ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1305 SCRA SB 716 - SB 802

1305

# MEMORANDUM

# State of Alaska

TO Lee McAnerney
Commissioner
Department of Community
& Regional Affairs

DATE December 1, 1981

FILE NO

TELEPHONE NO 465-4100

FROM Ronald O. Skoog
for
Commissioner
Department of Fish & Game

SUBJECT Inventory of "Local Services" Provided by State Agencies

Please accept my apologies for the delay in my response to your memo of October 2. To get right to the point, the type of responsibilities this Department has, which is dealing primarily with the public Fish and Wildlife Resource and their habitat, does not lend itself to being delegation to "local" government. Migratory habits of the animals and the degree of scientific and technical expertise required to manage the resource are two of the specific reasons that delegation of responsibilities to local government would not produce satisfactory results. The Department does engage in many cooperative programs at the local level, such as fish culture projects in the schools, habitat improvement and hunter safety programs. Our involvement, however, is limited to providing scientific and technical expertise and in the case of the hunter safety program to assist technically as well as administering the grant.

Therefore, I cannot recommend any of the programs in the Department of Fish and Game nor any of the services we provide as appropriate for delegation to local government.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No.
Title "An Act relating to the consolidation of State Revenue Sharing & Municipal Assistance
Requested by Rules Committee by request of the Governor Date 1-14-82

II. FISCAL DETAIL
Agency Affected Department of Community and Regional Affairs
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Local Govt. Assist.--Train. & Dev. & Rev. Shar. Adm
(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 | | 139.3 | 149.1 | 159.5 | 170.6 | |
| 200 TRAVEL | | 29.4 | 32.0 | 34.9 | 38.1 | |
| 300 CONTRACTUAL | | 35.4 | 38.6 | 42.1 | 45.0 | |
| 400 COMMODITIES | | 3.7 | 1.3 | 1.4 | 1.6 | |
| 500 EQUIPMENT | | 2.4 | -0- | -0- | -0- | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 210.2 | 221.0 | 237.9 | 255.3 | |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | 210.2 | 221.0 | 237.9 | 255.3 | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS *No new positions are reflected as the Department proposes to merely fund existing vacant positions.

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Breakdown of costs between the Training & Development & Revenue Sharing Administration components contained in the Local Government Assistance BRU and the Administration BRU:

| | LGA BRU | | ADMIN BRU | TOTAL |
|---|---|---|---|---|
| | T&D | RSA | | |
| 100 Personal Services | 78.9 | 29.5 | 30.9 | 139.3 |
| 200 Travel | 23.4 | 6.0 | -0- | 29.4 |
| 300 Contractual | 15.1 | 16.2 | 4.1 | 35.4 |
| 400 Commodities | 2.0 | 1.5 | .2 | 3.7 |
| 500 Equipment | 1.0 | -0- | 1.4 | 2.4 |
| TOTAL | 120.4 | 53.2 | 36.6 | 210.2 |

The breakdown above reflects FY 83 funding with proportionate increases over subsequent years to account for inflation at the following rates:
7% increase per year for personal services and 9% increases for all other categories. One time items in commodities and equipment are subtracted after the first year.

IV. DATE 1/14/82 PREPARED BY Doug Griffin Doug Griff
AGENCY C&RA Local Government Assistance
Original: Legislative Finance PHONE 465-4736

# FISCAL NOTE DETAIL

## 100 PERSONAL SERVICES $139,281

| | | |
|---|---|---|
| Local Gov't Specialist IV - | | Rg. 19 |
| | Salary 3,623 X 12 = | $ 43,476 |
| | Benefits | 10,961 |
| | TOTAL | 54,437 |
| 1/2 Clerk Typist III - | | Rg. 8 |
| | Salary 1,726 X 6.4 = | $ 11,047 |
| | Benefits | 4,591 |
| | TOTAL | 15,638 |

Local Gov't Specialist II existing position in Anchorage to be transferred - difference in Salary due to cost-of-living adjustment.

| | | |
|---|---|---|
| | Salary | $ 7,212 |
| | Benefits | 1,563 |
| | TOTAL | 8,775 |
| Local Gov't Specialist I - | | Rg 13 |
| | Salary 1,870 X 12 = | $ 22.440 |
| | Benefits | 7,060 |
| | TOTAL | 29,500 |
| Accounting Tech. II | | Rg 14 |
| | Salary 1,995 X 12 | $ 23,942 |
| | Benefits | 6,991 |
| | TOTAL | 30,931 |

## 200 TRAVEL $ 29,400

8 trips to Anchorage (including per diem)
@ 550 per = $ 4,400

30 trips in area (including per diem)
@ 400 per = $ 12,000

Moving expenses for new hires and/or transfers = $7,000

Additional travel for State Revenue Sharing technical assistance and administration, 10 trips
@ 600 per = $ 6,000

| 300 CONTRACTRAL SERVICES | | $ 35,430 |
|---|---|---|
| Communications (Phone, LD, Postage) | $ 2,750 | |
| Printing and Advertising | 1,250 | |
| Office space rental | 13,200 | |
| Copier costs | 1,050 | |
| Word processing lease/purchase | 1,680 | |
| Professional services(computer programing) | 15,000 | |
| Other contractual costs | 500 | |

400 COMMODITIES $ 3,700

Statutes, office supplies & small equipment items (equipment totaling $2,500 is a one-time item)

500 EQUIPMENT $ 2,400

Office equipment and shipping

## NARRATIVE

The attached bill provides for consolidation of the State Revenue Sharing program and the Municipal Assistance program. It also revises the State Revenue Sharing program to exclude unincorporated communities and amends the statute governing the Rural Development Assistance (RDA) program to make only unincorporated communities eligible for RDA funding on a competitive application basis.

The new positions and support funding for these positions are designed to meet two major impacts of this legislation. First, the "new" RDA program will require greater capability to provide technical assistance and training to unincorporated communities wishing to participate in the program. These communities will have to regularly submit an RDA application to provide continued community service programs which may have been initiated using SB 168 funds and may require extensive aid in managing RDA grants for capital improvement and/or community service programs. Traditionally the RDA program has been used as a tool to provide planning, grant writing, and grant administration skills and it is envisioned that to the greatest extent possible it should continue in this mode.

The second major aspect of this bill is the consolidation of the State Revenue Sharing (SRS) and Municipal Assistance programs and the increase in the minimum entitlement for municipalities from $25,000 plus COLA to $100,000. These two programs, though often confused, do provide a municipality with two opportunities to receive State funding to support the operation of the city. These funds are vital to most small cities as they have few local resources to provide locally desired services. With the consolidation of programs, a city has one less opportunity to receive general funding for municipal services so it will become increasingly important to improve the degree of technical assistance and outreach provided to small cities. Twenty seven cities (18%) failed to qualify for SRS during FY 82 and it is hoped that this number could be greatly reduced with inproved outreach and field capabilities. The positions in this fiscal note demonstrate the Department's commitment to improved technical asssistance, training and outreach with local governments regarding the State Revenue Sharing program. The outreach and provision ofpublicity and information regarding SRS has long been neglected due to staff and budget limitations. A lack of adequate travel funding for Revenue Sharing administration has also hampered its effectiveness. The Department believes that additional efforts to include every eligible participant in the SRS program is important as it insures a more equitable distribution of the states wealth to Alaskans.

Finally, the transfer of the existing Accounting Technician II from the Department of Revenue to this Department will provide improved administration of the SRS program and allow quicker payment processing and distribution.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No.
Title "An Act relating to the consolidation of State Revenue Sharing & Municipal Assistance
Requested by Rules Committee by request of the Governor Date 1-14-82

II. FISCAL DETAIL
Agency Affected Department of Community and Regional Affairs
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Local Govt. Assist.--Train. & Dev. & Rev. Shar. Adm
(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 | | 139.3 | 149.1 | 159.5 | 170.6 | |
| 200 TRAVEL | | 29.4 | 32.0 | 34.9 | 38.1 | |
| 300 CONTRACTUAL | | 35.4 | 38.6 | 42.1 | 45.0 | |
| 400 COMMODITIES | | 3.7 | 1.3 | 1.4 | 1.6 | |
| 500 EQUIPMENT | | 2.4 | -0- | -0- | -0- | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS,CLAIMS,ETC. | | | | | | |
| TOTAL | | 210.2 | 221.0 | 237.9 | 255.3 | |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | 210.2 | 221.0 | 237.9 | 255.3 | |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS *No new positions are reflected as the Department proposes to merely fund existing vacant positions.

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Breakdown of costs between the Training & Development & Revenue Sharing Administration components contained in the Local Government Assistance BRU and the Administration BRU:

| | LGA BRU T&D | LGA BRU RSA | ADMIN BRU | TOTAL |
|---|---|---|---|---|
| 100 Personal Services | 78.9 | 29.5 | 30.9 | 139.3 |
| 200 Travel | 23.4 | 6.0 | -0- | 29.4 |
| 300 Contractual | 15.1 | 16.2 | 4.1 | 35.4 |
| 400 Commodities | 2.0 | 1.5 | .2 | 3.7 |
| 500 Equipment | 1.0 | -0- | 1.4 | 2.4 |
| TOTAL | 120.4 | 53.2 | 36.6 | 210.2 |

The breakdown above reflects FY 83 funding with proportionate increases over subsequent years to account for inflation at the following rates:
7% increase per year for personal services and 9% increases for all other categories. One time items in commodities and equipment are subtracted after the first year.

IV. DATE 1/14/82 PREPARED BY Doug Griffin Doug Griffin
AGENCY C&RA Local Government Assistance
PHONE 465-4736

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

## FISCAL NOTE DETAIL

100 PERSONAL SERVICES $139,281

| | | |
|---|---|---|
| Local Gov't Specialist IV - | | Rg. 19 |
| Salary 3,623 X 12 = | | $ 43,476 |
| Benefits | | 10,961 |
| | TOTAL | 54,437 |
| 1/2 Clerk Typist III - | | Rg. 8 |
| Salary 1,726 X 6.4 = | | $ 11,047 |
| benefits | | 4,591 |
| | TOTAL | 15,638 |

Local Gov't Specialist II existing position in Anchorage to be transferred - difference in Salary due to cost-of-living adjustment.

| | | |
|---|---|---|
| Salary | | $ 7,212 |
| Benefits | | 1,563 |
| | TOTAL | 8,775 |
| Local Gov't Specialist I - | | Rg 13 |
| Salary 1,870 X 12 = | | $ 22,440 |
| Benefits | | 7,060 |
| | TOTAL | 29,500 |
| Accounting Tech. II | | Rg 14 |
| Salary 1,995 X 12 | | $ 23,942 |
| Benefits | | 6,991 |
| | TOTAL | 30,931 |

200 TRAVEL $ 29,400

8 trips to Anchorage (including per diem)
@ 550 per = $ 4,400

30 trips in area (including per diem)
@ 400 per = $ 12,000

Moving expenses for new hires and/or transfers = $7,000
Additional travel for State Revenue Sharing technical assistance and administration, 10 trips
@ 600 per = $ 6,000

300 CONTRACTRAL SERVICES $ 35,430

| | |
|---|---|
| Communications (Phone, LD, Postage) | $ 2,750 |
| Printing and Advertising | 1,250 |
| Office space rental | 13,200 |
| Copier costs | 1,050 |
| Word processing lease/purchase | 1,680 |
| Professional services(computer programing) | 15,000 |
| Other contractual costs | 500 |

400 COMMODITIES $ 3,700

Statutes, office supplies & small equipment items (equipment totaling $2,500 is a one-time item)

500 EQUIPMENT $ 2,400

Office equipment and shipping

## NARRATIVE

The attached bill provides for consolidation of the State Revenue Sharing program and the Municipal Assistance program. It also revises the State Revenue Sharing program to exclude unincorporated communities and amends the statute governing the Rural Development Assistance (RDA) program to make only unincorporated communities eligible for RDA funding on a competitive application basis.

