

ALASKA LEGISLATURE COMMITTEE FILE 1985-1988 8072
3214.17 HCRA HB 190 - HB 198

326 FOURTH
OLDER ALASKANS COMMISSION
JUNEAU, ALASKA 99901
586-2107

POSITION STATEMENT: TESTIFIED IN SUPPORT OF SB 137.

WITNESS:

PATRICK SHARROCK, DIRECTOR
ALCOHOLIC BEVERAGE CONTROL BOARD
201 E. 9TH
ANCHORAGE, ALASKA 99501
277-8638

POSITION STATEMENT: COMMENTED ON PURPOSE OF SB 69.

PREVIOUS ACTION

SJR 18

PLEASE REFER TO SENATE COMMUNITY & REGIONAL
AFFAIRS COMMITTEE MINUTES DATED 02/21/85.

SJR 17

PLEASE REFER TO SENATE COMMUNITY & REGIONAL
AFFAIRS COMMITTEE MINUTES DATED 02/21/85.

SB 137

NO SENATE PREVIOUS ACTION TO RECORD ON SB 137.

SB 69

NO SENATE PREVIOUS ACTION TO RECORD ON SB 69.

ACTION NARRATIVE

TAPE#1 FOR 2/28/85, SIDE A.

RECORDING
NUMBER 000

THE MEETING OF THE SENATE COMMUNITY & REGIONAL
AFFAIRS COMMITTEE WAS CALLED TO ORDER AT 3:37
P.M. WITH ALL MEMBER SENATORS PRESENT.

NUMBER 001

CHAIR DEVRIES CALLED THE MEETING TO ORDER, ALL
MEMBERS OF THE COMMITTEE WERE PRESENT.

NUMBER 012

CHAIR DEVRIES ANNOUNCED THAT THE FIRST MEASURES
FOR CONSIDERATION WOULD BE SJR 17 AND SJR 18,
DISAPPROVING ANNEXATION OF TERRITORY BY THE CITY
OF FAIRBANKS AND DISAPPROVING ANNEXATION OF
TERRITORY BY THE CITY OF TOGIAK.

CHAIR DEVRIES CALLED THE COMMITTEE'S ATTENTION
TO THEIR COPY OF A LETTER DATED FEBRUARY 28,
1985 FROM R.S. LUCAS, REAR ADMIRAL U.S. COAST
GUARD, COMMANDER, SEVENTEENTH COAST GUARD
DISTRICT, OPPOSING THE PROPOSED CITY OF TOGIAK
ANNEXATION OF TERRITORY EXTENDING BEYOND THE
FEDERALLY RECOGNIZED LIMIT OF THE TERRITORIAL
SEA.

CHAIR DEVRIES ALSO CALLED COMMITTEE MEMBERS
ATTENTION TO THEIR COPY OF A LETTER DATED
FEBRUARY 26, 1985 FROM PATRICK J. TRAVERS,
ALASKA REGIONAL COUNSEL, U.S. DEPARTMENT OF
COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION, INDICATING THAT THE UNITED
STATES DEPARTMENT OF COMMERCE OPPOSES ANNEXATION
OF TERRITORY EXTENDING BEYOND THE 3 MILE LIMIT
OF TOGIAK BAY.

NUMBER 025

SENATOR FERGUSON STATED HE HAD SPOKEN WITH
SENATOR ZHAROFF AND SENATOR FAHRENKAMP, THE
SENATORS WITHIN WHOSE DISTRICTS THE ANNEXATIONS
OF TERRITORY WERE PROPOSED, AND THAT BOTH
SENATOR ZHAROFF AND SENATOR FAHRENKAMP ARE
OPPOSED TO THE RESOLUTIONS DISAPPROVING THE
ANNEXATIONS.

NUMBER 041

SENATOR VIC FISCHER SAID HE AGREED WITH SENATOR FERGUSON'S POSITION.

NUMBER 051

SENATOR FERGUSON REFERRING TO THE OPINIONS EXPRESSED BY THE U.S. DEPARTMENT OF COMMERCE AND THE U.S. COAST GUARD, SAID HE KNEW OF NO STATE LAW WHICH SUPERCEDED FEDERAL LAW AND IF THERE WAS A PROBLEM AT A LATER DATE, IT COULD BE WORKED OUT WITH THE FEDERAL GOVERNMENT.

NUMBER 056

SENATOR VIC FISCHER SAID HE HAD LOOKED INTO THE SAME ISSUE. HE THOUGHT IT WAS A TOTAL IRRELEVANCY. IF A STATE BOUNDARY DOES NOT AFFECT FEDERAL JURISDICTION IN ANYWAY WHATSOEVER, IT CANNOT OVERRIDE FEDERAL AUTHORITY. FROM A SEMANTICS POINT OF VIEW I THINK IT'S IMPORTANT NOT TO CALL IT A FEDERAL OPINION AND MAKE IT SOUND AS THOUGH IT'S A LEGAL OPINION. IT'S JUST SOMEBODY'S OPINION--SOMEBODY'S POINT OF VIEW. IT'S NOT THE EQUIVALENT OF AN ATTORNEY GENERAL'S OPINION OR A SORT OF LEGAL ADVICE TO US. THIS JUST HAPPENS TO BE SOME REAR ADMIRAL WHO IS EXPRESSING HIS VIEWPOINT. OUR OWN ATTORNEY'S VIEWPOINT ON THIS IS PRETTY CLEAR.

NUMBER 077

SENATOR COGHILL SAID HE WAS GOING TO SUPPORT THE RESOLUTION ON THE FAIRBANKS ANNEXATION. HE SAID HE WAS NOT GOING TO SUPPORT THE RESOLUTION ON TOGIAK BECAUSE IF AN AREA CAN BE ANNEXED THROUGH THE LEGISLATIVE PROCESS BY PUTTING HEAVY WEIGHT ON ONE OF THE NINE CRITERIA OF ANNEXATION, THEN A PRECEDENT WILL BE SET. HE INDICATED THIS WAS WHAT HE HAD BEEN TRYING TO ACCOMPLISH ON ANNEXATION IN THE NENANA AREA FOR SEVERAL YEARS. THE BOUNDARY COMMISSION HAS SAID WE HAD TO HAVE AT LEAST 4 OR 5 OF THE 9 CRITERIA. HERE THEY'VE HEAVY WEIGHTED ONE CRITERIA IN THIS, SO IT WILL SET A PRECEDENT AND WILL MAKE IT A LOT EASIER FOR SOME OF THE RURAL AREAS TO ANNEX TERRITORY. HE SAID HE WAS GOING TO SUPPORT THE RESOLUTION DISAPPROVING THE FAIRBANKS ANNEXATION FROM THE STANDPOINT THAT HE CANNOT IN GOOD CONSCIOUS VOTE FOR HAVING ONE SIDE OF A STREET GO TO THE ELECTION PROCESS AND THE OTHER SIDE THE LEGISLATIVE PROCESS WHEN THEY WERE BOTH BROUGHT INTO THE ARENA AT THE SAME TIME. SENATOR COGHILL MOVED THAT BOTH RESOLUTIONS BE PASSED OUT OF COMMITTEE WITH INDIVIDUAL RECOMMENDATIONS.

NUMBER 105

SENATOR FERGUSON MOVED THAT THE RESOLUTION DISAPPROVING THE ANNEXATION OF TOGIAK BAY BE TABLED. SENATOR COGHILL SECONDED THE MOTION TO TABLE. SENATOR FERGUSON SAID HIS MOTION TO TABLE DID NOT REQUIRE A SECOND AND IT WOULD TAKE PRECEDENCE OVER SENATOR COGHILL'S MOTION TO MOVE THE RESOLUTION.

NUMBER 112

CHAIR DEVRIES STATED SHE OBJECTED TO SENATOR FERGUSON'S MOTION TO TABLE THE RESOLUTION

DISAPPROVING THE ANNEXATION BY THE CITY OF TOGIAK. SENATOR DEVRIES STATED SHE FELT THERE WERE LEGAL RAMIFICATIONS TO APPROVAL OF THE TOGIAK BAY ANNEXATION AND THAT THE COAST GUARD HAD INDICATED THAT THEIR WASHINGTON OFFICE WAS VERY INTERESTED IN THE STATE TRYING TO ANNEX AREAS WHICH ARE WITHIN THE JURISDICTION OF THE FEDERAL GOVERNMENT. SHE FELT SERIOUS PROBLEMS WOULD DEVELOP AND SHE THOUGHT THE STATE WAS PERHAPS INVITING A LAWSUIT, PARTICULARLY SINCE THE STATE WAS ALREADY IN AN APPEAL BEFORE THE U.S. SUPREME COURT ON THE ISSUE OF TERRITORIAL BOUNDARIES. SHE SAID THIS WOULD LIKELY RESULT IN IT COSTING THE STATE A LOT OF MONEY TO BE ABLE TO SUPPORT THE TOGIAK BAY ANNEXATION. SENATOR VIC FISCHER SAID A MOTION TO TABLE WAS NOT DEBATABLE, BUT BY WAY OF RESPONSE HE QUOTED FROM TAMARA BRANDY COOK'S (DEPUTY DIRECTOR, LEGISLATIVE LEGAL SERVICES OFFICE) STATEMENT, (MEMORANDUM TO SENATOR EDNA DEVRIES DATED 2-28-85)"..AS A LEGAL MATTER I CAN THINK OF NOTHING THAT PRECLUDES THE ANNEXATION OF A PORTION OF IMPROVED PROPERTY. REGARDLESS OF WHETHER THE PROPOSED ANNEXATION OF TERRITORY TO TOGIAK BECOMES, IS APPROVED, THE BOUNDARIES OF A CITY MAY NOT INCLUDE TERRITORY THAT IS NOT WITHIN THE BOUNDARIES OF THE STATE. IF THE LEGISLATURE DOES NOT DISAPPROVE THE ANNEXATION BY RESOLUTION, IT WILL BE VALID AS TO TERRITORY DESCRIBED IN THE ANNEXATION THAT IS WITHIN THE STATE'S BOUNDARIES." HE SAID IT WOULD NOT BE VALID AS TO ANYTHING OUTSIDE THE STATE'S BOUNDARIES AND HE DIDN'T SEE ANYTHING THE COAST GUARD WOULD HAVE TO WORRY ABOUT.

NUMBER 121

NUMBER 140

A ROLL CALL ON THE MOTION TO TABLE THE RESOLUTION DISAPPROVING THE ANNEXATION OF TOGIAK BAY WAS TAKEN. SENATORS STURGULEWSKI, VIC FISCHER, FERGUSON AND COGHILL VOTED "YES", AND SENATOR DEVRIES VOTED "NO". SJR 19 DISAPPROVING ANNEXATION OF TERRITORY BY THE CITY OF TOGIAK WAS TABLED. SJR 17 DISAPPROVING ANNEXATION OF TERRITORY BY THE CITY OF FAIRBANKS PASSED OUT OF COMMITTEE WITH INDIVIDUAL RECOMMENDATIONS.

NUMBER 165

SENATOR STURGULEWSKI SAID SHE WANTED TO STATE SHE DID NOT SUPPORT SJR 17, HOWEVER SHE THOUGHT IT SHOULD PASS OUT OF COMMITTEE AND GO TO A FLOOR VOTE IN THE SENATE.

NUMBER 154

THE NEXT ORDER OF BUSINESS WAS SB 137, AN ACT RELATING TO SENIOR CITIZEN HOUSING; AND PROVIDING FOR AN EFFECTIVE DATE.

SENATOR PAT RODEY, SPONSOR OF THE BILL, EXPLAINED THAT SB 137 ESTABLISHES THE OFFICE OF SENIOR HOUSING IN THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS TO PROVIDE INFORMATION AND USE PRIVATE AND PUBLIC RESOURCES IN PROVIDING HOUSING SERVICES AND OPPORTUNITIES TO SENIOR

CITIZENS REGARDLESS OF INCOME. THE BILL ALSO WOULD CREATE THE OLDER ALASKANS' HOUSING DEVELOPMENT FUND TO BE FUNDED BY DIRECT APPROPRIATION OR BOND ISSUE FOR THE PURPOSES OF MAKING LOANS TO ELIGIBLE INDIVIDUALS AND CORPORATIONS, AND GRANTS TO MUNICIPALITIES OR PUBLIC/PRIVATE NONPROFIT CORPORATIONS TO DEVELOP SENIOR HOUSING.

NUMBER 186

JEFF SMITH, DEPUTY COMMISSIONER, DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS, TESTIFIED THAT THE BILL PROVIDES AN OPPORTUNITY TO EXPAND THE LEVEL OF HOUSING SERVICES TO SENIOR CITIZENS. HE SAID THE DEPARTMENT DID NOT HAVE SUFFICIENT FUNDS, NOR THE CAPABILITY OF REDUCING CURRENT PROGRAMS TO STAND OPERATE UP SUCH AN OFFICE AND, THEREFORE DID NOT SUPPORT THE BILL. THE

NUMBER 240

DEPARTMENT DOES NOT BELIEVE THE REVOLVING LOAN FUND WOULD HAVE SUBSTANTIAL DOLLARS IN IT OR WOULD BE A TRUE REVOLVING LOAN FUND. THE DEPARTMENT DOES SUPPORT THE CONCEPT OF THE BILL.

