

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 722

ALASKA FOREST ASSOCIATION
TESTIMONY BEFORE THE
HOUSE FINANCE COMMITTEE
MARCH 13, 1991

Subject: House Bill 54 - Distribution of National Forest Receipts

My name is Thyas Shaub. I am Government Affairs Director for the Alaska Forest Association. The Alaska Forest Association represents the joining together of the former Alaska Loggers Association and the former Alaska Forest Alliance. AFA now has 128 regular member companies and 185 associate member companies.

I'm here today to express our support for House Bill 54.

Federal law requires that 25% of the gross receipts from National Forest timber sales be distributed to the state for the benefit of public schools and public roads of the county in which the national forest is situated. If there is more than one county, the share is to be distributed proportional to the acreage of the national forest contained within each county.

In Alaska, distributions have been made to the organized boroughs based on national forest acres within the borough boundaries. This has accounted for approximately one third of the timber receipts received by the State of Alaska. This bill doesn't change that. Their share of receipts from the Chugach and Tongass National Forest will remain the same.

The problem has been that there has been no mechanism for distributing the balance of the funds to the communities within the national forests which are not contained in organized boroughs. HB 54 provides a mechanism to fully comply with the federal law in distributing these funds to the unorganized borough communities for schools and roads.

In the past, approximately two-thirds of the timber receipts have simply gone into the general fund with no accounting for how or where the money is spent. It is important to understand that these national forest receipts are not state monies and that the State's role is to act as a trustee to administer the distribution of the monies as intended by Congress in enacting the federal law.

There have been a number of court cases in other states that have made it clear that these funds are to be distributed to communities where there are impacts from forestry related activities. The State of Alaska has not been distributing these funds to the affected communities as Congress intended. House bill 54 remedies that.

The Alaska Forest Association asks that you support this bill.

Thank you.

March 15, 1991

Mr. Mike Navarre
Co-Chairman of the House Finance Committee
Alaska Legislature
State Capital Building
Juneau, Alaska 99801

Subject: Support for House Bill No. 54

Dear Mr. Navarre;

We, the Mayor and City Council of the City of Kasan, would like to take this opportunity to re-affirm our support for House Bill No. 54, "An act relating to the distribution of national forest receipts."

We feel that the passage of this bill is long overdue, and would do much to improve the economic base of the entire Prince of Wales Island region.

Please distribute this letter along the proper channels, so as to make known our support.

Thank You,

Robert R. Young Sr.

Robert R. Young, Sr.
Mayor
City of Kasan

RRY;kw

Alaska Forest Association, Inc.



GOVERNMENT AFFAIRS OFFICE:
217 SECOND STREET, SUITE 206
JUNEAU, ALASKA 99801
Phone 907-463-3175
FAX 907-463-5515

MAIN OFFICE:
111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901-6599
Phone 907-225-6114
FAX 907-225-5920

February 11, 1991

Representative Jerry Mackie
Chair, Community and Regional Affairs
Standing Committee
P. O. Box V
Juneau, Alaska 99811

RE: House Bill No. 54: An Act relating to the distribution of national forest receipts.

Dear Representative Mackie:

The Alaska Forest Association would like to express its support for House Bill No. 54. House Bill No. 54 will not only bring the State of Alaska into full compliance with the spirit and intent of 16 USC § 500, it will provide for a more equitable distribution of funds for the communities in the Chugach and Tongass National Forests.

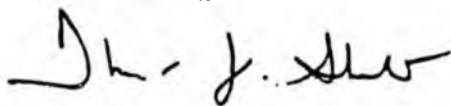
16 USC § 500 states that national forest receipts are "to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated" Many of the communities located within national forest areas but outside the boundaries of organized boroughs have only shared in the benefits of national forest receipts through general fund disbursements. The unorganized boroughs and communities which are located within national forest areas have been unable to obtain a fair share of the receipts, despite the fact that most of these areas have public schools and public roads. While larger organized communities such as Juneau and Kodiak have received the benefits of this law, other communities, such as Thorne Bay and Craig, have not. These communities indeed have public schools and roads which could benefit from an appropriate share of the receipts.

Page 2
February 11, 1991
House Bill No. 54

Federal law mandates the distribution of national forest receipts to be based on proportional acreage when more than one "State or county" is involved. Furthermore, the law specifically empowers the State legislature to disburse these funds once the federal mandate regarding proportional acreage has been accomplished.

House Bill No. 54 is an appropriate way for the State of Alaska to bridge the gap between AS 41.14.180 and 16 USC § 500. We would like to reiterate our support for House Bill No. 54.

Sincerely,



Thyes J. Shaub
Government Affairs Director

TJS:leth
cc: AFA Board of Directors
AFA Legislative Committee

PRINCE OF WALES
COMMUNITY ADVISORY COUNCIL

Chairpersons:
Ginny L. Tierney, Thorne Bay
Vice Chairpersons:
Aeron Isaac, Klawock
Secretary/Treasurer:
Charity Fechter, Craig

P.O. Box 23
Craig, AK 99821

Telephone: (907) 828-3380
(907) 826-3275
FAX Number: (907) 828-3374

February 7, 1991

Representative Jerry Mackie
P.O. Box V
Juneau, AK 99811

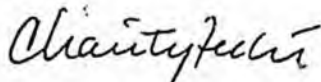
SUBJECT: Receipts from National Forest Lands

Dear Representative Mackie:

Enclosed is a copy of Prince of Wales Community Advisory Council (POWCAC) Resolution 90-7. This resolution strongly urges a legislative amendment to and gubernatorial support of a change in the way forest receipts are distributed. Specifically, it encourages amending AS 41.14.180 to include the distribution of national forest income generated within the unorganized borough to communities within this borough to be used for roads and schools in accordance with the intent of 16 USC 500.

This resolution was passed unanimously by the POWCAC. The member communities of Craig, Hollis, Kasaan, Klawock, and Thorne Bay have endorsed it. If you have any questions about this resolution or the Council, please call me at 826-3275, or Ginny Tierney (Chairman) at 828-3380.

Sincerely,



Charity Fechter
Secretary Treasurer

Enclosure

cc: Council Members
Sen. Eliason
Rep. MacLean, House Finance
Rep. Navarre, House Finance
Sen. Kerttulla, Senate Finance
Sen. Pourchot, Senate Finance
Gov. Hickel

RESOLUTION 90-7

A JOINT RESOLUTION BY AND BETWEEN THE PRINCE OF WALES COMMUNITY ADVISORY COUNCIL MEMBERS LISTED BELOW URGING THE ALASKA STATE LEGISLATURE AND THE GOVERNOR OF THE STATE OF ALASKA TO DISTRIBUTE INCOME FROM NATIONAL FOREST LANDS IN THE UNORGANIZED BOROUGH TO MUNICIPALITIES AND COMMUNITY ASSOCIATIONS IN THE UNORGANIZED BOROUGH TO USE FOR ROADS AND SCHOOLS.

WHEREAS, federal law 16 USC 500 provides that 25% of all moneys received from each national forest shall be distributed to the State legislature to be spent for the benefit of the roads and schools in such national forest; and

WHEREAS, the intent of this federal law is to provide funds to support roads and schools of communities within the affected national forest, thereby mitigating any associated impact; and

WHEREAS, 70% of the Tongass National Forest is contained within the Unorganized Borough of the State of Alaska and thereby a majority of forest income for the Tongass is generated within the Unorganized Borough; and

WHEREAS, the Legislature for the State of Alaska is the governing body of the unorganized borough and is responsible for providing regional services to the unorganized borough to include the distribution of federal funds according to federal intent; and

WHEREAS, AS 41.15.180 limits the distribution of national forest income to organized boroughs only;

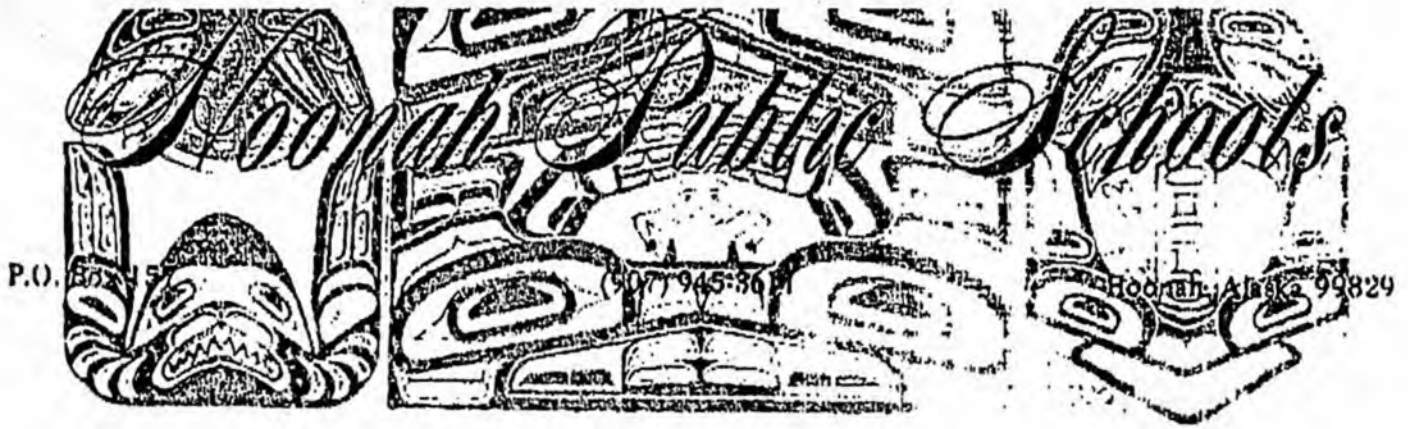
BE IT THEREFORE RESOLVED that the Prince of Wales Community Advisory Council strongly urges the Alaska legislature to amend, and the Governor of the State of Alaska to support the amendment of, AS 41.15.180 to include the distribution of national forest income generated within the unorganized borough to communities within this borough to be used for roads and schools in accordance with the intent of 16 USC 500.

PASSED AND APPROVED ON Oct. 16, 1990.

PRINCE OF WALES COMMUNITY
ADVISORY COUNCIL

BY Annij D. Swinney

ATTEST: Chanty Fetter
SECRETARY



February 6, 1991

Representative Jerry Mackie
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Mackie:


Weather prevents my personal testimony today on H.B. 54.

I wish to underline our previous contacts with you relative to Hoonah School's financial need. We have already made substantial cuts in all program areas this year.

We believe that the original concept of stumpage fees was that the monies generated should accrue to the communities affected and that the terminology of "boroughs" unintentionally left out such city districts as Hoonah. In addition, our need is emphasized because we provide services to students of logging families who live outside the City.

We strongly support H.B. 54 with its original language: that the receipts are dedicated to roads or schools without the mandated percentage allotment.

Yours truly,


L. Sydney Wright
Superintendent

LSW/db

c: Bob Pinard, City Clerk

LOGGERS LEGAL DEFENSE FUND

**P.O. BOX 389
HOONAH, AK 99829
(907)945-3627
(907)945-3258**

FEBRUARY 6, 1991

**REP. JERRY MACKIE
P.O. BOX B
JUNEAU, AK 99811**

DEAR REP. MACKIE:

THE LOGGERS LEGAL DEFENSE FUND IS A NON-PROFIT CORPORATION WHOSE PURPOSE IS TO PROTECT, DEFEND AND PROMOTE THE RIGHT TO WORK, LIFESTYLE AND ECONOMIC INTERESTS OF TIMBER INDUSTRY WORKERS AND RELATED OCCUPATIONS IN ALASKA.

TO DATE, THE L.L.D.F. HAS 1,600 MEMBERS AND SUPPORTERS WHO SPAN THE ENTIRE SPECTRUM OF TIMBER INDUSTRY LABOR WORKERS IN ALASKA.

THE L.L.D.F. LENDS ITS FULL SUPPORT AND BACKING TO HB 54. WE WOULD LIKE TO SEE THE COMMUNITIES LOCATED WITHIN UNORGANIZED BOROUGHES RECEIVE FUNDS FROM NATIONAL FOREST RECEIPTS. WE BELIEVE THIS ACTION WOULD ALLEVIATE SOME OF THE ECONOMIC STRESS FELT IN RURAL COMMUNITIES DUE TO AN OVERALL DECLINE IN THE TIMBER INDUSTRY. A LARGE PERCENTAGE OF OUR MEMBERSHIP LIVING IN COMMUNITIES SITUATED IN A NATIONAL FOREST WOULD DIRECTLY BENEFIT FROM PASSAGE OF THIS BILL INTO LAW.

PLEASE CONTACT THE L.L.D.F IF WE CAN BE OF FURTHER HELP IN PROMOTING AND SUPPORTING HB 54.

SINCERELY,

June Christle

JUNE CHRISTLE, EXEC. DIRECTOR

State of Alaska
Department of Commerce and Economic Development
Division of Banking, Securities and Corporations

CERTIFICATE
OF
INCORPORATION
Nonprofit Corporation

The undersigned, as Commissioner of Commerce and Economic Development of the State of Alaska, hereby certifies that duplicate originals of the Articles of Incorporation of

LOGGERS' LEGAL DEFENSE FUND, A NONPROFIT CORPORATION.

have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Commissioner of Commerce and Economic Development, and by virtue of the authority vested in him by law, hereby issues the Certificate of Incorporation and attaches hereto a duplicate original of the Articles of Incorporation.



