

REAA

SB 35 AND REGIONAL GOVERNMENT

A commentary on the effects Senate Bill 35 has had on the development of regional municipal structures in the unorganized borough.

Prepared by: Patrick K. Poland, Department of Community and Regional Affairs

The transfer of the major operational responsibilities of rural Alaska's schools from the State of Alaska (Alaska Unorganized Borough School District) to regional school districts (Regional Education Attendance Areas) with locally elected schoolboards was accomplished by Ch 124, Session Laws of Alaska, 1975 (popularly referred to as Senate Bill 35).

To a great extent, the ultimate impact of Senate Bill 35 is just beginning to be realized. However, there are already several definite implications for municipal government that have arisen from the implementation of Senate Bill 35. The purpose of this discussion is to underscore these implications as they relate to the development of municipal government in the unorganized borough. For purposes of this discussion, municipalities consist of boroughs and first-class cities; that is, municipalities having the education function.

REGIONAL IDENTIFICATION

While rural Alaska's initial encounter with the concept of regionalism came about with passage of Public Law 92-746, the Alaska Native Claims Settlement Act (ANCSA), there is no doubt that Senate Bill 35 went far beyond the implications of the ANCSA in terms of developing regional identification. In the view of the Department of Community and Regional Affairs this was a positive step towards developing regional government in the unorganized borough. Prior to the passage and implementation of this particular act there were no real tests of the regional concept of service delivery taking place in the unorganized

borough¹ and while there were many advocates of this particular mechanism of service delivery it remained, by and large, untested. However, with the mandate of regionalization created by Senate Bill 35, rural residents have, in a sense, been forced to test the concepts of regionalism in Alaska's vast unorganized borough.

Surprisingly, there seemed little if any real resistance to the idea of regional school districts. On the contrary, (much of this was undoubtedly due to the dissatisfaction many rural residents felt with the former state operated school system), most rural residents seemed eager to embrace the concept. Perhaps the strongest demonstration of this desire to participate in a regional approach to service delivery was the change in municipal status executed by the City of Selawik. In that particular instance, the City of Selawik, formerly a city of the first class in the unorganized borough and therefore having school responsibilities, petitioned the Local Boundary Commission² and convinced them of the need for the city to be dissolved and "reincorporated" as a second class city so that it might become a part of the particular Regional Education Attendance Area. Among the arguments presented in support of Selawik's reclassification was a strong statement by residents concerning their desire to be a part of the Regional Education Attendance Area and to receive benefits they perceived as being available only to constituents of the REAA.

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- 1 Admittedly, certain state and federal agencies have been administering a few programs on a regional basis. However, these agencies have had the benefit of vast government financial and technical resources to assist them. In the opinion of this writer the availability of these resources makes my comparison between the state/federal regional approach and the REAA's invalid.
 - 2 The Local Boundary Commission is composed of five members and is responsible for reviewing and approving or disapproving all municipal incorporation, dissolution and boundary change proposals.

The Department of Community and Regional Affairs, noting the relatively warm embrace being given regionalization by unorganized borough residents, instigated, early in 1976, a study of the acceptability of general purpose regional governments in the unorganized borough. That study,³ which consumed some six months, came to a number of conclusions, the most important of which appears to be the fact that rural residents are still wary of any form of government that has the authority to levy and collect taxes. Additionally, many residents expressed concern about moving too fast; while they embraced the idea of regional school districts, they felt that the concept required the test of time before jumping to yet a new form of government. Nevertheless, the department has had inquiries from several regions (most notably the Fort Yukon, Bethel, Glennallen, and Valdez regions) concerning possible borough incorporation. To date, none of those discussions have evolved into an actual petition for borough incorporation although it does appear that many areas are getting close to taking that step. There is no doubt that formal consideration by these regions of regional government was precipitated by the establishment of REAA's.

An additional development which, to some degree, appears to be an offshoot of the regional approach fostered by Senate Bill 35, was the passage of Ch 84 SLA 1977, which established a mechanism for regions of the unorganized borough to establish coastal zone management (CZM) service areas for the purpose of CZM planning. Under the provisions of that particular act any

3 While a final report was issued at the end of study several comprehensive memorandums summarizing various aspects of the study are available from Community and Regional Affairs. As an additional result of the study legislation calling for a Local Government Commission to study and make recommendations to the Legislature on all aspects of State-local relations is being introduced by Governor Hammond in the second session of the Tenth State Legislature (January 1978).

Regional Education Attendance Area, upon determination by the local electorate, may establish itself as a coastal zone management planning districts. While the legislation permits consolidation of two or more Regional Education Attendance Areas into a CZM planning district, it does not allow individual REAA's to be subdivided into smaller districts for the purposes of planning. This is an interesting development and one that seems to further reinforce the concept of delivery services on a regional basis.

Finally, in terms of regionalization, it is interesting to note the provisions of Senate Bill 35 which deal with the boundaries of Regional Education Attendance Areas. Specifically, the bill provides that:

"As far as practicable, each Regional Education Attendance Area shall contain an intergrated socio-economic, linguistically and culturally homogenous area. In the formation of the Regional Education Attendance Areas, consideration shall be given to the transportation and communication network to facilitate the administration and communication between communities that comprise the area."

Very similar statutory language exists at AS 29.18.030, which is the statutory provision establishing standards for borough incorporation. The similarity of the standards goes a long way towards defining appropriate boundaries for potential regional governments. In fact, to some observers, the boundaries of the newly created Regional Education Attendance Areas (with some exceptions) generally conform to good borough boundaries. This has been a little alarming to many rural residents, since no small number of them are still concerned that the State is going to "foist" boroughs upon them.

FINANCE

The second major subject area that has been the subject of much discussion as a result of Senate Bill 35 is that of local government finance. As presently constituted, Regional Education Attendance Areas have, in comparison to municipal school districts, an advantageous funding schedule. In addition to 100% foundation funding, Regional Education Attendance Areas also receive from the state an amount equal to the average local contribution per pupil in municipal school districts multiplied by the number of students in the Regional Education Attendance Area. This advantageous funding schedule for REAA's versus municipal districts remains a hindrance rather than an enticement for REAA's to seek organized borough status. Since most REAA's are property poor (hence, no ability to generate tax revenues), the thought of forming municipal school districts to provide services which are currently provided by Regional Education Attendance Areas is almost out of the question. For example, the poorest existing borough has about \$20,000 worth of taxable property per capita. On the other hand, some of the Regional Education Attendance Areas could probably expect to have considerably less than \$5,000 worth of taxable property per capita. Realistically, it is impossible to provide basic municipal services without adequate funding.

The major exceptions to this discussion, of course, are those areas surrounding "the pipeline". The regions surrounding Fort Yukon, Delta Junction, Glennallen, Copper Center, and Valdez have taxable property per capita values that could easily support borough government.

Partially, in response to these obvious funding inequities, the Department of Community and Regional Affairs, as a part of its final conclusions reached in its study of regional government, recommended that a new system of financing

regional governments be found. Basically, the system suggested was one that placed a state-wide property tax on all property associated with the exploitation of natural resources and then, in turn, distributed those tax revenues on the basis of population and services being provided by individual boroughs. It was determined that additional study of that particular proposal would be needed before the feasibility of it could be determined.

Nevertheless, this particular area is still a popular subject among legislators as demonstrated by current House Bill 202 and Senate Bill 35 introduced in the first session of the 1977 Legislative Session. Both those bills would levy real property taxes on developed land in the unorganized borough. Hearings on House Bill 202 were held this October in Fort Yukon, Delta Junction and Tok.

Finally, one last area of financing that again discriminates between the municipal versus REAA school district is that of school construction. Presently municipal districts must pay for 50% of school construction while REAA's contribute no local effort towards construction of new facilities. This is seen as a significant impediment to the development of regional government for the purpose of assuming local control of education, particularly in areas which are "poor" or are marginally deficient in terms of a real property tax base.

CONSTITUTIONALITY

I mention this issue simply because it is one of concern to many involved with municipal government. Because they are not units of local government they cannot be given taxing authority nor can they provide "local government" services. While the legality of the current REAA's has not been challenged on the grounds of Article X, Section 2, of the Constitution⁴ (proponents

⁴ Alaska State Constitution, Article X, 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.

of the REAA's argue that they are really service areas authorized under Article X, Section 6) there is good reason to believe that if additional REAA type boundaries are established they will be challenged and may very well end up being declared unconstitutional. The assumption being that education is, in fact, a "local government power".

SUMMARY

In summary, it can be said that formation of the Regional Education Attendance Areas can be viewed as a positive step towards the formation of regional government in rural Alaska. In particular the newly created service areas have provided a greater amount of local control over a local municipal type service, maintained and strengthened existing regional identifications, and provided boundaries that will be useful for the establishment of boroughs in the future.

The principle negative aspects of Senate Bill 35 have been the funding formula which maintains a disincentive to formation of municipal school districts and fails to properly address the extremely poor tax base of much of rural Alaska.

Ultimately, the passage of Senate Bill 35, if for no reason other than the fact that it has generated discussion and interest, is going to have had a significant effect (probably the most significant since the passage of the 1964 mandatory borough act) towards developing regional government in this state.

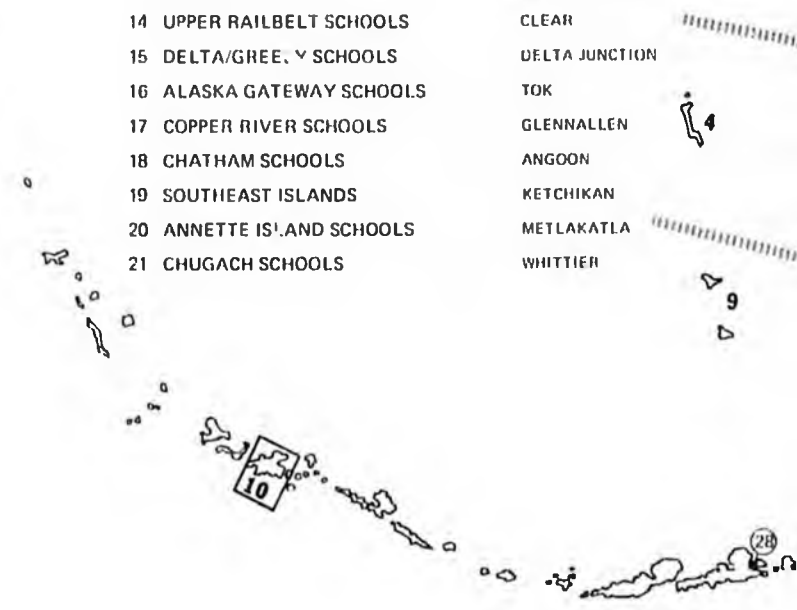
LOCATION OF SCHOOLS AND SCHOOL DISTRICTS IN ALASKA

BOROUGH AND CITY SCHOOL DISTRICTS

- ① ANCHORAGE BOROUGH SCHOOLS
- ② BRISTOL BAY BOROUGH SCHOOLS
- ③ CORDOVA CITY SCHOOLS
- ④ CRAIG CITY SCHOOLS
- ⑤ DILLINGHAM CITY SCHOOLS
- ⑥ FAIRBANKS-NORTH STAR BOROUGH SCHOOLS
- ⑦ GALENA CITY SCHOOLS
- ⑧ HAINES BOROUGH SCHOOLS
- ⑨ HOONAH PUBLIC SCHOOLS
- ⑩ HYDABURG CITY SCHOOLS
- ⑪ GREATER JUNEAU BOROUGH SCHOOLS
- ⑫ KAKE CITY SCHOOLS
- ⑬ KENAI PENINSULA BOROUGH SCHOOLS
- ⑭ KETCHIKAN GATEWAY BOROUGH SCHOOLS
- ⑮ KING COVE CITY SCHOOLS
- ⑯ KLAWOCK CITY SCHOOLS
- ⑰ KODIAK ISLAND BOROUGH SCHOOLS
- ⑱ MATANUSKA-SUSITNA BOROUGH SCHOOLS
- ⑲ NENANA CITY SCHOOLS
- ⑳ NOME CITY SCHOOLS
- ⑳ NORTH SLOPE BOROUGH SCHOOLS
- ㉒ DELICAN CITY SCHOOLS
- ㉓ PETERSBURG CITY SCHOOLS
- ㉔ SELAWIK CITY SCHOOLS
- ⑳ GREATER SITKA BOROUGH SCHOOLS
- ㉖ SKAGWAY CITY SCHOOLS
- ㉗ ST. MARY'S PUBLIC SCHOOLS
- ㉘ UNALASKA CITY SCHOOLS
- ㉙ VALDEZ CITY SCHOOLS
- ㉚ WRANGELL CITY SCHOOLS
- ㉛ YAKUTAT CITY SCHOOLS

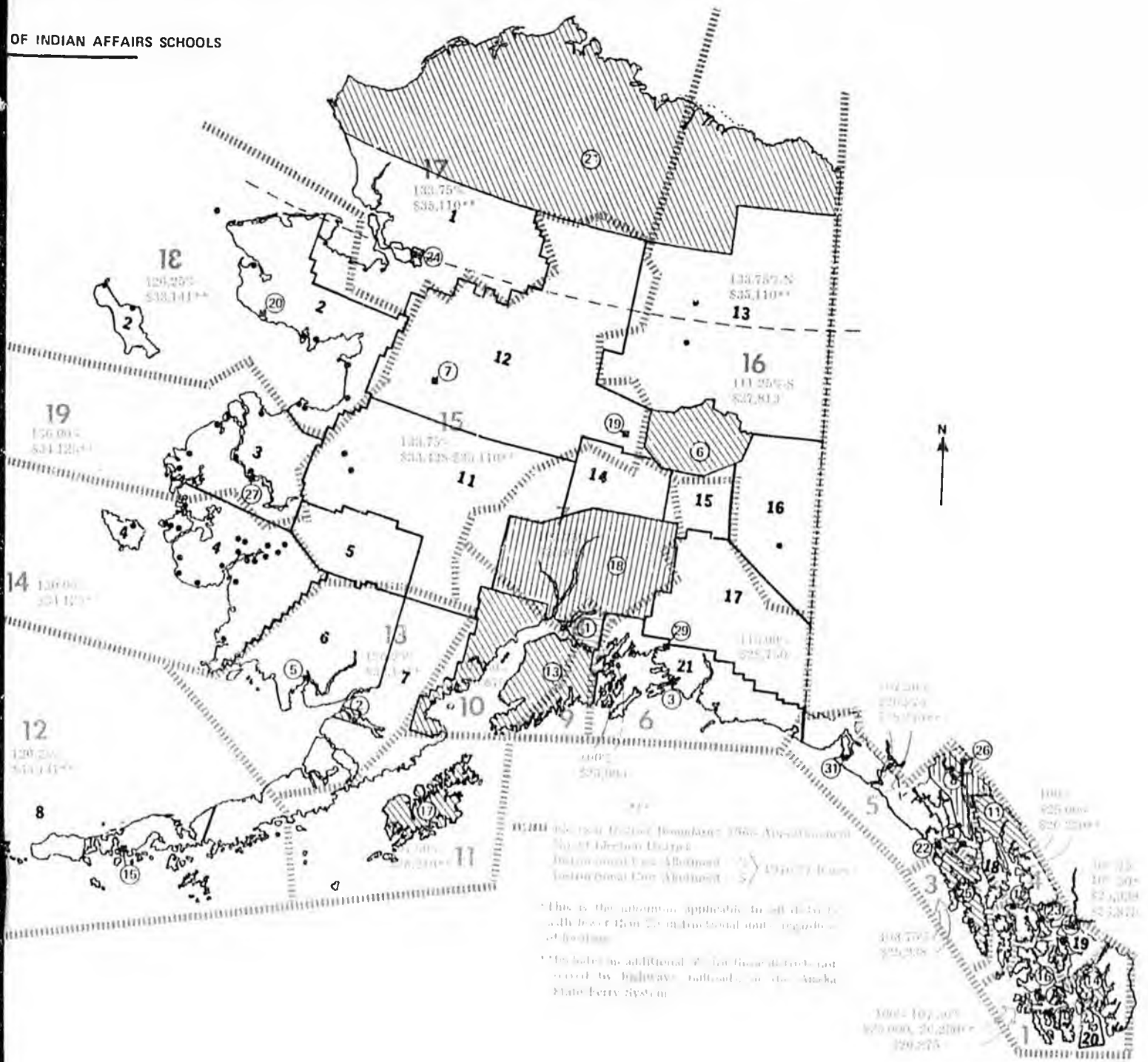
REGIONAL EDUCATION ATTENDANCE AREA SCHOOLS AND ADMINISTRATION HEADQUARTERS LOCATION

		BUREAU
1 NORTHWEST ARCTIC SCHOOLS	KOTZEBUE	●
2 BERING STRAITS SCHOOLS	NOME	●
3 LOWER YUKON SCHOOLS	MOUNTAIN VILLAGE	●
4 LOWER KUSKOKWIM	BETHEL	
5 KUSPUK SCHOOLS	ANIAK	
6 SOUTHWEST REGION SCHOOLS	DILLINGHAM	
7 THE LAKE AND PENINSULA SCHOOLS	NAKNEK	
8 ALEUTIAN CHAIN	COLD BAY	
9 PRIBILOF SCHOOLS AT ST. PAUL	ST. PAUL	
10 ADAK REGION SCHOOLS	ADAK NAVAL STATION BOX 34, FPO, SEATTLE INTRA ALASKA	
11 IDITAROD AREA SCHOOLS	MC GRATH	
12 YUKON-KOYUKUK	NENANA	
13 YUKON FLATS	FORT YUKON	
14 UPPER RAILBELT SCHOOLS	CLEAR	
15 DELTA/GREE, V SCHOOLS	DELTA JUNCTION	
16 ALASKA GATEWAY SCHOOLS	TOK	
17 COPPER RIVER SCHOOLS	GLENNALLEN	
18 CHATHAM SCHOOLS	ANGOON	
19 SOUTHEAST ISLANDS	KETCHIKAN	
20 ANNETTE ISLAND SCHOOLS	METLAKATLA	
21 CHUGACH SCHOOLS	WHITTIER	



SKA - JULY 1, 1976 & ELECTION DISTRICTS - 1965

OF INDIAN AFFAIRS SCHOOLS



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A UNIT IN THE ORIGINAL FILE.

D R A F T

HISTORICAL REVIEW AND PERSPECTIVE

by

Frank Darnell

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HISTORICAL PERSPECTIVE

Anyone attempting to set the stage for a discussion of a contemporary issue by developing an historical perspective of the issue is immediately confronted with the problem of how far back in time the topic needs to be taken to establish a point of departure. Also, the dimensions of the structure in which the topic is contained must be delineated. Since this section of the overall paper on Alaska Rural Education Attendance Areas (REAAs) is one among several, both time range and structural dimensions must be constrained. The usefulness of an historical perspective is of limited value if encumbered by too many details or conversely if presented in a cursory manner. Dangers of this type notwithstanding, I have attempted to identify and describe former conditions bearing on rural education in such a way that the problems of implementing a unique piece of legislation pertaining to education can be resolved by the practitioner and policy maker of today with a better understanding of the consequences of the activities of the practitioners and policy makers of yesterday.

The advent of a form of local control of education in rural Alaska in the year 1976 brought rural education full cycle in little over forty years. It was in 1932 that the Territorial Legislature abolished the Uniform School Act of 1917, an act that had established local school boards and vested them with authority to operate schools in local communities generally free of territorial administrative and instructional constraints. And although it can be documented that locally administered territorial school districts were initially established for non-Native children, in reality the territorial schools acquired Native enrollment that eventually exceeded the federal school system established exclusively for Native pupils. The reasons why this happened are not only of historical interest but bear on the nature and future of REAAs today.

The general organizational concept for rural education that persisted from 1932 until REAAs came into existence in 1976 actually took its root in the Uniform School Act of 1917 (an act which was derived from the Nelson Act of 1905), even though provisions for local control were repealed in 1932. The Uniform School Act of 1917 was designed to assure that territorial schools would be constituted along racial lines and provided "that nothing in the Act shall be construed as referring to or as including schools for Alaska Natives which are now and which may hereafter come under control of the Federal government...."

Enactment of the Uniform School Act was the last basic step necessary for the creation of the rural, dual Territorial-Federal school system, vestiges of which may be seen in rural schools still paid for and administered by the BIA. City districts (and now boroughs), as the third element of the structure, were also drawn together and came under the unifying control of the Department of Education in the Uniform School Act. In the words of Ernest Gruening referring to the Act of 1917: "The Territory has made itself wholly responsible for the conduct of the rural schools; it would furnish the greater part of the support of the schools in the municipalities (Gruening, The State of Alaska, p. 215). It is true Alaskans had assumed responsibility for a large portion of their educational programs, but Alaskans were far from being "wholly responsible." Care had been taken by members of the Third Territorial Legislature to avoid legal responsibilities for Native education and the pattern that was initiated at that time persists, in part, even to this day.

When the first commissioner assumed his responsibilities as head of the rural system in 1917, there were 46 rural, unincorporated communities with territorial rural schools that enrolled 1,162 pupils and employed 58 teachers. The same year, the Bureau of Education (schools later that were to come under

the Bureau of Indian Affairs) operated 71 rural schools with a total enrollment of 3,500 pupils and a faculty of 133 teachers. Thus, by 1917 the dual system of education for the territory was an established fact.

The policies of the 1920s clearly upheld the concept that the dual system in the rural areas was created on the premise that Natives were to be educated separately from the white population. The official attitude of the government of the territory was reflected in a statement by Commissioner Henderson when he set forth the following policy in his first official report:

There are several objections to the maintenance of a unified system of schools for white and Native children, the principle ones being the irregularity of the attendance of Natives and their inability to conform to the standards of the whites in the matter of health and sanitation.... The highest good of both races, however, seems to require separate schools for at least a few decades.... The presence of two distinct races of people and the resulting mixture of blood creates difficulties in supervision and administration.... Where the races must mingle there is usually a certain degree of friction, the parents of white children often keeping them out of school and securing a private teacher in order to avoid the close contact and what they consider the evil resulting there from. (Report of Alaska Commissioner of Education, 1920, pp. 39,55.)

