

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 0072

10516 SENATE COMMUNITY & REGIONAL AFFAIRS

361

HB

296

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 296
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title An Act Relating to Mergers & Consolidations BRU Community Asslt & Econ Dev. (405)
of Municipalities _____ Component Community & Business Development
Sponsor Representative Whitaker
Requester House Community & Regional Affairs Component No. 2486

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill has no fiscal impact on this department.

Prepared by: Pat Pcland, Director Phone 907-269-4578
Division Community & Business Development Date/Time 2/28/02 9:53 AM
Approved by: Deborah B. Sedwick, Commissioner Date 2/28/2002
Agency Department of Community & Economic Development

AMENDMENT #2

OFFERED IN THE SENATE
TO: CSHB 296(CRA)

BY SENATOR AUSTERMAN

1 Page 1, following line 8:

2 Insert a new bill section to read:

3 "* Sec. 2. AS 29.06.100 is amended by adding a new subsection to read:

4 (c) A petition for the merger or consolidation of a borough and more than one
5 city within that borough shall provide that, if the proposal is approved by a majority of
6 the votes in the borough area outside of the cities proposed to be merged or
7 consolidated but is not approved by a majority of the votes in each of the cities,

8 (1) the entire proposal is defeated; or

9 (2) the proposal is partially approved and the borough is merged or
10 consolidated with the cities in which the proposal has been approved."

11

12 Renumber the following bill section accordingly.

13

14 Page 2, line 1:

15 Delete "If"

16 Insert "Unless the proposal includes the merger or consolidation of a borough and
17 one or more of the cities within that borough, if"

18

19 Page 2, line 3, following "approved.":

20 Insert "Votes on a proposal that includes the merger or consolidation of a
21 borough and one or more of the cities within that borough shall be separately tabulated
22 as follows: (1) in the borough area outside of each city in that borough proposed to be
23 merged or consolidated; (2) in each of the cities in the borough proposed to be merged

1 or consolidated; and (3) if one or more municipalities outside of the borough are also
2 included within the proposal, in each of those other municipalities. The entire proposal
3 is defeated if it is not separately approved in the borough outside of the cities in that
4 borough that are proposed to be merged or consolidated and, if municipalities outside of
5 the borough are included in the proposal, in those other municipalities. If the proposal
6 is not approved in one or more of the cities within the borough that are proposed to be
7 merged or consolidated but is otherwise approved in each of the areas separately
8 tabulated, the proposal is either entirely defeated or partially approved as provided in
9 the petition under AS 29.06.100(c)."

AMENDMENT #3

OFFERED IN THE SENATE
TO: CSHB 296(CRA)

BY SENATOR TORGERSON

1 Page 2, following line 3:

2 Insert a new bill section to read:

3 "** Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 APPLICABILITY. The amendment to AS 29.06.100(a) in sec. 1 of this Act does not
6 apply to a merger or consolidation petition filed with the Department of Community and
7 Economic Development before the effective date of this Act. The amendment to
8 AS 29.06.140(a) in sec. 2 of this Act does not apply to an election held as a result of a petition
9 filed with the Department of Community and Economic Development before the effective
10 date of this Act, and AS 29.06.140(a) as it read before the effective date of this Act applies to
11 that election."

AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 296(CRA)

1 Page 2, line 1:

2 Delete "If"

3 Insert "Unless the proposal includes the merger or consolidation of a borough and
4 a city within that borough, if"

5

6 Page 2, line 3, following "approved.":

7 Insert "A proposal that includes the merger or consolidation of a borough and a
8 city within that borough must be separately approved by a majority of the votes in the
9 borough outside of the city and by a majority of the votes in the city, as well as by a
10 majority of the votes in each of the other municipalities if other municipalities are
11 included within the proposal. A proposal that includes the merger or consolidation of a
12 borough and more than one city within that borough must be approved by a majority of
13 the votes in the borough outside of the cities proposed to be merged or consolidated and
14 by a majority of the votes in each city proposed to be merged or consolidated, tabulated
15 separately, as well as by a majority of the votes in each of the other municipalities if
16 other municipalities are included within the proposal."

Tony Knowles, Governor



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

April 10, 2002

The Honorable John Torgerson
Chairman
Senate Community and Regional Affairs Committee
State Capitol, Room 427
Juneau, AK 99801-1182

RE: *CS FOR HOUSE BILL NO. 296(CRA)* "An Act relating to mergers and consolidations of municipalities"

Dear Senator Torgerson:

The Local Boundary Commission has been advised that Representative Whitaker proposes to amend *CS FOR HOUSE BILL NO. 296(CRA)*. The text of the proposed amendment has not yet been released for review by the Commission or, presumably, by other interested parties. However, Representative Whitaker's staff has indicated that the amendment would require a local option consolidation of a city and borough to be approved by voters in the city and also by voters of the borough outside the city.

Moreover, the Commission is aware that some parties are proposing that HB 296, with Representative Whitaker's amendment, be given an expedited effective date. The intent is to make the change applicable to the pending election for consolidation of the City of Haines and the Haines Borough.

The Commission has strong concerns regarding this anticipated amendment and the proposal for an expedited effective date. Under other circumstances, I would state those concerns at the Senate CRA Committee hearing on the bill this afternoon. However, I am not able to do so since the Commission had previously scheduled a public hearing on other matters at the time of the Senate CRA Committee hearing.

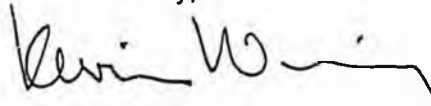
Details about the Commission's concerns over Representative Whitaker's proposed amendment and an expedited effective date are outlined in the attachment. I encourage you and other members of the Senate CRA Committee to review the attachment. The Commission's concerns are summarized below.

- For 30 years, legislative policy has long facilitated consolidation of city and borough governments. That policy is in harmony with constitutional principles encouraging maximum efficiency in local governmental structure. Representative Whitaker's proposed amendment reverses this legislative policy and is not in accord with the local government principles in Alaska's constitution.

- The proposed amendment presumes that the members of the House of Representatives did not understand the terms of *CS FOR HOUSE BILL NO. 296(CRA)*. To the contrary, the Commission believes that the House of Representatives in general, and the House Community and Regional Affairs Committee in particular, were aware of the difference between the legislation they approved and the amended legislation that may now be proposed.
- The change would disenfranchise borough voters who are also residents of the city proposed for consolidation from voting in a borough election.
- The proposed amendment repudiates the principle of "one person, one vote" and the principle of majority rule.
- The proposed amendment may contravene the provisions of the federal Voting Rights Act.
- Application of the change on an expedited basis to a pending election would be unfair.

Since the Commission and, presumably, all other interested members of the public have not had an opportunity to review the specific terms of any amendment, I respectfully request that the Senate CRA Committee postpone action on the bill to allow an opportunity for their review and comment.

Cordially,



Kevin Waring
Chairman

Enclosure: a/s

Copy with enclosure to:

The Honorable Alan Austerman, Senate CRA Committee
The Honorable Randy Phillips, Senate CRA Committee
The Honorable Pete Kelly, Senate CRA Committee
The Honorable Georgianna Lincoln, Senate CRA Committee
The Honorable Jim Whitaker, Prime Sponsor, HB 296
The Honorable Kevin Meyer, Co-Chair, House CRA Committee
The Honorable Carl Morgan, Co-Chair, House CRA Committee
The Honorable Andrew Halcro, House CRA Committee
The Honorable Drew Scalzi, House CRA Committee
The Honorable Lisa Murkowski, House CRA Committee
The Honorable Gretchen Guess, House CRA Committee
The Honorable Beth Kerttula, House CRA Committee
The Honorable Dave Black, Mayor, City of Haines
The Honorable Jerry Lapp, Acting-Mayor, Haines Borough

STATE OF ALASKA LOCAL BOUNDARY COMMISSION

STATEMENT OPPOSING AMENDMENT OF CS FOR HOUSE BILL NO. 296(CRA)

April 10, 2002

Legislative Policy Should Complement Constitutional Principles.

Clearly, the legislature has the prerogative and duty, subject to the veto power of the governor, to set public policy regarding the manner in which local government mergers and consolidations occur.¹

Ideally, that legislative policy would be in harmony with constitutional principles regarding local government.

Alaska's Constitution Promotes City and Borough Consolidation.

Principles of Alaska's constitution encourage consolidation and other methods of combining city and borough governments. The drafters of the Local Government Article of Alaska's Constitution "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government."²

Indeed, the express purpose of the Local Government Article of Alaska's constitution is to "provide for maximum local self-government *with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions.*" (Article X, Section 1 – emphasis added) The Alaska Supreme Court held with respect to combining city and borough governments through unification that:

Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units.

¹ Article X, Section 3 of Alaska's constitution provides, in part, "[m]ethods by which boroughs may be . . . merged, consolidated . . . shall be prescribed by law." Article X, Section 7 states, in part, that cities "may be merged, consolidated . . . in the manner provided by law." Article II, Section 15 provides that, "The governor may veto bills passed by the legislature. . . . He shall return any vetoed bill, with a statement of his objections, to the house of origin." Article II, Section 16 provides that, "[u]pon receipt of a veto message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill . . ."

² *Final Report on Borough Government*, p. 17, Alaska Legislative Council and the Local Affairs Agency (1961)

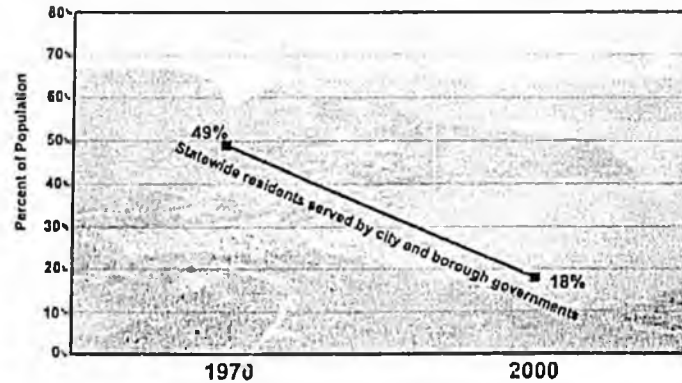
It is also noteworthy that the Task Force on Governmental Roles, established by the 1991 Legislature to examine State policies regarding local government, concluded as follows:³

Unification of borough and city administrations should be encouraged wherever possible to provide for more efficient and cost-effective service delivery.⁴

Alaskans have embraced the constitutional principles encouraging the combination of city and borough governments.

Since 1970, the percentage of Alaskans who live within both a city and borough government has declined by approximately two-thirds.

Then (1970) & Now (2000)
Residents served by city and borough governments



Long-Standing Legislative Policy Harmonizes with Constitutional Principles.

Legislative policy concerning merger and consolidation of city and borough governments was set in 1972 when State statutes for city governments (AS 29) and borough governments (formerly AS 07) were first brought together in Title 29 of the Alaska Statutes. The policy provided that local option municipal merger and consolidation proposals would be determined by majority rule (i.e., by a majority of the total votes cast on the proposal).

2,241 Haines Voters



The legislature addressed concurrent majority voter

approval for unification when it amended the statutes concerning unification in 1989. When the legislature amended the statutes concerning consolidation in 1994 and again in 1999, however, it did not make similar changes in consolidation election procedures. This indicates that the present difference in statutory language regarding voting procedures for unification and consolidation is purposeful and reflects differing legislative intent.

Under current law, outcome of the pending Haines consolidation proposal will be determined by a majority of the votes cast among the 2,241 voters of the Haines Borough

The majority rule standard facilitates merger and consolidation of city and borough governments and conforms to constitutional principles to the maximum extent possible.

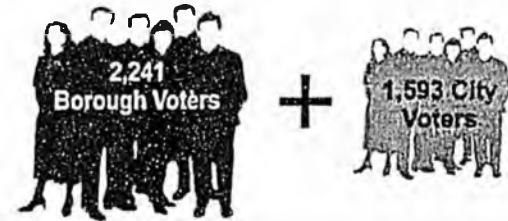
³ Task Force on Governmental Roles, Final Report (July 10, 1992).

⁴ The term unification was expressly described in the report as a term used in a colloquial sense that included consolidation.

CS for House Bill No. 296(CRA) Moderately Alters Established Policy.

CS for House Bill No. 296(CRA), which passed by the House on March 15 2002 by a wide margin (36 yeas 0 nays, 3 excused and 1 absent), would alter the thirty-year-old policy of the legislature by placing additional limitations on merger and consolidation.

Arguably, any additional limitations on merger and consolidation procedures would be counter to the principles set out in Article X, Section 1 of Alaska's constitution. However, in terms of the merger and consolidation proposals that have come before the LBC in the past, the change set out in CS for House Bill No. 296(CRA) appears limited in scope.



Under CSHB 296(CRA), outcome of the pending Haines consolidation proposal would require approval by a majority of the votes cast among the 1,593 voters of the City of Haines and a majority of the voters cast among the 2,241 voters of the Haines Borough

Moreover, there is some institutional rationale for the change already set out in CS for House Bill No. 296(CRA). It requires that merger and consolidation under the local option would be subject to approval by a majority vote in each affected municipal government.

This policy change would make requirements for merger and consolidation of municipal corporations (i.e., cities and boroughs) similar to the requirements for merger of private sector corporations, where a majority of the shareholders of each corporation must approve a merger.

Given the limited policy effect and some institutional rational for CS for House Bill No. 296(CRA), the Local Boundary Commission did not object to that measure.

Amendment Constitutes Severe Policy Change.

The sponsor of HB 296 may now seek a far-reaching amendment to the legislation approved by the House.

As of the date of this statement, the proposed amendment has not been made available for review by the Commission or other interested groups. However, according to the staff of the sponsor of HB 296, the proposed amendment would require, for consolidation of a city and borough, that voters in the city approve consolidation and also that voters in the portion of the borough outside the city must approve consolidation.



Under the proposed amendment, outcome of the pending Haines consolidation proposal would require approval by a majority of the votes cast among the 1,593 voters of the City of Haines and a majority of the voters cast among the 648 voters of the Haines Borough living outside the City. 1,593 Borough voters inside the city would be disenfranchised.

That amendment will have the effect of severely limiting the prospects for consolidations. The amendment is also patently unfair. It ignores the fact that citizens of a city within a borough are citizens of both local governments. It creates an exclusive voting right for selected borough voters – those who live outside cities.

To apply the earlier analogy of the merger of two private sector corporations, the proposed amendment to *CS for House Bill No. 296(CRA)* would be equivalent to limiting the shareholders who owned stock in both corporations to voting their stake in only one of the corporations. Clearly, the amendment would disenfranchise the borough voters who live within the city.

Amendment Rejects "One Person, One Vote" and Majority Rule.

The proposed amendment also rejects the principles of "one person, one vote" and majority rule. It is analogous to a requirement that, in order to become law, bills must be separately approved by the majority coalition in the legislature as well as all minority coalitions, regardless of how small or arbitrarily defined those minority coalitions may be.

As noted earlier, current statutes (AS 29.06) provide that incorporation of a borough through consolidation is determined by an areawide vote. That requirement is wholly consistent with the long-standing procedures for incorporation of an unorganized region as a borough under AS 29.05. For example, when the Haines Borough was formed, the law did not require voter approval in the City of Haines and, separately, in that portion of the Haines Borough outside the City of Haines.

All Voters Should be Treated Equally.

The Commission maintains, as a general rule, all voters should be treated equally. Without that principle, there are numberless different parochial classifications into which local voters might be subdivided to thwart "one person, one vote" and majority rule. In fact, the principles in Article X of Alaska's Constitution discourage narrowing voter classifications for municipal consolidation elections. Those principles were addressed by the Alaska Supreme Court with respect to unification in City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, (Alaska 1971).

Proposal to Expedite the Effective Date Would Radically Alter the Rules for an Ongoing Matter.

Although the sponsor of HB 296 or his staff have not indicated to the Commission an intent to seek an expedited effective date of the legislation, there was a recent report of such in the April 4 edition of the *Chilkat Valley News*. The report stated as follows:

Whitaker said that since the bill passed the House, he's received numerous e-mails, telephone calls, and personal visits from Haines residents, most of whom want the bill amended to cover Haines' consolidation vote.

"The people who have contacted me very much want it to apply to Haines," Whitaker said.

Leaving Haines off the measure that passed the House was an oversight, he said. "It was unfortunate that it went out that way. We know what our intent was, and the person who wrote the bill made a mistake. We are going to go back and correct it. We're going to try to change it."

Whether or not Representative Whitaker intends to provide for an expedited effective date pursuant to Article II, Section 18 of the Constitution of the State of Alaska, others parties are certainly advocating such. The pending petition for consolidation of the two local governments in Haines was filed under laws that have been in place for thirty years. It would seem unfair to the petitioner to significantly alter long established procedures at the last step in the process of public consideration of the proposal.

Moreover, the Local Boundary Commission questions any implication that members of the House of Representatives failed to understand *CS for House Bill No. 296(CRA)*. The Commission is aware that the House CRA Committee certainly considered the bill carefully and believes that Committee members are fully aware of the effects of the bill. Moreover, the Commission questions whether the House would have adopted the measure now proposed by the sponsor.

Amendment May Violate Federal Voting Rights Act.

Lastly, the Commission notes that changes in voting procedures in Alaska are subject to review under the Federal Voting Rights Act. It appears as though the provisions of HB 296 would be subject to review under that Act.

Under the terms of Section 5 of the Act, voting changes are not legally enforceable in Alaska until approved either by a three-judge court in the District of Columbia or by the Attorney General of the United States.

