

**HB**

**135**

<TARGET><BILL>HB 135</BILL><SUBJECT>HB  
135</SUBJECT><COMM>HEDC30</COMM></TARGET>

# Alaska State Legislature



Contact:  
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Special Committee on Arctic, Economic Development,  
and Tourism, Chair  
Resources Committee, Vice Chair  
Community and Regional Affairs Committee  
Special Committee on Energy

Kotzebue · Kiana · Ambler · Buckland · Deering · Kivalina · Kobuk · Noorvik · Noatak · Selawik · Shungnak · Red Dog  
Barrow · Nuiqsut · Kaktovik · Wainwright · Point Hope · Point Lay · Anaktuvuk Pass · Atkasuk · Prudhoe Bay  
Alakaket · Alatna · Bettles · Deering · Evansville · Coldfoot · Hughes · Wiseman

## Representative Dean Westlake Sponsor Statement

### House Bill 135 "School Construction Grant Program"

This bill allows the Department of Education commissioner to grant time extensions to school districts that are raising a percentage share of project costs for grants as outlined under AS 14.11.008 "School district participation in grant program" for appropriations made under AS 37.05.560 the "Educational facilities maintenance and construction fund".

Currently, AS 14.11.008 requires that school districts provide the required participating share within three years of the date of the appropriation. The Department anticipated that funds would be released to the school district and that the district would have a window of opportunity to arrive at the local match.

However, some projects that have been approved for funding could use more time to raise the required percentage share of project costs. More recent examples of projects that would require more time reside in, but are not limited to, the Yukon Flats School District, Northwest Arctic Borough School District, Yupiit School District and the Kenai Peninsula Borough School District. According to the Department of Education & Early Development the 3-year time lapse is appropriate for about 95% of the approved projects, but there's about 5% of the projects that could utilize the granting of a time extension.

The original legislation debated on a 3-year or a 5-year time period to identify these matching funds. This bill would amend the Statute to allow the Commissioner to extend past the three year deadline if the district applies to the commissioner in writing to request an extension and demonstrates good cause for the requested extension.



## Northwest Arctic Borough

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To Whom It May Concern,

The Northwest Arctic Borough endorses House Bill 135 titled, "An Act relating to school district participation in the school construction grant program." As presented in the bill, "The commissioner may extend the time allowed for a district to provide the required participating share if the district applies to the commissioner in writing to request an extension and demonstrates good cause for the requested extension."

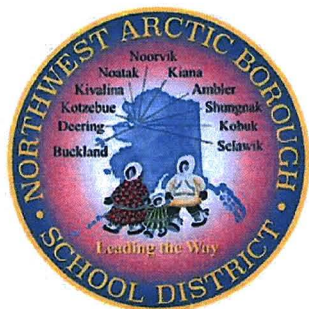
The Kivalina Replacement School project is an example of why this exception is needed. In April 2015, the legislature appropriated partial grant funding for the Kivalina Replacement School; thus starting the clock to secure our local share. A grant agreement has not been executed for reasons beyond the control of the Borough and District. First, for FY 2016 a moratorium was placed on approval of the grant pending legislative consideration of the balance of funding. Secondly, the project cannot begin until an access road is constructed as a separate project. The road development is proceeding in conjunction with DOT/PF, but it is not scheduled to be complete before the three-year deadline for the match expires. Without an approved grant agreement, it is difficult to apply for other grant funds that could be used as part of the local share.

House Bill 135 will delegate to the Department discretion in extraordinary circumstances to allow projects such as Kivalina Replacement School to move forward without the potential of having to forfeit appropriated funding, and to continuing managing risk to the State and local entities and support the improvement of educational conditions for the children of Alaska.

In closing, we would like to thank Representatives Westlake, Kito and Gara for sponsoring this important bill.

