

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672  
11073 HOUSE STATE AFFAIRS

Approximately 3.3 million gasoline-equivalent gallons (GEG)<sup>20</sup> of E85, and 54 thousand GEG of E95 were consumed in 2000, mostly in Midwestern states.<sup>21</sup> (See Table 3.) One reason for the relatively low consumption of E85 and E95 is that there are relatively few vehicles on the road that operate on these fuels. In 2000, approximately 35,000 vehicles were fueled by E85 or E95,<sup>22</sup> as compared to approximately 210 million gasoline- and diesel-fueled vehicles that were on the road in the same year.<sup>23</sup> One obstacle to the use of alternative fuel vehicles is that they are generally more expensive than conventional vehicles, although this margin has decreased in recent years with newer technology. Another obstacle is that, as was stated above, fuel ethanol is generally more expensive than gasoline or diesel fuel. In addition, there are very few fueling sites for E85 and E95, especially outside of the Midwest.

## Research and Development in Cellulosic Feedstocks

For ethanol to play a more significant role in U.S. fuel consumption, the fuel must become price-competitive with gasoline. Since a major part of the total production cost is the cost of feedstock, reducing feedstock costs could lead to lower wholesale ethanol costs. For this reason, there is a great deal of interest in the use of cellulosic feedstocks, which include low-value waste products, such as recycled paper and rice hulls, or dedicated fuel crops, such as switch grass and fast growing trees. A dedicated fuel crop is one that would be grown and harvested solely for the purpose of fuel production.

However, as the name indicates, cellulosic feedstocks are high in cellulose, and cellulose cannot be fermented. Cellulose must first be broken down into simpler carbohydrates, and this can add an expensive step to the process. Therefore, research has focused on both reducing the process costs for cellulosic ethanol, and improving the availability of cellulosic feedstocks.

On August 12, 1999, the Clinton Administration announced the Biobased Products and Bioenergy Initiative, which aims to triple the use of fuels and products derived from biomass by 2010.<sup>24</sup> Research and development covers all forms of biobased products, including lubricants, adhesives, building materials, and biofuels. Because federal research into cellulosic ethanol is ongoing, it is possible that funding could increase under the initiative.

---

<sup>20</sup> Since different fuels produce different amounts of energy per gallon when consumed, the unit of a gasoline-equivalent gallon (GEG) is used to compare total energy consumption.

<sup>21</sup> DOE, EIA, *Alternatives to Traditional Transportation Fuels 1999*.


<sup>22</sup> *Ibid.* In 1997, some manufacturers made flexible E85/gasoline fueling capability standard on some models. It is expected, however, that most of these vehicles will be fueled by gasoline.

<sup>23</sup> Stacy C. Davis, DOE, *Transportation Energy Data Book: Edition 20*. November 2000.

<sup>24</sup> Executive Order 13134. August 12, 1999.

## Costs and Benefits of Fuel Ethanol

### Economic Effects

Given that a major constraint on the use of ethanol as an alternative fuel, and as an oxygenate, is its high price, ethanol has not been competitive with gasoline as a fuel. Wholesale ethanol prices, before incentives from the federal government and state governments, are generally twice that of wholesale gasoline prices. With federal and state incentives, however, the effective price of ethanol is much lower. Furthermore, gasoline prices have risen recently, making ethanol more attractive. 

The primary federal incentive to support the ethanol industry is the 5.3¢ per gallon exemption that blenders of gasohol (E10) receive from the 18.4¢ federal excise tax on motor fuels.<sup>25</sup> Because the exemption applies to blended fuel, of which ethanol comprises only 10%, the exemption provides for an effective subsidy of 53¢ per gallon of pure ethanol. (See Table 4.)

**Table 4. Price of Pure Ethanol Relative to Gasoline**  
July 1998 to June 1999


|                                       |              |
|---------------------------------------|--------------|
| Ethanol Wholesale Price <sup>a</sup>  | 103 ¢/gallon |
| Alcohol Fuel Tax Incentive            | 53 ¢/gallon  |
| Effective Price of Ethanol            | 50 ¢/gallon  |
| Gasoline Wholesale Price <sup>b</sup> | 46 ¢/gallon  |

Source: Hart's Oxy-Fuel News; Energy Information Agency, Petroleum Marketing Monthly.

<sup>a</sup> This is the average price for pure ("neat") ethanol.

<sup>b</sup> This is the average rack price for regular conventional gasoline (i.e. non-oxygenated, standard octane).

It is argued that the ethanol industry could not survive without the tax exemption. An economic analysis conducted in 1998 by the Food and Agriculture Policy Research Institute, in conjunction with the congressional debate over extension of the tax exemption, concluded that ethanol production from corn would decline from 1.5 billion gallons per year, and stabilize at about 290 million gallons per year, if the exemption were eliminated.<sup>26</sup>

The tax exemption for ethanol is criticized by some as a corporate subsidy,<sup>27</sup> because, in this view, it encourages the inefficient use of agricultural and other 

<sup>25</sup> 26 U.S.C. 40.

<sup>26</sup> Food and Agriculture Policy Research Institute. *Effects on Agriculture of Elimination of the Excise Tax Exemption for Fuel Ethanol*, Working Paper 01-97, April 8, 1997.

<sup>27</sup> James Bovard. p. 8.

resources, and deprives the Highway Trust Fund of needed revenues.<sup>28</sup> In 1997, the General Accounting Office estimated that the tax exemption lead to approximately \$7.5 to \$11 billion in foregone Highway Trust Fund revenue over the 22 years from FY1979 to FY2000.<sup>29</sup> The petroleum industry opposes the incentive because it also results in reduced use of petroleum.



Proponents of the tax incentive argue that ethanol leads to better air quality, and that substantial benefits flow to the agriculture sector due to the increased demand for corn created by ethanol. Furthermore, they argue that the increased market for ethanol leads to a stronger U.S. trade balance, since a smaller U.S. ethanol industry would lead to increased imports of MTBE to meet the demand for oxygenates.<sup>30</sup>

### Air Quality

One of the main motivations for ethanol use is improved air quality. Ethanol is primarily used in gasoline to meet minimum oxygenate requirements of two Clean Air Act programs. Reformulated gasoline (RFG)<sup>31</sup> is used to reduce vehicle emissions in areas that are in severe or extreme nonattainment of National Ambient Air Quality Standards (NAAQS) for ground-level ozone.<sup>32</sup> Ten metropolitan areas, including New York, Los Angeles, Chicago, Philadelphia, and Houston, are covered by this requirement, and many other areas with less severe ozone problems have opted into the program, as well. In these areas, RFG is used year-round. By contrast, the Oxygenated Fuels program operates only in the winter months in 16 areas<sup>33</sup> that are listed as carbon monoxide (CO) nonattainment areas.<sup>34</sup>

EPA states that RFG has led to significant improvements in air quality, including a 17% reduction in volatile organic compounds (VOCs) emissions from vehicles, and a 30% reduction in toxic emissions. Furthermore, according to EPA "ambient monitoring data from the first year of the RFG program (1995) also showed strong signs that RFG is working. For example, detection of benzene (one of the air

---

<sup>28</sup> U.S. General Accounting Office (GAO), *Effects of the Alcohol Fuels Tax Incentives*. March, 1997.

<sup>29</sup> Jim Wells, GAO, *Petroleum and Ethanol Fuels: Tax Incentives and Related GAO Work*. September 25, 2000.

<sup>30</sup> Katrin Olson, "USDA Shows Losses Associated with Eliminating Ethanol Incentive," *Oxy-Fuel News*. May 19, 1997. p. 3.

<sup>31</sup> Clean Air Act, Section 211, subsection k. 42 U.S.C. 7545.

<sup>32</sup> Ground-level ozone is an air pollutant that causes smog, adversely affects health, and injures plants. It should not be confused with stratospheric ozone, which is a natural layer some 6 to 20 miles above the earth and provides a degree of protection from harmful radiation.

<sup>33</sup> Only the Los Angeles and New York areas are subject to both programs.

<sup>34</sup> Clean Air Act, Section 211, subsection m. 42 U.S.C. 7545.

toxics controlled by RFG, and a known human carcinogen) declined dramatically, with a median reduction of 38% from the previous year."<sup>35</sup>

However, the need for oxygenates in RFG has been questioned. Although oxygenates lead to lower emissions of VOCs, and CO, they may lead to higher emissions of nitrogen oxides (NO<sub>x</sub>). Since all three contribute to the formation of ozone, the National Research Council recently concluded that while RFG certainly leads to improved air quality, the oxygenate requirement in RFG may have little overall impact on ozone formation.<sup>36</sup> Some argue that the main benefit of oxygenates use is that they displace other, more dangerous compounds such as benzene. Furthermore, the high price of Midwest gasoline in Summer 2000 has raised further questions about the RFG program (see the section on Phase 2 Reformulated Gasoline).

Evidence that the most widely-used oxygenate, methyl tertiary butyl ether (MTBE), contaminates groundwater has led to a push by some to eliminate the oxygen requirement in RFG. MTBE has been identified as an animal carcinogen, and there is concern that it is a possible human carcinogen. In California, MTBE was to be banned as of December 31, 2002. However, because of a projected spike in consumer gasoline prices California Governor Gray Davis postponed the ban until December 31, 2003.<sup>37</sup> California petitioned EPA to exempt the state from the oxygenate requirement, but on June 12, 2001, Administrator Whitman announced that the Agency could not grant California's request.<sup>38</sup>

If the oxygenate requirements were eliminated, some refiners claim that the environmental goals of the RFG program could be achieved through cleaner, although potentially more costly, gasoline that does not contain any oxygenates.<sup>39</sup> These claims have added to the push to remove the oxygen requirement and allow refiners to produce RFG in the most cost-effective manner, whether or not that includes the use of oxygenates. However, some environmental groups are concerned that an elimination of the oxygenate requirements would compromise air quality gains resulting from the current standards, since oxygenates also displace other harmful chemicals in gasoline. This potential for "backsliding" is a result of the fact that the current performance of RFG is substantially better than the Clean Air Act requires. If the oxygenate standard were eliminated, environmental groups fear that

---

<sup>35</sup> Margo T. Oge, Director, Office of Mobile Sources, U.S. EPA, *Testimony Before the Subcommittee on Energy and Environment of the Committee on Science, U.S. House of Representatives*. September 14, 1999.

<sup>36</sup> National Research Council, *Ozone-Forming Potential of Reformulated Gasoline*. May, 1999.

<sup>37</sup> Carolyn Whetzel, "California Governor Delays MTBE Ban by 12 Months, Citing Possible Price Hikes," *Daily Environment Report*. March 18, 2002. p. A-15.

<sup>38</sup> EPA, *Headquarters Press Release: EPA Issues Decision on California Waiver Request*. June 12, 2001.

<sup>39</sup> Al Jessel, Senior Fuels Regulatory Specialist of Chevron Products Company, *Testimony Before the House Science Committee Subcommittee on Energy and Environment*. September 30, 1999.

refiners would only meet the requirements of the law, as opposed to maintaining the current overcompliance.

While the potential ozone benefit from oxygenates in RFG has been questioned, there is little dispute that the winter Oxy-Fuels program has led to lower emissions of CO. The Oxy-Fuels program requires oxygenated gasoline in the winter months to control CO pollution in NAAQS nonattainment areas for the CO standard. However, this program is small relative to the RFG program.<sup>40</sup>

The air quality benefits from purer forms of ethanol can also be substantial. Compared to gasoline, use of E85 and E95 can result in a 30-50% reduction in ozone-forming emissions. And while the use of ethanol also leads to increased emissions of acetaldehyde, a toxic air pollutant, as defined by the Clean Air Act, these emissions can be controlled through the use of advanced catalytic converters.<sup>41</sup> However, as was stated above, these purer forms of ethanol have not seen wide use.

## Climate Change

Another potential environmental benefit from ethanol is the fact that it is a renewable fuel. Proponents of ethanol argue that over the entire fuel-cycle<sup>42</sup> it has the potential to reduce greenhouse gas emissions from automobiles relative to gasoline, therefore reducing the risk of possible global warming.

Because ethanol (C<sub>2</sub>H<sub>5</sub>OH) contains carbon, combustion of the fuel necessarily results in emissions of carbon dioxide (CO<sub>2</sub>), the primary greenhouse gas. However, since photosynthesis (the process by which plants convert light into chemical energy) requires absorption of CO<sub>2</sub>, the growth cycle of the feedstock crop can serve—to some extent—as a “sink” that absorbs some of these emissions. In addition to CO<sub>2</sub> emissions, the emissions of other greenhouse gases may increase or decrease depending on the fuel cycle.<sup>43</sup>

According to Argonne National Laboratory, using E10, vehicle greenhouse gas emissions (measured in grams per mile) are approximately 1% lower than with the same vehicle using gasoline. With improvements in production processes, by 2010, the reduction in greenhouse gas emissions from ethanol relative to gasoline could be as high as 8-10% for E10, while the use of E95 could lead to significantly higher reductions.<sup>44</sup>

---

<sup>40</sup> In 1998, an average of 90.9 million gallons per day of RFG were sold in the U.S., as opposed to 8.0 million gallons per day of Oxy-Fuel gasoline.

<sup>41</sup> California Energy Commission, *Ethanol-Powered Vehicles*.

<sup>42</sup> The fuel-cycle consists of all inputs and processes involved in the development, delivery and final use of the fuel.

<sup>43</sup> For example, nitrous oxide emissions tend to increase with ethanol use because nitrogen-based fertilizers are used extensively in agricultural production.

<sup>44</sup> M. Wang, C. Saricks, and D. Santini, “Effects of Fuel Ethanol on Fuel-Cycle Energy and Greenhouse Gas Emissions.” Argonne National Laboratory.

While some studies have called into question the efficiency of the ethanol production process, most recent studies find a net energy gain.<sup>45</sup> If efficiency were diminished, overall reductions in greenhouse gas emissions would also be diminished, due to higher fuel consumption during the production process.

## Energy Security

Another frequent argument for the use of ethanol as a motor fuel is that it reduces U.S. reliance on oil imports, making the U.S. less vulnerable to a fuel embargo of the sort that occurred in the 1970s, which was the event that initially stimulated development of the ethanol industry. According to Argonne National Laboratory, with current technology the use of E10 leads to a 3% reduction in fossil energy use per vehicle mile, while use of E95 could lead to a 44% reduction in fossil energy use.<sup>46</sup>

However, other studies contradict the Argonne study, suggesting that the amount of energy needed to produce ethanol is roughly equal to the amount of energy obtained from its combustion, which could lead to little or no reductions in fossil energy use.<sup>47</sup> However, because most of the energy used to produce ethanol comes from natural gas or electricity, overall petroleum dependence could be diminished through the use of ethanol.

