

# KGB Policy Issues for Consideration by the 2010 Alaska State Legislature

1. Oppose unfunded mandates (**Exhibit A: Res 2107, 2117, and 2182**)
  - Remain aware of the promise that boroughs would not be penalized
  - Recognize that some mandates are formula driven (senior citizen exemptions; required local contribution for schools);
2. Education funding -- maintain the 50% Rule (AS 14.17.510(c)) (**Exhibit B**)
3. Eliminate disincentives and create incentives for unification, consolidation, and merger of local governments. (**Exhibit C**)
4. Permit boroughs to create differential tax zones to levy lower nonareawide and lower areawide taxes for remote areas that receive lower levels of areawide and nonareawide services (boroughs are currently allowed to do so on a service area basis; cities are also allowed to do so throughout their jurisdictional areas) (**see footnote below**)<sup>1</sup>
5. Adjust statutory property tax limitations (**see footnote below**)<sup>2</sup>

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<sup>1</sup> AS 29.35.470(b) and AS 29.45.580 are relevant to this issue. Those subsections of the statutes provide as follows:

Sec. 29.35.470(b) The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services than that provided generally in the service area. Taxes levied within a differential tax zone that exceed the amount that would have otherwise been levied may only be used for the services provided in that zone.

Sec. 29.45.580. Differential tax zones. A city may by ordinance establish, alter, and abolish differential tax zones to provide and levy property taxes for services not provided generally in the city or a different level of service than that provided generally in the city.

<sup>2</sup> The Borough urges that the Alaska State Legislature amend the limits on property tax revenues in AS 29.45.090 to adjust it for inflation. The current limit has not been adjusted since 1985. AS 29.45.090 states as follows:

Sec. 29.45.090. Tax limitation. (a) A municipality may not, during a year, levy an ad valorem tax for any purpose in excess of three percent of the assessed value of property in the municipality. All property on which an ad valorem tax is levied shall be taxed at the same rate during the year.

(b) A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes

6. Adjust local share calculations for school construction grants and funding for school major maintenance projects.
7. Full funding of the Alaska Marine Highway System
8. Full funding of the Alaska Travel Industry Association's Tourism Marketing budget
9. Protection of wild salmon from farmed salmon industry sea lice (**Exhibit D: Res 2081**)
10. Opposing legislation repealing defined contribution retirement plans for the Alaska Public Employees' Retirement System and the Teachers' Retirement System (**Exhibit E: Res 2136**)
11. Amend the excise tax levied under Alaska Statute 43.52.210 on travel aboard certain passenger vessels (**Exhibit F: Res 2161**)
12. Southeast Alaska Transportation Plan Alternatives and support for AMHS Bellingham ferry route (**Exhibit G: Res 2181**)
13. Clarification of Title Holder to the Land for Local Tax Liability and Lien Purposes (**Exhibit H**)
14. State of Alaska Discussions with British Columbia on Southeast Access to the North American Electrical Grid (**Exhibit I**)

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(1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or

(2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(c) The commissioner shall apportion the lawful levy and equitably divide the tax revenues on the basis of need, services performed, and other considerations in the public interest if two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax

(1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or

(2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(d) For the purpose of (b) and (c) of this section, population shall be determined by the commissioner based on the latest statistics of the United States Bureau of the Census or on other reliable population data.

15. State support for development of the Shellfish Mariculture Industry in Southeast Alaska  
**(Exhibit J)**

16. State Support for Renegotiation of the Master Lease of the Ketchikan International Airport  
**(Exhibit K)**

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2107

### A RESOLUTION ASKING THE ALASKA MUNICIPAL LEAGUE TO URGE THE ALASKA LEGISLATURE TO REPEAL LAWS THAT DEPRIVE BOROUGHES OF STATE SERVICES, REVENUES, OR ASSISTANCE; OR IMPOSE PENALTIES BECAUSE OF INCORPORATION

#### RECITALS

**WHEREAS**, Article VII, Section 1 of the Constitution of the State of Alaska mandates that "The legislature shall by general law establish and maintain a system of public schools;" and

**WHEREAS**, the 4-mill "required local contribution" for schools mandated by AS 14.17.410(b)(2) deprives the Ketchikan Gateway Borough of more than \$5 million annually and deprives all organized boroughs in Alaska of more than \$200 million annually in State aid for education to which they would be entitled if they were not incorporated as boroughs; and

**WHEREAS**, the 4-mill "required local contribution" benefits the Alaska State treasury, not local school districts, because it results in a reduction of the level of State aid for education that would otherwise be paid to boroughs; and

**WHEREAS**, there are other provisions in State law that will deprive the Ketchikan Gateway Borough of more than \$5.8 million in Fiscal Year 2009 and will deprive other organized boroughs of significant state services, revenues, or assistance; and

**WHEREAS**, the intent of the Alaska Legislature, expressed in Chapter 52, SLA 1963, and underlying the formation of organized boroughs since 1963, is that "No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation;" and

**WHEREAS**, organized boroughs in Alaska levy and collect more than \$1 billion in taxes annually; approximately 20 percent of which is necessary to pay the penalty imposed by AS 14.17.410(b)(2); and

**WHEREAS**, Alaska's Constitution encourages the creation of borough governments (*See Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 101 (Alaska 1974)); yet, on the eve of the fiftieth anniversary of the creation of the State of Alaska, more than half the geographic area of Alaska lies outside organized boroughs; and

**WHEREAS**, the deprivation of state services, revenues, and assistance; and the imposition of other penalties on boroughs is likely the single greatest disincentive for incorporation of new boroughs.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA** as follows:

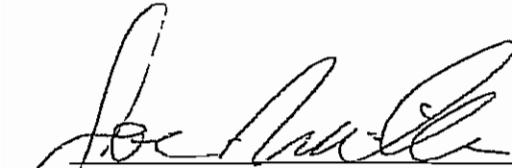
Section 1. The Ketchikan Gateway Borough Assembly hereby approves for

submission to the Alaska Municipal League membership a proposed resolution substantially in the form attached as Exhibit A and incorporated herein by reference; and


Section 2. The Borough Manager is directed to submit the proposed resolution along with a transmittal letter containing the explanation set out in the accompanying agenda statement to the Alaska Municipal League, and to contact each organized borough in Alaska to provide information about the particular fiscal impact these matters has on each of those boroughs.

Section 3. This resolution is effective upon adoption.

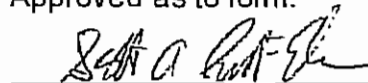
ADOPTED this 18<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
Joe Williams, Borough Mayor

ATTEST:

  
\_\_\_\_\_  
Harriett Edwards, Borough Clerk

Approved as to form:

  
\_\_\_\_\_  
Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE: August 18, 2008			
ROLL CALL	YES	NO	ABSENT
THOMPSON	✓		
KIFFER	✓		
SALAZAR	✓		
LANDIS	✓		
PAINTER	✓		
HARRINGTON	✓		
SHOEMAKER	✓		
MAYOR (Tie Votes Only)			
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2117

**A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH URGING SENATOR BERT STEDMAN AND REPRESENTATIVE KYLE JOHANSEN TO PROMOTE LEGISLATION TO REPEAL OR MITIGATE THE ONEROUS AND DISCRIMINATORY STATE TAX ON MUNICIPALITIES THAT OPERATE SCHOOL DISTRICTS**

### RECITALS

**WHEREAS**, the 1963 Alaska State Legislature passed, and Governor Egan signed into law, the "Mandatory Borough Act" (Chapter 52, SLA 1963), dictating that certain regions of Alaska – those encompassing Ketchikan, Juneau, Sitka, Kodiak Island, Kenai Peninsula, Anchorage, the Matanuska-Susitna valleys, and Fairbanks – form organized boroughs by January 1, 1964; and

