

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1303 SCRA SB 627 - SB 690 1303

SFB
627

**COMMITTEE REPORT
SENATE**

1/11/82

FURTHER: FINANCE

Date: 3/13/82

Mr. President:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had SB 627

state assistance for municipalities

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 627 () same title
 new title
- and recommends None
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Williams

Tom

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tom

Williams
CHAIRMAN

MEMORANDUM

file 58627
State of Alaska

TO: DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

The Honorable Wilson Condon
Attorney General

FILE NO: February 9, 1982

TELEPHONE NO:

FROM:

Lee McAnerney
Commissioner

SUBJECT:

Request for Attorney
General's Opinion - SB-670

SB627

Senate Bill No. 627, introduced by Senator Parr is soon scheduled for hearings in Senate Community and Regional Affairs Committee; the Department will be asked to testify and provide a position on this proposed legislation.

Introduction of this legislation, in part, is in response to advice by most municipal attorneys (and formally supported by the Department) that, in general, a municipality may not expend funds (regardless of source) directly, or as a pass through to another organization, for services or facilities over which the municipality has not assumed the power.

SB 627 provides a "blanket" grant of power to municipalities with regard to funding authorized by ch. 60, SLA 1981. Although the grant of power is limited to this temporary act, we are concerned as to the legal, perhaps constitutional, questions surrounding this legislative grant of power, given the former constitutional and legislative language which strongly imply local decisions respecting the assumption and exercise of municipal powers.

Your immediate response to this request is appreciated in order to provide guidance to the Department when called to testify next week on this proposed legislation.

February 3, 1982

The Honorable Al Adams, Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

ATTN: Ralph Bennett

Dear Representative Adams:

RE: AID TO UNINCORPORATED COMMUNITIES

Pursuant to a request from your staff we have compiled the following information concerning Aid to Unincorporated Communities.

The Department of Community and Regional Affairs has received 18 applications from eligible communities. When completely paid, these 18 eligible communities would be granted a total of \$3,104,000 (See attached list).

It is our understanding that there are approximately 80 more unincorporated communities that may be eligible and have not as yet applied. We will be attempting to insure that all of the communities are fully informed of the availability of these funds. I have also attached a list of all of the communities of 25 or more according to the U.S. Bureau of the Census.

We realize there are some reasons why many communities may not apply for this funding. A major one of these is fear of government. The old adage "any government big enough to give you everything you want is also big enough to take everything you have" expresses a prevalent feeling in many rural communities. Many residents moved to those rural communities to get away from governmental or organizational restrictions. As a result, many of the communities of 25 and over that would be eligible for the program have not, as yet, formed any type of non-profit community organization.

Another more prevalent problem revolves around the lack of appropriate organization within those communities that may have some form of council. SB168 requires that the Department deal with a legally recognized organization that does not possess sovereign immunity. Some of the unorganized communities may have a traditional tribal council which possesses sovereign immunity, but does not have legal recognition by the State.

Eligibility for funding would require additional action to be taken by the existing traditional council. That action would be to incorporate as a non-profit corporation under state law. Although this incorporation is a fairly simple process, it is foreign to most rural communities.

7
The Honorable Al Adams
February 5, 1982
Page 2

We have found that many IRA Councils are not aware that they are organized both under Section 16, which provides sovereign immunity, and Section 17, which does not. Because they are accustomed to conducting business under the authority of Section 16, many of the Councils are unaware that they must apply for state assistance grants in their capacity as a Section 17 corporation.

These problems along with lack of expertise and experience in dealing with state government are thought to be the largest roadblocks. The application and funding problems being experienced in the aid to unincorporated communities program are at least partially attributable to these roadblocks.

The Department has recommended that the statute be changed to allow us to deal with Traditional Councils, which are willing to waive sovereign immunity with respect to state funded projects or services. We feel this change would go a long way toward solving these problems. I have also attached a copy of our memo to the Governor's office outlining that change. We understand a bill will be introduced (if not already) to accommodate these proposed changes.

We are also aware of the bills introduced by you and Representative Montgomery extending the appropriation for another year.

The Department does have some limited ability to provide technical assistance to these communities. As of this date the requests for that assistance have been minimal.

The Department is planning on implementing an expanded outreach program. The attached memo outlines that program.

I hope this information answers your request. If we can be of further assistance please contact me.

Sincerely,

Lee
Lee McAnerney
Commissioner

JM/db/05-56

cc: Senator John Sackett
Senator Frank Ferguson
Representative Joe Montgomery
Keith Specking, Special Assistant to Governor
Susan Green, Special Assistant to Governor

M E M O R A N D U M

To: Honorable Jay S. Hammond
Governor

From: Wilson L. Condon
Attorney General

Re: Attached bills relating to aid to unincorporated
communities. Our file J77- -82.

Attached are two bills requested by the Department of
Community and Regional Affairs which enable Alaska Native village
councils to receive aid to unincorporated communities and extend
the time for implementation of the aid program.

The reasons for the bills are outlined in a January 29,
1981 memorandum from Deputy Commissioner, Richard Aks to Keith
Specking.

A draft transmittal letter to the legislature is also
attached.

WLC/PBF/ph

c.c. Hon. LGE McAnany
Chairman of C.R.A.

Palmer Richard
Please
review.
looks fine - typson
first bill.
Question use of
"entitlement" language
given Law's earlier
concern with the
word.
Thom
PBF

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills relating to aid to unincorporated communities.

The first bill amends ch. 60, SLA 1981 by deleting language which granted preference to nonprofit corporations and ^{which} prevented Alaska Native village councils from receiving aid money because of the possibility that the councils had sovereign immunity from suit. The bill adds language identical to that used in ^{our} bills on state grants (HB and SB) and on revenue sharing (HB and SB) which requires waiver of any sovereign immunity as a condition of payment of aid money.

The second bill extends the appropriations funding ~~for~~ the aid to unincorporated communities program for one year until June 30, 1983. This extension will enable the Department of Community and Regional Affairs to complete implementation of the program and disbursement of the money which has been delayed by the time consuming problems raised by the existing language of ch. 60.

I urge passage of this bill and the other bills
which include similar language concerning Alaska Native
village councils.

Sincerely,

Jay S. Hammond
Governor

DRAFT
LAW

1 For an Act entitled: "An Act extending appropriations made for entitlements
2 to unincorporated communities and for administering
3 the entitlements; and providing for an effective date."

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

5 * Section 1. Sec. 4, Ch. 92, SLA 1981 is amended by adding a new
6 subsection to read:

7 *MAR 22 1983* (c) The appropriations made by this section and by sec. 6,
8 *ALLIANCE* ch. 60) SLA 1981 into the general fund June 30, 1983.

9 *MAY 16 1983* * Sec. 3. This Act takes effect on the effective date of a version of
10 an Act entitled "An Act relating to aid to unincorporated communities;
11 and providing for an effective date."
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THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

1 For an Act entitled: An Act relating to aid to unincorporated communities;
2 and providing for an effective date.

3 BE IT ENACTED BY THE LEGISLAURE OF THE STATE OF ALASKA:

4 * Section 1. Sec. 2(a), ch. 60, SIA 1981 is amended to read:

5 (a) During the period ending June 30, 1983 [FISCAL YEAR
6 ENDING JUNE 30, 1982], the Department of Community and Regional
7 Affairs shall compute and pay an entitlement to each unincorporated
8 community in the unorganized borough. The entitlement for each
9 community shall be computed in accordance with (b) of this
10 section, and is payable by the Department of Community and
11 Regional Affairs in accordance with (c) of this section.

12 * Sec. 2(c), ch. 60, SIA 81 is amended to read:

13 (c) After notification [BY AUGUST 15, 1981, THE DEPARTMENT
14 OF COMMUNITY AND REGIONAL AFFAIRS SHALL NOTIFY] each unincorporated
15 community that its entitlement is available, the department [.
16 THE DEPARTMENT] of Community and Regional Affairs [WITH ADVICE
17 FROM THE DEPARTMENT OF LAW] shall determine whether there is,
18 in the unincorporated community, an incorporated entity or
19 a Alaska Native village council that [A PERMANENTLY CHARTERED
20 CORPORATION OR BUSINESS ENTITY (AS DEFINED IN SECTION 2) WILL agree
21 to receive and spend the entitlement money [DEFERRED UNDER THE
22 SECTION 2(d)]. If there is, in the unincorporated community,
23 no such entity, entitled [THE ENTITLEMENT MONEY (AS DEFINED IN SECTION 2(d))]
24 entity[,] and if the entitled money, the department [DEPARTMENT] shall
25 [REQUIRE THE ENTITY TO] [REQUIRE] the entitlement
26 money [REQUIRE THE ENTITY TO] to the entity that the department
27 finds not entitled to receive and spend the money consistent
28 with (d) and (e) of this section. [IN RECEIVING THE ENTITLEMENT
29 ENTITY, THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS SHALL

entitled?

1 GIVE PREFERENCE TO A NONPROFIT CORPORATION ORGANIZED BY AN
2 UNINCORPORATED COMMUNITY FOR RECEIPT OF THE ENTITLEMENT.]

3 (b) The department may not pay any entitlement money to
4 an Alaska Native village council, unless the council waives any
5 immunity from suit which it might have. The waiver must apply
6 to all claims arising out of the activities of the council related
7 to the entitlement money, and it must be on a standard form
8 provided by the Department of Law. Neither this subsection
9 nor any action taken under it enlarges or diminishes such
10 governmen authority or, as the various Alaska Native village
11 councils might have.

12 * Sec. 3. 2(F), ch. 60, SLA 1981 is amended to read:

13 (F) If there is no qualified [INCORPORATED ENTITY OR
14 FEDERALLY CHARTERED] entity willing to receive the money in an
15 unincorporated community, the entitlement for that unincorporated
16 community may not be paid.

17 * Sec. 4. The Act takes effect immediately in accordance with AS 01.10.
18 070(c).

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

SLA 1981

Chapter 92

1 qualified municipalities for the fiscal year ending June 30, 1983, in
2 accordance with legislation authorizing the payments.

3 * Sec. 64. Section 4, Free Conference CS for House Bill No. 1 (Twelfth
4 Legislature - First Session) is amended to read:

5 Sec. 4. (a) The sum of ~~\$16,740,000~~^{13,181,100} [\$24,987,000] is appropriated
6 from the general fund to the Department of Community and Regional
7 Affairs for payment of entitlements to unincorporated communities in
8 the unorganized borough for the fiscal year ending June 30, 1982, in
9 accordance with legislation authorizing the payments.

10 (b) The sum of \$6,246,700 is appropriated from the general fund
11 to the Department of Community and Regional Affairs for pay nt of
12 entitlements to unincorporated communities in the unorganized borough
13 for the fiscal year ending June 30, 1983, in accordance with legisla-
14 tion authorizing the payments.

15 * Sec. 65. The sum of \$300,000 is appropriated from the general fund to
16 the Department of Education for payment of the outstanding debts and obliga-
17 tions of the Southcentral Regional Resource Center. Payment of a claim from
18 this appropriation is contingent on a determination by the special master
19 previously appointed by the superior court that the claim represents an
20 outstanding debt of the Southcentral Regional Resource Center.

21 * Sec. 66. The unexpended and unobligated portions of the appropriations
22 made to the Department of Natural Resources for special assessments to
23 state-owned lands and for Merrill Field subdivision development (MFRA) in
24 sec. 17, ch. 209, SLA 1975, page 39, and the special assessment balances
25 remaining under AR 29.63, are lapsed into the general fund and are reappro-
26 priated as follows:

- 27 (1) to the Department of Commerce and Economic
28 Development, office of commercial fisheries
29 development, for fish waste utilization and

SLA 1981

Chapter 61

AN ACT

Making a special appropriation to the Alaska permanent fund, and making appropriations to the Department of Administration and the Department of Community and Regional Affairs for aid to municipalities and unincorporated communities; and providing for an effective date.

* Section 1. The sum of \$1,800,000,000 is appropriated from the general fund to the Alaska permanent fund (art. IX, sec. 15, Constitution of the State of Alaska, AS 37.13.010).

