

ADMINISTRATIVE CONTROL ROOM 204

2201 SCRA SB 37 - SB 67

NORTH AND NORTHWEST
ALASKA 'MAYORS' CONFERENCE
KOTZEBUE, ALASKA
NOVEMBER 5 AND 6, 1982

RESOLUTION NO. 82-11

A RESOLUTION IN SUPPORT OF COMBINING REVENUE
SHARING AND MUNICIPAL ASSISTANCE PROGRAMS AND
RAISING THE MINIMUM ENTITLEMENT TO \$100,000
PLUS THE COST OF LIVING DIFFERENTIAL

WHEREAS, the paperwork and number of agencies to deal with for State Aid to municipalities is unnecessarily complicated, and

WHEREAS, the current minimum entitlement is too low to assure adequate basic government

NOW THEREFORE BE IT RESOLVED BY THE NORTHWEST MAYORS' CONFERENCE THAT: they go on record in support of combining the Revenue Sharing and Municipal Assistance programs and raising the minimum entitlement to \$100,000 plus the cost of living differential.

PASSED AND APPROVED BY THE 1st Session, 3rd Annual NORTHWEST MAYORS' CONFERENCE THIS 6th day of November, 1982.

tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(c) for the payment of refunds and payment may not be made without an appropriation for that purpose. (§ 2 ch 1 SSSLA 1980; am § 9 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Effect of amendments. — Section 9, ch 1, SSSLA 1980 substituted "\$100" for "\$50" in the introductory language of subsection (a).

Effective dates. — Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, pro-

vides that this section is retroactive to January 1, 1979.

Editor's notes. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.015. Individual tax credit.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

Editor's notes. — The repealed section, derived from § 1, ch. 144, SLA 1978. For legislative findings and purpose of

repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.016. Sharing of corporate income tax revenue with municipalities. (a) There is established within the Department of Revenue the municipal assistance fund. The legislature may appropriate to the fund during each fiscal year an amount equal to or greater than 30 percent of the income tax revenue received by the state under AS 43.20.011(e) and AS 43.21 for the previous fiscal year. The Department of Revenue shall distribute money from the fund to each organized borough and each city of any class on an annual basis as provided in (b) and (c) of this section. A borough or city may not receive payment under (b) or (c) of this section until it submits to the Department of Revenue a resolution approved by the governing body of the municipality that requests the funds. Distribution of money from the fund to a city or organized borough with a fiscal year beginning on January 1 shall be made on February 1 of the state fiscal year for which the appropriation to the fund is made. Distribution of money from the fund to all other cities and organized boroughs shall be made on June 1 of the state fiscal year for which the appropriation to the fund is made. A borough or city that incorporates after December 31 of a state fiscal year is not eligible for a distribution under this section until the following state fiscal year.

(b) The base amount to be distributed from the fund to each borough and city for the fiscal year shall be the amount received by the borough or city during fiscal year 1978 under AS 43.70.080; however, if the amount appropriated to the fund by the legislature under (a) of this

section is insufficient for distribution of the full base amount, the Department of Revenue shall prorate the amount available for distribution on the basis of amounts received during fiscal year 1978 under AS 43.70.080. A city incorporated within an organized borough after June 30, 1977 shall receive as a base amount a share of the amount distributed to the borough in which it is located based on the ratio of population in the city to the total population in the borough. A city incorporated outside an organized borough after June 30, 1977 shall receive as a base amount the amount received by the city in the state most closely approximating it in population at the time of its incorporation. A borough incorporated after June 30, 1977 shall receive as a base amount the amount received by the borough in the state most closely approximating it in population at the time of its incorporation.

(c) If the amount in the fund at the time of distribution exceeds the base amount to be distributed under (b) of this section, the excess amount shall be distributed to each borough and city on the basis of population. For the purpose of this subsection, the population of a city within an organized borough shall be deducted from the population of the borough. Population, for the purpose of this section, shall be as certified by the commissioner of community and regional affairs.

(d) The intent of (c) of this section is that local governments which levy property taxes reduce those levies in reasonable proportion to the amount of increased state aid received by a local government. The governing body of each local government shall furnish a notice with the tax statement describing its use of this increased state aid. (§ 2 ch 144 SLA 1978; am § 1 ch 51 SLA 1981; am § ch 86 SLA 1982)

Effect of amendments. — The 1981 amendment added the fourth through seventh sentences of subsection (a).

The 1982 amendment substituted "30 percent" for "10 percent" in the second sentence of subsection (a).

Editor's notes. — Section 6, ch. 144, SLA 1978, provides: "TRANSITIONAL RULES FOR REVENUE SHARING UNDER THIS ACT. The revenue raised under AS 43.70 (AS 43.70.020-43.70.120) which relates to the 1978 calendar year (including the \$25 license fee due March 1, 1978 and the fees on the total

gross receipts for 1978 which accompany returns filed in 1979 under AS 43.70.030(d) is the source of revenue to be shared in 1979 in accordance with AS 43.70.080. The increase in the corporate income tax which goes into effect in 1979 is the source of revenue to be shared with the municipalities under AS 43.20.016 in 1980 and subsequent years. This Act does not entitle any organized borough or any city of any class to revenue under both AS 43.70.080 and AS 43.20.016, for the same period of time."

Sec. 43.20.017. Individual tax exemptions.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

Editor's notes. — The repealed section derived from § 1, ch. 22, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980

Temporary and Special Acts and Resolves. In *Williams v. Zobel*, Sup. Ct. Order (File Nos. 5400-5421), P.2d (Sept. 4, 1980), the supreme court held the tax exemption (AS 43.20.017) enacted by ch.

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

March 1, 1983

The Honorable Don Gilman
State Senate
Pouch V
Juneau, Alaska 99811

Dear ~~Senator~~ *Don*

Pursuant to your request for information regarding the Municipal Assistance and State Revenue Sharing programs.

The staff of this Department has prepared the attached municipal breakdown based on information received from your staff.

I hope this information is satisfactory for your needs.

Sincerely,



Mark Lewis
Commissioner

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

ANALYSIS OF ONE REVENUE SHARING PROPOSAL

Senator Gilman has requested that this division analyze a proposed change to the State Revenue Sharing formula. This proposed change would combine Municipal Assistance and Revenue Sharing. This new program would hold municipalities harmless at their 1982 combined level or \$100,000 plus cost of living allowance (COLA) and entitle unincorporated communities to \$50,000 plus COLA.

The attached sheets contain 3 columns.

Column #I shows minimum entitlements of either the amount received from Municipal Assistance and Chapter 88 (Tax Equalization Account) of State Revenue Sharing or 100,000 plus COLA. It should be pointed out that the figures contained here do not include Chapter 89 (Miscellaneous Services) and Chapter 90 (Hospital Construction Aid). 100% funding for these two chapters for FY 83 would be \$20,953,000. These chapters have not been included in the attachments.

Column #II shows what a funding level of \$145,000,000 would do to individual entitlements if the excess above the minimums were distributed based on the Chapter 88 formula.

Column #III shows the distribution based on \$145,000 with the excess being distributed on a per capita basis.

The \$145,000,000 figure is based on the request from legislative staff and does not include any funding for Chapters 89 and 90.

TE/td-1029S

COLUMN WRITE

	I	II	III
Boroughs	\$132,401,873	145,000,000	145,000,000
1 Anchorage	52682458	57863972	58445433
2 Bristol Bay	445092	521509	480959
3 Fairbanks	8236718	9077548	9140886
4 Haines	211144	241577	232817
5 JUNEAU	7120632	7983274	7742122
6 Kenai	4124533	4697401	4641608
7 Ketchikan	1446776	1652497	1569561
8 Kodiak	940364	1139923	1100625
9 Mat-Su	3847367	4316024	4419471
10 North Slope	2223533	2511957	2303452
11 Sitka	2863153	2612570	2595150
12			
13 Borough Totals	83641771	92618252	92672094
14 Cities			
15			
16 Barrow	618781	648662	700111
17 Cordova	892562	977649	955803
18 Craig	223802	259525	240847
19 Dillingham	605746	695640	657699
20 Fairbanks	8577861	9250695	9304441
21 Galena	276063	312936	299881
22 Haines	372008	432489	402457
23 Homer	785554	860963	867307
24 Hoonah	191209	240714	215562
25 Hulahula	100000 -	100000	111626
26 Kake	178160	184895	195966
27 Kenai	1699672	1898234	1847291
28 Ketchikan	2894166	3292176	3113433
29 King Cove	170313	218640	185072
30 Klawock	100000 -	112842	112219
31 Kodiak	1602858	1904801	1768321
32 Nenana	209280	228757	224519
33 Nome	972376	1072020	1069171
34 North Pole	744198	755562	770555
35 Palmer	241893	236875	313120
36 Pelican	107640 -	118618	112861
37 Petersburg	1056994	1231331	1142783
38 Sand Point	237458	279409	259948
39 Sain-Marys	161903	204745	174376
40 Seldovia	152547	167101	166939
Seward	627267	344943	678953

COLUMN WRITE

	I	II	III	
1	SKAGWAY	245610	267864	267904
2	Soldotna	819367	926909	904253
3	Tanana	102345	103875	116032
4	Unalaska	830422	957174	884661
5	Valdez	1144414	1204298	1248658
6	Wrangell	836827	936397	903624
7	Yakutat	142651	151958	155688
8		27921947	31129247	30372181
9	Total 1 st Class city.			
10	2 nd class			
11				
12	Akiak	107640 -	107218	110547
13	Akiachak	134250 -	134250	146877
14	AKIAK	134250 -	134250	140712
15	AKOLMIUT	155956	156658	165818
16	AKUTAN	182756	197592	194061
17	AIKANUK	157245	160940	173253
18	Aleknagik	129390 -	130376	135937
19	Allakaket	139280 -	139280	144049
20	AMBLER	139280 -	140296	144980
21	Ana-uvak Ferry	139280*	139280	139280
22	Ana-uvak	139280 -	141274	153893
23	Anigoni	103660	108662	119520
24	Aniak	129390 -	129390	139295
25	Aniak	139280 -	140373	142525
26	Atmautluak	139280 -	140091	145940
27	Atkasook	139280*	139280	142299
28	Barthel	1282270	1483956	1386148
29	Bering Mission	139280 -	139280	143061
30	Buckland	139280 -	141303	145404
31	Chukchi	134250 -	136328	141136
32	Chukchi	134250 -	136876	148727
33	Chuathbaluk	139280 -	142507	142779
34	Clarks Point	129390 -*	129390	131647
35	Cold Bay	129390 -	129392	136445
36	Deering	139280 -	141396	143738
37	Delta Junction	215490	215998	244951
38	Dionido	129390 -	130760	133171
39	Eagle	115870 -	116013	119877
40	Eek	134250 -	135717	140882
	Ekwok	129390 -	129952	131591

