

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7362 SENATE COMMUNITY & REGIONAL AFFAIRS

PETITION

WHEREAS The community of Butte, Alaska does not have a full service Post Office where post office boxes may be rented for ordinary mail...

Because Butte, Alaska having a general population between the Knik River bridge and the Matanuska River bridge does not have its own zip code...

Because there are no known outdoor, public, all weather, mail boxes for ordinary outgoing mail in the general area known as Butte, Alaska. Because outside rural delivery, private mail boxes along side the highway (Mile 12.6/Old Glenn Highway) at Butte, Alaska are usually hit by snow plows and/or covered over by snow from snowplows each winter causing a serious traffic hazard to manual laborers who must shovel the snow off them...

Because of the odd "banker's hours" of Butte, Alaska's "Post Office" during formal service given to the general public, and because of the outstanding "volunteer" service given by the postal workers, there, often during "closed" hours...

We Alaskans hereby petition and request that Butte, Alaska be given full general delivery postal status with a complete zip code and (a) new postmarking cancellation rubber stamp(s).

Name Address Date

1. *James Prigg #* 1/2 P.O. Box 394
Chugiak, Alaska 99567 Jan. 3, 1992
2. *Brenda Jordan* HCO2 Box 774-C Palmer Jan 3, 1992
3. *Cheryl D. L. Jones* P.O. Box 347 PALMER AK 99645 1-3-92
4. *Charles Bissonette* P.O. Box 2745 PALMER AK 99645 1/3/92
5. *Larry J. Walker* P.O. Box 1729 PALMER AK 99645 1/3/92
6. *Robert Plunk* HCO2 Box 0311 1/3/92
7. *Romer A. Sington* Box 347 Palmer 1/3/92
8. *Fred Mader* Box 1538 PALMER 1/3/92
9. *Claudia Biggs* HCO2 Box 7514, Palmer 1-3/92.
10. *Mary L. Sexton* P.O. Box 1914 Palmer 1-03-92
11. *Wako Burns* HCO2 7311-I Palmer AK 1/4/92
12. *Sibel Hagen* P.O. Box 576146, West Hill AK 1/5/92
13. *William A. Bernhard* HCO2 Box 7278 Palmer 1/5/92
14. *K.H. Johnston* Box 3535 Palmer 1/11/92

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	Name	Address	Date
15.	<i>[Signature]</i> S.L. Patterson	PO Box 12 PALMER, AK 99645	1/6/92
		HCO2 Box 7456-C " "	1/6/92
17.	<i>[Signature]</i>	HCO2 Box 7371-A4	1/6/92
18.	<i>[Signature]</i>	HCO2 Box 7331 PALMER	1/6/92
19.	<i>[Signature]</i> C. J. Gray	HCO2 Box 7374-C PALMER	1/7/92
20.	<i>[Signature]</i>	PO Box 2432 - PALMER	1/7/92
21.	<i>[Signature]</i> Mark Sorenson	P.O. Box 347 PALMER	1-7-92
22.	<i>[Signature]</i> Debbi Burns	HCO2 7311-I palmer ak	1-7-92
23.	Rosa L. Steven Patterson Rosa Patterson	HCO2 7456C Palmera AK	- 17-92
24.	James V Kracker	17550 E MAUD R Box 1946 PALMER AK 99645	

PETITION

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	Name	Address	Date
25.	<i>John J. Olson</i>	<i>HCO2 Box 7326 Palmer Ak</i>	<i>1-11-92.</i>
26.	<i>Aedene L. Arthur</i>	<i>HCO2 Box 7300 Palmer</i>	<i>1-11-92</i>
27.	<i>Kucy Dordand</i>	<i>HCO2 Box 7476-T Palmer</i>	<i>1-13-92</i>
28.	<i>Sandy Bond</i>	<i>HCO2 Box 7456 A Palmer</i>	<i>1-20-92</i>
29.	<i>Mark C. Moffat</i>	<i>Box 1987 Palmer AK</i>	<i>1-20-92</i>

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: None
 SR 10 Title: Requesting full general delivery postal status for Butte, Alaska BRU: None
 Sponsor: Sen. Finance Component: _____
 Requestor: Sen. Kerttula COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-					
CAPITAL	-0-					
REVENUE FUND SOURCE:	-0-					

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senate Community and Regional Affairs Phone: 3709
 Division: Alaska State Senate Date: 3/26/92
 Chairman
 Approved by Commissioner: Senator Steve Frank
 Agency: Senate Community and Regional Affairs Committee Date: 3/26/92

Alaska State Legislature

Sen. Jay Kerttula, Co-Chairman
Sen. Pat Pourchot, Co-Chairman

State Capitol
Juneau, AK 99801-1182
(907) 465-1200
(907) 463-3066 Fax


Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling

Senate Finance Committee

Box 1009
Palmer, AK 99645
(907) 376-2675
(907) 376-0315 Fax

MEMORANDUM

TO: Senator Steve Frank
Chair, Senate C & R A Committee

FROM: Senator Jay Kerttula
Co-Chair, Senate Finance Committee 

SUBJECT: SR 10, Butte Post Office

DATE: March 24, 1992

I would appreciate it if you would schedule SR 10 for a hearing.

This resolution is in response to a petition from residents of Butte which is presently within Palmer zip code. The citizens are requesting full postal service for their community. SR 10 requests the U. S. Postal Service to provide this service.

Thank you for your consideration of this request.

JK:pt

54

HB

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS HB 54 (FIN)

Revision Date: _____ Department Affected: Community & Regional Affairs

Title: Mkg distribution of national forest receipts BRU: National Forest Receipts
Component: National Forest Receipts

Sponsor: Rep. Mackie

Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

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

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER Nat'l Forest Receipts Fund	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0
TOTAL						

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Revenues to the fund from the federal gov't vary year to year based upon 25% of the gross revenue from each national forest. The fiscal note represents continued distribution at the FY 91 level of receipt.

Representative Mike Navarre, Co-Chair *[Signature]* 465-3706

Prepared By: Representative Eileen MacLean, Co-Chair *[Signature]* Phone: 465-3722

Division: _____ Date: _____

Approved by Commissioner: _____

Agency: _____ Date: _____

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

CSHB 54 (Finance)-Prospective distribution

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

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

May 9, 1991

SUBJECT: National Forest Receipts (CSHB 54(FIN)(title am))
(Work Order No. 17LS-0427\V)

TO: Senator Steve Frank
Attn: Rick Solie

FROM: Jerry Luckhaupt *JLB*
Legislative Counsel

You have asked if the title of the above-referenced bill as passed by the House of Representatives would prevent the Senate from amending the bill to provide for distributions of national forest receipts from the unorganized borough national forest receipts fund (created by the bill) to regional educational attendance areas. In our opinion the Senate could amend the bill to provide for distributions of national forest receipts from the fund to regional educational attendance areas in the unorganized borough as long as the Senate does not eliminate distributions to communities in the unorganized borough. The title states that the bill relates to the distribution of national forest receipts and establishes an unorganized borough national forest receipts fund to be utilized for the benefit of public schools and roads in the unorganized borough. A distribution to regional educational attendance areas in the unorganized borough would be to benefit public schools in the unorganized borough and within the title of the bill. Since the title of the bill also provides for distributions from the fund to communities in the unorganized borough, the Senate could not entirely eliminate distributions to communities in the unorganized borough.

GPL:pl
91-354.plm

adopted 5/9/91

AMENDMENT TO CS HB 54 (FIN)(Title am)

By MACKIE

Page 2, line 23: Delete "or" and insert "," and delete "city's" and insert "city, or regional education attendance area's"

Page 3, line 31: After "law", insert ", or a regional education attendance area"

7-LS0427B
Luckhaupt
5/9/91

SENATE CS FOR CS FOR HOUSE BILL NO. 54 (CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (f) For the purpose of making distributions from the fund, the commissioner of
31 community and regional affairs shall consult with the commissioner of education, for purposes

1 of determining the number of children in average daily membership in the public schools affected
2 by this section, and the commissioner of transportation and public facilities, to determine the total
3 number of road miles in the unorganized borough affected by this section.

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

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

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

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

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

REPRESENTATIVE
JERRY MACKIE

P.O. BOX 73
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2730 HOME

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



House of Representatives

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

April 30, 1991

MEMORANDUM

To: Senator Frank, Chair
Senate Community and Regional Affairs
Committee

From: Representative Mackie

A handwritten signature in black ink, appearing to read "JERRY MACKIE".

Re: Schedule for HB 54, an Act relating to national forest receipts.

I would appreciate a hearing of HB 54 before your committee at the earliest convenience. This bill has had considerable work done to it in the house, so I am prepared to provide the committee as much information and detail as may be desired.

Thank you for your attention to this request.

Attachments

REPRESENTATIVE
JERRY MACKIE

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

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



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

House of Representatives

REPRESENTATIVE MACKIE STATEMENT

On

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

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

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

HB 54 would preserve the intent of the forest receipts program and the spirit of federal law by specifically allocating the unorganized borough portion of funds to the appropriate communities in the Tongass and Chugach forest. The program will be administered by the Department of Community and Regional Affairs. In the finance committee version, the allocation divides the use of the funds into 75% for education and 25% for roads. Distribution of the education funds is based on the school population (ADM) of those communities which contribute a local share to the education system. Distribution of the public roads funds is based on the number of road miles maintained by the communities. The funds which would go to state fully funded schools, or REAAs, and the funds associated with state maintained roads in the unorganized borough will revert back to the state.

SECTIONAL

CS HB 54 (FINANCE)

Section 1 sets out the findings and purpose of the legislation. It describes the purpose and intent of federal law which returns a percentage of national forest receipts to counties for public education and roads. The purpose of CS HB 54 (Finance) is to distribute that portion of the receipts associated with the unorganized borough area of the Tongass and Chugach Forests to communities in those forests.

Section 2 reenacts AS 4: 15.180:

Sub-section 41.15.180 (a) allocates the portion of the national forest receipts to organized boroughs on the proportional basis of forest area within borough boundaries. The section mirrors current law with the change that the commissioner of the department of community and regional affairs will manage the funds rather than the commissioner of administration.

Sub-section (b) establishes the unorganized borough national forest receipts fund in the general fund to account for forest receipts associated with the forest areas in the unorganized borough. The fund is further segregated into 75% for public schools and 25% for public roads.

Sub-section (c) distributes the education portion of the unorganized borough national forest receipts fund to appropriate home rule and first class cities. The distribution is based on the proportion of local school population (ADM) to total school population in the region, including REAAs.

Sub-section (d) distributes the public road portion of the unorganized borough national forest receipts fund to home rule, first class cities and second class cities that exercise road powers. The municipality of Metlakatla is included in the distribution in subsection (d) (2). The public road distribution is based on the proportion of local road miles maintained to the total road miles in the region, including state maintained roads.

Sub-section (e) requires that expenditures of the distributions to the communities in the unorganized boroughs are for the appropriate federal public purposes.

Sub-section (f) requires the commissioner of community and regional affairs to consult with the commissioner of education and the commissioner of transportation to determine the school population and the road miles of the two respective distribution formulas.