* Sec. 2. Beginning July 1, 1981, the commissioner of revenue shall make monthly deposits to the Alaska permanent fund of the appropriation made by sec. 1 of this Act. A monthly deposit to the Alaska permanent fund shall be in an amount determined by the commissioner of revenue to be in excess of the general fund revenues necessary to finance state government operation for the month in which the deposit is made.

* Sec. 3. The sum of \$380,000,000 is appropriated from the general fund to the Department of Administration for payment of entitlements to qualified municipalities for the fiscal year ending June 30, 1982, in accordance with legislation authorizing the payments.

* Sec. 4. The sum of \$24,987,000 is appropriated from the general fund to the Department of Community and Regional Affairs for payment of entitlements to unincorporated communities in the unorganized borough for the fiscal year ending June 30, 1982, in accordance with legislation authorizing

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JAY S. HAMMOND, GOVERNOR

REPLY TO:

POUCH 8H
JUNEAU, ALASKA 99811
(907) 465-4707

225 CORDOVA STREET, BLDG. B
ANCHORAGE, ALASKA 99501
(907) 264-2201

P.O. BOX 348
BETHEL, ALASKA 99559
(907) 543-3476

P.O. BOX 41
NOME, ALASKA 99762
(907) 443-5457

1 March 1982

The Honorable Don Gilman, Chairman
Senate Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99801

Dear Senator ^{Don} Gilman:

Re: TESTIMONY ON CSSB 627 AND SB 762

Please accept this letter as my personal apology for the poor presentation and quality of testimony offered by the Administration on CS for SB 627 and SB 762. The fact that I was not very well prepared in my testimony, the last minute suggested changes in language dealing with the sovereign immunity waiver, and the failure to provide you (as earlier agreed to) with a revised fiscal note for SB 762 all added to the confusion and dissatisfaction exhibited by you and other committee members present. I only hope that this prior situation won't foreclose the possibility of another hearing on these two pieces of legislation since, from our Departmental perspective, both are important measures which we would hope could become legislation during this session.

At your request, we will work with the committee staff to draft language in both bills that will clearly be agreed upon by State agencies affected and, to the extent possible, by the Alaska Municipal League.

Concerning the fiscal note to SB 762, I can appreciate your concern as to the amount of funding involved. However, the fiscal note was substantially reduced by the Commissioner's office and Governor's office before it was submitted to the legislature. I believe it to be a minimum level of funding if the Department is to administer the nearly 900 open contracts plus those that will undoubtedly be created pursuant to legislative appropriation this session. This is not to suggest that the Department could not provide a lesser level of contract administration or performance monitoring should your committee, finance committee, or any committee of the legislature reduce the Governor's fiscal note on this legislation. As head of the administering agency, I would interpret a reduced funding of the fiscal note as legislative intent to provide a reduced level of administration and monitoring of the municipal grant contracts.

The Honorable Don Gilman, Chairman
March 1, 1982
Page 2

Again, my apology to you and the other committee members present at last Thursday's committee meeting; hopefully, we can "redeem" ourselves when these two bills are again before your committee.

Sincerely,

Lee McAnerney
Commissioner

by: 
Palmer McCarter
Director

cc: Richard Aks, Deputy Commissioner
Jim Baldwin, Assistant Attorney General
Ginnie Chitwood, Executive Director.
Alaska Municipal League

Cook

A M E N D M E N T

TO: SB 830

By Sackett

Page 1, line 6:

Delete "extending the time during which" and insert "relating to"

Page 1, line 7:

Delete "is paid"

Page 2, after line 2 insert:

* Sec. 3. Section 2(c), ch. 60, SLA 1981, is amended to read:

(c) After notifying an [BY AUGUST 15, 1981, THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS SHALL NOTIFY EACH] unincorporated community that its entitlement is available, the [. THE] Department of Community and Regional Affairs [WITH ADVICE FROM THE DEPARTMENT OF LAW] shall determine whether there is [,] in the unincorporated community [,] an incorporated entity or a Native village council that [FEDERALLY CHARTERED ENTITY THAT DOES NOT POSSESS SOVEREIGN IMMUNITY AND] will agree to receive and spend the entitlement money [RECEIVED UNDER THE ENTITLEMENT]. If there is in the unincorporated community more than one qualified [INCORPORATED OR FEDERALLY CHARTERED] entity seeking the entitlement money, the department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] shall pay the entitlement money [UNDER THE ENTITLEMENT] to the entity that the department finds most qualified to receive and spend the money consistent with (d) and (e) of this section. The department may not pay entitlement money to a Native village council unless the council waives immunity from ~~claiming immunity from the entitlement money~~

A waiver must be on a form provided by the Department of Law.

The Department of Community + Regional Affairs may require liability insurance.

Neither this subsection or any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council. [IN SELECTING THE RECIPIENT ENTITY, THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS SHALL GIVE PREFERENCE TO A NONPROFIT CORPORATION ORGANIZED BY AN UNINCORPORATED COMMUNITY FOR RECEIPT OF THE ENTITLEMENT.]

* Sec. 4. Section 2(f), ch. 60, SLA 1981, is amended to read:

(f) If there is no qualified [INCORPORATED ENTITY OR FEDERALLY CHARTERED] entity willing to receive the money in an unincorporated community, the entitlement for that unincorporated community may not be paid.

Renumber following section accordingly.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

March 1, 1982

Hon. Patrick M. O'Connell
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Alaska Native Villages

Dear Representative O'Connell:

At the committee hearing held on February 19, 1982. Representative Clocksin requested a legal opinion on the question whether an Alaska Native Village could provide in some way for non-Native participation in the administration of grants received from the State under 60 SLA 1981 or similar legislation.

I have consulted with the Department of the Interior on the question, and have been advised that there are no opinions of the Department of the Interior on the question. However, David Case, an attorney with the Office of the Regional Solicitor, Anchorage, Department of the Interior did state that a delegation of authority from the Alaska Native Village to a committee composed of tribal and non-tribal members to administer the grant would be upheld as a legitimate exercise of the authority of the Alaska Native Village.

I am also of the opinion that an Alaskan Native Village could delegate its administrative authority over the grant to a committee composed of tribal and non-tribal members. My opinion assumes for the purpose of this opinion that the Alaskan Native Village is an Indian tribe, and that it has either a traditional council or a council established under a constitution pursuant to section 16 of the Indian Reorganization Act (25 USC 476). It is a basic principle of Indian law that an Indian tribe has the authority to define its form of government. See 55 I.D. 14, 30. A government, whether federal, state or municipal may delegate its authority

March 1, 1982

to another party. See Davis, Administrative Law Treatise, Vol. I, Sec. 3.12, pp. 193-198. There is no reason why the general principle of governmental delegation should not be applicable to Indian tribes.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

BY:

Robert E. Price
Robert E. Price
Assistant Attorney General



United States Department of the Interior

OFFICE OF THE SOLICITOR
ALASKA REGION
510 L Street, Suite 100
Anchorage, Alaska 99501

COPY
IN REPLY REFER TO:

February 24, 1982

MEMORANDUM

To: ~~Area Director~~
~~Bureau of Indian Affairs~~
~~Juneau~~

From: David S. Case
Attorney/Advisor

Subject: Waivers of Tribal Sovereign Immunity
for Purposes of State Grant Eligibility

I. INTRODUCTION

You have asked me to respond to the January 29, 1982 letter (copy attached) from Robert Price, Assistant Attorney General, to C. L. Henson, Area Tribal Operations Officer. Mr. Price asks whether Alaska Native traditional and IRA village councils may consent to be sued upon any obligation arising out of grants they receive under 60 SLA 1981. Mr. Price's primary concern is that the state be able to judicially enforce the grant provisions and that third-party contractors be protected under contracts arising out of a grant to a Native village.

Section 2 of 60 SLA 1981 provides for grants of \$1,000 per person to unincorporated communities during the fiscal year ending June 30, 1982. Section 2(c) of the legislation requires the State Department of Community and Regional Affairs to determine whether there is in the unincorporated community receiving the grant an:

incorporated entity or federally chartered entity that does not possess sovereign immunity and (which) will agree to receive and spend the money received under the entitlement.

Mr. Price would like to know whether a traditional or IRA "Native village council" may waive its immunity from suit and thereby become eligible for these grants. Recent developments in this area of the law have eliminated previous doubts about the ability of Native sovereignties to waive immunity, but before reaching that issue it is necessary to decide which Alaska Native villages are protected by the sovereign immunity doctrine.

II. DISCUSSION

A. Tribal Sovereign Immunity Generally

My analysis of Alaska Native sovereign immunity begins with the "three fundamental principles" of Indian sovereignty. First, Indian tribes have inherent sovereignty and do not usually acquire their sovereign powers by congressional grant. Second, conquest renders tribes subject to the legislative power of the United States and thereby terminates their external powers of sovereignty but does not necessarily affect the internal sovereignty of the tribe. Third, tribal internal powers may be qualified by express congressional legislation, but unless thus qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government. 55 I.D. 14 at 22 (1934). See also Cohen, Felix S., Handbook of Federal Indian Law, United States Department of the Interior, at 122 (1942), hereinafter "Cohen"; accord, Federal Indian Law, United States Department of the Interior, Office of the Solicitor, at 395 (1958). The sovereign character of an Indian tribe has long been acknowledged to include tribal immunity from suit. Turner v. United States, 248 U.S. 354 (1919); U.S. v. Oregon, 657 F.2d 1009, 1017 (9th Cir. 1981).

As I have noted elsewhere, whether tribal sovereign immunity is derived from principles of inherent sovereignty or federal recognition of a tribal government has been the subject of some (largely academic) debate. Case, David S., The Special Relationship of Alaska Natives to the Federal Government, Alaska Native Foundation at 160-161 (1978), hereinafter "Case." The debate is academic because the cases reaching the courts have almost always involved tribes whose sovereignty has been recognized in some form or other

by the federal government. E.g., Turner v. U.S., supra, affirming the sovereign immunity of the Creek Nation. Some courts focus on federal recognition alone as sufficient to confirm sovereign immunity, e.g., Atkins v. Haldane, 569 P.2d 151 at 157-162 (Alaska 1977); others have held that the absence of recognition does not deprive a tribe of immunity, Bottomly v. Passamaquoddy Tribe, 599 F.2d 1061 at 1065, n.5 (1st Cir. 1979).^{1/} Whatever the source of the doctrine, or the policy behind it, it is clear from numerous decisions that American Indian tribes are protected from suit by the doctrine of governmental sovereign immunity, e.g., Santa Clara Pueblo v. Martinez, 436 U.S. 49, 58 (1978). The protection includes tribal officers acting in their official capacity, Puyallup Tribe, Inc. v. Department of Game of Washington, 433 U.S. 165, 169, n.7 (1977) [Puyallup III].

B. Alaska Native Immunity

The sovereign status of Alaska Native villages as tribes has been confirmed by executive action, legislative enactment and judicial precedent over the last hundred and fifteen years. Confirmation c. Alaska Native tribal

1/ Bottomly is especially instructive in the Alaska context, because it upheld the sovereign immunity of a tribe which, among other things, had never been formally recognized by treaty or statute and which had not continued in the "full exercise" of its sovereign powers. The same things have been said about Alaska Native villages. Nevertheless, it seems clear that the village was and is the essential unit of political (tribal) organization for most Alaska Native societies. See Alaska Natives and the Land, Federal Field Committee for Development Planning in Alaska, Govt. Printing Office (1958) at e.g. 144 (villages generally), 130 (Arctic Slope Eskimos), 179 (Southwest Coastal Eskimos), 197 (Koyukuk-Lower Yukon Eskimos and Indians), 206-207 (Upper Yukon-Porcupine Indians), 222-223 (Bristol Bay Eskimos), 239 and 245 (Aleuts), 264-266 (Chugach and Eyak Indians). Tlingit and Haida Indians were also organized in villages, but governed by clans, Tlingit and Haida Indians v. U.S., 177 F. Supp. 452, 455-456 (Cr. Cls. 1959).

sovereignty begins with Article III of the 1867 Treaty of Cession (15 Stat. 539). After providing for the citizenship of certain inhabitants of the Territory, Article III provides that:

The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

In Re Minook, 2 Ak. Rpts. 200 (D.C. Alaska 1904) examined the meaning of this provision in order to determine whether the laws of the United States granting citizenship to Indians applied to Alaska Natives who had severed their tribal relationships. The court concluded:

The meaning of this sentence in a treaty between Russia and the United States is clear; it was intended to and does extend all general laws and regulations which the United States may from time to time adopt in regard to the Indian tribes of the United States to and over the Indian tribes of Alaska. Upon its ratification and its further approval by Congress, this treaty and this clause became the supreme law of the land. It gave the Indian tribes of Alaska the same status before the law as those of the United States, and, unless a different intention appears upon the face of the law, extends all acts of Congress, applicable and of a general nature, relating to the Indians of the United States, to Alaska. Id. at 220-221. (Emphasis added.)