IN TESTIMONY WHEREOF, I execute this certificate
and affix the Great Seal of the State of Alaska on
DECEMBER 14, 1990.

A handwritten signature in cursive script, appearing to read "Jane Angvik".

JANE ANGVIK

COMMISSIONER OF COMMERCE
AND ECONOMIC DEVELOPMENT

**LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH, AK 99829
(907)945-3627**

MANY OF YOU MAY HAVE ALREADY HEARD OF OUR ORGANIZATION, THE L.L.D.F., THROUGH THE VARIOUS MEDIA SOURCES IN SE ALASKA. WE HAVE BEEN ANXIOUSLY WAITING FOR THE NEW YEAR TO GREET OUR STANDING AS A LEGAL NON-PROFIT CORPORATION. WE CAN NOW BEGIN MEETING OUR GOALS AND OBJECTIVES.

ENCLOSED YOU WILL FIND A SAMPLE OF THE TYPE OF LITERATURE WE ARE DISBURSING TO ALL TIMBER INDUSTRY RELATED WORKERS, VENDORS AND SUPPLIERS. ALL OF THESE GROUPS STAND TO LOSE ECONOMICALLY IF A DECLINE IN THE TIMBER INDUSTRY IS ALLOWED. WE HAVE LET ENVIRONMENTAL GROUPS DICTATE AND MANIPULATE OUR LEGAL SYSTEM TOO LONG. THE L.L.D.F. OFFERS A NEW RESOURCE WHICH HAS SO FAR BEEN UNTAPPED IN THESE BATTLES--THE TIMBER WORKERS.

OUR ORGANIZATION IS DEPENDENT UPON LARGE NUMBERS AND FUNDING TO CARRY OUR VOICES INTO THE LEGAL SYSTEM THAT IS OVERRUN WITH CASES CONCERNING USE OF OUR RENEWABLE RESOURCES. WE ARE ASKING FOR YOUR FINANCIAL CONTRIBUTION AND YOUR NAME FOR SUPPORT TO HELP SECURE THE FUTURE OF THE TIMBER INDUSTRY IN THE PACIFIC NORTHWEST.

WE WILL BE SENDING OUT A NEWSLETTER PERIODICALLY TO KEEP YOU INFORMED OF THE ORGANIZATIONS PROGRESS. UNTIL THEN, FEEL FREE TO CALL OUR OFFICE WITH QUESTIONS, COMMENTS, OR ANY LAWSUIT WHICH WE COULD HELP WITH.

THANK YOU FOR YOUR CONSIDERATION OF THE L.L.D.F.!

SINCERELY,

June Christle

JUNE CHRISTLE, EXEC. DIRECTOR
L.L.D.F.

LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH ALASKA 99829

WE ARE A GROUP OF PEOPLE BROUGHT TOGETHER TO PROMOTE AND DEFEND OUR WAY OF LIFE. OUR EXISTENCE IS BEING THREATENED BY THE RADICAL ACTIONS OF NATIONALLY ORGANIZED ENVIRONMENTAL GROUPS. THE ACTIONS OF THESE GROUPS ARE DESTROYING THE RIGHTS OF WORKERS IN ALL LABOR FIELDS TO WORK AND EARN A LIVING.

THE LOGGERS LEGAL DEFENSE FUND, INC. IS A NON-PROFIT GRASSROOTS ORGANIZATION IN SE ALASKA WHOSE PURPOSE IS TO REPRESENT EVERY LABOR WORKERS JOB BEING SUFFOCATED BY IRRESPONSIBLE ENVIRONMENTAL ACTIONS. THE PREJUDICE PROMOTED BY THESE ACTIONS CURRENTLY ATTACKS ALL LOGGING JOBS CREATING A TARNISHED IMAGE BEFORE THE PUBLIC -- "TREE AND FOREST KILLERS." WHILE LOGGING IS UNDER DIRECT ORGANIZED ENVIRONMENTAL ASSAULT MANY OTHER LABOR OCCUPATIONS ARE FALLING IN LINE FOR THE SLAUGHTER: MINERS AS RAPING THE EARTH; CONSTRUCTION WORKERS AS DESTROYING ALL WETLANDS; FISHERMEN AS MURDERING THE SEAS.

IT IS TIME TO STAND TOGETHER AGAINST THESE FALSE IMAGES AND SHOW OUR NATION WHO WE ARE -- THE LABOR WORKING PEOPLE OF OUR COUNTRY!

TEAR HERE

WE NEED YOUR SUPPORT.
PLEASE SIGN AND SEND YOUR NAME, ADDRESS, TELEPHONE NUMBER.
DONATIONS ARE NEEDED AND ACCEPTED.

PRINT NAME: _____ PHONE: _____
ADDRESS: _____ ZIP _____
DONATION: _____
SIGNATURE _____

SEND TO: LOGGERS LEGAL DEFENSE FUND, INC.
P.O. BOX 389
HOONAH AK 99829

DIFFERENT
COMPANY'S
LETTERHEAD

THE ALASKAN TIMBER INDUSTRY HAS RECENTLY BEEN PLAGUED BY LEGAL AND LEGISLATIVE ACTIONS CREATED BY ENVIRONMENTAL GROUPS AND PRESSURED GOVERNMENTAL AGENCIES. THESE ACTIONS HAVE ALREADY CREATED EXTREME SOCIOECONOMIC HAVOC IN THE OREGON/WASHINGTON TIMBER INDUSTRY. THE SAME TYPE OF ACTIONS AND TACTICS ARE NOW THREATENING LOGGING IN SE ALASKA. THE FALLOUT FROM THE BOMBARDED PACIFIC NORTHWEST TIMBER INDUSTRY WILL ALSO LEAVE A COVER OF DUST ON ALL OF THE INDUSTRY'S VENDORS AND SUPPLIERS. THE RIPPLING EFFECTS WILL CONTINUE TO BE FELT THROUGHOUT THE ENTIRE ECONOMIC COMMUNITY IN THE PACIFIC NORTHWEST AREA.

LOGGERS LEGAL DEFENSE FUND WAS FORMED TO PROMOTE AND DEFEND THE WORKING LOGGER FROM THE IRRESPONSIBLE ACTIONS OF ENVIRONMENTAL GROUPS. THE GRASSROOTS ORGANIZATION IS DEPENDENT UPON GAINING SUPPORT FROM ALL AFFILIATED PARTIES WHO HAVE A CLAIM IN THIS CAUSE. THE OBJECTIVE OF THE LLDf IS TO PROVIDE A LEGAL AND FINANCIAL PLATFORM FROM WHICH TIMBER INDUSTRY WORKERS CAN FIGHT FOR THEIR RIGHT TO WORK.

AS EACH TIMBER DOLLAR IS LOST DUE TO THE DISEASE OF BUREAUCRATIC CANCER ENTANGLING THE INDUSTRY, EACH VENDOR AND SUPPLIER STANDS TO LOSE A PERCENTAGE OF EACH DOLLAR. THE SITUATION HAS REACHED A PROPORTION OF SUBSTANTIAL CONSEQUENCES REQUIRING THE IMMEDIATE ATTENTION OF THOSE CONCERNED.

THE LLDf ASKS FOR YOUR SUPPORT AND CONTRIBUTIONS. YOUR PARTICIPATION WILL PROVIDE YOUR ECONOMIC INTERESTS WITH AN AVENUE TO INSURE FUTURE BUSINESS RELATIONS WITH AN UNENCUMBERED TIMBER INDUSTRY.

CONTRIBUTIONS: LOGGERS LEGAL DEFENSE FUND
P.O. BOX 389
HOONAH, AK 99829
(907)945-3626

CITY of HOONAH

P.O. Box 360
Hoonah, Alaska 99829
(907) 945-3683

February 06, 1991

Representative Mackie
House of Representative
State of Alaska

Re: House Bill No. 54

The City of Hoonah wishes to go on record strongly supporting HOUSE BILL NO. 54 introduced by Representatives Mackie, Grussendorf January 22, 1991.

For years the City of Hoonah has been denied monies received by the State from National Forest Service Receipts redistributed to the organized Boroughs within the State of Alaska. Yet the bulk of the logging has been done within the Unorganized Borough. Last year alone there was \$12.5 million dollars worth of lumber taken out of our area by Whitestone Logging. I'm sure you can see how many trees were cut to obtain that figure. Yet very little cutting is done within the organized borough of whom this money is paid. I understand the borough of Haines received better than \$300,000 based on one small timber cut.

The language of the existing law "for the benefit of county or counties within the National Forest is located" was determined to be organized boroughs within the State of Alaska. In our mind this is totally unfair to those cities and communities within the unorganized borough. I'm not sure as to whether there could not be some legal challenge to the word "Unorganized Borough"

We would also like to be on record supporting the original language of this law which states "will be used for Public Roads or Schools". We wish to reserve the ability to determine as to how these monies are best needed. The City and school go through periods of economic instability which at the present time has created a large deficit in both the City and School. Like everyone else we are unable to keep up with State cuts every year. This gap between our operating expenses and revenues received gets larger every year and is expected to get worse under the present administration. These monies will definitely help our economic stability.

There are some questions I did have regarding this bill which I'm sure will be addressed by the committees. These are:

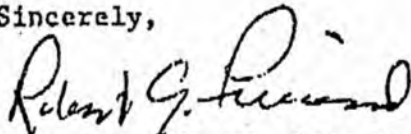
Representative Mackie
Page 2

1. If distributed on a per capita basis, does this include individuals living out side of a district such as individual dwellings, logging camps communities who still utilize the services of a City or community.

2. How does this bill affect second class cities who school system is supported by the State of Alaska as opposed to a First Class City which supports it own school system.

I'm sure we will have other questions as this bill advances. We will be watching it closely and intend to vigorously support this bill.

Sincerely,



Robert G. Pinard, City Treasurer
for Albert W. Dick, Mayor and the
Hoonah City Council.



WRANGELL

**PUBLIC SCHOOLS
DISTRICT OFFICE**

P.O. BOX 2319

WRANGELL, ALASKA 99929

Telephone (907) 874-2347

LINWOOD LAUGHY, Superintendent

GATEWAY TO THE STIKINE

RESOLUTION

91-3

WHEREAS, the Federal government recognizes that the existence of Federal Forest lands near a community creates an economic impact on that community's schools and roads, and

WHEREAS, the Federal government provides funds from Federal timber receipts to compensate for this impact, and

WHEREAS, the State of Alaska distributes portions of these funds to impacted school districts within Alaska's boroughs, and

WHEREAS, the State of Alaska does not now distribute these funds to impacted communities in the unorganized borough,

BE IT RESOLVED that the Wrangell School Board urges the Seventeenth Legislature to distribute Federal Timber Trust receipts received by the State of Alaska to school districts in the unorganized borough in a manner in keeping with Federal intent.

WRANGELL SCHOOL BOARD

William J Mesomer
Board President

01/18/91
Date

Vicki Foster
Secretary/Treasurer

2/5/91
Date

HB54

SENATE FINANCE COMMITTEE REPORT

DATE: 5/10/91

FURTHER:

DATE TURNED

INTO OFFICE: 5-17-91

The Finance Committee considered CS HB 54 (FINANCE) (title am)

Distribution of national forest receipts; providing for the distribution of national forest receipts to an organized borough in proportion to the percentage of the national forest within the organized borough; establishing an unorganized borough national forest receipts fund to be utilized for the benefit of public schools and roads in the unorganized borough; providing for distributions from the fund to communities in the unorganized borough; and providing for an effective date."

and recommended:

- replace with _____ CS _____
- or adopt CS HB 54 (GRA)
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) SPENDING COMMITTEE

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

Al Adams

Tommy Hefner

Bill Hefner

[Signature]

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

OTHER RECOMMENDATIONS:

Rich [Signature] (No Rec)

1.

[Signature]

2.

[Signature]

No Rec

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SCS CSHB 54(CRA)

Revision Date: _____ Department Affected: /Community & Regional Affairs
 Title: Distribution of national forest receipts BRU: National Forest Receipts
 Sponsor: Rep. Mackie Component: National Forest Receipts
 Requestor: Senate Finance COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0
MISCELLANEOUS						
TOTAL OPERATING	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER National Forest Receipts Fund	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0
TOTAL Receipts Fund						

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) An estimated \$6 million in National Forest Receipt money which would be deposited in the General Fund under current statutes will be paid out to communities and Regional Education Attendance Areas within unorganized boroughs under HB 54.

