

**ALASKA LEGISLATURE**

**1384**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**

RIP did generate a net reduction in personal service costs but budget impact is uncertain

We are also confident that state agencies realized a *net reduction in personal services costs*, or savings, through RIP. For the RIP participant positions (also known as PCNs for position control number in budgetary terms), where replacements were hired in at lower pay, there was a net reduction. State agencies spent, and will prospectively spend less for those specific PCNs in the first, second, and third years than they would have, had the RIP retiree remained as the incumbent.

Doubts are often expressed about the savings generated by RIP because they rarely, if at all, are reflected in state agency budget requests. Further, the incremental nature of most of the 1989 RIP savings contribute further to this lack of visibility in agency budgets. When savings are generated through the elimination of positions left vacant by RIP participants, then the budgetary impact is more clearly reflected in the fewer number of positions in the agencies' budget requests.

However, when savings are primarily due to the incremental difference between RIP participants' personal service costs and those of their replacements, identifying savings for legislative consideration is more difficult and subtle. Such savings get lost in a blend of budgetary incremental adjustments such as those generated by new union contracts, new positions for new programs, new positions for old programs, adjustments for vacancy and turnover, etc.

Accordingly, we believe the savings shown for the various state agencies in Schedule 2 on page 10 were realistic, and for the most part, have been or will be realized. However, we cannot reasonably estimate how much of these savings were reflected in agency budget requests or remained in year-end balances that lapsed back to the general fund, although we believe that, to some degree, both of these happen.

Savings and program recommendations discussed further in Auditor Comments

In the following Auditor Comments section we offer examples of how state agencies may be using RIP-generated savings, and discuss how the university is using savings for what they term "budget reallocation" and "budget reduction" purposes. We also suggest that the legislature provide for improved monitoring of RIP-generated savings, when considering any future RIPs.

## AUDITOR COMMENTS

As concluded in the previous section, we are confident that RIP generated a *net reduction in personal services costs* (as intended by its authorizing legislation). However, existence of these savings is met with some skepticism, because they do not appear to be reflected in state agency operating budgets. Often, agencies take advantage of the flexibility afforded from the reduction of personal services costs to reallocate and use the savings without legislative budgetary oversight. To the skeptics, and from a conservative budgetary viewpoint, to the extent this occurs, such reallocations do not represent savings, nor do they result in a *net reduction in personal services costs*.

### Four examples illustrate how RIP "savings" may have been used besides budget reduction

For example, consider the *net reduction in personal service costs* that may or may not be involved in the following situations:

1. RIP savings are used to hire temporary staff. With the RIP savings that an agency generates in its personal services budget, management decides to hire temporary workers to carry out a special project. The work was important, necessary to the agency's functioning, but until the flexibility provided by the RIP, the agency never had the available funding to accomplish the task.

Although RIP generated the savings used to hire the staff and pay the overtime, agency management has decided how those savings were used. In this instance, RIP generated a savings, but from a budgetary aspect, none would be reflected in a *net reduction in personal services costs*.

2. RIP savings are transferred to contractual budget category. With the savings generated by RIP an agency transfers authorizations from the personal services to the contractual services budget category. With this increased funding, the agency contracts for some or all of the services that had previously been performed by the RIP retiree.

Again, in this example RIP has provided savings. Through the use of a budgetary mechanism, even a *net reduction in personal services costs* has been achieved. However, as in the first example, it is agency management that is deciding how to reallocate RIP savings, and from a budget reduction viewpoint, no savings are realized despite the personal services cost reduction.

3. RIP savings allotted to other programs. One difficulty that both we and officials at the University of Alaska had with estimating RIP savings was the treatment of "budget reallocation" savings. University officials reported that RIP provided administrators

increased flexibility and was used in part, to reconfigure the instructional staff at various campuses in response to student demand (see inset at right).

For example, if an accounting professor retired under RIP, that position itself may be left vacant but the savings generated may be used for a myriad of other activities.

Again, RIP has generated savings, and to some extent, a *net reduction in personal services costs* was probably generated, but all was done outside the influence of legislative budget review. From the budgetary aspect, no savings were realized, because none were reflected in the university's budget request.

4. RIP participant's position is cut. When RIP generates savings through elimination of a position, without a budgetary monitoring system, even these more discrete savings can be temporary. For example, an agency eliminates a position from the budget left vacant by a RIP retiree. The agency has decided to either to absorb the RIP participant's workload with existing staff, discontinue the services provided by the retiree, or perhaps, as mentioned above, "contract-out" the tasks. Now, from a budgetary perspective, RIP savings are more readily realized, since agency budget requests are reduced to reflect the eliminated position.

However, two years later, perhaps under a different administration, management requests and obtains funding for a "new" position. The new position is needed to perform all or most of the tasks that were previously done by the RIP retiree. If funded, the legislature is reallocating, probably unknowingly, a portion of RIP's *net reduction in personal services costs*.

### UNIVERSITY REALLOCATION INDICATES HOW RIP SAVINGS ARE USED

One university campus wrote us describing what they did with more than \$170,000 in savings (projected over a three-year period) generated by one retiring professor.

The position vacated by the [RIP participant] was an associate professor of Business Administration at the Seward campus. The position was not filled in order to save money that could be reallocated for use in meeting the changing needs of the campus' constituency. Reallocation of funds saved by not filling this position made it possible to increase business program offerings in the concerted arrangement with Sheldon Jackson College, partially fund a faculty position in Computer Information Systems, add courses outside of the faculty member's expertise and eliminate courses no longer pertinent. The work of the position was accomplished through the hire of temporary faculty for teaching, and non-teaching duties were reassigned to another employee.

All assumptions and projections of savings made by the university were reasonable and conservative; but in light of the narrative above, it is debatable about whether the projections could be considered "savings." Since we wanted to be conservative in developing our estimate of savings, we classified this particular situation as a "budget reallocation." In erring on the side of conservatism, we defined budget reallocations as not being savings.

Because we know more about the circumstances surrounding University retirees, we actually were more conservative in refining their cost estimates than we could be with state government retirees. We have limited insight into how State of Alaska savings may have been similarly reallocated.

### Legislature was concerned about RIP accountability

The legislature was concerned about the accountability of RIP savings. The program's implementing legislation required the Office of Management and Budget (OMB) to submit annual reports on RIP and its impact each January 15 from 1991 through 1994. The report was required to provide the

*information necessary for the legislature to evaluate the effectiveness of the program in achieving its objectives. The report should include information on the designated organizational units under the retirement incentive plans including the cost of the retirement incentive program per participant, the cost to the state, the cost to the employee, the annual budgeted amount by agency for the retirement incentive, and the projected or actual savings over the three-year period.*

The 1991 report, did contain the information specified in the legislation, and we used the report as a basis for developing the costs and savings included in this report. However, the costs and data specified and submitted does not provide necessary information regarding how the projected savings were utilized or how they affected the subsequent FY 92 budget.

### Either OMB or Legislative Finance should monitor future RIPs

In addition to the report information required by the 1989 RIP legislation, the legislature should consider directing either OMB or the Division of Legislative Finance to specifically monitor RIP-generated savings. The legislature should direct one of these agencies to account for savings generated by vacant positions and the incremental differences in salary and benefits for various state agency budget request units.

By breaking down and analyzing the budgetary impact of RIP retirees, these budget review agencies could develop an adjustment factor to be used in budget construction and review. Such a factor, similar to the adjustments currently made for personnel vacancy and turnover, could be used to reduce agency personal services budget requests. Such a factor would reflect the amortization of projected RIP savings over the same time period as that provided by additional credited service.

Further, any new positions that may be included in each agency's annual budget request should be scrutinized in the context of the duties and services formerly provided by RIP participants. In addition, OMB or the Division of Legislative Finance should review the use of temporary employees and agency overtime to determine if any significant increases could be attributable to RIP.

Improved monitoring would provide enhanced legislative oversight of savings

By implementing such an upfront, monitoring and control procedure, the legislature could provide greater assurance that RIP-generated savings are being used to reduce personal service costs. Further, such a procedure more clearly identifies the amount and impact of program savings. Legislative oversight of how the savings generated from RIP are used would be improved, and such ongoing monitoring would allow the legislature a decision-making role in how savings are to be reallocated.

1990 measure reduced emphasis on savings

In 1990 the legislature amended the 1989 RIP to allow employees to "make up the difference" if the State could not project a savings for their position. This amendment had the effect of eliminating any possibility for the State to realize a *net reduction in personal services costs* for those employees.

Otherwise eligible employees, for whom no savings could be projected over a five-year period, could now participate in RIP by paying off the State's projected costs. Accordingly, under the legislation the State just "broke even" on 78 additional participants, realizing no *net reduction in personal services costs* for those individuals.

From legislative committee minutes of the testimony and discussion of the amending legislation, the primary concern appeared to be one of equity. From testimony and discussion it seems the intent of the legislature was to allow all state employees that met the basic eligibility criteria an opportunity to participate in the program, regardless of the savings that might be generated from their particular situation.

**UNIVERSITY ALSO USE RIP SAVINGS TO RESPOND TO BUDGET REDUCTIONS**

University officials also reported that they used the large savings generated by RIP participants to meet across-the-board budget reductions.

In FY 88, because of cutbacks in general fund appropriations, the university directed all departments to cut their budget by 2.5%.

For the School of Fisheries and Ocean Science (SFOS), this represented a cut of more than \$100,000. An SFOS support engineer retired under RIP and was not replaced. Three year savings generated by the retirement were estimated to be more than \$180,000.

SFOS used a third of the three year savings generated by their RIP participant (approximately \$64,000) to partially offset the impact of the across-the-board reduction. Such use of RIP-generated savings clearly meets both the mandate for RIP to generate a net reduction in personal services costs and satisfies the conservative budgetary perspective that all savings must necessarily involve a budget reduction.

