

SB

121

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 121

Revision Date: \_\_\_\_\_  
Title: "An Act relating..to National  
Forest Receipts...."

Department Affected: Community & Regional Affairs  
BRU: Community Assistance Grants  
Component: National Forest Receipts

Sponsor: Senator Jones  
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	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						
<b>TOTAL OPERATING</b>	<b>60,100</b>	<b>59,498</b>	<b>61,509</b>	<b>63,593</b>	<b>65,749</b>	<b>67,980</b>

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

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: RA Remond Henderson, Director Phone: 465-4708

Division: Administrative Services Date: 3/7/91

Approved by Commissioner: [Signature] 3/27/91

Agency: Community & Regional Affairs Date: 3/7/91

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



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
**BILL ANALYSIS**

DEPARTMENT Community & Regional Affairs	DIVISION MRAD	BILL NUMBER SB 121	SPONSOR Sen. Jones
SHORT TITLE OF BILL An act relating to distribution of income from National Forest land in the unorganized borough			
DEPARTMENT POSITION Support the concept; do not support methodology for distributing funds			
PREPARED BY Peter Freer	DATE 3/6/91	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/07/91

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL DOT/PF Education	CONSTITUENT GROUP(S) AFFECTED BY BILL REAA's, municipal school districts, municipalities & unincorporated communities in the unorganized borough
ORGANIZATIONAL SUPPORT FOR BILL REAA's	ORGANIZATIONAL OPPOSITION TO BILL unknown

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT  
Second year in a row Sen Jones has introduced a bill widening the distribution of forest receipts. Under this bill's formula, it appears substantial funds could to the REAA's.

ANALYSIS OF BILL/PROGRAM EFFECTS  
The bill would distribute national forest receipts in the unorganized boroughs based on a formula tied to (1) the effects of timber harvest and processing and (2) the overall populations of the community living and working on national forest land. The effect of this, it appears, is to skew funding toward REAA's and away from communities in the unorganized borough not engaged in timber harvest or processing on federal land or affected by those areas on federal land. ;

- AMENDMENTS PROPOSED
1. expand formula to include Chugach National Forest
  2. restrict funding to REAA's
  3. clarify formula to clearly indicate who is, and who is not, eligible for funding.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Position Title Grant Administrator		No. of Positions 1	Range / Step 13A	Barg. Unit GGU	
Time Status	Staff Months	Location Juneau		Election District	
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		Justification  This position is required to administer the grants to the Unincorporated Communities under HB 54. These additional grants will impact the existing grant section within the agency. This low range position would be responsible for administering this grant program. Contractual and supplies covers normal office expenses. Equipment funds would purchase one terminal and installation charges.	
Salary		27,336			
Benefits		11,640			
Premium Pay					
Other					
Total Personal Services		38,976			
Travel					
Contractual		1,500			
Commodities		500			
Equipment		2,000			
Other					
Total Cost		42,776			
<b>FUNDING SOURCE FOR TOTAL COST</b>					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	42,776			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

## Request For New Position

AGENCY Community & Regional Affairs

BRU Administration and Support

COMPONENT Administrative Services

**FY** 92

Page 2 of 3

Revised Date: \_\_\_\_\_

Position Title Accounting Clerk III (Part-time)		No. of Positions 1	Range / Step 10A	Barg. Unit GSU
Time Status	Staff Months	Location Juneau		Election District
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
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		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	15,616		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
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.				

## Request For New Position

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

FY 92

Page 3 of 3

Revised Date: \_\_\_\_\_

# Alaska State Legislature

Chair, Resources Committee  
Vice-chair, Transportation Committee  
Member, Rules Committee  
Member, Committee on Committees

District A  
Ketchikan, Wrangell, Petersburg,  
Hyder, Myers Chuck, Kupreanof


**Senator Lloyd Jones**

P.O. Box V  
Juneau, AK 99811  
907 465-3743  
Fax: 907 465-3922

352 Front Street  
Ketchikan, AK 99901  
907 225-9082  
Fax: 907 225-8546

## MEMORANDUM

TO: Senator Steve Frank, Chairman  
Senate Community and Regional Affairs Committee

FROM: Senator Lloyd Jones 

DATE: March 6, 1991

SUBJECT: Senate Bill 121, National Forest Income Receipts

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Each year the federal government pays back to the State of Alaska 25% of the revenues it receives from activities within the National Forests in the state. This money, as mandated in federal law, is to be used "for the benefit of the public schools and public roads of the county or counties in which such national forest is situated." This money is to be paid out based on the area the "county or counties" have within the national forest.

Within the Tongass National Forest, approximately 30% of the forest falls within the boundaries of organized boroughs. Organized boroughs have been found to be legally analogous to counties. Thus,, approximately 30% of the revenues generated by activities on the national forests have actually found their way back to the areas within the forest as is mandated by federal law. The remaining 70% of the forest is accounted for by unorganized borough area. There has been no method for distributing the funds back to this area and so approximately 70% of the revenue generated by this forest has gone, unaccounted for, into the general fund.

Senate Bill 121 identifies these funds and creates a mechanism for the disbursement of this money back to the timber-harvest impacted areas. This legislation allows the affected agencies to determine what areas in the unorganized borough are most impacted by timber harvest and processing activities and to make sure these funds are spent in the areas as is mandated in federal law.

