

**SB**

**144**

<TARGET><BILL>SB 144</BILL><SUBJECT>SB  
144</SUBJECT><COMM>SSTA29</COMM></TARGET>

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## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/19/16

Date of 5-Day Notice: 3/10/2016  
(in accordance with Uniform Rule 23)

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 3/31/2016

**State Affairs Committee** considered SENATE BILL NO. 144

SB 144-RELOCATION ASSISTANCE FOR FED. PROJ/PROG

"An Act relating to relocation assistance for federally assisted projects and programs; and providing for an effective date."

and recommends:

be replaced with CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title

adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title

attached amendment(s)

adopt \_\_\_\_\_ Letter of Intent

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

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DOT			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	COGHILL	✓			
	HUGGINS	✓			
	Wielechowski				✓
CHAIR:	STOLTZE	✓			



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

## Department of Transportation and Public Facilities

OFFICE OF THE COMMISSIONER  
Marc Luiken, Commissioner

3132 Channel Drive  
P.O. Box 112500  
Juneau, Alaska 99811-2500  
Main: 907.465.3900  
dot.state.ak.us

January 19, 2016

Honorable Senator Bill Stoltze  
State Capitol, Rm 125  
Juneau, AK 99801-1182

Dear Senator Stoltze:

I respectfully request a hearing on Senate Bill 144 in the Senate State Affairs Committee at your earliest convenience.

SB 144 proposes to provide increased federal benefits, consistent with the current benefits Congress has made available under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622), payable to a person or a business displaced by a federally assisted project or program. This bill proposes to provide these increased benefits to Alaskans and Alaskan businesses.

Included with this hearing request is a copy of Senate Bill 144, and appropriate support materials. If you have any questions, please contact my staff, Mike Lesmann, at 465-4772.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc Luiken".

Marc Luiken  
Commissioner

cc: Mike Lesmann, DOT&PF Legislative Liaison

Enclosures

STATE CAPITOL  
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Juneau, AK 99811-0001  
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Governor Bill Walker  
STATE OF ALASKA

January 18, 2016

The Honorable Kevin Meyer  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Meyer:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to relocation assistance for federally assisted projects and programs.

The bill would allow an increase of the maximum relocation benefits available to a person or a business displaced by federally assisted projects and programs. Congress increased the maximum relocation benefits available under 42 U.S.C. 4601 - 4655 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970), which are payable to a person or business displaced by a federally assisted project or program. The bill proposes to provide these increased federal benefits to Alaskans and Alaska businesses.

Further, the bill would provide that a displaced person or business in the state would be retroactively eligible for an increased federal maximum benefit for relocation expenses incurred after October 1, 2014, which is when the increased maximum federal benefit became available.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in blue ink that reads "Bill Walker".

Bill Walker  
Governor

Enclosure

# ALASKA STATE LEGISLATURE

## SENATE STATE AFFAIRS COMMITTEE

Senator Bill Stoltze, Chair  
State Capitol, Room 125  
Juneau, AK 99801-1182  
Phone (907) 465-4958  
Fax (907) 465- 4928



Official Business

Members:

Sen. John Coghill, Vice Chair  
Sen. Charlie Huggins  
Sen. Lesil McGuire  
Sen. Bill Wielechowski

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### State Affairs Committee

Schedule for: March 14 – March 20, 2016

#### Weekly Schedule

**Revised 3/16/16**

+ Thursday, March 17, 2016 - 9:00 am - BUTROVICH - CAP 205  
**\*\*TIME CHANGE\*\***

SB 144-RELOCATION ASSISTANCE FOR FED. PROJ/PROG  
--Public Testimony--

<Bills Previously Heard/Scheduled>

**Administrative Code.** — For relocation assistance services, see 17 AAC 81.

**Sec. 34.60.010. Purpose.** The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of federally assisted programs in order that the displaced persons will not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. (§ 1 ch 41 SLA 1971)

**Revisor's notes.** — Enacted as AS 44.81.010. Renumbered in 1971.

**NOTES TO DECISIONS**

Cited in State v. Ness, 516 P.2d 1212 (Alaska 1973).

**Collateral references.** — 40 Am. Jur. 2d, Housing Laws and Urban Redevelopment, § 25.

Validity, construction, and application of state relocation assistance laws. 49 ALR4th 491.

