

HB

361

OK

Alaska State Legislature

ALASKA STATE CAPITOL
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CRAIG, ALASKA 99921
(907) 926-3008 OFFICE
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REPRESENTATIVE
JERRY MACKIE

House of Representatives

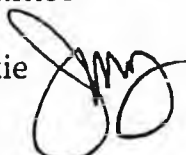
MEMORANDUM

STATE OF ALASKA ALASKA STATE LEGISLATURE

Date: January 22, 1996

TO: Representative Jeannette James, Chair
House State Affairs Committee

FROM: Representative Jerry Mackie
House Of Representatives



Re: HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date." By Rep. Mackie

I would appreciate your consideration in scheduling HB 361 for a hearing in the State Affairs Committee.

I have attached my sponsor statement and other pertinent information.

Please call me if you have further questions.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House C+RA
1-18-96 1:05 pm
HB361

Alaska State Legislature

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House of Representatives

SPONSOR STATEMENT

HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

I introduced this legislation at the request of the Metlakatla Indian Community when their FY 96 Municipal Assistance Matching Grant Program appropriation was eliminated from last year's budget. Metlakatla qualified for this program under the Department of Administration regulations definition for "municipality". However, legal analysis found that the statute definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

HB 361 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. This legislation also provides that Metlakatla may not receive a grant under the Unincorporated Community Capital Project Matching Grant Program.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

There are two zero fiscal notes accompanying this legislation from the Department of Community and Regional Affairs and the Department of Administration.

Alaska State Legislature

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House of Representatives

HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

***SECTIONAL ANALYSIS**

***Section 1.**

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

***Section 2.**

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

***Section 3.**

provides that HB 361 becomes effective July 1, 1996.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 361

Revision Date: _____
 Title: "An Act relating to capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date." _____
 Sponsor: Mackie _____
 Requestor: _____

Department Affected: Administration _____
 BRU: Administrative Services _____
 Component: Administrative Services _____

COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative impact on DOA would be very small.

Prepared by: Marion Barton
 Division: Administrative Services

Phone: 465-2277
 Date: 1/8/96

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 1/11/96

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FISCAL NOTE

Revision Date: January 9, 1996 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to municipal capital project matching grants for a municipality organized BRU: none
 Component: none
 Sponsor: Rep. Mackie
 Requestor: Rep. Mackie COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:

--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
 This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090, removing an ambiguity under which the community has in the past received capital match program funds for both unincorporated and municipal elements of the program. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 1/09/96
 Approved by Commissioner: *Nike Turner* Date: 1/09/96
 Agency: Community & Regional Affairs

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STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

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FAX: (907) 269-4520

January 18, 1996

The Honorable Jerry Mackie
House of Representatives
State Capitol, Room 404
Juneau, AK 99801-1182

Dear Representative Mackie:

Re: Metlakatla - Unincorporated Matching Grant

The following is a brief description of the impact to this Department should Metlakatla be identified as an eligible entity in the Municipal section of the Capital Matching Grant Program rather than the Incorporated section of that same program.

Since the inception of this program, Metlakatla has requested projects each fiscal year in the full amount of funds available with the exception of FY 94. The remaining balance that year in addition to a small amount of interest earned totals \$1,357.84 that would need to be transferred from Metlakatla's Community Account in this Department to the Department of Administration along with their FY 97 project request file. Metlakatla is aware of the available remaining funds and has incorporated them into their FY 97 project request.

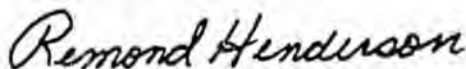
All of Metlakatla's previously requested projects are currently under agreement and active with all funds encumbered. These projects should remain with this office until they are complete and closed-out. Below is a detailed listing of their projects to date.