COLUMN WRITE

2nd CLASS

CITIES

I

II

III

1	Elim	139280 -	140192	145065
2	Emmonak	138780	156141	155175
3	Fort Yukon	165206	172622	182815
4	Fortuna ledge	134250 -	134250	141587
5	Gambell	139280 -	143767	151471
6	Golovin	139280 -	139280	142440
7	Gardner Bay	134250 -	134250	139132
8	Grayling	139280 -	139280	145234
9	Holy Cross	139280 -	139280	146137
10	Honger Bay	157542	162349	176213
11	Houston	116943	116945	140055
12	Hughes	134250 -	134250	136338
13	Huslia	139280 -	139401	146081
14	Kachemak	110232 -	111207	118331
15	Kaktovik	139280 -	139264	145319
16	Kaltoq	139280 -	139280	146194
17	Kasaan	100000 -	100025	101975
18	Kasigluk	139250 -	134250	143506
19	Krana	139280 -	141029	149523
20	Kwajina	139280 -	139927	146419
21	Kobuk	139280 -	139280	141086
22	Kotlik	134250 -	136333	149072
23	Katzebus	682910	731711	751944
24	Koyuk	139280 -	139221	144444
25	Kuyatuk	139280 -	139280	142073
26	Kypreanof	103750 -	103750	105274
27	Kwethlak	134250 -	136704	147428
28	Larsen Bay	107640 -	108103	112720
29	Lower Kuskok	139280 -	139280	146617
30	Manakias	139280 -	139280	147717
31	McGrath	139280 -	147811	153305
32	Mikagyuk	134250 -	135322	139273
33	Mountain Village	166705	176376	183665
34	Napaklak	134250 -	136601	142330
35	Napaklak	134250 -	134459	141333
36	Newdale	129390 -	129390	133340
37	New Stuyahok	139280 -	139280	148790
38	Newtok	134250 -	134250	139188
39	Niartute	134250 -	135014	139229
40	Nikolai	139280 -	139555	142384
	Nondalton	129390 -	129390	130356

COLUMN WRITE

2nd CLASS

Cities

I

II

III

1	Noorvik	139280 -	144386	153870
2	Nuigssut	139280 -	139280	147379
3	Nulato	139280 -	141781	149242
4	Old Harbor	107640 -	107640	117658
5	Ouzinkie	107640 -	107640	114215
6	Pilot Station	134250 -	137484	143760
7	Platinum	134250 -	134250	135859
8	Point Hope	141725 -	142633	157076
9	Port Alexander	103750 -	104211	106515
10	Port Heiden	129390 -	129390	132043
11	Port Lions	107640 -	112994	115852
12	Quinhagak	134250 -	126444	146300
13	Ruby	139280 -	139391	145319
14	Russian Mission	139280 -	139280	141218
15	Saint Michael	139280 -	140463	147604
16	Saint Paul	148206 -	157759	164796
17	Savoonga	130416 -	132886	143887
18	Saxman	100000 -	100954	108550
19	Scammon Bay	134250 -	134294	141333
20	Selawik	139311	139311	156271
21	Shageluk	139280 -	139280	143118
22	Shaktolik +	139280 -	139660	143767
23	Sheldon Point	139280 -	139280	142299
24	Shishmaref	139280 -	140637	151273
25	Shungnak	139280 -	139916	145319
26	Stebbins	139280 -	140471	148338
27	Teller	139280 -	149354	145093
28	Tenakee Springs	103750 -	104301	107729
29	Thorne Bay	107640 -	107640	116557
30	Toqaris	129390 -	129390	144770
31	Toisak Bay	134250 -	137905	144324
32	Tuluksoak	139280 -	140508	146137
33	Tununak	134250 -	136830	142772
34	Umialakset	163112	170432	180163
35	Upper Kalskoo	139280 -	139280	143133
36	Wainwright	139280 -	144643	151583
37	Walrus	139280 -	139852	142920
38	Wasilla	438454	442492	505787
39	White Mountain	129390 -	131114	132804
40	Whitier	115970 -	133688	122191

COLUMN WRITE

UNINCORPORATED
Communities

I

1	Artic Village	69640			
2	Atka	64695			
3	Beaver	69640			
4	Birch Creek	57935			
5	Centwell	69640			
6	Chalkyitsik	69640			
7	Chignik	64695			
8	Chignik Lagoon	64695			
9	Chignik Lake	64695			
10	Chistochina	60105			
11	Chitina	60105			
12	Circle	57935			
13	Coffman Cove	50000			
14	Copper Center	60105			
15	Crooked Creek	69640			
16	Dot Lake	57935			
17	Egegik	64695			
18	ELFIN COVE	53220			
19	EVANSVILLE	69640			
20	False Pass	64695			
21	Copper Valley	60105			
22	Gustavus	51875			
23	Healy Lake	57935			
24	Hyder	50000			
25	Igigig	64695			
26	Kenny Lake	57935			
27	Klukwan	53220			
28	Kokhanak	64695			
29	Kaliganak	64695			
30	Kangiganak	69640			
31	Kwigillingok	67125			
32	Levalock	64695			
33	Line Village	69640			
34	McKinley Park	67125			
35	Mawley Hot Springs	69640			
36	Mentasta	57935			
37	Metlakatla	50000			
38	Minto	69640			
39	Myers Chuck	50000			
40	Nelson Lagoon	64695			

COLUMN WRITE

MAIL CORPORATION
 Commodities

I

	1	2	3	4	5
1	Nikolski	64695			
2	Moatat	57935			
3	Nothway	57935			
4	Paxson	57935			
5	Pedro Bay	64695			
6	Pint Point	67125			
7	Pitkes Point	69640			
8	Port Protection	50000			
9	Portage Creek	64695			
10	Ramsart	64695			
11	Red Deer	64695			
12	St George	69640			
13	Takotna	67125			
14	Taura Cross	57935			
15	Tattlek	60105			
16	Taeling	57935			
17	Telida	67125			
18	Toke	57935			
19	Tro Valley	57935			
20	Tuntakalut	67125			
21	Twin Hills	67125			
22	Uamehr	69640			
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25	TOTAL UNICORP				
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DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH 8
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 3, 1983

POSITION PAPER

RE: SB 37

SPONSOR: Senator Sackett

Program Effects

Presently Native Village Governments receive \$25,000 per community and municipalities are entitled to a minimum entitlement of \$25,000 plus a cost-of-living adjustment. This bill would increase the entitlement to both Native Village Governments and municipalities up to \$100,000 plus a cost-of-living adjustment. The bill also provides that each municipality and Native Village Government receive basic assistance which would hold them harmless at the level of State Revenue Sharing and Municipal Assistance they received for FY 82. The Municipal Assistance Program found in AS 43.20.016 is repealed.

Comments

The Department is very much in favor of ensuring the equal treatment of all Alaska communities in the areas of providing financial aid. We believe the basic purpose of SB37 is to achieve that end, and we support that intent.

Specifically however, we do wish to point out two areas within the language of the bill which are of some concern to us.

The suggested increase for Native Village Governments from the \$25,000 they now receive to \$100,000 plus an area cost-of-living differential would make their entitlement equal to the minimum entitlement nearly all second class cities would receive under this bill.

Second class cities are required under Title 29 to meet certain legal responsibilities, i.e. conducting annual elections, holding regular council meetings, preparing budgets and financial statements and passing and codifying ordinances under public scrutiny. Since state law requires those municipalities to expend local funds to pay for those activities, it would seem fair that additional state financial aid should be provided to offset those local costs.

A second, and minor concern of the Department is the use of the term "Native Village Government". Considering the Attorney General's opinion (File No. J-66-829-81) of 1981 and the controversy which has centered around that term in recent years, the Department suggests a term such as "Unincorporated Community", or similar language be substituted.

A handwritten signature in black ink, appearing to be "A. H. Lewis", is written in a cursive style across the middle of the page.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 37 Date on Bill: January 18, 1983
 Title: "relating to State Aid to Municipalities and other recipients"
 Sponsor: Senator Sackett and Ferguson
 Requestor: Senate Community & Regional Affairs Committee

1. Estimated fiscal impacts on: Department of Community & Regional Affairs

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital		-0-	-0-	-0-
Operating		-0-	-0-	-0-
Total		-0-	-0-	-0-

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

Sponsor DID NOT IDENTIFY source of funds for this bill.

3. Assumptions:

Present Revenue Sharing staff would be able to administer this program.

Full funding of this program would cost \$154,228,500 for FY'84.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Terry L. Earley Phone: 465-4730
 Division: Local Government Assistance Date: 3/3/83
 Approved by Commissioner: [Signature] Date: 3/7/83
 Department: Community & Regional Affairs

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSSB # 37 (C & RA) Date on Bill: March 8, 1983
 Title: An Act relating to aid for municipalities and other recipients
 Sponsor: Senators Sackett and Ferguson
 Requestor: Senate C & RA Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		27.5		
Total		27.5		

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

Sponsor did not indicate.

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Doug Griffin Phone: 465-4707
 Division: Local Government Assistance Date: March 8, 1983
 Approved by Commissioner: [Signature] Date: 3/8/83
 Department: Community and Regional Affairs

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

CSSB (C & RA)

Financial Analysis:

Travel	\$ 2,500.
<u>Contracted Services</u>	<u>25,000.</u>
TOTAL	\$ 27,500.

\$25,00 is requested for FY 84 to allow the Division of Local Government Assistance to place the combined State Revenue Sharing/Municipal Assistance on its computer system to allow rapid access to and manipulation of the information used to compute entitlements.

A small increase in travel is requested to allow State Revenue Sharing staff to attend meetings of local officials, conduct public hearings on regulations and other matters, and to provide better information and outreach.

A handwritten signature in cursive script, likely of the author or reviewer, located at the bottom of the page.

Effects of CS for SB 37:

It repeals the Municipal Assistance Program.

It establishes a minimum payment to municipalities of either \$100,000 plus COLA or an amount equivalent to that received under AS 29.88 and AS 29.95.020 (State Revenue Sharing) and AS 43.20.016 (Municipal Assistance) during the fiscal year ending June 30, 1982, whichever is larger. The qualifications for minimum payments for municipalities have been modified.

It repeals 29.89.050 (State Aid to Native Village Governments) and creates a new section 29.88.032 (State Aid to Unincorporated Communities). It establishes an entitlement of \$50,000 plus COLA per unincorporated community. The minimum payment section has been altered to include the unincorporated communities. If there is disagreement in the community over what organization should be the recipient of these funds, new language in this section would provide for an election.

In the event not enough money is appropriated to fully fund the minimum entitlements plus COLA, all municipalities and unincorporated communities would be prorated at the same level.

If funds above the level required to pay minimum entitlements are appropriated, the extra funds would be distributed to municipalities under AS 29.88 (Municipal Tax Resource Equalization).