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**

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

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**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 ACILA 1949; am § 1 ch 106 SLA 1965; am § 1 ch 32 SLA 1969)

ered into the Treasury and shall appropriated and made available until e may direct, for the payment of the on, or improvements by the Forest ributors of amounts heretofore or of their share of the cost of said nts.

9, 1928, c. 901, § 1(99), 45 Stat. 993.)

**Note**

ports be made to Congress. moneys received as contributions for cooperative work.

**References**

isbursement of funds appearing on books of Service", see section 1321 of Title 31, Money

administration or protection of lands within stitute special fund which may be appropriat- section 572 of this title.

**Regulations**

tation system, see 36 CFR 212.1 et seq.

**ed by or on account of Forest and moneys erroneously collect-**

of the Forest Service for timber, or revenue, including moneys received e of lands in national forests created neys received on account of permits lands acquired under authority of ; shall be covered into the Treasury ; receipt, and except as provided in is appropriated and made available, ct, out of any funds in the Treasury . may be necessary to make refunds :reafter deposited by them to secure oducts or for the use of any land or ess of amounts found actually due so so much as may be necessary to ants such sums as may be found by en erroneously collected for the use resources sold from lands located rests, or for alleged illegal acts done quently found to have been proper

4, 1911, c. 238, 36 Stat. 1253; Mar. 4, 348, § 9, 43 Stat. 655; May 29, 1928, c.

**Historical Note**

References in Text. Section 471(b) of this title, referred to in text, was repealed by section 704(a) of Pub.L. 94-579, 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 money to secure the purchase price of timber or 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. 94-579. 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 670e 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

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 Washington, D.C. 20540

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.

PAYMENT TO STATE OF ALASKA FROM NATIONAL FOREST RECEIPTS

FEDERAL FISCAL YEARS 1959 TO 1990

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FEDERAL FISCAL YEAR	CHUGACH NF	TONGASS NF	TOTAL PAYMENT
1956	\$ 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.

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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



**SOUTHEAST  
ISLAND  
SCHOOL  
DISTRICT**

1621 TONGASS AVENUE SUITE 301  
POST OFFICE BOX 8340  
KETCHIKAN, ALASKA 99901  
(907) 225-9658 OR 225-9659

March 5, 1991

Robert Weinstein  
SUPERINTENDENT

Senator Steve Frank, Chairman  
Community and Regional Affairs Committee  
Alaska State Senate  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Frank:

This letter is to ask for your support of SB 121, proposed legislation addressing distribution of National Forest receipts in the unorganized borough.

At the beginning of this century, the United States Congress passed legislation which provided that 25 percent of timber receipts from national forests would be paid to the state in which the forest was located, to be distributed by the state to benefit schools and roads of the area in which the national forest is situated. Federal law provided that each state could determine the proportion of funds between schools and roads, and also provided that the funds would be prorated on a geographical area basis if a national forest crossed state or local boundaries. Under existing state statute, AS 41.15.180, income from national forest land within borough boundaries is distributed to those boroughs for schools and roads. Income from national forest land in the unorganized borough is earmarked for public schools and roads on a 25%/75% basis.

It appears that the Department of Community and Regional Affairs receives the funds, distributes the boroughs' share, and simply retains the remaining funds until the end of a fiscal year whereupon it "lapses" into the general fund. It is not only not spent in the manner intended by Congress; it is also not spent in the manner already prescribed by state statute.

We believe that SB 121 will bring the state distribution method into compliance with federal statutes. It is our position that current implementation of state statute does not meet federal intent, in that income generated by national forests located within unorganized areas of the state is not expended on schools and roads of the area in which the national forest is situated. We also believe that the current practice of the Department of Community and Regional Affairs to withhold funds until they lapse at the end of the fiscal year is not appropriate as well.

For your information, over 50 percent of the Tongass National Forest is located within Southeast Island School District boundaries. Eleven of the nineteen communities in which we have schools are logging related, with significant direct impacts by the logging industry on our schools and school district. We have a very high turnover of children, with various adverse impacts upon educational programs, creating special needs and at-risk situations for a significant number of students. For a number of reasons, the Southeast Island School District is not eligible for most of the federal financial assistance programs which provide

Senator Steve Frank, Chairman  
March 5, 1991  
Page 2

supplemental monies to many other school districts in Alaska to address special educational needs of children. In addition, we have communities which move, which means that we have some unique impacts by the logging industry in that we have to move school buildings and teacher housing for which we receive no special state support.

It should be noted that the proposed legislation would distribute 25 percent of the unorganized borough's forest income to school districts impacted by national forest harvest and processing activities (while 75 percent would be retained by the state for roads in national forest-impacted areas of the unorganized borough). We believe that these funds are necessary to offset the direct impacts which the logging industry has upon our schools, and we believe that such funds were intended by Congress for exactly this type of situation. I therefore urge your support of SB 121.

Sincerely,



Robert Weinstein  
Superintendent

RW:CM

# Alaska State Legislature

Chair, Resources Committee  
Vice-chair, Transportation Committee  
Member, Rules Committee  
Member, Committee on Committees



P.O. Box V  
Juneau, AK 99811  
907 465-3743  
Fax: 907 465-3922


District A  
Ketchikan, Wrangell, Petersburg,  
Hyder, Myers Chuck, Kupreanof

**Senator Lloyd Jones**

352 Front Street  
Ketchikan, AK 99901  
907 225-9082  
Fax: 907 225-8346

## MEMORANDUM

TO: Senator Steve Frank, Chairman  
Senate Community and Regional Affairs Committee

FROM: Senator Lloyd Jones 

DATE: March 6, 1991

SUBJECT: Senate Bill 121, National Forest Income Receipts

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Each year the federal government pays back to the State of Alaska 25% of the revenues it receives from activities within the National Forests in the state. This money, as mandated in federal law, is to be used "for the benefit of the public schools and public roads of the county or counties in which such national forest is situated." This money is to be paid out based on the area the "county or counties" have within the national forest.