The Commission notes that the proposed amendment of *CS for House Bill No. 296(CRA)* would dilute minority voting strength in Haines and perhaps in other areas that may be proposed for consolidation.

The City of Haines is more racially diverse than the area of the Borough outside the City of Haines. Alaska Natives make up only 4.1% of the Haines Borough population outside the City of Haines, but comprise 11.5% of the areawide population. A requirement that the area outside the City of Haines must approve consolidation has the effect of diminishing the voting strength of Alaska Natives in the Haines Borough. As such, it is conceivable that the proposed amendment might not gain requisite approval under the Federal Voting Rights Act.

April 9, 2002

Honorable Senator Torgerson, Chairman
Community and Regional Affairs Committee

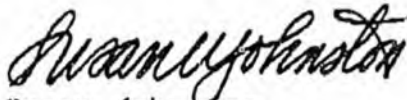
FAX #907-465-4779

Dear Senator Torgerson:

I was dismayed to hear that there might be the possibility of amendment language attached to HB 296 which would require a separate vote of residents both inside and outside a city to affect a consolidation. This would, in effect, put the fate of an entire community in the hands of a very small percentage of its population. This is not democracy as I understand it.

Please do what you can to see that no such amendment language is considered. It would be outrageous if this was pushed through by a handful of people with a personal agenda who could care less about the good of our community.

Thank you. A constituent.



Susan Johnston
P.O. Box 871
Haines, AK 99827

Rec'd 4/15/02

April 15, 2002

The Honorable John Torgerson - Chairman
Senate Community and Regional Affairs Committee
State Capitol, Room 427
Juneau, AK 99801-1182

RE: Amending HOUSE BILL NO. 296(CRA) "An Act relating to mergers and consolidations of municipalities"

Dear Senator Torgerson,

I respectfully request that HB296 be amended to require that all separate bodies to a consolidation must approve it separately, similar to the requirements of the Unification process. I also request that you expedite the effective date of this legislation to be enacted immediately upon signing by the Governor in order to apply to the proposed Haines City/Borough consolidation.

As a twenty five year resident of the Haines Borough and active public participant in the Haines consolidation efforts, I find that the current consolidation regulations fail to meet a basic principle of American democracy; to follow the will of the majority while protecting the rights of the minority. If amended, the consolidation process could meet this goal.

In response to the April 10th letter from Local Boundary Commission (LBC) Chairman Waring opposing amending HB296 and opposing the inclusion of Haines, I offer the following:

1) LBC claims that "For 30 years, legislative policy has long facilitated consolidation of city and borough governments".

Has consolidation ever succeeded in its 30 year history? How sacred is unsuccessful legislation? How much State money has been spent trying to implement this flawed process? Recent efforts to consolidate in Ketchikan and Fairbanks failed.

2) LBC notes that "the proposed amendment presumes that the members of the House of Representatives did not understand the terms".

This presumed misunderstanding is likely the case, as witnessed by bill sponsor Whittaker's statement that without this amendment, HB296 does not meet its intent.

3) LBC claims the amendment would "disenfranchise borough voters who are also residents of the city".

This amendment allows every resident of the borough to vote, those inside the city borough residents and those outside the city borough residents. Everyone votes, both must approve the charter. How does this disenfranchise city voters?

4) LBC claims that the amendment "repudiates the principle of "one person, one vote" and the principle of majority rule".

The amendment addresses the need for the consolidation process to meet a higher standard than a simple majority. The intent of consolidation is to merger or unify two areas. The process needs to encourage consensus and cooperation between the parties involved. Alaska's Unification process recognizes this need and consequently requires a separate inside/outside vote. Without a separate inside/outside requirement, consolidation allows for a more populated municipality to disregard the concerns of the less populated outside areas and simply bully their way through consolidation. It promotes contention and resentment, instead of a desired cooperation.

The City of Haines has never proposed a meeting with Borough residents from outside the city in order to discuss concerns and build consensus. The City has consistently ignored requests from outside residents for district representation in the charter so outside residents could have at least one voice in the new government.

The City of Haines, which includes 75% of the population of the Haines Borough, proposes in their petition to retain most of their services, yet charge their \$350,000 of yearly administrative costs to areawide residents. The City further proposes to keep \$300,000 in revenue from a 1% tourism sales tax in their townsite service area coffers, yet charge areawide residents for the \$289,000 expense of running a tourism department. The City's petition internalizes the profits and externalizes the expenses. Isn't this what Enron did?

5) LBC claims the amendment "may contravene the federal Voting Rights Act".

If an inside/outside vote for consolidation would somehow violate federal law, then why isn't LBC challenging this same requirement for the Unification process? State law requires that newly affected voters must ratify any proposed new sales tax, so why is it unreasonable to require ratification by affected voters for a proposed consolidated government?

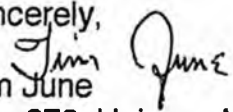
6) LBC claims that "an expedited basis for the pending Haines election would be unfair".

HB296 and the amendment seek to correct and improve state regulations. If the current regulations are unfair or inadequate, then why wouldn't LBC want the corrected regulations to apply to Haines?

HB296 should be expedited specifically for Haines. It would not stop the present consolidation effort by the City of Haines; it would simply require that the city finally sit down with residents outside the city and amend the petition so it meets the needs of all people of the Haines Borough and create one government.

Thank you for your kind consideration of this important matter. I am available to answer any questions or to testify.

Sincerely,


Tim June

Box 672, Haines, AK 99827
(907) 766-2028

cc: Alaska State Representatives and Senators
Governor Tony Knowles



HAINES BOROUGH Box 1209, Haines, Alaska 99827 (907) 766-2711 FAX 766-2716

April 9, 2002

Members of the Senate Committee on Community and Regional Affairs
The Honorable John Torgerson, Chairman
The Honorable Randy Phillips, Senator
The Honorable Alan Austerman, Senator
The Honorable Pete Kelly, Senator
The Honorable Georgianna Lincoln, Senator

Dear Members of the Senate C&RA Committee:

By Resolution dated, March 19, 2002 The Haines Borough Assembly officially supports the petition by the City of Haines to consolidate our two governments into a single Home Rule Borough.

The City's petition was filed in December 2000 as a consolidation petition. For two years and three months the people in Haines followed the procedures set in statute and the regulations of the Local Boundary Commission. It has been a very deliberate and lengthy process, as it should be. The Local Boundary Commission made its final determination to approve the petition on March 9, 2002. We've all played by the rules.

However, we are now informed that an amendment to HB 296 is being proposed that would nullify the rules we followed during the past two years and three months. We've not been allowed to see the amendment but we're told it would change the "consolidation" voting procedure to make it the same as the "unification" voting procedure. While I can argue the merits of why the consolidation process is better for Haines than is the unification process, there is a more important threshold issue. Simply, we believe it is wrong for the legislature, or any unit of government, to interfere in midstream with a legally defined procedure that has been ongoing for more than two years. The people of Haines, the City of Haines and the Local Boundary Commission have been following the law. If a legislator wants to change the law then it should be proposed for future effect but not retroactive effect.

Haines' City Mayor, Dave Black, will attend your committee meeting on April 10, 2002 to respond to specific questions if the amendment is proposed. The City and the Borough are united on this issue. ~~Also I would like to request that you give us time to review any proposed amendments with our attorney before you take action.~~ We will also be interested in hearing testimony from the Local Boundary Commission.

Thank you for your consideration.

Yours truly,

Jerry L. Lapp, Acting Mayor



Alaska State Legislature

Representative Jim Whitaker
House of Representatives
District 31



Session
Capitol Building, Room 411
Juneau, Alaska 99801
Phone: (907) 465-3004
Fax: (907) 465-2070

Interim
119 N. Custerman St. Suite 213
Fairbanks, AK 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Sponsor Statement

HB 296 – Municipal Consolidation

Within Alaska statutes, Title 29 allows municipalities to merge by consolidation or unification. Through the years, many communities have attempted to merge through this process, some successfully, some not so successfully. It is through those efforts that deficiencies in fair voting practices surrounding municipal mergers has come to light.

HB 296 seeks to establish a more fair and timely process in the petition and election of municipal mergers by limiting the time allowed for gathering signatures as well as setting clear requirements for how the outcome of the election is to be determined.

CSHB 296 (CRA)
Municipal Mergers & Consolidations

Section 1 – Amends AS 29.06.100 (a) to limit the time period in which a petitioner may gather signatures for a petition to consolidate. The new time period will be 365 days prior to filing the petition with the LBC.

This removes the potential for signatures to be gathered over the course of several years, with the possibility that many of the signatures may be of persons who no longer reside within the jurisdiction.

Section 2 – Amends AS 29.06.140(a) to require a majority of the votes in each of the municipalities proposed to be merged or consolidated in order for the question to pass.

This assures that a merger or consolidation will be decided by the majority of the voting residents of each of the communities included in the proposal.

By: Bonnie Williams
Introduced: 02/14/02
Adopted: 02/14/02

RESOLUTION NO. 2002 - 13

A RESOLUTION SUPPORTING HB 296 AN ACT MAKING CONSOLIDATION
STATUTES FAIR TO ALL PARTIES BY UPHOLDING GOVERNMENT BY THE
CONSENT OF THE GOVERNED

WHEREAS, in the year 2001 the citizens of the Fairbanks North Star Borough and especially the City of Fairbanks went through a long, bitter and difficult struggle over the issue of consolidation; and

WHEREAS, the outcome of that struggle could have resulted in the elimination of the City of Fairbanks against the majority view of the residents of that city under current state law; and

WHEREAS, such an outcome would be an outrageous abuse of governing with the consent of the governed; and

WHEREAS, the city of North Pole could then subsequently have been similarly deprived of its right of self-rule.

NOW, THEREFORE, BE IT RESOLVED, that the Fairbanks North Star Borough Assembly supports Representative Jim Whitaker's HB 296, which corrects this gross inequity.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to all members of the Alaska State House and State Senate, and to the Governor of the State of Alaska.

PASSED AND APPROVED THIS 14 DAY OF FEBRUARY, 2002.

Hank Bartos

Hank Bartos
Presiding Officer

ATTEST:

Mona Lisa Drexler, CMC

Mona Lisa Drexler, CMC
Municipal Borough Clerk

Ayes: Williams, Solie, Cummings, Foote, Holm, Henry, Webb, Hutchison, Sattley, Bartos

Noes: Beck

Introduced by: Mayor Thompson
Date: February 25, 2002

RESOLUTION NO. 3978

A RESOLUTION OF THE CITY OF FAIRBANKS IN SUPPORT OF HOUSE BILL 296, RELATING TO STATE LAWS REGARDING MUNICIPAL MERGER AND CONSOLIDATION, AND SETTING AN EFFECTIVE DATE

WHEREAS, the voters of the City Of Fairbanks and the Fairbanks North Star Borough overwhelmingly rejected the most recent proposal to consolidate the two governments with nearly 80% of votes cast against the proposal; and

WHEREAS, House Bill 296, introduced by Representative Whittaker, will be heard by the House Community & Regional Affairs Committee this Thursday. HB 296 would correct three significant deficiencies which came to light during the recent Fairbanks consolidation process; and

WHEREAS, under current state law, persons proposing a merger or consolidation of local governments have an unlimited time to obtain needed signatures; HB 296 would limit the "infinite" period to 365 days; and

WHEREAS, under current state law, voting on a merger or consolidation proposal is conducted as a single pool of the voters of the two (or more municipalities); HB 296 would require the approval by the voters of each of the affected municipalities; and

WHEREAS, HB 296 would also clarify state law to provide that a question involving a borough service area required to be submitted to the voters may not be part of the merger or consolidation petition.

NOW, THEREFORE, BE IT RESOLVED that the City Council supports House Bill 296, and urges its adoption by the legislature of the State of Alaska.

Passed and Approved this 25th day of Feb, 2002.

Steve M. Thompson
STEVE M. THOMPSON, MAYOR

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED: February 25, 2002

ATTEST:

APPROVED AS TO FORM

Carol L. Colp
Carol L. Colp, City Clerk

Herbert P. Kuss
Herbert P. Kuss, City Attorney

By: Bonnie Williams
Introduced: 02/14/02
Adopted: 02/14/02

RESOLUTION NO. 2002 - 13

A RESOLUTION SUPPORTING HB 296 AN ACT MAKING CONSOLIDATION
STATUTES FAIR TO ALL PARTIES BY UPHOLDING GOVERNMENT BY THE
CONSENT OF THE GOVERNED

WHEREAS, in the year 2001 the citizens of the Fairbanks North Star Borough and especially the City of Fairbanks went through a long, bitter and difficult struggle over the issue of consolidation; and

WHEREAS, the outcome of that struggle could have resulted in the elimination of the City of Fairbanks against the majority view of the residents of that city under current state law; and

WHEREAS, such an outcome would be an outrageous abuse of governing with the consent of the governed; and

WHEREAS, the city of North Pole could then subsequently have been similarly deprived of its right of self-rule.

NOW, THEREFORE, BE IT RESOLVED, that the Fairbanks North Star Borough Assembly supports Representative Jim Whitaker's HB 296, which corrects this gross inequity.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to all members of the Alaska State House and State Senate, and to the Governor of the State of Alaska.

PASSED AND APPROVED THIS 14 DAY OF FEBRUARY, 2002.

Hank Bartos

Hank Bartos
Presiding Officer

ATTEST:

Mona Lisa Drexler, CMC

Mona Lisa Drexler, CMC
Municipal Borough Clerk

Ayes: Williams, Solie, Cummings, Foote, Holm, Henry, Webb, Hutchison, Sattley, Bartos

Noes: Beck

Introduced by: Mayor Thompson
Date: February 25, 2002

RESOLUTION NO. 3978

A RESOLUTION OF THE CITY OF FAIRBANKS IN SUPPORT OF HOUSE BILL 296, RELATING TO STATE LAWS REGARDING MUNICIPAL MERGER AND CONSOLIDATION, AND SETTING AN EFFECTIVE DATE

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WHEREAS, under current state law, persons proposing a merger or consolidation of local governments have an unlimited time to obtain needed signatures; HB 296 would limit the "infinite" period to 365 days; and

WHEREAS, under current state law, voting on a merger or consolidation proposal is conducted as a single pool of the voters of the two (or more municipalities); HB 296 would require the approval by the voters of each of the affected municipalities; and

WHEREAS, HB 296 would also clarify state law to provide that a question involving a borough service area required to be submitted to the voters may not be part of the merger or consolidation petition.

NOW, THEREFORE, BE IT RESOLVED that the City Council supports House Bill 296, and urges its adoption by the legislature of the State of Alaska.

Passed and Approved this 25th day of Feb, 2002.

Steve M. Thompson
STEVE M. THOMPSON, MAYOR

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED: *February 25, 2002*

ATTEST:

APPROVED AS TO FORM

Carol L. Colp
Carol L. Colp, City Clerk

Herbert P. Kuss
Herbert P. Kuss, City Attorney

AMENDMENT #2

OFFERED IN THE SENATE
TO: CSHB 296(CRA)

BY SENATOR AUSTERMAN

1 Page 1, following line 8:

2 Insert a new bill section to read:

3 "* Sec. 2. AS 29.06.100 is amended by adding a new subsection to read:

4 (c) A petition for the merger or consolidation of a borough and more than one
5 city within that borough shall provide that, if the proposal is approved by a majority of
6 the votes in the borough area outside of the cities proposed to be merged or
7 consolidated but is not approved by a majority of the votes in each of the cities,

8 (1) the entire proposal is defeated; or

9 (2) the proposal is partially approved and the borough is merged or
10 consolidated with the cities in which the proposal has been approved."
11

12 Renumber the following bill section accordingly.
13

14 Page 2, line 1:

15 Delete "If"

16 Insert "Unless the proposal includes the merger or consolidation of a borough and
17 one or more of the cities within that borough, if"
18

19 Page 2, line 3, following "approved.":

20 Insert "Votes on a proposal that includes the merger or consolidation of a
21 borough and one or more of the cities within that borough shall be separately tabulated
22 as follows: (1) in the borough area outside of each city in that borough proposed to be
23 merged or consolidated; (2) in each of the cities in the borough proposed to be merged"

1 or consolidated; and (3) if one or more municipalities outside of the borough are also
2 included within the proposal, in each of those other municipalities. The entire proposal
3 is defeated if it is not separately approved in the borough outside of the cities in that
4 borough that are proposed to be merged or consolidated and, if municipalities outside of
5 the borough are included in the proposal, in those other municipalities. If the proposal
6 is not approved in one or more of the cities within the borough that are proposed to be
7 merged or consolidated but is otherwise approved in each of the areas separately
8 tabulated, the proposal is either entirely defeated or partially approved as provided in
9 the petition under AS 29.06.100(c)."

AMENDMENT #3

OFFERED IN THE SENATE
TO: CSHB 296(CRA)

BY SENATOR TORGERSON

1 Page 2, following line 3:

2 Insert a new bill section to read:

3 "** Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 APPLICABILITY. The amendment to AS 29.06.100(a) in sec. 1 of this Act does not
6 apply to a merger or consolidation petition filed with the Department of Community and
7 Economic Development before the effective date of this Act. The amendment to
8 AS 29.06.140(a) in sec. 2 of this Act does not apply to an election held as a result of a petition
9 filed with the Department of Community and Economic Development before the effective
10 date of this Act, and AS 29.06.140(a) as it read before the effective date of this Act applies to
11 that election."