The new positions and support funding for these positions are designed to meet two major impacts of this legislation. First, the "new" RDA program will require greater capability to provide technical assistance and training to unincorporated communities wishing to participate in the program. These communities will have to regularly submit an RDA application to provide continued community service programs which may have been initiated using SB 168 funds and may require extensive aid in managing RDA grants for capital improvement and/or community service programs. Traditionally the RDA program has been used as a tool to provide planning, grant writing, and grant administration skills and it is envisioned that to the greatest extent possible it should continue in this mode.

The second major aspect of this bill is the consolidation of the State Revenue Sharing (SRS) and Municipal Assistance programs and the increase in the minimum entitlement for municipalities from $25,000 plus COLA to $100,000. These two programs, though often confused, do provide a municipality with two opportunities to receive State funding to support the operation of the city. These funds are vital to most small cities as they have few local resources to provide locally desired services. With the consolidation of programs, a city has one less opportunity to receive general funding for municipal services so it will become increasingly important to improve the degree of technical assistance and outreach prov ed to small cities. Twenty seven cities (18%) failed to qualify for SRS during FY 82 and it is hoped that this number could be greatly reduced with inproved outreach and field capabilities. The positions in this fiscal note demonstrate the Department's commitment to improved technical asssistance, training and outreach with local governments regarding the State Revenue Sharing program. The outreach and provision ofpublicity and information regarding SRS has long been neglected due to staff and budget limitations. A lack of adequate travel funding for Revenue Sharing administration has also hampered its effectiveness. The Department believes that additional efforts to include every eligible participant in the SRS program is important as it insures a more equitable distribution of the states wealth to Alaskans.

Finally, the transfer of the existing Accounting Technician II from the Department of Revenue to this Department will provide improved administration of the SRS program and allow quicker payment processing and distribution.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

[illegible]

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which revises the revenue sharing and municipal assistance programs for municipalities and unincorporated communities in the state.

During fiscal year 1982, over $140 million will be distributed to local governments under the revenue sharing and municipal assistance programs. The Department of Community and Regional Affairs has examined these programs and found that the following problems exist with both programs:

1. revenue sharing emphasizes tax effort and ability to raise taxes while municipal assistance emphasizes population and tax relief;

2. municipal assistance distributes money according to outdated indicators of business activity and is linked to the declining corporate income tax collections;

3. revenue sharing, which was revised in 1980, contains a provision that reduces the impact of the distribution formula by requiring that the amount of assistance be determined by the historical amount of appropriations;

4. localities are growing increasingly dependent on the state for the financing of property tax relief and increased local services at a time when state revenues continue to fall and a constitutional spending limit is being considered by the voters of the state;

5. municipal assistance encourages municipal incorporation while revenue sharing does not; and

6. the revenue sharing and municipal assistance programs are administered by two principal departments which have different reporting and accountability requirements.

To correct these problems, I am proposing legislation to consolidate revenue sharing and municipal assistance to provide one program of assistance to local governments. The consolidated program will have a level of funding that is at least equal to the proposed fiscal year 1983 level and will increase in future years at a reasonable rate that can be accommodated by the state budget.

Specifically, this bill repeals AS 43.20.016 which provides for the municipal assistance fund in the Department of Revenue and requires all assistance to be distributed under the revenue sharing program of the Department of Community and Regional Affairs. The bill provides that each recipient under the new program will receive at least the entitlement provided in fiscal year 1983. Any amounts appropriated to the program in excess of that required to meet this requirement must be distributed under the revenue sharing formula.

To promote local responsibility and accountability for service delivery, the bill requires that at least 50 percent of the assistance received by a municipality be dedicated to the provision of basic services. The remaining 50 percent could be used for any other lawful purpose determined by the municipality.

To facilitate local service delivery, I propose that the legislature adopt a statement of intent which clearly provides that future appropriations for assistance to local governments will increase at the same rate of increase established for the proposed constitutional spending limit amendment. As a corollary to this pledge, I believe that it is also appropriate for the legislature to pledge to "draw the line" on the amount of assistance provided through other appropriations to state agencies for basic municipal services. These appropriations should be annually reduced in the same manner as the assistance programs are increased.

The bill increases the minimum entitlement for each municipality to at least $100,000. The current minimum entitlement is $25,000 adjusted by an area cost-of-living differential. The higher amount is needed to promote capacity for self-government in small communities.

By this bill, I propose to create a separate program of financial assistance for unincorporated communities. The current revenue sharing program provides for a payment of $25,000 to Alaska Native village governments. The Department of Law has concluded that this assistance must be shared with all unincorporated communities and that all recipients must contract for specific service delivery rather than using state money for general administrative purposes. This bill deletes the current provision and amends the existing rural development assistance grant program (AS 44.47) to allow all unincorporated communities to apply for grants up to $100,000 for capital projects, operation and maintenance expenses, or community services. The bill also allows the department to contract directly with Native village governments in unincorporated communities where that entity is the most appropriate service provider. However, these entities must remain accountable for their agreements to provide these services. Under this bill, a Native village government must waive its immunity from suit before it contracts with the state to provide services under a rural development assistance grant.

I believe that this legislation provides a simpler system of assistance to local governments and will result in a more equitable sharing of the state's financial resources.

Sincerely,

Jay S. Hammond
Governor

## ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

SENATE BILL NO. 716

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating yo state revenue sharing and municipal assistance programs; establishing a program of aid for unicorporated communities; and providing for an effective date."

Introduced in the Senate 2/5/ , 19 82

## HISTORY IN THE SENATE

| 19 82 | | |
|---|---|---|
| | | Read first time and referred to Committee on |
| 2 | 5 | C & RA and Finance |
| | | Reported back with recommendation that |
| | | Read second time and |
| | | Read third time and |

PASS — Yeas, Nays, Absent, Excused
Effective Date — Yeas, Nays, Absent, Excused

Reconsideration

PASS — Yeas, Nays, Absent, Excused
Effective Date — Yeas, Nays, Absent, Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

## HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS — Yeas, Nays, Absent, Excused
Effective Date — Yeas, Nays, Absent, Excused

Reconsideration

PASS — Yeas, Nays, Absent, Excused
Effective Date — Yeas, Nays, Absent, Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

## HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

by Governor

Filed with Lt. Governor

Chapter No.

31.001

# COMMITTEE REPORT

# SENATE

2/5/82

FURTHER: Finance

Date: ____________________

Mr. President:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had SB 716

state revenue sharing and municipal assistance programs

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

S 60 (Rev. 12/78)

SB
733

# COMMITTEE REPORT

## SENATE

2/9/82

FURTHER: Finance

Date: ______________

Mr. President:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had SB 733 establishing a municipal assistance permanent fund

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

S 60 (Rev. 12/78)

## ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

**SENATE** BILL **NO.** 733

**By** FERGUSON

"An Act establishing a municipal assistance permanent fund, and providing for an effective date."

Introduced in the Senate 2/9/ , 19 82

81-001

## HISTORY IN THE SENATE

| 19 82 | | |
|---|---|---|
| | | Read first time and referred to Committee on |
| 2 | 9 | C & RA and Finance |
| | | Reported back with recommendation that |
| | | Read second time and |
| | | Read third time and |

| PASS | Effective Date |
|---|---|
| Yeas | Yeas |
| Nays | Nays |
| Absent | Absent |
| Excused | Excused |

Reconsideration

| PASS | Effective Date |
|---|---|
| Yeas | Yeas |
| Nays | Nays |
| Absent | Absent |
| Excused | Excused |

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

## HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

| PASS | Effective Date |
|---|---|
| Yeas | Yeas |
| Nays | Nays |
| Absent | Absent |
| Excused | Excused |

Reconsideration

| PASS | Effective Date |
|---|---|
| Yeas | Yeas |
| Nays | Nays |
| Absent | Absent |
| Excused | Excused |

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

## HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

by Governor

Filed with Lt. Governor

Chapter No.

STATE OF ALASKA

**DEPARTMENT OF REVENUE**

*OFFICE OF THE COMMISSIONER*

*JAY S. HAMMOND, GOVERNOR*

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

March 8, 1982

The Honorable Donald E. Gilman
Chairman
Senate Community & Regional
Affairs Committee
Room 121 - Capitol Building
Juneau, Alaska

Dear Senator Gilman:

Re: Senate Bill No. 733

Senate Bill No. 733, an Act establishing a municipal assistance permanent fund, was introduced in the Senate on February 9, 1982 and was referred to the Senate Community & Regional Affairs and Finance Committees.

For the consideration of the Senate Community & Regional Affairs Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm C. Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosure

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

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA SB 733
TWELFTH LEGISLATURE

(Administrative Costs Fund Investment)

FISCAL NOTE

I. **REQUEST**
Bill/Resolution No. SB 733 (2/9/82)
Title Establish Municipal Assistance Permanent Fund
Requested by Senate Community & Regional Affairs Committee Date 3/2/82

II. **FISCAL DETAIL**
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Treasury Management
(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 | [illegible] |
|---|---|---|---|---|---|---|
| 100 PERSONAL SERVICES | | 84.2 | 92.6 | 101.9 | 112.1 | 123.3 |
| 200 TRAVEL | | 5.0 | 5.5 | 6.1 | 6.7 | 7.3 |
| 300 CONTRACTUAL | | 205.0 | 225.5 | 248.1 | 272.9 | 300.1 |
| 400 COMMODITIES | | 3.0 | 3.0 | 3.3 | 3.6 | 4.0 |
| 500 EQUIPMENT | | 6.0 | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 303.2 | 326.6 | 359.4 | 395.3 | [illegible] |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | [illegible] |
|---|---|---|---|---|---|---|
| GENERAL FUND | | 303.2 | 326.6 | 359.4 | 395.3 | [illegible] |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | [illegible] |
|---|---|---|---|---|---|---|
| FULL TIME | | 2 | 2 | 2 | 2 | 2 |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

Establishes Municipal Assistance Permanent Fund in C & RA; investment of fund principal by Department of Revenue similar to Alaska Permanent Fund. Principal is to be amount of no less than $800 million appropriated to it. Income only to be used for municipal assistance programs authorized by law to receive it. This fiscal note is for administrative costs of fund investment.

Personal Services is for Investment Officer II (R22 [illegible]) to invest and manage assets; Accounting Tech. II (R14,G) for associated trust investment accounting and reporting. Contractual Services: Comm. $15.0; Print & Adv. $10.0; Safekeeping and related reporting/accounting $155.0; Audit $20.0; Misc. [illegible] Equipment is for new positions.

**[illegible] DATE** March 2, 1982 **PREPARED BY** Anselm C. Staack, Treasury Comptroller
**AGENCY** Dept. of Revenue, Treasury Division
**PHONE** 465-2350

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

SB
735

# COMMITTEE REPORT

# SENATE

FURTHER:

Date: ____________________

Mr. President:

The Committee on ______________________________ has had ______________________

under consideration and (a majority of e 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

S 60 (Rev. 12/78)

RE: <u>SB 735</u> "An Act relating to organizational grants and transitional assistance for municipalities; and providing for an effective date."

This bill revises provisions of Title 29 relating to organizational grants to new municipalities, and to the assistance to be provided to those new local governments. This bill must be able to amend current statutes, as well as the corresponding sections of the new municipal code, if enacted. Therefore, section 1 revises the existing Title 29; sections 2 and 3, a repetition of the language in section 1, are numbered to correspond to SB 180/HB170.

Specifically, sections 1 and 2 of this bill would increase the organizational grants to cities from a minimum $25,000 grant (except for second class cities, limited to $10 for each person voting in the incorporation election) to a minimum $50,000 grant, with an optional $25,000 grant during their second year in existence.

