

HB

54

B

HOUSE COMMITTEE REPORT

3-1-91

(7)

Date Referred: January 22, 1991

FURTHER REFERRALS: Finance

Date of Committee Action: 2-27-91

The COMMUNITY & REGIONAL AFFAIRS Committee considered:

HB 54

HOUSE BILL NO. 54

DISTRIBUTION OF NATIONAL FOREST RECEIPTS

"An Act relating to the distribution of national forest receipts; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSHTB 54 (CRA)

[X] the same title

[] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[X] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[X] fiscal impact Dept. of Community & Regional Affairs

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Signature	Check appropriate column:	Do Not Pass	No Rec	Amend
Jay Mackie				
Bettye Davis	Bob Phillips		X	
_____	Tom _____ BAKER		X	
Cheri Davis	John C. Loyale		X	

Jay Mackie
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 54

Revision Date: _____ Department Affected: Community & Regional Affairs
 Title: "An Act relating..to National Forest receipts...." BRU: Community Assistance Grants
 Component: National Forest Receipts
 Sponsor: Reps Mackie & Grussendorf
 Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	54,500	57,498	59,509	61,593	63,749	65,980
TRAVEL						
CONTRACTUAL	2,000	2,000	2,000	2,000	2,000	2,000
SUPPLIES	600					
EQUIPMENT	3,000					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60,100	59,498	61,509	63,593	65,749	67,980

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	60,100	59,498	61,509	63,593	65,749	67,980
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	1	1	1	1	1	1
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)
 See attached.

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Administrative Services Date: 2/27/91
 Approved by Commissioner: *[Signature]*
 Agency: Community & Regional Affairs Date: 2/27/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Position Title Accounting Clerk III (Part-time)		No. of Positions 1	Range / Step 10A	Barg. Unit GG
Time Status	Staff Months	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount	Justification The distribution of National Forest Receipts to the Unincorporated Communities in the State will generate additional fiscal related activities. The personal service portion of this request will pay for one part-time Accounting Clerk III to perform these duties. Contractual and supplies amount covers normal office supply usage. Equipment funds would purchase one terminal and installation charges.	
Salary		11,376		
Benefits		2,640		
Premium Pay				
Other				
Total Personal Services		14,016		
Travel				
Contractual		500		
Commodities		100		
Equipment		1,000		
Other				
Total Cost		15,616		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	15,616		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

**Request For
New Position**

AGENCY Community and Regional Affairs
 BRU Administration and Support
 COMPONENT Administrative Services

FY 92

Page 3 of 3
 Revised Date: _____

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February 26, 1991

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ROYAL ARCH GUNNISON (1873-1918)
R E ROBERTSON (1885-1961)
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D ELIZABETH CUADRAN
MARY A NORDALE
ROBERT P BLASCC
ELIZABETH A ZIEGLEF

ADMITTED IN WASHINGTON, D.C.
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

The Honorable Jerry Mackie, Chairman
House Community & Regional Affairs Committee
Alaska Legislature
Capitol Building
Juneau, Alaska 99801

RE: HB 54: Distribution of National Forest Receipts

Dear Representative Mackie:

This is to provide you with certain information concerning the intent of Congress in enacting the federal statute (including amendments) which is codified at 16 USC 500. You and the committee members are already familiar with that statute, but the full text of 16 USC 500 is attached for convenient reference.

For our purposes, the key portion of the statute reads as follows:

"On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: ..." [emphasis added]

Several court decisions made it clear that Congress intended these national forest receipts funds to be a special grant, related to the impacts which forestry activities have upon the local

The Honorable Jerry Mackie, Chairman
February 26, 1991
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communities, to provide them with a special assistance fund for road and school purposes; the same court decisions have made it clear that these monies are not to be construed as "payments in lieu of taxes" (PILT) funds. The concept behind PILT funds is that federal property is not subject to taxation by state or local governments, and that therefore (under certain other federal statutes) the federal government pays PILT funds. A familiar example would be where the non-taxable land of a military base is located within a municipality.

The question of whether Congress intended national forest receipts to be impact funds or PILT funds has arisen in several different contexts, but most frequently as part of the question whether the state or local government has been preempted by the federal statute from applying some form of state or local taxation. If the national forest receipts monies were PILT funds, then the state and local governments would be federally preempted from taxation, but if instead they are impact funds, then there is no federal preemption.

For example, an appellate court in Louisiana held that national forest receipts funds under 16 USC 500 are not payments in lieu of taxes (PILT), and that therefore a state severance tax on the activity of gravel mining could lawfully be enforced, where gravel was being mined from a national forest. Bartlett v. Collector of Revenue, 285 So.2d 246 (La. App. 1973). The Louisiana appellate court cited several other court decisions and relied especially upon Georgia Pacific Corporation v. County of Mendocino, 340 F.Supp. 1041 (N.D. Cal. 1973), aff'd 515 F.2d 285 (9th Cir. 1974), in which a federal district court had held that payments made under 16 USC 500 are not payments in lieu of taxes. Instead, the national forest receipts were intended to be a public grant for the purposes of roads and schools where the forests are located. In the Georgia Pacific case, the federal courts upheld the legality of a property tax on the possessory interest in standing timber (taxed to the purchaser of the timber) in national forests involving the counties of Mendocino, Siskiyou and Tehama in Northern California.

The Idaho Supreme Court has held that national forest receipts under 16 USC 500 are not payments in lieu of taxes, and that therefore it is not unlawful for a personal property tax to be applicable to logs harvested from forest service lands. Tree Farmers, Inc. v. Goeckner, 385 P 2d. 649 (Idaho 1963). The Idaho Supreme Court held that, instead of being a payment in lieu of taxes, the national forest receipts money was in the nature of an assistance grant with a special purpose.

The Honorable Jerry Mackie, Chairman
February 26, 1991
Page 3

A California appellate court held that the federal statute, 16 USC 500, was not intended to provide money in lieu of local taxes (payments in lieu of taxes), and went on to uphold an interpretation of the state's distribution statute (apportioning these funds to school districts "lying within or adjacent to" national forests), where the interpretation had extended monies to certain school districts that were not immediately adjacent to national forest boundaries but were financially impacted by forestry activities going on within the national forest. That is, the state statute had made eligibility for funds dependent upon both geography and financial impact combined. Anderson Union High School District v. Schreder, 128 Cal. Rptr. 529 (Cal. App. 1976).

These courts have looked to the Congressional intent behind the federal statute, 16 USC 500, in reaching their decisions. The implication of these decisions is that a state statutory distribution scheme for national forest receipts which views the monies as impact funds and sets up some rational criteria for eligibility (as CS HB 54 does), will be far more in line with what Congress intended (and thus more lawful) than Alaska's present handling of national forest receipts generated from forest lands within the unorganized borough.

A further implication which arguably flows from these judicial interpretations of 16 USC 500 is that these funds are in addition to any funds available for roads and schools from other sources, and should not be used to replace or substitute for those other funds, nor be imbedded in a "priority system" that is applied to other funds and based on other considerations.

On behalf of the City of Craig, let me add that the City does support the Committee Substitute for HB 54, and urges your committee to pass it out (with "do pass" recommendations) without delay. The existing inequitable situation needs to be remedied during the current legislative session.

Sincerely,



D. Elizabeth Cuadra
Craig City Attorney

DEC\k11.226
Enclosures: 16 USC 500

of the national forests, shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations, protection, or improvements by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, protection, or improvements.

(June 30, 1914, c. 131, 38 Stat. 430; May 29, 1928, c. 901, § 1(99), 45 Stat. 993.)

Historical Note

1928 Amendment. Act May 29, 1928 de- reports be made to Congress of moneys re-
leted provision which required that annual ceived as contributions for cooperative work.

Cross References

Classification as trust funds, appropriation and disbursement of funds appearing on books of government as "Cooperative work, Forest Service", see section 1321 of Title 31, Money and Finance.

Contributions received toward reforestation or for administration or protection of lands within forests to be covered into Treasury and constitute special fund which may be appropriated for purposes for which contributed, see section 572 of this title

Code of Federal Regulations

Administration of forest development transportation system, see 36 CFR 212.1 et seq.

§ 499. Disposal of money received by or on account of Forest Service; refund of excess and moneys erroneously collected; receipts from permits

All money received by or on account of the Forest Service for timber, or from any other source of national-forest revenue, including moneys received from sale of products from or for the use of lands in national forests created under section 471(b) of this title, and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title, shall be covered into the Treasury of the United States as a miscellaneous receipt, and except as provided in sections 500 and 501 of this title, there is appropriated and made available, as the Secretary of Agriculture may direct, out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States and also so much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not a part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal.

(Mar. 4, 1907, c. 2907, 34 Stat. 1270; Mar. 4, 1911, c. 238, 36 Stat. 1253; Mar. 4, 1917, c. 179, 39 Stat. 1149; June 7, 1924, c. 348, § 9, 43 Stat. 655; May 29, 1928, c. 901, § 1(97), 45 Stat. 993.)

Historical Note

References in Text. Section 471(b) of this title, referred to in text, was repealed by section 704(a) of Pub.L. 94-379, Title VII, Oct. 21, 1976, 90 Stat. 2792. For further details, see Codification note below.

Codification. Section is a combination provision the basis for which is Act Mar. 4, 1907, which superseded previous provisions relating to the disposal of money received from sale of products or use of any land or resources of the forest reserves, contained in Act Feb. 1, 1905, c. 288, § 5, 33 Stat. 628.

Act Mar. 4, 1911 is the source of the last portion of the section beginning with the words, "and also so much as may be necessary," etc. That Act provides that so much of the former Act "which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter to appropriate and to include so much;"

The words of this section reading, "including moneys received from sale of products from or use of lands in national forests created under section 471(b) of this title" were derived from the fourth sentence of section 9 of Act of June 7, 1924, which reads as follows: "All receipts from the sale of products from or for the use of lands in such national

forests shall be covered into the Treasury as miscellaneous receipts, forest reserve fund, and shall be disposed of in like manner as the receipts from other national forests as provided by existing law." Section 471(b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 Act, and was repealed by section 704(a) of Pub.L. 94-379. Section 505 of this title is based on the second and third sentences of section 9 of the 1924 Act.

The words "and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title," are from a provision of Act Mar. 4, 1917, which reads, "Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, c. 186, 36 Stat. 961] or any Amendment or extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

1928 Amendment. Act May 29, 1928 deleted provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

Cross References

- Conservation programs on military reservations, inapplicability to forest lands administered pursuant to this section, see section 670c of this title.
- Deposit in "Oregon and California land-grant fund" of proceeds of sale of timber added to Siskiyou National Forest, see section 487 of this title.
- Payments from account for refund of moneys erroneously received and covered and authorization of appropriation of sums necessary, see section 1322 of Title 31, Money and Finance.

Notes of Decisions

1. Scope of review
The discretion of the Secretary of Agriculture in making refunds under this section is absolute only on questions of fact; his rulings on questions of law are reviewable in the court of claims (now Claims Court). *Utah Power & Light Co. v. U. S.*, 1929, 67 Ct.Cl. 602.

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of

such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

May 23, 1908, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, Title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, Pub.L. 94-588, § 16, 90 Stat. 2961.)

Historical Note

References in Text. The Act of June 9, 1930, referred to in text, is Act June 9, 1930, c. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables volume.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, c. 192, 35 Stat. 251, as amended. A portion of that Act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables volume.

Codification. "National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of Acts May 23, 1908, as amended, and Mar. 1, 1911, as amended.

1976 Amendment. Pub.L. 94-588 added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

1950 Amendment. Act Apr. 24, 1950 deleted second proviso relating to limitation paid county.

1944 Amendment. Act Sept. 21, 1944 added sentence relating to stumpage value of the timber.

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1914 Amendment. Act June 30, 1914 changed the per centum to be paid to each State from five to twenty-five.

Savings Provisions. Provisions of Federal Land Policy and Management Act of 1976, Pub.L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub.L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

Similar Provisions. Provisions similar to this section were contained in the following prior appropriation Acts:

June 28, 1944, c. 296, § 1, 58 Stat. 4/4.

July 12, 1943, c. 215, § 1, 57 Stat. 412.

July 22, 1942, c. 516, § 1, 56 Stat. 680.

July 1, 1941, c. 267, § 1, 55 Stat. 423.

Legislative History. For legislative history and purpose of Act Apr. 24, 1950, see 1950 U.S. Code Cong. Service, p. 2155. See, also, Pub.L. 94-588, 1976 U.S. Code Cong. and Adm. News, p. 6662.

Cross References

- Income received for schools and roads under this section—
 - Apportioned with respect to Olympic National Park, see section 253 of this title.
 - Expenditure of funds for benefit of Pendleton and Grant Counties, West Virginia, see section 460p-2 of this title.
- Inapplicability to national-forest lands added to or extended in public lands in northern Minnesota, see sections 577g and 577g-1 of this title.
- Residue removal credit in pilot wood utilization projects considered as, see section 1683 of this title.
- Unaffected by establishment of North Cascades National Park, see section 90d of this title.
- Notification by Secretary of Agriculture of intention to issue regulations, see section 580k of this title.
- Reduction of payment for entitlement land by amounts received under this section, see section 6903 of Title 31, Money and Finance.
- Reforestation Trust Fund, distribution of funds for use in state forestry programs, see section 1606a of this title.

Code of Federal Regulations

- Nondiscrimination in federally-assisted programs of Department of Agriculture, see 7 CFR 15.1 et seq.

