

ALASKA LEGISLATURE COMMITTEE FILES 1965-1966 00/2

3889

SCRA

HB 198

765



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

10/31/89
Date

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STATE OF ALASKA 1985 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 Phone: 465-2313
 Division: Administrative Services Date: _____
 Approved by Commissioner: Mary A. Starkala Date: 3/2/85
 Agency: Revenue

Distribution (by Agency preparing fiscal note):

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

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 GOTT
 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: [Signature] 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)

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

3/28/85

Date April 30 1985

Mr. President

The Committee on C&R considered HB 198 am

municipal assistance for certain municipalities organized under federal law; eid.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for HB 198 (CIRG)
- new title
- same title and recommends (CIRG)
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

V. Fischer

Julius St...

J. B. ...

Chairman

Chairman

Chairman recommendation

Chairman recommendation



Wally Rubley

Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

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

M E M O R A N D U M

February 19, 1985

TO: Norman Gorsuch
Attorney General

FROM: Representative Peter Goll *Peter Goll*
Chair

SUBJECT: Municipal Assistance -- HB 198

I have introduced legislation which will provide municipal assistance to Metlakatla.

I would like to have a written attorney general's opinion verifying that Metlakatla is the only community in Alaska which would be affected by this legislation.

Thank you for your assistance.

ljb

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 209
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

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 6, 1985

- 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 Nguti, Commissioner

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 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 198
 Title: An Act relating to municipal assistance
 Sponsor: Gott
 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: Mary G. Sturdale
 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)

STATE OF ALASKA 1985 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: _____
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: John Larson, Economist
 Division: Research Section

Phone: 465-2173
 Date: 1/28/85

Approved by Commissioner: [Signature]
 Agency: [Signature]

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.



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 Reser. as.

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

Introduced: 2/15/85
Referred: Community & Regional
Affairs, Judiciary and Finance

1 IN THE HOUSE

BY GOLL

2

HOUSE BILL NO. 198

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal assistance for certain
7 municipalities organized under federal law; and
8 providing for an effective date."

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

10 * Section 1. AS 43.20.016(a) is amended to read:

11 (a) There is established within the department the municipal
12 assistance fund. The legislature may appropriate to the fund during
13 each fiscal year an amount equal to or greater than 30 percent of the
14 income tax revenue received by the state under AS 43.20.011(e) for the
15 previous fiscal year. The department shall distribute money from the
16 fund to each municipality [ORGANIZED BOROUGH AND EACH CITY OF ANY
17 CLASS] on an annual basis as provided in (b) and (c) of this section.
18 A municipality [BOROUGH OR CITY] may not receive payment under (b) or
19 (c) of this section until it submits to the department a resolution
20 approved by the governing body [OF THE MUNICIPALITY] that requests the
21 funds. Distribution of money from the fund to a municipality [CITY OR
22 ORGANIZED BOROUGH] with a fiscal year beginning on January 1 shall be
23 made on February 1 of the state fiscal year for which the appropri-
24 ation to the fund is made. Distribution of money from the fund to all
25 other municipalities [CITIES AND ORGANIZED BOROUGH] shall be made on
26 June 1 of the state fiscal year for which the appropriation to the
27 fund is made. A municipality [BOROUGH OR CITY] that incorporates
28 after December 31 of a state fiscal year is not eligible for a distri-
29 bution under this section until the following state fiscal year.

1 * Sec. 2. AS 43.20.016(b) is amended to read:

2 (b) The base amount to be distributed from the fund to each
3 borough and city for the fiscal year shall be the amount received by
4 the borough or city during fiscal year 1978 under AS 43.70.080; how-
5 ever, if the amount appropriated to the fund by the legislature under
6 (a) of this section is insufficient for distribution of the full base
7 amount, the department shall prorate the amount available for distri-
8 bution on the basis of amounts received during fiscal year 1978 under
9 AS 43.70.080. A city incorporated within an organized borough after
10 June 30, 1977 shall receive as a base amount a share of the amount
11 distributed to the borough in which it is located based on the ratio
12 of population in the city to the total population in the borough. A
13 city incorporated outside an organized borough after June 30, 1977
14 shall receive as a base amount the amount received by the city in the
15 state most closely approximating it in population at the time of its
16 incorporation. A borough incorporated after June 30, 1977 shall
17 receive as a base amount the amount received by the borough in the
18 state most closely approximating it in population at the time of its
19 incorporation. The base amount to be distributed to each municipality
20 organized under federal law shall be the amount received as a base
21 amount by the city most closely approximating that municipality in
22 population on June 30, 1977.

23 * Sec. 3. AS 43.20.016(c) is amended to read:

24 (c) If the amount in the fund at the time of distribution ex-
25 ceeds the base amount to be distributed under (b) of this section, the
26 excess amount shall be distributed to each municipality [BOROUGH AND
27 CITY] on the basis of population. For the purpose of this subsection,
28 the population of a city within an organized borough shall be deducted
29 from the population of the borough. Population, for the purpose of

1 this section, shall be as certified by the commissioner of community
2 and regional affairs.

3 * Sec. 4. AS 43.20.016 is amended by adding a new subsection to read:

4 (e) In this section "municipality" means a city, borough or
5 unified municipality organized under the laws of the state, or a
6 municipality organized under federal law as an Indian reserve that
7 existed before enactment of 43 U.S.C. 1618(a) and is continued in
8 existence under that subsection.

9 * Sec. 5. This Act takes effect July 1, 1985.

*Delivered to ofc by
Wally Kubley - 4/12/85
2:30P*

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 19, 1985

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

The Honorable Peter Goll
Alaska State House of Representatives
Pouch K
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:dlm



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V Fischer

Pouch V

Juneau, Alaska 99811

April 15, 1985

To: Emil Notti, Commissioner
Department of Community and Regional Affairs

From: Senator Edna DeVries, Chair *Edna*
Committee on Community & Regional Affairs

Subj: Metlakatla

Please prepare for me a summary of total state grant monies provided to the community of Metlakatla. I am interested in the funds disbursed through AS 37.05.317 for the past five years.

If you have questions, please give me a call at 465-4712.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

April 11, 1985

TO: Senator Dick Eliason
FROM: Senator Edna DeVries *E. DeVries*
SUBJ: HB 198 -- Your memo of 4/8/85

I appreciate your taking the time to write me concerning the subject legislation. It is my policy to hear all bills that come before my committee as soon as I feel that I have sufficient information that committee members can be fully informed.