April 9, 2002

Honorable Senator Torgerson, Chairman
Community and Regional Affairs Committee

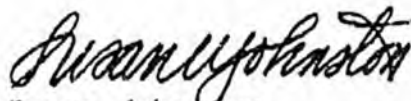
FAX #907-465-4779

Dear Senator Torgerson:

I was dismayed to hear that there might be the possibility of amendment language attached to HB 296 which would require a separate vote of residents both inside and outside a city to affect a consolidation. This would, in effect, put the fate of an entire community in the hands of a very small percentage of its population. This is not democracy as I understand it.

Please do what you can to see that no such amendment language is considered. It would be outrageous if this was pushed through by a handful of people with a personal agenda who could care less about the good of our community.

Thank you. A constituent.



Susan Johnston
P.O. Box 871
Haines, AK 99827



HAINES BOROUGH Box 1209, Haines, Alaska 99827 (907) 766-2711 FAX 766-2716

April 9, 2002

Members of the Senate Committee on Community and Regional Affairs
The Honorable John Torgerson, Chairman
The Honorable Randy Phillips, Senator
The Honorable Alan Austerman, Senator
The Honorable Pete Kelly, Senator
The Honorable Georgianna Lincoln, Senator

Dear Members of the Senate C&RA Committee:

By Resolution dated, March 19, 2002 The Haines Borough Assembly officially supports the petition by the City of Haines to consolidate our two governments into a single Home Rule Borough.

The City's petition was filed in December 2000 as a consolidation petition. For two years and three months the people in Haines followed the procedures set in statute and the regulations of the Local Boundary Commission. It has been a very deliberate and lengthy process, as it should be. The Local Boundary Commission made its final determination to approve the petition on March 9, 2002. We've all played by the rules.

However, we are now informed that an amendment to HB 296 is being proposed that would nullify the rules we followed during the past two years and three months. We've not been allowed to see the amendment but we're told it would change the "consolidation" voting procedure to make it the same as the "unification" voting procedure. While I can argue the merits of why the consolidation process is better for Haines than is the unification process, there is a more important threshold issue. Simply, we believe it is wrong for the legislature, or any unit of government, to interfere in midstream with a legally defined procedure that has been ongoing for more than two years. The people of Haines, the City of Haines and the Local Boundary Commission have been following the law. If a legislator wants to change the law then it should be proposed for future effect but not retroactive effect.

Haines' City Mayor, Dave Black, will attend your committee meeting on April 10, 2002 to respond to specific questions if the amendment is proposed. The City and the Borough are united on this issue. ~~Also I would like to request that you give us time to review any proposed amendments with our attorney before you take action.~~ We will also be interested in hearing testimony from the Local Boundary Commission.

Thank you for your consideration.

Yours truly,

Jerry L. Lapp, Acting Mayor



Rec'd 4/15/02

April 15, 2002

The Honorable John Torgerson - Chairman
Senate Community and Regional Affairs Committee
State Capitol, Room 427
Juneau, AK 99801-1182

RE: Amending HOUSE BILL NO. 296(CRA) "An Act relating to mergers and consolidations of municipalities"

Dear Senator Torgerson,

I respectfully request that HB296 be amended to require that all separate bodies to a consolidation must approve it separately, similar to the requirements of the Unification process. I also request that you expedite the effective date of this legislation to be enacted immediately upon signing by the Governor in order to apply to the proposed Haines City/Borough consolidation.

As a twenty five year resident of the Haines Borough and active public participant in the Haines consolidation efforts, I find that the current consolidation regulations fail to meet a basic principle of American democracy; to follow the will of the majority while protecting the rights of the minority. If amended, the consolidation process could meet this goal.

In response to the April 10th letter from Local Boundary Commission (LBC) Chairman Waring opposing amending HB296 and opposing the inclusion of Haines, I offer the following:

1) LBC claims that "For 30 years, legislative policy has long facilitated consolidation of city and borough governments".

Has consolidation ever succeeded in its 30 year history? How sacred is unsuccessful legislation? How much State money has been spent trying to implement this flawed process? Recent efforts to consolidate in Ketchikan and Fairbanks failed.

2) LBC notes that "the proposed amendment presumes that the members of the House of Representatives did not understand the terms".

This presumed misunderstanding is likely the case, as witnessed by bill sponsor Whittaker's statement that without this amendment, HB296 does not meet its intent.

3) LBC claims the amendment would "disenfranchise borough voters who are also residents of the city".

This amendment allows every resident of the borough to vote, those inside the city borough residents and those outside the city borough residents. Everyone votes, both must approve the charter. How does this disenfranchise city voters?

4) LBC claims that the amendment "repudiates the principle of "one person, one vote" and the principle of majority rule".

The amendment addresses the need for the consolidation process to meet a higher standard than a simple majority. The intent of consolidation is to merger or unify two areas. The process needs to encourage consensus and cooperation between the parties involved. Alaska's Unification process recognizes this need and consequently requires a separate inside/outside vote. Without a separate inside/outside requirement, consolidation allows for a more populated municipality to disregard the concerns of the less populated outside areas and simply bully their way through consolidation. It promotes contention and resentment, instead of a desired cooperation.

The City of Haines has never proposed a meeting with Borough residents from outside the city in order to discuss concerns and build consensus. The City has consistently ignored requests from outside residents for district representation in the charter so outside residents could have at least one voice in the new government.

The City of Haines, which includes 75% of the population of the Haines Borough, proposes in their petition to retain most of their services, yet charge their \$350,000 of yearly administrative costs to areawide residents. The City further proposes to keep \$300,000 in revenue from a 1% tourism sales tax in their townsite service area coffers, yet charge areawide residents for the \$289,000 expense of running a tourism department. The City's petition internalizes the profits and externalizes the expenses. Isn't this what Enron did?

5) LBC claims the amendment "may contravene the federal Voting Rights Act".

If an inside/outside vote for consolidation would somehow violate federal law, then why isn't LBC challenging this same requirement for the Unification process? State law requires that newly affected voters must ratify any proposed new sales tax, so why is it unreasonable to require ratification by affected voters for a proposed consolidated government?

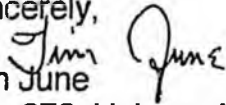
6) LBC claims that "an expedited basis for the pending Haines election would be unfair".

HB296 and the amendment seek to correct and improve state regulations. If the current regulations are unfair or inadequate, then why wouldn't LBC want the corrected regulations to apply to Haines?

HB296 should be expedited specifically for Haines. It would not stop the present consolidation effort by the City of Haines; it would simply require that the city finally sit down with residents outside the city and amend the petition so it meets the needs of all people of the Haines Borough and create one government.

Thank you for your kind consideration of this important matter. I am available to answer any questions or to testify.

Sincerely,


Tim June

Box 672, Haines, AK 99827
(907) 766-2028

cc: Alaska State Representatives and Senators
Governor Tony Knowles

HB

312

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 312(FIN)
(H) Publish Date: 3/18/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: "An Act relating to the delay of the reduction of BRU: K-12 Support
supplementary public school funding; and providing for an eff..." Component: Foundation Program
Sponsor: Rep. Williams
Requester: (H) FIN Component Number: 141

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	334.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
TOTAL OPERATING	334.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	334.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	334.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Attached is an analysis of the financial impact on foundation funding if the floor provision is suspended until 2004.

211 students enrolled in Alaska Challenge Youth Program funded through Alyeska Central School.
211 x \$3,208 = \$676,888

Summary:

Section 1 \$1,010,918
Section 2 (676,888)
Net change \$334,030

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
Division: Education & Early Development Date/Time 03/15/02
Approved by: Ed McLain, Deputy Commissioner of Education Date 3/15/2002
Agency: Education & Early Development

For distribution information, call the Governor's Legislative Office

School District	FY2003 Floor	FY2002 Floor	Section 1 Difference	Section 2	Net Change
Alaska Gateway	213,670	213,670	-		0
Aleutian Region	151,145	172,799	21,654		21,654
Aleutians East Borough	-	-	-		0
Anchorage	-	-	-		0
Annette Island	-	-	-		0
Bering Strait	-	-	-		0
Bristol Bay Borough	-	-	-		0
Chatham	-	-	-		0
Chugach	482,622	482,622	-		0
Copper River	-	-	-		0
Cordova	36,212	36,324	112		112
Craig	-	-	-		0
Delta/Greely	98,930	306,215	207,285		207,285
Denali Borough	-	-	-		0
Dillingham	54,808	79,814	25,006		25,006
Fairbanks N. Star Borough	-	-	-		0
Galena	1,358,327	1,564,082	205,755		205,755
Haines Borough	1,904	7,261	5,357		5,357
Hoonah	36,570	36,570	-		0
Hydaburg	135,953	141,618	5,665		5,665
Iditarod Area	660,505	705,331	44,826		44,826
Juneau Borough	-	-	-		0
Kake	47,666	47,666	-		0
Kashunamiut	-	-	-		0
Kenai Peninsula Borough	-	-	-		0
Ketchikan Gateway Borough	-	-	-		0
Klawock	178,457	178,457	-		0
Kodiak Island Borough	-	-	-		0
Kuspuk	62,218	152,940	90,722		90,722
Lake & Peninsula Borough	186,798	190,610	3,812		3,812
Lower Kuskokwim	3,956,869	4,139,773	182,904		182,904
Lower Yukon	-	-	-		0
Mat-Su Borough	-	-	-		0
Nenana	-	-	-		0
Nome	95,044	95,798	754		754
North Slope Borough	-	-	-		0
Northwest Arctic Borough	-	-	-		0
Pelican	170,985	170,985	-		0
Petersburg	-	-	-		0
Pribilof	22,135	27,348	5,213		5,213
Sitka Borough	-	-	-		0
Skagway	195,530	199,075	3,545		3,545
Southeast Island	405,398	422,290	16,892		16,892
Southwest Region	-	-	-		0
St. Mary's	83,071	128,079	45,008		45,008
Tanana	76,854	86,751	9,897		9,897
Unalaska	344,603	344,603	-		0
Valdez	462,038	492,498	30,460		30,460
Wrangell	-	-	-		0
Yakutat	146,730	188,115	41,385		41,385
Yukon Flats	713,429	727,989	14,560		14,560
Yukon/Koyukuk	522,921	550,443	27,522		27,522
Yupitit	311,485	334,069	22,584		22,584
Alyeska Central School *	-	-	-	(676,888)	(676,888)
Mt. Edgecumbe High School	-	-	-		0
TOTALS:	11,212,877	12,223,795	1,010,918	(676,888)	334,030

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 312(FIN)
(H) Publish Date: 3/18/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: "An Act relating to the delay of the reduction of BRU: K-12 Support
supplementary public school funding; and providing for an eff..." Component: Schools for the Handicapped
Sponsor: Rep. Williams
Requester: (H) FIN Component Number: 151

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6
Miscellaneous						
TOTAL OPERATING	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6	2,531.6

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

- a) Base student allocation (\$4,010) x 7 x # of residential students (150) = \$4,210,500
b) Base student allocation (\$4,010) x 60% x # of nonresidential students (175) = \$421,050

Total Allocation: \$4,210,500 + \$421,050 = \$4,631,550 - \$2,100,000 Fed Funds = \$2,531,550 Alaska Military Youth Academy Grant

SUMMARY:

Alaska Military Youth Academy Grant \$2,531,550
Reduction in Foundation Program (676,888)
Military & Veterans Affairs fiscal note (1,407,500)
Military & Veterans Affairs fiscal note (97,600)
Net Increase for Military Youth Academy \$349,562

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
Division: Education & Early Development Date/Time 03/15/02
Approved by: _____ Date 3/15/2002
Agency: Education & Early Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 312(FIN)
 (H) Publish Date: 3/18/02

Revision Date/Time (Note if correction): _____
 Title: Supplementary Public School Funding
 Sponsor: Rep. Williams
 Requester: (H) FIN
 Dept. Affected: Military & Veterans Affairs
 BRU: Alaska National Guard
 Component: AK Military Youth Academy
 Component Number: 1969

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	641.5					
Miscellaneous						
TOTAL OPERATING	641.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	(1,407.5)					
1004 GF	(97.6)					
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts	2,146.6					
TOTAL	641.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: none
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See next page for fiscal calculations.

Prepared by: Carol Carroll, Director Phone 907-465-4730
 Division: Administrative Services Date/Time 15-Mar-02
 Approved by: Phillip Oates Date 15-Mar-02
 Agency: Military & Veterans Affairs

ANALYSIS: (continued) CSHB 312(FIN) FN#2

Calculation:

- a. Base student allocation $(\$4,010) \times 7 \times \# \text{ of residential students } (150) = \$4,210,500$
- b. Base student allocation $(\$4,010) \times 6/10 \times \# \text{ of nonresidential students } (175) = \$421,050$

Total Allocation:

$$\$4,210,500 + \$421,050 = \$4,631,550$$

Less Federal Matching Funds of \$2,100,000

Equals \$2,531,550 TOTAL interagency receipts allocation from Dept. of Education

Notes:

1. This fiscal note reflects an interagency receipts amount of \$2,146,600 because the FY03 Governor's budget request already included \$385,000 interagency receipts authorization from Dept. of Education's Alyeska School. This funding will be replaced by the public school funding, but the additional receipt authorization is not needed as long as the Governor's budget interagency receipt amount is funded in HB403.
2. This fiscal note is based on changes from the Governor's FY03 budget. Not included was the Governor's FY03 amended request of \$240,000 for graduate stipends. The net difference of \$641,500 on the fiscal note less the \$240,000 amendment request results in a NET increase over the Governor's amended request of \$401,500.
3. This calculation is based on FY01 student counts and federal funding grants. These may fluctuate each year, and will be determined on October 1 per this legislation.

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-7157

SPONSOR STATEMENT FOR HOUSE BILL 312

House Bill 312 suspends the "erosion" effect on the "Supplemental Funding Floor" established by SB 36 in the 20th legislature. Presently, in FY 03, the erosion effect takes some school funds away from 22 school districts across the state. The suspension will be in place pending the results of a study of school district cost factors funded by this legislature last session. The results of that study will be available for consideration by the legislature in determining school funding for FY 04.

The Supplemental Funding Floor is a way to help school districts that lost funding in SB 36 make the transition from the old community based funding formula to the new school funding formula established by SB 36.

School districts that qualified for less state funding under SB 36 than under the old community based funding formula were held "harmless" by the supplemental funding floor. These districts were given additional funds that represent the difference between the districts old community based funding formula and the new school funding formula established by SB 36.

However, as a school district qualifies for increased funding, the school district's supplemental funding floor is subject to a reduction of 40%. This "erosion" of the funding floor continues until the school district no longer qualifies for a supplemental funding floor.

Again, HB 312 proposes to suspend the 40% reduction to the supplemental funding floor for FY 03 only. The suspension will allow legislators to have current, reliable, area cost differential information while deliberating the FY 04 budget. This will give the next legislature the tools necessary to make sound and informed school funding decisions based upon the best possible information. I urge your support of this important legislation.

School District	FY2003 Floor	FY2002 Floor	Section 1 Difference	Section 2	Net Change
Alaska Gateway	213,670	213,670	-		0
Aleutian Region	151,145	172,799	21,654		21,654
Aleutians East Borough	-	-	-		0
Anchorage	-	-	-		0
Annette Island	-	-	-		0
Bering Strait	-	-	-		0
Bristol Bay Borough	-	-	-		0
Chatham	-	-	-		0
Chugach	482,622	482,622	-		0
Copper River	-	-	-		0
Cordova	36,212	36,324	112		112
Craig	-	-	-		0
Delta/Greely	98,930	306,215	207,285		207,285
Denali Borough	-	-	-		0
Dillingham	54,808	79,814	25,006		25,006
Fairbanks N. Star Borough	-	-	-		0
Galena	1,358,327	1,564,082	205,755		205,755
Haines Borough	1,904	7,261	5,357		5,357
Hoonah	36,570	36,570	-		0
Hydaburg	135,953	141,618	5,665		5,665
Iditarod Area	660,505	705,331	44,826		44,826
Juneau Borough	-	-	-		0
Kake	47,666	47,666	-		0
Kashunamiut	-	-	-		0
Kenai Peninsula Borough	-	-	-		0
Ketchikan Gateway Borough	-	-	-		0
Klawock	178,457	178,457	-		0
Kodiak Island Borough	-	-	-		0
Kuspuk	62,218	152,940	90,722		90,722
Lake & Peninsula Borough	186,798	190,610	3,812		3,812
Lower Kuskokwim	3,956,869	4,139,773	182,904		182,904
Lower Yukon	-	-	-		0
Mat-Su Borough	-	-	-		0
Nenana	-	-	-		0
Nome	95,044	95,798	754		754
North Slope Borough	-	-	-		0
Northwest Arctic Borough	-	-	-		0
Pelican	170,985	170,985	-		0
Petersburg	-	-	-		0
Pribilof	22,135	27,348	5,213		5,213
Sitka Borough	-	-	-		0
Skagway	195,530	199,075	3,545		3,545
Southeast Island	405,398	422,290	16,892		16,892
Southwest Region	-	-	-		0
St. Mary's	83,071	128,079	45,008		45,008
Tanana	76,854	86,751	9,897		9,897
Unalaska	344,603	344,603	-		0
Valdez	462,038	492,498	30,460		30,460
Wrangell	-	-	-		0
Yakutat	146,730	188,115	41,385		41,385
Yukon Flats	713,429	727,989	14,560		14,560
Yukon/Koyukuk	522,921	550,443	27,522		27,522
Yupiit	311,485	334,069	22,584		22,584
Alyeska Central School *	-	-	-	(676,888)	(676,888)
Mt. Edgecumbe High School	-	-	-		0
TOTALS:	11,212,877	12,223,795	1,010,918	(676,888)	334,030

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 25, 2002

SUBJECT: Sectional Summary of Public school funding - HB 312

TO: Representative Bill Williams
Attn: Randy

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Changes the effective date for a provision of law requiring a reduction in certain public school funding from fiscal year 2000 to fiscal year 2004.