Sections 1 and 3 also establish a separate organizational grant for boroughs, which provides $600,000 over a three-year period. A $300,000 organizational grant would be made to a new borough the first year, decreasing to $200,000 the second year and $100,000 the final year. The intent of these phased organizational grants is to allow local governments to offset state grant funds with revenue sharing funds and local revenues.

Transitional assistance to boroughs is provided in sections 1 and 3. Under this bill, the Department of Community and Regional Affairs is to determine the borough's population, and assist the new borough in establishing local assessment and tax collection capabilities. In the case of a borough that adopts sales taxes, the Department will help set up an assessment and collection mechanism. If a borough adopts a property tax, the Department will provide an initial tax assessment roll, including appraisals as required.

Sections 4, 5, 6 and 7 contain effective dates and repealers that control the implementation of this Act through current Title 29 language, and through SB 180/HB 170, if enacted.

State of Alaska
Department of Community & Regional Affairs

Date: March 15, 1982

# POSITION PAPER

**Requested by:** Senate Community & Regional Affairs

**Subject:** SB 735 "An Act Relating to Organization Grants and Transitional Assistance"

**Departmental Position:** Support

**Remarks:**

AS 29.05.180 of the proposed bill provides for organizational grants for cities based on a formula of $50,000 the first year and $25,000 the second year.

AS 29.05.190 of the proposed bill provides for organizational grants for boroughs based on a formula of $300,000 the first year, $200,000 the second year and $100,000 the third and final year.

AS 29.05.210 of the bill would provide for transitional technical assistance in the area of tax collections.

Even before the era of great state wealth the status quo in the unorganized borough was characterized as inequitable and inefficient. Inequitable in the sense that residents are not, generally, afforded the opportunity to participate directly in the decision making process nor do they participate on an equal basis in terms of financing local services; inefficient to the extent that existing service delivery mechanisms (cities and State regional offices) often lack the necessary expertise to provide services on an efficient and responsive basis. The inequity and inefficiency of the present system are now even more pronounced in light of the attention focused on and the millions of dollars spent in the unorganized borough. More goods and services are being provided in rural Alaska without the benefit of local control and a coordinated delivery mechanism.

The solution must be a voluntary one if it is to work. To make a voluntary progression from unorganized status to organized borough status work, it must have three major incentives to make it more attractive than the status quo: 1) money, 2) a mechanism for substantial local control, and 3) transitional assistance to help get a regional government off the ground. Rural areas of the State should not be rushed into any regional governance nor should they be presented with an all-or-nothing situation.

This bill combines monetary incentive with guarantees of assistance that will make regional government more attractive to residents of the unorganized borough.

The Department has long supported increased financial and technical assistance to municipalities (including newly formed cities) during the period immediately after incorporation. That initial period is critical in the development of municipal government and the assistance provided by this bill will help newly formed governments get started.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 735
Title "An Act relating to municipal government"
Requested by Rules committee by request of Legislative Council Date January 20, 1982

II. FISCAL DETAIL
Agency Affected Department of Community and Regional Affairs
Program Category Affected Community Development
BRU, Program, Or Subprogram(s) Affected Local Government Assistance
(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 | | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | 400 | 250.0 | 425 | 250 | 425.00 |
| TOTAL | | 405.0 | 255.0 | 430.0 | 255.0 | 430.0 |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | 405 | 255 | 430 | 255 | 430 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS

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

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

SEE ATTACHED

AS 29.05.180 of the proposed bill provides for organizational grants for cities based on a formula of $50,000 the first year and $25,000 the second year. The proposed funding level in this fiscal note is based on 2 cities incorporating in Fiscal 82 and 1 every other year after that time.

AS 29.05.190 of the proposed bill provides for organizational grants for boroughs based on a formula of $300,000 the first year, $200,000 the second year and $100,000 the third and final year. The proposed funding level in this fiscal note assumes one borough incorporation in each of the following years: FY 83, FY 85 and FY 87.

Page 5 of the bill (AS 29.05.210) deals with transitional assistance to boroughs and establishment of taxation systems. It is not completely clear how much assistance is intended by this language. Depending on the legislative intent, the cost of setting up those tax systems could run as high as $300,000 per borough per year. This fiscal note assumes technical assistance only and that that assistance would be provided with existing staff. The only cost based on those assumptions would add additional travel of $5,000.

# Alaska State Legislature

SENATOR
**ARLISS STURGULEWSKI**

COMMITTEES
CHAIRMAN
Legislative Budget & Audit

Community & Regional Affairs
Finance
Resources

Senate

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3818

ANALYSIS BY SPONSOR

RE: SB 735 "An Act relating to organizational grants and transitional assistance for municipalities; and providing for an effective date."

This bill revises provisions of Title 29 relating to organizational grants to new municipalities, and to the assistance to be provided to those new local governments. This bill must be able to amend current statutes, as well as the corresponding sections of the new municipal code, if enacted. Therefore, section 1 revises the existing Title 29; sections 2 and 3, a repetition of the language in section 1, are numbered to correspond to SB 180/HB170.

Specifically, sections 1 and 2 of this bill would increase the organizational grants to cities from a minimum $25,000 grant (except for second class cities, limited to $10 for each person voting in the incorporation election) to a minimum $50,000 grant, with an optional $25,000 grant during their second year in existence.

Sections 1 and 3 also establish a separate organizational grant for boroughs, which provides $600,000 over a three-year period. A $300,000 organizational grant would be made to a new borough the first year, decreasing to $200,000 the second year and $100,000 the final year. The intent of these phased organizational grants is to allow local governments to offset state grant funds with revenue sharing funds and local revenues.

Transitional assistance to boroughs is provided in sections 1 and 3. Under this bill, the Department of Community and Regional Affairs is to determine the borough's population, and assist the new borough in establishing local assessment and tax collection capabilities. In the case of a borough that adopts sales taxes, the Department will help set up an assessment and collection mechanism. If a borough adopts a property tax, the Department will provide an initial tax assessment roll, including appraisals as required.

Sections 4, 5, 6 and 7 contain effective dates and repealers that control the implementation of this Act through current Title 29 language, and through SB 180/HB 170, if enacted.

# COMMITTEE REPORT

# SENATE

FURTHER:

Date: ____________________

Mr. President:

The Committee on ____________________ has had ____________________

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

S 60 (Rev. 12/78)

SENATOR
ARLISS STURGULEWSKI

COMMITTEE
CHAIRMAN
Legislative Budget & Audit

Community & Regional Affairs
Finance
Resources



2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3818

ANALYSIS BY SPONSOR

RE: SB 736 "An Act relating to home rule municipalities."

The major purpose of this bill is to allow for an unincorporated community to go directly to home rule status. This bill also clarifies references to "municipality" and "organized borough" to include both home rule and general law municipalities as appropriate.

This bill amends the existing Title 29, but would also apply to the proposed revision of Title 29 found in SB 180/HB 170. For this reason, the provisions of section 1 through 11 of the bill, which amend present Title 29, are repeated, as appropriate, in sections 12 through 20 which correspond to SB 180/HB 170.

Section 1 contains a change of wording suggested by the revisor.

Section 2 increases to 600 persons the population required to reclassify from second class city to home rule city status.

Section 3 allows unincorporated areas with a minimum population of 600 to adopt home rule charters and reflects the change in second class city population requirements made in section 2.

Section 4 directs the Department of Community and Regional Affairs to develop model charters for home rule cities and boroughs, which will be available to the public.

Section 5 changes the minimum population required for home rule status from 400 to 600, to conform to sections 2 and 3, and clarifies that these incorporation standards apply to direct incorporation to home rule status.

Sections 6, 7 and 8 clarify that standards for home rule and general law incorporation are the same.

Section 9 adds a new subsection to existing AS 29.18.050 to require a petition for incorporation to include a proposed charter. As this bill allows, for the first time, direct incorporation to home rule status, the proposed charter needs to be included in the present requirements of an incorporation petition.

Section 10 states that in an initial home rule incorporation election, a proposed home rule charter is considered as part of the vote on incorporation. That is, the question before the voters is whether to incorporate or not. In the case of those communities wishing to incorporate directly to home rule status, the proposed charter is adopted if the voters approve the question on incorporation.

Section 11 substitutes the term "municipal" for the phrase "city and borough," at the request of the revisor, and clarifies the eligibility of new home rule governments for organizational grants. As only minor wording changes are made, this section conflicts with SB 735. If organizational grants are revised under SB 735, this section should be deleted or signed into law before SB 735, as the attached memo from Tamara Cook, Legal Services.

Sections 12 through 20 repeat the above provisions as they apply to SB 180/HB 170.

Section 12 provides that communities meeting minimum standards have the option of incorporating as home rule cities corresponding to section 5.

Section 13 provides that areas meeting minimum standards have the option of incorporating as home rule boroughs, as well as boroughs of the first or second class corresponding to section 6.

Section 14 clarifies that requirements for signatures on incorporation petitions are the same for home rule and first class cities corresponding to section 7.

Section 15 corresponds to section 9.

Section 16 corresponds to section 10.

Section 17 corresponds to section 11.

Section 18 corresponds to section 3, and clarifies the ability of unincorporated areas to incorporate directly as home rule boroughs.

Section 19 corresponds to section 4.

Section 20 repeals sections 1 through 11 relating to the present Title 29, but is effective only on passage of SB 180/HB 170.

Sections 21 and 22 provide for effective dates for separate sections of the bill.

# STATE OF ALASKA
# THE LEGISLATURE
## LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M February 9, 1982

SUBJECT: Home rule municipalities
(Work Order No. 12-2035)

TO: Senator Arliss Sturgulewski

FROM: Tamara Brandt Cook
Legislative Counsel
TBC

Here is the final version of the bill you requested that would allow incorporation of home rule municipalities. Please note that Sec. 17 of this bill conflicts with your bill dealing with organization grants to municipalities (Work Order No. 12-2382). Since Sec. 17 of this bill only becomes effective on passage of the municipal code revision, there is nothing more I can do with the effective date of that section to avoid conflicts with other pending legislation. The bill that becomes law last is presumed to take priority over conflicting bills that became law earlier, so if you desire the organization grants provisions of Work SB 735 Order No. 12-2382 to take effect rather than the organization grant provision contained in the municipal code revision or in this bill, Work Order No. 12-2382 should be passed after both the municipal code and this bill are signed into law.

TBC:ljb

Enclosure

State of Alaska
Department of Community & Regional Affairs

Date: March 15, 1982

# POSITION PAPER

**Requested by:** Senate Community and Regional Affairs Committee

**Subject:** SB 736, "An Act relating to home rule municipalities"

**Departmental Position:** Support

**Remarks:**

This bill would allow second class cities with a population of at least 600, and unincorporated communities or regions to reclassify or incorporate as home rule municipalities. Present law requires second class cities to reclassify to first class status before they can become home rule cities. Unincorporated communities and regions must also incorporate in a "stepping stone" fashion as a general law municipality before they can reclassify to home rule status. This requirement creates duplication and an unwarranted obstacle to cities and potential boroughs which wish to incorporate as home rule municipalities. Home rule municipalities are able to exercise a wider range of powers than are general law municipalities.

Many communities and/or regions might be willing to incorporate if they could go directly to home rule status.

The premise of allowing a second class city or unincorporated community of at least 600 persons to reclassify or incorporate immediately to home rule status is consistent with the Constitution of the State of Alaska which provides for "maximum local self-government with a minimum of local government units". Similarly, allowing for immediate incorporation as a home rule borough would allow a region more flexibility and "self government" from the very beginning of its existence.

In raising the minimum population requirement from 400 to 600 for incorporation or reclassification as a first class or home rule city, the bill does require a community to have more in the way of human resources (and probably a larger economic base) to help run the city. The Department feels this greater requirement is justified to insure that a community has available the number of interested and "dedicated" persons needed to sit on a council, school board, planning commission, and other municipal boards or commissions.