Notes of Decisions

- Apportionment of funds 7
 - Constitutionality 1
 - Construction
 - Generally 2
 - With other laws 3
 - Jurisdiction of
 - District court 10
 - State court 11
 - Lands adjacent to forest 8
 - Moneys received 6
 - Persons entitled to maintain action 12
 - Purpose 4
 - Questions for Congress 5
 - Questions of fact 14
 - Summary judgment 13
 - Taxation 9
1. **Constitutionality**
This section is constitutional as being authorized by U.S.C.A. Const. Art. 1, § 8, cl.
- 3, 18. U.S. v. Griffin, D.C.Va.1932, 58 F.2d 674.
2. **Construction**
This section should be interpreted and construed, if possible, primarily from its own language. Trinity Independent School Dist. v. Walker County, Tex.Civ.App.1956, 287 S.W.2d 717, ref. n.r.e.
3. **Construction with other laws**
Provision of this section that, in sales of forest products from national forest, amounts made available for schools and roads of state shall be based upon stumpage value of the timber, was intended to preclude government from having to base percentage payments to states from sale of certain forest products upon receipts representing a return of production costs and to further limit base to which percentage would be applied and does not

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Alaska Department of Revenue
Income & Excise Audit Division
SHARED TAX ANNUAL REPORT
For the Fiscal Year Ended June 30, 1990

Appendix B
LIST OF REVENUES SHARED BY CITY

<u>MUNICIPALITY</u>	<u>TOTAL</u>	<u>FISHERIES TAX</u>	<u>AVIATION TAX</u>	<u>COIN-OPERATED DEVICE</u>	<u>ELECTRIC/ TELEPHONE</u>	<u>LIQUOR LICENSE</u>
Anchorage	1,303,078.26	211,574.46	25,129.36	36,824.00	669,150.44	360,400.00
Juneau	82,946.06	13,809.64	12,046.42	2,340.00	0.00	54,750.00
Sitka	485,987.31	439,425.77	23,500.54	1,086.00	0.00	21,975.00
<u>BOROUGH</u>						
Aleutians East	1,330,304.51	1,330,304.51	0.00	0.00	0.00	0.00
Bristol Bay	2,075,107.67	2,018,545.80	0.00	0.00	42,661.87	13,900.00
Haines	290,568.84	290,568.84	0.00	0.00	0.00	0.00
Kenai Peninsula	1,203,557.24	1,079,639.38	0.00	2,620.00	121,297.86	0.00
Ketchikan Gateway	513,553.93	479,936.84	33,569.09	48.00	0.00	0.00
Kodiak Island	1,090,704.59	1,082,778.89	0.00	384.00	7,541.70	0.00
Lake & Peninsula	438,583.45	438,397.33	0.00	0.00	186.12	0.00
Matanuska-Susitna	417,041.73	0.00	0.00	2,384.00	414,657.73	0.00
North Slope	67,351.14	0.00	0.00	0.00	64,951.14	2,400.00
North Star	118,138.70	979.54	0.00	1,683.00	115,476.16	0.00
Northwest Arctic	454.43	454.43	0.00	0.00	0.00	0.00
<u>CITY</u>						
Akutan	365,879.95	364,629.95	0.00	0.00	0.00	1,250.00
Alakanuk	402.45	0.00	0.00	0.00	402.45	0.00
Aleknagik	1,815.17	0.00	0.00	0.00	1,815.17	0.00
Ambler	1,542.72	0.00	0.00	0.00	1,542.72	0.00
Anderson	5,571.38	0.00	0.00	144.00	5,427.38	0.00
Aniak	3,858.44	3,858.44	0.00	0.00	0.00	0.00
Anvik	4,053.19	3,917.74	0.00	0.00	135.45	0.00
Atka	8,502.41	8,502.41	0.00	0.00	0.00	0.00
Barrow	15,928.78	0.00	0.00	0.00	15,928.78	0.00
Bethel	42,175.43	42,175.43	0.00	0.00	0.00	0.00
Buckland	940.48	0.00	0.00	0.00	940.48	0.00
Chevak	544.35	0.00	0.00	0.00	544.35	0.00

Alaska Department of Revenue
Income & Excise Audit Division
SHARED TAX ANNUAL REPORT
For the Fiscal Year Ended June 30, 1990

Appendix B
LIST OF REVENUES SHARED BY CITY

<u>CITY</u>	<u>TOTAL</u>	<u>FISHERIES TAX</u>	<u>AVIATION TAX</u>	<u>COIN-OPERATED DEVICE</u>	<u>ELECTRIC/ TELEPHONE</u>	<u>LIQUOR LICENSE</u>
Chignik	138,370.05	138,370.05	0.00	0.00	0.00	0.00
Clark's Point	202,315.10	202,315.10	0.00	0.00	0.00	0.00
Cold Bay	378.80	184.80	0.00	192.00	0.00	0.00
Cordova	892,170.32	849,094.33	0.00	216.00	29,059.99	13,800.00
Craig	21,431.74	12,933.74	0.00	348.00	0.00	8,150.00
Deering	588.26	0.00	0.00	0.00	588.26	0.00
Delta Junction	11,668.55	0.00	0.00	384.00	3,134.55	8,150.00
Dillingham	282,681.21	242,594.86	0.00	126.00	34,110.35	5,850.00
Diomede	72.00	0.00	0.00	72.00	0.00	0.00
Eek	225.50	0.00	0.00	0.00	225.50	0.00
Elim	264.07	0.00	0.00	0.00	264.07	0.00
Emmonak	29,213.48	28,436.78	0.00	0.00	776.70	0.00
Fairbanks	149,566.37	24.67	0.00	7,144.00	40,572.70	101,825.00
Fort Yukon	750.00	0.00	0.00	0.00	0.00	750.00
Fortuna Ledge	306.39	0.00	0.00	0.00	306.39	0.00
Galena	6,901.98	4,901.98	0.00	0.00	0.00	2,000.00
Gambell	513.05	0.00	0.00	36.00	477.05	0.00
Goodnews Bay	13,424.10	13,204.00	0.00	0.00	220.10	0.00
Grayling	187.86	0.00	0.00	0.00	187.86	0.00
Haines	10,935.66	915.66	0.00	120.00	0.00	9,900.00
Holy Cross	282.35	0.00	0.00	0.00	282.35	0.00
Homer	145,179.13	96,529.51	0.00	1,542.00	26,007.62	21,100.00
Hoonah	53,609.98	50,099.98	0.00	260.00	0.00	3,250.00
Hooper Bay	688.54	0.00	0.00	0.00	688.54	0.00
Houston	1,882.15	0.00	0.00	240.00	1,642.15	0.00
Huslia	221.56	0.00	0.00	0.00	221.56	0.00
Hydaburg	22,152.00	22,152.00	0.00	0.00	0.00	0.00
Kake	19,161.63	18,411.63	0.00	0.00	0.00	750.00
Kaltag	955.06	699.60	0.00	0.00	255.46	0.00
Kenai	370,224.76	298,593.57	13,063.46	4,326.00	31,391.73	22,850.00

Alaska Department of Revenue
Income & Excise Audit Division
SHARED TAX ANNUAL REPORT
For the Fiscal Year Ended June 30, 1990

Appendix B
LIST OF REVENUES SHARED BY CITY

<u>CITY</u>	<u>TOTAL</u>	<u>FISHERIES TAX</u>	<u>AVIATION TAX</u>	<u>COIN-OPERATED DEVICE</u>	<u>ELECTRIC/ TELEPHONE</u>	<u>LIQUOR LICENSE</u>
Ketchikan	343,760.30	292,856.30	0.00	4,654.00	0.00	46,250.00
Kiana	1,908.24	0.00	0.00	0.00	1,908.24	0.00
King Cove	501,016.33	497,766.33	0.00	0.00	0.00	3,250.00
Kivalina	2,978.24	0.00	0.00	0.00	2,978.24	0.00
Klawock	5,199.98	5,199.98	0.00	0.00	0.00	0.00
Kobuk	348.46	0.00	0.00	0.00	348.46	0.00
Kodiak	869,739.06	798,938.21	14,234.33	2,784.00	30,832.52	72,950.00
Kotzebue	29,457.01	454.43	0.00	0.00	29,002.58	0.00
Koyuk	294.84	0.00	0.00	0.00	294.84	0.00
Koyukuk	48.00	0.00	0.00	48.00	0.00	0.00
Larsen Bay	31,500.28	31,380.28	0.00	120.00	0.00	0.00
Lower Kalskag	148.05	0.00	0.00	0.00	148.05	0.00
Manokotak	1,675.46	0.00	0.00	0.00	1,675.46	0.00
Marshall	1,350.78	1,350.78	0.00	0.00	0.00	0.00
McGrath	4,750.00	0.00	0.00	0.00	0.00	4,750.00
Mekoryuk	281.70	0.00	0.00	0.00	281.70	0.00
Mountain Village	8,840.40	7,789.71	0.00	0.00	1,050.59	0.00
Nenana	8,052.01	1,025.43	59.95	408.00	1,808.63	4,750.00
New Stuyahok	290.41	0.00	0.00	0.00	290.41	0.00
Newhalen	195.53	0.00	0.00	0.00	195.53	0.00
Nightmute	24.00	0.00	0.00	24.00	0.00	0.00
Nome	17,124.00	0.00	0.00	624.00	0.00	16,500.00
Nondalton	244.09	0.00	0.00	0.00	244.09	0.00
Noorvik	2,103.00	0.00	0.00	0.00	2,103.00	0.00
North Pole	33,046.73	954.86	0.00	1,296.00	25,745.87	5,050.00
Nunapitchuk	289.01	0.00	0.00	0.00	289.01	0.00
Nulato	3,376.75	3,000.00	0.00	0.00	376.75	0.00
Old Harbor	624.71	0.00	0.00	284.00	340.71	0.00
Ouzinkie	72.00	0.00	0.00	72.00	0.00	0.00
Palmer	80,664.81	0.00	649.89	1,586.00	69,503.92	8,925.00

Alaska Department of Revenue
Income & Excise Audit Division
SHARED TAX ANNUAL REPORT
For the Fiscal Year Ended June 30, 1990

Appendix B
LIST OF REVENUES SHARED BY CITY

<u>CITY</u>	<u>TOTAL</u>	<u>FISHERIES TAX</u>	<u>AVIATION TAX</u>	<u>COIN-OPERATED DEVICE</u>	<u>ELECTRIC/ TELEPHONE</u>	<u>LIQUOR LICENSE</u>
Pelican	130,719.72	126,647.72	0.00	72.00	0.00	4,000.00
Petersburg	1,032,047.94	1,021,755.94	0.00	492.00	0.00	9,800.00
Pilot Station	454.61	0.00	0.00	0.00	454.61	0.00
Port Lions	364.71	0.00	0.00	0.00	364.71	0.00
Quinhagak	444.07	0.00	0.00	0.00	444.07	0.00
Ruby	750.00	0.00	0.00	0.00	0.00	750.00
Russian Mission	198.74	0.00	0.00	0.00	198.74	0.00
Saint George	1,489.00	739.00	0.00	0.00	0.00	750.00
Saint Mary's	690.34	22.71	0.00	0.00	676.63	0.00
Saint Michael	316.69	0.00	0.00	0.00	316.69	0.00
Saint Paul	121,770.28	119,470.28	0.00	0.00	0.00	2,300.00
Sand Point	105,309.39	101,759.39	0.00	0.00	0.00	3,550.00
Savoonga	508.97	0.00	0.00	0.00	508.97	0.00
Scammon Bay	354.00	0.00	0.00	0.00	354.00	0.00
Selawik	2,017.12	0.00	0.00	0.00	2,017.12	0.00
Seldovia	17,793.46	9,590.37	0.00	120.00	1,783.09	6,300.00
Seward	229,422.04	207,732.04	0.00	2,440.00	0.00	19,250.00
Shageluk	110.89	0.00	0.00	0.00	110.89	0.00
Shaktoolik	239.93	0.00	0.00	0.00	239.93	0.00
Shishmaref	828.36	0.00	0.00	312.00	516.36	0.00
Shungnak	1,330.91	0.00	0.00	0.00	1,330.91	0.00
Skagway	8,750.00	0.00	0.00	0.00	0.00	8,750.00
Soldotna	41,570.73	788.81	1,855.01	2,344.00	21,807.91	14,775.00
Stebbins	286.30	0.00	0.00	0.00	286.30	0.00
Tanana	750.00	0.00	0.00	0.00	0.00	750.00
Tenakee Springs	2,306.63	6.63	0.00	0.00	0.00	2,300.00
Thorne Bay	750.00	0.00	0.00	0.00	0.00	750.00
Togiak	39,552.42	38,922.66	0.00	0.00	629.76	0.00
Toksook Bay	2,049.95	1,680.68	0.00	0.00	369.27	0.00
Tununak	337.02	23.50	0.00	10.00	303.52	0.00

Alaska Department of Revenue
Income & Excise Audit Division
SHARED TAX ANNUAL REPORT
For the Fiscal Year Ended June 30, 1990