As was stated above, fuel ethanol only accounts for approximately 1.2% of gasoline consumption in the United States by volume. In terms of energy, ethanol accounts for approximately 0.7%. This small market share led GAO to conclude that the ethanol tax incentive has done little to promote energy security.<sup>48</sup> Furthermore, since ethanol is currently dependent on the U.S. corn supply, any threats to this supply (e.g. drought), or increases in corn prices, would negatively affect the cost and/or supply of ethanol. This happened when high corn prices caused by strong export demand in 1995 contributed to an 18% decline in ethanol production between 1995 and 1996.

## Policy Concerns and Congressional Activity

Recent congressional interest in ethanol fuels has mainly focused on six issues: 1) RFG oxygenate requirements and a possible phase-out of MTBE; 2) a renewable fuels standard; 3) implementation of Phase 2 of the RFG program; 4) "boutique" fuels; 5) the alcohol fuel tax incentives; and 6) fuel economy credits for dual fuel vehicles. Several of these issues are addressed in either the House or Senate version of H.R. 4, the comprehensive energy package. The House passed H.R. 4 on August

---

<sup>45</sup> Hosein Shapouri, James A. Duffield, and Michael S. Graboski, USDA, Economic Research Service, *Estimating the Net Energy Balance of Corn Ethanol*. July 1995.

<sup>46</sup> Wang, et. al. p. 1

<sup>47</sup> Shapouri, et. al. Table 1.

<sup>48</sup> U.S. General Accounting Office, *Effects of the Alcohol Fuels Tax Incentives*. March, 1997.

2, 2001; the Senate passed the bill on April 25, 2002. On June 27, 2002, the conference committee convened to reconcile the House and Senate versions of the bill.

## Reformulated Gasoline and MTBE

A key issue involving ethanol is the current debate over MTBE. Since MTBE, a possible human carcinogen, has been found in groundwater in some states (especially in California), there has been a push both in California and nationally to ban MTBE.<sup>49</sup> In March 1999, California's Governor Davis issued an Executive Order requiring that MTBE be phased out of gasoline in the state by December 31, 2002, although the date of the ban was recently pushed back to December 31, 2003. At least twelve other states have also instituted limits or bans on MTBE. In July 1999, an advisory panel to EPA recommended that MTBE use should be "reduced substantially."<sup>50</sup>

A possible ban on MTBE could have serious consequences for fuel markets, especially if the oxygenate requirements remain in place. Since ethanol is the second most used oxygenate, it is likely that it would be used to replace MTBE. However, there is not currently enough U.S. production capacity to meet the potential demand. Therefore, it would likely be necessary to phase out MTBE over time, as opposed to an immediate ban. Furthermore, the consumer price for oxygenated fuels would likely increase because ethanol, unlike MTBE, cannot be shipped through pipelines and must be mixed close to the point of sale, adding to delivery costs. Increased demand for oxygenates could also be met through imports from countries such as Brazil, which is a leader worldwide in fuel ethanol production, and currently has a surplus.<sup>51</sup>

While a ban on MTBE would seem to have positive implications for ethanol producers, it could actually work against them. Because MTBE is more commonly used in RFG and high-octane gasoline, and because current ethanol production can not currently meet total U.S. demand for oxygenates and octane, there is also a push to suspend the oxygenate requirement in RFG, which would remove a major stimulus to the use of fuel ethanol. Furthermore, environmental groups and state air quality officials, although supportive of a ban on MTBE, are concerned over the possibility of "backsliding" if the oxygenate standard is eliminated. Because current RFG formulations have a lower level of toxic substances than is required under the Clean Air Act, there are concerns that new RFG formulations without oxygenates will meet the existing standard, but not the current level of overcompliance.

---

<sup>49</sup> For more information, see CRS Report 98-290 ENR, *MTBE in Gasoline: Clean Air and Drinking Water Issues*.

<sup>50</sup> Blue Ribbon Panel on Oxygenates in Gasoline, *Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline*.

<sup>51</sup> Adrian Schofield, "Brazilian Ambassador Sees Opportunity in United States Ethanol Market," *New Fuels & Vehicles Report*. September 16, 1999. p. 1.

Along with California's ban on MTBE, the state requested that the oxygen requirement be waived. On June 12, 2001, EPA informed California that the agency could not grant the request. CAA only grants EPA the authority to suspend fuel requirements if there are threats to air quality, despite potential hazards to water quality.<sup>52</sup> Some have proposed that the CAA be amended to allow EPA the authority to suspend fuel requirements in the case of water contamination.

Supporters of ethanol have proposed that along with a ban of MTBE, a renewable standard should be introduced. This would require that a certain percentage of fuel in the U.S. be made from renewable sources. This type of requirement, if large enough, would protect the ethanol market if the RFG oxygenate standard were eliminated. (See below)

There are some key RFG-related provisions in the Senate version of H.R. 4. MTBE would be eliminated, although individual states could petition EPA to continue its use. Further, the RFG oxygen standard would be eliminated, and a new renewable fuels standard for all gasoline would be created. In addition, the Senate version would provide some assistance to MTBE producers who convert plants to produce other fuel additives. The House version of H.R. 4 would not change the RFG program, but would require that EPA study various changes to the program.

Several other RFG and MTBE-related bills have been introduced in the 107<sup>th</sup> Congress. These bills address different facets of the MTBE issue, including limiting or banning the use of MTBE, granting waivers to the oxygenate requirement, authorizing funding for MTBE cleanup, eliminating or waiving the oxygen requirement, and creating a renewable fuel standard.

## Renewable Fuels Standard

There is congressional interest in establishing a renewable fuels standard. This would require motor fuel to contain a certain percentage or set amount of renewable fuel. It is likely that most of the fuel required would be ethanol, while some would be biodiesel.<sup>53</sup> Supporters argue that without an oxygen requirement in RFG (see above), a key market for ethanol would be lost. They argue that demand for ethanol creates jobs, and that there are major environmental and energy security benefits to using renewable fuels. However, opponents argue that any renewable fuels standard would only exacerbate a situation of artificial demand for ethanol. Any requirement above the existing level for ethanol would require the construction and/or expansion of ethanol plants, and would likely lead to increased fuel prices and further instability in an already tight fuel supply chain. Further, they argue that a renewable fuels standard would lead to increased corn prices caused by higher demand.

---

<sup>52</sup> EPA, *Headquarters Press Release: EPA Issues Decision on California Waiver Request*. June 12, 2001.

<sup>53</sup> Biodiesel is an synthetic diesel fuel made from oils such as soybean oil. For more information, see CRS Report RL30758, *Alternative Transportation Fuels and Vehicles: Energy, Environment, and Development Issues*.

The Senate version of H.R. 4 would require that gasoline contain 2.3 billion gallons of renewable fuel in 2004, increasing to 5.0 billion gallons in 2012. Because the majority of this requirement would likely be met with ethanol, this would mean nearly a tripling of ethanol consumption over that time. After 2012, the percentage of renewable fuel in gasoline would be required to remain constant. The House version of H.R. 4 does not contain a similar standard, but does require EPA and DOE to study the feasibility of such a standard. Several other bills in the 107<sup>th</sup> Congress would establish a renewable fuels standard, but the provisions in those bills are generally similar to the provisions in the Senate version of H.R. 4.

## Phase 2 Reformulated Gasoline

Under the new Phase 2 requirements of the RFG program, which took effect in 2000, gasoline sold in the summer months (beginning June 1) must meet a tighter volatility standard.<sup>54</sup> Reid Vapor Pressure (RVP) is a measure of volatility, with higher numbers indicating higher volatility. Because of its physical properties, ethanol has a higher RVP than MTBE. Therefore, to make Phase 2 RFG with ethanol, the gasoline, called RBOB,<sup>55</sup> must have a lower RVP. This low-RVP fuel is more expensive to produce, leading to higher production costs for ethanol-blended RFG.

Before the start of Phase 2, estimates of the increased cost to produce RBOB for ethanol-blended RFG ranged from 2 to 4 cents per gallon, to as much as 5 to 8 cents per gallon.<sup>56</sup> In Summer 2000, RFG prices in Chicago and Milwaukee were considerably higher than RFG prices in other areas, and it has been argued that the higher production cost for RBOB was one cause. However, not all of the price difference is attributable to the new Phase 2 requirements or the use of ethanol. Conventional gasoline prices in the Midwest were also high compared with gasoline prices in other areas. High crude oil prices, low gasoline inventories, pipeline problems, and uncertainties over a patent dispute pushed up prices for all gasoline in the Midwest.

To decrease the potential for price spikes, on March 15, 2001, EPA announced that Chicago and Milwaukee will be allowed to blend slightly higher RVP reformulated gasoline during the summer months.<sup>57</sup> This action is not a change in regulations but a revision of EPA's enforcement guidelines. In addition to EPA's action, one possible regulatory option that has been suggested to control summer RFG prices is a more significant increase in the allowable RVP under Phase 2. Although the volatility standard is set by the Clean Air Act, the Environmental Protection Agency (EPA) is currently reviewing whether credits from ethanol's improved performance on carbon monoxide emissions are possible as an offset to its higher volatility. Legislative options have included eliminating the oxygenate

---

<sup>54</sup> Volatility of gasoline is its tendency to evaporate.

<sup>55</sup> RBOB: Reformulated Gasoline Blendstock for Oxygenate Blending.

<sup>56</sup> Estimates from the Renewable Fuels Association and EPA, respectively.

<sup>57</sup> Pamela Najer, "Refiners Get Flexibility to Blend Ethanol for Summer Fuel Supply in Two Cities," *Daily Environment Report*. March 19, 2001. p. A9.

standard for RFG, or suspending the program entirely. However, some in the petroleum industry suggest that additional changes to fuel requirements could further disrupt gasoline supplies.

The House version of H.R. 4 would require EPA to determine whether certain accounting procedures related to Phase 2 should be modified to improve the cost and availability of RFG. The Senate version contains no similar provision. Four other bills in the 107<sup>th</sup> Congress would allow a higher RVP for ethanol blended fuels. These are H.R. 454 (Johnson, T.), H.R. 1999 (Nussle), S. 670 (Daschle), and S. 892 (Harkin). All four have been referred to committee. No hearings or markups have been held.

### **"Boutique" Fuels<sup>58</sup>**

As a result of the federal reformulated and oxygenated gasoline requirements, as well as related state and local environmental requirements, gasoline suppliers may face several different standards for gasoline quality. These different standards sometimes require a supplier to provide several different fuels in that area. These different formulations are sometimes referred to as "boutique" fuels.<sup>59</sup> Because of varying local requirements, if there is a disruption to the supply of fuel in one area, refiners in other areas may not be able to supply fuel quickly to meet the increased demand.

EPA conducted a study on the effects of harmonizing standards, and released a staff white paper in October, 2001. In its preliminary analysis, EPA concluded that some minor changes could be made that might mitigate supply disruptions without significantly increasing costs or adversely affecting vehicle emissions. However, all of the scenarios in EPA's study would require amendments to the RFG provisions in the Clean Air Act.

Congressional interest has centered on the question of whether the various standards could be harmonized to reduce the number of gasoline formulations. In the 107<sup>th</sup> Congress, the House and Senate versions of H.R. 4 would require studies on harmonization of these standards. The House version would require EPA and DOE to publish a report by the end of this year, while the Senate version would require a report by June, 2006. H.R. 1834 would require a similar study. H.R. 1834 has been referred to committee.

---

<sup>58</sup> EPA, Office of Transportation and Air Quality, *Staff White Paper: Study of Unique Gasoline Fuel Blends ("Boutique Fuels"), Effects on Fuel Supply and Distribution and Potential Improvements*. October, 2001.

<sup>59</sup> For more information on boutique fuels, see CRS Report RL31361, *"Boutique Fuels" and Reformulated Gasoline: Harmonization of Fuel Standards*.

## Alcohol Fuel Tax Incentives<sup>60</sup>

As stated above, the exemption that ethanol-blended fuels receive from the excise tax on motor fuels is controversial. The incentive allows fuel ethanol to compete with other additives, since the wholesale price of ethanol is so high. Proponents of ethanol argue that this exemption lowers dependence on foreign imports, promotes air quality, and benefits farmers.<sup>61</sup> A related, albeit smaller incentive for ethanol production is the small ethanol producers tax credit. This credit provides 10 cents per gallon for up to 15 million gallons of annual production by a small producer.<sup>62</sup>

Opponents of the tax incentives argue that the incentives support an industry that could not exist on its own, and reduce potential fuel tax revenue. Despite objections from opponents, Congress in 1998 extended the motor fuels tax exemption through 2007, but at slightly lower rates (P.L. 105-178). In the 107<sup>th</sup> Congress, neither version of H.R. 4 addresses the tax exemption, though the Senate version would expand eligibility for the small producer tax credit. Also, the Senate version would transfer some fuel tax proceeds from the general fund to the highway trust fund to help make up for lost trust fund revenue due to ethanol consumption.

Other bills in the 107<sup>th</sup> Congress also address ethanol tax incentives. S. 907 (Carnahan) would extend to alcohol fuels tax exemption through 2015. In addition, five bills would expand the availability of the small producer credit, increase the size of a covered producer, and make the credit available to cooperatives. These four bills are H.R. 1636 (Thune), H.R. 1999 (Nussle), S. 312 (Grassley), S. 613 (Fitzgerald), and S. 907 (Carnahan). All five have been referred to committee, but no markups have been held. A hearing was held on S. 312. H.R. 2303 (Lewis, Ron) contains the above provisions on small producers and cooperatives. In addition, the bill would provide tax credits for the retail sale of ethanol, and for the installation of retail infrastructure. This bill has been referred to committee, but no hearings or markups have been held.

## Fuel Economy Credits for Dual Fuel Vehicles

The Energy Policy and Conservation Act (EPCA) of 1975<sup>63</sup> requires Corporate Average Fuel Economy (CAFE) standards for motor vehicles.<sup>64</sup> Under EPCA, the average fuel economy of all vehicles of a given class that a manufacturer sells in a model year must be equal to or greater than the standard. These standards were first enacted in response to the desire to reduce petroleum consumption and promote

---

<sup>60</sup> For more information, see CRS Report 98-435 E, *Alcohol Fuels Tax Incentives*.

