

HB

361

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REMOVED OUT OF
SFC 5/02/96

DATE: 3/22/96

DATE TURNED INTO OFFICE: 5/02/96

The Finance 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 change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>			
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair: <i>[Signature]</i>			
Co-Chair:		Co-Chair: <i>[Signature]</i>	✓		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
CRA	1/9/96	Ø	
Admin/Services	3/20/96	Ø	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 4

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: HB 361
(S) Publish Date: 3-22-96

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: (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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0	0	0	0	0	0
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						
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.)

See attached.

Prepared by: Sharon Barton
Division: Administrative Services

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

Approved by Commissioner: Mark Bover
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:

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Kenai	(218)	Wasilla	(172)
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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

No. 3
Bill Version: HB 361
(H) Publish Date: 2/9/96

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 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 *Theresa Sullivan* Date: 1/09/96
Agency: Community & Regional Affairs

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Alaska State Legislature

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

REPRESENTATIVE
JERRY MACKIE

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

House of Representatives

MEMORANDUM

Date: **March 20, 1996**

TO: Senator Rick Halford, Co-Chair
Senate Finance Committee

Rick

FROM: Representative Jerry Mackie
House of Representatives

Jerry

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 Finance Committee. Attached is the following backup for HB 361:

- I. **Sponsor Statement HB 361**
- II. **Sectional Analysis HB 361**
- III. **HB 361**
- IV. **House Fiscal Information:** 1/18/96 letter from Department C&RA
Zero Fiscal Note Dept. C&RA
Zero Fiscal Note Dept. ADMIN.
Senate Fiscal Information Zero Fiscal Note with Analysis, ADMIN.
- V. **Letter dated 1/15/96 from Mayor Booth, Metlakatla Indian Community, regarding HB 361 (history of expenditures)**
- VI. **Legal Opinions:**
(a) Memo dated 1/20/96 from Leroy Wilder, P.C.
(b) 3/4/96 memo to Rep. Toohey from Office of Attorney General re: HB 361
- VII. **Bill History HB 361- Basis Action Report, House Journal Action & Committee Minutes**

Your consideration is appreciated; I am available to answer any questions or concerns you may have regarding this legislation.

Alaska State Legislature

I.

REPRESENTATIVE
JERRY MACKIE



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

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

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

II.

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

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.

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) 886-3338
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.

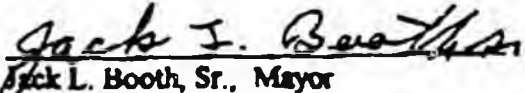
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

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 Austerma, CO-Chair House C & RA Committee
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep.
Bettye Davis, Rep. Kim Eton, Rep. Irene Nicolai, Rep. Mackie

JAN-17-1996 11:35

93%

P. 01

VI.
(2)

LEROY WILDER, P.C.
LAW OFFICE
8225 S W MONTGOMERY STREET, #10
PORTLAND, OREGON 97201
TELEPHONE (503) 242-0708
FACSIMILE (503) 242-0710

MEMORANDUM

TO: Sol Atkinson
FROM: LeRoy Wilder *LW*
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. Mr. 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.

Post-It® Fax Note	7671	Date	1/20/96
To	Tam Cook	From	Jehanne Smith
Co./Dept.		Co.	Smith
Phone #		Phone #	4923
Fax #		Fax #	

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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 municipality¹ 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

¹ 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.

VI. (S.)
TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

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

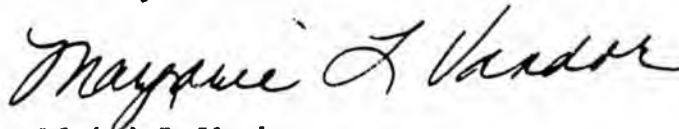
P.O. BOX 110300-DIMOND COURTHOUS
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

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

Cross-Reference to HB 361

BILL: SB 293 SHORT TITLE: CAP PROJ MATCHING GRANT FOR INDIAN
RESERV

BILL VERSION:

SPONSOR(S): SENATOR(S) ZHAROFF

CURRENT STATUS: (S) CRA STATUS DATE: 2/12/96

HEARING:(S) CRA FEB 28 01:30 PM BUTROVICH ROOM 205

TITLE: "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."

