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9

FISCAL NOTE

No. 2
Bill Version: SB9
(S) Publish Date: 3/10/97

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An act relating to municipal capital project BRU: none
matching grants for a municipality organized under federal Component: none
 Sponsor: Senator Mackie
 Requestor: Senate C&RA COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY97) impact \$ _____

ANALYSIS: (Attach a separate page if necessary)
 This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 2/21/97
 Approved by Commissioner: *Mike Irwin* Date: 2/21/97
 Agency: Mike Irwin, Dept. of Community & Regional Affairs

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
Bill Version: SB9
(S) Publish Date: 3/10/97

Revision Date: _____
Title: An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.
Sponsor: Mackie
Requestor: (S) CRA

Department Affected: Administration
BRU: Administrative Services
Component: Administrative Services
COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative impact on DOA would be very small. Adding one grantee to the municipal side of this program would not result in a need for additional funds for the administration of this program.

Prepared by: Sharon Barton
Division: Administrative Services

Phone: 465-2277
Date: 2/24/97

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 2/26/97

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SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT / SB 9

SB 9 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

This legislation made it through the committee process of the House and Senate last session, made the Senate Calendar, but was not brought up for consideration during the final hours of the session.

I introduced this legislation at the request of the Metlakatla Indian Community when their Municipal Assistance Matching Grant Program appropriation was eliminated from the Fiscal Year 96 year budget. Metlakatla qualified for this program under the Department of Administration regulations definition for "municipality". However, legal analysis found that the statute definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

SB 9 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. Metlakatla is the only entity in the state that now, or in the future, could qualify under the language included in SB 9, Page 1, Lines 6 - 8.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

SB 9 specifically removes Metlakatla from the Unincorporated Capital Matching Grant Program and specifically includes Metlakatla in the statute provisions for the the Municipal Capital Matching Grant Program.



SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SB 9 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

***SECTIONAL ANALYSIS**

***Section 1.**

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

***Section 2.**

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

***Section 3.**

provides that SB 9 becomes effective July 1, 1997.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 9

Revision Date: _____
 Title: An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.
 Sponsor: Mackie
 Requestor: (S) CRA

Department Affected: Administration
 BRU: Administrative Services
 Component: Administrative Services
 COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative impact on DOA would be very small. Adding one grantee to the municipal side of this program would not result in a need for additional funds for the administration of this program.

Prepared by: Sharon Barton
 Division: Administrative Services

Phone: 465-2277
 Date: 2/24/97

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/26/97

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FISCAL NOTE

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 Requestor: Senate C&RA COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
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CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:

--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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POSITIONS:

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

Estimate of current (FY97) impact \$ _____

ANALYSIS: (Attach a separate page if necessary)
 This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 2/21/97
 Approved by Commissioner: *Mike Arvin* Date: 2/21/97
 Agency: Mike Irwin, Dept. of Community & Regional Affairs

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COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR
JUDITH A. LAUTH, SECRETARY
BARBARA J. FAWCETT, TREASURER
January 15, 1996

ESTABLISHED 1987

POST OFFICE BOX 8
METLAKATLA, ALASKA 99926
PHONE (907) 886-4441
FAX (907) 886-3536
FAX (907) 886-7997

Representative Jerry Mackie
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: ** Identical to SB9*
*HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY

Jack L. Booth, Sr.
Jack L. Booth, Sr., Mayor

cc: Metlakatla Indian Community Council Members
Rep. Ivan Ivan CO-chair, House C & RA
Rep. Alan Austerman, CO-Chair House C & RA Committee
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep
Bettye Davis, Rep. Kim Elton, Rep. Irene Nicholai, Rep. Mackie

LEROY WILDER, P.C.
LAW OFFICE
6225 S W MONTGOMERY STREET, #10
PORTLAND, OREGON 97264
TELEPHONE (503) 242-0705
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MEMORANDUM

TO: Sol Atkinson
FROM: LeRoy Wilder *John*
RE: HB No. 381 / *Identical to SB9*
DATE: January 20, 1996

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 381 will make Metlakatla eligible for capital project matching grants as an incorporated municipality. Ms. Cook and I agreed that the language now in the bill does what we need it to do and that it would not be wise to modify it. If it is necessary to change the language to please the legislature, we will do so later, but for now, we agreed we should try to hold what we've got.