Relying in part on this decision, the Solicitor concluded in 1932 that marriage among Alaska Natives maintaining their tribal relations should be governed by the laws and customs of the Alaska Native tribes. 54 I.D. 39, 46 (Sept. 3, 1932). Earlier the same year, and following an exhaustive analysis of the legislation and judicial decisions relating to Alaska Natives, the Solicitor concluded that "no distinction has been or can be made between the Indians and other natives of Alaska so far as the laws and relations of the United States are concerned . . ." 53 I.D. 593, 605 (Feb. 24, 1932). Accord, Cohen, at 44 and Federal Indian Law, at 935-936.

Finally, the Indian Reorganization Act (IRA) of 1934 (25 U.S.C.A. § 461 et seq.) was extended to Alaska by the

Act of May 1, 1936, ch. 254, 49 Stat. 1250 (25 U.S.C.A. § 473a). The IRA was specifically adapted to Alaska to permit:

groups of Indians in Alaska not heretofore recognized as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district

to adopt constitutions and bylaws and receive charters of incorporation under §§ 16 and 17 of the IRA (25 U.S.C.A. §§ 476 and 477). These provisions were intended to permit Alaska Native villages to adopt IRA constitutions and charters. Case at 4.

In fact, Alaska Native villages have been the units of tribal government with which the federal government has dealt on a government-to-government basis ever since the Interior Department's education programs were extended to Alaska in 1884. Id. at 3. In view of this history, it is not surprising that the Interior Department has held as a matter of law and policy that, like a band or tribe, an Alaska Native community organizing under the IRA must be a previously existing group and not one newly formed solely for the purpose of organizing under the Indian Reorganization Act. Cohen, supra at 414 and Federal Indian Law, supra at 961.

The Interior Department has, at least since 1936, treated over 200 then extant Alaska Native villages as tribal governments eligible for federal Native programs and services, including reorganization under the Indian Reorganization Act. Case at 130. Substantially all of these villages are defined and either listed or eligible for benefits under §§ 3(c), 11 and 16 of the Alaska Native Claims Settlement Act (ANCSA, 43 U.S.C.A. §§ 1610(c), 1610 and 1615). These same villages are included in the definition of "tribe" in every major piece of national Indian legislation passed since ANCSA, Case at 11, including the Indian Self-Determination Act of 1974 [25 U.S.C.A. § 450(b)] and the Indian Child Welfare Act (ICWA) of 1978 [25 U.S.C.A. § 1903(8)].^{2/}

2/ The village-like Pueblos of New Mexico have been held to be "tribes" under analogous circumstances, e.g., U.S. v. Sandoval, 231 U.S. 28, 47 (1913). Alaska Native villages also fit the definition of "tribe" in Montoya v. U.S., 180 U.S. 261, 266 (1901) as "a body of Indians of the same or similar race, united in a community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory."

Significantly, each of these villages is eligible for and has received annual tribal government improvement grants under § 104 (25 U.S.C.A § 450h) of the Self-Determination Act. Moreover, under §§ 103(8), 108 and 109 (25 U.S.C.A §§ 1903(8), 1918 and 1919) of ICWA, "any Alaska Native village," as defined in § 3(c) of ANCSA [43 U.S.C. § 1602(c)], may obtain retrocession of jurisdiction over Indian child welfare cases and may negotiate jurisdictional arrangements with the state. Although there are many questions about the scope of Alaska Native tribal jurisdiction, Case at 157, it is clear that in ICWA Congress recognized any ANCSA "Native village" as capable of exercising jurisdiction over Indian child welfare cases. Section 108 of ICWA was specifically amended to permit flexibility in implementing retrocession in Alaska, H. Rep. No. 1386, 95th Cong., 2d Sess. at 24-25.^{3/} The exercise of this sort of jurisdiction is a characteristic of governmental authority and implies that Alaska Native villages are tribal governments whether they are governed by traditional or IRA councils. The ICWA implications are also consistent with the Solicitor's earlier conclusion that the laws and customs of Alaska Native tribes apply to the marriages of their members, 54 I.D. 39 supra.

The ultimate authority of Alaska Native governments remains to be fully defined, but it is virtually certain that sovereign immunity is one of their attributes. Several Alaska cases have so held in a variety of circumstances. Johnson v. Chilkat Indian Village, 457 F. Supp. 384 (D. Alaska 1978), Klukwan's non-reservation, IRA government held to have sovereign immunity and jurisdiction over lands of its former reservation to adjudicate ownership of artifacts; Cogo v. Central Council of Tlingit & Haida Indians, 465 F. Supp. 1286 (D. Alaska 1979), non-reservation, non-IRA tribe held to have sovereign immunity in lawsuit challenging

^{3/} Significantly for Alaska, § 108(b)(2) [25 U.S.C.A. § 1915(b)(2)] permits retrocession of jurisdiction "without regard for the reservation status" of the tribe. "Reservation" is defined broadly for ICWA purposes as "Indian country" under 18 U.S.C. § 1151. See 25 U.S.C.A. § 1903(10). See also 25 CFR § 13.12(b)(1981) implementing § 108(b).

enrollment and distribution of judgment funds. Atkinson v. Haldane, 569 P.2d supra, Metlakatla's reservation, IRA government held to have sovereign immunity against tort suit; accord, Parker Drilling Co. v. Metlakatla, 451 F. Supp. 1127 (D. Alaska 1978).

Based on their past history and past and recent legislation and cases, I conclude that the traditional or IRA council of any Alaska "Native village" as defined in § 3(c) of ANCSA is protected from suit^{4/} by the doctrine of tribal government sovereign immunity.

C. Waiver of Sovereign Immunity

U.S. v. United States Fidelity & Guaranty Co., 309 U.S. 506 (1940) is the case most often cited for the proposition that tribal sovereign immunity cannot be waived "without congressional authorization." Id. at 512. However, whether a tribe can waive its immunity in the absence of congressional authorization was not an issue in that case. In fact, the tribal governments involved there had been previously abolished by an act of Congress and their assets placed in trust with the United States. Since there was no tribal government to waive sovereign immunity, the question of whether there had been a tribal waiver did not arise. The issue before the Court was whether Congress had consented to a counterclaim against the tribe. There is no doubt that Congress could, if it wished, waive tribal sovereign immunity, e.g., U.S. v. Oregon, 657 P.2d supra at 1013. However, just because a congressional waiver may be sufficient to lower the immunity barrier does not mean it is a necessary prerequisite.

Recent cases have upheld waivers of sovereign immunity by IRA corporations under the "sue and be sued clause" of tribal charters adopted under § 17 of the Indian Reorganization Act, e.g. Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp. supra at 1136-1137 (D. Alaska 1978).

^{4/} Of course, other tribal governments that are not ANCSA "villages" also enjoy sovereign immunity. Most notable among these are the Tlingit and Haida Central Council, Cogo, supra, and a few traditional or IRA governments formed outside ANCSA villages, Case at 160.

Similarly, the Tenth Circuit has upheld a tribal government's waiver of sovereign immunity in an ordinance approved by the Secretary of the Interior, Merrion v. Jicarilla Apache Tribe, 617 F.2d 537, 540 (10th Cir. 1980) en banc, affirmed on other grounds U.S. (Jan. 25, 1982). See generally, Atkinson v. Haldane, 569 P.2d supra at 169-175 discussing the policy behind the distinction between tribal governments and tribal corporations under the Indian Reorganization Act when it comes to the application of the doctrine of sovereign immunity.^{5/}

One recent decision has squarely faced the issue of whether a tribe can waive its immunity without Secretarial approval or congressional consent. In U.S. v. Oregon, 657 F.2d supra at 1013, the Ninth Circuit Court of Appeals concluded that the Yakima Indian Tribe had waived sovereign immunity by entering into an agreement (not approved by the Secretary) to be bound by future court orders adjudicating certain rights. Id. at 1014. The court agreed that Indian tribes enjoy sovereign immunity "because they are sovereign predating the Constitution" and that Congress could abrogate their immunity by legislation. Id. at 1013. However, the court concluded that the references to tribal consent to suit as constituting a waiver of immunity in two Supreme Court cases indicated there was no legal barrier to such a waiver. Id., citing Turner v. United States, 248 U.S., supra at 358 and Puyallup III, 433 U.S. supra at 173.

The court also buttressed its decision with certain policy considerations based on the tribe's own assertions of sovereignty and powers of self-determination. The court reasoned that to hold that the power to waive sovereign

5/ Some Alaska IRA villages are organized as both § 16 governments and § 17 corporations, but there is considerable confusion about the exercise of tribal corporate authority, see Parker Drilling, supra at 1132-1133. Traditional councils are not organized as corporations. Requiring corporate organization as a means of waiving sovereign immunity is therefore unworkable for many practical reasons, not the least of which is a needless multiplication of organizations in small villages.

immunity was not among the powers of an Indian tribe would be contrary to the asserted right of the tribe to its own self-government and that sovereign immunity implied the power to waive immunity. Finally, the court noted that prohibition against tribal waivers of immunity without congressional consent might impede the ability of the tribes to enter into business relationships with non-Indians, Id. at 1014, citing Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp., supra at 1136.

I am persuaded that the Ninth Circuit's policy and legal analysis is correct. Tribal sovereign immunity is one of the core concepts of tribal self-government and essential to the preservation of internal tribal sovereignty. Although Congress may abrogate a tribe's immunity, neither congressional consent nor Secretarial approval is necessary for a tribe to effectively waive the protection immunity affords.^{6/}

D. Scope of Waiver

Although I do not dispute the state's ability to require a waiver of sovereign immunity as a condition to a tribe's eligibility for one of the proposed grants, I think the waiver should be of a very limited nature, consistent with Mr. Price's expressed concern of securing judicial enforcement of the grant provisions and third-party protection on contracts with the tribal government. I am most concerned that the waiver envisioned in § 6(b) of Senate Bill No. 716 (adding a new section, AS 44.47 146, to the Alaska Statutes) is much too broad. The bill (copy attached), if enacted, will replace 60 SLA 1981. It will also require a tribal government to waive "any immunity from suit which it might have" and will apply the waiver to "all claims arising out of the activities of the tribal council under the grant contract."

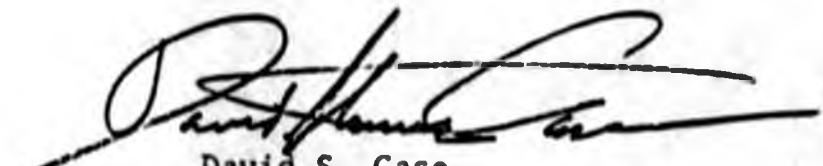
^{6/} Congressional consent would be required, however, to reach land or other assets held in trust or restricted status by the United States for the tribe, e.g. U.S. v. U.S. Fidelity & Guaranty Co., supra.

This waiver is broad enough to include tort claims which might arise out of the "activities" of the council under the contract. It is not clear from the statute that the liability of the tribe would be limited to the amount of the grant or even to the assets purchased with the grant. I understand that Mr. Price did not draft the proposed legislation, but I am concerned that if it passes it will prove so unpalatable to the Alaska Native village councils that they will not agree to the waiver which the statute appears to require. I suggest that the bill be rewritten to permit a waiver of immunity on a "standard form provided by the Department of Law" without casting the scope of the waiver in statutory language.