**WHEREAS**, Section 1 of the Mandatory Borough Act promised that, "No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation;" and

**WHEREAS**, key State agencies have acknowledged that "contrary to the express intent of the 1963 Mandatory Borough Act, organized boroughs are being severely deprived of State services, revenues, or assistance and are being penalized because of incorporation" (See: *School Consolidation – Public Policy Considerations and a Review of Opportunities for Consolidation*, p. 54, February 2004, Department of Education and Early Development, Local Boundary Commission, with assistance by the Department of Commerce, Community and Economic Development); and

**WHEREAS**, the most fiscally onerous of the penalties imposed by the State of Alaska on boroughs is the "required local contribution" for schools dictated by AS 14.17.410(b)(2), which agencies have characterized as a State tax and which will reduce FY 2009 State education funding to the Ketchikan Gateway Borough by more than \$5 million and to all boroughs by \$211,255,410 (a 35 percent increase in the penalty over the prior five years); and

**WHEREAS**, Article I, Section 1 of the Constitution of the State of Alaska prescribes that "all persons are 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;" and

**WHEREAS**, more than one-third of Alaska's school districts – those operated by regional educational attendance areas – are exempt from the required local contribution provisions of AS 14.17.410(b)(2) that apply to organized boroughs as well as home-rule and first-class cities in the unorganized borough; and

**WHEREAS**, in *Matanuska-Susitna Borough School Dist. v. State*, 931 P.2d 391 (Alaska 1997), the Alaska Supreme Court rejected a constitutional challenge of the required local contribution – codified then as AS 14.17.025(a) – when it affirmed that "Boroughs are not entitled to equal protection under the Alaska Constitution" and concluded further that:

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The individual plaintiffs have not shown that they pay higher taxes as a result of the required local contribution, or that invalidating AS 14.17.025(a) would result in savings to them as taxpayers. . . .

. . .

Assuming that the individual plaintiffs' interests as taxpayers actually are impaired by the school funding laws, these interests are not interests afforded much weight under our equal protection analysis. "The interest involved here, freedom from disparate taxation, lies at the low end of the continuum of interests protected by the equal protection clause."

and;

**WHEREAS**, Chief Justice Rabinowitz and Justice Matthews indicated in *Matanuska-Susitna Borough School Dist. v. State* that any remedy regarding concerns over the required local contribution must be pursued through the legislative and executive branches rather than the judicial branch, stating, specifically, "Here, as with State spending decisions, any available remedy must be pursued through majoritarian processes rather than through the courts;" and

**WHEREAS**, Article X, Section 1 of Alaska's Constitution encourages the creation of borough governments (*See Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 101 (Alaska 1974)); yet, on the eve of the fiftieth anniversary of the creation of the State of Alaska, more than half the geographic area of Alaska lies outside organized boroughs; and

**WHEREAS**, multiple studies in the post-mandatory-borough era have indicated that the biggest deterrent to voluntary formation of boroughs is the financial penalties that result; the late Jay Hammond expressed the matter well when he wrote in *Tales of Alaska's Bush Rat Governor*, (page 149), that "Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves to pay for services received from the state, gratis?;" and

**WHEREAS**, Governor Sarah Palin, showing strong leadership in exploring fundamental public policy concerns with the status quo, recently directed the Alaska Departments of Law, Education, and Commerce, Community, and Economic Development (DCCED) to evaluate concerns expressed by the Ketchikan Gateway Borough relating to the required local contribution for schools; and

**WHEREAS**, in the face of growing concern and frustration over AS 14.17.410(b)(2), taxpayers and citizens of boroughs and cities that operate municipal school districts are increasingly likely to address their concerns and frustrations through a citizens' initiative.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA** as follows:

Section 1. The Ketchikan Gateway Borough Assembly hereby urges Senator Bert Stedman and Representative Kyle Johansen to promote legislation to repeal or mitigate AS 14.17.410(b)(2), the onerous and discriminatory State tax on municipalities that operate school districts.

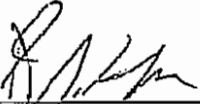
Section 2. The Borough Manager shall provide a copy of this resolution to:

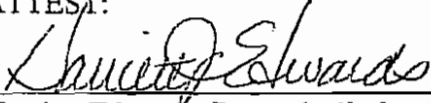
- The Honorable Sarah Palin, Governor;
  - The Honorable Bert Stedman, State Senator, District A;
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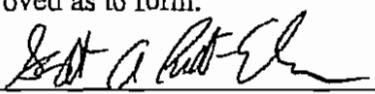
- The Honorable Kyle Johansen, State Representative, District 1;
- The Honorable Emil Notti, Commissioner, DCCED;
- The Honorable Larry LeDoux, Commissioner, Dept. of Education and Early Development; and
- The Honorable Talis Colberg, State Attorney General.

Section 3. This resolution is effective upon adoption.

ADOPTED this 20<sup>th</sup> day of October, 2008.

  
 \_\_\_\_\_  
 Dave Kiffer, Borough Mayor

ATTEST:  
  
 \_\_\_\_\_  
 Harriett Edwards, Borough Clerk

Approved as to form:  
  
 \_\_\_\_\_  
 Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE: October 20, 2008			
ROLL CALL	YES	NO	ABSENT
THOMPSON	✓		
PHILLIPS	✓		
SALAZAR	✓		
GIBBONS	✓		
PAINTER	✓		
HARRINGTON	✓		
SHOEMAKER	✓		
MAYOR (Tie Votes Only)			
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2182

**A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH COMMEMORATING THE FORTY-SIXTH ANNIVERSARY OF THE INCORPORATION OF THE BOROUGH, AND EXPRESSING THE NEED TO REMIND STATE OFFICIALS THAT THE GOVERNOR AND STATE LEGISLATURE PROMISED AT THE TIME OF INCORPORATION THAT BOROUGHS WOULD NOT BE DEPRIVED OF STATE SERVICES, REVENUES, OR ASSISTANCE AND THAT THEY WOULD NOT BE OTHERWISE PENALIZED BECAUSE OF INCORPORATION**

### RECITALS

**WHEREAS**, forty-six years ago on September 6, 1963, voters of the greater Ketchikan area voted to incorporate the Ketchikan Gateway Borough; the results of the election were certified on September 13, 1963; and

**WHEREAS**, the Framers of Alaska's Constitution envisioned that the Alaska Legislature, in consultation with the Governor, would provide incentives to induce local citizens to incorporate boroughs voluntarily; and

**WHEREAS**, by January 1963 (the beginning of the fifth year of statehood), only one small organized borough had formed; it was thus evident that the State of Alaska had been unsuccessful in establishing general inducements to form boroughs voluntarily; and

**WHEREAS**, on March 22, 1963, the Alaska State House of Representatives passed *Committee Substitute for House Bill 90 (CSHB 90)* by a vote of 27 to 12 (with 1 absent), dictating that regions encompassing Ketchikan, Juneau, Sitka, Kodiak Island, Kenai Peninsula, Anchorage, the Matanuska-Susitna valleys, and Fairbanks must form boroughs by January 1, 1964; and

**WHEREAS**, on April 3, 1963, the Alaska State Senate passed *CSHB 90* by a vote of 11 to 9; and

**WHEREAS**, Governor William Egan, former President of the Alaska Constitutional Convention, neither vetoed *CSHB 90* nor allowed it to become law without his signature, but signed the bill into law on April 12, 1963, as Chapter 52, SLA 1963; and

**WHEREAS**, Section 1 of Chapter 52, SLA 1963, approved by the Alaska State House

of Representatives, the Alaska State Senate, and Governor Egan, promised that "No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation;" and

**WHEREAS**, the voters of the greater Ketchikan area – reassured by the promise of the Alaska Legislature and Governor Egan that boroughs would not be deprived of state services, revenues, or assistance and that they would not be otherwise penalized because of incorporation – were the very first among the eight regions named in the Mandatory Borough Act to incorporate an organized borough; and