Several small adjustments are made in the revenue sharing program at the suggestion of the Department of Community and Regional Affairs:

- 1) 29.88.010(c)(1)(C) - A list of examples has been deleted.
- 2) 29.88.010(c)(1)(D) - An (and) is deleted.
- 3) 29.88.010(c)(1) - A new paragraph F is added to allow municipalities to take credit in the formula for electric and telephone co-op taxes.
- 4) 29.89.030(a)(1) - The \$1,000 per bed allotment on state aid to municipalities and other eligible recipients for health facilities and hospitals is eliminated.
- 5) 29.89.030(a)(3) is amended to specify that money received under this section may be used only for health facilities and shall be apportioned among qualifying facilities by the municipality.
- 6) 29.89.070(a) - COLA on payments to volunteer fire departments.

If the miscellaneous services account or the hospital construction assistance account are overfunded, the excess funds are reallocated to the tax equalization account established in AS 29.88.035.

NORTH AND NORTHWEST
ALASKA MAYORS' CONFERENCE
KOTZEBUE, ALASKA
NOVEMBER 5 AND 6, 1982

RESOLUTION NO. 82-11

A RESOLUTION IN SUPPORT OF COMBINING REVENUE
SHARING AND MUNICIPAL ASSISTANCE PROGRAMS AND
RAISING THE MINIMUM ENTITLEMENT TO \$100,000
PLUS THE COST OF LIVING DIFFERENTIAL

WHEREAS, the paperwork and number of agencies to deal
with for State Aid to municipalities is unnecessarily
complicated, and

WHEREAS, the current minimum entitlement is too low to
assure adequate basic government

NOW THEREFORE BE IT RESOLVED BY THE NORTHWEST MAYORS'
CONFERENCE THAT: they go on record in support of combining
the Revenue Sharing and Municipal Assistance programs and
raising the minimum entitlement to \$100,000 plus the cost of
living differential.

PASSED AND APPROVED BY THE 1st Session, 3rd Annual NORTHWEST
MAYORS' CONFERENCE THIS 6th day of November, 1982.

LAW OFFICES OF
SMITH & GRUENING, INC.
805 WEST SECOND AVENUE
ANCHORAGE, ALASKA 99501
(907) 278-4691

JOHN ANTHONY (TONY) SMITH
CLARK S. GRUENING*
CHARLES G. EVANS
ROBERT S. SPITZFADEN

JAMES E. HUTCHINS
DEBORAH L. WILLIAMS
*JUNEAU

JUNEAU OFFICE:
9309 GLACIER HIGHWAY
SUITE A-205
JUNEAU, ALASKA 99803
(907) 780-2115

PRELIMINARY DRAFT

M E M O R A N D U M

TO: Mark Lewis, Commissioner
Department of Community & Regional Affairs

Norman Gorsuch, Esquire
Attorney General

FROM: James E. Hutchins
Smith & Gruening, Inc.
on behalf of
PORT GRAHAM VILLAGE COUNCIL

DATE: March 18, 1983

RE: AS 29.89.050

This firm has been retained by the Port Graham Village Council to present the Department of Community and Regional Affairs with a memorandum regarding the eligibility of unincorporated communities within organized boroughs to receive revenue sharing funds pursuant to AS 29.89.050. This memorandum was prepared at the request of former Commissioner Lee McAnerney (see attachment A) and funded by Community Legal Assistance Grant No. 82-26-11.

FACTS

In 1980, the Alaska legislature enacted ch. 155 SLA 1980 to provide for the distribution of State revenue among the local communities within the State. Among the different schemes contained within this statute is the directive that \$25,000.00 be paid to Native village governments for villages which are not incorporated as cities. §3 ch. 155 SLA 1980, codified as AS 29.89.050.

Port Graham is a village of approximately 165 Aleuts and about a half dozen non-Natives living near the southwestern tip of the Kenai Peninsula. Port Graham is not connected by road to any other community, although a four-mile trail over the mountains links it with its sister village English Bay. This village is not incorporated as a city, but it has long been governed by its traditional village council. Both the village and its council are recognized by the federal government as a tribal entity. See, 43 U.S.C. §1610(b) (1). Port Graham is located within the boundaries of the Kenai Peninsula Borough.

During the first year in which AS 29.89.050 was effective, the Department of Community and Regional Affairs recognized Port Graham as a recipient eligible under this section. The funds were paid to the village council and used by it for library services, fire protection, health services, road maintenance, day care and water system maintenance.

In the following year, the Department refused to distribute revenue sharing funds to Port Graham. The Commissioner had been advised by the Attorney General's office that AS 29.89.050 should be

read to preclude payment of such funds to villages located within the boundaries of organized boroughs. Port Graham contests the propriety of this advice.

QUESTIONS PRESENTED

1. Does AS 29.89.050 direct that revenue sharing funds be paid only to unincorporated communities located outside the boundaries of organized boroughs?

2. Must AS 29.89.050 be construed to require that revenue sharing funds be paid only to unincorporated communities located outside the boundaries of organized boroughs?

ANSWER

The language of AS 29.89.050 does not restrict the payment of revenue sharing monies to unincorporated communities located outside organized boroughs. The general legislative intent of ch. 155 SLA 1980 and the language of other sections of this Act make it clear that the legislature intended revenue sharing monies to be paid to all Native village governments for villages not incorporated as cities. This intended payment to all such communities presents no constitutional problems.

DISCUSSION

I. Legislative Intent. The following reproduction of the language of AS 29.89.050 makes it clear that the legislature made no explicit prohibition of revenue sharing payments to Native village governments for unincorporated villages within the organized boroughs:

The state shall pay \$25,000 to a Native village government for a village which is not incorporated as a city under AS 29.03.010-29.95.030. In this section, "Native village government" means

(1) a local governing body organized by authority of the Act of Congress of June 18, 1934 (25 U.S.C. §476); or

(2) a traditional village council or, if there is no traditional village council, the paramount chief or other governing body of a Native village which meets the requirements of the Alaska Native Claims Settlement Act (43 U.S.C. §§1601-1628).

AS 29.89.050.

None of the memoranda prepared by the Attorney General's office (April 27, 1981, File No. J-66-335-81; September 2, 1981, File No. J-66-829-81; November 18, 1981, File No. J-66-261-82) show that the legislature intended, either explicitly or implicitly, to restrict revenue sharing payments to unincorporated communities outside the borders of organized boroughs. Rather, the Attorney General's office advised the Department to read this restriction into the statute in order to avoid purported constitutional problems and to promote certain policy considerations.

That the Attorney General's revision of the statute is contrary to the legislature's intention can be readily shown. First, a major policy motivating the enactment of ch. 155 SLA 1980 was the need to provide for an even distribution of State revenues among all the communities of the State without regard for their several abilities to generate governmental income. See, §§1 and 12(c) ch. 155 SLA 1980. While the primary emphasis was given to the needs of incorporated municipalities, the legislature was not unmindful of the

fact that numerous communities within the State are only organized under federal law. See, AS 29.89.050.

The legislature provided for the distribution of funds for both general and specific governmental purposes. AS 29.88 and AS 29.89. The distributional scheme also provided for the payment of funds directly and indirectly to nonprofit hospitals and volunteer fire departments. AS 29.89.030; AS 29.89.040. Thus, it is clear that State created governmental entities were not the only intended recipients. See also, AS 29.89.010.

It is just as clear that villages within organized boroughs were intended to be recipients of revenue sharing funds. First, it should be noted that villages and towns incorporated as cities were unquestionably intended to receive revenue sharing funds, whether or not they are located within the boundaries of organized boroughs. AS 29.88.035, 29.88.045, 29.89.010. This is because cities provide services which boroughs do not.

The same can be said of villages organized under federal law. The village council of Port Graham provides road, water and sewer maintenance, fire protection, health services and a library without the assistance of the Kenai Peninsula Borough. Inasmuch as villages like Port Graham are integral parts of the State of Alaska, it is to be presumed that, by failing to place an explicit restriction on the distribution of funds to villages located outside organized boroughs, the legislature did not intend such a restriction to exist. This conclusion is confirmed by the fact that the legislature did place such an explicit restriction on the distribution of

State aid to volunteer fire departments. AS 29.89.040(a). In short, if the legislature had intended to deny revenue sharing funds to villages within the organized boroughs, it would have said so.

II. Constitutional Questions. With the exception of the discussion of Art. X, §2 of the Alaska Constitution; the panoply of potential constitutional problems raised by the three memoranda from the Attorney General's office has nothing to do with the eligibility of unincorporated communities within organized boroughs to receive funds pursuant to AS 29.89.050. If the Department may properly make these payments to communities located outside the organized borough, the Department may disburse these funds to communities within the boroughs.

A. Equal protection; public purpose. It may be worthwhile, however, to offer a brief discussion of these supposed constitutional infirmities in order to demonstrate that none of them are real problems. First, the Attorney General raises the spectre of discriminatory use of the State funds by Native village governments. However, he must and does admit that this is not a question of the unconstitutionality of the statute on its face. Attorney General's Memorandum, File No. J-66-335-81, at 3-4 (April 27, 1981). The village council of Port Graham provides services to all residents of the village without discrimination.

Second, it was suggested that the use of revenue sharing funds by a Native government would not be for a public purpose, as required by Art. IX, §6 of the Alaska Constitution. This assertion

is negated by the numerous cases which recognize a public purpose in the use of State funds which benefit private, and even religious, entities. Wright v. City of Palmer, 468 P.2d 326, 331 (Alaska 1970); Walker v. Alaska State Mortgage Association, 416 P.2d 245, 251 (Alaska 1966); Suber v. Alaska State Bond Commission, 414 P.2d 546, 552 (Alaska 1966); Lien v. City of Ketchikan, 383 P.2d 721, 722 (Alaska 1963); DeArmond v. Alaska State Development Corporation, 376 P.2d 717, 721-722 (Alaska 1962). The uses to which revenue sharing funds are applied by the Port Graham village council are undeniably public purposes (see attachment B). The Commissioner was in apparent agreement (see attachment C).

Third, it was suggested that the disbursement of revenue sharing funds to Native village governments but not to non-Native unincorporated communities might violate the equal protection clause of the Alaska Constitution. This contention, too, lacks substance. It is highly doubtful that unincorporated communities are "persons" under Alaska-Cons. Art. I, §1. Further, the courts have consistently accorded great deference to legislatures on the structuring of remedial statutes. It is well settled that the grant of a public benefit need not extend as far as it might; instead, the extent to which a problem is remedied by an expenditure of public funds is left to the reasonable discretion of the legislature. E.g., Suber v. Alaska State Bond Committee, 414 P.2d 546, 552 (Alaska 1966); Schweiker v. Wilson, 450 U.S. 221, 230, 238 (1981). It is certainly reasonable for the legislature to distinguish between communities which have some form of government and those which have none.

B. Local government provisions. To support its advice that AS 29.89.050 revenue sharing ought only to be disbursed among unincorporated communities outside the borders of organized boroughs, the Attorney General's office offered three arguments:

1. There is no need for the State to provide services through another organization where a municipality exists.

2. To do so would contravene Art. X, §2 of the Alaska Constitution.

3. The proposed amendments to AS 29.89.050 confirm the Attorney General's restrictive reading of the present language of AS 29.89.050.