RIP reduces personal services costs. central issue is who decides how savings are used

In summary, concerns about savings generated by RIP are often misdirected. RIP, if structured appropriately, does generate personal service cost savings. Skepticism of the program is not so much attributable to an absence of any real savings, but rather exists because the current budget review process does not adequately track and reflect economies generated. Only if there are major lay-offs and budget cutbacks, do savings generated by RIP become readily apparent in state agencies' budget requests.

This lack of a developed budget control process, limits the legislature in performing its oversight role. Decision making is transferred to agency administrators. They get to decide how to reallocate or use RIP savings, with no specific legislative inquiry or direction.

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## EMPLOYER COMMENTS AND DISCUSSION

The opening section of the 1989 legislation that implemented RIP stated that

*since it may be necessary for state agencies and other employers who participate in the state retirement systems to reduce their personal services costs because of declining state revenue, reimplementation of the [1986] retirement incentive program encouraging employees to retire voluntarily, will reduce the hardship of layoffs.*

However, as it turned out, concerns about layoffs and declining revenues proved, for most employers, not to be a critical factor.

### Stable fiscal conditions and prior RIP may have reduced need for staff cut savings

As summarized in the Report Conclusions section, most savings generated by the 1989 RIP were due to the incremental difference in the personnel costs of retiring workers and their replacements. A comparatively small part of the savings on a statewide basis were due to the reduction in public employment. We surmise that savings generated by the elimination of positions were minimal because of two factors:

1. The fiscal situation was better. The fiscal situation faced by the State of Alaska, most local governments, and school districts proved not to be as adverse as had been anticipated when the merits of the 1989 RIP were being debated. As a result, there was not as much pressure or need to eliminate positions in order to meet demanding budget cutbacks.
2. The impact of the earlier RIP. If local governments and school districts had an excessive number of positions, their management likely took full advantage of the earlier 1986 RIP to reduce the number of employees. That RIP was implemented at a time when both the fiscal situation and prospects at all levels of government were more problematic. With the advent of the 1989 RIP, local governments and school districts were in a situation where all or most retirees necessarily had to be replaced.

### Three employers criticize RIP as causing "brain drain" and being a costly alternative

Three of the participating employers surveyed in the course of our review expressed two common complaints regarding RIP. One is the concern over the loss of experience, sometimes referred to as "brain drain." Another employer-expressed concern was that RIP is sometimes used "as an easy way out," and that other, less costly alternatives to reducing personnel costs were not being considered.

One respondent wrote that his local assembly was

*not thrilled with RIP. This notable lack of enthusiasm was due to the potential loss of long term employees -- the real loss to the organization of those years of experience*

Another local personnel officer observed that snow removal in his community had been adversely affected by the loss of experienced snowplow operators. Increased property damage to mailboxes, taking more time to clear streets and improper maintenance of equipment were all "hidden" costs of losing experienced employees to RIP.

Another local government participant responded that

*Any net savings identified in this study is an imaginary figure. There exist other alternatives to personnel cost reduction not being [considered]. My belief is that the most favorable outcome of a RIP is that it may be used as a tool to encourage selected employees to terminate employment when the government is unable or unwilling to achieve this result through intelligent and sound personnel management. It's an easy way out.*

Auditor discussion - The loss of experience and "brain drain" are concerns that have been expressed during legislative deliberations and consideration of RIP. In some situations, as discussed next in this section, the participating employer often welcomes the increased flexibility and new ideas brought in by new employees. But for some areas of service, such as operating heavy equipment, the loss of experience can be more telling.

The second criticism, we think neglects one of the other stated aspects and purposes of RIP. RIP was designed in part to mitigate the social hardship of layoffs. The legislature felt it was good public policy to have people in the community receiving retirement payments rather than having a like number receiving unemployment checks. Given these additional program aims, RIP cannot be judged strictly on a cost-benefit basis.

In our view, the legislature recognized that under RIP, it would cost money to reduce staff compared to achieving the same goal through lay-offs at little or no additional cost, but with greater negative social impact. The 1989 RIP, as it turned out, was implemented at a time when across-the-board layoffs and cutbacks proved not to be a widespread necessity. In these circumstances, the costliness of the program become more evident, and its social benefits were obscured.

### RIP provides increased administrative flexibility

Early retirement incentive programs have other benefits beyond costs savings. These programs can be used to achieve important non-financial goals such as increased managerial flexibility in restructuring operating procedures, in making promotions, and an increased ability to maintain a balance in the age and composition of the workforce (something that might not occur with seniority-based lay-offs).

The 1989 RIP did produce other benefits beyond the estimated cost savings. One school district in responding to our survey commented that

*RIP allows us more flexibility. We give our teachers tenure, RIP allowed us flexibility in our staffing. Also now a district can establish new directions for programs that was nearly impossible to pursue with long-entrenched faculty.*

Both the Anchorage School District (ASD) and the university reported that RIP provided administrators with increased staffing flexibility. Both the university and ASD grant tenure to their professors and teachers, respectively. One benefit of RIP was that it allowed the two organizations to replace tenured faculty with entry level instructors and teachers without tenure. As a result, it was easier to reassign and transfer instructors without having to consider the limitations and restrictions that are involved with the prerogatives of tenured staff.

### Fairbanks school board feels that repeated RIPs disrupts recruitment

In a September 1990 resolution (see inset on next page), the Fairbanks North Star Borough School Board expressed its concern over the need for, and the impact of, repeated RIPs. In adopting a resolution opposed to the creation of another RIP program the board felt that while the program assisted schools in responding to fiscal emergencies, that its repeated use when there was no crisis is disruptive to normal teacher turnover and harmful to recruitment.

As reflected by the resolution the board felt that teachers develop expectations that another RIP will eventually be offered. This expectation encourages employees who might normally retire to postpone doing so until the next RIP. The number of retirees then accumulate and when a RIP is offered, all leave the district collectively, causing havoc in teacher recruiting and a major loss of experienced personnel all at once.

Auditor discussion - The 1989 RIP program was designed to maximize "local control." The decision whether to participate is made at the local level, as is establishing the criteria for which employees may retire. To some extent, this local option flexibility has led to what some may consider are abuses of RIP. Rather than using the program to lessen the impact of layoffs and realize savings, some employers used RIP as a means to provide additional

**FNSBSD BOARD OPPOSES IMPLEMENTATION OF RIP  
WHEN NO FISCAL EMERGENCY EXISTS, CONCERNED  
ABOUT EFFECT OF TEACHER EXPECTATIONS**

In September 1988 the Fairbanks school board adopted the following resolution opposing any new retirement incentive program.

WHEREAS, the State of Alaska passed an Early Retirement Incentive Plan in 1988 to help school districts and other public agencies realize significant personnel cost reductions in response to a statewide fiscal emergency; and

WHEREAS, the State of Alaska passed another Early Retirement Incentive Plan in 1988, although there was not a fiscal emergency; and,

WHEREAS, this is creating the expectation that there will be another Retirement Incentive Plan program offered again in several years; and,

WHEREAS, this expectation works counter to the program's intent of encouraging people to retire, because of instead of the normal attrition rate, employees who might normally retire will postpone doing so until such time as another Retirement Incentive Program is offered; and,

WHEREAS, our district also has serious concerns about a teacher work shortage and fears it will become more and more difficult to replace our valuable and experienced work force; and,

WHEREAS, our district does not wish to lose our experienced employees, but has decided it would not be fair to deny them access to a Retirement Incentive Plan once it is passed into law;

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Board of Education requests the Legislature and the Governor not enact any future legislation authorizing early retirement.

compensation and consideration. Under our reading of the 1989 legislation, such use of the program is permissible. RIP is a "take-it-or-leave-it" program in which employers can structure their participation in the program in any manner they wish within the broad confines of the program eligibility requirements.

"Speed-up" scenario is a drawback to RIP's goal to save employers money

The "speed-up" scenario has been generally recognized as a drawback to RIP. Providing incentives may speed up the retirement of individuals who would have retired in the near future with or without an added incentive. Under RIP, the employer must pay the added cost of providing the incentive even though the employee would have eventually retired anyway at no extra cost.

Two participants cite impact of the "speed-up" scenario in criticizing estimated savings

Some employers contacted during the course of the review pointed out that the savings estimated using our assumptions and approach tended to inflate totals. In their comments they cited the "speed-up" scenario as contributing to an overstatement of savings. One employer commented that under the formula we suggested be used to calculate savings or costs that

*Savings for our school district are based on a "bogus" assumption. What is not considered is when would have these individuals have normally retired if there had been no RIP. It is possible that the individuals would have retired anyway, [without the school district having to pay any additional RIP employer contribution costs.]*

Another district commented that *normal retirement would generate far greater savings for each district. The cost for RIP has to be budgeted for, while the "savings" are used for other purposes.*

Auditor discussion - Under the methodology used in this report, participants who would have normally retired would generate a certain amount of savings over the costs involved to provide the three additional years of service. Had they retired without RIP then there would have been no additional employer costs involved, and the district would have realized even more savings, either by eliminating the position or replacing the retiree with a lower paid replacement.

It is likely that some of the almost 1,800 RIP participants would probably have taken normal retirement, involving no additional contribution from their employer. We acknowledge that this normal retirement factor does overstate our savings estimate, but there was no practicable way for us to calculate its effect and adjust our estimates accordingly.

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NOTES TO SCHEDULE 1

Note 1 - General Assumptions, Methodology, and Approach to Develop Estimates

Unless otherwise discussed in a specific note, the estimated savings or costs presented in Schedule 1 on page 8 were calculated using the following assumptions, methodology, and approach:

1. Savings and costs totals represent projections over a three year period.
2. For most participants, the calculations of estimated savings or costs reflect the projected costs of salaries and benefits for both the RIP retiree and their replacement. However, some employers used salaries only as a basis for their projections and estimates. In any event, for any one participant's calculation the same basis was used for both the retiree and the replacement employee.
3. In addition to the administrative costs involved with each RIP participant, the estimated savings/costs also reflect any administrative fees paid by the employer for individuals who were eligible for the program but did not participate.