Appendix B
LIST OF REVENUES SHARED BY CITY

<u>CITY</u>	<u>TOTAL</u>	<u>FISHERIES TAX</u>	<u>AVIATION TAX</u>	<u>COIN-OPERATED DEVICE</u>	<u>ELECTRIC/ TELEPHONE</u>	<u>LIQUOR LICENSE</u>
Unalakleet	1,618.65	0.00	0.00	0.00	1,618.65	0.00
Unalaska	1,117,409.71	1,109,909.71	0.00	0.00	0.00	7,500.00
Upper Kalskag	15,825.00	0.00	0.00	0.00	0.00	15,825.00
Valdez	425,788.63	338,345.76	12,576.07	624.00	74,242.80	0.00
Wales	205.84	0.00	0.00	0.00	205.84	0.00
Wasilla	47,706.82	0.00	0.00	2,384.00	45,322.82	0.00
Whittier	10,526.19	3,966.58	0.00	0.00	2,709.61	3,850.00
Wrangell	66,703.62	55,065.62	0.00	288.00	0.00	11,350.00
Yakutat	205,903.74	203,831.74	0.00	72.00	0.00	2,000.00
TOTAL	<u>\$17,829,527.86</u>	<u>\$14,769,937.11</u>	<u>\$136,684.12</u>	<u>\$83,577.00</u>	<u>\$1,959,304.63</u>	<u>\$880,025.00</u>

PAYMENTS TO STATES FROM NATIONAL FOREST RECEIPTS
 FISCAL YEAR 1990
 OCT 1, 1989 THRU SEP 30, 1990
 ---NATIONAL FOREST SUMMARY---

NATIONAL FOREST *-----*	STATE *---*	BOROUGHS *-----*	FY-90 ACRES *---*	TOTAL PAYMENT *-----*
CHUGACH	ALASKA	Anchorage	274,290	\$ 2,633.80
		Kenai Penin.	1,139,903	10,945.63
		Kodiak Is.	214,824	2,062.79
		Matanuska-Su	43,386	416.60
		Unorganized	4,009,473	38,499.95
NATIONAL FOREST TOTAL:			5,681,876*	\$ 54,558.77*
TONGASS	ALASKA	Haines	918,072	\$ 493,478.14
		Juneau	1,654,618	889,383.22
		Ktn. Gateway	748,337	402,242.91
		Sitka	1,814,934	975,555.59
		Unorganized	11,612,499	6,241,900.96
NATIONAL FOREST TOTAL:			16,748,460*	\$9,002,560.82*
REGION TOTAL:			22,430,336**	\$9,057,119.59**

into Gov. Fund

into Gov. Fund

Actual Interim Payment Made Effective 10/1/90	\$ 6,521,913.20
Final Payment Made 12/7/90	2,535,206.39

Total State of Alaska Payment	\$ 9,057,119.59
	=====

PAYMENT TO STATE OF ALASKA FROM NATIONAL FOREST RECEIPTS

FEDERAL FISCAL YEARS 1959 TO 1990

FEDERAL FISCAL YEAR	CHUGACH NF	TONGASS NF	TOTAL PAYMENT
1956 59	\$ 8,255.	\$ 150,038.	\$ 158,263.
1960	8,466.	189,655.	198,131.
1961	10,425.	202,006.	212,431.
1962	10,455.	161,137.	171,592.
1963	4,842.	208,332.	213,174.
1964	5,476.	231,512.	236,988.
1965	4,656.	212,576.	217,232.
1966	7,323.	276,162.	283,485.
1967	5,044.	399,923.	404,967.
1968	7,435.	510,123.	517,558.
1969	17,678.	557,097.	574,775.
1970	23,283.	1,057,638.	1,080,921.
1971	20,993.	1,031,200.	1,052,193.
1972	30,806.	851,337.	882,143.
1973	47,692.	926,223.	973,915.
1974	44,811.	643,322.	688,133.
1975	31,630.	1,014,448.	1,046,078.
1976	31,849.	437,689.	469,538.
1977	90,066.	2,465,222.	2,555,288.
1978	139,820.	2,970,500.	3,110,320.
1979	112,596.	3,461,103.	3,573,699.
1980	21,957.	6,506,123.	6,523,080.
1981	23,208.	3,751,986.	3,775,194.
1982	24,681.	5,405,691.	5,430,372.
1983	33,589.	1,341,479.	1,341,479.
1984	36,299.	1,015,797.	1,052,096.
1985	37,154.	52,308.	89,462.
1986	53,719.	491,810.	545,529.
1987	0.	0.	0.
1988	101,989.	308,167.	410,156.
1989	60,241.	5,045,783.	5,106,024.
1990	54,558.	9,002,560.	9,057,119.

This table of payments to the State of Alaska from National Forest receipts indicates the final payments derived from the National Forests in Alaska for the period requested (16 U.S.C. 500 as amended by P.L. 94-588).

TONGASS FOREST RECEIPTS

HB 54 UNORGANIZED BOROUGH DISTRIBUTION

COMMUNITIES	POPULATION	% POP.1	\$2,000,000	% POP.2	\$2,000,000
Home Rule					
Petersburg	3,576	23.36	\$467,115	20.89	\$417,855
Wrangell	2,630	17.18	\$343,544	15.37	\$307,315
Federal					
Metlakatla	1,386	9.05	\$181,046	8.10	\$161,954
1st Class					
Hydaburg	457	2.98	\$59,696	2.67	\$53,400
Craig	1,535	10.03	\$200,509	8.97	\$179,364
Klawock	897	5.86	\$117,171	5.24	\$104,814
Kake	682	4.45	\$89,086	3.98	\$79,692
Hoonah	894	5.84	\$116,779	5.22	\$104,464
Pelican	290	1.89	\$37,881	1.69	\$33,886
Skagway	718	4.69	\$93,789	4.19	\$83,898
Yakutat	527	3.44	\$68,839	3.08	\$61,580
2nd Class					
Thorne Bay	614	4.01	\$80,204	3.59	\$71,746
Coffman Cove	180	1.18	\$23,513	1.05	\$21,033
Kasaan	80	0.52	\$10,450	0.47	\$9,348
Kupreanof	52	0.34	\$6,793	0.30	\$6,076
Angoon	685	4.47	\$89,478	4.00	\$80,042
Tenakee Sp.	108	0.71	\$14,108	0.63	\$12,620
SUB TOTAL	15,311	100.00	\$2,000,000	89.45	\$1,789,086
Unincorporated					
Hyder	69	}	}	10.55	\$210,914
Annette	175				
Hollis	25				
Meyers Chuck	34				
Edna Bay	81				
N. Whale Pass	62				
Pt. Baker	71				
Port Protection	27				
Labouchere Bay	116				
Long Isl.	118				
Naukati	42				
Polk Inlet	36				
Hobart Bay	144				
Cube Cove	142				
Game Creek	48				
Whitestone Log.	143				
Gustavus	248				
Elfin Cove	60				
Klukwan	164				
TOTAL	17,116			100.00	\$2,000,000

Note A: Populations of organized communities certified by DCRA, Dec. 15, 1990.

Populations of unincorporated communities are estimates from DCRA, July 1, 1989.

Note B: Only communities with populations greater than 24 are listed.

CHUGACH FOREST RECEIPTS

HB 54 UNORGANIZED BOROUGH DISTRIBUTION

COMMUNITIES	POPULATION	% POP.	\$40,000
Home Rule			
Cordova	2619	33.65	\$13,462
Valdez	4635	59.56	\$23,824
2nd Class			
Whittier	299	3.84	\$1,537
Unincorporated			
Chenega	76	} → 2.94	\$1,177
Eyak	50		
Tatitlek	103		
TOTAL	7782	100.00	\$40,000

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

January 14, 1991

SUBJECT: Distribution of National Forest Receipts in the Unorganized Borough (Work Order No. 17LS-0427)

TO: Representative-elect Jerry Mackie
Attn: Dave Gray

FROM: Gerald P. Luckhaupt *JER*
Legislative Counsel

You requested an opinion as to whether current AS 41.15.180(c) comports with the federal law regulating how national forest receipts are distributed to local governments. A copy of the federal law, 16 U.S.C. § 500 is attached.

The federal law refers to counties. In Alaska, of course, we don't have counties but boroughs. We must assume that a federal court would interpret the federal reference to counties to mean boroughs in Alaska. We must also assume that the unorganized borough would be found to be comparable to a county. Keeping these assumptions in mind, AS 41.15.180 provides:

The commissioner shall deposit income from national forest land outside of organized boroughs in the general fund of the state, 25 percent to be used for public schools and 75 percent for roads.

If this statute means that the income from national forest lands outside of boroughs shall be used for public schools and roads in the unorganized borough, then it comports with the requirements of the federal legislation. While the subsection could have been drafted more clearly, for example including the words "in the unorganized borough" after roads and before the period, by reading the entire statute together, and comparing these receipts with the distributions made to organized boroughs, it might be possible to argue that expenditure of the money in the unorganized borough is required by implication. That, however, really ought to be specifically stated, since the federal law requires receipts from national forests to be spent in the county where the receipts were generated.

Even if the statute is found to comply with federal law, AS 41.15.180(c) does not provide any direction as to how these funds are to be distributed by the commissioner

Representative-elect. Jerry Mackie

January 14, 1991

Page 2

of administration in the unorganized borough. AS 41.15.180(a) provides for distribution between organized boroughs, but no direction is provided for distribution within the unorganized borough. As a result it appears the commissioner has unfettered discretion to distribute these funds among schools and road projects within the unorganized borough as he sees fit. While the federal statute merely requires the receipts to be used for the stated purposes in the county, and it does not require that the receipts be used in any particular place or area of the county, see, e.g., Trinity Independent School District v. Walker County, 287 S.W.2d 717(Texas App. 1956), arguably, as a matter of policy some direction as to distribution should be included in the statute.

GPL:mi

91-008.mai

Enclosure

extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

Amendments:

1928. Act May 29, 1928, deleted a provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

CROSS REFERENCES

Deposit of proceeds from sale of timber on lands added to Siskiyou National Forest, 16 USCS § 487.

Refunding accounts, 31 USCS § 725q(b)(9)(18).

Trust funds, 31 USCS § 725s(13).

This section referred to in 16 USCS §§ 508b, 527.

INTERPRETIVE NOTES AND DECISIONS

Jurisdiction of Secretary as to refunds is exclusive only as to disputed questions of fact, and his decision upon question of law is reviewable by

Court of Claims. *Utah Power & Light Co. v United States* (1929) 67 Ct Cl 602.

§ 500. Payment and evaluation of receipts to State for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments

estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1903, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, P. L. 94-583, § 16, 90 Stat. 2961.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Act of June 9, 1930, referred to in text, is Act June 9, 1930, ch. 416, 46 Stat. 527, popularly known as the Knutson-Vandenberg Act, which is classified to 16 USCS 576, 576a, and 576b.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, ch. 192, 35 Stat. 251. A portion of that Act appearing at 35 Stat. 260 is classified to this section.

Explanatory notes:

This section appears in the language of the compilers of the 1976 Edition of the United States Code. For status of the United States Code as evidence of the law, see 1 USCS §§ 112 and 204 and notes thereunder.

"National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Amendments:

1914. Act June 30, 1914, changed the per centum to be paid to each State from five to twenty-five.

1944. Act Sept. 21, 1944, added sentence relating to stumpage value of the timber.

1950. Act Apr. 24, 1950, deleted second proviso relating to limitation paid county.

1976. Act Oct. 22, 1976, added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

relating to the subject matter of AS 41.15.010 — 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery. (§ 12 ch 138 SLA 1961)

Sec. 41.15.170. Definitions. In AS 41.15.010 — 41.15.170

(1) *[Repealed, § 43 ch 85 SLA 1988.]*

(2) "damages" includes costs incurred in suppressing, controlling or extinguishing a fire;

(3) "forested land" includes all land on which grass, brush, timber and other natural vegetative material grows;

(4) "forest fire" includes the uncontrolled burning of grass, brush, timber and other natural vegetative material. (§ 1 ch 138 SLA 1961; am § 3 ch 179 SLA 1970; am § 43 ch 85 SLA 1988)

Revisor's notes. — In 1983 this section was reorganized to place the terms defined in alphabetical order.

Effect of amendments. — The 1988 amendment repealed former paragraph (1), which defined "commissioner."

Article 2. Forest Reserve Fund.

Section

180. National forest income

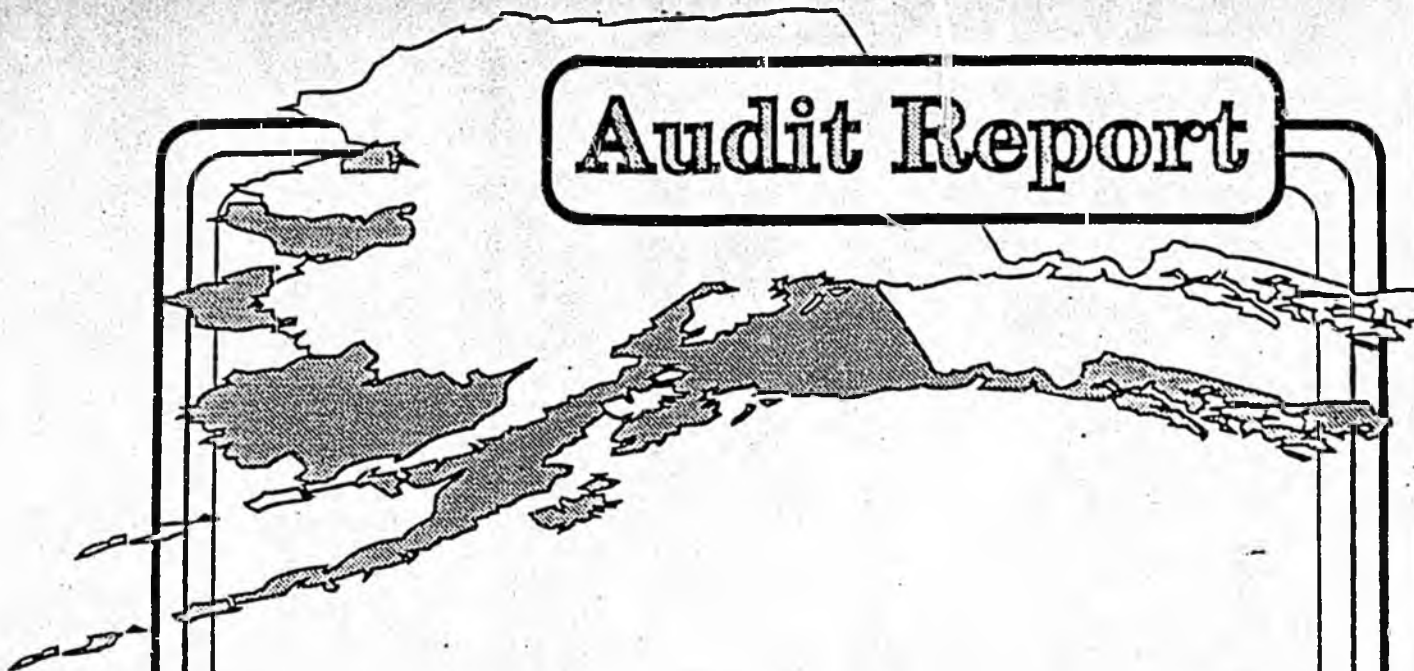
Collateral references. — 52 Am. Jur. 2d, Logs and Timber, § 65.