Essentially, policies of the Department of Education may be said to have conformed to the position set forth by the Legislature when the uniform system of schools was established, i.e., the system was to be uniform for white children in the territory, but only white children. A policy of the Bureau of Education provided a reciprocal arrangement. Bureau of Education schools were exclusively for Native pupils.

Since policies established during this period favored separate school systems according to race, it is of great significance that wholly contrary to these policies a truly unique and apparently unanticipated organizational structure developed. Separate schools in the traditional sense of two segregated schools within one community did not emerge. The two systems, federal

and territorial, were seldom common to individual communities in the rural areas. In the few "urban" communities of the time, separate school facilities did exist and Native and white children each went to their respective school buildings. However, the original intention of establishing two school systems within each community came about in only a few instances and segregation within communities did not become widespread. Instead, as time went by, an increasingly larger number of villages contained either a territorial school or a federal school, but not both. Thus, separate school systems did indeed emerge from territorial and federal laws and administrative policies, but each system's schools were in separate villages. Thus, there would be one kind of school in one village, and another kind in the next; and as the racial composition of the territorial schools tended to become increasingly Native in composition, the original purpose of racial segregation became obscure. It should be stressed, however, that this phenomenon took many years before it became a reality. And it was not until 1967 that duplicate school units within a single community completely disappeared. (The community of Northway was the site of the last instance of two rural units in a single community; one for Natives and one for whites.)

The factors which determined whether individual villages eventually settled into federal or territorial structure are not necessarily logical nor consistent. "Historical accident" may be the most comprehensible explanation. Certainly, villages with schools established early in the American period, especially former mission schools, remained in the federal system. Also, when new schools in the most remote areas of Alaska with nearly exclusive Native populations were established, they were usually federal; although there are state schools anomalous to this premise. Generally as new schools were added to the territorial system, they were in villages along the coast,

on the Aleutian Islands, and on the railroad or highway system; communities usually with at least a segment of white population. In many instances, territorial officials were willing to open schools in communities with a small white population and with enrollment augmented by Native pupils. Another significant factor contributing to the number of schools in the territorial system with a high incidence of Native pupils was brought about by the "drying up" of mining camps. In these cases schools had been established for white population newly arrived to pursue mining, and after the white population moved on, the schools persisted with only the indigenous population using them. A landmark opinion by the territorial attorney general in 1943 also tended to increase the number of Native pupils in territorial schools. The opinion was expressed that Native pupils could not be compelled to attend Native schools if a school of white children was provided in the community.

It is especially significant to note that the informal policy, or "arrangement," whereby Native pupils were permitted to enroll in territorial schools when no federal schools existed, eventually lead to a greater number of Native pupils in rural territorial and city schools than federal schools. Enrollment composition statistics for the years 1920-1958 are incomplete but their analysis does reveal that a consistently increasing number of Native students were admitted to territorial schools. No appreciable number of white pupils were admitted to federal schools during this period.

Early in the 1930s legislation was enacted that lead to changes in administration of the territorial rural schools and saw the end of one phase in the cycle we continue to experience. School boards for rural schools which had been authorized under the Uniform School Act of 1917 were abolished in 1932. By that year 65 rural schools with local boards were in operation. The local boards had been responsible for local operations of the rural schools and for

selecting teachers. It appears that the local boards were abolished largely because of insufficient means for controlling funds allotted to them and because of excessive teacher turnover brought about by unnecessary involvement in daily school program by some board members (Report of the Alaska Commissioner of Education, 1934, pp. 18-15, 56-57).

With local boards abolished, the entire operation of all territorial schools outside of organized school districts came under the authority of the Territorial Board of Education. The Territorial Board thus became an operational board and was expected to develop policy for the daily administration of the rural schools, approve faculty members for each rural school, and approve the budget for each rural school. This arrangement continued unchanged until the advent of the State-Operated Schools at which time the State-Operated School Board acquired the same responsibilities but retained a similar mode of operation by remaining a central policy-making authority, not appreciably unlike the Territorial and State Boards of Education. An exception to complete central authority emerged at this time in the form of local advisory school boards. Their responsibilities were limited and their influence usually negligible.

Programs of education developed by the territory during the period 1920-1958 and the first years of statehood at which time the State Board of Education continued in the mode of the Territorial Board reflect almost entirely the educational development of the nation as a whole. Although an increasing number of Native pupils found their way into territorial schools, few, if any, provisions were made to meet the unique educational problems Native students may have had. During this period the territorial curriculum was designed primarily for the white population and thus the seeds of discontent on the part of the Native people were sown. The commissioners of

education during this time continued to support the policy that Native education was the responsibility of the federal government although the number of Natives in territorial schools continued to increase. Little mention of the need for Native education was made in the biannual reports of the commissioners and when mention was made, it was to stress federal responsibility. As an example, the program of education in rural schools was described by the commissioner of education in 1954:

A common program of studies, or course of study, is basic for all Alaska public schools. The standards of instruction in the larger district schools, the larger schools outside districts, the schools on military and other federal reservations and the remote one- and two-room schools are the same.... In general the program of studies as prescribed by the Board of Education compares very favorably with those which are found in schools throughout the nation. (Report of the Alaska Commissioner of Education, 1954, p. 26.)

The common program of studies referred to had been prepared in 1941 by Dr. James Ryan, Commissioner of Education at the time.

As the territory went about its business through a department of education, so did the federal government, first through the Bureau of Education, then the Bureau of Indian Affairs. While the policy of the territory followed the philosophy of Lester Henderson and programs were developed without concern for Native cultures, the federal system was experiencing the merry-go-round effect of cyclic, contradictory policies. Alaska was not singled out in this process, but simply followed in the wake of federal Indian policy for the country as a whole.

At first, following in the wake of missionaries, federal government officials attempted to eliminate Indian culture in pursuit of their duty to "civilize" the Indian population. The result of this effort was the opposite of the one sought. Programs designed to assimilate often aroused resistance to depart from indigenous culture. Indians tended to withdraw rather than be

drawn into the dominant society.

As a result of the now famous Meriam report of 1928, in which federal policies of the previous fifty years were repudiated, Indian education in Roosevelt's administration, under the supervision of John Collier, BIA Commissioner from 1933-1945, reversed the assimilationist policies of the previous fifty years. Collier advocated bilingualism, Native teachers, day schools and preservation of Indian culture.

Collier's efforts were eventually brought to a stop by the Congress, primarily because of a federal shift to a conservative view of Americanism manifested nationally at the close of World War II. The 1950s saw a fundamental return to the assimilationist policies of the first part of the century. Boarding schools were reinitiated and bilingualism set aside. Dillon Myer, the man who supervised Japanese American relocation during World War II, served as Commissioner of BIA during this period.

The cycle turned complete in the mid '60s with the advent of Lyndon Johnson's New Society and the Kennedy Committee on Indian Education. The multitude of federal programs addressed to righting civil wrongs, each speaking to the advantages of a pluralist society and thereby reversing assimilation, have proliferated until today.

Alaskan BIA schools have followed this vacillating course and recipients of their programs have generally suffered from inconsistencies. What the uncertainty of changing policies eventually guaranteed was complete dissatisfaction on the part of the Native population and ultimately precipitated their active role in the movement to return local control in rural Alaska.

Statehood may be considered the ultimate political device by which Alaskans, as equals with other Americans, acquired the potential to control their own affairs. The device did not work well for the return of local con-

trol to Alaskan Natives in rural schools. In fact, not until the passage of Senate Bill 35 of 1974, some seventeen years after statehood, resulting in the establishment of Rural Education Attendance Areas, did local control become reality. A review of hearings leading to statehood reveals Native education was not an issue in the attainment of statehood and the Statehood Act itself contains nothing of direct significance relative to Native education. For that matter, education was infrequently considered by the framers of the Alaskan Constitution and there was no "education lobby" present during its writing.

We are all now familiar with the oft quoted but still partially unfulfilled constitutional provision for education: "The Legislature shall by general law establish and maintain a system of public schools open to all children of the state, and may provide for other public educational institutions." This provision, therefore, need not be belabored in this review. It is clear that the Legislature has broad powers to provide for education. However, it is also clear that the constitution requires the Legislature to provide means for intermediate and local forms of government which are directly tied to the development of educational systems. It is this consideration that causes questions concerning the legal nature of REAAs and ultimately may come to bear on the longevity of Rural Education Attendance Areas.

The first years after Alaska became a state may be considered static relative to development of programs for rural education, but the lack of attention to rural matters in the early years of statehood is not surprising. With so many issues facing residents of the new state, education as a topic only surfaced occasionally. Also, village Alaska had not been "discovered" as a field for social reform or development such as was to emerge in the '60s. Following the passage of the Statehood Act nearly five years elapsed before

significant attention was given to rural schools. It was in 1962 that a memorandum of agreement between the State and the Bureau of Indian Affairs, assuring some degree of consistency and continuity of program between the two groups, was developed.

Following the development of the joint statement by the State of Alaska and the Bureau of Indian Affairs and the wide circulation of two reports prepared by Dr. Charles Ray of the University of Alaska (A Program of Education for Alaskan Natives and Alaska Natives Secondary School Dropouts), a number of events took place which drew attention to the educational system in rural Alaska and ultimately lead to a host of developments which brought great attention to rural education. In Ray's report the need for new curricula was documented. A Governor's Committee on Rural Education which was appointed in 1962 and issued a report in 1963 (updated in 1966) urged a single system of rural education; the United States Department of Interior Task Force on Alaska Natives identified the need for special programs of education and suggested a single, distinct administrative structure for rural schools as an essential element necessary to improve education in rural Alaska; and the files of the Department of Education began to include material which revealed a growing concern by the public at large for programs of education specifically designed for rural schools. Furthermore, state officials agreed in principle to merge the rural schools into a single state-controlled system. Most importantly of all, it was during this same period that Native associations emerged as a viable force, having grown effective in presenting their plans for improved village schools.

Two quotations from many meetings of Native groups at the time serve to illustrate the emergence of Native forces and stress the importance of this new element in the development of education systems by rejecting the system

in use. A meeting of the Tanana Chiefs Conference in 1968 resulted in this report:

Improved and more educational opportunities for Native youth has been a principal concern of the Tanana Chiefs Conference since the Conference was revived in 1962.

And the year 1968 is no different.

Meeting in Fairbanks for the second time this year, the representatives to the Chiefs Conference again tackled education with more vigor than before....

The Conference this morning passed a resolution asking the Alaska Federation of Natives to file suit against the United States and the State of Alaska for 'an integrated quality education for all Alaskan Natives in Alaska....'

At a meeting in Sitka in December 1968, Native spokesmen continued to make known their dissatisfaction with the status of the time:

Natives from across Alaska served notice Thursday night that in their drive for improved rural education, they will be satisfied with nothing less than the system of regional high schools, close to the villages they serve and under direction of Native school boards.

Indian, Eskimo and Aleut spokesmen gave their views of the conference on rural education presided over by U.S. Representative Howard W. Polluck, Republican Alaska, and U.S. Senator elect Mike Gravel, Democrat Alaska. The conference was called by the State's congressional delegation to reach a consensus on the recommended allocation of 9.6 million dollars appropriation by Congress for expanding and upgrading the Mt. Edgecumbe School.

The awakening of Native people to power had become a factor in resolving educational problems in Alaska. Pressure by Native groups, representing a large block of voters, had brought Alaska's congressional delegation into the matter.

The decade 1966-1976 has been a period of extreme changes and a return to the local control of forty years earlier. In many ways, however, it is unfair to compare the local control of today with that of four decades past. Today's local control issues and the recognition of special educational needs for Alaska's indigenous population is a subject in its own right. A recent

report (Law and Native Education, Center for Northern Educational Research, 1977) by Mr. David Getches provides a succinct and critical analysis of the past ten years. Because of its currentness and appropriateness to this report, excerpts of Mr. Getches's paper follow verbatim.

of directors appointed by the governor. Six of the nine board members had to be from rural areas, outside boroughs and military reservations.³⁰⁸ The board was delegated some of the authority which formerly had been exercised by the legislature and the State Board of Education, although the exact relationship between the state and ASOSS board was never clear. Administration of rural schools became separate from the State Department of Education's many other duties. Administrative matters still had to be funnelled through the State Department of Administration, however.

The conception of an entity whose sole responsibility was delivery of education in the unorganized borough may have appeared to be a wise move. At the least it would enable a policy-making board and full-time administrators to focus exclusively on that task. But the fundamental impediment of no localized decision making continued. There was not even a procedure for getting input to the board of directors from advisory school boards.

Because ASOSS was still administering an unwieldy system, great improvement was not forthcoming, nor could it have been expected. The capability of ASOSS for effecting change was severely limited because of its behemoth service area with distant clusters of population and a variety of conditions.

Individualized attention was needed for each of the more than 130 schools served by ASOSS but was out of the question. Native leaders saw little difference in rural education in the state system as viewed from the receiving end; they remained essentially disenfranchised in education matters. They urged that the only solution would be decentralization of control.

Energies of Native leaders had been concentrated heavily upon the issue of resolving their claims to land and other rights in the years prior to 1972. Congress had been considering enactment of legislation that would extinguish those claims. It had been prodded not just by Natives seeking justice and a settlement of claims that had been preserved since the purchase of Alaska from Russia, but by oil companies needing to clear land titles in order to get permits to build an 800-mile pipeline which would bisect the state.³⁰⁹

On December 18, 1971, the Alaska Native Claims Settlement Act was signed into law.³¹⁰ The complicated act left much to be done by Natives—formation of 12 regional corporations and more than 165 village corporations, selection of 80 million acres to be held by the corporations, and more. But its passage freed some Native leaders so that they could concentrate on matters at home with new vigor. Their

308. *Id.*, as amended, § 1, Ch. 199, [1972] Sess. Laws of Alaska. Formerly there were seven members, four from rural areas.

309. See generally, M. Berry, *The Alaska Pipeline* (1975).
310. 43 U.S.C. § 1601 *et seq.* (1976 Supp.).

many villages apparently felt some of the same impulses for autonomy that moved proponents of statehood. They were, however, at the mercy of the state legislature, which was in a key position to make systemic changes. Displeasure voiced from the politically impotent bush met with little action.

In 1966, the state made a concession aimed at permitting more local direction for rural education. An act of the legislature instituted elective advisory school boards in all communities where state schools were operating.³⁰³ Like their counterparts in the BIA system, the boards had no legal power. Their only "duty" was to "advise and assist the Board of Directors . . . through the local official administering the school." Most of the boards under the Alaska State-Operated School System never functioned effectively. In 1975, some 50 percent of the boards were considered nonfunctional.³⁰⁵

The education system for the entire state, outside municipalities (the unorganized borough), had been administered by the State Department of Education. There was not even a statewide policy-making board to address the diverse needs of the area separately from those of the state as a whole. Concern for the clumsy, inefficient system led the legislature to create a state corporation called the Alaska State-Operated School System (ASOSS) in 1970.³⁰⁷

ASOSS was a separate quasi-agency charged with responsibility for education throughout the unorganized borough. It was governed by a board

302. Interview with Dr. John Anttonen, Superintendent, North Slope Borough School District, January 19, 1976.

303. Ch. 98, [1966] Sess. Laws of Alaska; Alaska Stat. § 14.14.170 (revised and reenacted in 1975).

304. *Id.* at § 1; Alaska Stat. § 14.14.200 (revised and reenacted in 1975).

305. Alaska State-Operated School System, FY 1975 Budget Submission, Analytic Statement, 00808 (Nov. 15, 1973).

306. In 1965 the department had been reorganized to establish a separate Division of State-Operated Schools. *Report of the Alaska Commissioner of Education, 1965*, 23. Any change in delivery of rural education was imperceptible.

307. Ch. 46, [1970] Sess. Laws of Alaska.

successful experience with Congress added to their confidence and credibility.

The ASOSS board and staff were impressed not only by the increased pressure for local control, but also by the demonstrated need for it. Their suggestions and discussions with the State Department of Education led to a proposal in early 1973 by Commissioner of Education Marshall L. Lind that there be a thorough investigation of alternatives for education in the unorganized borough and development of recommendations.

Lind requested the Center for Northern Educational Research (CNER) at the University of Alaska to coordinate the project. CNER had been established in 1971 to foster improvement of education in Alaska through research, program development, and educational policy analysis.³¹² Together with the Alaska Federation of Natives Human Resources Committee and the Alaska Legislative Committee on PreHigher Education, CNER undertook a year-long study. CNER was assisted in the undertaking by its advisory council—a committee of eminent educators, legislators, public officials, and organization leaders, most of whom were Natives. A series of meetings was held to address issues surrounding the matter, including meetings of the CNER advisory council, of the AFN Human Resources Committee, of the council and the Legislative Interim Committee jointly, and a rural input meeting where “grass roots” sentiment was expressed by bush residents. The CNER staff of professionals met with education agencies, regional corporations, and other groups to discuss the problem and the process of attacking it. The staff also compiled materials, presented alternatives for optimizing local control, and generally coordinated efforts.³¹³

In December, 1973, a Forum on Education in the Unorganized Borough was held by the CNER consortium. Position papers were presented by persons from throughout the state. After that meeting a report was prepared by CNER staff for the Legislative Interim Committee on PreHigher Education.³¹⁴

During the course of the CNER study two bills were introduced in both houses of the state legislature³¹⁵ to decentralize the state-operated schools by establishing educational service areas in the unorganized borough. Neither bill passed, but the plans proffered in them were fodder for discussion. Eight

other types of alternatives (e.g., regionalization, status quo, and municipalities) were debated in the CNER inquiry. Each was exhaustively explored, and many participants in the process formed their opinions.

The CNER report found consensus that delivery of educational services in the unorganized borough had not satisfied the consumers' needs, that ASOSS had been a mistake, and that continuation of central policy and decision making was unacceptable because it was inefficient and squelched local leadership. The report concluded that community control best could be attained through formation of local governments. It found that both ASOSS and BIA are peculiar bureaucracies which inhibit improvements in education and stifle democracy among the segment of Alaskan population which they are supposed to serve and that both should be phased out.

The CNER report made numerous detailed recommendations which would convert ASOSS into a transitional agency until areas of the unorganized borough could form into districts. State government would foster the conversion process through an active program of school district development, including public education, assistance, and grants. All schools would be under districts and removed from ASOSS or BIA by 1980. Some communities would be required to incorporate as municipalities. State financing of schools would be studied to appraise its abilities to deal with the recommended changes. Provision would be made for waiver of existing school laws and regulations to allow innovation.³¹⁶

The legislature failed to act on the CNER recommendations during the 1974 session. The Alaska Federation of Natives (AFN) took steps to insure that the recommendations would be acted upon in the next session. When the legislature convened in 1975, several bills were introduced reflecting the CNER and AFN positions.³¹⁷ Similar bills were passed in both houses (S.B. 35 and H.B. 24) after considerable lobbying and input from Native groups. The conference version of the bills was signed into law on June 9, 1975.³¹⁸

The act which now is law (S.B. 35) deviates considerably from several of the CNER recommendations, although it heeds others. Basically, S.B. 35 made ASOSS transitional, charting it for dissolution by July 1, 1976. ASOSS was replaced with several regional education attendance areas (REAA), each with elected school boards controlling all but ultimate fiscal decisions.

Perhaps the most remarkable aspect of the legislation is the rapidity with which it had to be implemented. The shape of Alaskan education always has

311. Letter from Dr. Marshall Lind to Dr. Frank Darnell, dated January 8, 1973, included in Center for Northern Educational Research, *Delivery of Educational Services to the Unorganized Borough 392-93* (Univ. of Alaska, Aug., 1973).

312. *Resolution Concerning the Establishment of A Center For Northern Education*, University of Alaska Board of Regents, Fairbanks, Feb. 18, 1971.

313. F. Darnell, K. Hecht & J. Orvik, *Prehigher Education in the Unorganized Borough: Analysis and Recommendations 9-14* (1974) (hereinafter cited as Darnell, Hecht & Orvik).

314. *Id.*

315. H.B. 192 & S.B. 122, Alaska Eighth Legislature, 1st Sess. (1973).

316. Darnell, Hecht & Orvik, *supra* at 33-53.

317. S.B. 35, S.B. 94, S.B. 136, H.B. 24, Alaska Ninth Legislature, 1st Sess. (1975).

318. Ch. 124, [1975] Sess. Laws of Alaska; Alaska Stat. § 14.08.011 *et seq.* (1975).

depended on the legislative will of the federal and state governments. But never has such radical change been required so quickly. The irony is that because change must occur so suddenly, many things which ought to change will remain the same. The new REAA boards scurried to be functioning by the July 1, 1976 deadline. Some had to retain mediocre ASOSS administrators because time did not permit their replacement. Under these circumstances, little substantive improvement in local school management is predictable.

E. Decentralizing Under S.B. 35

The first major task under S.B. 35 was to determine the boundaries of the REAAs. Hearings were held throughout the state to solicit views from the affected citizens as to the extent of the REAA in which they would be located. The legislation provided that REAA boundaries would follow regional boundaries set under the Alaska Native Claims Settlement Act.³¹⁹ The statute appears to authorize division of the unorganized borough into as many REAAs as there are regional corporations, along coterminous lines. But use of regional lines was not intended to be exclusive. This is shown by subsection (b) of the same section, prescribing certain characteristics for REAAs. REAAs must contain an integrated and homogenous socioeconomic, linguistic, and cultural area. Consideration also is given to transportation and communication. Geographic features and existing boundaries are to be used in describing boundaries.³²⁰ Of course, first-class cities and organized boroughs are excluded, as they constitute existing school districts.³²¹ Taken together, the two subsections suggest that REAA boundaries are to follow, rather than cross, regional corporation boundaries where they contact them and conform to natural or other predetermined boundaries. This is how the State Department of Community and Regional Affairs, which was charged with administering the act in consultation with the State Department of Education, interpreted it in a series of informational meetings in rural areas around the state in July and August, 1975. Later they began implementing it similarly when hearings were held in numerous bush locations regarding proposed boundaries. The result of the hearings was a division of the state into some 21 REAAs.³²²

319. Alaska Stat. § 14.08.031(a) (1975). The statute also uses the word "sub-boundaries" in reference to the regional corporations. It is not clear what this refers to.