**WHEREAS**, after 50 years of statehood, more than 60 percent of the geographic area of Alaska remains outside organized boroughs; and

**WHEREAS**, key State agencies have acknowledged that "contrary to the express intent of the 1963 Mandatory Borough Act, organized boroughs are being severely deprived of State services, revenues, or assistance and are being penalized because of incorporation" (see: *School Consolidation – Public Policy Considerations and a Review of Opportunities for Consolidation*, p. 54, February 2004, Department of Education and Early Development, Local Boundary Commission, with assistance by the Department of Commerce, Community, and Economic Development); and

**WHEREAS**, the most fiscally onerous of the penalties imposed by the State of Alaska on boroughs is the so-called "required local contribution" for schools dictated by AS 14.17.410(b)(2), which the Ketchikan Gateway Borough Assembly and some State agencies have characterized as a State tax, and which has operated to penalize the Ketchikan Gateway Borough more than \$50 million during the past 10 years by reducing State Education Aid to the Borough (\$5,259,305 or nearly \$2,500 per student alone in the current year); and

**WHEREAS**, Article I, Section 1 of the Constitution of the State of Alaska prescribes that "all persons are 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;" and

**WHEREAS**, more than one-third of Alaska's school districts – those in the unorganized borough operated as regional educational attendance areas (REAs) – are exempt from the required local contribution provisions of AS 14.17.410(b)(2) that apply to organized boroughs as well as home-rule and first-class cities in the unorganized borough; and

**WHEREAS**, in a letter dated August 28, 2007, to the Alaska Local Boundary Commission, former State Senator Gary Wilken (a strong advocate for an equal measure of local responsibility among all school districts) stressed that there is no rational basis, such as fiscal or administrative capacity, to distinguish between REAAs and municipal school districts:

In a recent filing, the State Attorney General's Office pointed out that "the fiscal resources, particularly the value of taxable property, of the proposed Deltana Borough would be the envy of most organized boroughs in Alaska. . . .

Given the remarkable fiscal capacity of the region, the action by Deltana voters [by which 90.6% of the voters rejected a proposal to incorporate] shines a glaring spotlight on the State's long-standing irrational public policy regarding the extension of borough government in Alaska. The framework of government for our nation and our state rests on the fundamental principles that all people are treated equally and fairly and that all persons have corresponding obligations to the people and to the State. (Alaska Constitution, Article I, Section 1.) Regrettably, those principles have not carried forward . . . .

**WHEREAS**, in *Matanuska-Susitna Borough School Dist. v. State*, 931 P.2d 391 (Alaska 1997), the Alaska Supreme Court rejected a constitutional challenge of the required local contribution – codified then as AS 14.17.025(a) – when it affirmed that "Boroughs are not entitled to equal protection under the Alaska Constitution" and concluded further that

The individual plaintiffs have not shown that they pay higher taxes as a result of the required local contribution, or that invalidating AS 14.17.025(a) would result in savings to them as taxpayers. . . .

. . .

Assuming that the individual plaintiffs' interests as taxpayers actually are impaired by the school funding laws, these interests are not interests afforded much weight under our equal protection analysis. "The interest involved here, freedom from disparate taxation, lies at the low end of the continuum of interests protected by the equal protection clause."

and;

**WHEREAS**, the Alaska Supreme Court first held that boroughs lack equal protection rights in *Kenai Peninsula Borough v. State, Dep't of Community and Regional Affairs*, 751 P.2d 14, 18-19 (Alaska 1988), where the Court relied on a then-55-year-old case involving the City of Baltimore Maryland – *Williams v. Mayor and City Council of Baltimore*, 289 U.S. 36 (1933) – as the foundation for its conclusion that boroughs lack the constitutional right of equal protection; and

**WHEREAS**, reliance on a more than half-century-old case from Maryland appears to be a gross affront to the principles of local government in Alaska because the Framers of Alaska's Constitution specifically chose the term "borough" to avoid the application of restrictive case law from other states as noted in *Borough Government in Alaska*, by Thomas A. Morehouse and Victor Fischer, at fn 9:

Much controversy surrounded the selection of the name "borough." While there were strong proponents of the word "county" (as well as canton, division, province, and others), the majority believed that the term had a very definite connotation and that its use should be avoided in order to preclude rigid thinking as well as restrictive court interpretations and decisions based on the extensive body of county law developed in the older states. It was believed that a different name could more readily be interpreted in the context of the Alaska Constitution; Black's Law Dictionary defines "borough" as "a place organized for local government purposes." See *Minutes*, 18th, 29th Meetings; *Commentary*, p. 4; *Proceedings*, pp. 2618-19; 2777-87, 3599-3608, 3621-25, 3627.

and;

**WHEREAS**, to provide a measure of some relief to beleaguered taxpayers of municipal governments that operate school districts, the Alaska Legislature in 2001, enacted a State law (sponsored by Senator Wilken and known informally as the "50 Percent Rule") which provides that 100 percent of the value of taxable property as of January 1, 1999, but only 50 percent of any increase in that value will be used to calculate the 4-mill local "contribution" required of 28 of Alaska's 53 school districts; and

**WHEREAS**, on January 26, 2009, in a presentation to the Education Committee of the State House of Representatives, the Director of School Finance for the Alaska Department of Education and Early Development (DEED) repeatedly characterized the 50 Percent Rule as a "tax subsidy" by the State of Alaska for 28 municipal school districts, including the Ketchikan Gateway Borough; and

**WHEREAS**, in its presentation to the Education Committee of the State House of Representatives on January 26, 2009, DEED ignored far greater disparities in terms of local funding for education and focused on perceived inequities resulting from the 50 Percent Rule; and

**WHEREAS**, without the 50 Percent Rule, the required local contribution for the Ketchikan Gateway Borough for FY 2010 would have increased by \$915,009 from \$5,259,305 to \$6,174,314; and

**WHEREAS**, it was evident from the presentation on January 26, 2009, that DEED is likely to bring increasing pressure in the years ahead for the Legislature to repeal or significantly amend the 50 Percent Rule because its statewide fiscal impact was only \$3,595,242 in FY 2002, but has grown to \$73,515,747 in FY 2010 – more than 20 times the amount in the first year; and

**WHEREAS**, the positive fiscal impact to the Ketchikan Gateway Borough as a result of the 50 Percent Rule is tentatively projected to increase from \$915,009 in FY 2010 to \$1,041,551 in FY 2011; and

**WHEREAS**, repeal of the 50 Percent Rule for FY 2011 would result in a \$1,041,551 reduction of funds that the Ketchikan Gateway Borough contributes to the Ketchikan Gateway Borough School District under AS 14.17.410(c), an immediate tax hike of \$1,041,551 for the taxpayers of the Ketchikan Gateway Borough for which not a single penny of improved services to the Borough would result, or some combination of both; and

**WHEREAS**, such an increase would further reduce the level of State Education Aid provided to the Borough to more than \$3,000 per student.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA** as follows:

Section 1. The Ketchikan Gateway Borough Assembly hereby commemorates the 46th anniversary of the incorporation of the Ketchikan Gateway Borough. The Borough provides the following essential services to the estimated 12,993 residents of the Borough:

Areawide Powers:

- Education;
- Assessment and Collection of Taxes;
- Planning, Platting, and Land Use Regulation;
- Economic Development;

- Transit System;
- Airport, including Marine Ferry Operations;
- Parks and Recreation;
- Regulation of Hours of Operation of Licensed Premises Dispensing Alcoholic Beverages; and
- Animal Control.

Nonareawide:

- Library;
- Sewage Collection and Treatment;
- Solid Waste Collection and Disposal; and
- Prohibition of Sale and Possession of Fireworks.