Sec. 41.15.180. National forest income. (a) When the commissioner of administration receives national forest income under 16 U.S.C. 500, the commissioner shall immediately pay to every organized borough in which national forest land is located a share of the income from that forest. A borough's share of income from a national forest shall be proportional to the area of the national forest located within its boundaries. The payments shall be made under an appropriation made for that purpose.

(b) The national forest income paid to an organized borough under this section shall be expended for public schools or roads.

(c) The commissioner shall deposit income from national forest land outside of organized boroughs in the general fund of the state, 25 percent to be used for public schools and 75 percent for roads. (§ 47-5-1 ACLA 1949; am § 1 ch 106 SLA 1965; am § 1 ch 32 SLA 1969)

Audit Report



STATE OF ALASKA

SINGLE AUDIT

For the Fiscal Year Ended
June 30, 1989



Audit Control Number:

02-6000-91

Division of Legislative Audit
P.O. Box W, Juneau, Alaska 99811-3300

These communities sued the State for not segregating these funds and for not establishing a mechanism by which they could apply to receive them. Following a March 1986 Superior Court judgment requiring the State to do these things, the legislature passed chapter 53, SLA 1986. This chapter established the Department of Community and Regional Affairs (DCRA) as the state agency responsible for adopting regulations and administering the grants to alleviate the impact of oil and gas development in NPRA. The legislation also revised what constituted the NPRA fund in light of the court decision.

Within DOA there is no system to ensure that federal requirements related to NPRA revenues are met when granted as municipal grants under AS 37.05.315. The source of these grants may be either federal or state depending on the circumstances: if a grant is impact-related under AS 37.05.530(c), it is federal; if not, it may be considered state money under the lapse requirement of AS 37.05.530(g).

To ensure that NPRA intent is not lost in the municipal granting process, DOA should seek the assistance of DCRA to determine whether a given grant is impact-related. If a grant is deemed to be impact-related, federal requirements related to allowable costs as outlined in OMB Circular A-87 and subrecipient monitoring in accordance with OMB Circular A-128 must be applied. Additionally, grantees must be notified that the source of applicable grants is federal for their audit purposes.

CFDA: Other

Federal Agency: USDOJ

Agency's Response

The department agrees and will work with the Department of Community and Regional Affairs.

Recommendation No. 3

DOA should improve its monitoring of national forestry receipts in order to demonstrate compliance with federal and state requirements.

Alaska Statute 41.15.180 requires the commissioner of administration to pay organized boroughs in which national forest land is located their share of national forest income received under 16 USC 50C. The statute requires that payments shall be made under an appropriation for that purpose and shall be expended for public schools or roads. The state law further requires the commissioner to deposit income from national forest land outside of organized boroughs in the general fund of the State, 25% to be used for public schools and 75% for roads.

Currently, DCRA records national forestry receipts and is appropriated a portion for distribution to organized

boroughs. Funds exceeding those distributions made by DCRA are lapsed to the general fund. There is presently no mechanism to ensure that the amount of national forest income that lapses to the general fund is expended for the benefit of public schools and public roads. Due to the amount of general funds that are expended for public schools and public roads, it is likely that this requirement is in fact being met. However, since DOA has statutorily been assigned responsibility for these receipts, the department should ensure and document that this federal financial assistance is being expended in accordance with federal and state requirements. In addition, grantees, if any, should be notified that the source of applicable grants is federal for their OMB Circular A-128 audit purposes.

The above situation is a system weakness pertaining to management of the federal program. In order to correct the problem, DOA should improve the monitoring of national forestry receipts received by the State.

CFDA: 10.665

Federal Agency: USDA

Agency's Response

We concur and will look into alternatives to improve the monitoring of these receipts.

Recommendation No. 4

The Older Alaskans Commission (OAC) should allocate payroll costs based on a positive timekeeping system.

OMB Circular A-87 requires that salaries of employees chargeable to more than one grant program or other cost objective be supported by appropriate time distribution records. This has been interpreted to mean either records which account for all time worked or an appropriate time study which has been approved by the federal agency providing funding. The method used should produce an equitable distribution of time and effort.

Personnel costs within OAC are allocated between Title III and Title V federal programs. Presently, the time study conducted by OAC in January and March 1989 does not support the allocation of payroll costs between these programs. If seasonal fluctuations exist, the study should cover various intervals throughout the year to incorporate these variances. Approval of the methodology to be used should be secured from the applicable federal agencies. Once an approved time study has been completed, actual allocation of payroll should be in accordance with the distribution determined in the study.

CFDA: Various
Questioned Costs: \$801.

Federal Agency: Various

REPRESENTATIVE
JERRY MACKIE

P. O. BOX 73
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2930 HOME

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



WHILE IN JUNEAU
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4925

House of Representatives

REPRESENTATIVE MACKIE STATEMENT

On

HB 54, "An Act relating to the distribution
of national forest receipts."

HB 54 corrects a long standing inequity in the national forest receipts program. The state receives from the U.S. Department of Agriculture a percentage of the earnings derived from harvest and other commercial activities in the Tongass and Chugach national forests. The purpose of these funds is to offset, in part, the fiscal impacts on local government services that result from these activities. However, use of the funds are restricted to education and public roads in the "county or counties in which the national forest is situated."

In current practice, the state allocates only a portion of these funds to organized boroughs within the two national forests. The allocation is based on the amount of national forest acreage within the boroughs' boundaries. The remaining portion of funds, associated with forest acreages in the unorganized borough, is not allocated specifically and co-mingles with state general funds.

HB 54 would preserve the intent of the forest receipts program and the spirit of federal law by specifically allocating the unorganized borough portion of funds to the appropriate communities in the Tongass and Chugach forest. This distribution in the unorganized borough is on a per capita basis. The bill also divides the use of the funds into 75% for roads and 25% for education.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB54

Revision Date: _____ Department Affected: Education

Title: Distribution of national forest receipts BRU: K-12 Support
Component: Foundation

Sponsor: Mackie

Requestor: House C&RA COMPONENT SERIAL NO.

	1	4	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Mary Hakala Phone: 465-2800

Division: Commissioner's Office Date: 2/4/91

Approved by Commissioner: Steve Holt, Acting Commissioner

Agency: Education Date: 2/4/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



February 6, 1991

Representative Jerry Mackie
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Mackie:

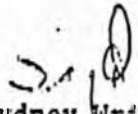
Weather prevents my personal testimony today on H.B. 54.

I wish to underline our previous contacts with you relative to Hoonah School's financial need. We have already made substantial cuts in all program areas this year.

We believe that the original concept of stumpage fees was that the monies generated should accrue to the communities affected and that the terminology of "bcroughs" unintentionally left out such city districts as Hoonah. In addition, our need is emphasized because we provide services to students of logging families who live outside the City.

We strongly support H.B. 54 with its original language: that the receipts are dedicated to roads or schools without the mandated percentage allotment.

Yours truly,


L. Sydney Wright
Superintendent

LSW/db

c: Bob Pinard, City Clerk

**LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH, AK 99829
(907)945-3627
(907)945-3258**

FEBRUARY 6, 1991

REP. JERRY MACKIE
P.O. BOX B
JUNEAU, AK 99811

DEAR REP. MACKIE:

THE LOGGERS LEGAL DEFENSE FUND IS A NON-PROFIT CORPORATION WHOSE PURPOSE IS TO PROTECT, DEFEND AND PROMOTE THE RIGHT TO WORK, LIFESTYLE AND ECONOMIC INTERESTS OF TIMBER INDUSTRY WORKERS AND RELATED OCCUPATIONS IN ALASKA.

TO DATE, THE L.L.D.F. HAS 1,600 MEMBERS AND SUPPORTERS WHO SPAN THE ENTIRE SPECTRUM OF TIMBER INDUSTRY LABOR WORKERS IN ALASKA.

THE L.L.D.F. LENDS ITS FULL SUPPORT AND BACKING TO HB 54. WE WOULD LIKE TO SEE THE COMMUNITIES LOCATED WITHIN UNORGANIZED BOROUGHES RECEIVE FUNDS FROM NATIONAL FOREST RECEIPTS. WE BELIEVE THIS ACTION WOULD ALLEVIATE SOME OF THE ECONOMIC STRESS FELT IN RURAL COMMUNITIES DUE TO AN OVERALL DECLINE IN THE TIMBER INDUSTRY. A LARGE PERCENTAGE OF OUR MEMBERSHIP LIVING IN COMMUNITIES SITUATED IN A NATIONAL FOREST WOULD DIRECTLY BENEFIT FROM PASSAGE OF THIS BILL INTO LAW.

PLEASE CONTACT THE L.L.D.F IF WE CAN BE OF FURTHER HELP IN PROMOTING AND SUPPORTING HB 54.

SINCERELY,



JUNE CHRISTLE, EXEC. DIRECTOR

State of Alaska
Department of Commerce and Economic Development
Division of Banking, Securities and Corporations

CERTIFICATE
OF
INCORPORATION
Nonprofit Corporation

The undersigned, as Commissioner of Commerce and Economic Development of the State of Alaska, hereby certifies that duplicate originals of the Articles of Incorporation of

LOGGERS' LEGAL DEFENSE FUND, A NONPROFIT CORPORATION.

have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Commissioner of Commerce and Economic Development, and by virtue of the authority vested in him by law, hereby issues the Certificate of Incorporation and attaches hereto a duplicate original of the Articles of Incorporation.



IN TESTIMONY WHEREOF, I execute this certificate
and affix the Great Seal of the State of Alaska on
DECEMBER 14, 1990.

A handwritten signature in cursive script, appearing to read "Jane Angvik".

JANE ANGVIK

COMMISSIONER OF COMMERCE
AND ECONOMIC DEVELOPMENT

**LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH, AK 99829
(907)945-3627**

MANY OF YOU MAY HAVE ALREADY HEARD OF OUR ORGANIZATION, THE L.L.D.F., THROUGH THE VARIOUS MEDIA SOURCES IN SE ALASKA. WE HAVE BEEN ANXIOUSLY WAITING FOR THE NEW YEAR TO GREET OUR STANDING AS A LEGAL NON-PROFIT CORPORATION. WE CAN NOW BEGIN MEETING OUR GOALS AND OBJECTIVES.

ENCLOSED YOU WILL FIND A SAMPLE OF THE TYPE OF LITERATURE WE ARE DISBURSING TO ALL TIMBER INDUSTRY RELATED WORKERS, VENDORS AND SUPPLIERS. ALL OF THESE GROUPS STAND TO LOSE ECONOMICALLY IF A DECLINE IN THE TIMBER INDUSTRY IS ALLOWED. WE HAVE LET ENVIRONMENTAL GROUPS DICTATE AND MANIPULATE OUR LEGAL SYSTEM TOO LONG. THE L.L.D.F. OFFERS A NEW RESOURCE WHICH HAS SO FAR BEEN UNTAPPED IN THESE BATTLES--THE TIMBER WORKERS.

OUR ORGANIZATION IS DEPENDENT UPON LARGE NUMBERS AND FUNDING TO CARRY OUR VOICES INTO THE LEGAL SYSTEM THAT IS OVERRUN WITH CASES CONCERNING USE OF OUR RENEWABLE RESOURCES. WE ARE ASKING FOR YOUR FINANCIAL CONTRIBUTION AND YOUR NAME FOR SUPPORT TO HELP SECURE THE FUTURE OF THE TIMBER INDUSTRY IN THE PACIFIC NORTHWEST.

WE WILL BE SENDING OUT A NEWSLETTER PERIODICALLY TO KEEP YOU INFORMED OF THE ORGANIZATIONS PROGRESS. UNTIL THEN, FEEL FREE TO CALL OUR OFFICE WITH QUESTIONS, COMMENTS, OR ANY LAWSUIT WHICH WE COULD HELP WITH.

THANK YOU FOR YOUR CONSIDERATION OF THE L.L.D.F.!

SINCERELY,

June Christle

JUNE CHRISTLE, EXEC. DIRECTOR
L.L.D.F.

LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH ALASKA 99829

WE ARE A GROUP OF PEOPLE BROUGHT TOGETHER TO PROMOTE AND DEFEND OUR WAY OF LIFE. OUR EXISTENCE IS BEING THREATENED BY THE RADICAL ACTIONS OF NATIONALLY ORGANIZED ENVIRONMENTAL GROUPS. THE ACTIONS OF THESE GROUPS ARE DESTROYING THE RIGHTS OF WORKERS IN ALL LABOR FIELDS TO WORK AND EARN A LIVING.