Note 2 - State of Alaska

Savings presented for the State of Alaska represent a combination of projected savings. The total includes both:

1. Three year projected savings for individuals who qualified and participated in the initial RIP program.
2. Net savings projected over a five year period for individuals who participated under the amended RIP program. According to OMB records, 78 of the State of Alaska's 739 participants did not generate any savings, and accordingly do not contribute to the total savings of \$6,033,100. The table below summarizes savings estimates and the number of participants for both the 3-year and 5-year periods

	Participants	Savings
<b>3 YEAR PERIOD</b>	547	\$ 5,131,400
<b>5 YEAR PERIOD</b>	192	901,700
<b>TOTALS</b>	739	\$ 6,033,100

Note 3 - University of Alaska

We reduced the savings for the University of Alaska by more than \$ 4,900,000 from estimates developed by the University. The adjustments were made in an effort to make the totals more comparable with those developed by the State of Alaska for their RIP participants. The university originally calculated RIP savings of \$9,240,700.

A large portion of these savings total was attributable to extended vacancies in the RIP participant positions that were eventually filled. Further, the university noted that some of the "savings" were actually reallocated to other staff and programs rather than being used to offset budget reductions (see inset on page 14 for discussion of the university's budget reallocation process). We based our adjustments on salary, vacancy, and budgetary information provided to us by the university.

Note 4 - Anchorage School District (ASD)

In calculating savings estimates for TRS participants, ASD used the average, district-wide teacher and administrator salaries as a basis for the replacement employees' salary and benefit costs. Since a large segment of the replacement teachers were actually first year, newly hired teachers starting at or near the entry level pay scale, use of the district-wide average is conservative in that it would tend to understate the estimated savings.

ASD's estimated savings as listed in the schedule are based on three year projections. The district also projected savings for a five year period. ASD's five-year projected RIP savings breakdown as follows:

<u>Retirement System</u>	<u>Estimated Savings</u>
TRS Participants	\$ 6,578,000
PERS Participants	<u>528,000</u>
Total 5-year savings projections	\$ <u>7,106,000</u>

Both the 3-year savings listed in the schedule on page 8 and the 5-year savings summarized above, have been reduced to reflect almost \$673,000 that the district paid out as retirement incentives. Depending on when participants retired, they were eligible for payments of 2.5% to 5% of their salary and from \$50 to \$100 for each year of service as an incentive to participate in RIP.

Note 5 - Kenai Peninsula Borough Schools (KPBS)

Although KPBS had thirteen fewer participants than the Fairbanks North Star Borough Schools, the district had \$400,000 more in estimated savings. This difference was largely a result of KPBS not replacing some of their RIP participants, whereas Fairbanks filled all the teaching vacancies left by the participating employees.

Note 6 - Fairbanks North Star Borough School District (FNSBSD)

In estimating savings, FNSBSD used the average salary and benefit costs for all newly hired teachers for the first school year following the RIP period. For PERS participants, FNSBSD used the actual salary of the replacement employee as a basis for projecting the savings generated by the RIP participant.

Note 7 - City of Fairbanks

More than \$580,000 of the projected savings were generated from the city not replacing four individuals who participated in RIP. Thirteen of the twenty-two participants were from either the city's police or fire departments. At the time these 13 individuals retired, the city consolidated its police and fire protection functions into a single department of public safety. Many of these 13 retirees were high ranking officers, whose command and management functions were combined and restructured as part of the consolidation process.

This consolidation of command responsibilities made it difficult to determine which retiree was replaced by which promoted officer. Thus, it was not practicable to match these promoted individuals with the outgoing RIP retirees. However, the city is certain that available funding was used to recruit and hire entry level officers into the new public safety agency. Accordingly, they based their estimates of projected savings on the difference in salaries and benefits between the retiring officers and these entry level recruits.

Note 8 - North Slope Borough School District (NSBSD)

In calculating savings estimates for TRS participants, NSBSD used the average, district-wide teacher salary as a basis for the calculating the replacement employees' salary and benefit costs. Since a large segment of the replacement teachers were actually first year, newly hired teachers starting at or near the entry level pay scale, use of the district-wide average is conservative in that would tend to understate the estimated savings.

Note 9 - Matanuska-Susitna Borough Schools (MSBS)

In calculating savings estimates for TRS participants, MSBS used the average, district-wide teacher salary as a basis for calculating the replacement employees' salary and benefit costs.

Since a large segment of the replacement teachers were actually first year, newly hired teachers starting at or near the entry level pay scale, use of the district-wide average is conservative in that it would tend to understate the estimated savings.

Note 10 - North Slope Borough (NSB)

For all but one of NSB's 12 RIP participants, estimated savings are based on three-year projections. The other individual's savings are estimated over a five-year period.

Note 11 - Calculated Estimates for Nine School Districts not responding to our survey

We developed the estimate of savings for nine school districts which did not respond to our survey. For these districts we calculated savings for their RIP participants using the average participant savings for all districts who did respond to our survey. Savings from districts calculated using this approach totalled to \$860,800 (3% of the total estimated savings statewide) for 75 RIP participants (4%). Districts for which savings were calculated using this approach were:

District	No. of TRS Retirees	Estimated Savings of TRS Retirees @ \$15,700/ea	No. of PERB Retirees	Estimated Savings of PERB Retirees @ \$5,790/ea	Total Calculated Savings for Schools (Rounded)
Lower Kuskokwim Schools	18	\$ 276,462	7	\$ 47,586	\$ 324,000
Bering Strait Schools	4	61,436	13	88,374	149,800
Southwest Region Schools	6	92,154	3	20,394	112,500
Delta/Greely Schools	7	107,513	0	-0-	107,500
Kuspuk Schools	2	30,718	5	33,990	64,700
Unalaska City School District	2	30,718	1	6,798	37,500
Icitarod Area Schools	0	-0-	5	33,990	34,000
Nemana City Schools	1	15,359	0	-0-	15,400
Skagway City School	1	15,359	0	-0-	15,400

Note 12 - Matanuska-Susitna Borough

For all but two of the borough's nine RIP participants, estimated savings are based on three-year projections. The other two individuals' savings are estimated over a five-year period.

Note 13 - Kenai Peninsula Borough

Almost \$200,000 of the borough's \$224,900 in estimated savings is attributable the elimination of one management position.

Note 14 - City of Hoonah

More than \$90,000 of the city's \$118,000 in estimated savings is attributable to the elimination of one position.

Note 15 - City of Kodiak

Estimated savings are based on a combination of three-year and five-year projections. Two of the RIP participants' savings are based on five-year projections.

Note 16 - Fairbanks North Star Borough

One of the individuals' estimated savings are based on a three-year projection while the other is based on a five-year projection.

Note 17 - Bristol Bay School District (BBSD)

The estimated projected savings for BBSD of \$14,600 reflect an additional cost of \$10,144 retirement bonus paid to the RIP participant. The bonus represented 21% of the participant's annual salary.

Note 18 - City of Ketchikan

As related on page 7 of the report, if the City of Ketchikan can collect from its one RIP participant, it will realize a projected estimated savings of \$20,200. However, as of the date of this report, the city has not collected the employer costs that it conditionally paid on behalf of the city's participant.

**HB**

**354**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/17/96

FURTHER:

DATE TURNED INTO OFFICE: 5-5-96

The Finance Committee considered CS FOR HOUSE BILL NO. 354(FIN)(title am)

Relating to a retirement incentive program for certain employees of the school districts; efd.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

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

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


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

Department                      Date      Zero      Fiscal

DOA	1/10/96		316.1

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 1

Bill Version: HB 354

(H) Publish Date: 2/16/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act to retirement incentive programs for certain employees of school districts under the teachers' retirement.  
Sponsor: Representative Mackie  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Retirement & Benefits  
Component: Retirement & Benefits  
COMPONENT SERIAL NO. 64

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	229.8	229.8	52.8	52.8	52.8	52.8
TRAVEL	3.0	3.0	0.0	0.0	0.0	0.0
CONTRACTUAL	12.9	11.4	2.8	2.8	2.8	2.8
SUPPLIES	6.0	1.5	3	3	3	3
EQUIPMENT	64.4	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	316.1	245.7	55.9	55.9	55.9	55.9

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	316.1	245.7	55.9	55.9	55.9	55.9
TOTAL	316.1	245.7	55.9	55.9	55.9	55.9

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

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	5	5	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

The actuarial costs to participating employers due to this program are to be paid up front and no additional costs to the systems are anticipated. An administrative charge for participating employers will cover the increased costs of administering the retirement incentive program.

Prepared by: Robert F. Stalnaker  
Division: Retirement & Benefits

Phone: 465-4470  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 1/16/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 354

**ANALYSIS: (continued)**

This bill creates a retirement incentive program for the Public Employees' (PERS) and Teachers' (TRS) Retirement System employees of school districts. Active school district employees could retire on an accelerated basis with an increased benefit under the following conditions: at age 47, if vested; with 17 years of service as a teacher or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their lifetime benefit for the indebtedness amount.

We estimate that one permanent full-time employee will be needed to manage the operations of the program and increased service demands into the future. Five long-term non-permanent employees will also be needed over the next two fiscal years. Personnel will handle increased counseling, address and beneficiary changes, account maintenance, and other services. Subsequent increases in the number of retirees will necessitate increased permanent employees to handle the increased demand for information and services.

We estimate that we will need to increase our normal number of counseling trips by two trips over the next two fiscal years to assure that members understand the options and requirements of the program.