The problem is this. Some legislators are fearful that this provision, which is exclusively for Metlakatla's benefit, will somehow open up eligibility for capital project matching grants to other Native groups. They are concerned that the reference to 43 U.S.C. 1618(a) may not be restrictive enough. You will recall that section 1618(a) is the language in the Alaska Native Claims Settlement Act that terminates all reservations in Alaska with the single, specific exception of the Annette Islands Reserve. I reviewed the language and concluded that the reference is very restrictive and will not result in the eligibility of other Native groups. Moreover, section 1618(a) has been relied upon in the past to distinguish Metlakatla from all other Native groups and it has been unchallenged. Thus, I see no reason why we should not continue to rely on this reference as the limitation of the bill.

You probably know that the bill cannot simply say Metlakatla because there are laws against "special" legislation. By referring to the statutory provision, we avoid saying Metlakatla specifically but make a reference that includes only Metlakatla. Sounds rather silly, I know, but that's how it's done. I will keep you posted if I hear anything more on this issue.

Post-It® Fax Note	7671	Date	# of pages ▶
To	Tam Cook	From	Jeanie Smith
Co./Dept.		Co.	Smith
Phone #		Phone #	4925
Fax #		Fax #	

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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March 4, 1996

The Honorable Cynthia Toohey
Alaska State Legislature
House of Representatives
State Capitol - Room 104
Juneau, Alaska 99811

Re: House Bill 361 / SB9

Dear Representative Toohey:

Your request to Attorney General Botelho for a written opinion regarding "Indian lands" and House Bill 361 has been forwarded to me for a response. In particular, you have asked whether HB 361, dealing with municipal capital project matching grants for "a municipality organized under federal law as an Indian reserve," will have any impact on the concerns the Legislature expressed regarding the "Indian lands" issues. In short, the answer is no.

Under HB 361, only a municipality¹ organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a), which is part of the Alaska Native Claims Settlement Act (ANCSA), and continues in existence under that subsection, is a municipality for purposes of the capital project matching grant program. Metlakatla is the only entity in the state that now, or in the future, could qualify under this language of HB 361. The "Indian land" issues raised by the Legislature in recent weeks concern areas of the state which were never Indian reserves, or no longer are Indian reserves, organized under federal law before 43 U.S.C. 1618(a) (copy enclosed), because ANCSA abolished all reserves other than Metlakatla.

According to officials at the Department of Community and Regional Affairs, the current capital project matching grant program statutes, AS 37.06.010 (municipalities) and AS 37.06.020 (unincorporated communities), do not adequately account for Metlakatla's federal Indian reserve status and it is unclear under which program Metlakatla falls. HB 361 would adopt

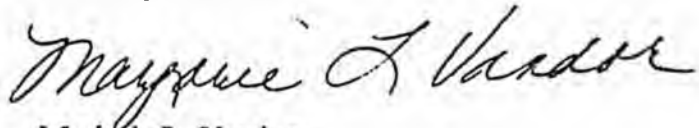
¹ We are unaware that federal law provides for organization of municipalities as reserves or reserves as municipalities. Therefore, it is possible that no entity qualifies under this bill. To avoid confusion, "municipality" here should probably be changed to "community" or a similar term.

a new section, AS 37.06.040, effectively designating Metlakatla as a municipality for the limited purpose of qualifying under the municipal capital project matching grant program.

We hope this adequately addresses your concerns. Please do not hesitate to call us if you have further questions.