Attorney General's Memorandum J-66-261-82 (November 18, 1981).

The first argument is, in effect, the substitution of the Attorney General's resolution of a policy question in place of the legislature's determination. As such, it is violation of the doctrine of separation of powers. See, Bradner v. Hammond, 553 P.2d 1, 7 (Alaska 1976). It is the legislature's province to make laws. Alaska Cons., Art. II, §1. It is the executive's duty to enforce them as made by the legislature. Alaska Cons., Art. III, §16. Thus, not only is the Attorney General's determination of the appropriate entities to receive revenue sharing funds outside the scope of his authority, but the advice to the Department to rewrite AS 29.89.050 to avoid the purported constitutional problems is also a violation of the doctrine of separation of powers. Validly enacted laws are presumptively constitutional unless declared otherwise by a

court of competent jurisdiction; the executive has no power to suspend, to abridge or to enlarge the enforcement of such laws. 16 Am.Jur.2d "Constitutional Law" §153 at 526-527, §305 at 821-822 (1979).

This executive determination of need is not only legally improper, it also ignores the allocation of local and area-wide functions within our State's system of local governments. The Attorney General's memorandum states, "There is no need for the state to provide services through another organization where a municipality exists." Attorney General's Memorandum J-66-261-82 at 1 (November 18, 1981). If this were true, the question arises whether cities ought to receive revenue sharing funds if they are located within the boundaries of a borough. The answer, of course, is yes. This is not because cities are municipalities, too. Rather, the legislature has chosen to extend revenue sharing funds to cities as well as to boroughs because these two entities have complementary functions. See, AS 29.33.010 et seq.; AS 29.38.010-.020; AS 29.40.020; AS 29.48.030. The borough is more suited to address area-side concerns, while both incorporated cities and Native village governments better address local concerns. See, City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, 1043 (Alaska 1971).

The Kenai Peninsula Borough covers the entire Peninsula plus most of the western bank of the Cook Inlet drainage. It has been beyond the practice and presumably beyond the ability of the Borough

to provide for all the public services necessary in the various isolated villages contained within the Borough. These are local concerns and they are most effectively addressed by local governments. This is especially true in communities, such as Port Graham, which have no road connection with the main concentration of borough population. This allocation of prime responsibility to local community governments is in keeping with the basic constitutional tenet that the State local government system provide for the maximum local self-government. Alaska Cons., Art. X, §1; see also, 4 Alaska Const. Conv. Proceed. 2648-49.

The Attorney General's second rationale for withholding payments to village governments within boroughs is based upon an overly restrictive and unwarranted reading of Art. X, §2 of the Alaska Constitution. It also ignores the clear pronouncements of the Supreme Court of Alaska and the dictates of federal law.

The Attorney General argued that Art. X §2 of the Alaska Constitution limits the exercise of local government powers to boroughs and to cities. Attorney General's Memoranda J-66-261-82 at 1 (November 18, 1981) and J-66-335-81 at 3 (April 27, 1981). Neither the language of this section nor the records of the constitutional convention proceedings support this interpretation. Article X §2 reads as follows:

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

This section does three things. First, it gives names to State created units of local government. Second, it, together with Art. X, §1, grants to those units the full panoply of local governmental powers. Third, it restricts the taxing power to organized boroughs and cities.

This section does not limit the exercise of all governmental functions to boroughs and cities. See, Art. X, §5. The State legislature is empowered to exercise some local government powers. See, Art. X, §§6 and 13; see also, 4 Alaska Const. Conv. Proceed. 2741. Nor does it prohibit municipalities from entering into agreements with other local governmental units, the State or the Federal Government regarding the exercise of governmental functions. See, Art. X, §13. A Native village government is a local governmental unit which may be recognized under these constitutional provisions.

Further, it was the intention of the Framers of the Alaska Constitution that unincorporated villages be able to exercise some governmental functions. 4 Alaska Const. Conv. Proceed. 2649, 2651-52. Throughout the discussions of the local government article, it was emphasized that a flexible framework for local government was intended; the details were to be left up to the State and to the local communities. E.g., 4 Alaska Const. Conv. Proceed. 2647, 2648, 2654, 2665, 2690, 2743. The legislature is authorized to set the standards for the recognition of cities and boroughs and it is authorized to prescribe their powers and functions. Art X, §§3 and 7. It is clear from the foregoing that the legislature is authorized to recognize the existence of Native village governments.

This recognition has already been approved by the Alaska Supreme Court. Traditional village councils are recognized as possessing some governmental powers when no incorporated municipality exists over the same community. State v. Aleut Corporation, 541 P.2d 730, 735 (Alaska 1975). In this case, the Court held that traditional councils must be consulted prior to the conveyance of State land adjacent to their communities. Id. at 737. This requirement arose from AS 38.05.305, which pertained to conveyances adjacent to an incorporated municipality or "other organized community." The Court rejected the argument that "other organized community" referred only to boroughs. Rather, the Court included Native villages in this definition with the following analysis:

In our view, the state's reading of AS 38.05.305 is too constricted. Common sense leads to the conclusion that if the legislature had intended to limit the provision's applicability to incorporated municipalities and boroughs, it would have used the word "boroughs." We think the legislature employed the broader term "other organized community" for the purpose of importing flexibility into the statute. Since the forms and powers of local governments in Alaska are not immutable, the broader term serves the purpose of imposing the duty in regard to the intended class of communities regardless of how the form of local government changes over the years. And we further believe that the legislature intended AS 38.05.305 to apply to communities, like the villages in this case, which have permanent populations and an organized civil government, even though that government is a product of cultured tradition rather than incorporation under state laws. (Emphasis added.)

Id. Here, then, is controlling precedent which holds that Native village governments may exercise local governmental powers within the ambit of State law.

This conclusion is bolstered by the holding of Atkinson v. Haldane, 569 P.2d 151 (Alaska 1977). In this case, the Supreme Court held that it was required to recognize the sovereign immunity of tribal governments by the Supremacy Clause of the United States Constitution. Id. at 163. The governmental status of recognized Native village councils cannot be ignored by the State government. There is, of course, no requirement that State funds be expended to support these governmental entities. But it should be clear that the legislature has the power to do so. Alaska Cons., Art., X §13.

That the legislature should do so is simply a recognition of the fact that Native village communities are an integral part of this State. That they may have organized under federally recognized forms of government does not deprive them of this status any more than federally chartered banks are disenfranchised by their federal affiliation. Further, federal law has granted the State an extension of jurisdiction over certain matters within Indian country. 18 U.S.C. §1162(a) and 28 U.S.C. §1360(a). This grant carries with it the obligation that the State enforce tribal laws which are not inconsistent with State laws. 28 U.S.C. §1360(c). This intermingling of law and of enforcement envisions a cooperative arrangement between the State and tribal village governments. The State legislature, in AS 29.89.050, has chosen to interact in just such a cooperative manner. There is nothing in the Alaska Constitution which prohibits this form of cooperation.

Finally, the Attorney General argued that a subsequent bill to restrict payments to communities outside the organized boroughs was evidence of a similar legislative intent behind the existing AS 29.89.050. This contention may be shown to be erroneous by two observations. First, the subsequent bill was never enacted into law; thus, it can serve as no authority for any purpose. Second, an amendment to an unambiguous statute is generally presumed to indicate a change in the law, not an explanation of it. City of Anchorage v. Thomas, 624 P.2d 271, 273 (Alaska 1981). The legislature in AS 29.89.050 has unambiguously commanded that revenue sharing funds be paid to Native village governments in villages which are not incorporated as cities. The traditional council of the village of Port Graham unambiguously fits this description.

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

September 28, 1982

Mr. Walter Maganack, Sr.
President, Port Graham Village Council
General Delivery
Port Graham, Alaska 99603

Dear Mr. Maganack:

RE: Port Graham CLAG Appeal

After carefully reviewing your letter of August 26 appealing the denial of Community Legal Assistance Grant funding for Port Graham, I have decided that Port Graham should pursue the issue of revenue sharing for unincorporated communities within organized boroughs.

While the Division of Local Government Assistance (LGAD) has raised some excellent arguments supporting their decision, there continue to be some outstanding questions concerning legislative intent and the most recent Attorney General's opinion that need to be reexamined for the potential benefit of all communities in the same situation as Port Graham.

However, after a review of available funding and consideration of the time involved in legal proceedings of this nature, it is my decision that this issue should be pursued administratively rather than through litigation. Therefore, the Department is prepared to award \$2,500 to Port Graham to contract for legal research that will result in a legal memo to be submitted to the Attorney General seeking reevaluation of the decisions reached in earlier opinions. This memo should be provided to the Department of Community and Regional Affairs for transmittal to the Attorney General.



ATTACHMENT "A"

Mr. Maganack
September 28, 1982
Page 2

While I realize that this grant award does not meet all of your expectations, it is my feeling that the issue can be addressed in a timely manner by pursuing this course. If you wish to accept the grant award, please let me know as soon as possible.

Sincerely,

Lee McAnerney
Lee McAnerney
Commissioner

cc: Senator Don Gilman
Representative Hugh Malone
Ellen Schmidt, North Pacific Rim
Vincent Kvasnikoff, English Bay
Local Government Assistance Division

Walter R. Meganack Sr.
Port Graham Village Council
Port Graham, Alaska 99603

RECEIVED OCT 20 1981

October 8, 1981

Mr. Lee McCarnerny
Commissioner
Dept. Of Community & Regional Affairs
Local Government Assistance Division
Pouch BH
Juneau, Alaska 99811

Dear Mr. McCarnerny:

I was very happy to receive directly \$25,000.00 in State Revenue Sharing monies from the Department of Community & Regional Affairs. With these monies our community is able to provide maintenance and services such as follows:

1. Librarian part time one person
2. Fire Chief " " " "
3. Fire Chief Assistant part time one person
4. Road Maintenance one person
5. Road Maintenance Assistant one person
6. Health Aide Assistant one person
7. Water & Sewer Maintenance Occasionally two people
8. Fire Truck & Fire House Repair & Maintenance
9. Day Care
10. Fire Drill for six people once a month.

Also in early January the Legislature increased the above Revenue to \$38,000.00. A certain number of villages were named to receive the aid and Port Graham was one of those villages, that was good news.

Then again the legislature passed Senate Bill/68, the Municipal Aide Bill which provides \$750.00 per head. This was another joy for the villages and communities.

Now comes the bad sad story. When the decision was made on law to channel or distribute these municipal aide monies to the villages or communities, Port Graham was left out in the cold. Port Graham happens to fall under the Kenai Peninsula Borough, so it was decided that our per capita entitlement monies would go to the Kenai Peninsula Borough. Since the Kenai Peninsula Borough has very limited powers to administer and spend funds, our share of the municipal aid monies will be lost in the Kenai Peninsula Borough red tape.