<u>FY</u>	<u>PROJECT</u>	<u>AWARD</u>	<u>EXPENDED TO DATE</u>
94	Lift Station	\$23,775.00	\$ 6,222.00
95	Hatchery Site Preparation	25,000.00	20,640.00
96	Cold Storage Facility Repairs	18,000.00	18,000.00 (Closed)
	Replace Cannery Building Wall	7,000.00	1,750.00

97 Proposed Smoked Salmon Dev. Proj. 26,358.00

If you have any further questions or concerns please feel free to contact the Grants Administrator for these projects, Tena Bavard, at 465-4731.

Sincerely,



Remond Henderson
Director

COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR
JUDITH A. LAUTH, SECRETARY
BARBARA J. FAWCETT, TREASURER
January 15, 1996

ESTABLISHED 1987

POST OFFICE BOX 8
METLAKATLA, ALASKA 99826
PHONE (907) 886-4441
FAX (907) 886-3336
FAX (907) 886-7997

Representative Jerry Mackie
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

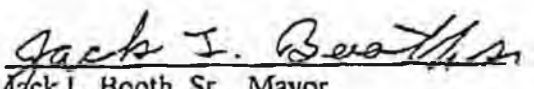
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY


Jack L. Booth, Sr., Mayor

cc: Metlakatla Indian Community Council Members
Rep. Ivan Ivan CO-chair, House C & RA
Rep. Alan Austerman, CO-Chair House C & RA Committee
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep.
Bettye Davis, Rep. Kim Elton, Rep. Irene Nicholai, Rep. Mackie

MEMORANDUM

January 8, 1996

To: Alan Austerman, Co-Chair
Ivan Ivan, Co-Chair
Community and Regional Affairs Committee

From: Representative Jerry Mackie
Alaska State Legislature



Subject: Committee Schedule request - HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

By Representative Mackie

I would appreciate your consideration in scheduling HB 361 for a hearing in the Community and Regional Affairs Committee.

Funding Metlakatla as a municipality was a policy choice made in 1993 by the prior administration. The matching grant regulations were written explicitly to allow this;¹ Funding them additionally as an unincorporated community resulted from the fact that they met the matching grant program eligibility criteria for an unincorporated community.²

Legal Services Director, Tam Cook informed the municipality of Metlakatla that under current law, Metlakatla cannot legally receive matching grant funds as a municipality. Although the matching grant program regulatory definition of "municipality" includes Metlakatla, it is invalid because it conflicts with another statute that defines municipalities, but does not include Metlakatla.

The Department of Law and Legislative Legal Services have both determined that AS 01.01.060(4) supersedes the matching grant regulatory definition.

Your consideration in scheduling this legislation for a hearing would be greatly appreciated.

¹2AAC 47.170(5) for DOA defines "municipality" as "any incorporated city or borough, or any entity that is eligible to receive municipal assistance under AS 29.50.365...(Emphasis added). Metlakatla receives municipal assistance as a municipality under AS 29.60.365; it also receives forest receipts as a municipality.

²19 AAC 55.160(6) for DCRA defines "unincorporated community" as "any community that is eligible to receive state aid under AS 29.60.140. Metlakatla receives revenue sharing (state aid) as an unincorporated community under 29.60.365.

Sec. 29.60.310. Time of payment. The department shall make payments under AS 29.60.010 — 29.60.300 no later than July 31, based upon the entitlement calculations made during the preceding fiscal year. (§ 6 ch 10 SLA 1987)

Article 4. Municipal Assistance.

Section	Section
350. Municipal assistance fund	370. Increased assistance
360. Base amount of assistance	375. Definition
365. Municipalities organized under federal law	

Sec. 29.60.350. Municipal assistance fund. (a) There is established in the department the municipal assistance fund. The legislature may appropriate to the municipal assistance fund during each fiscal year an amount equal to or greater than 30 percent of the income tax revenue received by the state under AS 43.20.011(e) for the previous fiscal year.