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR

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SHORT TITLE OF BILL An act relating to distribution of income from National Forest land in the unorganized borough			
DEPARTMENT POSITION Support the concept; do not support methodology for distributing funds			
PREPARED BY Peter Freer	DATE 3/6/91	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/07/91

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**Request For  
New Position**

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

**FY** 92

Page 2 of 3  
 Revised Date: \_\_\_\_\_



FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 121

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs  
Title: "An Act relating..to National Forest Receipts...." BRU: Community Assistance Grants  
Component: National Forest Receipts

Sponsor: Senator Jones

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	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						
<b>TOTAL OPERATING</b>	<b>60,100</b>	<b>59,498</b>	<b>61,509</b>	<b>63,593</b>	<b>65,749</b>	<b>67,980</b>

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

FUNDING: (Thousands of Dollars)

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

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: RA Remond Henderson, Director Phone: 465-4708

Division: Administrative Services Date: 3/7/91

Approved by Commissioner: [Signature] Date: 3/07/91

Agency: Community & Regional Affairs Date: 3/7/91

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

# 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

March 6, 1991

## POSITION PAPER

RE: Senate Bill 121

SPONSOR: Senator Jones

### Program Effects of Bill

Existing statute permits the distribution of National Forest Receipts to organized boroughs only. This bill would widen the distribution to include Regional Education Attendance Areas (REAA's), municipal school districts and communities within the unorganized borough, "affected by national forest timber harvest and processing activities.". Funds would be distributed 25 percent for public schools and 75 percent for public roads.

### Comments

The Department supports the concept of distributing National Forest Receipts to communities in the unorganized borough (UOB). The bill as it is currently written, appears to direct funding toward those entities that have been affected by national forest timber harvest and processing activities.

Distribution of receipts under the bill would occur according to a formula yet to be developed. Funding for public schools under this formula would consider the average daily membership of school districts affected by national forest timber harvest and processing activities, and would apply a weighting factor based upon the overall population of the community living and working on national forest land. Funds for public roads would be used to benefit communities that are affected by national forest timber harvest and processing activities.

The formula appears conceived to maximize funding to locations most affected by timber harvest activities. Because most timber harvest activities occur outside home rule and first class cities in the unorganized borough, it appears that the primary beneficiaries in the Tongass National Forest would be the Regional Education Attendance Areas. Further analysis based upon the actual terms of a formula, and upon actual numbers of people living and working in the national forest, would be needed to refine this assumption. The assumption is based on the fact that the REAA is the school district for all logging camps and second class cities dependent upon logging in the UOB. Additionally, some communities may not be engaged in timber harvest or processing but may view themselves as affected by those activities to the extent it occurs on nearby streams or watersheds. It is unclear if these communities, or if communities unaffected by logging such as Hyder, would receive funds under the bill.

The bill fails to address funding for communities in the unorganized borough of the Chugach National Forest, where there is little timber harvest on national forest lands and forest receipts are derived from other sources of forest income such as Special Use Permits and Recreation User Fees.

### Conclusion

The Department supports the concept of widening the distribution of National Forest Receipts funds to enfranchise communities in the unorganized borough. However, we have identified three areas in the bill that we believe need further analysis and possibly more work. First, the bill appears to direct funding toward REAA's in the way the formula is presented. Second, it appears that communities actually engaged in harvesting and processing would be weighted favorably, while those not engaged in these activities or adversely affected by them would not be. This needs to be clarified to clearly show who would, and who would not, receive funding. Finally, the bill does not appear to take into account the distribution of funds to communities in the unorganized borough of the Chugach National Forest.

  
Edgar Blatchford, Commissioner



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: SB 121

APPROVED:

A handwritten signature in dark ink, appearing to read "W. Dupont", written over a horizontal line.

TITLE: Receipts for National Forest Land

DATE: March 6, 1991

At the present time, organized boroughs receive forest receipt funds. The funds are sent to the boroughs by the Department of Community and Regional Affairs. Allocations are based on the number of acres of forest within each borough. The funds are to be spent, by federal designation, on education and roads. The state has decided that 25% of the funds are to go to education, and 75% to roads. In 1990, boroughs received approximately \$2.8 million dollars from the program. The remaining \$6.2 million dollars went to the state's general fund.

In areas where direct significant impacts of logging activities occur, such as Prince of Wales Island, there is no borough government and therefore no distribution of forest receipts.

SB 121 proposes to distribute forest receipt funds to communities in timber harvest impact areas outside the organized boroughs.

SB 121 would direct the Commissioner of the Department of Administration to develop a formula for the allocation of funds for education (25% of forest receipts), in cooperation with the Commissioner of the Department of Education. The public roads portion of the funds (75%) would be spent in cooperation with the Department of Transportation and Public Facilities, "to benefit communities within the unorganized borough ... that are affected by national forest timber harvest and processing activities."

The major timber harvest impacts to roads outside of organized boroughs occur on highways used by both the public and the logging industry. Using funds from the forest receipts program to reconstruct and improve maintenance of those roads would be a significant step toward enhancing

*For Further Information contact Katy McHugh at 465-3900.*

BILL NO: SB 121

DATE: March 6, 1991

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safety and community access. A priority system for improvements based on technical data could be developed in cooperation with the local communities.