In this regard I have requested legal counsel as to the Constitutionality of two issues that bear directly on the enactment of HB 198. When I have the information I feel is pertinent to the consideration of this bill, a hearing will be scheduled.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON



LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN
LEGISLATIVE COUNCIL, VICE CHAIRMAN
FINANCE COMMITTEE
RESOURCES COMMITTEE

PO BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Senator Edna Armstrong-DeVries, Chair
Senate Community and Regional Affairs Committee

FROM: Senator Dick Eliason *Dick Eliason*

RE: HB 198 - "An Act relating to municipal assistance for certain municipalities organized under federal law"

DATE: April 8, 1985

I would appreciate your consideration in scheduling HB 198 am for a hearing before the Senate Community and Regional Affairs Committee at the earliest possible time.

Although the community of Metlakatla is organized under federal law, and is therefore not a state law municipal corporation, it nevertheless functions as an established unit of government. Metlakatla does operate a "municipal" government and provides governmental services to more than 1,300 residents of the Annette Island Reserve. These services include police and fire protection, water, sewer and electrical service, as well as general government. House Bill 198 am will allow this community to receive municipal assistance to help defray the cost of these services.

The House Finance Committee Letter of Intent provides an assurance that all residents of Metlakatla registered to vote under AS 15.05.010 would elect a municipal assistance committee to determine the distribution of these funds. This special election would guarantee each resident equal voice in selecting a group of individuals who would monitor this revenue. At the present time, similar elections are opened to all registered voters in the community for the selection of the local school board and the Metlakatla Power and Light Board. This mechanism has worked extremely well in the past, and I am sure that this select committee on municipal assistance will fairly decide on the priorities for this funding.

This legislation is extremely important to the community of Metlakatla. Please consider scheduling HB 198 am as soon as possible.

Thank you for your considerate attention.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

April 8, 1985

To: Attorney General

From: Senator Edna DeVries, Chair *Edna*
Community & Regional Affairs Committee

Subj: HB 198am

The subject bill amends Sec 43.20.016 of the Alaska Statutes so that municipal assistance may be provided to other than boroughs and cities.

Article X., Sections 1 and 2 of the Alaska Constitution deal with the powers of local government; and Article I, Section 3 deals with Civil Rights.

Article II of the attached Constitution and By-Laws of the Metlakatla Indian Community deals with membership.

Will you please give me your legal opinion as to the Constitutional ramifications of passage of subject bill.

atch



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

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

M E M O R A N D U M

To: Senate Community and Regional Affairs Committee
Senator Edna DeVries, Chair
Senator Frank Ferguson, Vice Chair
Senator Jack Coghill
Senator Arliss Sturgulewski
Senator Vic Fischer

From: Committee Staff
House Community and Regional Affairs Committee

Date: March 13, 1985

Subject: COMMITTEE MEETING MINUTES: HB 198 "An Act relating to municipal assistance for certain communities organized under federal law; and providing for an effective date." Meeting held March 6, 1985

Attachment

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

CRA

3-6-85

3pm

he permanent fund shall be deposit-
ral fund unless otherwise provided

(this section was approved by the voters of the
1976 and became effective February 21, 1977.)

Except for appropriations for Alaska
dividends, appropriations of revenue
appropriations required to pay the prin-
cipal on general obligation bonds, and ap-
propriations received from a non-State source
for a specific purpose, including revenues of a
public corporation of the State that
funds, appropriations from the treasury
in any year shall not exceed \$2,500,000,000
the cumulative change, derived from
as prescribed by law, in population and
July 1, 1981. Within this limit, at least
one percent shall be reserved for capital projects and loan
guarantees. The legislature may exceed this limit in
appropriations to the Alaska permanent fund
for appropriations for capital projects,
if proceeds or otherwise, if each bill is
approved by the governor, or passed by affirmative vote
of the membership of the legislature
without a gubernatorial veto, or becomes law without
also approved by the voters as prescrib-
ed in a referendum bill for appropriations for capital pro-
jects. The limit shall be confined to capital
projects of the same type, and the voters shall, as pro-
vided, be informed of the cost of operations and
of the capital projects. No other ap-
propriations of this limit may be made except to
pay for a disaster declared by the governor as
required by law. The governor shall cause any unex-
pendable appropriated balance to be invested so as
to earn a competitive market rate to the treasury.
Approved November 2, 1982]

ARTICLE X

LOCAL GOVERNMENT

Purpose and
Construction

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

Local
Government
Powers

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

Boroughs

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

Assembly

SECTION 4. The governing body of the orga-
nized borough shall be the assembly, and its com-
position shall be established by law or charter.

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

Service
Areas

SECTION 5. Service areas to provide special
services within an organized borough may be estab-
lished, altered, or abolished by the assembly, sub-

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

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

Original sponsor: Goll

1
2 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

3 SENATE CS FOR HOUSE BILL NO. 198 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to municipal assistance for certain
8 municipalities organized under federal law; and
9 providing for an effective date."

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

11 * Section 1. AS 43.20.016(a) is amended to read:

12 (a) There is established within the department the municipal
13 assistance fund. The legislature may appropriate to the fund during
14 each fiscal year an amount equal to or greater than 30 percent of the
15 income tax revenue received by the state under AS 43.20.011(e) for the
16 previous fiscal year. The department shall distribute money from the
17 fund to each municipality [ORGANIZED BOROUGH AND EACH CITY OF ANY
18 CLASS] on an annual basis as provided in (b) and (c) of this section.
19 A municipality [BOROUGH OR CITY] may not receive payment under (b) or
20 (c) of this section until it submits to the department a resolution
21 approved by the governing body [OF THE MUNICIPALITY] that requests the
22 funds. Distribution of money from the fund to a municipality [CITY OR
23 ORGANIZED BOROUGH] with a fiscal year beginning on January 1 shall be
24 made on February 1 of the state fiscal year for which the appropri-
25 ation to the fund is made. Distribution of money from the fund to all
26 other municipalities [CITIES AND ORGANIZED BOROUGH] shall be made on
27 June 1 of the state fiscal year for which the appropriation to the
28 fund is made. A municipality [BOROUGH OR CITY] that incorporates
29 after December 31 of a state fiscal year is not eligible for a distri-
bution under this section until the following state fiscal year.

