii) an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,

(iv) an organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and

Sec. 170. Charitable, etc., contributions and gifts.

(a) Allowance of deductions.

(1) General rule. There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable

which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,

(v) a governmental unit referred to in subsection (c)(1),

(vi) an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public,

(vii) a private foundation described in subparagraph (E), or

(viii) an organization described in section 509(a)(2) or (3).

shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

(B) Other contributions. Any charitable contribution other than a charitable contribution to which subparagraph (A) applies shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

(i) 30 percent of the taxpayer's contribution base for the taxable year, or

(ii) the excess of 50 percent of the taxpayer's contribution base for the taxable year over the amount of charitable contributions allowable under subparagraph (A) (determined without regard to subparagraph (C)).

If the aggregate of such contributions exceeds the limitation of the preceding sentence, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution (to which subparagraph (A) does not apply) in each of the 5 succeeding taxable years in order of time.

(C) Special limitation with respect to contributions described in subparagraph (A) of certain capital gain property.

(i) In the case of charitable contributions described in subparagraph (A) of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions (other than charitable contributions to which subparagraph (D) applies).

(ii) If charitable contributions described in subparagraph (A) of capital gain property to which clause (i) applies exceeds 30 percent of the taxpayer's contribution base for any taxable year, such excess shall be treated, in a manner consistent with the rules of subsection (d)(1), as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.

(iii) At the election of the taxpayer (made at

such time and in such manner as the Secretary prescribes by regulations), subsection (e)(1) shall apply to all contributions of capital gain property (to which subsection (e)(1)(B) does not otherwise apply) made by the taxpayer during the taxable year. If such an election is made, clauses (i) and (ii) shall not apply to contributions of capital gain property made during the taxable year, and, in applying subsection (d)(1) for such taxable year with respect to contributions of capital gain property made in any prior contribution year for which an election was not made under this clause, such contributions shall be reduced as if subsection (e)(1) had applied to such contributions in the year in which made.

(iv) For purposes of this subparagraph, the term "capital gain property" means, with respect to any contribution, any capital asset the sale of which at its fair market value at the time of the contribution would have resulted in gain which would have been long-term capital gain. For purposes of the preceding sentence, any property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(D) Special limitation with respect to contributions of capital gain property to organizations not described in subparagraph (A).

(i) In general. In the case of charitable contributions (other than charitable contributions to which subparagraph (A) applies) of capital gain property, the total amount of such contributions of such property taken into account under subsection (a) for any taxable year shall not exceed the lesser of—

(I) 20 percent of the taxpayer's contribution base for the taxable year, or

(II) the excess of 30 percent of the taxpayer's contribution base for the taxable year over the amount of the contributions of capital gain property to which subparagraph (C) applies.

For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions.

(ii) Carryover. If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.

(E) Certain private foundations. The private foundations referred to in subparagraph (A)(vii) and subsection (e)(1)(B) are—

(i) a private operating foundation (as defined in section 4942(j)(3)),

(ii) any other private foundation (as defined in section 509(a)) which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes qualifying distributions (as defined in section 4942(g), without regard to paragraph (3) thereof, which are treated, after the application of section 4942(g)(3), as distributions out of corpus (in accordance with section 4942(h)) in an amount equal to 100 percent of such contributions, and with respect to which the taxpayer obtains adequate records or other

sufficient evidence from the foundation showing that the foundation made such qualifying distributions, and

(iii) a private foundation all of the contributions to which are pooled in a common fund and which would be described in section 509(a)(3) but for the right of any substantial contributor (hereafter in this clause called "donor") or his spouse to designate annually the recipients, from among organizations described in paragraph (1) of section 509(a), of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to an organization described in such paragraph (1), of the corpus in the common fund attributable to the donor's contribution; but this clause shall apply only if all of the income of the common fund is required to be (and is) distributed to one or more organizations described in such paragraph (1) not later than the 15th day of the third month after the close of the taxable year in which the income is realized by the fund and only if all of the corpus attributable to any donor's contribution to the fund is required to be (and is) distributed to one or more of such organizations not later than one year after his death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus.