Given the lack of federal funds for reconstruction as well as the diminishing level of maintenance funds, this source of funding would be a strong asset to the road systems, communities, and people most directly affected by timber harvesting communities.

The Department of Transportation and Public Facilities supports SB 121.

**FISCAL NOTE**

Revision Date:  
Title: Receipts for National Forest Land

Department Affected: DOT&PF  
BRU: Southeast Region

Sponsor: Jones  
Requestor:

Component: Planning, D&C, M&O  
Component Serial Number:

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

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

Estimate of current year impact: \_\_\_\_\_

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

None.

Prepared by: Mike McKinnon

Phone: 789-6264

Division: Southeast Region Planning

Date: March 6, 1991

Approved by Commissioner:   
Frank G. Yurpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: March 6, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

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

NATIONAL FOREST *-----*	STATE *---*	BOROUGH *-----*	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\*\*

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

\*\*\*\*\*  
\*\*\*\*\*

<u>FEDERAL FISCAL YEAR</u>	<u>CHUGACH NF</u>	<u>TONGASS NF</u>	<u>TOTAL PAYMENT</u>
1956	\$ 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)



**SOUTHEAST  
ISLAND  
SCHOOL  
DISTRICT**

1621 TONGASS AVENUE SUITE 301  
POST OFFICE BOX 8340  
KETCHIKAN, ALASKA 99901  
(907) 225-9658 OR 225-9659

Robert Weinstein  
SUPERINTENDENT

March 5, 1991

Senator Steve Frank, Chairman  
Community and Regional Affairs Committee  
Alaska State Senate  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Frank:

This letter is to ask for your support of SB 121, proposed legislation addressing distribution of National Forest receipts in the unorganized borough.

At the beginning of this century, the United States Congress passed legislation which provided that 25 percent of timber receipts from national forests would be paid to the state in which the forest was located, to be distributed by the state to benefit schools and roads of the area in which the national forest is situated. Federal law provided that each state could determine the proportion of funds between schools and roads, and also provided that the funds would be prorated on a geographical area basis if a national forest crossed state or local boundaries. Under existing state statute, AS 41.15.180, income from national forest land within borough boundaries is distributed to those boroughs for schools and roads. Income from national forest land in the unorganized borough is earmarked for public schools and roads on a 25%/75% basis.

It appears that the Department of Community and Regional Affairs receives the funds, distributes the boroughs' share, and simply retains the remaining funds until the end of a fiscal year whereupon it "lapses" into the general fund. It is not only not spent in the manner intended by Congress; it is also not spent in the manner already prescribed by state statute.

We believe that SB 121 will bring the state distribution method into compliance with federal statutes. It is our position that current implementation of state statute does not meet federal intent, in that income generated by national forests located within unorganized areas of the state is not expended on schools and roads of the area in which the national forest is situated. We also believe that the current practice of the Department of Community and Regional Affairs to withhold funds until they lapse at the end of the fiscal year is not appropriate as well.

For your information, over 50 percent of the Tongass National Forest is located within Southeast Island School District boundaries. Eleven of the nineteen communities in which we have schools are logging related, with significant direct impacts by the logging industry on our schools and school district. We have a very high turnover of children, with various adverse impacts upon educational programs, creating special needs and at-risk situations for a significant number of students. For a number of reasons, the Southeast Island School District is not eligible for most of the federal financial assistance programs which provide

Senator Steve Frank, Chairman

March 5, 1991

Page 2

supplemental monies to many other school districts in Alaska to address special educational needs of children. In addition, we have communities which move, which means that we have some unique impacts by the logging industry in that we have to move school buildings and teacher housing for which we receive no special state support.

It should be noted that the proposed legislation would distribute 25 percent of the unorganized borough's forest income to school districts impacted by national forest harvest and processing activities (while 75 percent would be retained by the state for roads in national forest-impacted areas of the unorganized borough). We believe that these funds are necessary to offset the direct impacts which the logging industry has upon our schools, and we believe that such funds were intended by Congress for exactly this type of situation. I therefore urge your support of SB 121.

Sincerely,



Robert Weinstein  
Superintendent

RW:CM

**ANCHORAGE OFFICE**

THE ENSERCH CENTER  
550 WEST SEVENTH AVENUE SUITE 1200  
ANCHORAGE, ALASKA 99501  
PHONE (907) 277-6693  
TELEX 090-26-486  
FACSIMILE (907) 279-1959

- \*\*ROBERT B BAKER
- MICHAEL T THOMAS
- LEROY J BARKER
- \*\*L G BERRY
- HAROLD E SNOW JR
- \*\*CARL W WINNER
- SUSAN M WEST
- \*\*JULIA B ROCKMOM
- JOSEPH D DARNELL
- GREGORY G SILVEY
- CHARLES T HUGUELET

**WASHINGTON OFFICE**

1050 THOMAS JEFFERSON STREET NW  
SIXTH FLOOR  
WASHINGTON, DC 20007  
PHONE (202) 333-4400  
FACSIMILE (202) 337-0940

- \*\*STEVEN W SILVER
- \*\*BRADLEY D GILMAN

**ROBERTSON, MONAGLE & EASTAUGH**

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
JUNEAU ALASKA 99802

March 6, 1991

**JUNEAU OFFICE**

COURT PLAZA BUILDING SUITE 800  
240 MAIN STREET  
PO BOX 21211  
JUNEAU ALASKA 99802  
PHONE (907) 586-3340  
FACSIMILE (907) 586-6818