320. Alaska Stat. § 14.08.031(b) (1975).

321. Alaska Stat. § 14.12.010 (1975).

322. Originally 20 REAAs were created by the Commissioner of Community and Regional Affairs on November 1, 1975, pursuant to authority in Alaska Stat. § 14.08.031(a). But after a meeting of residents of REAA 17 and the governor, REAA 21 (including Whittier and Tatitlek) was created on November 24, 1975, dividing REAA 17 along the boundary

Within each REAA the voters elect a board of from five to 11 members.³²³ To determine the exact number for each REAA, the department of education consulted with communities during the hearings described above. To permit representation of small communities whose voices might be unheard in a large REAA, an area can be divided into school board sections, each with one or more seats on the board.³²⁴ Section lines are drawn based on population distribution, but by adjusting the number of seats on the board, representation for very small communities can be had in most cases, assuring that they will have a resident on the board. Board members are elected at large by all voters of an REAA.³²⁵ It was necessary to have REAA boundaries, numbers of representatives, and sections determined quickly, as elections were scheduled for February, 1976.

In addition to the elected board for each REAA, every community (or military reservation) with a school has a community school committee.³²⁶ Members are elected at regular municipal elections or special elections set by the department of education. As with the old advisory school boards which functioned under the state-operated school system and which are replaced by these committees, duties are loosely defined and powers nonexistent. The statute merely charges them to "review and make recommendations to the board" of the REAA "concerning the curriculum, program, and general operation of the local school."³²⁷ They may, however, be delegated other functions by the school board.

Powers of the regional school boards are not plenary, as are the powers of a district school board. Because of their financial relationship with the department of education and the fact that their only powers are those delegated by the legislature, there are limits on many things which they are able to do. For instance, the REAA boards' operation of schools and decisions to establish new schools or close old ones are all subject to approval by the commissioner of education.³²⁸ Authority with respect to construction is limited in that an REAA may have to rely upon the State Department of Public Works to build schools requested by the REAA using funds appropriated by the legislature or to accept and use grants from that department.³²⁹ Whether the REAA or the department uses the money, choice of sites and other important matters rest in the discretion of departmental officials operating under state regulations.

between the Chugach and Ahtna Regional Corporations. Memorandum to REAA file from Michael C. Harper, Deputy Commissioner, Department of Community and Regional Affairs, dated December 3, 1975.

323. Alaska Stat. § 14.08.041 (1975).

324. *Id.* at § 14.08.051.

325. *Id.* at § 14.08.041(d).

326. *Id.* at § 14.14.170.

327. *Id.* at § 14.14.200.

328. *Id.* at § 14.08.101(6).

329. Alaska Stat. § 14.08.101(7), 14.08.161 (1976).

Ownership of all school buildings and land remains in the state; REAAs will have use permits for them.³³⁰

Because of overriding authority of the commissioner with respect to REAA school operations, it is not clear how significant the enumerated powers of boards are, as the new act is only beginning to be implemented. The extent to which the power to "adopt regulations governing organization, policies and procedures for the operation of the schools"³³¹ can be exercised free of the commissioner's disapproval authority remains to be determined. Similarly, the board's duty to "develop a philosophy of education, principles and goals for its schools"³³² must be read in light of the commissioner's overriding control of school operations.

Matters of employment, salaries, purchasing, and disbursement of funds are lodged with the REAA boards.³³³ All funds for REAAs are furnished by the state legislature. They receive "basic need," as used in computing foundation aid to districts, plus an amount equal to the average per pupil local tax contributions in city and borough districts.³³⁴ Thus, they are relieved of local effort requirements, but the amount they can receive from the state over and above basic need is indirectly determined by city and borough decisions regarding their local tax effort.

It is unclear whether the REAAs can receive and expend voluntary contributions. It is conceivable that a local industry, a village or regional corporation, or an individual would donate funds. The donation could be motivated by sheer beneficence or it could be an inducement to the community not to form a local government which could tax the donor's property. There is no express bar to receiving and using supplemental funds, but the powers of the REAA are delegated to it by the legislature and, therefore, must be construed narrowly. If they extend only to the

enumerated powers, use of funds other than those appropriated by the legislature or received under a contract with BIA, the department or some public agency would be unauthorized.³³⁵

Contracting authority in the statute does enable REAA's to receive Johnson O'Malley funds directly.³³⁶ They also are eligible for assistance under the Indian Education Act. Indeed, they are eligible until 1979 for funding under special provisions for schools which have been local education agencies for less than three years.³³⁷ Funds under the Elementary and Secondary Education Act programs are available also but are administered through the state agency, i.e., the department of education.³³⁸ The REAAs do not receive P.L. 874 impact aid funds directly as districts do.³³⁹ As discussed earlier, a Native-controlled REAA board is eligible to contract with BIA to take over its school operations under provisions of the Indian Self-Determination and Education Assistance Act.³⁴⁰

The unmistakable import of S.B. 35 is to vest boards in communities with local management of schools. Management is not synonymous with control, however. Many local objectives can be achieved by selecting the personnel to staff and administer schools. Innovation in operation and curriculum, choice of school locations, and design and condition of facilities are all quite important, too, but are not functions vested solidly in the REAAs. It may be that the commissioner and the department will administer the act to maximize the local control which is possible under it. There is no indication that they will do otherwise, but the specter of state intervention remains. And there is always the possibility that a policy of minimizing involvement in and preemption of local decisions will change, especially as personnel in the department changes.

330. Alaska Stat. § 14.08.151 (1975).

331. *Id.* at § 14.01.101(5).

332. *Id.* at § 14.08.111(2).

333. *Id.* at § 14.08.101(3) & (4); § 14.08.111(3), (4) & (5).

334. *Id.* at § 14.08.121.

335. *Id.* at § 14.08.101(2).

336. See *supra*, Part II C.

337. See *supra*, Part II F.

338. See *supra*, Part II D.

339. See *supra*, Part II A.

340. See *supra*, Part II G, especially text accompanying note 230-31.

The foregoing excerpt from the work of Mr. Getches has been taken from an article which deals extensively with many elements of rural Alaskan education. All of his paper is germane to the topic of this report and individuals interested in this subject are urged to read it. As explained at the outset, delineating the scope of an historical essay is difficult. It seems the risk of having gone too far into contemporary issues has already been reached. Thus, the historical review is concluded. The term historical perspective, however, suggests that the contemporary situation be viewed in light of past events and their consequences. The following statement of tentative conclusions and apparent trends is written for the purpose of tying the review to contemporary times and the future.

Tentative Conclusions and Apparent Trends

What can be concluded from the preceding? A review of the history ought to lead to certain insights about the current situation and the potential of REAAs. But the length of time since REAAs were initiated has been brief. This condition requires that conclusions derived from the history at least be labeled tentative, if not premature. Trends are emerging only in their most rudimentary form. But enough is now observable so that the following can be said: Rural Education Attendance Areas were created after conflict, implemented and are now generating new conflicts along lines of classic educational--political evolution. As political arrangements and as systems of education, REAAs are one form in a long series of many forms. Each scheme of the past has been an organizational innovation. Organizational sagas, it can be seen from this history, have varied in durability. Not all have experienced fulfillment. And it may be concluded, any innovation has a greater likelihood of becoming institutionalized the closer it is to central values of the social system of

which it is a part. REAAs come much closer to this condition than previous systems. Because they are not entirely derived from the values of the social system in which they are found and because the potential of a constitutional cloud may form, it is expected they will undergo additional and substantial changes before the ultimate system is developed. Thus, REAAs should be looked upon as extraordinary and transitional, although tending toward the desired condition, i.e., acquisition of parity for rural residents with their urban counterparts.

The history reveals there exists in Alaska a complex social structure that generates multiple pressures. Decision makers are impinged on through many forms of pressure and groups, most of which have legitimate and honest concerns for the improvement of education of all Alaskans, especially rural Alaskans. These pressures gave rise to problems in the past and give rise to apparently potential problems in the future. There were many decisions made in the past because of political and administrative expediency and racial considerations at the expense of educational or social improvements. That social and political considerations existed is deplorable; both are known to have been a part of the human condition since recorded time. The nature of our concern in these realms at this time is to hope they will no longer bear on acquisition of local control of education in rural Alaska nor the potential for success of new education units.

It must be assumed that racism of the past, such as was obvious and overt in the beginning of Alaska's rural system, has been extinguished. Views such as those expressed by Commissioner Henderson were the prevailing attitude of his day and certainly will not be uttered in our time. The extent that racism may have new and more subtle forms is difficult to say; we do not enjoy the advantage of hindsight with which to examine the contemporary period.

However, human nature being what it is and the long history of racism experienced by mankind in general compels that we not become complacent simply because discrimination has been declared illegal. Native leaders speak of "backlash" because of their current successes. Historical perspective requires that we should continue to be concerned lest trends toward elimination of racism be reversed.

The genuine concern and sincerity of many individuals, in both local and statewide situations, who must make decisions or formulate policy is encouraging. But, decisions based on political and administrative expediency may still exist as a threat to local control and the potentially positive influence of local control on educational programs. Indeed, the most deleterious conditions observed in a review of recent history of rural education applied to the emergence of REAAs is the comparatively greater degree to which elements of politization at the state education level may now be emerging. Of course, it should be noted there is no separating political processes from education, nor should there be. Honest political differences openly debated are positive factors in nurturing new ideas. Twenty-one administrative units scattered statewide create potential for political opportunity in this regard. Education has become the first tangible governmental service accessible to a large number of rural residents. As such, REAAs can create appetites for even more political elegance and involvement. They also create opportunity for political abuses. Political and administrative abuses at the state education level in excess of any previously experienced in Alaska may be coming into existence. The good intentions and positive attitudes of rural residents, many middle management staff people and rural faculties ultimately may be eroded if inconsistencies in administrative decisions and policy development at the state level continue along lines of

apparent trends, especially when inconsistencies or ambiguities may be perceived as the result of political or administrative expediency.

Concerns expressed above can be said to be outweighed by positive developments attributed to the advent of Rural Education Attendance Areas and thus, this section on tentative conclusions and apparent trends can be ended on a favorable note. The history of rural education contains much that illustrates the frustrations of both consumers and practitioners in the search for acceptable types and levels of education. However, the most recent struggle, culminating in Rural Education Attendance Areas, has been concentrated on organizational innovation. And organizational innovation is only a means to the more important ultimate goal of instructional innovations. For the moment we do not know if the organizational innovation has become institutionalized in a form that will bring about the desired outcomes in shifts of authority or in the redistribution of power or in the divisions of labor. If it is too early to determine whether these elements of organizational innovation have been realized, it is certainly too early to tell if innovations in instruction will follow. But, compared with the past, trends of the moment may be looked at in the most optimistic sense. Trends only now taking form reveal genuine shifts in the dimensions of authority, the redistribution of power and divisions of labor. REAAs, constitutionally proper or not and transitory or not, have advanced the quest for local control and created a potential for developing innovative programs more than any single event in the past. The extent to which these trends truly will become institutionalized remains a question. And finally, the question of whether innovations favorable to enhance learning situations grow out of the organizational innovations remains the ultimate question of today.

THE PRECEDING PAGES WERE TREATED AS
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THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

This is a first draft of a paper on Municipal Development as related to the REAs by Pat Poland of Community and Regional Affairs, Anchorage. It is being distributed in this form since Mr. Poland's revised paper is in the mail but has not yet reached us at this time.

KH/11-11-77

The transfer of the major operational responsibilities of rural Alaska's schools from the State of Alaska (Alaska Unorganized Borough School District) to regional school districts (Regional Education Attendance Areas) with locally elected schoolboards was accomplished by Ch 124, Session Laws of Alaska, 1975 (popularly referred to as Senate Bill 35).

To a great extent, the full implications of Senate Bill 35 are just beginning to be felt. However, there are several definite implications for municipal government that have already arisen from the implementation of Senate Bill 35.

The purpose of this discussion is to highlight these implications as they relate to the development of municipal government in the unorganized borough. For purposes of this discussion, municipalities consist of boroughs and first-class cities; that is, municipalities having the education function.

REGIONAL IDENTIFICATION

While rural Alaska's initial encounter with the concept of regionalism came about with passage of Public Law 92-746, the Alaska Native Claims Settlement Act (ANCSA), there is no doubt that Senate Bill 35 went far beyond the implications of the ANCSA in terms of developing regional identification. In the view of the Department of Community and Regional Affairs this was a positive step in the overall scheme of developing regional government in the unorganized borough. Prior to the passage and implementation of this particular act there were no real tests of the regional concept of service delivery taking place in the unorganized borough, and while there were many advocates of this particular mechanism of service delivery it remained, by and large, untested. However, with the mandate of regionalization created by Senate Bill 35, rural residents have, in a sense, been forced to test the concepts of regionalism in Alaska's vast unorganized borough.

Surprisingly, there seemed little if any real resistance to the idea of regional school districts. On the contrary, (much of this was undoubtedly due to the dissatisfaction many rural residents felt with the former state operated school system), most rural residents seemed eager to embrace the concept. Perhaps the strongest demonstration of this desire to participate in a regional approach to service delivery was the change in status executed by the City of Selawik. In that particular instance, the City of Selawik, formerly a city of the first class in the unorganized borough and therefore having school responsibilities, petitioned the Local Boundary Commission and convinced them of the need for them to be dissolved and "reincorporated" as a second class city so that they might become a part of their particular Regional Education Attendance Area. Among the arguments advanced at the public hearing in support of Selawik's reclassification was a strong presentation by residents concerning their desire to be part of the Regional Education Attendance Areas and to receive benefits they perceived as being available only to REAA residents.

The Department of Community and Regional Affairs, noting the relatively warm embrace being given regionalization by unorganized borough residents, instigated, early in 1976, a study of the acceptability of general purpose regional governments in the unorganized borough. That study, which consumed some six months, came to a number of conclusions, the most important of which appears to be the fact that rural residents are still wary of any form of government that includes the authority to levy and collect taxes. Additionally, many residents expressed concern about moving too fast; while they embraced the idea of regional school districts, they felt that it required the test of time before jumping to yet a new form of government. Nevertheless, the Department has had inquiries from several regions (most notably the Fort Yukon, Bethel, and Valdez regions) concerning possible borough incorporation. Today, none of those discussions have evolved into actual petitioning for borough government although

it does appear that many areas are getting close to taking the final step. There Page 3
is no doubt that formal consideration by these regions of regional government was precipitated by the establishment of REAA's.

An additional development which, to some degree, appears to be an offshoot of the regional approach fostered by Senate Bill 35, was the passage of Ch SLA 1976, which established a mechanism for regions of the unorganized borough to establish coastal zone management (CZM) service areas for the purpose of CZM planning. Under the provisions of that particular act any Regional Education Attendance Area, upon determination by the local electorate, may establish themselves as coastal zone management planning districts. While the legislation permits consolidation of two or more Regional Education Attendance Areas into a CZM planning district, it does not allow individual REAA's to be subdivided into smaller districts for the purposes of planning. This is an interesting development and one that seems to further reinforce the concept of regional delivery of services.

Finally, in terms of regionalization, it is interesting to note the specific provisions of Senate Bill 35 which deal with the boundaries of Regional Education Attendance Areas. Specifically, the bill provides that:

"As far as practicable, each Regional Education Attendance Area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of the Regional Education Attendance Areas, consideration shall be given to the transportation and communication network to facilitate the administration and communication between communities that comprise the area."

Very similar statutory language exists at AS 29.18.030, which is the statutory provision establishing standards for borough incorporation. The similarity of the standards goes a long ways toward defining appropriate boundaries

for potential regional governments. In fact, to some observers, the boundaries of the newly created Regional Education Attendance Areas (with some exceptions) generally conform to good borough boundaries. This has been a little alarming to many rural residents, since no small number of them are still concerned that the State is going to soon foist boroughs upon them.

The second major subject area that has seen much discussion as a result of the passage of Senate Bill 35 is that of local government finance. As presently constituted, Regional Education Attendance Areas have, in comparison to municipal school districts, an advantageous funding schedule because in addition to 100% foundation funding Regional Education Attendance Areas also receive an amount equal to the average contribution per pupil in local municipal school districts multiplied by the number of students in the Regional Education Attendance Area as well as receiving all other (notably public law 874) funds. As a result of this rather strong inequity, amendments were made to the law in 1977 which basically reduced the amount paid by the State pursuant to the average contribution per pupil basis by the amount received in public law 874 monies per district; this was intended to equalize funding somewhat. Nevertheless, the advantageous funding schedule for REAA's versus municipal districts remains a hindrance rather than an asset to the development of regional governments. Moreover, because so many REAA's are so property poor, the thought of forming municipal school districts to provide services which are currently provided by Regional Education Attendance Areas is almost out of the question. For example, the poorest existing borough has about \$20,000 worth of taxable property per capita. On the other hand, some of the Regional Education Attendance Areas could probably expect to have considerably less than \$5,000 worth of taxable property per capita. Realistically, it is impossible to provide basic municipal services without adequate funding.

The major exceptions to this discussion, of course, are those areas surrounding "the pipeline". The regions surrounding Fort Yukon, Delta Junction, Glennallen, Copper Center, and Valdez have taxable property per capita values that could easily

support borough government.

Partially in response to these obvious funding inequities, the Department of Community and Regional Affairs, as a part of its final conclusions reached in its study of regional government, recommended that a new system of financing regional governments be found. Basically, the system suggested was one that placed a state-wide property tax on all property associated with the exploitation of natural resources and then, in turn, distributed those tax revenues on the basis of population and services being provided by individual boroughs. It was determined that additional study of that particular proposal would be needed before the feasibility of it could be determined.

Nevertheless, this particular area is still a popular subject among legislators, as demonstrated by current House Bill 202 and Senate Bill 35 introduced in the first session of the 1977 Legislative Session. Both those bills would levy real property taxes on developed land in the unorganized borough. Hearings on House Bill 202 will be held this October in Fort Yukon, Delta Junction and Tok.

Finally, one last area of financing that again discriminates between the municipal versus REAA school district is that of school construction.

Presently municipal districts must pay for 50% of school construction while REAA's contribute no local effort towards construction of new facilities.

This is seen as a significant hindrance to the development of regional governments for the purpose of assuming local control of education, particularly in areas which are "poor" or are marginally sufficient in terms of a real property tax base.

In summary, it can be said that formation of the Regional Education Attendance Areas can be viewed as a positive step towards the formation of regional government in rural Alaska. In particular the newly created service areas have provided a

greater amount of local control over a local municipal type service, maintained and strengthened existing regional identifications, and provided boundaries that will be useful for the establishment of boroughs in the future.

The principal negative aspects of Senate Bill 35 have been the funding formula which maintains a disincentive to formation of municipal school districts and fails to properly address the extremely poor tax base of much of rural Alaska.

Ultimately, the passage of Senate Bill 35, if for no reason other than the fact that it has generated discussion and interest, is going to have had a significant affect (probably the most significant since the passage of the 1964 mandatory borough act) towards developing regional government in this state.

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Revised
Report Outline

Nov. 18
Enclosures

NEW SCHOOL DISTRICTS IN RURAL ALASKA:
A REPORT ON THE REAAs AFTER ONE YEAR

I. Introduction and Background

Highlights from the Report

- (✓) Overview of the Study - Kathryn Hecht
- ✓ Historical Perspective - Frank Darnell
- (✓) Time Line - Ron Inouye
- (✓) "Perspectives on Progress" - Kathryn Hecht

II. Study-collected Data and Analysis

- ✓ Survey of REAA Boards and Superintendents - Kathryn Hecht and Ron Inouye
- (✓) ^(outline) Analysis of REAA and State Board Minutes (second draft) - Kathryn Hecht and Ron Inouye
- Case Study of an REAA - Paul Goodwin

III. Contributed Chapters*

- ✓ Municipal Development - Pat Poland (Final Draft)
- (✓) Community School Committees - Sue Horton
- ✓ New Secondary Education Programs in One REAA - Margo Zuelow
- (✓) School Finance in the REAAs - E. Dean Coon
- (✓) BIA/REAA Relations - Don Dafoe
- ✓ Teachers' Views - Jim Alter
- Bilingual Controversy - Sylvia Carlsson

* Note: These are listed by subject rather than the title which will be used.

IV. Summary and Forecast

- ✓ Related Studies and Issues (see form)
- Seminar of Contributors: Edited Comments

Appendix

- (✓) Selected News Clippings
- ✓ REAA Map
- ✓ Survey Questions
- ✓ Additional Material: "REAA Superintendents Address the First Year"

✓ = Nov. 18 enclosures
(✓) = Nov 11 enclosures

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

November 11, 1977

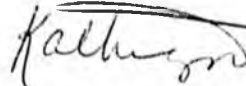
Dear Seminar Participant:

I am very pleased you will be able to join us Friday, November 18, for our seminar on "A Report on the REAAs After One Year." The meeting will be held in the Memorial Conference Room on the lower level of Wood Center, from 9 to 4. We have a luncheon arranged in the "Pub" in the same building to which you are invited as our guest.

Enclosed please find the drafts of papers available as of today. Two have not yet reached me but are in the mail. Several of our CNER inputs are also still in process. You will be receiving additional material at the meeting. If you are in Fairbanks before Friday, please let me know and I will see that you receive the additional papers ahead of time. Please forgive our tardiness and a special thank you to those who were able to make the deadline.

Looking forward to seeing you soon.

Sincerely,



Kathryn A. Hecht, Ed.D.
Associate Professor
Center for Northern
Educational Research
479-7173

KAI/ijs
enc.

PLEASE REPLY BY AIRMAIL

Draft Outline

NEW SCHOOL DISTRICTS IN RURAL ALASKA:
A REPORT ON THE REAAs AFTER ONE YEAR

I. Introduction and Background

Highlights from the Report

- ✓ Overview of the Study - Kathryn Hecht
- Historical Perspective - Frank Darnell
- ✓ Time Line - Ron Inouye
- ✓ "Perspectives on Progress" - Kathryn Hecht

II Study-collected Data and Analysis

- Survey of REAA Boards and Superintendents - Kathryn Hecht and Ron Inouye
- Analysis of REAA and State Board Minutes - Kathryn Hecht and Ron Inouye
- ✓ Case Study of an REAA - Paul Goodwin

III Contributed Chapters *

- ✓ Municipal Development - Pat Poland
- ✓ Community School Committees - Sue Horton
- New Secondary Education Programs in One REAA - Margo Zuelow
- ✓ School Finance in the REAA's - E. Dean Coon
- ✓ BIA/REAA Relations - Don Dafoe
- Teachers' Views - Jim Alter
- Bilingual Controversy - Sylvia Carlsson

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IV Summary and Forecast

Related Studies and Issues

Seminar of Contributors: Edited Comments

Appendix

- ✓ Selected News Clippings

FINAL DRAFT

SURVEY OF ALASKA COMMUNITY
SCHOOL COMMITTEES¹

by

Susan M. Horton
Ketchikan, Alaska
September 30, 1977

¹This chapter is based upon a report done by Ms. Horton in connection with her graduate studies at the University of Alaska, Southeast, with assistance from Dr. Phillip Hocher. The complete report is on file at CNER.

