



# KETCHIKAN GATEWAY BOROUGH

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Office of the Borough Manager



## Written Testimony before the House Judiciary Committee in Support of HB 245, Repealing the Required Local Contribution to School Funding

Dan Bockhorst, Borough Manager, Ketchikan Gateway Borough

February 24, 2014

### PART I – DETERMINING “BASIC NEED”

#### A. “Basic Need” Formula is Complex, but Fair and Rational

Comprised of 7 pages, Alaska’s Basic Need formula is complicated. However, it has been carefully crafted and is logical. It has served well for the past 16 years, with improvements over time in some areas such as the implementation of new district cost factors beginning in FY 2009 and periodic increases to the base student allocation.

Last year, Allan C. Lewis, Chief Administrative Law Judge for the U.S. Department of Education, noted that Alaska’s formula “in a state so large and diverse” reflects “the disparate cost of education across the state so that the resulting figure represents the cost of educating one student (in aggregate) in each district, irrespective of the cost factors facing that district.”<sup>1</sup>

Alaska Superior Court Judge Sharon Gleason has held that, “the current formula was carefully considered and represents a rational approach to educational funding.”<sup>2</sup>

Basic Need takes into consideration seven components for each district: (1) student enrollment (“average daily membership”); (2) school size adjustment to reflect economies of scale; (3) district cost factor to adjust for higher operating costs relative to Anchorage; (4) funding for special education, gifted and talented education, vocational education, and bilingual education services; (5) vocational and technical instruction; (6) correspondence students; and (7) funding for special education students who receive intensive services.

To illustrate, the projected FY 2014 Basic Need for the Ketchikan Gateway Borough School District is depicted in Figure 1.

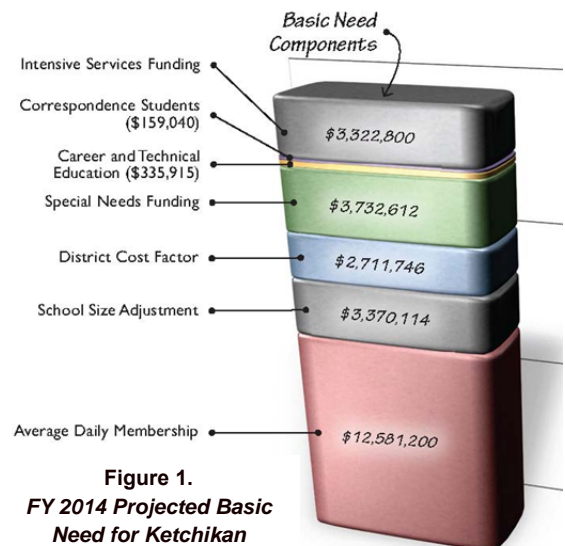


Figure 1. FY 2014 Projected Basic Need for Ketchikan (\$26,213,427)

#### B. Basic Need Formula Provides Equal Treatment and Equal Opportunities for All Districts

The Alaska Department of Education and Early Development emphasizes that “all districts are considered equal at basic need.”<sup>3</sup> That is, Basic Need equalizes expenditures for free public education among all school districts in Alaska, a critical standard in terms of Federal Impact Aid (see Part II-C below).

<sup>1</sup> Docket No. 11-61-I, Federal Impact Aid Proceeding, page 10 (January 2013).

<sup>2</sup> Moore, et al. v. State of Alaska, 3AN-04-9756 CI, page 182 (June 21, 2007).

Basic Need ranges from as little as \$5,241 per student in one district to as much as \$48,449 per student in another district. That disparate per-student funding is a function of the enormous diversity recognized last year by Judge Allan C. Lewis with regard to Alaska's 53 school districts encompassing 665,384 square miles.

The scope of diversity is reflected, for example, in numbers of students served. One district educates only 15 students, while Alaska's most populous district serves nearly 50,000 students. Clearly, the economies of scale in providing educational services in those two districts are significantly different. Moreover, district cost factors range from a low of 1.000 to 2.116, reflecting the fact that the cost of delivering educational services in some remote districts is more than twice that of other districts. Diversity is also reflected in geographic size: a number of districts are tiny – less than 1 square mile – while Alaska's largest district encompasses 94,796 square miles, an area larger than 40 of the 50 states in our nation.

### C. Basic Need Formula Represents Adequate Funding for Schools

The University of Alaska, Institute of Social and Economic Research, describes Basic Need as “. . . the dollar amount which the state determines is sufficient to provide the Alaska schoolchild with acceptable educational services wherever he or she lives.”<sup>4</sup>

The Alaska Department of Education and Early Development states that Basic Need “provides all districts with needed resources based on the various formula adjustments.”<sup>5</sup>

Superior Court Judge Sharon Gleason concluded in 2007 that “The State has proven by a preponderance of the evidence that it is adequately funding education for school children within the State of Alaska.”<sup>6</sup>

## PART II – FUNDING OF BASIC NEED

### A. Formula for Funding Basic Need is Simple, but Unfair

AS 14.17.410(b)(1) provides that “state aid equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year.”

Because of the Required Local Contribution component, the formula for funding Basic Need is unfair. Information in support of that contention is provided in Part II-B and elsewhere in this written testimony.

Figure 2. Basic Need Funding Formula



**State Basic Need Funding Formula**  
*Required Local Contribution*  
*Plus: 90% Federal Impact Aid*  
*Plus: State Aid*  

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*Equals: Basic Need*

<sup>3</sup> *Alaska's Public School Funding Formula: A Report to the Alaska State Legislature*, (January 15, 2001)

<sup>4</sup> *"Alaska" in Public School Finance Programs for the United States and Canada: 1998-99* (February 2001)

<sup>5</sup> *Alaska's Public School Funding Formula: A Report to the Alaska State Legislature*, (January 15, 2001)

<sup>6</sup> *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, page 141 (June 21, 2007).

**B. The Required Local “Contribution” is Applied to only 34 of 53 School Districts in Alaska – Less than Two of Every Three – Thus Significantly Diminishing Equal Rights and Opportunities, as well as Corresponding Obligations, of those in Municipal Districts**

Alaska’s 19 organized boroughs, 3 home-rule cities in the unorganized borough, and 12 first-class cities in the unorganized borough are required by State law to operate school districts. Additionally, the State has established 19 State educational service areas, called regional educational attendance areas (REAAs), to provide education services in the remainder of the state.

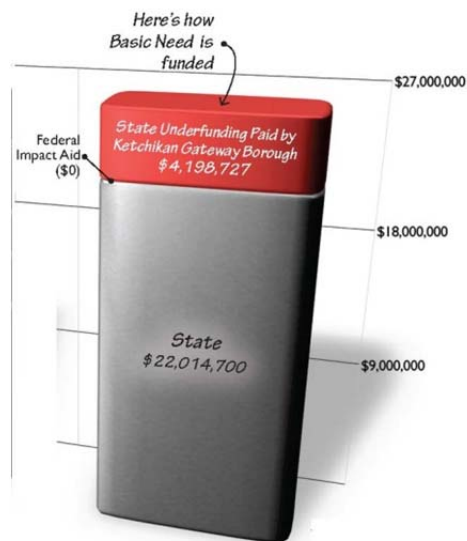


Figure 3. FY 2014 Basic Need Funding for the Ketchikan Gateway Borough

The 34 boroughs and cities that operate schools are also required by State law to pay a so-called “contribution” to fund a portion of Basic Need for their respective districts. The 19 REAAs are exempt from any such Required Local Contribution.

The Required Local Contribution is the equivalent of a 2.65 mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, not to exceed 45 percent of a district's basic need for the preceding fiscal year.

In the current fiscal year, the 34 boroughs and cities will be forced to contribute \$221,558,397 toward Basic Need for their districts. That represents an average of 19.3 percent of the Basic Need for those districts. Exhibit A included with this written testimony shows the FY 2014 Required Local Contribution of each school district in Alaska.

**C. Federal Impact Aid Treatment is Guided by Federal Law**

Federal Impact Aid is intended to assist local school districts that have lost property tax revenue due to tax-exempt Federal property, or that have incurred increased costs due to the enrollment of federally connected students. The U.S. Department of Education describes the program as follows:

Many local school districts across the United States include within their boundaries parcels of land that are owned by the Federal Government or that have been removed from the local tax rolls by the Federal Government, including Indian lands. These school districts face special challenges — they must provide a quality education to the children living on the Indian and other Federal lands and meet the requirements of the No Child Left Behind Act, while sometimes operating with less local revenue than is available to other school districts, because the Federal property is exempt from local property taxes.

Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program. Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt Federal property, or that have

experienced increased expenditures due to the enrollment of federally connected children, including children living on Indian lands.<sup>7</sup>

However, if a state holds school districts harmless from lost property tax revenue and increased costs due to enrollment of federally connected students, that state is permitted to consider Federal Impact Aid in providing state aid to those districts. Specifically, federal law states:

A State may reduce State aid to a local educational agency that receives [Federal Impact Aid] . . . if the Secretary determines, and certifies . . . that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.<sup>8</sup>

Alaska is one of only three states that meet the federal requirements to utilize Federal Impact Aid to reduce state aid.<sup>9</sup>

Since the Secretary of the U.S. Department of Education certifies that Alaska has a program of State aid that equalizes expenditures for free public education among local school districts, the State of Alaska is allowed to deduct “eligible federal impact aid”<sup>10</sup>

funding in proportion to the share that a district’s Required Local Contribution is of the total local tax revenues for that district. In cases where there are no local tax revenues for current expenditures and the State provides all revenues on behalf of a district – as is the case for all REAAs – the State may consider up to 100 percent of the eligible federal impact aid in allocating State aid to that district. Determinations of proportionality must be made on a case-by-case basis for each district.

***Alaska is one of only three states that meet the federal requirements to utilize Federal Impact Aid to reduce state aid.***

Specifically, 34 CFR 222.163 states as follows:

§ 222.163 What proportion of Impact Aid funds may a State take into consideration upon certification?

(a) Provision of law. Section 8009(d)(1)(B) provides that, upon certification by the Secretary, in allocating State aid a State may consider as local resources funds received under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81-874 only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues. Determinations of proportionality must be

<sup>7</sup> U.S. Department of Education, Office of Elementary and Secondary Education, *About Impact Aid – Overview* (<<http://www2.ed.gov/about/offices/list/oese/impactaid/whatisia.html>>)

<sup>8</sup> Title VIII of the Elementary and Secondary Education Act of 1965, as amended through January 29, 2013, SEC. 8001. [20 U.S.C. 7701]

<sup>9</sup> *Impact Aid*, National Association of Federally Impacted Schools, page 6 (March 13, 2013) (<<https://pta.org/files/PTA%20Impact%20Aid.pdf>>)

<sup>10</sup> AS 14.17.990(5) provides that, " 'eligible federal impact aid' means the amount of federal impact aid received by a district as of March 1 of the fiscal year as a result of an application submitted in the preceding fiscal year, including advance payments and adjustments received since March 1 of the preceding fiscal year from prior year applications, under 20 U.S.C. 7701 - 7714, except payments received under former 20 U.S.C. 7703(f)(2)(B), to the extent the state may consider that aid as local resources under federal law."

made on a case-by-case basis for each LEA affected and not on the basis of a general rule to be applied throughout a State. (Authority: 20 U.S.C. 7709)

(b) Computation of proportion.

(1) In computing the share that local tax revenues covered under a State equalization program are of total local tax revenues for an LEA with respect to a program qualifying under § 222.162, the proportion is obtained by dividing the amount of local tax revenues covered under the equalization program by the total local tax revenues attributable to current expenditures for free public education within that LEA.

***In cases where there are no local tax revenues for current expenditures and the State provides all of those revenues on behalf of the [school district], the State may consider up to 100 percent of the funds received under the Act by that [school district] in allocating State aid.***

34 CFR 222.163(b)(2)

(2) In cases where there are no local tax revenues for current expenditures and the State provides all of those revenues on behalf of the LEA, the State may consider up to 100 percent of the funds received under the Act by that LEA in allocating State aid. (Authority: 20 U.S.C. 7709(d)(1)(B))

(c) Application of proportion to Impact Aid payments. Except as provided in § 222.161(a)(1)(ii) and (iii), the proportion established under this section (or a lesser proportion) for any LEA receiving payments under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81-874 may be applied by a State to actual receipts of those payments or payments under Pub. L. 81-874. (Authority: 20 U.S.C. 7709(d)(1)(B))

Projections indicate that 42 of Alaska’s 53 school districts will qualify for \$97,934,221 in Federal Impact Aid in FY 2014.<sup>11</sup> Projected FY 2014 Federal Impact Aid payments for Alaska are summarized in Table 1 below.

Table 1 - FY 2014 Federal Impact Aid Treatment by Type of District					
Type of District	Number of Districts that Qualify	Impact Aid Generated	Local Contributions	Impact Aid that may be Applied Under Federal Law to Basic Need as Determined by Local Contributions	Amount Actually Applied to Basic Need
REAs	18 of 19	\$51,972,108	\$0	\$51,972,108	\$46,774,897
Boroughs	12 of 19	\$43,287,975	\$445,103,406	\$20,496,575	\$18,446,920
Cities	12 of 15	\$2,674,138	\$19,949,031	\$1,266,239	\$1,139,614
Total	42 of 53	\$97,934,221	\$465,052,437	\$73,734,922	\$66,361,431

Details regarding FY 2014 Federal Impact Aid for each district are provided in Exhibit B attached to this written testimony.

<sup>11</sup> FY 2014 Foundation Projections, Alaska Department of Education and Early Development (November 15, 2012). Excluded from that figure is the State-operated boarding school at Mount Edgecumbe, which is not a school district.

**PART III – MATANUSKA-SUSITNA BOROUGH V. STATE, 931 P.2d 391 (ALASKA 1997)**

On February 10, 2014, the Alaska State House Education Committee heard HB 245 for the second time. At that second hearing, testimony was provided by Assistant Attorney General Rebecca Hattan regarding the unsuccessful challenge to the Required Local Contribution made by the Matanuska-Susitna Borough and decided by the Alaska Supreme Court in 1997. Aspects of that testimony and the case are addressed here.

**A. Does the 1997 *Mat-Su* Case have “Significant Weight” on HB 245 Issues; did the Court Find that Required Local Contribution is a “Reasonable Way” to Deal with Lack of Required Contribution in REAAs; and why doesn’t Ketchikan’s Lawsuit Allege Equal Protection Violations?**

Assistant Attorney General Rebecca Hattan testified, in part, as follows on February 10:

I wanted to draw the committee’s attention to a 1997 decision by the Alaska Supreme Court that I think has significant weight on the issues in front of you today. The case is *Mat-Su Borough v. State* and it was an equal protection challenge brought by the Mat-Su Borough as well as a class of individual taxpayers challenging the issue that Representative LeDoux just mentioned.

The allegations brought in that suit were that the disparate treatment of REAAs versus municipal school districts violated the equal protection rights of both the Borough and the individual taxpayers. And I just wanted to draw the Committee’s attention to the result in that case: the State won that case and the decision rendered by the Alaska Supreme Court done in 1997 was that the Required Local Contribution was a reasonable way of dealing with the reality that the REAAs are unable to levy property taxes.

So that sort of equal protection challenge was decided some time ago by our Supreme Court. And just for clarification, I understand the City and Borough of Ketchikan has spoken a lot in public and expressed their displeasure with the *Mat-Su* decision and have expressed their opinion that it is wrongly decided, but I want to clarify that the current, the newly filed lawsuit by the City and Borough of Ketchikan – I’m sorry, not the City, I think they would want me to clarify that, just the Borough of Ketchikan, does not allege that the State has violated anyone’s equal protection rights. That is not the claim made in that lawsuit; I just wanted to make that clear. Thank you. (Emphasis added)

**Comments regarding AAG Hattan’s Testimony:**

*(1) Does Mat-Su have Significant Weight on HB 245 Issues?*

The testimony on February 10 might have given some the impression that HB 245 conflicts with the *Mat-Su* decision or that HB 245 lacks merit because of the *Mat-Su* case. That is not so.

**HB 245 is certainly a viable choice under the *Mat-Su* decision. However, the current system is not viable in view of the prohibition on dedicated taxes and other constitutional issues raised in the Ketchikan Gateway Borough’s pending lawsuit.**

While the Court ruled against the Matanuska-Susitna Borough, Justices Matthews and Rabinowitz stated that “any available remedy must be pursued through majoritarian processes rather than through the courts” – this is precisely what HB 245 seeks to accomplish.