(b) The department shall distribute money from the municipal assistance fund to each municipality on an annual basis as provided in AS 29.60.360 and 29.60.370. A municipality may not receive payment until it submits to the department a resolution approved by the governing body of the municipality that requests the money. Distribution of money from the municipal assistance fund to all municipalities must be made on February 1 of the state fiscal year for which the appropriation to the fund is made. A municipality that incorporates after December 31 of a state fiscal year is not eligible for a distribution under this section until the following state fiscal year. (§ 16 ch 74 SLA 1985; am § 7 ch 10 SLA 1987)

Sec. 29.60.360. Base amount of assistance. (a) The base amount to be distributed from the municipal assistance fund to each municipality for the fiscal year shall be the amount received by the municipality during fiscal year 1978 under AS 43.70.080 as that section provided before the 1978 amendment. A city incorporated within a borough after June 30, 1977, shall receive as a base amount a share of the amount distributed to the borough in which it is located based on the ratio of population in the city to the total population in the borough. A city incorporated outside a borough after June 30, 1977, shall receive as a base amount the amount received by the city in the state most closely approximating it in population at the time of its incorporation. A borough incorporated after June 30, 1977, shall receive as a base amount the amount received by the borough in the state most clearly approximating it in population at the time of its incorporation. The base amount to be distributed to each municipality organized

NOTES TO DECISIONS

For case interpreting the former revenue sharing scheme for hospitals and health care facilities, see *Municipality of Anchorage v. Sisters of Providence in Wash., Inc.*, 628 P.2d 22 (Alaska 1981).

Sec. 29.60.130. State aid to volunteer fire departments not in organized municipality. (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized municipality a sum for protection purposes equal to \$10 per capita for the population served by the fire department, as determined by the state fire marshal.

b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized municipality, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 16 ch 74 SLA 1985)

Sec. 29.60.140. State aid to unincorporated communities. (a) The department shall pay to each unincorporated community an entitlement each fiscal year to be used for a public purpose. The department with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is more than one qualified entity in an unincorporated community, the department shall pay the money under the entitlement to the entity that the department finds most qualified to receive and spend the money. The department may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council. If at least \$41,472,000 is appropriated for all entitlements under AS 29.60.010 — 29.60.310 for a fiscal year, the entitlement for each unincorporated community under this subsection for that year equals \$40,000. Otherwise, the entitlement equals \$25,000.

(b) In this section "unincorporated community" means a place in the unorganized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit. (§ 16 ch 74 SLA 1985; am § 2 ch 122 SLA 1990)

HOUSE BILL NO. 449
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MOSES, Finkelstein

Introduced: 1/24/96

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income."

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

3 * Section 1. AS 43.20.011 is amended by adding new subsections to read:

4 (g) For each taxable year or fractional part of a taxable year after
5 December 31, 1996, there is imposed a tax upon the taxable income of every resident,
6 nonresident, and part-year resident individual and fiduciary of the state. The tax
7 imposed by this subsection is determined as a percentage of the taxpayer's entire
8 federal income tax liability, except that the tax on a nonresident or part-year resident
9 individual or fiduciary is the tax determined as a percentage of the taxpayer's entire
10 federal income tax liability multiplied by a fraction the numerator of which is the
11 taxpayer's taxable income from sources in the state and the denominator of which is
12 the taxpayer's taxable income from all sources. The tax is determined as follows:

13 (1) for the taxable year after December 31, 1996, and through
14 December 31, 1997,

15 if the taxpayer's entire federal then the tax, as a percentage

1 income tax liability is: of the taxpayer's entire federal
2 income tax liability, is:
3 not more than \$20,000 5 percent
4 over \$20,000 10 percent;
5 (2) for the taxable year after December 31, 1997, and through
6 December 31, 1998,

7 if the taxpayer's entire federal then the tax, as a percentage
8 income tax liability is: of the taxpayer's entire federal
9 income tax liability, is:
10 not more than \$20,000 10 percent
11 over \$20,000 15 percent; and

12 (3) for each taxable year beginning after December 31, 1998,
13 if the taxpayer's entire federal then the tax, as a percentage
14 income tax liability is: of the taxpayer's entire federal
15 income tax liability, is:
16 not more than \$20,000 15 percent
17 over \$20,000 20 percent.