<sup>61</sup> U.S. General Accounting Office (GAO), *Effects of the Alcohol Fuels Tax Incentives*. March, 1997.

<sup>62</sup> Defined as having a production capacity of less than 30 million gallons per year.

<sup>63</sup> P.L. 94-163.

<sup>64</sup> For more information on CAFE standards, see CRS Issue Brief IB90122, *Automobile and Light Truck Fuel Economy: Is CAFE Up to Standards?*

energy security after the Arab oil embargo. The current standard for passenger cars is 27.5 miles per gallon (mpg), while the standard for light trucks is 20.7 mpg.

However, EPCA and subsequent amendments provide manufacturing incentives for alternative fuel vehicles, including ethanol vehicles.<sup>65</sup> For each alternative fuel vehicle a manufacturer produces, credits are provided which increase that manufacturer's average. These credits include dual fuel vehicles—those vehicles which can be operated on both a conventional fuel (gasoline or diesel) and an alternative fuel, usually ethanol. Concerns have been raised over that fact that while manufacturers are receiving credits for production of these dual fuel vehicles, they are generally operated solely on gasoline, because of the cost and availability of alternative fuels. Supporters of the credits argue that the incentives are necessary for the production of alternative fuel vehicles, and that as the number of vehicles increases, the infrastructure for alternative fuels will grow.

In the 107<sup>th</sup> Congress, The House version of H.R. 4 would extend the credits through 2012. The Senate version would extend the credits through 2013 and expand increase the maximum allowable credit.

## Conclusion

As a result of the current debate over the future of MTBE in RFG, and the RFG program in general, the future of the U.S. ethanol industry is uncertain. A ban on MTBE would greatly expand the market for ethanol, while an elimination of the oxygenate requirement would remove a major stimulus for its use. Any changes in the demand for ethanol will have major effects on corn producers, who rely on the industry as a partial market for their products.

The current size of the ethanol industry is depends significantly on federal laws and regulations that promote its use for air quality and energy security purposes, as well as tax incentives that lessen its cost to consumers. Without these, it is likely that the industry would shrink substantially in the near future. However, if fuel ethanol process costs can be decreased, or if gasoline prices increase, ethanol could increase its role in U.S. fuel consumption

---

<sup>65</sup> 49 U.S.C. 32905.

# Alaska State Legislature

DURING SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1180  
(907) 465-4843 (800) 892-4843  
FAX: (907) 465-3871

WEB SITE  
[www.akrepublicans.org/Bunde](http://www.akrepublicans.org/Bunde)



DURING INTERIM  
716 W. FOURTH AVE.  
ANCHORAGE, AK 99501-2133  
(907) 269-0181  
FAX: (907) 269-0184

E-MAIL  
[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

## SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

## SPONSOR STATEMENT

### SJR 16

**A resolution "Encouraging the federal government to end the federal subsidy of ethanol, and requesting the Congress of the United States to mandate that land currently used to grow corn for the production of ethanol be returned to its natural state."**

Fifty-two United States Senators recently voted against the opening of ANWR to oil drilling, proclaiming that by doing so, they were saving wilderness and preserving wildlife.

During debate on Amendment 272, "To prevent consideration of drilling the Arctic National Wildlife Refuge in Senate Concurrent Resolution 23, the fast track budget reconciliation," many senators spoke on behalf of keeping the 1002 region in a state of "pristine wilderness."

For example, Mr. Durbin of Illinois said, "The Arctic Refuge includes boreal forests, dramatic peaks, and tundra. It features a complete range of arctic and sub-arctic ecosystems, with an extraordinary assemblage of wildlife." He declared, "We have a responsibility in this generation to leave to the next generation the natural heritage that we were given."

Illinois produces 766 million gallons of ethanol produced from corn, the most of all fifty states. I hope that he understands that this resolution would protect the next generation from ethanol subsidies.

The amendment's sponsor, Senator Barbara Boxer of California, explained her position this way. "I say to my friends from Alaska, I hope they will understand the people in this country who support keeping this 5 percent of the North Slope in its pristine environment are doing so because we think it is good for the soul of this country, and we believe there are more jobs to be created through other means.

However, I agree with Senator Lisa Murkowski, who said during the debate, "But this thought process implies that ... Alaskan residents, my constituents, the jobs they will get are carrying bags for these people when they come to visit as a tourist."

Many of the senators who voted for Amendment 272 represent the top 20 ethanol-producing states in the nation. Some of the nation's most influential businesses profit greatly from the federal ethanol subsidy and do big business in those states. Those senators support industrial development in their states, to the detriment of their own wildlife and wild lands. Yet many in those and other states who supported keeping ANWR closed to development are ardent environmentalists - when it comes to someone else's state.

I also agree with Senator Murkowski when she said, "It is demeaning and it is unfair to say that Massachusetts can keep its 20,000 petroleum-based jobs; that New Jersey can keep its 27,000 petroleum-industry jobs; and New York can keep its 36,000 petroleum-industry jobs, while Alaska supposedly looks to other alternatives. Why is it OK for everybody else to do it, and yet in Alaska for some reason we are not responsible, we can't handle it, we don't do it right, we need to lock it up and preserve it because it is the last Serengeti?"

This resolution is meant to send a message to those United States Senators who support the environmentalists' viewpoint. They believe that saving 2,000 acres in Alaska is worth more than Alaskan jobs and Alaskans' right to develop our state in the manner we see fit.

I ask you to join me in sending the message that what is good for the goose must be good for the gander.

# Alaska State Legislature

DURING SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-4843 (800) 892-4843  
FAX: (907) 465-3871

WEB SITE  
www.akrepublicans.org/Bunde



**SENATOR CON BUNDE**  
District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

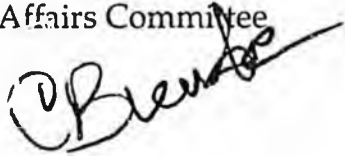
DURING INTERIM  
716 W. FOURTH AVE.  
ANCHORAGE, AK 99501-2133  
(907) 269-0181  
FAX: (907)269-0184

E-MAIL  
Senator.Con.Bunde@legis.state.ak.us

## MEMORANDUM

DATE: April 29, 2003

TO: Representative Bruce Weyrauch  
Chair, House State Affairs Committee

FROM: Senator Con bunde 

RE: Hearing Request

---

I respectfully request that you schedule a hearing for SJR 16, "Encouraging the federal government to end the federal subsidy of ethanol, and requesting the Congress of the United States to mandate that land currently used to grow corn for the production of ethanol be returned to its natural state" at your earliest convenience.

I have attached the following materials:

- SJR 16
- Sponsor Statement
- Fiscal Note
- U.S. Senate Roll Call Vote on Boxer Amendment
- Text from the Congressional Record
- Article in the Juneau Empire
- *Fuel Ethanol: Background and Policy Issues* by the Congressional Research Service
- *Building a Secure Energy Future* by the Renewable Fuels Association
- *FY 2004 Analytical Perspectives, Budget of the U.S. Government*
- *The Energy Balance of Corn Ethanol: An Update*
- Information about Oxygenated Fuel in Alaska

If you have any questions, please contact my aide, Karen McCarthy, at 3881.

Thank you.

SJR

17



# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SJR 17  
 (S) Publish Date: 4/23/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Alaska-Yukon Intergovernmental BRU \_\_\_\_\_  
Relations Accord Component \_\_\_\_\_  
 Sponsor Senator Olson \_\_\_\_\_  
 Requester Senate State Affairs Committee Component No. \_\_\_\_\_

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

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

| OPERATING EXPENDITURES | FY 2004    | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4522  
 Division: \_\_\_\_\_ Date/Time 4/17/03 4:57 PM  
 Approved by: Senator Gary Stevens, Chair Date 4/17/2003  
 Agency: \_\_\_\_\_

SJR

25



# Alaska State Legislature



Out of Session:  
PO Box 531  
Golovin, Alaska 99762  
(907) 443-5599

In Session:  
State Capitol, Suite 510  
Juneau, Alaska 99801-1182  
(800) 597-3707  
(907) 465-3707  
(907) 465-4821 Fax

## SENATOR DONALD C. OLSON

### DISTRICT T

Alakanuk  
Ambler  
Anaktuvuk Pass  
Atkasuk  
Barrow  
Brevig Mission  
Browerville  
Buckland  
Chevak  
Deering  
Diomede  
Elim  
Emmonak  
Gambell  
Golovin  
Hooper Bay  
Kaktovik  
Kiana  
Kivalina  
Kobuk  
Kotlik  
Kotzebue  
Koyuk  
Mountain Village  
Noatak  
Nome  
Noorvik  
Nuiqsut  
Nunam Iqua  
Pilot Station  
Pitka's Point  
Point Hope  
Point Lay  
Savoonga  
Scammon Bay  
Selawik  
Shaktolik  
Shishmaref  
Shungnak  
St. Mary's  
St. Michael  
Stebbins  
Teller  
Unalakleet  
Wainwright  
Wales  
White Mountain

### Sponsor Statement

#### SJR 25, FLOODING AND EROSION CONTROL ASSISTANCE

SJR 25 is a resolution requesting the Army Corp of Engineers ease their cost and benefit analysis for projects in rural Alaska.

I have proposed this resolution in response to many concerns voiced by my constituents with regards to the erosion and flooding problems that plague western Alaska. Currently many of the villages in western Alaska are not receiving the assistance needed for the protection of life and property.

On November 8, 2003 a winter storm hit western Alaska. This storm caused considerable damage to Unalakleet, Shishmaref, and some of Nome's surrounding areas. While the Governor has declared a state of disaster because of this storm, the continued effects of erosion on the villages of Alaska are not going to be solved by emergency disaster

declarations. A more comprehensive, coordinated effort is required by the Army Corps of Engineers and other federal and state agencies.

I respectfully urge your support for this resolution to focus attention on this serious problem.

GAO

Report to Congressional Committees

*184 Communities in danger.*

December 2003

# ALASKA NATIVE VILLAGES

Most Are Affected by  
Flooding and Erosion,  
but Few Qualify for  
Federal Assistance



GAO

Accountability \* Integrity \* Reliability

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

Several bills have been introduced to authorize tribal governments also to bundle federal funding for economic development programs and for alcohol and substance abuse programs. For example, in the 106<sup>th</sup>, 107<sup>th</sup>, and 108<sup>th</sup> sessions of Congress, bills were introduced to authorize the integration and coordination of federal funding for community, business, and economic development of Native American communities.<sup>24</sup> Under these bills, tribal governments or their agencies may identify federal assistance programs to be integrated for the purpose of supporting economic development projects. Similarly, in the 107<sup>th</sup> and 108<sup>th</sup> Congresses, S. 210 and S. 285 were introduced to authorize, respectively, the integration and consolidation of alcohol and substance abuse programs and services provided by tribal governments.

## Conclusion

Alaska Native villages that are not making plans to relocate, but are severely affected by flooding and erosion, must find ways to respond to these problems. However, many of these villages have difficulty finding assistance under several federal programs, largely because the economic costs of the proposed project to control flooding and erosion exceed the expected economic benefits. As a result, many private homes and other infrastructure continue to be threatened and are in danger from flooding and erosion. In addition, many Alaska Native villages that are small, remote, and have a subsistence lifestyle, lack the resources to help them respond to flooding and erosion. Given the unique circumstances of Alaska Native villages, special measures may be required to ensure that these communities receive assistance in responding to flooding and erosion.

Alaska Native villages that cannot be protected from flooding and erosion through engineering structures and must relocate face a particularly daunting challenge. These villages are working with federal and state agencies to find ways to address this challenge. Any potential solution, however, whether a single erosion protection project or full relocation, goes through stages of planning and execution that can take years to complete. In the interim, investment decisions must be made regarding delivery of services such as building new structures or renovating and upgrading existing structures. Such decisions for villages should be made in light of the status of their efforts to address flooding and erosion. We identified a number of instances where projects were approved and

<sup>24</sup>The bills introduced in the 106<sup>th</sup>, 107<sup>th</sup>, and 108<sup>th</sup> Congresses were S. 2052, S. 343, and S. 1528, respectively.

---

designed without considering a village's relocation plans. Investing in infrastructure that cannot be easily moved or may be costly to move may not be the best use of limited federal funds. It is encouraging that the Denali Commission is working on a policy to ensure that investments are made in a conscientious and sustainable manner for villages threatened by flooding and erosion. Successful implementation of such a policy will depend in part on its adoption by individual federal agencies that also fund infrastructure development in Alaska Native villages.

---

### Recommendations for Executive Action

In order to ensure that federal funds are expended in the most effective and efficient manner possible, we recommend that the federal cochairperson of the Denali Commission, in conjunction with the state of Alaska cochairperson, adopt a policy to guide future investment decisions and project designs in Alaska Native villages affected by flooding and erosion. The policy should ensure that (1) the Commission is aware of villages' efforts to address flooding and erosion and (2) projects are designed appropriately in light of a village's plans to address its flooding and erosion problems.

---

### Matter for Congressional Consideration

Determining the appropriate level of service for Alaska Native villages is a policy decision that rests with Congress. We present four alternatives that Congress may wish to consider as it deliberates over how, and to what extent, federal programs could better respond to flooding and erosion in Alaska Native villages. In any such decision, two factors that would be important to consider are the cost and the national policy implications of implementing any alternative or combination of alternatives. If Congress would like to provide additional federal assistance to Alaska Native villages, it may wish to consider directing relevant executive agencies and the Denali Commission to assess the cost and policy implications of implementing the alternatives that we have identified or others that may be appropriate.

---

### Agency Comments and Our Evaluation

We provided copies of our draft report to the Departments of Agriculture, Defense, Health and Human Services, Housing and Urban Development, the Interior, and Transportation; the Denali Commission; and the state of Alaska. The Departments of Defense, Housing and Urban Development, and the Interior, as well as the Denali Commission and the state of Alaska provided official written comments. (See appendixes IV through VIII,

---

respectively, for the full text of the comments received from these agencies and our responses.) The comments were generally technical in nature with few comments on the report's overall findings, recommendation, and alternatives. The Departments of Health and Human Services and Transportation provided informal technical comments, and the Department of Agriculture had no comments on the report. We made changes to the draft report, where appropriate, based on the technical comments provided by the seven entities that commented on the draft report.

