

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07/09/00 BY 60322 UCBAW

2204 SCRA - SB 125 - SB 228  
1072

tification load, developed the "On-Loan Technical Assistance Program". This program allows certified professional engineers to conduct the tests on individual sewage/water systems, rather than DEC, who lacked manpower and money. Under this program, the professional engineers file the results of their tests with DEC; DEC then issues a certificate for the lending institution stating the systems are in compliance. Because DEC is liable for whatever they certify, DEC wants to be assured that the methods used by the professional engineers are in accord with good engineering practices. DEC has established the "adequacy test" (attached) for use by engineers. (It is important to note that engineers are free to use other test methods, provided those methods are reviewed by DEC).

2.) This test is the second issue. DEC's testing requirements are not established by regulation. DEC has outlined general procedures that should be followed by engineers when conducting the tests. Those procedures are attached. Again, other methods can also be used, provided DEC reviews the methods first.

The debate here is a rather technical one, between the professionals in the field. Some of the engineers have maintained that the test will damage the sewage system; DEC maintains that the method has been used successfully for years, in Anchorage and elsewhere, and if done properly, will not damage a system. This debate seems to center on the amount of water injected into a system. Too much water can flush solid waste into the leechfield, which would cause damage. DEC stated that professional engineers would know how much water to inject after their initial tests and that this kind of "error" would be extremely rare. If, however, an engineer did damage a system during a test, the engineer, and not DEC, would be liable for it.

Another problem surrounding the test is the cost. Engineers in some parts of the state are charging home buyers very high fees for the test.

3.) The third "issue" is the proposed AHFC regulation. This regulation will make it mandatory for any home buyer to have a DEC certificate stating that the home has adequate sewage/water systems before AHFC will approve their application for a loan.

Before now, AHFC has required DEC certification as a policy. They are just now adopting it as a regulation. AHFC apparently has a potential risk of half a million dollars in one subdivision alone, where the homes have inadequate sewage systems. Sewage systems are expensive to repair and it is often easier, and cheaper, for a homeowner to walk away from a home than to repair the system. This has happened in several places already and AHFC has assumed a loss.

AHFC maintains that they are justified in requiring DEC certificates to protect their investments and because the statutes instruct them to adopt the procedures and policies of independent lending institutions. All lending institutions require inspection and certification of sewage/water systems before they approve a mortgage loan.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 3, 1983

The Honorable Stan Thompson  
Mayor  
Kenai Peninsula Borough  
Box 850  
Soldotna, AK 99669

Dear Mayor Thompson:

Thank you for your January 18, 1983 letter regarding the Department of Environmental Conservation's (DEC) involvement with subdivision plan review. As you have pointed out, boroughs have platting approval authority under AS 29.33. That authority, however, does not convey with it the responsibility for approval of a subdivision's method of sewage disposal. That responsibility lies with DEC under AS 46.03.090, since one of DEC's main functions is to protect public health.

The department's wastewater disposal regulation is the vehicle they use to prevent serious diseases that are spread either by contamination of drinking water systems with sewage, or by sewage surfacing in a yard. It is also DEC's responsibility, as a branch of State government, to guard against the need for the State to fund expensive remedial construction of subdivision wastewater disposal systems which were improperly designed. That results in the kind of poor planning for capital projects which I am determined to change.

I definitely agree that the primary responsibility for all aspects of subdivision plan review should be with local governments. I understand that, through your help, major changes were made to DEC's regulations which greatly facilitate the ability of local government to assume the subdivision sewage disposal plan review program. I expect DEC to aggressively pursue delegation of this program to local governments willing to accept it. Until that occurs, however, some entity must regulate sewage disposal in subdivisions to ensure protection of public health. In the meantime, the opinions of engineers, surveyors, realtors, and local officials will be carefully considered as DEC fulfills its duties under the law.

The Honorable Stan Thompson

2

February 3, 1983

A review of all these matters has led me to believe that a stay of the regulations would not be in the best public interest at this time. I assure you that Commissioner Neve' will closely oversee this matter to ensure that the concerns expressed by you and residents of your area are addressed by his staff.

Sincerely,

Bill Sheffield  
Governor

bcc: Department of Environmental Conservation

Environmental Management  
Deena Henkins  
Bob Martin  
Alex Viteri  
Billie Trent

15-11-83  
CTS:3024733



# KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

STAN THOMPSON  
MAYOR

January 18, 1983

RECEIVED

JAN 21 '83

The Honorable William J. Sheffield  
Governor of the State of Alaska  
Pouch V, Mail Stop 0101  
Juneau, AK 99811

GOVERNORS OFFICE

Dear Governor Sheffield:

I am requesting that the new Department of Environmental Conservation regulations 18 AAC 72.065 appearing in Register 84 be stayed pending a review by your administration.

The authority cited is AS 46.03.020, .050, and .090. Section .020 (Part 10) is the general grant of authority to adopt regulations; Section .050 is the grant of jurisdiction to prevent and abate pollution; and Section .090 is the authorization to require submission of plans for sewage disposal treatment.

There is no statutory authority for DEC regulation of subdivision plats. That authority was granted to the Borough in Chapter 33 of Title 29.

An example of the arbitrary nature of these regulations is the exemption for isolated subdivisions without an exemption for subdivisions completely within cities on DEC approved public water and sewer systems.

I would suggest that rather than trying to "band aid" existing regulations, that the Department first identify the problems and then look for efficient measures to prevent and cure. Perhaps professionals in the field, such as engineers, real estate brokers, surveyors, and subdividers could assist in drafting outlines for new regulations.

I am sure that there are a number of professionals in all parts of our Great Land who would be willing to help without cost to the State.

Sincerely,  
*Stan Thompson*  
Stan Thompson  
Mayor

ST:bl

cc: The Department of Environmental Conservation  
The Alaska State Legislators

S

B

147

POSITION PAPER

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS  
SB 147

March 2, 1982

The Department does not support passage of this bill. We are concerned about the many bills that would expand property tax exemptions. We are also concerned at the lack of an overall State direction in the area of property tax exemptions. Continuing without some type of overall plan will lead to a local tax structure that lacks cohesiveness and will be both hard to understand and difficult to administer.

Another consideration is the cost of municipal administration. Existing exemption programs will require processing about 6,000 applications in FY 83; this program will add an estimated 2,100. It is evident that there will be additional cost burdens placed on municipalities. Those additional costs would have to come from the local general fund, adding burden to the nonexempt portion of the tax base.

The fiscal note has taken into consideration the tax reductions caused by Chapter 6 SLA 1981. However, it doesn't take into consideration any of the other measures before the Legislature that would reduce local taxes.

t1e/TLE - 06690

100 PERSONAL SERVICES

Increase current clerk typist II part time position to full time will adequately provide for handling additional applicants which increases current program activity by about 50%.

Clerk Typist II part time, Range 07	
Salary 1,319/month (659.5 part time)	\$ 7,914
Benefits	1,216
FICA (per current position)	
Health Insurance	<u>924</u>

\$ 10.1

Travel to the major population centers will be required for the first 2 years of operation to assure that eligible applicants are aware of the new benefits and to prepare appropriate agencies to assist applicants.

200 TRAVEL

Expenses	950
Per Diem	<u>525</u>

\$ 1.5

300 CONTRACTUAL

Postage	\$ .3
Printing & advertising - first year	1.8
Printing & advertising - annual	.4
Copier	<u>.2</u>

First year total	\$ 2.3
Annual total	.9

400 COMMODITIES

\$ .3

100-400 based on FY 82 estimates, 10% annual increase was used to project subsequent years.

500 EQUIPMENT

5-drawer file cabinet	\$ .3
-----------------------	-------

Total first year administration	\$14.5
Annual Administration	\$13.1

700 GRANTS

FY 82 DATA

% of DISABILITY	VETERANS	76.85%*	82% **	AVG PMT.	TOTAL
0	72	55	--	--	--
10	1190	916	752	60	45,120
20	607	467	383	120	45,960
30	445	342	280	179	50,120
40	253	194	159	238	37,842
50	147	113	93	298	27,714
60	164	126	103	358	36,874
70	73	56	46	417	19,182
80	40	31	25	477	11,925
90	11	8	7	536	3,752
100	<u>80</u>	<u>61</u>	<u>50</u>	<u>596</u>	<u>29,800</u>
	3,082	2,369	1,898	162	308,289

\* Alaska 1980 population, a preliminary overview, released January 1, 1981 by the Alaska Department of Labor indicates that 3.15% of the civilian population is age 65 or over and can be presumed to be currently participating in the senior citizen exemption.

The operation of the senior citizen property tax exemption program indicates that about 30% of the total seniors do not participate generally because they are in institutions or other housing not subject to property tax. Assuming seniors are more likely to be residing in institutions and subsidized housing, it appears reasonable to reduce this figure to 20% when applied to veterans.

$$100.00\% - \frac{3.15\% + 20.00\%}{23.15\%} = 76.85\%$$

\*\* Analysis of the applicants for senior citizen homeowner exemption and renter payment shows that 82% of the total applicants own their home and 18% are renters.

Assume less than half the increase in number of applicants annually for this population segment when compared with the senior population, or about 5% increase per year.