THE LOGGERS LEGAL DEFENSE FUND, INC. IS A NON-PROFIT GRASSROOTS ORGANIZATION IN SE ALASKA WHOSE PURPOSE IS TO REPRESENT EVERY LABOR WORKERS JOB BEING SUFFOCATED BY IRRESPONSIBLE ENVIRONMENTAL ACTIONS. THE PREJUDICE PROMOTED BY THESE ACTIONS CURRENTLY ATTACKS ALL LOGGING JOBS CREATING A TARNISHED IMAGE BEFORE THE PUBLIC -- "TREE AND FOREST KILLERS." WHILE LOGGING IS UNDER DIRECT ORGANIZED ENVIRONMENTAL ASSAULT MANY OTHER LABOR OCCUPATIONS ARE FALLING IN LINE FOR THE SLAUGHTER; MINERS AS RAPING THE EARTH; CONSTRUCTION WORKERS AS DESTROYING ALL WETLANDS; FISHERMEN AS MURDERING THE SEAS.

IT IS TIME TO STAND TOGETHER AGAINST THESE FALSE IMAGES AND SHOW OUR NATION WHO WE ARE -- THE LABOR WORKING PEOPLE OF OUR COUNTRY!

TEAR HERE

WE NEED YOUR SUPPORT.
PLEASE SIGN AND SEND YOUR NAME, ADDRESS, TELEPHONE NUMBER.
DONATIONS ARE NEEDED AND ACCEPTED.

PRINT NAME: _____ PHONE: _____
ADDRESS: _____ ZIP _____
DONATION: _____
SIGNATURE _____

SEND TO: LOGGERS LEGAL DEFENSE FUND, INC.
P.O. BOX 389
HOONAH AK 99829

DIFFERENT
COMPANY'S
LETTERHEAD

THE ALASKAN TIMBER INDUSTRY HAS RECENTLY BEEN PLAGUED BY LEGAL AND LEGISLATIVE ACTIONS CREATED BY ENVIRONMENTAL GROUPS AND PRESSURED GOVERNMENTAL AGENCIES. THESE ACTIONS HAVE ALREADY CREATED EXTREME SOCIOECONOMIC HAVOC IN THE OREGON/WASHINGTON TIMBER INDUSTRY. THE SAME TYPE OF ACTIONS AND TACTICS ARE NOW THREATENING LOGGING IN SE ALASKA. THE FALLOUT FROM THE BOMBARDED PACIFIC NORTHWEST TIMBER INDUSTRY WILL ALSO LEAVE A COVER OF DUST ON ALL OF THE INDUSTRY'S VENDORS AND SUPPLIERS. THE RIPPLING EFFECTS WILL CONTINUE TO BE FELT THROUGHOUT THE ENTIRE ECONOMIC COMMUNITY IN THE PACIFIC NORTHWEST AREA.

LOGGERS LEGAL DEFENSE FUND WAS FORMED TO PROMOTE AND DEFEND THE WORKING LOGGER FROM THE IRRESPONSIBLE ACTIONS OF ENVIRONMENTAL GROUPS. THE GRASSROOTS ORGANIZATION IS DEPENDENT UPON GAINING SUPPORT FROM ALL AFFILIATED PARTIES WHO HAVE A CLAIM IN THIS CAUSE. THE OBJECTIVE OF THE LLDF IS TO PROVIDE A LEGAL AND FINANCIAL PLATFORM FROM WHICH TIMBER INDUSTRY WORKERS CAN FIGHT FOR THEIR RIGHT TO WORK.

AS EACH TIMBER DOLLAR IS LOST DUE TO THE DISEASE OF BUREAUCRATIC CANCER ENTANGLING THE INDUSTRY, EACH VENDOR AND SUPPLIER STANDS TO LOSE A PERCENTAGE OF EACH DOLLAR. THE SITUATION HAS REACHED A PROPORTION OF SUBSTANTIAL CONSEQUENCES REQUIRING THE IMMEDIATE ATTENTION OF THOSE CONCERNED.

THE LLDF ASKS FOR YOUR SUPPORT AND CONTRIBUTIONS. YOUR PARTICIPATION WILL PROVIDE YOUR ECONOMIC INTERESTS WITH AN AVENUE TO INSURE FUTURE BUSINESS RELATIONS WITH AN UNENCUMBERED TIMBER INDUSTRY.

CONTRIBUTIONS: LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH, AK 99829
(907)945-3626

CITY of HOONAH

PO. Box 360
Hoonah, Alaska 99829
(907) 945-3663

February 06, 1991

Representative Mackie
House of Representative
State of Alaska

Re: House Bill No. 54

The City of Hoonah wishes to go on record strongly supporting HOUSE BILL NO. 54 introduced by Representatives Mackie, Grussendorf January 22, 1991.

For years the City of Hoonah has been denied monies received by the State from National Forest Service Receipts redistributed to the organized Boroughs within the State of Alaska. Yet the bulk of the logging has been done within the Unorganized Borough. Last year alone there was \$12.5 million dollars worth of lumber taken out of our area by Whitestone Logging. I'm sure you can see how many trees were cut to obtain that figure. Yet very little cutting is done within the organized borough of whom this money is paid. I understand the borough of Haines received better than \$300,000 based on one small timber cut.

The language of the existing law "for the benefit of county or counties within the National Forest is located" was determined to be organized boroughs within the State of Alaska. In our mind this is totally unfair to those cities and communities within the unorganized borough. I'm not sure as to whether there could not be some legal challenge to the word "Unorganized Borough"

We would also like to be on record supporting the original language of this law which states "will be used for Public Roads or Schools". We wish to reserve the ability to determine as to how these monies are best needed. The City and school go through periods of economic instability which at the present time has created a large deficit in both the City and School. Like everyone else we are unable to keep up with State cuts every year. This gap between our operating expenses and revenues received gets larger every year and is expected to get worse under the present administration. These monies will definitely help our economic stability.

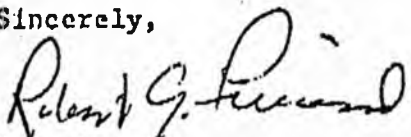
There are some questions I did have regarding this bill which I'm sure will be addressed by the committees. These are:

Representative Mackie
Page 2

1. If distributed on a per capita basis, does this include individuals living out side of a district such as individual dwellings, logging camps communities who still utilize the services of a City or community.
2. How does this bill affect second class cities who school system is supported by the State of Alaska as opposed to a First Class City which supports it own school system.

I'm sure we will have other questions as this bill advances. We will be watching it closely and intend to vigorously support this bill.

Sincerely,



Robert G. Pinard, City Treasurer
for Albert W. Dick, Mayor and the
Hoonah City Council

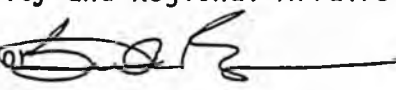


217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

February 6, 1991

MEMORANDUM

TO: Representative Jerry Mackie, Chair
Members, House Committee on Community and Regional Affairs

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 54 - Distribution of National Forest Receipts

On behalf of the 126 municipal members of the Alaska Municipal League, I am here today to offer the League's support of HB 54, to the extent that it would provide for distribution of a portion of the National Forest Receipts revenues to municipalities located within the forests but in the unorganized borough. I would also like to provide some background and raise some questions about specific provisions of the bill.

National Forest Receipts are revenue earned from activity on the national forests. Federal law provides that each year 25 percent of the gross revenue from each forest shall be returned to the state in which it is located. The states, in turn, are to distribute the funds under state law for the benefit of the public schools and roads of the county or counties in which the national forest is located.

Under the provisions of AS 41.15.180, Alaska's revenue from the National Forest Receipts program is distributed to organized boroughs that contain national forest land, based on the proportion of the forest located within each borough. The balance goes to the state for the provision of education and roads in the unorganized borough. Since 1965, the state statute has specified that 25 percent of those funds should be used for public education and 75 percent for roads.

Municipalities located within the unorganized borough in the national forest are affected by the presence of the national forest and provide public services to their residents, who include federal employees, logging company employees, and others whose employment supports the timber industry. Among those services are education and roads. At the present time, however, these municipalities receive no tax revenue from the national forest land.

Since the federal legislation was written long before Alaskan statehood and written to apply to states that were completely organized into counties, no provision was made in federal law to provide revenues to support local public services in national forests to other levels of local government, i.e., cities. However, state law can be changed to allow distribution of these funds in a different way, and this is what HB 54 is intended to do.

The League's 1991 Policy Statement (p. 19) includes the following statement:

National Forest Receipts Shared Revenue: The League supports the full funding and distribution of National Forest Receipts to municipalities within the national forests. The League urges the Congress or the Legislature to amend the law to require distribution of the funds currently deposited in the State's general fund for the area in the unorganized borough within national forests, on a per capita basis, to incorporated cities located in the national forests in the unorganized borough for school and road purposes."

On this basis, then, the League supports the concept of HB 54. However, the League has concerns about several issues raised by the current version of the bill and asks the committee to consider these questions in its deliberations:

1. Should National Forest Receipts be distributed to Rural Education Attendance Areas (REAs) and to unincorporated communities? Neither has responsibilities under Title 29 for the provision of public services with local funds and neither has the authority to collect local revenues.

REAs are fully funded by the state to provide education within their service areas and are not required to contribute local funds, so any funds distributed to them under the provisions of HB 54 would be over and above the "full cost" of educating their students.

Unorganized communities neither provide educational services nor build and maintain roads, except in an occasional instance with a state grant. The language in HB 54 regarding use of the portion of the funds for roads "in cooperation with the Department of Transportation and Public Facilities" is unclear as to whether the unincorporated communities would receive these funds directly or if they would be used by DOT for the benefit of the community.

2. What is the basis for the 25/75 split for education and public roads contained in the current state statute and included in HB 54? Is this an arbitrary requirement, and should it be changed? Municipalities are required to provide support for education, but not for roads.
3. Should all the money currently not distributed be included in the per capita distribution or should a portion be reserved by the state for the benefit of the citizens living in the affected areas of the unincorporated borough? Is a straight per capita distribution equitable, or should some cap be placed on the distribution to keep it in line with the per capita amount received by the incorporated boroughs?

As the committee may know, because of the dramatic rise in the level of National Forest Receipts in recent years and the provision that boroughs receive their share based on the proportion of forest within their boundaries, distribution of the currently undistributed portion of the funds to communities within the unorganized borough on a straight per capita basis could result in those communities receiving as much as 14 times as much per capita as some of the organized boroughs.

4. If HB 54 passed and allowed distribution of funds directly to unorganized communities, would this serve as a disincentive to incorporation?
5. If REAAs and municipal school districts received additional funds for education as a result of the distribution of National Forest Receipts, would this exacerbate the funding disparity problems faced by the state in qualifying for PL 874 funds?

In summary, the Alaska Municipal League supports the general intent of HB 54 and urges the committee to consider the questions outlined above in its deliberations on the bill. I look forward to working with you to resolve these issues.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 5, 1991

POSITION PAPER

RE: House Bill 54

SPONSOR: Representatives Mackie, Grussendorf

Program Effects of Bill

This bill would expand the distribution of National Forest Receipts funds to include Regional Educational Attendance Areas, cities and unorganized communities in the unorganized borough that are within or adjoin a National Forest. Presently, such funding is limited to organized boroughs within a National Forest.

Comments

The Department has several concerns and general comments regarding the bill in its current form. Comments are based on federal fiscal year 1991 fund distributions within the Tongass National Forest using 1990 federal census data.

The bill would create a disparity in funding between organized boroughs and the unorganized borough (UOB), since boroughs currently receive funds according to the amount of National Forest land within their boundaries, while REAAs, cities and unorganized communities in the UOB would receive funds on a per capita basis. Boroughs, which have about 75 percent of the population in the Tongass, receive approximately 25 percent of the funds available for distribution. Cities and unorganized communities, which have about 25 percent of the regional population, would receive approximately 75 percent of the funds, or the amount that currently goes into the state general fund because there are no boroughs to capture the funds at the local level. In per capita terms, the split distribution method (acreage for boroughs/per capita for municipalities and communities) results in funding of approximately \$55 per person for borough residents and approximately \$400 per person for residents in municipalities, unincorporated communities and logging camps in the unorganized borough.

The legal authority of some of the beneficiaries to expend funds for road and education purposes is questionable. REAAs are limited to spending funds only for educational purposes. Second class cities may have road powers but cannot operate their own schools. Unorganized communities neither have municipal powers nor operate schools. The fact that many of these communities are totally surrounded by Federal property further complicates the issue of road maintenance.

General Concerns

There is no definition of the term "community". There are a number of logging camps that may relocate or close as harvest activities are concluded or rotated to new locations. Typically, the camps are privately owned and located on federal land, with the camp owner acting as the service provider for camp residents.

The bill requires that entities in the unorganized borough receiving National Forest Receipt payments split the funds between education (25 percent) and roads (75 percent). However, existing law permits boroughs receiving these funds to use such payments for schools or roads in any ratio the borough assembly determines appropriate. The existing law also states that payments are to be made to local governments, while the bill states that payments made to municipalities in the UOB for schools shall be made to the municipal school district. This conflict should be resolved in the legislation.

Some communities would not be eligible for payments even with the per capita distribution method envisioned in the bill. Klukwan, for example, is neither within nor adjoining the Tongass National Forest. The cities of Haines and Ketchikan are within boroughs that already receive National Forest Receipt payments.