ROYAL ARCH GUNNISON (1873-1918)  
H E ROBERTSON (1885-1961)  
M E MONAGLE (1902-1985)

F O EASTAUGH (RETIRED)

- JAMES F CLARK
- PAUL M HOFFMAN
- D ELIZABETH CUADRA\*\*
- MARY A NORDALE
- ROBERT P BLASCO
- ELIZABETH A ZIEGLER

ADMITTED IN WASHINGTON DC\*\*  
AND ALASKA

ALL OTHERS ADMITTED  
IN ALASKA

The Honorable Steve Frank, Chairman  
Senate Community & Regional  
Affairs Committee  
Alaska Legislature  
Capitol Building  
Juneau, Alaska

Re: SB 121: Distribution of National Forest Receipts to  
Impacted Communities in the Unorganized Borough

Dear Senator Frank:

The following testimony is submitted on behalf of the  
City of Craig, Alaska.

The City of Craig supports state legislation which would  
amend AS 41.15.180 so as to remedy the existing situation under  
which federal funds intended for municipalities impacted by  
national forest activities have not actually been reaching those  
municipalities that are located within the unorganized borough.

Federal law, 16 U.S.C. 500 enacted in 1908, provides that  
25% of all money the federal government receives each fiscal year  
from each national forest shall be paid to the state or territory  
in which the national forest is located, to be distributed for the  
benefit of the public schools and public roads of the county or  
counties in which each such national forest is located. Obviously  
Congress could not have meant the distribution to be strictly  
limited to counties as such, as there were no such entities (or  
even their equivalents by other names) in the territories.

Under present state law, the state has been distributing  
about 30% of these monies to the organized boroughs which have  
national forest lands within their boundaries, but has been  
basically pocketing the other 70% without any accounting for how or

Senator Steve Frank  
March 6, 1991  
Page 2

where the money is spent. This other 70%, arising from forest acreage within the unorganized borough, was intended by Congress to be used (for public schools and public roads) to alleviate the impacts upon communities within or near the forest that generated the income.

There are significant forest-related impacts upon communities in the Tongass National Forest which presently receive none of these funds. Tom Briggs, the City Administrator of the City of Craig, provided the House Community and Regional Affairs Committee with testimony showing how the City of Craig has been impacted by forestry activities (partly on nearby federal forest lands), without any financial assistance from national forest receipts to help alleviate the increasing demands upon the City. A copy of his testimony is attached.

The Prince of Wales Community Advisory Council includes the communities of Craig, Hollis, Kasaan, Klawock, Hydaburg, Coffman Cove, Thorne Bay and Whale Pass. The Council has adopted a resolution urging amendment of the state statute so as to require national forest receipts generated within the unorganized borough to be distributed to communities within that borough, as the federal statute intended. A copy of that resolution is attached.

It cannot be too strongly emphasized that these national forest receipts are not state monies, and that the state can only act as a trustee to administer the distribution of the monies in accordance with the intention of Congress in enacting the federal statute. Some court decisions interpreting the statute have even characterized these funds as a "trust" to be administered by the states. Furthermore, there have been a number of court decisions making it clear that Congress intended these national forest receipt funds to be distributed to communities where there are impacts from the forestry activities in the forest which generated the funds. Please refer to the attached opinion letter dated February 26, 1991.

Turning to SB 121, the City of Craig has several major problems with the bill as presently drafted:

(1) SB 121 fails to preserve the barrier between individual national forests, and would allow a cross-flow of funds generated in the Tongass National Forest to communities in or adjoining the Chugach National Forest. This result would contravene the congressional intention to respond to impacts, and would violate the words of the federal statute itself.

(2) SB 121 fails to remove the existing artificial 75%/25% split between roads and schools as end uses for the funds.

Senator Steve Frank  
March 6, 1991  
Page 3

This split does not appear in the federal statute and should be removed from the state statute. The organized boroughs do not labor under this constraint on their use of national forest receipts, and neither should the communities which will begin receiving national forest receipts if appropriate legislation is adopted by this Legislature. The Manager of the Ketchikan Gateway Borough, in testimony before the House Community and Regional Affairs Committee on HB 54, recommended against the artificial 75%/25% split between roads and schools, noted with approval that the proposed HB 54 would do nothing to take away any funds being received by the organized boroughs, and registered his support for HB 54.

(3) SB 121 would give state agencies too much unfettered discretion in deciding on the distribution of funds. The Legislature should be far more specific about how the funds are to be distributed. Craig likes the system established in CS HB 54 (C&RA). Please note that in the past, the distribution of funds generated from forest lands within the unorganized borough has not even been administered by the agency designated in state law (Department of Administration). Again, we emphasize that these funds are not state money, but are federal funds, which the state is to administer for the purposes intended by Congress.

(4) SB 121 does not establish a separate fund or account, for keeping track of the expenditures of national forest receipts; i.e., to whom they are distributed and for what purposes. In this regard, your attention is invited to the audit report by the Division of Legislative Audit, for fiscal year ended June 30, 1989, pages 88-89, which criticizes the inadequate tracking of national forest receipts funds generated within the unorganized borough. Presently, it is not even possible to be sure they were used for the purposes of public schools and public roads at all.