Prepared By: Sen. Pat Pourchot Phone: 465-4935
 Division: Co-chairman, Senate Finance Committee Date: May 17, 1991
 Approved by Commissioner: _____
 Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SENATE CS FOR CS FOR HOUSE BILL NO. 54 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 5/10/91

Referred: Finance

Sponsor(s): REPRESENTATIVES MACKIE, Grussendorf, C.Davis, Leman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the distribution of national forest receipts; providing for the
2 distribution of national forest receipts to an organized borough in proportion to the
3 percentage of the national forest within the organized borough; establishing an unorganized
4 borough national forest receipts fund to be utilized for the benefit of public schools and
5 roads in the unorganized borough; providing for distributions from the fund to
6 communities in the unorganized borough; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. FINDINGS AND PURPOSE. (a) Federal law, 16 U.S.C. 500, provides that 25 percent
9 of all money received each fiscal year from each national forest shall be paid to the state in which the
10 national forest is located, to be distributed under state law for the benefit of the public schools and roads
11 of the county or counties in which the national forest is located.

12 (b) The intent of this federal law is to provide funds to support roads and schools of
13 communities affected by national forest activities.

1 (c) Under present state law, communities and regional educational attendance areas that are
2 affected by national forest activities, but located within the unorganized borough, do not receive direct
3 payment of national forest income.

4 (d) That portion of national forest income not distributed to organized boroughs under
5 AS 41.15.180(a) should be distributed to communities within the unorganized borough that are situated
6 within a national forest or within 20 miles of a national forest that contribute financially to the provision
7 of education and road maintenance and to regional educational attendance areas that have a school
8 located within a national forest or within 20 miles of a national forest, and that presently do not receive
9 funds from national forest receipts.

10 * Sec. 2. AS 41.15.180 is repealed and reenacted to read:

11 Sec. 41.15.180. NATIONAL FOREST INCOME. (a) When the commissioner of
12 community and regional affairs receives national forest income under 16 U.S.C. 500, the
13 commissioner shall immediately pay to each organized borough in which national forest land is
14 located a share of the income from that forest; an organized borough's share of income from a
15 national forest shall be proportional to the area of the national forest located within its
16 boundaries.

17 (b) There is created as a separate account in the general fund the unorganized borough
18 national forest receipts fund. The fund consists of national forest income received by the
19 Department of Community and Regional Affairs under 16 U.S.C. 500 for the percentage of a
20 national forest located within the unorganized borough. Seventy-five percent of the fund shall
21 be allocated for public schools and 25 percent for public roads.

22 (c) From the percentage of the unorganized borough national forest receipts fund
23 allocated to the public schools under (b) of this section, the commissioner shall pay to each home
24 rule or first class city located within the unorganized borough and within a national forest or
25 within 20 miles of a national forest, or regional educational attendance area that has a school
26 located within the unorganized borough and within a national forest or within 20 miles of a
27 national forest, a share of the income from the public schools allocation of the fund. A home
28 rule city, first class city, or regional educational attendance area's share shall be calculated as the
29 proportion of the number of children in average daily membership of the city school district or
30 regional educational attendance area compared to the total number of children in average daily
31 membership in city school districts located within the unorganized borough and within the

1 national forest or within 20 miles of the national forest and in regional educational attendance
2 areas that have a school located within the unorganized borough and within the national forest
3 or within 20 miles of the national forest.

4 (d) From the percentage of the unorganized borough national forest receipts fund
5 allocated to public roads under (b) of this section, the commissioner shall pay to each

6 (1) home rule city, first class city, or second class city that exercises road powers,
7 that is located within the unorganized borough and within a national forest or within 20 miles
8 of a national forest, a share of the income from the roads allocation of the fund; a home rule city,
9 first class city, or second class city's share shall be calculated as the proportion of the number
10 of road miles within municipal boundaries over which the community exercises road powers plus
11 the number of state road miles maintained by the municipality under agreement with the state
12 compared to the total number of road miles maintained by state or local governments in the
13 unorganized borough and within the national forest or within 20 miles of the national forest;

14 (2) municipality organized under federal law as a Indian reserve that existed
15 before the enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection
16 and that has formed a community development corporation under AS 29.60.365, that exercises
17 road powers and that is located within the unorganized borough and within the national forest
18 or within 20 miles of the national forest a share of the income from the roads allocation of the
19 fund; the share due a municipality organized under federal law that exercises road powers shall
20 be calculated as the proportion of the number of road miles within municipal boundaries over
21 which the community exercises road powers plus the number of state road miles maintained by
22 the municipality under agreement with the state compared to the total number of road miles
23 maintained by state or local governments in the unorganized borough and within the national
24 forest or within 20 miles of the national forest; however, the commissioner may pay income from
25 national forest receipts under this paragraph only after the corporation has delivered a written
26 waiver of sovereign immunity from legal action by the state to recover all or a portion of the
27 money distributed under this section.

28 (e) A distribution made under (a) of this section shall be expended for public schools and
29 public roads. A distribution made under (c) of this section shall be expended for public schools.
30 A distribution made under (d) of this section shall be expended for public roads.

31 (f) For the purpose of making distributions from the fund, the commissioner of

1 community and regional affairs shall consult with the commissioner of education, for purposes
2 of determining the number of children in average daily membership in the public schools affected
3 by this section, and the commissioner of transportation and public facilities, to determine the total
4 number of road miles in the unorganized borough affected by this section.

5 (g) An organized borough, home rule city, first class city, second class city, regional
6 educational attendance area, or a municipality organized under federal law that receives a national
7 forest income payment or distribution under 16 U.S.C. 500 or this section shall annually report
8 and account to the commissioner of community and regional affairs its use of the payment or
9 distribution for the purposes provided in (a) - (e) of this section. The commissioner of
10 community and regional affairs may not distribute national forest income under this section to
11 an entity in the unorganized borough that has previously failed to report and account as required
12 under this subsection.

13 (h) For purposes of this section, if a portion of a home rule city, first class city, or
14 second class city, or municipality organized under federal law in the unorganized borough is
15 located within the national forest or within 20 miles of a national forest or if a regional
16 educational attendance area has a school located within the national forest or within 20 miles of
17 the national forest, the entire home rule city, first class city, or second class city, regional
18 educational attendance area, or municipality organized under federal law is considered to be
19 within the national forest.

20 (i) A payment or distribution made under this section shall be made under an
21 appropriation for the purpose.

22 (j) That portion of the unorganized borough national forest receipts fund remaining in
23 the account unobligated and unexpended on June 30 of a fiscal year shall be deposited into the
24 unrestricted portion of the general fund and shall be used to offset expenses of the general fund
25 for school and road maintenance in the affected areas of the unorganized borough for which
26 direct distribution of funds has not been made.

27 * Sec. 3. This Act takes effect July 1, 1991.

7-LS0427E
Luckhaupt
5/15/91

SENATE CS FOR CS FOR HOUSE BILL NO. 54 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES MACKIE, Grussendorf, C.Davis, Leman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the distribution of national forest receipts; providing for the
2 distribution of national forest receipts to an organized borough in proportion to the
3 percentage of the national forest within the organized borough; establishing an unorganized
4 borough national forest receipts fund to be utilized for the benefit of public schools and
5 roads in the unorganized borough; providing for distributions from the fund to
6 communities in the unorganized borough; and providing for an effective date."

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

8 * **Section 1. FINDINGS AND PURPOSE.** (a) Federal law, 16 U.S.C. 500, provides that 25 percent
9 of all money received each fiscal year from each national forest shall be paid to the state in which the
10 national forest is located, to be distributed under state law for the benefit of the public schools and roads
11 of the county or counties in which the national forest is located.

12 (b) The intent of this federal law is to provide funds to support roads and schools of
13 communities affected by national forest activities.

1 (c) Under present state law, communities that are affected by national forest activities, but
2 located within the unorganized borough, do not receive direct payment of national forest income.

3 (d) That portion of national forest income not distributed to organized boroughs under
4 AS 41.15.180(a) should be distributed to communities within the unorganized borough that are situated
5 within a national forest or within 20 miles of a national forest that contribute financially to the provision
6 of education and road maintenance and that presently do not receive funds from national forest receipts.

7 * Sec. 2. AS 41.15.180 is repealed and reenacted to read:

8 Sec. 41.15.180. NATIONAL FOREST INCOME. (a) When the commissioner of
9 community and regional affairs receives national forest income under 16 U.S.C. 500, the
10 commissioner shall immediately pay to each organized borough in which national forest land is
11 located a share of the income from that forest; an organized borough's share of income from a
12 national forest shall be proportional to the area of the national forest located within its
13 boundaries.

14 (b) There is created as a separate account in the general fund the unorganized borough
15 national forest receipts fund. The fund consists of national forest income received by the
16 Department of Community and Regional Affairs under 16 U.S.C. 500 for the percentage of a
17 national forest located within the unorganized borough. Seventy-five percent of the fund shall
18 be allocated for public schools and 25 percent for public roads.

19 (c) From the percentage of the unorganized borough national forest receipts fund
20 allocated to the public schools under (b) of this section, the commissioner shall pay to each home
21 rule or first class city located within the unorganized borough and within a national forest or
22 within 20 miles of a national forest, a share of the income from the public schools allocation of
23 the fund. A home rule or first class city's share shall be calculated as the proportion of the
24 number of children in average daily membership of the city school district compared to the total
25 number of children in average daily membership in city school districts located within the
26 unorganized borough and within the national forest or within 20 miles of the national forest and
27 in regional educational attendance areas that have a school located within the unorganized
28 borough and within the national forest or within 20 miles of the national forest.

29 (d) From the percentage of the unorganized borough national forest receipts fund
30 allocated to public roads under (b) of this section, the commissioner shall pay to each

31 (1) home rule city, first class city, or second class city that exercises road powers,

1 that is located within the unorganized borough and within a national forest or within 20 miles
2 of a national forest, a share of the income from the roads allocation of the fund; a home rule city,
3 first class city, or second class city's share shall be calculated as the proportion of the number
4 of road miles within municipal boundaries over which the community exercises road powers plus
5 the number of state road miles maintained by the municipality under agreement with the state
6 compared to the total number of road miles maintained by state or local governments in the
7 unorganized borough and within the national forest or within 20 miles of the national forest;

8 (2) municipality organized under federal law as a Indian reserve that existed
9 before the enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection
10 and that has formed a community development corporation under AS 29.60.365, that exercises
11 road powers and that is located within the unorganized borough and within the national forest
12 or within 20 miles of the national forest a share of the income from the roads allocation of the
13 fund; the share due a municipality organized under federal law that exercises road powers shall
14 be calculated as the proportion of the number of road miles within municipal boundaries over
15 which the community exercises road powers plus the number of state road miles maintained by
16 the municipality under agreement with the state compared to the total number of road miles
17 maintained by state or local governments in the unorganized borough and within the national
18 forest or within 20 miles of the national forest; however, the commissioner may pay income from
19 national forest receipts under this paragraph only after the corporation has delivered a written
20 waiver of sovereign immunity from legal action by the state to recover all or a portion of the
21 money distributed under this section.

22 (e) A distribution made under (a) of this section shall be expended for public schools and
23 public roads. A distribution made under (c) of this section shall be expended for public schools.
24 A distribution made under (d) of this section shall be expended for public roads.

25 (f) For the purpose of making distributions from the fund, the commissioner of
26 community and regional affairs shall consult with the commissioner of education, for purposes
27 of determining the number of children in average daily membership in the public schools affected
28 by this section, and the commissioner of transportation and public facilities, to determine the total
29 number of road miles in the unorganized borough affected by this section.

30 (g) An organized borough, home rule city, first class city, or second class city, or a
31 municipality organized under federal law that receives a national forest income payment or

1 distribution under 16 U.S.C. 500 or this section shall annually report and account to the
2 commissioner of community and regional affairs its use of the payment or distribution for the
3 purposes provided in (a) - (e) of this section. The commissioner of community and regional
4 affairs may not distribute national forest income under this section to an entity in the unorganized
5 borough that has previously failed to report and account as required under this subsection.

6 (h) For purposes of this section, if a portion of a home rule city, first class city, or
7 second class city, or municipality organized under federal law in the unorganized borough is
8 located with the national forest or within 20 miles of a national forest or a regional educational
9 attendance area that has a school located within the national forest or within 20 miles of the
10 national forest, the entire home rule city, first class city, or second class city, regional educational
11 attendance area, or municipality organized under federal law is considered to be within the
12 national forest.

13 (i) A payment or distribution made under this section shall be made under an
14 appropriation for the purpose.

15 (j) That portion of the unorganized borough national forest receipts fund remaining in
16 the account unobligated and unexpended on June 30 of a fiscal year shall be deposited into the
17 unrestricted portion of the general fund and shall be used to offset expenses of the general fund
18 for school and road maintenance in the affected areas of the unorganized borough for which
19 direct distribution of funds has not been made.

20 * Sec. 3. This Act takes effect July 1, 1991.

REPRESENTATIVE
JERRY MACKIE

P. O. BOX 73
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2930 HOME

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



WHILE IN JUNEAU
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4925

House of Representatives

REPRESENTATIVE MACKIE STATEMENT

On

HB 54, "An Act relating to the distribution
of national forest receipts."

HB 54 corrects a long standing inequity in the national forest receipts program. The state receives from the U.S. Department of Agriculture a percentage of the earnings derived from timber harvest and other commercial activities in the Tongass and Chugach national forests. The purpose of these funds is to provide federal assistance for local government services that are impacted by these activities. However, use of the funds are restricted to education and public roads in the "county or counties in which the national forest is situated."