The *Mat-Su* decision neither backs nor goes against HB 245. The Court said that it was up to the legislature to choose an appropriate policy. HB 245 is certainly a viable choice under the *Mat-Su* decision. However, the *current system is not viable in view of the prohibition on dedicated taxes and other constitutional issues* raised in the Ketchikan Gateway Borough’s pending lawsuit.

(2) *Did the Court Find that the Required Local Contribution is a “Reasonable Way” to Deal with Lack of Required Contribution from REAAs?*

Was it accurate to have characterized the *Mat-Su* Court as concluding that “the Required Local Contribution was a reasonable way of dealing with the reality that the REAAs are unable to levy property taxes?” The two justices that dealt with that question – Justices Compton and Eastaugh – actually concluded that while the disparate taxation was permissible, it “may not have been ... most protective of taxing equality.” In other words, it was held to be legal, but may not have been the fairest approach. Specifically, Justices Compton and Eastaugh concluded as follows:

In order to meet its goal of ensuring equitable educational opportunity across the state, the legislature had to find some means of accommodating the fact that REAAs cannot raise taxes on their own. The means it chose may not have been those most protective of taxing equality, but they do bear a substantial relationship to the goals of the legislation. The classifications relied upon meet the minimal requirement that they “rest upon some ground of difference having a fair and substantial relation to the object of the legislation.” (emphasis added)

Moreover, in reaching the conclusion that it was permissible to exempt *some* classes of students, taxpayers, parents, and residents from a Required Local Contribution while imposing that burden on *other* classes of students, taxpayers, parents, and residents, Justices Compton and Eastaugh considered the purpose of the public school

***“The means it chose may not have been those most protective of taxing equality.”***

Compton, Justice, Alaska Supreme Court  
Robert Ladd Eastaugh, Justice, Alaska Supreme Court

foundation program stated in AS 14.17.220. That law declared that the purpose was “to assure an equitable level of educational opportunities for those in attendance in the public schools of the state.” In his exhaustive analysis<sup>12</sup> of the *Mat-Su* case for the Ketchikan Gateway Borough, Robert Hicks noted:

But the question before the court was not whether the statutory section containing a self-serving “stated purpose” of the entire chapter of laws, AS 14.17, was enough to make that entire chapter and everything in it “legitimate.” The question before the court was whether one small subsection, AS 14.17.410(b)(2) was “legitimate.”<sup>13</sup>

<sup>12</sup> *Local Contributions to Public Education in Alaska: A Report to the Ketchikan Gateway Borough Assembly, Volume II: Analyses of the Legal Issues*, Robert Eldridge Hicks, pages 14 - 67 (June 2013).

<sup>13</sup> *Id.*, page 51.

Finally, it is noteworthy that in the year following the *Mat-Su* decision, the legislature repealed the purpose-statement in AS 14.17.220 that was applied by the Supreme Court in determining the legitimacy of the Required Local Contribution. (*Sec. 39 ch 83 SLA 1998*)

*(3) Why Doesn't Ketchikan's Lawsuit Pursue Equal Protection Violation Claims?*

It is correct that the Ketchikan Gateway Borough's pending lawsuit doesn't raise equal protection claims. However, that doesn't mean that the Ketchikan Gateway Borough isn't concerned over equal protection issues relating to the Required Local Contribution. In fact, it would be fair to say that Ketchikan's lawsuit is motivated by equal protection concerns.

There are three fundamental and closely connected reasons why Ketchikan's lawsuit doesn't include equal protection claims. In brief, these are: (1) equal protection claims would require a major effort to distinguish or overturn precedents that would bear on equal protection claims; (2) distinguishing or overturning precedents would add significantly to the cost of litigation; and (3) the three claims pursued by the Borough are compelling by themselves.

In his legal review, Robert Hicks concluded that the *Mat-Su* case is a "weak and vulnerable 'precedent' in the common law."<sup>14</sup> Moreover, Mr. Hicks expressed the view with respect to the *Kenai Peninsula Borough* case (establishing the precedent that municipal governments lack constitutional equal protection rights) that important Alaska constitutional history was overlooked. Mr. Hicks concluded that the constitutional history that should have been considered probably warranted following an entirely different line of earlier decisions by entirely different state courts than those courts cited as authority for the determination in the *Kenai Peninsula Borough* case.

Notwithstanding the potential that the precedents involving equal protection issues relating to the Required Local Contribution might be overturned or distinguished, the effort to do so would add complexity to the case. In preparing its contemporary litigation plan, the Borough recognized that to attempt to distinguish a contemporary lawsuit involving equal protection issues from the *Mat-Su* and *Kenai Peninsula Borough* cases would have added significantly to the cost of the lawsuit. Lastly, the constitutional claims raised by the Borough in its pending litigation – namely that the Required Local Contribution violates: (1) the Anti-Dedication Clause in Article IX, § 7 of our constitution; (2) the appropriation requirement of Article IX, § 13; and (3) the Governor's veto requirement of Article II, § 15 – are compelling arguments.

**B. Does Alaska's Education Funding Scheme Truly Provide Equal Treatment and Equal Opportunities?**

During the testimony by Assistant Attorney General Hattan, House Education Committee Vice-Chair Representative Reinbold, Representative LeDoux, and Representative Peggy Wilson pursued a line of questions whether the current Required Local Contribution is fair and good public policy.

Representative Peggy Wilson noted that there are REAAs that have a tax base but that the State isn't "asking them to do anything about that." She asked whether that exposes the State to claims.

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<sup>14</sup> *Local Contributions to Public Education In Alaska: A Report to the Ketchikan Gateway Borough Assembly – Volume II: Analyses of the Legal Issues*, page 2, by Robert Eldridge Hicks (June 2013) available online at <http://www.kgbak.us/documents/AnalysesofLegalIssuesbyBobHicks-ApprovedforPublicRelease10-21-2013.pdf>.



Vice-Chair Reinbold asked pointedly, “is it truly equal protection when some pay and some don’t?” Representative Reinbold noted that there are many unorganized areas that want to become boroughs, but don’t because they are fearful that the State will take advantage of the situation and require local contributions. She concluded by observing sensibly, “I’m not sure that I understand the equal protection that the court justified when some have to pay and some don’t.”

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***“Is it truly equal protection when some pay and some don’t?”***

Representative Lora Reinbold  
Vice-Chair, House Education Committee

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Representative LeDoux inquired whether the Court in the *Mat-Su* case ever got to the hard demographic data showing that some boroughs were struggling and some unincorporated areas had had a tax base. That led to the following exchange:

Assistant AG Hattan:

Just for perspective although this is a 1997 Supreme Court case, this case was originally filed in 1987 in the superior court. Hearings in the superior court stretched over years, and so this case – Mat-Su’s claims that this was not a rational distinction – between the strict line between REAAs not having a Required Local Contribution, and municipalities and state and city school districts having to contribute – that it wasn’t rational. So the number of years spent – basically in motion practice – provided the Mat-Su Borough with pretty ample opportunity to make those arguments and the Supreme Court was sitting as an appellate court, and so it was in a position where it was - attempting to review what the superior court had had done.

Rep. LeDoux:

Well, the fact that they had ample opportunity to do it doesn’t necessarily mean that they did do it though, does it?

Assistant AG Hattan:

I don’t want to oversell my familiarity with the superior court record in this case, but substantial evidence about the nature and economic viability of various places in the state certainly was explored in that case.

The February 10 testimony to the House Education Committee that the *Mat-Su* case spanned from 1987<sup>15</sup> to 1997, involving “[h]earings in the superior court stretched over years,” along with “years spent . . . in motion practice” and that “substantial evidence about the nature and economic viability of various places in the state certainly was explored in that case” warrant review here.

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<sup>15</sup> The *Mat-Su* case was originally filed in 1986, not 1987.

(1) Were the Mat-Su Proceedings a Decade-Long Grind through the Courts?

It may have been an inadvertent presumption that led to the characterization that the interim between the filing of the Mat-Su challenge in 1986 and the rendering of the Supreme Court decision in the case in 1997 involved extensive motion practice and lengthy court deliberations.

The following characterizes the Ketchikan Gateway Borough Manager's understanding of the genesis of the *Mat-Su* case, and the manner in which it was conducted.