Service Areas:

- Fire Protection;
- Emergency Medical Services;
- Road Maintenance and Construction;
- Water Utilities;
- Street Lighting; and
- Docks and Marine Facilities.

Section 2. The Ketchikan Gateway Borough Assembly expresses the need to remind officials of the State of Alaska of the promise that was made to the citizens of Ketchikan and all other boroughs, both in the Alaska Constitution and in Chapter 52, SLA 1963, that borough residents would be treated equally. Moreover, the Assembly expresses its vigorous opposition to any efforts to repeal or amend the 50 Percent Rule, and further expresses its support for the repeal or mitigation of AS 14.17.410(b)(2) in that it is an onerous and discriminatory State tax that is applied only to 34 of Alaska's 53 school districts.

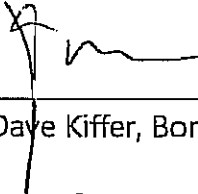
Section 3. Officials of the Borough are encouraged, whenever opportunities arise, to raise the concerns expressed in this resolution to the following State officials:

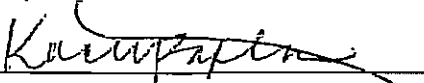
- The Honorable Sean Parnell, Governor;
- The Honorable Bert Stedman, State Senator, District A;
- The Honorable Kyle Johansen, State Representative, District 1;
- The Honorable Kevin Meyer, Co-Chair, Senate Education Committee;
- The Honorable Joe Thomas, Co-Chair, Senate Education Committee;
- The Honorable Bettye Davis, Vice-Chair, Senate Education Committee;
- The Honorable Charlie Huggins, Member, Senate Education Committee;

- The Honorable Donald Olson, Member, Senate Education Committee;
- The Honorable Gary Stevens, Member, Senate Education Committee;
- The Honorable Paul Seaton, Chair, House Education Committee;
- The Honorable Cathy Engstrom Munoz, Vice Chair, House Education Committee;
- The Honorable Bryce Edgmon, Member, House Education Committee;
- The Honorable Wes Keller, Member, House Education Committee;
- The Honorable Peggy Wilson, Member, House Education Committee;
- The Honorable Robert L. "Bob" Buch, Member, House Education Committee;
- The Honorable Berta Gardner, Member, House Education Committee;
- The Honorable Emil Notti, Commissioner, Department of Commerce, Community, and Economic Development; and
- The Honorable Larry LeDoux, Commissioner, Dept. of Education and Early Development.

Section 4. This resolution is effective upon adoption.

ADOPTED this 8<sup>th</sup> day of September, 2009.

  
 \_\_\_\_\_  
 Dave Kiffer, Borough Mayor

  
 \_\_\_\_\_  
 Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Scott A. Brandt-Erichsen, Borough Attorney

<b>EFFECTIVE DATE:</b>		SEPTEMBER 8, 2009		
<b>ROLL CALL</b>	<b>YES</b>	<b>NO</b>	<b>ABSENT</b>	
Gibbons			✓	
Harrington	✓			
Painter	✓			
Phillips	✓			
Salazar	✓			
Shoemaker	✓			
Thompson	✓			
Mayor (tie votes only)				
<b>4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE</b>				

## **State Claims it Provides \$73.5 Million Annual "Tax Subsidy" to 28 School Districts**

(Prepared by the Ketchikan Gateway Borough Manager – August 2009)

On January 26, 2009, the Education Committee of the Alaska State House of Representatives took up the issue of local "contributions" required of boroughs and cities that are obligated by State law to operate school districts. During the committee meeting, the Department of Education and Early Development (DEED) repeatedly claimed that taxes levied by 28 of Alaska's 53 school districts are being increasingly subsidized by the State. The *Minutes* from that committee meeting are attached (discussion begins on page 6 of the *Minutes*).

At issue is a provision in State law known informally as the "50 Percent Rule," which is codified as AS 14.17.510(c). That law, adopted by the Alaska Legislature in 2001, provides that 100 percent of the value of taxable property as of January 1, 1999, and 50 percent of any *increase* in that value will be used to calculate the 4-mill local "contribution" required of certain school districts. For background on required local contributions, readers are encouraged to review *Required Local Contributions for Schools – Why the Current System is Unfair*, prepared by the Ketchikan Gateway Borough Manager.

In FY 2001 (the year before the 50 Percent Rule took effect), the 28 boroughs and cities directly affected by the 50 Percent Rule were required by AS 14.17.410(b)(2) to contribute \$139,298,073. In the current fiscal year, those 28 boroughs and cities will be required to contribute \$213,144,894. That represents an increase of \$73,846,821 (53 percent) over nine years. Without the 50 Percent Rule, the required local contribution for the 28 boroughs and cities would have more than doubled (increasing by \$147,362,568 or 106 percent from \$139,298,073 to \$286,660,641).

It is critical to understand that the "contributions" required by AS 14.17.410(b)(2) exclusively benefit the State Treasury, not local school districts. The amount of State Education Aid paid to a district is reduced dollar-for-dollar by the amount of the required local contribution. Thus, higher required local contributions mean lower costs for State Education Aid. The required local contribution is – in effect – a State tax imposed on boroughs, home-rule cities in the unorganized borough, and first-class cities in the unorganized borough. The required local contribution is often the largest expenditure of local governments in Alaska that operate municipal school districts.

It is also important to note that the local contribution required by AS 14.17.410(b)(2) is distinct from the 2-mill/23% of basic need voluntary contribution allowed by AS 14.17.410(c). The voluntary contribution directly benefits local school districts, the former does not.

It should be recognized that DEED is likely to bring increasing pressure in the years ahead to repeal or amend the 50 Percent Rule. In its first year, the 50 Percent Rule reduced required local contributions by only \$3,595,242. In FY 2010, the figure will be \$73,515,747 – more than 20 times the amount in the first year. The figure will continue to grow in the years ahead. DEED made that point clear to the House Education Committee on January 26, noting that the 50 Percent Rule has "a compounding effect that is making funding a more difficult issue" and that "The Education Funding Task Force has had in-depth discussions about the compounding effect issues."

By expressing concern to the legislature about "a disparity of benefits among the districts" affected by the 50 Percent Rule, DEED ignored far greater disparities involving other districts. As is shown

in the second attachment, the mill rate equivalents of the required local contribution for the 28 districts that directly benefit from the 50 Percent Rule vary from 2.69 mills to 3.96 mills. That is a range of only 1.27 mills. Yet, the mill rate equivalents of the required local contribution for all 53 districts in Alaska actually vary from 0.00 mills to 4.00 mills. That 4.00 mill range is more than three times the range for the 28 districts about which DEED raised concerns. DEED did not share that information with the House Education Committee on January 26. If DEED is concerned over a disparity of 1.27 mills among the 28 districts, why is it not concerned over a disparity more than three times that level among all 53 districts?

Without question, the issue of required local contributions is arcane, complex, and has been the subject of intense public policy debate for decades.

The third attachment ranks each of Alaska's 53 districts in terms of contributions per student. A comparison of the second and third attachments shows, for example, that the three municipal school districts with the lowest mill rate equivalent of required local contributions (column "L" of second attachment) rank among the top four districts in terms of required contributions per student (column "F" of third attachment). Thus, obviously, mill rate equivalents are not always necessarily the best measure of a fair required local contribution.

The second and third attachments also show that 19 of Alaska's school districts make no contribution. While the State forced the creation of boroughs in some regions and forced the reclassification of some cities, it inexplicably applied a more benevolent policy toward the rest of Alaska. Most Alaskans were not given a choice, they were mandated to form particular types of local governments. Those mandatorily formed governments were then compelled to take on responsibilities for schools. Further, despite a promise to the contrary in law by the Alaska Legislature and Governor, those local governments were deprived of State revenues – they were mandated to make local "contributions" to relieve the State of much of its fiscal burden for schools (\$230 million in FY 2010).