Sub-section (g) requires all local governments to report to the commissioner of community and regional affairs on how their share of the forest receipts were expended. The commissioner may withhold a distribution to a community in the unorganized borough that has failed to report.

Sub-section (h) is a definitional description of communities' location and boundaries in the national forest.

Sub-section (i) provides that payments of forest receipts require an appropriation.

Sub-section (j) provides that forest receipts undistributed by AS 41.15.180 lapse into the unrestricted portion of the general fund.

PRINCE OF WALES
COMMUNITY ADVISORY COUNCIL

Chairperson:
Ginny L. Tierney, Thorne Bay
Vice Chairperson:
Aaron Ianson, Klawock
Secretary/Treasurer:
Charity Fechter, Craig

P.O. Box 23
Craig, AK 99821

Telephone: (907)828-3380
(907)826-3378
FAX Number: (907)828-3374

February 7, 1991

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

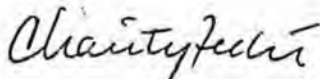
SUBJECT: Receipts from National Forest Lands

Dear Representative Mackie:

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

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

Sincerely,



Charity Fechter
Secretary Treasurer

Enclosure

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

RESOLUTION 90-7

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

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

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

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

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

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

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

PASSED AND APPROVED ON Oct. 16, 1990.

PRINCE OF WALES COMMUNITY
ADVISORY COUNCIL

BY Annex D. Swinney

ATTEST:

Charity Fetter

SECRETARY

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D ELIZABETH CUADRA
MARY A NORDALE
ROBERT P BLASCO
ELIZABETH A ZIEGLER

ADMITTED IN WASHINGTON, D.C.
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

February 26, 1991

The Honorable Jerry Mackie, Chairman
House Community & Regional Affairs Committee
Alaska Legislature
Capitol Building
Juneau, Alaska 99801

RE: HB 54: Distribution of National Forest Receipts

Dear Representative Mackie:

This is to provide you with certain information concerning the intent of Congress in enacting the federal statute (including amendments) which is codified at 16 USC 500. You and the committee members are already familiar with that statute, but the full text of 16 USC 500 is attached for convenient reference.

For our purposes, the key portion of the statute reads as follows:

"On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: ..." [emphasis added]

Several court decisions made it clear that Congress intended these national forest receipts funds to be a special grant, related to the impacts which forestry activities have upon the local

The Honorable Jerry Mackie, Chairman
February 26, 1991
Page 2

communities, to provide them with a special assistance fund for road and school purposes; the same court decisions have made it clear that these monies are not to be construed as "payments in lieu of taxes" (PILT) funds. The concept behind PILT funds is that federal property is not subject to taxation by state or local governments, and that therefore (under certain other federal statutes) the federal government pays PILT funds. A familiar example would be where the non-taxable land of a military base is located within a municipality.

The question of whether Congress intended national forest receipts to be impact funds or PILT funds has arisen in several different contexts, but most frequently as part of the question whether the state or local government has been preempted by the federal statute from applying some form of state or local taxation. If the national forest receipts monies were PILT funds, then the state and local governments would be federally preempted from taxation, but if instead they are impact funds, then there is no federal preemption.

For example, an appellate court in Louisiana held that national forest receipts funds under 16 USC 500 are not payments in lieu of taxes (PILT), and that therefore a state severance tax on the activity of gravel mining could lawfully be enforced, where gravel was being mined from a national forest. Bartlett v. Collector of Revenue, 285 So.2d 246 (La. App. 1973). The Louisiana appellate court cited several other court decisions and relied especially upon Georgia Pacific Corporation v. County of Mendocino, 340 F.Supp. 1041 (N.D. Cal. 1973), aff'd 515 F.2d 285 (9th Cir. 1974), in which a federal district court had held that payments made under 16 USC 500 are not payments in lieu of taxes. Instead, the national forest receipts were intended to be a public grant for the purposes of roads and schools where the forests are located. In the Georgia Pacific case, the federal courts upheld the legality of a property tax on the possessory interest in standing timber (taxed to the purchaser of the timber) in national forests involving the counties of Mendocino, Siskiyou and Tehama in Northern California.

The Idaho Supreme Court has held that national forest receipts under 16 USC 500 are not payments in lieu of taxes, and that therefore it is not unlawful for a personal property tax to be applicable to logs harvested from forest service lands. Tree Farmers, Inc. v. Goeckner, 385 P.2d. 649 (Idaho 1963). The Idaho Supreme Court held that, instead of being a payment in lieu of taxes, the national forest receipts money was in the nature of an assistance grant with a special purpose.

The Honorable Jerry Mackie, Chairman
February 26, 1991
Page 3

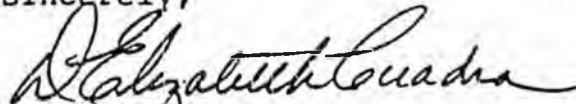
A California appellate court held that the federal statute, 16 USC 500, was not intended to provide money in lieu of local taxes (payments in lieu of taxes), and went on to uphold an interpretation of the state's distribution statute (apportioning these funds to school districts "lying within or adjacent to" national forests), where the interpretation had extended monies to certain school districts that were not immediately adjacent to national forest boundaries but were financially impacted by forestry activities going on within the national forest. That is, the state statute had made eligibility for funds dependent upon both geography and financial impact combined. Anderson Union High School District v. Schreder, 128 Cal. Rptr. 529 (Cal. App. 1976).

These courts have looked to the Congressional intent behind the federal statute, 16 USC 500, in reaching their decisions. The implication of these decisions is that a state statutory distribution scheme for national forest receipts which views the monies as impact funds and sets up some rational criteria for eligibility (as CS HB 54 does), will be far more in line with what Congress intended (and thus more lawful) than Alaska's present handling of national forest receipts generated from forest lands within the unorganized borough.

A further implication which arguably flows from these judicial interpretations of 16 USC 500 is that these funds are in addition to any funds available for roads and schools from other sources, and should not be used to replace or substitute for those other funds, nor be imbedded in a "priority system" that is applied to other funds and based on other considerations.

On behalf of the City of Craig, let me add that the City does support the Committee Substitute for HB 54, and urges your committee to pass it out (with "do pass" recommendations) without delay. The existing inequitable situation needs to be remedied during the current legislative session.

Sincerely,



D. Elizabeth Cuadra
Craig City Attorney

DEC\k11.226
Enclosures: 16 USC 500

of the national forests, shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations, protection, or improvements by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, protection, or improvements.

(June 30, 1914, c. 131, 38 Stat. 430; May 29, 1928, c. 901, § 1(99), 45 Stat. 993.)

Historical Note

1928 Amendment. Act May 29, 1928 deleted provision which required that annual reports be made to Congress of moneys received as contributions for cooperative work.

Cross References

Classification as trust funds, appropriation and disbursement of funds appearing on books of government as "Cooperative work, Forest Service", see section 1321 of Title 31, Money and Finance.

Contributions received toward reforestation or for administration or protection of lands within forests to be covered into Treasury and constitute special fund which may be appropriated for purposes for which contributed, see section 572 of this title.

Code of Federal Regulations

Administration of forest development transportation system, see 36 CFR 212.1 et seq.

§ 499. Disposal of money received by or on account of Forest Service; refund of excess and moneys erroneously collected; receipts from permits

All money received by or on account of the Forest Service for timber, or from any other source of national-forest revenue, including moneys received from sale of products from or for the use of lands in national forests created under section 471(b) of this title, and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title, shall be covered into the Treasury of the United States as a miscellaneous receipt, and except as provided in sections 500 and 501 of this title, there is appropriated and made available, as the Secretary of Agriculture may direct, out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States and also so much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not a part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal.

(Mar. 4, 1907, c. 2907, 34 Stat. 1270; Mar. 4, 1911, c. 238, 36 Stat. 1253; Mar. 4, 1917, c. 179, 39 Stat. 1149; June 7, 1924, c. 348, § 9, 43 Stat. 655; May 29, 1928, c. 901, § 1(97), 45 Stat. 993.)

Historical Note

References in Text. Section 471(b) of this title, referred to in text, was repealed by section 704(a) of Pub.L. 94-379, Title VII, Oct. 21, 1976, 90 Stat. 2792. For further details, see Codification note below.

Codification. Section is a combination provision the basis for which is Act Mar. 4, 1907, which superseded previous provisions relating to the disposal of money received from sale of products or use of any land or resources of the forest reserves, contained in Act Feb. 1, 1905, c. 288, § 5, 33 Stat. 628.

Act Mar. 4, 1911 is the source of the last portion of the section beginning with the words, "and also so much as may be necessary," etc. That Act provides that as much of the former Act "which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter so appropriate and to include so much;".

The words of this section reading, "including moneys received from sale of products from or use of lands in national forests created under section 471(b) of this title" were derived from the fourth sentence of section 5 of Act of June 7, 1924, which reads as follows: "All receipts from the sale of products from or for the use of lands in such national

forests shall be covered into the Treasury as miscellaneous receipts, forest reserve fund, and shall be disposed of in like manner as the receipts from other national forests as provided by existing law." Section 471(b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 Act, and was repealed by section 704(a) of Pub.L. 94-379. Section 505 of this title is based on the second and third sentences of section 9 of the 1924 Act.

The words "and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title," are from a provision of Act Mar. 4, 1917, which reads, "Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, c. 186, 36 Stat. 961] or any Amendment or extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

1928 Amendment. Act May 29, 1928 deleted provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

Cross References

Conservation programs on military reservations, inapplicability to forest lands administered pursuant to this section, see section 570c of this title.
Deposit in "Oregon and California land-grant fund" of proceeds of sale of timber added to Sitkyou National Forest, see section 487 of this title.
Payments from account for refund of moneys erroneously received and covered and authorization of appropriation of sums necessary, see section 1322 of Title 31, Money and Finance.

Notes of Decisions

1. Scope of review

The discretion of the Secretary of Agriculture in making refunds under this section is absolute only on questions of fact; his rulings

on questions of law are reviewable in the court of claims [now Claims Court]. *Utah Power & Light Co. v. U. S.*, 1929, 67 Ct. Cl. 602.

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of

such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

May 23, 1908, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, Title 11, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(h), 64 Stat. 87; Oct. 22, 1976, Pub.L. 94-588, § 16, 90 Stat. 2961.)

Historical Note

References in Text. The Act of June 9, 1930, referred to in text, is Act June 9, 1930, c. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables volume.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, c. 192, 35 Stat. 251, as amended. A portion of that Act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables volume.

Codification. "National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of Acts May 23, 1908, as amended, and Mar. 1, 1911, as amended.

1976 Amendment. Pub.L. 94-588 added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

1950 Amendment. Act Apr. 24, 1950 deleted second proviso relating to limitation paid county.

1944 Amendment. Act Sept. 21, 1944 added sentence relating to stumpage value of the timber.

1914 Amendment. Act June 30, 1914 changed the per centum to be paid to each State from five to twenty-five.

Savings Provisions. Provisions of Federal Land Policy and Management Act of 1976, Pub.L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as affecting the distribution of livestock grazing revenues to local governments under this section, see section 701(j) of Pub.L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

Similar Provisions. Provisions similar to this section were contained in the following prior appropriation Acts:

June 28, 1944, c. 296, § 1, 58 Stat. 444.