Position Paper - HB 54
February 5, 1991
Page three

Conclusions & Recommendations

If the program is to be expanded, the Department believes that National Forest Receipts payments should be made only to first class and home rule cities in the UOB, since these units typically have road powers and are also school districts. The distribution to first class and home rule cities in the UOB should not exceed the average per capita distribution to qualifying boroughs. Second class cities, if they are included within the distribution, should receive funds for roads only to reflect their lack of education powers. Perhaps they could be funded at a percent of the share that goes to home rule and first class cities. REAA's, which provide for education in second class cities and unincorporated communities, are already 100 percent state funded and should not receive additional entitlements.

The requirement for a 25 percent (schools) - 75 percent (roads) split should be removed, permitting first class cities in the UOB discretion in the use of the funds. Funds should be distributed to municipalities in the unorganized borough through agency grants, to permit some oversight and tracking of the funds. Finally, we would like to see a provision stating that should a borough form it would become the recipient of all National Forest Receipt payments for the region.

Edgar Blatchford

Edgar Blatchford, Commissioner

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 54

Revision Date: _____ Department Affected: Community & Regional Affairs

Title: "An Act relating..to National Forest receipts...." BRU: Community Assistance Grants
Component: National Forest Receipts

Sponsor: Reps Mackie & Grussendorf

Requestor: _____ COMPONENT SERIAL NO.

	6	6	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHMENT

Prepared By: Remond Henderson, Director Phone: 465-4708

Division: Administrative Services Date: 2/5/91

Approved by Commissioner: E. J. Berry

Agency: Community & Regional Affairs Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note Attachment

Bill/Resolution Number: HB 54

Title: " An Act Relating to the distribution of national forest receipts; and providing for an effective date."

ANALYSIS

The capture of additional national forest receipts funds at the local level will result in a corresponding loss of revenue to the state general fund. For state fiscal year 1991, approximately 6.2 million dollars will be paid into the general fund. Under HB 54, the 6.2 million would be distributed to the unorganized borough if the bill were in effect in state FY 91. However, this amount has varied widely over the years. The amount of forest receipts going into the general fund is approximately 75% of the total amount received by the state annually.



WRANGELL

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LINWOOD LAUGHY, Superintendent

GATEWAY TO THE STIKINE

RESOLUTION

91-3

WHEREAS, the Federal government recognizes that the existence of Federal Forest lands near a community creates an economic impact on that community's schools and roads, and

WHEREAS, the Federal government provides funds from Federal timber receipts to compensate for this impact, and

WHEREAS, the State of Alaska distributes portions of these funds to impacted school districts within Alaska's boroughs, and

WHEREAS, the State of Alaska does not now distribute these funds to impacted communities in the unorganized borough,

BE IT RESOLVED that the Wrangell School Board urges the Seventeenth Legislature to distribute Federal Timber Trust receipts received by the State of Alaska to school districts in the unorganized borough in a manner in keeping with Federal intent.

WRANGELL SCHOOL BOARD

William J Mesomer
Board President

01/18/91
Date

Vicki Foster
Secretary/Treasurer

2/5/91
Date

TESTIMONY BEFORE THE
HOUSE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Subject: HB 54, Distribution of National Forest Receipts to
Impacted Communities in the Unorganized Borough

Mr. Chairman, members of the committee:

My name is Tom Briggs, and I am the City Administrator for Craig, Alaska, a first-class city of 1,535 persons located on Prince of Wales Island, approximately 60 air miles west of Ketchikan.

We thank you for the opportunity to speak to this bill that is so important to so many communities in Southeast Alaska.

The National Forest Receipts Program was enacted by Congress in 1908 in recognition and acknowledgement of the effect management of the national forests has on communities within these national forests. The federal law creating the program, 16 USC 500, states:

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated:

Clearly, it is the intent of this federal statute that federal activities within the national forests are recognized as having impact on the roads and schools within these same forests. The federal government also recognizes it has a moral if not legal obligation to provide assistance to the local governments affected by these activities. Numerous courts, interpreting 16 USC 500, have held that Congress intended these funds as impact aid (to alleviate the impacts of forestry-related activities on communities) and not as payments in lieu of taxes.

Within the last eleven years, revenues generated by federal activities within the Tongass National Forest have totaled almost \$132,000,000. The federal government, in accordance with 16 USC 500, has paid almost \$33,000,000 over these eleven years to the State of Alaska for distribution to communities within the Tongass National Forest. Again, the purpose of the distribution is "for the benefit of the public schools and public roads " within the national forest. The State has in fact distributed only 31% of these revenue rebates, or just over \$10,000,000, to organized boroughs in the Tongass National Forest. The balance of almost \$23,000,000 has been retained by the State in the General Fund to be used for general purposes. The reason given for not distributing the rest of this money is that the revenue was

generated in the Unorganized Borough and the State statute, AS 41.15.180, does not allow the money to be distributed to impacted communities.

Those of us in the Unorganized Borough have heard this before. Every time inquiries are made as to why revenues collected to mitigate impact on communities affected by resource extraction, whether it be timber or fish, are not being spent in our communities, we are told that since we are in the Unorganized Borough, we are not entitled to receive any of these revenues, even though the resource is extracted from our forest or our fish-management area. Because we are located in the Unorganized Borough, an area comprising nearly 70% of the Tongass National Forest alone, we are treated as though we have no legitimate claim to the resources of our area. Whenever we question why we don't receive our share, we are told by the executive agencies that before we can receive these impact monies, we must form into an organized borough and add another level of government.

Both the State Constitution and State statutes provide for the existence of Unorganized Boroughs. In fact, the State Legislature is empowered by the Constitution to administer the Unorganized Borough in place of an Assembly. State statute, AS 29.05.031, enables an area that shares particular things in common to incorporate as a borough, but by no means does either the Constitution or this statute require borough incorporation. I emphasize the fact that the Constitution and statutes are enabling and require the area to petition with 15 percent of the registered voters as signators in the affirmative. Communities in the Unorganized Borough area of the Tongass National Forest have never expressed an interest in organizing.

The City of Craig today, as I've said above, is a community of 1,535 residents. Ten years ago, the population was only 500. Craig is the third fastest growing city in Alaska, and Prince of Wales Island is the second fastest growing area in Alaska. The growth is primarily the result of logging activities on the Island. The Island is covered entirely by the Tongass National Forest and all of the Island is in the Unorganized Borough. The impact of logging for the last eleven years has been tremendous on Craig and the entire Island community. All of the logging has taken place in old-growth forests. It is estimated that logging at the present rate can continue for almost another decade, but will decrease dramatically after the year 2000. The effect of the logging activity, however, is considerable now and will continue to be felt for years to come.

Evidence of impact can be seen in the fact that the budgeted expenditures per student in the Craig School District are the lowest in the State of Alaska. This is the result of inordinate growth in school populations attributable to logging activities without commensurate increases of revenues to mitigate the logging impact. Further impact is evident by the fact that City roads are unpaved, narrow, are at sub-standard grades resulting in high-tide storm washouts, and are badly in need of utility and sub-surface upgrades. Because of the inordinate logging-related growth, the City sewer system has been declared overloaded by DEC and consequently been classified as sub-standard, preventing approval of any new, much-needed subdivisions. The only road work performed in the City of Craig, or for that matter, on the entire Island, has been done with federal highway funds through joint DOT/Federal efforts. Requests to the State made by the City or School District of Craig for funds to assist us in mitigating the impact of the logging related growth are invariably denied on the basis that no funds are available. Nothing could be further from the truth, because the State has, as I've said above, received over \$22,000,000 from the federal government for roads and schools support in the Unorganized Borough of the Tongass National Forest.

This bill, then, Mr. Chairman, is desperately needed by all of the communities in the Unorganized Borough of the Tongass from Yakutat to Hydaburg. Without it, the many communities of the Unorganized Borough of Southeast Alaska will continue to be unable to provide the essential services of adequate roads and schools mandated by federal and State law. The quality of life in these communities will continue to be affected if revenues generated by resource utilization continue to be withheld. We therefore urge the committee to support HB 54 in its entirety. Thank you, Mr. Chairman.

REPRESENTATIVE
JERRY MACKIE

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CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



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House of Representatives

February 21, 1991

MEMORANDUM

To: All committee members
House Community & Regional Affairs Committee

From: Rep. Mackie, Chair *JM*

Re: Research of natural resource generated revenue sharing.

At the first hearing on HB 54, relating to the forest receipts program, there was a request for information on any other revenue sharing programs that are similar. In particular, the request was for programs that distributed revenues derived from natural resource development or use back to the communities or areas where the development or use occurred.

In addition to the forest receipt program, there are three other examples of particular interest. They are the state's raw fish tax refund to local governments, National Wildlife Refuge System refunds, and the National Petroleum Reserve Alaska (NPR-A) exploration refund.

In the first case, 50% of state revenues collected from taxation of fish processors and transporters in a local government area are refunded to the local government. There are no limitations on the governmental use of these funds. (See attachment 1).

The National Wildlife Refuge System operates in much the same way as the forest receipts program. 25 % of the net federal receipts from a particular refuge are returned to the "counties" on a per acreage allocation. There are no limitations on the governmental use of these funds. However, county is defined. (See Attachment 2).

50% of federal revenues received from oil exploration of NPR-A were returned to the state to mitigate the effects of potential oil and gas development in the reserve. The state was to give priority to those government subdivisions most directly and severely impacted. (See attachment 3).

Collateral references. — 35 Am. Jur. 2d, Fish and Game, § 45; 71 Am. Jur. 2d, State and Local Taxation, §§ 244-253, 289-299.

36A C.J.S., Fish, § 36.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase. 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation. 10 ALR2d 851.

Property destined for removal from state as subject to taxation therein. 11 ALR2d 938.

Sec. 43.75.100. Tax imposed on taking of fishery resource.

(a) A person taking, purchasing, or otherwise acquiring a fishery resource that has not been subject to the tax imposed in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax. (§ 1 ch 190 SLA 1959; am § 4 ch 79 SLA 1979; am §§ 8, 9 ch 117 SLA 1981; am § 4 ch 150 SLA 1990)

Effect of amendments. — The 1990 amendment, effective January 1, 1991, substituted "resource that" for "resource covered by this chapter which" in the introductory paragraph of subsection (a).

Sec. 43.75.110. Duty of taxpayer and payment of tax. A person subject to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return must contain the license number and must be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The require-

ments for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner are the same as those prescribed in AS 43.75.011 — 43.75.050. (§ 2 ch 190 SLA 1959; am § 9 ch 79 SLA 1979)

Sec. 43.75.120. Violations and penalties. [Repealed, § 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290.]

Article 3. Refunds to Local Governments.

Section

130. Refund to local governments
133. Provision of information to municipalities

Section

137. Additional refund

Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay

(1) to each city that is located in a borough incorporated after June 16, 1987 the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 30 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987 the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4, 7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2 ch 80 SLA 1987)

Postponed repeal of subsection (c). — Section 7, ch. 79, SLA 1986 repeals subsection (c), effective January 1, 1992.

Revisor's notes. — Subsection (f) enacted as (d). Renumbered in 1987.

Effect of amendments. — The 1986 amendment added subsections (b) and (c).

The first 1987 amendment added subsection (f).

The second 1987 amendment in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the section and substituted "under" for "by" throughout the subsection and added subsections (d) and (e).

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business

License Act. — See *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

Sec. 43.75.133. Provision of information to municipalities.

(a) If the mayor, manager, or administrator of a municipality makes a written request, the department shall furnish the mayor, manager, or administrator of the municipality the names of all fisheries businesses that have filed tax returns under this chapter in which the fisheries business listed the municipality as the location in which the fisheries

§ 715k-5. Administration and repayment of funds

No land shall be acquired with moneys from the migratory bird conservation fund unless the acquisition thereof has been approved by the Governor of the State or appropriate State agency.

(As amended Dec. 2, 1983, P. L. 98-200, § 2, 97 Stat. 1378; Oct. 26, 1966, P. L. 98-548, Title I, § 102, 98 Stat. 2774; Nov. 10, 1986, P. L. 99-645, Title I, § 101(b), 100 Stat. 3586.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES**Amendments:**

1983. Act Dec. 2, 1983, substituted "1984" for "1983" wherever it appears.

1984. Act Oct. 26, 1984 substituted "1986" for "1984" in two places.

1986. Act Nov. 10, 1986 deleted "Funds appropriated pursuant to this Act shall be treated as an advance, without interest, to the migratory bird conservation fund. Such appropriated funds, beginning on October 1, 1986, shall be repaid to the Treasury out of the migratory bird conservation fund, such repayment shall be made in annual amounts comprising 75 per centum of the moneys accruing annually to such fund. In the event the full amount authorized by the first section of this Act (16 USCS § 715k-3) is appropriated before October 1, 1986, the repayment of such funds pursuant to this section shall begin with the next full fiscal year." preceding "No land".

INTERPRETIVE NOTES AND DECISIONS

Gubernatorial consent required by 16 USCS § 715k-5 prior to federal acquisition of wetland easements for use as water fowl habitats, as authorized by 16 USCS § 718b, cannot be revoked once given; state statute placing conditions on obtaining of state consent required by § 715k-5 prior to acquisition of easements cannot be used to revoke previously given consents where nothing in state statute purports to limit United States' power to acquire land once "final approval" has been obtained; § 715k-5 does not permit outright revocation of previously obtained state consent and therefore state cannot revoke its consent based on noncompliance with conditions set forth in state statute; state statute which authorizes landowners to drain after-expanded wetlands contrary to terms of their wetland easement agreements with United States is hostile to federal interests and cannot be applied to easements under previously given consents. *North Dakota v United States* (1983) 460 US 300, 75 L Ed 2d 77, 103 S Ct 1095, 13 ELR 20312.