Assume similar annual increase in average payment per applicant to senior programs, or 10% increase per year.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 147

Title Providing for exemption of the residence of disabled veteran from...property tax...  
Requested by Community & Regional Affairs Date March 2, 1982

II. FISCAL DETAIL

Agency Affected Department of Community and Regional Affairs

Program Category Affected Social - Economic Assistance to the Aged

BRU, Program, Or Subprogram(s) Affected Senior Citizen Tax Relief

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		10.1	11.0	12.2	13.4	
200 TRAVEL		1.5	1.7	0	0	
300 CONTRACTUAL		2.3	3.0	1.2	1.3	
400 COMMODITIES		.3	.3	.4	.4	
500 EQUIPMENT		.3	0	0	0	
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		308.3	354.5	407.7	468.9	
TOTAL		322.8	368.5	421.5	484.0	

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		322.8	368.5	421.5	484.0	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME		1			1	
TEMPORARY						

III. ANALYSIS

Seq 000  
13-001

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B

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86

# COMMITTEE REPORT

## SENATE

3/15/68

FURTHER: NSREAX  
FINANCE

Date: 3-23-68

Mr. President:

The Committee on CSBA has had SB 186

Relating to named recipient grants; 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

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

March 25, 1983

### POSITION PAPER

RE: Senate Bill 186

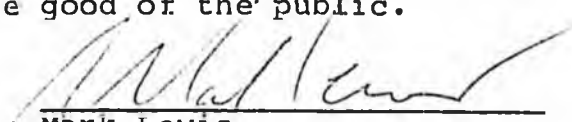
SPONSOR: Senator Sackett

#### Program Effects

This bill amends AS 37.05.316, deleting the option allowing a Department assigned to administer a grant to a named recipient to issue requests for proposals from qualified persons other than the named recipient to carry out the intent and purpose of the grant.

#### Comments

This Department withholds comment on its position on this bill pending review by the Department of Law on separation of powers issues that were first raised by the previous Administration. On its face, this bill does appear to infringe the Executive branch's power to execute the implementation of projects, services, and programs by limiting how it selects persons to provide goods and services. The process by which public funding is awarded should be open and accountable. The request for proposal process is important to insure that all qualified persons are free to participate in the awarding of State grants. The RFP process also provides a check to provide some guarantee that projects are awarded on the basis of merit and that the best possible product is delivered to satisfy the intent of the Legislature and the good of the public.

  
\_\_\_\_\_  
Mark Lewis  
Commissioner

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB 186  
 Title: Named Recipient Grants  
 Sponsor: Senator Sackett  
 Requestor: Senate C&RA

II. FISCAL DETAIL

Agency Affected: DCRA  
 Program Category Affected: Development  
 BRU, Program of Subprogram(s) Affected: LGAD

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						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainery

Phone: 465-4703

Division: Commissioner's Office

Date: 3/25/83

Approved by Commissioner: [Signature]

Date: \_\_\_\_\_

Department: \_\_\_\_\_

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

Introduced: 3/18/83  
Referred: Community and Regional  
Affairs and Finance

1 IN THE SENATE

BY SACKETT AND FERGUSON

2 SENATE BILL NO. 186

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to named recipient grants; and pro-  
7 viding for an effective date."

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

9 \* Section 1. AS 37.05.316 is amended by adding new subsections to read:

10 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. (a) When an amount  
11 is appropriated or allocated to a department as a grant for a named  
12 recipient which is not<sup>IN</sup> a municipality, the department to which the  
13 appropriation or allocation is made shall promptly notify the named  
14 recipient of the availability of the grant and request the named  
15 recipient to submit a proposal to provide the goods or services speci-  
16 fied in the appropriation act, or both, for which the appropriation or  
17 allocation is made. [AT THE SAME TIME, THE DEPARTMENT MAY ISSUE A  
18 REQUEST FOR PROPOSALS FROM OTHER QUALIFIED PERSONS TO PROVIDE THE SAME  
19 GOODS OR SERVICES, OR BOTH, IN THE SAME AREA. THE DEPARTMENT SHALL  
20 CONTRACT WITH THE NAMED RECIPIENT UNLESS THE OFFICE OF THE GOVERNOR,  
21 WITH DUE REGARD FOR ANY LOCAL EXPERTISE OR EXPERIENCE AMONG THOSE  
22 MAKING PROPOSALS, DETERMINES THAT AN AWARD OF THE CONTRACT TO A DIF-  
23 FERENT PARTY WOULD BETTER SERVE THE PUBLIC INTEREST. IF THE CONTRACT  
24 IS AWARDED TO ANOTHER PARTY THAN THAT NAMED BY THE LEGISLATURE, THE  
25 BASIS OF THAT ACTION SHALL BE STATED IN WRITING AT THE TIME THE GRANT  
26 IS ISSUED AND A COPY OF THE WRITTEN STATEMENT SHALL BE SENT TO THE  
27 LEGISLATIVE BUDGET AND AUDIT COMMITTEE. A CONTRACT SHALL BE EXECUTED  
28 WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE APPROPRIATION OR ALLO-  
29 CATION. THE PURCHASE OF THE GOODS OR SERVICES, OR BOTH, SHALL BE IN

COMMITTEE COPY

1 SERVICES, OR BOTH, SHALL BE IN ACCORDANCE WITH AS 37.05.230(1)(c).]

2 (b) The department to which the appropriation or allocation is  
3 made shall have the right to audit records of the named recipient for  
4 a grant made under this section.

5 (c) The named recipient shall be required to post a bond in the  
6 percentage of the amount of the grant which is received from the  
7 department.

8 (d) The named recipient shall waive the right of immunity from  
9 legal action by the department for purposes of the grant made under  
10 this section.

11 (e) The named recipient shall qualify to receive state grants if  
12 they are certified under 26 U.S.C. 501(3)(4).

13 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).

S

B

204



ENCLOSURES FOR SENATE BILL 204

1. Position Paper from the Older Alaskans Commission
2. Letter from the Older Alaskans Commission opposing Senate Bill 204
3. Fiscal Note from the Department of Administration
4. Position Paper and Fiscal Note from the Department of Community and Regional Affairs.
5. Press Release from Senator Faiks
6. Senior Citizens Tax Relief Budget Summary - FY 84
7. Senior Citizens Tax Relief Budget Summary - FY 85

SENATE BILL 204.

"Limiting property tax exemption for senior citizens". Faiks.

Limits property tax exemption for senior citizens to  
\$150,000.

ALASKA STATE LEGISLATURE

13th Legislature FIRST Session

SENATE BILL NO. 204

By FALLS

"An Act limiting the exemption from taxation for an abode of a resident 65 years of age or older to \$150,000 of the assessed value; and providing for an effective date."

Introduced in the Senate 3/24, 1983

HISTORY IN THE SENATE

1983

3 24

Read first time and referred to Committee on

C&RA and Finance

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by President  
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by Speaker  
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....



## KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

FEB 13 1984

STAN THOMPSON  
MAYOR

February 7, 1984

The Honorable Frank Ferguson  
State Capitol  
Pouch V (M.S. 3100)  
Juneau, AK 99811

Dear Senator Ferguson:

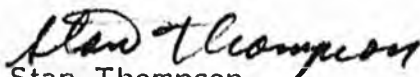
SENATE BILL 204, PROPERTY TAX EXEMPTION, WHICH WOULD CHANGE THE SENIOR CITIZEN'S PROPERTY TAX EXEMPTION PROGRAM TO PROVIDE THAT NO MORE THAN \$150,000 OF ASSESSED VALUES BE EXEMPT FROM TAXATION.

Please oppose this bill. It is not a bill that is wise at this time.

In our borough we have many homesteaders that have been on their land for some period of time. They like their property and they want to keep their property, but due to the fact of our oil industry, etc., our assessed values have gone up to where their land may be worth as much as \$2,000 to \$5,000 per acre. Many of them would like to stay on their homesteads. They gave a good deal of their life and hard work for it. They may only have a house that is of comparatively small value, but they like their property and they don't want to sell it; however, as they become senior citizens they would be forced to sell it under this bill. I don't think that we should be forcing people to dispose of their property. It seems that the senior citizen's tax exemption should be not a welfare measure, but a measure to show appreciation to the senior citizens that have lived here for some period of time. The tax exemption is one way that we can do so. Let's continue to exempt the property they live on, whether its a palatial home or a miserable shack on 160 acres, or whatever it may be.

Please oppose the property tax exemption change.

Thank you,

  
Stan Thompson  
Kenai Peninsula Borough Mayor

ST:lc

POSITION PAPER

OLDER ALASKANS COMMISSION

Bill Number: SB 204

Date: April 5, 1983

Title: "An Act limiting the exemption from taxation for an abode of a resident 65 years of age or older to \$150,000 of the assessed value; and providing for an effective date."

The Older Alaskans Commission has a statutory mandate to make recommendations directly to the Governor and Legislature with respect to legislation. While the proposed act would pose no direct impact upon Commission programs, it would directly impact older Alaskans. According to information provided to the legislature by the Department of Community and Regional Affairs, 197 older Alaskans would have been affected in 1982 and the state would have gained \$99,236 in additional tax revenue.

Property assessment is not a valid method of determining need or one's ability to pay taxes. Few could argue against basing state programs upon need. To do so, one's ability to pay taxes should be based upon income not assets or property assessment.

The State of Alaska places a high value on maintaining the independence of older Alaskans. In addition, the state can realize an economic benefit from programs which contribute to independence including those like property tax exemption which enable older persons to remain in their own homes. Housing is one of the state's major problems. Older Alaskans have noted this in hearings conducted by the Commission throughout the state. Nearly 65 percent of elderly Alaskans own their own homes. The Older Alaskans Commission Comprehensive Statewide Plan Segment One report states,

"For many elders, the cost requirements associated with housing are causing them to make trade-offs between housing and such other basic needs as food and clothing. Nationally, over one-third of the average elder's income goes toward housing costs (rent/mortgage, maintenance and operation, and utilities). At the same time, the buying power of the relatively fixed income elders continues to shrink as rents, maintenance, fuel and other housing costs rise. Since 60 percent of the nation's elders reside in dwellings built prior to 1950 (U.S. Senate, 1980), many elders reside in structures which are more in need of maintenance and are less energy efficient than those of other age groups. For rural Alaskans, the cost of housing has an even more severe impact on income. The long months of cold weather coupled with extraordinarily high energy costs mean that for many 60 percent or more of income from October through April is devoted to meeting housing costs.