02/12/96 2384 (S) READ THE FIRST TIME - REFERRAL(S)

02/12/96 2384 (S) CRA, FIN

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/8/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 3-21-96

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:

Φ For's

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
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<i>Roller</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Administration</i>	<i>3/27/96</i>	✓	

PREVIOUS FISCAL NOTE(S):*

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

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

3/20/96 #4
CRA, FIN

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 361

Revision Date: _____
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 Requestor: (S) CRA

Department Affected: Administration
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 Component: Administrative Services
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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 Bover
 Agency: Department of Administration

Date: 3/20/96

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HB 361

ANALYSIS: (continued)

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Haines Borough	(38)	Seward	(113)
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Houston	(38)	Unalaska	(152)
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FAX TRANSMITTAL

TO: Marla Huss

Date: 3/20/96

Phone: _____

FAX #: 3147

FROM: David Koivunemi
Commissioner's Office
Department of Administration
P.O. Box 110200
Juneau, AK 99811-0200

Phone: (907) 465-2200

FAX #: (907) 465-2135

Number of pages (including cover sheet): 3

[] PLEASE CALL ON RECEIPT

Comments: _____

(BU) APEA: ALASKA PUBLIC EMPLOYEES ASSOCIATION

Mr. Tom Stephens, President

1. Juneau Headquarters
211 Fourth Street, Suite 306
Juneau, AK 99801
PH: 586-2334 or (800) 478-9991
FAX: 463-4980

Bruce I. Ludwig, Business Manager
Joan Wilkerson, SE Regional Manager
Chip Verrelli, Finance Officer
Kerin Geiger, Legal Trust Accountant
Monica Stewart, Administrative Assistant

2. Anchorage Field Office
1689 C Street, #204
Anchorage, AK 99501
PH: 274-1688 or (800) 478-9992
FAX: 277-4588
Dennis Geary, Southcentral Regional Manager
Shirley Wolff, Administrative Assistant
3. Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701-1552
PH: 456-5412 or (800) 478-9993
FAX: 456-7478
Bob Watts, Northern Regional Manager
Linda Stephenson, Administrative Assistant

(GGU) ASEA: ALASKA STATE EMPLOYEES ASSOCIATION, AFSCME Local 52

Kelly Brown, President
Rhonda Holt, Treasurer
Wayno Heimer, Secretary

1. Juneau Field Office
400 Willoughby Avenue, Suite 100
Juneau, AK 99801
PH: 463-4949
FAX: 463-4950 or (800) 478-0049
Donn Liston, Business Agent
Peggy Weaver, Business Agent
Cindy Spanyers, Business Agent
Karl Hursh, Secretary
2. Anchorage Headquarters
3510 Sponard Road, Suite 201
Anchorage, AK 99503
PH: 277-5200
FAX: 277-5208
Toll Free: 1-800-478-2732

Chuck O'Connell, Business Manager
David Burdette, Business Agent
Harriet Lawlor, Business Agent
John Collins, Business Agent
Stan Haffeman, Business Agent
Michael Lacey, Information Officer
Jane Coppedge, Secretary III
Stephanie Cartor, Administrative Support/Accounting
Charles Sauve, Receptionist
Bobbie Holmes-Carter, Administrative Assistant
Heldi Tourout, Administrative Support Tech. III

Don Wasserman, Collective Barg. Dir. AFSCME
1625 L Street Northwest
Washington, DC 20036
PH: (202) 429-1219

2. ASEA/Anchorage Office (cont.)

Don Clocksin, Attorney at Law
1601 Cooper Point Rd. N. W.
Olympia, WA 98502
PH: (206) 866-8129
FAX: (360) 866-7852

3. Fairbanks Field Office
315 Barnette, Suite 104
Fairbanks, AK 99701
PH: 452-2300
FAX: 452-2307
Toll Free: 1-800-478-2305
Kathy Dietrich, Business Agent
Richard Seward, Business Agent
Doris Thompson, Secretary

(TC) ACSEA: ALYESKA CENTRAL SCHOOL EDUCATION ASSOCIATION

P.O. Box 20885
Juneau, AK 99802-0085
PH: 465-2895
FAX: 465-2935

Linda Kadrik, President
Gail Haynes, President-Elect
Debbie Chalmers, Secretary
Jaak Cadigan, Treasurer
Jeanne Foy, Grievance Rep.
Marion Svobodny, Member at Large

NEA-ALASKA: NATIONAL EDUCATION ASSOCIATION-ALASKA

114 2nd Street
Juneau, AK 99801
PH: 586-3090

Vernon Marshall, Executive Director
Claudia Douglas, President
Business Manager, Darcie Edwards
A/- Payroll, Betty Ecklund
Jim Alter, Field Staff
Willey Anderson, Field Staff
Lynn Jackson, Secretary

NEA-Alaska
1840 S Bragaw St.
Anchorage, AK 99508

(KK) CEA: CONFIDENTIAL EMPLOYEES ASSOCIATION

Penny Beiler, President
124 Front Street
Juneau, AK 99801
PH: 586-6116 (465-2769)
Aberia Lippitt, Employee Representative (Anch.)
Greg O'Clary, Business Representative
Jo-Eve Benedict, Office Manager