1
2 * Sec. 2. AS 43.20.016(b) is amended to read:

3 (b) The base amount to be distributed from the fund to each
4 borough and city for the fiscal year shall be the amount received by
5 the borough or city during fiscal year 1978 under AS 43.70.080; how-
6 ever, if the amount appropriated to the fund by the legislature under
7 (a) of this section is insufficient for distribution of the full base
8 amount, the department shall prorate the amount available for distri-
9 bution on the basis of amounts received during fiscal year 1978 under
10 AS 43.70.080. A city incorporated within an organized borough after
11 June 30, 1977 shall receive as a base amount a share of the amount
12 distributed to the borough in which it is located based on the ratio
13 of population in the city to the total population in the borough. A
14 city incorporated outside an organized borough after June 30, 1977
15 shall receive as a base amount the amount received by the city in the
16 state most closely approximating it in population at the time of its
17 incorporation. A borough incorporated after June 30, 1977 shall
18 receive as a base amount the amount received by the borough in the
19 state most closely approximating it in population at the time of its
20 incorporation. The base amount to be distributed to each municipality
21 organized under federal law shall be the amount received as a base
22 amount by the city most closely approximating that municipality in
23 population on June 30, 1977.

24 * Sec. 3. AS 43.20.016(c) is amended to read:

25 (c) If the amount in the fund at the time of distribution ex-
26 ceeds the base amount to be distributed under (b) of this section, the
27 excess amount shall be distributed to each municipality [BOROUGH AND
28 CITY] on the basis of population. For the purpose of this subsection,
29 the population of a city within an organized borough shall be deducted
from the population of the borough. Population, for the purpose of

1
2 this section, shall be as certified by the commissioner of community
3 and regional affairs.

4 * Sec. 4. AS 43.20.016 is amended by adding new subsections to read:

5 (e) To qualify to receive money under this section a municipal-
6 ity organized under federal law as an Indian reserve that existed
7 before enactment of 43 U.S.C. 1618(a) and is continued in existence
8 under that subsection shall form a community development corporation
9 with authority to determine how money received under this section will
10 be used. The charter shall require that the governing board of the
11 corporation shall be elected at an election open to all residents of
12 the municipality that are registered and qualified to vote in state
13 elections. The Department of Revenue may distribute money for the
14 municipality only to a corporation organized in accordance with this
15 subsection and only after the corporation has delivered a written
16 waiver of sovereign immunity from legal action by the state to recover
17 all or a portion of the money distributed under this section.

18 (f) In this section "municipality" means a city, borough or
19 unified municipality organized under the laws of the state, or a
20 municipality organized under federal law as an Indian reserve that
21 existed before enactment of 43 U.S.C. 1618(a) and is continued in
22 existence under that subsection.

23 * Sec. 5. This Act takes effect July 1, 1985.
24
25
26
27
28
29



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
CHIEF CLERK
ALASKA HOUSE OF REPRESENTATIVES

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

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

*4 do pass
2 no "Rec"
1 absent*

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.



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members:
Senator Ferguson, Vice Chairman
Senator Cognill
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
THE LEGISLATURE

POUCHY STATE CAPITAL
BUILDING ALASKA 99511
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 19, 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

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



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

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:

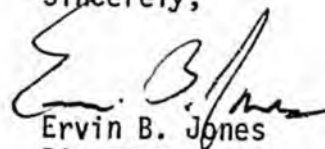
In response to your inquiry concerning the impact of HB198 on Metlakatla, a base amount of \$20,064 would be determined pursuant to AS 43.20.016(b). The calculation of Metlakatla's portion of the excess is based on two assumptions:

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

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: *Thomas M. J. White*
for Douglas K. Mertz
Assistant Attorney General

DKM:rn

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

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

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

RECEIVED
AUG 02 1982

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

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) 452-1563

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:dlm

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 6, 1985

- 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 W. Gatti, Commissioner

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



February 27, 1985

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

Re: House Bill 198

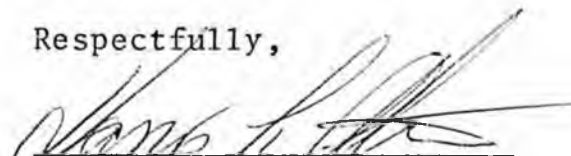
Dear Representative Goll,

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.

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.

[SEAL]

Secretary of the Council.

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.

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. BLANDOR

Chairman, Election Board

Mrs. CORA LANG

Secretary, Election Board

WENDELL H. CORDLE

Government Representative

○

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)

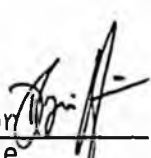
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-		

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 1985 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: _____
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: John Larson, Economist
 Division: Research Section

Phone: 465-2173
 Date: 1/28/85

Approved by Commissioner: [Signature]
 Agency: [Signature]

Date: 3/2/85

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 198
 Title: An act relating to municipal assistance
 Sponsor: Gott
 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: [Signature]
 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)

April 20 - C&RA

HB 198

Rep. Goll -
CS changes -

Fischer moved CS - adopted unanimously

McBride bill included revenue sharing -
This bill does not --

Sol Atkinson

been on City Council 11 yrs -
understand the needs of our community

Fischer - composition of community - 200 NON natives
32 teachers
Weather Bureau
La Pacific

Fischer - Pg 3, line 7 "and is continued in existence
municipality ~~with~~ ^{is, rather than has} who rather
than that

Erwin Jones - Dept of Revenue
administers Rev. Sharing

Tam Cook - would treat Metlakatla as unincorporated
community in some instances, and as a
municipality for municipal assistance

State Capitol
Juneau, AK 99811

a:a

WATER, GAMBLING, SERVICES

CONFLICTS:

INDIAN

THE NEW

State
Government
The Council of
State Governments
NEWS
June 1984



SEARCH FOR COMMON GROUND

By Elaine S. Knapp, editor

While conflicts over Indian water rights and sovereignty issues continue, tribal and state leaders are searching for common ground.

Water, taxation disputes, jurisdictional questions and problems with state services to Indian peoples are among government-tribal conflicts. Jurisdictional disputes may also leave natural resources open to unregulated exploitation or leave Indian people without adequate law enforcement protection or other services.