Section 2. Provides that HB 312 does not apply to any public school funding reductions required under AS 14.17.490(d) in fiscal years 2000, 2001, or 2002.

Section 3. Allows the Department of Education and Early Development to adopt regulations necessary to implement HB 312.

Section 4. Effective date for sec. 3.

Section 5. Effective date for secs. 1 and 2.

MFF:med
02-057.med

ENGROSSED SUBSTITUTE HOUSE BILL 2544

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Cooper, Benson, Santos, Clements, Simpson, McIntire, Armstrong, Hunt, Romero, Dickerson, Upthegrove, Chase, Ogden, Haigh, Conway, Kenney, Campbell and Linville; by request of Governor Locke. Insurance Commissioner and Attorney General)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to using credit history for insurance purposes;
2 adding a new section to chapter 48.18 RCW; adding a new section to
3 chapter 48.19 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. Sec. 1. A new section is added to chapter 48.18 RCW
6 to read as follows:

7 UNDERWRITING RESTRICTIONS THAT APPLY TO PERSONAL INSURANCE. (1)

8 For the purposes of this section:

9 (a) "Adverse action" has the same meaning as defined in the fair
10 credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions
11 include, but are not limited to:

12 (i) Cancellation, denial, or nonrenewal of personal insurance
13 coverage;

14 (ii) Charging a higher insurance premium for personal insurance
15 than would have been offered if the credit history or insurance score
16 had been more favorable, whether the charge is by:

17 (A) Application of a rating rule;

18 (B) Assignment to a rating tier that does not have the lowest
19 available rates; or

1 (C) Placement with an affiliate company that does not offer the
2 lowest rates available to the consumer within the affiliate group of
3 insurance companies; or

4 (iii) Any reduction, adverse, or unfavorable change in the terms of
5 coverage or amount of any personal insurance due to a consumer's credit
6 history or insurance score. A reduction, adverse, or unfavorable
7 change in the terms of coverage occurs when:

8 (A) Coverage provided to the consumer is not as broad in scope as
9 coverage requested by the consumer but available to other insureds of
10 the insurer or any affiliate; or

11 (B) The consumer is not eligible for benefits such as dividends
12 that are available through affiliate insurers.

13 (b) "Affiliate" has the same meaning as defined in RCW
14 48.31B.005(1).

15 (c) "Consumer" means an individual policyholder or applicant for
16 insurance.

17 (d) "Consumer report" has the same meaning as defined in the fair
18 credit reporting act, 15 U.S.C. Sec. 1681 et seq.

19 (e) "Credit history" means any written, oral, or other
20 communication of any information by a consumer reporting agency bearing
21 on a consumer's creditworthiness, credit standing, or credit capacity
22 that is used or expected to be used, or collected in whole or in part,
23 for the purpose of serving as a factor in determining personal
24 insurance premiums or eligibility for coverage.

25 (f) "Insurance score" means a number or rating that is derived from
26 an algorithm, computer application, model, or other process that is
27 based in whole or in part on credit history.

28 (g) "Personal insurance" means:

29 (i) Private passenger automobile coverage;

30 (ii) Homeowner's coverage, including mobile homeowners,
31 manufactured homeowners, condominium owners, and renter's coverage;

32 (iii) Dwelling property coverage;

33 (iv) Earthquake coverage for a residence or personal property;

34 (v) Personal liability and theft coverage;

35 (vi) Personal inland marine coverage; and

36 (vii) Mechanical breakdown coverage for personal auto or home
37 appliances.

38 (h) "Tier" means a category within a single insurer into which
39 insureds with substantially like insuring, risk or exposure factors,

1 and expense elements are placed for purposes of determining rate or
2 premium.

3 (2) An insurer that takes adverse action against a consumer based
4 in whole or in part on credit history or insurance score shall provide
5 written notice to the applicant or named insured. The notice must
6 state the significant factors of the credit history or insurance score
7 that resulted in the adverse action. The insurer shall also inform the
8 consumer that the consumer is entitled to a free copy of their consumer
9 report under the fair credit reporting act.

10 (3) An insurer shall not cancel or nonrenew personal insurance
11 based in whole or in part on a consumer's credit history or insurance
12 score. An offer of placement with an affiliate insurer does not
13 constitute cancellation or nonrenewal under this section.

14 (4) An insurer may use credit history to deny personal insurance
15 only in combination with other substantive underwriting factors. For
16 the purposes of this subsection:

17 (a) "Deny" means an insurer refuses to offer insurance coverage to
18 a consumer;

19 (b) An offer of placement with an affiliate insurer does not
20 constitute denial of coverage; and

21 (c) An insurer may reject an application when coverage is not bound
22 or cancel an insurance contract within the first sixty days after the
23 effective date of the contract.

24 (5) Insurers shall not deny personal insurance coverage based on:

25 (a) The absence of credit history or the inability to determine the
26 consumer's credit history, if the insurer has received accurate and
27 complete information from the consumer;

28 (b) The number of credit inquiries;

29 (c) Credit history or an insurance score based on collection
30 accounts identified with a medical industry code;

31 (d) The initial purchase or finance of a vehicle or house that adds
32 a new loan to the consumer's existing credit history, if evident from
33 the consumer report; however, an insurer may consider the bill payment
34 history of any loan, the total number of loans, or both;

35 (e) The consumer's use of a particular type of credit card, charge
36 card, or debit card; or

37 (f) The consumer's total available line of credit; however, an
38 insurer may consider the total amount of outstanding debt in relation
39 to the total available line of credit.

1 (6) (a) If disputed credit history is used to determine eligibility
2 for coverage and a consumer is placed with an affiliate that charges
3 higher premiums or offers less favorable policy terms:

4 (i) The insurer shall reissue or rerate the policy retroactive to
5 the effective date of the current policy term; and

6 (ii) The policy, as reissued or rerated, shall provide premiums and
7 policy terms the consumer would have been eligible for if accurate
8 credit history had been used to determine eligibility.

9 (b) This subsection only applies if the consumer resolves the
10 dispute under the process set forth in the fair credit reporting act
11 and notifies the insurer in writing that the dispute has been resolved.

12 (7) The commissioner may adopt rules to implement this section.

13 (8) This section applies to all personal insurance policies issued
14 or renewed after January 1, 2003.

15 NEW SECTION. Sec. 2. A new section is added to chapter 48.19 RCW
16 to read as follows:

17 MAKING OF RATES--PERSONAL INSURANCE. (1) For the purposes of this
18 section:

19 (a) "Consumer" means an individual policyholder or applicant for
20 insurance.

21 (b) "Credit history" means any written, oral, or other
22 communication of any information by a consumer reporting agency bearing
23 on a consumer's creditworthiness, credit standing, or credit capacity
24 that is used or expected to be used, or collected in whole or in part,
25 for the purpose of serving as a factor in determining personal
26 insurance premiums or eligibility for coverage.

27 (c) "Insurance score" means a number or rating that is derived from
28 an algorithm, computer application, model, or other process that is
29 based in whole or in part on credit history.

30 (d) "Personal insurance" means:

31 (i) Private passenger automobile coverage;

32 (ii) Homeowner's coverage, including mobile homeowners,
33 manufactured homeowners, condominium owners, and renter's coverage;

34 (iii) Dwelling property coverage;

35 (iv) Earthquake coverage for a residence or personal property;

36 (v) Personal liability and theft coverage;

37 (vi) Personal inland marine coverage; and

1 (vii) Mechanical breakdown coverage for personal auto or home
2 appliances.

3 (2) Credit history shall not be used to determine personal
4 insurance rates, premiums, or eligibility for coverage unless the
5 insurance scoring models are filed with the commissioner. Insurance
6 scoring models include all attributes and factors used in the
7 calculation of an insurance score. RCW 48.19.040(5) does not apply to
8 any information filed under this subsection, and the information shall
9 be withheld from public inspection and kept confidential by the
10 commissioner. All information filed under this subsection shall be
11 considered trade secrets under RCW 48.02.120(3). Information filed
12 under this subsection may be made public by the commissioner for the
13 sole purpose of enforcement actions taken by the commissioner.

14 (3) Insurers shall not use the following types of credit history to
15 calculate a personal insurance score or determine personal insurance
16 premiums or rates:

17 (a) The absence of credit history or the inability to determine the
18 consumer's credit history, unless the insurer has filed actuarial data
19 segmented by demographic factors in a manner prescribed by the
20 commissioner that demonstrates compliance with RCW 48.19.020;

21 (b) The number of credit inquiries;

22 (c) Credit history or an insurance score based on collection
23 accounts identified with a medical industry code;

24 (d) The initial purchase or finance of a vehicle or house that adds
25 a new loan to the consumer's existing credit history, if evident from
26 the consumer report; however, an insurer may consider the bill payment
27 history of any loan, the total number of loans, or both;

28 (e) The consumer's use of a particular type of credit card, charge
29 card, or debit card; or

30 (f) The consumer's total available line of credit; however, an
31 insurer may consider the total amount of outstanding debt in relation
32 to the total available line of credit.

33 (4) If a consumer is charged higher premiums due to disputed credit
34 history, the insurer shall rerate the policy retroactive to the
35 effective date of the current policy term. As rerated, the consumer
36 shall be charged the same premiums they would have been charged if
37 accurate credit history was used to calculate an insurance score. This
38 subsection applies only if the consumer resolves the dispute under the

1 process set forth in the fair credit reporting act and notifies the
2 insurer in writing that the dispute has been resolved.

3 (5) The commissioner may adopt rules to implement this section.

4 (6) This section applies to all personal insurance policies issued
5 or renewed on or after June 30, 2003.

6 NEW SECTION. Sec. 3. Captions used in this act are not any part
7 of the law.

8 NEW SECTION. Sec. 4. The commissioner shall report to the
9 legislature by January 1, 2004, on issues related to the use of credit
10 history in personal insurance underwriting and rating and the
11 implementation of this act. The report must include:

12 (1) A review of how this act has been implemented and how it has
13 impacted consumers; and

14 (2) A review and analysis of insurance scoring that is due to the
15 legislature by January 1, 2003, which includes, but is not limited to:

16 (a) Which types of consumers, based on demographic factors, benefit
17 from or are harmed by the use of credit history in personal insurance
18 rating and underwriting;

19 (b) The extent to which the use of credit history affects rates
20 charged to the consumer;

21 (c) Whether insurance scoring results in discrimination against a
22 protected class of people or the poor; and

23 (d) Other issues as determined by the commissioner.

--- END ---

HB

355

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murko vski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement House Bill 355 Mobile Telecommunications Tax

In 2000, Congress passed the Mobile Telecommunications Sourcing Act (MTSA), which clarified how mobile telecommunication calls involving multiple jurisdictions should be assigned or "sourced" for tax purposes. Sourcing involves determining which jurisdiction has the right to tax a telephone call that originates and terminates in a different taxing jurisdiction. In the case of mobile telecommunications, the customer might live in one jurisdiction, have her bill sent to a second jurisdiction, make a call in a third jurisdiction, and complete the call in a fourth jurisdiction.

Without clear, national rules for determining which jurisdiction is permitted to tax the call, the possibility exists that the same call could be subject to taxation in multiple jurisdictions, or that a call might escape taxation all together. House Bill 355 conforms Alaska statutes to the federal Mobile Telecommunications Sourcing Act to allow for appropriate taxes and fees on wireless services.

States have until August 1, 2002 to conform their laws applicable to the taxation of wireless telecommunications to the provisions in the federal law. States failing to act by August 1st will be preempted from imposing taxes on most calls made outside of the state where the customer's primary use occurs, so-called "roaming".

House Bill 355 creates the concept that the customer has a "place of primary use" (PPU), which means the residential or primary business street address where the customer's use primarily occurs. The PPU is the jurisdiction with the right to tax wireless calls. For example, a resident of Anchorage that contracts for wireless telecommunications service would designate Anchorage as her place of primary use. If she traveled to Seattle and placed a call from Seattle to Olympia during the trip, the state of Alaska and the city of Anchorage would still have the authority to tax that call even though it did not originate in Alaska.

House Bill 355 conforms Alaska statutes with the federal Mobile Telecommunications Sourcing Act and allows the state of Alaska to appropriately tax wireless telecommunications services. Additionally, House Bill 355 will prevent multiple taxation, achieve administrative simplicity and cost savings in the billing process, and will prevent expensive audit litigation exposure when multiple states claim jurisdiction to tax the same call.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 355(CRA)
(H) Publish Date: 3/15/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Mobile Telecommunications Tax BRU Revenue Operations
Component Tax Division
Sponsor House Labor & Commerce
Requester House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2.

Prepared by: Chuck Harlamert, Revenue Audit Supervisor
Division Tax Division
Approved by: Larry Persily, Deputy Commissioner
Agency Department of Revenue

Phone 465-4773
Date/Time 3/14/02 7:13 PM
Date 3/14/2002

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

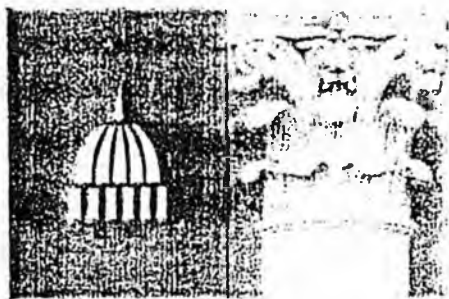
BILL NO. CSHB 355(CRA) - FN#1

ANALYSIS CONTINUATION

The federal Mobile Telecommunications Sourcing Act (P.L. 106-252) preempts existing state and local law by specifying the source of mobile telecommunications services for purposes of state and local sales, excise or other transaction taxes.

Under the act, mobile telecommunications services are sourced to a customer's place of primary use. State and local revenues are expected to be unchanged when states adopt legislation conforming to the federal act.

CSHB355(CRA) brings Alaska law governing municipal taxation into conformity with the Mobile Telecommunications Sourcing Act. In addition to the sourcing provisions of the federal act, this legislation also provides for procedures and remedies for correcting errors in the assignment of place of primary use.



National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

MARCH 2002

VOL. 10, No. 14

State Conformity to the Mobile Telecommunications Sourcing Act

By Graham Williams

Under existing rules, it is difficult to determine which state has the authority to tax cell phone calls.

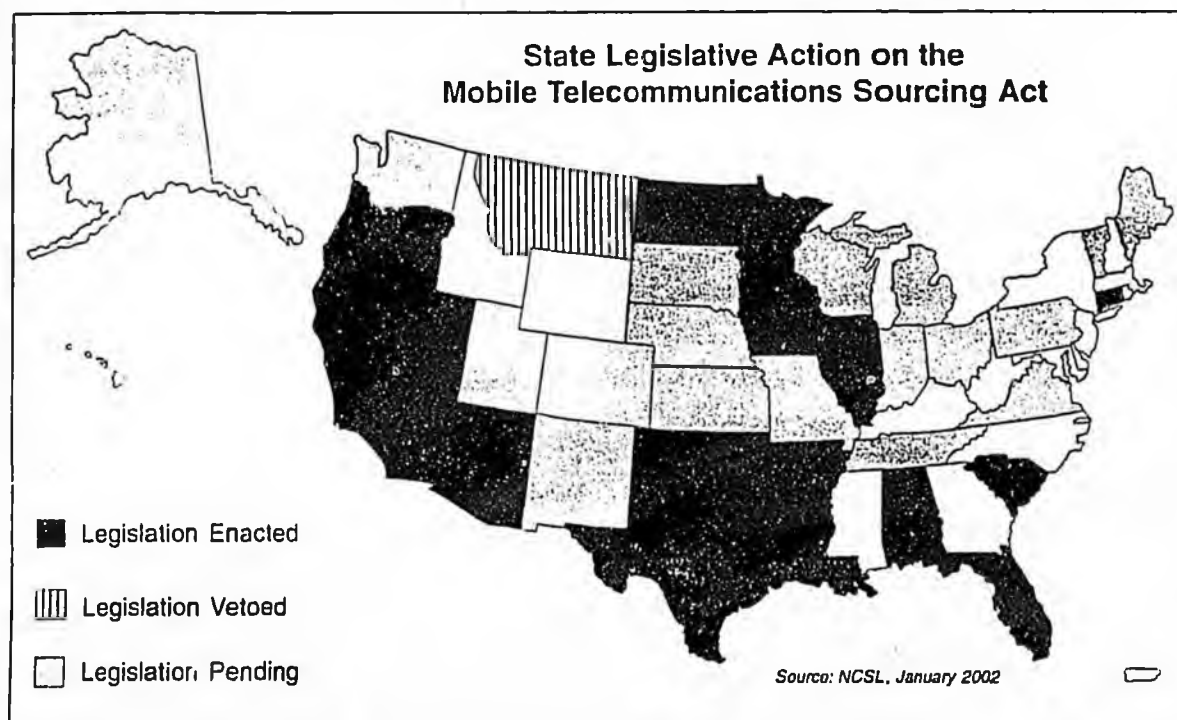
The changing nature of telecommunications is forcing policymakers at all levels to re-evaluate their tax codes. A perfect example of this new pressure is the rapid growth of wireless communication. As state telecommunications policy developed, it was relatively easy to determine which jurisdiction had the right to tax a particular call.