18 (h) An individual shall determine the tax under this section using the same
19 filing status as used on the individual's federal return.

20 * Sec. 2. AS 43.20.030(a) is amended to read:

21 (a) An individual, fiduciary, [IF A] corporation, or [A] partnership that has
22 a corporation as a partner that is required to make a return under the provisions of the
23 Internal Revenue Code [, IT] shall file with the department [, WITHIN 30 DAYS
24 AFTER THE FEDERAL RETURN IS REQUIRED TO BE FILED.] a return setting
25 out

26 (1) the amount of tax due under this chapter, less allowable credits and
27 payments claimed against the tax; and

28 (2) other information for the purpose of carrying out the provisions of
29 this chapter that the department requires.

30 * Sec. 3. AS 43.20.030(c) is amended to read:

31 (c) The [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount

1 of tax imposed by this chapter is due and payable to the department at the same time
2 and in the same manner as the tax payable to the United States Internal Revenue
3 Service.

4 * Sec. 4. AS 43.20.030(d) is amended to read:

5 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall file with
6 the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy of the
7 taxpayer's tax return [WHICH THE TAXPAYER HAS] filed with the United States
8 Internal Revenue Service for the taxable year. Every taxpayer shall file an amended
9 return with the department, and remit any additional tax and interest due
10 [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN, OR
11 MODIFICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN
12 AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF DEFICIENCY
13 (WHETHER WITH OR WITHOUT ASSESSMENT). A FULL STATEMENT OF
14 THE FACTS SHALL ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE
15 FILED] within 60 days after the final determination of the taxpayer's federal tax
16 liability [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE
17 TAXPAYER SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS
18 CHAPTER]. For purposes of this section, a final determination means [SHALL
19 MEAN] the time that an amended federal return is filed or the date a federal [A
20 NOTICE OF DEFICIENCY OR AN] assessment is made [MAILED TO THE
21 TAXPAYER BY THE INTERNAL REVENUE SERVICE, EXCEPT THAT IN NO
22 EVENT WILL THERE BE A FINAL DETERMINATION FOR PURPOSES OF THIS
23 SECTION UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL
24 UNDER FEDERAL LAW].

25 * Sec. 5. AS 43.20 is amended by adding a new section to read:

26 Sec. 43.20.032. TAX CALCULATION FOR NONRESIDENTS AND PART-
27 YEAR RESIDENTS AND FIDUCIARIES. (a) In computing the tax under
28 AS 43.20.011(g) of a nonresident or a part-year resident individual, or a fiduciary, the
29 part of the taxpayer's taxable income attributable to sources in the state is determined
30 under AS 43.20.040.

31 (b) In computing the taxpayer's taxable income attributable to sources in the

1 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and
2 adjustments are allowed only to the extent that they are connected with income that
3 arises from sources in the state or property having a situs for taxation in the state.

4 * Sec. 6. AS 43.20.040(b) is amended to read:

5 (b) In this section, income is from a source having a taxable or business situs
6 in the state if it is derived from

7 (1) owning or operating business facilities or property in the state;

8 (2) conducting business, farming, or fishing operations in the state;

9 (3) [REPEALED

10 (4)] a partnership that [WHICH] transacts business in the state;

11 (4) [(5)] a corporation that [WHICH] transacts business in the state

12 and that [WHICH] has elected to file federal returns under 26 U.S.C. 1361 - 1379

13 (Subtitle A, Ch. 1S, Internal Revenue Code) [SUBCHAPTER S OF THE

14 INTERNAL REVENUE CODE];

15 (5) [(6) REPEALED

16 (7)] engaging in any other activity from which income is received,
17 realized, or derived in the state;

18 (6) working for salary or wages in the state;

19 (7) an estate or trust deriving income from sources in the state.