In the waiver, I think that the "sue and be sued" language of tribal corporate charters could be used as a model. See Maryland Casualty Co. v. Citizens National Bank of West Hollywood, 361 F.2d 517, 521 (5th Cir. 1966). Typically, these waive immunity but limit the scope of the waiver so as to preclude "levy of any judgment, lien or attachment upon the property of the (tribe) other than income or chattels specially pledged or assigned." At a minimum, I think the waivers should be drafted so that they do not risk tribal assets not purchased with the funds of the particular grant for which the waiver is being provided.

III. CONCLUSION

Alaska "Native villages" as defined in § 3(c) of ANCSA have been congressionally recognized as governments for purposes sufficient to conclude that they possess tribal sovereign immunity. Tribal sovereign immunity can be waived by the tribe without Secretarial or congressional consent, but such waivers should be drawn as narrowly as possible.



David S. Case
Attorney/Advisor

Enclosures

cc: Regional Solicitor, Alaska
Scott Keep, Division of Indian Affairs, D.C.
Fran Ayer, Division of Indian Affairs, D.C.
Robert Price, Attorney General's Office, Juneau
C. L. Henson, BIA, Juneau

DRAFT Waiver
prepared by Dept. of Law

VILLAGE COUNCIL RESOLUTION NO. _____

Whereas the _____ is an applicant for a grant in the amount of \$ _____ from the State of Alaska, Department of Community and Regional Affairs, under Chapter 60 SLA 1981, as amended;

Whereas Chapter 60 SLA 1981, as amended, requires as a condition of the grant that an Alaska Native Village waive sovereign immunity from suit for claims arising out of its activities under the grant; NOW THEREFORE be it resolved that:

_____, an Alaskan Native Village, either organized under section 16 of the Indian Reorganization Act (25 USC 476) or as a traditional council, hereby gives its irrevocable consent to allow _____ to be sued in the name of _____ upon the grant contract or any claims arising out of its activities under the grant contract, and hereby waives any immunity from suit for such purposes, and the _____ shall be liable for such claims. _____ hereby consents to the execution of any judgment obtained pursuant to this waiver of immunity against any property, whether real or personal, including money, of _____ in an amount equal to the amount of the grant.

The foregoing resolution was adopted at a duly convened meeting of _____ this _____ day of _____, 198__.

Attest: _____
Secretary.

3/1/82 Department of Law draft

R.E. Price *RWP*

MEMORANDUM

State of Alaska

COMMUNITY AND REGIONAL AFFAIRS

TO: Keith Specking
Office of the Governor

DATE: January 29, 1982

FILE NO:

TELEPHONE NO:

FROM: Richard Aksel
Deputy Commissioner
Department of Community
And Regional Affairs

SUBJECT: Proposed Amendment
To Chapter 60/SLAS1

The Department of Community and Regional Affairs requests your assistance in preparation of legislation to amend Chapter 60/SLAS1 to bring that statute in conformance with recently established policy for dealing with Alaska Native Villages that possess sovereign immunity.

As you know, the Department of Law is drafting legislation to improve the procedures for State grants to municipalities and unincorporated communities. After several discussions, DCRA, the Department of Law and the Governor's Office agreed to include language that allows the Department to provide funding to Alaska Native Villages that waive sovereign immunity from suit. This language is also to be included in legislation that would amend and reform the State Revenue Sharing program.

The Department strongly feels that this language should also be proposed as an amendment to Chapter 60/SLAS1 in order to apply a consistent policy to all Alaska Native Villages. Chapter 60 currently prohibits DCRA from providing funding under the Unincorporated Community Aid Program to federally chartered entities that possess sovereign immunity. That prohibition requires the creation of non-profit corporations in every community where an IRA council may be the logical grant recipient.

To date, DCRA has delayed major efforts to distribute funding under this statute because of other priorities. There are currently 168 unincorporated communities eligible to apply for over \$13 million under Chapter 60. As of January 29, 1982, the Department has received 20 applications, approved 9 of them and disbursed \$580,000.

If this statute can be amended to conform to the other legislation, the majority of the program could be implemented in a manner that is consistent with current state policy and comprehensible to local residents.

January 29, 1982

The Department suggests the following amendments to Chapter 60:

Page 3, line 9, after word "or" delete "a federally chartered entity does not possess sovereign immunity" and add "an Alaska Native Village Council that waives any immunity from suit which it might otherwise have, for obligations arising out of its activities with grant funds on a form drafted by the Department of Law."

Page 3, line 12, after the word "one" delete "qualified incorporated or federally chartered entity" and add "entity seeking funding,".

Page 3, line 15-18, delete "In selecting the recipient entity.....for receipt of the entitlement."

The Department also suggests that the lapse date for these funds be extended to allow sufficient time for enactment of this amendment prior to implementation.

Thank you for your consideration of this request.

cc: Wil Condon, Attorney General
Susan Greene, Office of the Governor

bcc: Palmer McCarter
Jim Baldwin

STATE OF ALASKA
THE LEGISLATURE

POUC - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1982

SUBJECT: Waivers of tribal sovereign immunity under
HB 746 (Work Order No. 12-2642)

TO: Representative Patrick M. O'Connell
Chairman, House Community and
Regional Affairs Committee

FROM: *LHC* Linn H. Asper
Legislative Counsel

You have asked if the section of HB 746 requiring waiver of immunity from suit by an Alaska Native village council would avoid sovereign immunity issues relating to Indian tribes and would allow the Department of Community and Regional Affairs to distribute grant money under that bill to an unincorporated village. In answering this question I am assuming that Alaska Native village councils are possessed of immunity from suit under a tribal sovereign immunity theory and that they are entities that can receive state money as if they were municipalities. There are conflicting opinions about both of these propositions, particularly the latter (Attorney General opinion of September 2, 1981 [J-66-829-81]), but if the village councils are immune from suit and the state can constitutionally distribute grant money to them, the question is whether they are able to waive immunity from suit with regard to the grants. The state obviously wants the councils to do this so that it can maintain some control over the expenditure of the money. If Alaska Native village councils have immunity from suit the current state of the law is that they can make a knowing waiver of that immunity, although a final decision has yet to be rendered on this question. The doctrine of tribal sovereign immunity dates back to the earliest days of the United States. It has been established that Indian tribes are possessed of immunity from suit U.S. v. U.S. Fidelity & Guaranty Co., 309 U.S. 506 (1940). It is clear that sovereign immunity exists only at the sufferance of

Congress and can be waived by an Act of Congress. Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978). The key question in considering HB 746 is whether only Congress can waive the immunity or whether the tribe itself can make the waiver. The early decisions such as U.S. v. U.S. Fidelity & Guaranty Co., supra, seemed to indicate that a tribe could not waive its own immunity. In the U.S. Fidelity case the tribe was immune from a counterclaim in a suit that was brought in the name of the tribe. Other decisions that have expressed doubt about the ability of Indian tribes to waive immunity are Namekagon Dev. Co. v. Bois Forte Reservation Housing Authority, 395 F. Supp. 23 (D.C. Minn. 1974) and North Sea Prod. Ltd. v. Clipper Seafoods Co., 595 P.2d 938 (Washington 1979).

The recent case of United States v. State of Oregon, 657 F.2d 1009 (9th Circuit 1981), stated clearly that Indian tribes can waive their immunity from suit, and held that the Yakima tribe waived its immunity in a matter involving apportionment of salmon stocks when it entered into an agreement with the state and federal government covering the apportionment. While there is no doubt that U.S. v. Oregon supports the kind of waiver process envisioned by HB 746, the opinion is not strongly reasoned and may not survive consideration of the issue in the U.S. Supreme Court. The U.S. v. Oregon court more or less ignored U.S. v. U.S. Fidelity & Guaranty Co. and relied on dicta from several Supreme Court cases to reach its conclusion. The U.S. v. Oregon court felt that the doing of equity required the Yakima tribe to be bound by the agreement that it had freely entered into, but in doing equity the court had to get around the very real possibility that tribal sovereign immunity can only be waived by congressional act.

A parallel situation to U.S. v. Oregon prevailed in the appeals court cases before Santa Clara Pueblo v. Martinez, supra. In the cases that led to Martinez, it was uniformly held by appeals courts that the Indian Civil Rights Act acted as a waiver of tribal sovereign immunity for cases within the jurisdiction of that Act. Then the U.S. Supreme Court held that tribal sovereign immunity had continuing vitality as a doctrine of law and that a congressional waiver of that immunity could not be implied from an Act of Congress where there was no express waiver. Although

U.S. v. Oregon presented a different issue, the general anti-waiver policy of the U.S. Supreme Court with regard to sovereign immunity has to be taken into consideration when the committee considers waivers made by the village councils. Obviously there are some situations where a tribe will want to be able to waive its own immunity in order to enter into a particular business arrangement or receive state money, as in HB 746, but since the immunity concept is rooted in protection of the tribes, the Supreme Court may decide not to recognize waivers made by the tribes for fear they will be taken advantage of in their dealings with private parties and governments.

Were it not for the resurgence of the sovereign immunity concept in Martinez, supra, I would have little trouble agreeing with the court in U.S. v. Oregon that a tribe can waive its own immunity, but given that decision and the fact that the U.S. Supreme Court has not ruled on the issue now before the committee, the waiver concept presented in HB 746 is questionable.

If grants are to be made to Native village councils under HB 746, it will do no harm to require a waiver of sovereign immunity, as long as it is understood that such waivers may prove to be ineffective. Any waiver used should be carefully limited in scope so that the Indian group executing the waiver is waiving its immunity from suit only with regard to matters directly related to the grant. A limited waiver is less likely to be challenged, and if challenged, more likely to be upheld, than a general waiver of immunity. The waiver concept of HB 746 is properly limited as long as the form that is to be prepared by the Department of Law turns out to be a carefully drawn and strictly limited waiver. Any appearance that the state government is seeking to have the councils waive their immunity in areas other than those that are directly related to the grants will almost certainly render the waiver scheme invalid.

LHA:ljb

ANCH. DAILY NEWS
MARCH 23, 1982

metro/business/classified

Question of sovereignty

By STAN JONES
Daily News reporter

Sovereignty — the idea that native American tribes are not just groups of people connected by the ties of family and race, but nations, with inherent governmental powers — is a principle that has underlain the dealings of American Indians and Alaska Natives with the U. S. government from the beginning — from the earliest treaties signed in New England to recent efforts by Natives in nearly 20 villages in Interior Alaska to obtain federal charters as tribal governments.

Perhaps no group of Natives in Alaska has tended the flame of sovereignty with greater devotion, or at greater cost, than the handful of residents of a 1.8 million acre tract of land which, until the Alaska Native

Claims Settlement Act passed in 1971, made up the Venetie Indian Reserve.

Their devotion to sovereignty has brought its rewards to the 350 or so Athabaskan Indians of the Venetie tribe. They own those 1.8 million acres, lock, stock and mineral rights. The land is far more than any other Native group of comparable size received under the settlement act.

The pursuit of sovereignty has also had its price for the Venetie tribe, however. Virtually alone among Alaska's Natives, its members belong to no village or regional Native corporation, nor do they share in the profits many Native corporations are beginning to earn from their investments.

Most recently, the tribe's vision of sovereignty collided

head-on with laws requiring the state to have a clear right to the use of school sites before building schools. As a result, the state Department of Transportation and Public Facilities withheld \$267,000 voted by the Alaska legislature for improvements to schools in Venetie and Arctic Village, both located within the boundaries of the former reservation. And the resurrection of an old claim to an additional 3.4 million acres of land, located mostly in the Arctic National Wildlife Refuge, has pitted the tribe against the Interior Department and the settlement act.

The seeds of the dispute over the school improvements were sown in 1978, when, according to assistant state attorney general Bill Cummings, the Venetie village corporation formed

Under the settlement act gave the state permission to use small parcels of land in Venetie and Arctic Village for school sites. The schools in the village are operated by the Yukon Flats School District, a Rural Education Attendance Area (REAA) set up by the state in the wake of the Mully Hootch consent decree requiring the construction of village high schools.