Introduction

Under Senate Bill 35, individual community advisory groups called Community School Committees (CSCs) were established in each community served by a REAA school. The creation of CSCs provides the opportunity for local communities to be active participants in their local schools and gives them formal contacts with their REAA boards. Since the REAAs and the CSCs are both new bodies, the guidelines and interpretations agreed upon concerning their interaction and decision-making powers are just now being established. The isolation of many of the REAAs and CSCs both from each other and from the State Department of Education has introduced the very real possibility that some REAAs and CSCs will interpret and develop their roles and responsibilities in ways that are quite different from others.

The purpose of this paper is to get a clearer view of how the CSCs are functioning. Although the relationship between the CSCs and the REAA boards undoubtedly varies from district to district, it seems appropriate to examine this relationship in its beginning stages.

This study focused on the Community School Committees in an effort to describe the variations in perception and interpretation given their roles by the various CSC. The study also focused on a description of the perceived relationship between the various CSC and their respective REAA boards. Questions on the survey asked about CSC activities, decisions, REAA involvement, CSC perceptions of influence on decisions and the need

for CSCs.

The survey was completed by members of the Alaska Community School Committees and it reflects what they felt was true of the situations in their communities. Survey forms were sent to 144 CSCs in March, 1977. Eighty-eight (61%) were returned and this included at least one return from each REAA. One of the important things to remember about this survey is that some of the information the CSCs reported may have actually been in error. But the fact remains that those responses reflect how they perceived the situations they encountered.

Findings and Conclusions

The Community School Committees which responded to this survey appeared to be reasonably active. Most were formed just after the 1976 school year began, and on the average met about once a month.

- A majority (68%) of the CSCs responding and at least one CSC in each REAA had members attend all or some REAA school board meetings.
- Sixty-one CSCs (73%) in 17 REAAs reported serving as advisory committees for federal or state programs.

Of course, there was a great deal of difference between individual CSCs, but those who responded appear to be fairly active decision-makers.

- From the ten decision areas listed on the survey the greatest frequency of decision-making reported was in regard to: the school calendar (63), the use of school buildings and equipment (58), hiring and firing janitors/aides (53), student discipline (50), and school construction (46).
- The CSCs responding reported making the fewest decisions on: evaluation of staff members (25), transfer of teachers (26), types of courses taught (38) and the school day schedule (40).

According to the survey results, the REAA boards have provided little training for their CSCs.

- Sixty-seven CSCs (78%) reported they received no training or did not know if they had had any.

Most boards have, however, recognized the need for informed CSCs and sent them board minutes regularly.

- Seventy CSCs (80%) in 79 REAAs reported they received all or some copies of their REAA board minutes.

It appeared that several CSCs were confused about whether or not there was a district policy defining how they should function.

- Forty-nine (59%) of the CSCs from 20 REAAs reported that their board had a written policy concerning the functions and duties of the CSCs.
- The responses from twelve REAAs were mixed. In eight of those districts, where at least some CSCs reported a policy, only 50% or less of the responding CSCs agreed.

Complete lack of such a district policy, erroneously believing there is a policy when none exists, or believing there is no policy when one does exist are all serious problems indicated by the data. The relationship between the CSCs and REAA boards was not specifically defined when the districts were formed and it is encouraging to see that many districts are developing guidelines for their CSCs. It is important to recognize, however, that just because there may be a REAA policy concerning CSCs, does not mean the CSCs are aware of its existence.

The CSCs responding felt that the school administration had a much greater influence than the REAA board or CSCs on making decisions in the ten areas previously noted. This is perhaps because of the past relationship between the Advisory Boards and the school administration under the Alaska State-Operated School System. The Alaska State-Operated School System Handbook states that relationship as follows:

The function of advisory school boards is limited to advice, assistance and recommendations to local, regional and district administration, and to the Board of Directors. In the event of conflict between an advisory board recommendations and an administration decision or policy at the local, regional or district level, administrative decisions or policy shall prevail."

It may be that Advisory Boards never felt they had much influence on school affairs when the administration's decisions would always prevail and this attitude has carried over to the CSCs.

CSCs responding felt they had the greatest influence on the school calendar and the employment of classified personnel. Since classified employees are usually local residents and the school calendar reflects the community's activities (fish camp, logging, special holidays, etc.), it is reasonable to expect the CSCs to make decisions on these matters. The CSCs reported that they believe school administrators have the greatest influence on decisions directly related to the local school such as scheduling, courses, discipline, evaluation and building use. CSCs apparently do not see themselves as having a lot of influence on matters in the school itself.

Items for questions--"Has your CSC made decisions concerning any of the following?" and--"Who do you see as having the greatest influence in the following decisions for your school - REAA Board, CSC, the school administration?" were chosen from sources that indicated those items would be appropriate or probable areas for CSCs to make decisions about.² The 88 responding CSCs were asked if they had made any decisions concerning the ten listed items. Theoretically they could have made 880 decisions, but fewer than half that number were reported being made. There appears to be three possible reasons more decisions were not made by the CSCs. One reason is the inexperience of the CSCs, the second is the strong decision-making role the school administrations have played

²Sources used were:

Alaska State-Operated School System Handbook
The Alaska Unorganized Borough School District Handbook
A Manual for Alaska School Boards
Southeast Island Policy Manual
A Manual For Alaska School Boards

in the past and the third reason is that the REAA boards may be reserving certain of those decisions for themselves.

One third of the CSCs reported that they are not satisfied with the opportunities they have to influence local educational decisions. However, at least one CSC reporting in 20 REAAs was satisfied with decision-influencing opportunity.

Overwhelmingly, the CSCs in every REAA reported that they felt there was a need for their existence. The very few CSCs who felt differently were found scattered in the districts with larger than average number of CSCs; it may be that these CSCs are more likely to feel powerless. This could be a possible topic for further study.

The survey results were examined by individual districts and by the total number of CSCs responding. Obviously there were many differences between CSCs, but it was surprising to find such a lack of consistency to answers by CSCs within the same districts. For some REAA districts, the lack of a policy concerning the duties and responsibilities of the CSCs probably contributed to the inconsistent responses. In other cases, the problem of CSCs being aware of a written policy defining their role was probably the reason for the inconsistency between responses within districts.

This survey attempted to examine how the Community School Committees in Alaska perceived their function during the first year of their existence. Some of the survey results can be used to draw conclusions about how the CSCs functioned, while other survey results indicate how the CSCs

perceived themselves and the situations they encountered. There are many encouraging signs that education in the REAA districts are being influenced by the local people. The CSCs are a vehicle to be used for local input, and it is hoped they will make a positive contribution to the students, parents and community members they serve.

CSC MEMBERS COMMENT*

CSC as Continuation of ASOSS Advisory Board

Two commented about CSC as a continuation of the ASOSS Advisory Board:

- . "In this area the advisory boards simply became the CSC, and in fact used the name Advisory Committees for quite a while during the transition to REAA Board Control. The continuity in citizen participation in decisions affecting the local schools over the years lies in the School Committees."
- . "In most cases the Committees are really a continuation of the old (ASSOS) Advisory School Boards."

CSC/REAA: Positive Comments

Positive comments about the working relationship between the CSR and REAA Board included:

- . "The REAA has been very cooperative[about] how we run our school. We are presently developing our own policy for our school and have been encouraged to do so by the REAA. We are heading in the direction back to the three Rs."
- . "The CSC is a means to have better communications between the REAA, students, staff and parents."
- . "[There is] a personality conflict between the REAA chairman and the teachers. [The CSC] so far has formed an effective buffer."
- . "We have a power struggle between teachers, REAA and CSC. The CSC and REAA work very smoothly together, but are at ends with the teachers and their demands."
- . "Many of the local people do not follow the REAA and [the CSC] is the only way they know what is going on. The CSC acts as a lobby to the REAA."

* These comments were compiled from the returns to S. Horton's survey by K. Hecht. The survey question was: "Is there a need for your CSC?-- Please explain."

CSC/REAA: Lack of Influence and/or Power

Several commented that the CSC lack was not able to influence REAA decisions or had influence but lacked power:

- . "The CSC has enough opportunity to influence educational decisions, but has no power."
- . "The REAA does not listen to the CSC."
- . "[CSC represents] local control and the opportunity to see that the children get the best qualified teachers available. There should be more coordination with the community and the REAA."
- . "CSC is very important in rural villages, but they are not approached for advise for the past year. We are CSC in name only. We are in a boat without a paddle."
- . "The REAA does not like to yield its power."
- . "So far our CSC has really made no influence on what the district decides will be done. Hopefully, this year will be better."

CSC/REAA: Need for Definition

Two spoke specifically for the need to define or redefine the relationship between the CSC and REAA Board.

- . "Our committee would like to function as the board for our school attendance area, making decisions on budget and hiring. The REAA board creates some friction. The relationship between the REAA and CSC is difficult to define."
- . "The CSC should have closer ties with the REAA and school administration. There is a need for the CSC to meet everyday problems as well as long range planning. Parents should be active in the education of their children."

Training Needs

Two comments were received on need for training for CSC board members.

- . "Training is needed - how to deal with state agencies and inspectors. We need to know how far we can go."

- "Since we started the CSC we never do anything. We don't know where we are standing and how to do the work. We don't know the kind of background we need or what power we have. There should be some training for this so we will know how to run this deal. Hope I hear from someone so I'll know what to do."

Need for the CSC: Local Control

The largest number of comments concerned the need for the CSCs to provide input to the teachers and school program to meet local needs and desires.

- "Due to the mixture of military-civilian community, there is definitely a need for a strong CSC."
- "There is a need for input on the local level. We are better able to represent the people."
- "The CSC has meant more people have become active in school affairs."
- "Local control and grass root input into curriculum is provided by the CSC, [and] the CSC generates interest in education."
- "The CSC is the method by which our local opinions are influencing the children's classroom."
- "CSC are needed as hiring teachers; [that] is a principal reason for CSCs."
- "[There is a need for our CSC] so that the education of our children meets the specific needs of our village and to give our local teacher the local support needed to run a good educational program."
- "Without the CSC there would be less or no representation for parents at all."
- "To make sure the teacher know what the village wants and to keep communications open between the school and the village."
- "[The CSC] is needed as an advisory committee on all school problems."

Need for CSC: Checks and Balance

Several saw the need for the CSCs in terms of a balance and/or check on the REAA board.

- . "Without the CSC there would be bedlam in our school system. It is a source of checks and balance."
- . "The need [for a CSC] is to maintain a balance in decision-making as the school system belongs to the people."
- . "Since at least 1/2 to 1/2 of our REAA school board members are usually drunk at the board meetings, we feel it is important that at least one CSC member be a paid [expenses only] observer at each board meeting."
- . "The CSC is needed to insure that the REAA, school administration and staff are responsive to the desires of the local community residents in such areas as curriculum, student rights and responsibilities, professional standards for staff and student discipline."

Against the Need for CSCs

Only one comment was recorded which spoke against the need for CSCs.

- . "Purely a white wash [to have CSC]. If the REAA and trained staff are unable to administer the schools without the CSC, we should have a new election of school board members and replace the professional staff."

Other Comments

- . "Who else cares but the CSC?"
- . "It's our school and our children."
- . "The school cannot operate without the CSC."
- . "Everything we have or had done has been worth while."
- . "[The village] owns the building where school is taught - we have to supply our own oil, electricity, janitor and maintenance."

Survey of Alaska Community School Committees

Please circle or fill in your answers. CSC stands for Community School Committee.

1. Who is filling out this survey form?
 The total CSC Part of the CSC CSC Chairman CSC member
2. In what month was your CSC formed? _____
3. How many times has your CSC met? _____ times
4. Have any training sessions for CSC been provided for your members?
 Yes (how many? ____) No Don't know
5. How many REAA school board meetings have members of your CSC attended?
 _____ meetings Yes-all Yes-some No Don't know
6. Do you receive copies of your REAA school board minutes?
 Yes-all Yes-some No Don't know
7. Does your REAA have a written policy concerning the functions and duties of your CSC?
8. Does your CSC serve as an ad _____ committee for any of these programs?
 JOM Yes No Don't know
 Indian Education Yes No Don't know
 Title I Yes No Don't know
 Other _____ Yes
9. Has your CSC made decisions concerning any of the following?
 Use of school buildings/equipment Yes No Don't know
 The school day schedule Yes No Don't know
 Types of courses taught Yes No Don't know
 The school calendar Yes No Don't know
 School construction Yes No Don't know
 Hiring and firing janitors/aides Yes No Don't know
 Evaluation of staff members Yes No Don't know
 Transfer of teachers Yes No Don't know
 Preparing budgets for your school Yes No Don't know
 Student discipline Yes No Don't know
 Other _____ Yes
10. Who do you see as having the greatest influence in the following decisions for your school - your REAA school board, your CSC, the school administration?
 Use of school buildings/equipment REAA CSC School Administration
 The school day schedule REAA CSC School Administration
 Types of courses taught REAA CSC School Administration
 The school calendar REAA CSC School Administration
 School construction REAA CSC School Administration
 Hiring and firing janitors/aides REAA CSC School Administration
 Evaluation of staff members REAA CSC School Administration
 Transfer of teachers REAA CSC School Administration
 Preparing budgets for your school REAA CSC School Administration
 Student discipline REAA CSC School Administration
 Other _____ REAA CSC School Administration
11. Do you feel your CSC has enough opportunity to influence educational decisions made about your local school? Yes No Don't know
12. Is there a need for your CSC? Yes No Don't know
 Please explain.

Susan M. Horton
P.O. Box 7721
Ketchikan, Alaska 99901

March 24, 1977

Dear Community School Committee Members,

I am conducting a survey of the Community School Committee, and hope your Committee as a group can respond to the enclosed questionnaire. If not, perhaps the chairman or a Committee member can fill it out.

You are in a very unique position in the new REAA school districts, but very little is known about how the Community School Committees are functioning throughout rural Alaska. There are many people who are interested in your views, and I hope this survey will help to increase their understanding of your role in Alaska education.

The data collected will not be reported in such a manner that individual Community School Committees can be identified. I hope you will feel free to add comments or suggestions. I plan to share the results with the REAA school boards, the Department of Education, Center for Northern Educational Research and others who are interested in the improvement of the REAA.

It would be a great help if you could fill this survey out as soon as possible and mail it back in the enclosed envelope. Copies of this survey have been sent to your REAA school board and the superintendent of your district so that they are aware of your participation in this project.

I would sincerely like to thank you for your cooperation and time.

Yours truly,

Susan M. Horton

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Financing the REAAs

Provisions for continued state support of the operating expenses of schools in the Unorganized Borough were specified in Senate Bill 35. REAAs would qualify for basic need funds under the formula used in the Public School Foundation Program. REAAs also would receive from the State specified amounts per pupil in lieu of local tax revenues. The statutory citation:

Sec. 14.08.121 FUNDING. (a) The legislature shall fund the operational costs of the regional educational attendance area schools in the following manner:

- (1) the amount of basic need as defined in AS 14.17.021(b)

and

- (2) an additional amount equal to the average local tax contributions per pupil in average daily membership (ADM) for school operating costs in the city and borough school districts in the prior fiscal year.

(b) Funds for the operation of the regional education attendance area schools shall be appropriated annually to the Department of Education for distribution to the regional school boards in the manner prescribed in AS 14.17.160 - 14.17.180.

There were several advantages in using the PSFP formula to determine the major amount of state aid to be provided to REAAs. Local and state education administrators were familiar with the formula and how it worked. It was possible, with a fair degree of accuracy, to estimate the amount of PSFP revenues that a REAA would receive in a future year, and from state summary figures, to estimate the amount of the state appropriation necessary to fully fund basic need in each REAA. Use of the existing PSFP eliminated the need to devise a new method of distributing state funds. For those who wanted "basic need" to continue to be a sum of money, rather than be defined as the basic educational need of a local education agency, it offered the advantage of once again deferring the development of a clarified definition of basic need.

The disadvantages included the assumption that REAA financial requirements were more like those of the city and borough districts than not. Specialized local needs of the new REAAs would not be a factor used to determine the basic need amount; rather, the statutory specifications of the PSFP formula would determine how much state aid would be provided. REAAs would suffer from any inadequacies of the PSFP; the two elements most likely to impact upon them were (1) outdated instructional unit allotments, and (2) underfunding of very small attendance centers.

The manner devised to provide additional local tax revenues, which of course were non-existent in REAAs, was intended to be equitable in terms of the efforts of city and borough school districts, while at the same time to provide what was hoped would be adequate supplementary funds for discretionary use by the REAAs. It was one way to permit REAA revenues beyond basic need to be nearly comparable on a per student basis to the local revenues of city and borough districts.

It is worth noting that decisions by city and borough school boards (and city councils and borough assemblies) regarding the amount of local revenue to be used for school operating expenses determine the amount of state aid per student that REAAs receive beyond basic need payments. Thus, REAA boards have no control over the amount to be obtained from the in-lieu of local tax source, but do control how it is to be spent.

Basic need revenues under the PSFP for REAAs in 1976-77, their first year of operation, totaled \$35,908,570. With a final ADM of 10,519 this amounted to \$3,414 per ADM. In-lieu of local revenue support totaled \$6,427,109, or \$611 per student. State financial support to the REAAs for PSFP basic need and in-lieu of payments totaled \$42,335,679 or \$4,025 per student in ADM. Table _____ lists basic need and in-lieu of local support revenues for each REAA for 1976-77.

Table _____

Regional Educational Attendance Areas
Revenues from Basic Need and In-Lieu of Local Support
Fiscal Year 1976-77

REAA	Basic Need	Equiv of Local Support \$611.00/ADM	Final Computation of Entitlement	Per ADM
Adak	\$1,458,204	\$359,268	\$1,817,472	\$3,091
Alaska Gateway	1,335,024	258,453	1,593,477	3,767
Aleutian	1,027,371	134,420	1,161,791	5,281
Annette Island	892,500	243,178	1,135,678	2,853
Bering Straits	1,391,922	186,966	1,578,888	5,160
Chatham	626,405	95,927	722,332	4,601
Chugach	301,880	39,104	340,984	5,329
Copper River	1,955,000	427,089	2,382,089	3,408
Delta/Greely	1,780,032	480,246	2,260,278	2,876
Iditarod Area	1,404,400	169,247	1,573,647	5,681
Kuspuk	1,579,950	219,960	1,799,910	5,000
Lake & Peninsula	1,756,473	221,182	1,977,655	5,463
Lower Kuskokwim	3,856,125	866,398	4,722,523	3,330
Lower Yukon	2,457,000	430,144	2,887,144	4,101
Northwest Arctic	4,213,200	805,298	5,018,498	3,808
Pribilof	729,102	110,591	839,693	4,639
Southeast Island	1,233,750	242,567	1,476,317	3,719
Southwest	2,187,306	323,830	2,511,136	4,738
Upper Railbelt	1,404,396	217,516	1,621,912	4,556
Yukon Flats	1,299,070	179,023	1,478,093	5,045
Yukon Koyukuk	3,019,460	416,702	3,436,162	5,038
Totals	\$35,908,570	\$6,427,109	\$42,335,679	

Source: Education in Alaska 1976-1977 -- A Report to the People (Juneau: State Department of Education, October, 1977), p. 38.

11/11/77

The requirement of \$42,335,679 exceeded earlier estimates and the State Department of Education sought and obtained a supplemental appropriation for Fiscal Year 1977 totaling \$3,855,470. Of this supplemental, \$2,638,000 was for PSFP basic need payments to REAAs; the balance of \$1,217,470 was for payments in lieu of local taxes.

Federal funds, and other state funds, could be obtained for operating expenses by REAAs which qualify, in the same manner that such funds are available to city and borough districts. Most of these funds are categorical in nature, since they are to be used for specific purposes, and in every case to supplement the regular program. The major sources of these categorical funds and their use are as follows:

State--Pupil transportation
Bilingual education
Community schools

Federal--Educationally disadvantaged (ESEA, Title I)
Handicapped Children (ESEA, Title VI)
Bilingual education (ESEA, Title VII)
Child nutrition
Indian Education Act
Ethnic Heritage (ESEA, Title IX)
Johnson O'Malley

Since several of the categorical programs noted above are competitive, the success of a REAA in obtaining such funds depends upon the "grantsmanship" of individual REAAs. Independently the 21 REAAs had to compete with all city and borough districts for the competitive grants; in the prior Fiscal Year of 1975-76, the Alaska Unorganized Borough School District (AUBSD) was the applicant for all schools in the Unorganized Borough. It will be interesting to note how the 21 REAAs compare with the AUBSD in obtaining these categorical funds; this information will not be available until FY'77 audits are compiled.

11/11/77

Federal impact funds provided to Alaska under authority of Public Law 81-874 require a more extended explanation, partly because of the substantial amount involved, and partly because of the circumstances under which they have been applied for and disbursed within Alaska. These funds are intended to replace tax monies for school purposes which cannot be collected locally because of tax exempt federal lands within districts.

Until 1977-78 Alaska qualified for a preferential rate of P.L. 874 funds--100% above normal rates. This preferential rate is being discontinued over a 5 year period following a new determination by the U.S. Commissioner of Education on Alaska's need for the special rate. Also, until the 1977-78 school year, the State of Alaska, represented by the Department of Education, was the P.L. 874 applicant, and in turn received the P.L. 874 funds which then became a part of the "state" resources. The P.L. 874 funds became a part of the general fund appropriation to support the Alaska State Operated School System, and later the Alaska Unorganized Borough School District, and in 1976-77, a part of the basic need and in-lieu of local tax payment made by the state to support the REAAs. Beginning in 1977-78, the individual REAAs will become applicants for their own P.L. 874 funds, although the state will remain as the applicant for the military on-base schools.