(F) Contribution base defined. For purposes of this section, the term "contribution base" means adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under section 172).

(2) Corporations. In the case of a corporation, the total deductions under subsection (a) for any taxable year shall not exceed 10 percent of the taxpayer's taxable income computed without regard to—

- (A) this section,
- (B) part VIII (except section 248),
- (C) any net operating loss carryback to the taxable year under section 172,
- (D) section 922 (special deduction for Western Hemisphere trade corporations), [repealed for tax yrs. begin. after '79] and
- (E) any capital loss carryback to the taxable year under section 1212(a)(1).

(c) Charitable contribution defined.

For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

- (1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.
- (2) A corporation, trust, or community chest, fund, or foundation—
 - (A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;
 - (B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions, and

(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term "charitable contribution" also means an amount treated under subsection (g) as paid for the use of an organization described in paragraph (2), (3), or (4).

(d) Carryovers of excess contributions.

(1) Individuals.

(A) In general. In the case of an individual, if the amount of charitable contributions described in subsection (b)(1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") exceeds 50 percent of the taxpayer's contribution base for such year, such excess shall be treated as a charitable contribution described in subsection (b)(1)(A) paid in each of the 5 succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

- (i) the amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in subsection (b)(1)(A) payment of which was made in taxable years before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

earnings of which inures to the benefit of a shareholder or individual;

qualified for tax exemption by reason of attempting to do a business which does not participate in the production of income, or (5) any political campaign contribution for public office.

(B) Special rule for net operating loss carryovers. In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.

(2) Corporations.

(A) In general. Any contribution made by a corporation in a taxable year (hereinafter in this paragraph referred to as the "contribution year") in excess of the amount deductible for such year under subsection (b)(2) shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under subsection (b)(2) over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

(B) Special rule for net operating loss carryovers. For purposes of subparagraph (A), the excess of—

(i) the contributions made by a corporation in a taxable year to which this section applies, over

(ii) the amount deductible in such year under the limitation in subsection (b)(2),

shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases a net operating loss carryover under section 172 to a succeeding taxable year.

(e) Certain contributions of ordinary income and capital gain property.

(1) General rule. The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

(A) the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) in the case of a charitable contribution—

(i) of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection(c)), or

(ii) in the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in subsection (b)(1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

(B) Special rule for net operating loss carryovers. In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.

(2) Corporations.

(A) In general. Any contribution made by a corporation in a taxable year (hereinafter in this paragraph referred to as the "contribution year") in excess of the amount deductible for such year under subsection (b)(2) shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under subsection (b)(2) over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

(B) Special rule for net operating loss carryovers. For purposes of subparagraph (A), the excess of—

(i) the contributions made by a corporation in a taxable year to which this section applies, over

(ii) the amount deductible in such year under the limitation in subsection (b)(2),

shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases a net operating loss carryover under section 172 to a succeeding taxable year.

(e) Certain contributions of ordinary income and capital gain property.

(1) General rule. The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

(A) the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) in the case of a charitable contribution—

(i) of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection(c)), or

(ii) to or for the use of a private foundation (as

defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E).

(B) Amount of reduction. The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of sections 617, 1245, 1250, or 1252.

defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E), 40 percent (20% in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).

For purposes of applying this paragraph (other than in the case of gain to which section 617(d)(1), 1245(a), 1250(a), 1252(a), or 1254(a) applies), property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(2) Allocation of basis. For purposes of paragraph (1), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Secretary.

(3) Special rule for certain contributions of inventory and other property.

(A) Qualified contributions. For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an S corporation) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

(ii) the property is not transferred by the donee in exchange for money, other property, or services;

(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii); and

(iv) in the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such Act and regulations promulgated thereunder on the date of transfer and for one hundred and eighty days prior thereto.

(B) Amount of reduction. The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of sections 617, 1245, 1250, or 1252.