Since the land had not yet been conveyed to the village corporation, it did not give the state a deed, but said it would do so when it received patent to the land from the federal government.

In September 1978, however, the two village corporations operating within the boundaries of the former reservation relinquished any interest in land

they might receive in the future to the Native Village of Venetie Tribal Government. In October of the same year, the two corporations voted to dissolve themselves and ceased to exist.

When the federal government finally delivered the patent to the 1.8 million acres that had made up the reservation, the land as a result went to the tribal government.

The land shuffle had left the state without satisfactory title to the school lands.

The department of law decided that before making them, the state needed, if not outright ownership of the school lands, at least enough control over them to protect its interest for the expected life of the improvements.

Negotiations began on the land issue, with the tribal gov-

ernment offering in April, 1981, what it called a 'license', allowing the state to use, but not own, the school lands.

The problem with the license, according to Cummings, was that it did not give the state sufficient interest in the school sites to satisfy the law.

Cummings said the state objected to at least four elements of the license the tribe had offered.

First was a phrase describing the tribe as a "sovereign entity".

"The state can't do business with sovereigns," Cummings said. The assistant attorney general indicated the state was worried it might not be able to enforce contract provisions

against the tribe if it were acknowledged as a sovereign entity.

Another provision the state objected to, Cummings said, was a requirement that school employees abide by the tribe's constitution and regulations as a condition of continued use of the school site. Tribal regulations forbid the use of alcohol or marijuana while on tribal lands or waters, and require non-members of the tribe to have a use permit and be accompanied by a member if they leave the school premises, Cummings said.

According to Cummings, that would have subjected the state's use of the school sites to the behavior of third parties over whom it had no control.

"If a guy makes home brew in his apartment," the assistant attorney general said, "the state's right to use the premises for school purposes could evaporate."

"Local communities of course have the right to declare themselves dry," Cummings continued. "The problem was tying the state's use of the facilities to the conduct of third parties (i.e., school employees). The state was supposed to monitor their conduct at all times, even in the privacy of their own homes."

The state also objected, the assistant attorney general said, to a provision requiring the licensees to abide by any rules and regulations that might be adopted by the tribe later.

"That's tied to their claim of being a sovereign entity," Cummings said. "The state could go in and sink a bunch of money in improvements, and then they could change the rules on us. It didn't allow the state to protect its investment."

Another provision that caused the state to balk, according to Cummings, made continued use of the schools by the state contingent upon their

being funded at a level the local Indian school board considered adequate.

"We don't do business with Indian school boards," Cummings said. "We do business with REAAs. The funding is based on the state's foundation formula."

"They could set any level of funding they wanted to, and we would have no way to fund it. We have no authority to do business that way."

Don Wright, the former Alaska Federation of Natives president and perennial unsuccessful political candidate who served as the tribe's consultant during the school battle, maintains however that the local Indian school board qualifies as a school district under state law, and, as owners of the land through the tribal government, would have the sufficient interest required by law.

"The attorney generals do not have the right to interpret the mandate of the state constitution to provide education for children in the state of Alaska," Wright said. "If the Venetie tribal government has sufficient interest, that's sufficient."

The state responded in May 1981, Cummings said, with a rewritten license from which the objectionable provisions had been deleted.

The state's version, however, was unacceptable to the tribal government. A meeting was held in September 1981, at the tribe's offices in Fairbanks, with representatives of the state Departments of Law, Transportation and Public Facilities, and Education present, as well as Wright and members of the tribal government. The meeting reached an impasse, according to both sides, with Venetie standing on its original license. The result was that the improvements to the schools were never made, and are still in limbo today.

According to Wright, the tribe is not concerned by the

prospect of the loss of state funds. "We'll do without the state education money," he insisted. "I'm sure the tribe isn't going to have its children grow up illiterate."

For him, the issue of sovereignty is supreme. "The state's got no standing with us," he said. "The reservation is not part of the state of Alaska. Venetie has always been a governmental entity. We're above and beyond the state."

Nonetheless, there are signs the tribe wants to come to terms with the state on the school sites. The tribe has chosen new leadership since last fall, and meetings are scheduled next week between Beatriz Apodaca, the superintendent of the Yukon Flats School District, and Lawrence Roberts, the tribe's new first chief. Apodaca said this week she was hopeful the meetings would lead to a compromise that will permit the school improvements to be made. Officials in Juneau say they are leaving the matter in Apodaca's hands.

The path that led the Venetie Indians from the creation of the reservation in 1944 to the loss of school improvements in 1981 is a tortuous one.

The reserve came into existence March 11, 1944, created by the Secretary of the Interior in response to a petition from the residents of the area. Beginning at the confluence of the Chandalar and Yukon Rivers and extending north approximately 100 miles, it took in 1.8 million acres and the settlements of Venetie, Arctic Village, KaChick, Roberts Fish Camp, Venetie Landing, and Christian.

When the settlement act passed in 1971, the reserve was wiped out, and the residents who had lived on it were faced with two choices. One was to enroll in Doyon Regional Corporation, form their own village corporations and select land under the standard settlement act formula. By doing so

they would gain the surface rights on about 184,000 acres of village corporation land (with subsurface rights going to Doyon), the right to individual and corporate cash distributions, and a share of any profits that their village corporations and Doyon might earn.

The other choice was for the village corporations to take over the reservation land, while forfeiting their Doyon membership and their entitlement to individual and corporate cash distributions under the settlement act. This way they would not only acquire 1.8 million acres instead of the far smaller acreage yielded by the standard settlement act formula, but they would acquire both surface and subsurface rights, including the ownership of any oil or other minerals which might lie beneath the land.

The shareholders opted for the second course, acquiring the reservation lands in total, but relinquishing any claim to the other benefits of the settlement act. Things were again as they had been — almost.

The difference was that the reservation no longer existed. The lands were still intact, true, but the special trust relationship with the federal government was gone. The management of the lands now rested in the hands of the two village corporations, the unfamiliar children of the settlement act.

The trust relationship had meant that the government in Washington would guard the tribal lands from the outside world. The tribe had enjoyed that security, and in 1978 they tried to get it back.

They asked the Secretary of the Interior to bring the tribal lands full circle by restoring them to the trust status they had enjoyed before the settlement act passed.

Not possible, the Department of the Interior concluded. In a legal opinion dated Sept. 15, 1978, a department attorney

stated, "Congress (in the Settlement Act) intended permanently to remove from trust status all Native land in Alaska except allotments and the Annette Island Reserve."

But the efforts to keep things as they had been continued. In September 1979, the shareholders of the two village corporations transferred their entitlement to the former reservation land to the Native Village of Venetie Tribal Government, which had been formed in 1940, and, according to its constitution, held the powers to deal with the federal and territorial governments, control the use of the reservation, and to guard and foster Native life, arts, possessions and customs.

That done, the shareholders decided they had no further use for their village corporations, and dissolved them in October 1979. Now the village corporations, like the reservation, were gone. What was left was 1.8 million acres of land, in the hands the tribal government.

In February and April 1981, even as the fight over the school improvements with the state was brewing, the Venetie tribe opened a campaign on a new front. They laid claim to an additional 3.4 million acres of land located mostly in what had by then become the Arctic National Wildlife Refuge, based on old petitions originally submitted to the Interior Department in 1950 and 1957. The land was claimed chiefly for the benefit of the residents of Arctic Village, who asserted in the 1957 petition that they had not been aware of the boundaries when the reservation was established in 1944. Those boundaries, they said, had included their village lands, but excluded the lands they used for hunting and fishing.

The Interior Department took as dim a view of the claim for 3.4 million additional acres as it had of the 1978 request to turn the tribal lands back into a reservation. "NCSA," the De-

partment responded, "provided for the extinguishment of all aboriginal claims in Alaska, and ... for the revocation of all former reserves in the state."

Interior's position is hotly contested by Wright, who insists the Venetie tribe never really participated in the settlement act, and is therefore exempt from the clause purporting to extinguish all aboriginal claims.

"Some ignorant individuals employed by the United States don't know enough of the land to know anything," the tribal consultant said. "The fact is the tribe owns the land, period. We always have. The tribe received nothing from the (federal) government, the state or Doyon."

Having been rebuffed by the Interior Department, the tribe took matters into its own hands. It simply declared itself, in legal notices in three July 1981 issues of the Fairbanks-based All-Alaska Weekly, the owner of the land.

"Know ye," warned the notice, "that there is, therefore, granted by the NEETS'AI GWICH'IN ATHAPASKAN TRIBE, the surface and subsurface estate in the lands and waters above-described unto the NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT."

Lest anyone doubt their seriousness, the tribe has declared its intention of keeping outsiders off the claimed wildlife refuge lands, as well as the former reservation lands conveyed to it under the settlement act.

"Non-tribal persons who violate Tribal or Federal law," the Venetie government wrote to Gov. Jay Hammond in April 1981, "will be turned over to the Federal Marshall to be removed from the ancestral lands and waters of the Tribe."

"Anybody who sets foot on that land," Wright echoes, "is trespassing in violation of tribal law."

STATE OF ALASKA

File: Proposed Legislation

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 17, 1982

M E M O R A N D U M

To: Honorable Jay S. Hammond
Governor

From: Wilson L. Condon *PBF, for*
Attorney General

Re: Attached bills relating to aid to unincorporated
communities
Our file: J77-080-82.

Attached are two bills requested by the Department of Community and Regional Affairs which enable Alaska Native village councils to receive aid to unincorporated communities and extend the time for implementation of the aid program. The bill adds language identical to that used in the bills we prepared for you on state grants and or revenue sharing, which requires waiver of any sovereign immunity as a condition of payment of aid money.

The reasons for the bills are outlined in a January 29, 1981 memorandum from Deputy Commissioner Richard Aks to Keith Specking.

A draft transmittal letter to the legislature is also attached.

WLC:PBF:ph

cc w/enc.: Honorable Lee McAnerney ✓
Commissioner
Department of Community and
Regional Affairs

DRAFT

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills relating to aid to unincorporated communities.

The first bill amends ch. 60, SLA 1981 by deleting language which granted preference to nonprofit corporations and deleting language which prevented Alaska Native village councils from receiving aid money because of the possibility that the councils had sovereign immunity from suit.

The second bill extends the appropriations which fund the aid to unincorporated communities program for one year until June 30, 1983. This extension will enable the Department of Community and Regional Affairs to complete implementation of the program and disbursement of the money, both of which have been delayed by the time-consuming problems raised by the existing language of ch. 60, SLA 1981.

I urge passage of this bill and the other bills mentioned earlier which include similar language concerning Alaska Native village councils.

Sincerely,

Jay S. Hammond
Governor

northern alaska health resources association, inc.

February 19, 1982

The Honorable Donald Gilman, Chairman
Senate Community and Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I wish to express my support to you for SB 627, An Act Relating to State Assistance to Municipalities. It appears that this bill would extend the availability of municipal assistance funds to human service projects in a way that would be most helpful.

We have heard a need expressed by many parties that municipal assistance funds should be made available for operational costs as well as capital projects for social services. Although we do not have an official position on this issue, it does seem reasonable to provide for flexibility within the legislation to allow municipalities to determine how they want to use these funds.

We urge your passage of SB 627, with an amendment to allow use of municipal assistance funds for operational costs of social service programs.

Thank you.

Sincerely,



Charles M. Kaltenbach, Dr.P.H.
Executive Director

cc: Senator F. Ferguson
Senator M. Colletta
Senator R. Ziegler
Senator A. Sturgulewski
Senator C. Parr

Arctic Alliance For People Programs

529 Fifth Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

February 19, 1982

Senator Donald Gilman, Chairman
Senate Community and Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I am writing on behalf of the Arctic Alliance for People Programs in support of SB 627, An Act Relating to State Assistance for Municipalities. Our group, which is comprised of many human services providers in Interior Alaska, is strongly in support of this bill.

The Arctic Alliance does, however, request that you consider making one addition to SB 627 during your committee deliberations. We hope you will add the following to line 12 of the bill:

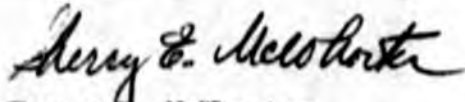
"...money received under this section in accordance with (c) (1), (2), and (3)..."