The Department supports this bill and feels it is an important step toward strengthening local government in the state.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 736
Title An Act Relating to Home Rule Municipalities
Requested by Senate C & R A Date March 16, 1982

II. FISCAL DETAIL
Agency Affected Community & Regional Affairs
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Local Boundary Commission
(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 | 0 | 0 | 0 | 0 |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | | 0 | 0 | 0 | 0 | 0 |

FUNDING (Thousands of Dollars)

| | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |
| POSITIONS | | 0 | 0 | 0 | 0 | 0 |
| FULL TIME | | 0 | 0 | 0 | 0 | 0 |
| PART TIME | | | | | | |
| TEMPORARY | | | | | | |

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

This bill would have no fiscal impact on this department.

IV. DATE March 16, 1982 PREPARED BY Terry E. Earley
AGENCY C&RA/ Local Government Assistance
PHONE 465-4730

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 15, 1982

The Honorable Jalmar Kertula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which relates to state grants to municipalities, unincorporated communities and others.

The bill improves upon and reorganizes the current provisions of AS 37.05.315 -- 317 concerning state grants, which became law on January 16, 1982 despite my veto (SB 559 am, ch. 4, SLA 1981). Those provisions are very similar to the provisions of former AS 37.05.315 which I allowed to become law without my signature in 1980 (FCCSHB 578; ch. 156 SLA 1980).

Section 1 of the bill adds new AS 37.05.314 to clarify that no state grant may be made without a contract containing certain terms. Many of the terms are required by existing AS 37.05.315 for grants to municipalities. However, the bill would require several additional terms including a payment schedule, performance monitoring procedures, a nondiscrimination clause, and penalties for breach of the grant contract. AS 37.05.314 also clarifies that grant contracts must state the specific public purpose for which the grant money was appropriated or allocated.

Sections 2, 3 and 4 of the bill, concerning grants to municipalities, to unincorporated communities, and to other recipients, respectively, repeal and reenact AS 37.05.315 -- 317 to eliminate repetition of the provisions of proposed AS 37.05.314 concerning all state grants. Section 2 of the bill makes no major changes concerning grants to municipalities except that the Department of Administration is replaced by the Department of Community and Regional Affairs as the responsible agency for disbursement of grant money.

Section 3 of the bill repeals and reenacts AS 37.05.316 by replacing the existing language concerning state grants to "named recipients" with new language concerning grants to unincorporated communities. The proposed language is similar to the language of existing AS 37.05.317. It expands upon the procedures by which the Department of Community and Regional Affairs must select an administrator for grants to unincorporated communities by adding a requirement that notice of availability of a grant be published in a newspaper distributed in the community or posted in a public place. The provision in existing AS 37.05.317(3) that a grant would be administered by the Department of Community and Regional Affairs if no qualified administrator can be found, has been omitted. Instead, proposed AS 37.05.316(a)(4) provides that if there is no willing, qualified entity to receive a grant, the grant may not be paid. This provision is nearly identical to sec. 2(f) of HCS CSSB 168 (Fin) enacted last year (ch. 60, SLA 1981).

Also in sec. 3, proposed AS 37.05.316(b) provides that an Alaska Native village council may apply for and receive a grant if it waives any sovereign immunity from suit it may have for claims related to administration of the grant. This subsection includes a disclaimer of any effect of this bill, or of actions taken under it, upon any governmental authority or jurisdiction Alaska Native village councils might have. This disclaimer is necessary to assure that the provision of this bill which allows award of state grants to the village councils upon waiver of sovereign immunity (proposed AS 37.05.316(b)) cannot be used to support or oppose any argument about state recognition of village councils as local governments.

Section 4 of the bill repeals and reenacts AS 37.05.317 by replacing the existing language concerning state grants to unincorporated communities with new language concerning grants other than those to municipalities or to unincorporated communities. This new language is a substitute for existing AS 37.05.316 concerning grants to "named recipients" which is the most problematic of the existing statutes on state grants. There have been many discussions on this issue over the past several years. The Department of Law has repeatedly advised all of us that the legislature simply does not have the authority to execute the laws by entering into contracts (other than those incidental to its law-making function) or by making direct grants to private entities. Therefore, the legislature may not designate the grantee or administrator of a grant contract. The current language of AS 37.05.316 is both ineffectual in avoiding this constitutional defect and ineffectual in putting grant money to work addressing particular problems and public purposes. Proposed AS 37.05.317 would solve both problems. It would allow the legislature to appropriate money to a suitable department for any specific public purpose it determines to be desirable. The department to which the money is appropriated would then issue public notice and request for proposals, and select the most qualified grant administrator in a manner similar to that which the bill establishes for grants to unincorporated communities.

Section 5 of the bill provides for an effective date that will coincide with the beginning of FY 83. This will ensure that grants made by the legislature this session will be administered under the improved procedures established by this bill.

I urge your passage of this bill so that the constitutional defect can be resolved and the state grant program improved without delay.

Sincerely,

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

# 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
PHONE 465-4709

Original: Legislative Finance
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.

| EXPENDITURE CATEGORY | LGAD | AS | TOTAL |
|---|---|---|---|
| 4 LGS I/III (15C) | $142.3 | | |
| ? 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 |
| TRAVEL | | | |
| 66 trips @ $500/trip | 33.0 | | |
| 20 trips | | 10.0 | |
| CONTRACTUAL SERVICES | | | 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 | | 6.5 | |
| - Computer Software & DP Support | 25.0 | | |
| | | | $94.1 |
| Office Supplies | 1.5 | .8 | 2.3 |
| Equipment | | | |
| 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 |
| | | | $428.5 |

# SENATE AMENDMENT

BY Community and Regional Affairs Committee

To: ______________ SENATE BILL No. 762

To: ______________ HOUSE BILL No. ______

PAGE: 2 LINE: 17

Delete "minor"

Page 3, lines 8 and 9:

Delete everything after "shall" and substitute: "make payment of not less than 20 percent of the grant within 10 days of the effective date of the agreement."

Introduced: 2/16/82
Referred: Community & Regional Affairs and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 762

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to state grants; and providing for an effective date."

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

* Section 1. AS 37.05 is amended by adding a new section to read:

Sec. 37.05.314. STATE GRANT CONTRACTS. (a) Money may not be paid or disbursed under a state grant to a municipality under AS 37.05.315 or to an unincorporated community under AS 37.05.316 or under a special purpose state grant under AS 37.05.317 until the municipality or other grant administrator executes a grant contract which states the specific public purposes of the grant and provides that the municipality or other grant administrator (1) will spend the grant money for the public purpose specified in the appropriation or allocation of the money; (2) will allow, on request, an audit by the state of the uses made of the grant money; (3) assures that, to the extent consistent with the specified public purpose of the appropriation or allocation, the facilities and services provided with the grant will be available for the use of the general public; and (4) assures that the grant money will be used without any discrimination which violates art. I., sec. 3 of the Alaska Constitution.

(b) A grant contract required by this section must be prepared and forwarded to a municipality or other grant administrator within 90 days after the Department of Community and Regional Affairs receives an acceptable proposal which describes in detail how the grant money will be used. The grant contract must be on a form provided by the department, and must provide for a payment schedule and performance monitoring procedures.

(c) An appropriation or allocation for a grant for the construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation or allocation. The contract for a grant described in this subsection must include terms consistent with this subsection.

(d) A grant contract for purchase or construction of a public facility must provide that (1) the municipality or other grant administrator will operate and maintain the facility for the practical life of the facility and will not look to the state to operate or maintain the facility or pay for its operation or maintenance; and (2) the public facility will revert to the state immediately upon violation of the provision of the contract which requires that the facility be available for the use of the general public.

(e) The requirements of (d)(1) of this section do not apply to a grant of money for repair or minor improvement of an existing facility operated or maintained by the state at the time the grant is made, if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the state.

(f) A grant contract with a grant administrator other than a municipality may include provisions establishing procedures for the receipt of comments from the public concerning the performance of the grant contract.

(g) Upon a finding by the commissioner of community and regional affairs that a municipality or other grant administrator has misused state grant money or violated the terms of a grant contract, the department may recover any money paid under the grant, terminate any other grant contracts with the same administrator, and withhold the award of any other grant contracts to that administrator.

* Sec. 2. AS 37.05.315 is repealed and reenacted to read:

Sec. 37.05.315. STATE GRANTS TO MUNICIPALITIES. If money is appropriated as a grant to a municipality, the Department of Community and Regional Affairs shall promptly notify the municipality of the availability of the grant. If the department receives a contract executed by the municipality which satisfies the requirements of AS 37.05.314, the department shall begin payment of the grant money according to the schedule established in the contract.

* Sec. 3. AS 37.05.316 is repealed and reenacted to read:

Sec. 37.05.316. STATE GRANTS TO UNINCORPORATED COMMUNITIES. (a) If money is appropriated or allocated as a grant to an unincorporated community in the unorganized borough, the Department of Community and Regional Affairs shall select a grant administrator according to the following procedure:

(1) Within 45 days after the effective date of the appropriation or allocation, the department shall notify the unincorporated community that a grant is available by publishing the notice in a newspaper which is distributed in the community or by prominently posting the notice in at least one public place within the community. The department shall also mail the notice to any person who or organization which has requested notice of grants available to the particular unincorporated community.

(2) The notice must state the amount of grant money available and the purpose for which the grant money may be spent. The notice must also request all entities which are interested in administering the grant, to submit proposals before a specific deadline which is stated in the notice.

(3) Within a time period established by the department and

stated in the notice, the department shall review all proposals received and determine which proposal will best meet the needs of the community. The department shall give preference to a proposal from a non-profit corporation organized by a community for receipt of a grant or from a village council under (b) of this section.

(4) If no entity is determined by the department to be qualified and willing to administer a grant for a particular unincorporated community, the grant money for that community may not be paid.

(b) The Department of Community and Regional Affairs may not accept a proposal for a grant contract under (a) of this section from an Alaska Native village council, unless the council waives any immunity from suit which it might have. The waiver must apply to all claims arising out of the activities of the council under the grant contract, and it must be on a standard form provided by the Department of Law. Neither this subsection nor any action taken under it enlarges or diminishes such governmental authority or jurisdiction as the various Alaska Native village councils might have.

(c) When the Department of Community and Regional Affairs receives a contract which has been executed by a selected entity and which satisfies the requirements of AS 37.15.314, the department shall begin payment of the grant money according to the schedule established in the contract.

* Sec. 4. AS 37.05.317 is repealed and reenacted to read:

Sec. 37.05.317. OTHER GRANTS. (a) When money is appropriated or allocated to a department for grants to accomplish specific public purposes, other than grants to a municipality or unincorporated community, the department shall select a grant administrator according to the following procedure:

(1) Within 45 days after the effective date of the appropri-

ation or allocation, the department shall publish, in at least one newspaper distributed in each judicial district, a notice that the grant is available. The department shall also mail the notice to any person or organization which has requested notice of available grants for the particular public purpose.

(2) The notice must state the amount of grant money available and the purpose for which the grant money may be spent. The notice must also request all entities which are interested in administering the grant to submit proposals before a specific deadline which is stated in the notice.

(3) Within a time period established by the department and stated in the notice, the department shall review all proposals received and determine which proposal best satisfies the specified public purpose of the grant.

(b) When the department to which the grant money is appropriated receives a contract which has been executed by the selected grantee and which satisfies the requirements of AS 37.05.314, the department shall begin payment of the grant money according to the schedule established in the contract.

* Sec. 5. This Act takes effect July 1, 1982.

# SB 762

Sec 1 Provides that grants may not be issued unless a grant is executed which: states (1) that the money will be spent for the public purpose specified in the appropriation (2) allow an audit (3) agree that the facilities or purpose will available to the public (4) Money shall be used w/out discrimination.