The Denali Commission was the only entity to comment on our recommendation that the commission adopt an investment policy. The commission agreed with the recommendation and noted that such a policy should help avoid flawed decision making in the future. Furthermore, the commission commented that it was not sufficient for it alone to have an investment policy, but believed that all funding agencies should use a similar policy to guide investments. We acknowledge the commission's concerns that other funding agencies should also make sound investment decisions. As noted in our report, the Denali Commission has signed a memorandum of understanding with 31 federal and state agencies with the goal of systematic planning and coordination for investments in infrastructure, economic development, and training, and we believe that this memorandum could serve as a vehicle by which other federal agencies would follow the lead of the commission regarding decisions to invest in communities.

Of the four alternatives presented in the report, the alternative to funnel funding for flooding and erosion projects through the Denali Commission received the most comments. The Denali Commission, the U.S. Army (commenting on behalf of the Department of Defense), and the Department of Housing and Urban Development all raised some concerns about this alternative. The Denali Commission commented that it is not convinced that expanding its role to include responsibilities for managing a flooding and erosion program is the appropriate response. The Army commented that the alternative to expand the role of the Denali Commission to manage a flooding and erosion program might exceed the capabilities of the organization. Lastly, the Department of Housing and Urban Development commented that the Denali Commission, as an independent agency, does not have the capacity to be fully integrated with the efforts of federal agencies to address this issue. Moreover, while each of these entities recognized the need for improved coordination of federal efforts to address flooding and erosion in Alaska Native villages, none of them provided any specific suggestions on how or by whom this should be accomplished. As

---

discussed in our report, the Denali Commission currently does not have the authority to manage a flooding and erosion program, and should Congress choose this alternative, the commission would need to develop such a program. Consequently, we still believe that expanding the role of the commission continues to be a possible option for helping to mitigate the barriers that villages face in obtaining federal services.

---

We are sending copies of this report to the Secretaries of Agriculture, the Army, Health and Human Services, Housing and Urban Development, the Interior, and Transportation, as well as to the federal and state co-chairs of the Denali Commission, the Governor of the state of Alaska, appropriate congressional committees, and other interested Members of Congress. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have questions about this report, please contact me at (202) 512-3841. Key contributors to this report are listed in appendix IX.



Anu Mittal  
Director, Natural Resources  
and Environment

SENATE AND HOUSE JOINT JOURNAL SUPPLEMENT

No. 14

February 16, 2004

First among these challenges is coastal erosion. Flooding and erosion affects 184 Alaska Native villages. At my request, the Government Accounting Office studied this problem and recently issued a report that discussed their findings. I have brought a copy of that report for each of you. The GAO reviewed nine of our villages and found four to be in imminent danger from flooding and erosion.

I plan to hold hearings in Alaska on this report to explore how this crisis can be resolved while meeting the needs of all Alaskans. The cost of moving entire villages is enormous, and our state and federal agencies must listen to those affected and determine what can be done to help.

State and local advice is needed to develop solutions so I propose that a commission be formed with federal, state, and local representatives. Such a commission could identify solutions and make recommendations for how best to respond to the effects of coastal erosion.

I am currently drafting legislation to form such a commission. If this Legislature agrees to appoint commissioners, I will submit that legislation for consideration by the Congress. It will be similar to the Land Use Planning Commission created in the Alaska Native Claims Settlement Act.

Another issue deeply connected to the future of our state is the effort to reach an Alaskan consensus about law enforcement in rural communities. My relationship with the Alaska Native community began when I was Solicitor of the Department of the Interior in 1960. Throughout my tenure in the Senate, I have remained focused on their concerns.

Late last year, when I addressed the Alaska Federation of Natives conference, I discussed the sustainability of tribal justice funding.

To try to resolve the issues I raised in that speech and meet the needs of rural communities, Congress established the new Alaska Rural Justice and Law Enforcement Commission in January. I know there's some concern about this approach, but this panel was not developed with the intention of taking sides on the question of sovereignty for

SENATE AND HOUSE JOINT JOURNAL SUPPLEMENT

February 16, 2004

No. 14

tribes in Alaska. It will take years to settle the legal issue of tribal sovereignty. The panel's primary objectives will be stronger law enforcement and a swift, fair system of justice for all. It is my hope that all Alaskans will let the panel do its work and try to achieve practical solutions.

In the last several years, an onslaught of lawsuits and the preparation of uneconomic timber sales devastated our timber industry. The Tongass once helped support 4,000 timber jobs. Today, nearly two-thirds of those jobs have disappeared. In the last ten years, all of our pulp mills have closed, taking some of southeast Alaska's highest paying jobs with them.

Last year, new steps were taken to revitalize our timber industry. The Congress created deadlines for the filing of lawsuits and allowed the Forest Service to mutually cancel uneconomic timber sales. The judicial review provision will ensure stability in our timber supply by quickly resolving timber disputes. Already there have been benefits from contract termination; the Forest Service, working with our timber producers, recently cancelled 20 uneconomic timber sales. These sales will be reconfigured and reoffered as economically viable sales.

On the fisheries front, Americans are looking for alternative sources of protein in the wake of the mad cow scare and fear over PCB levels in farmed salmon. The Alaska Fisheries Marketing Board is currently developing a national advertising campaign that will promote wild Alaska salmon to fill that void.

In January, our national government acted to rationalize the Bering Sea/Aleutian Islands crab fisheries. Our efforts protected the resource, made the crab fisheries safer, and ensured that vital seafood industry jobs remained in Alaska's coastal communities.

Some opponents criticized this plan; they argued that it was agreed to without public input and violated industry practices and anti-trust laws. They were wrong.

This action was based on a report from the North Pacific Fisheries Management Council. Their plan was the product of an open process that spanned five years - three years of meetings and discussion

First among these challenges is coastal erosion. Flooding and erosion affects 184 Alaska Native villages. At my request, the Government Accounting Office studied this problem and recently issued a report that discussed their findings. I have brought a copy of that report for each of you. The GAO reviewed nine of our villages and found four to be in imminent danger from flooding and erosion.

I plan to hold hearings in Alaska on this report to explore how this crisis can be resolved while meeting the needs of all Alaskans. The cost of moving entire villages is enormous, and our state and federal agencies must listen to those affected and determine what can be done to help.

State and local advice is needed to develop solutions so I propose that a commission be formed with federal, state, and local representatives. Such a commission could identify solutions and make recommendations for how best to respond to the effects of coastal erosion.

I am currently drafting legislation to form such a commission. If this Legislature agrees to appoint commissioners, I will submit that legislation for consideration by the Congress. It will be similar to the Land Use Planning Commission created in the Alaska Native Claims Settlement Act.

Another issue deeply connected to the future of our state is the effort to reach an Alaskan consensus about law enforcement in rural communities. My relationship with the Alaska Native community began when I was Solicitor of the Department of the Interior in 1960. Throughout my tenure in the Senate, I have remained focused on their concerns.

Late last year, when I addressed the Alaska Federation of Natives conference, I discussed the sustainability of tribal justice funding.

To try to resolve the issues I raised in that speech and meet the needs of rural communities, Congress established the new Alaska Rural Justice and Law Enforcement Commission in January. I know there's some concern about this approach, but this panel was not developed with the intention of taking sides on the question of sovereignty for

tribes in Alaska. It will take years to settle the legal issue of tribal sovereignty. The panel's primary objectives will be stronger law enforcement and a swift, fair system of justice for all. It is my hope that all Alaskans will let the panel do its work and try to achieve practical solutions.

In the last several years, an onslaught of lawsuits and the preparation of uneconomic timber sales devastated our timber industry. The Tongass once helped support 4,000 timber jobs. Today, nearly two-thirds of those jobs have disappeared. In the last ten years, all of our pulp mills have closed, taking some of southeast Alaska's highest paying jobs with them.

Last year, new steps were taken to revitalize our timber industry. The Congress created deadlines for the filing of lawsuits and allowed the Forest Service to mutually cancel uneconomic timber sales. The judicial review provision will ensure stability in our timber supply by quickly resolving timber disputes. Already there have been benefits from contract termination; the Forest Service, working with our timber producers, recently cancelled 20 uneconomic timber sales. These sales will be reconfigured and reoffered as economically viable sales.

On the fisheries front, Americans are looking for alternative sources of protein in the wake of the mad cow scare and fear over PCB levels in farmed salmon. The Alaska Fisheries Marketing Board is currently developing a national advertising campaign that will promote wild Alaska salmon to fill that void.

In January, our national government acted to rationalize the Bering Sea/Aleutian Islands crab fisheries. Our efforts protected the resource, made the crab fisheries safer, and ensured that vital seafood industry jobs remained in Alaska's coastal communities.

Some opponents criticized this plan; they argued that it was agreed to without public input and violated industry practices and anti-trust laws. They were wrong.

This action was based on a report from the North Pacific Fisheries Management Council. Their plan was the product of an open process that spanned five years – three years of meetings and discussion

## SHISHMAREF EROSION AND RELOCATION COALITION

Luci Eningowuk, Chairperson

P.O. Box 72100

Shishmaref, Alaska 99772

(907) 649-2289 Fax (907) 649-4461

☐

Tony A. Weyiouanna, Sr. - Shishmaref Village Transportation Planner, [tony@kawerak.org](mailto:tony@kawerak.org)

Sophie Weyiouanna - Administrative Assistant

Alaska State Senate  
Alaska House of Representatives  
Juneau, Alaska

February 25, 2004

REF: Request for Assistance

Dear Senators and Representatives:

The Shishmaref Erosion and Relocation Coalition, made up of the three governing bodies of the community of Shishmaref, requests your assistance in seeking both funding and technical support. Our immediate goal is to seek assistance in providing erosion protection measures for the community. Our longer-term goal is to reestablish Shishmaref at a new mainland site. Our goal is to enhance our working relationship with the State government.

We request the State's assistance in the following:

Immediate Erosion Protection for Shishmaref - the U.S. Army Corps of Engineers has agreed to provide a Section 14, Emergency Shoreline Protection Project on the northern seaward side of our School's property. This project requires a \$400,000 local match. We request one of the following solutions:

1. The State urges the Federal Government to make an exception to the requirement for the local match and fund the project as 100% Federal.
  2. The State urges the Federal Government to consider the adjoining project being constructed jointly by Kawerak, Inc. and the Native Village of Shishmaref, using Bureau of Indian Affairs, Indian Reservation Roads program funds, to protect the community's main street and road to the airport, as the local match.
- Or if neither of these are acceptable to the Federal government,
3. The State authorizes within its budget, the required local share.

A large majority of the community is unprotected and thus left vulnerable to even minor storms. We urge the State government to provide funding to place erosion protection measures in other areas of the community that are left unprotected. Kawerak Transportation Project heavy equipment is mobilized and ready. Reusable armor flex cement blocks and gabions are available from prior erosion measures. With a small amount of assistance, we could minimize expenses and provide protection to other areas in the community by reusing this material.

Relocation of the Community of Shishmaref to the nearby mainland - we seek support from the State to urge the federal government to initiate the following:

SERVING THE COMMUNITY FOR A BETTER FUTURE

1. That Congress enact special measures to ensure that the Alaska villages qualify for and receive federal assistance for erosion protection and if needed relocation.
2. That Congress enact legislation that establishes Shishmaref, Alaska as a demonstration project for both erosion and relocation assistance, as a coordinated effort between the respective Federal Agencies: Federal Emergency Management Agency (FEMA), US. Army Corps of Engineers (Corps), and the Natural Resource Conservation Service (NRCS); and the Denali Commission. That FEMA be identified as the Agency responsible to head the coordination and identify other Federal agencies that need to be involved, as well as establishing a cooperative working relationship with the State of Alaska.
3. We seek support from the State's respective Departments to provide technical and funding assistance for the establishment of a new community.
  - o Studies for the following that may fall within the responsibility of the State:
    - o Wind studies for a new airport
    - o Assistance with community infrastructure
    - o Water
    - o Sewer
    - o Landfill
    - o Utilities
    - o Etc.
4. We seek support from the State for the construction of an emergency evacuation shelter at the Tin Creek site on the mainland. A building large enough to provide space as a temporary school and provide for other critical functions during an emergency situation.

Background:

The situation at Shishmaref is dire and requires immediate action. On an annual basis, until the protective winter ice arrives, we agonize that the next storm will be the one that wipes us out. The most recent storm event of November 21, 2003 caused significant beach erosion. We did not lose any homes this time, however, we, who live in Shishmaref, know that it is merely a matter of time.

We are concerned for the cohesion of our community. The community has expressed and reconfirmed its desire to retain community integrity; this intent was articulated through a community wide vote held on July 10<sup>th</sup> of 2002, showing overwhelming support to relocate the community. With the decision to relocate we passed an ordinance that requires that all new buildings or facilities be movable. We anticipate that once a new site is prepared, it will be a straightforward process to skid existing structures across the ice to the new community location.

Subsistence is a vital factor to our way of life and our ability to provide for ourselves; we believe that relocation to a site on the mainland near our current location is the optimum solution. In 2002, the USDA Natural Resource Conservation Service (NRCS) performed preliminary site evaluations at 5 locations on the mainland. In 2003,

they narrowed their review to two sites, Tin Creek and West Tin Creek. They delivered their report to the community on January 13, 2004, providing their recommendation for the Tin Creek site. The community discussed the report, and has endorsed the Tin Creek site for further studies.

The rate of erosion and the number of flooding events has accelerated. Even though the storms have been moderate in level; the damage is more severe in recent years. The community and Coalition would like to stress the immediacy of the problem and will continue to push for an expedited relocation. Below are challenges limiting our efforts.

#### No Federal Champion

The massive nature of relocating an entire community will require interagency cooperation and coordination as there is no one agency stepping forward to take the lead. We have reviewed the GAO report and encourage you to consider their recommendations. We strongly agree a coordinated effort to address issues caused by erosion and flooding of the threatened Alaska Native Villages is necessary. We believe the agency assigned to coordinate must be one that has proven itself to be proactive in addressing the needs of Alaska Native Villages.

#### Limited Local Capacity

Now that the community has identified a new community site, we are moving forward with relocation planning. Shishmaref does not have the administrative capacity to facilitate such a massive effort without additional funds and technical assistance. Kawerak, Inc. provides staff support and facilitation but is limited to the transportation components of the relocation.