3/26

for HESS C.S.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 3
 Bill/Resolution No: CS HB 688 (HESS)
 Title: An Act Allowing Tax Credits for
Contributions to Educational
Institutions
 Sponsor: Gruenberg
 Requestor: HESS
 Date of Request: 3/18/86

FISCAL DETAIL
 Agency Affected: Revenue
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	(See attached)-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Mary Ellen Frank/Bob Elliott *MEJ BE* Phone: 465-2173
 Division: Revenue/Research Date: 3/20/86

Approved by Commissioner: *E. B. J.* Date: 3/20/86
 Agency: Department of Revenue

Distribution (by Agency preparing fiscal note):

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

It is impossible to give exact figures on what the revenue loss to the State would be under CSHB 688 because, although the incentive can be analyzed (below), the degree of response to the tax measure isn't possible to gauge. The committee substitute adds language designed to prevent corporations from using the same contribution as a deduction or credit against multiple tax liabilities, thereby preventing double deduction or credit. However, a corporation can split its contribution budget among qualifying educational institutions and still have deductions or credits against multiple tax liabilities.

1. The State could lose as much as (based on March 1986 revenue forecast, in millions of dollars with only half of FY87 included given the committee substitute effective date of CY87):

TAX TYPE	FY 87	FY 88
Corporate Income Tax	100.0	190.0
Estate Tax	.3	.6
Production Tax	335.3	533.0
Oil & Gas Property Tax	44.5	81.0
Mining Tax	.2	.3
Fisheries Tax	9.6	19.2
TOTAL	489.9	824.1

How computed?

2. Companies are regarded as an aggregate here. Companies that do not make charitable contributions now will have no economic incentives* to change that. Companies that have contribution budgets will have incentive to channel them toward qualifying institutions as they will have a economic incentive*. *Economic incentive here means having net income retained after contribution, see simplified example attached.

3. Non-educational tax deductible organizations will tend to lose contributions from companies because corporations will have a net gain in retained income by redirecting their contribution budgets to qualifying Alaska educational institutions.

4. Non-Alaskan tax deductible organizations including educational institutions will tend to lose contributions as corporations operating in Alaska will retain a greater amount of net income by redirecting their contributions to qualifying Alaska educational institutions.

5. The Federal Government will tend to gain tax revenue on aggregate. Companies that make contributions will have less deduction (against income taxes) and individuals will have less credit (against estate taxes) and, therefore, both will have greater Federal taxable income. Companies not already making contributions would have more deductions if they chose to make them but, as noted before, there would be no economic incentive (see 2.) to do so. See simplified example attached.

6. The State will lose tax revenue but may also have less demand for existing revenues if educational institutions are funded by private corporations.

7. There will be less ability for the State to estimate revenues and control budgets with these...

SIMPLIFIED EXAMPLE
 CSHB 688 (HESS) Page 3 of 3
 (thousands of dollars)

ASSUMPTIONS

1. Federal Taxable Income \$1 billion (before contribution)
2. State Taxable Income (10% apportionment) \$100 million
3. Contribution to UA \$25 million
4. AS 43.55 Tax Liability \$50 million

SCENARIO	CORPORATION TYPE			
	Corporation AAAAAAAAAA		Corporation BBBBBBBBBB	
	No contri Old law	Contri CSHB688	Contri Old law	Contri CSHB688
Fed'l Taxable Income	1,000,000	1,000,000	1,000,000	1,000,000
State Tax Credit				
Add Back:				
43.55 credit	0	12,500	0	12,500
43.20 tax reduction	0	250	250	250
Contribution Deduction				
Subtract:				
(IRC Sec. 170)	0	-25,000	-25,000	-25,000
Adj Fed'l Taxable Income	1,000,000	987,750	975,250	987,750
Fed'l Tax Liability	-459,980	-454,230	-448,480	-454,230
Before Fed'l Tax Income	1,000,000	1,000,000	1,000,000	1,000,000
Fed'l Tax Liability	-459,980	-454,230	-448,480	-454,230
After Fed'l Tax Income	540,020	545,770	551,520	545,770
Contribution to UA	0	-25,000	-25,000	-25,000
Aft Fed'l Tax & Contributn	540,020	520,770	526,520	520,770