The inclusion of subsection (c)(2) of Section 1, Chapter 60 SLA 1981 should facilitate State monies passing through the municipalities in question to social service/human service providers. (We are assuming that the term "municipality" as used here includes second class boroughs. If not, we ask that second class boroughs be specifically included in this bill.)

If you or any other members of the Community and Regional Affairs Committee have any questions regarding our comments on this bill, please call.

Thank you for your consideration in this matter.

Sincerely,



Sherry E. McWhorter
President

CC: Senator R. Ziegler, Senator M. Colletta,
Senator F. Ferguson, Senator A. Sturgulewski
Senator C. Parr

Enclosure

ARCTIC ALLIANCE FOR PEOPLE PROGRAMS

MEMBERSHIP LIST

Organizational Memberships:

Adult Learning Programs of Alaska
P. O. Box 74278
Fairbanks, Alaska 99701
452-8731, 452-6434
Linda Hulbert

Women In Crisis Counseling and Assistance Inc.
302 Charles Street
Fairbanks, Alaska 99701
452-2293
Ruth Lister

Fairbanks Child Protection Task Force, Inc.
809 College Road
Fairbanks, Alaska 99701
456-2866
Blanche Brunk

Northern Alaska Health Resources Association, Inc.
529 Fifth Avenue, Suite 8
Fairbanks, Alaska 99701
456-2553
Sherry McWhorter

Crisis Line
P. O. Box 832
Fairbanks, Alaska 99701
452-4403, 452-6093
Barbara Staley

Displaced Homemakers
Suite 218, Lathrop Building
516 Second Avenue
Fairbanks, Alaska 99701
456-8428
Gene Kingrea

Fairbanks Community Mental Health Center
209 Forty Mile Avenue
Fairbanks, Alaska 99701
452-1375
Dr. Jill Bottrell

Organizational Memberships (Continued)

Fairbanks Counseling & Adoption

P. O. Box 1544

Fairbanks, Alaska 99707

456-4729

Kathy McGinty

Chena-Goldstream Volunteer Fire Department

P. O. Box 80487

Fairbanks, Alaska 99708

455-6608

Nilo Koponen

Fairbanks Rehabilitation Association

805 Airport Road

Fairbanks, Alaska 99701

456-8901

Bill Repicci

Northern Regional Nursing Manager

1919 Lathrop, Suite 223

Fairbanks, Alaska 99701

452-1593

Patricia L. Rogers

Alaska Legal Services Corporation

763 Seventh Avenue

Fairbanks, Alaska 99701

452-5181

Judith K. Bush

Fairbanks Native Association

310 First Avenue

Fairbanks, Alaska 99701

452-1648

Linda Staley

Presbyterian Hospitality House, Inc.

1401 Kollum

Fairbanks, Alaska 99701

456-6445

Ted S. Sponsel

Salvation Army

Box 405

Fairbanks, Alaska 99707

452-3113

Fairbanks Head Start

P. O. Box 724

Fairbanks, Alaska 99701

356-1212, 356-1213

Phil Gilbert

Organizational Memberships (Continued)

WAMI Medical Education Program
Arctic Health Research Bldg.
901 Koyukuk Ave. South
University of Alaska
Fairbanks, Alaska 99701
474-7731
Philip O Nice, M.D.

Individual Memberships:

Milo E. Koponen
S.R. 10059, Nena Ridge
Fairbanks, Alaska 99701
479-6782

Marguerite A. Steason
1189 Nenana Street
Fairbanks, Alaska 99701
456-7832

Marsia Schneider
2.5 Mile McGrath Road
Fairbanks, Alaska 99701
456-5914

Ruth Burnett
1901 Crossen
Fairbanks, Alaska 99701
452-2826

Sharon Bell
800 Airport Way
Fairbanks, Alaska 99701
452-1776

Senate Community and Regional Affairs
Committee

February 25, 1982
Juneau, Alaska

Members Present: Sen. Don Gilman, Chairman
Sen. Bob Ziegler
Sen. Mike Colletta
Sen. Arlis Sturgulewski

Members Absent: Sen. Frank Ferguson

COMMITTEE CALENDAR

SB 627 "An Act relating to state assistance for
municipalities; providing for an effective date."

SB 762 "An Act relating to state grants; and providing for
an effective date."

WITNESS REGISTER

John Carlson, Mayor
Fairbanks North Star Borough
P.O. Box 1267, Juneau, Alaska 99707
452-4761
Position: Testified on SB 627

Ginny Chitwood, Executive Director
Alaska Municipal League
204 N. Franklin St., Juneau, Alaska 99801
586-1325
Position: Testified on SB 627

Palmer McCarter, Director, Div. of Local Government Assistance
Department of Community and Regional Affairs
Pouch VH, Juneau, Alaska 99811
465-4707
Position: Testified on SB 627

Jim Baldwin, Assistant Attorney General
Dept. of Law
Pouch K, Juneau, Alaska 99811
465-3600
Position: Testified on SB 627 and SB 762

PREVIOUS ACTION

SB 627 No previous action to report.

SB 762 Referred to S. C & RA Committee on 2/16/82.

ACTION NARRATIVE

Tape 2/25 Side 1
001

Senator Gilman called the meeting to order at 3:02 p.m.

with member Senators Ziegler, Colletta, Sturgulewski.
Senator Gilman brought SB 627 before the committee.

0020 John Carlson, Mayor of the Fairbanks North Star Borough. Understands this bill allows social services to be included in funds granted to local governments as provided in SB 168 from last year. Feels this provision should go to a vote of the people. Could become an expensive item for local government. Senator Gilman gave some background on the bill - that it was meant to be a capital improvements bill that was changed in the Free Conference Committee to include social services.

0167 Senator Charlie Parr, Fairbanks, sponsor of the bill. Original intention was to permit a borough which did not have social services powers to be used as a pass-through agency. Referred to a capital project for a service for which the local government body did not have the power. Thought the amendment last year overrode existing Title 29, but learned did not override the Title 29 provisions. Legislative Affairs agreed. It appears that (Gilman) the specific wording of your amendment got dropped out in the Free Conference Committee. Parr agrees, and states he put in this bill to do what he thought had been done last year.

0282 Ginny Chitwood, Alaska Municipal League. General concern of municipal officials, which they are hearing from their constituents, is that they don't want to be involved in anything they haven't voted on, other than basic powers established when boroughs were voted on. Borough attorneys questioned the social services powers, and determined they were not there.

0340 Palmer McCarter, Dept. of C&RA. Philosophical concern with the legislature granting powers generally to general law municipalities. They feel those powers should be given by the voters, not legislature. Other concerns seem to be addressed in the proposed Committee Substitute. Changing the effective date, and getting into the immunity provision. Language came from the Department of Law.

0350 Senator Sturgulewski raised the question, "Mr. Chairman, what does it mean to waive immunity? Why do we have to have that in there?"

Further testimony: Jim Baldwin, Department of Law.
Addresses Senator Sturgulewski's question.

Senator Sturgulewski raised the question, "Mr. Chairman, what does it mean to waive immunity? Why do we have to have that in there?"

Senator Ziegler suggested that the Committee have the Committee Substitute before it before taking further testimony. There being no objection, the Committee Sub was before it.

0403

Further testimony: Jim Baldwin, Department of Law. Addresses Senator Sturgulewski's question.

Jim Baldwin's verbatim: Will just address myself to Senator Sturgulewski's question. I'm familiar with the language. We have had in the past opinions that when the state wishes to deal with an IRA Council, basically an entity in the organized borough, which is composed mostly of Indians, Natives, Eskimos, Aleuts, that some of these Councils under Federal law have sovereign immunity. And when we're dealing with them, in order to comply with public purpose doctrine to enforce grant contracts and obligations created under grants or contracts for state law, it would be in the state's interest to only deal with an entity that has sovereign immunity, they basically can welch on their contracts and get away with it. And I guess it's the simplest way to put it. We are of the opinion that they could not waive that immunity because it was conveyed by Federal Law. We have since altered that opinion; we have changed our minds on that point - we believe that it's an open question whether they can waive their immunity. And that's as long as the question is open, and we find that in areas of the unorganized borough where we find qualified grant administrators are far and few between and often times the IRA Council is the entity best suited to administer grants, so we're willing to say now that we'll accept the waiver of immunity and deal with these entities, and the adverse legal consequences are there. We have at least one tape from the Ninth Circuit Level that indicates that they can waive their immunity; it has not been tested further and we're basically going to try and go along with that. It's a change in our legal thinking. We think it's now appropriate to accept these waivers.

Tape 2/25/82
Side 2

0107

Gilman: We were asking for resolutions of this last year. Does that answer your question Sen. Sturgulewski?

0120

Palmer McCarter - C&RA supports bill.

0279

Ginny Chitwood - in favor of consolidating various programs.

0388

Sen. Gilman adjourned meeting at 5:00 p.m.

Draft 39

MINUTES

COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

February 25, 1982

Meeting was called to order by the Chairman, Senator Don Gilman, at 3:02 p.m., Thursday, February 25, in the Butrovich Room of the State Capitol. Members present were Senator Gilman, Senator Sturgulewski, Senator Ziegler, and Senator Colletta. The Chairman stated that the record show a quorum present.

First item on the agenda was Senate Bill 627, an act relating to state assistance for municipalities. The Chairman called for public testimony.

Testimony:

John Carlson, Mayor of the Fairbanks North Star Borough. Understands this bill allows social services to be included in funds granted to local governments as provided in SB 168 from last year. Feels this provision should go to a vote of the people. Could become an expensive item for local government. Senator Gilman gave some background on the bill - that it was meant to be a capital improvements bill that was changed in the Free Conference Committee to include social services.

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end of side 1 tape

Gilman: We were asking for resolution of this last year.

Does that answer your question Sen. Sturg?



Official Business

Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

465-4934
465-4935

Donald Gilman, Chairman
Robert H. Ziegler, Sr., Vice-Chairman
Mike Colletta
Arliss Sturgulewski
Frank Ferguson

Pouch V
State Capitol
Juneau, Alaska 99811

AGENDA

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Butrovich Room

Tuesday, February 23, 1982, 3:00 p.m.

- SB 95 - An Act requiring regional school board members to be elected from sections
- SB 725 - An Act relating to assembly composition and reapportionment

Thursday, February 25, 1982, 3:00 p.m.

- SB 627 - An Act relating to state assistance for municipalities
- SB 762 - An Act relating to state grants

Jape - ~~Restarted~~

50 - early first -

John Carlson

Mayer - W.C.

24 - Question by Stuy

80 - German w/ explanation

167 - Senator Parr comments

282 - Jimmy Chitwood AML

340 - Palmer McCarter

382 - Discuss the Committee Sub

627

403 - Jim Baldwin - legal opinion from

Dept. of Lab
Q. H. B. M. Question as to
whether they contain community

572 - Palmer McCarter again

619 - Selman - language not acceptable

629 - McKie then language in 762
E 6 7 21.

633 - John Carlson again.

674 - Jim Baldwin again - clarifying

704 On to SB 762

710 Jim Baldwin - ^{bill} alloted E

759 Stung Jim's bill

785 - Selman - 6 / 539 am - 762
end side one.

2
Jim Baldwin still talking

107 - Selman - - - - - 14 16 P
" - 6 - 7 04 2 04 6

120 - Palmer McCarter - CRRK suggests bill

121 - Ginny Whitworth again - in favor of consolidation
various programs

2-388 *Adonis*

John Carlson Mayor North Star Borough
P.O. Box 69, Barrow AK 99723
852-2611
Position.