#### Limited Ability For Massive Evacuation

There is no infrastructure at the new site. We request assistance to build an emergency evacuation building at Tin Creek Relocation Site, a structure that would be the command center and provide room for school, offices, clinic, and warehouse for emergency supplies is desperately needed. A massive evacuation of Shishmaref's population could not be absorbed long-term by the surrounding communities.

#### No Viable Bluff Protection in Place

The only protection of our shoreline is the permafrost, and it is increasingly vulnerable to even minor, silent storms. We recognize that relocation will take several years and building infrastructure will continue for many years after that. Our expedited local plan for relocation anticipates relocation to occur by 2009 therefore; we need some form of intervention to buy time. We have requested a Corps of Engineers Section 14, Emergency Protection Project for the section of shoreline in front of our school. The problem is that we can only piecemeal our efforts by the limited funding available to the respective programs. The Section 14 has a \$1 million federal cap, and the community just does not have the capacity to come up with hundreds of thousands of dollars.

Statutes and Regulations Are Not Designed for Emergencies

The government's programs are designed to do cleanup after the emergency rather than put funds into prevention. We had time after time been told by both Federal and State Agencies that they cannot provide the assistance we need until a "Disaster Declaration" has been made. The declaration itself requires a dollar value for the damage. In our case, because no value is provided for the lost land, and we have been able to tug homes out of harms way at the last moment, we don't have enough dollar value loss to qualify.

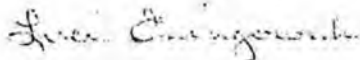
The situation facing Shishmaref should be categorized as an emergency, and that overly burdensome Federal regulations need to be eased. It is also a great concern to us, that many of the Federal requirements drive the estimated costs up and that the relocation could be accomplished at a significantly reduced cost should there be a loosening of regulations because of the emergency. The GAO report provides excellent recommendations to address these issues and should be adopted by Congress, however, our situation is urgent and we may not survive the full implementation of new Statutes, Regulations, and Policies. Because of this, we request that Shishmaref be identified as a demonstration project with maximum flexibility authorized, and used to help determine what changes to Statutes, Regulations, and Policies need be done overall.

We are providing a packet with additional information to help you understand and to share with others the situation in Shishmaref.

We, the people of Shishmaref, value our heritage and way of life; we are proud of who we are. We believe that any action, including inaction needs to take into consideration the human impacts. If we were not a true "community" the people of Shishmaref would long ago have drifted apart when faced with such complete devastation. Every year we watch as the ocean absorbs our island. We are connected to Kikigtaq (homeland of the people of Shishmaref), we ask for assistance in helping us to stay here.

Thank you for this opportunity to share with you our concerns. Please let us know if there is anything else that we can do to help you understand our situation.

Sincerely,



Luci Eningowuk  
Chairperson

Enclosure: Packet

## SHISHMAREF EROSION AND RELOCATION COALITION

Luci Eningowuk, Chairperson  
P.O. Box 72100  
Shishmaref, Alaska 99772  
(907) 649-2289 Fax (907) 649-4461

☐

Tony A. Weyiouanna, Sr. - Shishmaref Village Transportation Planner, [tony@kawerak.org](mailto:tony@kawerak.org)  
Sophie Weyiouanna - Administrative Assistant

The Honorable Governor Frank Murkowski  
Office of the Governor  
P.O. Box 110001  
Juneau, Alaska 99811-0001

February 25, 2004

REF: Request for Assistance

Dear Governor Murkowski:

The Shishmaref Erosion and Relocation Coalition, made up of the three governing bodies of the community of Shishmaref, requests your assistance in seeking both funding and technical support. Our immediate goal is to seek assistance in providing erosion protection measures for the community. Our longer-term goal is to reestablish Shishmaref at a new mainland site. Our goal is to enhance our working relationship with the State government.

We request the State's assistance in the following:

Immediate Erosion Protection for Shishmaref - the U.S. Army Corps of Engineers has agreed to provide a Section 14, Emergency Shoreline Protection Project on the northern seaward side of our School's property. This project requires a \$400,000 local match. We request one of the following solutions:

1. The State urges the Federal Government to make an exception to the requirement for the local match and fund the project as 100% Federal.
  2. The State urges the Federal Government to consider the adjoining project being constructed jointly by Kawerak, Inc. and the Native Village of Shishmaref, using Bureau of Indian Affairs, Indian Reservation Roads program funds, to protect the community's main street and road to the airport, as the local match.
- Or if neither of these are acceptable to the Federal government,
3. The State authorizes within its budget, the required local share.

A large majority of the community is unprotected and thus left vulnerable to even minor storms. We urge the State government to provide funding to place erosion protection measures in other areas of the community that are left unprotected. Kawerak Transportation Project heavy equipment is mobilized and ready. Reusable armor flex cement blocks and gabions are available from prior erosion measures. With a small

amount of assistance, we could minimize expenses and provide protection to other areas in the community by reusing this material.

Relocation of the Community of Shishmaref to the nearby mainland – we seek support from the State to urge the federal government to initiate the following:

1. That Congress enact special measures to ensure that the Alaska villages qualify for and receive federal assistance for erosion protection and if needed relocation.
2. That Congress enact legislation that establishes Shishmaref, Alaska as a demonstration project for both erosion and relocation assistance, as a coordinated effort between the respective Federal Agencies: Federal Emergency Management Agency (FEMA), US. Army Corps of Engineers (Corps), and the Natural Resource Conservation Service (NRCS); and the Denali Commission. That FEMA be identified as the Agency responsible to head the coordination and identify other Federal agencies that need to be involved, as well as establishing a cooperative working relationship with the State of Alaska.
3. We seek support from the State's respective Departments to provide technical and funding assistance for the establishment of a new community.
  - o Studies for the following that may fall within the responsibility of the State:
    - o Wind studies for a new airport
    - o Assistance with community infrastructure
    - o Water
    - o Sewer
    - o Landfill
    - o Utilities
    - o Etc.
4. We seek support from the State for the construction of an emergency evacuation shelter at the Tin Creek site on the mainland. A building large enough to provide space as a temporary school and provide for other critical functions during an emergency situation.

Background:

The situation at Shishmaref is dire and requires immediate action. On an annual basis, until the protective winter ice arrives, we agonize that the next storm will be the one that wipes us out. The most recent storm event of November 21, 2003 caused significant beach erosion. We did not loose any homes this time, however, we, who live in Shishmaref, know that it is merely a matter of time.

We are concerned for the cohesion of our community. The community has expressed and reconfirmed its desire to retain community integrity; this intent was articulated through a community wide vote held on July 10<sup>th</sup> of 2002, showing overwhelming support to relocate the community. With the decision to relocate we passed an ordinance that requires that all new buildings or facilities be movable. We anticipate that once a new site is prepared, it will be a straightforward process to skid existing structures across the ice to the new community location.

Subsistence is a vital factor to our way of life and our ability to provide for ourselves; we believe that relocation to a site on the mainland near our current location is the optimum solution. In 2002, the USDA Natural Resource Conservation Service (NRCS) performed preliminary site evaluations at 5 locations on the mainland. In 2003, they narrowed their review to two sites, Tin Creek and West Tin Creek. They delivered their report to the community on January 13, 2004, providing their recommendation for the Tin Creek site. The community discussed the report, and has endorsed the Tin Creek site for further studies.

The rate of erosion and the number of flooding events has accelerated. Even though the storms have been moderate in level; the damage is more severe in recent years. The community and Coalition would like to stress the immediacy of the problem and will continue to push for an expedited relocation. Below are challenges limiting our efforts.

#### No Federal Champion

The massive nature of relocating an entire community will require interagency cooperation and coordination as there is no one agency stepping forward to take the lead. We have reviewed the GAO report and encourage you to consider their recommendations. We strongly agree a coordinated effort to address issues caused by erosion and flooding of the threatened Alaska Native Villages is necessary. We believe the agency assigned to coordinate must be one that has proven itself to be proactive in addressing the needs of Alaska Native Villages.

#### Limited Local Capacity

Now that the community has identified a new community site, we are moving forward with relocation planning. Shishmaref does not have the administrative capacity to facilitate such a massive effort without additional funds and technical assistance. Kawerak, Inc. provides staff support and facilitation but is limited to the transportation components of the relocation.

#### Limited Ability For Massive Evacuation

There is no infrastructure at the new site. We request assistance to build an emergency evacuation building at Tin Creek Relocation Site, a structure that would be the command center and provide room for school, offices, clinic, and warehouse for emergency supplies is desperately needed. A massive evacuation of Shishmaref's population could not be absorbed long-term by the surrounding communities.

#### No Viable Bluff Protection in Place

The only protection of our shoreline is the permafrost, and it is increasingly vulnerable to even minor, silent storms. We recognize that relocation will take several years and building infrastructure will continue for many years after that. Our expedited local plan for relocation anticipates relocation to occur by 2009 therefore; we need some form of intervention to buy time. We have requested a Corps of Engineers Section 14, Emergency Protection Project for the section of shoreline in front of our school. The

problem is that we can only piecemeal our efforts by the limited funding available to the respective programs. The Section 14 has a \$1 million federal cap, and the community just does not have the capacity to come up with hundreds of thousands of dollars.

Statutes and Regulations Are Not Designed for Emergencies

The government's programs are designed to do cleanup after the emergency rather than put funds into prevention. We had time after time been told by both Federal and State Agencies that they cannot provide the assistance we need until a "Disaster Declaration" has been made. The declaration itself requires a dollar value for the damage. In our case, because no value is provided for the lost land, and we have been able to tug homes out of harms way at the last moment, we don't have enough dollar value loss to qualify.

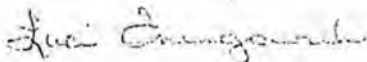
The situation facing Shishmaref should be categorized as an emergency, and that overly burdensome Federal regulations need to be eased. It is also a great concern to us, that many of the Federal requirements drive the estimated costs up and that the relocation could be accomplished at a significantly reduced cost should there be a loosening of regulations because of the emergency. The GAO report provides excellent recommendations to address these issues and should be adopted by Congress, however, our situation is urgent and we may not survive the full implementation of new Statutes, Regulations, and Policies. Because of this, we request that Shishmaref be identified as a demonstration project with maximum flexibility authorized, and used to help determine what changes to Statutes, Regulations, and Policies need be done overall.

We are providing a packet with additional information to help you understand and to share with others the situation in Shishmaref.

We, the people of Shishmaref, value our heritage and way of life; we are proud of who we are. We believe that any action, including inaction needs to take into consideration the human impacts. If we were not a true "community" the people of Shishmaref would long ago have drifted apart when faced with such complete devastation. Every year we watch as the ocean absorbs our island. We are connected to Kikigtaq (homeland of the people of Shishmaref), we ask for assistance in helping us to stay here.

Thank you for this opportunity to share with you our concerns. Please let us know if there is anything else that we can do to help you understand our situation.

Sincerely,



Luci Eningowuk  
Chairperson

Encl sure: Packet

SJR

31



# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSJR 31(STA)  
 (S) Publish Date: 3/19/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: None  
 Title Federal Funding for Education BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Senator Theriault  
 Requester Senate State Affairs Committee Component No. \_\_\_\_\_

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

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

Prepared by: Senate State Affairs Committee Phone 465-4522  
 Division \_\_\_\_\_ Date/Time 3/19/04 8:44 AM  
 Approved by: Senator Gary Stevens, Chair Date 3/19/2004  
 Agency \_\_\_\_\_

# Alaska State Legislature

SENATOR  
GENE THERRIAULT

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax (907) 488-4271



President of the Senate

While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
Fax: (907) 465-3884  
SENATE DISTRICT F

## SPONSOR STATEMENT – SJR 31

SJR 31, "Relating to urging the United States Congress to compensate the State of Alaska for the effect of federal land ownership on the State's ability to fund public education".

This legislation stems from a resolution adopted in July of 2002 by the Executive Committee of the Council of State Governments-WEST urging its membership of thirteen states to support and pass joint resolutions expressing how federal land ownership hinders western states' ability to fund education. Since then, all thirteen states have introduced similar resolutions and all but four (CA, WA, CO, AK) have passed them. The Western Governors' Association has also endorsed this resolution, termed "APPLE" for Action Plan for Public Land and Education.

This resolution is the result of years of research and preparation by legislators from the State of Utah in an attempt to bring western states up to equity with the rest of the nation in the funding of public education.

Western states as group are falling behind in education funding when measured in growth of real per pupil expenditures during the period of 1979 – 98. Eleven of the twelve states with the lowest real growth in pupil expenditures are western states. The growth rate of real per pupil expenditures in the thirteen western states is less than half (28% versus 57%) of that in the thirty-seven other states. On average, enrollment in western states is projected to increase dramatically while the growth rate in other states is projected to actually decrease (2002-2011 western states 7.1% vs. - 2.6%).

Yet, Western states' state and local taxes as a percent of personal income are as high or higher than other states (1998-99 western states 11.1% vs. 10.9%) and Western states' commitment to education as a percent of state budget is equal to that of other states (in year 2000 western states 32.6% vs. 32.7%)

The problem lies with the federal government and the enormous amount of land it owns in western states. If an imaginary line was drawn from Montana to New Mexico, no state east of that line has more than 14% of its land owned by the federal government. No state west of that line has less than 27% of their land federally owned (with the exception of Hawaii). Four western states have more than 62% of their land federally owned. (Alaska, Idaho, Nevada & Utah).

Most enabling acts for western states, including Alaska, promised to give the state 5% of the proceeds from the sale of federal land for the benefit of public education. In 1977 the federal government abandoned its original policy to dispose of public lands, depriving the states of public education funding estimated to be over \$14 billion dollars. This resolution does not recommend that federally owned lands be sold, only that states be compensated as promised.

States are not allowed to assess property tax on federal lands, impacting western states in an amount over \$4 billion annually. The federal government does provide "payments in lieu of taxes" (PILT) since states cannot tax federal lands, but the amount of PILT payments to states in 2001 was only about 4% of the annual property tax revenue lost by western states.

This resolution proposes to: (1) create legislative awareness, (2) educate the public, (3) build a western states coalition, and, (4) petition Congress to compensate western states.