Seeking an end to this history of confrontation, state and Indian leaders are pursuing cooperation and coordination instead. In the first agreement of its kind, the populous Navajo Nation and the governors of Arizona, New Mexico and Utah signed a "Statement of Policy" in April.

The governors and the chairman of the Navajo Tribal Council agreed: 1) to have a government-to-government relationship; 2) to follow a spirit of cooperation, coordination, communication and good will; 3) to meet together regularly; 4) to follow a procedure to resolve con-

cont'd on pg. 6

Search—cont'd from pg. 5

licts as early as possible and consult with one another before filing litigation; 5) to study their relationships; and 6) to get the word out to local governments to cooperate.

The two-page statement acknowledges that the Navajo people as state citizens are entitled to privileges and rights of same, but that the sovereign status of the Navajo Nation has led to confrontation over various issues.

The statement makes cooperation and coordination a matter of executive policy between the four governments, noted Sam Deloria, director of the American Indian Law Center at the University of New Mexico. It establishes an intergovernmental relationship between the Navajo Nation and the states. Reservations are considered part of the state, but states are preempted from jurisdiction over Indian lands and tribes on them. This, Deloria said, leaves gray areas where no one is sure of jurisdictional powers.

What happens, Deloria said, is that if a service costs money, each government wants the other to do it; while if it makes money, then the argument is over who has control. There has been a lot of competition between the different governments, resulting in overlapping systems or gaps.

The emergence of a new breed of politicians, both state and tribal, who are concerned about protecting regional resources and developing regional economies is resulting in Indian-state cooperation, Deloria said.

The statement of policy is aimed at heading off disputes at the lower levels of government before they are serious enough to reach the governor or attorney general.

The governors and the chairman each designated a staffer to inform the other levels of government and to meet regularly on issues.

Arizona

Arizona has entered many intergovernmental agreements with tribes in recent years, reported Bob Wise, assistant to the governor for policy and planning. Arizona has had problems with tribes over water, education and between Indians and other landowners. However, Gov. Bruce Babbitt, a former tribal lawyer, has advocated cooperation.

"The Navajo agreement is a bellwether for other tribes and states," Wise said.

Education and economic development are of primary importance to Navajos in Arizona, Wise said. Tribes can draw on state expertise to develop their own private sector, Wise said.

"We're excited about the positive relationship and consider the Indian people a great treasure to the state," Wise commented.

Arizona is concerned about federal fund cutbacks which affect Indian people disproportionately, Wise noted.

New Mexico

The Navajo agreement can affect any area of state-tribal relations, commented John Ranning of New Mexico Gov. Toney Anaya's staff. It establishes a procedure for negotiations and provides a vehicle for communica-

tion. A major goal is to avoid costly court suits. New Mexico has had problems arising from tribal sovereignty, but Indian people are entitled to all benefits afforded by the state and nation, Ranning noted.

Utah

Only a small portion of the Navajo reservation and some 5,600 Navajos are in Utah. Utah has never been in litigation with the tribes and has had the policy of serving Indians on and off the reservation, according to Bruce Parry, director of the Utah Division of Indian Affairs.

Out of Utah's 20,000 Indian peoples, nearly half are on reservations. The biggest problems are high unemployment and alcoholism, as well as housing, Parry said.

The Reservation Navajos in San Juan County, however, receive as much as \$4 million extra a year from a special fund financed by oil and gas royalties. Utah retained mineral rights when it ceded the additional land to the reservation in 1933.

The Utah State-Indian Affairs Board has representatives from each tribal government, Parry added.

Navajo View

Agreements have already resulted from the recent policy statement, reported Albert Hale, assistant deputy attorney general for the Navajo Nation.

Hale also cited the policy as instrumental in an amendment to New Mexico's joint powers agreement to allow intergovernmental agreements between the state and Indian tribes. Previously, New Mexico could not appropriate funds to spend on Indian lands, where it lacked jurisdiction. This led to problems in areas such as county road maintenance on reservation land. The intergovernmental agreements can "get around these jurisdictional disputes to assure that Indian people get state benefits" they're entitled to, Hale explained.

The statement of policy was drafted because states and tribes could not deal with all the issues of concern in a brief meeting, Hale said. A lengthy list of issues, ranging from job training to water, land, social services and education, was also drawn up. State and tribal staff will work on agreements to present to the governors and the tribal chairman.

Because there previously was no set procedure on addressing tribal-state issues, "discussion of the issues never occurred, but was instead based on sovereignty and jurisdictional questions," Hale said. The hope is that the statement of policy will allow "the needs of the people" to be addressed, Hale commented.

An estimated 160,000 or more people on the Navajo reservation in the three states could benefit from the new spirit of cooperation. The reservation is also the largest geographically in the nation.

Other Efforts

The Navajo statement of policy is not the only example of state-tribal cooperation.

North Dakota Attorney General Robert Wefald has

cont'd on pg. 13

Groundwater cont'd

ing Water Act (SDWA), the Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation and Liability Act (also called Superfund), the Toxic Substance Control Act (TOSCA), the National Environmental Policy Act (NEPA), the Surface Mining Control and Reclamation Act (SMCRA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Resource Conservation and Recovery Act (RCRA).

While these acts deal with groundwater in some manner, "most groundwater protection statutes are not focused exclusively, or in many instances even primarily on groundwater protection."⁴ The acts' different emphasis and implementing regulations have resulted in programs which overlap, duplicate and/or are incompatible with one another. This problem was recognized by the U.S. Environmental Protection Agency (EPA) in its January 1984 draft "Groundwater Protection Strategy for the Environmental Protection Agency." In establishing the Groundwater Protection Office, the EPA mandated that it work to "resolve inconsistencies among EPA programs"⁵ dealing with groundwater.

The development of EPA's groundwater protection strategy il-

lustrates the federal government's difficulty in defining its role in groundwater management and protection. That groundwater issues have been separated from the mainstream of water management reflects not only a confusion about the nature of the resource but also a failure to recognize its importance. Until the recent discoveries of major groundwater contamination brought the issue to the forefront, the federal policy response to groundwater management was minimal.

The EPA's 1984 draft is the latest in a series of strategies which have been developed since 1979 but never implemented.⁶ The 1984 strategy includes an aquifer classification system based on its potential use as a source of drinking water. It stresses the primacy of the states in groundwater protection while defining a technical support role for the federal government.⁷ There is no attempt to define a nationally consistent minimal groundwater program nor is there any attempt to develop a much needed funding package to help the states implement the necessary monitoring and related activities.