20 * Sec. 7. AS 43.20.040 is amended by adding a new subsection to read:

21 (d) With regard to the tax under AS 43.20.011(g), if a business, trade, or
22 profession, other than the rendering of purely personal services, is carried on partly
23 inside and partly outside the state, the income from sources in the state is determined
24 under AS 43.19 (Multistate Tax Compact).

25 * Sec. 8. AS 43.20 is amended by adding a new section to read:

26 Sec. 43.20.062. CREDITS AGAINST TAX. (a) The amounts deducted and
27 withheld as taxes under this chapter during a calendar year are allowed as credits to
28 the taxpayer against the tax imposed by this chapter.

29 (b) A resident or part-year resident is allowed as a credit against the tax
30 otherwise due under this chapter the amount of income tax imposed on the taxpayer
31 for the taxable year by another state or territory of the United States on income derived

1 from sources in the other state or territory that is also subject to tax under this chapter.
2 However, the credit allowed in this subsection is limited to that proportion of the tax
3 computed under this chapter that the taxable income from the other state or territory
4 bears to total taxable income, and the credit may not exceed the actual tax paid to the
5 other state or territory.

6 (c) An individual or fiduciary is allowed as a credit against the tax otherwise
7 due under this chapter the amount of any real and personal property taxes paid by the
8 individual or the fiduciary to a municipality in this state under AS 29.45.

9 * Sec. 9. AS 43.20.065 is amended to read:

10 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A corporate
11 taxpayer who has income from business activity that [WHICH] is taxable both inside
12 and outside the state or income from other sources both inside and outside the state
13 shall allocate and apportion net income under AS 43.19 (Multistate Tax Compact), or
14 as provided by this chapter.

15 * Sec. 10. AS 43.20 is amended by adding a new section to read:

16 Sec. 43.20.171. COLLECTION OF INCOME AT SOURCE. (a) Every
17 employer making payment of wages or salaries after December 31, 1996, shall deduct
18 and withhold an amount of tax computed in a manner to approximate the amount of
19 tax due on those wages under this chapter for that year. The employer shall remit
20 withheld taxes to the department, together with a return or report prescribed by the
21 department, at the time or times required by the department by regulation. The
22 department shall publish the rate of withholding required by this section. Every
23 employer making a deduction and a withholding shall furnish to the employee no later
24 than January 31 of the succeeding year, or within 30 days after termination of
25 employment, whichever is earlier, a written statement on a form prescribed by the
26 department showing

- 27 (1) the name and taxpayer identification number of the employer;
28 (2) the name and social security number of the employee;
29 (3) the total amount of wages and other compensation; and
30 (4) the total amount deducted and withheld as tax.

31 (b) Every employer making payments of wages or salaries earned in the state,

1 regardless of the place where the payment is made,

2 (1) is liable for the payment of the tax required to be deducted and
3 withheld under this section and is not liable to an individual for the amount of the
4 payment; and

5 (2) shall make return of and pay to the department the amount of tax
6 levied that the employer is required to deduct and withhold under this chapter.

7 (c) An employer who fails to comply with this section is subject to the
8 penalties set out in AS 43.05.220(d).

9 (d) If the employer is the United States or the state or a political subdivision
10 of the state, or an agency or instrumentality of one or more of those entities, the return
11 of the amount deducted and withheld on wages or salaries may be made by an officer
12 of the employer having control of the payment of the wages or salaries or who is
13 appropriately designated for that purpose.

14 (e) In this section, "employee," "employer," and "wages" have the meanings
15 given to them under 26 U.S.C. (Internal Revenue Code).