^{Spec Dir.}
Murray Chulwood AK - Mun. League
204 N. Franklin Street, Juneau AK 99801
586-1325
Position

Palmer K. Carter, Director, Division of Local Gov. Ass.
Dept. Comm. & Reg. Aff
Pouch BH, Juneau AK 99811
465-4707
Position

Jim Baldwin, Assistant A.G.,
Dept of Law
Pouch K, Juneau AK 99811
465-3600
Position.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
 Title Relating to grants to municipalities, unincorporated communities...
 Requested by Governor Date _____

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs
 Program Category Affected Community Development
 BRU, Program, Or Subprogram(s) Affected Admin. BRU/Local Govt. Assistance BRU
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		279.3				
200 TRAVEL		43.0				
300 CONTRACTUAL		94.1				
400 COMMODITIES		2.3				
500 EQUIPMENT		9.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		428.5				

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		428.5				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		9.0				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See Attached

IV. DATE 1/28/81 PREPARED BY Rod Mourant
 AGENCY Community & Regional Affairs
 Original: Legislative Finance PHONE 465-4700
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

Assumptions:

The Department of Administration was responsible for 361 grants in FY'81 and 589 grants in FY'82. Of that total (950) 855 are still active and transferred to the Department of Community & Regional Affairs with passage of this bill. It is also assumed that fewer than 200 new grants will be appropriated by the Legislature during the balance of this session.

The projected increases in personal services for the Local Government Assistance Division are based on our experience with local governments and grant administration. It is also in part based on the requirement that the Department "must provide for a payment schedule and performance monitoring procedures." Even though the Department has attempted to do this type of monitoring in the past there has never been the staff nor other funding to do it fully. One Local Government Specialist will be added to each of the Fairbanks, Dillingham, Nome, and Bethel offices and one Clerk Typist will be added to each of the Anchorage and Juneau offices.

Additionally, three positions will be established in the Administrative Services Division. The Internal Auditor position will visit political subdivisions statewide to monitor and verify appropriateness of expenditure as it relates to grant contracts. The position will also assist local governments in establishing the basic accounting system to ensure proper documentation. An Accounting Technician will be established to review and process grant contracts and payment requests. This position will also prepare financial reports on the status of grants. The Clerk Typist will type audit and financial reports and other related general correspondence. The Clerk Typist, Accounting Technician, and the Internal Auditor will be located in Juneau.

The travel projected in the attached fiscal breakdown includes:

- 1 trip per year to each of 8 boroughs.
- An average of 1 trip per year to 25% of first class or home rule cities.
- 2 trips per year to 25% of 2nd class cities.
- A total of 20 trips by auditing staff to review of contracts and municipal records.

<u>EXPENDITURE CATEGORY</u>	<u>LGAD</u>	<u>AS</u>	<u>TOTAL</u>
4 LGS I/III (15C)	\$142.3		
2 Clerk Typist III (8A)	46.3		
1 Internal Auditor (17A)		\$37.7	
1 Accounting Tech II (14A)		30.9	
1 Clerk Typist III		22.1	
			\$279.3
<u>TRAVEL</u>			
66 trips @ \$500/trip	33.0		
20 trips		10.0	
<u>CONTRACTUAL SERVICES</u>			
			43.0
Communication (Phone, Toll, Postage)	2.5	1.8	
Printing & Advertising	2.0	1.0	
WP Equipment Rental & Maintenance	15.0	4.5	
Copier	2.0	1.0	
Office Rent	17.3	10.5	
Professional Fees - RSA with Law contract drafting and review	5.0		
Data Processing Charges - DP Chargeback & CRT Terminal - Computer Software & DP Support	25.0	6.5	
<u>Office Supplies</u>	1.5	.8	\$94.1 2.3
<u>Equipment</u>			
10 Desks	2.7	1.9	
10 Chairs	1.2	1.0	
3 Filing Cabinets	.6	.2	
4 Bookcases	.3	.3	
8 Calculators	.9	.7	
			9.8

S B

6 72

COMMITTEE REPORT
SENATE

3/25/82

FURTHER: Finance

Date: 2/9/82

Mr. President:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had SB 672

making a special appropriation to the Dept. of Community & Regional Affairs for certain municipalities.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Chairman
CHAIRMAN

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 672
To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 10

Delete "\$1,273,101" and add: "\$479,173"

Delete lines 15, 16, 17, 18, 23 and 29 in their entirety.

Page 2:

Delete lines 1, 6, 7 and 9 in their entirety.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Position Paper on

Senate Bill 672

Senate Bill 672 provides a special appropriation for 25 municipalities for purposes set out in AS 29.98-29.95. In effect, this bill would pay those municipalities that failed to meet application requirements for participation in the State Revenue Sharing Program. The payments are based on the levels of funding under the State Revenue Sharing (SRS) Program last year.

The requirements for participation in the SRS program involves completing six pages of an application to report locally generated revenues, taxes used for utilities and qualifications for a minimum payment (additional pages must be completed to qualify for road maintenance, health facilities, hospital, and hospital construction funding) and submitting the relevant application pages along with a current year municipal budget. The application information is needed to compute payments to municipalities under AS 29.88, the tax equalization portion of the program. The budget is required by AS 29.88.025.

The Department usually sends out applications in the first part of July and has established three deadlines in the fall to give municipalities and other SRS recipients ample time to prepare and submit applications and budgets. The first deadline of October 1st is a prepayment deadline. Applicants submitting budgets and applications on or before that date are eligible to receive an early payment equal to one half of the total amount received under SRS the prior year. To reserve the right to appeal Division of Local Government Assistance determinations made regarding data contained in the application, applicants must have budgets and applications postmarked by November 1st. A late file deadline of December 1st allows applicants to participate in the program without the right to appeal Division determinations. It should be noted that under previous State Revenue Sharing programs, the deadline was November 1st; the December 1st extension was added to give applicants even more time in which to apply. 124 municipalities, or 82% were able to meet the requirements for participation in the SRS program. This includes 62, or 72%, of the cities which receive minimum entitlements.

The Department realizes that any application, budget, and deadline requirements may be burdensome for small cities that may lack trained city staff and officials, but the Department is trying to implement the law governing SRS program as consistently and fairly as possible. The Department will make attempts, within budget and staff limitations, to assist chronically ineligible applicants to insure their participation in future years. There may have been some confusion caused by the fact that all municipalities received at least a minimum SRS payment last year. Cities may have felt that applications were not necessary to receive funding.

The Department is sympathetic with the sponsor's desire to share the State's wealth with all municipalities, but we have some concerns with this bill. The bill would undoubtedly provide short term benefits for the twenty-five cities that would now receive this special state funding, but there are some long term problems that could result. Passage of this bill could be perceived as

bad precedent that would render the present State Revenue Sharing law meaningless.

The Department fears that this special appropriation is tantamount to telling the recipient cities "you do not need to apply and properly report how your city spent its money, we will still pay you money". The Department believes these may not be the kind of signals that should be projected, as it seems to reward fiscal laxness and poor city administration. Infact, four of the cities named in the appropriation, Anaktuvuk Pass, Ekwok, Goodnews Bay and Nikolai, did not apply for SRS last year, but were paid due to a special provision contained in the "new" SRS law. In fact, these four cities failed to apply in FY 1980 and two of them have not applied for the last five years. By paying cities that have not even applied, the State may also be paying cities which would not have qualified for revenue sharing even if they had filed a timely application.

The Department has recognized that many of the cities are ineligible to participate in this year's SRS program because they failed to submit their budget before the December 1, 1981 postmark deadline. The budget is clearly a secondary requirement as it is not necessary for computing a municipality's entitlement. The Department has sought and received an opinion from the Department of Law stating that the Commissioner of this Department may, at her discretion, waive or extend filing deadlines for this secondary documentation to allow greater participation in the SRS program. This option has been exercised and twelve cities (Angoon, Anvik, Bethel, Brevig Mission, Holy Cross, Mekoryuk, Newhalen, Tanana, Togiak, White Mountain, Manakotak, and Nondalton) that have timely filed applications, but failed to submit budgets before the filing deadline, will be eligible for SRS funding this year. If all twelve of these cities submit their budgets, then SB 672 will only require an appropriation of \$479,173 to fund the remaining cities. (In fact, the cities of Angoon, Anvik, Bethel, and Tanana have already complied with this requirement and are now eligible for this year's program.) The Department believes that this budget extension represents a fair compromise as it recognizes and pays those cities that have submitted timely filed applications, and which will hopefully submit budgets.

Finally, the Department wishes to point out another inequity that could arise if this bill becomes law. Under the law and regulations governing the program, a certified financial statement must be submitted before final payments may be made. Historically, each year a few municipalities, which have met all application and budget requirements, fail to meet this final requirement and, therefore, are not paid their entitlement. If this appropriation passes, municipalities that have met none of the SRS application requirements will receive a "windfall" payment while a few cities that have met all but one requirement will receive no funding.

In conclusion, the Department defers to the Legislature on whether this appropriation is good State policy.

Funding Information
 General Fund \$1,273,101
 Other Funds -0-
 \$1,273,101

Introduced: 1/25/82
 Referred: Community &
 Regional Affairs and Finance

1 IN THE SENATE

BY SACKETT

2 SENATE BILL NO. 672

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
 7 ment of Community and Regional Affairs for certain
 8 municipalities; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. The sum of \$1,273,101 is appropriated from the general fund
 11 to the Department of Community and Regional Affairs for payments to the
 12 following municipalities in the following amounts for the purposes set out in

13 AS 29.88 - AS 29.93:

14	N	Anaktuvuk Pass	\$ 32,843
15		Angeon	30,697
16		Anvik	32,843
17		Bethel	422,710
18		Georgi Mission	33,142
19	N	Eek	31,945
20	N	Ekwok	30,511
21	N	Goodnews Bay	31,657
22	N	Grayling	32,843
23		Holy Cross	33,889
24	N	Hughes	32,843
25	N	Kaltag	33,217
26	V	Kobuk	33,589
27	V	Kupreanof	24,464
28	V	Kwethluk	31,944
29		Mahoney	31,944

STATE OF ALASKA

MAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF ADMINISTRATIVE SERVICES

**POUCH B
JUNEAU, ALASKA 99811**

February 1, 1982

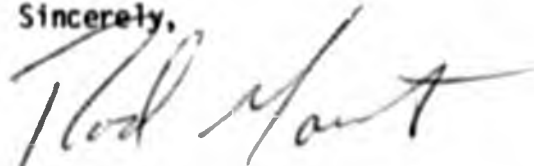
The Honorable Donald E. Gilman
Chairman
Senate Community & Regional Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Gilman:

As requested by the Senate Community & Regional Affairs Committee, enclosed is a fiscal note for SB 672 "An Act making special appropriations to certain municipalities."

Should you have any questions concerning this note please contact me at 465-4709.

Sincerely,



Rod Mourant, Director
Division of Administrative Services

cc: Senator John Sackett
Alaska State Legislature

Keith Specking, Legislative Assistant
Office of the Governor

Ron Lehr, Director
Division of Budget & Management
Office of the Governor

Elmer Lindstrom, Fiscal Analyst
Legislative Finance Division
Legislative Affairs Agency

**THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE**

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 672
 Title An Act making Special Appropriations to Certain Municipalities
 Requested by Senate C&RA Committee Date 1/25/82

II. FISCAL DETAIL
 Agency Affected Community and Regional Affairs
 Program Category Affected Development
 BRU, Program, Or Subprogram(s) Affected Municipal Revenue Sharing
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
	0					
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS CLAIMS, ETC.						
TOTAL	0					

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 1/26/82

PREPARED BY Terry L. Farley
 AGENCY Community & Regional Affairs
 PHONE 465-4770

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

Dear

The Senate Community and Regional Affairs Committee recently considered and passed on to the rest of the Legislature Senate Bill 672. This bill, if passed, would allow the Department of Community and Regional Affairs to pay your city an amount equal to the city's estimated 1982 Revenue Sharing entitlement.

As you realize, your city did not submit an application for state revenue sharing funds this year. This bill was introduced by Senators Ferguson and Sackett, and was passed out of our committee because we, along with the Department of Community and Regional Affairs, want your city to have state support for needed municipal services.

This action should not be interpreted, however, as an indication that your city will receive state funds in the future without complying with the application process and meeting the appropriate deadlines. In fact, the members of our committee would be strongly opposed to any similar action in future years. We regard this bill as a one-time-only grace action to allow for any possible confusion brought about by the new Revenue Sharing law.