In current practice, the state allocates only a portion of these funds to organized boroughs within the two national forests. The allocation is based on the amount of national forest acreage within the boroughs' boundaries. The remaining portion of funds, associated with forest acreages in the unorganized borough, is not allocated specifically and co-mingles with state general funds.

HB 54 would preserve the intent of the forest receipts program and the spirit of federal law by specifically allocating the unorganized borough portion of funds to the appropriate communities in the Tongass and Chugach forest. The program will be administered by the Department of Community and Regional Affairs. In the senate CRA committee version, the allocation divides the use of the funds into 75% for education and 25% for roads. Distribution of the education funds is based on the school population (ADM) of public school systems in the two national forests. Distribution of the public roads funds is based on the number of road miles maintained by the communities. A percentage of the funds, associated with state maintained roads in the unorganized borough, will revert back to the state.

CIRA
SCS CSHB 54 (Einance)-Prospective distribution

<u>Community</u>	<u>Road Miles</u>	<u>ADM</u>	<u>Road Mile \$</u>	<u>School \$</u>	<u>Total</u>
Home Rule					
Petersburg	12.15	681.20	48.6	795.9	844.5
Wrangle	8.03	508.90	32.1	594.6	626.7
Federal					
Metlakatla	0.00				0.0
1st Class					
Hydaburg	3.17	108.40	12.7	126.6	139.3
Craig	19.00	310.70	76.1	363.0	439.1
Klawock	5.83	201.90	23.3	235.9	259.2
Kake	17.15	178.70	68.7	208.8	277.4
Hoonah	14.00	234.00	56.0	273.4	329.4
Pelican	1.10	48.20	4.4	56.3	60.7
Skagway	11.15	144.75	44.6	169.1	213.7
Yakutat	7.34	150.00	29.4	175.2	204.6
2nd Class					
Thorne Bay	22.70		90.9		90.9
Coffman Cove	2.00		8.0		8.0
Kasaan	2.92		11.7		11.7
Kupreanof	0.00		0.0		0.0
Angoon	5.18		20.7		20.7
Tenakee Springs	0.00		0.0		0.0
Port Alexander	0.00		0.0		0.0
Total Local	131.72	2566.75	527.27	2998.81	3,526.1
State	243.00	1284.90	972.7	1,501.2	2,473.9
Grand Total	374.72	3851.65	1,500.0	4,500.0	6,000.0

76 3 REAS'S



SOUTHEAST
ISLAND
SCHOOL
DISTRICT

1621 TONGASS AVENUE SUITE 301
POST OFFICE BOX 8340
KETCHIKAN, ALASKA 99901
(907) 225-9658 OR 225-9659

Robert Weinstein
SUPERINTENDENT

May 8, 1991

Senator Pat Pourchot, Co-Chair
Senate Finance Committee
Alaska Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Pourchot:

This is to ask that you support HB 54, proposed legislation addressing distribution of National Forest receipts, with an amendment which assures an equitable distribution of the portion set aside for support of public schools.

The basic issue is the federal government gives each state 25% of timber receipts from National Forests within its boundaries, with the money to be distributed to counties for schools and roads impacted by logging activities. In Alaska, boroughs (both organized and unorganized) are considered the equivalent of counties for receipt of these funds. Despite current statute, only the organized boroughs receive a share of funds, which by federal law is based upon geographic proportion of the National Forest within their boundaries. Since about 70% of the National Forest is within the unorganized borough, this means that 70% of the funds are not distributed at all at the current time. For your information, most of the receipts are generated by communities within our school district (as we have 50% of the Tongass National Forest within our boundaries).

For the current year, the state has received over \$9 million in federal timber receipts. Of that, \$2.76 million has been distributed to boroughs. The remainder, \$6.2 million, is the unorganized borough's share. The current bill as passed by the House proposes to allocate 75% of the unorganized borough's share to schools; unfortunately, REAA's are excluded from this distribution. Under the version which passed the House, about \$3.0 million would be distributed to municipal school districts, while what otherwise would be the REAA share of \$1.6 million would continue to be retained by the state.

My understanding is that the major obstacle to the inclusion of all schools was due to a continuing perception that REAA's are 100% state funded and/or funded in a significantly disproportionate manner to all other school districts in Alaska. I have therefore compiled some data which clearly demonstrates, from both actual and theoretical perspectives, that: (1) the level of state support of REAA's is within the range of other school district funding; and (2) from both perspectives, REAA's should be included in a measure which distributes timber receipts for schools located in or near the National Forest. My further understanding is that the Department of Education essentially agrees with this analysis, and will be supporting an amendment as recommended herein.

Enclosed you will find copies of:

1. The HB 54 fiscal note and distribution as projected by the House Finance Committee.
2. Spreadsheet (Table 1) which shows what impact would accrue if all districts, including the three REAA's in Southeast Alaska, were to receive funds. Please note that: (a) no municipal district loses funding if REAA's were to receive their proportional share based upon total ADM in the unorganized borough area of the National Forest; (b) these numbers are slightly different than those in the House Finance projected distribution because I used Department of Education ADM figures as well as this year's actual timber receipts rather than the \$6 million figure used by the House committee.

3. Spreadsheet and accompanying graphs for:

a. Sources of school district revenues. Table 2 and Figure 1 present data from the actual perspective. Table 2 shows the funding sources by percentage that each district actually received in FY 90. Figure 1 graphically presents this data. The three REAA's (Annette Island, Southeast Island, and Chatham) clearly are within the range of state support received by municipal districts.

This data dispels the myth that REAA's are 100% state funded, and are therefore funded disproportionately by the state relative to municipal school districts.

b. Impacts of HB 54 from the theoretical viewpoint. Table 3 and Figure 2 present data showing: (a) basic need for each district; and (b) the impact of HB 54 relative to basic need, demonstrating that all but one municipal district would receive in excess of 100% basic need (while REAA's would be held to this as a maximum level of funding).

In sum, the data shows both that REAA's are not 100% state funded, and that, if limited to only municipal districts, federal funds appropriated by Congress to provide supplemental assistance to National Forest logging-impacted school districts would instead be distributed on a disproportionate basis.

In closing, we are requesting your support of an amendment to HB 54 so that a distribution of National Forest income for schools in the unorganized borough includes REAA's on the same basis as other schools in or near the National Forest. We believe an amendment is supported by:

- A. The above school finance equity considerations.
- B. The fact that our schools are extraordinarily impacted by the logging industry, e.g. the need to move school facilities and teacher housing, students moving from school to school with unusual program impacts, etc., costs of which are not provided through the foundation formula. These are precisely the types of impacts foreseen by Congress.
- C. Most of the timber receipts are generated by logging communities within SISD.

Thank you very much for your consideration of this request.

Sincerely,



Robert Weinstein
Superintendent

Table 1: Comparison of Distribution of Funds Per HB 54 with Distribution for All Districts

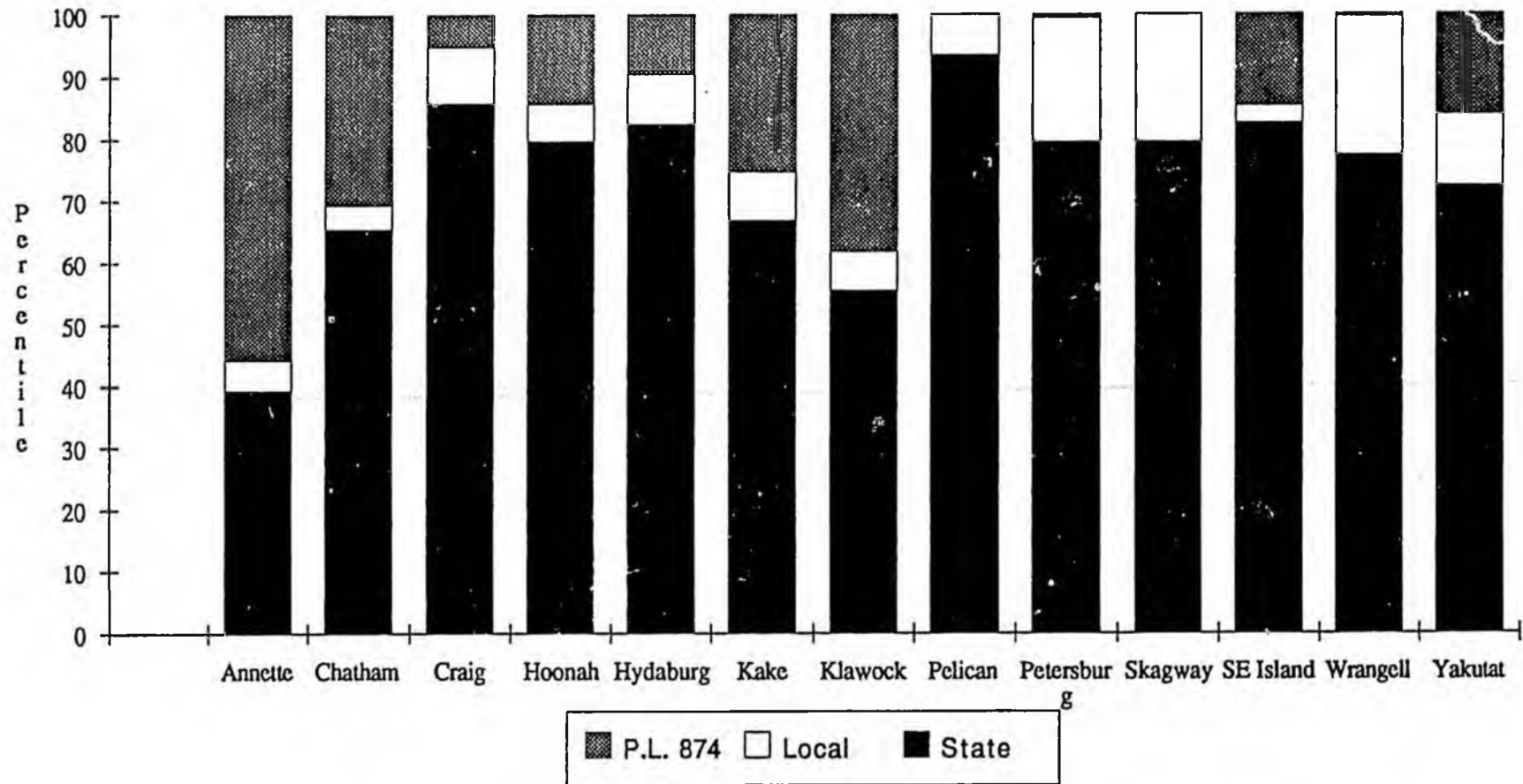
	A	B	C	D	E	F	G	H
1								
2	Amount Available for Distribution =			\$4,608,518	75% of	\$6,144,690		
3								
4	School District	ADM	ADM%	Distribution	Proportional	Difference		
5			of total	Per CS HB 54	Share per ADM			
6								
7	Annette	381	9.91%	\$0	\$456,776	(\$456,776)		
8	Chatham	382	9.94%	\$0	\$457,974	(\$457,974)		
9	Craig	303	7.88%	\$363,262	\$363,262	\$0		
10	Hoonah	234	6.09%	\$280,539	\$280,539	\$0		
11	Hydaburg	108	2.81%	\$129,480	\$129,480	\$0		
12	Kake	179	4.66%	\$214,601	\$214,601	\$0		
13	Klawock	202	5.25%	\$242,175	\$242,175	\$0		
14	Pelican	48	1.25%	\$57,547	\$57,547	\$0		
15	Petersburg	681	17.72%	\$816,441	\$816,441	\$0		
16	Skagway	145	3.77%	\$173,838	\$173,838	\$0		
17	SE Island	522	13.58%	\$0	\$625,818	(\$625,818)		
18	Wrangell	509	13.24%	\$610,233	\$610,233	\$0		
19	Yakutat	150	3.90%	\$179,833	\$179,833	\$0		
20								
21	Total=	3844	100%	\$3,067,949	\$4,608,518	(\$1,540,568)		
22								
23	Column D shows distribution by HB 54.							
24	Column E shows what each district would receive by ADM proportion if all were eligible.							
25	Column E shows difference between HB 54 distribution and equitable distribution for all schools.							