NOTE:

1. Corp. A does not have a contribution budget under existing law. If it made a contribution under CSHB688 it would:
 - A. Pay \$5,750 thou. less Federal income tax;
 - B. Have more money after taxes, \$5,750 thou;
 - C. Have \$19,250 thou. less after taxes and contribution, the net of \$5,750 thou. more after taxes less the \$25,000 thou. contribution.
2. Corp. B does have a contribution budget under existing law. If it made a contribution under CSHB688 rather than under existing law, it would:
 - A. Pay \$5,750 thou. more Federal income tax;
 - B. Have less money after taxes, \$5,750 thou;
 - C. Have \$5,750 thou. less after taxes and contribution.

For original bill

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB688
 Title: An Act allowing tax credits for contributions to educational institutions
 Sponsor: Gruenberg, Koponen, Rinastad...
 Requestor: _____
 Date of Request: March 20, 1986

FISCAL DETAIL

Agency Affected: University of Alaska
 BRU: UAF, UAA, UAJ, CCC, ICC, KPCC, KECC, KOCC, KUCC, MSCC, NWCC, PWSCC, TVCC, ACC
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	
MISCELLANEOUS						
TOTAL OPERATING		0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	

CAPITAL						
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REVENUE		0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	
TOTAL		0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	0-1,500,000,000	

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary See attached

Most likely impact is \$0 - \$1,000,000.

Prepared by: Brian Rogers, Budget Director
 Division: University of Alaska
 Approved by Commissioner: *Thomas C. Kelly*
 Agency: University of Alaska

Phone: 474-7593
 Date: March 21, 1986
 Date: March 21, 1986

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 688

Assumptions

1. Citizens and business of the State of Alaska will increase contributions to the funding of postsecondary education to maintain and improve the quality of education for future generations of Alaskans under the tax incentive program.
2. As the University of Alaska is the dominate postsecondary education institution in the state, a majority of the educational contributions will be made to it.
3. Educational contributions will be received at all university campuses and community colleges. The distribution of the contributions and their magnitude is undetermined at this time but it is estimated that the University of Alaska system will receive several million dollars annually.
4. Educational contributions will be made by individuals, companies and industry groups who perceive a benefit and growth of knowledge which will positively impact the future of their industry. Knowledge gained will improve industry standards and profits. Cumulatively these gains will result in more jobs for residents and a stronger Alaska economy.

Program Summary:

Income received by the university as a result of tax credits for contributions to educational institutions would be deposited in endowment funds. Revenues generated from these endowments would provide an annual income stream to the university to continue and expand educational services and opportunities for Alaskans.

Estimates of contributions which the university might expect to receive under the educational tax credit program could theoretically range between zero and \$1.8 billion dollars annually, since the credit applies against virtually all forms of state taxation.

Total corporate contributions to educational institutions in the United States are, however, significantly smaller than this amount. The oil industry, for example, gave U.S. colleges and universities less than \$20 million in 1984. If the University of Alaska could garner 5% of the total U.S. contributions due to this tax credit, it would generate \$1 million for the university and cost \$500,000 to the State Treasury.

copy



Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

March 31, 1986

Honorable Max Gruenberg
Chair, House HESS
Pouch V
Juneau, AK 99811

SUBJECT: Fiscal Note House Bill 688

Dear Representative Gruenberg:

Attached is a fiscal note for House Bill 688, "An Act allowing tax credits for contributions to educational institutions." The university is very much in favor and supports this legislation.

The fiscal considerations to the university of House Bill 688 are very favorable. The upside potential, that is the potential income compared to additional costs for the university, is very great. The passage of HB 688 would allow the university to establish endowment funds with the contributions made under the tax credit legislation. Revenues from these endowments would be used to provide an annual income stream to maintain and expand, when possible, the services and educational opportunities to Alaska residents. At a time of declining state revenues this legislation this is very critical to the university.

