

HB

6

ADOPTED

AMENDMENT #1

Offered in the SENATE
TO: SCS CS HB 6 (HESS)

by Gruenberg

Page 1, Line 11, after "PURPOSE.":

Insert "The Legislature recognizes the unique social and economic importance of Alaska's colleges and universities to the state's future."

Page 1, line 14, after "acquisitions":

Delete ", during this period of decreased state revenue"

w/drawn

AMENDMENT #2

Offered in the SENATE
TO: SCS CS HB 6 (HESS)

by Gruenberg

Page 1, line 22, after "or":
Delete "\$100,000" and insert "\$10,000"

Page 2, line 18, after "or":
Delete "\$10,000" and insert "\$1,000"

Page 3, line 9, after "or":
Delete "\$10,000" and insert "\$1,000"

Page 3, line 27, after "or":
Delete "\$100,000" and insert "\$10,000"

Page 4, line 16, after "or":
Delete "\$100,000" and insert "\$10,000"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 16, 1987

SUBJECT: Constitutionality of SCSCSHB 6(HESS)
TO: Senator Paul Fischer, Chair
 Health, Education and Social Services
 Committee
FROM: Theresa L. Bannister *TB*
 Legislative Counsel

This memo accompanies the committee substitute for CSHB 6(Fin) am that has been requested for your committee. The CS adds private schools to the tax credit provisions.

Please be aware that a question exists about the constitutionality of the proposed CS because it covers private schools. The state constitution prohibits public money being spent "for the direct benefit of any religious or other private educational institution". Art. VII, sec. 1, Alaska State Constitution. Applying private school contributions as credits against taxes owed to the state might be construed to be using state money for the benefit of religious or other private educational institutions. There does not appear to be any case law directly on this point, so the result of a court challenge is unclear.

If I may be of further assistance, please advise.

TLB:mkr
m11/033

Enclosure

FISCAL NOTE

No. 4

Bill Version: CSHB 6(Fin)
 Publish Date: HOUSE 3/4/87

REQUEST

Bill/Resolution No.: CSHB 6 (FIN)
 Title: Act allowing tax credits for contributions to educational institutions
 Sponsor: Gruender, et. al
 Requestor: _____
 Date of Request: January 27, 1987

FISCAL DETAIL

Agency Affected: University of Alaska
 BRU: All
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE		Positive	Positive	Positive	Positive	Positive

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached.

Prepared by: Brian Rogers, Budget Director
 Division: University of Alaska
 Approved by ^{Vice President} ~~Commissioner~~: Shannon Carter
 Agency: University of Alaska

Phone: 474-6490
 Date: January 29, 1987
 Date: January 29, 1987

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. CSHB 6(Fin)

No. 4
CSHB 6(Fin)
3/4/87

It is impossible to give exact figures on what the revenue gain to the University of Alaska would be under HB 6 because, although the tax credit incentive can be analyzed, the degree of response to such a tax measure is not possible to gauge.

Corporations who now make charitable contributions will have an incentive to channel them toward qualifying institutions, as they will have an economic incentive to do so. Losses to the Alaska state treasury from the tax credit will be offset by corresponding gains - twice as large as the losses - to Alaska educational institutions.

This is particularly important in the case of multi-state corporations, who will, if the measure passes, have a strong economic incentive to contribute to qualifying educational institutions in Alaska, rather than institutions in other states. Non-Alaska tax-deductible organizations 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.

The magnitude of corporate contributions which might be affected is likely to be in the \$250,000 to \$1 million range annually. The oil industry, for example, contributed less than \$20 million to U.S. colleges and universities in 1984. If the University of Alaska could due to this tax credit garner 2% of the total U.S. oil industry contributions, the measure would generate \$400,000 for the university and cost \$200,000 to the state treasury.