"It is not surprising then that housing issues ranked high among the priorities of each of the regional forums and community meetings."

The Older Alaskans Commission is opposed to the changes proposed for the current tax exemption program.

*Jon B. Wolfe* *4/5/83*  
Jon B. Wolfe                      Date  
Executive Director  
Older Alaskans Commission

*Lisa Rudd* *4/7/83*  
Lisa Rudd                              Date  
Commissioner  
Department of Administration

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

POUCH C, M.S. 0209  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3250

### OLDER ALASKANS COMMISSION

February 7, 1984

Senator Frank Ferguson, Chairman  
Senate Community and Regional Affairs  
Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ferguson:

The Older Alaskans Commission opposes Senate Bill 204. This bill would limit the exemption from taxation to \$150,000 of the assessed value of a dwelling owned and occupied as a permanent place of abode by a resident 65 years or older.

While this bill would have no direct impact on Older Alaskans Commission programs, it would directly impact a number of older Alaskans who own their own homes. The Older Alaskans Commission is mandated to help senior citizens maintain independent lives. Under the current property tax exemption program, seniors are encouraged to live independently in their own homes without the financial burden of property taxes. We have no difficulty with attempts to limit the program. However we are concerned that persons may be forced out of their homes due to their inability to pay property taxes. Therefore, the method used to limit the program must be carefully considered.

Over the past decade, home and property values have increased at a rapid rate. Senior citizens who purchased homes ten or more years ago have seen the value of their property double or triple over the original purchase price. At the same time, the fixed incomes on which many senior citizens live have not kept pace with these increases in property values of the cost of living in general. Because of the disparity between property value and fixed incomes, property assessment alone is not a valid measure of a senior's ability to pay taxes.

The Older Alaskans Commission believes that taxes on property assessment in excess of \$150,000 could present a financial burden to seniors in Alaska which could threaten their independent living. For that reason, the Commission opposes SB 204 as written. If a limitation on property tax exemptions is desired, the Commission recommends net income and cost of living as determination factors.

Thank you for your consideration.

Sincerely,  
*Hazel Heath*

*Hazel Heath*  
Chair

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB 204  
Title: "An Act limiting the exemption from  
Sponsor: FAIKS taxation...  
Requestor: Senate C & RA 65 years."

II. FISCAL DETAIL

Agency Affected: Department of Administration  
Program Category Affected: Social/Economic  
BRU, Program of Subprogram(s) Affected: Assis  
Older Alaskans Commission tance  
for the Aged

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jon B. Wolfe *Jon B. Wolfe* Phone: 465-3250  
Division: Older Alaskans Commission *1* Date: April 5, 1983  
Approved by Commissioner: *J.B.W.* Date: *4/7/83*  
Department: Administration

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)

IV. ANALYSIS:

The Bill as proposed would have no fiscal impact upon the Older Alaskans Commission.

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

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

April 18, 1983

POSITION PAPER

RE: SB 204

SPONSOR: Senator Faiks

Program Effects of Bill

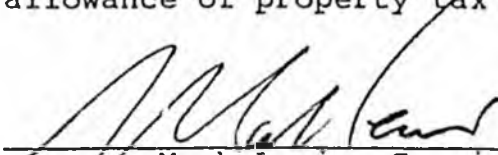
This Bill amends AS 29.53.020(e) by placing a limit on the exemption to \$150,000 of the assessed value of property of a resident 65 years of age or older. Only \$150,000 of the assessed value would be exempt from taxation, the resident would pay taxes on the remaining value.

Comments

The Department supports the concept of limiting the exemption, however, we believe any limitation should take into account the actual need of the Senior Citizen. Although property value does, in most cases reflect the wealth of the individual, we believe consideration of income would be a more appropriate measure of need.

Generally, the Department has a concern for the senior citizen whose property value has appreciated over the years and currently exceeds the \$150,000 limit. Said property value may be high, however, their income may be low, placing a hardship on the senior citizen.

We suggest some appropriate gross or net income figure be used as an additional criterion for the allowance of property tax exemptions for Seniors.

  
\_\_\_\_\_  
Mark Lewis, Commissioner

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB 204  
 Title: Limiting Senior citizen exemption  
 Sponsor: Senator Jan Faiks  
 Requestor: Senate Community & Regional Affairs

II. FISCAL DETAIL

Agency Affected: Community & Regional Affairs  
 Program Category Affected: development  
 BRU, Program of Subprogram(s) Affected: State Assessor

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-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: 4/18/83  
 Approved by Commissioner: [Signature] Date: 4/18/83  
 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

FISCAL ANALYSIS OF SB 204

The bill would affect 197 senior citizens currently in the Senior Citizen Exemption Program.

The savings to the state would be \$99,236 broken down by municipality as follows:

<u>MUNICIPALITY</u>	<u>NUMBER OF SENIOR CITIZENS RECEIVING AN EXEMPTION IN 1982</u>	<u>TAXES WHICH WOULD BE PAID BY SENIOR CITIZENS (SAVINGS TO THE STATE)</u>
1. Anchorage	108	\$65,588.58
2. Juneau	15	6,305.00
3. Haines	1	111.00
4. Kodiak	3	1,615.00
5. Sitka	6	1,426.98
6. Ketchikan	7	884.50
7. Mat-Su	23	4,895.17
8. Fairbanks	17	16,028.00
9. Kenai	<u>17</u>	<u>2,382.00</u>
Total	197	\$99,236.00

FOR IMMEDIATE RELEASE:

March 24, 1983

FAIKS LEGISLATION WOULD CLOSE

ALASKA PROPERTY TAX LOOPHOLE

JUNEAU, AK. -- A bill (S.B. 204) which would close a loophole in Alaska's property tax laws for senior citizens was introduced in the State Senate today by Anchorage Senator Jan Faiks.

Currently, Alaskans 65 years of age or older are exempt from property taxes on their homes, regardless of the value of that property. Under the Faiks bill only the first \$150,000 of assessed property value would be exempt from the state's personal property tax.

"The present property tax law was originally designed to make it easier for our senior citizens to remain in Alaska, which they helped to build, after their retirement," Faiks explained. "But there are several senior Alaskans who really don't need this kind of financial assistance."

The Anchorage Republican said she sees nothing wrong with the state helping those senior citizens who genuinely need financial assistance. "But it seems unfair for the state to subsidize those few senior citizens who are financially secure and are more than capable of paying property taxes without curtailing the <sup>ir</sup> lifestyles in the least."

(more)

Faiks said one Anchorage resident has an estate assessed at about \$2 million but that this resident now pays nothing in property taxes. "It just seems to me that anyone with a \$2 million estate should be able to come up with the \$12,700 in property taxes," Faiks said.

She said the attorney general's office will not allow the Department of Community and Regional Affairs to release the names of senior citizens in this category because they feel that disclosure of the information would violate the rights of the people exempted.

"Nonetheless, I would be happy to sit down and talk to anyone who feels that paying taxes on property assessed in excess of \$150,000 would be a financial burden for them," Faiks said. "I think my bill will effectively remove an inequity from our present system of personal property taxation."

The Anchorage senator said that only about 100 senior citizens in Anchorage would be affected by the new bill.

-30-

For further information, contact:  
Allen Tosch, Tel.: 465-4738

03-18-01-01-00 (21-22-3-08-01-00)

## STATE OF ALASKA -- COMPONENT BUDGET SUMMARY

14:00

1/25/83

AGENCY: DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS  
CATEGORY: SOCIAL SERVICESPROGRAM: SENIOR CITIZENS TAX RELIEF  
SUB-PROGRAM: HOMEOWNERS' PROPERTY TAX EXEMP

## ----- F I S C A L Y E A R 1 9 8 4 -----

EXPENDITURES & FUNDING	(01) FY82 ACT	(02) FY83 ATH	(03) FY83 RP	(04) FY83 SUP	(05) CONT.	(06) REQUEST	(07) GOV AMD	(08) GOVERNOR	(09) HOUSE	(10) SENATE	(11) F.C.C.	(12) BILLS	(13) LEG. BILL
01 PERS. SERV.													
02 TRAVEL													
03 CONTRACTUAL													
04 COMMODITIES													
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS	1753.6	2055.3			2158.6	2158.6		2158.6					
08 MISC.													
** TOTAL EXPEND	1753.6	2055.3			2158.6	2158.6		2158.6					
09 I-A TRANSFER													
10 FED. RECEIPT													
11 G. F. MATCH													
12 GENERAL FUND	1753.6	2055.3			2158.6	2158.6		2158.6					
13 PGM RECEIPTS													
14 OTHER FUNDS													
15 FULL TIME													
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS													

BRU: Senior Citizen Tax Relief

COMPONENT: Homeowner Property Tax Exemption

DESCRIPTION: State reimburses municipalities for loss in revenues due to exemption of senior citizen's homes from local property taxes.

IMPACT: 5449 senior citizen homeowners

FUNDING:	<u>FY'84 ADJ</u>	<u>GOVERNOR'S</u>
GF:	\$2,158,600	\$2,158,600
TOTAL:	<u>\$2,158,600</u>	<u>\$2,158,600</u>

POSITIONS: No positions.

POSITION PAPER  
SB 204

This bill would limit the exemption from taxation to \$150,000 of the assessed value of a dwelling owned and occupied as a permanent place of abode by a resident 65 years or older.