A cell phone customer from New York, however, can now call a friend in California while on a business trip to Florida. Under existing rules, it is difficult to determine which state has the authority to tax such a call. In some cases, more than one jurisdiction has claimed a tax on the same call, while other calls escape taxation altogether.

Congress passed the Mobile Telecommunications Sourcing Act in 2000.

Federal Action

To find a solution and avoid federal preemption, state and local groups joined the wireless industry to develop a compromise that would create a uniform rule for sourcing (matching the tax on a transaction with a jurisdiction), while maintaining revenue neutrality for the states. Congress passed the Mobile Telecommunications Sourcing Act (MTSA) in 2000, which was modeled on



that compromise. Most state laws on sourcing telecommunication taxes have been based on the 1989 Supreme Court case *Goldberg vs. Sweet*, which required a jurisdiction to have two out of three of the origination, termination and service addresses of a call to assert its tax. The act taxes wireless calls at the "place of primary use." This is identified by the consumer and can be either a residential or business address, wherever the phone is used most often.

The act taxes wireless calls at the "place of primary use."

Under such a system, the call made by the New York resident to a friend in California while visiting Florida would be subject only to the applicable tax at the place of primary use, presumably in New York. States applying the federal law will forgo revenue from taxes on calls made within their state by visitors, but will gain authority to tax calls made by residents while out-of-state, otherwise known as "roaming." All states will lose the ability to tax calls made within the state by nonresidents after Aug. 1, 2002. States that fail to conform to the federal act by Aug. 1 will not be able to make up for this lost revenue by taxing residents who make calls in other states until they conform with the federal sourcing requirements.

Requirements for State Conformity. States can incorporate the necessary language and definitions by referring to the federal act (4 USC 116-126) or by making statutory amendments to incorporate the law's provisions. Either way, states must do three things to comply with the federal law:

States must do three things to comply with the federal law.

1. States must include the "place of primary use" definition and source calls to the customer's home or office address.
2. States need to match the primary use jurisdiction to the proper tax. Under the MTSA, states can develop a database using geo-codes to pinpoint the jurisdiction and the applicable tax. The industry would use the state-provided information and be held harmless for errors. Another option would allow the industry to be held harmless for errors if using "due diligence" in applying proper tax rates based on the zip+4 of the address.
3. States must incorporate the act's bundling provisions. These allow providers to bundle taxable and non-taxable services on the bill without separately stating those charges. Providers can collect the money on the taxable charges, as long as the companies demonstrate through their books and records that the other items were exempt.

State Action

To avoid federal preemption, states must act before Aug. 1, 2002. In 2001, 16 states enacted legislation to conform with the federal act, including Alabama, Arizona, Arkansas, California, Connecticut, Florida, Illinois, Iowa, Louisiana, Minnesota, Nevada, North Dakota, Oklahoma, Oregon, South Carolina and Texas. Nineteen additional states had introduced conforming legislation as of Feb. 5, 2002.

To avoid federal preemption, states must act before Aug. 1, 2002.

Contacts for More Information

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"(7) MOBILE TELECOMMUNICATIONS SERVICE.—The term 'mobile telecommunications service' means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

"(8) PLACE OF PRIMARY USE.—The term 'place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be—

"(A) the residential street address or the primary business street address of the customer; and

"(B) within the licensed service area of the home service provider.

"(9) PREPAID TELEPHONE CALLING SERVICES.—The term 'prepaid telephone calling service' means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

"(10) RESELLER.—The term 'reseller'—

"(A) means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

"(B) does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

"(11) SERVING CARRIER.—The term 'serving carrier' means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

"(12) TAXING JURISDICTION.—The term 'taxing jurisdiction' means any of the several States, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

§ 25. Nonseverability

"If a court of competent jurisdiction enters a final judgment on the merits that—

"(1) is based on Federal law;

"(2) is no longer subject to appeal; and

"(3) substantially limits or impairs the essential elements of sections 116 through 126 of this title,

then sections 116 through 126 of this title are invalid and have no legal effect as of the date of entry of such judgment.

§ 126. No inference

"(a) INTERNET TAX FREEDOM ACT.—Nothing in sections 116 through this section of this title shall be construed as bearing on Congressional intent in enacting the Internet Tax Freedom Act or to modify or supersede the operation of such Act.

HB

358

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: No. 1
 Bill Version: HB358
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Exemption From Proper Tax: Timber BRU _____
 Component _____
 Sponsor Rep. Chenault _____
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: Bill Lawrence Committee Aide Phone 465-3882
 Division: HCRA Date/Time 2/14/02 4:41 PM
 Approved by: Representative Morgan, Co-chair Date 2/14/2002
 Agency: HCRA

STATE OF ALASKA

**REPRESENTATIVE
MIKE CHENAULT**



Official Business

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145 Main St. Loop, Second Floor
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HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Bill No. 358 EXEMPTION FROM PROPERTY TAX: TIMBER

HB358 - "An Act relating to an optional exemption from municipal property taxes for certain land from which timber is harvested and for certain improvements used in or necessary to the harvest of timber."

The Kenai Peninsula Borough contains about 1.1 million acres of land consisting of trees that are dying due to infestation by the Spruce Bark Beetle. These areas have been identified as a high fire threat, with limited access for firefighting resources and inadequate emergency evacuation sites.

Harvesting the infested timber is one of the best devices for managing this threat. To encourage continued and expanded operations of harvesting timber resources, HB 358 allows the option to all municipalities to offer land owners a tax exemption to harvest beetle infested timber, or timber that is at risk of being infested or to make improvements, such as clearing roads to gain access to the properties.

ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

TONY KNOWLES, GOVERNOR

Kenai-Kodiak Area Office
42499 Sterling Highway
Soldotna, AK 99669
Phone: (907) 262-4124
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February 8, 2002

Representative Mike Chenault
State Capitol, Room 432
Juneau, AK 99801-1182

RE: State Timber Sales on the Kenai Peninsula

Dear Representative Chenault:

We received a request from your office for an update on our recent timber sale offering on the Kenai Peninsula. The Division of Forestry offered four spruce beetle-killed salvage sales on January 7, 2002. The offering was by sealed bid. Two of the sales were in the Clam Gulch area, one near Anchor Point, and one near Moose Pass. Two of the sales received bids at the bid opening and were awarded. The same purchaser submitted the two bids and they were the only bids received. They purchased one of the sales near Clam Gulch and the sale near Anchor Point. The other two sales were then posted as available over the counter. Since January 7th, we have received a bid for the sale near Moose Pass. The other sale has not as yet received a bid, but we have had some discussions with potential interested parties and expect a bid sometime next week. Below is a quick summary on the sales.

Sale Name	Volume	General Location	Advertised Price	Bid Price
Trail	132 MBF	Clam Gulch	\$5/MBF	\$7.87/MBF
Cottonfield	250 MBF	Anchor Point	\$13/MBF	\$22.30/MBF
Townson	385 MBF	Moose Pass	\$5/MBF	\$5/MBF
Small Lake I	1,620 MBF	Clam Gulch	\$5/MBF	No bids yet

Timber markets worldwide have declined substantially over the last several of years. The resultant impact on the Kenai Peninsula and particularly on our State timber sales is a substantial reduction in stumpage value. On some of our previous sales sold just a few years ago, we were able to have the purchaser complete reforestation, including the purchasing and planting of trees on the sale areas following their harvest operations. Due to the decline in the timber markets, the value of the salvaged trees do not offset the reforestation costs, therefore, the State is now assuming the reforestation responsibility. The State is committed to reforesting these beetle-killed stands to ensure continuation of the sustainability of the State forests. We will be reforesting the above sales through a combination of natural regeneration, where a live seed source is present and has survived the infestation, and planting using funds appropriated by the legislature in the past.

Reforestation of the State's beetle-killed stands is primary goal. We are committed to reforesting all our harvest areas with native tree species grown from local seed sources. Our goal is to use natural reforestation and planting to accelerate re-growth of mixed forests on State lands. Funding to assist with reforestation has been limited.

With the change in timber markets and the movement of the spruce beetle from the more remote areas of the peninsula into our communities and along the road system, we are redirecting our focus to State lands located in the urban-interface. Removal of the beetle-killed trees will assist in reducing fuel loading and the potential for large, difficult to control wildfires.

In 1997, the legislature provide a capital project appropriation to fund the sale and administration of four large salvage sales on the Kenai. The sales were originally designed to feed timber into the chip market, which was active at the time of passage of the legislation. However, due to the economic changes mentioned above, it is no longer feasible to proceed with the original intent language without a major increase in funding for reforestation. We are requesting a revision in the intent language so that the balance

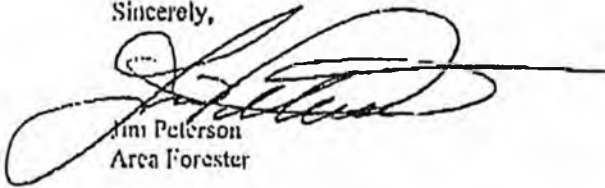
Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans

in this appropriation can be used to prepare, administer, and reforest smaller sales located in the higher hazard areas near residential development and communities. The remaining funds in the appropriation total approximately \$310,000 and would go a long ways towards defraying reforestation costs, assist with road maintenance, and provide funding for preparation and administration of these smaller salvage sales. If you have any questions regarding the technical aspects of this reappropriation, please contact Nico Bus at 465-2406. We would like to solicit your support on this proposed reappropriation.

We are committed to doing our part to reduce the fire hazards near Kenai Peninsula communities and to offer salvage timber sales where the wood fiber can be utilized. We recognize the significant benefits that these actions can have on our quality of life on the Kenai.

If we can provide further assistance or if you have any additional questions, feel free to contact us.

Sincerely,



Jim Peterson
Area Forester

Cc: Jeff Jahnke, State Forester
Roy Josephson, Acting Regional Forester
Nico Bus, DNR, Support Services



Summary of Final Action Plan Recommendations

Introduction

The spread of the Spruce Bark Beetle in Alaska, and particularly the Kenai Peninsula, has continued over the last decade at a level unprecedented for current observers. The infestation is considered the largest in North America with estimates that the infestation has impacted over 2.3 million acres of Alaska spruce forests over the last 7 years.

Grant

Concerns regarding the infestation's impact to Alaska's forests, public safety, and the ecosystem prompted the Senate Appropriation Committee to direct the U.S. Forest Service to establish a multiparty task force to prepare an action plan to manage spruce beetle infestations in Alaska and rehabilitate the infested areas.

Task Force Formation

The Kenai Peninsula Borough (KPB) was designated as the lead agency in the Task Force effort with the Borough Mayor, Mike Navarre, designated as the Task Force Chair. The initial public meeting was held in Soldotna, Alaska on January 15, 1998 with public comment and exchange regarding the infestation, nominations for task force membership, and the approach for the Task Force.

Task Force and Public Meetings

The Task Force met on 10 occasions and conducted public meetings in Soldotna, Homer, and Moose Pass.

Area Impacted and Ownership

The Kenai Peninsula Borough encompasses 9.9 million acres of land with 22% (2.2 million acres) forested with about 1.1 million acres infested. Experts suggest that 6.6% contains commercial quality forest lands (650,000 acres) with over a third of these commercial forest areas in national parks, wilderness areas and wildlife refuges. The net availability for commercial harvest is estimated to be approximately 375,000 acres (3.8% of the total Borough land area).

Land on the Kenai Peninsula is owned by multiple entities as would be expected; however there are large portions owned by government and native interests; (i.e. State of Alaska 1.6 Million acres; Cook Inlet Region, Inc. 467,820 acres; Ninilchik Native Association 64,206 acres; Kenai Peninsula Borough 90,701 acres; Kenai National Wildlife Refuge 1,200,000; and Chugach National Forest 900,000.

Task Force Plan

The Task Force's recommendations represent consensus of each of the members. A summary by general category follows:

Fire Prevention & Public Safety

Emergency Notification and Evacuation. The Task Force supports providing safe evacuation routes and sites of human refuge. A prompt examination should be made to identify areas with insufficient evacuation routes. Necessary access for fire fighting resources as well as breaks in the continuity of fuel are required. In addition there is a need to identify sites of refuge in the event of a fire emergency and to assure emergency communications to residents takes advantage of modern technologies.

Identification of Evacuation Routes and Sites of Refuge and Establish a Budget for Work Responsibility: Alaska Department of Natural Resources Division of Forestry (ADNR/DOF), Kenai Peninsula Borough (KPB), local fire agencies. Target completion date is July 1, 1998 to be conducted using existing personnel.

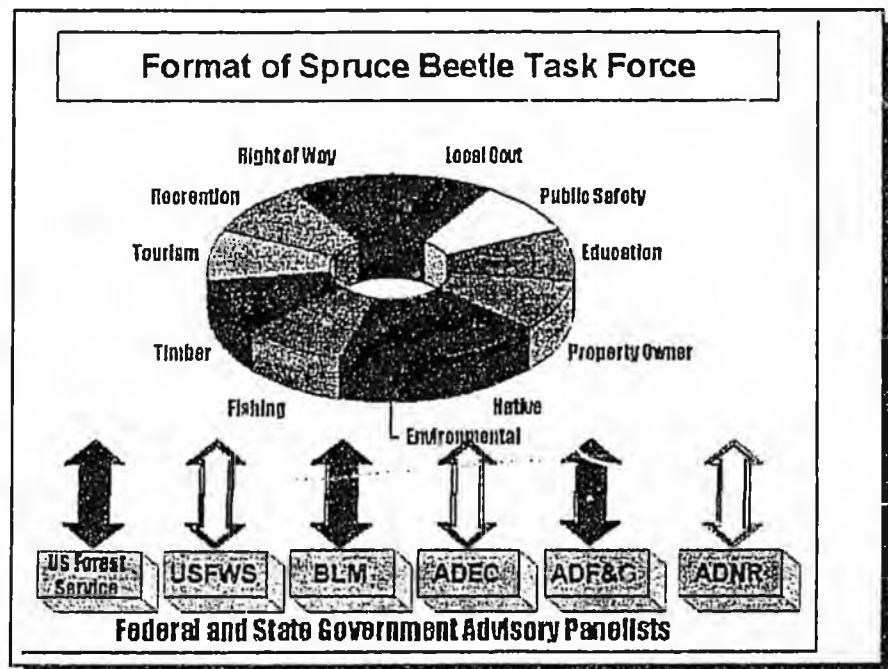
Emergency Notification. Expand existing "Community Activation Net" (CAN) to include coverage for evacuation routes and sites of refuge. Essentially, the CAN system should be overlaid on the evacuation plan. Responsibility: Kenai Peninsula Borough.

Homer East End Road Pilot Project between Miles 8 and 20. The East End Road in Homer has been identified as a high fire threat urban interface area due to fire hazards, limited access, and potential for loss. The proposed initiative is intended to reduce the hazards and improve emergency ingress/egress in the area. State improvements to East End Road presently scheduled for 2003 will include widening the road and clearing additional right of way. A determination should be made about the feasibility and funding needed to accelerate already planned right of way clearing in 1998; however the Task Force is not suggesting expenditure of requested funds on previously planned and budgeted activities. In addition, the Task Force does not suggest a wider right of way clearing than already planned. The necessary sites of refuge should be identified and necessary preparations of the sites completed. The pilot project should include testing the "C.A.N." communication system as well as provide information and assistance to private landowners that compliment the emergency preparedness effort.

▪ **Responsibility:** ADNR/DOF, KPB, and Department of Transportation and Public Facilities.

▪ **Funding Required:** \$75,000.00

Regulatory Impediments to Timely and/or Effective Response. An examination of existing Borough regulatory impediments to rapid response should be examined as well as standards imposed on new subdivision developments in fire risk areas.



▪ **Identify and streamline regulatory processes.** The Borough is requested to examine current impediments to a rapid clearing of right of way in critical areas where emergency evacuation routes are being implemented as well as where actions are necessary to protect public health and safety.

▪ **Road Development In Subdivisions.** There is a need to evaluate Borough road standards and identify fire threat as one of the considerations in establishing standards for new roads. The objective is to avoid creating transportation impediments (or traps) in emergency response and assure that the access standards as well as roadway standards do not add to the existing risks. National Fire Protection Association (NFPA) 299 or similar standards are suggested for guidance in application of new standards for new subdivision roads in identified high threat wildland urban interface areas.

Incident Command System (ICS) Team and Seasonal Fire Fighter Availability and Training. Establish a KPB Type III ICS Team using existing personnel and resources. This would be a rapid response ICS team of local resources that would respond to support local fire agencies when requested. Intent is for the Team to manage incidents that can be handled locally and/or until a Type II or Type I team arrives. **Responsibility:** KPB and local fire agencies.

Coordinate Availability of State Forestry Support to Coincide with Local Fire Season. Encourage state forestry to staff the KPB commensurate with the danger and with the local fire season. For example, there is presently an approximate 30-day lag between the start of the fire season on the lower Peninsula and arrival of adequate fire fighting personnel and equipment (such as helicopters and water buckets). Due to the

additional hazard associated with the spruce bark beetle infestation and the increase in population on the Kenai the State should increase the number of wildland firefighters assigned to the Kenai Peninsula during the fire season. **Responsibility:** ADNR/DOF.