SENATOR COGHILL WONDERED WHAT LOANS TO CORPORATIONS MEANT. COULD ANYONE BORROW MONEY FROM THE FUND FOR ELDERLY HOUSING AND CREATE A COMMERCIAL ENTITY ON INTEREST FREE MONEY.

NUMBER 285

DEPUTY COMMISSIONER SMITH SAID THAT WAS ESSENTIALLY CORRECT AND THE PURPOSE OF THE LOANS WAS TO PROFIT AN INCENTIVE TO EXPAND THE AMOUNT OF SENIOR CITIZEN HOUSING AROUND THE STATE.

SENATOR RODEY RESPONDED THAT THERE WERE SEVERAL TYPES OF NON-PROFIT CORPORATIONS WHO WOULD BE ELIGIBLE FOR THE INTEREST FREE LOANS.

NUMBER 295

SENATOR COGHILL COMMENTED THAT IT APPEARED RULES WOULD HAVE TO BE SET UP TO MAKE SURE THE BENEFITS WOULD BE PASSED THROUGH TO SENIOR CITIZENS.

NUMBER 324

SENATOR STURGULEWSKI COMMENTED THAT AN IMPORTANT PART OF THE BILL WAS THAT PORTION DEALING WITH THE NECESSITY FOR PROVIDING A SENIOR HOUSING INVENTORY.

NUMBER 373

JON WOLFE, EXECUTIVE DIRECTOR, OLDER ALASKANS COMMISSION, COMMENTED ON THE WORK BY THE COMMISSION THAT LED UP TO THE BILL. A SURVEY DETERMINED THAT HOUSING WAS SUBSTANDARD OR DIDN'T MEET THE NEEDS OF SENIOR CITIZENS. HE SAID THE BILL WOULD ATTRACT THE PRIVATE MARKET INTO DEVELOPING OF SENIOR HOUSING.

DOVE KULL, OLDER ALASKANS COMMISSION SAID THE PURPOSE OF THE BILL WAS TO MEET THE SHORTAGE OF HOUSING WHICH PROVIDES SENIOR CITIZEN NEEDS. SHE COMMENTED ON PREVENTIVE FEATURE NEEDS IN SENIOR HOUSING.

NUMBER 427

THE NEXT ORDER OF BUSINESS WAS SB 69, AN ACT RELATING TO LICENSING AND REGULATION OF THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES; AND PROVIDING FOR AN EFFECTIVE DATE.

PAT SHARROCK, DIRECTOR, ALCOHOLIC BEVERAGE

NUMBER 000
NUMBER 054

CONTROL BOARD, SAID SB 69 WAS INTRODUCED AT THE REQUEST OF THE BOARD AND EXPLAINED THE PURPOSES OF THE BILL AND THE DIFFERENCES BETWEEN THIS AND LAST YEAR'S BILL. HE SAID IT WAS IMPORTANT THAT LANGUAGE IN THE LAW REFER TO EITHER A PERMIT OR A BOUNDARY ON LICENSING ELIGIBILITY.

CHANGE TAPE #1, TO SIDE B.

SENATOR COGHILL EXPRESSED CONCERN WITH THE LAW ON LICENSING IN RURAL AREAS WITH COMMUNITIES SO FAR APART.

NUMBER 127

SENATOR STURGULEWSKI COMMENTED ON THE MATTER OF LICENSED PREMISES DOING ALL THEY SHOULD TO CUT OFF THE NUMBER OF DRINKS A PERSON IS SERVED.

NUMBER 159

PAT SHARROCK RESPONDED THAT THE BOARD WAS CONCERNED ABOUT THE MATTER AND SAID THERE WERE IRRESPONSIBLE LICENSEES. SOME LICENSES HAVE BEEN REVOKED ON THE BASIS OF A LICENSEE'S IRRESPONSIBILITY IN THAT REGARD. THE BOARD IS ENCOURAGING A PROGRAM OF COOPERATION BY INDUSTRY GROUPS, MUNICIPALITIES AND OTHERS WITH THE BOARD IN ENFORCING THE LAW.

NUMBER 211

SENATOR STURGULEWSKI BROUGHT UP THE PUBLIC CONVENIENCE PROVISION OF THE LAW. PAT SHARROCK SAID HE DID NOT THINK IT HAD BEEN MISUSED.

NUMBER 262

SENATOR COGHILL COMMENTED ON LOCAL GOVERNMENT OVERVIEW OF ALCOHOLIC BEVERAGE LICENSING AND SAID THE LICENSING CRITERIA IN RURAL AREAS SHOULD BE BROADLY INTERPRETED.

NUMBER 316

THE MEETING WAS ADJOURNED AT 4:49 P.M.

END OF DOCUMENT

COMMITTEE REPORT

4/11

(7)

HOUSE

FINANCE

2/13/85

FURTHER:

Date: _____

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HT 190

"An Act relating to senior citizen housing; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for H.B. 190 (CRA) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note *Supito*
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Phil Korman

W. J. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mr. J. ...
J. Kay Wallin No Rec
...
...

Phil Korman

 CHAIRMAN

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

2/13/85

Date: _____

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 190

"An Act relating to senior citizen housing; and providing for an effective date."

under consideration and reports it back as follows

- 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 Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W Furnace

Peter Jace

Mr. Guenther No rec

Bill E. Bell: Do Not Pass, Unless Amended

Peter

Peter Jace

CHAIRMAN

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

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

April 4, 1985

Honorable Peter Goll, Chairman
House Committee on Community
and Regional Affairs
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: HB 190, senior citizen housing
Our file: 366-439-85

Dear Representative Goll:

You have asked whether provisions in HB 190 concerning senior citizen housing unconstitutionally discriminate against persons who are under 60 years of age. The bill includes provisions for grants and interest-free loans for the development of senior citizen housing.

We see no constitutional problem with this bill. As a rule, classifications based on age are constitutionally permissible if they are reasonable and rest upon some ground of difference having a fair and substantial relationship to the object of the legislation. See Taxpayers Assoc. of Weymouth Township, Inc. v. Weymouth Township, 364 A.2d 1016 (N.J. 1976), cert. denied and appeal dismissed, 430 U.S. 977 (1977), a copy of which is attached.

The purpose of HB 190 is set out in section 2 as follows:

Sec. 44.47.610. PURPOSE. There exists in the state a serious shortage of available and affordable residential housing designed to meet the special needs of Alaska's senior citizens. It is the purpose of the office to use both private and public resources to provide a full range of housing opportunities and services for all older Alaskans regardless of income. It is also the purpose of the office to emphasize alternatives to institutionalization, to support individual dignity and independence, and to assist senior citizens in remaining in their own homes for as long as is desirable and appropriate.

Honorable Peter Goll, Chairman
House Committee on Community
and Regional Affairs

April 4, 1985
Page #2
366 +39-85

"Senior citizen housing" is defined in section 5 of the bill as meaning

a specific work or improvement undertaken primarily to provide dwelling accommodations for persons 60 years of age or older, including conventional housing, housing for the frail elderly, group homes, congregate housing, and other housing that meets special needs of the elderly; senior citizen housing includes the acquisition, construction, or rehabilitation of land, buildings, improvements, and other nonhousing facilities that are incidental or appurtenant to the housing.

Because the age classification (persons 60 years or older) */ rests upon a ground of difference (specialized housing needs of older persons) having a fair and substantial relationship to the object of the legislation (alleviation of a shortage of housing designed to meet those specialized needs), we believe the classification will withstand constitutional challenge.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: *Virginia B. Ragle*
Virginia B. Ragle
Assistant Attorney General

VBR/pjg

Enc.

*/ As was noted in Weymouth, the actual choice of the cutoff age "is necessarily somewhat arbitrary," but will be upheld unless it is "so unreasonable that it violates principles of equal protection." 364 A.2d at 1035. We believe that the choice of 60 as the cutoff age is reasonable.

Alaska State Legislature

DRAFT



House of Representatives

House Judiciary Committee

March 21, 1985

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

MEMO:

TO:

Rep. M. Mike Miller
Rep. Peter Goll

FROM:

Bob Speed
Bob Berry

RE:

HB 190/Senior Citizen Housing Loans

Staff was directed to investigate alternatives relating to HB 190, which would create a Senior Citizen Housing Revolving Loan Program in the Department of Community and Regional Affairs. Specifically, staff was directed to work with Rep. Randy Phillips to look into problems he saw which might (1) prevent the bill from passing or (2) in the event the bill were to pass, would enact a program that was either unworkable or open to abuse. Staff was to look at the option of placing the program under the duties of the Alaska Housing Finance Corp., instead of DCRA, with the assumption that AHFC would administer the program using existing staff to reduce the fiscal impact of administering this new program.

Staff talked with Rep. Randy Phillips, with AHFC management, and with Jeff Smith of DCRA, and FRANK TOLAND of Older Alaskan Commission, Staff of Sen Rodley

Rep. Phillips had three concerns regarding the bill under consideration by the Committee on Community and Regional Affairs. Briefly, these were:

- 1) The form of the loan program as described in the bill, specifically in regard to potential abuse of the liberal terms of the program;
- 2) The possibility that AHFC might be more appropriate in dealing with administration of the loan program because of their long-term experience in setting up and running loan programs (although the idea of turning the program over to AHFC was initiated by Rep. Goll)
- 3) The fiscal note of the bill in light of its high cost at a time when the legislature is otherwise cutting budgets, putting a freeze on new hiring and establishment of new programs and positions.

Staff makes the following recommendations as a result of discussion with those people mentioned as well as others, and following investigation of the options for this program.

1. The program should be established within the Department of Community and Regional Affairs as originally intended in HB 190.

2. The fiscal note may be offset by using part of the \$600,000 remaining within DCRA under the senior citizen housing grant program.

3 that Senate Amendments be carefully considered. (effective date)

3. The bill should be referred to the House Special Committee on Loans for in-depth investigation of the language establishing the loan program under HB 190 as passed out of the House CRA committee, prior to being sent to Finance.

DISCUSSION

1) The original bill establishes this new loan program under the Department of Community and Regional Affairs. Staff was directed to look into the possibility of putting the program under the Alaska Housing Finance Corporation using existing AHFC staff. The purpose of looking into this change dealt with the dollar amount of the DCRA fiscal note, which some committee members considered high, especially in light of administration-wide budget cuts, and the concern that the bill would not pass because of the fiscal note.

Staff discussed the AHFC prospect with AHFC management (Michael Lynch, Denna Cline). AHFC said they would have no objections to taking the program if it was directed to do so, but wondered whether the program might not be better handled in DCRA because of their existing involvement with senior citizen housing programs. Staff discussed the prospect of placing the program under DCRA with Jeff Smith, Deputy Commissioner, for the department. He indicated that the department would like to have the new program, but felt the fiscal note accurately reflected the true cost in light of contractual services and personnel needed to administer the program properly.

Staff concluded that the program is best ^{located} in DCRA for a number of reasons. First of all, DCRA has experience dealing with senior citizen housing and geriatric services under the existing grant program. The department also is better attuned to dealing with the needs of individuals such as those this program is directed toward -- senior citizens, who may be low-income and/or handicapped, or frail. This is not the current function of AHFC, and it is doubtful that AHFC staff would initially have the sensitivity to geriatric needs (which became evident during the teleconference with AHFC management) nor with the reasons for which the bill was introduced. AHFC's initial comments were that there appeared to be sufficient housing stock available -- this statement exemplifies an urban attitude which does not take into account the special needs of some elements of the population, including income levels, rural conditions ^{the following} not the need to deal with architectural barriers to the infirm. Finally, AHFC has but one office in Alaska, in Anchorage; whereas DCRA is regionalized all over Alaska -- Anchorage, Fairbanks, Juneau, Nome, Kotzebue, and Dillingham; this regionalization indicates more adequate ability to deal with housing problems outside the urban centers and outside the health, "mainstream" because of its existing relationship with geriatric housing, with communities of all sizes and needs, and other factors.

A major political consideration is that if this bill were amended to put this program in AHFC, it is doubtful that it would pass in that form because of the past inability of AHFC to deal with rural problems.

2) The fiscal note

fiscal office

the following

Bethel

*?
State Finance*

C

DCRA

2) The ~~fiscal note prepared by DCRA~~ has been a major concern of committee members because of the likelihood that the bill won't pass if it has a significant fiscal impact. In discussions with Jeff Smith, he said there ~~was some versatility~~ ^{could be some flexibility} on the part of the department regarding the timing of some of the contractual components of the fiscal note, and he pointed out some of those which could be delayed a year, as well as others he considers essential to start-up of the program. He also called Dick Pryor, grants administrator for the division of housing assistance in DCRA, to determine the amount remaining from appropriations from prior years. That amount is about \$600,000 of non-lapsing funds, which is being held as a contingency against unanticipated shortfalls or cost overruns on projects now in progress.