The dichotomy in terms of State policy regarding local obligations for schools lacks a rational basis. It is not based on fiscal resources, administrative capacity, or any other legitimate standard. Former State Senator Gary Wilken, a strong advocate for an equal measure of local responsibility among all school districts, stated in a letter dated August 28, 2007, to the Alaska Local Boundary Commission:

In a recent filing, the State Attorney General's Office pointed out that "the fiscal resources, particularly the value of taxable property, of the proposed Deltana Borough would be the envy of most organized boroughs in Alaska. . . .

Given the remarkable fiscal capacity of the region, the action by Deltana voters [by which 90.6% of the voters rejected a proposal to incorporate] shines a glaring spotlight on the State's long-standing irrational public policy regarding the extension of borough government in Alaska. The framework of government for our nation and our state rests on the fundamental principles that all people are treated equally and fairly and that all persons have corresponding obligations to the people and to the

State. (Alaska Constitution, Article I, Section 1.) Regrettably, those principles have not carried forward . . . .

DEED also acknowledged at the January 26, 2009, session that, "Clearly, there are REAAs in the state that do have tax bases; however, they are not incorporated and are not required to make a local contribution" (see *Minutes*).

Before DEED and the Alaska Legislature ask the 28 districts that are directly affected by the 50 Percent Rule to "contribute" another \$73.5 million (i.e., to suffer a \$73.5 million cut in State Education Aid); they need to resolve far greater disparities concerning required local contributions.

Attachments:

- *Minutes*, January 26, 2009, Meeting of the House Education Committee
- Table Showing FY 2010 Required Local Contributions Ranked by Mill Rate Equivalent
- Table Showing FY 2010 Required Local Contributions Ranked on a Per Student Basis
- AS 14.17.410(b)(2); AS 14.17.410(c); AS 14.17.410(d); and AS 14.17.510(c)

# ***Is There a Push to Change the 50% Rule?***

Prepared by Dan Bockhorst, Ketchikan Gateway Borough Manager  
November 2009

## ***Ketchikan Daily News, November 14, 2009***

Elizabeth Sweeney Nudelman, Alaska Department of Education and Early Development school finance manager . . . said she has not heard of any push to change the 50-percent rule.

## ***Joint Legislative Education Funding Task Force Report to the Governor and Legislature, September 1, 2007, page 8***

School districts in organized boroughs are required to provide local funding in the amount equivalent to a 4-mill tax levy on the full and true value of the taxable real and personal property in the district, not to exceed 45% of the district's basic need for the preceding fiscal year. However, **beginning in fiscal year 2002, only 50% of the increase in real and personal property over the 1999 full and true value is used for the 4-mill equivalent calculation.**

The [Joint Legislative Education Funding Task Force] considered and made no recommendations to change the required local effort provisions at this time. **The Standing Committees on Education should undertake an aggressive examination of these provisions. . .**

## ***Meeting Minutes, Alaska State House Education Committee, January 26, 2009:***

Pages 8 – 9

MR. JEANS [Director, School Finance and Facilities Section Department of Education and Early Development] further explained that the department now goes back to 1999 - the base year - and calculates 50 percent of the difference in property value since that time. Prior to 2001, the department looked at the property value every single year and required [each municipality] to contribute 4 mills to public schools. Basically, this provision has provided **a tax subsidy to municipalities that have increasing property value**, he said.

Page 9

MR. JEANS called attention to the committee packet and the EED chart titled "State Cost". He noted that the first column, labeled FY02 Increased State Aid, reflects the **financial benefit** that municipal school districts received in the first year under Senate Bill 174; approximately \$3.6 million. The bill language established a base year, which has resulted in a **compounding effect** that is

making funding a more difficult issue. **For example, the \$3.6 million went to \$9 million in FY 03, \$12.5 million in FY 04, and now for FY 10 the department is projecting a \$73.5 million subsidy through the foundation program. The Education Funding Task Force has had in-depth discussions about the compounding effect issues.**

Page 9

MR. JEANS then referred to the same committee handout with the attached chart titled "Mill Equivalent Change," which shows how mills are to be adjusted across the state. He said the calculations are the mill equivalent on each district's current full value, not on the education. For example, based on current property values, it is projected that in FY10 the Aleutians East Borough will be required to contribute 3.5 mills to support public education, Anchorage 2.9 mills, and Bristol Bay will remain at 4 mills due to declining property values. It can be seen from this chart, he explained, that **those areas experiencing growth and increased business and personal property values are getting a greater benefit under this provision than areas that are not growing.**

Page 10

REPRESENTATIVE WILSON opined that the shift was made to help the areas that experienced an influx of students. However, the reality is that when there is an influx of people into an area, there are more people to help pay the property taxes to raise the money for the municipality. Conversely, communities that are losing students have to provide the same services, but there are less people to pay property taxes. Representative Wilson characterized the aforementioned as **unintended consequences that deserve review in order to ensure that [the formula] is fair to everyone.**

Page 11

REPRESENTATIVE EDGMON expressed his agreement with Representative Wilson's comments. He pointed out that in 2001 the **Bristol Bay School District** had 285 students and in 2009 it has declined to approximately 130, but the district **is still required to pay the full 4 mills while the [mill rate] for the Mat-Su School District is 2.7 and the Anchorage School District is 2.9.** Furthermore, the later [*sic*] two districts heat their schools with natural gas. **He expressed a desire to review the fairness of this situation.**

CHAIR SEATON **pondered the wisdom of using 1999 as the fixed year base.**

**MR. JEANS stated that if the formula were calculated on a one or two year look back, it would help areas that are experiencing an influx of growth immediately. It appears that there have been unintended consequences incurred by stipulating 1999 as the base year. He said the state is paying an additional \$73.5 million, in FY2010, than it would had this provision not been adopted.**

## **KETCHIKAN GATEWAY BOROUGH 2010 ISSUE STATEMENT**

### **Eliminate Disincentives and Create Incentives for Unification, Consolidation, and Merger of Local Governments**

Currently, State law (AS 29.06.400) purports to hold harmless municipal governments that unify. It provides as follows: "All provisions of law authorizing aid from the state or federal government to a former municipality that was in the area of a unified municipality remain in effect after unification."

Notwithstanding, AS 29.06.400, there are other State laws that deal with specific programs that conflict with the provisions of AS 29.06.400. The sharing of Commercial Passenger Vessel Excise Tax revenues (AS 43.52.250. Local levies) is one example. Another example is the change in treatment of areas as rural or urban for the purposes of AHFC loan programs or other State economic development programs or subsistence classifications.

Additionally, the provisions of AS 29.06.400 do not apply to merger or consolidation of local governments.

The Alaska State Legislature is urged to enact laws which eliminate disincentives for unification, consolidation and merger. It should provide that notwithstanding any other provision in law, local governments that unify, merge, or consolidate will not suffer a loss of any entitlement to State aid. This would include, for example, recalculating the base year upon which a borough government's four-mill required contribution is calculated under the provisions of AS 14.17.410(b)(2) and AS 14.17.510(c). The law should also establish the legislative policy that agencies such as the Alaska Department of Public Safety and the Alaska Department of Transportation and Public Facilities, will not diminish levels of service as a result of unification, merger, or consolidation. Moreover, it would be helpful for the State Division of Elections to work with the affected local governments in determining the schedule for and manner in which the election for merger or consolidation is to be held.

In sum, the Legislature is urged to enact a law providing that notwithstanding any other provision of State law, the State of Alaska will not reduce State services, revenues, and assistance to local governments or otherwise penalize areas served by local governments as a result of merger, consolidation, or unification.

Beyond eliminating disincentives for merger, consolidation, and unification, the State of Alaska is urged to enact incentives for unification, merger, and consolidation of local governments.