Between 1970 and 1985, the population of the Matanuska-Susitna Borough increased nearly six fold, growing from 6,509 residents in 1970 to 37,670 fifteen years later. That significant growth outpaced sources of funding for school construction and operations in the Matanuska-Susitna Borough.

The Superintendent of the Matanuska-Susitna Borough School District hired a consultant to compile data to examine whether there were dramatic disparities in available funding per student between municipal school districts and REAAs.

After filing its legal challenge in 1986, the Mat-Su case languished for years. In the early 1990s, the superior court was on the verge of dismissing the case for want of prosecution. At that point, the Matanuska-Susitna Borough retained private legal counsel to pursue resolution of those issues in the case that could be determined on summary judgment.

By that time, the data that the District's expert had compiled were determined to be either stale, irrelevant, or both. The District chose not to invest in additional expert support for the case.

Thus, rather than some exhaustive, decade-long effort by the Matanuska-Susitna Borough on a ground-breaking case with statewide impact, the plaintiffs' efforts were constrained by a tight legal-services budget. The Matanuska-Susitna Borough was 'going-it-alone' on the case.

The plaintiffs chose the cost-saving strategy of attacking the statute on its face. The argument was that

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***No data were provided by the plaintiffs to break the stereotype that REAAs are highly distinguishable from cash economies and property-tax bases in borough and city school districts.***

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inequities rising to levels of unequal protection are self-evident in the language of the statute itself.

No data were provided by the plaintiffs to break the stereotype that REAAs are highly distinguishable from cash economies and property-tax bases

in borough and city school districts. That stereotype, replete with sympathy for the inability of REAAs to contribute to funding public education and to the reasonableness of the categorization, has been extinguished in the two-volume work by Mr. Hicks.

(2) Did the Courts Explore Substantial Evidence About the Nature and Economic Viability of Various Places in the State?

In his meticulous review of the *Mat-Su* case, Robert Hicks addressed this point on page 110 of his Volume II work as follows:

The plaintiffs in that case brought forth no evidence of a denial of educational opportunities, and only paltry evidence of alleged harm to taxpayers. They offered no factual evidence of disparities among school districts, such as one finds in Volume I of this Report. They failed to challenge highly incorrect statements of “fact” by experts for the defending State of Alaska.

**PART IV - THE PROMISE THAT BOROUGHES SHALL NOT BE DEPRIVED OF STATE SERVICES, REVENUES, OR ASSISTANCE; AND THAT BOROUGHES SHALL NOT BE OTHERWISE PENALIZED BECAUSE OF INCORPORATION**

Chapter 52, SLA 1963 (the “1963 Mandatory Borough Act”) forced the incorporation of organized boroughs in Ketchikan, Fairbanks, Anchorage, Kenai Peninsula, Mat-Su, Sitka, Kodiak, and Juneau.

Consistent with the intent of the drafters of Alaska’s Constitution to make borough government appealing to Alaskans, the 1963 Mandatory Borough Act, passed by the Legislature and signed into law by then-Governor William Egan, declared that the State intended that boroughs would not suffer reduced State funding and that they would not otherwise be penalized. Specifically, Section 1 of the 1963 Act states as follows (emphasis added):

**Declaration of Intent.** It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation. With the exception of planning and zoning, education, and tax collection and assessment, all powers granted the first-class boroughs are exercised at the option of the borough assemblies.

It is undeniable that the Required Local Contribution has deprived boroughs of State aid for education (AS 14.17.400). State aid for education paid to each borough school district is reduced by a Required Local Contribution.<sup>16</sup> In contrast, State aid for education paid to each REAA is not reduced by a Required Local Contribution. Thus, compared to REAAs, boroughs are severely deprived of State services, revenues, or assistance or are otherwise penalized because of incorporation.

The Ketchikan Gateway Borough was the first borough formed under the 1963 Mandatory Borough Act. Residents of Ketchikan and the other seven regions in Alaska incorporated under the 1963 Mandatory Borough Act had every right and every reason to expect that the State would fulfill its intent that boroughs

<sup>16</sup> State education aid for home-rule and first-class cities in the unorganized borough is also reduced by a Required Local Contribution.

would not be penalized because of incorporation. Fifty-one years following its enactment, Chapter 52, SLA 1963 remains part of the uncodified law of the State of Alaska.

## **PART V - THE REQUIRED LOCAL CONTRIBUTION CAUSES THE STATE TO SIDESTEP ITS CONSTITUTIONAL DUTY TO MAINTAIN A SYSTEM OF PUBLIC SCHOOLS WHEN IT COMES TO MUNICIPAL SCHOOL DISTRICTS**

This position is based on the following progression of facts:

- (a) The State of Alaska has the constitutional duty to “maintain a system of public schools.”<sup>17</sup>
- (b) The State’s duty to maintain a system of public schools is exclusive; the Alaska Supreme Court has repeatedly held that “no other unit of government shares responsibility.” The Alaska Supreme Court has expressed that conclusion in four cases over the span of 30 years.<sup>18</sup>
- (c) Judge Sharon Gleason has held that the State’s duty to maintain a system of schools includes the obligation to adequately fund that system of schools.<sup>19</sup>
- (d) Adequate funding of schools is represented by “Basic Need” determined under AS 14.17.410.<sup>20</sup>

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<sup>17</sup> Art. VII, § 1, Alaska Constitution.

<sup>18</sup> *Macauley v. Hildebrand*, 491 P.2d 120, Alaska, November 30, 1971 (NO. 1550); *Hootch v. Alaska State-Operated School System*, 536 P.2d 793, Alaska, May 23, 1975 (NO. 2157); *Matanuska-Susitna Borough School Dist. v. State*, 931 P.2d 391, 116 Ed. Law Rep. 401, Alaska, January 31, 1997 (NO. S-5513); and *Municipality of Anchorage v. Repasky*, 34 P.3d 302, 158 Ed. Law Rep. 822, Alaska, October 26, 2001 (NO. S-8985).

The paramount authority of the State regarding education does not preclude the delegation of certain educational functions to local school boards in order that Alaska schools might be adapted to meet the varying conditions of different localities. Removal of the required local contribution does nothing to diminish local control. In some cases, the school boards of the 19 REAAs that make no local contribution have stronger local control than municipal school boards.

Moreover, repeal of the required local contribution would not preclude supplemental funding for schools by municipal governments. In fact, as noted in Part VI, elimination of the required local contribution would better enable municipal governments to provide supplemental funding.

<sup>19</sup> Superior Court Judge Sharon Gleason ruled that the State’s constitutional obligation to maintain a system of schools includes the duty to adequately fund schools. *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, (June 2007), p. 174.

<sup>20</sup> As noted in Part I, the Alaska Department of Education and Early Development states that Basic Need “provides all districts with needed resources based on the various formula adjustments” and that Basic Need is a measure at which “all districts are considered equal.” *Alaska’s Public School Funding Formula: A Report to the Alaska State Legislature*, DEED, p. 8, January 15, 2001, Tab 2-Comparison of Old to New Funding Formula, p. 8.

The University of Alaska, Institute of Social and Economic Research, states that “Basic educational need is essentially the dollar amount which the state determines is sufficient to provide the Alaska schoolchild with acceptable educational services wherever he or she lives.” *Public School Finance Programs for the United States and Canada: 1998-99*, page 8 (February 2001).

Alaska State Senator Mike Dunleavy, who can reasonably be characterized as an expert in education in Alaska, succinctly characterized Basic Need as “the revenue needed by districts to provide a basic education.” *Funding Alaska Public Schools – A Brief Explanation of the Foundation Formula*, page 7 (August 20, 2013). Senator Dunleavy holds a Master’s Degree in Education from the University of Alaska Fairbanks. He began a teaching career in 1984 in the Bering Strait School District, later moving to the Northwest Arctic Borough School District where he was ultimately appointed as the Superintendent. He later served as President of the Matanuska-Susitna Borough School Board. He was elected to the Alaska State Senate in 2013. He currently serves as the Chair of the Senate Finance subcommittees for Education & Early Development. He also serves as Vice Chair for the Senate Education Committee. He was appointed to the Alaska Commission on Postsecondary Education by the Senate President in February 2013.