The total estimated administrative cost to the division by fiscal year is as follows:

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
<b>PERSONAL SERVICES</b>			
<u>FY 1997</u>			
1 Retirement & Benefits Specialist I	\$ 52.8		
3 Retirement & Benefits Tech VII (NP)	113.4		
1 Accounting Clerk III (NP)	34.1		
1 Admin Clerk I (NP)	<u>29.5</u>		
TOTAL FY 1997 COSTS .....	\$229.8		
<u>FY 1998</u>			
1 Retirement & Benefits Specialist I	\$ 52.8		
3 Retirement & Benefits Tech VII (NP)	113.4		
1 Accounting Clerk III (NP)	34.1		
1 Admin Clerk I (NP)	<u>29.5</u>		
TOTAL FY 1998 COSTS .....		\$229.8	
<u>FY 1999</u>			
1 Retirement & Benefits Specialist I	\$ <u>52.8</u>		
TOTAL FY 1999 COSTS .....			\$52.8

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 354

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
<b>TRAVEL</b>			
Traveling to various locations throughout the state to counsel prospective retirees and give seminars.	3.0	3.0	0.0
<b>CONTRACTUAL</b>			
Communication (Telephone, Postage)	6.6	6.6	1.6
Mainframe Computer Time	4.4	4.4	.8
Software Maintenance	1.5		
Training/Risk Management	<u>.4</u>	<u>.4</u>	<u>.4</u>
Total Contractual	12.9	11.4	2.8
<b>SUPPLIES</b>			
Office Supplies, Calculators, software	6.0	1.5	.3
<b>EQUIPMENT</b>			
Computer Workstations	20.0	0.0	0.0
File Cabinets (1)	.4	0.0	0.0
Office Chairs (5)	2.5	0.0	0.0
Microfiche Viewers (5)	1.5	0.0	0.0
Office Workstations	5.0	0.0	0.0
Computer/Network Printers	12.0	0.0	0.0
Computer Network Upgrades	20.0	0.0	0.0
Telephone Unit (5)	<u>3.0</u>	<u>0.0</u>	<u>0.0</u>
Total Equipment	<u>64.4</u>	<u>0.0</u>	<u>0.0</u>
<b>TOTAL OPERATIONS COST</b>	<b>\$316.1</b>	<b>\$245.7</b>	<b>\$55.9</b>

The retirement technicians, retirement specialists, and accounting clerks need constant access to the PERS and TRS computer files. We do not have any excess terminals, microfiche viewers, or calculators. Our equipment request will satisfy our equipment needs for the duration of this program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's local area network.

We are also proposing the purchase of two additional computer printers. The previous RIPs put a great demand on our existing printers and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing printers for two years, coupled with our existing needs, purchasing new printers would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

Funding Source Breakdown for FY 1997:

1029	PERS	\$126.4
1034	TRS	<u>189.7</u>
		\$316.1



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Administration	DIVISION Retirement & Benefits	BILL NUMBER HB 354	SPONSOR Mackie
SHORT TITLE OF BILL "An Act relating to a retirement incentive program for certain employees of school districts under the teachers' retirement ...."			
DEPARTMENT POSITION			
PREPARED BY Robert F. Stalnaker	DATE <i>R. F. Stalnaker</i>	COMMISSIONER'S SIGNATURE <i>Alison H. Elger</i>	DATE 1/16/96

SUMMARY

OTHER AGENCIES AFFECTED BY BILL None	CONSTITUENT GROUP(S) AFFECTED BY BILL School District Employees
ORGANIZATIONAL SUPPORT FOR BILL NEA	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

There are a variety of RIP bills in the legislature. Last year a retirement incentive program (RIP) for school districts only was included in HB 217. HB 217 also dealt with teacher tenure, layoff and rehire rights. The bill was vetoed by the Governor.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill creates a retirement incentive program for the Public Employees' (PERS) and Teachers' (TRS) Retirement System employees of school districts. Active school district employees could retire on an accelerated basis with an increased benefits under the following conditions: as early as age 47, if vested; with 17 years of service as a teacher or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their lifetime benefit for the indebtedness amount.

We question whether this school district RIP should be supported as a stand alone or whether we should support combining all public employees as has been our position in the past.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

SENATE FINANCE COMMITTEE

HB 354 RIP FOR SCHOOL DISTRICT EMPLOYEES

PLEASE SIGN-IN BELOW

NAME: BOB STALNAKER  
Co./Dept/Title: DIRECTOR - Phone: 4470  
Address: RETIREMENT & BENEFITS Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_ Yes \_\_\_ No  Respond to Questions

NAME: CARL ROSE  
Co./Dept/Title: AA&S / Exec Director Phone: 6-1083  
Address: 316 W 11th ST TUNEAU Zip: 99801  
Do you wish to testify? \_\_\_ Yes \_\_\_ No  Respond to Questions

NAME: Representative Jerry Macke  
Co./Dept/Title: \_\_\_\_\_ Phone: 4925  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

NAME: \_\_\_\_\_  
Co./Dept/Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

**HB**

**357**

**HFIN**

**FILE**

# Alaska State Legislature

Resources, Vice Chair  
State Affairs, Vice Chair  
House Special Committee on Oil & Gas, Vice Chair  
House Special Committee on Fisheries



State Capitol  
Room 409  
Juneau, Alaska 99801-1182  
(907) 465-3878

Representative Scott Ogan  
House District 27

## Sponsor Statement HB 357 Amendments to Title 16

HB 357 simplifies the enforcement of residency requirements for hunting, trapping, and noncommercial fishing licenses. This legislation will reduce the number of nonresidents who use loopholes in current state residency laws to hunt, trap, and fish Alaska's resources. After meeting and working diligently with the department of law, department of fish & game, department of public safety, and legislative legal this bill was drafted to accommodate all the participants concerns addressed during those discussions.

The definition of residency was separated into subsections for clarification purposes. In these subsections, you will note the different changes that were made to better define the rules of residency for Title 16 purposes.

Also, passage of HB 357 could increase revenue annually by thousands of dollars in relationship to current statistics of nonresidents in terms of licenses, game tags, and hunting fees for guides.

# Alaska State Legislature

Resources, Vice Chair  
State Affairs, Vice Chair  
House Special Committee on Oil & Gas, Vice Chair  
House Special Committee on Fisheries



State Capitol  
Room 409  
Juneau, Alaska 99801-1182  
(907) 465-3878

Representative Scott Ogan  
House District 27

## Sectional Analysis HB 357 Amendments to Title 16

**Section 1.** This change has been proposed to clarify the intent of the law to allow a human being, not a proprietor that may be a part of a partnership, association, joint stock company, trust, or corporation registered in the state of Alaska, to qualify for resident status in obtaining a hunting, trapping, or fishing license.

**Section 2.** This new section establishes the basic rules for establishing residency under the bill (Sec. 16.05.415 (a) (1) - (3)). Also, this section addresses that once a person establishes residency, the person maintains residency until the person demonstrates that their intent is no longer to consider the state of Alaska as their home state.

**Section 3.** This section has been amended to accomplish several purposes. Overall, it has been separated into subsections for clarification purposes. Also, the rules for declaring residency have been clarified.

In the Sec. 16.05.940(26)(A), the phrase *a permanent place of abode* has been deleted and the replaced with the phrase *a person's domicile*. The two main reasons for this change that are being proposed to accomplish two items. The first being, the requirement to maintain a *permanent place of abode* is unduly restrictive and unnecessary to prevent nonresidents from obtaining resident privileges in the state. If a person is forced to move from one location to another around the state due to their work commitment they may not satisfy the residency requirement because they have not maintained a *permanent place of abode*. The second reason for this change is because the term *abode* is not defined in statute. The lack of strict legal definition creates enforcement problems. Black's Law Dictionary states: "As

"domicile" and "residence" are usually in the same place, they are frequently used as if they had the same meaning, but they are not identical terms, for a person may have two places of residence, as in the city and country, but only one domicile. Residence means living in a particular locality, but domicile means living in that locality with intent to make it a fixed permanent home..." We believe that replacing the current phrase *a permanent place of abode* to *domicile* will make it more clear that the legislature intended only those who are domiciled in the state are entitled to residency licensing privileges.

In the Sec. 16.05.940 (26)(B), the present requirement that a person maintain a voting residence in the state is also problematic. Though an Alaska voting address is easy to establish and provides an easy enforcement tool, it is not clear that the state can compel a person to register to vote as a condition of obtaining a resident hunting license. Also this requirement is not appropriate for persons under the voting age. Persons over 16 years of age are required to obtain hunting, trapping, and sport fishing licenses but they do not have a voting address until they are old enough to vote. One other area that this amendment clarifies is that a natural person may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation.

In Sec. 16.05.940(26)(C) and in Sec. 16.05.940(26)(D) the branch of United States Coast Guard has been added because the federal definition of military does not include the United States Coast Guard. By adding the United States Coast Guard clarifies the intent of the law to have provisions for this branch that are consistent with military personnel and their dependents. Also, the amendment provides consistency between the language in both paragraphs in reference to the requirement of a resident member of the military service or the United States Coast Guard and their dependents have lived in the state for the preceding 12 consecutive months.

In Sec. 16.05.940(26)(E) the amendments provided are to make the language consistent with the proposed subsections 16.05.940(26)(C) and 16.05.940(26)(D).

No. 1

Bill Version: CSHB 357(RES)

(H) Publish Date: 2/14/96

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Residency requirements: fish and game BRU: Administration  
 License: \_\_\_\_\_ Component: Administration  
 Sponsor: Rep. Ogan  
 Requester: House Resources COMPONENT SERIAL NO. \_\_\_\_\_ 479

### Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ( )	0	0	0	0	0	0

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY96) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Geron Bruce  
 Division: Commissioner's Office  
 Approved by Commissioner: Frank Rue  
 Agency: Fish and Game

Phone: 465-6143  
 Date: 2/14/96  
 Date: 2/14/96

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**HB**

**358**

**SFIN**

**FILE**

FISCAL NOTE

Revision Date: January 11, 1996 Dept. Affected: Revenue  
 Title: Dog Musher's Contests/Games of Chance BRU: Revenue Operations  
 Component: Charitable Gaming Division  
 Sponsor: Representative Ivan  
 Requestor: Representative Ivan COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Charitable Gaming Division issued an average of 55 Dog Musher's Permits for the years 1990 through 1995. This bill will have a negligible impact on the Division due to the low number of permits issued annually.