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2081

### A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA, SUPPORTING PROTECTION OF WILD SALMON FROM FARMED SALMON INDUSTRY SEA LICE; AND PROVIDING FOR AN EFFECTIVE DATE

#### RECITALS

**A. WHEREAS,** Canadian-spawned wild salmon, particularly Chinook, commonly migrate to the rich feeding grounds of Southeast Alaska and contribute to the health of Alaska salmon fisheries under the U.S./Canada Salmon Treaty; and,

**B. WHEREAS,** Canadian scientists have documented wild salmon migrating near farmed salmon net pens in British Columbia; and,

**C. WHEREAS,** farmed salmon regularly escape from net pens to roam wild to the possible detriment of wild salmon; and,

**D. WHEREAS,** wild salmon are essential to the community of Ketchikan and the Southeast Alaska region; and,

**E. WHEREAS,** Alaska salmon fisheries support countless families and communities throughout the State, and form part of the cultural fabric which makes Alaska unique; and,

**F. WHEREAS,** 18 prominent Canadian scientists have called for immediate installation of stronger barriers between wild and farmed salmon, closed containment rather than the typical open pens at fish farms as the only safeguard; and ,

**G. WHEREAS,** in 1989 the State of Alaska, had the foresight to prohibit finfish farming in Alaska; and,


**H. WHEREAS,** on March 27, 2008 the British Columbia provincial government announced that they would no longer allow any fish farm applications or issue any licenses for coastal waters north of Port Hardy in response to the sea lice problem.


**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA** as follows:


**Section 1.** The Assembly of Ketchikan Gateway Borough, Alaska, does hereby request the Governor of Alaska, the Alaska Legislature, the United States Congress, and the Bush Administration to join Canadian scientists in the call for British Columbia to continue addressing the problems of farmed salmon escapement and sea lice infestation of wild salmon by limiting salmon farms to closed containment systems.

**Section 2.** This resolution is effective immediately upon adoption.

ADOPTED this 7th day of April, 2008.

  
\_\_\_\_\_  
Joe Williams, Borough Mayor

ATTEST:  
  
\_\_\_\_\_  
Harriett Edwards, Borough Clerk

Approved as to form:  
  
\_\_\_\_\_  
Scott Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE: April 7, 2008			
ROLL CALL	YES	NO	ABSENT
THOMPSON	✓		
KIFFER	✓		
SALAZAR	✓		
LANDIS	✓		
PAINTER	✓		
HARRINGTON	✓		
SARBER	✓		
MAYOR (Tie Votes Only)			
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2136

**A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH OPPOSING LEGISLATION REPEALING DEFINED CONTRIBUTION RETIREMENT PLANS FOR THE ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE.**

### RECITALS

**WHEREAS**, the State of Alaska administers two major retirement systems – the Public Employees' Retirement System for Alaska State employees and employees of political subdivisions who elect to join the system, and the Teachers' Retirement System for teachers and school administrators; and

**WHEREAS**, the Ketchikan Gateway Borough, including the Ketchikan Gateway Borough School District, has long been a member of the Public Employees' Retirement System and the Teachers' Retirement System; and

**WHEREAS**, concerns over the growing costs and unfunded liabilities associated with the original Public Employees' Retirement System and the Teachers' Retirement System compelled the Alaska Legislature to reduce retirement benefits for Public Employees' Retirement System participants hired after June 30, 1986, to reduce retirement benefits for Teachers' Retirement System participants hired after June 30, 1990, and to further reduce benefits for Public Employees' Retirement System participants hired after June 30, 1996; and

**WHEREAS**, persistent concerns over the growing cost and unfunded liabilities in the Public Employees' Retirement System and the Teachers' Retirement System, compelled the Twenty-Fourth Alaska State Legislature in 2005 to pass *Free Conference Committee Substitute for Senate Bill No. 141(2d FCC)*, abandoning a defined benefit pension plan in favor of a new, 401(k)-style defined contribution retirement plan for employees who first become members the of Public Employees' Retirement System or the Teachers' Retirement System after June 30, 2006; and

**WHEREAS**, the Governor of the State of Alaska, sharing the concerns of the Twenty-Fourth Alaska State Legislature about costs and unfunded liabilities in the Public Employees' Retirement System and the Teachers' Retirement System, signed *Free Conference Committee Substitute for Senate Bill No. 141(2d FCC)* into law as Chapter 9 FSSLA 2005; and

**WHEREAS**, the defined contribution plan implemented in 2005 is a lucrative plan that many private sector employees would envy; many public employees working an entire career in public service will have more money available under the defined contribution plan than under the defined benefit plan; and

**WHEREAS**, on June 30, 2005, the aggregate accrued liability of the Public Employees' Retirement System was \$12,844,841,000 while valuation assets equaled \$8,442,919,000 leaving an unfunded liability of \$4,401,922,000; and

**WHEREAS**, on June 30, 2005, the aggregate accrued liability of the Teachers' Retirement System was \$6,498,556,000, while valuation assets equaled \$3,958,939,000, leaving an unfunded liability of \$2,539,617,000; and

**WHEREAS**, the most recent data available indicate that on June 30, 2007, the unfunded liability of the Public Employees' Retirement System increased to \$4,669,973,000 and the unfunded liability of the Teachers' Retirement System increased to \$2,765,004,000; and

**WHEREAS**, the Twenty-Fifth Alaska State Legislature contributed hundreds of millions of dollars beyond what was actuarially required to reduce the amount of unfunded liability in the Public Employees' Retirement System and the Teachers' Retirement System, and enacted uniform employer contribution rates of 22 percent for Public Employees' Retirement System and 12.56 percent for the Teachers' Retirement System; and

**WHEREAS**, an economic recession began in the United States in December 2007, during which more than 3.6 million jobs have been lost and the value of the stock market, as measured by the Dow Jones Industrial Average, has declined by approximately 50 percent; and

**WHEREAS**, it was recently reported that investments in the Public Employees' Retirement System and the Teachers' Retirement System lost \$3.4 billion in the second half of 2008; and

**WHEREAS**, investments in the Public Employees' Retirement System and the Teachers' Retirement System have declined further since 2008, increasing the unfunded liabilities to perhaps \$11 billion or more; and

**WHEREAS**, the Alaska Department of Revenue recently issued a February 2009 interim forecast estimating State revenues of \$3.18 billion, which is down \$2.1 billion (40 percent) from the fall forecast; and

**WHEREAS**, the steep drop in State revenues has compelled the Governor to propose a \$166.5 million reduction in the proposed payment against the unfunded liability for Public Employees' Retirement System and the Teachers' Retirement System; and

**WHEREAS**, despite the dire circumstances noted above, at least three bills have been introduced by Members of the Twenty-Sixth Alaska State Legislature to repeal the defined contribution plans for Public Employees' Retirement System and the Teachers' Retirement System; and

**WHEREAS**, the opportunity cost of the huge payments that must be made to the retirement funds from the State General Fund to pay retirement benefits is staggering; the cost of those payments is borne by all Alaskans, most of whom do not benefit from the defined benefits plan; this directly reduces funds available for other vital public services that non-public employees deserve to receive; many of the non-public employees bearing the cost of these payments have little or no retirement plan of their own.

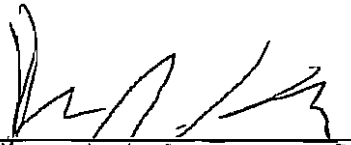
**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH** as follows:

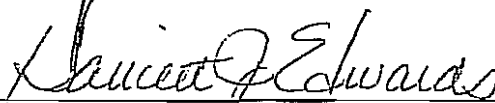
Section 1. The Borough Assembly hereby urges the Alaska State Legislature and the Governor of the State of Alaska to reject all proposals to repeal the defined contribution plans for Public Employees' Retirement System and the Teachers' Retirement System.