Table 2: School District Revenue Sources

	A	B	C	D	E	F
1						
2	School District					
3		State	Local	P.L. 874	Total	% of Total from
4		Foundation	Sources		Revenues	State Foundation
5	Annette	\$1,319,535	\$164,157	\$1,882,369	\$3,366,061	39.20%
6	Chatham	\$2,554,528	\$157,024	\$1,195,571	\$3,907,123	65.38%
7	Craig	\$1,434,695	\$152,439	\$86,072	\$1,673,206	85.75%
8	Hoonah	\$1,535,024	\$117,632	\$276,766	\$1,929,422	79.56%
9	Hydaburg	\$916,756	\$88,780	\$107,205	\$1,112,741	82.39%
10	Kake	\$1,115,643	\$133,344	\$424,108	\$1,673,095	66.68%
11	Klawock	\$1,374,266	\$158,052	\$948,105	\$2,480,423	55.40%
12	Pelican	\$581,379	\$40,999	\$0	\$622,378	93.41%
13	Petersburg	\$2,962,083	\$745,816	\$23,198	\$3,731,097	79.39%
14	Skagway	\$906,669	\$234,893	\$0	\$1,141,562	79.42%
15	SE Island	\$5,149,771	\$177,933	\$916,648	\$6,244,352	82.47%
16	Wrangell	\$2,577,818	\$748,004	\$13,647	\$3,339,469	77.19%
17	Yakutat	\$1,064,621	\$170,564	\$238,496	\$1,473,681	72.24%

Source: Dept. of Education Audited Data

Figure 1: School District Revenue Sources as Percentage

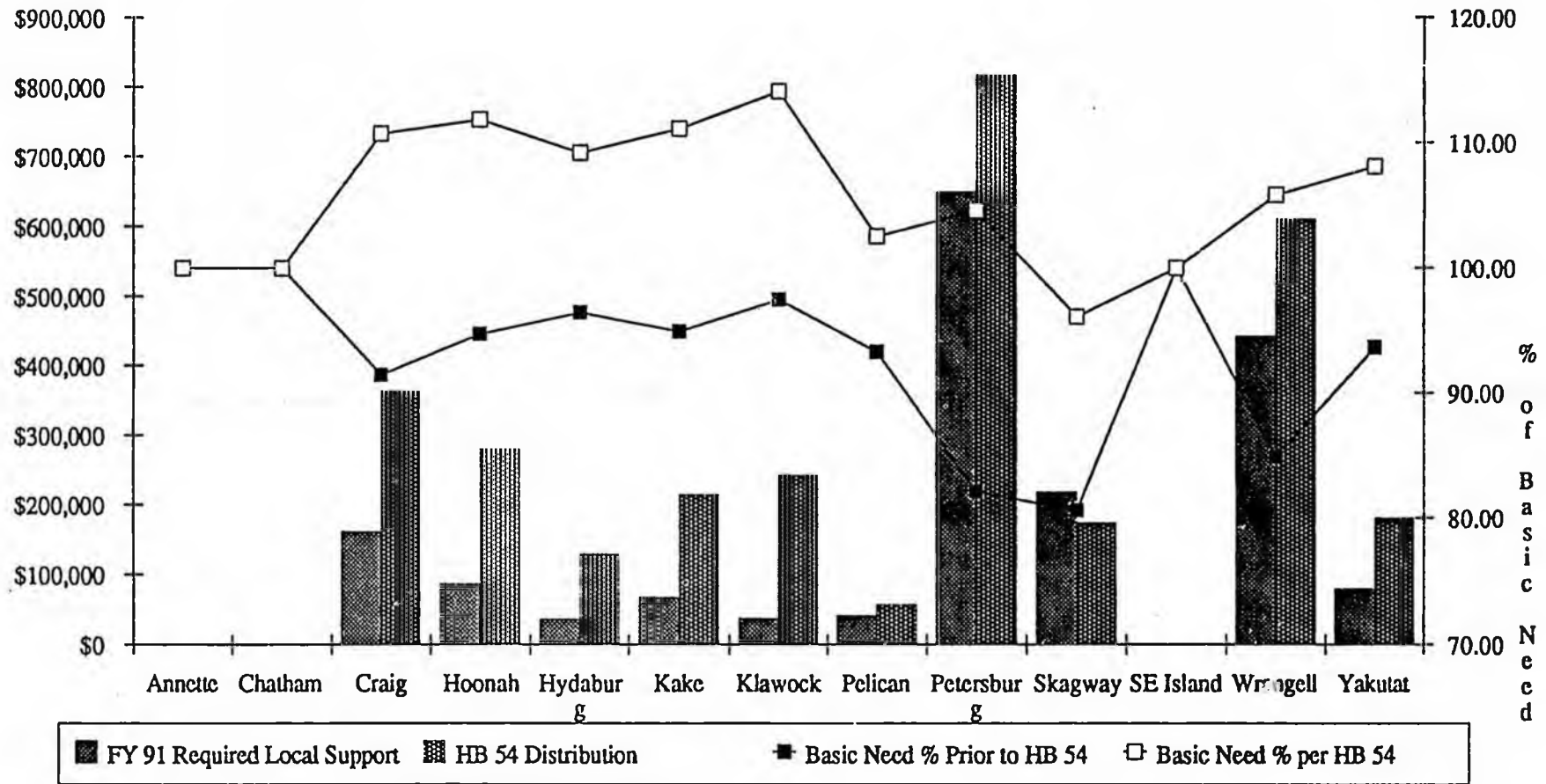


Source: Dept. of Education Audited Data

Table 3: School District Basic Need as Impacted by HB 54

	A	B	C	D	E	F
1	School Distric	Basic	FY 91 Required	HB 54	Basic Need %	Basic Need
2		Need	Local Support	Distribution	Prior to HB 54	% per HB 54
3						
4	Annette	\$2,407,800	\$0	\$0	100.00	100.00
5	Chatham	\$3,490,800	\$0	\$0	100.00	100.00
6	Craig	\$1,887,000	\$160,714	\$363,262	91.48	110.73
7	Hoonah	\$1,638,600	\$86,344	\$280,539	94.73	111.85
8	Hydaburg	\$1,018,200	\$36,096	\$129,480	96.45	109.17
9	Kake	\$1,326,600	\$67,375	\$214,601	94.92	111.10
10	Klawock	\$1,458,600	\$36,776	\$242,175	97.48	114.08
11	Pelican	\$623,400	\$41,763	\$57,547	93.30	102.53
12	Petersburg	\$3,644,400	\$649,768	\$816,441	82.17	104.57
13	Skagway	\$1,122,000	\$217,644	\$173,838	80.60	96.10
14	SE Island	\$5,638,000	\$0	\$0	100.00	100.00
15	Wrangell	\$2,920,800	\$440,792	\$610,233	84.91	105.80
16	Yakutat	\$1,244,400	\$79,168	\$179,833	93.64	108.09

Figure 2: Basic Need as Impacted by HB 54



DEPARTMENT OF EDUCATION
 FOUNDATION PROGRAM AS REVISED BY SB 7
 PREPARED 4/30/91

<< SEC. 1 THRU 3 BASED ON A \$63,000 UNIT >>

	PROJ. FY92 ADM	SB 7 SEC. 1 COMBINED K-12 TABLE REVISED	SB 7 SEC. 2 SPLIT K-6 & 7-12 TABLES REVISED	SINGLE SITE SUPPLEMENTAL FORMULA < 500 ADM	SB 7 SEC. 4 INCREASE UNIT VALUE BY \$3,000	SB 7 INCREASED FOUNDATION IF UNIT VALUE IS \$63,000
ADAK	715.00	\$0	\$160,020	\$0	\$222,480	\$382,500
ALASKA GATEWAY	499.00	165,690	0	0	242,880	408,570
ALEUTIAN REGION	33.00	0	0	0	38,310	38,310
ALEUTIANS EAST	359.00	61,740	0	0	192,360	254,100
ANCHORAGE	42,070.00	15,120	252,000	0	10,064,760	10,331,880
ANNETTE ISLANDS	411.00	182,070	0	0	127,140	309,210
BERING STRAIT	1,398.00	236,250	0	0	839,250	1,075,500
BRISTOL BAY	265.00	160,650	0	0	122,310	282,960
CHATHAM	384.00	74,340	0	0	174,660	249,000
CHUGACH	110.00	0	0	0	80,040	80,040
COPPER RIVER	578.00	165,060	0	0	265,950	431,010
CORDOVA	437.90	206,010	0	197,190	140,430	543,630
CRAIG	413.00	183,330	0	173,880	117,510	474,720
DELTA/GREELY	870.00	0	146,160	0	261,000	407,160
DILLINGHAM	485.00	253,890	0	245,700	184,890	684,480
FAIRBANKS	14,683.00	0	393,120	0	3,644,520	4,037,640
GALENA	150.00	40,950	0	157,500	74,760	273,210
HAINES	441.00	185,850	0	0	135,960	321,810
HOONAH	230.00	125,370	0	173,880	80,070	379,320
HYDABURG	108.00	0	0	101,430	51,030	152,460
IDITAROD	394.00	66,150	0	0	258,000	324,150
JUNEAU	5,328.00	0	126,000	0	1,305,870	1,431,870
KAKE	172.00	56,070	0	136,080	64,260	256,410
KASHUNAMIUT	192.00	100,800	0	0	92,370	193,170
KENAI	9,723.50	601,020	630,000	0	2,666,340	3,897,360
KETCHIKAN	2,798.00	0	126,000	0	687,990	813,990
KLAWOCK	200.00	86,940	0	150,570	72,180	309,690
KODIAK	2,410.70	0	137,340	0	743,400	880,740
KUSPUK	413.45	86,940	0	0	259,620	346,560
LAKE AND PENN.	420.00	0	0	0	315,330	315,330
LOWER KUSKOKWIM	2,835.00	97,650	0	0	1,666,680	1,764,330
LOWER YUKON	1,352.00	412,650	0	0	692,520	1,105,170
MATSU	9,997.00	122,850	504,000	0	2,501,220	3,128,070
NENANA	180.00	75,600	0	163,170	78,450	317,220
NOME	777.95	0	168,840	0	274,740	443,580
NORTH SLOPE	1,406.00	166,320	182,700	0	657,630	1,006,650
NORTHWEST ARCTIC	1,583.60	138,600	182,700	0	823,200	1,144,500
PELICAN	48.00	0	0	61,110	30,780	91,890
PETERSBURG	707.00	0	126,000	0	186,960	312,960
PRIBILOF	153.00	630	0	0	93,870	94,500
RAILBELT	338.00	103,950	0	0	152,700	256,650
SITKA	1,745.00	0	126,000	0	414,360	540,360
SKAGWAY	130.00	10,710	0	116,550	53,010	180,270
SOUTHEAST	557.10	69,930	0	0	294,720	364,650
SOUTHWEST	485.00	49,770	0	0	318,060	367,830
ST MARY'S	115.60	0	0	134,190	68,490	202,680
TANANA	109.00	0	0	128,520	63,930	192,450
UNALASKA	298.00	181,440	0	165,690	114,450	461,580
VALDEZ	765.00	0	139,860	0	208,350	348,210
WRANGELL	520.00	0	126,000	0	152,220	278,220
YAKUTAT	152.00	36,540	0	132,300	63,540	232,380
YUKON FLATS	371.00	41,580	0	0	266,340	307,920
YUKON/KOYUKUK	510.00	62,370	0	0	333,930	396,300
YUPIIT	330.00	32,130	0	0	223,020	255,150
OTHER						225,640

TOTALS	111,439.80	\$4,656,960	\$3,526,740	\$2,237,760	\$33,258,840	\$43,905,940
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THIS SPREADSHEET ASSUMES INCREASED ENTITLEMENTS OVER AND ABOVE THE FY92 FULL FUNDING REQUEST OF \$541,746,200.

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F O EASTAUGH (RETIRED)

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D. ELIZABETH CUADRA
MARY A NORDALE
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ADMITTED IN WASHINGTON D C
AND ALASKA

ADMITTED IN VIRGINIA **
WASHINGTON D C AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

May 13, 1991

The Honorable J.M. Kerttula, Co-Chairman
The Honorable Pat Pourchot, Co-Chairman
Senate Finance Committee
Alaska Legislature
Capitol Building, Rm. 516
Juneau, Alaska 99801

Re: National Forest Receipts Distribution:
House Bill 54

Dear Senators Kerttula and Pourchot:

This letter is provided by the City of Craig, Alaska. The City of Craig supports HB 54, and fervently hopes it will become law during the present legislative session.

Alaska statutes, AS 41.15.180, need to be amended so as to remedy the existing situation under which Federal funds intended for municipalities impacted by national forest activities have not actually been reaching those municipalities which are located within the unorganized borough.

The State has been properly distributing national forest receipts monies to the organized boroughs which have national forest lands within their boundaries; and this legislation preserves that flow of monies to the organized boroughs, for their use for schools and roads.

The State, however, has been basically pocketing the other 70% of the national forest receipts without even accounting for how or where the money is spent. [Refer to Division of Legislative Audit's Report for FY ended 6/30/89, pp. 88-89.] This other 70%, arising from forest acreage within the unorganized borough, was intended by Congress to be used (for schools and public roads) to

The Honorable J.M. Kerttula, Co-Chairman
The Honorable Pat Pourchot, Co-Chairman
May 13, 1991
Page 2

alleviate the impact upon communities within or near the forest that generated the income. The State statute, as presently written, does not result in use of the funds as intended by Congress.

Federal law, 16 USC 500 enacted in 1908, provides that 25% of all money the Federal Government receives each fiscal year from each national forest is to be distributed for the benefit of the public schools and public roads of the county or counties in which each such national forest is located. Obviously Congress could not have meant the distribution to be strictly limited to counties as such, as there were no such entities (or even their equivalents by other names) in the territories.