(TA) AVTEC

Mr. Jim Herbert, President

Alaska Vocational Technical Center Teachers' Association
P.O. Box 889
Seward, AK 99664

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**(MM) IBU: INLANDBOATMEN'S UNION
OF THE PACIFIC**

David Freiboth, President

1. Seattle Office500 John Street
Seattle, WA 98109
1-800-428-4598**2. Juneau Office**231 S. Franklin, Suite 201
Juneau, AK 99801-8050
PH:588-8200 - FAX: 588-8222
Robert Provost, Regional Director
Bonnie Herbold, Office Manager**3. Ketchikan Office**P.O. Box 6300
Ketchikan, AK 99901
PH:225-8360 - FAX: 225-8856
Leif Jenkinson, Patrolman**(LTC) LOCAL #71: PUBLIC EMP. OYEES
LOCAL #71, AFL-CIO****1. Anchorage Office**2510 Arctic Boulevard
Anchorage, AK 99503-2516
PH:278-7211 - FAX: 279-7171
Donald Valesko, Business Manager
Valerie Balfone, Asst. Business Manager
Mike Otto, Business Representative
Garland Warron, Business Representative
Tom Craig, Office Manager/Trust Administrator
Jennifer Galster, Secretary
Kempema, Michelle, Dispatcher**2. Fairbanks Office**2122 Airport Way
Fairbanks, AK 99701
PH:452-5024 or 452-2451
FAX: 458-1771
Jim Ashton, Business Representative
Bonnie Sullivan, Secretary/Dispatcher**3. Juneau Office**710 West Ninth Street
Juneau, AK 99801-1808
PH:588-6983 - FAX: 586-5757
Don Elhridge, Business Representative
Toy Campbell, Secretary/Dispatcher**(BB) MEBA: MARINE ENGINEERS BENEFICIAL
ASSOCIATION (AFL-CIO)****1. National Office**444 N. Capitol Street NW, Suite 800
Washington, DC 20001-1570
PH:(202) 638-5355 - FAX: (202) 638-5369**2. New Orleans Office**811 Carondelet Street
New Orleans, LA 70130-3707
Ron Davis, Vice President
PH: (504) 523-1884 - FAX: (504) 523-6911**3. Seattle Office**732 S. Homer
Seattle, WA 98108
PH: (206) 762-0803 - FAX: (206) 762-6163
Bud Jacque, Westcoast Representative
John McCurdy, Patrolman**4. Juneau Office**124 Front Street
Juneau, AK 99801-1289
PH: 586-6040
Greg O'Clary, Director, Legislative/Governmental Affairs
Jo-Eve Benedict, Office Manager**(CC) MM&P: INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS, P.M.R.**Branch #6, PACIFIC MARITIME REGION
2819 - 1st Avenue, Room 100
Seattle, WA 98121-1128
PH:(206) 441-1070
FAX: (206) 443-3762
Captain Steve Demeroutis, Vice President**(AA) PSEA: PUBLIC SAFETY EMPLOYEES
ASSOCIATION**Keith Perrin, President
4300 Boniface Pkwy, Suite 116
Anchorage, AK 99504-4387
PH:337-1979
FAX: 337-1753
Robert M. Piazza, Business Representative
Lella F. Gibson, Administrative Assistant**FMCS: FEDERAL MEDIATION & CONCILIATION
SERVICE****1. Washington, D.C., Office**Ms. Jewell Myers
Manager, Arbitration Services
2100 K Street NW
Washington, DC 20427
PH: (202) 606-5111
FAX:(202) 606-4263
Charlene Thompson, Contact Person**2. Seattle Office**2001 Sixth Avenue
Westin Building, Room 310
Seattle, WA 98121-2522
PH:(206) 553-5800
FAX: (206) 553-6655
Douglas P. Hammond, Director Mediation Services
Sharon Harris, Administrative Asst.**LRA: DEPARTMENT OF LABOR
ALASKA LABOR RELATIONS AGENCY**P.O. Box 107026
Anchorage, AK 99510-7026
PH:269-4895
FAX: 269-4898Jean Ward, Hearing Officer
Jan De Young, Hearing Examiner
Donna Scates, Administrative Clerk III
Margie Yadlosky, Administrative Assistant**TM TEAME: TEACHERS' EDUCATION
ASSOCIATION OF
MT. EDGE CUMBE**Ray Stein
1950 Seward Avenue
Sitka, AK 99835-9438
PH:966-2201updated
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