In her June 21, 2007 decision in *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, Judge Sharon Gleason described the State foundation funding formula used to determine Basic Need and then concluded that Basic Need satisfied the requirement for adequate funding (unlike the arguments here, the *Moore* case did not distinguish the Required Local Contribution from among the components of Basic Need funding). Specifically, Judge Gleason stated that “[t]he Legislature currently allocates operational funding to districts through a formula that contains ‘adjustments’ based on legislatively-selected factors, including school size, district cost

- (e) The State of Alaska deducts from education funding paid to municipal districts Required Local Contributions equal to, on average, nearly 20 percent of Basic Need.<sup>21</sup>

Given (a), (b), (c), (d), and (e) above, it follows that the State does not provide adequate funding for municipal schools; but instead provides, on average, only about 80 percent of adequate funding (Basic Need).

Since, as noted both in Part I-C and here, that Basic Need equals adequate funding, it is indisputable that students, taxpayers, and residents in municipal districts are, deprived, on average, of approximately 20 percent of adequate State funding for schools.

***Students, taxpayers, and residents in municipal districts are, deprived, on average, of approximately 20 percent of adequate State funding for schools.***

## **PART VI – THE REQUIRED LOCAL CONTRIBUTION DIMINISHES THE ABILITY OF MUNICIPAL GOVERNMENTS TO PROVIDE SUPPLEMENTAL FUNDING FOR SCHOOLS**

Municipal governments that operate school districts are allowed, within limits, to supplement Basic Need funding.<sup>22</sup> However, because of competing demands for scarce funds, many municipal governments that operate schools have difficulty funding “to the cap.” Exhibit A, referred to under Part II-B of this written testimony, lists FY 2014 supplemental funding provided by municipal governments to their school districts (in addition to listing the Required Local Contribution of school districts).

The Ketchikan Gateway Borough is allowed to provide \$6,029,088 in supplemental funding this year. However, after balancing the need to fund other essential services and considering the fiscal capacity of local taxpayers, the Assembly appropriated \$3,851,273 in supplemental funding for its district this year. That figure represents 63.88% of the maximum funding allowed by law.<sup>23</sup>

The competing needs include requirements for funding other aspects of schools beyond operational costs that are imposed on local governments. For example, in addition to the \$4,198,727 Required Local Contribution, the Ketchikan Gateway Borough Assembly has committed to add \$3,851,273 in supplemental

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factors, special needs, intensive instruction, and correspondence instruction. The evidence presented indicated that the current formula was carefully considered and represents a rational approach to educational funding.” (p. 182). Judge Gleason then concluded that the “constitutional obligation to adequately fund education” was met (p. 186).

<sup>21</sup> AS 14.17.410(b)(2)

<sup>22</sup> Under AS 14.17.410(c), the supplemental funding may not exceed the greater of: (1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; or (2) 23 percent of the district’s basic need.

<sup>23</sup> Some have argued against elimination of the Required Local Contribution on the basis that local communities should have “skin in the game” with regard to education. As reflected in the paragraph above, the Ketchikan Gateway Borough would continue to have a great deal of skin in the game if the Required Local Contribution were eliminated. Elimination of the Required Local Contribution would not preclude the payment of supplemental funding for schools under AS 14.17.410(c) by municipal governments. Based on the current budget, the Ketchikan Gateway Borough would continue to pay \$8,774,477 for its schools (\$12,973,204 less the Required Local Contribution of \$4,198,727). Elimination of the Required Local Contribution would provide the Ketchikan Gateway Borough with greater fiscal capacity to provide supplemental funding. Presently, the Ketchikan Gateway Borough has the legal capacity to provide an additional \$2,177,815 in supplemental funding for its School District, but not the wherewithal to do so given other fiscal pressures, community needs and commitments.

It is also noteworthy that those who advance the argument for “skin in the game” have been silent on that point for the past 4 decades with respect to the 19 districts that escape any required local contribution.

contributions for school operations in FY 2014. Further, our Borough will pay a local share of debt service for schools amounting to \$1,446,981 this year. As well, the Borough projects that it will fund \$3,476,223 for major maintenance and capital improvements for its schools in FY 2014.<sup>24</sup> These figures total \$12,973,204.

Additionally, funding for school operations, debt service, capital projects, and major maintenance must compete with other local needs. For example, in addition to local schools, the Ketchikan Gateway Borough operates the following services and facilities:

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| 1. Ketchikan International Airport | 12. Docks                         |
| 2. Fire Protection                 | 13. Bus System                    |
| 3. Road Maintenance                | 14. Solid Waste                   |
| 4. Libraries                       | 15. Platting                      |
| 5. Wastewater                      | 16. Tax Assessment and Collection |
| 6. Planning                        | 17. Public Works                  |
| 7. Land Use Regulation             | 18. Animal Protection             |
| 8. Parks and Recreation            | 19. Regulation of Alcohol         |
| 9. Economic Development            | 20. Aquatic Center                |
| 10. Ferry System                   | 21. Recreation Center             |
| 11. Emergency Medical Services     |                                   |

In the fiscal year just completed, the Ketchikan Gateway Borough levied and collected \$17,608,528 in areawide taxes and payments in lieu of taxes.<sup>25</sup> That figure represents a local areawide tax effort on the part of the Ketchikan Gateway Borough equivalent to 13.9 mills based on the FY 2013 areawide assessed value of \$1,269,523,500.

Borough residents who live and/or shop within the boundaries of the City of Ketchikan also pay property and/or sales taxes levied by the City of Ketchikan. The City of Ketchikan collected an estimated \$17,310,628 in local taxes and payments in lieu of taxes in 2013.<sup>26</sup> That is a burden from City taxes equivalent to 21.7 mills. Thus, residents of the City of Ketchikan bear a burden equivalent to 21.7 mills in City taxes, and a burden equivalent to 13.9 mills of areawide Borough taxes.

Additionally, the Ketchikan Gateway Borough levied nonareawide property taxes (0.7 mills) and service area property taxes ranging as high as 4.8 mills. Thus, the FY 2013 Ketchikan Gateway Borough tax effort was the equivalent of 19.4 mills in some areas of the Ketchikan Gateway Borough outside the boundaries of cities.

## **PART VII – THE REQUIRED LOCAL CONTRIBUTION DENIES EQUAL TREATMENT TO STUDENTS, PARENTS OF STUDENTS, TAXPAYERS, AND OTHERS IN MUNICIPAL SCHOOL DISTRICTS**

The framers of Alaska’s Constitution placed at the fore, among the 206 original sections of the constitution, the guarantee that, “all persons are

***Since 1992 alone, students, parents of students, and taxpayers in the Ketchikan Gateway Borough have been deprived of more than \$100 million through the State’s underfunding of Basic Need.***

<sup>24</sup> Ketchikan Gateway Borough Ordinance No. 1703.

<sup>25</sup> *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2013*, Ketchikan Gateway Borough, page 18 (December 24, 2013).

<sup>26</sup> *Id.*, page B-20.

equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.” (Article I, § 1, Alaska Constitution)

As noted in Part I-B, the Alaska Department of Education and Early Development maintains that “all districts are considered equal at basic need.” (i.e., Basic Need equalizes expenditures for free public education among all school districts in Alaska.) Because of the Required Local “Contribution” levied against the 34 municipal governments that operate schools, which amounts to approximately 20 percent of Basic Need, it is incontestable that students, taxpayers, and residents in municipal districts are, on average, only *four-fifths* equal to those in REAAs when it comes to State funding of Basic Need.

Since 1992 alone, students, parents of students, and taxpayers in the Ketchikan Gateway Borough have been deprived of more than \$100 million through the State’s underfunding of Basic Need. Considered in the context of a district with enrollment hovering around 2,200 students, the figure is truly staggering.

At the same time, students, parents of students, and “taxpayers” in Alaska’s 19 REAAs have suffered no deprivation of funding for Basic Need.