During 1975-76 the Department of Education received \$25,960,000 of P.L. 874 funds for schools in the Unorganized Borough and estimated a like amount for 1976-77 for REAAs (Free Conference Committee Report, Fiscal Year 1978, Operating and Capital Budget, State of Alaska, The Legislature. p. 39).

11/11/77

The change in P.L. 874 applicant from the Department of Education to individual REAAs required a change in the statute regarding funding. Without a change the REAAs would have been in a position to receive P.L. 874 funds in addition to state funding for basic need and in-lieu of local revenue payments. The amended statute (with 1977 additions underlined):

Sec. 14.03.121. Funding. (a) The legislature shall fund the operational costs of the regional educational attendance area schools in the following manner:

(1) the amount of basic need as defined in AS 14.17.021(b), reduced by deducting, to the maximum extent permitted under Sec. 5(d) (2) of P.L. 81-874, as amended, (20 U.S.C. 240(d) and the regulations adopted under it (45 C.F.R. 115.60-115.66), the amount of the regional educational attendance area's entitlement to federal financial assistance under P.L. 81-874, as amended, (20 U.S.C. 236-244) for the prior fiscal year;

With P.L. 874 income "deducted" from state aid payments, some REAAs may experience cash flow problems in 1977-78, and in future years. For federal entitlements for a particular year do not always equal federal payments; thus, income budgeted from P.L. 874 may not be received by the REAA when needed. The state may have to advance funds to REAAs to cover such temporary deficits, or the REAAs may have to borrow operating funds from time to time.

-7-
11/11/77

Senate Bill 35 provided that the ownership of the land and buildings used by REAAs would be retained by the state, and that construction, repair, and improvement of schools would be the responsibility of the state. REAAs which wish to construct, repair or improve school buildings must apply to the state for funds to do so. The REAA requests are prioritized by the Department of Education which then seeks funding for the selected projects through state bond issues (for construction) and through legislative appropriation (for repair and improvement). As many as three years could pass from the time an REAA requested funds for construction until the funds became available. In this respect, the fiscally dependent REAAs need for buildings is treated in the same manner as a state agency.

In Fiscal Year 1976-77, voters at a statewide election approved a bond issue which provided more than \$30,000,000 for construction of secondary schools in various REAAs. This bond issue was a part of the settlement of the Hootch vs. the Alaska State Operated School System case. Another bond issue for similar purposes is being developed now and will be submitted to voters at the Fall 1978 general election.

The balance of this chapter will cover:

First-year Events and Concerns

- Fiscal '76 balances
- Concerns expressed at Fall workshops (general)
- Adequacy of funding (Bering Strait and Northwest Arctic)
- Interregional cost differentials; legislative changes in PSFP
- Small schools; legislative changes in PSFP
- Alaska Village Electric Cooperative (AVEC)
- BIA transition support considerations
- OCR threats of withholding funds
- JOM/Indian Education Act programs
- School construction (planning grants, etc.)

Prospects for the Future

- State funding plans
- The property tax (H.B. 202)
- BIA transition problems
- Summary

1974 - 1976 CHRONOLOGY OF EVENTS:
DECENTRALIZATION OF
THE ALASKA STATE-OPERATED SCHOOL SYSTEM¹

- January 1974 Center for Northern Educational Research (CNER) releases its report, Prehigher Education in the Unorganized Borough: Analysis and Recommendations, produced at the request of the Eighth Alaska State Legislature's Interim Committee on Pre-Higher Education and of Native leaders.
- January-May 1974 Eighth Alaska State Legislature meets and reviews CNER report in committee, but does not act on the recommendations of the report concerning rural education.
- July 14-16, 1974 The Alaska Federation of Natives (AFN), having assessed the Legislature's inactivity, calls an Education Strategies Conference in Fairbanks to review CNER recommendations, to prioritize issues addressed in the report and to determine whether and how to bring CNER recommendations not only to the attention but to the action of the new State Legislature.
- August 15, 1974 Gordon Jackson, Executive Vice-President for Human Resources at the AFN, presents the recommendations and strategies from the July conference to the State Board of Education and receives their unanimous support of these items.
- October 15-16, 1974 AFN convenes an Education Proposal Drafting Session, attended by education and local government agency representatives, to refine further both the CNER recommendations and the July conference strategies and to develop plans for presenting these items to the Legislature.
- October 24-26, 1974 The AFN Annual Convention endorses through resolutions the prehigher education recommendations and strategies. The Human Resource Committee of AFN, meeting during the convention, endorses these principles and directs staff to include those concerns into the formal AFN Education Position Paper to be presented to the newly elected State Legislature.
- December 13-14, 1974 AFN, Rural-CAP, and the State Office of Economic Opportunity Department of Community and Regional Affairs (DCRA) organize a Legislative Briefing Conference in Wasilla at which time the AFN Education Position Paper is used as the working document for the education workshop.

¹This chronology is a synthesis of reports prepared by the Department of Community and Regional Affairs, Anne Just, AFN, and Eric Eckholm, CNER Research Affiliate.

- January 1975 The Ninth Alaska State Legislature convenes with several bills related to the CNER/AFN recommendations prefiled. These bills included Senate Bill (SB) 35, House Bill (HB) 24, SB 94 and SB 136.
- January 20, 1975 Introduction of SB 35 by Genie Chance (D-Anchorage) and HB 24 by Representative Red Swanson (D-Nenana).
- January 29, 1975 Introduction of SB 95 by George Hohman (D-Bethel) committee.
- February-March 1975 Senate Health, Education and Social Services (HESS) Committee conducts hearings in SB 35 in Bethel, Nome, Kotzebue, Fairbanks, and Anchorage.
- February 21, 1975 HB 188 dealing with military reservation schools is introduced. This bill separated the military on-base schools as was recommended in both the CNER report and the AFN Education Position Paper.
- March 4, 1975 Committee Substitute for House Bill (CSHB) 188 is endorsed by the State Board of Education.
- March 5, 1975 Sponsor substitute for HB 24 is introduced by Swanson.
- March 11, 1975 Senate Substitute for House Bill (SSHB) 188 passes Senate (amended).
- March 14, 1975 Governor Jay Hammond replaces seven of nine members on the Board of Directors of the Alaska State-Operated School System (ASOSS).
- March 15, 1975 Governor Hammond signs into law HB 188 which authorizes the Commissioner of Education to require schools on military reservations to come under the control of nearby city or borough school districts.
- March 19, 1975 Resignation of ASOSS Superintendent Stanley Friese, effective April 1.
- March 24-25, 1975 AFN, RurAL-CAP, and the State Office of Economic Opportunity in the DCRA sponsor a Legislative Priorities Conference during which rural and Native participants rank various impending bills in terms of their significance to and impact upon their communities. In education, the group ranks SB 35 and HB 24 among high priority bills recommended for passage by the Legislature.
- March 25, 1975 Senate HESS introduces Committee Substitute for Senate Bill (CSSB) 35 and moves to Senate Finance.
- April 7, 1975 SSHB moves to House Finance. RurAL-CAP hires a legislative advocate, Richard Listowski, to represent rural Alaskan interests and to track legislation which the Legislative Priorities Conference ranked as high priority.

- April 23, 1975 Newly appointed Board of Directors for ASOSS issues a position paper supporting local control of schools in the Unorganized Borough while expressing reservations about pending legislation.
- May 5, 1975 CSSB 35 passes Senate with amendments.
- May 17, 1975 House Finance passes SB 35 with committee and financial support.
- May 21, 1975 House passes HB 24, counterpart to SB 35, to dissolve ASOSS.
- May 30, 1975 Free Conference Committee (FCC) substitute for HCSCSB 35 with report passes Senate.
- May 31, 1975 FCCHCSCSB 35 ratified by the House.
- June 4, 1975 Governor Hammond signs into law the Free Conference version of SB 35 and HB 24 to dissolve ASOSS by July 1, 1976, and to replace the system with Regional Education Attendance Areas (REAs), each with its own duly elected school board. The Bill becomes Chapter 124, State Laws of Alaska.
- June 30, 1975 DCRA Commissioner Lee McAnerney sends letters to local municipal officials, other community people, legislators, non-profit organizations, Alaska Unorganized Borough School District (AUBSD) and BIA regarding SB 35 and public hearings.
- July 1, 1975 Effective date, creation of AUBSD.
- July-September 1975 Representatives from the Department of Education and Community and Regional Affairs begin visiting rural areas to explain SB 35; public information meetings were held in 124 communities in unorganized borough; 2,369 people attending.
- September 15 - October 1, 1975 Departments of Education and Community and Regional Affairs hold formal hearings regarding proposed boundaries for Regional Education Attendance Areas (REAs); public hearings are held in 21 communities in unorganized borough; 796 people attend representing 83 communities.
- October 15, 1975 Public record closes for comments regarding regional boundaries.
- November 1, 1975 Recommendations for regional boundaries are submitted to Governor Hammond.
- January-February 1976 Elections held for regional school boards.
- July 1, 1976 Regional school boards take responsibility for education in their regions.

Draft Outline

NEW SCHOOL DISTRICTS IN RURAL ALASKA:
A REPORT ON THE REAAs AFTER ONE YEAR

I. Introduction and Background

Highlights from the Report

Overview of the Study - Kathryn Hecht

Historical Perspective - Frank Darnell

Time Line - Ron Inouye

"Perspectives on Progress" - Kathryn Hecht

II Study-collected Data and Analysis

Survey of REAA Boards and Superintendents - Kathryn Hecht and Ron Inouye

Analysis of REAA and State Board Minutes - Kathryn Hecht and Ron Inouye

Case Study of an REAA - Paul Goodwin

III Contributed Chapters *

Municipal Development - Pat Poland

Community School Committees - Sue Horton

New Secondary Education Programs in One REAA - Margo Zuelow

School Finance in the REAA's - E. Dean Coon

BIA/REAA Relations - Don Dafoe

Teachers' Views - Jim Alter

Bilingual Controversy - Sylvia Carlsson

* Note: These are listed by subject rather than the title which will be used

IV Summary and Forecast

Related Studies and Issues

Seminar of Contributors: Edited Comments

Appendix

Selected News Clippings

Kathryn Hecht
Center for Northern
Educational Research
September 14, 1977

PROGRESS REPORT ON "SB 35 FOLLOWUP STUDY"

The Center for Northern Educational Research (CNER) plans to publish a followup study to Senate Bill 35¹ in December 1977. The study is now tentatively titled New School Districts in Rural Alaska: A Report on the REAAs After One Year. It is intended to serve two purposes. The first is to fulfill CNER's obligation to follow up the results of CNER's 1973-1974 study on the delivery of pre-higher education in the Unorganized Borough² (including any legislation and its implementation which the report may have helped to generate). Secondly, a followup to SB 35 can also be looked at as beginning an analysis process starting with the first year of the recently created school districts and elected school boards in rural Alaska. The movement for local control of education in the rural areas of Alaska with mostly Native populations, which grew in strength during the early '70's, spoke to obtaining that control as a means--the means to improve the quality of education. Therefore, SB 35 can be thought of as a beginning--the beginning of bringing local control to parents of rural Alaska. The achievement of a means, as SB 35 signifies, does not necessarily assure the end and it is to this point that the Center hopes this study will serve a useful purpose.

The first year of the Regional Educational Attendance Areas serving as school districts in rural Alaska marked an historic happening, one which should not be overlooked nor neglected in the annals of state education. It is both history and current events. We report it to keep a factual record,

¹State Laws of Alaska, Chapter No. 124 as amended by FCCS HCS CSSB 35, 1975.

²Darnell, Frank; Hecht, Kathryn, and Orvik, James. PRE-HIGHER EDUCATION IN THE UNORGANIZED BOROUGH: Analysis and Recommendations. Fairbanks, Alaska: University of Alaska, Center for Northern Educational Research, 1974.

to provide such information to identify successes and problems and to help seek solutions to assure the availability of quality education for all students in the state.

The report is divided into four parts: introductory and background material, analysis of data collected directly for the study, contributed articles by others doing work related to the new districts, and a summary of the study including comments on material in the report, the legislation and possible revisions to it, and a forecast of future needs for research and technical assistance projects.

The introductory and background section will be introduced by one or two pages of highlights from the report, providing short quotes from each section. Hopefully it should promote interest as well as help the reader identify sections of the report of most immediate interest. The overview of the study will present the rationale for the study, its limitations, and the procedures used. It is important to stress that this study could not do all we would have liked and will not answer all questions, but we hope it will serve as a data base for future studies and a means of coordinating and disseminating information being currently collected by others. Next, an historical perspective will give readers a contextual setting in which to view the materials to come--how the year under study fits in with the larger picture of educational change in Alaska, both that which has been in the past and that to come. The time-line will present an ordering of events since CNER's last publication. The chronology begins in January 1974, at the time CNER's Unorganized Borough

report was presented to the legislature and will take the reader through the passage of SB 35 and up to the official start of the new REAAs in June 1976. To complete the introductory section, approximately 20 people who have been involved in the local control movement over the last five years were invited to write their perspective on progress since 1974. We felt the incredible amount of change that has occurred in such a short time needed to be emphasized. It is important to recognize how much has been accomplished and to highlight the successes, as well as begin to discuss emerging issues. The responses to these letters will be presented in a "collage" form to give the reader a feeling for all that has happened from various perspectives in the state.

The second section of the report will include that information directly collected for the study and analyzed by the CNER staff. This will include the information obtained from the survey questionnaires sent to REAA board members and superintendents. Unfortunately, the practical limitations of the study forced us to use a mail questionnaire which is not the most efficient way to collect data. Since 100% return is not likely, REAA Board Minutes and Minutes of the State Board of Education will be used as a secondary data source for reviewing attitudes and issues. Their analysis will be presented in this section. The questionnaire survey and analysis of the minutes gives broad coverage but not the indepth look we would like. Therefore, to balance this data, two CNER staff members will develop a case study on at least one REAA. For this, we plan to talk with parents and teachers as well as school administrators and board members, to get at what we call the "perceived quality of education" and how it may or may not have been affected by the creation of the REAAs and their first working year.

The next section called contributed chapters contains input provided by others in CNER and statewide who have been working on related issues. This allows the study to go into many more areas than its limited resources would permit and also gives visibility to those doing work in the state who would not normally have a vehicle to disseminate their information. Currently we have a commitment for five contributed chapters. The first will deal with the creation of REAAs as it affects and is affected by municipal development in the unorganized borough. This was in an area emphasized in the earlier CNER study. It will be written by a staff member of the Department of Community and Regional Affairs. A student from the University of Alaska-Southeast has conducted her own survey of the community school committees and her analysis will be presented. An in-depth study of one REAA's new secondary education program was done as a dissertation and an article based upon it will provide coverage of this very important issue. From within CNER a brief survey of the financing of REAA schools will be presented by the principal investigator of the school finance study. Findings to date will be summarized and issues will be raised. Two adjunct CNER staff will discuss the REAAs as related to BIA schools and current issues. Two other contributing chapters are contemplated but not committed. Hopefully, one will discuss teachers in the REAAs and the other will analyze data previously collected during the transition period.

The final chapter, which is to be both a summary and a forecast, is currently planned to be presented in two parts. The first part will highlight issues that are important but were not covered by the report and also describe

other studies which may be identified going on elsewhere in the state on the REAAs and related issues. It should serve to bring out some of the things which this brief study could not include.

The larger part of this final chapter will be based on a unique approach. It is currently planned to invite those contributing to the report plus a few selected persons to a seminar at CNER at the time the draft materials of the report are ready. This group will be asked to review the materials as a whole, to discuss their mutual contributions and the information provided the Center. They will also be asked to speak specifically to suggested revisions to SB 35 and to discuss new and continuing issues. The transcript of this seminar in edited form will be the summary chapter.

Current plans are also to include an appendix with selected news clippings from 1974 to 1977 on the REAAs and related issues.

Hopefully, those reading this progress report will express their ideas, as the outline is tentative, subject to change and open to suggestions.

Invited Guests

Mr. Jim Alter
NEA/Alaska Education Association
1515 E. Tudor Rd.
Anchorage, Alaska

Mr. Clifford A. Black
Alaska Federation of Natives, Inc.
550 W. 8th
Anchorage, Alaska 99503

Ms. Sylvia Carlsson
Special Assistant
Minority Affairs, DOE
650 W. International Airport Rd.
Anchorage, Alaska 99502

Mr. Dennis Demmert
Director Native Studies
SOS
5th Floor Gruening Bldg.
University of Alaska
Fairbanks, Alaska 99701

Mr. Michael C. Harper
Administrative Assistant
to the Governor
Office of the Governor
Pouch AA
Juneau, Alaska

Mr. Darwin Heine
State Board of Education
1506 Denali Way
Fairbanks, Alaska 99701

Ms. Susan P. Horton
P.O. Box 7721
Ketchikan, Alaska 99901

Mr. Emil Kowalczyk
Assistant Area Director
Bureau of Indian Affairs
P.O. Box 3-8000
Juneau, Alaska 99801

Mr. Donald MacKinnon, Jr.
Office of Commissioner
Department of Education
Pouch F/State Office Bldg.
Juneau, Alaska 99811

Mr. Dick Mueller, Chairman
Yukon Flats School Board
P.O. Box 329
Ft. Yukon, Alaska 99740

Representative Charles H. Parr
Chairman, Legislature Standing
Committee on Health, Education
and Social Services
6.5 Mi. Chena Hot Springs Rd.
Star Route, Box 50559
Fairbanks, Alaska 99701

Mr. Carl A. Peterson
Superintendent
Alaska Gateway School District
P.O. Box 137
Tok, Alaska 99780

Mr. Pat Poland
Local Government Specialist
Department of Community
and Regional Affairs
511 W. 4th
Anchorage, Alaska

The Honorable Lowell Thomas, Jr.
Lieutenant Governor
State Capitol Building
Pouch AA
Juneau, Alaska 99811

Ms. Margo Zuelow
Department of Education
Pouch F/Alaska Office Bldg.
Juneau, Alaska 99811

CNER

E. Dean Coon
Frank Darnell
Paul Goodwin, Consultant
Kathryn Hecht
Ron Inouye
Jim Orvik
Jerry Waddell



UNIVERSITY OF ALASKA

FAIRBANKS, ALASKA 99701

November 3, 1977

Representative Charles H. Parr
Chairman, Legislature Standing Committee
on Health, Education and Social Services
6.5 Chena Hot Springs Road
Star Route, Box 50559
Fairbanks, Alaska 99701

Dear Representative Parr:

This letter is to invite you to attend an all-day seminar sponsored by the Center for Northern Educational Research on the topic: A Report on the REAAs After One Year. The seminar will be held on the Fairbanks campus of the University on Friday, November 18 from 9 a.m. to 4 p.m. and will include a luncheon.

As you are aware, CNER is developing a report on this topic. The purposes of the seminar are directly related to the report:

- (1) To review the report in progress, including drafts of chapters contributed by those outside of CNER, and to give the contributing authors the opportunity to interact with each other;
- (2) To relate findings to SB 35 legislation and its implementation, and to discuss whether additional or revised legislation is necessary; and
- (3) On the basis of the report, identify issues in need of further policy study, evaluation and research.

The seminar will be recorded and a selected, edited version of the discussions will be included in the report.

I plan to send participants as much of the report in draft form as will be available by November 10, so you will have time to review it before attending the seminar. Contributing authors will have an opportunity after November 18 to review their papers to take into account ideas and suggestions from the meeting.

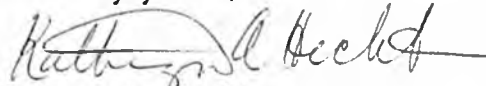
Page 2

November 3, 1977

Please return the enclosed sheet today, so I can estimate how many will be attending. I will wait to send out the draft material until I have heard from you. The number invited is small, so I hope you can come.

I look forward to seeing you November 18 as I am sure you have a substantial contribution to make to the seminar.

Sincerely yours,



Kathryn A. Hecht, Ed.D.
Associate Professor
Center for Northern
Educational Research
(907) 479-7173

KAh; ds

Enclosures

J. Alter

A TEACHER PERSPECTIVE OF DECENTRALIZATION

One of the striking facts about education in Rural Educational Attendance Areas (REAA) is that teacher turnover is high. Although complete information is not yet available for school year 1977-78 a check on about half of the teachers in REAA's last year revealed that teacher turnover between the 1976-77 and 1977-78 school years was approximately 40%. Out of every 100 REAA teachers 40 did not return to their school district. This contrasts with roughly a 20% turnover in independent, rural school districts and about a 10% annual turnover in the old State-Operated rural schools (SOS).

Quality education demands that questions such as: "Why are teachers leaving REAA's in such large numbers?" and "What can be done to slow and, hopefully, stop this exodus?" be asked. Some of the answers can possibly be found by examining the change in rural education from the teachers' perspective. As the person who directly and regularly represents the REAA's to the students and their parents, the teacher has a unique vantage point. He/She experiences, on a daily basis, the effects of the decentralization of SOS. Furthermore, that experience is the result of input from several directions: namely, the REAA board, the administration, the parents, and the students.

Of course the input and resultant perspective is neither uniform nor obvious. That is virtually impossible with roughly 700 teachers in the 21 REAA's that evolved from SOS. Those teachers are spread over the 19° of latitude and 48° of longitude that include Alaska. They teach in schools that range in size from one teacher to 47. The situations in which they teach vary widely as do their attitudes

and feelings about teaching in rural Alaska.

Thus, any proposed teacher perspective will certainly not be true of every REAA, every rural school, or each teacher. Instead, it will be both speculative and somehow general, as is what follows. The basis for these specific conjectures is conversations that have taken place as REAA teachers have worked to cope with the new school systems in which they work.

Over the past year and a half teachers seem to have become a favorite scapegoat. Politically motivated REAA board members seem to believe that it is fitting and proper to publicly criticize teachers, whether deserved or not. As an illustrative example consider the REAA board that was plagued with erratic attendance that continually threatened the maintenance of a quorum, even after all board members were in town for a meeting. Last spring, rather than dealing with this issue, the board chair launched an attack on the region's teachers, charging them with erratic attendance at school. However, when his allegation was challenged, he could cite no instances. Nevertheless, he persisted in his attack.