July 12, 1943, c. 215, § 1, 57 Stat. 412.

July 22, 1942, c. 516, § 1, 56 Stat. 680.

July 1, 1941, c. 267, § 1, 55 Stat. 423.

Legislative History. For legislative history and purpose of Act Apr. 24, 1950, see 1950 U.S. Code Cong. Service, p. 2153. See, also, Pub.L. 94-588, 1976 U.S. Code Cong. and Adm. News, p. 6662.

Cross References

- Income received for schools and roads under this section—
 - Apportioned with respect to Olympic National Park, see section 253 of this title
 - Expenditure of funds for benefit of Pendleton and Grant Counties, West Virginia, see section 460p-2 of this title.
- Inapplicability to national-forest lands added to or extended in public lands in northern Minnesota, see sections 577g and 577g-1 of this title.
- Residue removal credit in pilot wood utilization projects considered as, see section 1683 of this title.
- Unaffected by establishment of North Cascades National Park, see section 901 of this title.
- Notification by Secretary of Agriculture of intention to issue regulations, see section 580k of this title.
- Reduction of payment for entitlement land by amounts received under this section, see section 6903 of Title 31, Money and Finance.
- Reforestation Trust Fund, distribution of funds for use in state forestry programs, see section 1606a of this title.

Code of Federal Regulations

Nondiscrimination in federally-assisted programs of Department of Agriculture, see 7 CFR 15.1 et seq.

Notes of Decisions

- | | | | |
|-------------------------------------|----|-------|--|
| Apportionment of funds | 7 | 3, 18 | U.S. v. Griffin, D.C. Va. 1932, 58 F.2d 674 |
| Constitutionality | 1 | | |
| Construction | | 2. | Construction |
| Generally | 2 | | This section should be interpreted and construed, if possible, primarily from its own language. Trinity Independent School Dist. v. Walker County, Tex. Civ. App. 1936, 287 S.W.2d 717, ref. n.r.c. |
| With other laws | 3 | | |
| Jurisdiction of | | 3. | Construction with other laws |
| District court | 10 | | Provision of this section that, in sales of forest products from national forest, amounts made available for schools and roads of state shall be based upon stumpage value of the timber, was intended to preclude government from having to base percentage payments to states from sale of certain forest products upon receipts representing a return of production costs and to further limit base to which percentage would be applied and does not |
| State court | 11 | | |
| Lands adjacent to forest | 8 | | |
| Moneys received | 6 | | |
| Persons entitled to maintain action | 12 | | |
| Purpose | 4 | | |
| Questions for Congress | 5 | | |
| Questions of fact | 14 | | |
| Summary judgment | 13 | | |
| Taxation | 9 | | |

1. Constitutionality

This section is constitutional as being authorized by U.S.C.A. Const. Art. 1, § 8, cls.



CITY OF PETERSBURG

MAY 9 1991

P.O. BOX 329 • PETERSBURG, ALASKA 99833

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May 3, 1991

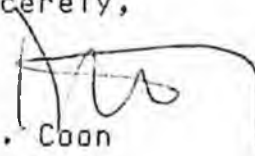
State of Alaska
Community & Regional Affairs
417 State Capital
Juneau, AK 99801

ATTN: Steve Frank, Chairman

Dear Mr. Frank:

This letter is to respectfully request your immediate scheduling of House Bill 54, a bill distributing national timber receipts to Municipalities. We need this legislation passed this year in order to equitably distribute these receipts.

Sincerely,


D.A. Coon
Mayor

May 5, 1991

Senator Steve Frank
Chair of Community and Regional Affairs Committee
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator:

I am writing to ask you to amend House Bill 54 to include the three Regional Educational Attendance Areas in Southeast Alaska.

It is just not fair that despite current statute, only the organized boroughs receive a share of funds which is based upon geographic proportion of the national forest within their boundaries. Since about 70% of the national forest is within the unorganized borough, 70% of the funds are not distributed at all.

This looks like a plain case of discrimination against the three REAA's in Southeast. Southeast Island, Annette, and Chatham School Districts should receive their share too. I believe this is a case of discrimination because of the myth that these three school districts are 100% funded and therefore have everything they need. I happen to work in one of these three districts that is being excluded, and believe me, we don't have everything. In fact with the Foundation Funding Unit remaining fixed at \$60,000 and the costs rising each year we are going educationally speaking, backwards.


In fact, it is my understanding that the three REAAs, when compared to all the other districts in Southeast are in within range of state support received. In fact, the figures I looked at put Annette School District at 40% and Chatham at 55% of total from the State Foundation. Compare those two districts to any of the others in Southeast and they receive less than any other district with the exception of Klawock. Most of the Districts are in the 77% to 82% range. Even Southeast Island School District which receives 82% of its total from State Foundation is below Pelican, (93%) and Craig, (85%) and is the same as Hydaburg. Southeast Island receives just 3 to 4% above Districts like Hoonah, Petersburg, and Skagway.

The other fact I wanted to bring to your attention which also shows how unfair it is to eliminate the three REAAs from the timber receipts is the fact of how much funding is received by the Districts in Southeast before HB 54 and after receiving HB54. What happens when the timber receipts

money kicked in is that all the districts shoot above 100% funding except Skagway (96%). The three REAAs remain at 100%, but every other district is increased to somewhere between 102% and 114%. Again this just isn't fair.

Please support the inclusion of the three REAAs into HB 54. I await hearing from you about what action you took on this Bill.

Sincerely yours,



Martha Jacobson
Box 6113
Ketchikan, Alaska 99901

REPRESENTATIVE
JERRY MACKIE

P O BOX 73
CRAIG, ALASKA 99821
(907) 826-3008 OFFICE
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CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



House of Representatives

WHILE IN JUNEAU
P O BOX V
JUNEAU, ALASKA 99811
(907) 465-4825

REPRESENTATIVE MACKIE STATEMENT

On

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

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

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

HB 54 would preserve the intent of the forest receipts program and the spirit of federal law by specifically allocating the unorganized borough portion of funds to the appropriate communities in the Tongass and Chugach forest. The program will be administered by the Department of Community and Regional Affairs. In the finance committee version, the allocation divides the use of the funds into 75% for education and 25% for roads. Distribution of the education funds is based on the school population (ADM) of those communities which contribute a local share to the education system. Distribution of the public roads funds is based on the number of road miles maintained by the communities. The funds which would go to state fully funded schools, or REAAs, and the funds associated with state maintained roads in the unorganized borough will revert back to the state.

extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

Amendments:

1928. Act May 29, 1928, deleted a provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

CROSS REFERENCES

Deposit of proceeds from sale of timber on lands added to Siskiyou National Forest, 16 USCS § 487.

Refunding accounts, 31 USCS § 725q(b)(9)(18).

Trust funds, 31 USCS § 725s(13).

This section referred to in 16 USCS §§ 508b, 527.

INTERPRETIVE NOTES AND DECISIONS

Jurisdiction of Secretary as to refunds is exclusive only as to disputed questions of fact, and his decision upon question of law is reviewable by

Court of Claims. *Utah Power & Light Co. v United States* (1929) 67 Ct Cl 602.

§ 500. Payment and evaluation of receipts to State for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments

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NATIONAL FORESTS

16 USCS § 500

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estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

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(May 23, 1903, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, P. L. 94-583, § 16, 90 Stat. 2961.)

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HISTORY; ANCILLARY LAWS AND DIRECTIVES

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References in text:

The Act of June 9, 1930, referred to in text, is Act June 9, 1930, ch. 416, 46 Stat. 527, popularly known as the Knutson-Vandenberg Act, which is classified to 16 USCS 576, 576a, and 576b.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, ch. 192, 35 Stat. 251. A portion of that Act appearing at 35 Stat. 260 is classified to this section.

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Explanatory notes:

This section appears in the language of the compilers of the 1976 Edition of the United States Code. For status of the United States Code as evidence of the law, see 1 USCS §§ 112 and 204 and notes thereunder.

and pay-

"National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

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Amendments:

1914. Act June 30, 1914, changed the per centum to be paid to each State from five to twenty-five.

1944. Act Sept. 21, 1944, added sentence relating to stumpage value of the timber.

1950. Act Apr. 24, 1950, deleted second proviso relating to limitation paid county.

1976. Act Oct. 22, 1976, added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

relating to the subject matter of AS 41.15.010 — 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery. (§ 12 ch 138 SLA 1961)

Sec. 41.15.170. Definitions. In AS 41.15.010 — 41.15.170

(1) [Repealed, § 43 ch 85 SLA 1988.]

(2) "damages" includes costs incurred in suppressing, controlling or extinguishing a fire;

(3) "forested land" includes all land on which grass, brush, timber and other natural vegetative material grows;

(4) "forest fire" includes the uncontrolled burning of grass, brush, timber and other natural vegetative material. (§ 1 ch 138 SLA 1961; am § 3 ch 179 SLA 1970; am § 43 ch 85 SLA 1988)

Revisor's notes. — In 1983 this section was reorganized to place the terms defined in alphabetical order.

Effect of amendments. — The 1983 amendment repealed former paragraph (1), which defined "commissioner."

Article 2. Forest Reserve Fund.

Section

180. National forest income

Collateral references. — 52 Am. Jur. 2d, Logs and Timber, § 65.

Sec. 41.15.180. National forest income. (a) When the commissioner of administration receives national forest income under 16 U.S.C. 500, the commissioner shall immediately pay to every organized borough in which national forest land is located a share of the income from that forest. A borough's share of income from a national forest shall be proportional to the area of the national forest located within its boundaries. The payments shall be made under an appropriation made for that purpose.

(b) The national forest income paid to an organized borough under this section shall be expended for public schools or roads.

(c) The commissioner shall deposit income from national forest land outside of organized boroughs in the general fund of the state, 25 percent to be used for public schools and 75 percent for roads. (§ 47-5-1 ACLA 1949; am § 1 ch 106 SLA 1965; am § 1 ch 32 SLA 1969)

75%, 25% split done
 16 by legislature. The
 first time was done
 by 1949 territorial legislature

PAYMENT TO STATE OF ALASKA FROM NATIONAL FOREST RECEIPTS

FEDERAL FISCAL YEARS 1959 TO 1990

FEDERAL FISCAL YEAR	CHUGACH NF	TONGASS NF	TOTAL PAYMENT
1956 59	\$ 8,255.	\$ 150,038.	\$ 158,263.
1960	8,466.	189,655.	198,131.
1961	10,425.	202,006.	212,431.
1962	10,455.	161,137.	171,592.
1963	4,842.	208,332.	213,174.
1964	5,476.	231,512.	236,988.
1965	4,656.	212,576.	217,232.
1966	7,323.	276,162.	283,485.
1967	5,044.	399,923.	404,967.
1968	7,435.	510,123.	517,558.
1969	17,678.	557,097.	574,775.
1970	23,283.	1,057,638.	1,080,921.
1971	20,993.	1,031,200.	1,052,193.
1972	30,806.	851,337.	882,143.
1973	47,692.	926,223.	973,915.
1974	44,811.	643,322.	688,133.
1975	31,630.	1,014,448.	1,046,078.
1976	31,849.	437,689.	469,538.
1977	90,066.	2,465,222.	2,555,288.
1978	139,820.	2,970,500.	3,110,320.
1979	112,596.	3,461,103.	3,573,699.
1980	21,957.	6,506,123.	6,523,080.
1981	23,208.	3,751,986.	3,775,194.
1982	24,681.	5,405,691.	5,430,372.
1983	33,589.	1,341,479.	1,341,479.
1984	36,299.	1,015,797.	1,052,096.
1985	37,154.	52,308.	89,462.
1986	53,719.	491,810.	545,529.
1987	0.	0.	0.
1988	101,989.	308,167.	410,156.
1989	60,241.	5,045,783.	5,106,024.
1990	54,558.	9,002,560.	9,057,119.