If that wasn't bad enough, a decision is now being considered which would give our State Revenue Sharing Funds to the Borough also. This would really leave our village in the red. This decision would not only jeopardize Port Graham, but English Bay as well.

ATTACHMENT "B"

In other words, all the programs that the village of Port Graham is now providing to our village from the FYCQ grant would be wiped out. We were hoping that these monies would continue to be channelled directly to the village through the department of Community & Regional Affairs. If not then the following list of services which are budgeted under the program will have to be discontinued:(see attached list)

Now comes our special request that their decision be amended so that the Village of Port Graham will be able to continue to provide these programs through the State Revenue Sharing Funds. I would like to see our State Revenue Sharing monies continue to be distributed directly to the village through the Department of Community & Regional Affairs.

This is a very serious situation because if the decision is not reversed, 10 people will be laid off from their part-time jobs, and harm will come to the maintenance of the Fire House, roads and water & sewer systems. And it would leave us with no funds to continue our on going programs.

I would also like to see our State Municipal Aide Revenue, which is \$750.00 per head, granted directly to the village. As it is now, Port Graham gets almost nothing from this program. I have included a copy of Port Grahams proposals which were submitted to the Kenai Peninsula Borough Assembly targeted for FY82.

As I mentioned earlier I have also enclosed copies of the budget of programs administered locally from State Revenue Sharing. Please look into the matter immediately.

Thank You.

Sincerely,

Walter R. Meganack Sr.
Walter R. Meganack Sr.
Village Council President

enclosures

1. Librarian part time one person
2. Fire Chief part time one person
3. Fire Chief Ass't part time one person
4. Road Maintenance Foreman part time one person
5. Road Maintenance Ass't part time one person
6. Health Aide Assistant full time one person
7. Water, Sewer Maintenance occassionally two people
8. Fire House & Fire Truck repair & maintenance
9. Day Care
10. Fire Drill once a month for six volunteer firemen

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

December 2, 1981

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

RECEIVED DEC 7 1981

Ms. Sharon Zandman-Zeman
Community Planner
The North Pacific Rim
903 W. Northern Lights Blvd., Suite 203
Anchorage, Alaska 99503

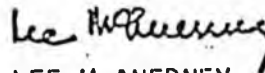
Dear Ms. Zandman-Zeman:

RE: STATE REVENUE SHARING TO UNINCORPORATED COMMUNITIES

This letter responds to your letter which urged this Department to work with your organization to help IRA Councils, traditional or tribal councils which are located within a borough. Your concern is understandable and it appears as if the communities of English Bay and Port Graham have used their State funding to provide worthwhile services for village residents.

Enclosed please find a copy of the Attorney General's opinion, dated November 18, 1981, which clarifies the rationale behind the State of Alaska's decision to not pay State Revenue Sharing to unincorporated communities. The opinion references two earlier opinions from the Department of Law, so these have also been included.

Sincerely,



LEE McANERNEY
COMMISSIONER

Enclosures

ATTACHMENT "C"

S

B

3

8

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

SB 38

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 38
Title "An Act providing for the assumption of municipal bonded indebtedness by the state
~~Requesting~~ establishing a municipal debt redemption fund." Date 1/13/81

Requested by Senate Community and Regional Affairs Committee

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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	-0-	526.0	76.0	82.0	88.0	96.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	526.0	76.0	82.0	88.0	96.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	526.0	76.0	82.0	88.0	96.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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

This Fiscal Note includes Dept. of Revenue/Treasury administrative costs only and does not include amounts to assume the debt.

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

The bill attempts to approximate a defeasance (pay off) of municipal debt. The approach of this cost estimate is that the Treasury would have to invest the Municipal Debt Redemption Fund as a separately invested fund in order to approximate a defeasance, i.e., structure a set of securities which are timed to liquidate in the proper amounts and rates to pay the debt during the remaining life of the debt.

Contractual services cost include financial advisory fees in the year of enactment to structure the portfolio to mirror the debt payoff cycle. Safekeeping fees for the portfolio due to necessary segregation also included.

Based on 6/30/80 gross outstanding municipal debt of \$911.5 million. Amount shown in FY 82 assumes actual implementation takes place soon after FY starts. Any future restructuring due to new debt would be handled in separate bill in new year (i.e. the fund would not handle new issues.)

IV. DATE January 26, 1981 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Department of Revenue, Treasury Division
Original: Legislative Finance PHONE 465-2351
cc: Budget and Management
Prime Sponsor (First Legislator Named)

BILL ANALYSIS
Senate Bill No. 38(1/13/81)

Program Effects:

1. Establishes a municipal debt redemption fund (MBRF) in Department of Administration.
2. When appropriated, general obligation bonded indebtedness of municipalities is assumed.
3. If appropriation deemed inadequate, Department of Administration to request additional amounts. If additional appropriation not granted in 60 days, original appropriation lapses.
4. Department of Administration is to make all debt service payments on assumed municipal debt; provides for storage and destruction of bonds/coupons paid; prepares an annual report of activities for legislature.
5. Department of Revenue is to manage and invest money in the fund in accordance with general fund investment authority.
6. Municipality must furnish various data to Department of Administration.
7. If municipality does not send data within 60 days, municipality pays debt service and can later be reimbursed.
8. Municipality may elect to receive an entitlement from the fund for debt service payments which would normally be made by the fund. The bonded indebtedness in that case is not considered assumed.
9. When the municipal debt is assumed it is not to be considered an obligation of the municipality and the municipality is not authorized to levy taxes to pay the debt assumed. However, if a municipality does not receive notice of debt assumed by May 1 of the year, the municipality may levy taxes for the debt service.
10. Effective July 1, 1981.

BILL ANALYSIS, SB 38, Cont'd

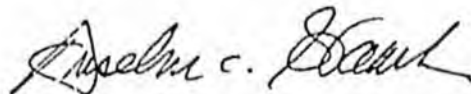
Comments:

1. In the form presented, the bill appears to have constitutional problems which should be researched. Article IX, Section 8 requires voter approval of State contracted debt. In this bill the State would be assuming ("contracting") the debt without a vote of the public. Some restructuring as to who receives the appropriation to pay off the debt may be necessary. (See also 1959 Opinion of the Attorney General).
2. The bill should perhaps include language, especially in the entitlements section, which limits the amount of draw to only what is necessary to accomplish the effect of the debt having been removed and limits the use of the entitlement draw.
3. Total issued and outstanding general obligation municipal debt at June 30, 1980 is as follows: (Anchorage includes 7/1/80 issue)

School related	\$355,794,100
Other projects	555,675,500
Total	<u>\$911,469,600</u>

If the attempt is to remove or make "the indebtedness is not an obligation of the municipality" the actual appropriated future amounts could be less than the above to accomplish an actual defeasance.

4. Normally such transactions are accomplished by setting aside the funds with a third party trustee who invests the funds and makes the payments.
5. It appears that the question of future municipal debt issuance will have to be addressed. The municipalities may be locked out of future markets for a period of time due to IRS rulings. This must be researched by bond counsel.
6. This fiscal note includes only those costs applicable to Department of Revenue investment of funds necessary for payoff.



Anselm C. Staack, Treasury Comptroller
Department of Revenue/Treasury
465-2351
1/26/81

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4

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 44
Title An Act relating to costs of attorney services
Requested by Governor Date 12/08/80

II. FISCAL DETAIL

Agency Affected Administration
Program Category Affected Justice
BPU, Program, or Subprogram(s) Affected Public Defender
(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 80	FY 81	FY 82	FY 83	FY 84	FY 85
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)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This will not result in any increased costs. Costs of defending clients under municipal ordinance will be charged to the municipality and will result in an increase in revenues to the State.

IV. DATE 12/08/80 PREPARED BY Judy Crendahl
AGENCY Administration
PHONE 465-2277

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

SB44

January 12, 1981

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 changes the present system of payment for costs of attorney services provided to indigents who are charged with violation of a municipal ordinance. The bill provides that municipalities will pay for these costs, and that the state will be relieved of the responsibility for payment.

Sincerely,

S/JSH

Jay S. Hammond
Governor

Judy
MEMORANDUM

State of Alaska

to William R. Hudson
Commissioner
Department of Administration

DATE September 18, 1980

FILE NO

TELEPHONE NO

FROM: Brian Shortell
Public Defender *B*

SUBJECT: New Legislation

Attached is a 1981 Legislative Proposal Request Form which is submitted in response to Judy Crondahl's September 15, 1980 regarding new legislation. It addresses a need for further action on House Bill No. 375 which was introduced in March of 1979 and is now languishing in the House Judiciary Committee. Alaska municipalities have not been paying for indigent defense services since 1976. Before that time, the municipalities were required by court decision to pay for these defense services, since the constitution requires indigents in criminal cases to be provided with counsel. The state has been picking up the cost of the defense of cases prosecuted by municipalities for four years now.

Some years ago I suggested that House Bill No. 375 be introduced, because it seemed to me that the municipalities should be required to pay for their own defense services rather than passing these costs on to the state. Last year, as you can see from the copy of the bill which I have attached to this memo, the Governor's Office agreed to pursue passage of this legislation "vigorously". Unfortunately, the Judiciary Committee did not take action on the bill last year.

I am hoping this year some positive action can be taken by the legislature. If you require further information, please let me know.

Attachment

cc: Judy Crondahl



OCT 18 3 47 PM '80

BY [unclear]
[unclear]

HB
375

HOUSE BILL NO. 375 by the Rules Committee by request
of the Governor, entitled:

"An Act relating to costs of attorney
services provided to indigents charged
with violations of municipal ordinances."

was read the first time and referred to the Community
and Regional Affairs and Judiciary Committees.

A fiscal note on HB 375 appears in House Journal Supplement
No. 25.

The Governor's transmittal letter follows:

March 12, 1979

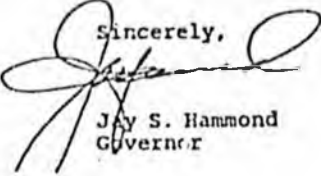
The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska
Constitution, I am transmitting a bill transferring to
municipalities the cost of providing defense counsel to
indigents charged with violation of municipal ordinances.

In the past, the cost of judicial services, including the
cost of defending indigent defendants, was borne by the
municipality which filed the charges against the person
under municipal ordinance. Because it was difficult, if
not impossible, for the court system to precisely
apportion the cost of judicial services, legislation was
passed in 1976 amending AS 22.15.270 to have the state
bear those costs. However, the transfer of responsibility
for providing defense counsel for indigents charged with
violations of municipal ordinances has imposed a
substantial burden on the Public Defender Agency. These
defense costs, unlike normal court operating costs, are
easily identifiable. This bill would transfer back to
the municipality bringing the charge against the indigent
the responsibility for paying those costs, and thus more
fairly allocate the costs to the user of the services.