Although in the past such demagoguery was blindly accepted as the truth by gullible outsiders, today's teachers know better. So do superintendents and statewide organizations such as the school board association. Yet, they continue to encourage boards to engage in this sham, apparently for self-serving purposes. A common ruse is to characterize teachers as the REAA "rip-off" artists. Their salaries are said to be exorbitantly high and skyrocketing. However, their salaries are, on the whole, lower than those of teachers in other districts and have risen no faster than the cost of living. The employees whose salaries are higher than their

neighbors' and skyrocketing (a 40% increase since the 1975-76 school year) -- the superintendents -- rarely receive any criticism.

Just as they can no longer accept hypocrisy like that mentioned above, neither can teachers accept a board's claim of innocence. Rather, they see demagoguery stemming from irresponsibility, if not calculated deception. To teachers, board members who have failed to actively participate in their meetings, find out the facts of a situation, and exercise independent judgement have behaved irresponsibly. In response to this, teachers have left the REAA's.

Teachers have also left because of the burgeoning central bureaucracies with which they must deal. Often times the new bureaucracies seem even more top-heavy and unresponsive than the SOS's was in Anchorage. A typical frustration was that of a teacher who sought an explanation of three different REAA policies/procedures -- including teacher evaluation -- from the superintendent. For each of the three he was told that although each of the policies/procedures did exist in written form he must see a different person in the district office. None of the three was in the office that day. Thus, the teacher left a written request for the information desired and ultimately got one of the three.

The increase in REAA-central-office personnel and budgets between the 1975-76 school year and this one supports teacher perceptions of a rapidly expanding central bureaucracy. REAA's employ 75% more central office administrators and spend almost 50% more money for central offices than SOS did.

The administrative bureaucracy developing within REAA's has been especially difficult for teachers to cope with not only because of its size but also because of its incompetence. Seemingly, super-

intendents and top administrators were hired not on the basis of their skill and background but, instead, because they were available when the REAA's were formed. Of the 21 new superintendents last year, 16 came from SOS and three more from within Alaska. This year all but 2 of last year's superintendents still hold those positions. This differs significantly from other Alaskan districts where, over the past few years, superintendent turnover has ranged from 20 to 30%.

Those hiring new administrators seem to be abrogating their responsibilities to thoroughly screen these applicants. Otherwise, administrators nonretained by one district wouldn't be immediately hired by another. Typical of several instances of this type is the case of the building principal who failed miserably in a village of about 500. Because he couldn't work with his staff and was a social isolate in the village, the regional board nonretained him. Yet, during the summer this person was hired by another REAA to be its assistant superintendent for curriculum development.

Often the typical REAA administrator has gained his/her position "instantly". He/She has had neither extensive teaching experience nor adequate training in how to skillfully administer schools. This quickly becomes obvious to teachers in the general area of personnel relations. Frequently there is no administrative attempt to be honest, direct, straightforward, or sincere. Consider, as illustrations: the assistant superintendent who lies to new teachers he is recruiting from "outside" about the housing conditions in a village with neither running water nor sewage; the superintendent who never discusses concerns with a village teacher while visiting the village but, instead, relies exclusively on written memos mailed

later; the principal who polls a faculty on which option to follow and, after announcing the poll results, unilaterally selects an option that received no support; or the superintendent who fines teachers who notify him as early as April that they will not return the following September.

Another obvious area of administrative deficiency and attendant teacher frustration and dissatisfaction centers around an REAA's response to teachers as an organized group. More often than not administrators lack even a rudimentary understanding of employer-employee relations. As a result high levels of animosity and polarization have developed over activities such as teacher negotiations. During last year 12 of the 21 REAA's had serious breakdowns in teacher contract negotiations. This never would have happened if the administrators had only understood the process. With increased understanding neither would superintendents have attempted to directly inject themselves into the affairs and organization of a teachers' association. Nor would board negotiators agree to an item at the table only to either totally reverse themselves at a later time or try to unilaterally rewrite what was agreed upon.

Teachers are also disenchanted with teaching in REAA's because of the disregard for their basic due process and citizenship rights. Typical of this disregard is: the principal who told a teacher she had to quit because she was going to take maternity leave; the superintendent who attempted to hold a hearing on the nonretention of a teacher without giving the teacher any due process rights; or the board which said a teacher couldn't write letters about the school system to other people. Administrators should never let

incidents like these occur. They should know what a teacher's rights are, or at least consult the district lawyer. Yet, REAA lawyers are rarely contacted. Instead an attitude that says, "We can do whatever we please and ignore, with impunity, the laws," seems to prevail.

The difficulty of the teaching assignment that an REAA teacher is given has also contributed to the high teacher turnover. Consider the typical new REAA teacher -- a young, inexperienced teacher from out-of-State. He/She is simply not prepared for what he/she encounters. No one has advised him/her what his/her new community is like. Neither was he/she provided with a meaningful pre-service orientation to the district, its people, students, and procedures. Thus, he/she starts school in a state of shock which may never be overcome.

This is all the more likely if the teacher, as frequently occurs, encounters a teaching situation for which he/she is totally unprepared. Maybe the teacher, whose specialty background is, at best, in two discipline areas, is instructed to instantly develop and implement a complete high school curriculum. Or maybe the inexperienced teacher is told to take over a multi-graded, bilingual, elementary class.

As if these instructions were not mind-boggling enough, our typical teacher soon discovers that he/she is on his/her own. Materials, personnel, and money seem to be minimally available. Not surprisingly, many of these teachers quickly decide (10% in one REAA, as of October) they will leave as soon as possible.

For other reasons the experienced bush teacher is also leaving the REAA. He/She is often painfully aware of the fact that class sizes in about 2/3 of the REAA's are up over two years ago -- half of those as many as three or four students. He/She also may object

to the administration's determination that the instructional program shall be standardized, using the same texts, scope and sequence, and methodologies. Possibly~~his~~/her objection stems from the fact that such standardization removes an important element of teacher flexibility or it just is not the standard the teacher would have picked.

Another thorny contributing factor to teacher turnover in the REAA's is the absence of housing. In SOS days the problem of housing was not as severe as now. There weren't as many teachers without adequate housing and the rents were low enough to make the inadequacies and scarcity of housing tolerable. Furthermore, SOS was generally perceived as clearly trying to find a housing solution. Today the situation is reversed.

As under SOS, today in most communities teachers cannot build their own homes because land is simply not available for private owners. Teachers are forced to be renters. Nevertheless, their rental rates are rapidly increasing. Typically, REAA rental rates have doubled or tripled in the past two years. The rates of private landlords have often increased even more. Meanwhile, salaries have increased about 15%. Thus, the teacher's purchasing power has been significantly diminished.

In most REAA's housing is much more difficult than it used to be for teachers to obtain. Often the district has given up its teacher housing or stopped guaranteeing private units for teachers. Furthermore, in many communities, especially those with new secondary programs, there are more teachers seeking the same low number of houses. Inevitably, some teachers end up living in the school or in a very substandard house.

The final irritant with respect to teacher housing is that many REAA's have denied any interest or concern in even considering possible solutions to the need. Instead, they claim there is no housing problem and indirectly encourage landlords to charge exorbitant rates for their rental units. Predictably enough, teachers have reacted to this unsympathetic attitude by leaving the REAA's for districts with better housing opportunities.

The problems discussed above have most definitely been real and serious for REAA teachers. They have decidedly influenced teacher attitudes and actions. However, teachers have not responded to them only by leaving. Many have stayed and reacted in other ways.

One way has been to organize into teacher associations for the purpose of collective action. Far more REAA teachers belong to a teachers' association than two years ago. In fact, association membership in the REAA's has increased over the past two years by almost 40% while it has stayed steady or slightly dropped in other Alaskan districts. Furthermore, the level of active involvement in these associations has increased many fold. While before a relatively few teacher leaders represented SOS teachers, now there are 21 sets of leaders representing REAA teachers. Another consequence of this increased involvement has been a heightened awareness among all teachers of their collective, as well as individual, rights, benefits, and concerns. No longer do teachers think only about their instructional interaction with the students.

Teachers have also reacted to the changes that REAA's have brought by becoming more involved with their local communities. This involvement has, in turn, resulted in local alliances of parents, community leaders, and teachers to combat regional dema-

goguary and harassment. Consistently, over the past year, the parents and citizens of local communities have rallied to the support of their teachers when they felt the teachers were getting a raw deal at the regional level. Sometimes that support -- often in the form of petitions, statements, or letters -- has reversed the action of an REAA board and/or superintendent. Other times, when it hasn't, it has resulted in lingering community hostility toward the REAA board and central administration.

The involvement of the bush teacher in the political process is also slowly building. As the result of experiences over the past two years, teachers are increasingly aware that potential solutions to their problems lie in the hands of politicians -- at both the regional and State level. Thus, they are contributing more money and effort to political campaigns, lobbying their board members and legislators more, and more closely monitoring the actions of these representatives on items of interest.

Because of their basically optimistic orientation, RFAA teachers generally hope and feel that things will get better. They know that in at least a couple of REAA's exciting educational things are happening. They know that teachers in those REAA's feel they are dealt with individually and collectively in a fair, evenhanded manner. Teachers in those districts are valued as professionals striving to better the quality of education. Those boards and administrators work with the teachers to solve problems rather than against them. Whether these few REAA's are the precursors of the future or the exceptions to the rule is unclear. Teachers certainly hope they are the indicators of changes to come.

REAA Questionnaire Survey

CNER distributed questionnaires in June 1977 to each REAA, with a letter of explanation to Superintendents and Board Chairs. (See Appendix - for questions and accompanying letter.)

Questions were asked of Superintendents, Board Chairs, individual Board Members and the Board as a Whole. Although responses were received from approximately half the REAAs (10), none responded fully. Nine superintendents responded but only three board chairs and sixteen board members. Only one board responded to the two questions asked of the board as a whole. Even with follow up by letter and phone, the response rate improved little.

Reasons for the poor response rate can only be speculative, based on past experience and informal inquiries. Mail questionnaires are not a good way to collect data in any case but visiting every REAA was beyond the resources of the study. (When the questionnaires were field tested in one REAA with a staff member present, few difficulties were encountered.) Waiting until the end of the REAAs' first year was probably a mistake, as summer is a busy time in rural Alaska and one when staff and board members are often hard to reach. Also, there were a number of high priority issues, including Lau compliance, during this time which demanded board attention when they could meet. It has also been suggested that some board members had difficulty in interpreting the questions and writing responses.

In the analysis of responses which follows, emphasis was placed on responses from the superintendents, as the most complete source of data. Selected responses from board members and chairs also are included. These responses may not be representative of all REAAs; they will give those who did not respond a chance to compare their perceptions.

Although one might have predicted that superintendents would have had

similar responses due to similar educational backgrounds and administrative experiences and the frequency with which they communicate with each other, this did not prove to be the case. Superintendents' responses to almost every question showed large differences in how they perceived their REAA's progress for the first year. They differed most on questions considered to be basic to SB 35 and REAA development, such as local control and community school committees. It is reasonable to assume the variety of responses reflect actual differences in experiences among the REAAs.

Origin of REAA Board Business

Superintendents were asked to describe the origin of business that comes before the Board by estimating the proportion (or percent) from the twelve sources listed on the questionnaire. The percent allocated to each group varied widely, as shown by the range figures. For example, the highest average (mean) percent was recorded for REAA Central Administration--averaging all responses, 34% of business brought before the Board was said to come from this source. However, the responses to this item ranged from 5% to 60%, indicating that there is great variation.

Origin of REAA Board Business	Average % (mean)	Range
REAA Board Chairperson	10	1 - 25
Other Board Members	9	1 - 18
REAA Central Administration	34	5 - 60
REAA Principals and Principal- Teachers	5	0 - 15
REAA Teachers	5	1 - 12
Community School Committees	4	0 - 9
Parents	2	0 - 5
Students	3	0 - 5
General Public	4	0 - 15
State Dept. of Education	17	0 - 70
State Dept. of Public Works	6	0 - 15
Other	2	0 - 10

Distribution of Board Time by Subject:
Approximate and Ideal

On the question concerning the distribution of REAA board time by subject, Superintendents' answers were extremely varied, as indicated by the range of responses shown below:

<u>Approximately</u> what proportion of Board time was spent on:	
Subject	Range (in Percents)
Budget	(5 - 80)
Curriculum	(1 - 30)
Facilities Planning	(0 - 30)
Federal Programs	(1 - 15)
Federal Regulations	(1 - 10)
Operations & Maintenance	(1 - 10)
Personnel	(1 - 15)
State Regulations	(5 - 25)
Student Concerns	(0 - 7)
Teacher Negotiations	(1 - 15)
Other	(5 - 60)

Only two-thirds of the superintendents responding answered the second part of the question, where superintendents were asked to ideally distribute Board time across the same subjects. Those subjects which showed greatest agreement as to a discrepancy between approximate and ideal time were Curriculum, State Regulations and Student Concerns. Five of six superintendents responding indicated they felt too much time was spent on State Regulations and too little on Curriculum and Student Concerns.

Comments on this question included an explanation to the 60% response under "Subject: Other" and an explanation of why one superintendent did not fill out the ideal column:

"The board spent an arduous amount of time (and wasted energy) on "political" considerations which offered no relevancy to education of students. Subject matters were too diverse to recall, but certainly not related to those listed."

"Considering the various situations confronting the board, I believe the time devoted to the various topics was correct. As superintendent, I do not have an "ideal" format for the Board; they control the schedule according to what interests them. Whatever is, is "right" for this district. Each board member would have a highly unique view as to how an 'ideal' breakdown would look. The superintendent's job is to facilitate the individual board members so they can function together as a board."

Decision Referrals

This question on decision making was concerned with which decisions within the REAA are referred and to whom they are referred. Topics mentioned by more than one superintendent for each referral category are noted on the chart below, with the number of responses above 2 indicated in parentheses.

Topic and Direction of Decision Referrals

Board to District Administrator	District Administrator to Board
Administrative functions including budget (5) Employment (4) Curriculum program approval (4) Research Policy drafting Purchase of equipment and supplies	Hiring personnel (8) Policy (3) Negotiations (3) Budgets (3) Matters required by law Federal programs Current district state of affairs Facilities planning Maintenance projects
Board to Community School Committees	Community School Committees to Board
School calendar including extra-curricular activities (5) Recommendation of certificated staff (4) Community use of facilities (3) Curriculum planning (3) Decision for/against high school	Matters required by law and/or policy Curriculum review Use of school facilities

Assistance to REAAs
(Other than School Board Development)

Responses to the question about assistance to the REAAs other than School Board Development illustrated the wide variety of needs the new districts experienced and the variety of people enlisted to meet them. Those mentioned by superintendents as provided by the Department of Education include:

- Technical assistance, particularly with federal programs and special education
- Bookkeeping and accounting training
- Budget direction
- Vocational curriculum
- Policy topics advice
- Legislative requests to the Department of Education, the Governor, etc.
- Liaison visits
- Community School Committee
- Program evaluation
- Talent bank
- Curriculum experts
- Inservice

Topics related to funding (accounting and budget) were the most frequently mentioned DOE services.

Only two of nine superintendents noted assistance that had been requested from DOE that had not been received. Services not received included:

- Comprehensive assistance in organizing business operations and obtaining eligibility for Title I sites
- Other tasks that require long-range assistance or aggressive action such as drafting new legislation, etc.
- A more consistent and equitable form of funding rural schools.

All nine superintendents reporting said that their REAA received assistance from sources other than DOE. Eighteen different sources were recorded for the following types of services:

Statistical data	Construction	Special Education testing
Legal aid	Assessment needs	Program planning
Bilingual Aid	Curriculum planning	Psychological testing
Affirmative Action	Board training	Administrative training
Teacher negotiations	General aid	

Superintendents were divided on the question "Are there any services currently available that your REAA needs now or on the future?" Of those four responding yes, the following were noted:

Program development for small high schools
Training for bilingual/bicultural programs
Curriculum development
Board leadership training
Educational philosophy
Leadership training to teachers and principal/teachers
[Needs] "too numerous to mention: We need MASSIVE professional assistance (applied research funds and/or expertise, etc.) to attack problems we have already identified; to meet needs we already recognize we have."

REAA Issues

Numerous issues came up in each REAA the first year of operation. Superintendents were asked to classify and describe issues on the basis of their experience as to whether or not the issues had been anticipated and as to whether they had been resolved. The largest number of issues listed were considered anticipated and had been resolved. The second largest group was anticipated but had not been resolved. It would appear from this listing that superintendents dealt with many problems in the first year of REAA administration, but that there were few surprises.

Anticipated/Resolved

- Teacher negotiations (3)
- Fiscal operations/accounting (2)
- No district office, quarters, or rentals for employees or teachers
- No business/administrative systems developed - No curriculum or staffing plans - No Tobeluk settlement plans
- Lack of teacher awareness concerning the entire gamut of change engendered by SB 35
- Classified salaries
- Financial/funding problem (2)
- Teacher hire
- Policy manual - completed

Unanticipated/Resolved

- Lack of knowledge about SB 35 - what it meant, etc.
- Lack of understanding concerning the Tobeluk settlement by parents, students, teachers, Juneau administrators, CSC members, etc.
- Building program
- Resignation of a principal teacher (new teacher hired)

Anticipated/Unresolved

- The need for additional funds for staff development
- The need for additional funds for developing satisfactory program and staff evaluation plans
- The need for additional funds for applied curriculum research
- CSCs
- Classified suit
- Role of CSC vs. Regional Board
- Policy (practically completed)
- Teacher negotiations (2)
- Building needs

Unanticipated/Unresolved

Lack of willingness of local CSC members and others to consult with REAA board members
Lack of adequate REAA Board member communication networks with local people
The lack of ability of individual districts to obtain significant, informed assistance in a coordinated manner from the DOE or other large agencies where change comes about very slowly
Funding cut by legislature
Bilingual issue
Great fluctuations in student population

Additional Comments

"Another problem/issue that so far has been resolved concerns the degree to which the initial board training for the area encouraged the development of 'adversarial groups'; the future members were told to 'watch teacher power'; teachers were advised to beware of administration and board members. We have attempted to restore a more professional atmosphere so that groups have a basis for working with one another that is based on mutual respect/awareness. We give a great deal of attention to process, as well as product."

"A hectic year."

Examples of REAA
Board in Action

Superintendents were asked to describe examples of situations where the REAA Board acted (1) effectively and (2) ineffectively when confronted with a major problem or issue. Those situations identified with effective and ineffective Board action noted below.

Situations where REAA Board Acted Effectively

- The position taken on a 50% reduced level of funding
- Reversal of decision to take over BIA schools regardless of village desires
- The Board decision to implement a bilingual/bicultural program without aid of the state and to negotiate directly with OCR
- When it hired a superintendent - (Basically their most important single decision is who the superintendent will be/is)
- When it decided to put a focus on improving schools rather than merely developing an administrative machine that was very adept at preserving the wrong thing.
- Acted on pushing forward a building program
- Teacher negotiations were often confrontations and too divisive for our small system

Situations where REAA Board Acted Ineffectively

- Present position [on reduced level of funding] to the bureaucrats properly
- Decision to take over BIA schools where REAA established high school
- The Board has acted effectively on all major problems and issues
- When it becomes involved in making personnel decisions and more or less forcing the hire/termination of certain individuals... Board member friends are not necessarily the most qualified, dedicated, intelligent, etc.
- When it acts without understanding how their actions are limited by the broader society (DOE, U of A, OE, etc.)
- Negotiations issue was taken to public by teachers - Board rightly rejected community demands for immediate raise - Resulted in Board recall
- Holding regular meetings - difficult communicating - phones often out and radio not available due to power loss some-times

Community School Committees

Superintendents responding indicated most CSC met regularly. All but one responded that the REAA had a written policy concerning duties and functions of CSCs but only one superintendent attached it, the others replying that the policy was unavailable. About half said there had been training sessions for the CSCs. All but one superintendent noted at least some input from the CSCs. Most judged their Board's relationships with the CSCS to be fair. Three superintendents noted the relationship was uneven, some CSCs working better than others within the REAA.

In response to the question, "Do you see a need for CSCs?" the superintendents were divided:

"Yes, so villagers can have a vehicle to formally express their views."

"Yes - information from these provides the Board with local information."

"Yes - Adoption of district plans, practices to local needs and as a source of ideas for school program improvement."

"Yes - handle local problems."

"If community desires."

"No, not in our area. Our school communities are adequately represented on the regional board."

"No, we have two schools in the district and they are five miles apart. The people would rather participate directly with the district board."

"No - communication should be such that they are either useless or valueless. Of course, if they are not listened to now, we still don't need them, but too often they constitute local 'axe-grinding' forums."

Local Control and Local Government

When superintendents were asked specifically to comment on the effectiveness of SB 35 and creation of REAAs in bringing local control to rural Alaska, a wide variety of opinions were expressed, ranging from very effective to little change. Comments included:

"If the funding issues had been addressed three years ago, the effects would have been very favorable. However, difficulties created this year has set this district back 5 to 10 years, i.e., the ten BIA villages transferring."

"Very effective here." (Three respondents)

"Excellent."

"Local control has very little to do with SB 35. SB 35 created 21 new Districts and so resulted in 'district control' rather than 'local control'. SB 35 holds the district board responsible, not local communities."

"Very little change. Virtually all the issues which we have time to address are forced upon us by DPW (Department of Public Works) DOE (Department of Education) and USOE (U.S. Department of Education), etc. Conversely, it gave the CSCs the impression of control so we take flack from both sides. Regulators telling us we have control when we don't. CSC wanting to know why we don't do anything different."

"Reasonably so, but too many board members and superintendents have overestimated the amount of authority which the Board has and underestimated the responsibilities."

Interest in local government was noted by most superintendents to have stayed about the same. Two noted an increase in interest while one had no opinion.

SB 35: Positive Features and Suggested Changes

Superintendents were asked to reflect on their experiences and comment on SB 35 and the REAA system. All responding replied to this question. The aspect of local control heavily dominated responses about positive features. Suggestions about CSCs were prominent among needed changes. Selected comments follow.

Most positive features of SB 35

"The ability for decisions to be made on a regional level."

"Local control." (Three respondents)

"Expedites decision-making and problem-solving."

"Provides programs designed for and by local people."

"Allows local control on expenditures."

"Allows local control on employment of administration/teachers."