In past years, the Department of Community & Regional Affairs has not been very sympathetic toward amendment of the state statute, to distribute those funds generated within forest lands in the unorganized borough to municipalities and communities impacted by those forests, as Congress intended. We believe this may have been because DC&RA wanted to encourage the formation of more boroughs. However, we were pleasantly surprised when representatives of both the Commissioner's office and the Governor's office testified before the House Community & Regional Affairs Committee that they do support CS HB 54 (C&RA).

Senator Steve Frank  
March 6, 1991  
Page 4

Thank you for considering the views of the City of Craig.

Sincerely,



D. Elizabeth Cuadra  
Craig City Attorney

DEC:sd/305

Enclosures:

Testimony of Tom Briggs  
Prince of Wales Community Advisory Council Resolution 90-7  
Letter to Representative Jerry Mackie (2/26/91)

cc (w/encls.): Senator Lloyd Jones

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.

National Forest Receipts  
Testimony, City of Craig

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.

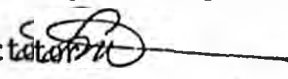


217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

March 7, 1991

MEMORANDUM

TO: Senator Steve Frank, Chair  
Members, Senate Committee on Community and Regional Affairs

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 121 - Distribution of National Forest Receipts

On behalf of the 126 municipal members of the Alaska Municipal League, I am writing today to express the League's general support for the concept of distributing the National Forest Receipts revenue to municipalities located within the national forests but in the unorganized borough. I would also like to provide some background and raise some questions about specific provisions of SB 121. I apologize for not being at the hearing in person, but am out of state attending a meeting of the National League of Cities.

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.

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 general problem addressed by SB 121. 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)? 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 SB 121 would be over and above the "full cost" of educating their students.
2. What is the basis for the 25/75 split for education and public roads contained in the current state statute and included in SB 121? Is this an arbitrary requirement, and should it be changed?
3. Should all the money currently not distributed be included in the distribution established by SB 121 or should a portion be reserved by the state for the benefit of other citizens living in the affected areas of the unincorporated borough? 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 per capita basis (or using a formula that considers the average daily membership of the school districts) could result in those communities receiving many times more dollars than some of the organized boroughs.

4. If REAs 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?

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5. First class, home rule, and some second class cities provide roads within their jurisdictions, yet SB 121 does not call for sharing the National Forest receipts with these entities. Would it not be a good idea to give these funds directly to these municipalities to offset the costs of providing roads within their boundaries?

In summary, the Alaska Municipal League supports the concept of sharing National Forest Receipts with those municipalities affected by the forests who do not currently receive any of these funds. The League and its members urge the committee to consider the questions outlined above in its deliberations on SB 121 and to consider alternate solutions to the problem. I look forward to working with you to resolve these issues and find alternate solutions.

CSS/TEST:SB121.307



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Post Office Box 6600  
Ketchikan, Alaska 99901, U.S.A.  
Telephone: 907-225-2151  
Telefax: 907-225-8260

March 7, 1991

The Honorable Steve Frank  
Alaska State Senator  
State of Alaska  
Post Office Box V  
Juneau, Alaska 99811

VIA TELECOPY c/o 465-3922

Dear Senator Frank:

This letter is submitted in support of legislation which would bring the State of Alaska into compliance with the intent of federal legislation requiring the distribution of a designated portion (25%) of national forest income to the income generating and impacted areas of the states in which national forests are located. We support the current efforts of both Representative Mackie and Senator Jones who have introduced legislation concerning the distribution of such income in the unorganized borough. We also urge that the legislature clarify the formula for distributing national forest income to organized boroughs.

The federal legislation, 16 USC § 500, provides that twenty-five percent (25%) of all monies received during any fiscal year from each national forest shall be paid annually to the state in which the national forest is located. The funds are to be expended by the state for the benefit of public schools and public roads in the county or counties in which national forests generating the receipts are situated. In enacting this statute, Congress recognized the desirability of designating a portion of the stumpage and other receipts generated by logging and other multiple use activities on our national forests to support the infrastructure needs of schools and roads associated with the jobs and presence of families working on the national forests.

The Alaska Statute which implements the federal law is AS 41.15.180. The Alaska Statute assumes that a borough is the equivalent of a county under the federal act, and provides that an organized borough shall receive a share of the national forest income in proportion to the area of the national forest located within its boundaries. The organized

The Honorable Steve Frank  
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boroughs must expend these funds for public schools or roads. Funds received by the State for national forest land located in the unorganized borough are deposited in the general fund of the State. The statute requires that twenty-five percent (25%) of the income be expended for public schools and seventy-five percent (75%) for roads in the unorganized borough. It appears, however, that the Department of Community and Regional Affairs has historically allowed the unorganized borough's share of national forest income to lapse, rather than distribute the funds as intended by the federal legislation and the Alaska Statute.

Clearly the Alaska Statute, in a number of ways, does not distribute the national forest income receipts in accordance with the intent of the federal legislation. The State's present distribution formula falls short in providing funding for the infrastructure needs of many of the areas which are actually impacted by logging and other multiple use activities in the national forest. The formula which has been used for distribution to organized boroughs is based on total national forest acreage within a given borough, regardless of whether there are any forest harvest and stumpage generating activities within that borough. The national forest income received by the State for national forest land in the unorganized borough is currently not even being specifically allocated to schools or roads in the unorganized borough.