Smith and Pryer suggested that part of that \$600,000 could be reappropriated by the legislature ~~for use to help~~ cover the fiscal note, of ~~HB 190~~. Staff suggests that the legislature give strong consideration to reappropriating about half of that money to cover the fiscal note, ~~for HB 190, while~~ leaving the remainder in the grants program for contingencies, ~~having to do with grants awarded in prior years.~~

3) Staff shares ~~some of the concerns~~ that have been expressed in regard to the loan program and how it is established under HB 190. The loan program differs from ~~any other~~ loan program now administered by the state, in that it provides zero-interest loans on fifty percent of project costs, with the other half coming from the private sector at market interest rates. Rep. Phillips expressed strong reservations about a program based on loan terms such as the ~~ones~~ ^{ones} envisioned in HB 190, and staff believes this bears further investigation prior to ~~enacting it~~ ^{enactment}. We ~~concur in recommending~~ strongly that the bill be given a referral to the House Special Committee on Loans to deal with this aspect of ~~the bill~~ prior to going to the Finance Committee.

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 26, 1985

Representative Peter Goll
Pouch V, M.S. 3100
Juneau, Alaska 99811

Dear Representative Goll:

The Older Alaskans Commission wishes to support HB 190 concerning senior citizens housing. The Commission has identified the need for adequate and affordable senior housing as a major issue in Alaska. In June 1984 the Commission established a Housing Task Force to thoroughly investigate senior housing and related service needs. In arriving at thirteen policy and legislative recommendations for the Commission, the task force reviewed existing senior federal and state housing construction programs.

The existing Senior Citizens Housing Development Fund awards planning and construction grants to nonprofit and governmental agencies. Since 1975, the Fund has received \$53 million in appropriations from the Legislature. When completely spent, that money, supplemented by federal Housing and Urban Development (HUD) money, will have constructed over 1,000 new senior apartments. In addition to construction money, federal HUD funds provide 40-year operation and maintenance subsidies. These subsidies permit rents to remain low, requiring occupants to pay only one-third of their monthly incomes in rent.

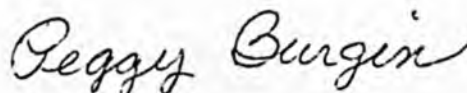
Congress has eliminated funding for HUD section 8 construction, operation and maintenance subsidies. Senator Ted Stevens reported in his speech before you in a joint session that "President Reagan's budget proposal for fiscal year 1986 imposes a two-year moratorium on new assisted-housing construction commitments and a one-year moratorium on public housing modernization." With these no longer available, the State must find alternative means of providing low-rent housing to senior citizens.

Under the Older Alaskans Housing Loan Program, private developers would receive interest-free loans for a portion of the cost of constructing rent-controlled senior housing. The Older Alaskans Housing Loan Program would recoup the original investment within a designated time, offering future loans for more construction. We believe both the grant and loan programs are essential to meet future housing needs. The grant program will continue to be needed for areas which cannot attract private development.

With the decline in State revenues and the removal of HUD subsidies, the Older Alaskans Commission considers the proposed legislation as essential in providing adequate and affordable senior housing in Alaska. The Commission views HB 190 as a fiscally responsible effort on the part of the State to involve private enterprise in senior housing construction.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Peggy Burgin".

Peggy Burgin, Chair
Older Alaskans Commission

cc: Community and Regional Affairs Committee

Older Alaskans Commission

Rebecca Burch, Special Assistant
Department of Administration

February 25, 1985

POSITION PAPER

RE: House Bill 190

SPONSOR: M.M. Miller, et. al.,

Program Effects of Bill:

House Bill 190 establishes within the Department of Community and Regional Affairs, Division of Housing Assistance an Office of Senior Housing and specifies four major duties of this office. The bill further establishes an Older Alaskans Housing Development Fund, as a revolving fund, and also establishes an Older Alaskans Housing Loan Program.

Comments:

Of the four duties outlined in the bill for the newly formed Office of Senior Housing, only one is a current duty. The accomplishment of these additional duties will require additional staff as indicated in our fiscal note.

The establishment of the revolving Older Alaskans Housing Development Fund and the Older Alaskans Housing Loan Program will also require additional staff as indicated in our fiscal note.

In addition to new staff there would be substantial contractual funds required to implement the new duties of the office and develop the housing inventory, Senior Housing Information System, blueprints, and manual of state-of-the-art gerontological design and construction methods. Also, computer terminals for the revolving loan fund accounting and word processing, desks, chair, and other equipment necessary would be required. These are all reflected in our fiscal note.

While the Older Alaskans Housing Development Fund is to be a revolving fund it will not be truly revolving. It would require substantial funding each year to continue to provide new housing. The bill requires that the loans be 25-year loans and only a portion of the funding would be in loans. Grants will continue to be given to municipalities and public and private non-profit corporations for development of senior citizen housing. These factors indicate the fund will never be self-sustaining as a revolving account, in fact, the revolving nature of it will be minimal.

With diminishing state revenues, the department cannot, at this time, support this legislation which would require the additional staff and funding to implement.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 190
Title: Senior Citizen Housing

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
Program Category Affected: Economic Development

Sponsor: M.M. Miller, Duncan, Gollub
Requestor: C&RA Committee
Date of Request: April 9, 1985

BRU, Program or Subprogram(s) Affected: Housing Construction Development
Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		78.1	82.7	87.6	92.8	98.3
200 TRAVEL		5.0	6.0	6.0	7.0	7.0
300 CONTRACTUAL		17.0	15.0	15.0	15.0	15.0
400 SUPPLIES		1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT		8.3	1.0	1.0	1.0	1.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		109.4	105.7	110.6	116.8	122.3

CAPITAL						
----------------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		109.4	105.7	110.6	116.8	122.3
FEDERAL FUNDS						
OTHER						
TOTAL		109.4	105.7	110.6	116.8	122.3

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

This proposed legislation would create an Older Alaskans Housing Development Fund which would be a revolving fund for loans and grants for senior citizen housing. One major assumption we are making is that because only a part of the funding will be used for zero interest loans, and these loans are 25 year loans with no (see attached)

Prepared By: Clark D. Boston

Division: Housing Assistance Division

Phone: 561-0900

Date: 4/9/85

Approved by Commissioner: Emil M. Miller
Agency: Community & Regional Affairs

Date: 4/10/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

repayment until the loan term is reached or upon resale, the fund is not and never will be totally revolving in nature. Also, the revenue generated by the "shared equity" provisions of the bill will not be retained in the fund, but will be required to be returned to the general fund. Based on these assumptions, the funding for the additional positions and other expenses will be from the general fund.

To implement the new program \$17,000 contractual amount required for the development of regulations, public hearings, advertising the regulation changes, and advertising the availability of grants and loans for the new program.

Section 2 of the bill establishes a revolving fund for loans and grants for senior citizen housing. Because of the nature of a revolving fund, there will be required an additional Accounting Tech I position, required to establish and accomplish the accounting requirements of this revolving fund. Also, a new position of Grant Administrator, Range 17 will be required to administer the grants and loans under this revolving fund. These two positions will be under the supervision of an existing position.

In summary, the new positions required for this new program are:

Grant Administrator	- Range 17
Accounting Tech I	- Range 12

The request for new position forms are attached to this fiscal note.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 190
 Title: Senior Citizen Housing
 Sponsor: M.M. Miller, Duncan, Goll, Boucher, Grussendorf, Koponen, Sund
 Requestor: C&RA Committee
 Date of Request: _____

FISCAL DETAIL

Agency Affected: DCRA
 Program Category Affected: Economic Development
 BRU, Program or Subprogram(s) Affected: Housing Assistance Division BRU, Housing Construction Development Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY86	FY 87	FY 88	FY 89	FY 90
OPERATING					
100 PERSONAL SERVICES	138.2	146.5	155.3	164.6	174.5
200 TRAVEL	7.0	7.5	8.0	8.5	9.0
300 CONTRACTUAL	300.0	50.0	53.0	56.2	59.6
400 SUPPLIES	2.0	2.1	2.2	2.4	2.5
500 EQUIPMENT	19.9	6.0	6.3	6.7	7.1
600 LAND & STRUCTURES					
700 GRANTS, CLAIMS					
800 MISCELLANEOUS					
TOTAL OPERATING	467.1	212.1	224.8	238.4	252.7
CAPITAL					
REVENUE					

FUNDING: (Thousands of Dollars)

GENERAL FUND	467.1	212.1	224.8	238.4	252.7
FEDERAL FUNDS					
OTHER					
TOTAL	467.1	212.1	224.8	238.4	252.7

POSITIONS:

FULL-TIME	4	4	4	4	4
PART-TIME	0	0	0	0	0
TEMPORARY	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

This proposed legislation would create an "Office of Senior Housing" with substantial additional duties and responsibilities and establish a revolving fund for loans and grants for senior citizen housing. One major assumption we are making is that because only a part of the funding will be used for zero interest loans and these loans are 25 year loans with no repayment until the loan term is reached or upon resale, the fund is not and never will be totally

Prepared By: Clark D. Boston, Director *CDB*
 Division: Housing Assistance Division

Phone: 561-0900
 Date: February 25, 1985

Approved by Commissioner: *[Signature]*
 Agency: Community & Regional Affairs

Date: 2/25/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

78

revolving in nature. Also, the revenue generated by the "shared equity" provisions of the bill will not be retained in the fund but will be required to be returned to the general fund. Based on these assumptions, the funding for the additional positions and other expenses will be from the general fund.

Section 3 of the bill provides for the specific duties of the Office of Senior Housing. The duties outlined in Section 3 (1), (2), and (4) are new and extensive duties requiring an additional position. These duties will be accomplished by a new Administrative Assistant, Range 12 position under the direction of an existing position. Also, to implement the requirements of Section 3, (2), there will be required a \$300,000 contractual amount for professional service contracts to develop the manuals, blueprints, directory, literature and research on senior citizen housing.

Section 4 of the bill establishes a revolving fund for loans and grants for senior citizen housing. Because of the nature of a revolving fund, there will be required an additional Accounting Tech I position required to establish and accomplish the accounting requirements of this revolving fund. Also, a new position of Grant Administrator, Range 17 will be required to administer the grants and loans under this revolving fund. These two positions will be under the supervision of an existing position.

With the addition of the three professional positions a Clerk Typist III, Range 8 position will be required to provide clerical support to the office.

In summary, the new positions required for this Office of Senior Housing are:

Grant Administrator	- Range 17
Administrative Assistant	- Range 12
Accounting Tech I	- Range 12
Clerk Typist III	- Range 8

The request for new position forms are attached to this fiscal note.

1.	POSITION TITLE Grants Administrator				RANGE/STEP 17 A	ORG. UNIT GEN	PAGE/LINE	COY.	APPROV.	DISAP.	
2.	TYPE OF POSITION Grand Admin.	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCH	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE										
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		34.7								
6.	Benefits		5.37								
7.	Supplemental Benefits		2.13								
8.	Fixed Benefits		2.64								
9.	TOTAL PERSONAL SERVICES		01		44.8						
10.	Travel		02		5.0						
11.	Contractual		03								
12.	Commodities		04		.5						
13.	Equipment		05		2.5						
14.	Other										
15.	TOTAL COST				52.8						
16.	RECEIPT CODE	FUNDING SOURCE									
17.		Federal Receipts 1002									
18.		G. Match 1003									
19.		General Funds 1004									
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									
FOR BSM USE ONLY											
KEY NUMBER _____											

This position is required to implement the proposed HB190. This position would be the head of the "Office of Senior Housing" which is established by this proposed legislation. This position would administer all grants and process and approve all loans made from the proposed Older Alaskans Housing Development Fund. This position will be under the supervision of an existing Public Facilities Planner I, Range 20 position.

REQUEST FOR
NEW POSITION

AGENCY Community and Regional Affairs
 PROGRAM Economic Development
 BRU Housing Assistance
 COMPONENT Housing Construction Development

Page _____ of _____
 Revised Date _____

FY 86

1.	POSITION TITLE Administrative Assistant			RANGE/STEP 12 A/B	DARG. UNIT GEN	PAGE/LINE	COY.	APPROV.	DISAFF
2.	TYPE OF POSITION Admin	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCH	ELECTION DISTRICT	LEG.	

3.	CONTINUATION LEVEL		ADDITION	
4.	TYPE OF EXPENDITURE			AMOUNT
	1	2	3	
	PERSONAL SERVICES			
5.	Salary	25.2		
6.	Benefits	3.9		
7.	Supplemental Benefits	1.55		
8.	Fixed Benefits	2.64		
9.	TOTAL PERSONAL SERVICES	01		33.3
10.	Travel	02		2.0
11.	Contractual	03		300.0
12.	Commodities	04		.5
13.	Equipment	05		5.8
14.	Other			
15.	TOTAL COST			341.6

JUSTIFICATION:

This position is required to implement HB190 , Section 3. This position will implement this section and accomplish the duties listed under the direction of the existing position of Public Facilities Planner I, Range 20.