In summary, western states are financially harmed in a significant way by the amount of federal land ownership. The conclusion is that federal land ownership hinders western states' ability to fund public education.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



HOUSE OF REPRESENTATIVES  
OFFICE OF THE SPEAKER  
SALT LAKE CITY, UTAH 84114

MARTIN R. STEPHENS  
WEBER COUNTY

LEGISLATURE  
18011 528-1930  
RESIDENCE  
18011 731-3346

President Gene Therriault  
Alaska State Senate  
State Capitol, Room 111  
Juneau, AK 99801-1182

Speaker Pete Kott  
Alaska House of Representatives  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear President Therriault and Speaker Kott:

We are writing to make you aware of a resolution that is being circulated to presiding officers in the legislatures of all thirteen western states and to request your support as legislative leaders of its introduction and passage in Alaska. A copy of the resolution, entitled "Joint Resolution Supporting Action Plan for Public Land and Education," (APPLE) is enclosed for your review.

The concept and language of the joint resolution is supported by western legislators and governors through the actions and resolutions of The Council of State Governments-WEST (CSG-WEST) and the Western Governors' Association (WGA). Speaker Kott will recall that the APPLE Initiative, as the resolution is called, was unanimously adopted by the Executive Committee of CSG-WEST at our annual meeting in Lake Tahoe, Nevada in July of 2002; subsequently, the Western Governors' Association unanimously endorsed the APPLE initiative at their winter meeting in Las Vegas this past December. A copy of the CSG-WEST resolution is also enclosed as well as a brief summary of the APPLE initiative.

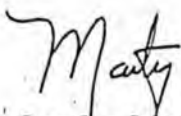
We believe that adoption of the resolution is an important step toward creating a broad-based coalition in support of just compensation for public schools in western states where the federal government owns nearly 52% of the land within our borders. Based on our research, the western states would receive one-time revenues from the federal government of 14.1 billion dollars and 6.4 billion annual revenue from property tax and royalties. For Alaska, this would mean 5.59 billion in one-time revenue and 2.05 billion in annual recurring revenue. This money is vital in a region where enrollment and higher pupil per teacher ratios are projected to increase dramatically in the foreseeable future.

We hope that you will be willing to support this joint resolution in your legislature and to serve or appoint members from your legislature to work with us on a steering committee to build a western coalition in support of the APPLE Initiative. As you might imagine, we have received a tremendous expression of interest and support from the education community.

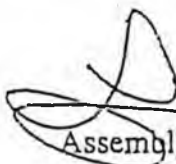
We look forward to answering any questions you may have about the APPLE initiative. Please contact either of us, Speaker Marty Stephens in Salt Lake City, Utah at (801) 538-1930 or Assemblyman Lynn Hettrick in Carson City, Nevada at (775) 684-8843. Kent Briggs of the CSG-WEST staff is also assisting with this project and can be contacted at (916) 553-4423 in Sacramento, California. The detailed power point presentation of the APPLE Initiative can be easily accessed on the CSG-WEST web site at [www.csghost.org](http://www.csghost.org).

Our best wishes on a successful legislative session; we look forward to working with you as part of a unique western coalition to secure in the language of the resolution, "just compensation that will allow western states to be on equal footing with the rest of the nation in their efforts to provide education."

Sincerely,



Speaker Marty Stephens  
Utah House of Representatives  
Chair, APPLE Initiative Steering Committee



Assemblyman Lynn Hettrick  
Minority Leader, Nevada State Assembly  
Immediate Past Chair, CSG-WEST

Enclosures



*"Serving Western Legislatures"*

Resolution No. 2002-01

**Resolution Urging the United States Congress to Compensate Western States  
for the Impact of Federal Land Ownership on State Education Funding**

*Introduced by the Executive Committee*

Whereas, for many years western states have grappled with the challenge of providing the best education for their citizens;

Whereas, western states face unique challenges in achieving this goal;

Whereas, from 1979 to 1998 the percent change in expenditures per pupil in 13 western states was 28%, compared to 57% in the remaining states;

Whereas, in 2000-2001, the pupil per teacher ratio in 13 western states averaged 17.9 to one compared with 14.8 to one in the remaining states;

Whereas, the conditions in western states are exacerbated by projections that enrollment will increase by an average of 7.1% compared to an average decrease of 2.6% in the rest of the nation;

Whereas, despite the wide disparities in expenditures per pupil and pupil per teacher ratio, western states tax at a comparable rate and allocate as much of their Budgets to public education as the rest of the nation;

Whereas, the ability of western states to fund education is directly related to federal ownership of state lands;

Whereas, the federal government owns an average of 51.9% of the land in 13 western states, compared to 4.1% in the remaining states;

Whereas, the enabling acts of most western states promise that 5% of the proceeds from the sale of federal lands will go to the states for public education;

Whereas, a federal policy change in 1977 ended these sales resulting in an estimated 14 billion in lost public education funding for western states;

Whereas, the ability of western states to fund public education is further impacted by the fact that state and local property taxes which public education relies heavily upon to fund education and cannot be assessed on federal lands;

CSG-WEST

1107 9<sup>th</sup> Street, Su. 650 - Sacramento, CA 95814

Phone: (916)553-4423 - Fax: (916)446-5760

Whereas, the estimated annual impact of this property tax prohibition on western lands is over 4 billion;

Whereas, the federal government shares only half of its royalty revenue with the states;

Whereas, royalties are further reduced because federal lands are less likely to be developed and federal laws often place stipulations on the use of state royalty payments;

Whereas, the estimated annual impact of royalty payment policies on western states is over 1.86 billion;

Whereas, much of the land that the federal government transferred to states upon statehood as a trust for public education is difficult to administer and to make productive because it is surrounded by federal land;

Whereas, federal land ownership greatly hinders the ability of western states to fund public education;

Whereas, the federal government should compensate western states for the significant impact federal land ownership has on the ability of western states to educate its citizens;

Whereas, just compensation will allow western states to be on equal footing with the rest of the nation in their efforts to provide education for their citizens;

NOW, THEREFORE, BE IT RESOLVED that the Executive Committee of the Council of State Governments-WEST endorses and supports the Action Plan for Public Lands and Education;

BE IT FURTHER RESOLVED that the Executive Committee of the Council of State Governments-WEST endorses an initiative seeking just compensation from the federal government for the impact its ownership of lands within western states has on the ability on the states' ability to fund public education;

BE IT FURTHER RESOLVED that the Executive Committee of the Council of State Governments -WEST endorses an initiative urging the federal government to provide an expedited land exchange process for land not contended for wilderness designation;

BE IT FURTHER RESOLVED that the chair of The Council of State Governments-WEST appoint from the members of the CSG-WEST Executive Committee a steering committee to prepare the initiative for congressional consideration. These appointments shall be from both political parties and from all parts of the West. The CSG-WEST chair will also appoint the chair of the initiative steering committee;

CSG-WEST  
Resolution 02-01  
Page 2 of 3

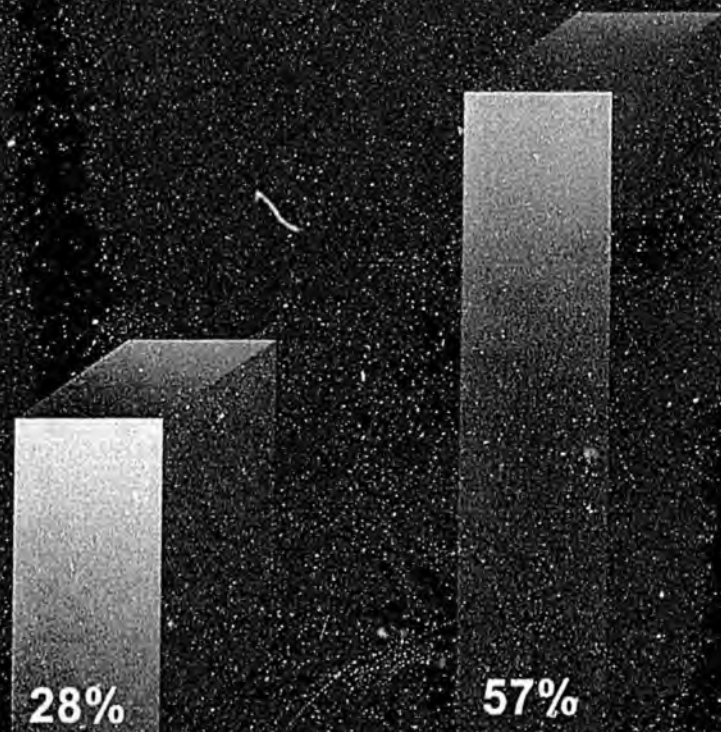
BE IT FURTHER RESOLVED that the executive director of the Council of State Governments-WEST is authorized to assign staff to the initiative's steering committee to accomplish the successful implementation of the initiative; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States and other officers as deemed advisable.

*Adopted by the CSG-WEST Executive Committee on July 19, 2002  
Assembled in Annual Meeting in Lake Tahoe, Nevada.*

CSG-WEST  
1107 9<sup>th</sup> Street, Su. 650 - Sacramento, CA 95814  
Phone: (916)553-4423 - Fax: (916)446-5760

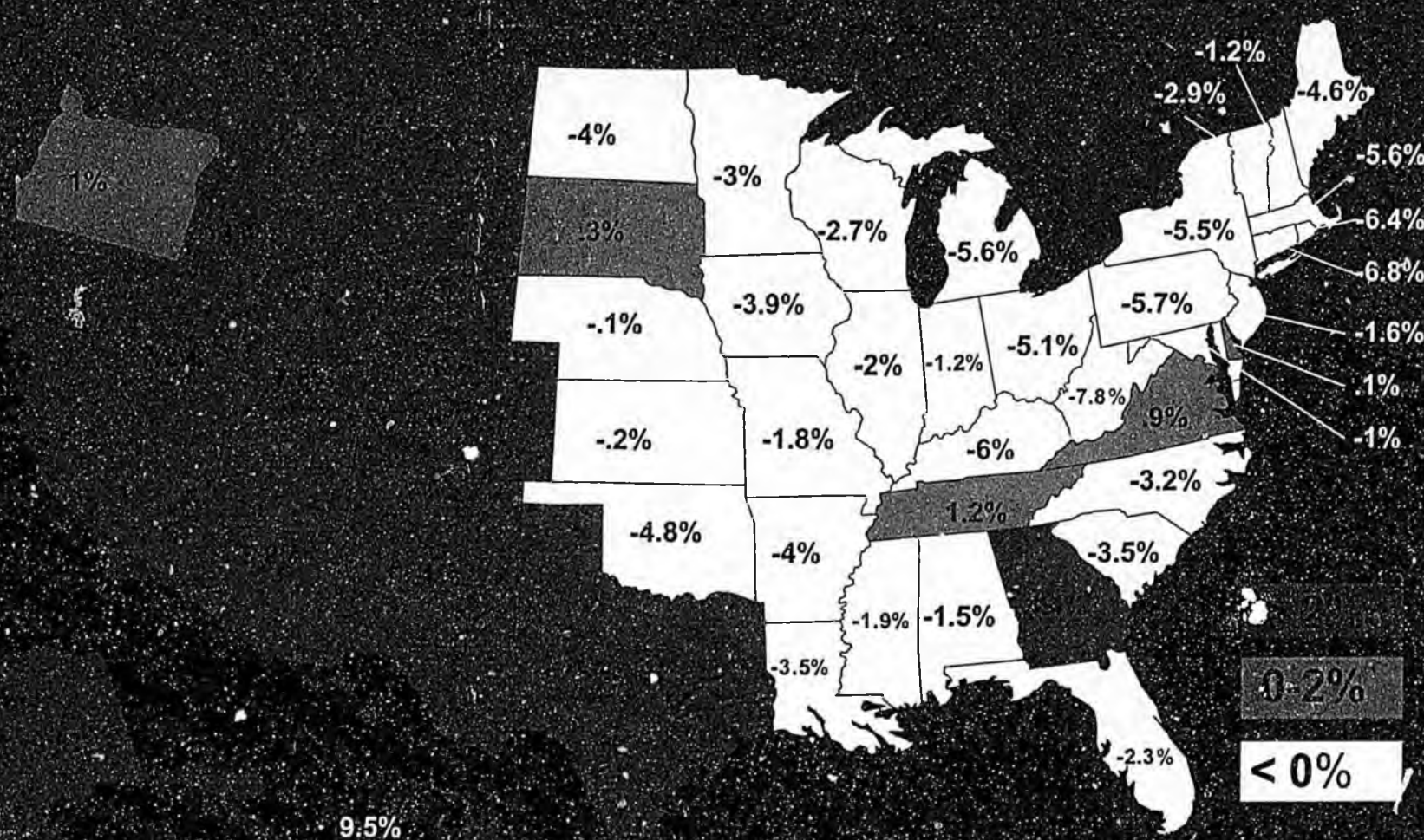
# Percent Change in Expenditures Per Pupil 1979-98