Sincerely,


Jay S. Hammond
Governor

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COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/13/83

Date: _____

Mr. President:

The Committee on Community & Regional Aff. has had SENATE BILL NO. 62

"An Act authorizing municipalities to exempt business inventories from taxation; eff. date."

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:

[Handwritten signature]

CHAIRMAN

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

February 8, 1983

POSITION PAPER

RE: SB 53

SPONSORS: Senators Mulcahy and Kelly

Program Effects of Bill

Provides for a local option for tax exemptions on business inventories.

Comments

The Department has supported maximizing local options as opposed to mandating such tax exemptions. This measure would allow a municipality to consider such exemptions, assuring that any decision is a local one. The Department believes that the position of the Alaska Municipal League (AML) on this bill should be an important guide post. The AML has supported such a local option for sometime now and continues to do so in their 1983 Policy Statement. One reason is that business inventory taxes often cost more to collect than they bring in; another impetus is the general encouragement of private enterprise by repealing taxes such as that on business inventories.



STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 53 Date on Bill: 1/18/83
 Title: Authorize Municipalities to exempt business inventories from taxation.
 Sponsor: Mulcahy and Kelly
 Requestor: SCRA

1. Estimated fiscal impacts on: Department of Community and Regional Affairs

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				-0-	-0-	-0-		
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: This bill allows municipal governments the option of excluding business inventories from taxation. This option will have no impact on the Department's operations. No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard Rainery *RR* Phone: 465-4703
 Division: Commissioner's Office Date: _____
 Approved by Commissioner: *[Signature]* Date: _____
 Department: Department of Community and Regional Affairs

5. Distribution:
 Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor

2/8/83

2. Payments-in-Lieu: The League endorses the position whereby the state would pay to the local governments a payment-in-lieu of ad valorem taxes for the state-owned property as well as payments for its share of the cost of improvements and services which benefit such property.

3. Right To Tax: The League opposes any further effort on the part of the state to levy a property tax which would infringe upon the rights of local governments to levy the same rate of tax as levied on other property within the taxing jurisdiction.

4. Business Inventories: The League supports legislation which would provide for the optional exemption of business inventories from property tax.

5. Interest Rate Limit: The League supports legislation to remove the limits established by AS 29.53.180 and AS 29.53.415(d) on the penalty and interest rate for delinquent property and sales tax payments.

D. FORMATION OF NEW MUNICIPALITIES

1. The League supports legislation to provide adequate funds to assist in the study of the feasibility of forming new municipalities and in the formation of newly organized municipalities.

E. PUBLIC EMPLOYEES RETIREMENT

1. The League urges that in any legislation passed which increases benefits under the Public Employees Retirement System and Teachers Retirement System, the increased cost be borne by contributions from the employees. The League urges the Legislature to recognize the effect on participating municipal employers if any amendments are made to PERS and TRS.

F. LOCAL HOSPITAL USE

1. Utilization of Local Health Facilities: The League urges the state and federal agencies responsible for health care to utilize the local health facilities and to transport patients to regional centers only when necessary services are not available.

2. Increased State Funding: The League strongly supports increased state funding of hospital construction costs and of special hospital and health facility construction and operating costs.

3. Separate Funding For Hospitals: The League strongly supports funding of hospital and health facility grants outside the municipal revenue sharing program.

*Alaska Municipal League
Policy Statement*

1983

KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246

KODIAK, ALASKA 99615

January 12, 1982

The Honorable Bob Mulcahy
The State Senate
Pouch V
Juneau, Alaska 99811

Re: Resolution No. 82-1-R - Commercial and Business Inventories

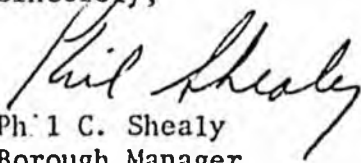
Dear Bob:

Please be advised that the Kodiak Island Borough Assembly at their regular meeting on January 6, 1982 unanimously adopted Resolution No. 82-1-R entitled "A Resolution of the Kodiak Island Borough Assembly Seeking A Change in the Alaska Statute 29, Chapter 53, Municipal Assessment and Taxation, Section 29.53.025 Optional exemptions and Exclusions" with the intent to allow the option to exempt commercial and business inventories from personal property taxation. It is my understanding that the City Council of Kodiak has recently adopted a similar resolution. Both elected bodies in joint work sessions have indicated that this is of an extreme high priority to them.

I would further like to note that the Alaska Municipal League Policy Statement dated 1982 states on page 3 under local taxes item 4 "Business Inventory: The League supports legislation which would provide for the optional exemption of business inventories from property tax".

Therefore, at this time I wish to respectfully request your assistance in the successful adoption of the above change to Alaskan law. If any further information or materials are required in this regard, please contact me immediately.

Sincerely,


Phil C. Shealy
Borough Manager

CC Bill Bivin, City Manager

Enclosure

mdd

*1982 Resolution by
Kodiak Borough in
favor of exemption
- See next page -*

KODIAK ISLAND BOROUGH
RESOLUTION NO. 82-1-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SEEKING A CHANGE IN THE ALASKA STATUTE TITLE 29, CHAPTER 53, MUNICIPAL ASSESSMENT AND TAXATION, SECTION 29.53.025 OPTIONAL EXEMPTIONS AND EXCLUSIONS.

WHEREAS, it is the intent of the Kodiak Island Borough Assembly to seek to allow the exemption of commercial and business inventories from personal property taxation through the initiation of legislation by local representatives, to Alaska Statute 29, Chapter 53, Municipal Assessment and Taxation; and

WHEREAS, more specifically, the intended change would be an addition to the following words of Section 29.53.025 Optional Exemptions and Exclusions.
(b)(2) "(E) All commercial and business inventories".

NOW, THEREFORE, BE IT RESOLVED by the Kodiak Island Borough Assembly that legislation initiated which, if approved, would allow exemption of commercial and business inventories from personal property taxation.

BE IT FURTHER RESOLVED by the Kodiak Island Borough Assembly that the Borough administration be directed to send this resolution to Senator Mulcahy and Representatives Zharoff and Sutcliffe and implore their assistance in the successful adoption of this legislation.

PASSED AND APPROVED this 6th day of January, 1982 by
the Borough Assembly:

KODIAK ISLAND BOROUGH

By *R. W. Henderson*
Borough Mayor

ATTEST:

By *Shirley J. Miller, CMC*
Borough Clerk



December 30, 1981

Honorable Bob Mulcahy
Senator
P.O. Box 246
Kodiak, AK 99615

Dear Senator Mulcahy:

On December 28, 1981 the Kodiak City Council passed Resolution 57-81.

The resolution requests that you introduce legislation into the Senate which would allow for the optional exemption and exclusion of commercial and business inventories from property taxation.

Your help in introducing and sponsoring such legislation would be greatly appreciated.

Sincerely,

CITY OF KODIAK

WILLIAM C. BIVIN
City Manager

WCB/csh

*1981 Resolution in favor
of exemption by City
of Kodiak - see next page*

CITY OF KODIAK
RESOLUTION 57-81

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK SEEKING A CHANGE IN THE ALASKA STATUTES TITLE 29, CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION, SECTION 29.53.025 OPTIONAL EXEMPTIONS AND EXCLUSIONS.

WHEREAS, it is the intent of the Kodiak City Council to seek to allow the exemption of commercial and business inventories from personal property taxation, through the initiation of legislation by local representatives, to Alaska Statutes Title 29, Chapter 53, Municipal Assessment and Taxation; and

WHEREAS, more specifically, the intended change would be an addition of the following words to Section 29.53.025 Optional exemptions and exclusions. (b)(2) "(E) all commercial and business inventories."

NOW, THEREFORE, BE IT RESOLVED by the Kodiak City Council as follows:

Section 1. Senator Mulcahy and Representative Zharoff initiate the appropriate legislative action, which, if approved, would exempt commercial and business inventories from personal property taxation.

PASSED AND APPROVED this 28 day of December, 1981.

CITY OF KODIAK

Alan J. Beasley
MAYOR

ATTEST:

Nancy E. Gilbert
CITY CLERK

CITY OF KODIAK
RESOLUTION NUMBER 06-83

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK SEEKING A CHANGE IN THE ALASKA STATUTES TITLE 29, CHAPTER 53, MUNICIPAL ASSESSMENT AND TAXATION, SECTION 29.53.025 OPTIONAL EXEMPTIONS AND EXCLUSIONS

WHEREAS, it is the intent of the Kodiak City Council to seek to allow an exemption of commercial and business inventories from personal property taxation, through the initiation of legislation by local representatives, to amend Alaska Statutes Title 29, Chapter 53, Municipal Assessment and Taxation; and

WHEREAS, more specifically, the intended change would be an addition of the following words to Section 29.53.025 Optional exemptions and exclusions.
(b)(2) "(E) All commercial and business inventories."

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that Senator Mulcahy and Representative Zharoff are requested to initiate the appropriate legislative action, which, if approved, would exempt commercial and business inventories from personal property taxation.

BE IT FURTHER RESOLVED that this resolution be communicated to the following people:

The Honorable Bill Sheffield, Governor of Alaska

The Honorable Stephen McAlpine, Lieutenant Governor of Alaska

The Honorable Bob Mulcahy, Alaska State Senator

The Honorable Fred Zharoff, Alaska Representative

PASSED AND APPROVED this 27th day of January, 1983.

CITY OF KODIAK

Alan Beardsley
MAYOR

1983 Resolution in
support of bill by
City of Kodiak

ATTEST:

Marcella Dalke
CITY CLERK

ALASKA'S INVENTORY TAX**Donald R. Magnusson**

The inventory tax is the most unfair and inequitable business tax in Alaska today. This tax has been condemned repeatedly by the Federal Advisory Commission on Intergovernmental Relations and by innumerable state level legislative and administrative studies. Many of their conclusions are well known and we think it is unnecessary to dwell on them at length, but we do think they should be stated briefly for the record. The inventory tax is unfair in that it bears no relation to profit or loss, placing a heavy burden on one segment of the business community which is not shared, either by private citizens or by other segments of the business and professional community. The business or profession that does not hold merchandise for resale, but who may deal with services, professional or otherwise, pays no similar tax. In fact, the merchant who attempts to compete efficiently by stocking more sizes to serve the hard-to-fit, who has more inventory and less turnover, ends up paying more inventory tax -- even if there is no profit with which to pay it.

Taxes on the same amount of inventory vary widely because of different local tax rates and different methods used by taxpayers in determining "fair market value", with some taxpayers paying a tax on maximum value while others pay on a much lower amount. Inventory taxes are, by universal admission, almost impossible to administer fairly, even by the most conscientious tax assessor.

Inventory taxes discourage the warehousing of goods within the State and can cause serious disruptions in the flow of goods, higher prices (such as freight) and more inconvenience to the consumer. In Alaska, this is a matter of critical concern.

When seeking to attract new industry, nontax states openly advertise that they have no inventory tax.