There are numerous court decisions in which the Congressional intent underlying 16 USC 500 has been analyzed and explained: (1) these federal funds are intended to alleviate impacts of forestry on communities in the impact zone of the forest which generated the money, and the funds can only be used for schools or roads; (2) these are not "payments in lieu of taxes" (PILT) funds (the clear implication being that they are not intended as an offset for other state or local monies but instead are an additional overlay). [Refer to opinion letter, Cuadra to Mackie, dated 2/26/91, copy available in the Committee file]. Congress again reiterated its intent that these are impact funds when enacting the National Forest Management Act of 1976. [See Senate Report 94-893, dtd 5/14/76.]

In spite of the Congressional intent, since statehood roughly \$43 million have simply disappeared into the State's general fund, which were generated from the Tongass National Forest portion lying outside organized boroughs. This money should have been distributed to municipalities in the unorganized borough for their use for schools and roads. Last year alone, from the roughly \$9 million generated in the Tongass, some \$6 million went to the general fund instead of being distributed to the communities in the impact zone of the Tongass.

These are federal funds; it would be erroneous to think of corrective legislation such as HB 54 as "removing" these funds from the State's general fund. When the State is entrusted with federal assets to be used for a particular purpose, the State is legally obligated to carry out the intent of Congress on how those assets are expended. The present situation with national forest receipts generated from lands within the unorganized borough bears a certain resemblance to the mental health lands dispute with which the State has been so long entangled, and also a certain similarity to the

The Honorable J.M. Kerttula, Co-Chairman
The Honorable Pat Pourchot, Co-Chairman
May 13, 1991
Page 3

State's previous experience in administering National Petroleum Reserve - Alaska (NPR-A) Federal impact funds for local communities. In the NPR-A case (brought by three municipalities), the State was found at fault and the special nature and purpose of the Federal funds sustained. City of Barrow v. State of Alaska, 1JU-85-2634 Civ., Superior Court Summary Order, dated March 18, 1986. The Legislature should remedy the national forest receipts distribution problem during the current session.

The City of Craig was pleased to note that supporters of HB 54 have included the Office of the Governor, and the Commissioner of Community and Regional Affairs. The Alaska Municipal League supports HB 54.

Affected communities in the Tongass National Forest support remedial legislation, and want to see it enacted this year. Otherwise, several of them (each) stand to again lose several hundreds of thousands of dollars in the next annual distribution of national forest receipts. The Prince of Wales Community Advisory Council adopted a resolution urging amendment of the State statute so as to require national forest receipts generated within the unorganized borough to be distributed to communities within that borough, as the Federal statute intended. Members of that Council include the municipalities on Prince of Wales Island (such as Craig, Kasaan, Klawock, Hydaburg, Coffman Cove and Thorne Bay).

The City of Craig respectfully urges this Committee to act upon HB 54 favorably and expeditiously. We appreciate the Committee's consideration of our views on this subject.

Sincerely,



D. Elizabeth Cuadra
Craig City Attorney

DEC/k11.513
Enclosure

REPRESENTATIVE
JERRY MACKIE

P. O. BOX 73
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2930 HOME

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



WHILE IN JUNEAU
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4925

House of Representatives

April 5, 1991

MEMORANDUM

To: Rep. Navarre, Co-chair
Rep. MacLean, Co-chair
Rep. Barnes, Member
House Finance Sub-committee

From: Rep. Mackie *JAM*

Re: Attorney's opinion on HB 54, relating to national forest receipts.

In a previous finance committee hearing on HB 54, concern was expressed that the legislation tacitly admits that the current method of dispersing forest receipts for the unorganized borough is flawed. And hence, it may increase the state's exposure to litigant claims for a portion of past years' receipts.

The attached opinion reviews an Alaska Court decision on a similar question that was presented on the state's handling of NPR-A federal funds. It should give the committee some measure of comfort, at least to the issue of previous years' expenditures.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 4, 1991

SUBJECT: National Forest Receipts (CSHB54())
TO: Representative Jerry Mackie
Attn: Dave Gray
FROM: Jerry Luckhaupt *JER*
Legislative Counsel

You have requested a memorandum exploring the adequacy of AS 41.15.180(c) in regard to 16 U.S.C. §500 and the decision of the superior court in the case of Barrow v. State, No. 1JU-85-2634 Civil, First Judicial District. (Copy of summary judgment attached). You have also asked what the distribution of national forest receipts by the federal government under 16 U.S.C. §500 appears to be designed for. I will address these questions in order.

Initially, in considering your request it is necessary to examine the federal law we are concerned with here. 16 U.S.C. §500 provides:

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: Provided, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. . . .

The law provides that national forest income distributed to a state "shall be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is located." If the national forest lies in more than one county, the share to each county shall be proportional to the area of the forest within each county.

Representative Jerry Mackie
April 4, 1991
Page 2

As pointed out in an earlier memorandum, since we do not have counties in Alaska we must assume that a borough is comparable to a county. This seems to be a safe assumption as, from my discussions with you, the U. S. Forest Service currently makes payments directly to the organized boroughs which contain national forest land within their boundaries. Consequently, we must also consider the unorganized borough, that is all land outside of organized boroughs, to be a county.

Additionally, as noted in one of my earlier memoranda to you on this subject, AS 41.15.180(c) can only be reconciled with the requirements of the federal Act if the words "in the unorganized borough" are read into the state law. AS 41.15.180(c) provides:

(c) The commissioner shall deposit income from national forest land outside of organized boroughs in the general fund of the state, 25 percent to be used for public schools and 75 percent for roads.

If we assume that this means that national forest income deposited in the general fund is to be used "in the unorganized borough" then this subsection appears to comport with federal law. If income from national forest land outside of organized boroughs is deposited in the general fund for use for public schools and roads, not just in the unorganized borough, then it appears that the requirements of 16 U.S.C. §500 may not be met.

As to the sufficiency of the statute in light of Barrow v. State, it appears that a local government in the unorganized borough may be able to maintain an action against the state for failure to properly account for and utilize national forest income in the unorganized borough. In Barrow, the court was confronted with a suit brought by the cities of Barrow and Wainwright and the North Slope Borough, concerning the state's failure to properly account for and utilize impact funds distributed to the state under 42 U.S.C. §6508. Under that federal law half of all receipts from leases of land in the National Petroleum Reserve-Alaska (NPR-A) are paid to the state for planning, construction, maintenance, and operation of essential public facilities. In allocating these funds the state must give priority to use of the funds by political subdivisions "most directly or severely impacted by development of oil and gas leases" on the NPR-A.

From 1981 - 1984 the state did not follow this federal requirement and merely deposited half of these funds into the general fund and half into the permanent fund. Starting in 1984, the half not deposited in the permanent fund was deposited in a NPR-A reserve account. No program was developed for distribution of these funds to local governments in accordance with the federal law, though, the state maintained that the amount of money flowing from the general fund to the local governments was similar in amount and satisfied any claim the local governments may have to the NPR-A funds.

Representative Jerry Mackie

April 4, 1991

Page 3

The superior court in Barrow ruled in favor of the local governments, finding that the state's deposit of the funds in the general and permanent funds without regard to the federal requirements was illegal. The court ruled, though, that the local governments were not entitled to the funds deposited in the general fund in the past as the local governments had delayed in bringing their suit and because of the difficulty involved in trying to recreate the funds and state expenditures. The court required the state to gather the funds deposited in the reserve fund and the permanent fund and utilize them as required by the federal law. The court allowed the state to set off amounts appropriated to the local governments for projects actually arising out of oil and gas development activities. The court also required the state to properly account for all funds received by the state in the future under this program. The decision of the superior court was not appealed.

In light of this decision it appears that the current state practice of depositing national forest income from outside of organized boroughs in the general fund without any accounting or assurances that those funds are used in the unorganized borough for public schools and public roads may suffer from the same infirmities found by the court concerning the NPR-A revenues. A local government in the unorganized borough could possibly maintain an action against the state in this regard. A court decision in the local government's favor, presumably though, would only require the state to account for the national forest income and ensure that it is only used in the unorganized borough. A court decision in favor of a local government in the unorganized borough, would probably not require the state to reassemble national forest income that was deposited in the general fund for the same reasons provided in the NPR-A suit, those being: (1) that the local governments delayed in bringing their suit; and (2) that the appropriation process may be impossible to recreate for those funds deposited in the general fund. Also, a court could easily find that state appropriations for public schools and roads in the unorganized borough over the years have satisfied the state's duty to the unorganized borough as the superior court allowed the state to show in the Barrow case.

Finally, you have asked what are the distributions of national forest income under 16 U.S.C. § 500 appear to be designed for. In enacting the National Forest Management Act of 1976, which included amendments to 16 U.S.C. §500, the Senate report on the Act stated:

The formula for paying a 25 percent share of national forest revenues to counties in which National Forest System lands are located is adjusted to minimize adverse impacts on the counties.

1976 U.S.C.C.A.N.6667 (attached). The purpose of this distribution therefore, appears to be to minimize adverse impacts on local governments of activities occurring on national forest lands.

Representative Jerry Mackie
April 4, 1991
Page 4

If you have further questions, please contact me at your convenience.

GPL:pl
91-230.plm

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 CITY OF BARROW, CITY OF WAINWRIGHT,)
and NORTH SLOPE BOROUGH,)

4 Plaintiffs,)

5 v.)

6 STATE OF ALASKA, WILLIAM SHEFFIELD,)
7 Governor of Alaska, MARY NORDALE,)
8 Commissioner, Department of)
Revenue, State of Alaska,)

9 Defendants.)

FILED IN THE TRIAL COURTS
STATE OF ALASKA, FIRST DISTRICT
AT JUNEAU

MAR 13 1986

Clerk of Court

By FB Deputy

No. 1JU-85-2634 Civil

10
11 SUMMARY ORDER

12 Plaintiffs move for summary judgment on their
13 complaint for declaratory relief. Specifically, they seek a
14 judicial declaration that the defendants (hereinafter, the
15 State) have violated the terms of P.L. 96-514 (42 U.S.C. 6508)
16 by (a) failing to segregate funds received from the federal
17 government, (b) failing to establish a system by which political
18 subdivisions impacted by oil and gas development in the National
19 Petroleum Reserve - Alaska (hereinafter, NPR-A) could apply for
20 or receive funds to impacted subdivisions on a priority basis as
21 required by the federal law and (c) appropriating those funds to
22 the general use of the State of Alaska. (Plaintiffs alterna-
23 tively seek parallel declaratory relief on the basis of breach
24 of fiduciary duty to administer a trust created by P.L. 96-514.)
25 Plaintiffs additionally seek a declaration that ch. 94, SLA
26 1984, requires all funds (past or future) received by the State
27 from the federal government under P.L. 96-514 to be placed in a
28 special revenue fund and made available for appropriation by the
29 legislature under a system which complies with the requirements
30 of P.L. 96-514. Lastly, plaintiffs seek injunctive relief
31 (a) requiring the State to segregate and account for all funds
32 received under P.L. 96-514 and to administer those funds in

1 accordance with law and (b) prohibiting the State from expending
2 any P.L. 96-514 revenues (past or future) until a system is
3 established for lawful administration and disposition of such
4 funds.

5 The State has filed a cross-motion for summary judgment,
6 arguing first that the plaintiffs' complaint does not
7 state a cause of action. The State argues to this result from
8 its conclusion that P.L. 96-514 imposes no judicially enforce-
9 able conditions on Alaska's receipt of NPR-A revenues.
10 Additionally, the State argues (a) that the plaintiff municipal-
11 ities have no right to share in NPR-A revenues in advance of
12 actual commercial production from NPR-A; (b) that the State is
13 entitled to deposit a portion of NPR-A revenues directly into
14 the Alaska Permanent Fund upon receipt; (c) that the State is
15 under no obligation to adopt specific procedures whereby
16 political subdivisions may apply for and receive NPR-A funds;
17 (d) that plaintiffs' delay in bringing this action bars their
18 claims for relief as to moneys already expended by the State;
19 (e) that any State obligation with respect to NPR-A funds should
20 be deemed satisfied through the sharing of state revenues with
21 the plaintiff municipalities under other programs; and (f) that
22 ch. 94, SLA 1984, does not affect NPR-A revenues which were
23 received and spent by the State prior to the date on which that
24 law became effective.

25 The parties have both requested expedited handling of
26 this motion. Oral argument was heard one week after the
27 briefing was completed. In order to avoid further delay¹ in
28
29

30 1. The six-week period during which this case has
31 been held under advisement coincides almost exactly with the
32 period during which the undersigned has been the only superior
court judge present in Juneau.

1 announcing the court's decision, the court's conclusions on the
2 above issues are set out below in summary fashion.

3 1. Mandatory Duty Regarding Allocation of NPR-A Revenues.

4 A. P.L. 96-415 provides that half of all receipts
5 from sales, rentals, bonuses and royalties on leases pertaining
6 to lands in the National Petroleum Reserve - Alaska shall be
7 paid by the federal government to the State of Alaska "for
8 (a) planning, (b) construction, maintenance and operation of
9 essential public facilities, and (c) other necessary provisions
10 of public service." In the allocation of such funds, the
11 federal act establishes a mandatory duty on the State of Alaska
12 to "give priority to use [of NPR-A funds] by subdivisions of the
13 state most directly or severely impacted by development of oil
14 and gas leased under [P.L. 96-514]."