The contractual budget is required on a one-time basis to accomplish the requirements listed in the proposed HB 190 Section 3 (2) A thru F.

	RECEIPT CODE	FUNDING SOURCE
16.		Federal Receipts 1002
17.		G.F. Hatch 1003
18.		General Funds 1004
19.		I-A Receipts 1005
20.		Program Receipts 1020
21.		Other
22.		

FOR BSA USE ONLY
KEY NUMBER _____

REQUEST FOR
NEW POSITION

AGENCY Community and Regional Affairs
 PROGRAM Economic Development
 BRU Housing Assistance
 COMPONENT Housing Construction Development.

Page _____ of _____
 Revised Date _____

FY 86

1.	POSITION TITLE Accounting Tech I				RANGE/STEP 12 A/B	DARG. UNIT GEN	PAGE/LINE	COV.	APPROV.	TISBY	
2.	TYPE OF POSITION Accounting	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCH	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	Type OF EXPENDITURE			AMOUNT							
	1	2	3								
	PERSONAL SERVICES										
5.	Salary	25.2									
6.	Benefits	3.9									
7.	Supplemental Benefits	1.55									
8.	Fixed Benefits	2.64									
9.	TOTAL PERSONAL SERVICES	01	33.3								
10.	Travel	02									
11.	Contractual	03									
12.	Commodities	04	.5								
13.	Equipment	05	5.8								
14.	Other										
15.	TOTAL COST		39.6								

To implement the revolving loan/grant fund proposed in HB190 Section 4. This accounting position will do all the accounting for the Older Alaskans Housing Development Fund which will be a revolving fund from which loans and grants will be made.

RECEIPT CODE	FUNDING SOURCE
16.	Federal Receipts 1002
17.	G.F. Match 1003
18.	General Funds 1004
19.	I-A Receipts 1005
20.	Program Receipts 1020
21.	Other

FOR BSM USE ONLY
KEY NUMBER _____

**REQUEST FOR
NEW POSITION**

AGENCY Community and Regional Affairs
 PROGRAM Economic Development
 BRU Housing Assistance
 COMPONENT Housing Construction Development

Page _____ of _____
 Revised Date _____

FY 86

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8 A/B	DARG. UNIT GEN	PAGE/LINE	COY.	APPROV.	DISACT
2.	TYPE OF POSITION clerical	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCH	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE			AMOUNT		<p>This position is required to implement HB190 and accomplish clerical work for the three professional positions, also required to implement the proposed legislation.</p> <p>The equipment budget is for a workstation complete with WANG word processing/computer terminal.</p>				
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	19.9								
6.	Benefits	3.07								
7.	Supplemental Benefits	1.22								
8.	Fixed Benefits	2.63								
9.	TOTAL PERSONAL SERVICES	01	26.8							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04	.5							
13.	Equipment	05	5.8							
14.	Other									
15.	TOTAL COST		33.1							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		C.F. Hatch 1003								
18.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1020								
21.		Other								
FOR BSI USE ONLY										
KEY NUMBER _____										

REQUEST FOR
NEW POSITION

AGENCY Community and Regional Affairs
PROGRAM Economic Development
BRU Housing Assistance
COMPONENT Housing Construction Development

Page of
Revised Date

FY 36

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 137
Title: Senior Citizen Housing

Sponsor: Rodey, Fisher & Zharoff
Requestor: C&RA Committee
Date of Request: _____

FISCAL DETAIL

Agency Affected: DCRA
Program Category Affected: _____
Economic Development
BRU, Program or Subprogram(s) Affected: _____
Housing Assistance Division BRU
Housing Construction Development Comp.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		111.4	146.5	155.3	164.6	174.5
200 TRAVEL		7.0	7.5	8.0	8.5	9.0
300 CONTRACTUAL		47.0	50.0	195.0	56.2	59.6
400 SUPPLIES		1.5	2.1	2.2	2.4	2.5
500 EQUIPMENT		14.1	6.0	6.3	6.7	7.1
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		181.0	212.1	366.8	238.4	252.7

CAPITAL						
----------------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		181.0	212.1	366.8	238.4	252.7
FEDERAL FUNDS						
OTHER						
TOTAL		181.0	212.1	366.8	238.4	252.7

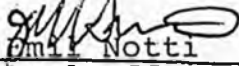
POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		3	4	4	4	4
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

This proposed legislation would create an "Office of Senior Housing" with substantial additional duties and responsibilities and establish a revolving fund for loans and grants for senior citizen housing. One major assumption we are making is that because only a part of the funding will be used for zero interest loans and these loans are 25 year loans with no repayment until

Prepared By: Clark D. Boston Phone: 561-0900
Division: Housing Assistance Division Date: 3/28/85

Approved by Commissioner:  Date: 3/28/85
Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):

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

7/1/84

the loan term is reached or upon resale, the fund is not and never will be totally revolving in nature. Also, the revenue generated by the "shared equity" provisions of the bill will not be retained in the fund but will be required to be returned to the general fund. Based on these assumptions, the funding for the additional positions and other expenses will be from the general fund.

Section 3 of the bill provides for the specific duties of the Office of Senior Housing. The duties outlined in Section 3 (1), (2), and (4) are new and extensive duties requiring an additional position. These duties will be accomplished by a new Administrative Assistant, Range 12 position under the direction of an existing position. Also, to implement the requirements of Section 3, (2), there will be required a \$47,000 contractual amount for the development of regulations, public hearings, development of housing inventory, and advertising the regulation changes, and advertising the availability of grants and loans for the new program.

Section 4 of the bill establishes a revolving fund for loans and grants for senior citizen housing. Because of the nature of a revolving fund, there will be required an additional Accounting Tech I position required to establish and accomplish the accounting requirements of this revolving fund. Also, a new position of Grant Administrator, Range 17 will be required to administer the grants and loans under this revolving fund. These two positions will be under the supervision of an existing position.

In summary, the new positions required for this Office of Senior Housing are:

Grant Administrator	- Range 17
Administrative Assistant	- Range 12
Accounting Tech I	- Range 12

The increase in positions from three to four in FY87 is to add an additional Clerk Typist III to accomplish the clerical needs as this program is fully implemented in the second year. The increase in contractual funds in FY88 is programmed to implement some of the duties of the office that will be deferred for a year or two for implementation.

The request for new position forms are attached to this fiscal note.



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

H B

198

COMMITTEE REPORT

HOUSE

3/8

JUDICIARY

(7)

FURTHER: FINANCE

2/15/85

Date: _____

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 198

"An Act relating to municipal assistance for certain municipalities organized under federal law; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signatures]

[Handwritten signatures]

[Signature]

CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HC & RA 3-6-85 3pm

Metlakatla

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

+

CONSTITUTION AND BY-LAWS OF
THE METLAKATLA INDIAN COMMUNITY
ANNETTE ISLANDS RESERVE, ALASKA

+

APPROVED AUGUST 23, 1944



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1946

CONSTITUTION AND BY-LAWS OF THE METLAKATLA
INDIAN COMMUNITY, ANNETTE ISLANDS RESERVE,
ALASKA

PREAMBLE

Whereas, by the act of March 3, 1891, the Congress of the United States set apart the lands known as Annette Islands for the use and occupancy of the Metlakatla Indians and other natives of Alaska who might be permitted to join them; and

Whereas, the President of the United States on April 28, 1916, reserved the waters surrounding these islands to a distance of 3,000 feet from the shore line for the use and benefit of the Metlakatla Indians and such other Alaska natives as had joined or might join them; and

Whereas, the Metlakatla Indians have for many years enjoyed a large share of the responsibility for the administration of their affairs under the "Rules and Regulations for Annette Islands Reserve" approved by the Secretary of the Interior on January 28, 1915.

Now, therefore, we, the Metlakatla Indians of Annette Islands Reserve, desiring to take advantage of the benefits available to Indian communities under the acts of Congress of May 1, 1936, and June 18, 1934, and to enjoy greater freedom and opportunity in the handling of our affairs and in providing for the welfare of our people do ordain and establish this Constitution for the Metlakatla Indian Community of the Annette Islands Reserve.

ARTICLE I—JURISDICTION

The Metlakatla Indian Community shall for all purposes of this Constitution exercise jurisdiction over all the territory and waters described in the aforesaid Act of March 3, 1891, and the Presidential Proclamation of April 28, 1916, and such other lands and waters as may in the future be acquired by or reserved for the Community.

ARTICLE II—MEMBERSHIP

SECTION 1. The members of the Metlakatla Indian Community shall be all the adult persons whose names appear on a list of the members of the Annette Islands Reserve prepared by the Council of the reserve with the assistance of the local representative of the Office of Indian Affairs. The Community Council shall maintain a current list of all members of the Community.

SECTION 2. Before exercising the right to vote for members of the Council or otherwise to participate in the government of the Community, natives of Metlakatla now 21 years old or over, all minors coming of age, and all other natives of Alaska who may be admitted to membership in the Community by vote of the Council, as hereinafter provided, shall subscribe to the following declaration:

DECLARATION.

"We, the people of the Metlakatla Indian Community of the Annette Islands Reserve, Alaska, do severally subscribe to the following principles of good citizenship:

"1. To be faithful and loyal to the Government of the United States of America.

"2. To be loyal to the local government of our Community, to obey its ordinances and regulations, and to obey all applicable laws of the Territory of Alaska and of the United States.

"3. To cooperate earnestly in all endeavors for the education of our children, for the advancement of the Community, and for the suppression of all forms of vice."

SECTION 3. All minor children of present or former members of the Annette Islands Reserve or of the Community shall be considered members of the Community until they reach their majority, at which time, in order to continue their membership, they must sign the declaration as provided in paragraph 3. of section 4 of this Article.

SECTION 4. A native of Alaska of indigenous race, over 21 years of age, who has maintained residence within the Annette Islands Reserve for a period of not less than one year, hereafter desiring to become a member of the Community shall proceed as follows:

1. Make application in writing to the Council at Metlakatla, Alaska, for admission to membership in the Community.

2. If the Council approves the application, by a vote of three-fourths of its entire membership, the applicant shall come before a meeting of the Council upon proper notice of the time and place of such meeting.

3. In the presence of the mayor and Council, the declaration in section 2 of this Article shall be read to the applicant, and he or she shall sign a copy of the declaration before two witnesses.

4. After the declaration has been duly signed and witnessed the mayor shall declare the applicant a member of the Metlakatla Indian Community.

5. Minor children of persons so admitted shall be members of the Community, but upon attaining their majority they shall, in order to continue their membership, proceed as set forth in paragraph 3 above.

SECTION 5. The Council is authorized, by a vote of three-fourths of its entire membership, to elect as members of the Community, with full rights and privileges, such British Columbia Indians as may have joined the colony at Metlakatla since January 1, 1900, and maintained residence there for a period of not less than two years.

SECTION 6. Continuous absence from Annette Islands Reserve for two years or longer, unless the member so absent shall notify the Council in writing, within such two-year period, of his intention to return, shall constitute forfeiture of membership in the Community. Such person may be readmitted to membership in the Community, as provided in Section 4 of this Article.

ARTICLE III—LOCAL GOVERNMENT

SECTION 1. The local government of the Metlakatla Indian Community shall be vested in a Council consisting of 12 members, all of whom shall be members of the Community.

SECTION 2. The officials of the Metlakatla Indian Community shall be a mayor, a secretary, and a treasurer.

SECTION 3. The members of the Council and the officials of the Community shall be elected by ballot, printed or written, on the first Tuesday after the first Monday of November in each year, at which election all members of the Community above the age of 21, and not in arrears for nonpayment of taxes, fines, or fee for a permit to occupy a lot or tract of land, shall have the right to vote.

The members of the Council and the officials of the Annette Islands Reserve in office at the time when this Constitution is, with the approval of the Secretary of the Interior, ratified by the Metlakatla Indians shall continue in office with all the duties and powers of councilmen and officials, as set forth in this Constitution, until the expiration of their terms of office as provided in the "Rules and Regulations for Annette Islands Reserve."

At each election, each voter may be required to present his receipt for taxes, fines or fee for a permit to occupy a lot or tract of land, as evidence that he is entitled to vote.

Only members of the Community above the age of 21, not in arrears for nonpayment of taxes, fines, or fees, shall be eligible for election to any office or to membership in the Council.

It shall be the duty of the Secretary to prepare ballots showing the names of all candidates who have filed notice of their intention to run for office not earlier than September 1 nor later than the second Tuesday in September.

The secretary shall, within three days after each election, report the names of the members of the Council and the officials elected to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 4. The members of the Council and the officials elected shall enter upon their duties on the first Monday in January.

SECTION 5. The members of the Council shall hold office for two years: Provided, That six members of the Council shall continue to be elected each year as provided in the "Rules and Regulations for the Annette Islands Reserve."

The mayor, the secretary, and the treasurer shall hold office for two years or until their successors have duly qualified, beginning with the expiration of the terms of the present holders of these offices.