Assistance Identifying Programs for Small Local Fire Agencies. State Division of Forestry should take the lead in identifying programs that are intended to assist local fire agencies that do not have sufficient fire fighting equipment and resources. Additional assistance requested in helping these local agencies qualify for the programs.

Fire Training. Currently there is a lack of access to wildland fire training for smaller communities' fire protection efforts. Wildland fire fighting training should be made available to local fire service jurisdictions and/or organizations. **Responsibility:** ADNR/DOF, USFS, BLM and Local Fire Agencies. **Immediate Action:** Develop a training plan identifying the number of individuals and their location as well as cost projection. Target for training plan completion: June 1, 1998. **Responsibility:** Kenai Peninsula Borough and Borough Fire Departments.

Fire Equipment Caches and Supplies. Provide fire caches of loaned fire equipment to local fire districts. Fully utilize the State Forestry Fire Stores program to assist local jurisdictions with loaned caches of equipment. Assist local jurisdictions with the purchase of wildland fire protection equipment and supplies through state and federal contracts. **Responsibility:** ADNR/DOF.

Locate and distribute federal excess property to local fire districts. This will require an effort to locate suitable equipment throughout the country and may require making "spruce bark beetle fire risk mitigation" a high priority in the federal excess

property program. Coordination of property screening services and transportation of useful excess property to Alaska may be required. **Responsibility:** KPB, ADNR/DOF, and USFS.

Coordination of Hazard Tree Removal Around Public Facilities Including rights-of-way clearing. There is an immediate need to initiate a tree removal effort that will eliminate the current and projected hazards of dead or dying trees to existing public facilities such as schools, campgrounds, roads, and rights-of-way. The effort should include an educational component which 1) encourages the public and land owners to coordinate efforts to safely remove hazard trees near power lines to reduce the risk of electrocution, fire, and power interruption; and 2) educate landowners on the importance of cutting back hazard trees from near residences, public areas, and power lines.

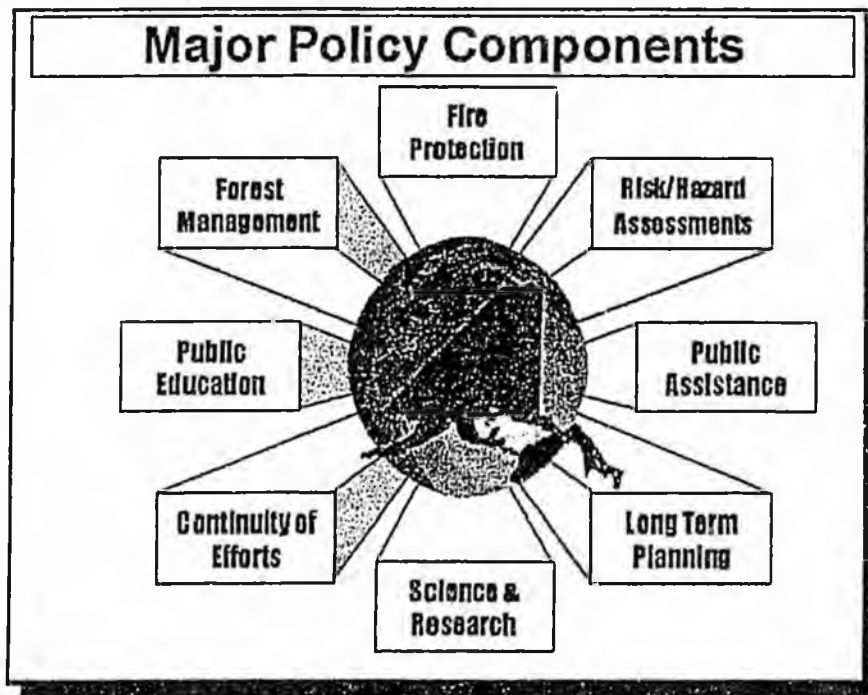
Projected Costs and Timing: \$ 5.2 Million over 5 years. (Cost based on projected 6,000 acres of power line right a way plus 500 acres of hazard trees threatening existing public facilities.)

Use of Fire as a Management Tool. There should be a plan that identifies the opportunities to use prescribed fire, or wildfires which can be managed to meet fuel reduction and wildlife habitat objectives, which may potentially enhance various forest resources and remain acceptable to the public. Project components include:

- Identification of smoke management issues and applicable air quality standards.
- Designation of one ADNR/DOF Manager and one USDA FS Manager to obtain or enhance advanced prescribed burn qualifications.
- Develop burning prescriptions for selected blocks of land.

Working Group for Use of Fire as a Management Tool. The Chugach National Forest, Kenai National Wildlife Refuge, KPB, and the three state agencies (ADNR/DOF, Alaska Department of Environmental Conservation (ADEC) and Fish and Game (ADFG)) collectively the "Alaska Resource Agencies" are encouraged to create an interagency prescribed fire working group to coordinate prescribed fire activities on the Kenai Peninsula including the following:

- a. Developing plans which identify areas where prescribed fire, or wild fire burning in prescription, could enhance various forest resources while remaining acceptable to the public;
- b. Improving prescribed burning qualifications for agency personnel;
- c. Planning for the availability of resources, including overhead, for prescribed fires;
- d. Identifying smoke management and air quality issues;
- e. Educating the public about the beneficial use of fire;



f. Assisting in the implementation of prescribed fire projects; and

g. Identification of additional funding sources for these projects.

Use of Organized Emergency Fire fighting Crews for Fuel Reduction Projects. The Alaska Interagency Coordination Center (AICC) maintains a roster of emergency fire fighting crews from across the State including crews from the Kenai Peninsula and from small Native villages which have high unemployment rates. Many of the projects identified for implementation, including fuel reduction, fuel break construction and prescribed fire, are very labor intensive and require skills similar to those found in trained fire fighting crews. The crews identified by the AICC could be utilized on a rotating basis to work on projects on Borough, State, National Forest, and National Wildlife Refuge Lands. The use of the crews is expected to generate the following benefits:

- Availability of trained fire fighting resources for wildfire suppression on the Peninsula;
- Availability of resources for prescribed fire projects;
- Training for the crews;
- Economic stimulus to disadvantaged communities across the State; and
- Ready availability of crews who are organized and trained to implement many of the proposed projects.

Funding for the crews would be used to individual projects. ADNR/DOF would take the lead on the coordination and use of the crews.

Fuel Modeling and Risk/Hazard/Behavior Assessment

Urban Interface Fire Hazard Assessment. Using the National Wildland Urban Interface Advisory Group methodology, identify, adopt and implement a wildland/urban interface fire hazard assessment to prioritize resources and efforts in high fire potential areas of the Kenai Peninsula. The work product could serve as a model for potential use in other areas of Alaska. The assessment is envisioned to include on-site surveys in the Borough's urban interface and high hazard area of fuels and fire behavior, physical characteristics, and potentials for ignition. Responsibility: ADNR/DOF in cooperation with local fire agencies. Recommend allocation of \$15,000 for the project.

Fuel Modeling and Risk/Hazard/Behavior Assessment - Fuel loading and the associated potential for fire in specific forested areas must be understood and considered in developing management practices related to forest health and practices. The Task Force recommends that two initiatives be completed as tools to Forest management with specific assistance envisioned for preparedness planning, and for prescribed burning to regenerate forests or to reduce fuel loading.

▪ **Fuel Model Map.** Create a fuel model map for the Kenai Peninsula that will serve as the basis for developing a plan to identify areas where management practices can enhance forest resources including wildlife populations. The map should help predict fire behavior and is not the same as a vegetation map. Suggest designation of one DOF fire manager and one USDA FS Manager to lead the effort.

▪ **Actions Prior to Fuel Load Reduction Efforts.** The Task Force recognizes that fuel load reduction and management practices (including prescribed burns) is a potential management tool. A Borough-wide Geographic Risk and Hazard Assessment is recommended. This project would complement management planning and identification of areas where wildland burning within prescription or prescribed fire (or alternative fire load reduction techniques) could enhance various forest resources. The hazard assessment would evaluate the fuel complex defined by type, moisture, arrangement, volume, etc. The risk assessment would determine the likelihood of fire ignition in examined areas. The behavior assessment would examine fire behavior under alternative weather scenarios as patterned on John See's 1990 Cooper Landing Spruce Bark Beetle Fire Behavior Analysis.

Support for Risk Mitigation Effort. Additional support is required for the state's Fire Risk Mitigation and Education Project. Funding is requested to extend the present two ADNR/DOF Training and Prevention positions to 10 months per year to enable training for volunteer fire departments and public to take place during winter months in advance of the fire season when people can attend.

Timber Management and Re-forestation

Reexamine Feasibility of an Instate Seedling Nursery. The issue of seedling availability is a concern to both large and small entities. The high demand customers such as CIRI and Circle DE experience logistical challenges during periods when hundreds of thousands of trees are being brought in for replanting. There is also considerable demand by small landowners that may not be currently met. A number of organizations have current interest in this subject including the Reforestation Council and potentially local native corporations. ADNR/DOF is requested to conduct a study to determine the merits and economic feasibility of establishing a seedling nursery in Alaska. The Task Force, in designating ADNR/DOF as lead agency for this effort, is not suggesting that the Nursery should be a state facility. The suggested funding for the effort is \$5,000.

Consideration of Fire Hazard Reduction and Public Safety in Timber Sales. Government and major land owners are encouraged to design and locate their timber sales in a manner that complements efforts to reduce fire and public safety

hazards and risk of ignition in the urban interface. The recommended policy is considered as complementary to fire hazard minimization with reductions in fuel loading and potential catastrophic fires. The potential for fire loss should be a high priority in existing and future sales programs.

Spruce Seeds. A genetically diverse source of spruce seeds for future regeneration of infested areas should be collected from different subpopulations of parent trees before they all die. ADNR/DOF should oversee a broad and systematic collection and proper storage of spruce tree seeds from infested and at risk areas on the Kenai Peninsula. **Immediate Action:** The Task Force recommends \$25,000 for collection to begin in September 1998. Additional parameters recommended include:

- Collect and store 500 pounds of seed as soon as possible beginning in the fall of 1998. Based on past experience it is understood that the collection effort will take between 3 and 7 years.
- Collect Borough wide utilizing cooperative agreements with all land holders where possible and encourage public assistance in collection of seeds.
- Periodically reassess the collection goal and process.
- Make seed available at whatever price necessary to recover cost.
- Projected cost is \$200 per pound for collection (\$100,000) and \$50,000 for storage freezer utilities.

Limited Examination of Forest Practice Act Regulations. Convene a technical group (subject matter experts including representatives of the Timber Industry and major land owners) to review 11 AAC 95.195 ("Clearing of Spruce Trees") and 11 AAC 95.370 ("Slash") for adequacy in preventing or controlling beetle infestation in Alaska and make specific recommendations to review the regulations or develop internal DNR staff guidance as needed.

Slash and Debris Disposal. The KPB, in cooperation with ADEC and private interests, should conduct an evaluation of the feasibility of acquiring and/or leasing large volume grinders and/or incinerators to be operated at KPB landfills and transfer sites to dispose of stumps or other debris from fuel reduction efforts in areas where burning is unsafe or must be limited. These facilities, if feasible, are expected to facilitate hazard mitigation efforts, protect air quality, and may have a secondary benefit of enhancing land development as well as extending the life of the landfills.

Fuel Breaks. All landowners (including government, trusts, large land owners, and other institutions) should be encouraged to break up the continuity of fuels and make an effort to connect natural fuel breaks in and around developed areas. All agencies should adopt this policy and encourage

landowners to implement this practice on private lands.

Landscaping. All landowners should consider fire resistant landscaping as a priority when making planting and regeneration decisions (including the selection of fire resistant landscape materials) around or near improvements including buildings, roads, and utilities.

Forest Practices Act Implementation. There is presently inadequate state funding to support the implementation of the Forest Practices Act regulations which negatively impacts efforts to manage the beetle infestation. The Task Force urges adequate funding to the Alaska Resource Agencies charged with implementing the Forest Practices Act and Regulations.

Native Species. If artificial revegetation is selected for landscape level treatment of beetle impacted areas, revegetation should be with native species. This includes planting spruce trees but does not preclude planting other native species.

Reforestation Incentives. Across the Kenai Peninsula the loss of the spruce trees to the spruce bark beetle epidemic has resulted in many tens of thousands of acres which are in need of reforestation. The parcels affected range in size from a few acres to thousands of acres. There are currently some 22,000 acres which have been harvested, but exempted from reforestation under the State Forest Practices Act. There is also concern about that timber sale revenues would be insufficient to pay for reforestation on state lands that need to be cleared of dead spruce to reduce fire danger. The need to reduce the risk of future wildfire and insect epidemics by planting with more fire resistant species and creating a forest mosaic is also an important consideration.

Recommendation: The need is recognized for forest stewardship across all ownerships and the potential interest in reforestation of lands where reforestation costs cannot be supported through the timber sale and harvest process and where substantial benefit is to be gained from accelerated reforestation. To encourage the reforestation on the Kenai Peninsula, the Task Force recommends the following:

1. **Address the Areas Presently Exempted from Reforestation under the Alaska Forest Practices Act.** Establish a fund in the amount of \$1,000,000 to be used for reforestation on those acres exempted from reforestation under the State Forest Practices Act and harvested before 1998. This fund would be administered by the KPB.

2. **Reforestation in the Urban Interface.** Establish a fund in the amount of \$750,000 for reforestation on land in the urban interface that has been or will be cleared to reduce fuels. Emphasis for reforestation in the interface should be placed on fire resistant species such as birch, aspen and other native hardwoods, or a mixture of fire resistant

species and spruce. This fund would be administered by the KPB.

3. **Reforestation of State Timber Sales with Objective of Fuel Reduction within 5 Miles of Urban Interface.** Establish a fund in the amount of \$1,000,000 to be used for reforestation on State timber sale lands where the objective is to reduce fire danger to human life and property. Consideration will be given to provide benefits to fish and wildlife, as advised by the ADFG. The need for fuel reduction will be based on fuel modeling and a fire hazard and risk analysis.

4. **Reforestation of High Value Public Lands.** Establish a fund in the amount of \$1,000,000 for reforestation of high value public lands impacted by the beetle with an objective of restoring public benefits associated with these lands. One-half of funding would be dedicated to federal lands and remaining half to state and local lands and administered by the U.S. Forest Service's State and Private Forestry through a grant process.

Public Education

Publicize Tree Seedling Sources. Make it easier for small landowners to locate tree seedlings should they wish to replace trees. ADNR/DOF should maintain a list of sources of small quantities of seedlings and produce simple publications for the public on where and how to acquire the seedlings. This effort is anticipated to be possible without additional costs and the Task Force recommends that the Division of Forestry should work with the KPB and the USFS to coordinate printing of the publication(s). It is noted that the Task Force is not suggesting elaborate and costly publications - just the basic information in a brief format.

Longer Term Technical Assistance. Recommendation for addition of one position to the UA Cooperative Extension Unit at \$75,000 per year with \$40,000 per year budgeted for publications and communications. A 5-year project is suggested with an assessment of the project merits by the end of year 4. The effort is envisioned to be proactive and community oriented with a majority of the work conducting workshops and making other public contacts out side of an office.

Communications

The following recommendation reflect the Task Force's view that the beetle problem is part of a natural ecological process that takes a long time to cycle and that tourists and residents should be educated as to the context of the infestation and what is being done.

Improve Public Access to Information. Establish an electronic clearinghouse that provides descriptions of how to deal with beetles with responsibility for implementation shared by the Co-op Extension Unit and DNR. The information should keep public advised of what is being done.

▪ **Immediate Action.** KPB to develop and maintain a coordinated Home Page that will contain information expected to be most frequently sought by land owners. Access to more advanced or specialized information will be made available via links to existing and future federal, state, local and private sources. Recommended funding of \$10,000 for implementation by July 1, 1998.

Public Education. Implement a proactive approach to public education that considers methods to enhance the tourist and resident opportunities including trail restoration, signage, and access. Specific projects are intended to educate tourists (and residents) on natural forest systems.

Immediate Action. Create an interpretive brochure that describes the infestation, including its historical context, and the actions that are being taken for distribution to tourism and public organizations. Efforts should be made to include the information in popular tourist publications such as the Kenai Peninsula Visitor's Guide, the Anchorage Daily News Visitor's Guide, the Milepost, and a page in the Alaska Sport fishing regulation booklet made available each year to anglers. In addition, the Task Force recommends that at least two (2) locations with view of infested areas receive interpretive signage describing the infestation. Initial funding of \$30,000 is recommended.

Interpretive Displays; part of Longer Term Action. A more extensive interpretive display regarding the infestation should either be established at an existing facility in the Borough or appropriate financial support should be made available in coordination with other groups or agency initiatives with similar objectives.

Tourism. Recommendation is for a longer term project for a Demonstration Forest Area to study and illustrate the results of alternative silviculture treatments. Project would provide public viewing areas as to what the beetle infestation looks like as well as the actions that are being taken in different areas.

Public Education on Role of Fire: Provide public information taking advantage of current work products such as the Fish and Wildlife Service's program "The Role of Fire in Alaska" and other published materials that improves the public's understanding of the beneficial uses of fire. Projected Cost: \$20,000

Community Planning and Involvement. Encourage the establishment of community planning and local action groups to provide an ongoing local effort in support of the Beetle Infestation management.

Notices to Absentee Property Owners. The Kenai Peninsula Borough's existing communications with absentee property owners should be augmented with relevant information regarding the beetle infestation and programs underway that may impact the property owner.