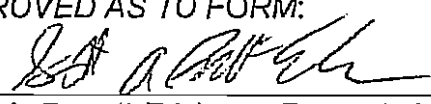
Section 2. A copy of this resolution shall be provided to the President of the Alaska State Senate; Speaker of the Alaska State House of Representatives; Governor Palin; and the Alaska Municipal League.

Section 3. This resolution is effective immediately upon adoption.

ADOPTED this 2nd day of March 2009.

  
\_\_\_\_\_  
Dave Kiffer, Borough Mayor

  
\_\_\_\_\_  
Harriett Edwards, Borough Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE:		MARCH 2, 2009		
ROLL CALL	YES	NO	ABSENT	
Gibbons	✓			
Harrington	✓			
Painter	✓			
Phillips	✓			
Salazar	✓			
Shoemaker	✓			
Thompson	✓			
Mayor (tie votes only)				
<b>4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE</b>				

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2161

### A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH URGING THE ALASKA STATE LEGISLATURE TO AMEND THE EXCISE TAX LEVIED UNDER ALASKA STATUTE 43.52.210 ON TRAVEL ABOARD CERTAIN COMMERCIAL PASSENGER VESSELS; AND PROVIDING FOR AN EFFECTIVE DATE.

#### RECITALS

**WHEREAS**, in the State election on August 22, 2006, voters approved the Ballot Measure 2 initiative enacting AS 43.52.010 - 060 (subsequently renumbered AS 43.52.200 - 295), which imposed a \$46 excise tax on each passenger aboard certain commercial passenger vessels providing overnight accommodations in Alaska's marine waters; and

**WHEREAS**, 897,834 passengers who were subject to the tax visited Ketchikan in 2007; and

**WHEREAS**, the number of passengers subject to the tax who visited Ketchikan increased by 32,625 (3.6 percent) to 930,459 in 2008; and

**WHEREAS**, recent global economic difficulties and other circumstances have adversely impacted the cruise ship industry (particularly in Alaska), as reflected in the April 24, 2009, *Wall Street Journal* article "Alaska Fights a Tourism Cold Front," which reports that the average price of an Alaska cruise fell between 20 percent and 40 percent this year, while some cruise lines have been compelled to offer discounts as much as 50 percent off Alaska itineraries, plus free excursions, and free airfare from 22 U.S. cities, and

**WHEREAS**, the April 24, 2009, article in the *Wall Street Journal* also reported that on the eve of the May-to-September peak tourism season some hotels, cruise lines, and tour operators in Alaska reported that reservations were down as much as 50 percent from last year; and

**WHEREAS**, in April 2009, Tim Conder, a senior analyst with Wachovia Capital Markets, noted that Alaska's \$1.45 billion cruise industry is suffering because Alaska cruises have become less profitable as prices have come down; and that Alaska's 7.5 percent share of cruises world-wide is likely to shrink as the industry deploys ships to the Caribbean and other more-profitable regions; and

**WHEREAS**, the \$46 per passenger excise tax contributes to the diminished profitability of the cruise industry in Alaska; and

**WHEREAS**, the *Alaska Journal of Commerce* estimates that the Alaska cruise industry will lose 140,000 passengers in 2010 (May 11, 2009, *Alaska Journal of Commerce*), which represents a 15-percent decline from the 2008 visitor levels; and

**WHEREAS**, the *Alaska Journal of Commerce* further reported:

The recent decisions by cruise companies to redeploy ships from Alaska voyages in 2010 will have broad ripple effects in the state's economy.

...

Ralph Samuels, Holland-America Line's vice president for Alaska, presented the dismal projections on lost passengers and jobs in a recent presentation to the Resource Development Council ["RDC"] in Anchorage.

The redeployment in 2010 is a one-two punch for the state's tour industry, however, because 2009 is likely be a down year as well. The ships and passengers may come north but tourists are likely to tighten their wallets, Samuels told the RDC.

and

**WHEREAS**, the Ketchikan Gateway Borough, and other Southeast Alaska municipalities are struggling to cope with projected shortfalls in sales tax revenues for 2009 and beyond; and

**WHEREAS**, these shortfalls are occurring because much of that revenue comes from taxes on expenditures by cruise ship passengers, which will decline this year and next as fewer ships come to Alaska; and

**WHEREAS**, under AS 43.52.210, the tax is levied at a flat rate of \$46 a passenger per voyage; and

**WHEREAS**, the tax rate imposed under AS 43.52.210 was set in 2006 at a time of higher cruise prices and greater economic prosperity; and

**WHEREAS**, to encourage growth in the cruise industry, the Ketchikan Gateway Borough supports amendment of the \$46 commercial passenger excise tax to limit it to 6.5percent of the per passenger price of the cruise, with a minimum tax of \$23 per passenger per voyage and a maximum tax of \$46 per passenger per voyage.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA** as follows:

Section 1. The Ketchikan Gateway Borough Assembly hereby urges the Alaska State Legislature to amend the tax levied under AS 42.52.210 as follows:

The tax imposed by AS 43.52.200 - 43.52.295 is levied at a rate of six and one-half percent of the price of the cruise, with a minimum tax of \$23 per passenger per voyage and a maximum tax of \$46 per passenger per voyage.

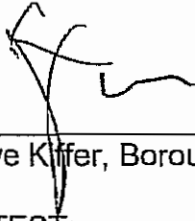
Section 2. The Borough Manager shall provide a copy of this resolution to:

- The Honorable Sarah Palin, Governor;
- The Honorable Gary Stevens, President of the Alaska State Senate;
- The Honorable Bert Stedman, State Senator, District A;

- The Honorable Mike Chenault, Speaker of the Alaska State House of Representatives; and
- The Honorable Kyle Johansen, State Representative, District 1.

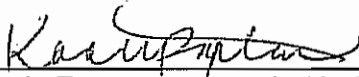
Section 3. This resolution is effective immediately upon adoption.

ADOPTED this 1<sup>st</sup> day of June, 2009.



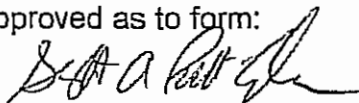
\_\_\_\_\_  
Dave Kiffer, Borough Mayor

ATTEST:



\_\_\_\_\_  
Kacie Paxton, Borough Clerk

Approved as to form:



\_\_\_\_\_  
Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE: June 1, 2009			
ROLL CALL	YES	NO	ABSENT
THOMPSON	✓		
PHILLIPS	✓		
SALAZAR	✓		
GIBBONS	✓		
PAINTER	✓		
HARRINGTON	✓		
SHOEMAKER	✓		
MAYOR (Tie Votes Only)			
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2181

**A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, COMMENTING ON THE ASSUMPTIONS AND ALTERNATIVES SCOPING TO BE USED TO UPDATE THE SOUTHEAST ALASKA TRANSPORTATION PLAN, AND EXPRESSING SUPPORT TO CONTINUE THE AMHS BELLINGHAM FERRY ROUTE; AND PROVIDING FOR AN EFFECTIVE DATE**

### RECITALS

**WHEREAS**, the Alaska Department of Transportation and Public Facilities (DOT&PF) is seeking public input for a revision to its 2004 Southeast Alaska Transportation Plan (SATP); and

**WHEREAS**, the presentation of information and lack of data comparison in the SATP Plan Assumptions hinder the ability of the Borough to interpret and comment on the information; and

**WHEREAS**, the primary purpose of the Alaska Marine Highway system is not to move passenger vehicles between Alaska communities as stated in the SATP, but rather to "provide safe, reliable, and efficient transportation of people, goods and vehicles among Alaska communities . . . and the Lower 48"; and

**WHEREAS**, the AMHS Bellingham route is heavily used, and provides a travel route to the lower 48 without crossing international borders; and

**WHEREAS**, a transportation system designed to serve the diverse needs of all of Southeast Alaska will likely require a combination of roads, shuttle ferries, and both large and small vessels; and

**WHEREAS**, the assumed budget is not adequate to fund the improvements envisioned in the 2004 SATP; and

**WHEREAS**, a stated premise of the 2004 SATP is "not accepting existing impediments as givens and rejecting the approach of lowered expectations".