SECTION 6. At the first meeting of the Council in January the members shall elect from their own number one person to be chairman of the Council in the absence of the mayor. Such chairman shall assume all the duties of the mayor when the mayor is absent from the reserve. In signing official papers in the absence of the mayor the chairman shall use the title "Acting Mayor."

SECTION 7. The Council shall have regular monthly meetings except during any period of the year when it would prove a hardship on the members of the Council to leave their personal labors in order to attend such meetings. At such times, the Executive Committee, provided for by Article II, section 1, of the By-laws shall carry on the work of the Council and report its action at the first regular meeting of the Council thereafter.

SECTION 8. All regular meetings of the Council shall be open to the public, but no one not having a seat in the Council shall be permitted to discuss matters before the Council, except by permission or upon

the invitation of the Council. Seven members of the Council shall constitute a quorum.

ARTICLE IV—THE POWERS OF THE COUNCIL.

SECTION 1. The Council shall have power to pass such ordinances for the local government of the Community as shall not be in conflict with the laws of the United States, and, wherever there is no applicable clause of the Constitution nor an ordinance of the Metlakatla Indian Community the Council shall have authority to apply and enforce Federal law within the boundaries of the Annette Islands Reserve as the law of the Community, except in cases over which the District Court for Alaska may have exclusive jurisdiction.

A copy of each ordinance passed by the Council and certified by the signature of the mayor or of the acting mayor shall, within three days after its passage, be handed by the secretary to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 2. The Council shall have power to employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease or encumbrance of community lands, interests in lands, or other community assets without the consent of the Community; and to negotiate with the Federal and Territorial governments.

SECTION 3. The Council is authorized to levy an annual tax of three dollars (\$3), or of such a sum as it may deem necessary not exceeding three dollars (\$3) upon each able-bodied male member of the Community between the ages of 21 and 60, said tax to be collected by the secretary and expended for public purposes, as the Council shall direct. The Council may, by a two-thirds vote of its membership, remit the annual tax of any individual who because of continued sickness, poverty, or physical or mental disability is unable to pay said tax.

SECTION 4. The Council shall have authority to direct by its ordinance that every able-bodied male resident of the Community shall perform, without remuneration, in each calendar year not more than two days' labor of 8 hours each on the streets, roads, wharves, public buildings, or other public improvements within the Annette Islands Reserve undertaken by order of the Council.

The secretary shall keep a record of the labor thus performed, showing the dates, the number of hours, and the character of the service rendered by each person.

SECTION 5. The Council shall direct the secretary to draw warrants on the treasurer in payment of all valid claims against funds subject to its control. All such warrants shall be signed by the mayor or by the acting mayor.

SECTION 6. The Council may issue to members of the Community permits to occupy land within the reserve and it may cancel such permits as provided in Section 1, Article VI of this Constitution.

SECTION 7. At the first meeting of the Council in each year the Council shall elect an auditing committee of three members and a public health committee of three members. From time to time, as the Council may deem necessary, it may constitute other committees and define their duties. All committees elected under this Constitution shall serve without remuneration.

The secretary shall, within three days after their election report the names of persons elected to membership in committees to the local representative of the Office of Indian Affairs at Metlakatla.

SECTION 8. The Council shall have authority to employ such a number of competent persons as constables as it may deem necessary in order to enforce its ordinances, to define their duties and to fix their remuneration, if any. The constables shall be under the immediate control of the mayor or of the acting mayor, subject to the instructions of the Council.

SECTION 9. The Council may create such additional offices, not in conflict with this Constitution, as it may deem necessary for the effective administration of the local government, provide for the filling of such offices, define the duties of the same, and fix the amount of the remuneration, if any.

SECTION 10. The Council shall prescribe rules regarding the place and conditions of the annual election. Notices of said election shall be posted in three or more places in the reserve at least 10 days prior to such election.

SECTION 11. The Council may by the vote of three-fourths of its entire membership remove the mayor, secretary, treasurer or other official, but only after reasonable notice and upon sufficient evidence offered at an open meeting that he is unworthy to hold office; and the Council may by the same procedure and the vote of three-fourths of its entire membership, expel a member of the Council.

SECTION 12. When a vacancy occurs in the membership of the Council or in any office, the Council may, until the time of the next annual election, temporarily fill such vacancy by a two-thirds vote of its membership, and provide for the induction into office of the person so elected.

SECTION 13. The Council may provide for mass meetings of the members of the Community. Public questions may be discussed at these meetings and the secretary of the Council shall take note of any petition made on these occasions and preserve it among the official records of the Community.

ARTICLE V—JUDICIARY

SECTION 1. The Council shall at its first meeting of each year designate a magistrate for the Community.

SECTION 2. The magistrate shall have power to impose upon any violator of an ordinance passed by the Council, such a fine as may be deemed just not exceeding three hundred and sixty dollars (\$360) for each offense.

SECTION 3. In each case, before the magistrate makes his decision, the person accused of such violation shall be given opportunity to appear before the magistrate and make any statement that he or she may wish to make.

SECTION 4. The secretary shall, within three days after such a fine has been imposed by the magistrate, hand to the person upon whom the fine has been imposed written notification thereof, countersigned by the mayor or acting mayor, setting forth the amount of the fine and the reasons for which it has been imposed.

SECTION 5. Fines thus imposed shall be collected by the secretary and by him deposited with the treasurer, to be expended at the direction of the Council as other funds are expended.

SECTION 6. Whenever a fine which has been thus imposed remains unpaid for a period of four weeks from and including the day upon which notification thereof was received by the delinquent, the magistrate may, in lieu of the payment of the fine, require the delinquent to labor not more than ninety (90) days on the streets or other public works of the Reserve. The expenses in connection with such sentence shall be paid from funds under the control of the Council.

ARTICLE VI—OCCUPANCY OF LAND

SECTION 1. The Council, at any of its regular monthly meetings, shall be authorized to issue to any member of the Community unprovided with a parcel of land in the town of Metlakatla the following permit:

Permit No. -----

METLAKATLA, ALASKA

(Date) ----- 19-----

This certifies that ----- of Metlakatla is authorized to enter upon and occupy that tract or parcel of land in Metlakatla, on Annette Islands in the Territory of Alaska, more particularly described as follows, viz: Lot No. ----- of the town of Metlakatla, according to the adopted plat thereof, and measuring ----- feet by ----- feet.

This permit shall be the evidence thereof, except it be before by us canceled upon our register by a two-thirds vote of the membership of the Council for abandonment or for other reason deemed by the Council to be good and sufficient, or except it be before by us canceled upon the request of the person to whom it has been issued.

Done by our order, under our seal, the day and year first above written.

THE METLAKATLA INDIAN COMMUNITY

By -----
Mayor.

Secretary of the Council.

[SEAL]

SECTION 2. The Council is authorized to issue similar permits for the occupancy and use of such tracts of land, other than mineral land, on Annette Islands as are cultivable to any member of the Community who may be willing to clear and cultivate the same; not more than 10 acres of such land shall be assigned to any one person.

A description of each parcel of land thus assigned shall be made by the local representative of the Office of Indian Affairs, and the description of each tract of land assigned shall in each case be written out in full in the permit covering its assignment.

SECTION 3. A fee of five dollars (\$5) shall be paid by each member of the Community hereafter receiving a permit to occupy land, other than mineral, within the Reserve. Such fees shall be collected by the secretary and by him deposited with the treasurer, to be expended for public purposes, as the Council may direct.

SECTION 4. Every permit to occupy a lot within the town of Metlakatla or to occupy a tract of land within Annette Islands Reserve issued under this Constitution shall be made in triplicate. The original permit shall be held by the person to whom it has been issued; the duplicate copy shall be preserved by the secretary in the official records of the Community; the triplicate copy shall be furnished the local representative of the Office of Indian Affairs.

SECTION 5. All permits to occupy land within the Town of Metlakatla or any other tract of land within the Annette Islands Reserve in force at the date of the adoption of this Constitution and By-laws are recognized as being in full force and effect and as of equal validity with those issued hereafter under sections 1 and 2 of this Article. An official record of such permits shall be made and preserved by the secretary, and a list certified by the mayor, stating the names of the persons holding such permits, the dates of the permits, and the number of the lot in the Town of Metlakatla or the description of the tract covered by each permit, shall be furnished by the secretary to the local representative of the Office of Indian Affairs.

SECTION 6. Should any permit to occupy land within or without the Town of Metlakatla be canceled for abandonment, if the occupant leaves the property without making proper provision for its upkeep, or for any other reason, as provided in Section 1 of this Article, the person whose permit is canceled shall receive for improvements upon such assignment such compensation, payable from the funds under the control of the Council, as may be fixed by a two-thirds vote of the entire membership of the Council. Such improvements for which compensation has thus been made shall be the property of the Community. The Council shall have power by its permit to transfer to another person such assignment with the improvements thereon upon such terms as the Council may prescribe. A full and complete record of all such proceedings, certified by the mayor, shall in each and every case be furnished by the secretary of the Council to the local representative of the Office of Indian Affairs.

ARTICLE VII—SPECIAL PROVISIONS

SECTION 1. The local representative of the Office of Indian Affairs may be present at all council meetings, and when he is present he shall have all the privileges of a member of the Council, except that he shall have no vote.

SECTION 2. Members of the Community wishing to form companies or corporations in order to conduct commercial enterprises may do so in accordance with the ordinances and regulations of the Council.

SECTION 3. The mineral and other natural resources of the Annette Islands and the waters to the distance of 3,000 feet surrounding these islands shall be community assets. In developing such resources the Council may on behalf of the Community as a whole undertake appropriate industrial and commercial enterprises or authorize, under such regulations as it shall prescribe, the organization of associations composed of all or any number of the members of the Community. All profits resulting from the activities of such enterprises or associations shall be deposited in the treasury of the Community unless in the case of any association organized under this section its articles of associa-

tion shall provide otherwise. A full and complete description of all such activities shall be filed with the Secretary of the Interior.

SECTION 4. The Council shall have the right, subject to the approval of the Secretary of the Interior, to enter into leases for the development of the resources of the Reserve.

SECTION 5. Permits may be given by the Council to members of the Community to cut timber on the Annette Islands Reserve for lumber and piling on condition that they pay to the secretary of the Community \$1.00 per thousand board feet for all logs sold away from the Reserve, and 50¢ per thousand board feet for all logs to be used for lumber or piling on the Reserve, or such other amounts as may be determined by the Council.

SECTION 6. All funds paid to the secretary of the Community as fees on timber and other resources shall revert to the general fund of the Community for such uses as the Council may direct.

ARTICLE VIII—AMENDMENTS

This Constitution and the attached By-laws may be amended by a majority vote of the qualified voters of the Metlakatla Indian Community voting at an election called for the purpose by the Secretary of the Interior, provided at least 30 percent of the eligible voters vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a resolution adopted by a two-thirds vote of the Council or a petition signed by one-third of the eligible voters of the Community.

BY-LAWS OF THE METLAKATLA INDIAN COMMUNITY

ARTICLE I—THE DUTIES OF OFFICIALS

SECTION 1. The mayor shall be the executive head of the Community. He shall preside at the meetings of the Council, but he shall not vote except in case of a tie vote in that body, when he shall cast the deciding vote.

SECTION 2. The mayor shall call a special meeting of the Council whenever he deems such procedure necessary, or when he is requested, in writing, to call such meeting by five or more members of the Council. He shall notify each member of the Council, the secretary, the treasurer, and the local representative of the Office of Indian Affairs, either by special messenger, or through the United States mail, of the time and place of such meeting.

SECTION 3. The mayor shall sign all warrants drawn by order of the Council on the treasurer. He shall receive a salary of \$300 per year, or such other amount as may be fixed by the Council.

SECTION 4. The mayor shall be chairman of the Executive Committee, hereinafter provided for, and he shall call a meeting of this Committee at least once a month for the consideration of questions relative to the welfare of the Community.

SECTION 5. The mayor shall have immediate control of the constables.

SECTION 6. The mayor shall be custodian of all public buildings and property of the Community on Annette Islands Reserve.

SECTION 7. The secretary shall keep the minutes of all the proceedings of the Council; he shall attend to the official correspondence of the Council, and he shall be the custodian of all the official documents of the Community.

SECTION 8. The secretary shall collect, without commission, and receipt for all taxes, fines and fees levied by the Council, and shall deposit said payments with the treasurer taking proper receipt therefor.

SECTION 9. The secretary shall prepare for the signature of the mayor all warrants on the treasurer as ordered by the Council.

SECTION 10. The secretary shall keep a record of the births and deaths in the Community, and shall report these vital statistics every month to the local representative of the Office of Indian Affairs.

SECTION 11. The secretary shall be a member, ex officio, of the Executive Committee; he shall keep a record of its proceedings, and shall present all recommendations of this Committee to the Council when it convenes.

SECTION 12. The secretary shall post a copy of every ordinance passed by the Council before it becomes operative in at least three public places on the Reserve, and a fourth copy he shall, within three days after its passage, hand to the local representative of the Office of Indian Affairs.