There is no requirement that Governor have specific state constitutional or statutory authority to act pursuant to 16 USCS § 715k-5; decision-making authority may be implied from Governor's position as head of executive branch of government in addition Governor may delegate authority to carry out state's decision making responsibility under § 715k-5. *United States v 1216.83 Acres of Land* (1978, Wash) 574 P2d 375, 89 Wash 2d 550.

Fact that state act giving state agency authority to consent to acquisition of land for national wildlife refuge predates Migratory Bird Conservation Act (16 USCS § 715 et seq.) does not preclude state act from carrying, in its broad provisions, general authority to do specific act of consent required by 16 USCS § 715k-5. *United States v 1216.83 Acres of Land* (1978, Wash) 574 P2d 375, 89 Wash 2d 550.

§ 715a. Participation of States in revenues from National Wildlife Refuge System

(a) Separate funds in the United States Treasury; availability of funds until expended; definition of "National Wildlife Refuge System". Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, salmonoid carcasses, timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System, National Fish Hatcheries, or other areas, that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter referred to as the "System") includes those lands and waters administered by the Secretary as wildlife refuges, lands acquired or reserved for the protection and conservation of fish and wildlife that are listed pursuant to section 4 of the Endangered Species Act of 1973 [16 USCS § 1533] as endangered species or threatened species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

(b) Deduction of expenses. The Secretary may pay from the fund any necessary expenses incurred by him in connection with the revenue-producing and revenue-sharing measures.

(c) Payments. (1) The Secretary shall pay out of the fund, for each fiscal year beginning with the fiscal year ending September 30, 1979, to each county in which is situated any fee area whichever of the following amounts is greater:

(A) An amount equal to the product of 75 cents multiplied by the total acreage of that portion of the fee area which is located within such county.

(B) An amount equal to three-fourths of 1 per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county.

(C) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each

county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: Provided, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(3) For purposes of this section, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(4)(A) For purposes of determining the fair market value of areas under paragraph (1)(B), the Secretary shall—

(i) appraise before September 30, 1979, all fee areas for which payments under this section were not authorized for fiscal years occurring before October 1, 1977; and

(ii) appraise all other fee areas, within five years after the date of the 1978 amendment to this subsection, in the order in which such areas were first established by the Service.

After initial appraisal under clause (i) or (ii), each fee area shall thereafter be reappraised by the Secretary at least once during each five-year period occurring after the date of the initial appraisal. Until any fee area referred to in clause (ii) is initially appraised under this subparagraph, the fair market value of such area shall be deemed to be that adjusted cost of the area which was used to determine payments under this subsection for fiscal year 1977; and in no case may the amount of any payment to any local government under paragraph (1)(B) with respect to any fee area be less than the amount paid under paragraph (2)(A) of this subsection (as in effect on September 30, 1977) with respect to such area.

(B) The Secretary shall make the determinations required under this subsection in such manner as the Secretary considers to be equitable and in the public interest. All such determinations shall be final and conclusive.

(5)(A) Each county which receives payments under paragraphs (1) and (2) with respect to any fee area or reserve area shall distribute under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction of real property tax revenues by reason of the existence of such area. In any case in which a unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments under paragraphs (1) and (2) shall be made to such other unit which shall distribute the payments in accordance with the guidelines.

(B) The Secretary may prescribe regulations under which payments under this paragraph may be made to units of local government in cases in which subparagraph (A) will not effect the purposes of this paragraph.

(C) Payments received by units of local government under this subsection may be used by such units for any governmental purpose.

(d) **Appropriations to fund.** If the net receipts in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

(e) **Transfer of excess funds.** If the net receipts in the fund which are attributable to revenue collections for any fiscal year exceed the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, the amount of such excess shall be transferred to the Migratory Bird Conservation Fund for use in the acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715-715r) (16 USCS §§ 715 et seq.).

(f) **Regulations.** The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States. The Secretary may, in accordance with such regulations as the Secretary may prescribe, dispose of animals which are surplus to any such area by exchange of the same or other kinds, gift or loan to public institutions for exhibition or propagation purposes, and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife.

(g) **Definitions.** As used in this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "fee area" means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(3) The term "reserve area" means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service.

(4) The term "Service" means the United States Fish and Wildlife Service.

(5) The term "county" means any county, parish, or organized or unorganized borough.

(h) [Repealed]

(As amended Oct. 17, 1978, P.L. 95-469, § 1(a), 92 Stat. 1319; Sept. 13, 1982, P. L. 97-258, § 5(b), 96 Stat. 1075, 1083.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Amendments:

1978. Act Oct. 17, 1978, in subsec. (a), inserted "salmonoid carcasses", and inserted "National Fish Hatcheries," or other areas,"; in subsec. (b), inserted "and revenue-sharing" and deleted "set forth in subsection (a)" following "measures"; substituted subsecs. (c)-(g) for former ones which read:

"(c) Payments to counties. The Secretary, at the end of each fiscal year, shall pay, out of the net receipts in the fund (after payment of necessary expenses) for such fiscal year, which funds shall be expended solely for the benefit of public schools and roads as follows:

"(1) to each county in which reserved public lands in an area of the System are situated, an amount equal to 25 per centum of the net receipts collected by the Secretary from such reserved public lands in that particular area of the System: Provided, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such public lands therein; and

"(2) to each county in which areas in the System are situated that have been acquired in fee by the United States, either (A) three-fourths of 1 per centum of the cost of the areas, exclusive of any improvements to such areas made subsequent to Federal acquisition, such cost to be adjusted to represent current values as determined by the Secretary for the first full fiscal year after enactment of this act (enacted Aug. 30, 1964) and as redetermined by him at five-year intervals thereafter, or (B) 25 per centum of the net receipts collected by the Secretary from such acquired lands in that particular area of the System within such counties, whichever is greater. The determinations by the Secretary under this subsection shall be accomplished in such manner as he shall consider to be equitable and in the public interest, and his determinations hereunder shall be final and conclusive.

"(d) Limitation on amount; reduction of payments. The payments under subsection (c) of this section to the counties in the United States for any one fiscal year shall not exceed the amount of net receipts in the fund for that fiscal year and, in case the net receipts are insufficient for a particular fiscal year to pay the aggregate amount of the payments for that fiscal year to the counties, the payment to each county shall be reduced proportionately.

"(e) Uses for surplus moneys. Any moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.); except that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished by the amendments made to this subsection by the National Wildlife Refuge System Administration Act Amendments of 1974, unless by specific Act of Congress.

"(f) Terms, conditions, and regulations for disposition of surplus products, grant of privileges, and execution of other activities resulting in the collection of revenues. The disposition or sale of surplus animals, minerals, and other products, the grant of privileges, and the carrying out of any other activities that result in the collection of revenues within any areas of the System may be accomplished upon such terms, conditions, or regulations, including sale in the open market, as the Secretary shall determine to be in the best interest of the United States. Further, the Secretary may dispose of such surplus animals by exchange of the same or other kinds, gift or loan to public institutions for exhibition or propagation purposes and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife in accordance with such regulations as he may prescribe.

"(g) Supersession and repeal of other provisions. Beginning with the first day of the next full fiscal year hereafter, the provisions of this Act shall supersede and repeal the provisions of the paragraph entitled "Management of National Wildlife Refuges" in the General Appropriation Act, 1951, approved September 6, 1950 (64 Stat. 595, 693-694)."; and added subsec. (h).

1982. Act Sept. 13, 1982 deleted subsec. (h), which read:

"In administering the Act of October 20, 1976 (Public Law 94-565, 31 U.S.C. 1601-1607), for fiscal years occurring after September 30, 1978—

(1) reserve areas shall be deemed to be entitlement lands for purposes of section 6(a) of such Act; and

(2) payments received by any unit of local government pursuant to subsection (c)(2) shall be deemed to be payments under a provision of law specified in section 4 of such Act."

Other provisions:

Applicability of 1978 amendments. Act Oct. 17, 1978, P.L. 95-469, § 2, 92 Stat. 1321, provided that: "The amendments made by this Act shall apply with respect to payments made to counties under title IV of the Act of June 15, 1935, for the fiscal year ending September 30, 1979, and for fiscal years thereafter; except that the amendments made to such title IV which amend section 401(a) and (g), add paragraph (4) to section 401(c), and amend the title heading shall take effect on the date of the enactment of this Act [enacted Oct. 17, 1978]. No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980."

CODE OF FEDERAL REGULATIONS

Add:
30 CFR Parts 17, 37.
Delete:
30 CFR Part 28

INTERPRETIVE NOTES AND DECISIONS

Revenue generated by oil and gas leases on federal wildlife refuges consisting of reserved public lands must be distributed according to formula provided in 30 USCS § 191 rather than formula provided in Wildlife Refuge Revenue Sharing Act (16 USCS § 715s); 16 USCS § 715s applies only to minerals on acquired refuge lands and 30 USCS § 191 remains controlling legislation with respect to reserved public lands since there is no clearly expressed congressional intention to repeal § 191 by implication in legislative history of § 715s. *Watt v Alaska* (1981) 451 US 259, 68 L Ed 2d 80, 101 S Ct 1673, 11 ELR 20378.

Principal purpose of 1964 amendments to 16 USCS § 715s is to improve distribution scheme for revenues from acquired refuge land, so that local authorities will be more likely to approve of federal acquisition of wildlife refuge land; 1964 addition of "minerals" to Wildlife Refuge Revenue Sharing Act must be read to be applied only to acquired refuge lands and not to reserved refuge lands. *Kenai Peninsula Borough v Alaska* (1980, CA9 Alaska) 612 F2d 1210, 10 ELR 20456, aff'd 451 US 259, 68 L Ed 2d 80, 101 S Ct 1673, 11 ELR 20378.

From: "Going up in Flames"

Successes in Federal-State Relations

Alaska ferries to sail for Prince Rupert to pick up the stranded travellers and transport them to Seattle. The ferry was scheduled to arrive by the following Monday noon so immediate action was needed. The admiral advised that the only way to change the federal regulation in such a short time was with a presidential order. Hickel agreed, and Admiral Scullion and General Necra-son contacted the Pentagon while the governor took his case to the public.

At 11:30 a.m. Monday, Hickel's advisors gathered with him at the Governor's Mansion. At 11:50 a.m., the White House called. President Lyndon Johnson had officially declared the waters between Ketchikan and Seattle "inland waters." The ferry picked up the stranded people, and the designation remains today.

Judicial Remedies

The 90/10 Royalty Split Upheld

The Kenai Peninsula Borough and the State of Alaska brought separate legal actions in 1980 seeking clarification of the 1964 amendments to the Wildlife Refuge Revenue Sharing Act of 1935.

At issue was the division of revenues generated by the development of oil and gas leases on the Kenai National Moose Range, a reserved federal property within Alaska. According to the Mineral Leasing Act of 1920 and the Alaska Statehood Act of 1959, 90% of such revenues were to be paid to Alaska and 10% to the United States Treasury. The 1964 legislation stipulated that 25%

"Instead of buckling under, the State adjudicated the issue."

had to be paid to the counties in which a wildlife refuge is located and the remaining funds paid to the Department of Interior for public purposes.

The United States District Court ruled in favor of the State as did the Court of Appeals for the Ninth Circuit and the U.S. Supreme Court. The Supreme Court's decision was rendered on April 21, 1981.

This case established a legal precedent upholding the division of revenues established in the Mineral Leasing Act. This issue has currency at the present time because of the proposals in the U.S. Congress to reduce Alaska's revenue portion if oil and gas are developed in the Arctic National Wildlife Refuge.

Protecting State Title to the Beds of Navigable Waters

State ownership of the beds of navigable waters is an inherent attribute of state sovereignty. The fact that this right is protected by the United States Constitution was upheld in a case filed by the State of Montana and decided in 1981. This means that the State owns the land under water bodies that are capable of transporting people or goods. If a river, lake, or stream is determined to be navigable, then public access and use for traveler recreation are assured. Furthermore, these submerged lands may hold valuable deposits of oil and gas, placer deposits, other minerals, and materials such as sand and gravel, all of which belong to the State and its residents.

The criteria used by the State for asserting navigability are based upon the legal principle established by the federal courts. With the

located on or near reserve resulting from authorized exploration and study activities

(a) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this title.

(b) If the Secretary of the Interior determines that there is an immediate and substantial increase in the need for municipal services and facilities in communities located on or near the reserve as a direct result of the exploration and study activities authorized by this title and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities, then he is authorized to assist such communities in meeting the costs of providing increased municipal services and facilities. The Secretary of the Interior shall carry out the provisions of this section through existing Federal programs and he shall consult with the heads of the departments or agencies of the Federal Government concerned with the type of services and facilities for which financial assistance is being made available.

(Apr. 5, 1976, P.L. 94-258, Title I, § 107, 90 Stat. 306.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title I of Act Apr. 5, 1976, P. L. 94-258, 90 Stat. 303, which appears generally as 42 USCS §§ 6501 et seq. For full classification of such Title, consult USCS Tables volumes.

CODE OF FEDERAL REGULATIONS

National petroleum reserves in Alaska, 43 CFR Part 2360.