**Sec. 34.60.020. State agencies to establish program.** State agencies shall establish and provide the means for implementing a program providing fair and reasonable relocation and other payment for persons displaced as a result of federally assisted activities undertaken by state agencies, to carry out relocation assistance programs for persons displaced, and to provide payments to persons as a result of acquisition of real property for activities of state agencies. (§ 1 ch 41 SLA 1971)

**Revisor's notes.** — Enacted as AS 44.81.020. Renumbered in 1971.

**Sec. 34.60.030. Administration of program.** In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, state agencies may enter into contracts with any individual, firm, association, or corporation for services in connection with relocation assistance programs, or may carry out its functions under this chapter through any federal or state governmental agency or instrumentality having an established organization for conducting relocation assistance programs. (§ 1 ch 41 SLA 1971)

**Revisor's notes.** — Enacted as AS 44.81.030. Renumbered in 1971.

**Sec. 34.60.040. Relocation payments.** (a) When the acquisition of real property for a federally assisted program or project undertaken by a state agency will result in the displacement of a person, the state agency responsible for the program or project shall make payment to the displaced person, upon proper application as approved by the state agency, for

- (1) actual reasonable expenses in moving a person, the person's family, business, farm operation, or other personal property;
- (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property as determined by the state agency; and
- (3) actual reasonable expenses in searching for a replacement business or farm.

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(b) A displaced person eligible for payments under (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in place of payments authorized by (a) of this section may receive a moving expense allowance, determined according to a schedule established by the state agency.

(c) A displaced person eligible for payments under (a) of this section who is displaced from a place of business or from a farm operation and who elects to accept the payment authorized by this subsection in place of the payment authorized by (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that this payment shall not be less than \$1,000 or more than \$20,000. For purposes of this subsection, "average annual net earnings" means one-half of the net earnings of the business or farm operation, before federal and state income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period the state agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, spouse, or dependents during the applicable period. In the case of a business, a payment may not be made under this subsection unless the state agency is satisfied that the business

(1) cannot be relocated without a substantial loss of its existing patronage;

(2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the state agency or by the United States, which is engaged in the same or similar business; and

(3) is not an enterprise whose sole business on the real property acquired is the rental of the real property to others.

(d) In addition to the moving expenses allowed under this section, a displaced farm or business may receive a payment, not to exceed \$10,000, for the actual reasonable expenses necessary to reestablish the operation at a new site. (§ 1 ch 41 SLA 1971; am § 1 ch 54 SLA 1989)

Revisor's notes. — Enacted as AS 44.81.040. Re-numbered in 1971.

**Sec. 34.60.050. Replacement housing for homeowners.** (a) In addition to payments otherwise authorized by this chapter, the state agency shall make an additional payment not to exceed \$22,500, to a displaced person who is displaced from a dwelling actually owned and occupied by the person for not less than 180 days before the initiation of negotiations for the acquisition of the property. This additional payment must include the following elements:

(1) the amount, if any, that, when added to the acquisition cost of the dwelling acquired by the state agency, equals the reasonable cost of a comparable replacement dwelling that is a decent, safe, and sanitary dwelling adequate to accommodate the displaced person, is reasonably accessible to public services and places of employment, and is available on the private market; all determinations required to carry out this paragraph shall be made in accordance with standards established by the state agency making the additional payment;

(2) the amount, if any, that will compensate the displaced person for any increased interest costs that the displaced person is required to pay for financing the acquisition of the comparable replacement dwelling; this amount may be paid only if the dwelling acquired by the state agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than 180 days before the initiation of negotiations for the acquisition of the dwelling; and

(3) reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) The additional payment authorized by (a) of this section may be made only to a displaced person who purchases and occupies a replacement dwelling that is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which the person receives from the state agency final payment of all costs of the acquired dwelling, or the date on which the person moves from the acquired dwelling, whichever is the later date. (§ 1 ch 41 SLA 1971; am § 2 ch 54 SLA 1989)

**Revisor's notes.** — Enacted as AS 44.81.050. Renumbered in 1971.

**Sec. 34.60.060. Replacement housing for tenants and others.** In addition to amounts otherwise authorized by this chapter, the state agency shall make a payment to or for a displaced person displaced from a dwelling, who is not eligible to receive a payment under AS 34.60.050, if the dwelling was actually and lawfully occupied by the displaced person for not less than 90 days before the initiation of negotiations for acquisition of the dwelling. The payment must be either

(1) the amount necessary to enable the displaced person to lease or rent for a period not to exceed three years and six months, a decent, safe, and sanitary dwelling of standards adequate to accommodate the displaced person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to the person's place of employment, but not to exceed \$5,250; or

(2) the amount necessary to enable the displaced person to make a down payment, including incidental expenses described in AS 34.60.050(a)(3), on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate the displaced person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$5,250. (§ 1 ch 41 SLA 1971; am § 3 ch 54 SLA 1989)