While this bill would have no direct impact on Older Alaskans Commission programs, it would directly impact a number of older Alaskans who own their homes. The Older Alaskans Commission is mandated to help senior citizens maintain independent lives. Under the current property tax exemption program, seniors are encouraged to live independently in their own homes without the financial burden of property taxes. We have no difficulty with attempts to limit the program to persons who need it most. However, we are concerned that the bill as currently written may force persons out of their homes due to their inability to pay property taxes. We, therefore, urge that cautious consideration be used to determine the method of limiting the program.

Over the past decade, home and property values have increased at a rapid rate. Senior citizens who purchased homes ten or more years ago have seen the value of their property double or triple over the original purchase price. At the same time, the fixed incomes on which most senior citizens live have not kept pace with these increases in property values nor with the cost of living. Because of the discrepancy between property assessments and fixed incomes, property assessment alone is not a valid measure of a senior's ability to pay taxes.

The Older Alaskans Commission believes that the payment of taxes on property assessments in excess of \$150,000 could present a financial burden to seniors in Alaska which could threaten their independent living. For that reason, the Commission opposes SB 204 as written. If a limitation on property tax exemptions is desired, the Commission recommends net income and cost of living as determination factors. The State must also consider that the costs of administering a limited program will be greater than required in the current program.

*Jon B. Wolfe*  
Jon B. Wolfe, Executive Director  
Older Alaskans Commission

*February 9, 1984*  
Date

*Lisa Rudd*  
for Commissioner Lisa Rudd  
Department of Administration

*2/9/84*  
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 204  
Title: limiting the exemption from  
taxation  
Sponsor: Faiks  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Dept. of Administration  
Program Category Affected: Older Alaskans  
Commission  
BRU, Program or Subprogram(s) Affected:  
Social & Economic Assistance for  
the aged

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jon B. Wolfe, Executive Director *filed for* Phone: 465-3250  
Division: Older Alaskans Commission Date: 2/3/84

Approved by Commissioner: Lisa Rudolph Date: 2/10/84  
Agency: Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

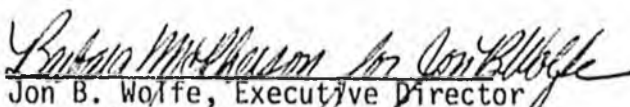
POSITION PAPER  
SB 204

This bill would limit the exemption from taxation to \$150,000 of the assessed value of a dwelling owned and occupied as a permanent place of abode by a resident 65 years or older.

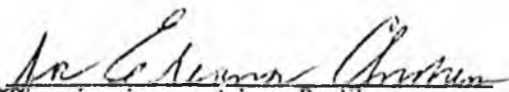
While this bill would have no direct impact on Older Alaskans Commission programs, it would directly impact a number of older Alaskans who own their own homes. The Older Alaskans Commission is mandated to help senior citizens maintain independent lives. Under the current property tax exemption program, seniors are encouraged to live independently in their own homes without the financial burden of property taxes. We have no difficulty with attempts to limit the program. However we are concerned that persons may be forced out of their homes due to their inability to pay property taxes. Therefore, the method used to limit the program must be carefully considered.

Over the past decade, home and property values have increased at a rapid rate. Senior citizens who purchased homes ten or more years ago have seen the value of their property double or triple over the original purchase price. At the same time, the fixed incomes on which many senior citizens live have not kept pace with these increases in property values of the cost of living in general. Because of the disparity between property value and fixed incomes, property assessment alone is not a valid measure of a senior's ability to pay taxes.

The Older Alaskans Commission believes that taxes on property assessment in excess of \$150,000 could present a financial burden to seniors in Alaska which could threaten their independent living. For that reason, the Commission opposes SB 204 as written. If a limitation on property tax exemptions is desired, the Commission recommends net income and cost of living as determination factors.

  
Jon B. Wolfe, Executive Director  
Older Alaskans Commission

2/7/84  
Date

  
Commissioner Lisa Ruld  
Department of Administration

2/10/84  
Date

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**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

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

April 11, 1983

DRAFT COPY OF SUBSTITUTE FOR SB 213

BILL ANALYSIS

RE: SB 213

SPONSOR: Senator Ferguson

Program Effects of Bill

Sec. 1 would require the Department to "advise and assist community and regional governments on matters of assessment..."

Sec. 2 would require all local assessment records be available to the State Assessor.

Sec. 3 would require that if the State Assessor notifies a municipality of major procedural errors under Sec. 1, then those errors must be corrected by the beginning of the next fiscal year.

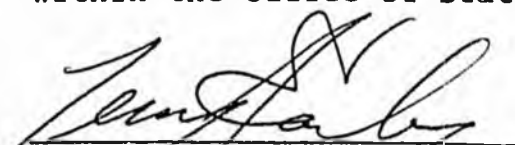
This section also provides that the state shall collect from a municipality any revenues lost due to a procedural error.

Comments

If the state government is going to get into the business of monitoring local assessments and assessment rolls, this appears to be the least objectionable way.

If the substitute version of SB 213 were to pass, we would envision an appeal process within the Department. A municipality would be able to appeal a notice received pursuant to AS 29.53.105 (a), as found in the substitute.

Finally, the "advise and assist" language in Sec. 1 might, at some time (although not projected at this time) cause a need for increases above the current 2 person professional staff contained within the office of State Assessor.

  
Terry Earley, State Assessor

  
Mark Lewis, Commissioner

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: Substitute for SB 213  
 Title: An Act Relating to Property Tax  
 Sponsor: Senator Ferguson  
 Requestor: Senate Community & Regional Affairs

II. FISCAL DETAIL

Agency Affected: Community & Regional Affairs  
 Program Category Affected: Development  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_  
 State Assessor \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Terry Earley Phone: 465-4730  
 Division: Local Government Assistance Date: 4/11/83  
 Approved by Commissioner: [Signature] Date: 4/11/83  
 Department: Community & Regional Affairs

Distribution:

Original to Legislative Finance  
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3/8/83

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# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 6, 1983

SUBJECT: Aid for Indian tribes  
(CSSB 228 (C&RA))

TO: Senator Frank Ferguson  
Chairman, Senate Community and  
Regional Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

SENATE COMMUNITY & REGIONAL AFFAIRS  
FOUCH Y  
JUNEAU, ALASKA 99811

TBC

Here is the sectional analysis that you requested for the draft of CSSB 228 (C&RA).

Section 1. The term municipality is deleted and the term local government is inserted. This has been done consistently for all provisions in AS 29.88 (Tax Equalization) because that program, under this draft, applies to certain Indian tribes as well as municipalities. The word municipality is defined for AS 29 to include only subdivisions of the state incorporated under state law as municipalities (AS 28.78.010(8)).

Section 2. The term municipality is deleted and the term local government is inserted.

Section 3. The term local taxes is substituted for the term municipal taxes for consistency and to reflect the fact that Indian tribes may have the power under federal law to levy taxes.

Section 4. Local government replaces use of municipality and reference to municipal officials is replaced by the general reference to the appropriate local official because an Indian tribe does not have municipal officials.

Section 5. The reference to municipality is deleted.

Section 6. The references to municipality are replaced with references to local government.

MAY 09 RECD

Section 7. A reference to local taxes replaces the statutory citation to provisions dealing with municipal taxation.

Section 8. The Department of Community and Regional Affairs is required to determine an estimated full and true assessed property value for Indian reserves in the way that it makes the determination for second class cities.

Section 9. Reference to municipality is replaced by reference to local government.

Section 10. The provision dealing with use of revenue for areawide or nonareawide purposes is clearly made applicable only to municipalities. The distinction between areawide and nonareawide does not apply to an entity such as an Indian tribe.

Sections 11, 12, 13, 14, and 15. References to municipality are replaced with references to local government.

Section 16. The definition of taxing unit is expanded to include an Indian tribe located on a federally established Indian reserve. Indian reserve is defined under Sec. 17 of this draft.

Section 17. A definition of local government is added. This includes municipalities and Indian tribes located on federally established Indian reserves. Indian reserve is defined to mean a federally established Indian reserve that existed before enactment of the Alaska Native Claims Settlement Act and continued in existence under the terms of that Act. Under this draft Metlakatla Indian Community qualifies for aid currently provided only to municipalities.

Section 18. References to municipality are replaced with references to "local government". Under this draft an Indian tribe qualifies for aid in the manner of a municipality for purposes of AS 29.89 (Aid for Miscellaneous Purposes).

Sections 19, 20, and 21. References to municipality are replaced with local government.

Section 23. The section providing for aid to Native village governments formed under the Indian Reorganization Act is altered to exclude those governments of Indian tribes located on federally established Indian reserves since these

entities receive aid under this draft as is now provided for municipalities.

Section 24. A definition of local government is added for purposes of determining which entities qualify for aid under AS 29.89. These are municipalities, as under existing law, and Indian tribes located on federally established Indian reserves in existence prior to enactment of the Alaska Native Claims Settlement Act and continued in existence under that Act.

Section 25. Minimum payments provided to municipalities under the aid program commonly referred to as revenue sharing are also provided to Indian tribes that qualify for aid under that program.

Section 26. The provision for area cost-of-living differential payments to municipalities is extended to include payments to Indian tribes.

Section 27. The method of determining the amount of a minimum payment is made applicable to Indian tribes as well as to municipalities.

Section 28. The program of municipal assistance administered by the Department of Revenue is made applicable to Indian tribes as well as municipalities.

Section 29. The provision dealing with the method of distribution of municipal aid applies to Indian tribes as well as to municipalities.

Section 30. A method of determining the base amount of aid to be distributed to Indian tribes is added. Indian tribe is defined for purposes of the municipal aid program to include Indian tribes located on federally established Indian reserves existing prior to enactment of the Alaska Native Claims Settlement Act and continued in existence under the Act.

Section 31. An effective date of July 1, 1983 is provided to tie this draft to the fiscal year.