This table of payments to the State of Alaska from National Forest receipts indicates the final payments derived from the National Forests in Alaska for the period requested (16 U.S.C. 500 as amended by P.L. 94-588).

PAYMENTS TO STATES FROM NATIONAL FOREST RECEIPTS
 FISCAL YEAR 1990
 OCT 1, 1989 THRU SEP 30, 1990
 ---NATIONAL FOREST SUMMARY---

NATIONAL FOREST *-----*	STATE *---*	BOROUGH *-----*	FY-90 ACRES *---*	TOTAL PAYMENT *-----*
CHUGACH	ALASKA	Anchorage	274,290	\$ 2,633.80
		Kenai Penin.	1,139,903	10,945.63
		Kodiak Is.	214,824	2,062.79
		Matanuska-Su	43,386	416.60
		Unorganized	4,009,473	38,499.95
NATIONAL FOREST TOTAL:			5,681,876*	\$ 54,558.77*
TONGASS	ALASKA	Haines	918,072	\$ 493,478.14
		Juneau	1,654,618	889,383.22
		Ktn. Gateway	748,337	402,242.91
		Sitka	1,814,934	975,555.59
		Unorganized	11,612,499	6,241,900.96
NATIONAL FOREST TOTAL:			16,748,460*	\$9,002,560.82*
REGION TOTAL:			22,430,336**	\$9,057,119.59**

no into Gen. Fund

no into Gen. Fund

Actual Interim Payment Made Effective 10/1/90	\$ 6,521,913.20
Final Payment Made 12/7/90	2,535,206.39

Total State of Alaska Payment	\$ 9,057,119.59
	=====

CSHB 54 (Finance)-Prospective distribution

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

SECTIONAL

CS HB 54 (FINANCE)

Section 1 sets out the findings and purpose of the legislation. It describes the purpose and intent of federal law which returns a percentage of national forest receipts to counties for public education and roads. The purpose of CS HB 54 (Finance) is to distribute that portion of the receipts associated with the unorganized borough area of the Tongass and Chugach Forests to communities in those forests.

Section 2 reenacts AS 41.15.180:

Sub-section 41.15.180 (a) allocates the portion of the national forest receipts to organized boroughs on the proportional basis of forest area within borough boundaries. The section mirrors current law with the change that the commissioner of the department of community and regional affairs will manage the funds rather than the commissioner of administration.

Sub-section (b) establishes the unorganized borough national forest receipts fund in the general fund to account for forest receipts associated with the forest areas in the unorganized borough. The fund is further segregated into 75% for public schools and 25% for public roads.

Sub-section (c) distributes the education portion of the unorganized borough national forest receipts fund to appropriate home rule and first class cities. The distribution is based on the proportion of local school population (ADM) to total school population in the region, including REAAs.

Sub-section (d) distributes the public road portion of the unorganized borough national forest receipts fund to home rule, first class cities and second class cities that exercise road powers. The municipality of Metlakatla is included in the distribution in subsection (d) (2). The public road distribution is based on the proportion of local road miles maintained to the total road miles in the region, including state maintained roads.

Sub-section (e) requires that expenditures of the distributions to the communities in the unorganized boroughs are for the appropriate federal public purposes.

Sub-section (f) requires the commissioner of community and regional affairs to consult with the commissioner of education and the commissioner of transportation to determine the school population and the road miles of the two respective distribution formulas.

Sub-section (g) requires all local governments to report to the commissioner of community and regional affairs on how their share of the forest receipts were expended. The commissioner may withhold a distribution to a community in the unorganized borough that has failed to report.

Sub-section (h) is a definitional description of communities' location and boundaries in the national forest.

Sub-section (i) provides that payments of forest receipts require an appropriation.

Sub-section (j) provides that forest receipts undistributed by AS 41.15.180 lapse into the unrestricted portion of the general fund.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS HB 54 (FIN)

Revision Date: _____ Department Affected: Community & Regional Affairs

Title: Mkg distribution of national forest receipts BRU: National Forest Receipts
Component: National Forest Receipts

Sponsor: Rep. Mackie

Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Nat'l Forest Receipts Fund	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0
TOTAL						

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Revenues to the fund from the federal gov't vary year to year based upon 25% of the gross revenue from each national forest. The fiscal note represents continued distribution at the FY 91 level of receipt.

Prepared By: Representative Mike Navarre, Co-Chair *Mike Navarre* 465-3706
Representative Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722

Division: _____ Date: _____

Approved by Commissioner: _____

Agency: _____ Date: _____

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

Audit Report



STATE OF ALASKA

SINGLE AUDIT

For the Fiscal Year Ended
June 30, 1989



Audit Control Number:

02-6000-91

Division of Legislative Audit

P.O. Box W, Juneau, Alaska 99811-3300

These communities sued the State for not segregating these funds and for not establishing a mechanism by which they could apply to receive them. Following a March 1986 Superior Court judgment requiring the State to do these things, the legislature passed chapter 53, SLA 1986. This chapter established the Department of Community and Regional Affairs (DCRA) as the state agency responsible for adopting regulations and administering the grants to alleviate the impact of oil and gas development in NPRA. The legislation also revised what constituted the NPRA fund in light of the court decision.

Within DOA there is no system to ensure that federal requirements related to NPRA revenues are met when granted as municipal grants under AS 37.05.315. The source of these grants may be either federal or state depending on the circumstances: if a grant is impact-related under AS 37.05.530(c), it is federal; if not, it may be considered state money under the lapse requirement of AS 37.05.530(g).

To ensure that NPRA intent is not lost in the municipal granting process, DOA should seek the assistance of DCRA to determine whether a given grant is impact-related. If a grant is deemed to be impact-related, federal requirements related to allowable costs as outlined in OMB Circular A-87 and subrecipient monitoring in accordance with OMB Circular A-128 must be applied. Additionally, grantees must be notified that the source of applicable grants is federal for their audit purposes.

CFDA: Other

Federal Agency: USDOJ

Agency's Response

The department agrees and will work with the Department of Community and Regional Affairs.

Recommendation No. 3

DOA should improve its monitoring of national forestry receipts in order to demonstrate compliance with federal and state requirements.

Alaska Statute 41.15.180 requires the commissioner of administration to pay organized boroughs in which national forest land is located their share of national forest income received under 16 USC 500. The statute requires that payments shall be made under an appropriation for that purpose and shall be expended for public schools or roads. The state law further requires the commissioner to deposit income from national forest land outside of organized boroughs in the general fund of the State, 25% to be used for public schools and 75% for roads.

Currently, DCRA records national forestry receipts and is appropriated a portion for distribution to organized

boroughs. Funds exceeding those distributions made by DCRA are lapsed to the general fund. There is presently no mechanism to ensure that the amount of national forest income that lapses to the general fund is expended for the benefit of public schools and public roads. Due to the amount of general funds that are expended for public schools and public roads, it is likely that this requirement is in fact being met. However, since DOA has statutorily been assigned responsibility for these receipts, the department should ensure and document that this federal financial assistance is being expended in accordance with federal and state requirements. In addition, grantees, if any, should be notified that the source of applicable grants is federal for their OMB Circular A-128 audit purposes.

The above situation is a system weakness pertaining to management of the federal program. In order to correct the problem, DOA should improve the monitoring of national forestry receipts received by the State.

CFDA: 10.665

Federal Agency: USDA

Agency's Response

We concur and will look into alternatives to improve the monitoring of these receipts.

Recommendation No. 4

The Older Alaskans Commission (OAC) should allocate payroll costs based on a positive timekeeping system.

OMB Circular A-87 requires that salaries of employees chargeable to more than one grant program or other cost objective be supported by appropriate time distribution records. This has been interpreted to mean either records which account for all time worked or an appropriate time study which has been approved by the federal agency providing funding. The method used should produce an equitable distribution of time and effort.

Personnel costs within OAC are allocated between Title III and Title V federal programs. Presently, the time study conducted by OAC in January and March 1989 does not support the allocation of payroll costs between these programs. If seasonal fluctuations exist, the study should cover various intervals throughout the year to incorporate these variances. Approval of the methodology to be used should be secured from the applicable federal agencies. Once an approved time study has been completed, actual allocation of payroll should be in accordance with the distribution determined in the study.

CFDA: Various
Questioned Costs: \$801.

Federal Agency: Various

REPRESENTATIVE
JERRY MACKIE

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

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



WHILE IN JUNEAU
P O BOX V
JUNEAU, ALASKA 99811
(907) 485-4925

House of Representatives

April 5, 1991

MEMORANDUM

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

From: Rep. Mackie *JAM*

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

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

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

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

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

MEMORANDUM

April 4, 1991

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

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

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

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

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

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

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

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

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

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

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

Representative Jerry Mackie

April 4, 1991

Page 3

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

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

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

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

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

Representative Larry Mackie
April 4, 1991
Page 4

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

GPL:pl
91-230.plm

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 FIRST JUDICIAL DISTRICT AT JUNEAU

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

5 Plaintiffs,)

6 v.)

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

11 Defendants.)

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

MAR 13 1986

Clerk of Court

By PB Deputy

No. 1JU-85-2634 Civil

12 SUMMARY ORDER

13 Plaintiffs move for summary judgment on their
14 complaint for declaratory relief. Specifically, they seek a
15 judicial declaration that the defendants (hereinafter, the
16 State) have violated the terms of P.L. 96-514 (42 U.S.C. 6509)
17 by (a) failing to segregate funds received from the federal
18 government, (b) failing to establish a system by which political
19 subdivisions impacted by oil and gas development in the National
20 Petroleum Reserve - Alaska (hereinafter, NPR-A) could apply for
21 or receive funds to impacted subdivisions on a priority basis as
22 required by the federal law and (c) appropriating those funds to
23 the general use of the State of Alaska. (Plaintiffs alterna-
24 tively seek parallel declaratory relief on the basis of breach
25 of fiduciary duty to administer a trust created by P.L. 96-514.)
26 Plaintiffs additionally seek a declaration that ch. 94, SLA
27 1984, requires all funds (past or future) received by the State
28 from the federal government under P.L. 96-514 to be placed in a
29 special revenue fund and made available for appropriation by the
30 legislature under a system which complies with the requirements
31 of P.L. 96-514. Lastly, plaintiffs seek injunctive relief
32 (a) requiring the State to segregate and account for all funds
received under P.L. 96-514 and to administer those funds in

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

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

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

29
30 1. The six-week period during which this case has
31 been held under advisement coincides almost exactly with the
32 period during which the undersigned has been the only superior
court judge present in Juneau.

