

**HB**

**361**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/8/96

FURTHER: Finance

DATE TURNED INTO OFFICE: \_\_\_\_\_

The C&RA Committee considered HOUSE BILL NO. 361

Relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve.

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Rod E. Joo</i>	✓				
<i>Charles J. Stewart II</i>	✓				
<i>James H. Johnson</i>					
<i>De Kelly</i>	✓				
<b>CHAIR:</b> <i>John J. ...</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>Administration</i>	<i>3/2/96</i>	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Administration</i>	<i>1/14/96</i>	✓	
<i>Comm. &amp; Reg'l Affairs</i>	<i>1/9/96</i>	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



# 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: Mickie  
 Requestor: (S) CRA

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Sharon Barton  
 Division: Administrative Services

Phone: 465-2277  
 Date: 3/15/96

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 3/20/96

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**ANALYSIS: (continued)**

There would be no need for additional funds for the administration of this program. Adding Metlakatla to the municipal side of the program does affect grant fund distribution and might be handled one of three ways:

1. if SB 293 passes with no additional grant funds appropriated to accommodate Metlakatla, Metlakatla would receive a grant of \$39,817 and all other municipalities would be adjusted accordingly.
2. If Metlakatla is added to the program on the municipal side with:
  - A. a transfer to the municipal side of the \$25.0 they would have received on the unincorporated side of the program;
  - B. No other increase to the overall appropriation; then Metlakatla would receive an allocation of \$39,910. The allocations to other municipalities would be reduced as noted:

Anchorage	(6,403)	Kodiak	(236)
Barrow	(158)	Kodiak Island Borough	(209)
Bethel	(162)	Kotzebue	(110)
Bristol Bay Borough	(49)	Lake & Peninsula Borough	(15)
Cordova	(96)	Matanuska-Susitna Borough	(1,015)
Craig	(73)	Nome	(148)
Denali Borough	(50)	North Pole	(61)
Dillingham	(83)	North Slope Borough	(96)
Fairbanks	(811)	Palmer	(154)
Fairbanks North Slope Borough	(1,244)	Petersburg	(124)
Haines	(52)	Sand Point	(40)
Haines Borough	(38)	Seward	(113)
Homer	(154)	Sitka	(285)
Hooper Bay	(40)	Soldotna	(148)
Houston	(38)	Unalaska	(152)
Juneau	(739)	Valdez	(166)
Kenai	(218)	Wasilla	(172)
Kenai Peninsula Borough	(701)	Wrangell	(102)
Ketchikan	(265)		
Ketchikan Gateway Borough	(190)		

3. If Metlakatla is added to the program on the municipal side with:
  - A. a transfer to the municipal side of the \$25.0 they would have received on the unincorporated side of the program;
  - B. An increase to the overall appropriation sufficient to "hold harmless" the other grantees so that no grantee's allocation is reduced to add Metlakatla to the program; then Metlakatla would receive a grant allocation of \$39,971. An increase to the overall appropriation of \$16,619 would need to be made.

# FISCAL NOTE

Revision Date: January 9, 1996 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to municipal capital project BRU: none  
matching grants for a municipality organized 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

REVENUE FUND SOURCE: \_\_\_\_\_

FUNDING: (Thousands of Dollars)

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

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: 485-4708  
 Division: Division of Administrative Services Date: 1/09/96  
 Approved by Commissioner: *Mike Turner* Date: 1/09/96  
 Agency: Community & Regional Affairs

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# 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

**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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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: Sharon 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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# Alaska State Legislature

REPRESENTATIVE  
**JERRY MACKIE**

ALASKA STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-4925

P.O. BOX 793  
CRAIG, ALASKA 99921  
(907) 926-3008 OFFICE  
(907) 826-2930 HOME

## House of Representatives

### MEMORANDUM

Date:

March 11, 1996

TO: Senator John Torgerson, Chair  
Senate Community and Regional 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 respectfully request that you schedule HB 361 for hearing in the Senate Community and Regional Affairs Committee. Attached is the following backup for HB 361:

- I. Sponsor Statement HB 361
- II. Sectional Analysis HB 361
- III. HB 361
- IV. Fiscal Information: 1/18/96 letter from Department C&RA  
Zero Fiscal Note Dept. C&RA  
Zero Fiscal Note Dept. Admin.
- V. Letter dated 1/15/96 from Mayor Booth, Metlakatla Indian Community, regarding HB 361 (history of expenditures)
- VI. Memo dated 1/20/96 regarding legal opinion of HB 361 pertaining only to Metlakatla.
- VII. Bill History HB 361- Basis Action Report, House Journal Action & Committee Minutes

