

LEGISLATIVE BILL 508

Approved by the Governor April 26, 1989

Introduced by Scofield, 49

AN ACT relating to intergovernmental cooperation; to adopt the State-Tribal Cooperative Agreements Act.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the State-Tribal Cooperative Agreements Act.

Sec. 2. For purposes of the State-Tribal Cooperative Agreements Act:

(1) Agreement shall mean an agreement authorized under section 3 of this act;

(2) Public agency shall mean any political subdivision, including any municipality, county, school district, or agency or department of the state; and

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

Sec. 3. 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. The agreement shall fully set forth the powers, rights, obligations, and responsibilities of the parties to the agreement.

Sec. 4. An agreement shall specify:

(1) Its duration;

(2) The precise organization, composition, and nature of any separate legal entity created;

(3) Its purpose;

(4) The manner of financing the agreement and establishing and maintaining a budget;

(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, if any;

(6) Provisions for administering the agreement, which may include, but not be limited to, the 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;

(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 agreement; and

(9) Any other necessary and proper matters.

Sec. 5. Within ten days after being signed by the parties, a copy of the agreement shall be filed with:

(1) The area office of the Bureau of Indian Affairs of the United States Department of the Interior having trust responsibility for each tribe the governing body of which is a party to the agreement or its successor agency;

(2) The county clerk of each county where one of the parties to the agreement is located, except that a copy shall not be required to be filed in Lancaster County if an agency or department of the state is a party to the agreement unless another party is located in such county;

(3) The Secretary of State; and

(4) Any affected tribal government.

Sec. 6. An agreement shall be subject to revocation by any party to the agreement upon six months' notice to the other unless a different period of time is provided for the agreement. No agreement may provide for a notice period for revocation in excess of five years.

Sec. 7. Any public agency entering into an agreement 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 as

are within its legal power to furnish.

Sec. 8. Nothing in the State-Tribal Cooperative Agreements Act shall be construed to authorize an agreement that:

(1) Is not permitted by federal law. The parties to an agreement should deal with substantive matters and enforcement matters that can be mutually agreed upon, but no agreement shall affect the underlying jurisdictional authority of any party unless expressly authorized by Congress;

(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; or

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

Sec. 9. The State-Tribal Cooperative Agreements Act shall not affect the validity of any agreement entered into between a tribal government and a public agency prior to the effective date of this act.