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

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

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

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

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

25 2. When the Duty Arises.

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

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

5 3. Automatic Deposit into Permanent Fund.

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

28 4. Plaintiffs' Delay in Filing Lawsuit.

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

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

11 5. Satisfaction.

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

21 6. Ch. 94, SLA 1984.

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

29 CONCLUSION

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

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

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

IT IS SO ORDERED.

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

Walter L. Carpenetti

Walter L. Carpenetti
Superior Court Judge

Phone 907-826-3274
 Fax: 907-226-3322

CRAIG SCHOOL DISTRICT

John Holst
 Superintendent
 Bob Whicker
 Principal

May 9, 1991

Senator Steve Frank, Chair
 Community and Regional Affairs
 Capital, Room 417
 PO Box V
 Juneau, AK 99811

Dear Senator Frank:

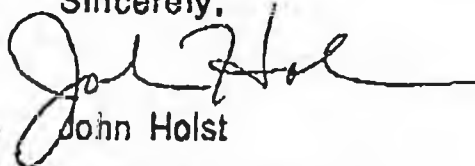
Craig City Schools is strongly in favor of Senate passage of the Timber Receipts Bill, HB54.

The concept of federal impact monies, intended to assist communities impacted by the timber industry including those in the unorganized boroughs, has somehow been misrepresented since statehood. This legislation is intended to rectify a terrible inequity.

Organized boroughs have been receiving these impact monies but somehow the most directly impacted communities, like those on Prince of Wales Island, have received nothing. No wonder communities like Craig have difficulty providing basic amenities like paved streets. No wonder schools like Craig City School District have nearly the lowest per pupil expenditure of any schools in the state.

Please take the time to examine this issue carefully. It is time to rectify a problem that has been in existence since statehood. Please move now to place federal impact monies where they are generated and intended to go, to communities located in the Tongass. To do anything less would be ethically, morally and legally unacceptable.

Sincerely,


 John Holst

extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

Amendments:

1928. Act May 29, 1928, deleted a provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

CROSS REFERENCES

Deposit of proceeds from sale of timber on lands added to Siskiyou National Forest, 16 USCS § 487.

Refunding accounts, 31 USCS § 725q(b)(9)(18).

Trust funds, 31 USCS § 725s(13).

This section referred to in 16 USCS §§ 508b, 527.

INTERPRETIVE NOTES AND DECISIONS

Jurisdiction of Secretary as to refunds is exclusive only as to disputed questions of fact, and his decision upon question of law is reviewable by

Court of Claims. *Utah Power & Light Co. v United States* (1929) 67 Ct Cl 602.

§ 500. Payment and evaluation of receipts to State for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments

ATION

NATIONAL FORESTS

16 USCS § 500

estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1903, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, P. L. 94-583, § 16, 90 Stat. 2961.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The Act of June 9, 1930, referred to in text, is Act June 9, 1930, ch. 416, 46 Stat. 527, popularly known as the Knutson-Vandenberg Act, which is classified to 16 USCS 576, 576a, and 576b.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, ch. 192, 35 Stat. 251. A portion of that Act appearing at 35 Stat. 260 is classified to this section.

Explanatory notes:

This section appears in the language of the compilers of the 1976 Edition of the United States Code. For status of the United States Code as evidence of the law, see 1 USCS §§ 112 and 204 and notes thereunder.

"National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Amendments:

1914. Act June 30, 1914, changed the per centum to be paid to each State from five to twenty-five.

1944. Act Sept. 21, 1944, added sentence relating to stumpage value of the timber.

1950. Act Apr. 24, 1950, deleted second proviso relating to limitation paid county.

1976. Act Oct. 22, 1976, added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

relating to the subject matter of AS 41.15.010 — 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery. (§ 12 ch 138 SLA 1961)

Sec. 41.15.170. Definitions. In AS 41.15.010 — 41.15.170

(1) *[Repealed, § 43 ch 85 SLA 1988.]*

(2) "damages" includes costs incurred in suppressing, controlling or extinguishing a fire;

(3) "forested land" includes all land on which grass, brush, timber and other natural vegetative material grows;

(4) "forest fire" includes the uncontrolled burning of grass, brush, timber and other natural vegetative material. (§ 1 ch 138 SLA 1961; am § 3 ch 179 SLA 1970; am § 43 ch 85 SLA 1988)

Revisor's notes. — In 1983 this section was reorganized to place the terms defined in alphabetical order.

Effect of amendments. — The 1988 amendment repealed former paragraph (1), which defined "commissioner."

Article 2. Forest Reserve Fund.

Section

180. National forest income

Collateral references. — 52 Am. Jur. 2d, Logs and Timber, § 65.

Sec. 41.15.180. National forest income. (a) When the commissioner of administration receives national forest income under 16 U.S.C. 500, the commissioner shall immediately pay to every organized borough in which national forest land is located a share of the income from that forest. A borough's share of income from a national forest shall be proportional to the area of the national forest located within its boundaries. The payments shall be made under an appropriation made for that purpose.

(b) The national forest income paid to an organized borough under this section shall be expended for public schools or roads.

(c) The commissioner shall deposit income from national forest land outside of organized boroughs in the general fund of the state, 25 percent to be used for public schools and 75 percent for roads. (§ 47-5-1 ACLA 1949; am § 1 ch 106 SLA 1965; am § 1 ch 32 SLA 1969)

75%, 25% split done
by legislature. The
16 first time was done
by 1949 territorial legislature

PAYMENT TO STATE OF ALASKA FROM NATIONAL FOREST RECEIPTS

FEDERAL FISCAL YEARS 1959 TO 1990

FEDERAL FISCAL YEAR	CHUGACH NF	TONGASS NF	TOTAL PAYMENT
1959	\$ 8,255.	\$ 150,038.	\$ 158,263.
1960	8,466.	189,655.	198,131.
1961	10,425.	202,006.	212,431.
1962	10,455.	161,137.	171,592.
1963	4,842.	208,332.	213,174.
1964	5,476.	231,512.	236,988.
1965	4,656.	212,576.	217,232.
1966	7,323.	276,162.	283,485.
1967	5,044.	399,923.	404,967.
1968	7,435.	510,123.	517,558.
1969	17,678.	557,097.	574,775.
1970	23,283.	1,057,638.	1,080,921.
1971	20,993.	1,031,200.	1,052,193.
1972	30,806.	851,337.	882,143.
1973	47,692.	926,223.	973,915.
1974	44,811.	643,322.	688,133.
1975	31,630.	1,014,448.	1,046,078.
1976	31,849.	437,689.	469,538.
1977	90,066.	2,465,222.	2,555,288.
1978	139,820.	2,970,500.	3,110,320.
1979	112,596.	3,461,103.	3,573,699.
1980	21,957.	6,506,123.	6,523,080.
1981	23,208.	3,751,986.	3,775,194.
1982	24,681.	5,405,691.	5,430,372.
1983	33,589.	1,341,479.	1,341,479.
1984	36,299.	1,015,797.	1,052,096.
1985	37,154.	52,308.	89,462.
1986	53,719.	491,810.	545,529.
1987	0.	0.	0.
1988	101,989.	308,167.	410,156.
1989	60,241.	5,045,783.	5,106,024.
1990	54,558.	9,002,560.	9,057,119.

This table of payments to the State of Alaska from National Forest receipts indicates the final payments derived from the National Forests in Alaska for the period requested (16 U.S.C. 500 as amended by P.L. 94-588).

PAYMENTS TO STATES FROM NATIONAL FOREST RECEIPTS
 FISCAL YEAR 1990
 OCT 1, 1989 THRU SEP 30, 1990
 ---NATIONAL FOREST SUMMARY---

NATIONAL FOREST *-----*	STATE *---*	BOROUGHs *-----*	FY-90 ACRES *---*	TOTAL PAYMENT *-----*
CHUGACH	ALASKA	Anchorage	274,290	\$ 2,633.80
		Kenai Penin.	1,139,903	10,945.63
		Kodiak Is.	214,824	2,062.79
		Matanuska-Su	43,386	416.60
		Unorganized	4,009,473	38,499.95
NATIONAL FOREST TOTAL:			5,681,876*	\$ 54,558.77*
TONGASS	ALASKA	Haines	918,072	\$ 493,478.14
		Juneau	1,654,618	889,383.22
		Ktn. Gateway	748,337	402,242.91
		Sitka	1,814,934	975,555.59
		Unorganized	11,612,499	6,241,900.96
NATIONAL FOREST TOTAL:			16,748,460*	\$9,002,560.82*
REGION TOTAL:			22,430,336**	\$9,057,119.59**

*into
Gen. Fund*

*into
Gen. Fund*

Actual Interim Payment Made Effective 10/1/90	\$ 6,521,913.20
Final Payment Made 12/7/90	2,535,206.39

Total State of Alaska Payment	\$ 9,057,119.59
	=====



SOUTHEAST
ISLAND
SCHOOL
DISTRICT

1621 TONGASS AVENUE SUITE 301
POST OFFICE BOX 6340
KETCHIKAN, ALASKA 99901
(907) 225-8858 OR 225 9653

Robert Weinstein
SUPERINTENDENT

May 8, 1991

Senator Steve Frank, Chair
Community & Regional Affairs Committee
Alaska Senate
P.O. Box V
Juneau, AK 99984

Dear Senator Frank:

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

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

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

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

Enclosed you will find copies of:

1. The HB 54 fiscal note and distribution as projected by the House Finance Committee.

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

3. Spreadsheet and accompanying graphs for:

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

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

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

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

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

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

Thank you very much for your consideration of this request.

Sincerely,



Robert Weinstein
Superintendent

1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Community & Regional Affairs

Title: Mike distribution of national forest receipts BRU: National Forest Receipts

Component: National Forest Receipts

Sponsor: Rep. Mackie

Requestor: HOUSE FINANCE COMMITTEE

COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Nat'l Forest Receipts fund	6000.0	6000.0	6000.0	6000.0	6000.0	6000.0
TOTAL						

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Revenues to the fund from the federal gov't vary year to year based upon 25% of the gross revenue from each national forest. The fiscal note represents continued distribution at the FY 91 level of receipt.

Prepared By: Representative Mike Navarra, Co-Chair *Mike Navarra* 465-3706
Representative Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722

Division: _____ Date: _____

Approved by Commissioner: _____

Agency: _____ Date: _____

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

Source:
House Finance

CSHB 54 (Finance)-Prospective distribution

P. 05	Community	Road Miles	ADM	Road Mile \$	School \$	Total
	Home Rule					
	Petersburg	12.15	681.20	48.6	795.9	844.5
	Wrangell	8.03	508.90	32.1	594.6	626.7
	Federal					
	Mettakalla	0.00				0.0
	1st Class					
	Hydaburg	3.17	108.40	12.7	126.6	139.3
	Craig	19.00	310.70	76.1	363.0	439.1
	Klawock	5.83	201.90	23.3	235.9	259.2
	Kake	17.15	178.70	68.7	208.8	277.4
	Hoonah	14.00	234.00	56.0	273.4	329.4
	Pelican	1.10	48.20	4.4	56.3	60.7
	Skagway	11.15	144.75	44.6	169.1	213.7
	Yakutat	7.34	150.00	25.4	175.2	204.6
	2nd Class					
	Thorne Bay	22.70		90.9		90.9
	Coffman Cove	2.00		8.0		8.0
	Kasaan	2.92		11.7		11.7
	Kupreanof	0.00		0.0		0.0
	Angoon	5.18		20.7		20.7
	Tenakee Springs	0.00		0.0		0.0
	Port Alexander	0.00		0.0		0.0
	Total Local	131.72	2566.75	527.27	2998.81	3,526.1
	State	243.00	1284.90	972.7	1,501.2	2,473.9
	Grand Total	374.72	3851.65	1,500.0	4,500.0	6,000.0

FAX NO. 9072258908

SEISD OFFICE of SUPT.