(b) Grant contract must be prepared by the State w/in 90 days after the Dept of C & RA receives an acceptable proposal. The grant must contain payment schedule & performance monitoring procedures

(c) appropriation or allocation funds ~~must~~ lapse if the project has not begun within five years after the effective date of the ~~project~~ appropriation or allocation

(d) grant contract must provide: (1) ~~the~~ grant Recipient must operate and maintain the facility for the practical life of the facility (2) the public facility will revert to the state immediately upon violation of clause which requires that the facility be available for use of general public.

(e) provision of (d)(1) do not apply if the money is used to repair an existing State facility or improvements will not substantially increase maintenance cost to the state repair (Q: what's MINOR repair?)

(f) Grant contract may include establishing procedures for public comment on performance of grant contract

(g) If grant is misused C&RA may recover any money paid & terminate any other grant w/ the same administrator and w/hold any future grant

Sec 2 37.05.315 Repealed & Reenacted
Provides that if money is appropriated as a grant C&RA shall promptly notify the municipality & if it receives the executed ~~grant~~ contract, shall begin payment with established schedule

Current language in 37.05.315 provides for basically the same as the above, plus spells out payment procedure in specifics and other specific requirements - Most of them are covered in the new sections at the beginning of this bill and are simplified.

Sec 3 37.05.316 STATE GRANTS TO UNINCORPORATED COMMUNITIES Repealed & Reenacted
Provides C&RA will select a grant administrator if money has been appropriated
(1) within 45 days of the effective date of appropriation, dept shall notify the unincorporated community that the grant is available
(2) Notice must state amount of money available + Request proposals for administration

(3) C & RA shall Review all proposals & determine who shall administer. Will consider Non-profit corp organized by a community for purposes of grant administration.

(4) Provides, if No entity is available No grant will be awarded.
NOTE - ~~and~~ existing Language ~~[illegible]~~ provides that the Dept. would administer the grant in the above case.

(b) C & R.A May NOT accept a proposal for a grant contract unless AK. Native Village Council waives immunity from suit. Waiver must apply to all claims

(c) Provides when C & RA receives an executed contract they shall pay the grant money according to schedule established in the contract.

Sec 4 37.05.317 Repealed & Reenacted
New Language provides procedure when money is appropriated to dept. for grants to accomplish specific public purposes other than grants to ~~municipalities~~ or an ~~unincorporated~~ Community.

(1) Within 45 days after effective date of ~~appropriation~~, C & RA. Shall publish notice of grant availability

(2) Notice must state amount of grant & request ~~proposals~~.

(3) Dept. shall review proposals & determine the best one.

pg 4 SB 762

(6) When the Dept to which the grant money is appropriated receives a Contract executed by the selected grantee & which satisfies the requirement of AS 37.05.314, C&RA shall begin payment according to the established schedule.

OLD LANGUAGE is more specific
AG's office state the Legislature does not have the authority to execute the laws by entering into contracts.

SB 762 cont'd

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which relates to state grants to municipalities, unincorporated communities and others.

The bill improves upon and reorganizes the current provisions of AS 37.05.315 -- 317 concerning state grants, which became law on January 16, 1982 despite my veto (SB 559 am, ch. 4, SLA 1981). Those provisions are very similar to the provisions of former AS 37.05.315 which I allowed to become law without my signature in 1980 (FCCSHB 578; ch. 156 SLA 1980).

Section 1 of the bill adds new AS 37.05.314 to clarify that no state grant may be made without a contract containing certain terms. Many of the terms are required by existing AS 37.05.315 for grants to municipalities. However, the bill would require several additional terms including a payment schedule, performance monitoring procedures, a nondiscrimination clause, and penalties for breach of the grant contract. AS 37.05.314 also clarifies that grant contracts must state the specific public purpose for which the grant money was appropriated or allocated.

Sections 2, 3 and 4 of the bill, concerning grants to municipalities, to unincorporated communities, and to other recipients, respectively, repeal and reenact AS 37.05.315 -- 317 to eliminate repetition of the provisions of proposed AS 37.05.314 concerning all state grants. Section 2 of the bill makes no major changes concerning grants to municipalities except that the Department of Administration is replaced by the Department of Community and Regional Affairs as the responsible agency for disbursement of grant money.

Section 3 of the bill repeals and reenacts AS 37.05.316 by replacing the existing language concerning state grants to "named recipients" with new language concerning grants to unincorporated communities. The proposed language is similar to the language of existing AS 37.05.317. It expands upon the procedures by which the Department of Community and Regional Affairs must select an administrator for grants to unincorporated communities by adding a requirement that notice of availability of a grant be published in a newspaper distributed in the community or posted in a public place. The provision in existing AS 37.05.317(d) that a grant would be administered by the Department of Community and Regional Affairs if no qualified administrator can be found, has been omitted. Instead, proposed AS 37.05.316(a)(4) provides that if there is no



SB 762 cont'd

willing, qualified entity to receive a grant, the grant may not be paid. This provision is nearly identical to sec. 2(f) of HCS CSSB 168 (Fin), enacted last year (ch. 60, SLA 1981).

Also in sec. 3, proposed AS 37.05.316(b) provides that an Alaska Native village council may apply for and receive a grant if it waives any sovereign immunity from suit it may have for claims related to administration of the grant. This subsection includes a disclaimer of any effect of this bill, or of actions taken under it, upon any governmental authority or jurisdiction Alaska Native village councils might have. This disclaimer is necessary to assure that the provision of this bill which allows award of state grants to the village councils upon waiver of sovereign immunity (proposed AS 37.05.316(b)) cannot be used to support or oppose any argument about state recognition of village councils as local governments.

Section 4 of the bill repeals and reenacts AS 37.05.317 by replacing the existing language concerning state grants to unincorporated communities with new language concerning grants other than those to municipalities or to unincorporated communities. This new language is a substitute for existing AS 37.05.316 concerning grants to "named recipients" which is the most problematic of the existing statutes on state grants. There have been many discussions on this issue over the past several years. The Department of Law has repeatedly advised all of us that the legislature simply does not have the authority to execute the laws by entering into contracts (other than those incidental to its law-making function) or by making direct grants to private entities. Therefore, the legislature may not designate the grantee or administrator of a grant contract. The current language of AS 37.05.316 is both ineffectual in avoiding this constitutional defect and ineffectual in putting grant money to work addressing particular problems and public purposes. Proposed AS 37.05.317 would solve both problems. It would allow the legislature to appropriate money to a suitable department for any specific public purpose it determines to be desirable. The department to which the money is appropriated would then issue public notice and request for proposals, and select the most qualified grant administrator in a manner similar to that which the bill establishes for grants to unincorporated communities.

what happens here if a dept. finds no suitable administrator?

Section 5 of the bill provides for an effective date that will coincide with the beginning of FY 83. This will ensure that grants made by the legislature this session will be administered under the improved procedures established by this bill.

SB 762 cont'd

I urge your passage of this bill so that the constitutional defect can be resolved and the state grant program improved without delay.

Sincerely,

Jay S. Hammond
Governor

SB 763

SENATE BILL NO. 763 by Senator Ferguson, entitled:

"An Act establishing for a grant fund for emergency maintenance of a school facility."

was read the first time and referred to the Health, Education and Social Services Committee and the Finance Committee.

SB 764

SENATE BILL NO. 764 by Senators Ray and Bradley, entitled:

"An Act making special appropriations to the Department of Transportation and Public Facilities for a Pioneers' Home in Juneau, and providing for an effective date."

was read the first time and referred to the Health, Education and Social Services Committee and the Finance Committee.

# MEMORANDUM — State of Alaska

COMMUNITY AND REGIONAL AFFAIRS

TO: Keith Specking
Legislative Assistant
Office of the Governor

DATE: January 7, 1982

FILE NO:

TELEPHONE NO:

FROM: Richard Aks RA
Deputy Commissioner
Department of Community and
Regional Affairs

SUBJECT: An Act Relating to State Grants

The Department of Community and Regional Affairs has reviewed this legislation and concurs with the effort to consolidate admininistration and formalize and strengthen procedures for awarding State grant funds appropriated by the Legislature.

However, several areas of the proposed bill give us particular concern as follows:

<u>SOVEREIGN IMMUNITY</u>

Sections 3 and 4 of the bill set forth procedures to determine who may receive a grant appropriated by the Legislature. Page 3, lines 15-16 state the department may solicit proposals from "all entities which are determined by the Department to be qualified, which do not possess sovereign immunity, and are interested in administering the grant" and page 3 lines 20-22, state "in selecting a grant administrator, the Department will give preference to a nonprofit corporation, organized by the community, whose purposes include the administration of state grants". Page 4, lines 14-16 repeats the language on Page 3, lines 15-16.

The references to "sovereign immunity" and "preference to nonprofit corporation" are the matters of concern. In general, the Department attempts to work with existing entities in unincorporated communities to achieve a product desired by the community. In some instances this involves dealing with Native Village Governments which possess sovereign immunity. To date we have dealt with such governments under the Revenue Sharing, Rural Development Assistance, and Community Legal Assistance programs. Our record shows the Department is most successful when the community selects the grant recipient. We have encountered few problems with these grants in terms of compliance with State law.

02-001A(Rev.10/79)

In recent years, however, the growing amount of funding in programs for unincorporated communities has concerned the Department of Law. In particular, Law is concerned that entitlement funding to Native Village Governments which possess sovereign immunity will confer local government powers on those governments and provide State recognition of racially exclusive entities. Further, Law is concerned that there is no method to enforce the public purpose requirement of the State Constitution if an entity possesses sovereign immunity.

Consequently, language was enacted in Chapter 60/SLA 81 that limited the Department to dealing with "an incorporated entity or a federally chartered entity that does not possess sovereign immunity" for the purpose of SB168 funding.

This provision has created a number of administrative problems for the Department. First, in many communities, the Native Village Governments are perceived by local residents to be the governing body for the community. To the extent that the Department cannot deal with these entities, the potential for development of local government is not enhanced. Second, the Department is forced to contradict on-going policy and either seek out a recipient in the community or provide technical assistance to enable a community to form a nonprofit corporation. These efforts have met with mixed success.

In general the Department acknowledges the need to insure that State funds are spent in a manner consistent with the public purpose clause of the Constitution. In addition, the Department would welcome the authority to review all proposals for grant funding from a particular community and to determine which proposals will best meet the needs of the community. However, the Department opposes language that restricts our flexibility in selecting the most qualified applicant or interferes with the ability of the community to prepare an application. Law has conceded that the question of conferring local government powers on Native Village Governments is a matter of degree that is not violated if the State contracts directly with those entities for provision of a specific service. Law also has indicated that creative enforcement mechanisms to preserve the public purpose use of the funds can be developed.

Further, the proposed language relating to sovereign immunity and preference for non-profit corporations could exacerbate racial tensions by giving preference to groups that are not representative of the community as a whole.

For these reasons, the Department proposes deletion of the language "which do not possess sovereign immunity" (page 3, lines 15-16 and page 4, lines 15-16) and "the department will give preference to a nonprofit corporation, organized by the community, whose purposes include the administration of state grants" (page 3, lines 20-22).

In its place the Department proposes to add a new subsection (c) to proposed AS 37.05.316 and 37.05.317 to read as follows:

> (c) If the Commissioner finds that a recipient of a grant has misused funds or otherwise violates the terms of the agreement governing the negotiated purpose of funding, the Commissioner may, at his/her discretion, withhold future funding to that recipient for programs of his/her department.

In addition the Department recommends that these changes be adopted as amendments to Chapter 60/SLA81. Approximately 102 unincorporated communities are eligible for assistance under this statute. To date only 18 communities have applied and 2 have been forced to create non-profit entities to receive funds. If these amendments are enacted early in the session, additional administrative problems can be avoided as the major portion of program implementation occurs.