As reflected in the work by Robert Hicks, there is no rational basis for the disparate treatment between municipal governments that are subject to the Required Local Contribution and REAAs that are not. Consider the following comparison:

<b>Table 2 – Comparison of the Delta Greely REAA, which is Exempt from the Required Local Contribution, to the City of St. Mary’s, which is Subject to the Required Local Contribution</b>		
<b>Description</b>	<b>Subject to the Required Local Contribution</b>	<b>Exempt from the Required Local Contribution</b>
District	City of St. Mary’s School District	Delta-Greely REAA
Population (2012)	544	4,870
Number of students (2014)	168	832
Per capita income (2012)	\$18,176 (margin of error: +/- \$4,545)	\$32,177 (margin of error: +/- \$3,282)
Per capita full value of taxable property (2006)	\$8,911 per capita full value of taxable property <sup>27</sup>	\$170,342 estimated per capita full value of taxable property <sup>28</sup>
Location	Located along the Andreafsky River, 5 miles from its confluence with the Yukon River; 450 air miles west-northwest of Anchorage	Bordered by the Fairbanks North Star Borough, Denali Borough, and Matanuska-Susitna Borough. The Alaska Highway and Richardson Highway traverse the REAA.

<sup>27</sup> Alaska Taxable 2006, page 45, Alaska Department of Commerce, Community, and Economic Development (January 2007).

<sup>28</sup> Local Boundary Commission’s Memorandum in Opposition to Appellant’s Supplemental Motion For Preliminary Injunction to Stay the Election of the Deltana Borough, page 9, Office of the Attorney General, State of Alaska (July 26, 2007).

Exhibit C attached to this written testimony shows 2012 per capita income for each of Alaska’s 53 school districts. The data show the following notable results:

- The Aleutians Region REAA ranks as having the highest per capita income in Alaska. *Of the four school districts serving Prince of Wales Island, one REAA and three municipal districts, the REAA has the highest per capita income. In fact, the per capita income of the Southeast Island REAA – which pays no Required Local Contribution -- is nearly 50 percent greater than the City of Hydaburg – which is compelled to make a Required Local Contribution.*
- The per capita annual income of the unorganized Delta-Greely REAA is only \$167 less than the Fairbanks North Star Borough which was incorporated a half century ago by legislative fiat following the rejection of a borough proposal by local voters.
- The per capita income of the unorganized Chatham REAA is \$509 less than that of the mandatorily incorporated Ketchikan Gateway Borough.
- Just under two-thirds of all REAAs have higher per capita incomes compared to the municipal district with the lowest figure.
- Of the four school districts serving Prince of Wales Island (one REAA and three municipal districts) the REAA has the highest per capita income. In fact, the per capita income of the Southeast Island REAA – which pays no Required Local Contribution – is nearly 50 percent greater than the City of Hydaburg – which is compelled to make a Required Local Contribution. Details are reflected in Table 3 below.

<b>Table 3 – Comparison of 2012 Per Capita Income for School Districts Serving Prince of Wales Island</b>			
<b>School District</b>	<b>2012 Per Capita Income</b>	<b>Difference Compared to Southeast Island REAA</b>	<b>Margin of Error</b>
Southeast Island REAA	\$29,030	\$0	+/-3,048
City of Craig	\$28,099	-\$931	+/-3,544
City of Klawock	\$26,978	-\$2,052	+/-3,583
City of Hydaburg	\$19,428	-\$9,602	+/-4,725

In 2007, the State Attorney General’s Office characterized the unorganized Delta-Greely REAA as having fiscal resources that would be the envy of most boroughs (all except the North Slope). At that time, Delta-Greely had an estimated per capita full and true value of \$170,342 – nearly 20 times that of the municipal district with the lowest value at the time.



**PART VIII – THE REQUIRED LOCAL CONTRIBUTION, MORE THAN ANY OTHER ASPECT OF STATE-LOCAL RELATIONS, RENDERS BOROUGH GOVERNMENT APPEALING ON PAPER ALONE**

The Alaska Supreme Court has opined that Alaska’s constitution encourages the creation of organized boroughs.<sup>29</sup>

The framers of Alaska’s Constitution intended that the Alaska legislature and governor would create inducements for the formation of organized boroughs.<sup>30</sup>

However, rather than encouragement and inducements, the State has offered disincentives to borough formation. Former Governor Jay Hammond observed candidly:

Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves for services received from the state, *gratis*?<sup>31</sup>

The greatest disincentive to borough formation is the Required Local Contribution.<sup>32</sup> Instead of reciting the vision of those who wrote Alaska’s Constitution, some officials today speak of the “misery of boroughs.”

**PART IX – THE REQUIRED LOCAL CONTRIBUTION VIOLATES ARTICLE IX, § 7; ARTICLE IX, § 13; AND ARTICLE II, § 15 OF THE CONSTITUTION OF THE STATE OF ALASKA**

On January 13, 2014, the Ketchikan Gateway Borough filed suit against the State of Alaska complaining that the Required Local Contribution violates:

- (1) the Anti-Dedication Clause in Article IX, § 7 of the Alaska Constitution;<sup>33</sup>
- (2) the appropriation requirement of Article IX, § 13 of the Alaska Constitution;<sup>34</sup> and
- (3) the Governor’s veto requirement of Article II, § 15 of the Alaska Constitution.<sup>35</sup>

<sup>29</sup> *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92 (Alaska 1974).

<sup>30</sup> *Alaska’s Constitutional Convention*, Victor Fischer, p. 120 (1975).

<sup>31</sup> *Tales of Alaska’s Bush Rat Governor*, Jay Hammond, page 149 (1996).

<sup>32</sup> *The Need to Reform State Laws Concerning Borough Incorporation and Annexation*, Local Boundary Commission (2001). See also, draft Resolution # 2013-01 online at:

<http://www.commerce.alaska.gov/dnn/Portals/4/pub/DRAFT%20Proposed%20Resolution%20Urging%20Full%20State%20Funding%20of%20Basic%20Need%20for%20All%20School%20Districts.pdf>

<sup>33</sup> The Anti-Dedication Clause states as follows:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

<sup>34</sup> The appropriation requirement of Article IX, § 13 states:

No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

<sup>35</sup> The Governor’s veto requirement of Article II, § 15 provides:

The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return any vetoed bill, with a statement of his objections, to the house of origin.

In brief, the Ketchikan Gateway Borough takes the position that the Required Local Contribution is an unfunded State mandate imposed on the Ketchikan Gateway Borough and its taxpayers. The Required Local Contribution is a mandatory State tax or other State revenue source, or a dedicated fund, which is dedicated to a special purpose and is not subject to appropriation by the Legislature or veto by the Governor. For those reasons, the Required Local Contribution violates Article IX, § 7; Article IX, § 13 and Article II, § 15 of the Alaska Constitution.

A copy of the Ketchikan Gateway Borough's complaint is available online at:

<http://borough.ketchikan.ak.us/documents/KGBLitigation-01-13-2014SummonsandComplaint.pdf>

On February 6, the Ketchikan Gateway Borough filed a motion for summary judgment in the lawsuit. A copy of the Plaintiffs' Motion and Memorandum in Support of Motion for Summary Judgment is available online at:

<http://borough.ketchikan.ak.us/documents/02-06-14MotionandMemoranduminSupportofMotionforSummaryJudgement.pdf>

## CONCLUDING REMARKS

Thank you for the opportunity to provide testimony regarding HB 245. Requests to clarify any aspect of this testimony, or to provide additional information or materials are welcome.