Attached is a list of the forty (40) states, plus the District of Columbia, that have acted to repeal or substantially reduce the inventory tax. Note that twenty-seven (27) states, plus the District, have completely repealed it or are in process of completely phasing it out. (Note also, in this connection, that on March 14, 1979 the Illinois Supreme Court declared the personal property tax abolished as of January 1, 1979 irrespective of whether or not the legislature acts to implement its prior constitutional mandate.)

Most of these actions have occurred during the past dozen years and there is every indication that the trend will continue. No state that has repealed its inventory tax has ever reimposed it. The evidence shows just the opposite. States that have abolished the tax are reporting increased business activity and more jobs created from improvement in the state's business climate. State and local tax revenues have increased due to improved sales tax and income tax collections. Increases in the number of jobs lowers welfare and unemployment insurance costs. The repealed inventory

tax increases the efficiency of city and town administration by permitting greater attention to appraisal of real property and other items of personal property that remain subject to tax. And, most importantly, a repealed inventory tax removes the pyramiding of inventory tax costs through the various trade levels which are reflected in the price of consumer goods.

In summary, the inventory tax is unfair, unwieldy and unworkable, and has been recognized as such by most states which seek to attract and retain a wide variety of business and industry. If a tax falls unfairly upon a limited few, and if its enforcement is irregular and compliance strained, then the tax should be abolished and a better system substituted in its place. The tax on inventories should be repealed.

TAXATION OF BUSINESS INVENTORIES

Alabama	Inventory tax repealed by constitutional amendment effective 10/1/78.
Arizona	State constitution exempts all inventories effective 1964.
California	Inventories taxed at .5% of value effective 7/1/78.
Colorado	95% exemption on inventories effective 1973.
Connecticut	Inventory tax phases out by 1982.
Delaware	Exempts all personal property, including inventories, effective 1953.
District of Columbia	Inventories exempt effective 1974.
Florida	90% exemption for inventories of finished goods, 99% exemption for goods in process and raw materials, effective 1978.
Hawaii	Exempts all personal property, including inventories, effective 1947.
Idaho	Inventories exempt effective 1971.
Illinois	An approved constitutional amendment to exempt all personal property, including inventories, effective 1/1/79, has yet to be implemented by the legislature.
Indiana	35% exemption on inventories plus 20% property tax credit.
Iowa	Annually increases personal property credits until total exemption is reached, probably in 1986.
Maine	Inventories exempt effective 1977.
Maryland	Local option phase-out of inventory tax is in progress, each county having different effective date.
Massachusetts	All personal property, including inventories, is exempt unless taxpayer is subject to the corporate excise tax.
Michigan	Inventories exempt effective 1976.
Minnesota	Inventories exempt effective 1967.
Mississippi	Exempts manufactured products in hands of manufacturer, effective 1942.
Montana	93% exemption on inventories effective 1975.

Nebraska	Inventories exempt effective 1979.
Nevada	1978 constitutional amendment phases out the inventory tax over four years and authorizes the legislature to exempt all other personal property.
New Hampshire	Exempts all personal property, including inventories, effective 1970.
New Jersey	Inventories exempt effective 1966.
New Mexico	Inventories exempt effective 1974.
New York	Exempts all personal property, including inventories, effective 1917.
North Carolina	Partially exempts manufacturers' inventories effective 1/1/80.
North Dakota	Exempts all personal property, including inventories, effective 1970.
Ohio	Phasing in an inventory tax exemption of 65%.
Oregon	Inventories exempt effective 1980.
Pennsylvania	Exempts all personal property, including inventories, effective 1939.
Rhode Island	Exempts manufacturers' inventories effective 1966.
South Carolina	Exempts manufacturers' inventories effective 1962.
South Dakota	Inventories exempt effective 1979.
Tennessee	Inventories exempt effective 1972.
Utah	Inventories exempt effective 1973.
Vermont	Inventories exempt on local option basis.
Virginia	Inventories exempt in all counties that impose license tax.
Washington	Inventory tax phase-out, with full exemption in 1983.
Wisconsin	Inventory tax phase-out, with full exemption in 1981.
Wyoming	Inventories exempt effective 1972.

ALASKA'S INVENTORY TAX**Donald R. Magnusson**

The inventory tax is the most unfair and inequitable business tax in Alaska today. This tax has been condemned repeatedly by the Federal Advisory Commission on Intergovernmental Relations and by innumerable state level legislative and administrative studies. Many of their conclusions are well known and we think it is unnecessary to dwell on them at length, but we do think they should be stated briefly for the record. The inventory tax is unfair in that it bears no relation to profit or loss, placing a heavy burden on one segment of the business community which is not shared, either by private citizens or by other segments of the business and professional community. The business or profession that does not hold merchandise for resale, but who may deal with services, professional or otherwise, pays no similar tax. In fact, the merchant who attempts to compete efficiently by stocking more sizes to serve the hard-to-fit, who has more inventory and less turnover, ends up paying more inventory tax -- even if there is no profit with which to pay it.

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When seeking to attract new industry, nontax states openly advertise that they have no inventory tax.

Attached is a list of the forty (40) states, plus the District of Columbia, that have acted to repeal or substantially reduce the inventory tax. Note that twenty-seven (27) states, plus the District, have completely repealed it or are in process of completely phasing it out. (Note also, in this connection, that on March 14, 1979 the Illinois Supreme Court declared the personal property tax abolished as of January 1, 1979 irrespective of whether or not the legislature acts to implement its prior constitutional mandate.)

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tax increases the efficiency of city and town administration by permitting greater attention to appraisal of real property and other items of personal property that remain subject to tax.

And, most importantly, a repealed inventory tax removes the pyramiding of inventory tax costs through the various trade levels which are reflected in the price of consumer goods.

In summary, the inventory tax is unfair, unwieldy and unworkable, and has been recognized as such by most states which seek to attract and retain a wide variety of business and industry. If a tax falls unfairly upon a limited few, and if its enforcement is irregular and compliance strained, then the tax should be abolished and a better system substituted in its place. The tax on inventories should be repealed.

TAXATION OF BUSINESS INVENTORIES

Alabama	Inventory tax repealed by constitutional amendment effective 10/1/78.
Arizona	State constitution exempts all inventories effective 1964.
California	Inventories taxed at .5% of value effective 7/1/78.
Colorado	95% exemption on inventories effective 1973.
Connecticut	Inventory tax phases out by 1982.
Delaware	Exempts all personal property, including inventories, effective 1953.
District of Columbia	Inventories exempt effective 1974.
Florida	90% exemption for inventories of finished goods, 99% exemption for goods in process and raw materials, effective 1978.
Hawaii	Exempts all personal property, including inventories, effective 1947.
Idaho	Inventories exempt effective 1971.
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Maryland	Local option phase-out of inventory tax is in progress, each county having different effective date.
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Mississippi	Exempts manufactured products in hands of manufacturer, effective 1942.
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Pennsylvania	Exempts all personal property, including inventories, effective 1939.
Rhode Island	Exempts manufacturers' inventories effective 1966.
South Carolina	Exempts manufacturers' inventories effective 1962.
South Dakota,	Inventories exempt effective 1979.
Tennessee	Inventories exempt effective 1972.
Utah	Inventories exempt effective 1973.
Vermont	Inventories exempt on local option basis.
Virginia	Inventories exempt in all counties that impose license tax.
Washington	Inventory tax phase-out, with full exemption in 1983.
Wisconsin	Inventory tax phase-out, with full exemption in 1981.
Wyoming	Inventories exempt effective 1972.

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COMMITTEE REPORT

SENATE

1/21/83

FURTHER: FINANCE

Date: _____

Mr. President:

The Committee on COMMUNITY & REG. AFFAIRS has had SB 65
An Act allowing for an optional exemption for certain real property
from municipal taxation; eff. date _____

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

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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

February 10, 1983

Honorable Don Gilman
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Residential tax exemption
Our file: 366-430-83

Dear Senator Gilman:

You have inquired whether a residential tax exemption may be passed by municipal voters directly by initiative. AS 29.53.025(a) provides for such an exemption "by ordinance ratified by the voters at a regular or special election." (Emphasis added.) Put another way, must there first be council or assembly action which the voters might ratify, or may the voters simply create the exemption directly, by initiative?

In its current form, AS 29.53.025(a) casts a long shadow across the notion of municipal tax exemption by initiative. The problem is the word "ratified," and its reference to "ordinance."

As one court has put it, "[r]atification refers to ... the adoption of a past act or transaction as his own act...." First National Bank v. Allen, 14 So. 335, 337 (Ala. 1893). Virtually all ratification cases reference an antecedent contract, transaction, or other act which is confirmed, adopted, or sanctioned by the ratifier.

The Massachusetts Supreme Judicial Court faced a similar situation in Revere Water Co. v. Inhabitants of the Town of Winthrop, 78 N.E. 497 (Mass. 1906). Though the case is distinguishable in one or two important respects, what the court said is instructive:

The word "ratified" as used in the statute [requiring voter approval] plainly means that when the selectmen issue the warrant they are supposed to have taken appropriate precedent action, otherwise there is no proposal of purchase in existence which can be made the subject of ratification, and which by the ratifying act thereupon becomes and existing contract.

Honorable Don Gilman
Alaska State Legislature
366-430-83

February 10, 1983
Page #2

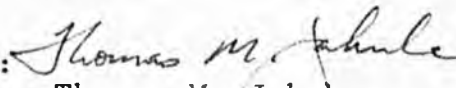
Id. at 501.

It may well be argued that the legislature intended that municipal tax exemption be a two-step process, i.e., that the assembly first bring its expertise and judgment to bear to draft, debate, and enact a bill, after which the voters would act affirmatively to adopt the bill passed by the assembly. On the other hand, it could, with conviction and force, be argued that the heart and sense of AS 29.53.025(a) is the voter approval provision, and that assembly action was not intended to be a condition precedent to direct voter action.

As rough as the fit may be, we believe that the court cases cited above require assembly action first, followed by voter approval. If a different process is preferred, we would be happy to assist you in drafting an amendment to AS 29.53.025(a).

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Thomas M. Jahnke
Assistant Attorney General

TMJ/pjg

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 10, 1983

SUBJECT: Optional tax exemption questions
(Work Order No. 13-0721)

TO: Senator Donald E. Gilman

FROM: Richard C. Folta *RCF*
Legislative Counsel

The following is in response to your inquiry of February 7th, on optional property tax exemptions.

(1) No, the exemption tax option would be subject to initiative. Article XI, section 7 of the Alaska Constitution provides for the restrictions against the use of the initiative, one of which is "appropriations" initiatives. A tax exemption which operates to limit tax revenues, cannot be considered an appropriation, in my opinion. (The Thomas V. Bailey case, 595 P.2d 1 is the Alaska case which discusses the appropriation restriction on initiatives by the people.) The tax exemption limits the tax revenues collectable by the municipality, but cannot be defined any closer than that to appropriations. In the Thomas case, the giving away of land in the homestead initiative was construed by the Court to be really an appropriation measure restricted by the constitution.