Provisions in the legislation which deny eligibility for contributions accepted for endowment purposes will, however, be detrimental to current efforts by the University of Alaska. The university is seeking to increase the size of its endowments and to create endowed chairs in areas of excellence. These provisions (Sec. 43.20.014(b), Sec. 43.55.109(b), Sec. 43.56.018(b), Sec. 43.65.018(b), and Sec. 43.75.018(b)) will create economic disincentives for corporations and individuals to contribute to endowments; those wishing to contribute to the university will receive additional economic benefits if they contribute to current operations rather than endowments.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 6(Fin)
Publish Date: HOUSE 3/4/87

REQUEST

Revision Date: 2/3/87
Title: Tax Credits - Educational Institutions
Sponsor: Gruenberg et al
Requestor: House Health, Education & Social Services and Finance

Agency Affected: Revenue
BRU: Audit

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
TRAVEL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CONTRACTUAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
SUPPLIES	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
EQUIPMENT	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
LANDS & STRUCTURES	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
GRANTS, CLAIMS	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
MISCELLANEOUS	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See attached.

Prepared By: Steven E. Kettel
Division: Audit

Phone: 465-2320
Date: 2/3/87

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 2/4/87

Distribution (by Agency preparing fiscal note):

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

Fiscal Note Bill Analysis

Section 1 - 7

HB 6 is very similar to CS for HB 688 which was introduced in the House last year. The bill provides for a tax credit to be given to those persons and businesses making cash contributions to certain educational institutions and restricting state tax deductions under 26 U.S.C. 170.

The credit is generally limited to 50 percent of the contribution and is further limited depending upon the type of tax being offset. The following tax types may receive the credit and the additional limitations are noted

TAX TYPE	LIMITATION
AS 43.20 Corporate Income Tax	Lesser of 10% of tax or \$20,000
AS 43.55 Oil & Gas Production Tax	Lesser of 10% of tax or \$ 1,000
AS 43.56 Oil & Gas Property Tax	Lesser of 10% of tax or \$ 1,000
AS 43.65 Mining Tax	Lesser of 10% of tax or \$10,000
AS 43.75 Fisheries Business Tax	Lesser of 10% of tax or \$10,000

For income tax purposes the credit is in lieu of the contribution deduction normally allowed by the Internal Revenue Code. A person with a tax liability in several of the creditable tax types may only receive credit under one type. There is no carryover of unused credits as drafted.

Contributions may not be earmarked for specific purposes and must be used for direct instruction, research, and educational support purposes, including library and museum acquisitions.

Both the Department of Revenue and each public college and university must file informational reports with the legislature.

Section 8

Provides that the tax credit will not reduce the 25 - 50 percent share of the fisheries tax that is shared to local municipalities.

Section 9

Provides an effective date applicable to contributions made after December 31, 1987.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

No. 6

REQUEST _____

Bill Version: CSHB 6(Fin)
Publish Date: HOUSE 3/4/87

Revision Date: _____
Title: An Act Allowing Tax Credits For
Contributions to Education Institutions
Sponsor: Gruenberg
Requestor: _____

Agency Affected: Revenue
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	(See Attachment)					

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: MET Mary Ellen Frank/Dob Elliott BE
Division: Research
Approved by Commissioner: Hugh Malone RW for
Agency: Revenue

Phone: 465-2173
Date: 2/6/87
Date: 2/9/87

Distribution (by Agency preparing fiscal note):

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

Continuation for Fiscal Note Analysis

HB 6

It is impossible to give exact figures on what the revenue loss to the State would be under HB 6 because, although the incentives can be analyzed (below), the degree of response to the tax measure isn't possible to gauge.

1. The State will lose tax revenue but may also have less demand for existing revenues if educational institutions are funded by private contributions.
2. 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.
3. 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.
4. On aggregate, 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 an economic incentive*. *Economic incentive here means having greater net income retained after contribution.
5. The Federal government will tend to gain tax revenue on aggregate. Companies which currently make contributions will have less deductions against Federal income taxes (due to the add back of state credits), and thus will have a greater Federal tax liability. In contrast, companies not already making contributions would have more deductions and less Federal tax liability if they chose to make contributions. However, as noted in item four above, they would have less retained income after contributions, and thus no economic incentive.
6. There will be less ability for the State and educational institutions to estimate revenues and subsequently to control budgets due to the unpredictable nature of the tax credits.