Prepared by: Dennis R. Poshard, Director *DRP*  
 Division: Charitable Gaming Division  
 Approved by Commissioner: Wilson L. Condon *W. Condon*  
 Agency: Department of Revenue

Phone: 465-2279  
 Date: 1/11/96  
 Date: 1/11/96

# FISCAL NOTE

No. 1  
 Bill Version: CSHB 358(CRA)  
 (H) Publish Date: 2/9/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: 1/9/96 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to dog mushers' contests BRU: \_\_\_\_\_  
 Sponsor: Rep. Ivan Component: \_\_\_\_\_  
 Requestor: Rep. Ivan COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 95) impact: \$ none

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4808  
 Division: Administrative Services Date: 1/9/96  
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 1/9/96  
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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**COMMITTEE COPY**

**HB**

**361**

**HFIN**

**FILE**

# Alaska State Legislature

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(907) 465-4925

P.O. BOX 793  
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(907) 826-2930 HOME

REPRESENTATIVE  
**JERRY MACKIE**



## House of Representatives

### SPONSOR STATEMENT

**HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."**

I introduced this legislation at the request of the Metlakatla Indian Community when their FY 96 Municipal Assistance Matching Grant Program appropriation was eliminated from last year's budget. Metlakatla qualified for this program under the Department of Administration **regulations** definition for "municipality". However, legal analysis found that the **statute** definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

HB 361 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. This legislation also provides that Metlakatla may not receive a grant under the Unincorporated Community Capital Project Matching Grant Program.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

There are two zero fiscal notes accompanying this legislation from the Department of Community and Regional Affairs and the Department of Administration.

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 9, 1996

FURTHER REFERRALS:

Date of Committee Action: 2/15/96

The FINANCE Committee considered:

HB 361

HOUSE BILL NO. 361

CAP PROJ MATCHING GRANT FOR INDIAN RESERV

"An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) 2/9/96  
CRF, DOA 1/19/96

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Mark Hanley</i> Hanley			<input checked="" type="checkbox"/>	
<i>Terry Martin</i> Martin	<input checked="" type="checkbox"/>			
<i>Scott Parnell</i> Parnell			<input checked="" type="checkbox"/>	
<i>Ben Grussendorf</i> Grussendorf				<input checked="" type="checkbox"/>
<i>Pete Kelly</i> Kelly			<input checked="" type="checkbox"/>	
<i>Richard Foster</i> Foster	<input checked="" type="checkbox"/>			

CO-CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*  
 Hanley Foster

# FISCAL NOTE

No. 3  
Bill Version: HB 361  
(H) Publish Date: 1/9/96

Revision Date: January 9, 1996 Dept. Affected: Community & Regional Affairs  
Title: An Act relating to municipal capital project BRU: none  
matching grants for a municipality organized Component: none  
Sponsor: Rep. Macxie  
Requestor: Rep. Macxie COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY94) impact \$ none

**ANALYSIS:** (Attach a separate page if necessary)  
This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.08.010-090, removing an ambiguity under which the community has in the past received capital match program funds for both unincorporated and municipal elements of the program. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
Division: Division of Administrative Services Date: 1/09/96  
Approved by Commissioner: *T. J. P. [Signature]* Date: 1/09/96  
Agency: Community & Regional Affairs

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FISCAL NOTE

No. 2

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Bill Version: HB 361

(H) Publish Date: 1/19/96

Revision Date: \_\_\_\_\_  
Title: An Act relating to capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.  
Sponsor: Mackie  
Requestor: \_\_\_\_\_

Department Affected: Administration  
SRU: Administrative Services  
Component: Administrative Services  
COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES	0	0	0	0	0	0
--------------------	---	---	---	---	---	---

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative impact on DOA would be very small.

Prepared by: Sharon Barton  
Division: Administrative Services

Phone: 485-2277  
Date: 1/8/96

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 1/11/96

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# Alaska State Legislature

REPRESENTATIVE  
**JERRY MACKIE**



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

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

## House of Representatives

**HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."**

### \*SECTIONAL ANALYSIS

#### \*Section 1.

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

#### \*Section 2.

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

#### \*Section 3.

provides that HB 361 becomes effective July 1, 1996.

**Sec. 29.60.310. Time of payment.** The department shall make payments under AS 29.60.010 — 29.60.300 no later than July 31, based upon the entitlement calculations made during the preceding fiscal year. (§ 6 ch 10 SLA 1987)

#### Article 4. Municipal Assistance.

Section	Section
350. Municipal assistance fund	370. Increased assistance
360. Base amount of assistance	375. Definition
365. Municipalities organized under federal law	

**Sec. 29.60.350. Municipal assistance fund.** (a) There is established in the department the municipal assistance fund. The legislature may appropriate to the municipal assistance fund during each fiscal year an amount equal to or greater than 30 percent of the income tax revenue received by the state under AS 43.20.011(e) for the previous fiscal year.

(b) The department shall distribute money from the municipal assistance fund to each municipality on an annual basis as provided in AS 29.60.360 and 29.60.370. A municipality may not receive payment until it submits to the department a resolution approved by the governing body of the municipality that requests the money. Distribution of money from the municipal assistance fund to all municipalities must be made on February 1 of the state fiscal year for which the appropriation to the fund is made. A municipality that incorporates after December 31 of a state fiscal year is not eligible for a distribution under this section until the following state fiscal year. (§ 16 ch 74 SLA 1985; am § 7 ch 10 SLA 1987)

**Sec. 29.60.360. Base amount of assistance.** (a) The base amount to be distributed from the municipal assistance fund to each municipality for the fiscal year shall be the amount received by the municipality during fiscal year 1978 under AS 43.70.080 as that section provided before the 1978 amendment. A city incorporated within a borough after June 30, 1977, shall receive as a base amount a share of the amount distributed to the borough in which it is located based on the ratio of population in the city to the total population in the borough. A city incorporated outside a borough after June 30, 1977, shall receive as a base amount the amount received by the city in the state most closely approximating it in population at the time of its incorporation. A borough incorporated after June 30, 1977, shall receive as a base amount the amount received by the borough in the state most clearly approximating it in population at the time of its incorporation. The base amount to be distributed to each municipality organized

## NOTES TO DECISIONS

For case interpreting the former revenue sharing scheme for hospitals and health care facilities, see *Municipality of Anchorage v. Sisters of Providence in Wash., Inc.*, 628 P.2d 22 (Alaska 1981).

**Sec. 29.60.130. State aid to volunteer fire departments not in organized municipality.** (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized municipality a sum for protection purposes equal to \$10 per capita for the population served by the fire department, as determined by the state fire marshal.

b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized municipality, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 16 ch 74 SLA 1985)

**Sec. 29.60.140. State aid to unincorporated communities.** (a) The department shall pay to each unincorporated community an entitlement each fiscal year to be used for a public purpose. The department with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is more than one qualified entity in an unincorporated community, the department shall pay the money under the entitlement to the entity that the department finds most qualified to receive and spend the money. The department may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council. If at least \$41,472,000 is appropriated for all entitlements under AS 29.60.010 — 29.60.310 for a fiscal year, the entitlement for each unincorporated community under this subsection for that year equals \$40,000. Otherwise, the entitlement equals \$25,000.

(b) In this section "unincorporated community" means a place in the unorganized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit. (§ 16 ch 74 SLA 1985; am § 2 ch 122 SLA 1990)

# COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR  
JUDITH A. LAUTH, SECRETARY  
BARBARA J. FAWCETT, TREASURER  
January 15, 1996

ESTABLISHED 1867

POST OFFICE BOX 9  
METLAKATLA, ALASKA 99926  
PHONE (907) 886-4441  
FAX (907) 886-3336  
FAX (907) 886-7997

Representative Jerry Mackie  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Re: HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

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

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY

*Jack L. Booth, Sr.*  
Jack L. Booth, Sr., Mayor

- cc: Metlakatla Indian Community Council Members
- Rep. Ivan Ivan CO-chair, House C & RA
- Rep. Alan Austerman, CO-Chair House C & RA Committee
- C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep. Bettye Davis, Rep. Kim Elton, Rep. Irene Nicholai, Rep. Mackie

HOUSE COMMITTEE REPORT

(7)  
Date Referred to Committee: January 19, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 1-8-96

The STATE AFFAIRS Committee considered:

HB 361

HOUSE BILL NO. 361

CAP PROJ MATCHING GRANT FOR INDIAN RESERV

"An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) Admin. 1-8-96  
CRH 1-9-96

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>Ed Williams</i>	✓			
<i>Scott O'Ban</i>			✓	

CHAIR'S SIGNATURE *Jeannette James*

St. Aff Report

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Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Community & Regional Affairs  
January 18, 1996, 1:05 p.m.