Continuity of Efforts

Spruce Bark Beetle Coordinator. There is a need to assure continuity of the response effort and coordination of the implementation of the Task Force recommendations. There is consensus that additional effort should be made to assist urban communities' related efforts (including volunteers, grants, and planning) for community and urban forest areas. In view of the importance of urban trees to Alaskan communities. The Coordinator duties would include assisting communities in qualifying for grants such as the "Trees USA" program which requires a tree inventory, identification of a responsible person for the program, a long term plan for urban tree health, and an annual "Arbor Day Celebration." The projected annual costs for the added position is \$85,000.

Spruce Bark Beetle Coordinating Committee. The committee would be facilitated by the Spruce Bark Beetle Coordinator and would monitor the effectiveness the actions, oversee the implementation of the Task Force recommendations, and make recommendations to the KPB Mayor on funding and other issues. The committee would include the six resource agencies participating in the Task Force as well as other interested parties.

Public Assistance

State Stewardship Program. The Task Force recognizes the valuable contribution of the ADNR/DOP's Stewardship Program and agrees that there should be increased support for the program in Alaska with an objective of improving and expanding public access to reforestation advice and support. Recommendation is for one State position stationed in the Kenai Borough with funding support for planning and reforestation of private lands. The projected budget is suggested to be \$75,000 per year for personnel plus funds for silviculture treatment and increased cost-shared treatment of \$100,000 per year for a 5-year period with a reassessment before the end of this period.

Tree Removal Clearinghouse. Recommend that the Borough establish a clearinghouse where property owners can obtain a listing of individuals and companies who have indicated an interest in removing trees from similar sized land tracts. This activity is expected to be one of the services provided by the Borough's Spruce Bark Beetle coordinator.

Long Term Planning

Transportation Study. Project Objective: Provide a comprehensive landscape level transportation planning tool by consolidating information on the existing and projected transportation infrastructure into a GIS-based, Kenai Peninsula-wide mapping system. The information will be used to evaluate Task Force recommendations on access and transportation system development as they relate to fire threat,

public safety, emergency evacuation routes, timber harvest and other activities. In addition, the mapping will be used to evaluate the anticipated cumulative effects on fish, wildlife and other resources from road improvements, timber harvest related road construction and other transportation system developments that may occur in beetle-infested or at risk areas.

Major Project Actions:

A. To facilitate local fire planning for fire prevention, fire fighting actions and emergency evacuation efforts in response to the increased fire threat associated with spruce bark beetle infestations, major public and private landowners and managers will provide information on existing transportation systems such as the Borough's logging road maps and the 911 emergency response maps and consolidate it into GIS map(s). Over time, both improved and unimproved easements will be identified.

B. Prevention measures or response actions in interface or other areas may require upgrading roads or construction of new roads for timber harvest or fuel reduction. The mapping will provide a basis for a landscape level evaluation of the direct and indirect, long-term and cumulative effects to fish and wildlife and other resources associated with task force recommendations that lead to road construction or improvement. Based on an analysis of fire hazards and risk and fish and wildlife and other concerns, the evaluation may result in recommendations on alternative access options and mitigation measures.

C. The mapping can be used to assist in determining the location of appropriate road corridors by avoiding or mitigating both short-term and long-term impacts to fish and wildlife and other resources.

Responsibility: The KPB will take the lead in coordinating and inputting data into its GIS system and then creating the map(s). This will be a collaborative effort including all major public and private landowners and managers affected by recommendations made by the spruce bark beetle task force.

Estimated Project Costs: Projects costs for the creation of the initial maps are nominal as most of the information is currently available and included in various GIS formats from the KPB, ADNR, U.S. Forest Service and U.S. Fish and Wildlife data bases. The Borough would be impacted with computer and personnel time. Additional work includes the ground-proofing of the mapped roads on Borough and private lands. This would be accomplished through a combination of GPS data gathering, field notes and orthographic photo interpretation. The map(s) would be continually updated, but will take about a year to complete the initial "ground proofing" and photo work at an estimated cost of \$50,000.

Land and Vegetation Cover Mapping for the Kenai Peninsula. The Task Force recommend making a \$25,000 contribution to Phase I of the Land and Vegetation Cover Mapping for the Kenai

Peninsula, recognizing the existing funding commitment of \$65,000 already in place from other sources outside the Task Force for this phase of the project.

Additionally, the Task Force supports federal funding for Phase 2 of this project in order to support such activities as site specific fire risk assessment, tracking and predicting spruce bark beetle infestation, and detailed analysis of individual timber stands. Maps would be based on aerial photographic interpretation, or recently declassified military technology, and would cover selected portions of the Kenai Peninsula. Federal funding for Phase 2 is expected to not exceed \$200,000. The Task Force understands that the USDA Natural Resources Conservation Service (NRCS) is developing a vegetation map for their current soil inventory. Phase II efforts should be coordinated with the NRCS mapping.

Wildlife Maintenance. Maintaining wildlife is important to the economy and quality of life on the Kenai Peninsula. Research suggests that habitat changes related to the spruce bark beetle infestation tend to benefit some species and harm others. Some wildlife species are sensitive to human responses to the infestation. The Task Force agreed that the brown bear population in particular is sensitive to human activities and it is vulnerable due to its geographic isolation on the Kenai Peninsula. The health of the brown bear population was also considered a good indicator for the health of many other wildlife species due to both its habitat requirements and its sensitivity to human activities.

Objective. It is the intent of the Task Force to provide for human health and safety needs while maintaining wildlife habitat to the extent possible. Understanding and maintaining brown bear corridors and other significant units of bear habitat near human development are important elements of planning and implementing actions recommended by the Spruce Bark Beetle Task Force. Determining and recognizing public opinion is necessary during the process of finding an appropriate balance between wildlife conservation and development.

Action Recommended. The Task Force recommends that the state and federal governments collaborate to establish a Kenai Brown Bear Planning Team that will operate on a consensus basis. The team should be composed of the Alaska Resource Agencies and the Alaska Department of Transportation & Public Facilities and their federal counterparts. The team should also include representatives of key public interests including environmental, fishing, oil and gas, tourism, timber, property owners, and other private interests deemed appropriate. The Planning Team is to develop a brown bear conservation plan which can be utilized in planning for health and safety and other infestation related issues. No recommendation is made on funding.

Recommended Resource Utilization for Implementing Task Force's Recommendations. The Task Force reached consensus on the most economical manner to achieve several of the preceding recommendations via several early actions that extend the State's employment season of the Fire Management Officer to 12 months; the Training and Prevention Positions to ten months; the two Instructor/Technician positions to 6 months; and the Warehouse position to 8 months at a cost of \$65,000 enabling completing of the following recommendations:

- Develop evacuation routes and sites of refuge.
- Urban Interface fire hazard assessment.
- Support the Spruce Bark Beetle Coordinator.
- Provide year round public education resources.
- "Longer Term Technical Assistance" including presenting defensible space workshops and fuel reduction interventions.
- Support risk mitigation efforts; and
- Provide technical assistance and training to local fire service.

In addition the Task Force recommends adding a Fire Risk Management/Fire Behavior Position to support all other aspects of the Task Force recommendations and to take the lead on the Fuel Modeling and Fuel Map projects. Projected cost of \$90,000.

Science & Research

Understanding and maintaining healthy ecosystems is important. Management and rehabilitation of impacted forests must be based on the best available science. While a large amount of information on the effects of spruce bark beetle epidemics and associated management options currently exists, there are both short and long-term needs for

additional research. The Task Force reached consensus that increased emphasis be placed on adequately funding research programs that will investigate disturbance regimes and their effect on ecosystem health. Specific areas of emphasis should include the effects of spruce bark beetle outbreaks and management activities on:

- Hydrology
- Fish and wildlife populations and habitat
- Fuel conditions
- Regeneration, with and without management activities such as logging and prescribed fire

In addition, It is important to continue vegetation mapping efforts and research on silviculture and vegetation management prescriptions.

Support for USFS/Pacific Northwest (PNW) Station's Disturbance Initiative. The Task Force understands that, if funded, up to \$1 million per year for 5 years may be available for south-central Alaska through the Forest Service's PNW Station's "Improving Forest Health and Productivity by Managing Forest Fire, Insects and Diseases as Natural Ecosystem Disturbance Processes" Initiative. This initiative would involve research and development of techniques for the management of hazard and risk to ecosystem health and would meet many of the above noted research needs. The Task Force urges Congress to appropriate the necessary funding for this Initiative.

For additional information contact the Kenai Peninsula Borough at 907 262-4441 or check the Spruce Bark Beetle Home page at [tp://www.borough.kenai.ak.us/beetle.htm](http://www.borough.kenai.ak.us/beetle.htm)

Task Force Members

Mayor Mike Navarre, Chair, Local Government;

- ① Education - Mike Fastabend, Anchorage
- ② Environmental - Rick Smeriglio, Moose Pass
- ③ Fishing - Catherine Cassidy, Kaslof
- ④ Native Interests - Dean Kvasnikoff, Ninilchik
- ⑤ Private Land Owners - Ann Whitmore-Painter, Moose Pass
- ⑥ Public Safety - Robert Purcell, Homer
- ⑦ Recreation - Mike Huckababy, Soldotna
- ⑧ Rights-of-Way - George Bowen, Kenai
- ⑨ Timber - Terry Nininger, Homer
- ⑩ Tourism - Phil Morris, Homer

Advisory Panelists

- ① AK Dept. Fish and Game - Ellen Fritts, Juneau; (2) AK Dept. Natural Resources - Jeff Jahnke, Juneau; (3) AK Dept. Env. Cons. - Deric Marcovelle, Soldotna; (4) U.S. Forest Service - Paul Forward, Anchorage; (5) Bureau of Land Management - Mike Zaidlicz, Anchorage; and (6) U.S. Fish and Wildlife Service - Mark Chase, Soldotna.

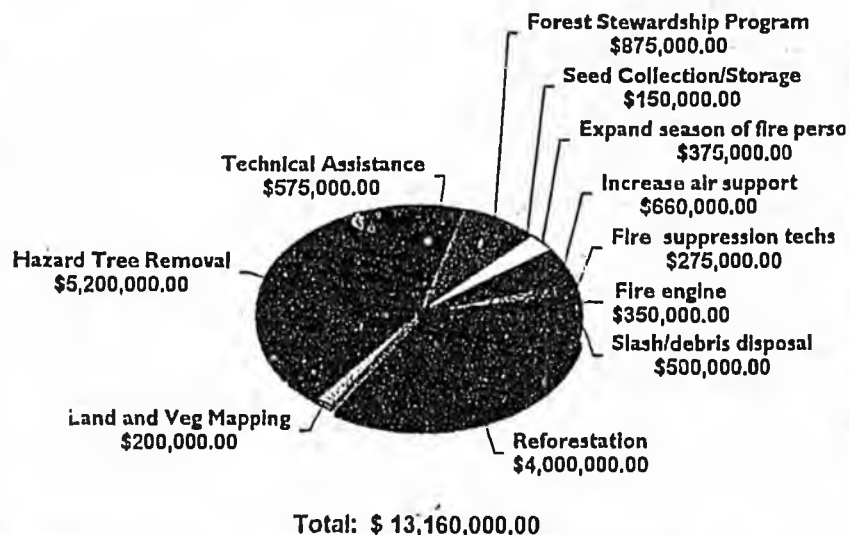
Facilitator/Mediator: Gene Burden, Burden & Associates, Inc.

Short Term Action Recommendations

Projected Funding Requirements

Recommendation	Projected Costs
Urban Interface Fire Hazard Assessment	15,000
Public Education	40,000
Spruce Bark Coordinator	85,000
Homer East End Project	75,000
Spruce Seeds	25,000
Veg Mapping Phase 1	25,000
Trans Corridor Mapping	50,000
General Implementation of other early action recommendations	155,000
Total	\$470,000

Funding for Longer Term Action Projected Five Year Requirements





Though tiny, the spruce bark beetle is blamed for damage done by 60% of insects killed in 2 billion acres of forest.

PHOTO BY GREGG DEGEN FOR THE UNIVERSITY OF CALIFORNIA RIVERS

FOREST Killers

KENAI SCIENTIST THINKS HE KNOWS WHY BEETLES
ARE WIPING OUT ALASKA'S SPRUCE TREES

By Charles Wohlforth

Southcentral Alaska's 4-million-acre spruce bark beetle plague of the 1990s was the biggest single insect kill of trees ever recorded in North America, so you might think that finding out how it happened would be a scientific priority. But

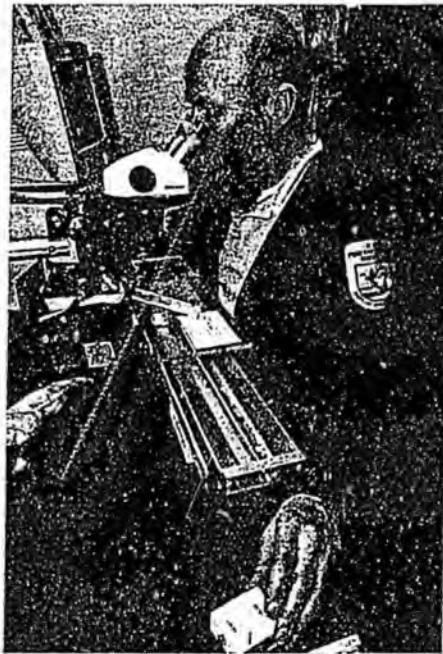
only one researcher looked deeply into the question, a soft-spoken forest ecologist who wears a bushy beard, flannel shirts and suspenders.

Working at the Kenai National Wildlife Refuge, Ed Berg had the skills and curiosity to find the clues and fit them together with advanced statistical analysis. What he found turned out to be much bigger than even the beetle kill. The climate changed enough in this region—it has become warmer and drier—to swing the ecological balance strongly in favor of spruce bark beetles and away from the trees.

Here are some of the clues:

- In the Mystery Hills, on the refuge's Fuller Lakes Trail, krummholz trees, those old, gnarled hemlocks that creep along the ground, have shot up straight and tall as if suddenly cured of their rheumatism. After centuries of struggling for life at the edge of tree-line, they're growing fast in ideal conditions.

- To the west, on the mostly flat, pond-pocked land near the Swanson River, kettle ponds are evaporating, their shrinkage gauged by old aerial photographs and the rings left by receding shores. Some have disappeared entirely, leaving a telltale, concentric pattern of vegetation that is younger toward the center, where the deepest water used to be.



Botanist Ed Berg [ABOVE] of the Kenai National Wildlife Refuge examines spruce tree rings under a microscope at the refuge's headquarters. Berg has been studying spruce beetles to determine why they have become more destructive over the past decade.

- All over the region, growth rings inside the trees record each year and give an accurate gauge of conditions in that area of forest. Counted and precisely measured by Berg and his assistants on a microscopic slide wired to a computer—and compiled by the thousands—the growth rings confirm that the 1990s beetle kill was the largest to hit the area in at least 250 years. Beetles have killed a lot of trees before—they come through regularly—but in the past, cool, damp weather stopped them before they could wipe out so much forest.

This huge beetle kill was a direct result of global warming. And it may have been a preview of how insects could devour other Alaska forests as change advances.

Berg hasn't yet published his findings in a peer-reviewed scientific journal, but experts in Alaska buy them. "It's just difficult to account for in any other way," said Glenn Juday, a professor of Forest Ecology at the University of Alaska Fairbanks. Juday and his colleagues put enough stock in Berg's

work to include his conclusion in a Congressionally mandated report by the National Assessment Team of the U.S. Global Change Research Program.

Twenty years ago, experts such as Forest Service entomologist Ed Holsten didn't believe this could happen.

Alaska lost 2.5 million acres of spruce to bark beetles from 1920 to 1990. In the next 10 years, 4 million acres died, and much of that in an uncharacteristic way. Beetles normally attack only the largest spruce trees, but in some areas they took out almost every tree, large and small.

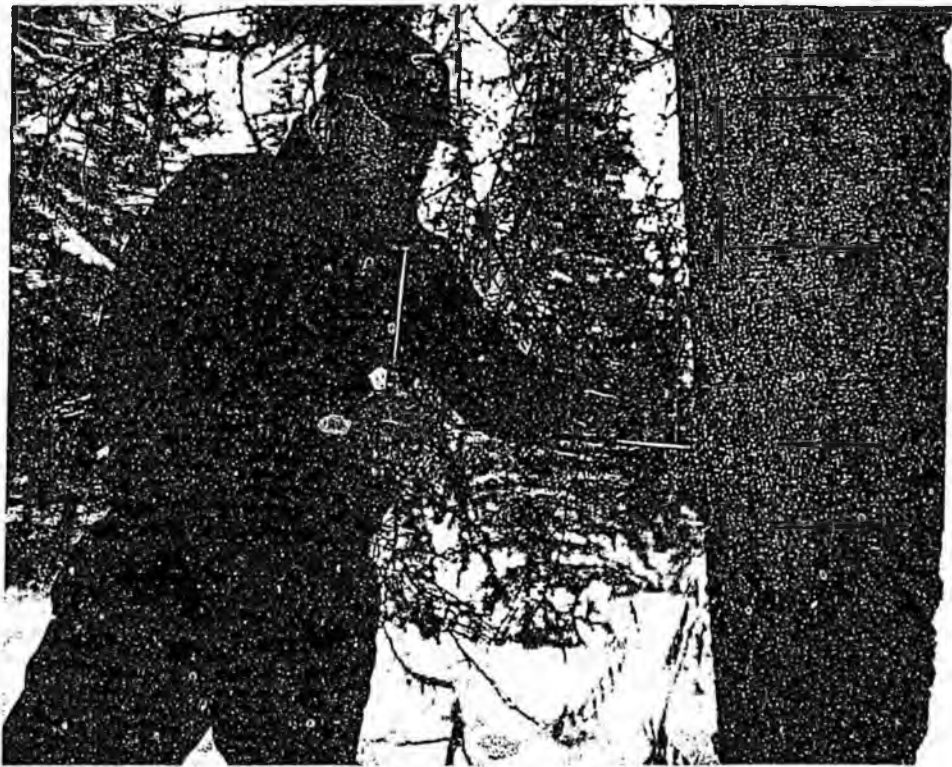
"We had entomologists coming up and just scratching their heads," Holsten said. "If you read the textbook, the spruce beetle is just not very aggressive."