15 B. The duty imposed by P.L. 96-514 ultimately falls
16 upon the Alaska Legislature (because it has the spending power),
17 and it includes the duties to examine the claimed needs of
18 subdivisions arising from oil and gas development impacts, to
19 evaluate them and, if the claimed needs are found to exist, to
20 rank them in order of priority, and to meet or satisfy them out
21 of NPR-A revenues.

22 C. The duty set out above may be met through exist-
23 ing entities and the budget review process; it is not necessary
24 that a new apparatus be created to receive NPR-A claims.

25 2. When the Duty Arises.

26 The duty arises upon the commencement of any "develop-
27 ment" of the subject tracts. Because "development" includes
28 "any step taken in the search for . . . hydrocarbons" (as well
29 as capture, production and marketing of same), it is clear that
30 the duty arises well before actual commercial production and
31 exists at least as early as when test wells are being drilled.
32 Of course, in evaluating claimed impact needs, and in

1 determining whether they truly exist, the legislature certainly
2 may take into account the likely pace of exploration, the
3 likelihood of further exploration, the likelihood of actual
4 commercial production which may result and its likely pace, etc.

5 3. Automatic Deposit into Permanent Fund.

6 The State cannot, consistent with its obligations
7 under P.L. 96-514, automatically deposit 50% (or any amount) of
8 all NPR-A revenues into the Alaska Permanent Fund. Such action
9 clearly contravenes the mandatory duty placed on the State by
10 the very law which authorizes payments to the State (since such
11 payments are made on the condition that the State "give priority
12 to use [of such funds] by subdivisions of the state most
13 directly or severely impacted" by the developments of leased
14 lands). Rather than a direct deposit to the permanent fund, the
15 State must first resort to the process referred to in Parts 1-B
16 and 1-C above to examine the claimed needs of impacted subdivi-
17 sions and to rank any found to exist. Because the language of
18 the federal act is so broad concerning the allowable objects of
19 state expenditure of NPR-A funds ("other necessary provisions of
20 public service"), it is conceivable that an allocation of NPR-A
21 revenues to the permanent fund might be allowable after the
22 State complies with the mandatory duty imposed on it to evaluate
23 needs and establish priorities. But this difficult question
24 need not be resolved now, for on the undisputed facts before the
25 court the State has made no effort at all to meet the duty
26 imposed upon it. The automatic deposits into the permanent fund
27 clearly violate the federal law.

28 4. Plaintiffs' Delay in Filing Lawsuit.

29 By virtue of their delay in bringing this action,
30 plaintiffs are barred from obtaining relief as to any moneys
31 already expended by the State. Because the State is under a
32 duty under federal law to undertake an evaluative process to

1 prioritize claims, and because it would be impossible to
2 recreate the conditions under which that process would have
3 taken place in 1982 and 1983 (for example), the State would be
4 prejudiced by an order now requiring it to place into a special
5 fund monies which have been expended for other purposes and an
6 order requiring it to make allocations based on a system of
7 priorities which cannot be recreated. There is no bar, however,
8 as to those funds which have been placed in the NPR-A reserve
9 account since 1984, and there is no bar as to those funds
10 deposited directly into the Permanent Fund.

11 5. Satisfaction.

12 Summary judgment on this defense is denied. Even
13 assuming that the amount of development-related impact needs of
14 the plaintiffs for the period 1981 - 1985 could somehow be known
15 by this court without formal legislative determination under the
16 process mandated by the federal act, there would remain factual
17 matters in dispute. The court, however, adopts the position of
18 the State that it may show satisfaction to the extent that it
19 shows that a given appropriation to plaintiffs was for needs
20 arising out of oil and gas development-related impacts.

21 6. Ch. 94, SLA 1984.

22 Having determined that federal law imposes a mandatory
23 duty upon the State as set out above, it is unnecessary to
24 consider whether state law too forbids the practices complained
25 of here by plaintiffs. Under the supremacy clause of the
26 federal constitution, federal law controls. Whether ch. 94, SLA
27 1984, also requires, as a matter of state law, that which
28 P.L. 96-514 requires therefore need not be decided.

29 CONCLUSION

30 Having reached the above conclusions, the court
31 declares the rights of the parties and orders as follows:

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- (1) The State has violated P.L. 96-514 by failing to establish a system by which political subdivisions impacted by oil and gas development in the NPR-A could apply for and receive funds on a priority basis.
- (2) The State has violated P.L. 96-514 by appropriating NPR-A funds to the general use of the State of Alaska without giving priority to those uses specified in P.L. 96-514.
- (3) The State is required to segregate and account for all funds received under P.L. 96-514, other than those already expended.
- (4) The State is required to administer funds received under P.L. 96-514 in such a way that it gives priority to the use of such funds by subdivisions most directly or severely impacted by development of oil and gas leased under P.L. 96-514.
- (5) As to the defense of satisfaction, that matter must be reserved for trial on the factual issue whether any appropriations to plaintiffs during the years in question were for needs arising from impacts related to oil and gas development.

The matter will be scheduled for trial at counsel's request upon the filing of a proposed scheduling order signed by all parties, or a scheduling conference will be set if counsel are unable to agree upon a schedule for trial.

IT IS SO ORDERED.

DONE at Juneau, Alaska, this 15th day of March, 1986.

Walter L. Carpeneti

Walter L. Carpeneti
Superior Court Judge

HB 56

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 19, 1991

FURTHER REFERRALS:

Date of Committee Action: 2/27/91

The FINANCE Committee considered:

HB 56

HOUSE BILL NO. 56

TEACHING CERTIFICATES FOR RETIREES

"An Act relating to certification of retired teachers."

RECOMMENDATIONS:

be replaced with CS HB 56 (fin) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note HFC 2-27-91

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Mike Havame</i>				
<i>Eileen P. Muehan</i>				
<i>Tan Brown</i>				
<i>Tamara Barnes</i>				
<i>Mark Boyer</i>				
<i>Donald J. ...</i>				
<i>Willo ...</i>				
<i>Colleen ...</i>				
<i>Ken ...</i>				

Mike Havame Eileen Muehan
Chairman's Signature

CS FOR HOUSE BILL NO. 56 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES NAVARRE, B.Davis

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to certification of retired teachers; and providing for an effective date."

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

3 * Section 1. AS 14.20.020 is amended by adding a new subsection to read:

4 (g) The department shall issue a teacher certificate to a person who possessed a valid
5 teacher certificate upon retirement and who is receiving retirement benefits under the Teachers'
6 Retirement System of Alaska. A teacher certificate issued under this subsection is valid for the
7 life of the retired teacher and qualifies the holder as a substitute teacher in the state.

8 * Sec. 2. This Act takes effect July 1, 1991.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 56 (FIN)

Revision Date: _____ Department Affected: Education
 Title: Certification of Retired BRU: Education Finance & Support Services
Teachers Component: Teacher Certification Unit
 Sponsor: Navarre
 Requestor: House Finance Committee COMPONENT SERIAL NO.

1	2	4	0
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary.)

Mike Navarre
Eileen MacLean

Prepared By: Representative Mike Navarre, Co-Chair Phone: 465-3706
Representative Eileen MacLean, Co-Chair Phone: 465-3722
 Division: HOUSE FINANCE COMMITTEE Date: 2/27/91

Approved by Commissioner: _____
 Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

SI 1
 Version: HB 56
 (H) Publish Date: 2/19/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Education
 Title: Certification of retired teachers BRU: Education Finance & Support Services
 Component: Teacher Certification Unit
 Sponsor: Navarre
 Requestor: House HESS COMPONENT SERIAL NO.

1	2	4	0
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	6.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	6.0					
FEDERAL FUNDS						
OTHER						
TOTAL	6.0	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Implementation of HB56 requires a one-time contract for computer programming to revise the teacher certification tracking system.

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 2/13/91
 Approved by Commissioner: Steve Hole, Acting Commissioner
 Agency: Education Date: 2/13/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

ALASKA STATE LEGISLATURE
REPRESENTATIVE MIKE NAVARRE

Co-Chair
House Finance Committee
P.O. Box V
Juneau, Alaska 99811
(907) 465-3779

February 22, 1991

Sponsor Statement

FROM: Representative Mike Navarre

SUBJECT: House Bill 56, An Act relating to lifetime certificates for retired teachers.

.....
Purpose of HB 56

House Bill 56 is an innocuous bill that provides a lifetime certificate for retired teachers. The lifetime certificate would allow retired teachers to substitute without having to renew their certificate every five years.

Points of Interest

1. Retired teachers are a valuable asset to any school district and their expertise should be utilized.
2. Certification for retired teachers who have a long career behind them seems to be a redundant requirement. A substitute is involved in a wide range subject areas. The obvious question to follow with is "In what subject area do they take their six credit hour certification requirements?"
3. HB 56 is not a burden to local school districts because they retain the right to select their substitutes.
4. HB 56 applies to teachers who are members of TRS. If a teacher decides to reenter the teaching profession as a full-time teacher, then the teacher must reapply through the normal certification procedure.
5. Finally, HB 56 is a simple, harmless, but helpful piece of legislation that benefits a group of retired teachers who would like to continue on a limited basis their contribution to the children of Alaska.
6. HB 56 would provide the opportunity for the retired teacher to substitute teach at a higher rate of pay. Since school districts desire certificated instructors in the classroom HB 56 would not impose an unusual or additional cost burden on the school districts.

Anticipated Costs of HB 56

There are no costs for HB 56, because a school district maintains the right to hire noncertificated, therefore less costly substitute teachers.

I have suggested to the Department of Education that a one time fee of \$100 be set to offset any costs that may be associated with the implementation and operation of this program.

The Department of Education notified my office this morning (2/13/91) that a fiscal note of \$6,000 will be requested for a computer update that will allow DOE to track retired teachers.

Support for HB 56

Support letters are attached to this statement.

DISTRICT 5

34824 K-Beach Road • Soldotna, Alaska 99669 • (907) 262-7842



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

February 11, 1991

To: Representatives Carney and Lincoln, Co-Chairs
Members, House HESS Committee

Re: HB 56; *"An Act to certification of retired
teachers."*

NEA-Alaska supports and encourages your favorable consideration of HB 56.

This legislation represents a statement of appreciation to teachers who have dedicated their professional career to public education in Alaska. It is also a statement of the worth of their continued contribution.

A person who has retired from teaching in the public schools in Alaska has a wealth of experience and valuable background information which will make them more effective as a substitute teacher should they chose to continue teaching on a limited time basis.

HB 56 places no additional burden on employing school districts since they retain the prerogative of selection in their choice of substitute teachers for their districts.

Thank you for your consideration of our recommendation.

Respectfully submitted,

Bob Manners
Executive Director

Don Oberg
President

cc: Representative Navarre

Feb. 10, 1991
Soldotna, Ak. 99669

Rep. Mike Navarre,

I would like to express your support for HB. 56.

This is a bill which would benefit a group of people on limited, fixed incomes

It would make available more people to substitute at a decent day wage without putting out a good sum of money for recertification. Many people are unable to put out the price for recertification

This bill would not involve a great expenditure to the state and would help and reward a segment of the population who have invested years of service in the state.

Thank you.

Luth Knorr
Box 1163

Soldotna, Ak
99669

Myrtle Mearns

402

House Bill 56

465-2278

For 34 years I have taught school in Alaska - first as a full time teacher and now for over years as a substitute. Alaska is home - By giving your support for House Bill 56 we retired teachers Alaska can enjoy a full retirement, and all of Alaska will gain

Prima Wilson

HB57

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Date of Committee Action: 4/12/91

The FINANCE Committee considered:

HB 57

HOUSE BILL NO. 57

SHORE FISHERIES LAND CLASSIFICATION

"An Act relating to leases of state land for fisheries development; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 57 (FIN) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note HFC

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Navaree</i> NAVAREE		<i>Bob Sharp</i> Sharp		<input checked="" type="checkbox"/>	
<i>Tan Brown</i> BROWN		<i>Robert Phillips</i> Phillips		<input checked="" type="checkbox"/>	
<i>Kopona</i> KOPONA		<i>Eileen P. Maclean</i> Maclean		<input checked="" type="checkbox"/>	
<i>George Jackson</i> JACKSON		<i>Kamela Barnes</i> Barnes		<input checked="" type="checkbox"/>	

Mike Navaree *Eileen P. Maclean*
 CHAIRMAN'S SIGNATURE
 NAVAREE Maclean

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 57 (FIN)

Revision Date: _____ Department Affected: Natural Resources
 Title: Lease of State Land for Fisheries Development BRU: Land & Water Management
 Component: Land & Water Management
 Sponsor: Representative Navarre
 Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO. 413

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair *Mike Navarre* 465-3706
Representative Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722
 Division: _____ Date: April 12, 1991

Approved by Commissioner: _____
 Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 57 (FINANCE)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
 Referred:

Sponsor(s): REPRESENTATIVE NAVARRE, Davidson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to leases of state land for fisheries development; and providing for an
 2 effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. PURPOSE. It is the purpose of this Act to provide for the continued classification and
 5 lease of state land for shore fisheries development in an area or region of the state where the
 6 commissioner of natural resources has not adopted a land use plan under AS 38.04.065 and to direct the
 7 commissioner to adopt land use plans for an area or region of the state containing tideland having shore
 8 fisheries development activities that currently does not have a land use plan.