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: January 8, 1996

FURTHER REFERRALS:

State A  
Fi

Date of Committee Action: 1-18-96

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HOUSE BILL NO. 361

CAP PROJ MATCHING GRANT FOR INDIAN RE

"An Act relating to municipal capital project matching grants for a municipality organized under federal law Indian reserve; and providing for an effective date."

recommends it be replaced  the same title  
with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DCRA  zero fiscal note(s) \_\_\_\_\_  
Admin

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	MACKIE	X			
	ELTON	X			
	AUSTERLMAN	X			
	VEZEY			✓	
	KOST	X			
	NICHOLISH	X			
	IVAB	X			
		(6)		(1)	

CHAIR'S SIGNATURE

**HB**

**361**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

REMOVED OUT OF  
SFC 5/02/96

DATE: 3/22/96

DATE TURNED INTO OFFICE: 5/02/96

The Finance Committee considered HOUSE BILL NO. 361

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

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

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

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal

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

Department                      Date    Zero    Fiscal

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

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 4

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

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

Revision Date: \_\_\_\_\_  
Title: An Act relating to capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."  
Sponsor: Mackie  
Requestor: (S) CRA

Department Affected: Administration  
BRU: Administrative Services  
Component: Administrative Services

COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ( )	0	0	0	0	0	0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Sharon Barton  
Division: Administrative Services

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

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

Date: 3/20/96

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ANALYSIS: (continued)

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

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

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

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

# FISCAL NOTE

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

Revision Date: January 9, 1996 Dept. Affected: Community & Regional Affairs  
Title: An Act relating to municipal capital project BRU: none  
matching grants for a municipality organized Component none  
Sponsor: Rep. Mackie  
Requestor: Rep. Mackie COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

REVENUE FUND SOURCE:

--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY94) impact \$ none

**ANALYSIS:** (Attach a separate page if necessary)  
This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090, removing an ambiguity under which the community has in the past received capital match program funds for both unincorporated and municipal elements of the program. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
Division: Division of Administrative Services Date: 1/09/96  
Approved by Commissioner *Theresa Sullivan* Date: 1/09/96  
Agency: Community & Regional Affairs

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# Alaska State Legislature

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

REPRESENTATIVE  
**JERRY MACKIE**

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

## House of Representatives

### MEMORANDUM

Date: **March 20, 1996**

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

*Rick*

FROM: Representative Jerry Mackie  
House of Representatives

*Jerry*

Re: **HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date." By Rep. Mackie**

I respectfully request that you schedule HB 361 for hearing in the Senate Finance Committee. Attached is the following backup for HB 361:

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

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

# Alaska State Legislature

I.

REPRESENTATIVE  
**JERRY MACKIE**



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

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## House of Representatives

### SPONSOR STATEMENT

**HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."**

I introduced this legislation at the request of the Metlakatla Indian Community when their FY 96 Municipal Assistance Matching Grant Program appropriation was eliminated from last year's budget. Metlakatla qualified for this program under the Department of Administration **regulations** definition for "municipality". However, legal analysis found that the **statute** definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

HB 361 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. This legislation also provides that Metlakatla may not receive a grant under the Unincorporated Community Capital Project Matching Grant Program.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

There are two zero fiscal notes accompanying this legislation from the Department of Community and Regional Affairs and the Department of Administration.

# Alaska State Legislature

II.

REPRESENTATIVE  
**JERRY MACKIE**



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

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## House of Representatives

**HB 361 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."**

### \*SECTIONAL ANALYSIS

#### \*Section 1.

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

#### \*Section 2.

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

#### \*Section 3.

provides that HB 361 becomes effective July 1, 1996.

# STATE OF ALASKA

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

### DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 112100  
JUNEAU, ALASKA 99811-2100  
PHONE: (907) 465-4700  
FAX: (907) 465-7648

300 W. 4TH AVENUE, SUITE 220  
ANCHORAGE, ALASKA 99501-2241  
PHONE: (907) 269-4600  
FAX: (907) 269-4520

January 18, 1996.

The Honorable Jerry Mackie  
House of Representatives  
State Capitol, Room 404  
Juneau, AK 99801-1182

Dear Representative Mackie:

Re: Metlakatla - Unincorporated Matching Grant

The following is a brief description of the impact to this Department should Metlakatla be identified as an eligible entity in the Municipal section of the Capital Matching Grant Program rather than the Unincorporated section of that same program.

Since the inception of this program, Metlakatla has requested projects each fiscal year in the full amount of funds available with the exception of FY 94. The remaining balance that year in addition to a small amount of interest earned totals \$1,357.84 that would need to be transferred from Metlakatla's Community Account in this Department to the Department of Administration along with their FY 97 project request file. Metlakatla is aware of the available remaining funds and has incorporated them into their FY 97 project request.

All of Metlakatla's previously requested projects are currently under agreement and active with all funds encumbered. These projects should remain with this office until they are complete and closed-out. Below is a detailed listing of their projects to date.

<u>FY</u>	<u>PROJECT</u>	<u>AWARD</u>	<u>EXPENDED TO DATE</u>
94	Lift Station	\$23,775.00	\$ 6,222.00
95	Hatchery Site Preparation	25,000.00	20,640.00
96	Cold Storage Facility Repairs	18,000.00	18,000.00 (Closed)
	Replace Cannery Building Wall	7,000.00	1,750.00
97 Proposed	Smoked Salmon Dev. Proj.	26,358.00	

If you have any further questions or concerns please feel free to contact the Grants Administrator for these projects, Tena Bavard, at 465-4731.

Sincerely,

*Remond Henderson*

Remond Henderson  
Director

# COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR  
JUDITH A. LAUTH, SECRETARY  
BARBARA J. FAWCETT, TREASURER  
January 15, 1996

ESTABLISHED 1987

POST OFFICE BOX 8  
METLAKATLA, ALASKA 99926  
PHONE (907) 886-4441  
FAX (907) 886-3338  
FAX (907) 886-7997

Representative Jerry Mackie  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Re: HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve, and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

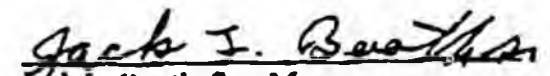
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY

  
Jack L. Booth, Sr., Mayor

cc: Metlakatla Indian Community Council Members  
Rep. Ivan Ivan CO-chair, House C & RA  
Rep. Alan Austerma, CO-Chair House C & RA Committee  
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep.  
Bettye Davis, Rep. Kim Eton, Rep. Irene Nicolai, Rep. Mackie

JAN-17-1996 11:35

93%

P. 01

VI.  
(2)

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

MEMORANDUM

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

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 381 will make Metlakatla eligible for capital project matching grants as an incorporated municipality. Mr. Cook and I agreed that the language now in the bill does what we need it to do and that it would not be wise to modify it. If it is necessary to change the language to please the legislature, we will do so later, but for now, we agreed we should try to hold what we've got.

The problem is this. Some legislators are fearful that this provision, which is exclusively for Metlakatla's benefit, will somehow open up eligibility for capital project matching grants to other Native groups. They are concerned that the reference to 43 U.S.C. 1618(a) may not be restrictive enough. You will recall that section 1618(a) is the language in the Alaska Native Claims Settlement Act that terminates all reservations in Alaska with the single, specific exception of the Annette Islands Reserve. I reviewed the language and concluded that the reference is very restrictive and will not result in the eligibility of other Native groups. Moreover, section 1618(a) has been relied upon in the past to distinguish Metlakatla from all other Native groups and it has been unchallenged. Thus, I see no reason why we should not continue to rely on this reference as the limitation of the bill.

You probably know that the bill cannot simply say Metlakatla because there are laws against "special" legislation. By referring to the statutory provision, we avoid saying Metlakatla specifically but make a reference that includes only Metlakatla. Sounds rather silly, I know, but that's how its done. I will keep you posted if I hear anything more on this issue.

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

# STATE OF ALASKA

## DEPARTMENT OF LAW

### OFFICE OF THE ATTORNEY GENERAL

March 4, 1996

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

Re: House Bill 361

Dear Representative Toohey:

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

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

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

---

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

VI. (S.)  
TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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

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

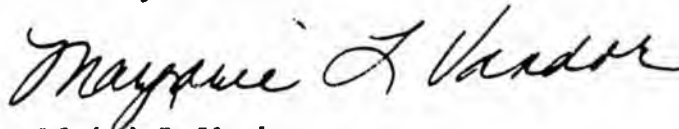
P.O. BOX 110300-DIMOND COURTHOUS  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

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

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

Sincerely,

Bruce M. Botelho  
Attorney General



By: Marjorie L. Vandor  
Assistant Attorney General

MLV:jn

cc: Representative Jerry Mackie ✓

Kim Metcalf - Helmar  
Legislative Liaison - DCRA

Barbara Ritchie  
Deputy Attorney General

Chrystal Smith  
Legal Administrator

Becky Snow - Assistant Attorney General  
Fairbanks

*Cross-Reference to HB 361*

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

BILL VERSION:

SPONSOR(S): SENATOR(S) ZHAROFF

CURRENT STATUS: (S) CRA

STATUS DATE: 2/12/96

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

TITLE: "An Act relating to municipal capital project matching grants for a  
municipality organized under federal law as an Indian reserve; and providing  
for an effective date."

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

02/12/96    2384    (S)    CRA, FIN

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/8/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 3-21-96

The C&RA Committee considered HOUSE BILL NO. 361

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

and recommends:

*Φ For's*

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roller</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<b>CHAIR:</b> <i>[Signature]</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

<i>Administration</i>	<i>3/2/96</i>	✓	

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

Department                      Date      Zero      Fiscal

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

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

3/20/96 #4  
CRA, FIN

**FISCAL NOTE**

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. HB 361**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date." \_\_\_\_\_  
 Sponsor: Mackie  
 Requestor: (S) CRA

Department Affected: Administration  
 BRU: Administrative Services  
 Component: Administrative Services  
 COMPONENT SERIAL NO. 46

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)  
 See attached.