MAY- 5-91 WED 10:42

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

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

Source: SISD

P. 06

FAX NO. 9072253905

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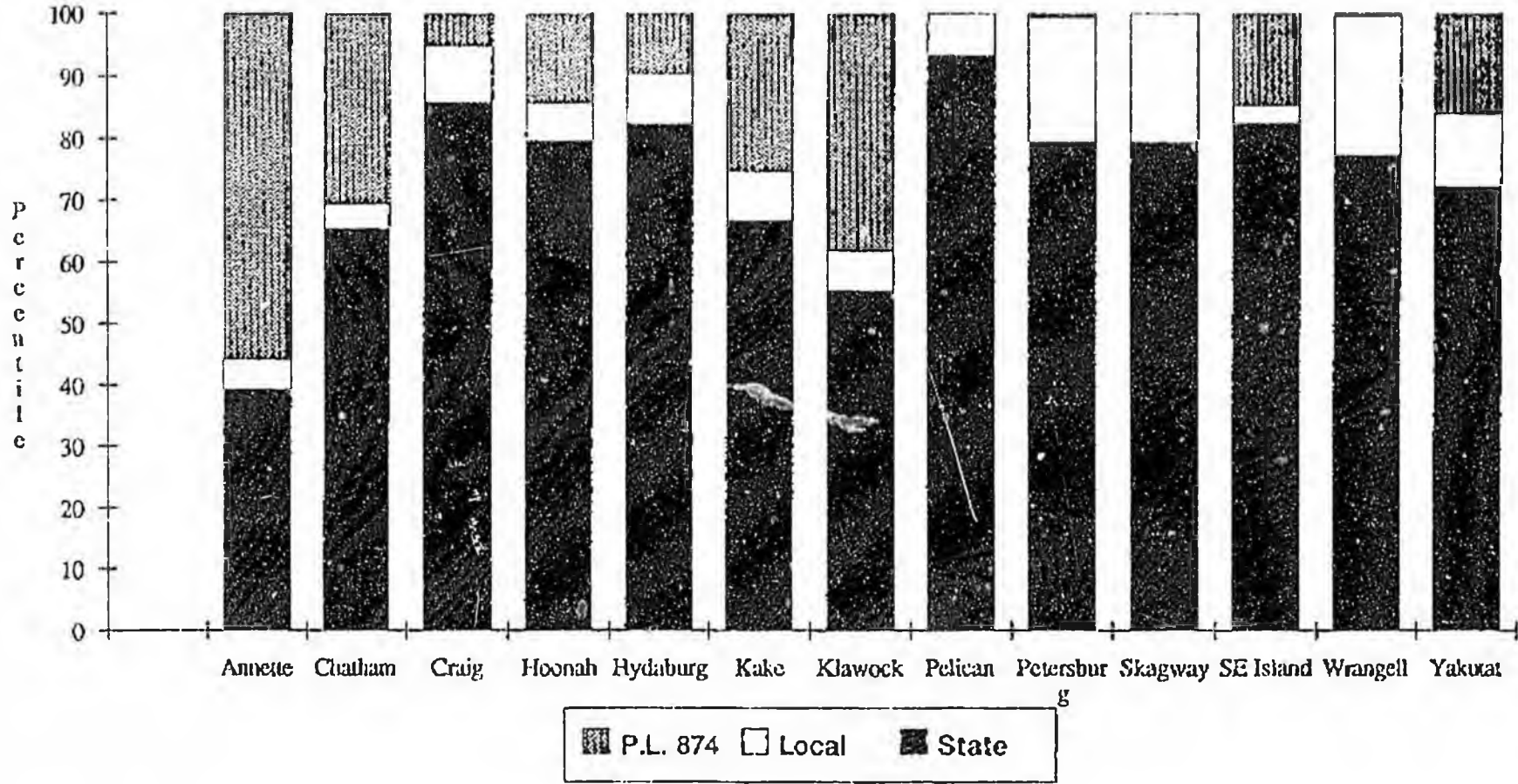
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Table 2: School District Revenue Sources

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

Source: Dept. of Education Audited Data

Figure 1: School District Revenue Sources as Percentage



Source: Dept. of Education Audited Data

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

	A	B	C	D	E	F
1	School Distric	Basic	FY 91 Required	HB 54	Basic Need %	Basic Need
2		Need	Local Support	Distribution	Prior to HB 54	% per HB 54
3						
4	Annette	\$2,407,800	\$0	\$0	100.00	100.00
5	Chatham	\$3,490,800	\$0	\$0	100.00	100.00
6	Craig	\$1,807,000	\$160,714	\$363,262	91.48	110.73
7	Hoonah	\$1,638,600	\$86,344	\$280,539	94.73	111.85
8	Hydaburg	\$1,018,200	\$36,096	\$129,480	96.45	109.17
9	Kake	\$1,326,600	\$67,375	\$214,601	94.92	111.10
10	Klawock	\$1,458,600	\$36,776	\$242,175	97.48	114.08
11	Pelican	\$623,400	\$41,763	\$57,547	93.30	102.53
12	Petersburg	\$3,644,400	\$649,768	\$816,441	82.17	104.57
13	Skagway	\$1,122,000	\$217,644	\$173,838	80.60	96.10
14	SE Island	\$5,638,000	\$0	\$0	100.00	100.00
15	Wrangell	\$2,920,800	\$440,792	\$610,233	84.91	105.80
16	Yakutat	\$1,244,400	\$79,168	\$179,833	93.64	108.09

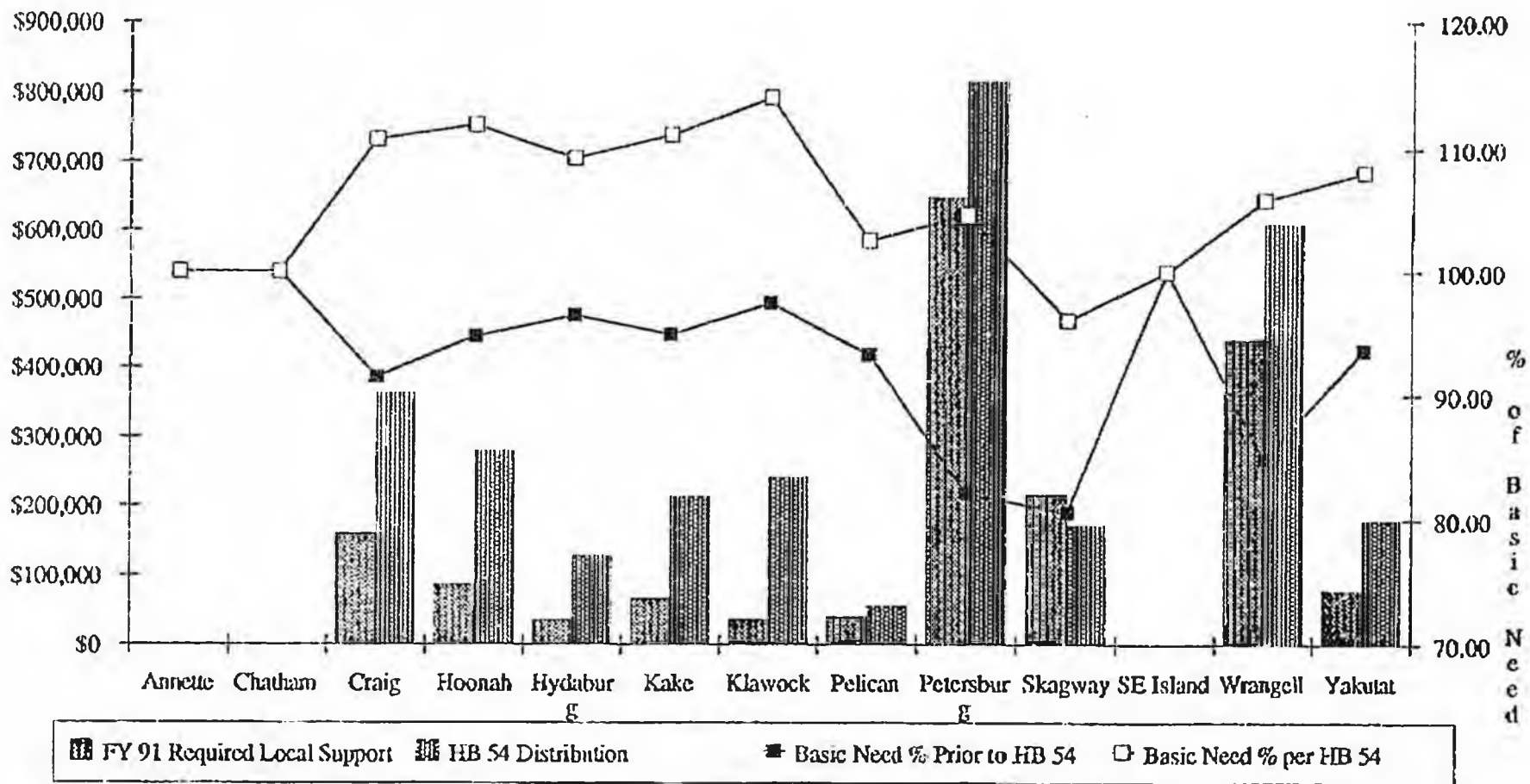
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Figure 2: Basic Need as Impacted by HB 54



MEMORANDUM

State of Alaska
Department of Education

TO: Steve Hole
Acting Commissioner

DATE: April 11, 1991

FILE NO: tgr285

TELEPHONE NO: 465-2865

FROM: Tom Ryan 
Education Administrator

SUBJECT: Revenues to School Districts
Outside Foundation Program

The following is a list of revenues school districts may receive over and above the state aid and local contribution that make up the basic need entitlement in the foundation program:

1. The incremental amount, up to 2 mills or 23% of basic need, that a municipal assembly adds to the district appropriation above the 4 mill requirement.
2. The 10% of eligible Impact Aid PL 81-874 which the State does not deduct from foundation entitlements.
3. Appropriations by a city or borough to a special revenue fund such as: food service, community education, teacher housing, capital projects
4. Federal revenues (\$32 million in FY 90) passed through the State DOE for specific purposes or programs:

ECIA Chapter I Disadvantaged	Food Service/USDA etc.
Chapter 1 Neglected or Delinquent	Drug Free Schools
Chapter 1 Migrant Education	Bilingual Title VII
ECIA Block Grants	Gender Equity Title IV
Vocational Education Grants	Title VIC Deaf Blind
Pre-School Handicapped	Arts in Education grants
Handicapped PL89-313	Program Improvement grants
Handicapped Education VI-B	Job Training Partn. Act
Handicapped Vocational Education	HIV/AIDS Education
Other US Department of Education program grants	

5. Federal grants (\$10^{million} in FY 90) directly to school districts:

Johnson O'Malley
Indian Education Act
Other USDOE grants (minimal)
Other federal agency grants (minimal)

6. Pupil Transportation Revenues:

State payments - \$24,839,418 in FY 90
Local payments - 3,749,856 in FY 90

7. Grants from private individuals, foundations, and industry (Carnegie, Star Schools, National Geographic, etc.)

DEPARTMENT OF EDUCATION
 NAT'L FOREST REVENUE ALLOCATION
 PROPOSITION #1
 PREPARED 3/12/91

	FY90 ADM	LIVE ON / WORK ON REPORTED FOR PL874	WEIGHTING FACTOR * OF PL874 CLAIMED TO TOTAL ADM	BASIC ALLOTMENT WEIGHTING FACTOR TIMES 1/3rd OF APPROPRIATION	\$930.06483 PER PL874 PUPIL	TOTAL ENTITLEMENT
CHATHAM *	352.45	32	9.08%	\$45,400	\$29,762.07	\$75,162.07
HOONAH	257.65	34	13.20%	\$66,000	\$31,622.20	\$97,622.20
HYDABURG	101.95	3	2.94%	\$14,700	\$2,790.19	\$17,490.19
KAKE	166.00	27	16.27%	\$81,350	\$25,111.75	\$106,461.75
KLAWOCK	208.85	96	45.97%	\$229,850	\$89,286.22	\$319,136.22
PETERSBURG	685.10	36	5.25%	\$26,250	\$33,482.33	\$59,732.33
SOUTHEAST ISLAND *	555.10	350	63.05%	\$315,250	\$325,522.69	\$640,772.69
YAKUTAT	132.35	39	29.47%	\$147,350	\$36,272.53	\$183,622.53
TOTAL	2,459.45	617.00		\$926,150	\$573,850	\$1,499,999.98

*(WEIGHTING FACTOR) IS THE NUMBER OF STUDENTS WHO LIVE OR WORK ON TONGASS FOREST AS REPORTED ON THE PRIOR YEAR PL81-874 APPLICATION TO THE TOTAL PRIOR YEAR ADM AS REPORTED FOR FOUNDATION FUNDING BY THE DISTRICT. ONE THIRD OF THE APPROPRIATION IS MULTIPLIED BY THE WEIGHTING FACTORS TO ARRIVE AT A BASIC ALLOTMENT WHICH WILL DISTRIBUTE APPROXIMATELY TWO THIRDS OF THE MONEY AVAILABLE. THE REMAINING MONEY WILL BE DISTRIBUTED BASED ON AN ALLOTMENT PER PUPIL CLAIMED ON THE PL81-874 APPLICATION FOR STUDENTS WHO HAVE PARENTS THAT LIVE OR WORK ON TONGASS NATIONAL FOREST LAND.

unincorporated

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

PLANNING
SOUTHEAST REGION

WALTER J. HICKEL, GOVERNOR

P.O. BOX 3-1000
Juneau, Alaska 99802-1210
PHONE: (907) 789-6230

April 22, 1991

The Honorable Steve Frank
Alaska State Senator
P.O. Box V
Juneau, Alaska 99811-3100

Dear Senator Frank:

As per your request, I have listed below an estimate of federal and state capital improvement and maintenance funds expended by the Department of Transportation and Public Facilities, Southeast Region in the unorganized borough in Southeast Alaska. These totals are compared to the regional totals over the past 5 years.

The larger communities of Juneau, Sitka and Ketchikan have local maintenance responsibilities for airports, harbors and local streets that are not state funded and are not reflected in this estimate.

<u>TYPE OF FUNDS</u>	<u>TOTAL EXPEND. UNORG. BOROUGH</u>	<u>SOUTHEAST TOTAL</u>
Maintenance funds (average funds for FY91 x 5 years)	\$24,300,000	\$39,700,000
Local Service Roads & Trails Projects	\$700,000	\$1,600,000
State General Fund Project (harbors, roads, aviation)	\$1,900,000	\$5,300,000
Federal Highways & Aviation CIP Projects	<u>\$55,500,000</u>	<u>\$97,900,000</u>
TOTAL	\$82,400,000	\$144,500,000

The last five year of our capital program reflected a greater need to make improvement in communities outside of the organized boroughs. Over the next five years the Southeast Region has identified \$87,600,000 in federal highway and aviation CIP projects, of which \$26,600,000 (\$8,600,000 highway, \$17,900,000 aviation) has been identified for improvements in the unorganized borough.

Sincerely;

A handwritten signature in cursive script that reads "Mike McKinnon". The signature is fluid and extends to the right with a long, sweeping tail.

Mike McKinnon
Chief of Planning



LAWS OF ALASKA

1969

Source

Chapter No.

SB 73 am

32

AN ACT

Relating to national forest income.

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

* Section 1. AS 41.15.180(b) is repealed and re-enacted to read:

(b) The national forest income paid to an organized borough under this section shall be expended for public schools or roads.

Approved by governor: April 15, 1969
Actual effective date: July 14, 1969

(B) an elected or appointed official of a governmental unit, effective upon taking the oath of office;

(2) "governmental unit" means the state, a borough, municipal corporation, or other political subdivision of the state;

(3) "insurance," "insurance carrier" and "insurance policy" include health care services, health care service contractors and contracts.

Sec. 3. This Act takes effect July 1, 1965.

Approved May 1, 1965

and their dependents;

(H.B. 149)

of the additional cover-

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l. The state shall make
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or its employee and his
ay share the cost with

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0, and 21.10.055(1) or

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Definitions. In sec. 90

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CHAPTER 106

AN ACT

Relating to national forest income; and providing for an effective date.

(H.B. 159)

Be It Enacted by the Legislature of the State of Alaska:

Section 1. AS 41.15.180 is repealed and re-enacted to read:

Sec. 41.15.180. National Forest Income. (a) When the commissioner of administration receives national forest income under 16 U.S.C. Section 500, he shall immediately pay to every organized borough, in which national forest land is located, a share of the income from that forest. A borough's share of income from a national forest shall be proportional to the area of the national forest located within its boundries. These payments shall be made pursuant to an appropriation made for that purpose.

(b) The national forest income paid to an organized borough under this section shall be used for public schools and roads as follows:

(1) one hundred per cent for public

schools until July 1, 1970 or such time s the borough assumes responsibility for roads, whatever occurs first; then

(2) twenty-five per cent for public schools and 75 per cent for roads;

(3) if a borough has not assumed responsibility for roads by July 1, 1970, 75 per cent of the amount due that borough in a fiscal year shall be withheld and expended by the state for the benefit of roads within the borough; if a borough assumes responsibility for roads after July 1, 1970, the state will begin paying the 75 per cent directly to the borough.

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

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved May 1, 1965

CHAPTER 107

AN ACT

Relating to the financing of improvements in special assessment districts within first and second class cities and boroughs.

(H.B. 246)

Be It Enacted by the Legislature of the State of Alaska:

Section 1. AS 29.10.300 is amended to read:

ACLA

FOREST RESERVE FUND

§ 47-5-1

any measures for soil conservation and erosion control thereon be carried out, without the prior approval of the occupier of such land.

9. [Sub-districts.] To create sub-districts of the Soil Conservation District of Alaska, upon the petition of 25 or more land occupiers setting forth the proposed boundaries of the sub-district, and after an adequately advertised favorable public hearing has been held at a convenient location or locations within the boundaries of the proposed sub-district; to fix the boundaries of any sub-districts so created; to supervise the election of, prescribe the duties of, and install a governing body of 5 land occupiers to be known as District Supervisors for each sub-district created; and to delegate to the District Supervisors such of the district's powers, as set out in this section, as the Board deems necessary to accomplish the purposes of this Act within the sub-district boundaries.

[Definitions.] For the purposes of this Act, the term "land occupier" or "occupier of land" means any person, firm or corporation who shall hold title to, or shall be in possession of, three or more acres of land in the Territory, whether as owner, lessee, renter, tenant, or otherwise. [L 1947, ch 62, § 5, p 177.]

CHAPTER 5

FOREST RESERVE FUND

§ 47-5-1. Appropriation: Expenditure. That twenty-five per cent of all moneys coming into the Treasury of the Territory of Alaska from the Forest Reserve Fund is hereby appropriated and shall be set over by the Treasurer of the Territory into the Public School Current Fund, and shall be expended under the supervision and direction of the Board of Education of the Territory of Alaska in accordance with the laws of said Territory governing the appropriation and expenditure of funds for public schools of said Territory; and the remaining seventy-five per cent of said Forest Reserve Fund is hereby appropriated and shall be used in accordance with established practice for the construction, maintenance and repair of roads in the Territory of Alaska. [L 1925, ch 54, § 1, p 97; CLA 1933, § 1423.]

Handwritten notes:
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 Section 1412
 Section 1413

ARTICLE XII.

LEASES OF SCHOOL LANDS.

Sec. 1411. Governor to lease school lands. The Governor is hereby authorized to lease all lands surveyed and reserved for the support of the public schools in this Territory as provided in section one of the act of Congress, approved March 4, 1915, (Sec. 353, Title 48, USC) and all leases so made shall be in conformity with the authority granted the Territory in said Act. (1-101-33).

Sec. 1412. Application. All persons desiring to lease any school lands shall make application therefor under oath, and in such application shall describe the land sought to be leased and the purpose and use to which the same is to be put. (2-101-33).

Sec. 1413. Rent; duration of lease; covered into school fund. The Governor shall fix a reasonable rental for each such lease and shall likewise fix the term thereof, but no lease shall be for a longer period than ten years; the proceeds from all leases shall be paid to the Territorial Treasurer and by him be covered into the school fund. (3-101-33).

Sec. 1414. Attorney General to prepare form for lease. It shall be the duty of the Attorney General, when requested by the Governor, to prepare a form of lease which shall contain the usual covenants and conditions safeguarding the rights of the Territory and provide for the cancellation and forfeiture thereof in case of failure of the lessee to comply with any of such terms and conditions. (4-101-33).

ARTICLE XIII.

TERRITORIAL SCHOOL FUND.

Sec. 1421. Portion of Alaska Fund. All moneys derived from and collected for occupation or trade licenses outside of incorporated towns shall be deposited in the Treasury of the United States, there to remain as a separate and distinct fund to be known as the Alaska Fund, and to be wholly devoted to the purposes hereinafter stated in the Territory of Alaska. Twenty-five per centum of said fund, or so much thereof as may be neces-

sary, shall be devoted to the establishment and maintenance of public schools in said Territory. (Part of 41-48-USC; 305-CLA).

NOTE: For section 41, Title 48, USC, see section 155 of this compilation.