SECTION 13. The secretary shall receive the salary of \$600 per annum, or such other amount as may be fixed by the Council.

SECTION 14. The secretary shall give a bond to the Council, for the faithful performance of all his official duties. This bond shall be subject to the approval of the Commissioner of Indian Affairs. The annual premium on the bond of the secretary shall be paid from funds under the control of the Council.

Until otherwise ordered by the Council, with the approval of the Commissioner of Indian Affairs, the amount of the bond of the secretary shall be fixed at \$5000.

SECTION 15. The treasurer shall receive from the secretary all moneys collected by him, rendering proper receipts therefor.

SECTION 16. The treasurer shall pay out money only upon warrants drawn upon him by the secretary and countersigned by the mayor, or by the acting mayor. All warrants paid shall be preserved in his official files.

SECTION 17. The treasurer shall keep in a book which shall at all times be open to the inspection of the mayor, the secretary, the auditing committee and authorized representatives of the Office of Indian Affairs, a correct account of all moneys received and paid out by him.

SECTION 18. The treasurer shall be, ex officio, a member of the Executive Committee.

SECTION 19. The treasurer shall make an annual report to the Council at the last meeting in October, giving a full account of all receipts and disbursements for the year.

SECTION 20. The treasurer shall receive for his services \$240 per year, or such other amount as may be fixed by the Council.

SECTION 21. The treasurer shall give bond to the Council, for the faithful disbursement of all moneys which may come into his hands by

virtue of his office and for the faithful performance of all his official duties. His bond shall be subject to approval by the Commissioner of Indian Affairs. The annual premium on the bond of the treasurer shall be paid from funds under the control of the Council.

Until otherwise ordered by the Council, with the approval of the Commissioner of Indian Affairs, the amount of the bond of the treasurer shall be fixed at \$5,000.

ARTICLE II—THE DUTIES OF COMMITTEES

SECTION 1. The Executive Committee shall be composed of the mayor, who shall be, *ex officio*, its chairman, the secretary, the treasurer, and the local representative of the Office of Indian Affairs. The Executive Committee shall meet at least once a month. Meetings, however, may be called at any time by the mayor or by the local representative of the Office of Indian Affairs.

SECTION 2. It shall be the duty of the Executive Committee to make recommendations to the Council regarding ways and means of bettering the conditions of the Community. The secretary shall keep a record of the proceedings of the Committee and shall report its recommendations to the Council.

SECTION 3. In the absence of a majority of the members of the Council from the Reserve, the Executive Committee shall carry on the work of the Council and shall report its actions in full to the Council at its next meeting; *Provided*, That the Executive Committee shall have no power to levy taxes or fines, or to repeal any ordinance passed by the Council.

SECTION 4. The Council may add to the duties of the Executive Committee from time to time.

SECTION 5. It shall be the duty of the auditing committee, elected as provided in Article IV, section 7, of the Constitution to audit all claims against funds controlled by the Council and to report upon the same to the Council at the next meeting of that body. This committee shall audit the accounts of the treasurer and make a report on the same to the Council at the last meeting in October of each year, and at such other times as the Council shall direct.

SECTION 6. It shall be the duty of the public health committee, elected as provided in Article IV, section 7, of the Constitution to assist the secretary in collecting and preserving the vital statistics, to cooperate with the local representative of the Office of Indian Affairs who is a Territorial Health Officer, in maintaining sanitary conditions throughout Annette Islands Reserve and enforcing quarantine regulations.

ARTICLE III—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws shall be effective upon its ratification by a majority vote of those voting at an election called for the purpose by the Secretary of the Interior, provided at least 30 per cent of those entitled to vote shall vote in such election, such ratification to be formally certified by the present mayor and Council.

The persons entitled to vote are all the adult Metlakatla Indians of purpose by the Secretary of the Interior, provided at least 30 percent on a list of such Indians compiled by the Council with the assistance

of the local representative of the Office of Indian Affairs, under the Instructions of the Secretary of the Interior.

This Constitution and By-laws are herewith approved by the Assistant Secretary of the Interior and submitted for ratification by members of the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, in a popular referendum called and held under the Instructions of the Secretary of the Interior.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws will be inapplicable to the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, from and after the date of adoption of this Constitution.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

[SEAL]

OSCAR L. CHAPMAN

Assistant Secretary of the Interior

WASHINGTON, D. C., August 23, 1944.

CERTIFICATION

Pursuant to an order approved August 23, 1944, by the Assistant Secretary of the Interior, the attached Constitution and By-laws were submitted for ratification to the members of the Metlakatla Indian Community, Annette Islands Reserve, Territory of Alaska, and were on December 19, 1944, duly ratified by a vote of 105 for, and 17 against, in an election in which over 30% of those entitled to vote cast their ballots, in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378) and the Act of May 1, 1936 (49 Stat. 1250).

Mrs. TED S. BRANDOR

Chairman, Election Board

Mrs. CORA LANG

Secretary, Election Board

WENDELL H. CORDLE

Government Representative

○

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: *ps Price*
Robert E. Price
Assistant Attorney General

AUG 02 1982

LEGAL COUNSEL

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1985

SUBJECT: Aid to Metlakatla
(House Bill 198 am)

TO: Senator Edna DeVries
Chair,
Community & Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked whether any constitutional problems would result from passage of HB 198 am. That bill includes the Metlakatla Indian Community in the municipal assistance program, a program of state aid now available only to municipalities organized under state law.

You have identified Article X, Sections 1 and 2 of the state constitution, which deal with the powers of local government, as the source of potential problems. While it is true that under state law local government powers are exercised only by cities and boroughs, the Metlakatla Indian Community is recognized under federal law as a tribe located on a federally established reserve with a local government organized under federal, not state, law. It is the only reserve in Alaska not revoked by the federal government under Section 19 of the Alaska Native Claims Settlement Act. Consequently, there exists a rational basis for the legislature to single out Metlakatla for treatment that differs from the treatment of other Native groups in the state. By doing so the legislature is not unconstitutionally vesting local government powers in an entity that is neither a city nor a borough, but, rather, recognizing the local government power granted to Metlakatla under federal law.

So long as state money received by Metlakatla is not used in a discriminatory fashion, no problem would be created under Article I, Section 3 of the state constitution. There might be a problem, however, if state money were used to build a

Senator Edna DeVries
April 12, 1985
Page 2

facility, like a swimming pool, and access to the pool were denied to residents on the basis of race. If the committee is concerned about this possibility, an additional requirement for receipt of state money could be inserted into the bill--that the money be used on a nondiscriminatory basis for the benefit of the general public.

It should be noted that Metlakatla does, in fact, receive state money under assistance programs available to unincorporated communities. Whether Metlakatla should continue to be treated, for these purposes, as an unincorporated community or included within a program designed for municipalities is a question of policy. In any case, the Attorney General has acknowledged the propriety of granting state money to Metlakatla under a statute that specifically identifies Metlakatla as a recipient. (Attorney General Opinion No. 366-747-82, July 28, 1982, copy attached.)

TBC:ojb
J13/090

Attachment



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 11, 1985

MEMORANDUM

TO: Representative Peter Goll
FROM: Jay Livey, Legislative Analyst *JL*
RE: Metlakatla Revenues
Research Request 85-070

You asked us to determine the types of federal revenues currently received by the community of Metlakatla, particularly those revenues that are unrestricted in use. Additionally, you asked us to compare Metlakatla's revenues with revenues received by other comparable communities in Alaska.

Metlakatla is an Indian Reserve, and therefore is incorporated as a Federal Law City rather than under the Alaska Statutes. However, because it has an incorporated government, the community is eligible for federal revenue sharing as are all incorporated communities in the state. According to Fred Williams, Revenue Sharing Officer within the United States Treasury Department, Metlakatla's revenue sharing allocation for FY 85 is \$31,000. Mr. Williams claims that this amount is similar to allocations received by other Alaska communities of comparable size. He does note, however, that the Metlakatla's revenue sharing allocation is determined solely on population while revenue sharing allocations to other communities consider local tax efforts as well as population.

Because Metlakatla is an Indian Reserve, the local government provides a variety of services through contracts with the Bureau of Indian Affairs and the Indian Health Service. According to Burley Wellington, Metlakatla's finance officer, the community receives about \$1 million in contracts from these two federal agencies to fund social services, the court system, public safety, health programs, community resource management and alcohol and drug programs. It should be remembered, however, that these funds, unlike revenue sharing funds, are restricted revenues and can only be used for services specified by contract.

We also contacted the Bureau of Indian Affairs to determine if Metlakatla's status as an Indian Reserve qualified them for any revenue

Representative Goll
January 11, 1985
Page 2

sharing or municipal grant program not available to other communities. According to Patricia Simmons of the Office of Indian Services, Bureau of Indian Affairs there are no special revenue sharing programs designed for Indian Reserves.

In addition to federal money, Metlakatla receives a \$25,000 grant from the State under AS 29.89.050 (State aid to unincorporated communities) as well as State aid to volunteer fire departments in the unorganized borough (AS 29.89.040). Mr. Wellington also reported that Metlakatla received State funding for day care services and a senior citizens program.

I hope this information is helpful. If you desire additional research, please do not hesitate to contact us.

JL

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 29, 1985

SUBJECT: Municipal assistance for certain
municipalities organized under federal law
(SCS HB 198(C&RA))

TO: Senator Edna DeVries, Chair
Community & Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is the sectional analysis that you requested for the draft of SCS HB 198(C&RA).

Section 1 deletes references to city or borough and replaces them with references to municipality, which is defined in this bill for purposes of the municipal assistance program.

Section 2 provides that the base amount of assistance to a municipality organized under federal law is the amount received as a base amount by the city most closely approximating that municipality in population on June 30, 1977.

Section 3 deletes a reference to city and borough and replaces it with a reference to municipality, which is defined.

Section 4 adds subsection (e) setting out requirements that must be met before a municipality organized under federal law may receive aid. It must form a community development corporation with authority to determine how the money received from the state will be used. The charter must require that the governing board of the corporation be elected at an election open to all residents qualified to vote in state elections. The Department of Revenue may distribute money to the corporation after it has delivered a written waiver of sovereign immunity from legal action by the state to recover the money.

Senator Edna DeVries
April 29, 1985
page 2

Subsection (f) contains the definition of municipality, which includes a municipality organized under state law and a municipality organized under federal law as an Indian reserve that existed before enactment of a provision in the Alaska Native Claims Settlement Act and was continued in existence under that provision.

Section 5 makes the Act effective at the beginning of the next fiscal year.

TBC:ojb
J14/054

*file - ~~Revenue~~ Revenue
Sharing legislation*

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 18, 198

SUBJECT: Municipal Assistance and Revenue Sharing
(Work Order No. 14-0234)

TO: Representative Peter Goll

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested an explanation of the differences between revenue sharing and municipal assistance. Both terms refer to financial aid to municipalities, however each is a separate program.

Municipal assistance derives from AS 43.20.016, and is currently the sharing of corporate income tax revenue with municipalities. The legislature appropriates a sum to the fund each fiscal year, and the funds are distributed to municipalities under a statutory formula. Until last february, the money that went into the fund came from corporate income taxes under AS 43.20.011(e), and corporate oil and gas taxes under AS 43.21. The legislature in 1984 deleted AS 43.21 from the statute, and therefore all funds coming into the municipal assistance fund are obtained only from AS 43.20.011(e), a tax on corporate income. The program is administered by the Department of Revenue, Division of Administrative Services.

Revenue sharing refers to two chapters of title 29, specifically AS 29.88, and AS 29.89. The first statute is intended to equalize taxable revenues among the various municipalities by providing an equalization entitlement each fiscal year. The equalization entitlement is based on a formula that considers population, relative ability to generate revenue, and the local tax burden of the taxing municipality. The second statute, AS 29.89, is additional assistance for municipalities for roads (AS 29.89.020), health facilities (AS 29.89.030) and volunteer fire

Representative Peter Goll
December 18, 1984
Page 2

departments (AS 29.89.040). Additionally this chapter provides for State aid to native village governments under AS 29.89.050. These programs are administered by the Department of Community and Regional Affairs, Division of Municipal and Regional Assistance.

For FY85, the sum of \$81,306,800 was appropriated from the general fund to the Department of Revenue for the municipal assistance program, and the sum of \$60,350,000 was appropriated to the Department of Community and Regional Affairs for the revenue sharing program.

Also please find enclosed HB 590 that you requested.

Please contact me if I can be of further assistance.

MFF:ojb
J10/039

Enclosure



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

MEMORANDUM

DATE: MARCH 6, 1985

TO: MS. IRENE CASHEN
CHIEFCLERK
ALASKA HOUSE OF REPRESENTATIVES

FROM: REP. PETER GOLL *Peter Goll*
CHAIR
HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

SUBJECT: HOUSE BILL 198
LETTER OF INTENT
BY THE HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

LETTER OF INTENT
HOUSE BILL 198

It is the intent of the Legislature that an elected municipal assistance committee be established in Metlakatla to determine the distribution of municipal assistance funds. Elections for the purpose of selecting the members of the committee shall be open to all residents of Metlakatla registered to vote under AS 15.05.010.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 17, 1985

Honorable Edna DeVries
Community & Regional Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 198 am

Dear Senator DeVries:

You have requested the advice of this office on the constitutional aspects of HB 198 am, relating to municipal assistance for municipalities on federal Indian reserves. These are important questions which deserve close attention. The following is our summary analysis.