■ 13 Western States Average  
■ 37 Other States Average

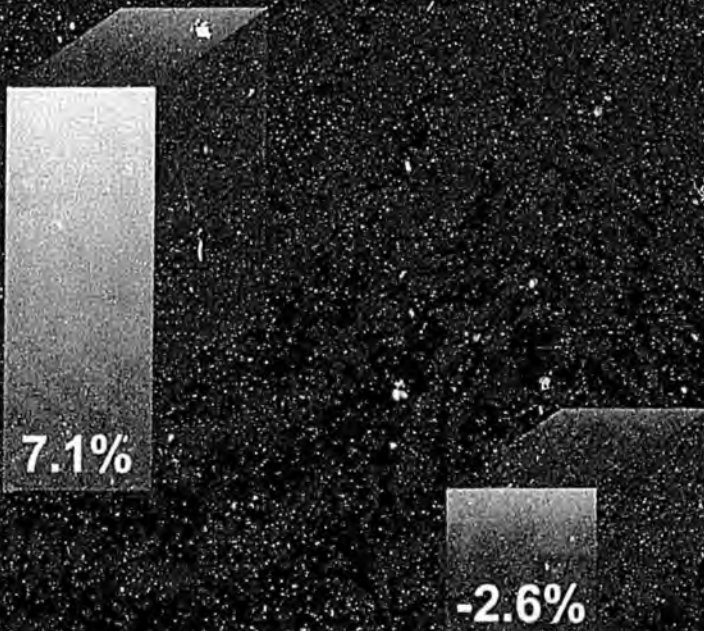
2

# Percent Change In Projected Enrollment 2002-2011



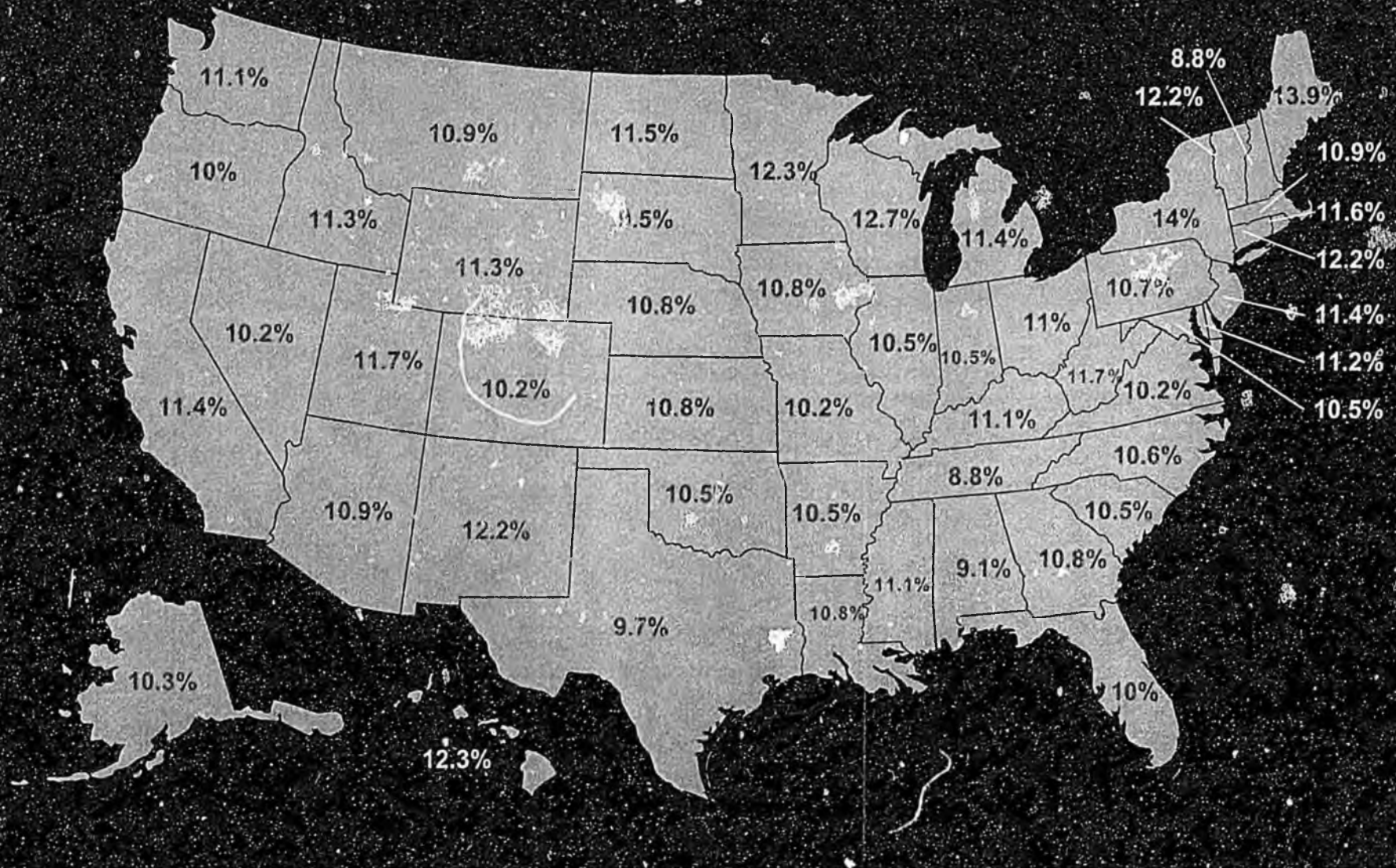
Source: U.S. Department of Education, National Center for Education Statistics

# Percent Change In Projected Enrollment 2002-2011



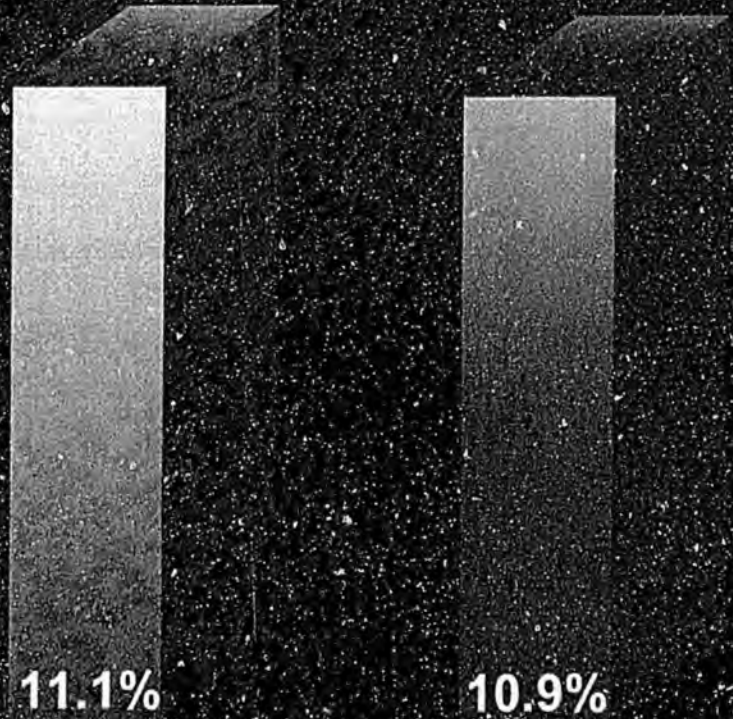
■ 13 Western States Average  
■ 37 Other States Average

# State and Local Taxes As A Percent of Personal Income 1998-99



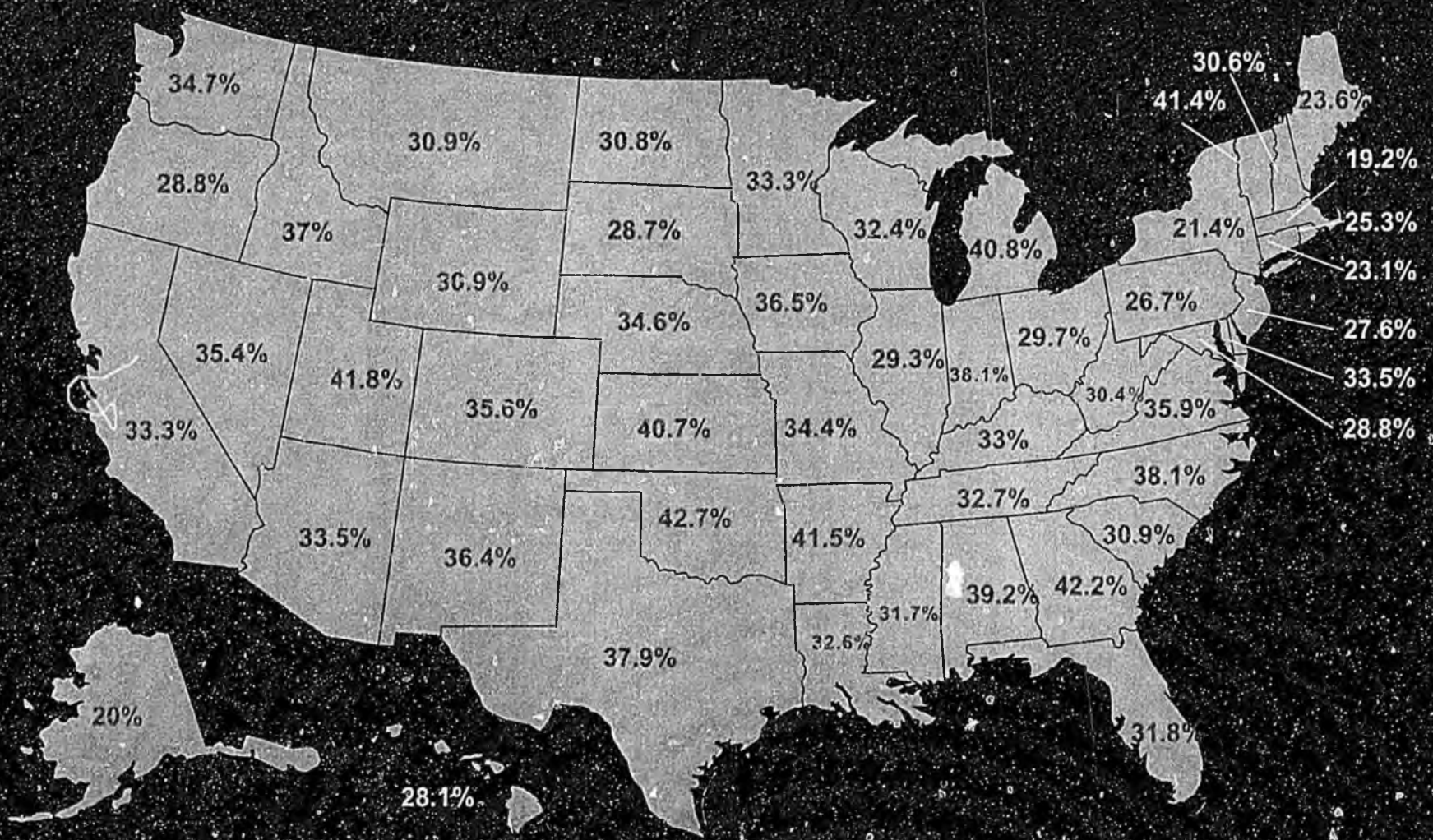
Source: U.S. Bureau of the Census

# State and Local Taxes As A Percent of Personal Income 1998-99



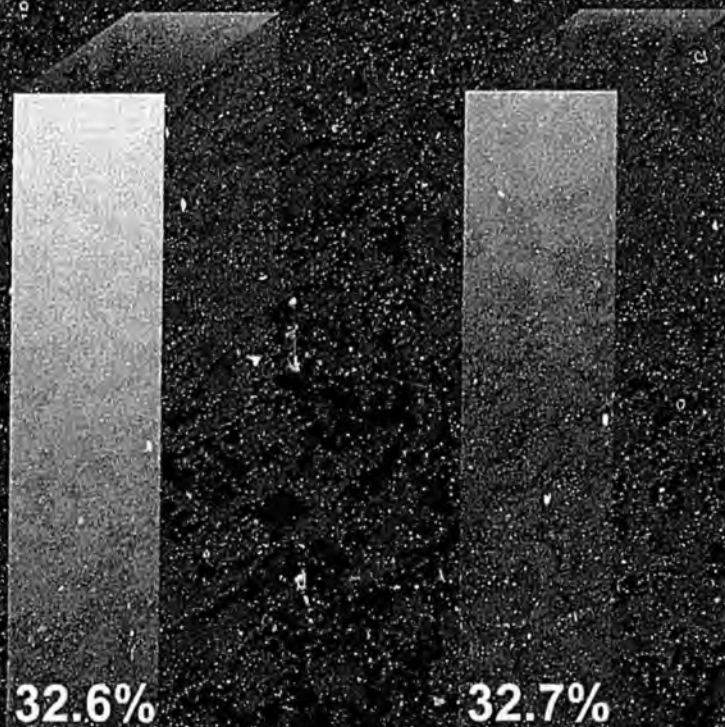
13 Western States Average  
37 Other States Average

# Percent of State Budget Allocated To Public Education



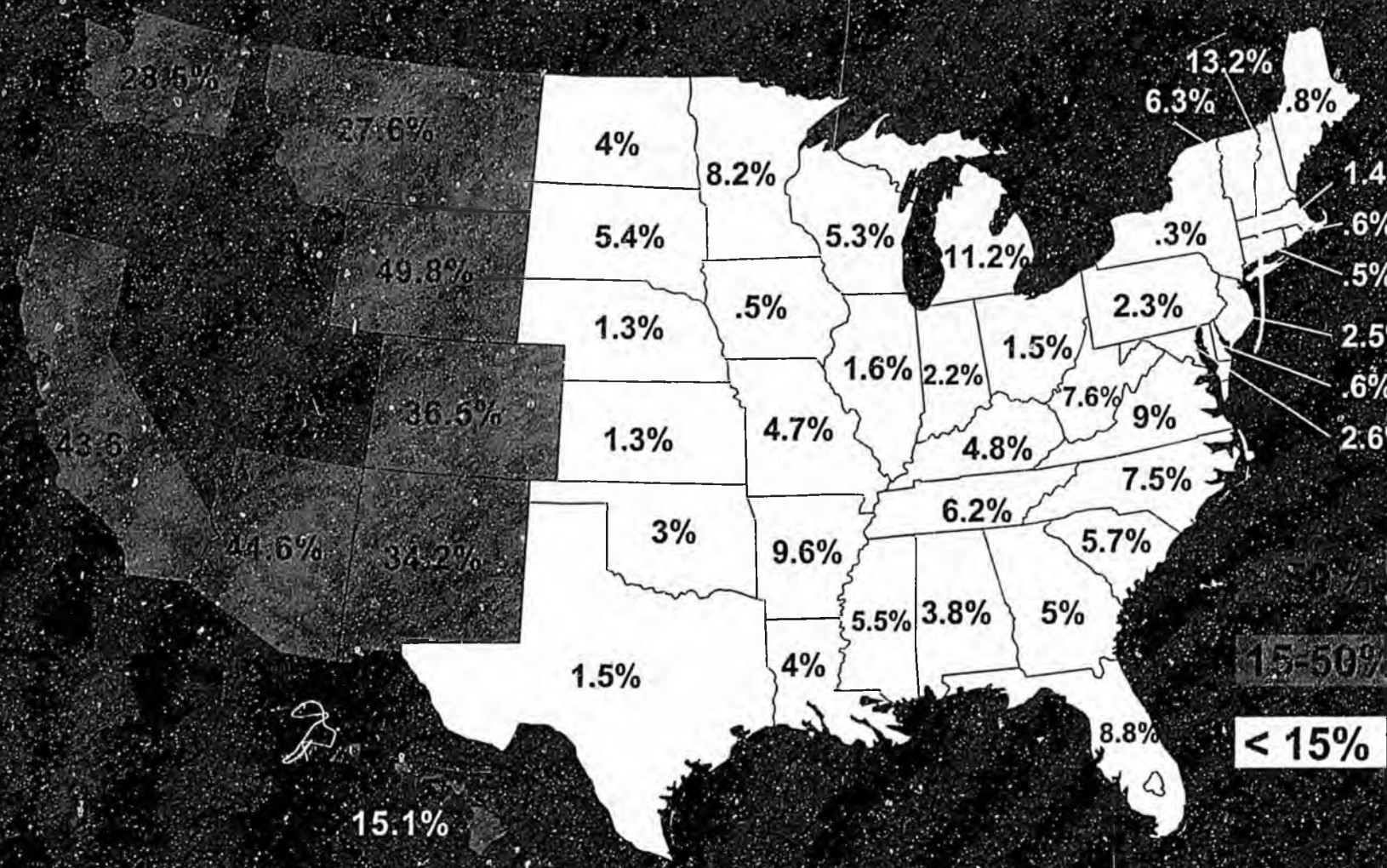
Source: Census Bureau - State Government Finance 2000