# STATE OF ALASKA

Bill Sheffield, Governor

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

May 6, 1983

### POSITION PAPER

RE: CSSB 228

SPONSOR: Senator Zieqler

#### PROGRAM EFFECTS OF THE BILL

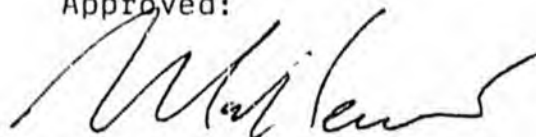
Allows federally established Indian reserves to be considered "local governments" for purposes of the State Revenue Sharing and Municipal Assistance grant programs. In effect, only one community, Metlakatla, would benefit from this legislation because it is the only Indian reservation in Alaska. Under the terms of the Alaska Native Claims Settlement Act no new reservations may be established in the State.

#### COMMENTS

The Department generally favors this bill from the perspective that it extends the benefits of two vital State aid programs to another type of municipality that is providing needed services to its residents. Metlakatla Indian Community is a federally chartered municipality and, therefore, is not empowered by Title 29 of the Alaska Statutes. However, it functions like a municipality and is providing a full range of local services to the Alaskans living on the reserve and should be afforded the most liberal interpretation possible under the State Revenue Sharing and Municipal Assistance programs.

The Department cannot comment on the possible legal ramifications or precedents that might occur with passage of this legislation as they relate to dealing with other unincorporated communities and Indian tribes. The Department defers to the Department of Law on this question.

Approved:



Mark Lewis, Commissioner

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 228  
 Title: State Aid for Indian Tribes  
 Sponsor: Ziegler  
 Requestor: Senate Comm. & Regional Affairs

II. FISCAL DETAIL Community and Regional

Agency Affected: Affairs  
 Program Category Affected: Development  
 BRU, Program of Subprogram(s) Affected: Local Government Assistance Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
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						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainey *RR* Phone: 465-4703  
 Division: Commissioner's Office Date: 5/6/83  
 Approved by Commissioner: *[Signature]* Date: 5/6/83  
 Department: Community and Regional Affairs

Distribution:

Original to Legislative Finance  
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3/8/83

# 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

May 16, 1983

The Honorable Donald E. Gilman  
Senator  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: CSSB 228

Dear Senator Gilman:

At your request we have reviewed the proposed CSSB 228. You asked whether the bill would affect the State's relationship with unincorporated communities or Native village governments. The bill amends the revenue sharing (AS 29.88 and AS 29.89) and municipal assistance (AS 43.20.016) programs to include Indian tribes located on federally established reserves which were not revoked by the Alaska Natives Claims Settlement Act (ANCSA), 43 U.S.C. 1601-1628. The only community which fits this description is the Metlakatla Indian community.

We see no legal problem with including Metlakatla as a recipient of the various programs established to benefit local governments. However, we believe that the use throughout the bill of the term "Indian tribe", and the omission of any reference to Metlakatla, may suggest to a reader not intimately familiar with AS 29 and ANCSA, that the effect of the bill is much broader. This effect could be avoided by replacing all references to "Indian tribe" with "the Metlakatla Indian community." We believe that the specific reference to Metlakatla would not cause the bill to be viewed as a local or special act in violation of Alaska Const. art. II, § 19, because it would have precisely the same effect as the use of the term "Indian tribe" as defined in CSSB 228 -- that is, "Indian tribe" as defined in the bill is a class of one, Metlakatla being the only federally established Indian reserve in Alaska not revoked under ANCSA. In order to simplify the statute and avoid confusing the reader we suggest referring to Metlakatla specifically, as well as identifying it as the only federally established Indian reserve in Alaska.

We note that AS 29.89.050 "State Aid to Native Village governments" is amended in the bill, to clarify that Metlakatla may not qualify both as a local government and as a Native village government. We have advised in the past that AS 29.59.050

The Honorable Donald E. Gilman

May 16, 1983  
Page 2

could be challenged on equal protection grounds by an unincorporated community which is not a Native village. We suggest repealing AS 29.89.050, and supplanting it with a provision for aid to unincorporated communities generally.

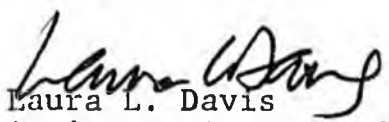
As a general practice in drafting legislation affecting Native villages in Alaska, you should consider including a provision of legislative intent to the effect that neither the act nor any action taken under it shall be interpreted to either expand or diminish the authority or jurisdiction any Native village council may have. This would reduce the possibility that any legislative act benefitting Native village communities may be interpreted to alter the relationship between the State and those communities.

We hope that this brief response is helpful in your consideration of CSSB 228.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Laura L. Davis

Assistant Attorney General

LLD:dlm

cc: Tam Cook  
Legislative Affairs Agency

I. REQUEST

Bill/Resolution No: SB 228  
 Title: State aid for Indian tribes  
 Sponsor: Ziegler  
 Requestor: Senate Comm. & Reg. Affairs

II. FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Rev. Coll & Mgmt.  
 BRU, Program of Subprogram(s) Affected: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>	-	-	-	-	-	-
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<b>REVENUE</b>	-	-	-	-	-	-
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Ervin B. Jones Phone: 465-2313  
 Division: Administrative Services Date: 5/16/83

Approved by Commissioner: Joseph K. Donohue Date: 5/17/83  
 Department: Revenue

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)

SB 228

IV. ANALYSIS:

This bill will have no effect on the administrative cost of the municipal assistance program in the Department of Revenue. The effect of section 30 will be to dilute the amount to be shared per capita, as a result of increasing the base amount shared. Since the population of the only known such Indian Reserve (Metlakatla) is approximately 1200 persons, the effect on other communities will be minimal.

Assumptions: I assume the substitution of the word "municipalities" in place of "organized boroughs and cities of any class" does not further broaden the field of eligible recipients of municipal assistance.

ELIGIBILITY OF THE METLAKATLA INDIAN COMMUNITY FOR  
STATE REVENUE SHARING AND MUNICIPAL AID PROGRAMS

March 4, 1983

Prepared By:

Steven S. Anderson  
ZIONTZ, PIRTLE, MORISSET,  
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1100 Olive Way  
Seattle, WA 98101

Attorneys for the  
Metlakatla Indian Community

## INTRODUCTION

The purpose of this paper is to show the justification for amending Alaska's laws to make the Metlakatla Indian Community eligible for various state municipal aid programs. At the present time, the Community's treatment under Alaska law is somewhat confusing and inconsistent. On the one hand, the Alaska Attorney General has ruled that the Metlakatla Indian Community is not a "municipality" as that term is defined in various state statutes making state monies available to local governments. At the same time, however, the Attorney General has ruled that the Metlakatla Indian Community can be classified as an "unincorporated community" for certain purposes so as to be eligible for various state programs extending aid to such communities.

This paper will demonstrate that although the Metlakatla Indian Community is organized under federal law, and is therefore not a state law municipal corporation, it nevertheless functions as an established unit of local government, a fact recognized both by the State of Alaska and the United States.

Unlike the so-called "unincorporated communities," the Metlakatla Indian Community operates a "municipal" government and provides governmental services to the more than 1,300 residents of the Annette Islands Reserve. These services include police and fire protection, water, sewer and electrical service, as well as general government. Like other local governments, the Community enacts and enforces laws and has an established judicial system. For these reasons, classification of the Metlakatla

Indian Community as an "unincorporated community" ignores the realities of Metlakatla's extensive governmental operations and the needs it has for funding the services it provides. This paper will discuss in some detail the Community's status under federal and state law, the need for state revenues, and the reasons that Metlakatla's unique status justifies its inclusion within these state municipal aid programs.

THE METLAKATLA INDIAN COMMUNITY'S ELIGIBILITY FOR  
STATE FINANCIAL ASSISTANCE UNDER EXISTING ALASKA LAW

The State of Alaska now makes substantial sums of money available to local units of government throughout the state. This occurs not only through the State's revenue sharing programs but also through state statutes that make monies available to local governments for specific projects within local government responsibility. The primary revenue sharing programs include the Municipal Assistance Fund administered by the Department of Revenue, AS 43.20.016 and the Municipal Tax Resource Equalization Program found in AS 28.88.010 et seq. The examples of state aid for miscellaneous municipal purposes are numerous including such programs as state aid to municipalities seeking to build or improve water and sewer systems, AS 46.03.030, as well as the state program found in AS 29.89.030 et seq. providing aid for municipalities maintaining roads, operating health facilities, and maintaining volunteer fire departments.

For the most part, the Metlakatla Indian Community is not eligible for these programs because it is not a "municipality"

within the meaning of the various state statutes that make these programs available to local governments. Last year, for example, the Metlakatla Indian Community applied for aid to the Department of Environmental Conservation for a grant under AS 46.03.030 for improvements to the Community's public water system. The Department of Environmental Conservation requested an opinion from the Alaska Attorney General as to whether Metlakatla was eligible, and the Attorney General, on July 28, 1982, issued an opinion noting that the Metlakatla Indian Community was an Indian tribe organized under § 16 of the Indian Reorganization Act, 25 U.S.C. § 476 and was "not incorporated as a city or organized as a borough under the laws of the State of Alaska." As a result, the Attorney General ruled, Metlakatla was not a "municipality" within the meaning of the statute and was not eligible for state aid. The Attorney General went on to note, however, that there was no legal prohibition on the Legislature making grants available to the Metlakatla Indian Community if the Community were designated as eligible. A copy of the Attorney General's Opinion is attached.