Article X, Section 2 of the Alaska Constitution states, "all local government powers shall be vested in boroughs and cities." HB 198 am changes the term "municipality" in AS 43.20.016 to refer to a city, borough, unified municipality, or "municipality organized under federal law as an Indian reserve..." (Only Metlakatla, on the Annette Island Reserve, qualifies in the last category.) Is the expansion of the definition in HB 198 am a violation of Article X, Section 2? We believe not. First, we note that HB 198 am does not confer local government powers on a federal Indian reserve; it is merely intended to share state resources equitably with existing local governments. There is no legal doubt that a federally recognized council on a federal Indian reserve is a valid governmental entity. Metlakatla has long been recognized by both the federal and state governments as a local government, albeit a local government in a class by itself due to its status as Alaska's only Indian reservation. Federal law preempts state law, so Article X, Section 2 cannot prevent Metlakatla from enjoying the status of a local government granted to the community by the federal government. Since a federally-created local government is valid under law and is functionally equivalent to state-created cities and boroughs, we believe it is within the prerogative of the legislature to expand the definition of "municipality" in AS 43.20.016(f) to include federally-created reservation governments.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

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

Hon. Edna DeVries, Chair
Community & Regional Affairs Committee
Re: HB 198 am

April 17, 1985
Page 2

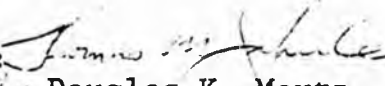
You also raised the question of whether Article I, Section 3 of the Alaska Constitution affects the validity of this bill. That section prohibits the denial of civil or political rights on the basis of race, color, creed, sex, or national origin. Metlakatla is an Indian reservation, meaning that its council is elected by its native residents only and the community may limit the benefits and prerogatives available to non-natives. In other circumstances this would cause great concern, since there is considerable doubt whether state funds can ever be allocated solely for the benefit of one racial or political group. However, it appears to us that Section 4 of HB 198 am avoids this problem by requiring that municipal assistance be spent only as directed by a committee elected by all residents registered to vote in state elections. In addition, it is implicit in any grant of state funds that the funds may be used only for a public purpose, i.e., may not be devoted to the benefit of one racially - or politically - defined segment of the population. That section provides a mechanism for recovering funds if the community does not follow this and other requirements of state law.

In short, the only new beneficiary under the expanded municipal assistance program in HB 198 am, Metlakatla, is a valid local government; and the bill would insure that the funds are not spent in a way which could violate the constitutional guarantees of civil and political rights.

Please let us know if you have further questions.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
for Douglas K. Mertz
Assistant Attorney General

DKM:zn

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

April 29, 1985

The Honorable Edna Armstrong-DeVries
Chairman, Senate Community and
Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator Armstrong-DeVries:

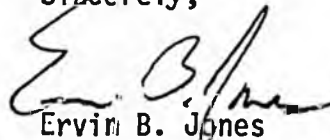
In response to your inquiry concerning the impact of HB198 on Metlakatla, a base amount of \$20,064 would be determined pursuant to AS 43.20.016(b). The calculation of Metlakatla's portion of the excess is based on two assumptions:

1. The appropriation level for FY 86 is the same as FY 85;
2. The population count and distribution as certified by the Department of Community & Regional Affairs is unchanged.

On that basis, the per capita amount is \$134.08. With a certified population of 1056, Metlakatla's allocation of the excess would be \$141,588. This would bring the total Municipal Assistance share to \$161,652.

If you have further questions, please contact me at 465-2313.

Sincerely,


Ervin B. Jones
Director

85-94

Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

April 29, 1985

Tuesday, April 30 Committee Meeting

HB 198 am -- An Act relating to municipal assistance for certain municipalities organized under federal law, efd

This bill generally changes the designation "city" and "borough" to "municipality" as that term relates to State assistance to local government; and provides for municipal assistance to Metlakatla.

Information on the bill which is attached:

- 1) Sectional analysis
- 2) Summary of present funding available to Metlakatla from the State
- 3) Summary of present funding available to Metlakatla from the Federal government
- 4) Memo from Dept of Revenue outlining municipal assistance funding that Metlakatla would be eligible for under this bill
- 5) Memo from Dept of Law on Constitutional ramifications of this bill
- 6) Memo from LAA Legal Services on Constitutional ramifications of this bill
- 7) Memo from Dept of Law stating that the provisions of this bill apply to Metlakatla only
- 8) Position paper from Dept of C&RA in support of the bill
- 9) Memo and summary statement in support of HB 198 from the Mayor of the Metlakatla Indian Community
- 10) A copy of the Constitution and By-Laws of the Metlakatla Indian Community

Departments of C&RA and Revenue submitted zero fiscal notes on the bill.

Representative Goll will present to the Committee for consideration a committee substitute. The proposed committee substitute makes changes to Section 4 of HB 198 am.

C&RA states that Metlakatla has a population count of 1,439 for purposes of receiving volunteer fire department funds. Day Care, Head Start, Child Care, and Child Care Food funds provided to Metlakatla for FY'84 total \$75,874.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

April 25, 1985

BILL SHEFFIELD, GOVERNOR

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

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

The Honorable Edna DeVries, Chair
Committee on Community & Regional Affairs
Alaska State Senate
Pouch V
Juneau AK 99811

Dear Senator DeVries:

The Department of Community and Regional Affairs has administered grants totaling \$722,000 appropriated under AS 37.05.317 by the Alaska Legislature to the community of Metlakatla during the past five years. In response to your April 15 request, the following list summarizes State grant monies provided through our Department:

- \$162,000 for sewer and water facilities and site preparation (SLA 83, CH 106 Sec. 216, Pg. 41, Ln 7, amended by SLA 84, CH 171, Sec. 130, Pg 22, Ln 7); this legislative grant is now closed.
- \$500,000 for a cargo dock (SLA 83, CH 107, Sec. 34, Pg 121, Ln 26); this legislative grant remains open.
- \$60,000 for electric utilities (SLA 84, CH 171, Sec. 131, Pg 22, Ln 11).

All of the above grants are administered by the Department's Municipal and Regional Assistance Division.

Funds distributed by the Department to Metlakatla community entities since 1980 under authority other than AS 37.05.317 include the following:

Within the Division of Community Development:

- A \$100,000 legislative grant (SLA 84, CH 24, Sec. 4, Pg 68, Ln 22) for dam repair (this grant remains open); and
- A closed CETA contract with the Metlakatla Indian Association to administer a Summer Youth Employment Program.

Senator Edna DeVries
April 25, 1985
Page 2

Within the Housing Assistance Division:

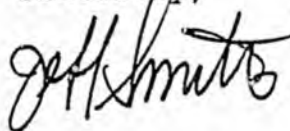
- A closed \$442,560 supplemental housing grant to the Metlakatla Housing Authority for water, sewer, and roads for a HUD housing project; and
- An open \$1,383,000 senior citizen housing grant for 25 units of elderly housing.

Within the Municipal and Regional Assistance Division:

- A closed FY 81 Rural Development Assistance (RDA) grant of \$40,000 for a senior citizen center;
- An open FY 82 Unincorporated Community Aid grant of \$1,187,073 earmarked for miscellaneous projects, such as a youth center complex, power and light equipment, and the maintenance and operation of various municipal buildings; and
- An open FY 83 RDA grant of \$100,000 for senior citizen center expansion.

If you require more detailed information concerning any of the above grants, please contact MaryAnn VandeCastle at 465-4709.

Sincerely,



Jeff Smith
Acting Commissioner

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 6, 1985

BILL SHEFFIELD, GOVERNOR

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

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

POSITION PAPER

RE: House Bill 198

SPONSOR: Representative Goll


Program Effects of Bill

This Act would extend payment of municipal assistance under AS 43.20.016 to certain municipalities organized under federal law as Indian reservations.

Comments

Municipal assistance is currently paid only to local governments organized under state law, i.e., cities and boroughs. This Act would extend payments to certain federal entities in the state. The definition proposed would include only Metlakatla (Annette Island Reserve).

Metlakatla functions very much like other municipalities recognized under State law by providing vital local services to its residents. As a functioning local government, the Department recognizes the validity of this bill which is designed to extend Municipal Assistance to Metlakatla to help offset the cost of these municipal services. The municipal assistance program is administered by the Department of Revenue. The only additional burden on this department, under existing law, is the minimal one of certification of population of Metlakatla pursuant to AS 43.20.016 (c).


Emil Nizti, Commissioner

COUNCIL ANNETTE ISLANDS RESERVE

HARRIS L. ATKINSON, MAYOR
ROSEBELLE G. NELSON, SECRETARY
BURLINGTON W. WHEELINGTON, TREASURER

ESTABLISHED 1887

METLAKATLA INDIAN COMMUNITY
P.O.-BOX 8
METLAKATLA, ALASKA 99926



February 27, 1985

Representative Peter Goll
Alaska State Legislature
Pouch V (MS-3100)
Juneau, Alaska 99811

Re: House Bill 198

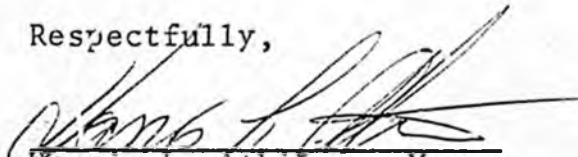
Dear Representative Goll,

The Metlakatla Indian Community Council and the Mayors office appreciate your assistance in pursuing benefits under the Municipal Assistance Fund, AS 43.20.016.

I have enclosed a summary statement in support of HB 198 as requested by Mr. Berry of your staff. Sol Atkinson of my staff will be in Juneau on Tuesday, March 5, 1985 to discuss the bill with you and will be ready to testify on Wednesday March 6, 1985 before the C&RA Committee.

Thank you again for your assistance with the Metlakatla Indian Community's needs.

Respectfully,



Harris L. Atkinson, Mayor
Metlakatla Indian Community

SUMMARY STATEMENT
IN SUPPORT
OF HOUSE BILL 198

Existing Alaska state law makes substantial sums of state money available to local governments on an ongoing basis under several legislative programs, including the Municipal Assistance Fund, under 43.20.016.

At the present time, the Metlakatla Indian Community does not qualify to participate in this program because it is not a "municipality" as defined in this state statute. Although the Metlakatla Indian Community provides the same kinds of governmental services as other local governments in Alaska, it is organized under federal, rather than state law, and is therefore not a qualifying "subdivision" of the state. Although Metlakatla has received funds from the State of Alaska, these have been either through project-specific legislation or as an "unincorporated community." The money made available under the unincorporated communities programs, however, are substantially less than those made available to organized local governments, and certain programs like Municipal Assistance have not been extended to unincorporated communities at all.

The purpose of House Bill 198 is to extend the benefits of the state municipal assistance program to the Metlakatla Indian Community. Although Metlakatla is organized under federal law, it performs governmental functions that are

closely analogous to those performed by state municipalities, and the state citizens residing there should receive the same indirect benefits.

The Metlakatla Indian Community is a federally recognized community located on the Annette Islands Reserve, which is the only federal Indian reserve now existing in Alaska. Section 19(a) of the Alaska Native Claims Settlement Act abolished all Indian reserves in Alaska with the express exception of Metlakatla. Metlakatla's government is organized under the Indian Reorganization Act of 1934, 25 U.S.C. 476, which authorized Indian tribes to establish written constitutions to formally organize their governments. The Metlakatla Indian Community performs substantial local government functions for the Reserve. The Community provides police and fire protection, water, sewer, electrical services and garbage collection. Metlakatla's twelve man governing council passes civil and criminal ordinances governing the conduct of persons in the Reserve, has established a judicial program, and conducts various social programs for the benefit of the residents of the Annette Islands Reserve. Under federal law, the Metlakatla Indian Community is authorized to levy taxes for the support of the Community's government. In short, the Metlakatla Indian Community performs governmental functions closely resembling the functions of Alaska municipalities, the principal difference being that Metlakatla's authority arises pursuant to federal rather than state law.

The cost of providing these services to more than 1300 residents of the Annette Islands Reserve is very substantial. In fiscal 1984, for example, Metlakatla's budget was approximately \$1.8 million. In the past, substantial portions of this budget have been provided through grants and loans from the United States government. Under the Reagan administration, however, the cutbacks in the various federal programs extended to Indian tribes have been extraordinarily substantial, averaging 45% nation-wide. Metlakatla, like other Indian communities throughout the United States, has been substantially affected.

As a result of these cutbacks, and because of the general slowdown in the community's economy due to the downturn in the salmon market and because of the depressed timber industry, the Metlakatla Indian Community has substantial need for state municipal assistance. House Bill 198 would correct a serious inequity in state law by extending to the citizens residing on the Annette Islands Reserve, the same indirect benefits of state municipal assistance now enjoyed by other Alaska state citizens located in similar communities throughout the state. The Metlakatla Indian Community therefore respectfully requests the enactment of House Bill 198.