PROCEDURAL REQUIREMENTS

Proposed AS 37.05.314(b) requires the Department to execute a contract for State grant funds within 90 days of the effective date of the appropriation or allocation of funds. The Department is concerned that this time frame is too short to allow preparation of a contract which is agreeable to all parties and guarantees protection of State interests. The Department proposes to change AS 37.05.314(b) to read as follows:

> (b) A prepared contract shall be mailed to the grantee within 90 days after receipt from the grantee of an acceptable proposal detailing the usage of appropriated

funds. The contract shall be in a form provided by the Department of Community and Regional Affairs and must provide for a payment schedule and performance monitoring procedure.

Proposed AS 37.05.316(1) requires the Department to post notice of a grant to an unincorporated community at a post office or community building. Many unincorporated communities have neither facility. Therefore the Department proposes to substitute the following language on page 3, line 9 after the word "community":

"and/or by prominently posting notices in a public place"

OWNERSHIP OF FACILITIES CONSTRUCTED WITH GRANT FUNDS

The Department is concerned that this legislation should address the status of a public facility in an unincorporated community if the grantee becomes an incorporated city. The Department suggests addition of a new subsection AS 37.05.316(d):

(d) Prior to receiving a grant the grantee must agree in writing to transfer ownership of any capital project to a municipal government if the community incorporates as a city under AS 29.18.

The Department also points out that the legislation does not address the issue of ownership of or liability for a facility constructed or equipment purchased with State funds in an unincorporated community.

REGULATORY AUTHORITY

The proposed bill repeals existing AS 37.05.315(g) which prohibits the Department from adopting regulations to implement the statute. The Department feels this change is critical to implementation of proposed AS 37.05.314(d) and (e) which provide enforcement mechanisms for misuse of funds and provisions for state maintenance of an existing facility.

The Department appreciates this opportunity to comment on this proposed bill and looks forward to discussing these matters with you and other interested agencies. A fiscal note is being prepared and should be completed next week.

cc: Jerry Reinwand
Susan Greene
Carole Burger
Wilson Condon
Laura Davis
Jim Souby
Ron Lehr
Jim Baldwin

# SENATE AMENDMENT

BY Community and Regional Affairs Committee

To: ______________________ SENATE BILL No. 762

To: ______________________ HOUSE BILL No. __________

PAGE: 2 LINE: 17

Delete "minor"

Page 3, lines 8 and 9:

Delete everything after "shall" and substitute: "make payment of not less than 20 percent of the grant within 10 days of the effective date of the agreement."

SB
802

# COMMITTEE REPORT
# SENATE

FURTHER:

Date: __________

Mr. President:

The Committee on ____________________ has had ____________________

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

S 60 (Rev. 12/78)

March 18, 1982

SEALASKA CORPORATION PROPOSED AMENDMENTS TO SENATE BILL NO. 802
AND HOUSE BILL NO. 885

Forest lands, as defined in AS 41.17.950(6), shall be deemed "developed" when gainful or productive present use, other than harvesting of forest products and related activities, occurs.

Taxation of forest lands will be retained solely by the State Government, and shall not be delegated to any local, municipal borough, or other governmental units, in accordance with Article IX, Section 1 and Article X, Section 2 of the Alaska Constitution.

property rights.

## ARTICLE IX

## FINANCE AND TAXATION

**Taxing Power**

SECTION 1. The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

**Non-discrimination**

SECTION 2. The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to the residents of the State.

**Assessment Standards**

SECTION 3. Standards for appraisal of all property assessed by the State or its political subdivisions shall be prescribed by law.

**Exemptions**

SECTION 4. The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for nonprofit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

**Interests in Government Property**

SECTION 5. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

**Public Purpose**

SECTION 6. No tax shall be levied, or appropriation of public money made, or public property income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

(The addition of this section was approved by the voters of the state November 2, 1976 and became effective Feburary 21, 1977.)

## ARTICLE X

## LOCAL GOVERNMENT

**Purpose and Construction**

SECTION 1. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

**Local Government Powers**

SECTION 2. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

**Boroughs**

SECTION 3. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

**Assembly**

SECTION 4. The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.

(The amendment to this section was approved by the voters of the state August 22, 1972 and became effective October 14, 1972. It deleted the second and third sentences which specified size and [illegible] on the borough assembly.)

**Service Areas**

SECTION 5. [illegible] services within a [illegible] lished, altered, [illegible] ject to the pro[illegible] service area sha[illegible] with the purpo[illegible] can be provide[illegible] incorporation a[illegible] The assembly n[illegible] charges, or ass[illegible] finance the spe[illegible]

**Unorganized Boroughs**

SECTION 6. [illegible] performance o[illegible] advisable in u[illegible] maximum local [illegible] may exercise a[illegible] nized borough [illegible] an organized b[illegible]

**Cities**

SECTION 7 [illegible] manner presc[illegible] the borough in [illegible] have the powe[illegible] charter. They [illegible] sified, reclassif[illegible] vided by law.

**Council**

SECTION 8 [illegible] be the council [illegible]

**Charters**

SECTION [illegible] ough of the f[illegible] adopt, amend [illegible] manner prov[illegible] legislation, th[illegible] of the first cl[illegible] preparation a[illegible] ter. All chart[illegible] ters, shall be [illegible] the borough [illegible] approved by [illegible]

A BILL

Section 1. A.S. § 29.53.020(a) is amended by adding a new sub-paragraph to read:

(9) real property or interests therein which are exempt from taxation under the Alaska Native Claims Settlement Act, as amended by the Alaska National Interest Lands Conservation Act (43 (USC 16 (d)(1), as more fully provided in (k) of this section.

Section 2. A.S. § 29.53.020 is amended by adding a new paragraph to read:

(k) The tax exemption required by the Alaska Native Claims Settlement Act, as amended by the Alaska National Interest Land Conservation Act (43 USC 1620(d)(1), shall be implemented according to the following conditions and interpretations:

(1) The term "developed" shall mean a purposeful modification of the property from its original state which effectuates a condition for gainful or productive present use without further substantial modification. Developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state. Surveying, platting, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process do not necessarily create a developed state within the meaning of this sub-section. Forest lands, as defined in A.S. §41.17.950(6), shall be deemed "developed" when gainful or productive present use occurs and the owner of the forest land files a notice of conversion under AS §41.17.110.

(2) The term "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor. With respect to lease which conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract which is used solely for the purpose of exploration.

(3) If the property or interest therein reverts to an undeveloped state, or if the lease is terminated, or if property which is currently taxed should be used for purposes of exploration, the exemption will be reinstated, subject to the provisions of this subsection.

Section 3. Sections 1 and 2 of this Act are retroactive to December 31, 1980.

Bert

SB 802

# MEMORANDUM State of Alaska

COMMUNITY AND REGIONAL AFFAIRS

TO The Honorable John Katz
Commissioner of Natural Resources
M.S. 1000

DATE March 10, 1982

FILE NO

TELEPHONE NO

FROM Richard Aks RA
Deputy Commissioner
Department of Community & Regional Affairs

SUBJECT S.B. 802 Relating to Tax Exemption of ANCSA Lands

As you recall, representatives of the Department of Community and Regional Affairs met with you on November 24 to discuss implementation of ANCSA Section 21(d) relating to the tax exemption of Native Corporation lands. Based on your comments, the Department worked with representatives of Native Corporations to prepare the proposed statutory language embodied in S.B.802.

S.B. 802 was the subject of a hearing in the Senate Community and Regional Affairs Committee on February 9. The attached testimony was delivered at the hearing. Members of the Committee were concerned that the language in the bill is so vague as to be of little assistance in implementation of the federal statute. The Committee was also confronted with a major policy issue concerning taxation of forest lands. Sealaska Corporation is proposing that forest lands be totally exempted from municipal taxation and subjected to a State tax with receipts being shared with municipalities on a revenue sharing basis (see attached comments).

I would be most appreciative if you could review S.B. 802 and the attached papers and provide the Department with any comments you might have that would improve the language of the bill or address the particular issue raised by Sealaska Corporation.

Thank you in advance for your time.

Attachment

cc: Palmer McCarter

02-001A(Rev.10/79)

SB802

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*

March 30, 1982

The Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski: Arliss

RE: CSSB 802 - FOREST LAND DELETION

During the Senate Community and Regional Affairs Committee hearing on March 18, there seemed to be some confusion regarding possible disruption of the "status quo" which might result from deletion of the "forest land" language in the original version of CSSB 802. In our judgement, the adoption of the committee substitute would not upset any existing cooperative agreement involving the taxation of forest lands. We contacted several municipalities to ascertain whether any pending litigation might also be impacted by passage of the bill. We were not able to discover any ongoing litigation involving ANCSA lands anywhere in the State.

In addition, during that hearing, we heard statements to the effect that local taxes should not be levied against ANCSA forest lands because to do so would remove the "fair competitive advantage" intended by Section 21(d). The logic behind that statement was, that any company which contracts with the Forest Service would not be required to pay taxes, and therefore would have an unfair advantage in the timber market. That is simply not the case. Any tax exempt property which is leased is taxable to the extent of the interest held by the lessee.

On the other hand, property which is located outside a local taxing jurisdiction is not subject to property taxation, regardless of the taxable status of its owner. Clearly, in that event, neither party would have a tax advantage over the other.

The Department has prepared an example of comparison for your information showing, in general terms, the results of tree harvesting activities conducted by a private contractor on Forest Service land, and an ANCSA Corporation on its own land. The example assumes that the costs of extraction are the same in each case, and that each tract is located inside the boundaries of a municipality which taxes at a level of one mill (the current mill rate for Ketchikan Gateway Borough). In each case, the property is logged at the rate of 500 acres per year for a ten year period.

Party A: A private firm contracts with the U.S. Forest Service to clearcut 5,000 acres of forest land. An initial fee is paid, based on the current market value of the stumpage versus the cost of its extraction, for the purchase of the timber. At that point a lease contract is entered into and clearcutting begins.

1-P1LH

Since the federally owned property is located within municipal boundaries, the value of the leasehold is taxable to the private party. The leasehold includes virtually 100% of the value of the standing growth and an insignificant portion of the bare land value. Of the total package, the lessee would pay taxes annually on approximately 70% of the total value of the property over the term of the lease. The assessed value would be based on the market value of the entire 5,000 acres from the conception of the lease until its termination.

Party B: An ANCSA Corporation receives conveyance of a 5,000 acre tract of forest land from the federal government and elects to tree farm the property. No fee is paid toward the purchase of the timber.

Since the property is located within municipal boundaries, it is also subject to local property taxation, however, under the terms of CSSB 802, that taxation is limited to the "smallest practicable tract".

Using some realistic figures (assuming the timber market is good) the following example shows a comparison of the above costs over a ten year period:

COMPARATIVE COSTS

A. FOREST SERVICE CONTRACTOR:

| | YEAR # | TAXES | | TIMBER PURCHASE | | |
|---|---|---|---|---|---|---|
| | Year 1 | $2058 | | $1,646,000 | | |
| | Year 2 | 1852 | | | | |
| | Year 3 | 1646 | | | | |
| | Year 4 | 1440 | | | | |
| | Year 5 | 1235 | | | | |
| | Year 6 | 1029 | | | | |
| | Year 7 | 823 | | | | |
| | Year 8 | 617 | | | | |
| | Year 9 | 412 | | | | |
| | Year 10 | 206 | | | | Total Expenditures for Ten Year Period |
| TOTALS | | $11,318 | + | $1,646,000 | = | $1,657,[illegible] |

Arliss Sturgulewski
March 30, 1982
Page: 3

B. ANCSA CORPORATION:

| YEAR # | TAXES | TIMBER PURCHASE | |
|---|---|---|---|
| Year 1 | $ 294 | $ 0 | |
| Year 2 | 382 | | |
| Year 3 | 470 | | |
| Year 4 | 559 | | |
| Year 5 | 647 | | |
| Year 6 | 735 | | |
| Year 7 | 823 | | |
| Year 8 | 911 | | |
| Year 9 | 1,000 | | |
| Year 10 | 1,088 | | Total Expenditures for Ten Year Period |
| TOTALS | $6,909 + | $ 0 = | $ 6,909 |

I believe the example shows several things worthy of consideration:

1. Clearly, the ANCSA Corporation has a significant monetary advantage over its competition. For the ten year period, the Corporation's cost of doing business is less than one percent of the contractor's cost.