§ 6508. Exploration of National Petroleum Reserve in Alaska

There shall be conducted notwithstanding any other provision of law and pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, *Provided*, That (1) activities undertaken pursuant to this section shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) [43 USCS §§ 1712 and 1782] shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act [enacted Dec. 12, 1980]: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) [42 USCS § 4321 et seq.]; (4)

the withdrawals established by section 102 of Public Law 94-258 [42 USCS § 6502] are rescinded for the purposes of the oil and gas leasing program authorized herein; (5) bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) [43 USCS § 1337(a)(1)(A)-(H)]; (6) lease tracts may encompass identified geological structures; (7) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided*, That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this section.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A) [43 USCS § 1352(a)(1)(A)].

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) [42 USCS § 4332] concerning oil and gas leasing in the National Petroleum Reserve—Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. Any proceeding on such action shall be assigned for hearing at the earliest possible date and shall be expedited by such Court.

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections 105(b) and (c) of Public Law 94-258 [42 USCS § 6505] shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91-190), with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: *Provided*, That not more than a total of 2,000,000 acres may be leased in these two sales: *Provided further*, That any exploration or production undertaken pursuant to this section shall be in accordance with section 104(b) of the Naval Petroleum Reserves

42 USCS § 6508

PUBLIC HEALTH AND WELFARE

Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504 [42 USCS § 6504(b)]).

(Dec. 12, 1980, P. L. 96-514, Title I, 94 Stat. 2964.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"Section 102(2)(c) of the National Environmental Policy Act", probably is § 102(2)(C) of Act Jan. 1, 1970, P. L. 91-190, Title I, 83 Stat. 853, which appears as 42 USCS § 4332.

Explanatory notes:

This section was enacted as part of Act Dec. 12, 1980, P. L. 96-514 and not as part of Act Apr. 5, 1976, P. L. 94-258, 90 Stat. 303, which generally comprises this chapter.

Sec. 37.05.520. Railbelt energy fund. There is established in the general fund the Railbelt energy fund. The fund consists of money appropriated to it by the legislature. The Department of Revenue shall manage the fund. Interest received on money in the fund shall be accounted for separately and may be appropriated into the fund annually. The legislature may appropriate money from the fund to assist in meeting Railbelt energy needs. (§ 1 ch 29 SLA 1986)

Revisor's notes. -- Enacted as AS 44.25.050. Renumbered as AS 37.05.153 in 1986. Renumbered again in 1988.
 Cross references. -- For railbelt energy council formed to review railbelt energy problems and needs, see ch. 30, SLA 1986, in the Temporary and Special Acts

Sec. 37.05.530. National petroleum reserve — Alaska special revenue fund. (a) The National Petroleum Reserve — Alaska special revenue fund is established. The fund consists of all money disbursed to the state by the federal government under 42 U.S.C. 6508 (P.L. 96-514) since December 12, 1980, less the amount deposited in the general fund and expended by the state by general fund appropriations before June 9, 1984.

(b) The commissioner of revenue shall manage the National Petroleum Reserve — Alaska special revenue fund.

(c) The Department of Community and Regional Affairs shall adopt regulations under which municipalities impacted by National Petroleum Reserve — Alaska oil and gas development under 42 U.S.C. 6508 may apply for and be eligible to receive grants to alleviate the impact. The department shall give priority in the allocation of grants to municipalities that are experiencing or will experience the most direct or severe impact from oil and gas development under 42 U.S.C. 6508 within the National Petroleum Reserve — Alaska. The department shall fund all meritorious grant applications out of the money appropriated to it each year. Within 10 days after the convening of each regular session of the legislature, the department shall submit to the legislature a list of all municipalities that have received grants, a list of all municipalities determined by the department to be eligible for further grants, a recommendation of the amount of money to be granted for those additional applications, and written justification of each past and potential grant.

(d) It is the intent of the legislature that each year all of the money in the National Petroleum Reserve — Alaska special revenue fund be made available for appropriation by the legislature to municipalities that demonstrate under (c) of this section present impact, or the need to determine or plan for future impact, from oil and gas development

appropriation be made with Department of Community and Regional Affairs to cover anticipated impact grants, and that additional funds be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

(e) A municipality may use the funds received under (d) of this section only for the following activities and services to alleviate the impact of the oil and gas development under 42 U.S.C. 6508 within the National Petroleum Reserve — Alaska:

- (1) planning;
 - (2) construction, maintenance, and operation of essential public facilities by the municipality; and
 - (3) other necessary public services provided by the municipality.
- (f) Funds appropriated under (d) of this section may not be used for the retirement of municipal debt.

(g) Amounts received by the state under 42 U.S.C. 6508 and not appropriated for grants to municipalities under (d) of this section lapse at the end of each fiscal year as follows:

- (1) 50 percent to the principal of the Alaska permanent fund;
- (2) .5 percent to the public school fund (AS 37.14.110); and
- (3) the remainder to the general fund for use by the state for the following facilities and services:
 - (A) planning;
 - (B) construction, maintenance, and operation of essential public facilities; and
 - (C) other necessary public services. (§ 2 ch 94 SLA 1984; am §§ 2, 3 ch 53 SLA 1986)

Revisor's notes. -- Formerly AS 37.25.040. Renumbered in 1988.
 Cross references. -- For legislative findings in connection with the 1984 and 1986 Acts, see § 1, ch. 94, SLA 1984, and § 1, ch. 53, SLA 1986, respectively, in the Temporary and Special Acts.

Sec. 37.05.540. Budget reserve fund; appropriation limit. (a) There is established as a separate fund in the state treasury the budget reserve fund. The budget reserve fund consists of appropriations to the fund. Money received by the state that is subject to the appropriation limit under (b) of this section and that exceeds that limit, may be appropriated to the budget reserve fund.

(b) Except for appropriations to the permanent fund or for Alaska permanent fund dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a nonstate source in trust for a specific purpose, including revenue of a public enterprise or public corporation of the state that issues revenue bonds, appropriations from the

2/28/91
by Munkia

PROPOSED CS HB 54
Draft No. 0427\D
Changes

1. The responsibility for the forest receipts program is change from the Department of Administration in current law to the Department of Community & Regional Affairs. AS 41.15.180(a).
2. Generally, communities in the unorganized borough qualify if within 20 miles distance of the national forest.
3. Home rule and first class cities in the unorganized borough receive a per capita share. No 75%, 25% split between road and education. AS 41.15.180(a)(2).
4. Metlakatla receives a per capita share. No 75%, 25% split. AS 41.15.180(a)(3).
5. Second class cities receive 75% of their per capita share if they have adopted road powers. AS 41.15.180(a)(4).
6. An unorganized borough national forest receipts fund is created in the department from the remaining funds not distributed under (a)(2) - (a)(4). REAAs, unincorporated communities, and second class cities without road powers can apply for use of these funds. AS 41.15.180(b).
7. The commissioner shall determine the population and its distribution in the forests annually. AS 41.15.180(e).
8. Local government organizations receiving nation forest receipts shall annually report and account to the commissioner on the actual use of the funds received. AS 41.15.180(f).

7-LS0427D
Luckhaupt
2/20/91

^{CS}
~~SPONSOR~~ SUBSTITUTE FOR HOUSE BILL NO. 54 (CIRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MACKIE, Grussendorf, C.Davis

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the distribution of national forest receipts; and providing for an
2 effective date."

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

4 * Section 1. FINDINGS AND PURPOSE. (a) Federal law, 16 U.S.C. 500, provides that 25 percent
5 of all money received each fiscal year from each national forest shall be paid to the state in which the
6 national forest is located, to be distributed under state law for the benefit of the public schools and roads
7 of the county or counties in which the national forest is located.

8 (b) The intent of this federal law is to provide funds to support roads and schools of
9 communities affected by national forest activities.

10 (c) Under present state law, communities that are affected by national forest activities, but
11 located within the unorganized borough, do not receive any part of national forest income.

12 (d) That portion of national forest income not distributed to organized boroughs under
13 AS 41.15.180(a) should be distributed to communities within the unorganized borough that are situated
14 within a national forest or within 20 miles of a national forest and that presently do not receive funds

1 from national forest receipts.

2 * Sec. 2. AS 41.15.180 is repealed and reenacted to read:

3 Sec. 41.15.180. NATIONAL FOREST INCOME. (a) When the commissioner of
4 community and regional affairs receives national forest income under 16 U.S.C. 500, the
5 commissioner shall immediately pay to every

6 (1) organized borough in which national forest land is located a share of the
7 income from that forest; an organized borough's share of income from a national forest shall be
8 proportional to the area of the national forest located within its boundaries;

9 (2) home rule or first class city located within the unorganized borough and
10 within a national forest or within 20 miles of the national forest a share of the income from the
11 percentage of that forest that is located within the unorganized borough; a home rule or first class
12 city's share of income from a national forest shall be proportional to the number of people
13 residing in the home rule or first class city to the total of people who reside within the
14 unorganized borough and within the national forest or within 20 miles of the national forest;

15 (3) municipality organized under federal law as an Indian reserve that existed
16 before the enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection
17 and that has formed a community development corporation under AS 29.60.365 and that is
18 located within the unorganized borough and within the national forest or within 20 miles of the
19 national forest a share of the income from the percentage of that forest that is located within the
20 unorganized borough; the share of income from a national forest due a municipality organized
21 under federal law shall be proportional to the number of people residing in the municipality
22 organized under federal law to the total of people who reside within the unorganized borough and
23 within the national forest or within 20 miles of the national forest; the commissioner may pay
24 income from national forest receipts under this paragraph only after the corporation has delivered
25 a written waiver of sovereign immunity from legal action by the state to recover all or a portion
26 of the money distributed under this section;

27 (4) second class city that has adopted road powers and that is located within the
28 unorganized borough and within a national forest or within 20 miles of the national forest a share
29 of the income from the percentage of that forest that is located within the unorganized borough;
30 the second class city's share of income from a national forest shall be 75 percent of the
31 proportion of the number of people residing in the second class city to the total number of people

1 who reside within the unorganized borough and within the national forest or within 20 miles of
2 the national forest.

3 (b) There is created in the Department of Community and Regional Affairs an
4 unorganized borough national forest receipts fund that shall be administered separate and distinct
5 from other funds the department may administer. The fund consists of national forest income
6 received by the Department of Community and Regional Affairs under 16 U.S.C. 500 for the
7 percentage of the national forest located within the unorganized borough and not distributed
8 under (a)(2) and (3) of this section. The commissioner of community and regional affairs shall
9 make distributions from the fund to

10 (1) a regional educational attendance area that is located within the national forest
11 or within 20 miles of the national forest and that has made application for use of the distribution
12 for new capital facilities construction or for repair or improvement of existing capital facilities;

13 (2) a second class city that has not adopted road powers, or an unincorporated
14 community, that is located within the unorganized borough and within the national forest or
15 within 20 miles of the national forest and that has made application for use of the distribution
16 by the Department of Transportation and Public Facilities for public roads to benefit the second
17 class city or unincorporated community.

18 (c) The national forest income paid to an organized borough, a home rule or a first class
19 city, or a municipality organized under federal law under (a)(1), (2), or (3) of this section shall
20 be expended for public schools and public roads. National forest income paid to a second class
21 city under (a)(4) of this section shall be expended for public roads.

22 (d) A payment or distribution made under this section shall be made under an
23 appropriation for that purpose.

24 (e) Annually, the commissioner of community and regional affairs shall determine the
25 number of people living within a national forest or within 20 miles of each national forest and
26 within the unorganized borough for the purpose of making a payment or distribution under
27 (a)(2) - (4), and (b) of this section.

28 (f) An organized borough, home rule, first or second class city, municipality organized
29 under federal law, or regional educational attendance area that receives a national forest income
30 payment of or distribution under 16 U.S.C. 500 and this section shall annually report and account
31 to the commissioner of community and regional affairs its use of the payment or distribution for

1 the purposes provided in (b) and (c) of this section. The commissioner of community and
2 regional affairs may not distribute national forest income under this section to an entity that has
3 previously failed to report and account as required under this subsection.

4 (g) For purposes of this section, if any portion of a home rule, first class or second class
5 city, regional educational attendance area, municipality organized under federal law, or
6 unincorporated community in the unorganized borough is located within the national forest or
7 within 20 miles of the national forest, the entire home rule, first class or second class city,
8 regional educational attendance area, municipality organized under federal law, or unincorporated
9 community is considered to be within the national forest or within 20 miles of the national forest.

10 (h) In this section, "unincorporated community" has the meaning given in
11 AS 29.60.140(b).

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



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February 27, 1991

MEMORANDUM

TO: Representative Jerry Mackie, Chair
Members, House Committee on Community Regional Affairs

FROM: Scott A. Burgess, Executive Director

SUBJECT: HB 54 - Distribution of National Forest Receipts

The Alaska Municipal League supports the Committee Substitute for HB 54, which would allow for a distribution of National Forest Receipts for the support of roads and schools of communities affected by national forest activities. AML and its members appreciate the Committee's responses to the questions raised in my February 6 memo to you and raised during the committee review process. I urge you to pass the bill out with "do pass" recommendations.

CS HB 54 would provide a remedy to an inequitable situation faced by cities located within the unincorporated borough that are affected by the activity in national forests in Alaska. These cities provide essential services, including roads and, in many cases, schools (for which a local contribution is required by state law) to their residents, who include federal employees, logging company employees, and others whose employment is related to the timber industry. At the present time, however, these municipalities do not receive a fair share, directly, of the federal funds that result from timber harvesting in the forests; funds which federal law directs are to be used for the benefit of public schools and roads in areas where the forest is located.

CS HB 54 would allow home rule and first class cities to receive a portion of the funds generated from the national forests in the unorganized borough on a per capita basis for roads and schools. The CS would also provide second class cities with per capita funds on a percentage basis for providing road services. For these reasons, AML supports CS HB 54.