Ketchikan Pulp Company operations generate direct employee payrolls of \$36,000,000.00 annually distributed throughout southern Southeast Alaska, including a number of Prince of Wales communities and logging operations in the unorganized borough. A number of the logging camps have grown into permanent communities. We believe that the State Statute should clearly reflect the principal of shared timber receipts reaching the needs of schools and roads in both the organized and unorganized borough areas where timber harvest is actually occurring. Logging and related forest products operations develop an economic base and provide employment in the impacted area. The legislation should direct that the funds go to the impacted area of the forest where it is needed.

It is our understanding that there are presently two bills in the Alaska legislature which address the distribution of timber receipts for the unorganized borough. Senator Jones of Ketchikan has introduced Senate Bill 121, and Representative Mackie of Craig has introduced House Bill 54. It appears that both bills attempt to ensure that the State of Alaska actually allocate and expend income in the unorganized borough for public schools and roads. Of the two bills, it appears that Senator Jones' bill most closely relates the receipt of income to the actual impact of logging activities and presence on the national forest. Senator Jones' bill requires that seventy-five percent (75%) of the

The Honorable Steve Frank  
Alaska State Senator  
March 7, 1991  
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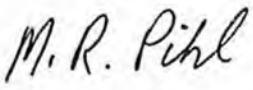
timber receipts for the unorganized borough be spent by the Department of Transportation for public roads in the unorganized borough, and that twenty-five percent (25%) of the funds be allocated among the impacted school districts in the unorganized borough in proportion to the degree of impact which they experience.

We again urge your support of legislation which implements the intent of the federal law. Specifically, legislation which provides for the distribution of national forest income to those school districts and communities in both the organized and unorganized borough which are significantly impacted by the presence of the national forest, and by the logging and log processing activities which occur in or near the forest.

Again, we sincerely appreciate and support the efforts of Representative Mackie and Senator Jones, and hope that through their efforts legislation will be passed that directs these funds where they are needed.

Sincerely,

KETCHIKAN PULP COMPANY

By   
M. R. Pihl  
General Manager

MRP/TNS:cz

PRINCE OF WALES  
COMMUNITY ADVISORY COUNCIL

Chairperson:  
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Vice Chairperson:  
Aaron Iassus, Klawock  
Secretary/Treasurer:  
Charity Fechter, Craig

P.O. Box 23  
Craig, AK 99821

Telephone: (907)828-3380  
(907)826-3278  
FAX Number: (907)828-3374

February 7, 1991

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

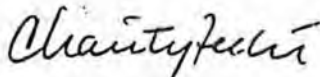
SUBJECT: Receipts from National Forest Lands

Dear Representative Mackie:

Enclosed is a copy of Prince of Wales Community Advisory Council (POWCAC) Resolution 90-7. This resolution strongly urges a legislative amendment to and gubernatorial support of a change in the way forest receipts are distributed. Specifically, it encourages amending AS 41.14.180 to include the distribution of national forest income generated within the unorganized borough to communities within this borough to be used for roads and schools in accordance with the intent of 16 USC 500.

This resolution was passed unanimously by the POWCAC. The member communities of Craig, Hollis, Kasaan, Klawock, and Thorne Bay have endorsed it. If you have any questions about this resolution or the Council, please call me at 826-3275, or Ginny Tierney (Chairman) at 828-3380.

Sincerely,



Charity Fechter  
Secretary Treasurer

Enclosure

cc: Council Members  
Sen. Eliason  
Rep. MacLean, House Finance  
Rep. Navarre, House Finance  
Sen. Kerttulla, Senate Finance  
Sen. Pourchot, Senate Finance  
Gov. Hickel

RESOLUTION 90-7

A JOINT RESOLUTION BY AND BETWEEN THE PRINCE OF WALES COMMUNITY ADVISORY COUNCIL MEMBERS LISTED BELOW URGING THE ALASKA STATE LEGISLATURE AND THE GOVERNOR OF THE STATE OF ALASKA TO DISTRIBUTE INCOME FROM NATIONAL FOREST LANDS IN THE UNORGANIZED BOROUGH TO MUNICIPALITIES AND COMMUNITY ASSOCIATIONS IN THE UNORGANIZED BOROUGH TO USE FOR ROADS AND SCHOOLS.

WHEREAS, federal law 16 USC 500 provides that 25% of all moneys received from each national forest shall be distributed to the State legislature to be spent for the benefit of the roads and schools in such national forest; and

WHEREAS, the intent of this federal law is to provide funds to support roads and schools of communities within the affected national forest, thereby mitigating any associated impact; and

WHEREAS, 70% of the Tongass National Forest is contained within the Unorganized Borough of the State of Alaska and thereby a majority of forest income for the Tongass is generated within the Unorganized Borough; and

WHEREAS, the Legislature for the State of Alaska is the governing body of the unorganized borough and is responsible for providing regional services to the unorganized borough to include the distribution of federal funds according to federal intent; and

WHEREAS, AS 41.15.180 limits the distribution of national forest income to organized boroughs only;

BE IT THEREFORE RESOLVED that the Prince of Wales Community Advisory Council strongly urges the Alaska legislature to amend, and the Governor of the State of Alaska to support the amendment of, AS 41.15.180 to include the distribution of national forest income generated within the unorganized borough to communities within this borough to be used for roads and schools in accordance with the intent of 16 USC 500.

PASSED AND APPROVED ON Oct. 16, 1990.