"SB 35 is allowing some rural residents who were previously unfamiliar with 'why' things were as they were to understand and realize the immense difficulty any change causes.... SB 35 gives rural residents increased hope for better schools."

"More efficient than control by SOS or AUSBD."

Things which need to be changed

"Rules, regulations, laws which prevent full use of capital bond monies; i.e., overhead administrative costs in Fairbanks, Juneau, and Anchorage."

"CSC election procedure."

"Method of election for board members."

"Clarification of duties of CSCs."

"While SB 35 is a major experiment in obtaining better schools and involving people, it was quite inadequate in one respect. It did nothing to adequately prepare the people to truly manage their own schools.... SB 35 did not set up any agency or 'Talent Bank' that was specifically charged with assisting the new districts. Had such an office been created in the DOE, I believe it would have been possible to solve problems in a more efficient manner."

(Things which need to be changed continued)

"More careful delineation of REAAs as 'School Districts.'"

"Making CSCs optional and advisory."

"Eliminate CSCs -- or at least the need for them."

"Organization of board responsibilities. The board uses the legal format for personal opinions, philosophies, and ideologies without any concern of students."

"Need better access to specialists; however, they are available if one works at it."

Special Topics

Superintendents were asked if their districts had a position or opinion on the topics listed. The only topic that did not evoke response was Municipal Development, which was considered not applicable by most.

Selected comments follow.

BIA Schools

"Their funding is 35% more than state's."

"Seek to cooperate; will not take over unless requested."

"Favor continuation of BIA control and funding of BIA schools in the district. We have an informal policy of working with the BIA so as to better meet children's school needs/desires."

Bilingual/Bicultural Programs

"A definite mechanism for villages to identify with the school."

"Mandated by Board; will expand in the future."

"Strongly supports programs desired by the local communities. It (the district) also sympathizes with the actions and concerns of the Office for Civil Rights concerning Bilingual/Bicultural education, etc."

"We have no bilingual children and should not be expected to go through all the effort and cost of 'proving it.'"

State Regulations/Hearings

"Useless."

"New hearing process procedures must be developed since all such hearings are ONLY held in larger communities."

"There are too many state regulations especially those relating to procedures of the local board."

"Due to our isolation, we can't attend meetings often, but we do offer written comment!"

Certification

"Must be at the district level."

"Believe the entire matter must be totally re-examined by all concerned. The post-secondary institutions, etc., control the process. ___ District would like to develop its own certification system that would meet district needs, etc."

"No problem for us."

Village High Schools

"If funding is sufficient to support proper activities."

"Mixed feelings--at the present time, the CSC and REAA Board has decided not to establish high school in the village."

"Stongly support local secondary programs but believe the state must devote more money to making options possible for kids."

"We have all of ours operating."

Regional Resource Centers

"Approved services and endorse the RRC concept."

"___ District is willing to give the concept a test. We question the degree of thought that went into the original planning for such centers."

"We don't want them."

"None needed--until their specific function could be identified, exactly what they could do for the district and at what cost."

Federal Programs

"Eliminate categorical funding!"

"Mixed feelings--bilingual/bicultural is the most controversial. Title IV part A is an accepted part of the school programs."

"We need them to in order to help compensate for inadequate state funding compared to need."

"Form a very small part of our budget. They are not worth the effort except for PL 874 which should not be used as a threat because it is in lieu of local taxation."

"Too many strings attached. Too much paperwork."

"Did not want JOM because (it is) discriminatory."

"Often difficult to assess their worth."

Curriculum Planning

"It's been a joke this past year! "

"Heavy emphasis."

"A major (the major) focus. If we can't come up with a better curriculum and program, we might as well go back to a state-operated system."

"We need time (taken from the above areas) to work on this."

"Key to a good school. Last year was one of survival. This year we plan to work on that."

Fiscal Resources

"Very conservative."

"Inadequate compared to our need."

"Our funding was cut 10% by this legislature without any basis in fact or data."

"No problem in our district."

Board Travel

"Funding level allows for less than $\frac{1}{2}$ the normal district meetings."

"Lots necessary."

"Believe in limited travel."

Other Comments

"The Board is 'agin' 'em all.' The administration tries to keep an even keel and remain legal--the certified staff complies if required--the students hope!"

Other Comments

In response to the question, "Is there anything else you would like to tell us?" the following superintendents' comments were received:

"Appreciate your interest and follow-up."

"Good luck with your efforts. The results should be quite informative."

"This certainly was a long form. I hope it helps."

"The financial situation is a problem in sorting out all the regulations and items."

"Much, but time is short and unpleasantries are often painful for recollecting. This Board accepted little if any responsibility for making timely decisions - they were reluctant to accept any advice from anyone about anything. DOE and others were often openly and always privately criticized for 'interfering' or 'over-regulating' -- It was impossible to get a board policy manual approved. Also, there were no other policies or procedures approved by the board."

"I believe that our little two-school district has been a great success with pupils receiving adequate to very good education and that most of the residents of our two communities are pleased with our schools."

...to be continued

Responses of REAA Board Chairs
and Board Members
to be added

Those REAAs who returned one or more questionnaires are:

Alaska Gateway
Bering Straits
Chugach
Copper River
Delta Greely
Lower Kuskokwim
McGrath
Pribilof
Southwest
Upper Railbelt

REAA Superintendent Responses*

Origin of REAA Board Business

Distribution of Board Time by Subject: Approximate and Ideal

Decision Referrals

Assistance to REAAs (Other than School Board Development)

REAA Issues

Examples of REAA Boards in Action

Community School Committees

Local Control and Local Government

SB 35: Positive Features and Suggested Changes

Special Topics

Other Comments

*Based upon questionnaires
from nine REAAs

November 18, 1977

TO: Seminar Participants
FROM: Kathryn Hecht
SUBJECT: "Related Studies and Issues"

For this section of the report, I would like your advice and suggestions.

(1) Do you feel there are any important issues concerning the first year of the REAAs not covered by the report which should be mentioned? If yes, please describe each issue in a few lines.

(2) Do you know of studies related to the REAAs (other than those described in this report) that are either in progress or completed? If yes, please describe and list a contact if you can.

Name _____
(in case I need to contact you for
further information)

(Please use the other side if necessary)

OUTLINE

REAA Board Minutes Analysis for First Year of Operation, 76 - 77

I. Analysis Procedures/Process

- a. method of acquisition of minutes
- b. variation within a single REAA
- c. variations among REAAs
- d. topical approach

II. Regarding the REAA Board Meetings

- a. frequency
- b. location
- c. number of members; male/female ratio
- d. resignations/appointments

III. Common Contracted Services

- a. bank
- b. auditor
- c. legal counsel
- d. bookkeeping
- e. etc.

IV. Issues and Discussion

(The issues which appeared to be most topical among all the REAAs are listed; i.e., the #1 topic from each of the 21 REAAs is listed in descending frequency and discussed.)

- a. Community School Committees
- b. facilities, planning, and maintenance
- c. etc.

V. Creative Solutions to Local Problems

- a. CSC representatives are designated Associate District Board Members with travel provided to District Board meetings
- b. decentralization of materials' purchase from Central Office to schools up to a specified dollar amount
- c. district liaison designated to meet with CSCs and communities

VI. Unique Issues

- a. 12th grade not adopted for Togiak due to lack of school and teacher housing space
- b. Board acceptance of donations from villages to schools - cash would not be accepted but local foods could be integrated into the hot lunch program

Report Outline

NEW SCHOOL DISTRICTS IN RURAL ALASKA:
A REPORT ON THE REAAs AFTER ONE YEAR

I. Introduction and Background

Highlights from the Report

Overview of the Study - Kathryn Hecht

Historical Perspective - Frank Darnell

Time Line - Ron Inouye

"Perspectives on Progress" - Kathryn Hecht

II. Study-collected Data and Analysis

Survey of REAA Boards and Superintendents - Kathryn Hecht and Ron Inouye

Analysis of REAA and State Board Minutes (second draft) - Kathryn
Hecht and Ron Inouye

Case Study of an REAA - Paul Goodwin

III. Contributed Chapters*

Municipal Development - Pat Poland (Final Draft)

Community School Committees - Sue Horton

New Secondary Education Programs in One REAA - Margo Zuelow

School Finance in the REAAs - E. Dean Coon

BIA/REAA Relations - Don Dafoe

Teachers' Views - Jim Alter

Bilingual Controversy - Sylvia Carlsson

* Note: These are listed by subject rather than the title which will be used.

IV. Summary and Forecast

Related Studies and Issues (see form)

Seminar of Contributors: Edited Comments

Appendix

Selected News Clippings

REAA Map

Survey Questions

Additional Material: "REAA Superintendents Address the First Year"

NEW SECONDARY EDUCATION PROGRAMS IN ONE REAA
(Tentative Title)

NOTE:

This paper has been submitted by Margo Zuelow, currently of The State Department of Education.

The research which is reported upon here is summarized from her dissertation, recently completed at the University of Oregon. A reference to the complete study and how it can be obtained will be included in the final version.

Dr. Zuelow requested I distribute the paper beginning with page 10 due to its length.

Kathryn Hecht
11/17/77

Local Background

During the 1976-77 academic year, five new small secondary education programs were started in the Iditarod Area School District, Regional Education Attendance Area #11, in Alaska. One village high school program that had existed prior to this time was continued. Another village extended its program from grades 9-10 to 1-12. The secondary student population ranged from 2 to 52 students in each of the communities. The largest secondary school in the district, McGrath, has four secondary teachers. New programs were begun in the villages of Grayling, Anvik, Takotna, Telida and Lime Village (see map, Figure 4). Regulation 4AAC 05.070 of the Alaska State Department of Education requires that:

a) For each of the first three years of operation of a school established under Section 40 of this chapter, the chief school administrator of a school district shall develop and have approved by the governing body of that district, annually and no later than that body's first meeting in October, an educational plan for each school established.

b) Subsequent to the close of each school year for which an educational plan must be developed under (a) of this section but no later than the governing body's first meeting in September, the chief school administrator shall prepare and submit to the governing body of the school district an evaluation of each new school operated by the district.

c) The chief school administrator of a district shall insure maximum on-going local community participation in the development and preparation of the educational plans and evaluation of the plans required in this

section.

Copies of the plan developed under this section must be maintained on file for public inspection in the school district office. A copy of each plan and evaluation must also be filed with the Commissioner, Pouch F, Juneau, Alaska 99811. A copy must also be furnished to the local school committee of the community in which the school to which the plan or evaluation relates is located.

In this study, community school committee members, staff and students of the Iditarod Area Schools (IASD), REAA No. 11 were interviewed.

The Iditarod Area School District covers 41,500 square miles of Interior Alaska. McGrath, on the Kuskokwim River with a population of 300, is the district headquarters. This is an old gold mining site, which still has a large non-Native population. Other villages on the Kuskokwim are Nikolai and Telida, both Athabascan Indian Villages of one hundred or fewer people. The community of Lime Village is also an Athabascan Village located south of McGrath on a tributary of the Kuskokwim. Takotna is a largely non-Native, former gold mining community on Takotna Mountain west of McGrath. The four Yukon River villages of Holy Cross, Anvik, Grayling, and Shageluk are all Athabascan Villages of one to three hundred people each. Traditional subsistence living is practiced by some Indian members of each community, which includes hunting (moose, caribou, bear, goats, and sheep), fishing (seasonal runs of salmon and other fish), and gathering (wild berries and other edible plants). A limited number of cash income jobs now exist in all villages with principal employers being the school, Native corporations, the State of Alaska (policeman, airstrip

maintenance man, etc.), United States Public Health Service (village medical aide), and the corporation which owns the local store or trading post. Some small private stores and other businesses such as a pool hall or movie concession exist. Most villagers speak English except in Lime Village, Nicolai, and Telida where the population is mixed in their ability to speak the Native language and English. An interpreter was needed while interviewing the community school committee members in Lime Village. Some homes are made of logs with homemade wood burning stoves and furniture. Others are constructed of saved lumber with furniture and appliances from a mail order catalogue. All combinations of the two extremes exist.

The Board, acting to meet the intent of the Tobeluk Decree,⁵ took steps to initiate partial or full local secondary programs in those communities that requested such programs in the fall of 1976. The district developed plans so that the basic academic instructional program in each community would be taught by certificated teachers. The district also planned to maintain a pupil-classroom teacher ratio of no larger than 15 to 1 in each new secondary or combined elementary and secondary school. Correspondence courses were used to augment the basic secondary program in each community. Vocational education courses were made available to all students beginning in the second quarter of the school year, with instructional delivery being accomplished through the use of automated (slides and tapes) programmed teaching materials.

The superintendent of the Iditarod Area School District recommended to the IASD Board that the district create an on-going long-range develop-

⁵See footnote, p. . Tobeluk Decree is the title of the consent decree given to the settlement of this case.

ment plan for a comprehensive secondary education program that would offer students a choice between five curriculum emphasis areas or major educational alternatives regardless of which school a student attended in the district.

Emphasis Area 1: This program is designed to prepare the student for successful life in his/her home community and region upon graduation. This emphasis area assumes the student will not, at least immediately, pursue additional training or college.

Emphasis Area 2: This program is designed to prepare the student for (1) successful entrance into a trade, business school, or community college trade or business program upon graduation, (2) jobs that may exist in the region that require a limited knowledge of business or trade skills. This emphasis area is not a "prescription for a major sequence." Courses offered within a subject field should enable the student to plan for a specialization by including courses to assure the student sufficient opportunities to develop a degree of proficiency in a subject field while being exposed to other areas as well.

Emphasis Area 3: This program is designed to prepare the student for successful entrance into a public college or university upon graduation.

Emphasis Area 4: This program is designed to prepare the student for successful entrance into the armed services of the United States upon graduation.

Emphasis Area 5: This program is designed to prepare the student for any combination of goals 1-4.

The long-range plan was drafted by IASD administrative staff and consultants in order to help meet Board concerns about the relevancy, effectiveness, and equality of opportunity of schooling provided students served by IASD schools. It was introduced and copies distributed in August and September, 1976, in the seven communities with IASD schools. Each principal-teacher was asked to review the plan with community school committee members, students and teachers during the school year. Depending upon responses to the plan, the district proposed expanding and implementing the plan by developing required and elective courses for each of the curriculum emphasis areas by no later than during the 1977-78 school year.

Data Analysis

Two major objectives were accomplished during the data collection phase of this study; one was the evaluation of the secondary education programs in the Iditarod Area School District, the other was a test of the interview technique for gathering data in rural Alaskan situations.

The evaluation was formative in nature. This was the first information collected in a systematic manner about the operation of these particular schools. Since it was a new program some people, as planned, were still actively involved in the creation of what was to remain a flexible curriculum. This was also the first time the community school committee members were given large amounts of control and decision-making power. Their responses indicated that they were making decisions (approving the hiring of teachers). A sense of pride showed in their feeling that "this is our school, it no longer belongs to some agency far away" and in their awareness that they were moving things in a direction they thought appropriate. In some cases there was a reluctance to evaluate "our new program" too soon, before it had a chance to prove itself, which indicated an ownership feeling.

The four broad questions asked were: (1) Is the new school program what people expected? (2) What are the advantages and disadvantages of having a secondary school in the village? (3) What are the problems in implementing the new program?, and (4) To what extent were members of the community involved in planning the new program?

First it was clear that many subjects expected a more traditional

building in appearance. This is an interesting expectation since most village residents are likely to be aware from past experiences that it takes two building seasons (summers) to complete any large building and they voted on the issue of whether or not to have a school in August of 1976. With this in mind, the comments about the new school buildings may have been more suggestions than expectations. From 40 percent to over half of the members of each group expected a program like the one they got while the rest had not pictured one much different from the elementary school. These subjects were generally happy with the new program.

Whether some things were considered advantages or disadvantages was dependent upon the village from which the respondent came. One limitation of this study is that subjects were guaranteed anonymity. Some responses that fell into the above category concerned specific equipment or facility needs. Advantages mentioned by all groups were flexibility in class schedules and the small classes. Having a high school in the village at all was seen as an advantage because so many students had dropped out of, or had refused to attend boarding school. The expressed disadvantages concerned facilities, equipment and staff. It would seem that having the students attend school at home was seen as the more emotional concern. The disadvantages seemed to carry the weight of suggestions for making desirable village school the best possible (using individual criteria for best).

Problems in implementing the new program concerned the curriculum emphasis areas. The most useful emphasis area according to all groups

is preparation for business and trade school. Least useful for all groups was preparation for entrance into the armed services. Considering the long history of educators' preference for vocational training for Native students, this is not an unusual finding. Possibly there is lack of knowledge concerning alternatives. It is clear that the reasons given for rejection of preparation for college by teachers and parents indicate low expectations on their part for Native students in general.

IASD decision-makers (the Board and administration) have used the information obtained from the evaluation to make the following decisions:

1. options in the form of emphasis area choices will be continued;
2. no student will be allowed to take more than two correspondence courses at a time and these will be limited to the above average students;
3. students will travel to schools with specialized facilities, for example, a shop, for short periods of time; and
4. an itinerant curriculum director has been hired who will work with the teachers, community members, and students in each school in an on-going assessment of needs of individual students, development of programs for them, and procurement of materials and supplies needed by the village schools to implement the teaching of the emphasis areas.

A drawback of the interview technique is that it is not efficient in

terms of time or money. All members rather than a sample, of each group were interviewed (if they were in the village at the time). This took a great deal of time as well as physical and emotional energy by both evaluators and subjects. The cost of flying to each village was certainly much greater than sending a questionnaire through the mail. The flexibility of method, richness and reliability of the data, however, outweigh the cost factors in this particular study. This researcher highly recommends the technique to districts planning evaluation studies.

Recommendations

Two major recommendations are being made as a result of this study. They will be presented as general recommendations followed by specific suggestions for implementation.

Recommendation 1: One geographically isolated school district be established as an experimental or laboratory district for the study of change.

The rationale behind this recommendation would be to illustrate the process of change at the district level using the concepts of change as a variable (dependent upon cultural milieu) and creative change (occurs because of desires of people). A single district is chosen as an experimental district in order that the process can be tried on a small scale in-depth using as many available resources as possible rather than diffusing money and energy in a state-wide effort. Facilitators from the State Department of Education should seek out a district (REAA) which desires to create a curriculum based on the goals, culture, and environment of that particular district. Emphasis would be on helping residents and school people with the communication processes necessary to articulate their goals and procedures for achieving those goals. Individuals should be hired from the University of Alaska, Alaska Native Foundation, Alaska Federation of Natives, and any other agencies that would have employees with expertise in the area of intervention and organizational development. Anyone hired to go into the district would have as their goal the facilitation of the process of decision-making only. The products produced, such as the goals, the curriculum and

administrative procedures for achieving the goals, will be a minimal concern of the facilitators. Since the process of making decisions by Native groups is often quite different from a typical western one as many Native or culturally aware non-Native facilitators as possible should be used. When non-Native facilitators are used they should travel with a Native who will be able to check the suggestions made for cultural integration.

A tentative plan (necessary if decisions are to be made by district people) for the beginning stages of the project follows:

1. Meeting with the school board and administration to determine their intervention and acceptance of the idea. Sound planning is essential to the success of such a process. This plan however, should not become an inflexible guide. The balance between a written plan and a flexible attitude is part of the management function needed. The administrator of the district should be one who demonstrates that he/she has an attitude that creative change is not only an acceptable but a desirable sign of a group in the process of examining its current environmental surroundings, goals, and progress toward those goals. He/she would emphasize (a) communication between groups as well as within groups in the district, (b) development of mutual trust between groups and individuals, (c) interdependence and shared responsibility, (d) wide sharing of responsibility and control, and (e) conflict resolution through bargaining and problem-solving.

2. Meetings of facilitators, community school committee members, teachers, and other members of the public in each village to determine their interest. If people are interested, additional meetings to begin

the goal identification process should be held during an off-season for food gathering. For example, it is difficult to hold meetings during salmon fishing or moose hunting season. Meetings should take place frequently, almost daily, for a week or so, then stopped until requested by the community again.

3. Once the community goals are established, they should be combined at the district level into a set of district goals. If there is a large non-Native population in one or two communities in the district, an extra problematic dimension will enter the process at this point. (To minimize this problem the experimental district might be one without a large population center like Bethel, Dillingham, Kotzebue or Barrow.)

4. Additional funding should be provided for the district to carry out this project. It should be considered at least a three-year project.

Specific Suggestion 1: The experimental district's curriculum and staff members need to compliment the culture and environment of the area.

Decision-making needs to follow a route from grass roots to administration. Emphasis needs to be placed on communication and joint planning between local community school committees and the educational staff. The following guidelines are meant to be of assistance to the school board and administrators.

1. Training in group decision-making should be provided if perceived as needed by the group. Care should be taken to wait long enough for a decision-making process to develop naturally before suggesting training. Some groups make decisions much faster than others.

Intervention too early may interrupt a natural process. The facilitator here should be a Native or depend upon a Native for guidance.

2. After the goals are set, regularly scheduled meetings should continue to be held to discuss future as well as present school operations.

3. Curriculum should be developed by an expert in this area based on the goals set and decisions made at the original goal setting meetings. This curriculum should be sent back to these groups for approval or for changes.

4. A search should be made within the district for community people who are expert in some portion of the curriculum and can teach these courses in the schools. These experts should receive training in instructional skills. An initial survey could be made while the original survey of interest was being made. It will probably be more complete and specific at this point.

5. Administrative procedures for accomplishing the goals should be worked out by the administrative staff based on input from the community groups and subject to their approval.

Specific Suggestion 2: Facilitate community involvement in the educational plans of the district.

During the goal setting meetings consideration should be given to the needs and desires of community members other than secondary school students. Adult basic education and community education funds combined with regular funds could, combined, provide enough money to offer unique and useful programs for all age levels in each village. This type of

program would also justify building a more complete facility because it would be better utilized than a single purpose high school building.

Specific Suggestion 3: Gain the support of the governmental units capable of making program changes available.

The emphasis should be on "How can we convince the legislators of the value of our program in order to obtain the support of the State Legislature?" rather than on "What do we have to include in our program to gain their support?" The experimental district will already have the support of the State Department of Education.

Specific Suggestion 4: A central support service needs to be available to all districts to act as a clearing house and dissemination center for exemplary program ideas and agency referral.