Prepared by: Sharon Barton  
 Division: Administrative Services

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

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

Date: 3/20/96

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HB 361

**ANALYSIS:** (continued)

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

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

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

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

FAX TRANSMITTAL

TO: Marla Huss  
\_\_\_\_\_

Date: 3/20/96

Phone: \_\_\_\_\_

FAX #: 3147

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

Phone: (907) 465-2200

FAX #: (907) 465-2135

Number of pages (including cover sheet): 3

[ ] PLEASE CALL ON RECEIPT

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Jo-Eve Benedict, Office Manager

**(TA) AVTEC**

Mr. Jim Herbert, President

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

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alaris

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

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Garland Warron, Business Representative  
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Kempema, Michelle, Dispatcher**2. Fairbanks Office**2122 Airport Way  
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Lella F. Gibson, Administrative Assistant**FMCS: FEDERAL MEDIATION & CONCILIATION  
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FAX: (206) 553-6655  
Douglas P. Hammond, Director Mediation Services  
Sharon Harris, Administrative Asst.**LRA: DEPARTMENT OF LABOR  
ALASKA LABOR RELATIONS AGENCY**P.O. Box 107026  
Anchorage, AK 99510-7026  
PH:269-4895  
FAX: 269-4898Jean Ward, Hearing Officer  
Jan De Young, Hearing Examiner  
Donna Scates, Administrative Clerk III  
Margie Yadlosky, Administrative Assistant**TM TEAME: TEACHERS' EDUCATION  
ASSOCIATION OF  
MT. EDGE CUMBE**Ray Stein  
1950 Seward Avenue  
Sitka, AK 99835-9438  
PH:966-2201updated  
3/96

**HB**

**362**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(1)  
Date Referred to Committee: February 2, 1996

FURTHER REFERRALS:

World Trade

Date of Committee Action: \_\_\_\_\_

The FINANCE Committee considered:

HB 362

HOUSE BILL NO. 362

AVIATION FUEL TAX EXEMPTION

"An Act extending the motor fuel tax exemption for fuel sold for use in jet propulsion aircraft to fuel used in those aircraft for flights that continue from a foreign country."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Died				
in				
committee				

CHAIR'S SIGNATURE \_\_\_\_\_

Federal Express Corporation  
Procurement  
2800 Northcreek Boulevard  
Suite 307  
Memphis, TN 38132

U.S. Mail, PO Box 727  
Memphis, TN 38194-1911

Telephone 901-822-5403



April 19, 1996

Mark Hanley, Co-Chairman  
Richard Foster, Co-Chairman  
House Finance Committee  
Alaska State Legislature  
Room 519 - Capitol  
Juneau, AK 99811

Dear Legislators:

As a member of the Air Transport Association (ATA) and an employer of over 700 Alaskans who delivers to 3,500 Alaska destinations regularly, we are concerned that foreign refiners have a tax advantage over in-state refiners relative to the Alaska Motor Fuel Tax. The State of Alaska has granted an exemption on this tax for all flights leaving Alaska bound for foreign destinations, but the inbound flights have been, and are continuing to be, taxed at \$0.032 per gallon. House Bill 362 was introduced to "level the playing field" for in-state Alaskan refiners and eliminate the tax for inbound foreign flights. Federal Express supports HB 362. HB 362 is similar to legislative relief previously granted in other states with similar tax situations. The states of California, Tennessee and Illinois have passed legislation exempting inbound international flights from state and local taxes. This was done, of course, to protect the interests of in-state refiners who would otherwise be unable to compete with bonded or Free Trade Zone fuel imported from foreign sources, which by Federal law is tax exempt.

Passage of HB 362 will support domestic Alaskan refiners, utilize domestic Alaskan crude oil and enhance the economics of several communities because airlines will purchase their needed fuel requirements from in-state refineries. To not pass HB 362 will cause considerable importation of foreign oil, reduce revenues to Alaska corporations and cause refiners to reduce sales of their products.

We are aware of Mr. Herbert Goodman's paper and recommendations to you, but we can find no practical way that Alaskan refiners could charge us \$0.032 per gallon less for fuel placed on inbound domestic flights only, nor do we believe it is fair to place a \$0.032 per gallon tax disadvantage on your own in-state companies. Nonetheless, while calendar year 1995 saw three vessels bringing FTZ fuel into the Port of Anchorage, airlines which have foreign origin or destination flights are at this time planning to bring additional FTZ

Page Two

fuel into Anchorage. Without tax relief available in Alaska airlines will have no choice but to import FTZ fuel. Federal Express expects to import about 1 to 1.5 million gallons of bonded/FTZ fuel per month beginning immediately. This represents the portion of our fuel required to supply all our inbound international flights.

Clearly, our preferred choice is to continue our business relationships with Alaskan refiners. As such, we believe the relief provided by the proposed legislation is essential to the in-state jet fuel market. We ask for your support in passing HB 362 and believe that in view of other states passing similar legislation thereby protecting their own in-state refiners, such a request is reasonable and fair.

Thank you for your support.



William H. Stark  
Managing Director  
Fuel Administration

whs232/jm

cc: Finance Committee Members  
Pete Kelly                      Vic Kohring  
Eldon Mulder                    Terry Martin  
Sean Parnell                    Gene Therrault  
Mike Navarre                    Kay Brown  
Ben Grussendorf

Governor Knowles  
Joseph Perkins - Transportation  
Jim Clark  
Fred Ketzback  
Doug Podalak  
Bob Sturtz  
Chuck Flynn  
Bonnie Gardner  
Jeff Fabian  
Bill Phelan  
Wilson Condon - Revenue



**MAPCO ALASKA PETROLEUM** INC.

**Jeffrey J. Cook**  
VICE PRESIDENT  
EXTERNAL AFFAIRS & ADMINISTRATION

April 1, 1996

Representative Mark Hanley, Co-Chairman  
Representative Richard Foster, Co-Chairman  
House Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representatives Foster and Hanley:

We respectfully urge your prompt, positive action on House Bill 362, which we are hopeful will result in passage of this bill by the full house of representatives. We understand that the State does not want to forego revenue, but it is our belief this revenue on flights returning through Anchorage from international originations to domestic destinations will be lost anyway.

Audit and consultants reports by and for the State of Alaska indicate the use of the Foreign Trade Zone (FTZ) in Anchorage to avoid the state motor fuel tax on jet fuel puts in-state refiners at a disadvantage. Written and verbal testimony by air freight operators such as FedEx indicates if the FTZ use is withdrawn or blocked, they will use either the bonded fuel approach or find alternative airports.

DOT Commissioners Perkins has indicated there is nothing to prevent carriers from using the bonded fuel approach. I know your committee and others have been looking for a possible Federal fix or solution. We have been in contact with Andrew Lundquist and others in Senator Murkowski's office. They indicate there is no logical or practical approach to modifying the FTZ provisions or bonded fuel provisions for the Alaska situation. In fact, many states have taken action similar to that proposed in HB 362 to attract international air carriers. This business has become very competitive both in the number of carriers in the business and from the standpoint of the number of cities, U.S. and foreign, trying to attract or pirate away international air freight carriers.

The Anchorage International Airport requires somewhere around 550 million gallons of jet fuel per year. About 80 million gallons or 15 percent of demand, as best as we can determine, cannot be supplied by in-state refiners due to lack of refining capacity. Typically this shortfall has come from U.S. refineries in the Northwest U.S. But activation of the FTZ in the fourth quarter of 1995 resulted in 20 million of those gallons coming in from foreign sources to avoid the 3.2 cents motor fuel tax on flight returning from foreign to domestic locations.

It is my sincere opinion, and I believe that of the vast majority of Alaskans, that State tax policy should not favor foreign refiners. If anything, State policy should encourage in-state value added refining. MAPCO learned last week from the Port of Anchorage Marketing Director that our tanks at the port are in the FTZ and could be activated. Without passage of HB 362 or some other mechanism to level the playing field that is probably the approach we would take as we cannot meet our jet fuel sale commitments at our own refinery. We feel a better solution is passage of HB 362, which would encourage us and other in-state refiners to expand refinery capacity rather than buy spot cargoes of foreign refined jet fuel so we can be on equal competitive ground.

Representatives Hanley & Foster

April 01, 1996

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A study ordered by the State Department of Revenue shows that the per gallon shipping charge for jet fuel from Singapore to the Port of Anchorage is less per gallon than the cost for us to ship jet fuel from our North Pole Refinery to the Port of Anchorage on the Alaska Railroad. And foreign refining costs are much less than Alaskan refining costs. So activating our tanks in the FTZ or dedicating tanks to bonded fuel is a very practical solution for us, but not one we feel is best for Alaska. Also, passage of HB 362 sends a signal that Alaskan airports want to attract and retain the growing international cargo business. Landing fees, fuel flowage fees, catering fees, lodging fees and other economic returns far exceed the revenue loss from the motor fuel tax if the return international flight jet fuel sales are exempted by HB 362.

We realize the State did not create this situation, nor did the in-state refiners. But only the State can fix the problem. Time for a solution in this session is running out. So far no other solution has been developed to level the playing field. If there is a sincere belief such a solution might develop, HB 362 could be amended with a "self destruct" clause. If it is determined in the future the State has the right to tax this fuel in either the FTZ or as bonded fuel, the provisions of HB 362 would be negated. One carrier is currently appealing the right of the State to tax fuel on return foreign flights irrespective of use of FTZ or bonded fuel. Results of this appeal, if favorable to the State could also be factored into a "self destruct" clause.

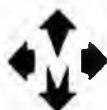
Thank you for your attention to our concerns. We would be happy to meet with you individually or as a group to answer questions and concerns. Such dialogue could include others with concerns about the effects of HB 362. Some action is needed soon so that Alaska does not encourage importing of foreign refined jet fuel, but rather encourages in-state refiners to dedicate capital and human resources to meet the short fall in jet fuel production in Alaska.

Sincerely,



Jeffrey J. Cook  
Vice President External Affairs  
& Administration  
MAPCO ALASKA PETROLEUM Inc.

cc: House Finance Members  
Members Alaska House of Representatives  
Governor Tony Knowles  
Mayor Rick Mystrom, MOA  
Commissioner Joe Perkins  
Commissioner Will Condon  
Bob Hatfield, President Alaska Railroad



**MAPCO ALASKA PETROLEUM INC.**

April 8, 1996

Representative Mark Hanley  
 Alaska State Legislature  
 State Capitol (MS3100)  
 Juneau, Alaska 99801-1182

Dear Representative Hanley,

I have appreciated the opportunity to express my ideas and opinions to you in the past. Now, I find that there is an issue of great importance to me on which I would appreciate your support. The legislation in question is House Bill 362, authored by Rep. Gene Therriault. This bill addresses the issue of fairness in taxation between in-state producers and foreign importers of aviation jet fuel.