*I am available to answer any questions or concerns you may have regarding this legislation.*

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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.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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ANCHORAGE, ALASKA 99501-1994  
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☐ KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

☐ P.O. BOX 110300-DIMOND COURT HOUSE  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

March 4, 1996

The Honorable Cynthia Toohey  
Alaska State Legislature  
House of Representatives  
State Capitol - Room 104  
Juneau, Alaska 99811

Re: House Bill 361

Dear Representative Toohey:

Your request to Attorney General Botelho for a written opinion regarding "Indian lands" and House Bill 361 has been forwarded to me for a response. In particular, you have asked whether HB 361, dealing with municipal capital project matching grants for "a municipality organized under federal law as an Indian reserve," will have any impact on the concerns the Legislature expressed regarding the "Indian lands" issues. In short, the answer is no.

Under HB 361, only a municipality<sup>1</sup> organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a), which is part of the Alaska Native Claims Settlement Act (ANCSA), and continues in existence under that subsection, is a municipality for purposes of the capital project matching grant program. Metlakatla is the only entity in the state that now, or in the future, could qualify under this language of HB 361. The "Indian land" issues raised by the Legislature in recent weeks concern areas of the state which were never Indian reserves, or no longer are Indian reserves, organized under federal law before 43 U.S.C. 1618(a) (copy enclosed), because ANCSA abolished all reserves other than Metlakatla.

According to officials at the Department of Community and Regional Affairs, the current capital project matching grant program statutes, AS 37.06.010 (municipalities) and AS 37.06.020 (unincorporated communities), do not adequately account for Metlakatla's federal Indian reserve status and it is unclear under which program Metlakatla falls. HB 361 would adopt

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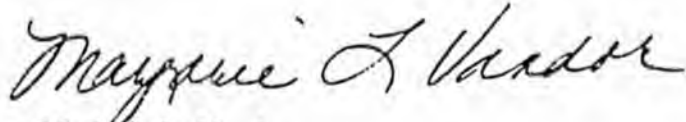
<sup>1</sup> We are unaware that federal law provides for organization of municipalities as reserves or reserves as municipalities. Therefore, it is possible that no entity qualifies under this bill. To avoid confusion, "municipality" here should probably be changed to "community" or a similar term.

a new section, AS 37.06.040, effectively designating Metlakatla as a municipality for the limited purpose of qualifying under the municipal capital project matching grant program.

We hope this adequately addresses your concerns. Please do not hesitate to call us if you have further questions.

Sincerely,

Bruce M. Botelho  
Attorney General



By: Marjorie L. Vandor  
Assistant Attorney General

MLV:jn

cc: Representative Jerry Mackie ✓

Kim Metcalf - Helmar  
Legislative Liaison - DCRA

Barbara Ritchie  
Deputy Attorney General

Chrystal Smith  
Legal Administrator

Becky Snow - Assistant Attorney General  
Fairbanks

# 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 99926  
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.

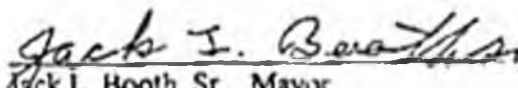
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

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

# STATE OF ALASKA

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

### DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 112100  
JUNEAU, ALASKA 99811-2100  
PHONE: (907) 465-4700  
FAX: (907) 465-2948

330 W 4TH AVENUE, SUITE 220  
ANCHORAGE, ALASKA 99501-2341  
PHONE: (907) 269-4100  
FAX: (907) 269-1520

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 Unincorporated 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

LEROY WILDER, P.C.  
LAW OFFICE  
0225 S W MONTGOMERY STREET, #10  
PORTLAND, OREGON 97201  
TELEPHONE (503) 242-0709  
FACSIMILE (503) 242-0710

MEMORANDUM

TO: Sal Atkinson  
FROM: LeRoy Wilder *John*  
RE: HB No. 381  
DATE: January 20, 1996

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 381 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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To	Tam Cook	From	Jeanie
Co./Dept.		Co.	Smith
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Fax #		Fax #	