Sincerely,

Bruce M. Botelho
Attorney General



By: Marjorie L. Vandor
Assistant Attorney General

MLV:jn

cc: Representative Jerry Mackie ✓

Kim Metcalf - Helmar
Legislative Liaison - DCRA

Barbara Ritchie
Deputy Attorney General

Chrystal Smith
Legal Administrator

Becky Snow - Assistant Attorney General
Fairbanks

HOUSE COMMUNITY AND REGIONAL AFFAIRS

STANDING COMMITTEE

January 18, 1996

1:05 p.m.

* HB 361 - CAP PROJ MATCHING GRANT FOR INDIAN RESERV

* *Identical to SB 9 - introduced this session (1997)*

CO-CHAIR IVAN noted that the committee packets for HB 361 contained the bill; a zero fiscal note from the Department of Community and Regional Affairs (DCRA); a letter from DCRA describing the impact of the bill; a sponsor statement; a sectional analysis; a support letter from the Council Annette Islands Reserve; and corresponding statutes.

REPRESENTATIVE AL VEZEY joined the meeting at 1:07 p.m.

Number 156

REPRESENTATIVE JERRY MACKIE, sponsor of HB 361, presented the bill. He explained that HB 361 was introduced at the request of the Metlakatla Indian Community. He said that when Metlakatla's FY 96 municipal assistant matching grant program appropriation was eliminated from the previous year's budget, it was the result of a technical oversight that HB 361 was designed to correct.

REPRESENTATIVE MACKIE stated that Metlakatla had always qualified as a municipality for the program under the Department of Administration's regulations. However, legal analysis revealed that the statutory definition was not specific enough to include the Metlakatla Indian Community in the program. Since the statutory definition superseded the regulatory definition, the appropriation was eliminated and Metlakatla subsequently received a grant under the Unincorporated Community Capital Matching Grant Program.

REPRESENTATIVE MACKIE explained that HB 361 amended AS 37.06 by adding a new section that included a municipality organized under federal law as an Indian reserve. He added that HB 361 had been drafted to specifically include Metlakatla within the Municipal Assistance Matching Grant Program and to exclude them under the Unincorporated Community Capital Project Matching Grant Program. He noted that Metlakatla had in the past received both but would now receive one like every other community in the state.

Number 340

REPRESENTATIVE MACKIE commented that although Metlakatla was the only Indian reservation in Alaska, in most areas it functioned like other communities in the state. He pointed out that HB 361 did not create a new program nor give the Metlakatla Indian Community anything they had not received in the past. On the contrary, it actually removed one of the grants they had been receiving. The purpose of HB 361 was to clarify the original statute as it was intended.

Number 471

REPRESENTATIVE VEZEY asked if Representative Mackie would elaborate on the dollar amounts involved.

REPRESENTATIVE MACKIE responded that he did not have the figures in front of him. He emphasized that Metlakatla was not an unincorporated community; it was incorporated and should be treated as such.

Number 587

JEANIE SMITH, Legislative Assistant to Representative Mackie, informed the committee that in 1994, Metlakatla received \$60,619; in 1995, they received \$58,909; and in 1996, they would have received \$59,421. However, the 1996 appropriation was eliminated and they received \$25,000 under the unincorporated community grant.

Number 622

REPRESENTATIVE VEZEY explained that his concern was that because there were 226 new tribes in Alaska, there had been a major step towards creating 226 new governments. He wondered if these tribes would qualify under this category.

REPRESENTATIVE MACKIE replied that although he understood Representative Vezey's concern, HB 361 did not deal with all the Indian tribes in Alaska, but merely allowed the Metlakatla Indian Community to be treated like every other community in Alaska that had an elected mayor, city council, school district, police department and so forth. In the process, it also eliminated Metlakatla's unincorporated community grant. He asserted that HB 361 made a technical change to the statute to allow Metlakatla to be treated like similar communities, which was fully the intent of the statute in the first place. In fact, he added, the program had operated that way since its inception. There was no intent to raise sovereignty issues.