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH** as follows:

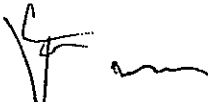
**Section 1.** The Ketchikan Gateway Borough supports 'Alternative A: Improved Ferry System' as described in the SATP Transportation Plan Alternatives and urges the legislature to provide the funding necessary to complete the needed improvements.

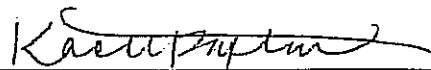
**Section 2.** The Ketchikan Gateway Borough urges caution on the part of the Alaska Department of Transportation and Public Facilities as it identifies and seeks to reduce perceived excess capacity in the Alaska Marine Highway System as communities would be adversely impacted by reduction in service, and few, if any, other modes of surface transportation exist.

**Section 3.** The Ketchikan Gateway Borough strongly opposes elimination of the AMHS service to and from Bellingham, and urges the Department of Transportation and Public Facilities to include the Bellingham ferry route in the five-year update of the Southeast Alaska Transportation plan.


**Section 4.** This resolution is effective UPON ADOPTION.

ADOPTED this 17<sup>th</sup> day of August, 2009.

  
\_\_\_\_\_  
Dave Kiffer, Borough Mayor

  
\_\_\_\_\_  
Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE:		AUGUST 17, 2009		
ROLL CALL	YES	NO	ABSENT	
Gibbons	✓			
Harrington	✓			
Painter	✓			
Phillips	✓			
Salazar	✓			
Shoemaker	✓			
Thompson				✓
Mayor (tie votes only)				
<b>4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE</b>				

## **KETCHIKAN GATEWAY BOROUGH 2010 ISSUE STATEMENT**

### **Clarification of Title Holder to the Land for Local Tax Liability and Lien Purposes**

There is a need to clarify AS 38.05.065 to address when title transfers from the State to a purchaser under a contract of sale in order to make clear when the buyer has acquired an ownership interest in real property subject to foreclosure for non-payment of taxes and when the buyer has merely a possessory interest which is not subject to foreclosure, but for which taxes may only be collected by a direct suit against the taxpayer under AS 29.45.320(b).

The relevant statute is AS 38.05.065(a) and (b), which reads:

(a) The contract of sale for land sold at public auction under AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years, with interest at the rate provided in (i) of this section. Installment payments plus interest shall be set on the level-payment basis.

(b) The contract of sale for land sold under AS 38.05.057 or under former AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on the level-payment basis. The interest rate to be charged on installment payments is the rate provided in (i) of this section.

There are two methods of dealing with the Borough's concern. One is to amend AS 38.05.065(a) and (b) to add a sentence such as:

"Title to the property passes to the buyer upon recordation of the contract for sale, but the State will retain the deed until payment is made in full."

The addition above would make it clear that the property is owned by the buyer and taxable.

Another method would be to have a new section addressing what occurs if there are property tax liens on the property when it is foreclosed and the contract for sale terminated under AS 38.05.065(e) and (f) that the tax lien in favor of a municipal entity is not collectable against the State, and will not accrue interest after the date that the state retakes possession of the property, but is payable out of the proceeds of any subsequent sale of the parcel by the state.

The State administration is likely to assert that no change is needed, or it may take the position that the statute should be clarified that title does not pass until payment in full has been made and the deed is delivered. Until that time the purchaser has a mere possessory interest. That is the interpretation that the State uses now.

## **KETCHIKAN GATEWAY BOROUGH 2010 ISSUE STATEMENT**

### **State of Alaska Discussions with British Columbia on Southeast Access to the North American Electrical Grid**

#### Introduction:

At the moment electrical energy and energy transmission is a controversial subject in Southeast Alaska. The Ketchikan Gateway Borough wishes to avoid confusion, political infighting, and obstructing ongoing energy projects and plans. However, when politics become heated sometimes a reasonable goal becomes marginalized or ignored.

#### **Ketchikan Gateway Borough Assembly Positions:**

- Access to affordable energy is an economic development necessity for our community.
- Southeast Alaska is blessed with an abundance of potential energy generation options, among them are hydro-electrical, geo-thermal, tidal, and wind energy.
- In order to utilize effectively these abundant sources of power there must be access to a broader market.
- One logical market is the North American electrical grid.
- Access to that grid must include access to the British Columbia grid network.
- So in order for Southeast Alaska to gain access to the B.C. electrical grid it is important that the Governor establish some form of contact with the B.C. government to determine the possibility and feasibility of some kind of intertie.

## **State Support for Development of the Shellfish Mariculture Industry in Southeast Alaska**

### Introduction:

There is an opportunity to create new, economically and environmentally sustainable year-round jobs in coastal areas of Alaska through a shellfish industry. The initial species include oysters, geoduck and clams. The most striking aspect of the value of Alaskan fisheries is that it is a renewable resource. As a renewable resource, with proper management, fisheries in Alaska can continue to provide jobs and revenues to the state, its people and communities in perpetuity. The economic activity generated by harvesting, processing, and exporting seafood can play a vital role in sustaining Alaska's economy ceaselessly into the future.

**The KETCHIKAN GATEWAY BOROUGH ASSEMBLY recommends that the State invest in the development of the Shellfish Mariculture Industry in Ketchikan by:**

- 1) Providing a reasonable and stable regulatory environment for the industry.
  - 2) Ensuring a regulatory structure that provides coordination, vigorous economic analysis, and stability, that will support a robust, healthy industry to harvest, process, and market that resource.
  - 3) Creation of a shellfish, grow-out, nursery facility in Ketchikan;
  - 4) Securing a stable supply of seed;
  - 5) Cooperative marketing and processing organizations for shellfish farmers
  - 6) Training programs for shellfish farmers and workers
  - 7) Attracting private sector investment to start, develop and grow farming enterprises
  - 8) Supporting selection of shellfish farm sites that have a high potential of success ;
  - 9) Supporting technical research, training and scientific support in shellfish farm development
-

## **KETCHIKAN GATEWAY BOROUGH 2010 ISSUE STATEMENT**

### **Renegotiation of the Lease Between the Borough and the State of Alaska Regarding the Ketchikan International Airport**

The State of Alaska (Department of Transportation and Public Facilities) has become more aggressive in the past two years in terms of trying to transfer more financial responsibilities onto the Borough. For example, the State currently pays the utilities for the Ketchikan side parking lot and for some of the maintenance of that lot. The State has requested that the Borough assume those costs. The State has also asked the Borough to take over the utility costs and maintenance of the recently constructed tunnel under the east end of the runway.

There is a need to address the overall economics of the airport through renegotiation of the lease between the State of Alaska and the Borough. The Borough Manager and Borough Airport Manager are operating from the premise that it is neither in the State's interests nor the community's interest to transfer responsibility for the Airport back to the State of Alaska. However, the present lease needs to be revised.

The Airport Manager estimates that if the State were to assume operation of the Airport, it would cost the State at least \$1.5 million more than it currently costs. The main reason for this is that the State cannot charge for landing fees and it is also limited as to what it can charge for leases.

The State currently pays the utilities for the Ketchikan side parking lot and for some of the maintenance. The state has requested that this change for some time now. They also would like the Borough to take over the utility cost and maintenance of the recently constructed tunnel. I have resisted that effort but think that it could be a bargaining chip for the overhaul of the Master Lease.

I agree whole heartedly with your recent argument that the airport has been unfairly singled out as a financial burden to this community, when in fact if anything it is an economic incubator as airports are in every community in Alaska.