On the other hand, the Metlakatla Indian Community has qualified for state aid in certain circumstances, either because the statute makes state aid available to persons or organizations other than "municipalities," or in the case of a number of state programs, because the aid has been made available to "unincorporated communities." For the most part, the amounts made available to the "unincorporated communities" are substantially less than

the amounts made available to "municipalities." For example, AS 29.88 makes a maximum grant of \$25,000 available to communities not incorporated under state law, while that amount is the minimum grant for municipalities and is subject to adjustment upward based on a formula set out in the statute. The singular exception was the Municipal Aid Program, Chapter 60, SLA 1981, which made grants available to both municipalities and incorporated communities calculated on a \$1,000 per capita basis. Metlakatla, like other incorporated and unincorporated communities throughout the State of Alaska will receive a substantial grant from the State under this program.

Presumably, there are several principal reasons that the Legislature has chosen to make larger sums available to municipalities than to unincorporated communities. First, municipalities have governmental responsibilities to perform and therefore need more assistance. Second, their stable governmental structures ensure that State monies are spent or invested in a responsible fashion; they are more accountable than "unincorporated communities." Third, in contrast to State programs distributing State wealth to individual Alaskans on a per capita basis, distributions of state money to local governments ensures that substantial portions of the money will be invested in permanent improvements of long-standing benefit to the citizens of the State.

Although the Metlakatla Indian Community is organized under federal rather than state law, it more closely resembles a "muni-

cipality" than it does an "unincorporated community." If the State of Alaska were to make its revenue sharing programs available to the Community, it would be assured that the money would be utilized responsibly by the Community in helping to meet its very substantial governmental responsibilities. It would result in permanent benefit to the State citizens who reside on the Annette Islands Reserve, both members and nonmembers of the Community.

#### THE UNIQUE LEGAL STATUS OF THE METLAKATLA INDIAN COMMUNITY IN ALASKA

The Metlakatla Indian Community is the governing body of the only remaining federal Indian reservation in Alaska, the Annette Islands Reserve. The Reservation was established by Act of Congress in 1891 and a stable council-form tribal government has been in effect continuously since that date. In 1944, the Metlakatla Indian Community adopted a Constitution under § 16 of the Indian Reorganization Act, 25 U.S.C. § 476, which provided a new federal framework for Indian tribal government. The form of the Community's government, however, remained essentially the same.

The Community's chief executive officer is the Mayor; it has a Secretary and Treasurer and its legislative body is a 12-person Council. The Community also has a judicial system headed by a federally-trained Magistrate. As a federally recognized Indian tribe the Metlakatla Indian Community enjoys the legal power to perform traditional local government functions. Like other tribes, it enacts and enforces civil and criminal laws and has

power to levy taxes, although its tax base is very limited. While Indian tribes enjoy a status in American law that is unique, for present purposes the Metlakatla Indian Community can be described as a federally chartered municipal corporation because it carries out the same types of governmental functions as do state-chartered municipal governments.

In Alaska, after the Alaska Native Claims Settlement Act was passed by Congress in 1971, Metlakatla's situation became unique. Under § 19(a) of ANCSA, all Indian reservations in Alaska, with the sole and express exception of the Annette Islands Reserve, were abolished. In addition, § 19(a) provides that no person enrolled in the Metlakatla Indian Community is eligible for benefits under the Act.

The unique status of the Metlakatla Indian Community was explicitly recognized by Congress in the Indian Tribal Governmental Tax Status Act of 1982. That statute provides that for certain federal tax purposes, Indian tribal governments shall be treated as states. The legal effect of the statute was to provide that Indian tribes, like state and local governments, would receive favorable tax treatment under the Internal Revenue Code. Thus, contributions made to Indian tribes are now tax deductible as are contributions made to state and local governments. Indian tribes are now entitled to immunity from certain federal excise taxes. And Indian tribes, like state and local governments, can now issue certain kinds of bonds, the interest on which is exempt from

federal income tax. The definition section of the statute provides that

The term 'Indian tribal government' means the governing body of any tribe, band, community, village, or group of Indians which is determined by the Secretary, after consultation with the Secretary of Interior, to exercise substantial governmental functions and in Alaska shall include only the Metlakatla Indian Community.

Section 203.

Consistent with its clear governmental status, the responsibilities of the Metlakatla Indian Community for the governance of the more than 1,300 people resident on the Annette Islands Reserve are substantial. For the fiscal year ended September 30, 1982, the Metlakatla Indian Community had total expenses of more than 1.7 million dollars. Of this sum, approximately one million dollars are associated with general government operations including expenses for building operations, road and street maintenance as well as the expenses of general accounting and administration. The other single most important expense was the Community's Police Department which accounted for 16.4% of the total budget. The following chart shows the breakdown of expenditures by the Metlakatla Indian Community on a dollar and percentage basis.

	Expenditures	Percent of Total
General Government	\$1,029,882	57.4%
Fire Department	\$ 55,284	3.1%
Rental Expenses	\$ 144,683	8.1%
Public Health and Sanitation Department	\$ 32,263	1.8%
Sewer System	\$ 6,088	0.3%
Police Department	\$ 294,368	16.4%
Water Department	\$ 30,928	1.7%
Garbage Department	\$ 52,730	2.9%
Cable Television Department	\$ 69,743	3.9%
Forestry Project	\$ 76,853	4.4%

This data does not include the operation of Metlakatla Power & Light, which is responsible for providing electric power to the Reservation. Metlakatla Power & Light is fully owned and operated by the Metlakatla Indian Community and generates power from both hydrogenerators and diesels.

In sum, although the Metlakatla Indian Community is organized under federal law, not under the laws of the State of Alaska, it nevertheless performs governmental functions and has governmental responsibilities that are every bit as extensive as the municipalities of the State of Alaska serving similar population bases. It has a corresponding need for revenues to meet these expenditures.

REASONS FOR EXTENDING MUNICIPAL REVENUE SHARING  
AND OTHER STATE BENEFITS MADE AVAILABLE TO LOCAL COMMUNITIES  
TO THE METLAKATLA INDIAN COMMUNITY

1. The Residents of the Annette Island Reserve Are Citizens of the State of Alaska and Should Not Be Denied Benefits Enjoyed By Other State Citizens Through Their Units of Local Government.

It is important to remember that the residents of the Annette Islands Reserve, both members and nonmembers of the Metlakatla Indian Community, are state citizens. As such they qualify for any distributions of Alaska's wealth made available on a per capita basis to state citizens. Rather than distributing money directly to state citizens on a per capita basis, the Legislature has determined that state revenues should be shared with state citizens indirectly, through grants to individual municipal governments. The best example of this is the Municipal Assistance Fund, AS 43.20.016, under which 30% of the oil and gas corporate income tax revenues are distributed to state municipalities, the amount of the grant being directly proportional to the population of each municipality.

Metlakatla fully supports the substantial policy justification for distributing state wealth through this method. By giving the money to stable local governments, the Legislature is assured that the money will be spent responsibly. The Legislature can reasonably expect that the monies so distributed will be invested in ways that will be of lasting benefit to the citizens of the State, as when the local governments utilize the state grants to build public facilities used by state citizens.

But if the rationale for distributing state wealth to units of local government is that the Legislature wants to see substantial portions of the money permanently invested by responsible governments in a way that will be of lasting benefit to state citizens, there is no reason to distinguish the Metlakatla Indian Community. Although the Metlakatla Indian Community is chartered under federal, not state law, it exercises governmental functions just as state municipalities do. The Metlakatla Indian Community has had a stable and continuous tribal government for more than eight continuous decades. The Legislature can be assured that money distributed to Metlakatla will be applied in a responsible fashion and in ways that will provide lasting benefit to the state citizens who reside there. To deny Metlakatla participation in state revenue sharing and other municipal aid programs, is to deny Alaska state citizens residing at Metlakatla substantial benefits other citizens enjoy.

2. Because of the Very Substantial Cutbacks in Federal Aid to Indian Tribes, the Metlakatla Indian Community Is in Substantial Need of State Assistance.

Although in the past the Metlakatla Indian Community has received substantial federal aid, the situation has changed dramatically for the Metlakatla Indian Community, as for other Indian tribes, under the Reagan administration. On a national level, it is estimated by the National Tribal Chairmen's Association in Washington, D.C. that with the budget cuts of October, 1982, there has been a 45% reduction in federal dollars made available to Indians and Indian tribes on the various reservations through-

out the country. Even the Bureau of Indian Affairs concedes that there has been at least a one-third cutback in federal dollars made available to the tribes.

By way of illustration, on the Annette Islands Reserve, the following programs have received the following cutbacks:

Program	Fiscal Year 1982 Entitlement	Fiscal Year 1983 Entitlement	Percentage Reduction
CETA	\$326,000	\$162,000	50%
Indian Community Health Program	\$ 80,000	\$ 55,000	31%
EDA Grant	\$ 40,000	\$ 30,000	25%
Senior Citizens Program	\$112,000	\$ 82,000	29%
BIA Welfare Assistance	\$ 20,000	-0-	100%

The Metlakatla Indian Community has had very substantial difficulties in making up for these federal cutbacks. At the present time, the level of unemployment on the Annette Island Reserve is 61%. Employment does vary seasonally, but the primary reason for the extraordinarily high level of unemployment now is that the sawmill run by Louisiana-Pacific has closed.

Metlakatla also suffers substantially because of the depressed salmon market. Although the Community itself has had no salmon recalled from its Community operated cannery, the botulism scare has had a substantial impact. This directly impacts funding of the Community's government because profits from the Community cannery and cold storage enterprise are traditionally

applied to the Community's governmental operating expenses rather than being distributed on a per capita basis to the members of the Community.

In addition, although the Community has in the past been able to enjoy substantial revenues from timber sales, the prospect for future sales looks glum. Not only is the timber market presently depressed, but first growth timber has already been largely harvested and it will be many decades before the second growth timber is marketable. The Community estimates that only ten million board feet of original growth timber remain.