The federal approach to groundwater management appears likely to remain fragmented. The EPA's Office of Groundwater Protection will likely provide only minimal internal

coordination given the specific requirements of the law and regulations. In addition, without secure long-term funding, the technical assistance delivery from EPA to the states is likely to be inadequate and spotty. It will, therefore, continue to be the primary role of the states to manage and protect groundwater resources.

State programs for the management and protection of groundwater will be reviewed in a future issue of *State Government News*.

Footnotes

1. Veronica Pye, Ruth Patrick, and John Quarles, *Groundwater Contamination in the United States* (University of Pennsylvania Press, 1983), p.32.
2. U.S. Water Resources Council, *The Nations Water Resources, 1975-2000*, vol. 1, 1978.
3. *Environmental Quality 1982*, 13th Annual Report of the Council on Environmental Quality, U.S. Government Printing Office, p. 43.
4. *Ibid.*, p. 44
5. *Ibid.*
6. Pye, et al, *Groundwater*, p. 242.
7. U.S. Environmental Protection Agency, *Groundwater Protection Strategy*, January 1984, p. 7.
8. Donald Feliciano, "Comparison of the U.S. Environmental Protection Agency's Groundwater Protection Strategy," Congressional Research Service, February 1984. ★

Common Ground—cont'd from pg. 6

visited each of the tribal governments since he took office in 1981 to keep an open dialogue. In addition, the legislature recently authorized intergovernmental agreements with tribal governments. "The door is open to come up with agreements without going to court," Wefald declared.

"Even after litigation, we still have to live together," Wefald commented. North Dakota is not involved in any suits with Indians.

Examples of improved cooperation include an agreement with three tribes on the Ft. Berthold Reservation to regulate mineral exploration and production. Another is cooperation between towns and a reservation for enforcement of state fish and game laws for sports fishing on a reservation lake.

North Dakota has four tribal governments and some 20,000 reservation Indians.

Unique problems that face South Dakota due to nine sovereign Indian tribes living there were addressed by Gov. William Janklow in his state of the state message in January.

Efforts made to increase cooperation included state training of tribal officers in wildlife management and enforcement. Gov. Janklow met last year with all tribal

presidents in Pierre to talk about common problems in wildlife, natural resources, and development.

The state and the tribes agreed to seek a solution without litigation to water resources in the Missouri River Basin.

An example of formal negotiation to resolve problems is the Montana Reserved Water Rights Compact Commission. The commission was created by the Montana Legislature in 1979 as part of a revised water use act for comprehensive adjudication of water rights. The commission is negotiating with six Montana tribes on water rights and will submit for legislative approval compacts with federal agencies and the Indian governments.

The state role in Indian affairs is addressed by Theodore Taylor in *American Indian Policy*. Out of the 1.4 million Indians counted by the 1980 census, only about half have a relationship with the Bureau of Indian Affairs through living on reservations, Taylor wrote. He estimates that state and local government provide 80 to 85 percent of government services received by Indians. Nearly all Indian students are in public schools, Taylor wrote. Other important state services are law and order and social services. ★

INDIAN DEVELOPMENT FUND

54-34.2-03

54-34.1-14. Local governments and planning agencies — Filing of plans and reports — Submission of proposals. Repealed by S.L. 1977, ch. 495, § 7.

Note.

For present provisions, see ch. 54-40.1.

54-34.1-15. Federal, state, and local aid to regional and metropolitan planning commissions. Repealed by S.L. 1979, ch. 553, § 20.

CHAPTER 54-34.2

INDIAN DEVELOPMENT FUND

Section

54-34.2-01. Indian development fund — Administration.

54-34.2-02. Purpose.

54-34.2-03. Definitions.

54-34.2-04. Development project eligibility.

54-34.2-05. Application for funds.

54-34.2-01. Indian development fund — Administration. The North Dakota Indian affairs commission shall administer the Indian development fund as provided in this chapter.

Source: S.L. 1971, ch. 506, § 1; 1975, ch. 480, § 1. Cross-References.

Indian affairs commission, see ch. 54-36.

54-34.2-02. Purpose. It is declared that the Indian people of North Dakota need the assistance of their state to take full advantage of the opportunities they have to improve their economic well-being. It is further declared that increased economic strength and stability among the Indian people of North Dakota are clearly in the best interests of the entire state. Therefore, the Indian development fund is created to provide matching funds for the Indian people of North Dakota to take full advantage of the opportunities available to them.

Source: S.L. 1971, ch. 506, § 2; 1975, ch. 480, § 2; 1979, ch. 555, § 1.

54-34.2-03. Definitions.

1. "Development project" shall mean any business or industry to be owned and operated by Indian people to provide permanent employment for Indian people and located in North Dakota.
2. "Federal agency" shall mean and include the president of the United States of America and any department of, or any corporation, agency, or instrumentality heretofore or hereinafter created, designated, or established by the United States of America.
3. "Indian people" shall mean any people of American Indian ancestry living within the boundaries of the state of North Dakota.

54-34.2-04

STATE GOVERNMENT

4. "Matching funds" shall mean the portion of state or local funds that may be required as a condition for receiving funds from federal, tribal, or private agencies.

Source: S.L. 1971, ch. 506, § 3; 1975, ch. 480, § 3; 1979, ch. 555, § 2. order when this volume was republished in 1982.

Note.

The definitions were placed in alphabetical

54-34.2-04. Development project eligibility. Moneys from the Indian development fund shall be used only for state or local matching funds as may be required by a federal, tribal, or private agency for participation in Indian development projects. Reservation development projects must be approved by a tribal council. Off-reservation development projects must be approved by the North Dakota Indian affairs commission.

Source: S.L. 1971, ch. 506, § 4; 1975, ch. 480, § 4; 1979, ch. 555, § 3.

54-34.2-05. Application for funds. A tribal council or a development project approved by a tribal council or an off-reservation development project may make application for funds to the executive director of the North Dakota Indian affairs commission. Such application shall include a description of the projects for which the funds will be used, along with copies of the applications to the federal, tribal, or private agencies which are to provide the major portions of the funds for the project. The commission shall consider each project on its merits and feasibility, and either approve or deny the application. The executive director of the commission may confer with appropriate federal, state, and local officials and the tribal council as the director deems necessary to properly analyze the feasibility of such a project or projects.