PRINCE OF WALES COMMUNITY  
ADVISORY COUNCIL

BY Annex R. Terney

ATTEST: Charity Fetter  
SECRETARY

ANCHORAGE OFFICE

THE ENSERCH CENTER  
150 WEST SEVENTH AVENUE SUITE 1200  
ANCHORAGE ALASKA 99501  
PHONE (907) 277-6653  
TELEX 090-26-486  
FACSIMILE (907) 279-1953

- \*\*ROBERT B BAKER
- MICHAEL T THOMAS
- LEROY J BARKER
- \*\*L G BERRY
- HAROLD E SNOW JR
- \*\*CARL W WINNER
- SUSAN M WEST
- \*\*JULIA B BOCKMON
- JOSEPH D DARNELL
- GREGORY G SILVEY
- RICHARD L POMEROY

WASHINGTON OFFICE

1050 THOMAS JEFFERSON STREET, N.W.  
SIXTH FLOOR  
WASHINGTON, DC 20007  
PHONE (202) 333-4400  
FACSIMILE (202) 337-0940

- \*\*STEVEN W SILVER
- \*\*BRADLEY D GILMAN

ROBERTSON, MONAGLE & EASTAUGH

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
JUNEAU ALASKA 99802

February 26, 1991

JUNEAU OFFICE

COURT PLAZA BUILDING, SUITE 800  
240 MAIN STREET  
PO BOX 21211  
JUNEAU ALASKA 99802  
PHONE (907) 586-3340  
FACSIMILE (907) 586-6818

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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  
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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  
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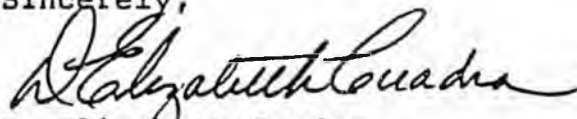
A California appellate court held that the federal statute, 16 USC 500, was not intended to provide money in lieu of local taxes (payments in lieu of taxes), and went on to uphold an interpretation of the state's distribution statute (apportioning these funds to school districts "lying within or adjacent 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 deleted provision which required that annual reports be made to Congress of moneys received 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 372 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. 1233; 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. 94-579, 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, 1903, 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 as 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. 94-579. 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 670e 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. 2407, 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.

**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. 444

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. 623

**Legislative History.** For legislative history and purpose of Act Apr. 24, 1950, see 1950 U.S. Code Cong Service, p. 2135. 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 168J of this title.  
 Unaffected by establishment of North Cascades National Park, see section 903 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               | 3, 18. U.S. v. Griffin, D.C. Va 1932, 58 F.2d 674  |
| Constitutionality 1                    |  |
| Construction                           | 2. Construction  |
| Generally 2                            | 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.c.  |
| 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 | 3. Construction with other laws  |
| Purpose 4                              | 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 |
| Questions for Congress 5               |  |
| Questions of fact 14                   |  |
| Summary judgment 13                    |  |
| Taxation 9                             |  |
- I. Constitutionality**  
 This section is constitutional as being authorized by U.S.C.A. Const. Art. 1, § 8, els.

# 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

March 6, 1991

## POSITION PAPER

RE: Senate Bill 121

SPONSOR: Senator Jones

### Program Effects of Bill

Existing statute permits the distribution of National Forest Receipts to organized boroughs only. This bill would widen the distribution to include Regional Education Attendance Areas (REAA's), municipal school districts and communities within the unorganized borough, "affected by national forest timber harvest and processing activities.". Funds would be distributed 25 percent for public schools and 75 percent for public roads.

### Comments

The Department supports the concept of distributing National Forest Receipts to communities in the unorganized borough (UOB). The bill as it is currently written, appears to direct funding toward those entities that have been affected by national forest timber harvest and processing activities.

Distribution of receipts under the bill would occur according to a formula yet to be developed. Funding for public schools under this formula would consider the average daily membership of school districts affected by national forest timber harvest and processing activities, and would apply a weighting factor based upon the overall population of the community living and working on national forest land. Funds for public roads would be used to benefit communities that are affected by national forest timber harvest and processing activities.

The formula appears conceived to maximize funding to locations most affected by timber harvest activities. Because most timber harvest activities occur outside home rule and first class cities in the unorganized borough, it appears that the primary beneficiaries in the Tongass National Forest would be the Regional Education Attendance Areas. Further analysis based upon the actual terms of a formula, and upon actual numbers of people living and working in the national forest, would be needed to refine this assumption. The assumption is based on the fact that the REAA is the school district for all logging camps and second class cities dependent upon logging in the UOB. Additionally, some communities may not be engaged in timber harvest or processing but may view themselves as affected by those activities to the extent it occurs on nearby streams or watersheds. It is unclear if these communities, or if communities unaffected by logging such as Hyder, would receive funds under the bill.

The bill fails to address funding for communities in the unorganized borough of the Chugach National Forest, where there is little timber harvest on national forest lands and forest receipts are derived from other sources of forest income such as Special Use Permits and Recreation User Fees.

### Conclusion

The Department supports the concept of widening the distribution of National Forest Receipts funds to enfranchise communities in the unorganized borough. However, we have identified three areas in the bill that we believe need further analysis and possibly more work. First, the bill appears to direct funding toward REAA's in the way the formula is presented. Second, it appears that communities actually engaged in harvesting and processing would be weighted favorably, while those not engaged in these activities or adversely affected by them would not be. This needs to be clarified to clearly show who would, and who would not, receive funding. Finally, the bill does not appear to take into account the distribution of funds to communities in the unorganized borough of the Chugach National Forest.

  
Edgar Blatchford, Commissioner