**EXHIBIT A -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH**

**FY 2014 Local Funding of Schools**

**Required Contribution and Supplemental Funding**

Column A	Column B	Column C	Column D	Column E	Column F	Column G
School District	Total Budgeted Local Funding	Required Local Contribution - AS 14.17.410(b)(2)	Budgeted Supplemental Funding - AS 14.17.410(c)	Projected Supplemental Funding Allowed by Law	Additional Supplemental Funding Capacity	Budgeted Supplemental Funding as a Percentage of Maximum Allowed Supplemental Funding
Alaska Gateway REAA	\$0	\$0	\$0			
Aleutian Region REAA	\$0	\$0	\$0			
Aleutians East Borough	\$1,585,000	\$615,516	\$969,484	\$1,366,481	\$396,997	70.95%
Anchorage, Municipality of	\$192,645,942	\$94,828,797	\$97,817,145	\$98,267,774	\$450,629	99.54%
Annette Island REAA	\$0	\$0	\$0			
Bering Strait REAA	\$0	\$0	\$0			
Bristol Bay Borough	\$1,215,631	\$715,872	\$499,759	\$561,347	\$61,588	89.03%
Chatham REAA	\$0	\$0	\$0			
Chugach REAA	\$0	\$0	\$0			
Copper River REAA	\$0	\$0	\$0			
Cordova, City of	\$1,654,764	\$709,139	\$945,625	\$977,475	\$31,850	96.74%
Craig, City of	\$642,949	\$338,704	\$304,245	\$1,226,631	\$922,386	24.80%
Delta/Greely REAA	\$0	\$0	\$0			
Denali Borough	\$2,252,834	\$658,294	\$1,594,540	\$1,594,540	\$0	100.00%
Dillingham, City of	\$1,300,000	\$526,870	\$773,130	\$1,596,591	\$823,461	48.42%
Fairbanks North Star Borough	\$48,360,000	\$26,940,883	\$21,419,117	\$34,838,448	\$13,419,331	61.48%
Galena, City of	\$1,330,885	\$80,489	\$1,250,396	\$4,467,169	\$3,216,773	27.99%
Haines Borough	\$1,556,866	\$907,376	\$649,490	\$924,801	\$275,311	70.23%
Hoonah, City of	\$405,334	\$195,429	\$209,905	\$495,870	\$285,965	42.33%
Hydaburg, City of	\$104,849	\$40,849	\$64,000	\$263,788	\$199,788	24.26%
Iditarod Area REAA	\$0	\$0	\$0			
Juneau, City and Borough of	\$24,134,400	\$12,464,402	\$11,669,998	\$11,743,099	\$73,101	99.38%
Kenai, City of	\$130,780	\$75,414	\$55,366	\$480,964	\$425,598	11.51%
Kashunamiut REAA	\$0	\$0	\$0			
Kenai Peninsula Borough	\$43,500,000	\$22,690,959	\$20,809,041	\$22,526,386	\$1,717,345	92.38%
Ketchikan Gateway Borough	\$8,050,000	\$4,198,727	\$3,851,273	\$6,029,088	\$2,177,815	63.88%
Klawock, City of	\$200,000	\$147,806	\$52,194	\$516,773	\$464,579	10.10%
Kodiak Island Borough	\$10,649,720	\$3,806,666	\$6,843,054	\$6,859,018	\$15,964	99.77%
Kuspuk REAA	\$0	\$0	\$0			
Lake and Peninsula Borough	\$735,594	\$391,926	\$343,668	\$2,173,000	\$1,829,332	15.82%
Lower Kuskokwim REAA	\$0	\$0	\$0			
Lower Yukon REAA	\$0	\$0	\$0			
Matanuska-Susitna Borough	\$51,291,720	\$25,355,209	\$25,936,511	\$37,040,947	\$11,104,436	70.02%
Nenana, City of	\$75,994	\$75,994	\$0	\$1,496,207	\$1,496,207	0.00%
Nome, City of	\$1,873,120	\$834,289	\$1,038,831	\$2,120,627	\$1,081,796	48.99%
North Slope Borough	\$35,375,626	\$12,573,041	\$22,802,585	\$35,734,496	\$12,931,911	63.81%
Northwest Arctic Borough	\$4,342,021	\$2,216,005	\$2,126,016	\$8,560,852	\$6,434,836	24.83%
Pelican, City of	\$51,847	\$39,553	\$12,294	\$93,068	\$80,774	13.21%
Petersburg Borough	\$1,800,000	\$901,121	\$898,879	\$1,531,650	\$632,771	58.69%
Pribilof REAA	\$0	\$0	\$0			
Saint Mary's, City of	\$75,000	\$36,034	\$38,966	\$725,117	\$686,151	5.37%
Sitka, City and Borough of	\$5,093,762	\$3,051,149	\$2,042,613	\$3,780,343	\$1,737,730	54.03%
Skagway, Municipality of	\$1,113,689	\$425,600	\$688,089	\$688,089	\$0	100.00%
Southeast Island REAA	\$0	\$0	\$0			
Southwest Region REAA	\$0	\$0	\$0			
Tanana, City of	\$24,863	\$24,863	\$0	\$272,985	\$272,985	0.00%
Unalaska, City of	\$2,803,342	\$1,462,492	\$1,340,850	\$1,365,266	\$24,416	98.21%
Valdez, City of	\$7,922,673	\$3,576,713	\$4,345,960	\$4,538,784	\$192,824	95.75%
Wrangell, City and Borough of	\$696,799	\$470,852	\$225,947	\$1,022,088	\$796,141	22.11%
Yakutat, City and Borough of	\$298,750	\$181,364	\$117,386	\$376,047	\$258,661	31.22%
Yukon Flats REAA	\$0	\$0	\$0			
Yukon/Koyukuk REAA	\$0	\$0	\$0			
Yupii REAA	\$0	\$0	\$0			
<b>Totals</b>	<b>\$453,294,754</b>	<b>\$221,558,397</b>	<b>\$231,736,357</b>	<b>\$296,255,809</b>	<b>\$64,519,452</b>	<b>78.22%</b>