Source: S.L. 1971, ch. 506, § 5; 1975, ch. 480, § 5; 1979, ch. 555, § 4.

CHAPTER 54-35

LEGISLATIVE COUNCIL

Section

- 54-35-01. Council — Created — Members — Vacancy — Terms.
- 54-35-02. Powers and duties.
- 54-35-02.1. Legislative audit and fiscal review committee.
- 54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.
- 54-35-02.3. Committee on public employees retirement programs — Appointment — Quorum — Selection of chairman.
- 54-35-02.4. Committee on public employees retirement programs — Powers and duties.
- 54-35-02.5. Committee on administrative rules.
- 54-35-02.6. Rules referred to interim committee — Committee responsibility.
- 54-35-02.7. Garrison diversion overview committee — Duties.
- 54-35-03. State departments, officers, and employees to cooperate.
- 54-35-04. Meetings — When held — How called — Quorum.
- 54-35-05. Governor sending messages to meetings.
- 54-35-06. Officers — Accept funds — Expenditures.
- 54-35-07. Records — Reports.

training opportunities because of sex, race, creed, color, religion, national origin, or low income.

7. "Office" means the office of intergovernmental assistance.
8. "Region" means the area delineated by executive order of the governor.
9. "Regional comprehensive plan" means a long-range guide for the economic, physical, and social development of a region which identifies regional goals, objectives, and opportunities and embodies the policies of the regional council.
10. "Regional council" means the council for comprehensive planning and development established in each region pursuant to section 54-40-08.
11. "Units of general local government" means cities, counties, and organized townships.

Source: N.D.C.C.; S.L. 1983, ch. 570, § 11.

Note.

The definitions in this section were placed in alphabetical order in 1983.

54-40.1-04. Regional council — Powers and duties. A regional council shall:

1. Adopt agreements, rules, or procedures as may be necessary to effectuate planning in the region.
2. Coordinate planning and development within the region for all matters of regional concern as determined by the regional council, including land use, social and economic planning, transportation, health, environmental quality, water and sewerage, solid waste, flood relief, parks and open spaces, hospitals, and public buildings.
3. Participate with other public agencies and private organizations in regard to research for planning activities relevant to the region.
4. For the purpose of coordination, work with state departments, agencies, and institutions in reviewing and commenting on all plans and federal aid applications as to their impact on the region.
5. Develop guidelines for the coordination of land use plans and ordinances within the region.
6. Prepare a regional comprehensive plan and upon the preparation of such a plan or any phase, amendment, revision, extension, addition, functional part, or part thereof, file such plan, phase, functional part, amendment, revision, extension, addition, or part thereof with the office, all local planning agencies within the region, and other planning agencies in adjoining areas.
7. Develop an annual budget for operations during a fiscal year and submit the budget to participating units of general local government for approval.
8. Receive and expend federal, state, and local funds, and contract for services with units of general local government and private individuals and organizations, consistent with the scope and objectives of a planning function.
9. Upon availability of funds, hire an executive director who shall be given full control over the staff of the regional council. The executive director shall act as a liaison between the regional council and the staff of the regional council and shall advise and assist the regional council in the selection of staff.

Source: N.D.C.C.; S.L. 1983, ch. 570, § 12.

CHAPTER 54-40.2

AGREEMENTS BETWEEN PUBLIC AGENCIES AND INDIAN TRIBES

Section

- 54-40.2-01. Definitions.
 54-40.2-02. Authorization to enter agreements — General contents.

- 54-40.2-03. Specifications of agreement.
- 54-40.2-04. Submission of agreement to governor.
- 54-40.2-05. Filing of agreement.
- 54-40.2-06. Revocation of agreement.
- 54-40.2-07. Authorization to appropriate funds for purpose of agreement.
- 54-40.2-08. Specific limitations on agreements.
- 54-40.2-09. Validity of existing agreements.

54-40.2-01. Definitions.

1. "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of North Dakota.
2. "Secretary" means the secretary of interior of the United States.
3. "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States.

Source: S.L. 1983, ch. 568, § 1.

54-40.2-02. Authorization to enter agreements — General contents. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

Source: S.L. 1983, ch. 568, § 2.

54-40.2-03. Specifications of agreement. Each agreement authorized by this chapter must specify the following:

1. The duration of the agreement.
2. The precise organization, composition, and nature of any separate legal entity created thereby.
3. The purpose of the agreement.
4. The manner of funding the agreement and the establishment and maintenance of a budget therefore.
5. The method to be employed in accomplishing the partial or complete termination of the agreement and for disposal of property upon such partial or complete termination.
6. Provisions for administering the agreement which may include the creation of a joint board or commission responsible for such administration.
7. The manner of acquisition, holding, and disposal of real and personal property used in the agreement.
8. When the agreement involves law enforcement agencies:
 - a. The minimum training standards and qualifications of law enforcement personnel.
 - b. The respective liability of each public agency and tribal government.

Source: S.L. 1983, ch. 568, § 3.

54-40.2-04. Submission of agreement to governor.

1. As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota.
2. If the governor disapproves an agreement, the governor shall provide a detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for the disapproval.

3. The agency or agencies seeking to enter into the agreements shall submit the agreements to the governor. In deciding whether to approve the agreement, the governor shall use the following criteria:
- The purpose of the agreement furthers the goals of the agency.
 - The agreement is in the best interest of the state as a whole.
 - The agency or agencies have authority to fulfill the agreement.
- If the governor does not disapprove the agreement within thirty days after submission, it shall be considered approved.

Source: S.L. 1983, ch. 568, § 4.

54-40.2-05. Filing of agreement. Within ten days after approval by the governor and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

- The secretary.
- The clerk of court of each county where the principal office of one of the parties to the agreement is located.
- The secretary of state.
- The affected tribal government.

Source: S.L. 1983, ch. 568, § 5.

54-40.2-06. Revocation of agreement. An agreement made pursuant to this chapter is subject to revocation by any party upon six months' notice to the other unless a different notice period of time is provided for within the agreement. No agreement may provide for a notice period for revocation in excess of two years.

Source: S.L. 1983, ch. 568, § 6.