**Revisor's notes.** — Enacted as 44.81.060. Renumbered in 1971.

**Sec. 34.60.070. Expenses incidental to transfer of property.** The state agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the department considers fair and reasonable, for expenses necessarily incurred for

(1) recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the state agency;

(2) penalty costs for prepayment of a preexisting recorded mortgage entered into in good faith encumbering the real property, if the mortgage was a valid lien on the property for not less than 180 days before the initiation of negotiations for the acquisition of the property; and

(3) the pro rata portion of real property taxes paid that are allocable to a period subsequent to the date of vesting title in the state, or the effective date of possession of the real property by the state agency, whichever is the earlier. (§ 1 ch 41 SLA 1971)

**Revisor's notes.** — Enacted as 44.81.070. Renumbered in 1971.

**Sec. 34.60.080. Litigation expenses.** (a) The state court having jurisdiction of a proceeding instituted by the state agency to acquire real property by condemnation shall award the owner of any right to, or title to, or interest in, the real property a sum that will in the opinion of the court reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

## Department of Transportation and Public Facilities

OFFICE OF THE COMMISSIONER  
Marc Luiken, Commissioner

3132 Channel Drive  
P.O. Box 112500  
Juneau, Alaska 99811-2500  
Main: 907.465.3900  
dot.state.ak.us

March 21, 2016

The Honorable Bill Stoltze  
State Senate  
Alaska State Capitol, Room 125  
Juneau, Alaska 99801

Dear Senator Stoltze:

Thank you for the opportunity to present SB 144 to the Senate Affairs Committee. In response to questions posed by committee members on March 17, 2016, the following information is provided:

- ***The Committee asked for historical information on past acquisitions. The Committee specifically asked about the State's past payments for acquisitions and relocations during an economic downturn (citing a subdivision near the second Eagle River bridge circa late 1980s into the early 1990s).***

This particular project occurred right after the 1986 tax act change and during the savings and loan crisis when Alaska's real estate market experienced a significant loss of value. The alignment for this project went through a subdivision requiring the unavoidable acquisition of more than 50 new homes. Only a handful of the homeowners had any equity in their properties and the rest had market values that ranged from \$20,000 to \$30,000 below their outstanding mortgage balances. The State could have placed the displaced parties in a Housing of Last Resort status or let the condemnation courts settle the matter, but rather chose to negotiate with our Federal funding partners and the lienholders to let us pay off each mortgage as administrative settlements above fair market value. According to the contractor involved in the negotiations at the time, most of the families purchased larger, repossessed homes in the same neighborhood at a lower cost. This in turn benefitted the Alaska Housing Finance Corporation by eliminating most of its inventory of repossessed homes. This saved the State an estimated \$600,000 by avoiding funding Housing of Last Resort and reducing appraisal costs as part of the agreement with our Federal funding partner.

The situation was unique as the acquisitions affected a relatively new subdivision and the displaced parties were caught by a sharp market downturn. Since it did not appear that there was foolish overspending, the Federal government agreed to participate up to the amount of the outstanding mortgages even if the current market value did not support the amounts owed. It is important to note that this situation was relative to the acquisitions, not to relocation benefits.

- ***The Committee also asked about the acquisition and relocation of the Alano Club in Midtown Anchorage, circa 1980s.***

Unfortunately, the person that would have had the specifics on this case passed away more than a decade ago. Due to our file-retention schedules, we do not have specifics on this acquisition and relocation. Current Federal rules allow for Housing of Last Resort payments to assist when a displaced residential party cannot afford an appropriate replacement location. For businesses, Federal

*"Keep Alaska Moving through service and infrastructure."*

rules now allow payments for actual eligible relocation expenses or a fixed payment in lieu. In addition, for businesses receiving reimbursement for actual moving expenses, SB 144 would allow the State to comply with new higher re-establishment expense payments.

➤ ***Why is the bill proposing to eliminate the monetary caps on relocation assistance benefits?***

Under guidance from the Department of Law's Legislation and Regulations Section, SB 144 was drafted to exclude repetition of the Federal maximum relocation benefit allowances and include the purpose statement in Section 1. It is costly to have to come back to the Legislature for specific authorization to follow Federal law and in this case it would not make sense to do so. When we are forced to displace parties for public transportation projects we are required to comply with Federal law, treating everyone fairly under the Uniform Act. Limiting our authority to pay less than the Federal maximum creates delays and hardships on displaced Alaskan families, businesses, and farms while we are out of compliance. Being out of compliance, even for a short period of time, jeopardizes our relationship with our funding partners, putting our entire program at risk. These projects currently amount to about \$730 million annually in Federal participation (and countless jobs).