Projecting the actual fiscal impact of this legislation to the university can not be accurately calculated at this time. However, it is estimated that the university could potentially receive up to a million dollars annually under the educational tax credit program.

The appropriate fiscal note forms and backup are attached. If you need any further information, please do not hesitate to call me or Brian Rogers at 474-7593.

Sincerely,

Sherman Carter
Sherman Carter

Enclosures:

cc: House Sponsors
Jay Hogan, Office of Management and Budget
Liz Blecker, Legislative Finance

Offered: 3/26/86
Referred: Finance

Original sponsors: Gruenberg, Koponen
Ringstad, et al

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE
2 CS FOR HOUSE BILL NO. 688 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act allowing tax credits for contributions to
7 educational institutions."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 43.20 is amended by adding a new section to read:
10 Sec. 43.20.014. TRADE OR BUSINESS EDUCATION CREDIT. A person
11 engaged in a trade or business is allowed as a credit against the tax
12 due under this chapter 50 percent of cash contributions accepted by an
13 accredited, nonprofit, public or private, in-state, two- or four-year,
14 college or university. The credit may not exceed the amount of tax
15 due under this chapter. A contribution claimed as a credit under this
16 section may not be claimed as a credit under another section.
17 * Sec. 2. AS 43.31 is amended by adding a new section to read:
18 Sec. 43.31.014. ESTATE EDUCATION CREDIT. The estate of a per-
19 son, who at the time of death, was a resident of this state, is al-
20 lowed as a credit against the tax due under this chapter 10 percent of
21 cash bequests accepted by an accredited, nonprofit, public or private,
22 in-state, two- or four-year, college or university. The credit may
23 not exceed the amount of tax due under this chapter. A contribution
24 claimed as a credit under this section may not be claimed as a credit
25 under another section.
26 * Sec. 3. AS 43.55 is amended by adding a new section to read:
27 Sec. 43.55.019. OIL OR GAS PRODUCER EDUCATION CREDIT. A pro-
28 ducer of oil or gas is allowed as a credit against the tax due under
29 this chapter 50 percent of cash contributions accepted by an

1 accredited, nonprofit, public or private, in-state, two- or four-year,
2 college or university. The credit may only be applied against the tax
3 liability accruing during the month the contribution is made. The
4 credit may not exceed the amount of tax due under this chapter. A
5 contribution claimed as a credit under this section may not be claimed
6 as a credit under another section.

7 * Sec. 4. AS 43.56 is amended by adding a new section to read:

8 Sec. 43.56.018. OIL OR GAS PROPERTY EDUCATION CREDIT. The owner
9 of property taxable under this chapter is allowed as a credit against
10 the tax due under this chapter 50 percent of cash contributions ac-
11 cepted by an accredited, nonprofit, public or private, in-state, two-
12 or four-year, college or university. The credit may not exceed the
13 amount of tax due under this chapter. A contribution claimed as a
14 credit under this section may not be claimed as a credit under another
15 section.

16 * Sec. 5. AS 43.65 is amended by adding a new section to read:

17 Sec. 43.65.018. MINING BUSINESS EDUCATION CREDIT. A person
18 engaged in the business of mining in the state is allowed as a credit
19 against the tax due under this chapter 50 percent of cash contribu-
20 tions accepted by an accredited, nonprofit, public or private, in-
21 state, two- or four-year, college or university. The credit may not
22 exceed the amount of tax due under this chapter. A contribution
23 claimed as a credit under this section may not be claimed as a credit
24 under another section.

25 * Sec. 6. AS 43.75 is amended by adding a new section to read:

26 Sec. 43.75.018. FISHERIES BUSINESS EDUCATION CREDIT. A person
27 engaged in a fisheries business is allowed as a credit against the tax
28 due under this chapter 50 percent of cash contributions accepted by an
29 accredited, nonprofit, public or private, in-state, two- or four-year,

1 college or university. The credit may not exceed the amount of tax
2 due under this chapter. A contribution claimed as a credit under this
3 section may not be claimed as a credit under another section.