**EXHIBIT B -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH**  
**Treatment of Federal Impact Aid**

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I
District	Type of District	Eligible Federal Impact Aid	Required Local Contribution AS 14.17.410(b)(2)	Supplemental Local Contribution AS 14.17.410(c)*	Total Local Contribution**	Percent of Impact Aid that May be Used under Federal Law to Offset State Aid	Amount of Impact Aid that May be Used to Offset State Aid	Actual Amount of Impact Aid Used to Offset State Aid (90.0% of Maximum Allowed)
Alaska Gateway	REAA	\$321,942	\$0	\$0	\$0	100.00%	\$321,942	\$289,748
Aleutian Region	REAA	\$24,970	\$0	\$0	\$0	100.00%	\$24,970	\$22,473
Aleutians East	Borough	\$683,016	\$615,516	\$825,636	\$1,441,152	42.71%	\$291,716	\$262,545
Anchorage	Borough	\$17,862,949	\$94,828,797	\$109,985,019	\$204,813,816	46.30%	\$8,270,545	\$7,443,491
Annette Island	REAA	\$1,757,208	\$0	\$0	\$0	100.00%	\$1,757,208	\$1,581,487
Bering Strait	REAA	\$10,547,255	\$0	\$0	\$0	100.00%	\$10,547,255	\$9,492,529
Bristol Bay	Borough	\$128,610	\$715,872	\$593,570	\$1,309,442	54.67%	\$70,311	\$63,280
Chatham	REAA	\$188,617	\$0	\$0	\$0	100.00%	\$188,617	\$169,755
Chugach	REAA	\$44,496	\$0	\$0	\$0	100.00%	\$44,496	\$40,046
Copper River	REAA	\$272,259	\$0	\$0	\$0	100.00%	\$272,259	\$245,033
Cordova	City	\$13,727	\$709,139	\$1,050,075	\$1,759,214	40.31%	\$5,533	\$4,980
Craig	City	\$438,055	\$338,704	\$461,636	\$800,340	42.32%	\$185,385	\$166,847
Delta/Greely	REAA	\$352,420	\$0	\$0	\$0	100.00%	\$352,420	\$317,178
Denali	Borough	\$11,852	\$658,294	\$1,421,624	\$2,079,918	31.65%	\$3,751	\$3,376
Dillingham	City	\$644,443	\$526,870	\$734,490	\$1,261,360	41.77%	\$269,184	\$242,265
Fairbanks	Borough	\$13,001,630	\$26,940,883	\$20,390,254	\$47,331,137	56.92%	\$7,400,528	\$6,660,475
Galena	City	\$15,048	\$80,489	\$1,568,876	\$1,649,365	4.88%	\$734	\$661
Haines	Borough	\$0	\$907,376	\$651,421	\$1,558,797	58.21%	\$0	\$0
Hoonah	City	\$197,387	\$195,429	\$198,820	\$394,249	49.57%	\$97,845	\$88,060
Hydaburg	City	\$283,659	\$40,849	\$185,211	\$226,060	18.07%	\$51,257	\$46,131
Iditarod Area	REAA	\$259,362	\$0	\$0	\$0	100.00%	\$259,362	\$233,426
Juneau	Borough	\$0	\$12,464,402	\$11,232,180	\$23,696,582	52.60%	\$0	\$0
Kake	City	\$326,074	\$75,414	\$181,884	\$257,298	29.31%	\$95,572	\$86,015
Kashunamiut	REAA	\$1,947,522	\$0	\$0	\$0	100.00%	\$1,947,522	\$1,752,770
Kenai Peninsula	Borough	\$0	\$22,690,959	\$21,386,273	\$44,077,232	51.48%	\$0	\$0
Ketchikan Gateway	Borough	\$0	\$4,198,727	\$4,110,648	\$8,309,375	50.53%	\$0	\$0
Klawock	City	\$600,244	\$147,806	\$52,690	\$200,496	73.72%	\$442,500	\$398,250
Kodiak Island	Borough	\$1,877,029	\$3,806,666	\$6,534,725	\$10,341,391	36.81%	\$690,934	\$621,841
Kuspuk	REAA	\$1,679,850	\$0	\$0	\$0	100.00%	\$1,679,850	\$1,511,865
Lake & Peninsula	Borough	\$1,624,255	\$391,926	\$1,046,335	\$1,438,261	27.25%	\$442,610	\$398,349
Lower Kuskokwim	REAA	\$17,137,316	\$0	\$0	\$0	100.00%	\$17,137,316	\$15,423,584
Lower Yukon	REAA	\$9,160,843	\$0	\$0	\$0	100.00%	\$9,160,843	\$8,244,759
Mat-Su	Borough	\$0	\$25,355,209	\$24,595,951	\$49,951,160	50.76%	\$0	\$0
Nenana	City	\$0	\$75,994	\$53,534	\$129,528	58.67%	\$0	\$0
Nome	City	\$30,236	\$834,289	\$1,215,561	\$2,049,850	40.70%	\$12,306	\$11,075
North Slope	Borough	\$3,685,919	\$12,573,041	\$20,750,683	\$33,323,724	37.73%	\$1,390,697	\$1,251,628
Northwest Arctic	Borough	\$4,206,871	\$2,216,005	\$2,802,122	\$5,018,127	44.16%	\$1,857,754	\$1,671,979
Pelican	City	\$0	\$39,553	\$14,107	\$53,660	73.71%	\$0	\$0
Petersburg	Borough	\$0	\$901,121	\$953,037	\$1,854,158	48.60%	\$0	\$0
Pribilof	REAA	\$563,287	\$0	\$0	\$0	100.00%	\$563,287	\$506,959
Saint Mary's	City	\$0	\$36,034	\$41,962	\$77,996	46.20%	\$0	\$0
Sitka	Borough	\$20,659	\$3,051,149	\$2,305,503	\$5,356,652	56.96%	\$11,767	\$10,591
Skagway	Borough	\$0	\$425,600	\$705,412	\$1,131,012	37.63%	\$0	\$0
Southeast Island	REAA	\$0	\$0	\$0	\$0	100.00%	\$0	\$0
Southwest Region	REAA	\$3,779,752	\$0	\$0	\$0	100.00%	\$3,779,752	\$3,401,777
Tanana	City	\$88,096	\$24,863	\$0	\$24,863	100.00%	\$88,096	\$79,286
Unalaska	City	\$22,362	\$1,462,492	\$1,417,563	\$2,880,055	50.78%	\$11,355	\$10,220
Valdez	City	\$14,807	\$3,576,713	\$4,607,985	\$8,184,698	43.70%	\$6,471	\$5,824
Wrangell	Borough	\$1,037	\$470,852	\$1,091,883	\$1,562,735	30.13%	\$312	\$281
Yakutat	Borough	\$184,147	\$181,364	\$327,371	\$508,735	35.65%	\$65,648	\$59,084
Yukon Flats	REAA	\$567,343	\$0	\$0	\$0	100.00%	\$567,343	\$510,609
Yukon/Koyukuk	REAA	\$452,806	\$0	\$0	\$0	100.00%	\$452,806	\$407,525
Yupit	REAA	\$2,914,860	\$0	\$0	\$0	100.00%	\$2,914,860	\$2,623,374
<b>Totals</b>		<b>\$97,934,221</b>	<b>\$221,558,397</b>	<b>\$243,494,041</b>	<b>\$465,052,438</b>		<b>\$73,734,922</b>	<b>\$66,361,431</b>

\* Equals "Total Local Contribution" (Column F) minus "Required Local Contribution" (Column D)

\*\* Figures are extrapolated by dividing published data for the "Required Local Contribution" (Column D) by data listed as "Impact Aid Percent" in original publication (Column G)

**EXHIBIT C -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH**

**2012 Per Capita Income for Alaska School Districts**

District Type	School District	Estimate	Margin of Error
REAA	Aleutian Region Regional Educational Attendance Area	\$54,792	+/-14,555
Borough	North Slope Borough	\$41,712	+/-4,189
Borough	City and Borough of Yakutat	\$39,428	+/-10,439
Borough	Denali Borough	\$38,621	+/-4,979
City	City of Cordova	\$38,287	+/-4,703
Borough	City and Borough of Juneau	\$37,917	+/-1,763
Borough	Bristol Bay Borough	\$37,150	+/-4,234
City	City of Valdez	\$36,609	+/-6,029
Borough	Municipality of Skagway	\$36,470	+/-5,040
Borough	Municipality of Anchorage	\$36,145	+/-756
City	City of Dillingham	\$33,193	+/-3,014
Borough	Petersburg Borough	\$32,874	+/-3,789
Borough	Fairbanks North Star Borough	\$32,344	+/-1,093
REAA	Delta/Greely Regional Educational Attendance Area	\$32,177	+/-3,282
Borough	City and Borough of Sitka	\$32,162	+/-2,055
City	City of Nome	\$31,695	+/-2,631
City	City of Unalaska	\$31,578	+/-2,304
Borough	Kenai Peninsula Borough	\$30,789	+/-999
Borough	Ketchikan Gateway Borough	\$30,610	+/-1,588
REAA	Chatham Regional Educational Attendance Area	\$30,101	+/-3,940
Borough	Matanuska-Susitna Borough	\$29,465	+/-660
Borough	Haines Borough	\$29,141	+/-4,349
REAA	Southeast Island Regional Educational Attendance Area	\$29,030	+/-3,048
Borough	City and Borough of Wrangell	\$28,267	+/-2,918
City	City of Craig	\$28,099	+/-3,544
Borough	Kodiak Island Borough	\$27,865	+/-1,138
City	City of Nenana	\$27,815	+/-4,052
City	City of Galena	\$27,004	+/-2,980
City	City of Klawock	\$26,978	+/-3,583
REAA	Chugach Regional Educational Attendance Area	\$26,765	+/-4,418
City	City of Pelican	\$26,286	+/-5,616
REAA	Copper River Regional Educational Attendance Area	\$25,382	+/-2,663
City	City of Hoonah	\$24,978	+/-4,138
Borough	Aleutians East Borough	\$24,932	+/-2,055
Borough	Lake And Peninsula Borough	\$22,087	+/-2,162
Borough	Northwest Arctic Borough	\$21,902	+/-1,857
REAA	Annette Island Regional Educational Attendance Area	\$21,694	+/-2,409
City	City of Tanana	\$21,133	+/-5,208
REAA	Alaska Gateway Regional Educational Attendance Area	\$20,579	+/-2,417
REAA	Yukon Flats Regional Educational Attendance Area	\$20,522	+/-2,432
City	City of Kake	\$20,291	+/-4,456
REAA	Lower Kuskokwim Regional Educational Attendance Area	\$20,013	+/-1,424
City	City of Hydaburg	\$19,428	+/-4,725
REAA	Iditarod Area Regional Educational Attendance Area	\$19,125	+/-2,079
REAA	Pribilof Regional Educational Attendance Area	\$18,539	+/-3,613
City	City of St. Mary's	\$18,176	+/-4,545
REAA	Kuspuk Regional Educational Attendance Area	\$17,277	+/-2,070
REAA	Yukon-Koyukuk Regional Educational Attendance Area	\$16,726	+/-1,536
REAA	Southwest Region Regional Educational Attendance Area	\$13,245	+/-1,155
REAA	Bering Strait Regional Educational Attendance Area	\$12,746	+/-829
REAA	Lower Yukon Regional Educational Attendance Area	\$11,191	+/-483
REAA	Yupit Regional Educational Attendance Area	\$11,172	+/-1,162
REAA	Kashunamiut Regional Educational Attendance Area	\$8,707	+/-1,117

Source: American Community Survey, U.S. Census Bureau

Prepared by Dan Bockhorst, Ketchikan Gateway Borough Manager (February 24, 2014)