16 * Sec. 11. AS 43.20.340 is amended to read:

17 Sec. 43.20.340. DEFINITIONS. In this chapter,

18 (1) "bank" means a financial institution, including a national banking
19 association;

20 (2) "corporation" includes an association, joint-stock company, and an
21 insurance company;

22 (3) "fiduciary" means an estate, a trust, a guardian, trustee,
23 executor, administrator, receiver, conservator, or a person acting in a fiduciary
24 capacity for another or for the estate of a deceased person; [REPEALED,]

25 (4) "fiscal year" means an accounting period of 12 months ending on
26 the last day of a month other than December;

27 (5) "individual" means a natural person, married or unmarried,
28 adult or minor, who is subject to the obligation to pay an income tax under 26
29 U.S.C. (Internal Revenue Code) ["INCLUDES" AND "INCLUDING" WHEN USED
30 IN A DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE WITHIN
31 THE MEANING OF THE WORD DEFINED];

1 (6) "Internal Revenue Code" means the Internal Revenue Code of the
2 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
3 and amendments apply to the normal taxes and surtax on net incomes, which
4 amendments are operative for the purposes of this chapter as of the time they became
5 operative or will become operative under federal law;

6 (7) "nonresident" means an individual who is not a resident or
7 part-year resident;

8 (8) "part-year resident" means an individual who becomes a resident
9 or loses the status of a resident [ENTERS OR LEAVES THE STATE] during the
10 taxable year [AND WHO HAS RESIDED OR WAS DOMICILED IN THE STATE
11 FOR A PERIOD OF LESS THAN 12 MONTHS DURING THE TAXABLE YEAR];

12 (9) [(8)] "person" means an individual, a trust, an [OR] estate, a [OR]
13 partnership, or a corporation;

14 (10) "resident" has the meaning given to the term "state resident"
15 by AS 43.23.095:

16 (11) [(9)] "taxable year" means the calendar year or the fiscal year:
17 ending during the calendar year upon the basis of which the net income is computed
18 under this chapter; "taxable year" includes, in the case of a return made for a fractional
19 part of a year under this chapter, the period for which the return is made;

20 (12) [(10)] "taxpayer" means a person subject to a tax imposed by this
21 chapter;

22 (13) [(11)] "trade or business" includes the engaging in or carrying on
23 of a trade, business, profession, vocation, employment, and rendition of services or
24 commercial activity and includes the performance of the function of a public office.

25 * Sec. 12. AS 43.05.085; AS 43.20.012, 43.20.013; and AS 47.45.120(a) are repealed.

LERROY WILDER, P.C.

LAW OFFICE

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MEMORANDUM

TO: Sol Atkinson
FROM: LeRoy Wilder *John*
RE: HB No. 361
DATE: January 20, 1996

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 361 will make Metlakatla eligible for capital project matching grants as an incorporated municipality. Ms. Cook and I agreed that the language now in the bill does what we need it to do and that it would not be wise to modify it. If it is necessary to change the language to please the legislature, we will do so later, but for now, we agreed we should try to hold what we've got.

The problem is this. Some legislators are fearful that this provision, which is exclusively for Metlakatla's benefit, will somehow open up eligibility for capital project matching grants to other Native groups. They are concerned that the reference to 43 U.S.C. 1618(a) may not be restrictive enough. You will recall that section 1618(a) is the language in the Alaska Native Claims Settlement Act that terminates all reservations in Alaska with the single, specific exception of the Annette Islands Reserve. I reviewed the language and concluded that the reference is very restrictive and will not result in the eligibility of other Native groups. Moreover, section 1618(a) has been relied upon in the past to distinguish Metlakatla from all other Native groups and it has been unchallenged. Thus, I see no reason why we should not continue to rely on this reference as the limitation of the bill.

You probably know that the bill cannot simply say Metlakatla because there are laws against "special" legislation. By referring to the statutory provision, we avoid saying Metlakatla specifically but make a reference that includes only Metlakatla. Sounds rather silly, I know, but that's how its done. I will keep you posted if I hear anything more on this issue.

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