54-40.2-07. Authorization to appropriate funds for purpose of agreement. Any public agency entering into an agreement pursuant to this chapter may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefore as is within its legal power to furnish.

Source: S.L. 1983, ch. 568, § 7.

54-40.2-08. Specific limitations on agreements. Nothing in this chapter may be construed to authorize an agreement that:

- Enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either North Dakota or tribal governments located in North Dakota.
- Authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country.
- Authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.
- Provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Source: S.L. 1983, ch. 568, § 8.

54-40.2-09. Validity of existing agreements.

- This chapter does not affect the validity of any agreement entered into between a tribe and a public agency prior to July 1, 1983.

- However, any such agreement must satisfy the requirements of this chapter no later than January 1, 1985.

Source: S.L. 1983, ch. 568, § 9.

CHAPTER 54-44

OFFICE OF MANAGEMENT AND BUDGET

Section

- 51-44-04. Powers and duties of the director of the office of management and budget.
 51-44-04.8. Purchase of state motor vehicles.
 54-44-11. Office's operating funds creation.

54-44-04. Powers and duties of the director of the office of management and budget. The director of the office of management and budget, or such subordinate officer as he shall designate:

- 1 to 4. Repealed by S.L. 1965, ch. 358, § 20.
5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.
- 6 and 7. Repealed by S.L. 1965, ch. 358, § 20.
8. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.
9. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state.
10. Repealed by S.L. 1979, ch. 541, § 2.
11. Except as otherwise provided by law, shall prepare warrants for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.
 - 11.1. May, in anticipation of federal revenues to be received within fifteen days, prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in the treasurer's hands other than sinking funds or funds dedicated by the Constitution of North Dakota for other purposes.
12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.
 - 12.1. Shall coordinate the development of accounting and financial related systems.
 - 12.2. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.
 - 12.3. Shall provide for the maintaining of accounting records which will identify the revenues and expenditures of the state in accordance with the requirements of the state's central accounting system.
 - 12.4. Shall provide for expenditures from general and special fund appropriations to be made in accordance with the requirements of the state's central accounting system.

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(3) As part of the biennial budgetary hearing process conducted by the legislative fiscal analyst and the office of budget and program planning, a state agency shall upon request supply the legislative fiscal analyst and the office of budget and program planning with reports on what action was taken in response to the recommendations of any private consultant employed by the state agency.

History: En. Sec. 5, Ch. 547, L. 1981.

18-8-112. Contract in violation void. (1) If a state agency contracts to use a private consultant without complying with the requirements of 18-8-105 or if a person contracts to perform a consulting service for a state agency without complying with the requirements of 18-8-106, the contract is void.

(2) If a contract is void under this section, the state or state agency may not make any payments under the contract from any state or federal funds held in or outside the state treasury if violation of this part was caused by the consultant.

(3) If a contract is void under this section because of a violation of this part by the state agency, the state shall pay the consultant for all work performed up to the date that the consultant is informed in writing of the violation by the state agency.

History: En. Sec. 8, Ch. 547, L. 1981.

CHAPTERS 9 AND 10

RESERVED

CHAPTER 11

STATE-TRIBAL COOPERATIVE AGREEMENTS

Part 1 — General Provisions

Section

- 18-11-101. Short title.
- 18-11-102. Definitions.
- 18-11-103. Authorization to enter agreement — general contents.
- 18-11-104. Detailed contents of agreement.
- 18-11-105. Submission of agreement to attorney general.
- 18-11-106. Agreements by state agencies — requirements.
- 18-11-107. Filing of agreement.
- 18-11-108. Revocation of agreement.
- 18-11-109. Authorization to appropriate funds for purpose of agreement.
- 18-11-110. Specific limitations on agreements.
- 18-11-111. Validity of existing agreements.

Chapter Cross-References

Jurisdiction on Indian lands, Title 2, ch. 1, part 3.

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Part 1

General Provisions

18-11-101. Short title. This chapter shall be known and may be cited as the "State-Tribal Cooperative Agreements Act".

History: En. Sec. 1, Ch. 309, L. 1981.

18-11-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

(2) "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in Montana exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians.

History: En. Sec. 2, Ch. 309, L. 1981.

18-11-103. Authorization to enter agreement — general contents. (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments entering into the contract is authorized by law to perform. The agreement shall be authorized and approved by the governing body of each party to the agreement.

(2) The agreement shall set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

History: En. Sec. 3, Ch. 309, L. 1981.

18-11-104. Detailed contents of agreement. The agreement authorized by 18-11-103 shall specify the following:

- (1) its duration;
- (2) the precise organization, composition, and nature of any separate legal entity created thereby;
- (3) the purpose of the agreement;
- (4) the manner of financing the agreement and establishing and maintaining a budget therefor;
- (5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
- (6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;
- (7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;
- (8) when an agreement involves law enforcement:
 - (a) the minimum training standards and qualifications of law enforcement personnel;
 - (b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

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(c) the minimum insurance required of both the public agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement; and

(9) any other necessary and proper matters.

History: En. Sec. 4, Ch. 309, L. 1981.

18-11-105. Submission of agreement to attorney general. (1) As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under this chapter unless he finds it is not in proper form or does not meet the requirements set forth in this chapter or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for his disapproval.

(3) If the attorney general does not disapprove the agreement within 30 days after its submission to him, it shall be considered approved by him.

History: En. Sec. 5, Ch. 309, L. 1981.

18-11-106. Agreements by state agencies — requirements. As a condition precedent to an agreement made under this chapter by a state agency becoming effective, it must have, in addition to the approval of the attorney general under 18-11-105, the approval of the governor. The criteria and time for the governor's approval shall be the same as that for the attorney general's approval as provided in 18-11-105.

History: En. Sec. 6, Ch. 309, L. 1981.

18-11-107. Filing of agreement. Within 10 days after approval by the attorney general prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

- (1) the secretary of the United States department of the interior;
- (2) each county clerk and recorder of each county where the principal office of one of the parties to the agreement is located;
- (3) the secretary of state; and
- (4) the affected tribal government.

History: En. Sec. 7, Ch. 309, L. 1981.

18-11-108. Revocation of agreement. An agreement made pursuant to this chapter is subject to revocation by any party upon 6 months' notice to the other unless a different notice period of time is provided for within the agreement. No agreement may provide for a notice period for revocation in excess of 5 years.