Sincerely,

Clement Richards, Sr.  
Mayor



## NORTHWEST ARCTIC BOROUGH SCHOOL DISTRICT

Ambler · Buckland · Deering · Kiana · Kivalina · Kobuk · Kotzebue · Noatak · Noorvik · Selawik · Shungnak  
PO Box 51 · Kotzebue, Alaska 99752 · Phone (907) 442-1800

February 24, 2017

Representative Harriet Drummond  
House Education Committee  
House of Representatives  
Juneau, Alaska 99801-1182

Dear Madam Chair,

The Northwest Arctic Borough School District wholeheartedly endorses House Bill 135, a bill addressing the participation in the school construction grant program allowing the Commissioner of Education to grant an extension of the time limitation for the identification of the required local participating share of grant funding.

Currently, the statutes require that the local match be identified within three years of the approval of the legislative appropriation of grant funding. There is no provision for the consideration of exceptional circumstances that warrant additional time to secure the match. This bill recognizes that such situations may occur from time to time and allows Boroughs and Districts to justify and petition the Commissioner for an extension. Without such an extension, there is a potential that a critically needed school project might be forced to forfeit the State appropriation when all that is needed is more time to secure additional local funding sources.

The existing State regulations for administration of the school construction grant program protect the State's interests and assure the local match is provided. The Department releases grant funding to recipients only after specific milestone conditions are met. The payments are a percentage of only the State share of the project amount and in addition, 5% of the state share is withheld until the source of the local match is identified. There is not a danger of the State over reimbursing a project.

Not only is the State facing restricted funding, so are local governments. Incorporating some flexibility into the provision for local match will allow local governments more time to fund their share of the cost of a greatly needed school facility upgrade.

MISSION: To provide a learning environment that inspires and challenges students and employees to excel  
VISION: To graduate all students with the knowledge, skills, and attitudes necessary for a successful future

Admittedly, the Northwest Arctic has a project that would benefit from this bill and the Kivalina Replacement School project is a perfect example of why a provision for exceptions is needed. In April 2015, the legislature appropriated partial grant funding for the Kivalina Replacement School. At that time the clock started ticking to secure the local share. However, the grant agreement has not yet been executed for several reasons beyond the control of the Borough and District. For FY 2016 a moratorium was placed on approval of the grant pending legislative consideration of the balance of funding.

Another complication is construction of the project cannot begin until an access road is constructed as a separate project. The road development is proceeding in conjunction with DOT/PF, but it is not scheduled to be complete before the three-year deadline for the match expires. Without an approved grant agreement, it is difficult to apply for other grant funds that could be used as part of the local share.

House Bill 135 will delegate to the Department discretion in extraordinary circumstances to allow projects such as Kivalina Replacement School to move forward without the potential of having to forfeit appropriated funding, and to continuing managing risk to the State and local entities and support the improvement of educational conditions for the children of Alaska.

Respectfully yours.



Dr. Annmarie O'Brien  
Superintendent

cc: Senator Olson  
Representative Westlake

# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version: HB 135  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB135-EED-SFF-3-03-17  
Title: SCHOOL CONSTRUCTION GRANT PROGRAM  
Sponsor: WESTLAKE  
Requester: (H) Education

Department: Department of Education and Early Development  
Appropriation: Education Support Services  
Allocation: School Finance & Facilities  
OMB Component Number: 2737

**Expenditures/Revenues**

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

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>OPERATING EXPENDITURES</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>	<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>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

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>	<b>0.0</b>

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

**Estimated CAPITAL (FY2018) 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?

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

Not applicable, initial version.

Prepared By: Heidi Teshner, Director  
Division: School Finance & Facilities / Education Support Services  
Approved By: Dr. Michael Johnson, Commissioner  
Agency: Department of Education and Early Development

Phone: (907)465-2875  
Date: 03/02/2017 10:00 AM  
Date: 03/02/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION

BILL NO. HB 135

**Analysis**

AS 14.11.008 establishes the time period for districts to satisfy their participating share be within 36 months of passage of the funding bill. This requirement has, on several occasions, become a challenge (e.g., GR 03-003 Tuluksak (waiver request), GR12-007 Arctic Village Remediation (project delay), GR 16-016 Kivalina (partial funding)).

This bill introduces new language which identifies two exceptions in regards to the participating share: one existing regarding the amount (subsection d), and an extension in time to meet this requirement (new subsection g). The bill requires a district to apply in writing to request an extension and to demonstrate good cause for the requested extension.