Homer was supposed to be immune from spruce bark beetles. But in 1988, when Ed Berg left for Georgia to become an ecologist instead of a carpenter, it was already evident that the experts were wrong. Red, dying spruce trees were showing up around Kachemak Bay, where the maritime climate had been too cool and wet for bark beetles to do much damage in the past. Still, Berg didn't see the significance.

His career followed an eccentric trajectory to bring him to his discovery. Caught up in the early 1960s craze for the hard sciences, he first became a geophysicist, but for ethical reasons he quit before completing a doctoral thesis. Studying in Madison, Wis., he had joined the movement to oppose the Vietnam War and came to believe his study of the earth's crust could be perverted by the military. He feared that the Navy could use the knowledge to develop communications with nuclear-armed submarines. Berg switched to philosophy, earned his first doctorate, and became a carpenter.

A philosopher, a skilled finish carpenter, a liberal war protester: Berg had the perfect résumé to live among the big Sitka spruce trees on Homer's East End Road, where he ended up in a community of like-minded people in 1982. Free spirits inhabited these woods, building fanciful houses hidden down narrow, muddy roads. Berg's neighbor liked to sing in the chapel of big trees outside her door. "I loved living in the forest," he said.

But in 1992, when Berg returned from Georgia with a doctorate in botany, it was clear that his home was changing. "The beetles had really taken off at that point, and I could see a lot of my trees had beetles in them," Berg said. He decided not to spray, but it didn't matter; nothing could stop the



M. SCOTT MOON

Berg extracts a sample from a spruce tree in Soldotna. In the mid-1990s, Berg witnessed spring swarms of spruce beetles as they took flight looking for new trees to infest. "I can remember them coming, kind of like an Alfred Hitchcock movie," he said.

insects.

Each spring in the mid-'90s when the beetles took flight to search for new trees to infest, they swarmed like a Biblical plague.

"I can remember them coming, kind of like an Alfred Hitchcock movie," Berg said. "They would be in your hair and your eyes, you'd have to brush them off. I've heard people saying they could see them in clouds, miles off, coming down the Anchor River Valley."

The beetles spend most of their lives inside trees, eating a thin layer of inner bark called the phloem, which carries food produced in the needles down to the roots for storage. Eggs hatch during summer and the larvae begin chewing. The insects stay in a tree for nearly two years and then in spring make their brief flight to find new trees in which to lay eggs.

If a tree's sap is flowing, it can flush the beetles out before they get started. Young trees, rich in sap, usually are immune. Most trees have good defenses in cool, damp weather. Even if one generation of beetles thrives, the next can be knocked down by a cool spring. For the beetles to fly, the air must be at least 60 degrees.

Best for the beetles—and worst for

the trees—is when such a warm day comes early in the spring, when the ground is still frozen. At such a time, with moisture quickly evaporating from the needles but little dampness available to draw from the frozen roots, the trees have little defensive sap and beetles can have a field day.

Spruce bark beetle infestations have always come and gone, but historically they never lasted more than a few years before a return to cool spring weather stopped them. Tree ring records show that the cycle has worked that way for at least 400 years. But since 1987, Southcentral Alaska has had an unbroken string of abnormally warm summers. Some summers in the 1990s were so warm that beetles grew to maturity in one year instead of two, doubling the hit on the forest the next spring. So many beetles flew that young and old trees were overwhelmed in some places, leaving few alive for regeneration. The plague didn't slow until the beetles ate their way through all the available acreage.

The forest along East End Road died, as did many. Some people—including everyone in Berg's neighborhood—chose to cut their trees rather than live with the fear of fire and blow-downs. Berg decided to move into

town, partly because of the loss of privacy and the chilly wind that constantly blew off the bay after the trees were gone.

The neighbor who sang from her porch, Mary Jane Shows, lives there still but the area looks like a perpetually messy construction site. During a recent storm, her husband, John Shows, heard a big tree crashing down every minute or so, so he's glad he cut his trees. But he calls the area left around their home "Beirut."

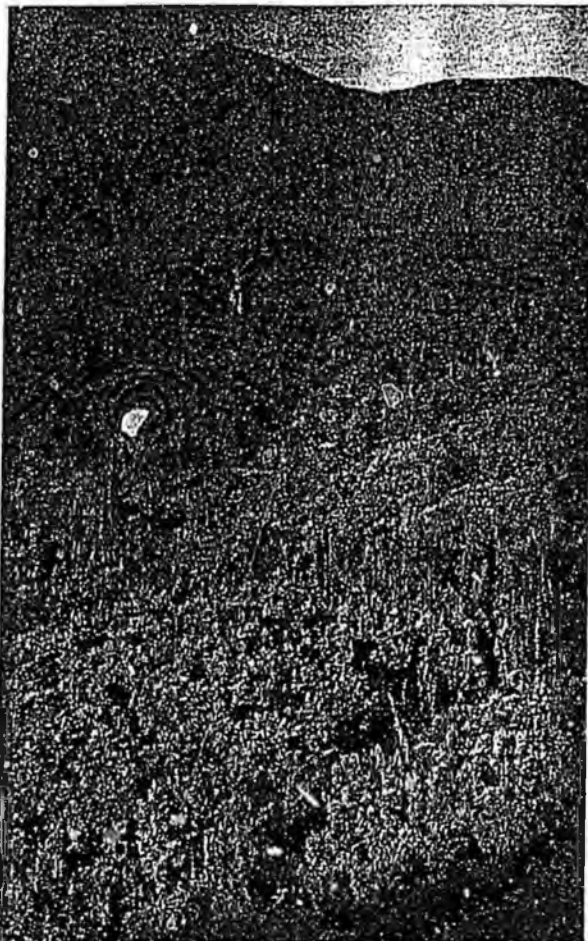
Their trees and thousands of others went into a chipper and out to Homer Spit to be loaded on ships bound for Japan, there to become paper. When you look into the holds of those bulk carriers you get a sense of the scale of how many dead trees there are. These ships are far larger than the biggest building on the Kenai Peninsula, but they are as simple as a bath tub toy—just big boats with immense, empty spaces to be filled. The chips gush into these spaces from a conveyor belt, a torrential cascade of wood and sawdust. But even at this prodigious rate, it takes 12 hours to fill just one of the six holds. Ships come every few weeks. After years of this loading, they've taken only a small nibble from all the dead trees.

Most trees will fall and rot before anyone harvests them. In Bear Cove, on the south side of Kachemak Bay, where the infestation hit early, many trees have already fallen. The land is impassable, like a giant game of pick-up sticks. Once you might have walked or skied through the forest; now it's a no-man's land, probably for a generation. Berg recently visited a site near Point Possession where beetles hit hard in 1958. It is good wildlife habitat, full of devil's club and other berries, but the downed trees make tough going for people.

With a changing climate, it's anyone's guess what will happen next. The ecology of this part of Alaska has changed: spruce beetles won't be limited by cool, wet springs anymore. They might spread next into the coastal rain forest; infestations already have

occurred near Haines and in Glacier Bay, drier pockets of that ecosystem. Canada's Kluane National Park has beetles in forest that never had them before; Berg is training Canadian scientists in his techniques.

Or maybe some other insect will make the next run. "With climate change in the northern latitudes, we might not be able to predict which insect will be the problem, but we know we will have increased insect activity," said entomologist Holsten.



As spruce beetles have swept through Alaska forests, mountainsides have turned brown with dead trees

He studies and records increased outbreaks of various bugs with odd names, such as the larch sawfly. No one saw one in Alaska before 1965, and now the bugs have taken the needles off just about every larch in Interior Alaska for the past seven years. A mystery malady has killed half a million acres of valuable yellow cedar in Southeast Alaska, possibly because climate change has reduced the snow cover that protected roots from freezing.

Ecologist Juday sees much of Alaska becoming more like southern Alberta,

with grasslands and parklike clearings of broadly spaced trees. It could look as it did during the ice ages, providing habitat for elk, bison and wild horses. "It would be kind of back to the future," he said.

But Juday admits that's only a guess. The lesson of climate change and the spruce bark beetle is that we have no idea what big things might happen. Ecosystems are still far beyond our understanding, Juday said.

"They have factors that we don't even know about, like some bug that comes out of nowhere, that's not a factor, then you warm it up a little bit, and it's not a factor, then you warm it up a little bit more, and, boom, it is the only factor," Juday said. "And not only do we not know how that works, but we don't even have a name for the bug yet."

When Beryl Myhill and her husband, Howard, bought their 11 acres off West Hill Road in Homer, there were no big trees around, nor any stumps or signs of a burn. That was in 1946. Over the years since, she felt the climate warm in Homer—she saw winters become milder—and she watched a forest grow up around her house. The tree line came to lie just uphill of her place.

A few years ago, the beetles hit and all those big trees died, including her favorite, where her husband once strung a radio aerial, and her sons' favorites, where they played as children. Howard died in 1997 and their five sons all grew up and moved away. Beryl cut the dead trees to keep them from falling on any-

one. She felt sick, but she assumed God had made a decision.

"You know," she said, "there's a cycle of life to everything. Those trees, they come up and they grow to maturity and they deteriorate and finally they die and the little ones grow up.

"Everyone says it'll grow up again. Of course, I won't be here to see it."

CHARLES WOHLFORTH, an Anchorage-based free-lance writer, is writing a book about northern climate change research and human adaptation.

**KENAI PENINSULA BOROUGH**144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892DALE BAGLEY
MAYOR**MEMORANDUM**

TO: Timothy Navarre, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Dale Bagley, Mayor *DB*

FROM: Shane Horan, Director of Assessing *SH*

DATE: January 8, 2002

SUBJECT: Ordinance 2001-~~00~~A Resolution Supporting State Legislation Allowing Tax Exemption of Alaska Native Claims Settlement Act (ANCSA) Lands For Fuel Reduction and Timber Salvage Operations.

This resolution supports the Native Corporations in pursuing state legislation to exempt certain ANCSA timber harvested lands from taxation. Specifically, the legislation would exempt lands where timber that has been infested or killed by the spruce bark beetle is harvested. The Alaska Native Claims Settlement Act of 1971 provides for these native owned lands to be exempted from local property taxes until those lands are "developed or leased or sold to third parties." When Congress defined, "developed", under the 1987 amendments to ANCSA, they stipulated that, "land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation."

Congress could not have anticipated the significant devastating impacts of the spruce bark beetle infestation. As a result of this infestation, the Native Corporations have taken an active roll in reducing the fire hazard potential by fuel reduction and timber salvage operations on their lands. However, in compliance with ANCSA, the Borough has been compelled to place these properties on the assessment roll (for the year in which the harvest takes place).

To date, at my request, and with the cooperation of the Kenai Peninsula Native Corporations, I have received certified Toll Agreements from the six corporations: Cook Inlet Region, Inc., Tyonek Native Corporation, Kenai Natives Association, Inc., Ninilchik Native Association, Inc., Salamatof Native Association, Inc., and Soldovia Native Association, Inc. These Toll Agreements essentially act as an agreement to postpone assessing these harvests until legislation, addressing possible exemption, has been pursued.

Introduced by:	Mayor
Date:	01/08/02
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2002-006**

**A RESOLUTION SUPPORTING STATE LEGISLATION ALLOWING A TAX
EXEMPTION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT LANDS FOR FUEL
REDUCTION AND TIMBER SALVAGE OPERATIONS**

WHEREAS, much of the Kenai Peninsula Borough has been infested by the Spruce Bark Beetle, which has killed trees and created a serious risk of fire to both the land with infested timber resources and adjoining land; and

WHEREAS, the Kenai Peninsula Borough Spruce Bark Beetle program is actively encouraging private landowners to remove dead trees from their property to reduce the fire hazard; and

WHEREAS, the fuel reduction and timber salvage activities of the native associations have created a taxable event; and

WHEREAS, the Alaska Native Claims Settlement Act ("ANCSA") provides for taxation of otherwise exempt native lands during the year timber harvest operations occur; and

WHEREAS, the State of Alaska does not currently allow an exemption of ANCSA land from taxation for fuel reduction and timber salvage due to spruce bark beetle infestation; and

WHEREAS, the Kenai Peninsula Borough would be supportive of enacting a local exemption if the state allowed such an exemption;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly requests the Alaska State Legislature to enact legislation that will allow boroughs to exempt from taxation land subject to timber salvage operations due to spruce bark beetle infestation.

SECTION 2. That a copy of this resolution be sent to Governor Tony Knowles, President of the Senate Rick Halford, Speaker of the House Brian Porter, and all Kenai Peninsula Legislators.

SECTION 3. That this resolution takes effect immediately upon adoption.

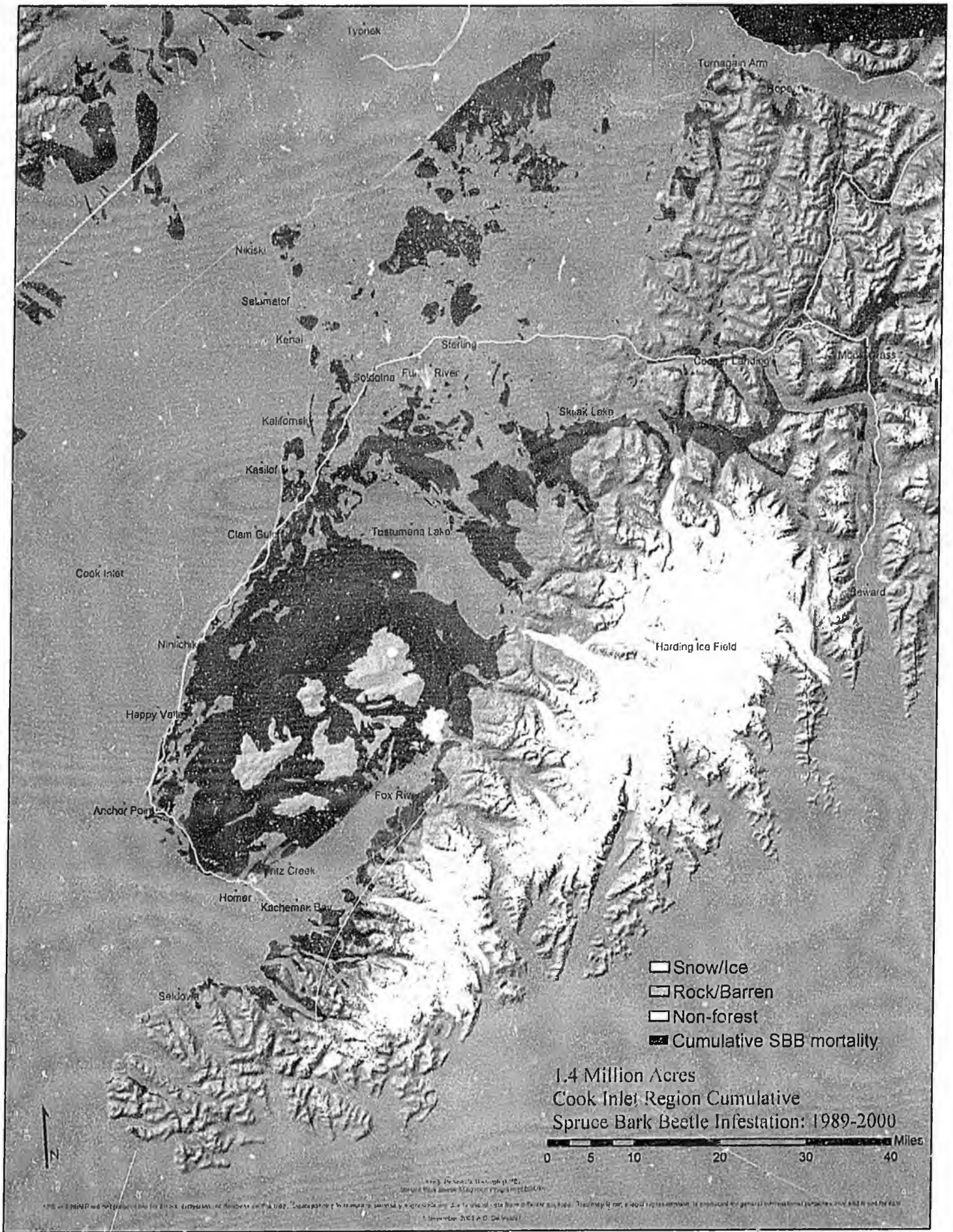
ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 8TH DAY OF JANUARY, 2002.

Tim Navarre
Timothy Navarre, Assembly President

ATTEST:

Linda S. Murphy
Linda S. Murphy, Borough Clerk





- Snow/Ice
- Rock/Barren
- Non-forest
- Cumulative SBB mortality

1.4 Million Acres
 Cook Inlet Region Cumulative
 Spruce Bark Beetle Infestation: 1989-2000