3. The Metlakatla Indian Community Functions More Like a "Municipality" Than an "Unincorporated Community" and Should Be Funded Accordingly.

As explained above, the Metlakatla Indian Community, like municipalities organized under state law, has considerable governmental functions and responsibilities. It provides a stable government, substantial municipal services such as water, sewer, and electricity, and police and fire protection to name only a few examples. It also provides substantial social services to the members and nonmembers of the Community who reside on the Annette Islands Reserve.

Unlike the "unincorporated communities" in the unorganized borough, the Metlakatla Indian Community has a need for revenue that is parallel to the governmental services it provides. The mere fact that its charter derives from federal law rather than state law is not a reasonable basis for disqualifying Metlakatla from state revenue sharing programs and other types of state

municipal aid. Amendment of the State statutes to give Metlakatla entitlement will substantially help to equalize the treatment of citizens of the Metlakatla Indian Community and other citizens resident in comparable communities throughout the State.

4. Extension of State Aid to the Metlakatla Indian Community Will Not Give the Community or Its Residents More Favorable Treatment Than Other Similarly Situated State Citizens.

Although the Metlakatla Indian Community does have a unique legal status in Alaska because it is a reservation and because it is excluded from the Alaska Native Claims Settlement Act, the Community believes that its residents would not receive any undue advantage over other Alaska Natives if state laws were amended to make Metlakatla eligible for municipal revenue sharing. First, although the Metlakatla Indian Community gets federal aid because of its status as a federally recognized Indian tribe, it is important to recognize that the other Indian Reorganization Act entities and traditional councils in Alaska also receive the same aid. For example, the Indian Self-Determination Act of 1975 provides that the United States can contract with Indian tribes to allow the tribes to perform various functions that were formerly performed by the Bureau of Indian Affairs or other United States entities. Substantial federal funds, usually referred to as 638 funds, are provided to the Metlakatla Indian Community and other tribes under this program.

But Metlakatla enjoys no special benefit here because the Act defines "Indian tribe" to include not only the Metlakatla

Indian Community but also other Native groups in Alaska. The statute provides that the word "tribe" includes "any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." Similarly, the Indian Financing Act of 1974, 25 U.S.C. § 1451 et seq., the Indian Health Care Amendments of 1980, 25 U.S.C. § 1601 et seq., the Tribally Controlled Community College Assitance Act of 1978, 25 U.S.C. § 1801 et seq., and the Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq., have all been extended to include other Native communities in Alaska.

Other federal programs, not administered by the Bureau of Indian Affairs, such as HUD, CETA and EDA programs, have been extended to other Alaska Native communities as well as to Metlakatla.

On the other hand, while ANCSA provides that the Metlakatla Indian Community was allowed to retain its reservation status, the statute also provides that the Metlakatla Indian Community and its members are not eligible for the benefits of the Act.

It is also important to realize that as to Natives who reside in communities of substantial size, similar to Metlakatla, state benefits are extended to them because, in most if not all situations, there is a municipality, either a first or second class city or a borough, located there. Attached to this paper is a document prepared by the Tribal Operations Office of the

Bureau of Indian Affairs showing the status of the various Native communities in Alaska. As can be seen, a very substantial number of the communities determined to be eligible by the BIA for federal assistance because of their "Indian" status are also incorporated under state law as a first or second class city. The Natives who reside in such communities, therefore, like other state citizens generally, are eligible for the benefits of state revenue sharing.

Also attached is a computer run by the Department of Community and Regional Affairs showing the amount of state revenue sharing entitlements for various state law municipalities under Title 29 for fiscal year 1982. Looking at those communities with populations similar to that of Metlakatla, one can see that the amounts of state money distributed under Title 29 to such communities are substantial. A few examples will suffice:

<u>Municipality</u>	<u>Population</u>	<u>Fiscal Year 1982 Entitlement</u>
Bristol Bay Borough	1,182	\$ 257,237
<u>First Class Cities:</u>		
Craig	560	\$ 142,110
Haines	1,017	\$ 177,619
<u>Second Class Cities:</u>		
Akolmiut	695	\$ 151,277

Even communities with relatively small populations are receiving substantial amounts of state money. The community of

Lower Kalskag, with a population of 244, for example, qualifies for \$98,540 in revenue sharing for fiscal year 1982.

STATE PROGRAMS FOR WHICH THE METLAKATLA INDIAN COMMUNITY  
DOES NOT QUALIFY

Revenue Sharing Measures.

The most important programs for which the Metlakatla Indian Community does not presently qualify are the on-going state revenue sharing programs. There are now two such primary programs in existence:

1. Municipal Assistance Fund--AS 43.20.016. Under this program, administered by the Department of Revenue, 30% of the general and petroleum corporate income tax revenues received by the State are distributed to municipalities--"organized boroughs and cities of any class." There is no specific statutory requirement as to how the funds should be used but the statute expresses the desire of the Legislature that local governments which levy property taxes should reduce those levies in reasonable proportion to the amount of increased state aid received.
2. Municipal Tax Resource Equalization--AS 29.88.010 et seq. The Department of Community and Regional Affairs administers a program under which the Department distributes state revenues to municipalities which are calculated based on a complex formula. The primary variable are population and the "millage rate equiva-

lent" which is determined according to the assessed property values in the locality. Metlakatla is not eligible for the revenue sharing program because it is not a municipality under the statute. AS 29.89.050 does provide, however, that Native Village governments, including local governing bodies organized under the Indian Reorganization Act, are eligible for a \$25,000 payment. Under the Revenue Sharing Program, however, \$25,000 is the minimum, not the maximum payment.

As noted above, the revenue sharing entitlements for various local governments in the State with a population similar to Metlakatla are often very substantial. The Bristol Bay Borough, with a population of 1,182, for example, has a 1982 entitlement of \$157,000. Haines, a first class city with a population of 1,017, has a 1982 entitlement of \$177,000. Akolmiut, a second class city with a population of 695, has a 1982 entitlement of \$111,734. It is impossible to determine at this time what Metlakatla's entitlement would be, but it would presumably be substantially more than the \$25,000 it is now eligible to receive.

Other State Programs for Aid to Municipalities.

1. State Aid for Miscellaneous Municipal Purposes. AS 29.89 provides for additional state aid to municipalities for various purposes. AS 29.89.020 provides for state aid to municipalities for road maintenance. Metlakatla does not qualify for this program. The same

chapter also provides for state aid to municipalities for health facilities and hospitals. The Community does not qualify for this program. Title 29 does contain a program for which the Community does qualify, a \$10 per capita grant to volunteer fire departments which does not turn on the presence of a state law "municipality."

2. Public Library Construction Grants. AS 14.56.350 provides for the administration of a program of grants to municipalities for the construction and equipping of libraries. Metlakatla does not qualify under this grant program since it is not a municipality. Presumably Metlakatla also does not qualify for library assistance grants under AS 14.56.300.
3. Water, Sewer and Solid Waste Aid. AS 46.03.030 provides that the Department of Environmental Conservation may make grants up to 50% of the eligible costs for water supply, sewerage and solid waste facilities. Only municipalities are eligible. The State has also established a village safe water program, but Metlakatla does not qualify for this program either because only unincorporated communities with populations less than 600 persons are eligible.
4. Outdoor Recreational, Open Space and Historic Properties Development. AS 41.22.010 provides for a grant

program to municipalities to acquire, preserve or protect historic sites, buildings and monuments. Only municipalities qualify.

5. AS 41.20.355 established a program for the establishment of public ways for trails and footpaths. Again, only municipalities qualify.
6. Municipal Airport Aid. AS 35.05.020 et seq. provides for state aid to "political subdivisions" for airports. Presumably the Community would not qualify.
7. Port Facilities Development. AS 30.15.010 provides for state grants for port facilities construction to municipalities.

This list may not be exclusive.

#### CONCLUSION

This paper has been designed to provide general background concerning the State of Alaska's treatment of the Metlakatla Indian Community with respect to state municipal aid programs. It has demonstrated that although the Metlakatla Indian Community is organized under federal, not state law, it nevertheless performs governmental functions and has governmental responsibilities that are every bit as extensive as the municipalities in the State of Alaska serving similar population bases. The Community believes that its disqualification from participation in such programs, particularly the revenue sharing programs, discriminates against Alaska citizens residing on the Annette Island Reserve compared to state citizens in other similar communities. This disparate

treatment is not a result of a policy decision by the state legislature to exclude Metlakatla. It should be corrected by amendment of the State statutes.

MK/3483  
F3/MIC/ELIG/P

# MEMORANDUM

# State of Alaska

TO: Ernst W. Mueller, Commissioner  
Department of Environmental  
Conservation

DATE: July 28, 1982

FILE NO: 366-747-82

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Metlakatla Indian  
Community grant  
eligible under  
AS 46.03.030

By: Robert E. Price  
Assistant Attorney General

*RR Price*  
**RECEIVED**  
AUG 02 1982

ALASKA DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION

This is in response to your opinion request of June 7 in which you asked whether the Metlakatla Indian community is entitled to receive construction grant assistance under AS 46.03.030.

AS 46.03.030 provides for grants of state funds to a "municipality" for public water supply, sewerage and solid waste facilities.

AS 46.03.900(11) defines "municipality" as "an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise."

The Metlakatla Indian Community is an entity organized under section 16 of the Indian Reorganization Act, 25 U.S.C. 476. It is not incorporated as a city or organized as a borough under the law of the State of Alaska.

The definition of municipality in AS 46.03.900(11) does not include the Metlakatla Indian Community. It is not an organized borough or an incorporated city within the meaning of the statute. The Alaska Constitution, Article X, deals with local government within the context of boroughs and cities which are incorporated under state law. The definition of municipality in AS 46.03.900(11) should be construed within the framework of Article X of the Alaska Constitution inasmuch as it employs the words "borough" and "city" which are set out in the constitution.