Members of the Local Government Assistance Division (LGAD) of the Department of Community and Regional Affairs are available and willing to assist your city in completing the applications for this and other programs of financial assistance. The addresses and telephone numbers of the LGAD offices are listed below. We encourage you to make use of the assistance they offer.

Sincerely,

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STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 2, 1982

The Honorable Donald E. Gilman
Chairman
Senate Community and Regional
Affairs Committee
Room 203 - Behrends Building
Juneau, Alaska

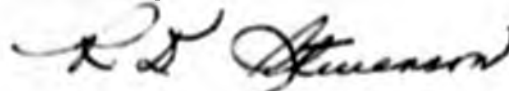
Dear Senator Gilman:

Re: Senate Bill No. 690

Senate Bill No. 690, an Act providing tax credits for property taxes or tax equivalency on rent paid, was introduced in the Senate on January 27, 1982 and was referred to the Senate Community and Regional Affairs and Finance Committees.

For the consideration of the Senate Community and Regional Affairs Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Phillip A. Wall, Director, Public Services Division; Ms. Marilla Gummer, Director, Enforcement Division and Mr. John Larson, Economist, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Phillip A. Wall, Director
Public Services Division
Department of Revenue

Marilla L. Gummer, Director
Enforcement Division
Department of Revenue

John Larson, Economist
Research Section
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 690

Title Providing for tax credits for property taxes or tax equivalency on rent paid
Requested by Senate Community & Regional Affairs Date 2/26/82

and Finance Committee

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection & Management

BRU, Program, Or Subprogram(s) Affected Enforcement Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		120.6	151.8	163.9		
200 TRAVEL		8.0	8.8	9.7		
300 CONTRACTUAL		26.5	28.9	31.8		
400 COMMODITIES		1.0	1.1	1.2		
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		185.1	190.6	206.6		

FUNDING (Thousands of Dollars)

GENERAL FUND		185.1	190.6	206.6		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		5/60mm	5/60mm	5/60mm		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

SB 690 is retroactive to 01-01-82, however we would not anticipate enforcement activity until the start of FY 83 since other house keeping measures such as forms preparation/distribution; press releases; computer programming etc., must be accomplished first.

This act also terminates January 1, 1985, however we assume that the wind down of the program for enforcement purposes will not be completed until the end of FY 85.

See memorandum to Joseph K. Donohue from Marilla L. Gemmer dated March 1, 1982.

Marilla L. Gemmer

IV. DATE March 1, 1982

PREPARED BY Marilla L. Gemmer, Director

AGENCY Department of Revenue - Enforcement Division

PHONE 465-2366

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner - Taxation

DATE: March 1, 1982

FILE NO:

TELEPHONE NO:

FROM: Marilla L. Gemmer *MLG*
Director
Enforcement Division

SUBJECT: SB 690

SB 690 provides for individuals to receive a tax credit based on the amount of property tax paid or rent paid on a dwelling subject to property tax. The amount of credit to be received is based on several formulas set out in the bill.

An assumption is made that as with any program where individuals can apply for credits/refunds, an enforcement program will be initiated to ensure that false claims if paid, are identified and collection of these erroneously payments is accomplished.

To administer the enforcement phase we will need one Revenue Enforcement Officer II; two Tax Collection Specialists; one Accounting Technician I; and one Clerk Typist III.

Program Summary

Personal Services:

Revenue Enforcement Officer	\$35,297	
Tax Collection Specialists (2)	52,438	
Clerk Typist III	23,504	
Accounting Technician	<u>29,372</u>	\$140,611
Travel		8,000
Contractual		26,500
Commodities		1,000
Equipment - 5 new positions		<u>9,000</u>
Total		\$185,111

MLG:lw

1	POSITION TITLE Revenue Enforcement Officer II			RANGE/STEP 15A	BARG. UNIT. G	LOCATION Anchorage	AGENCY	DISAP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	PAGE/LINE	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES:	
	SALARY 2295 X 12	27,540
5	BENEFITS 27,540 X .1555	4,269
6	SBS X.0613	1,688
7	FIXED BENEFITS	1,800
8	TOTAL PERSONAL SERVICES 01	35,297
9	TRAVEL 02	8,000
10	CONTRACTUAL 03	3,800
11	COMMODITIES 04	200
12	EQUIPMENT 05	1,800
13	OTHER	
14	TOTAL COST	49,097

JUSTIFICATION:

This position will provide an employee at the professional level to collect the erroneous or fraudulently claimed refunds.

	RECEIPT CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004 49,097
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20		OTHER

21 CONTINUATION
22 ADDITION

FOR B&M USE ONLY

4A KEY NUMBER _____ BOUNTY NO. _____

AGENCY Department of Revenue PROGRAM Revenue Collection & Management

BRU Enforcement Division

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page 1 of 5 REVISED DATE SB 690 3/1/82

FY 83

POSITION TITLE Tax Collection Specialist I				RANGE/STEP 10A	BARG. UNIT. G	LOCATION Anchorage	APPROV.	DATE
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY		FORM 12	PAGE/LINE	

TYPE OF EXPENDITURE	AMOUNT
1	2
PERSONAL SERVICES:	
SALARY 1673 X 12	20,076
BENEFITS 20,076 X .1550	3,112
SBS X .0613	1,231
FIXED BENEFITS	1,800
TOTAL PERSONAL SERVICES 01	26,219
TRAVEL 02	
CONTRACTUAL 03	3,800
COMMODITIES 04	200
EQUIPMENT 05	1,800
OTHER	
TOTAL COST	32,019

JUSTIFICATION:

This position will provide support to the revenue enforcement officer and will also attempt to effect collection by correspondence or phone from the field office.

RECEIPT CODE	FUNDING SOURCE	AMOUNT
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	32,019
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

CONTINUATION	FOR BSM USE ONLY
ADDITION	
KEY NUMBER	FORM NO.

AGENCY Department of Revenue PROGRAM Revenue Collection & Management

BRU Enforcement Division

COMPONENT _____

13 REQUEST FOR NEW POSITION.

FY 83

POSITION TITLE Tax Collection Specialist I				RANGE/STEP 10A	BARG. UNIT. G	LOCATION Juneau	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY		FORM 12	PAGE/LINE	

TYPE OF EXPENDITURE	AMOUNT
1	2
PERSONAL SERVICES:	
SALARY 1673 X 12	20,076
BENEFITS 20,076 X .1550	3,112
SBS X .0613	1,231
FIXED BENEFITS	1,800
TOTAL PERSONAL SERVICES 01	26,219
TRAVEL 02	
CONTRACTUAL 03	9,800
COMM. FIES 04	200
EQUIPMENT 05	1,800
OTHER	
TOTAL COST	38,019

JUSTIFICATION:

This position will provide an additional employee within the Juneau Office Collection Force. It will be this position's responsibility to contact the individual by phone and attempt collection before assigning the account to a field officer. \$6,000 Contractual is for long distance toll charges.

RECEIPT CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	38,019
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

1 CONTINUATION
2 ADDITION

FOR B&M USE ONLY

4A KEY NUMBER _____

AGENCY Department of Revenue PROGRAM Revenue Collection & Management

BRU Enforcement Division

FY 83

13 REQUEST FOR NEW POSITION.

COMPONENT _____

1	POSITION TITLE Clerk Typist III			RANGE/STEP 8A	BARG. UNIT. G	LOCATION Anchorage	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12	AGE/LINE	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY 1487 X 12	17,844
5	BENEFITS 17,844 X .1550	2,766
6	SBS X .0613	1,094
7	FIXED BENEFITS	1,800
8	TOTAL PERSONAL SERVICES 01	23,504
9	TRAVEL 02	
10	CONTRACTUAL 03	3,800
11	COMMODITIES 04	200
12	EQUIPMENT 05	1,800
13	OTHER	
14	TOTAL COST	29,304

JUSTIFICATION:
To provide clerical support for the Revenue Enforcement Officer and Tax Collection Specialists in the field office.

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS 1002	
16		GF MATCH 1003	
17		GEN. FUND 1004	29,304
18		I-A RCPTS 1005	
19		PGM RCPTS 1028	
20		OTHER	

21	CONTINUATION	
22	ADDITION	FOR B&M USE ONLY

4A - KEY NUMBER _____ BOUNTY NO. _____

AGENCY Department of Revenue PROGRAM Revenue Collection & Management

BRU Enforcement Division

13 REQUEST FOR NEW POSITION.

COMPONENT _____

FY 83

POSITION TITLE Accounting Technician I				RANGE/STEP 12A	BARG. UNIT. G	LOCATION Juneau	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY		FORM 12	PAGE/LINE	

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
BALARY 1889 X 12	22,668	
BENEFITS 22,668 X .1550	3,514	
SBS X .0613	1,390	
FIXED BENEFITS	1,800	
TOTAL PERSONAL SERVICES	01	29,372
TRAVEL	02	
CONTRACTUAL	03	5,300
COMMODITIES	04	200
EQUIPMENT	05	1,800
OTHER		
TOTAL COST		36,672

JUSTIFICATION:
 This position will be assigned the responsibility of assisting the current Accounting Clerk in the preparation of the billings issued as a result of erroneously issued refunds and coding them to the accounts receivable on the computer. \$1,500 in Contractual is for printing of the billings.

RECEIPT CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1007	
	GEN. FUND (004)	36,672
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

1 CONTINUATION	
2 ADDITION	FOR B&M USE ONLY

4A KEY NUMBER _____ FUNDING NO. _____

AGENCY Department of Revenue PROGRAM Revenue Collection & Management
 BRU Enforcement Division

13 REQUEST FOR NEW POSITION.

COMPONENT _____

FY 83

**THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE**

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Senate Bill 690
 Title An Act providing tax credits for property tax or tax equivalency on rent.
 Requested by Senate Comm & Reg Affairs Committee Date 1/28/82

II. FISCAL DETAIL
 Agency Affected _____
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

**FUNDING (Thousands of Dollars)
Millions**

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Additional appropriations to pay refundable credit.		30.1	31.5	32.8		
POSITIONS						

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached second sheet

IV. DATE 2/9/82 **PREPARED BY** John Larson, Economist
AGENCY Department of Revenue
PHONE 465-2173
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

III. Analysis

The proposed bill would allow residents to claim a refundable credit under the provisions of the Alaska Net Income Tax Act AS 43.20. The maximum credit allowed those residents who own a home occupied as their principal place of abode and pay property taxes would be 50 percent of the property tax paid during the tax year or \$300 whichever is less. Those residents who rent in a municipality where there is a property tax would be allowed a maximum credit equal to 50 percent of the rent paid during the tax year multiplied by one percent for each mill of property tax levied by the municipality on the property or \$300 whichever is less. The bill would be in effect for tax years 1982 through 1984. Thus, the credits would be claimed and additional appropriations would have to be made during fiscal years 1983 through 1985.

The fiscal analysis is based on data provided by the Department of Community and Regional Affairs State Assessors Office as to the estimated number of residential parcels, residential property taxes paid and millage rates by municipality in the State for 1981. Census estimates for households, housing units - vacant, owner occupied and renter occupied - were also used. Projections for the 1982 through 1984 period were made assuming 3 percent real growth and 9 percent inflation per year over the period.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 690

Title Providing Tax Credits for Property Taxes or Tax Equivalency on Rent Paid.

Requested by Senate Community and Regional Affairs Committee 3/2/82

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Admin. & Support, Admin. Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	15.0	189.0	202.2	216.4	-0-	-0-
200 TRAVEL						
300 CONTRACTUAL		198.0	211.9	226.7	-0-	-0-
400 COMMODITIES		5	5	6	-0-	-0-
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	15.0	387.5	414.6	443.7	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	15.0	387.5	414.6	443.7	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	1/4mm	4/48mm	4/48mm	4/48mm	-0-	-0-
FULL TIME						
PART TIME		8/35mm	8/35mm	8/35mm	-0-	-0-
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See Attached

IV. DATE 3/2/82

PREPARED BY  P. A. Wall

AGENCY Revenue

Original: Legislative Finance
cc: Budget and Management

PHONE 465-2312

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)