Sec. 1422. Proceeds from sale of licenses of Game Commission. Each officer or person selling licenses shall, as soon as practicable after the first day of each month, transmit the proceeds thereof, with a report of such sales, to the executive officer of the Game Commission, who shall keep accurate records thereof and of receipts from all other sources and promptly transmit 50 per centum thereof to the Secretary of Agriculture to be covered into the Treasury of the United States as miscellaneous receipts, and 50 per centum thereof to the Treasurer of Alaska, to be covered into the Territorial School Fund. (Sbs. K-199-48-USC).

NOTE: For section 199, Title 48, USC, see section 51 this compilation.

Sec. 1423. Part of proceeds from Forest Reserves. Twenty-five per cent. of all money received by the Territory from the National Forest Reserve Fund shall be set over into the Public School Fund and shall be expended as provided by law. (1-54-25).

NOTE: For Congressional Act providing that 25% of proceeds from National Forest Reserve Fund shall be paid to the Territory, see section 440 of this compilation.

NOTE: Section 1413 of this compilation provides that the proceeds from the leasing of school lands shall be covered into the School Fund.

Sec. 1424. Governor to execute deeds to defunct school property; proceeds of sale deposited in permanent school fund. The Governor is authorized to execute deeds to all defunct school property and all money received for any school property shall be covered into the permanent school fund. (2-55-31).

Sec. 1425. Commissioner of Education to expend school fund. All moneys in the general school fund shall be expended under the supervision of the Commissioner of Education and paid out upon vouchers approved by the Auditor. (2-114-33).

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[S. B. 38]

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Territory of Alaska:

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CHAPTER 54.

AN ACT

[S. B. 36]

To provide for the appropriation, distribution and expenditure
of the Forest Reserve Fund coming into the Treasury of
the Territory of Alaska.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That twenty-five per cent of all moneys coming into the Treasury of the Territory of Alaska from the Forest Reserve Fund is hereby appropriated and shall be set over by the Treasurer of the Territory into the Public School Current Fund, and shall be expended under the supervision and direction of the Board of Education of the Territory of Alaska in accordance with the laws of said Territory governing the appropriation and expenditure of funds for public schools of said Territory; and the remaining seventy-five per cent of said Forest Reserve Fund is hereby appropriated and shall be used in accordance with established practice for the construction, maintenance and repair of roads in the Territory of Alaska.

25% of Forest
Revenue Fund
covered into
Public School
Current Fund.

75% Fund for
maintenance
and construction
of roads.

Approved April 30, 1925.

CHAPTER 55.

AN ACT

[S. B. 35]

To amend Section 1726 Compiled Laws of Alaska relating to
power of courts to appoint guardians and guardians ad
litem in certain cases, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That Section 1726 of the Compiled Laws
of the Territory of Alaska, be amended to read as
follows:

ered into the Treasury and shall appropriated and made available until the may direct, for the payment of the on, or improvements by the Forest tributors of amounts heretofore or of their share of the cost of said ents.

19, 1928, c. 901, § 1(99), 45 Stat. 993.)

Note

ports be made to Congress of moneys received as contributions for cooperative work.

References

isbursement of funds appearing on books of Service", see section 1321 of Title 31, Money

administration or protection of lands within stitute special fund which may be appropriat- section 572 of this title.

Regulations

tation system, see 36 CFR 212.1 et seq.

ved by or on account of Forest and moneys erroneously collect-

of the Forest Service for timber, or revenue, including moneys received e of lands in national forests created neys received on account of permits lands acquired under authority of shall be covered into the Treasury receipt, and except as provided in is appropriated and made available. ct, out of any funds in the Treasury may be necessary to make refunds reafter deposited by them to secure oducts or for the use of any land or ess of amounts found actually due so so much as may be necessary to ants such sums as may be found by en erroneously collected for the use resources sold from lands located rests, or for alleged illegal acts done quently found to have been proper

4, 1911, c. 238, 36 Stat. 1253; Mar. 4, 348, § 9, 43 Stat. 655; May 29, 1928, c.

Historical Note

References in Text. Section 471(b) of this title, referred to in text, was repealed by section 704(a) of Pub.L. 94-579, Title VII, Oct. 21, 1976, 90 Stat. 2792. For further details, see Codification note below.

Codification. Section is a combination provision the basis for which is Act Mar. 4, 1907, which superseded previous provisions relating to the disposal of money received from sale of products or use of any land or resources of the forest reserves, contained in Act Feb. 1, 1905, c. 288, § 5, 33 Stat. 628.

Act Mar. 4, 1911 is the source of the last portion of the section beginning with the words, "and also so much as may be necessary," etc. That Act provides that so much of the former Act "which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter to appropriate and to include so much;".

The words of this section reading, "including moneys received from sale of products from or use of lands in national forests created under section 471(b) of this title" were derived from the fourth sentence of section 9 of Act of June 7, 1924, which reads as follows: "All receipts from the sale of products from or for the use of lands in such national

forests shall be covered into the Treasury as miscellaneous receipts, forest reserve fund, and shall be disposed of in like manner as the receipts from other national forests as provided by existing law." Section 471(b) of this title, referred to in text, was based on the first and fifth sentences of section 9 of the 1924 Act, and was repealed by section 704(a) of Pub.L. 94-579. Section 505 of this title is based on the second and third sentences of section 9 of the 1924 Act.

The words "and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title," are from a provision of Act Mar. 4, 1917, which reads, "Hereafter, all moneys received on account of permits for hunting, fishing, or camping, on lands acquired under authority of said Act [Act Mar. 1, 1911, c. 186, 36 Stat. 961] or any Amendment or extension thereof, shall be disposed of as is provided by existing law for the disposition of receipts from national forests."

The words of this section reading, "except as provided in sections 500 and 501 of this title" are intended to relate this section to the apparent exceptions contained in later law.

1928 Amendment. Act May 29, 1928 deleted provision which required the Secretary of Agriculture to make an annual report to Congress of the amounts refunded under this section.

Cross References

- Conservation programs on military reservations, inapplicability to forest lands administered pursuant to this section, see section 670e of this title.
- Deposit in "Oregon and California land-grant fund" of proceeds of sale of timber added to Siskiyou National Forest, see section 487 of this title.
- Payments from account for refund of moneys erroneously received and covered and authorization of appropriation of sums necessary, see section 1322 of Title 31, Money and Finance.

Notes of Decisions

- 1. Scope of review
The discretion of the Secretary of Agriculture in making refunds under this section is absolute only on questions of fact; his rulings on questions of law are reviewable in the court of claims (now Claims Court). Utah Power & Light Co. v. U. S., 1929, 67 Ct.Cl. 602.

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of

307 Bowden Street
 Washington - D.C. 20540
 U.S. GOVERNMENT PRINTING OFFICE

such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended ~~as the State or Territorial legislature may prescribe~~ for the benefit of the public schools and public roads of the county or counties in which such national forest is situated; *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

May 23, 1908, c. 192, 35 Stat. 260; Mar. 1, 1911, c. 186, § 13, 36 Stat. 963; June 30, 1914, c. 131, 38 Stat. 441; Sept. 21, 1944, c. 412, Title II, § 212, 58 Stat. 737; Apr. 24, 1950, c. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, Pub.L. 94-588, § 16, 90 Stat. 2961.)

Historical Note

References in Text. The Act of June 9, 1930, referred to in text, is Act June 9, 1930, c. 416, 46 Stat. 527, as amended, popularly known as the Knutson-Vandenberg Act, which is classified generally to sections 576, 576a, and 576b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 576 of this title and Tables volume.

The Act of May 23, 1908, referred to in text, is Act May 23, 1908, c. 192, 35 Stat. 251, as amended. A portion of that Act appearing at 35 Stat. 260 is classified to this section. For complete classification of this Act to the Code, see Tables volume.

Codification. "National forest" was substituted for "forest reserve" the first, third and fourth time appearing, and for "reserve" the second time appearing, and "forest" was substituted for "reserve", on authority of Act Mar. 4, 1907, c. 2907, 34 Stat. 1269, which provided that forest reserves shall hereafter be known as national forests.

Section is a combination of Act May 23, 1908, as amended, and Mar. 1, 1911, as amended.

1976 Amendment. Pub.L. 94-588 added provision that beginning Oct. 1, 1976, the term "moneys received" would include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract, and that the Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

1950 Amendment. Act Apr. 24, 1950 deleted second proviso relating to limitation paid county.

1944 Amendment. Act Sept. 21, 1944 added sentence relating to stumpage value of the timber.



WRANGELL

**PUBLIC SCHOOLS
DISTRICT OFFICE**

P.O. BOX 2319

WRANGELL, ALASKA 99929

Telephone (907) 874-2347

LINWOOD LAUGHY, Superintendent

GATEWAY TO THE STIKINE

MAY 6 1991

May 2, 1991

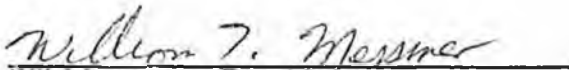
Senator Steve Frank
P.O. Box V
Juneau, Alaska 99811


Dear Senator Frank:

The Wrangell School Board and Wrangell City Council seeks your active support of CSHB 54, relating to the distribution of national forest receipts. We believe the federal intent for the use of these funds is clear, and that these funds should be distributed to those communities impacted by logging on the national forests.

The passage of this bill will enable the community of Wrangell to address some of the serious problems it now faces with respect to our schools and roads. We have recently been eliminated from our proper designation as a single site school district (HB 5), are forced to lay off tenured teachers or place unqualified teachers in the classroom, and are now faced with the additional possibility of a further reduction in the already eroded value of the instructional unit. HB 54 offers us a last glimmer of hope from this legislature.

The distribution of federal forest receipts to communities and school districts in the unorganized borough who should be receiving these funds by federal law is simply the right thing to do. And it needs to be done **NOW**. Please lend your support to HB 54!


Bill Messmer, President
Wrangell School Board


Don House, Mayor
City of Wrangell

CITY of HOONAH

P.O. Box 360
Hoonah, Alaska 99829
(907) 945-3663

May 8, 1991

Senator Steve Frank
Chairman
Community & Regional
Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Frank:

This letter is being written in support of passage of HB54, "An Act relating to distribution of national forest receipts. Passage of this bill will greatly help Hoonah to maintain its roads and keep our school at a good standard of education.

Passage of this bill will help communities in the unorganized boroughs. Please help correct this error with the timely passage of HB54.

Sincerely,



Albert W. Dick
Mayor of Hoonah

AWD/clc



CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381
FAX: (907) 874-3962

May 8, 1991

Senator Steve Frank
Rm. 417, Capitol
P.O. Box V
Juneau, AK 99811

Re: HB 54 (Disposition of National Forest Receipts)

Dear Senator Frank:

On behalf of the City of Wrangell, we would like to offer our support of HB 54. As you know, Wrangell's main economy revolves around the forest industry, with our largest employer being Alaska Pulp Corporation. We feel this bill will give more equitable treatment to cities in unorganized boroughs such as Wrangell, as we provide the same support to schools and roads as organized boroughs.

If there is anything else the City of Wrangell can do to offer support to this bill, please do not hesitate to contact us.

Sincerely,

Jeff Jabusch
Acting City Manager

JJ:fv