There is no equal protection problem raised by the statute caused by the exclusion of the Metlakatla Indian Community from benefits under the statute because the basis of the exclusion is governmental and not race. The Metlakatla Indian Community may become a city or borough under state law upon compliance with the applicable provisions of Title 29. The equal protection clause does not deny to States the power to treat dif-

Ernst W. Mueller, Commissioner  
Dept. of Environmental Conservation  
366-747-82

July 28, 1982  
Page 2

ferent classes in different ways so long as the classification is "reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." Reed v Reed, 404 U.S. 71, 75-76, 30 L.Ed. 225, 229 (1971).

Further, this opinion does not mean that the legislature may not make grants to the Metlakatla Indian Community by designating that entity as eligible for a grant. See page 83 of 1982 SLA 101 for a grant to Metlakatla specifically within the group of municipalities. However, the statute must either include Metlakatla within a group, for example, as an unincorporated, or specifically describe the Metlakatla Indian Community as a grant recipient.

REP/jb

TRIBAL OPERATIONS OFFICE - JAO  
Alaska Tribal Status

JULY 1982

Village Name	638 GRANTS	ANCSA VILLAGE	DETERMINED ELIGIBLE BY BIA	IRA COUNCIL	TRADITIONAL COUNCIL	BIA MARCH 72 LIST	HOME RULE	1ST CLASS CITY	2ND CLASS CITY
Afognak		X	X						
Akhiok		X	X		X	X			X
Akiachak	X	X	X	X		X			X
Akiak	X	X	X	X		X			X
Autan		X	X		X	X			X
Alakanuk	X	X	X		X	X			X
Alatna	X	X	X		X				
Aleknagik		X	X		X	X			X
Aleutian Pribilofs	X								
Alexander Creek									
Algaacig(St. Mary's)	X	X	X		X	X		X	
Allakaket	X	X	X		X	X			X
Ambler	X	X	X		X	X			X
Anaktuvuk Pass		X	X		X	X			X
Andreafsky (Andrefscy)		X	X		X				
Angoon	X	X	X	X		X			X
Aniak	X	X	X		X	X			X
Anvik	X	X	X		X	X			X
Arctic Village		X	X		X	X			

Village Name	638 GRANTS	ANCSA VILLAGE	DETERMINED ELIGIBLE BY BIA	IRA COUNCIL	TRADITIONAL COUNCIL	BIA MARCH 72 LIST	HOME RULE	1ST CLASS CITY	2ND CLASS CITY
Atka	X	X	X	X		X			
Atkasook (Atquasuk)	X	X	X		X				
Atmoutlauk	X	X	X		X	X			X
Ayakulik			X						
Barrow		X	X		X	X		X	
Bay	X	X	X		X	X			
Belkofsky		X	X		X	X			
Bells Flats			X						
Bethel (Orutsaramuit)	X	X	X		X	X			X
Bettles (Bettles Field)	X		X		X	X			
Bill Moore's		X	X						
Biorka		X							
Birch Creek	X	X	X		X	X			
Brevig Mission		X	X		X	X			X
Bristol Bay						X			
Buckland	X	X	X	X		X			X
Candle		X				X			
Cantwell	X	X	X		X	X			
Canyon Village		X				X			
Chalkyitsik	X	X	X		X	X			

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Chaloonawick			X		X	X			
Chaneliak						X			
Chanilut		X							
Chefornak (Cherfornak)	X	X	X		X	X			X
Chenega	X		X	X		X			
Chevak	X	X	X		X	X			X
Chickaloon	X		X		X				
Chignik	X	X	X		X	X			
Chignik Lagoon	X	X	X		X	X			
Chignik Lake	X	X	X		X	X			
Chilkat (Klukwan)	X	X	X	X		X			
Chistochina	X	X	X		X	X			
Chitina	X	X	X		X				
Chuathbaluk	X		X		X				X
Cookwuktoligamute		X							
Churarbalik (Russian Mission-Kuskokwim)						X			
Circle	X	X	X		X	X			
Clark's Point		X	X		X	X			X
Cook Inlet	X								
Copper Center	X	X	X		X	X			

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Cordova						X	X		
Council			X						
Craig	X	X	X	X		X		X	
Crooked Creek	X	X	X		X	X			
Deering	X	X	X	X		X			X
Delta Junction						X			X
Dillingham	X	X	X		X	X		X	
Dot Lake	X	X	X		X	X			
Douglas				X		X			
Eagle	X	X	X		X	X			
Eek	X	X	X		X	X			X
Egegik	X	X	X		X	X			
Eklutna	X	X	X		X	X			
Ekuk		X	X		X	X			
Ekwok		X	X		X	X			X
Elim		X	X	X		X			X
Emmonak		X	X		X	X			X
English Bay	X	X	X		X	X			
Eyak	X		X		X				
Fairbanks	X						X		

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False Pass	X	X	X		X	X			
Farewell						X			
Flat						X			
Fort Yukon	X	X	X	X		X			X
Gakona		X	X		X				
Galeana		X	X		X	X		X	
Gambell	X	X	X	X		X			X
Georgetown		X	X			X			
Golovin		X	X		X	X			X
Goodnews Bay	X	X	X		X	X			X
Grayling (Holikachuk)	X	X	X	X		X			X
Gulkana	X	X	X		X	X			
Haines (Chilkoot)	X			X		X		X	
Hamilton		X	X			X			
Healy Lake			X		X				X
Holy Cross	X	X	X		X	X			X
Hoonah	X	X	X	X		X		X	
Hooper Bay	X	X	X		X	X			X
Hughes	X	X	X		X	X			X
Huslia	X	X	X		X	X			X

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Hydaburg	X	X	X	X		X		X	
Igiugig	X	X	X		X				
Iliamna	X	X	X		X	X			
Inalik (Diomede)		X	X	X		X			X
Inupiat CAS				X		X			
Knob Bay		X	X		X	X			
Juneau	X	X	X				X		
Kaguyak		X	X						
Kake	X	X	X	X		X		X	
Kaktovik	X	X	X		X	X			X
Kalskag (Upper Kalskag)		X			X	X			X
Kaltag	X	X	X		X	X			X
Kanatak				X		X			
Karluk	X	X	X	X		X			
Kasaan		X	X	X		X			X
Kasigluk	X	X	X		X	X			
Kenaitze	X			X		X			
Kenai		X	X						
Ketchikan	X			X		X	X		
Kiana	X	X	X		X	X			X

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King Cove		X	X		X	X		X	
King Island	X		X	X		X			
Kipnuk	X	X	X		X	X			
Kivalina	X	X	X	X		X			X
Klawock	X	X	X	X		X		X	
Kolik			X		X				
Kobuk		X	X		X	X			X
Kodiak	X	X	X				X		
Kokhanok		X	X		X	X			
Koliganek	X	X	X		X	X			
Kongiganak	X	X	X		X	X			
Kotlik	X	X	X		X	X			X
Kotzebue	X	X	X	X		X			X
Koyuk		X	X	X		X			X
Koyukuk	X	X	X		X	X			X
Kwethluk	X	X	X	X		X			X
Kwigillingok	X	X	X	X		X			
Larsen Bay (Anton)	X	X	X		X	X			X
Lelida						X			
Levelock	X	X	X		X	X			

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Lime Village		X	X		X	X			
Litnik			X						
Louden	X								
Lower Kalskag		X	X		X	X			X
McGrath	X	X	X		X	X			X
Mek		X							
Manley Hot Springs	X	X	X		X	X			
Manokotak	X	X	X		X	X			X
Marshall (Fortuna Ledge)	X	X	X		X	X			X
Mary's Igloo		X	X						
Matanuska									X
Medfra		X							X
Mekoryuk	X	X	X	X		X			X
Metlakatla	X			X		X			
Mentasta (Lake)	X	X	X		X				
Minchumina Lake		X							X
Minto	X	X	X	X		X			
Mt. Village	X	X	X		X	X			X
Nabesna		X							
Naknek	X	X	X		X	X			

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Napaimute		X	X			X			
Napakiak	X	X	X	X		X			X
Napaskiak	X	X	X		X	X			X
Nelson Lagoon		X	X		X	X			
Nenana	X	X	X		X	X		X	
Unalakleet		X	X		X	X			X
New Stuyahok		X	X		X	X			X
Newtok	X	X	X		X	X			X
Nightmute	X	X	X		X	X			X
Nikolski		X	X	X		X			
Ninilchik	X	X	X		X	X			
Noatak		X	X	X		X			
Nikolai	X	X	X		X	X			X
Nome (Eskimo Comm.)	X	X	X	X		X		X	
Nondalton	X	X	X		X	X			X
Noorvik	X	X	X	X		X			X
Northeast Cape		X				X			
Northway	X	X	X		X	X			
Nuiqsuit (Nooiksut)	X	X	X		X				X
Nulato	X	X	X		X	X			X

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Nunapitchuk		X	X	X		X			
Ohogamuit		X	X		X				
Old Harbor	X	X	X		X	X			
Oscarville		X	X		X	X			
Ouzinkie	X	X	X		X	X			X
Paigute			X						
Palmer						X			
Paradise		X							
Pauloff Harbor (Sanak)		X	X			X			
Pedro Bay	X	X	X		X	X			
Pelican	X				X	X		X	
Perryville	X	X	X	X		X			
Petersburg	X			X		X	X		
Pilot Point	X	X	X		X	X			
Pilot Station	X	X	X		X	X			X
Pitka's Point		X	X		X	X			
Platinum	X	X	X		X	X			X
Point Hope		X	X	X		X			X
Point Lay	X	X	X	X		X			
Portage Creek		X	X		X	X			