Without passage of HB 362, locally produced jet fuel is subject to 3.2 cents per gallon taxation on the continuing inbound legs of international flights, while foreign produced fuel for the same flights is exempt from this tax under Federal regulations. Without the passage of this bill, local refiners either lose business to foreign competitors or have to absorb the 3.2 CPG to be competitive. I urge you to support HB 362, to move it out of committee and then to support its passage once it reaches the House floor.

Passage of this bill will enable local refiners to remain competitive, which supports employment within the State and the Alaska Railroad system. Thank you for your time and support.

Yours Truly,



David M. Parker

# Municipality of Anchorage



OFFICE OF THE MAYOR

P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4431  
Fax: (907) 343-4499

*Rick Mystrom, Mayor*

Attachment 1  
3/21/96

March 14, 1996

The Honorable Tony Knowles  
Governor  
Office of the Governor  
State of Alaska  
Post Office Box 110001  
Juneau, Alaska 99881

RECEIVED

MAR 20 1996

OFFICE OF THE GOVERNOR

Dear Governor Knowles:

This is written in response to your letter of December 21, 1995, expressing your Administration's concern about Anchorage Foreign Trade Zone #160 activities.

As you know, much discussion has taken place concerning this matter and several meetings have been attended by officials of the Municipality and the State of Alaska in efforts to understand and determine the future actions and activities within the Zone.

Recent meetings have resulted in a good exchange of information and many productive ideas were brought forth. Both parties have expressed a desire to see our Foreign Trade Zone succeed. We are in concurrence that the Zone is a tool for creating more economic development, more employment and more revenue for Alaska. We also agree that by working together on issues of common interest we can be much more productive.

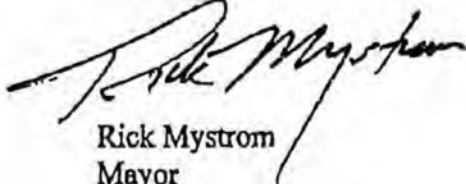
Therefore, the Municipality of Anchorage is prepared to go forward with a "Memorandum of Understanding" as you requested in your letter. It will provide for the State of Alaska having complete control prior to any new FTZ authorization on State land within Foreign Trade Zone #160. It will also provide that the State of Alaska must agree to the activities to be conducted within any future FTZ site authorized on State land. Activity level within the Zone has been minimal to date and it does not warrant the need for moving to a non-profit corporation management plan at this time. There has not been the level of business to generate the additional revenues to fund such a structure, and our present users are satisfied with its present method of operation. If and when the level of activity within the Zone requires more complex management in the form of a non-profit corporation, the Municipality shall include the State as our FTZ application specifies.

The Honorable Tony Knowles  
March 14, 1996  
Page Two

City officials will soon contact Commissioner of Transportation Perkins to arrange for the preparation and execution of the Memorandum of Understanding you desire. By taking this action, I believe the concerns expressed by all parties can be properly addressed.

As business in FTZ #160 expands, I would hope that we might explore a plan to jointly market its benefits to potential domestic and foreign FTZ users. Such a program would be mutually beneficial to the State and the Municipality.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Mystrom". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Rick Mystrom  
Mayor

cc: Commissioner Perkins, DOT&PF

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Aviation Fuel Tax Exemption BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Representative Theriault  
 Requestor: House Transportation COMPONENT SERIAL NO. 113

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>	<b>(3,528.0)</b>	<b>(3,740.0)</b>	<b>(3,964.0)</b>	<b>(4,202.0)</b>	<b>(4,412.0)</b>	<b>(4,632.0)</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME					
PART-TIME					
TEMPORARY					

**ANALYSIS:** (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Larry E. Meyers, Director  
 Division: Income and Excise Audit  
 Approved by Commissioner: [Signature]  
 Agency: Department of Revenue

Phone: 269-6623  
 Date: 1/23/96  
 Date: 1/23/96

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**ISSUE**

The activation of a Foreign Trade Zone (FTZ) in Anchorage (Oct. 1995) allowed imported foreign aviation fuel to be sold exempt from state tax to aircraft flying directly or indirectly to a foreign country. Alaska oil refining industry believes that they will not be able to compete economically with FTZ (foreign import) fuel unless the current Alaska tax exemption for direct foreign flights is expanded to include indirect (i.e. flights that refuel in Alaska, stop in another U.S. city and then continue on to a foreign country). Current Alaska statutes provide only for an exemption for fuel sold on flights going directly to a foreign country.

**Current Law**

AS 43.40 (Alaska motor fuel tax) currently imposes a 3.2 cent per gallon tax on aviation jet fuel purchased in Alaska. Fuel purchased in Alaska for use in flights directly from Alaska to a foreign country is exempt from the Alaska tax. Fuel purchased for use in flights originating in a foreign country, refueling in Alaska and continuing to a U.S. destination prior to returning to foreign country (i.e. indirect foreign flight) is taxable.

**Proposed Law**

HB 362 would expand the above exemption to exempt from tax fuel purchased in Alaska for all flights to or from foreign countries.

**Revenue Impact**

This bill will result in approximately \$3.528 million in revenue loss for FY 97 increasing at 6% through FY 2000 and 5% thereafter.

This estimate considers the effect of the recent activation of Anchorage Foreign Trade Zones (FTZ). The FTZ allows international air carriers to use imported fuel without incurring customs duties. Under the rules and regulations of the U.S. Customs Service, the operation of the FTZ allows air carriers to place imported fuel in the FTZ and withdraw the fuel for use in flights to or from a foreign country. Under federal law, the State of Alaska cannot impose tax on fuel placed in the FTZ. Alaska will lose tax revenues from the FTZ independently of HB 362.

The fiscal impact of HB 362 results from exempting fuel that could not otherwise qualify for FTZ treatment or the current foreign flight exemption. The fiscal impact is measured by the amount of domestic fuel that is used for flights that continue from foreign countries to a U.S. destination.

**Fiscal Note Assumptions/Calculations**

1) DOR economic analysis indicates that a 3.2 cent tax advantage for foreign fuel placed in the FTZ will not result in a significant increase in foreign fuel imports. Transportation costs and favorable crude price and supply will continue to make Alaska refined fuel most economical. West Coast imports will continue to be cheaper than imported foreign fuel.

2) According to the Alaska Center for International Business, the imports of jet fuel for the last six years has averaged 43.928 million gallons. DOR has used this average to estimate future imports of FTZ fuel. Approximately 50% of the imported fuel is used in flights that already qualify under the current foreign flight exemption. Therefore, 50% of expected imports or 21.964 million gallons will be used in continuing foreign flights. At a 3.2 cent tax rate, this equates to \$0.702 million in tax revenue lost from FTZ fuel.

3) Total estimated aviation fuel tax revenue to be collected in FY97 from indirect foreign flights was \$4.23 million. Estimated revenue loss due to import of FTZ fuel is \$.702 million. Thus the remaining potential revenue loss from HB 362 is \$3.528 million for FY 97.

4) The air carriers that will be affected by HB 362 are primarily transit cargo carriers. Transit cargo is defined as cargo that either (1) remains on an aircraft during a stopover at the Airport or (2) is off-loaded exclusively for customs clearance and/or sorting and is then reloaded. Expected increases of transit cargo- 6% through 2001 then 5%. This rate applied to FY 97 revenue loss. Source: Anchorage International Airport Master Plan Update, Fall 1995, Table 15.

5) Actual revenue loss is dependent on the amount of foreign fuel that will be imported and placed in FTZ. Alaska is pre-empted from taxing this fuel.

ANCHORAGE FUELING AND SERVICE COMPANY

4885 W. INTERNATIONAL AIRPORT RD.  
ANCHORAGE, ALASKA

TELEPHONE:  
(206) 433-3168

REPLY TO:  
Fred Ketzbeck  
Chairman

TESTIMONY OF ANCHORAGE FUELING AND SERVICE  
COMPANY TO THE HOUSE FINANCE COMMITTEE CONCERNING

H.B. 362

Mr. Chairman, Anchorage Fueling and Service Company (AFSC) takes no position on H.B. 362. It is extremely concerned, however, that consideration of this bill has implicated the Anchorage Foreign Trade Zone, of which AFSC is a customer. AFSC supports the wisdom of the Foreign Trade Zone, worked with both the Municipality of Anchorage and the State to create the zone, and opposes the State's apparent change of heart and current attempts to terminate the zone to the detriment of AFSC and its shareholders.

By way of background, AFSC is an Alaska corporation, which was formed in 1981 by Alaska Airlines, Western Airlines, Japan Airlines, and Northwest Airlines. Since then it has grown to include as shareholders virtually all the airlines providing significant services through the Anchorage International Airport. It currently has 20 shareholders. I have attached a list of the members for the Committee's convenience. Former members include the European national carriers who previously provided passenger service between Asia and Europe through Anchorage. Due to the availability of over-flights through Russian airspace, and the advent of longer range passenger jets, most of the European carriers are no longer shareholders. Some, such as Lufthansa and Air France, continue to provide air cargo services through Fairbanks.

AFSC was formed, and has consistently acted, as a "cost company" whose goal is to maximize the free competition among oil companies and fuel suppliers, so that AFSC's shareholders may enjoy the lowest price possible for their fuel. AFSC does not purchase fuel. Fuel purchasing is done by each individual airline, on individual terms, from separate suppliers, for separately negotiated prices. AFSC has sought to maximize the options in fuel purchasing