4 * Sec. 7. AS 43.75.130 is amended by adding a new subsection to read:

5 (b) In this section, "tax revenue collected" includes the amount
6 credited against taxes under AS 43.75.018.

7 * Sec. 8. The provisions of this Act apply to contributions made after
8 December 31, 1986.

Introduced: 2/17/86
Referred: Health, Education &
Social Services and Finance

BY GRUENBERG, KOPONEN, RINGSTAD,
BOUCHER, CATO, CLOCKSIN, COLLINS,
COTTEN, DUNCAN, FRANK, GRUSSENDORF,
HANLEY, HURLEY, JENKINS, LARSON,
MARROU, MARTIN, M. M. MILLER, NAVARRE,
PHILLIPS, PIGNALBERI, SHULTZ,
SZYMANSKI, TAYLOR, UEHLING AND
WALLIS

1 IN THE HOUSE

2

HOUSE BILL NO. 688

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act allowing tax credits for contributions to
7 educational institutions."

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

9 * Section 1. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.014. TRADE OR BUSINESS EDUCATION CREDIT. A person
11 engaged in a trade or business is allowed as a credit against the tax
12 due under this chapter 50 percent of contributions to an accredited,
13 nonprofit, public or private, in-state, two- or four-year, college or
14 university. The credit may not exceed the amount of tax due under
15 this chapter.

16 * Sec. 2. AS 43.31 is amended by adding a new section to read:

17 Sec. 43.31.014. ESTATE EDUCATION CREDIT. The estate of a per-
18 son, who at the time of death, was a resident of this state, is al-
19 lowed as a credit against the tax due under this chapter 10 percent of
20 bequests to an accredited, nonprofit, public or private, in-state,
21 two- or four-year, college or university. The credit may not exceed
22 the amount of tax due under this chapter.

23 * Sec. 3. AS 43.55 is amended by adding a new section to read:

24 Sec. 43.55.019. OIL OR GAS PRODUCER EDUCATION CREDIT. A pro-
25 ducer of oil or gas is allowed as a credit against the tax due under
26 this chapter 50 percent of contributions to an accredited, nonprofit,
27 public or private, in-state, two- or four-year, college or university.
28 The credit may not exceed the amount of tax due under this chapter.

29 * Sec. 4. AS 43.56 is amended by adding a new section to read:

1 Sec. 43.56.018. OIL OR GAS PROPERTY EDUCATION CREDIT. The owner
2 of property taxable under this chapter is allowed as a credit against
3 the tax due under this chapter 50 percent of contributions to an
4 accredited, nonprofit, public or private, in-state, two- or four-year,
5 college or university. The credit may not exceed the amount of tax
6 due under this chapter.

7 * Sec. 5. AS 43.65 is amended by adding a new section to read:

8 Sec. 43.65.018. MINING BUSINESS EDUCATION CREDIT. A person
9 engaged in the business of mining in the state is allowed as a credit
10 against the tax due under this chapter 50 percent of contributions to
11 an accredited, nonprofit, public or private, in-state, two- or four-
12 year, college or university. The credit may not exceed the amount of
13 tax due under this chapter.

14 * Sec. 6. AS 43.75 is amended by adding a new section to read:

15 Sec. 43.75.018. FISHERIES BUSINESS EDUCATION CREDIT. A person
16 engaged in a fisheries business is allowed as a credit against the tax
17 due under this chapter 50 percent of contributions to an accredited,
18 nonprofit, public or private, in-state, two- or four-year, college or
19 university. The credit may not exceed the amount of tax due under
20 this chapter.

21 * Sec. 7. AS 43.75.130 is amended by adding a new subsection to read:

22 (b) In this section, "tax revenue collected" includes the amount
23 credited against taxes under AS 43.75.018.