9 * Sec. 2. AS 38.05.082(b) is amended to read:

10 (b) The director may classify land as subject to leases for fisheries development. In an
 11 area or region of the state for which a land use plan has not been adopted under
 12 AS 38.04.065, the director may classify land for lease under this section after notice under
 13 AS 38.05.945. The director shall [, AND] publicly invite applications for lease of the selected
 14 areas. Each application shall be accompanied by an affidavit to the effect that the applicant

1 presently intends to personally utilize the leased area for fishing purposes the following season.
2 If two or more applications are received for the same shore area, the director shall award the
3 lease to the most qualified applicant. In determining the qualifications of applicants, the director
4 shall consider the length of time during which the applicant has been engaged in set netting, the
5 proximity of the past fishing sites of the applicant to the land to be leased, the present ability of
6 the applicant to utilize the location to its maximum potential, and other factors relevant to the
7 equitable assignment of the disputed area. If the director cannot determine a preference between
8 conflicting applicants for the same lease site on the basis of qualifications, the director shall
9 select between the applicants by lot. An aggrieved applicant may appeal to the commissioner
10 within 30 [FIVE] days for a review of the director's determination.

11 * Sec. 3. AS 38.05.082(b) is amended to read:

12 (b) The director may classify land as subject to leases for fisheries development, and [IN
13 AN AREA OR REGION OF THE STATE FOR WHICH A LAND USE PLAN HAS NOT
14 BEEN ADOPTED UNDER AS 38.04.065, THE DIRECTOR MAY CLASSIFY LAND FOR
15 LEASE UNDER THIS SECTION AFTER NOTICE UNDER AS 38.05.945. THE DIRECTOR
16 SHALL] publicly invite applications for lease of the selected areas. Each application shall be
17 accompanied by an affidavit to the effect that the applicant presently intends to personally utilize
18 the leased area for fishing purposes the following season. If two or more applications are
19 received for the same shore area, the director shall award the lease to the most qualified
20 applicant. In determining the qualifications of applicants, the director shall consider the length
21 of time during which the applicant has been engaged in set netting, the proximity of the past
22 fishing sites of the applicant to the land to be leased, the present ability of the applicant to utilize
23 the location to its maximum potential, and other factors relevant to the equitable assignment of
24 the disputed area. If the director cannot determine a preference between conflicting applicants
25 for the same lease site on the basis of qualifications, the director shall select between the
26 applicants by lot. An aggrieved applicant may appeal to the commissioner within 30 days for
27 a review of the director's determination.

28 * Sec. 4. COMPLETION OF LAND USE PLANS. The commissioner of natural resources is directed
29 to adopt a land use plan under AS 38.04.065 by January 1, 1997, for an area or region of the state
30 containing tideland having shore fisheries development activities for which a land use plan has not
31 already been adopted.

- 1 * Sec. 5. Section 3 of this Act takes effect January 1, 1997.
- 2 * Sec. 6. Except for sec. 3 of this Act, this Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 57

Revision Date: 3/5/91 Department Affected: Fish and Game

Title: Shore Fisheries Land BRU: Commercial Fisheries

Classification Component: Commercial Fisheries

Sponsor: Representative Navarre

Requestor: Governor COMPONENT SERIAL NO.

	4	5	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

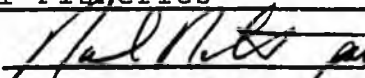
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210

Division: Commercial Fisheries Date: 3/5/91

Approved by Commissioner: 

Agency: Fish and Game Date: 3/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1
Bill Version: CSHB 57(RES)
(H) Publish Date: 3/15/91

Revision Date: 4-Mar-91 Department Affected: Natural Resources
Title: Lease of State Land for Fisheries Development BRU: Land & Water Management
Sponsor: Representative Navarre Components: Land & Water Management
Requestor: House Resources COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES		102.7	102.7			
TRAVEL		15.0	15.0			
CONTRACTUAL		14.0	14.0			
SUPPLIES		1.0	1.0			
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	132.7	132.7	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		132.7	132.7			
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	132.7	132.7	0.0	0.0	0.0

POSITIONS:

FULL-TIME		2.0	2.0			
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Ron Swanson Phone: 762-2680
Division: Land and Water Management Date: 4-Mar-91

Approved by Commissioner: Harold Heinze Date: 4-Mar-91
Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note for CSHB 57 (Resources), continued

Area plans generally take several years to complete. This plan would not be started until FY 93.

100 <u>Personal Services</u> :	NRM I (18A)	\$ 54.6
	NRO II (16A)	48.1
200 <u>Travel</u> :	Anch. & Kodiak Planning Team Meetings	5.0
	Public Meetings (8-10 locations)	10.0
300 <u>Contractual</u> :	Planning Brochure	2.0
	Copying, Newsletters, Ads.	3.0
	Inventory, Mapping	6.0
	Plan Printing	3.0
400 <u>Supplies</u> :	Miscellaneous Supplies	1.0
	Total	\$132.7

COMMITTEE COPY

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

(Phone) 762-2253

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT
SOUTHCENTRAL REGION

3601 C STREET
BOX 107005
ANCHORAGE, ALASKA 99510-7005

April 8, 1991

APR 10 1991

Mr. Don Bailey
Box 416
Anchor Point, Ak 99556

Re: Shore Fishery Leases
ADL Nos. 201790 & 201791

Dear Mr. Bailey:

You called me last week and were concerned that the referenced leases had expired. You and your wife, Gloria, have been fishing these lease sites since 1980. Your lease renewal applications and 1990 rentals were submitted last May. Adjudication of the applications by this office has yet to be accomplished.

I explained that during this past year, we have had a staff vacancy in the Shore Fishery Unit, which has affected our ability to promptly respond to applications and other requests. Also, I explained that an application vests no interest in state land.

As you know, we recently discovered that we are prevented from issuing new shore fishery leases and approving lease renewal applications where tide and submerged lands have not been classified. Consequently, we are unable to proceed with adjudication of your application.

As you explained, this places you and your wife in a rather difficult situation. Without an issued shore fishery lease, the sites become available to anyone having their nets in the water first (first in time, first in right). This means that you must have your nets in the water at the initial opening of fishing season. If you are not the first ones on your sites, you lose the right to fish those sites until after the first party leaves or until closure of the area to fishing, whichever occurs first.

I understand your concern. However, we are unable to help because we are without statutory authority to issue leases (including renewals and certain amendments) in unclassified areas. There are approximately 125 expired shore fishery leases in unclassified areas. We are awaiting action by the legislature on House Bill 57, sponsored by Representatives Navarre and Davidson. As discussed in our letter of March 11, 1991, which was sent to all shore fishery

Don Bailey
April 8, 1991
Page 2

lessees and applicants, if passed, the bill would enable the department to move forward with shore fishery lease adjudication in unclassified areas. I am enclosing a copy of the bill for your information (I believe this is the latest version). The legislative information available to me indicates that the bill will undergo review by the Resources Committee on April 12, 1991.

We are preparing to move quickly on all shore fishery lease applications if this bill is enacted. If the bill is not enacted, your application will be denied and your rentals will be refunded.

Please call me if you have questions concerning your pending shore fishery lease renewal request.

Sincerely,



Judy Jett, Acting Chief
Planning and Development

cc: Representative Mike Navarre
Representative Cliff Davidson

Enclosure

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 2, 1991

SUBJECT: Leases for Shore Fisheries Development (CSHB 57)
(Work Order No. 7LS-0334S)

TO: Representative Mike Navarre
Attn: Tom Ackerley

FROM: Jerry Luckhaupt *JEL*
Legislative Counsel

You have requested a sectional for the above-referenced version of a committee substitute for HB 57. Preliminarily, please note that a sectional analysis should not be considered an authoritative interpretation of a bill - the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it relates to a particular set of circumstances, please advise.

Section 1 of the bill provides a purpose clause.

Section 2 of the bill amends AS 38.05.082(b), to provide an exception allowing the director of the division of lands of the department of natural resources, to classify lands for shore fisheries development leases, in areas of the state where an area or regional land use plan under AS 38.04.065 has not been completed. An additional change on p. 2, line 10, requested by DNR, provides for a longer appeal period from the director's decisions.

Section 4 of the bill provides that the department of natural resources shall adopt land use plans for those areas of the state with tidelands and which currently do not have land plans. DNR is to accomplish this by January 1, 1995.

Section 6 of the bill provides an effective date making section 1,2, and 4 of the bill effective immediately under AS 01.10.070(c).

Section 3 of the bill amends AS 38.05.082(b) to remove the exception (other than the extended appeal period requested by DNR) provided by section 2 of the bill.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

March 5, 1991

The Honorable Cliff Davidson, Chair
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

Subject: CSHB 57 (Resources), which relates to leases of state land for fisheries development.

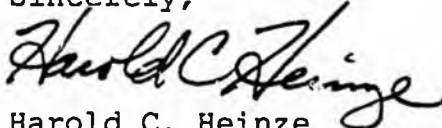
Position: The department supports the ^{proposed} House Resources Committee substitute for HB 57.

Background: Currently, DNR cannot issue set net leases without completing the required state land planning and classification process for the area. Potential set net site lessees are concerned that the department cannot act quickly on applications for sites where the land planning and classification process has not been completed.

This bill grants a temporary exemption to DNR from state land planning and classification requirements for set net lease sites in non-planned areas of the state. Until 1995, the department may classify land for set net lease sites in areas without a land plan after issuing a public notice under AS 38.04.06J. By January 1, 1995, however, the department is to have completed plans for all state tidelands proposed for set net leases, which will end the need for the set net site planning/classification exemption.

Please let me know if you need additional information about this matter.

Sincerely,



Harold C. Heinze
Commissioner

cc: Committee members
Representative Navarre
Bruce Kendall, Legislative Liaison, Office of the Governor

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

3501 C STREET
BOX 107005
ANCHORAGE, ALASKA 99513-7005

DIVISION OF LAND AND WATER SOUTHCENTRAL REGION

March 11, 1991

Re: Shore Fishery Lease

Dear Shore Fishery Lessee or Applicant:

The purpose of this letter is to inform you about the effect of land classification on your shore fishery lease or application.

Under state law, prior to the disposal of an interest in state land, the land must be "classified". Shore fishery leases are a disposal of interest in state land. On July 30, 1990, the Attorney General's Office informed the division that shore fishery leasing is not exempt from the statutory planning and classification process.

A classification identifies the primary use for which the land will be managed. Classification is based on a regional land use plan, such as the Prince William Sound Area Plan, or by a management plan or land planning report.

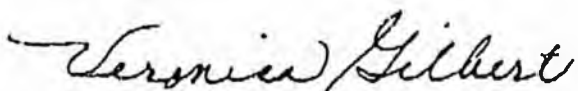
Tide and submerged lands in Cook Inlet, Kodiak and the Alaska Peninsula (outside of those classified by the Bristol Bay Area Plan) have not been classified. Work has recently begun on the Kenai Peninsula Area Plan which will include tide and submerged lands on both sides of Cook Inlet.

However, Representative Navarre has recently introduced legislation that would exempt Shore fishery leases from the land use planning and classification requirement until 1995. If passed, this bill will again enable the department to move forward.

The state considers leases issued in good faith by the department before July 30, 1990, to be valid existing rights. However, until tide and submerged lands have been classified or the law changed, this division will be unable to adjudicate shore fishery leases, applications (including renewals and certain amendments) in Cook Inlet, Kodiak and the unclassified areas of the Alaska Peninsula. We apologize for any inconvenience this causes.

If you have a question on a pending application or adjudication issue please contact the Shore Fishery Unit at 762-2469.

Cordially,



Veronica Gilbert
Regional Manager

<SC nec:assid

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

DIVISION OF LEGAL SERVICES
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MEMORANDUM

March 2, 1991

SUBJECT: Leases for Shore Fisheries Development (CSHB 57)
(Work Order No. 7LS-0334(S))

TO: Representative Mike Navarre
Attn: Tom Ackerley

FROM: Jerry Luckhaupt *JEL*
Legislative Counsel

You have requested a sectional for the above-referenced version of a committee substitute for HB 57. Preliminarily, please note that a sectional analysis should not be considered an authoritative interpretation of a bill - the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it relates to a particular set of circumstances, please advise.

Section 1 of the bill provides a purpose clause.

Section 2 of the bill amends AS 38.05.082(b), to provide an exception allowing the director of the division of lands of the department of natural resources, to classify lands for shore fisheries development leases, in areas of the state where an area or regional land use plan under AS 38.04.065 has not been completed. An additional change on p. 2, line 10, requested by DNR, provides for a longer appeal period from the director's decisions.

Section 4 of the bill provides that the department of natural resources shall adopt land use plans for those areas of the state with tidelands and which currently do not have land plans. DNR is to accomplish this by January 1, 1995.

Section 6 of the bill provides an effective date making section 1,2, and 4 of the bill effective immediately under AS 01.10.070(c).

Section 3 of the bill amends AS 38.05.082(b) to remove the exception (other than the extended appeal period requested by DNR) provided by section 2 of the bill.