2. Aside from the inherent benefit of owning the timber without cost, the ANCSA Corporation also has a $4,409 advantage in the area of taxation. That advantage exists because of the "smallest practicable tract" language in CSSB 802. The Corporation's assessment is based on 500 acres per year (actually developed) while the contractor's is based on the value of the entire 5,000 acres.

3. The average annual taxes paid by the Corporation equal $691, which is about the same amount currently paid by the average homeowner in Alaska. At that rate, it is difficult to believe the Corporation would either be taxed out of business or be forced to sell its land to pay the taxes.

4. At the end of the ten year period, ownership of the federal land reverts to the Forest Service. The Corporation retains ownership of its property, the bare land value of which is estimated as $8,825,000.

Viewed realistically, at the end of the ten years, the Corporation has assets (liquid and nonliquid) which amount to $12,933,09 . The contractor shows net assets of $400,182.

In addition to the above benefits, it is important to remember that, coincidentally, the ANCSA Corporation has another distinct advantage over the federal contractor. By contract stipulation, the contractor's logs must undergo primary processing in the United States. The ANCSA Corporation is not so restricted and may sell round logs directly to any country in the world. Although we have not measured that benefit in terms of dollars, we have been informed by the Forest Service that it is significantly desirable.

CSSB 802 provides for the equitable taxation of all ANCSA lands, and the Department is in support of its passage.

If you have questions or require additional information regarding this matter, please contact me.

Sincerely,
LEE McANERNEY
COMMISSIONER

Palmer

By: Palmer McCarter, Director
Div. of Local Government Assistance

cc: Senate Community and Regional Affairs Committee
Robert W. Loescher, Sealaska Corporation
Kellus Sewell, Cape Fox Corporation
Steve Hillard, Cook Inlet Region Inc.
Keith Specking (Governor's Office)

MW/db/0796X

Basis for calculations:

| | | |
|---|---|---|
| Value of forested land $5,880 per acre | = | $29,400,000 |
| Value of bare land $1,765 per acre | = | - 8,825,000 |
| Cost of timber extraction $3,292 per acre | = | - 16,460,000 |
| 50% of trees salable | = | - 2,057,500 |
| 20% profit to contractor | = | - 411,400 |
| Amount of timber sale | | $ 1,646,000 |

(The example shows a relative comparison of costs between the two entities. Regardless of price fluctuation, the percentage relationship should not change.)

Don Gilman
SB802

April 13, 1982

The Honorable Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Re: CSSB 802 - Forest Land Deletion

We have had an opportunity to review Mr. McCarter's letter to you dated March 30, 1982, concerning CSSB 802 - Forest Land Deletion. We would like to take this opportunity to comment upon Mr. McCarter's erroneous observations and misleading conclusions.

The data which Mr. McCarter has utilized is totally unrelated to the problem which we raised at the Senate Community and Regional Affairs Committee hearing on March 18. That problem dealt specifically with the issue of equitable taxation of similar property located within a municipality's boundaries. Mr. McCarter's legal conclusion that, "CSSB 802 provides for the equitable taxation of all ANCSA lands," was based upon irrelevant data and erroneous presumptions with no actual basis in fact.

The letter suggests that Native Corporations have a definite tax advantage, as well as many other non-tax related advantages, over a contractor on federal lands. There are two basic objections that we have with this: 1) The observation that Native Corporations have a definite tax advantage is erroneous; 2) Mr. McCarter's non-tax related arguments are irrelevant and misplaced in a discussion concerning equitable taxation.

Contrary to Mr. McCarter's assertions, a purchaser of federal timber does not enter into a lease with the Forest Service. A purchase agreement is established between the two parties. Additionally, the Ketchikan Gateway Borough does not tax timber extraction or forest land values on federal lands being harvested by private contractors. Frank Davis, Assistant Assessor of Ketchikan Gateway Borough, informed us that no future taxation was presently contemplated by that Borough. Operators on private forestlands are therefore the sole taxable operators within the Ketchikan Gateway Borough.

A further analysis of Mr. McCarter's example would reveal that in addition to being the sole taxable entities, private corporations or individuals are liable for property taxes on forestlands long after the 10 year cutting period lapses.

The time period between successive timber crops in Southeast Alaska is expected to range from 60 to 100 years. During that interim, we have been informed, that Native Corporations are liable for taxes on the value of the forest land. Using Mr. McCarter's imaginary figures, we see that the tax liability of the private party will be $880.00 (per year) multiplied by 60 or 100 years (approximately $52,800 - $88,000). This does not take into account increasing values of the land.

Instead of the $6,909 tax figure suggested by Mr. McCarter, we now see a real tax liability of ten times that figure for the private owner. We also see that contrary to Mr. McCarter's assertions the Forest Service purhcaser does not pay the $11,318.00 suggested but in reality has no tax liability to the municipality.

Our original position bears repeating at this point. Sealaska Corporation or another Native Corporation would be subject to taxation that would not be imposed upon similarly situated purchasers of federal timber. It is thus obvious that the purchaser of federal timber within a municipality's boundaries has a clear tax advantage over competing Native Corporations.

Mr. McCarter has presented what he considers to be obvious non-tax related advantages that Native Corporations have over purchasers of federal timber. Sealaska Corporation might additionally direct your attention to factors that may be considered disadvantageous. These arguments are not however related to the question presented and can only serve to confuse the issue raised by SB 802. We must therefore narrow our discussions to the taxing authority which would be provided municipalities under SB 802.

We have demonstrated that municipal taxation of forestlands as presently applied and as provided for under SB 802 gives or will give purchasers of federal timber an unfair advantage over operators on privately owned forestlands. Adoption of the Sealaska Corporation proposals to SB 802 would eliminate this unfair advantage.

Equitable taxation as you are well aware is not the sole justification for state administration as opposed to municipal administration of forestland taxation. I have briefly outlined additional justification below.

1) Municipal taxation would not provide a uniform taxing scheme. The multitude of taxing authorities would create an accounting, administrative, compliance and enforcement nightmare.

2) Taxation of absentee landlords would be the obvious result of municipal taxation. This raises the issue of taxation without representation since an absentee landlord would not be provided an opportunity to participate in the creation of the taxing scheme.

3) Forest management is a matter of state concern as expressed in the Forest Practices Act. Adoption of the definition of development of forestlands as defined in the Forest Practices Act would guarantee those values sought to be protected in that Act. It would additionally recognize the sensitive balance created by Section 7(i) of ANCSA. A municipal taxation upon forestlands of one Regional Corporation would effect distributions of the remaining eleven Regional Corporations doing business around the state. Consequently, taxation of forestland would more appropriately be administered by the state.

4) The legislature has previously voiced its concern for the perpetuation of forestlands (Forest Practices Act). In this legislation they found it necessary to define Forest Land Development. There is no other logical conclusion one can make than to find that this definition was included in contemplation of a separate taxing scheme for forestlands. The perpetuation of forestlands within the boundaries of municipalities cannot be guaranteed if SB 802 passes as is.

The State of Alaska must make an evaluation of its forestlands to determine a tax level that will be imposed upon the owners or operators of forestlands. This level must be reasonably related to the time period between successive timber crops and must be such that it will not create an excessive burden upon the owner/cultivator. This evaluation must not be left to the individual municipalities which may not have the qualified staff to make this evaluation or which may have management goals which differ significantly from those management goals expressed in the Forest Practices Act. The legislative goals of the Forest Practices Act should be honored in the definition of development in the immediate bill (CSSB 802). It appears however that SB 802, as presently drafted, will not further these goals.

In conclusion, we wish to thank you for your consideration of our comments and sincerely hope that you to will see the wisdom of these proposals to the existing draft of SB 802.

Sincerely,

SEALASKA CORPORATION

Robert W. Loescher
Vice President
Resource Management

cc: Richard Aks
Don Gilman
Robert Ziegler, Sr.
Mike Colletta
Frank Ferguson
Arliss Sturgulewski
Kellus Sewell
Steve Hillar
Keith Specking
Village Corporations
Chugach, Inc.
AFN - Irene Rowan
Doyon
Cook Inlet, Inc.
Koniag, Inc.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

# DEPT. OF COMMUNITY & REGIONAL AFFAIRS

REPLY TO:
☐ POUCH BH
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) 543-3475

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

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

May 21, 1982

The Honorable Arliss Sturgulewski
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski: Arliss

RE: CSSB 802 SEALASKA LETTER

This responds to a letter under the date of April 13, 1982 to you from Mr. Robert W. Loescher of Sealaska Corporation.

In that Letter Mr. Loescher stated that the U.S. Forest Service does not enter into a lease with a purchaser of federal timber. The statement is absolutely correct. The parties enter into a standard Timber Sale Contract (see sample enclosed).

The value of the interest held by the purchaser in that contract is taxable by constitutional mandate (see Article IX, Section 5, enclosed). The procedure for taxing that interest is identical to the example shown in our March 30, 1982 letter to you. Under the Alaska Constitution, for the purposes of property taxation, the terms "lease" and "contract" are interchangeable.

Mr. Loescher also stated that Ketchikan Gateway Borough does not presently tax such an interest. That statement is also correct. Coincidentally, there are no sales of federal timber which are located within that borough. If there were, the contractor's interest would certainly be taxed as required under the constitution (see enclosed letter from Marie Westfall, Ketchikan Gateway Borough Assessor).

A third correct statement Mr. Loescher made was that the ANCSA Corporation is liable for payment of property taxes on its forest land during the 60 to 100 year regrowth period. Although that is true, we regard it as immaterial to the discussion of Section 21(d) of ANCSA. That land would be subject to local taxation twenty years after conveyance of the property regardless of how the term "development" is defined in SB 802.

This is not to say that Mr. Loescher does not have a point about tax equity outside of the discussion of 21(d). An ANCSA Corporation operating within municipal boundaries is required to pay local taxes on both the value of the timber and the land during the harvest and continues to pay local taxes during the period of forest regrowth. A private operator harvesting timber on federal land only pays local taxes on the value of his possessory interest (in this case, all of the value of the forest, but only a small portion of the value of the land) and ceases to pay any local taxes after the harvest is complete. Under these circumstances the ANCSA Corporation appears to experience a tax disadvantage as compared with the private operation. This issue of tax equity is a complex matter worthy of thorough examination by the Legislature before any action is taken.

Mr. Loescher also discussed some theoretical problems involving local taxation of forest lands (which is the current practice) versus state administration of forest lands taxation. We would be pleased to respond to those comments and ideas when some kind of proposed language, in the form of a bill, necessitates that we do so.

If we may be of additional help, or if you desire a response to other points in Mr. Loescher's letter, please contact me.