(2) There could be a substantial impact on the bonding ability of a municipality, since the full faith and credit of a municipality is pledged for the payment of principal and interest on general obligation bonds (AS 29.58.180). The passage of an initiative for the exemption could decrease the municipality's ability to bond since the tax base is reduced. There may be an instance where an initiative for the exemption could impair existing indebtedness and thus be subject to legal attack.

RCF:ljb

Alaska State Legislature

SENATOR
DON GILMAN

Juneau Ph.
(907) 465-4934 .



HOME ADDRESS
P.O. BOX 630
KENAI, ALASKA 99611
(907) 283-4182

DURING SESSION
POUCH V
JUNEAU, ALASKA 99611

State Senate

February 7, 1983

Memorandum

To: Billy G. Berrier
Director
Division of Legal Services

From: Senator Don Gilman

Thank you for the response by Richard C. Folta to our recent inquiry (Work Order No. 13-0721). This concerned whether the optional \$100,000 property tax exemption proposed by SB 65 is libel to placement on municipal ballots by elections.

Based on that response, I would like to inquire on two other points.

- 1) Because any limitation on a municipality's ability to tax affects its ability to appropriate, could this exemption be ruled not subject to initiative on the municipal level because it affects a municipality's ability to appropriate?
- 2) If, as indicated in the first response, the exemption may be placed on the ballot by initiative, what effect would this have on the bonding ability of municipalities? In particular, what effect would this have on their ability to pledge full faith and credit?

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

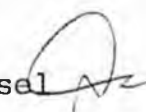
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1983

SUBJECT: Optional exemption bill subject to referendum
(Work Order No. 13-0721)

TO: Senator Donald E. Gilman

FROM: Richard C. Folta
Legislative Counsel 

If SB 65, allowing for an optional exemption for certain real property from municipal taxation, becomes law, would it be subject to a referendum by the people of Alaska? The answer to your question as I understand it, is yes.

Article XI, section 1, of the Alaska Constitution provides that the people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum. In Municipality of Anchorage v. Frohne, 568 P.2d 3 (1977), the Court held that the subject of the petition must constitute such legislation as the legislative body to which it is directed has the power to enact. The power is liberally construed.

Local or special legislation is exempted from both petitions. Wolf v. Alaska State Housing Authority, 514 P.2d 233.

The subject matter of SB 65 is clearly general legislation in that it affects all of the people in a municipality, not just some. It is not required legislation, like AS 29.53.-020 which mandates certain exemptions. It is an optional exemption. The legislature has the power to legislate tax exemptions.

In summary, SB 65 is subject to a ballot by the people if it passes.

RCF:ljb



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

Billy G. Berrier
Director
Division of Legal Services
Legislative Affairs Agency
Pouch Y
Juneau, AK 99811

Dear Mr. Berrier:

Attached is a copy of Senate Bill 65. This bill establishes an optional property tax exemption for a portion of the value of residential property.

We request an opinion on whether, if this bill becomes law, the optional exemption it creates would be subject to being placed on the ballot by petition.

Sincerely,

A handwritten signature in cursive script that reads "Don".

Don Gilman
State Senator



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

Norman Gorsuch
Attorney General
Department of Law
Pouch K
Juneau, AK 99811

Dear Mr. Gorsuch:

Attached is a copy of Senate Bill 65. This bill establishes an optional property tax exemption for a portion of the value of residential property.

We request an opinion on whether, if this bill becomes law, the optional exemption it creates would be subject to being placed on the ballot by petition.

Sincerely,

A handwritten signature in cursive script that reads "Don".

Don Gilman
State Senator

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

Position Paper

Re: SB 65

Sponsor: Paul Fischer

Program Effects

This bill would raise the optional municipal real property tax exemption, permitted by statute, from the current \$10,000 to \$100,000.

Comments

The Department is in favor of increased control at the local government level. This Bill would expand that local control. To the extent that municipalities might exempt residential property under the proposed language, taxes would increase on commercial properties. In municipalities which have a substantial amount of oil and gas property, that increase would result in a proportionate decrease in State collected revenues.

Passage of this Bill could result in a small minority of taxpayers paying the majority of local property taxes if the increased optional exemption was employed by the community. This shift of tax burden could result in a weakening of local government. If the populace has no monetary stake in their local government, their interest and participation may well wane. From a standpoint of maintaining local interest and control other methods of tax relief may be preferable.

COMMITTEE REPORT

SENATE

1/21/83

FURTHER: FINANCE

Date: _____

Mr. President:

The Committee on COMMUNITY & REG. AFFAIRS has had SB 65
An Act allowing for an optional exemption for certain real property
from municipal taxation; eff. date

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
- and recommends _____ new title
- 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

WORK ORDER REQUEST FORM

M13- 0721

KEYWORDS: taxes
real estate
revenue

ASSIGNED TO Folta

REQUEST FOR: BILL RESOLUTION ^{Opinion} RESEARCH OTHER

SUBJECT SB 65 Municipal tax exemption

REQUESTED FOR Sen. Gilman BY Gilman EXT. _____

* DELIVER TO Senator Gilman TAKEN BY Barnes

INSTRUCTIONS, EXPLANATIONS _____

If this bill becomes law would the optional exemption it creates be
subject to being placed on the ballot by petition?

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: UCB Director, Legal Services

REVIEWED _____

IN 2/1 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

S

B

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7

COMMITTEE REPORT

SENATE

FURTHER:

3/4/83

Date: 3-28-83

Mr. President:

The Committee on C&RA has had SB 67 (210)

Relating to the relocation of utility facilities incident to the construction of highway projects by a municipality; off date.

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

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]
CHAIRMAN

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

March 25, 1983

BILL ANALYSIS

RE: CSSB 67

SPONSOR: SENATE LABOR & COMMERCE COMMITTEE

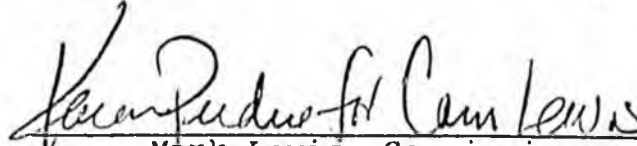
PROGRAM EFFECTS OF BILL

The current statute requires that if, as a result of a state highway construction project, utility facilities must be relocated the State may order the utility to relocate that facility and the State must also pay the cost of that relocation. This bill would also expand the statute to include Municipal highway construction. It also restricts the costs payable to utility facilities located as a result of valid easement or permits.

COMMENTS

It is reasonable to allow municipalities, which are responsible for construction of local roads and highways, this type of authority. We do, however, have some concern about relocation costs in instances where strict easement and right-of-way procedures have not been adhered to. Many of the smaller, older utilities do not have formal easements or right-of ways. It would seem that strict interpretation of new language could cause undue hardship for some of the smaller utility companies.

It would be our recommendation that some individual case by case discretion should be considered.



Mark Lewis, Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS SB 67
 Title: relocation of utility facilities
 Sponsor: Labor & Commerce
 Requestor: Community & Regional Affairs

II. FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: development
 BRU, Program of Subprogram(s) Affected: Local Government Assistance

Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Sponsor did not indicate.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Terry Earley Phone: 465-4730
 Division: Local Government Assistance Date: 3/25/83
 Approved by Commissioner: [Signature] Date: 3/25/83
 Department: Community & Regional Affairs

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 29, 1983

To: Senate Community and Regional Affairs Committee
From: Ginny Chitwood, Executive Director *GC.*
Re: SB 67 - Utility Relocation Costs

Municipalities oppose SB 67 because the issue is a local one and should be resolved at the local level. This bill would amend Title 29, Chapter 25 - Protection and Use of State Highways and Roads (emphasis added). The changes in SB 67, however, don't relate to state roads; they deal with local roads.

It is easy to understand why there is a provision in law for the state to pay the utility relocation costs since 95% of the funding is paid by the federal government. In municipal road projects, however, there is no way to shift 95% of the costs to a non-resident third party. The costs are paid by the local taxpayer unless the municipality receives a specific state grant for a specific project.

Since cost figures vary widely depending on the circumstances of each road project, I was not able to generate any average municipal cost per mile figures, but I do have general comments from several municipalities.

City of Palmer - Manager David Soulak estimates the provisions of SB 67, without section 5, would cause a 5% to 15% increase on three road projects currently being planned. In many cases, utilities are not where they're supposed to be. He doesn't think that municipalities should have to pay for utility mistakes, but does not oppose the municipality paying to relocate the utility if it is put in according to a permit.

Matanuska-Susitna Borough - Manager Gary Thurlow basically agrees with Soulak.

City and Borough of Sitka - Administrator Rocky Gutierrez believes that municipalities shouldn't be in state statutes except in Title 29. Sitka has worked out an agreement with the non-municipal utilities.

City of Kodiak - Manager Sam Gesko opposes section 3 of the bill, making the relocation costs a municipal responsibility.

City of Fairbanks - Manager Wally Droz says there would be no effect on

the City of Fairbanks because their policy is to pay relocation costs, although the utility pays for any upgrades.

Fairbanks North Star Borough - Public Works Director Don Moore reports that current borough practice is for the utility to pay relocation costs so shifting the cost to municipalities would cut down on the amount of road work that could be done with the available money.

City and Borough of Juneau - Public Works Director George Porter says that cost allocations are decided on a case by case basis, depending on whether the utility is where it was supposed to be, the age of the line, etc.

City of Ketchikan - City Manager Jim Van Altvorst estimates that the bill would cost the city an estimated \$50,000 this year.

Municipality of Anchorage - Public Works Director Paul Diener believes that this is a local issue. Anchorage has a new ordinance in the works that would require the municipality to pay the relocation costs if the utility has a permit and is at the location specified in the permit; in other cases, the utility would be required to pay.

City of Kenai - Paying relocation costs would cut down the amount of road work the city could do. Attorney Tim Rogers points out that common law indicates that "Rights in streets or highways....are at all times held in subordination to the superior rights of the public".



T HEART OF THE MATANU A VALLEY

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT

P.O. BOX 1368 • PHONE (907) 745-3271

PALMER, ALASKA 99645

March 21, 1983

The Honorable Richard I. Eliason
State Capitol
Pouch V
Juneau, Alaska 99811

RE: CS for Senate Bill No. 67

Dear Senator Eliason,

During our discussion this past Saturday, March 19, 1983 in Anchorage, I pointed out a question of service life of a facility.

Since the majority of the state is under the Rural Electrification Administration rules, the service life of a facility is thirty-five (35) years. In a relocation that may be borne either by the State or Municipality, there is no credit allowed for the expanded service life of a facility.

I would recommend that your committee consider this service life in your bill so that this credit is included in the applicable relocation costs. Beyond the service life, there should be no relocation costs.

Should you have any questions, please contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Senator Kerttula
Representatives Larson and Lacher
Alaska Municipal League