The stated time period for meeting the current requirement of within 36 months seems to establish the legislative intent that the participating share need not be provided at grant initiation, but can occur over the course of a project. In instances where projects experience a legitimate delay in participation that did not jeopardize the project, this legislation would give the commissioner the authority to extend the date when necessary.

## HB 135 Participating Share Issue Examples

### **GR 03-003 Tuluksak School Improvement**

In April 2002, the Yupiit School District, a small district in Western Alaska with three school sites, had replacement school projects at priorities 1, 2, and 3 on the FY2003 School Construction Grant Fund list. All three of these schools received FY2003 funding through HB2002 for a combined state share of \$50,031,617 and total participating share of \$1,021,053. This was a significant amount for that district to provide within the required 36 months. A waiver was requested under the statute and granted for the Tuluksak School Improvement project in the amount of \$30,000 (the remaining participating share was met with a \$300,000 cash and \$691,053 in-kind contribution). If the timeline could have been extended, it's likely this waiver would have been unnecessary.

### **GR 09-034 Hoonah Major Maintenance (funding delay)**

The capital bill passed by the legislature in 2008 contained language to reappropriate major maintenance grant funds, in accordance with DEED's rankings, that were determined not to be required by the named projects. Two grant projects chose in favor of debt reimbursement and declined their grant funds in 2010. The department funded projects according to the ranking, and districts accepting the reappropriated funding were required to provide evidence of participating share prior to July 1, 2011. In October 2010, DEED sent Hoonah a letter offering \$5,106,199 in grant funds, which provided only an eight month window for Hoonah to provide the corresponding local share of \$1,276,550. In February 2011, Hoonah accepted state funding after the City approved two ordinances to go before the voters in April 2011—one for the issuance of general obligation bonds, and one to increase the sales tax to fund the debt. The voters approved the measures and Hoonah was able to confirm it had submitted an application for a general obligation loan to fund the participating share prior to the July 1, 2011 date, but the loan application was not approved until late July and, in technical violation of the statute, funding was not provided until mid-September 2011.

### **GR 12-007 Arctic Village K-12 School Soil Remediation (project delay)**

In 2011 the FY2012 capital budget included an allocation for soil remediation in the Yukon Flats School District community of Arctic Village. Several factors in the project environment combined to delay the start of the project including: changeover in district personnel, uncertainty whether the technical solution would be acceptable for the community, which local or state entity was the most appropriate to manage and execute the project, etc. By the time the 36 months allowed for the district to provide its participating share of \$112,593 was reached, a project agreement had not been executed with the district. This led to the unusual occurrence of establishing a partial agreement to document a small initial payment and for certification of the district's participating share contribution. The ability to extend the timeline for the participating share would have allowed best practices to be used in executing the transfer agreement with the district.

### **GR 16-016 Kivalina K12 Replacement School (partial funding; project delay)**

In 2015 the legislature appropriated FY2016 capital budget funding in the amount of \$43,237,400 - the value of the December 2013 initial list for FY2015 grants - for the construction of a new school near the community of Kivalina in the Northwest Arctic Borough. The recommended state share amount on the department's final FY2016 School Construction Grant Fund list was \$50,475,822. This left the project short-funded by approximately 15% and has delayed its initiation. In addition, the school project is delayed, awaiting a design and construction schedule for a road to the proposed site. The school district and borough have been strategizing on how to meet the participating share of \$10,809,350. To comply

with the current statute, those funds must be provided by the borough not later than April 28, 2018. If not provided, the grant funding would be jeopardized.

**GR 17-001 Kachemak Selo New K-12 School (project delay)**

In 2016, the FY2017 capital budget funded a state share of \$10,867,503 for construction of a new school in the Kenai Peninsula Borough community of Kachemak Selo, with a corresponding 35% district participating share of \$5,581,733. The project has been delayed while the borough and school district examine the project design and funding level prior to signing a project agreement with DEED. This could eventually lead to an issue with satisfying the participating share in the time period currently required under statute.