Sincerely,

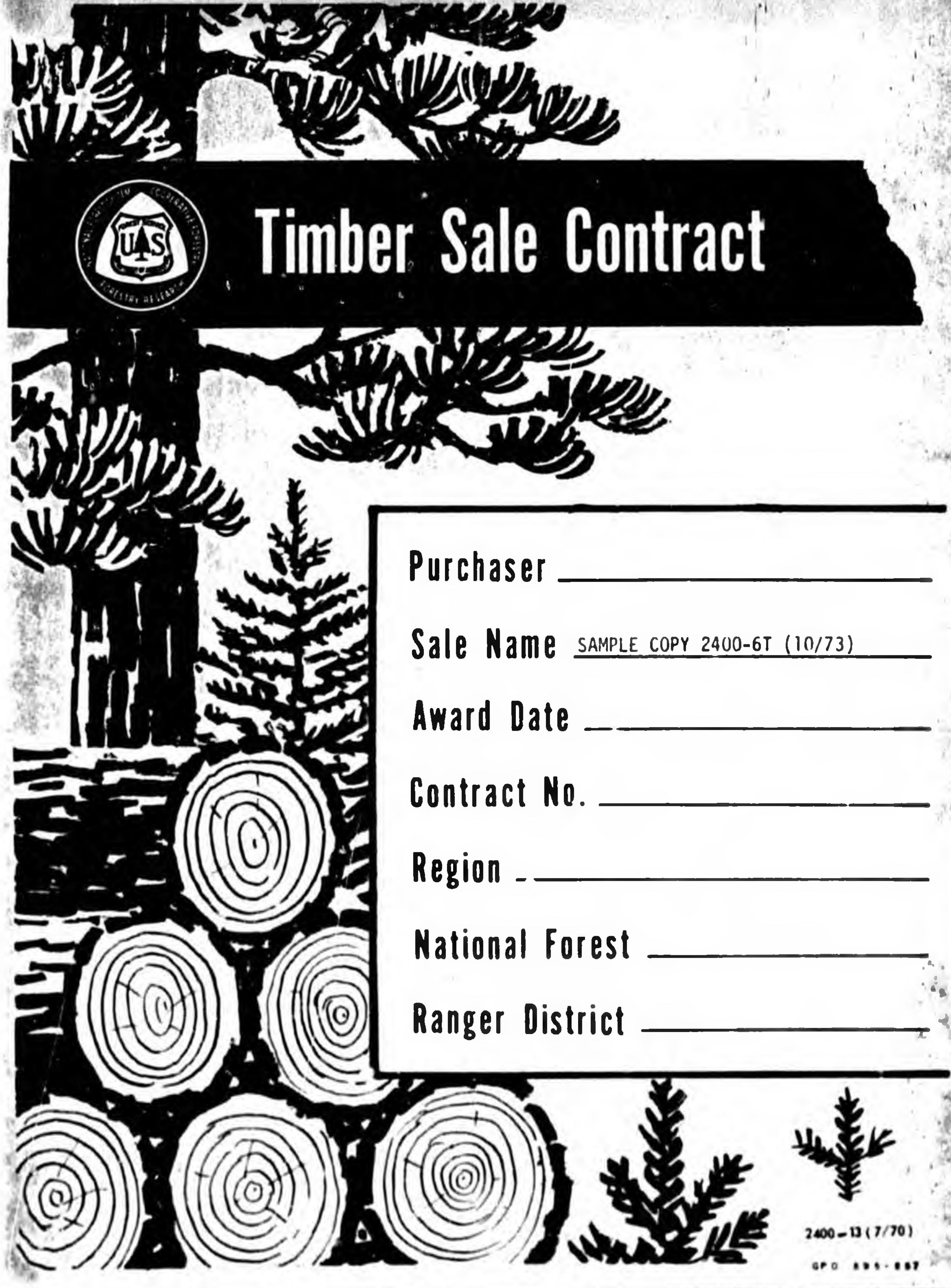
LEE McANERNEY
COMMISSIONER

Palmer

By: Palmer McCarter
Director

Enclosures

cc: Senator Don Gilman
Senator Robert Ziegler, Sr.
Senator Mike Colletta
Senator Frank Ferguson
Representative Terry Gardiner
Representative Oral Freeman
Robert Loescher, Sealaska Corporation
Kellus Sewell, Cape Fox Corporation
Steve Hillard, Cook Inlet Native Corporation
Edgar Blatchford, Chugach, Inc.
Irene Rowan, Alaska Federation of Natives
Tim Wallis, Doyon, Ltd.
Keith Specking, Office of the Governor
Richard Aks, Deputy Commissioner



# Timber Sale Contract

Purchaser ______________________

Sale Name SAMPLE COPY 2400-6T (10/73)

Award Date ______________________

Contract No. ______________________

Region ______________________

National Forest ______________________

Ranger District ______________________

2400-13 (7/70)

for public water supply, an appro-
ter shall be limited to stated pur-
ect to preferences among beneficial
t or otherwise, as prescribed by law,
ral reservation of fish and wildlife.

1. Free access to the navigable or
f the State, as defined by the legisla-
be denied any citizen of the United
nt of the State, except that the
by general law regulate and limit
other beneficial uses or public pur-

. No exclusive right or special privi-
shall be created or authorized in the
of the State. This section does not
ver of the State to limit entry into
purposes of resource conservation,
omic distress among fishermen and
t upon them for a livelihood and to
ficient development of aquaculture

... this section was approved by the voters
22, 1972 and became effective October
... added the second sentence.]

. No person shall be involuntarily
right to the use of waters, his
, or improvements affecting either,
superior beneficial use or public
n only with just compensation and
law.

7. Laws and regulations governing
sal of natural resources shall apply
rsons similarly situated with refer-
bject matter and purpose to be
v or regulation.

. Proceeding in eminent domain
ken for private ways of necessity to
access for extraction or utilization
of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

## ARTICLE IX

## FINANCE AND TAXATION

**Taxing Power** SECTION 1. The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

**Non-discrimination** SECTION 2. The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to the residents of the State.

**Assessment Standards** SECTION 3. Standards for appraisal of all property assessed by the State or its political subdivisions shall be prescribed by law.

**Exemptions** SECTION 4. The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for nonprofit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

**Interests in Government Property** SECTION 5. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

**Public Purpose** SECTION 6. No tax shall be levied, or appropriation of public money made, or public property

**KETCHIKAN GATEWAY BOROUGH**
[illegible] FRONT STREET
KETCHIKAN, ALASKA 99901

RECEIVED
APR 26 1982
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

April 23, 1982

Michael Worley, Assistant State Assessor
Division of Local Government Assistance
Dept. of Community and Regional Affairs
Pouch BH
Juneau, Alaska 99811

Dear Mr. Worley,

Thank you for the copy of the letter addressed to Senator Sturgulewski from Robert Loescher of Sealaska Corporation which contains some conjectures and taxing procedures allegedly obtained from Frank Davis, Appraiser II of our staff.

I have discussed with Frank his conversation with a Sealaska representative and have concluded that the caller has misinterpreted the information received.

The Ketchikan Gateway Borough has in the past and continues to follow the required exemptions as stated in AS 29.53.020 (a)(1):

> The Ketchikan Gateway Borough would assess leasehold interests of private contractors on Federal Lands if within the municipality's taxing jurisdiction. At present all such leaseholds or timber purchase contracts on Federal Lands are <u>not within</u> the Ketchikan Gateway Borough.
>
> Should such a contract be let by the Forest Service in the future that is within the boundaries of the Borough be assured that a value would be placed on the interest held by the private contractor.

Hopefully, this information will clear up any misconceptions arising from the conversation with Mr. Davis.

Cordially,

Marie Westfall
Director of Assessing &
Taxing

State of Alaska
Department of Community & Regional Affairs

Date: March 4, 1982

# POSITION PAPER

**Requested by:** Senate Community and Regional Affairs

**Subject:** Senate Bill No. 802 / House Bill No. 885

**Departmental Position:** Support With Amendments

**Remarks:**

HISTORY AND RATIONALE OF SB 802 AND HB 885

History:

In December, 1971 Congress adopted the Alaska Native Claims Settlement Act (ANCSA). In December of 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was passed into federal law amending certain sections of ANCSA.

Section 21(d) of the amended act provided for a property tax moratorium on ANCSA lands for a period of twenty years, subject to certain provisions within the act. That section reads as follows:

TAX MORATORIUM EXTENSION

> Sec. 904. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:
>
> "(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, of those interests to such individual, group, or corporation: Provided, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: Provided further, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interest shall be taxable to the same extent as

> such revenues or proceeds are taxable when received by a non-Native individual or corporation.
>
> "(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange".

A conspicuous lack of definitions for key terms along with certain ambiguities in Sec. 21(d) have caused some interpretation problems for parties impacted by the legislation. ANCSA Corporations have complained of unequal treatment from one taxing jurisdiction to the next, and local assessors have voiced their frustration in attempting to interpret the language. The situation is further complicated by the fact that there is almost no legislative history available for guidance on that section.

The proposed language is intended to provide some clarification of the section and to furnish a means for the proper implementation of the moratorium. It has been drafted in an effort to more closely define those terms which have caused problems or created concerns, and in an attempt to provide some equity of application of Sec. 21 (d) statewide.

Rationale:

The logic followed in drafting the proposed language was drawn from the basic intent of Congress in their adoption of ANCSA. Generally, that intent was to allow Alaska's Native community a reasonable amount of time to develop the lands conveyed to them pursuant to the Act and the opportunity to enter the economic mainstream of society without being forced to make premature or unwise decisions in order to pay property taxes.

The purpose of Section 21(d) was to assure that local taxes would not be levied on the lands for twenty years, or until such time as they were developed or leased. Based upon consultation with individuals familiar with the legislative history of ANCSA and ANILCA, it appears that Congress intended the taxability of ANCSA lands be linked to the generation of income, thereby providing the revenues necessary to pay property taxes without risking loss of their lands through taxation.

Brief explanation of specific terms and concerns with the bill follow:

29.53.020 (k)(1)

Page 1, line 20:

The term "developed" has been the most controversial one in the Act. The common understanding seems to be that the term means an intentional "improvement" or "physical alteration" of the property. For purposes of Sec. 21 (d) however, it appears Congress intended the word "developed" to mean an intentional improvement of the property for the purpose of producing income through use of the land. In the application of Sec. 21 (d), it is not important whether the development occurred prior to conveyance or afterward. Neither does it matter who developed the property. It is only important that as a direct result of the modification, the property was made "ripe" for the production of income.

Essentially, it appears that the taxation of the property should be triggered by its production of income. However, if it is improved to a point of readiness, but the corporation elects, for its own benefit, not to commence income producing activities, taxability is triggered as if those activities had actually begun.

Page 1, line 25:

The term "smallest practicable tract" means that portion of a tract of land which is identified with the income stream (or potential income stream as explained above). The term intends to include the fully developed portion of the land, and possibly a peripheral buffer area if it is reasonably necessary for the productive use of the site. Where municipal zoning setbacks are required, it would be logical to use that setback distance for delineation of the buffer area.

Page 1, line 26:

The portion which says "Surveying, platting, construction of roads, etc." intends to safeguard against loss of the exemption before the property is fully developed. Again, the language attempts to link the definition of "develop" to the generation of income. As a general rule, the income should be produced before the exemption is lost, thereby providing a means to pay the taxes.

Local assessors across the State have unanimously voiced strong objection to that language. They are concerned that it might be construed to say that ANCSA property could be fully developed and still be exempt from taxation. The assessors have said that at some point in the subdivision and development of ANCSA lands for resale purposes, the properties should become taxable.

Page 1, line 29 through page 2, line 3:

This language contradicts the language on Page 1, lines 21-22. In addition, the portion which references AS 41.17.110 in effect allows the property owner to determine whether his own property is exempt. According to the Department of Natural Resources, it is not required that the owner of forest lands file "...a notice of conversion...", unless:

1. The property is being converted to non-forest use, and

2. The amount of property to be converted is in excess of ten acres, and

3. The property will be converted to commercial use.

Clearly, under those conditions, the owner of the forest lands could harvest the trees from the property and construct a hotel on up to nine acres of the land without being required to file a notice of conversion with DNR. Under the current language, neither the commercially cut lands nor the hotel would be taxable. To be workable, the Department strongly suggests that the language be changed as follows:

"...as defined in AS 41.17.950(6),shall be deemed "developed" when a condition for gainful or productive present use [OCCURS] exists. [AND THE OWNER OF THE FOREST LAND FILES A NOTICE OF CONVERSION UNDER AS 41.17.110.]."

Page 2, line 10:

The word "underdeveloped" in this line is a typographical error and should have been "undeveloped". We have confirmed that fact with the drafters of the bill.