Number 743

REPRESENTATIVE VEZEY said he would feel more comfortable if the wording included "as recognized on or by" a certain date.

REPRESENTATIVE MACKIE referred to HB 361, page 1, line 7, which reads, "A municipality organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection is a municipality for purposes of AS 37.06.010 - 37.06.090" Representative Mackie suggested that the wording accomplished what Representative Vezey wanted. He added that Metlakatla was the only municipality in Alaska meeting that criteria. Although it had not been specifically mentioned by name, Metlakatla was the only community that would be affected.

CO-CHAIR IVAN noted that Representative Nicholia had joined the meeting.

Number 920

SOLOMON ATKINSON, Council Member, Metlakatla Indian Community, testified via teleconference in support of HB 361. He mentioned that with him was Mayor Jack Booth, Sr. Mr. Atkinson provided background information and the reasons for requesting the

legislation, saying Metlakatla had provided almost all of the services and organizations available in any municipality. He admitted Metlakatla might differ from other reservations in the Lower 48 in that they tried to work closely with surrounding communities and the state of Alaska. They were seeking clarification of the statute and were aware that they would be eliminating funding under the unincorporated community grant program.

Number 1173

JACK FARGNOLI, Senior Policy Analyst, Office of the Director, Office of Management and Budget (OMB), Office of the Governor, concurred with Representative Mackie on the interpretation of the history and original intent of the bill. He said OMB had helped draft the legislation and the original intent was to have Metlakatla treated as a municipality under the program, largely on the grounds that it functioned as a municipality. The technical interpretation was not what they had intended but had been brought to OMB's attention by Tamara Cook of the Legal Services Division. Mr. Fargnoli offered to answer questions and stated that the Governor supported Metlakatla's being treated as a municipality and being taken out of the unincorporated side of the program.

Number 1240

REPRESENTATIVE KOTT mentioned that for 1996, Metlakatla was allocated \$59,000 under the matching grant regulations. He wondered what would happen to those funds if Metlakatla became a municipality.

MR. FARGNOLI responded that he believed HB 361 explicitly provided for Metlakatla to retain prior balances and carry those balances with them to the municipal side of the line. He explained that was how OMB had treated the three or four other communities that had crossed over the line from one status to another. He added that the original purpose of the bill was to allow communities to accumulate money, for up to five years, so they could aggregate amounts large enough to fund significant projects. Regardless of the reason why a community changed status, OMB had no compelling interest in making communities either lose or gain funds. Thus, he said, OMB had tried to take a neutral stance.

Number 1328

KIMBERLY METCALFE-HELMAR, Special Assistant, Office of the Commissioner, Department of Community and Regional Affairs (DCRA), suggested that anyone having specific questions contact Tena Bavard, Grants Administrator for DCRA, who runs the Unincorporated Community Capital Project Matching Grant Program. Ms. Metcalfe-Helmar stated that DCRA had no problems with the bill, which cleared up an ambiguity in current law. They viewed it as a housekeeping measure with no fiscal impact.

Number 1360

REPRESENTATIVE NICHOLIA commented that HB 361 was a good bill that

was needed, especially for Metlakatla. She made a motion to move

HOUSE CRA BASIS - 3 - 01/18/96

the bill to another committee.

CO-CHAIR IVAN asked to hear from Representative Mackie before taking up the motion.

Number 1379

REPRESENTATIVE MACKIE expressed that he did not realize the committee was to that point yet and noted that others in the audience from the Administration and the Legal Services Division could answer any questions. He said he had represented Metlakatla for six years. Metlakatla participated like any other community in Alaska; they operated the same way, educated their children the same way, and took part in numerous statewide programs, as well as state and federal elections. Representative Mackie commented that it was sometimes discouraging to Metlakatla residents to be treated as if their community was different. The reason they were an Indian community under federal law was due to an arrangement made with the federal government years before.