➤ ***Would eliminating the monetary caps allow for the State to provide unlimited payments for displacements?***

Although Alaska statute would no longer repeat the Federal caps if SB 144 was passed, the State would still be limited to the Federal maximums set forth in the United States Code (USC) as referenced in Section 1 of the bill. Administrative settlements for amounts greater than the Federal maximums are limited to acquisitions and they do not pertain to relocation benefits.

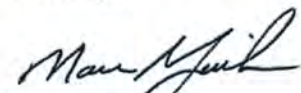
➤ ***Do other states have limits on reimbursements for displacement?***

Other states have a mix of outdated Federal limits under revision (like Alaska), current Federal limits, and no limits. Several states have been waiting for the Federal Government to finalize the Code of Federal Regulations (CFR) pertaining to the changes in the USC for higher relocation limits under MAP-21. Though MAP-21 passed in 2012, the higher limits did not go into effect until October 1, 2014, and the CFR remains outdated while the Federal government works through their public process. While some states updated their limits to mirror those in MAP-21, others removed the limits altogether, referencing the pertinent USC as Alaska proposes in SB 144.

As good stewards of public funds and judicious practitioners of eminent domain, DOT&PF staff make every effort to minimize acquisitions and the displacement of Alaskan families, businesses, and farms whenever possible. SB 144 specifically addresses the State's authorization to participate in the maximum amount of Federal relocation benefits available to displaced parties when we have no choice but to relocate due to right-of-way acquisition.

If you or your committee members have further questions, please feel free to contact Mike Lesmann at (907)465-4772.

Sincerely,



Marc Luiken  
Commissioner

Enclosures

cc: Darwin Peterson, Legislative Director, Office of the Governor  
Steve Hatter, Deputy Commissioner, DOT&PF  
Mike Lesmann, Legislative Liaison, DOT&PF

## Daniel George

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Subject: SB 144 follow-up

**From:** Lesmann, Mike (DOT) [mailto:mike.lesmann@alaska.gov]  
**Sent:** Thursday, March 24, 2016 4:34 PM  
**To:** Daniel George <Daniel.George@akleg.gov>  
**Subject:** RE: SB 144 follow-up

Daniel,

I think this is what you're after. Please let me know if you need more info.

Section 1521 (MAP-21) contains the following changes:

- Increases maximum reestablishment expense payment
  - from \$10,000 to \$25,000
- Increases maximum amount of the fixed payment for nonresidential moves
  - from \$20,000 to \$40,000
- Increases maximum purchase price differential for homeowners
  - from \$22,500 to \$31,000
- Increases maximum rental supplement for 90-Day Tenants
  - from \$5,250 to \$7,200
- Changes the occupancy requirement for owner-occupants
  - from 90 to 180 days

### Mike Lesmann

Legislative Liaison  
Department of Transportation & Public Facilities  
907.465.4772 (desk)  
907.957.2321 (cell)

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**From:** Daniel George [mailto:Daniel.George@akleg.gov]  
**Sent:** Thursday, March 24, 2016 2:21 PM  
**To:** Lesmann, Mike (DOT)  
**Subject:** RE: SB 144 follow-up

Mike,

Are the federal cap amounts something that can be determined and provided to the committee, or are they yet to be set under MAP-21 still?

Thank you,

## Daniel George

Staff to Senator Bill Stoltze  
Chair, Senate State Affairs Committee  
(907) 465-4958  
[Daniel.George@akleg.gov](mailto:Daniel.George@akleg.gov)

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	SB 144
Fiscal Note Number:	1
(S) Publish Date:	1/19/2016

Identifier: DOT-DES-11-18-15  
 Title: RELOCATION ASSISTANCE FOR FED.  
 PROJ/PROG  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

Department: Department of Transportation and Public Facilities  
 Appropriation: Design, Engineering and Construction  
 Allocation: Statewide Design and Engineering Services  
 OMB Component Number: 2357

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
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>0.0</b>

**Fund Source (Operating Only)**

None							
<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>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

Initial version

Prepared By:	Mike Lesmann	Phone:	(907)465-4772
Division:	Commissioner's Office	Date:	11/18/2015 12:00 AM
Approved By:	Mary Siroky	Date:	11/19/15
Agency:	DOT&PF		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

**Analysis**

There is no impact to the operating budget.

The increased relocation costs will be absorbed within existing capital program funding.