History: En. Sec. 8, Ch. 309, L. 1981.

18-11-109. Authorization to appropriate funds for purpose of agreement. Any public agency entering into an agreement pursuant to this chapter may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefor as is within its legal power to furnish.

History: En. Sec. 9, Ch. 309, L. 1981.

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18-11-110. Specific limitations on agreements. Nothing in this chapter may be construed to authorize an agreement that:

(1) enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either the state of Montana or tribal governments located in Montana;

(2) authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country;

(3) authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws; or

(4) provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

History: En. Sec. 10, Ch. 309, L. 1981.

18-11-111. Validity of existing agreements. (1) Except as provided in subsection (2), this chapter does not affect the validity of any agreement entered into between a tribe and a public agency prior to July 1, 1981.

(2) However, any such agreement must satisfy the requirements of this chapter no later than July 1, 1983.

History: En. Sec. 11, Ch. 309, L. 1981.

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(4/26) Jennifer Tate, (Research Analyst), CRA, told me that Metlakatla receives volunteer fire dept funds based on a population of 1,439

4 programs - Head start match	\$24,252.	FY '84
Day Care assist	33,640.	
Child Care Grant	3,567.	
Training Grant	690.	
Child Care Food		
Head Start	6,040.	
Child Care Center	7,685.	

x 2865 See Bradley

HB 198 am Municipal assistance
for certain municipalities organized
under federal law

Scheduled Due . 4/30 (Senate CRA)

Witnesses: Rep. Goll and 1 or 2
reps from community of Metlakatta

★ (4/26) Have requested Dept of Revenue (John Larson)
provide a written analysis of what
Revenue would be paid to Metlakatta
in FY 86 under the bill

★ (4/26) Requested DH#55 (Norma Lang) X3030
give us population figure under which
child day care services are administered
to Metlakatta - Odette Foster

★ (4/26) Requested Jan Cook give Sen DeVries
a sectional analysis of latest
version of bill (CS HB 198 CRA):
prepared by her.

Clock
4/26/85.

Original sponsor: Goll

1
2 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

3 SENATE CS FOR HOUSE BILL NO. 198 (C&RA)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to municipal assistance for certain
8 municipalities organized under federal law; and
9 providing for an effective date."

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

11 * Section 1. AS 43.20.016(a) is amended to read:

12 (a) There is established within the department the municipal
13 assistance fund. The legislature may appropriate to the fund during
14 each fiscal year an amount equal to or greater than 30 percent of the
15 income tax revenue received by the state under AS 43.20.011(e) for the
16 previous fiscal year. The department shall distribute money from the
17 fund to each municipality [ORGANIZED BOROUGH AND EACH CITY OF ANY
18 CLASS] on an annual basis as provided in (b) and (c) of this section.
19 A municipality [BOROUGH OR CITY] may not receive payment under (b) or
20 (c) of this section until it submits to the department a resolution
21 approved by the governing body [OF THE MUNICIPALITY] that requests the
22 funds. Distribution of money from the fund to a municipality [CITY OR
23 ORGANIZED BOROUGH] with a fiscal year beginning on January 1 shall be
24 made on February 1 of the state fiscal year for which the appropri-
25 ation to the fund is made. Distribution of money from the fund to all
26 other municipalities [CITIES AND ORGANIZED BOROUGH] shall be made on
27 June 1 of the state fiscal year for which the appropriation to the
28 fund is made. A municipality [BOROUGH OR CITY] that incorporates
29 after December 31 of a state fiscal year is not eligible for a distri-
bution under this section until the following state fiscal year.

1
2 * Sec. 2. AS 43.20.016(b) is amended to read:

3 (b) The base amount to be distributed from the fund to each
4 borough and city for the fiscal year shall be the amount received by
5 the borough or city during fiscal year 1978 under AS 43.70.080; how-
6 ever, if the amount appropriated to the fund by the legislature under
7 (a) of this section is insufficient for distribution of the full base
8 amount, the department shall prorate the amount available for distri-
9 bution on the basis of amounts received during fiscal year 1978 under
10 AS 43.70.080. A city incorporated within an organized borough after
11 June 30, 1977 shall receive as a base amount a share of the amount
12 distributed to the borough in which it is located based on the ratio
13 of population in the city to the total population in the borough. A
14 city incorporated outside an organized borough after June 30, 1977
15 shall receive as a base amount the amount received by the city in the
16 state most closely approximating it in population at the time of its
17 incorporation. A borough incorporated after June 30, 1977 shall
18 receive as a base amount the amount received by the borough in the
19 state most closely approximating it in population at the time of its
20 incorporation. The base amount to be distributed to each municipality
21 organized under federal law shall be the amount received as a base
22 amount by the city most closely approximating that municipality in
23 population on June 30, 1977.

24 * Sec. 3. AS 43.20.016(c) is amended to read:

25 (c) If the amount in the fund at the time of distribution ex-
26 ceeds the base amount to be distributed under (b) of this section, the
27 excess amount shall be distributed to each municipality [BOROUGH AND
28 CITY] on the basis of population. For the purpose of this subsection,
29 the population of a city within an organized borough shall be deducted
from the population of the borough. Population, for the purpose of

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2 this section, shall be as certified by the commissioner of community
3 and regional affairs.

4 * Sec. 4. AS 43.20.016 is amended by adding new subsections to read:

5 (e) To qualify to receive money under this section a municipal-
6 ity organized under federal law as an Indian reserve that existed
7 before enactment of 43 U.S.C. 1618(a) and is continued in existence
8 under that subsection shall form a community development corporation
9 with authority to determine how money received under this section will
10 be used. The charter shall require that the governing board of the
11 corporation shall be elected at an election open to all residents of
12 the municipality that are registered and qualified to vote in state
13 elections. The Department of Revenue may distribute money for the
14 municipality only to a corporation organized in accordance with this
15 subsection and only after the corporation has delivered a written
16 waiver of sovereign immunity from legal action by the state to recover
17 all or a portion of the money distributed under this section.

18 (f) In this section "municipality" means a city, borough or
19 unified municipality organized under the laws of the state, or a
20 municipality organized under federal law as an Indian reserve that
21 existed before enactment of 43 U.S.C. 1618(a) and is continued in
22 existence under that subsection.

23 * Sec. 5. This Act takes effect July 1, 1985.
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