COUNCIL ANNETTE ISLANDS RESERVE

HARRIS L. ATKINSON, MAYOR
ROSEBELLE G. NELSON, SECRETARY
BURLINGTON W. WELLINGTON, TREASURER

ESTABLISHED 1887

METLAKATLA INDIAN COMMUNITY
P.O.-BOX 8
METLAKATLA, ALASKA 99926



April 18, 1985

Representative, Peter Goll
Alaska State Legislature
Pouch V (Ms 3100)
Juneau, Alaska 99811

Dear Mr. Goll:

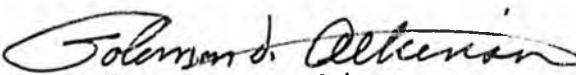
Please find enclosed our Proposed Amendment to HB 198, and our position paper as I explained to Mr. Bob Berry of your staff this morning.

I have the Mayor's approval to proceed with this amendment to the bill and with the position paper. I have not relayed this information to our Lobbyist Wally Kubley, so I would appreciate it if you would provide him with a copy.

Mr. Berry informed me that the bill would probably not be heard by the Senate C & RA Committee until the week of April 29th. If this is the case, then we should approach the Senate Finance Committee Chairman to waive the bill on through without a hearing. With no fiscal note attached I believe we should try this approach.

Thank you for your continued assistance,

Respectfully,


Solomon D. Atkinson

STATEMENT ON BEHALF OF THE
METLAKATLA INDIAN COMMUNITY
ON HOUSE BILL 198

The Metlakatla Indian Community is an Indian tribal government organized under section 16 of the Federal Indian Reorganization Act, 25 U.S.C. §476 (1983). As such, it is the local government of the Annette Islands Indian Reservation established by Act of Congress for the Metlakatla Indians in 1891. See 25 U.S.C. §495 (1983). The Community's government is carried on under a Constitution and Bylaws approved by the Secretary of the Interior as provided by federal law.

When the Alaska Native Claims Settlement Act was passed, the Metlakatla Indians chose to forego financial benefits under that Act rather than permit any change in the status of the Reservation or the governmental authority of the Community. We are not now prepared to give up our right to reservation self-government in exchange for financial benefits under the State revenue sharing program.

However, we believe that the objective of House Bill 198 is sound. Residents of the Annette Islands Reservation are citizens of the United States and citizens of the State of Alaska. As such we are entitled under the Federal Constitution to equal treatment with other citizens of the State in the expenditure of State municipal assistance funds. See Acosta v. San Diego County, 272 P.2d 92 (1954); Arizona v. Hobby, 221 F.2d 498 (D.C. Cir. 1954). We believe that this goal can be achieved in a manner fair to all in the State without jeopardizing our right to self-government if certain revisions are made in the bill.

We request that the present language of the bill be modified to ensure that it does not lead to duplicating or conflicting governmental authority on the Reservation, undermine the federally protected rights of self-government of the Metlakatla Indians, or open the Community to litigation which goes beyond the limited purpose of enforcing the terms and conditions of State grants.

As passed by the House the bill would require that a municipal assistance committee elected by all Reservation residents (Indian and non-Indian) shall determine how the State grant funds would be spent. Funds would be disbursed by the State to a corporation chartered to the Metlakatla Indian Community under section 17 of the Federal Indian Reorganization Act (not to the tribal government organized under section 16 of the Act) and the corporation would deliver a written waiver of immunity from legal action by the State to recover grants funds.

We believe that the legitimate purposes sought by these provisions can be achieved without the interference with the governmental authority of our Council which these provisions involve. We particularly object to the use of the "section 17 corporation." While a corporate charter was issued to the Community in 1944, that corporate form has not been utilized for any purpose for many years. It was in any event designed to carry on commercial activities, not to exercise

governmental authority. Since the Solicitor of the Department of the Interior ruled in 1958 that section 17 corporations are separate entities from section 16 governments and no property has been transferred from the government to the corporation, it is without assets and is not engaged in any activities. Use of municipal assistance funds for governmental purposes would in any event violate its charter since its corporate purpose is "to do various kinds of business."

We propose instead that the Community Council charter a tribal community development corporation for the purpose of receiving and disbursing the State grant funds. The charter of such a tribal corporation would include a waiver of any immunity it might otherwise possess in any suit by the State to recover all or a portion of the money distributed under the bill. The power of Indian tribes to charter such corporations and to provide that they are subject to suit is well established. See

Namekagon Dev. Co. v. Bois Forte Res. Housing Authority, 517

F.2d 508 (8th Cir. 1975). The Community has itself exercised this authority in chartering the Metlakatla Housing Authority which has provided a federally financed low-income housing authority on the Reservation for twenty years.

The charter would provide for the election of a governing board by all Reservation residents and authorize that board to approve and disburse all municipal assistance expenditures. We propose, however, that expenditures also be in accordance with the budget approved by the Council.

With these changes we could support the bill and request its enactment. We have attached our revision to this statement. We emphasize that we fully agree that residents of the Reservation are now being unjustifiably deprived of State municipal assistance funds which are available to all other communities in Alaska. By adopting the revisions we propose,

the Legislature would correct this inequity without any infringement of the authority of our tribal government or violation federal law. We feel that recognition of our tribal government in this way would be a creative step toward the effective coordination of State and tribal programs in Alaska.

PROPOSED AMENDMENT TO HOUSE BILL 198

Strike new subsection (e) under Section 4 and
substitute the following:

(e) In this section "municipality" means a city,
borough, or unified municipality organized under the laws of the
state, or a municipality organized under federal law as an
Indian reserve that existed before enactment of 43 U.S.C.
§1618(a) and is continued in existence under that subsection.
To qualify to receive money under this section, a municipality
organized under federal law as an Indian reserve that existed
before the enactment of 43 U.S.C. §1618(a) and has continued in
existence under that section ^(10320C) shall charter a tribal community
development corporation with authority to receive, to budget
(subject to approval by the governing body of the municipality)
and expend money received under this section and shall expressly

waive, as to such corporation, any sovereign immunity it might otherwise enjoy from legal action by the state to recover all or a portion of the money distributed under this Section, and the state shall distribute such moneys only to such corporation.

Such charter shall require that the governing board of the corporation shall be elected at an election open to all residents of the municipality that are registered and qualified to vote in state elections, and shall require that no disbursements may be made by the corporation unless approved both by its governing board and the governing body of the municipality.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 11, 1985

MEMORANDUM

TO: Representative Peter Goll

FROM: Jay Livey, Legislative Analyst *JL*

RE: Metlakatla Revenues
Research Request 85-070

You asked us to determine the types of federal revenues currently received by the community of Metlakatla, particularly those revenues that are unrestricted in use. Additionally, you asked us to compare Metlakatla's revenues with revenues received by other comparable communities in Alaska.

Metlakatla is an Indian Reserve, and therefore is incorporated as a Federal Law City rather than under the Alaska Statutes. However, because it has an incorporated government, the community is eligible for federal revenue sharing as are all incorporated communities in the state. According to Fred Williams, Revenue Sharing Officer within the United States Treasury Department, Metlakatla's revenue sharing allocation for FY 85 is \$31,000. Mr. Williams claims that this amount is similar to allocations received by other Alaska communities of comparable size. He does note, however, that the Metlakatla's revenue sharing allocation is determined solely on population while revenue sharing allocations to other communities consider local tax efforts as well as population.

Because Metlakatla is an Indian Reserve, the local government provides a variety of services through contracts with the Bureau of Indian Affairs and the Indian Health Service. According to Burley Wellington, Metlakatla's finance officer, the community receives about \$1 million in contracts from these two federal agencies to fund social services, the court system, public safety, health programs, community resource management and alcohol and drug programs. It should be remembered, however, that these funds, unlike revenue sharing funds, are restricted revenues and can only be used for services specified by contract.

We also contacted the Bureau of Indian Affairs to determine if Metlakatla's status as an Indian Reserve qualified them for any revenue

Representative Goll
January 11, 1985
Page 2

sharing or municipal grant program not available to other communities. According to Patricia Simmons of the Office of Indian Services, Bureau of Indian Affairs there are no special revenue sharing programs designed for Indian Reserves.

In addition to federal money, Metlakatla receives a \$25,000 grant from the State under AS 29.89.050 (State aid to unincorporated communities) as well as State aid to volunteer fire departments in the unorganized borough (AS 29.89.040). Mr. Wellington also reported that Metlakatla received State funding for day care services and a senior citizens program.

I hope this information is helpful. If you desire additional research, please do not hesitate to contact us.

JL

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

February 27, 1985

POSITION PAPER

RE: House Bill 198

SPONSOR: Representative Goll

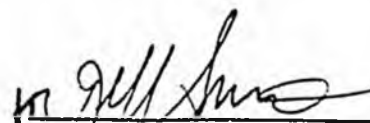
Program Effects of Bill

This Act would extend payment of municipal assistance under AS 43.20.016 to certain municipalities organized under federal law as Indian reservations.

Comments

Municipal assistance is currently paid only to local governments organized under state law, i.e., cities and boroughs. This Act would extend payments to certain federal entities in the state. The definition proposed would include only Metlakatla (Annette Island Reserve).

To the extent that Metlakatla is recognized as a municipality which provides services to local residents of the state, the extension of such assistance is justified. The municipal assistance program is administered by the Department of Revenue. The only additional burden on this department, under existing law, is the minimal one of certification of population of Metlakatla pursuant to AS 43.20.016 (c).



Emil Notti, Commissioner

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

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

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 19, 1985

The Honorable Peter Goll
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: Municipal Assistance -- HB 198

Dear Representative Goll:

At your request we have reviewed HB 198, which amends the provisions of AS 43.20.016 concerning state aid to municipalities. Specifically, you ask whether the proposed revisions would have the effect of extending revenue sharing to the community of Metlakatla, but would not expand the program to other communities.

The clear answer is yes. The bill would add the term "municipality" to eligible local governments. Section 4 defines "municipality" to include municipalities "organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. § 1618(a) and is continued in existence under that subsection." The only community which meets that definition is Metlakatla, of the Annette Island Reserve. 43 U.S.C. § 1618(a) revoked the reserve status of all reserves in Alaska except Annette Island. Thus, only Metlakatla would be affected.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 

Douglas K. Mertz
Assistant Attorney General

DKM:dln

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 198
 Title: "An act relating to municipal assistance for certain municipalities..."
 Sponsor: Representative Goll
 Requestor: House C&RA
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Community Development
 BRU, Program or Subprogram(s) Affected: BRU: Local Government Assistance
 Component: Grants Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-		

CAPITAL						
----------------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

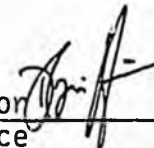
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-		

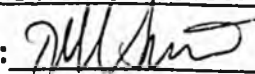
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Under HB 198, this Department would be required to annually certify the population of an additional community. This would not require any additional funding.

Prepared By: Doug Griffin, Deputy Director  Phone: 465-4750
 Division: Municipal and Regional Assistance Date: 2/27/85

Approved by Commissioner:  Date: 2/27/85
 Agency: Community and Regional Assistance

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 198
 Title: An act relating to municipal assistance
 Sponsor: Goll
 Requestor: House C&RA
 Date of Request: 2/16/85

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: General Government
 BRU, Program of Subprogram(s) Affected: Shared Taxes - Municipal Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	0	-	-	-	-
200 TRAVEL	-	0	-	-	-	-
300 CONTRACTUAL	-	0	-	-	-	-
400 SUPPLIES	-	0	-	-	-	-
500 EQUIPMENT	-	0	-	-	-	-
600 LANDS & STRUCTURES	-	0	-	-	-	-
700 GRANTS, CLAIMS	-	0	-	-	-	-
800 MISCELLANEOUS	-	0	-	-	-	-
TOTAL OPERATING	-	0	-	-	-	-
CAPITAL	-	0	-	-	-	-
REVENUE	-	0	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	0	-	-	-	-
FEDERAL FUNDS	-	0	-	-	-	-
OTHER	-	0	-	-	-	-
TOTAL	-	0	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

There is no fiscal impact on the administration of the municipal assistance program. The addition of new communities, however, dilutes the sharing of municipal assistance, reducing the share for each of the other communities.

Prepared By: Ervin B. Jones, Director
 Division: Administrative Services

Phone: 465-2313
 Date: _____

Approved by Commissioner: Henry P. Stuckale
 Agency: Revenue

Date: 3/2/85

Distribution (by Agency preparing fiscal note):

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

Fiscal Note HB 198
Attachment

There is no fiscal impact on the state as the proposed bill does not change the statutory provision allowing the legislature to appropriate 30 percent or more of the oil and gas corporate income tax to the municipal assistance fund.

The addition of new communities under the proposed bill would dilute the sharing of municipal assistance, reducing the share for each of the other communities.