REPRESENTATIVE MACKIE pointed out that when the Alaska Native Claims Settlement Act (ANCSA) was instituted and communities across the state acquired corporations, land and money, Metlakatla received none because of their previous settlement with the federal government. In no way was Metlakatla a rich community with a large influx of federal funds; in many ways, it was less advantaged than other Alaska communities. They simply wanted to be treated fairly like other communities and to have the language clarified.

Number 1479

REPRESENTATIVE VEZEY reiterated that his concern was over who else might be included under the bill. He asked when 43 U.S.C. 1618(a) was enacted.

MR. FARGNOLI deferred to the Legal Services Division for a response.

Number 1510

TAMARA COOK, Director, Legal Services Division, said she did not know the answer to Representative Vezey's question but could find out. She explained that as she understood it, under ANCSA, Indian and Eskimo groups around the state were given the option of going to reservation status akin to that in the Lower 48 or going with the new corporate form of government. Metlakatla was the only group that elected reservation status. It is organized as a reservation along the same lines as other Indian reservations in the United States.

MS. COOK continued, saying other groups under ANCSA had elected corporate status. Ultimately, 13 Native corporations were established. Metlakatla had no representation in those Native corporations. Ms. Cook said Representative Vezey was correct that there were other federal laws, including the Indian Reorganization Act (IRA) under which IRA councils were created, allowing Native

corporations to form governments. However, Metlakatla was the only Alaska group that was an established Indian reserve. Cook said

HOUSE CRA BASIS - 4 - 01/18/96

she did not believe the opportunity to form another Indian reserve currently existed in Alaska. In either case, the language was drafted so that if in the future another Indian reserve were formed, it would not qualify under the terms of HB 361 because Metlakatla was the only one in existence before ANCSA that continued in that status. Its reservation was never dissolved.

Number 1609

CO-CHAIR IVAN noted the committee had been joined by Representative Elton.

REPRESENTATIVE VEZEY wondered whether the United States Congress were precluded from rewriting Title 43 of the United States Code, creating a new Section 1618(a).

MS. COOK responded that the United States Congress could amend the code. However, she said, the test under Alaska law would be 1) whether the Indian or Eskimo group existed as a reservation prior to the enactment of that particular federal law and 2) whether, under the terms of that law, it continued in existence as a reserve, which was a highly specific status under federal law.

Number 1658

REPRESENTATIVE VEZEY asked if there were some reason the language in HB 361 would be superior to, for example, putting in a calendar date.

MS. COOK replied that they could certainly put in a calendar date.

REPRESENTATIVE VEZEY asked again whether the proposed language would be superior.

Number 1688

MS. COOK said she did not know that it would be superior. She explained the wording was taken from a statute already on the books. In 1986, she said, the municipal assistance program, a large state aid program, was expanded to include Metlakatla as a municipality. The language in HB 361 was modeled after the municipal assistance program language. Ms. Cook said she had used that wording because the state of Alaska already had experience manipulating that language in the context of an aid program. However, she added, there was no reason why the language could not be changed to include a particular date.

Number 1718

REPRESENTATIVE VEZEY commented that as far as he was concerned, they could use just about any hard date. He stated his concern was that if part of the United States Code were to be rewritten and renumbered, it might affect the law in question. He asked for confirmation that the language was written in numerous other Alaska statutes.

MS. COOK responded to . no, she was aware of only one other Alaska statute where the definition appeared in that form, which was the

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statute addressing the municipal assistance program. She added that it had been on the books approximately ten years in that form. She did not know that the definition had caused a problem with respect to that program.

Number 1758

CO-CHAIR IVAN commented that his own community had been recognized as a reservation prior to statehood. When they were provided the option under ANCSA of remaining a reservation or incorporating under Alaska law, the community opted out of the reservation system at that time. He asked if there were questions or comments.

Number 1797

REPRESENTATIVE NICHOLIA made a motion to move HB 361 out of the House Community and Regional Affairs Committee. There being no objection, it was so ordered and HB 361 moved from the committee.