# Percent of State Budget Allocated To Public Education



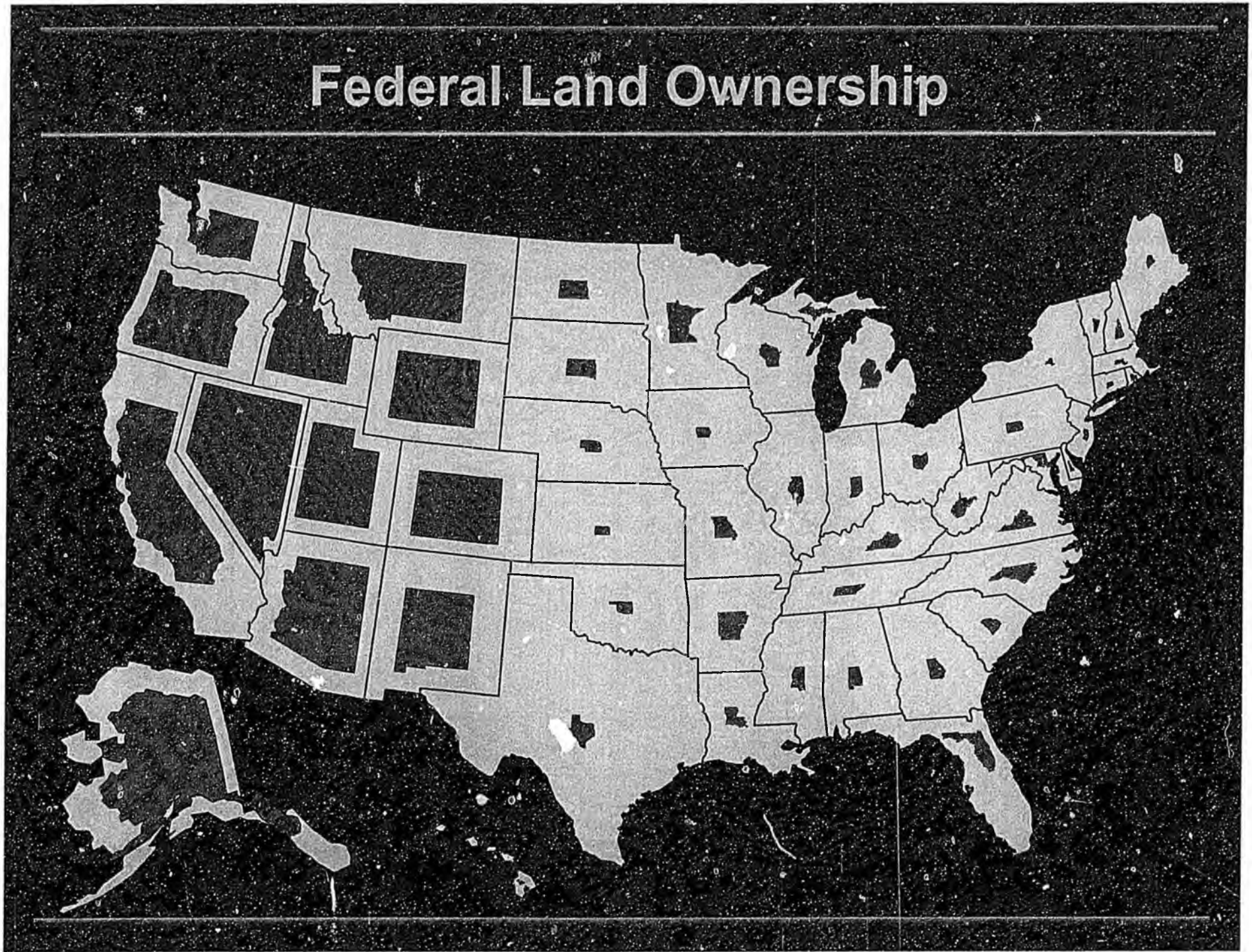
■ 13 Western States Average  
■ 37 Other States Average

# The Problem: High Percent of Federal Land Ownership In The West

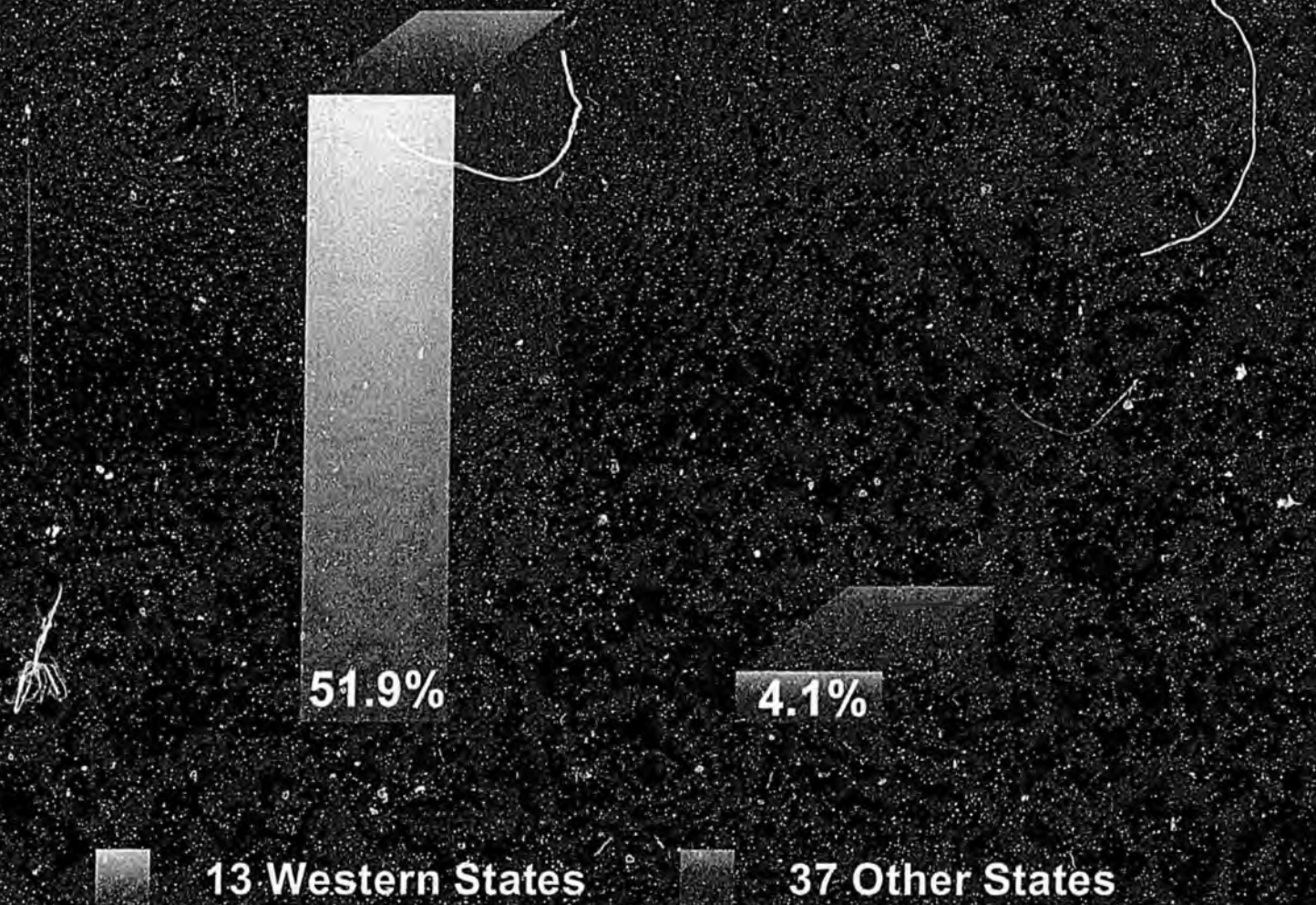


Source: U.S. Dept. of the Interior, Bureau of Land Management. Public Land Statistics

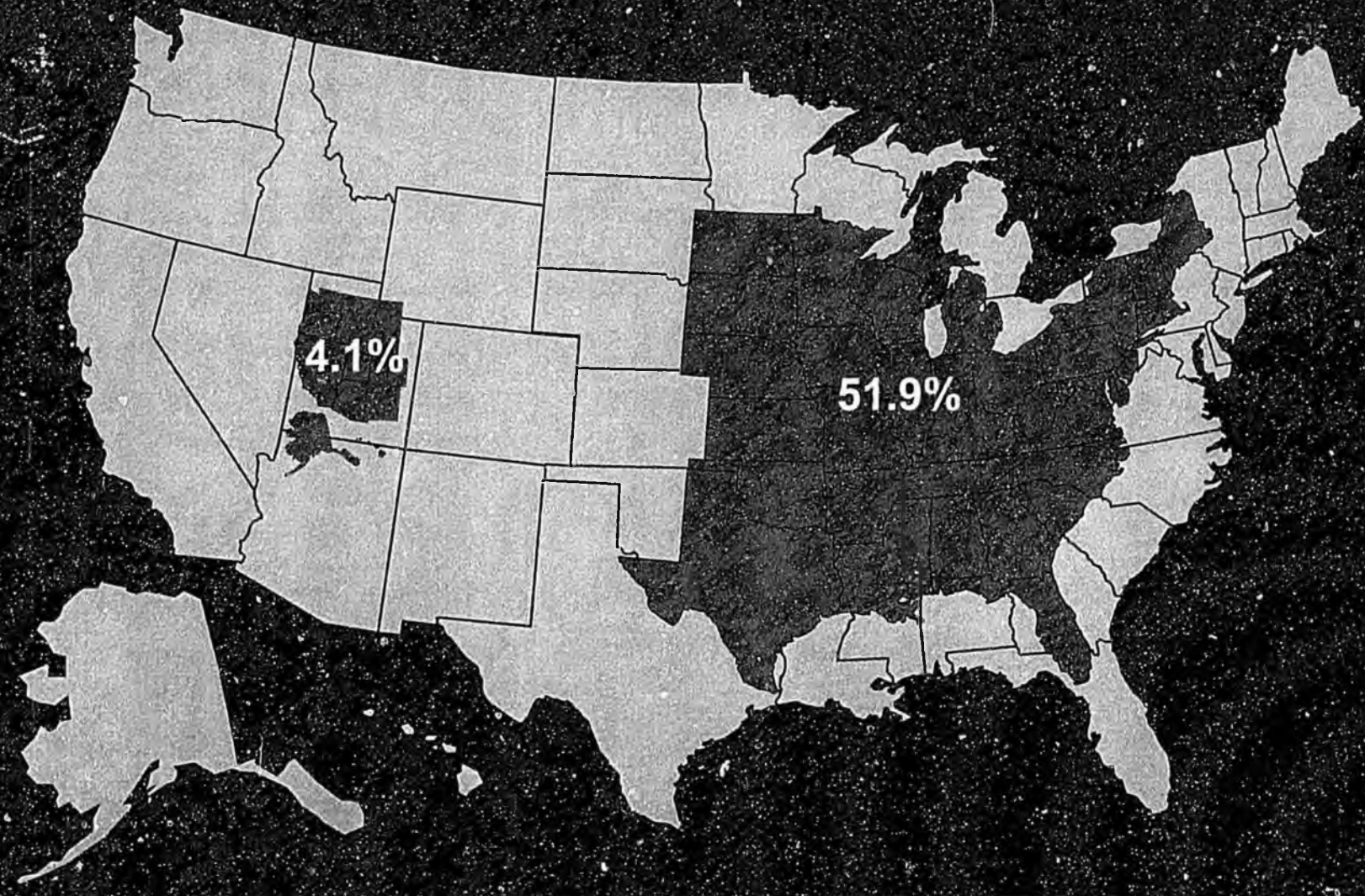
# Federal Land Ownership



# Percent Of Federal Land Ownership



# Percent Of Federal Land Ownership - Reversed



SJR

33

# Alaska State Legislature

Session:  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592



Interim:  
716 W 4<sup>th</sup> Avenue, Suite 300  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

**Representative Lesil McGuire**  
Chair, Judiciary Committee

## MEMORANDUM

To: Rep. Bruce Weyhrauch, Chair – House State Affairs Committee

Cc:

From: Rep. Lesil McGuire, Chair – House Judiciary Committee

Date: May 5, 2004

Re: State Affairs Committee waiver for SJR 33 - *Urging our United States Senators to work to allow a timely vote on the floor on all judicial nominations.*

I would appreciate it if you would consider waiving SJR 33, sponsored by Sen. Seekins, from your committee in order to move it to the House Judiciary Committee for our consideration. I am requesting this as a professional courtesy.

Sen. Seekins has been very cooperative to me on a number of matters during the session, and I would like to extend him the same deference he has shown me throughout the 23<sup>rd</sup> Alaska State Legislature.

It is for this reason that I respectfully request the members of the House State Affairs Committee waive SJR 33 for immediate referral to the House Judiciary Committee.

Thank you.

\*\*\*\*\*

WAIVER  
SJR 33

Rep. Bruce Weyhrauch, Chair

Rep. Jim Holm, Vice-Chair

Rep. John Coghill

Rep. Bob Lynn

Rep. Paul Seaton

Rep. Ethan Berkowitz

Rep. Max Gruenberg

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSJR 33(STA)  
 (S) Publish Date: 5/1/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: None  
 Title Congressional Vote on Judicial Nomin BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Senator Seekins  
 Requester Senate State Affairs Committee Component No. \_\_\_\_\_

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

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

Prepared by: Senate State Affairs Committee Phone 465-4522  
 Division \_\_\_\_\_ Date/Time 4/26/04 9:13 AM  
 Approved by: Senator Gary Stevens, Chair Date 4/26/2004  
 Agency \_\_\_\_\_