A program planning, evaluation and dissemination center should be established as a division of the Alaska State Department of Education. The planning and dissemination portions of this center are being implemented in 1977 (Luther, 1977). Specifically it will help the experimental district with evaluation. Generally it should assist education specialists in the development and use of processes that will result in the development of successful programs in districts. It should assist education specialists in the development and use of a process that will result in the development of successful programs by:

1. developing guidelines or criteria that describe high quality programs;
2. developing a verification or validation document based on these criteria;

3. assisting in the utilization of the documents in identifying promising practices or the exemplary status of programs;
4. assisting in writing and dissemination descriptions of model programs;
5. assisting in designing processes for adopting or adapting model programs;
6. performing a facilitator and support function for programs seeking national validation;
7. training personnel in the districts to do internal formative evaluations of programs implemented by the districts;
8. performing external summative evaluations of programs implemented by the districts; and
9. performing a formative and summative evaluation of the decision-making process in the experimental district. (See recommendation 2 for methodology.)

Recommendation 2: The process used to create change in the experimental district should be the subject of evaluation research.

Emphasis in this formative (to give feedback during the process) and summative (to evaluate the result at the end of the project) evaluation will be on the process of managing change, not on the innovation (curriculum and procedures developed). The suggested evaluation procedure is an ethnographic model. This model was chosen because it is inductive and does not make assumptions about the types of answers it should find. For the same reasons given in the section on developing the experimental district the procedures suggested here are tentative. They will change as the process of decision-making changes.

1. Evaluation techniques such as participant observation field work used in anthropological studies will be used. Due to the size of the project an evaluation team with four to five members probably will be

needed.

- a) The evaluators will meet with the State Department facilitators, school board and administration when they first meet to determine interest and acceptance of the idea. At this time general purposes and questions to be asked during the evaluation will be determined.
- b) The observers - evaluators will observe in a variety of settings. He/she will also observe his/her own interactions with people in the communities. Examples of settings to be observed are any community school committee meetings; school staff meetings; training sessions held in decision-making, for instance, and social functions related to the school. The observers should keep complete field notes on all processes, in and out of the meetings. The advantage of this procedure is to get at the fine points of what is happening by allowing time for issues to emerge that cannot be seen ahead of time. For example, the evaluator may sense some dissatisfaction in the meetings. It may become clear that the dissatisfaction is with the role of the administrator but specific problems do not come out into the open.
- c) The observers - evaluators will develop some other technique to gather further data on issues that develop. Using the above example he/she might develop a questionnaire or interview schedule, to substantiate the observations.

2. Data should be analyzed and organized inductively by the entire team rather than by individual evaluators. The final report may

be more useful to the State Department for dissemination to other districts (if this decision is made) if the report is presented in some manner in addition to a written report. A film, or slide tape presentation are suggestions.

Evaluators must be themselves skilled in interpersonal relations which includes an understanding of the roles that people assume in groups so that these interactions can be recorded. They must also be skilled in cross cultural communication skills as well as familiar with the culture of the area.

APPENDIX : REAA SURVEY QUESTIONNAIRES

The following questions were used to make up the questionnaires sent to REAA superintendents and chairpersons in June 1976, with the accompanying letter. The codes in the upper right hand corner of each page indicate who was asked to respond to the question.

Question Code

S - Superintendent

C - Chairperson of REAA Board

M - Member of REAA Board (to be answered individually)

B - Board (to be answered by the REAA Board as a whole)



UNIVERSITY OF ALASKA

FAIRBANKS, ALASKA 99701

June 13, 1977

Dear Superintendent/REAA School Board Chairperson:

You will remember from previous correspondence, The Center for Northern Educational Research (CNER) is doing a study to follow-up the effects of SB35 and the creation of the REAA system. It has been one year since the REAA boards officially assumed control of education in their regions and we feel now is an appropriate time to reflect on this experience. I hope that the enclosed questionnaires will provide you and your board members with an opportunity to examine the progress and problems of the past year as well as supply us with information to form a statewide picture to be shared with all concerned.

Enclosed you will find three questionnaires:

- #1 A questionnaire for the Superintendent to fill out;
- #2 A questionnaire for the Board Chairperson to fill out (there are several opinion-type questions starred, where the chairperson may, if he/she wishes, consult with Board members);
- #3 A questionnaire in two parts for all REAA board members, (including the Chairperson), to be filled out at a board meeting. Part I includes five questions for each board member to fill out individually. Part II includes two questions that we would like the board as a whole to consider and respond to.

We have field-tested these forms in a draft version with one REAA district board and superintendent and have had them reviewed by staff of the Department of Education. Their comments were helpful in revising the questionnaires.

We have purposely kept the questions to be answered during a Board meeting at a minimum to take up as little meeting time as possible. From the field-test experience, it appears best to consider the questionnaire early in the agenda, when people are fresh. If, in your REAA, English is not the primary language of all members of your board, the Chairperson might wish to read the questions aloud and make provisions for recording responses.

The analysis of the responses we receive from each REAA will become part of a Center report, to be ready by late fall this year. CNER is cooperating with the Department of Education, the Department of Community

PLEASE REPLY BY AIRMAIL

and Regional Affairs, and several individuals (for example, Susan Horton and her study of Community School Committees) in writing this report in order to produce a comprehensive overview of the subject and to highlight areas in need of continued study.

No REAA will be quoted in the report by name but we will use comments, rather than just report numbers, to capture the differences among REAAs as well as the similarities. You will of course receive copies of the report when completed.

Once your REAA has completed all questionnaires, please feel free to discuss your responses with the Board and each other. You might wish to keep a copy of your responses for your own files--perhaps to do your own follow-up next year.

I would appreciate receiving the completed questionnaires by August 1. If you have any questions, please feel free to call or write to me, Ron Inouye or Frank Darnell at CNER.

Thank you in advance for your cooperation.

Sincerely,

Kathryn A. Hecht, Ed.D.
Associate Professor
Center for Northern
Educational Research
479-7173 or 479-7143

KAH:ds

Enclosures

1. How many people serve on your REAA Board? _____
 - a. Female _____ Male _____
 - b. Native _____ Non-Native _____
 - c. How many were previously members of the local Advisory Board to ASOSS? _____
 - d. How many were previously members of the local Advisory Board to BIA? _____
 - e. How many different communities do the Board members come from? _____
 - f. Does your Board have a student representative? Yes _____ No _____
 - If yes: Does the student have a vote? _____
 - If yes: How is the student chosen? _____
 - g. Does your Board have any associate members? Yes _____ No _____
 - If yes, please describe: _____

2. What is the current occupation of each member? (fill in number of each)

Clerical	Home-maker	Professional	Self employed	Skilled Laborer	Subsistance	Unskilled Laborer

3. Do you, the chairperson, sit on any other (non-REAA) community or statewide committees or advisory boards? Yes _____ No _____

If yes, please list:

If you are also chairperson of any of the above listed, please check (✓)

1. The location of REAA board meetings:

_____ varies

Comments: _____

_____ is always in the same place

Does cost effect this decision? Yes _____ No _____

2. What type of expenses or compensation, if any, is paid to REAA board members to attend meetings?

3. Which of the following, if any, affect public attendance at REAA Board meetings?

_____ Location: _____

_____ Issues to be discussed: (Do any particular topics draw high or low audiences?)

High: _____ Low: _____

_____ Other: _____

Estimate what proportion of business that comes before REAA Board originates with:

REAA Board Chairperson _____

Other Board Members _____

REAA Central Administration _____

REAA Principals and
Principal-Teachers _____

REAA Teachers _____

Community School Committees _____

Parents _____

Students _____

General Public _____

State Dept. of Education _____

State Dept. of Public Works _____

Other _____

_____ = 100%

Distribution of REAA Board Time by Subject

SUBJECT:	<u>Approximately</u> what proportion of Board time was spent on:*	<u>Ideally</u> what proportion of Board time should be spent on:*
Budget _____		
Curriculum _____		
Facilities planning _____		
Federal programs _____		
Federal regulations _____		
Operation & maintenance _____		
Personnel _____		
State regulations _____		
Student concerns _____		
Teacher negotiations _____		
Other: _____		

*This should include committee work

=100%

=100%

Comments:

Please check (✓) who usually makes decisions in the areas listed below. If decisions are made by more than one of the groups listed across the top, double check (✓✓) the group with primarily decision making responsibility.

DECISION MAKERS DECISION AREAS	REAA Board	District Administration	Community School Committees	Principal/Principal-Teachers	Teachers	Other (Specify)
-----------------------------------	------------	-------------------------	-----------------------------	------------------------------	----------	-----------------

Budget

--	--	--	--	--	--	--

Curriculum

Elementary

Course offerings
Course content
Text book selection

Secondary

Course offerings
Course content
Text book selection

Facilities

Scheduling
Construction plans

Federal Programs

Proposal initiation
Proposal approval
Program evaluation

Personnel

Hire/Fire

Administrators
Teachers
Other

Evaluate

Administrators
Teachers
Others

Student Affairs

Rights and responsibilities
Activities
Travel

Other

--	--	--	--	--	--	--

1. What training did your REAA Board members experience? -- Please briefly describe:

Topic (Example: teacher nego- tiation)	Group Providing Training	Location	No. of Board members from your REAA attending	Method			Evaluation		
				Con- ference	Work- shop	Visiting Expert	Excellent	Good	Poor

* 2 Can you identify training needs for your REAA Board that have been met and others which have not:

Met Training Needs	Unmet Training Needs

1. During your first year of operation, what types of assistance and in what areas has your REAA received from DOE (other than board training already noted)?

2. Has your REAA requested any type of assistance from DOE that has not been received? Yes _____ No _____

If yes, please explain:

3. Has your REAA received assistance (contracted or at no cost) from any other source than DOE? Yes _____ No _____

If yes, please list:

Type of Assistance	Group Providing	Satisfactory	
		Yes	No

*4. Are there any services currently unavailable that you feel your REAA needs now or in the future? Yes _____ No _____

If yes, please list:

- 1. How many CSCs are there in your REAA? _____
- 2. Of those, how many meet regularly? _____
- 3. Do you regularly receive minutes from these CSCs? Yes, from all _____
 Yes, from some _____
 No, from none _____
- 4. Do you send your REAA board meeting minutes to the CSCs? Yes _____ No _____

To anyone else in the communities? Yes _____ No _____

To whom?

- 5. Does your REAA have a written policy concerning the functions and duties of the CSCs? Yes _____ No _____

If yes, please attach.

- 6. Have training sessions been held for your CSCs? Yes, for all _____

If yes, please describe: Yes, for some _____

No, for none _____

- 7. Does your REAA Board receive much input from the CSCs? Yes, from all _____

If yes, or what types of issues and how? Yes, from some _____

No, from none _____

- * 8. Overall, how would you judge your relationships with the CSCs to have been this past year?

_____ excellent

Comments: _____

_____ fair

_____ poor

_____ hopeless

- * 9. Do you see a need for Community School Committees? Why or why not?

Does your REAA have a specific position, opinions or interests related to the below listed topics--if yes, please briefly describe. Positive as well as negative comments are encouraged.

BIA Schools

Bilingual/Bicultural programs

State regulations/hearings

Certification

Village high schools

Regional Resource Centers

Federal programs

Curriculum planning

Fiscal resources

Student travel

Board travel

Municipal Development

SB 35

Given your experience as superintendent, please think back on Senate Bill 35 and the new REAA system and list what you feel are:

(a) its most positive features

(b) things which need to be changed

Given the background discussions which led to SB 35 and considering the issues/problems which came up in your REAA this past year (since it was organized), which issues were:

(Please list up to three for each category where applicable)

anticipated/resolved:

- 1.
- 2.
- 3.

unanticipated/resolved

- 1.
- 2.
- 3.

anticipated/unresolved

- 1.
- 2.
- 3.

unanticipated/unresolved

- 1.
- 2.
- 3.

1. How effective do you feel SB 35 and the creation of REAAs have been in bringing local control of schools to rural Alaska?

2. Given your experience in local control of schools, has your interest in local government (municipal: borough or city):

_____ increased

_____ decreased

_____ stayed about the same

_____ no opinion

Please explain:

From your experience with the REAA Board, please describe two examples:

No.1 One where the Board acted effectively when confronted with a major problem or issue

and

No.2 One where the Board either did not act effectively or failed to take action when confronted with a major problem or issue

For each, describe:

(a) What conditions led up to this situation?

(b) What action was (or was not) taken?

(c) How did this effect the situation?

Example No. 1

(a)

(b)

(c)

Example No. 2

(a)

(b)

(c)

Given your experience as board members, please think back on Senate Bill 35 and the new REAA system and list what you feel are:

(a) its most positive features

(b) things which need to be changed

Is there anything else you would like to tell us?

After one year of operation as an REAA, what does your Board feel are its:

a. Most meaningful accomplishments

b. Most significant problems

Looking ahead, please list the high priority concerns of your REAA board for next year: (they need not be in order of importance)

ANALYSIS OF STATE BOARD OF
EDUCATION MINUTES: FY 1976-77
(July 1, 1975 - June 30, 1977)

State Board of Education minutes were analyzed for FY '76 (July 1975 through June 1976), the year of transition from the Alaska State Operated School System to the Regional Educational Attendance Area system, and for FY '77 (July 1976 through June 1977), the first year of REAA operation.

ANALYSIS PROCESS

Approved minutes of the State Board of Education for those two years were read and coded for issues directly relating to the REAAs. Issues arose in general discussions of the Board, by Board action, or as brought to the board by others in attendance. Visitors to meetings were an especially important source of REAA-related comments in FY '77, as Board practice, to be discussed below, had been modified during the previous year to encourage more interaction with local boards at the State Board Meetings.

The analysis process had several limitations. There was considerable latitude for judgment about what constituted an REAA issue. Topics concerning all districts in the state, rural districts generally, or a unique situation in only one REAA were not usually considered a REAA topic. The greatest difficulty came in separating issues generated by or particular to the creation of the REAAs from general issues affecting all districts, such as regulations and hearings, and from rural issues which affect some districts other than REAAs, such as construction, hootch, and financing small schools. Most of these latter were not counted and their inclusion would have greatly increased the number of times REAA-related topics were discussed.

Further, the coding system did not take into account the amount of time directed to an issue, only that it had come up during the meeting. Some issues, for example, were brought up by one person and dismissed quickly while other issues generated lengthy discussions involving several people.

Given these limitations, the data provided by the analysis of State Board minutes generated the following types of information: (1) it indicated gross trends about the types of REAA issues discussed and the frequency of discussion; and (2) it provided an historic source for the identification of direct comment on REAA issues of special interest.

TRENDS

As a gross measure of incidences of REAA-related topics, given the limitations mentioned above, 88 REAA-related discussions were recorded from the 17 meetings analyzed. Fifty-seven separate topics were identified, although later some were easily grouped with others to form larger categories. These figures seem to indicate a wide range of subjects and frequent discussion of REAA-related topics, which is supported by an actual reading of the contents of the minutes. Discussions appear rather evenly spaced across meetings, with only one meeting showing no discussion of a REAA topic.

The State Board met eight times each of the years under study, plus one special session in FY'76. The location of meetings was less centered in Anchorage and Juneau in FY'77 than in FY'76, as can be seen in the chart below.

Location of Board Meetings	
FY'76 (8 meetings and 1 special session) Juneau (4) Anchorage (3) Kodiak Sitka	FY'77 (8 meetings) Juneau (2) Anchorage Fairbanks Ketchikan Kodiak Kotzebue & Nome Seward

This shift in meeting locations away from Juneau and Anchorage appeared to be a direct result of a Board priority.

...at the July session of the State Board of Education, one of the priorities had been the Board's intention to get out and spend more time with the local boards. It had been decided that the first place to visit was to be the Northwest Arctic School District. [It was stated] that the Board feels very strongly that they want to assist local boards in every way, especially following their commitment to local control for the new districts. (9/76)

Although only three REAA communities were sites for Board meetings, visitors from many of the other REAAs showed up at meetings in nearby (in Alaska terms) locations. At least one visitor, a superintendent, commented favorably on this approach to meeting location:

[He] said that he appreciated seeing the Board in action and that they took the time to visit the outer districts so that the educators would have the opportunity to talk to them. He felt it a step in the right direction to get away from the urban centers and out into the rural areas. (9/76)

The three most frequently mentioned REAA issues differed by year as as noted below:

Most frequently mentioned REAA issues	
FY'76	FY'77
School Board Development Reports to the Board on REAA progress Regulations--waive or postpone for REAAs	Finance Lau Compliance BIA School Transfer

Local control as related to REAAs was mentioned less frequently than those above, but equally in both years. REAA/Department of Education (DOE) relations was an issue in both years. As a topic, appreciation to established districts for their help to the REAAs was recorded only in FY'76. Topics of recall statute and high school programs were noted only in FY'77. Most other issues surfaced only once.

REAA-RELATED COMMENTS

The following comments are quoted directly from the approved Board Minutes. Issues are presented here in approximately the order of frequency with which they occurred over the two year period except for those noted under "Other Issues." This is not necessarily the same order they might be in if importance rather than frequency had been the criteria.

REAA School Board Development/Training

For school board training, for the emerging districts \$373,000 was received. The boundary hearings, elections and regional resource centers planning will also be included in this amount. (7/75)

[Board member] felt it was very important that the State Department of Education assume the leadership role for developing a philosophy for school board training. It was requested that the Board receive a status report on school board training at each meeting. (7/75)

...providing assistance in planning programs for emerging and existing school districts ties in with decentralization of the unorganized borough schools activities. The Department also has a contract with NWREL to identify needs and suggest how the department can reorganize in order to respond to the kind of requests that will be coming from the new districts. (8/75)

Another concern is that after the initial school board training is completed, what assurances will they receive that assistance won't be dropped. (10/75)

...another area needing clarification is the term 'school board training' that has been used for activities relating to the decentralization....The Board felt that a position on school board training should be developed....It was determined that this should not be limited to just the REAA's, but should include other school boards as well. (12/75)

...Alaska Association of School Boards' training materials... are the same materials that he uses in training various school boards around the state, and that he will use with the REAA boards... the Association did increase its dues for this current year, and primarily in recognition of the fact that calls for assistance would go up with the emergence of the new districts. (1/76)

School board members and administrators around the state have been eager to help, and that is the only way a program like this [REAA school board development] can work. The department will coordinate others to go out and assist. (3/76)

[A REAA Superintendent] felt that the school district itself should be responsible for the training of new board members, calling upon the expertise of the older members, the State Board or the Department of Education. But to have this function totally sponsored and supported, with guidelines written by the Department, he felt, is a type of inbreeding. He felt that board members totally trained by the Department would mean the loss of some of the individual thinking, philosophies and differences of the districts. (12/76)

REAA Finance Problems

Senator—also stated that during the last session, the State Senate voted unanimously on the budget, which included the Intent authorizing the Department of Education to come in with supplemental appropriation requests. He felt it was not the intent of Senate Bill 35 to cut lunch programs, teacher aides, janitors, etc., but that it was realized that decentralizing the State Operated School System is going to cost more. (9/76)

...Superintendent of the— School District was concerned that he had not received procedures on how to follow up to the legislature on supplemental appropriations. (1/77)

...Superintendent of the— School District commented on HB 212, which would revise the foundation support program. He stated that his district is currently funded at 133-3/4% area differential, but there is a very strong possibility that they will be reduced to 112%. In past years, they have been adequately funded, and this cut will put them in severe financial difficulties. (5/77)

...Superintendent of the— School District added that his district will also suffer from the same cut in area differential. It was his feeling that the cost differential cutting has no data on which to base the change. (5/77)

President of ___ School Board expressed his concern over the high cost of insurance. (5/77)

President of the ___ School District expressed his concern over the high cost of utilities. His district is presently paying for many of the total community utility costs, while the school itself is using only a small percentage of this total. (5/77)

REAA/BIA Relations

[Board Member] commented that since Kotzebue was the first place that had the major takeover of the BIA school, it will set the tone for the rest, and the success or failure of what happens in Kotzebue will cause other areas to question whether they wish to join the REAAs, in view of the cut-backs. (9/76)

[The Commissioner] responded that the Constitution of the State of Alaska states that there shall be one system of education within the state. It is the policy of the Department that if a new district wants to take over a BIA school, it is their decision along with the community that is affected. (12/76)

[Board Member] stated that during his time on the State Board it has been understood by the Department, the State Board and the BIA, that these school buildings should meet state standards, but that transfers were not based solely on that fact. What is best educationally is the overriding factor. (12/76)

[Regional Director for the Bureau of Indian Affairs] explained the BIA's position. He stated that the people in the villages have expressed their concern regarding the funding, and their fear of possibly losing the programs that their children now benefit from...said that the Bureau would be unable to acknowledge the transfer of schools unless so requested by each individual village. (1/77)

Senator—discussed with the Board his concern about the transfer of the BIA schools to the REAAs. He commented that there are a number of schools which are presently under BIA jurisdiction that do not want to be transferred to the REAAs because they feel the level of funding for the REAAs is insufficient. He stated that unless the State Board and the Department of Education takes a leadership role by providing assistance through transition to the BIA schools that wish to turn over, he believed that the whole process would become extremely complicated. (1/77)

[The Commissioner] replied that even though last year the BIA had agreed to take students through the local boards, it was his understanding that the students' rights are protected, and there is nothing that can be done to prevent their attending Mt. Edgecumbe or any other school. The REAAs have the responsibility to provide a secondary education, but parents have the right to send their children where they feel they will receive the best education. (3/77)

Local Control and REAAs

[Telegram from REAA Board.] Our REAA strongly supports village based high schools but just as strongly opposes many of the proposed changes in the regulations ... and the process by which the hearing was publicly advertised. This REAA's opposition is focused on not recognizing the authority of the REAA and other local organizations to control the decision-making process regarding the developments and administration of local high schools. In the view of this REAA the proposed regulation changes circumvent the intent of SB 35. (3/76)

[Board Member] said that she thought that everyone across the country was watching how much control the state is going to have over these emerging REAAs because they are 100% funded. She expressed hope that it can be done with a minimum amount. (5/76)

[Board Member] commented that in reference to the new REAA Boards, if the people in the larger communities took as much interest in education as those in the REAAs, many of the problems would disappear. (5/76)

[Board Member] stated that the bulk of the people he has talked to don't understand the role of the local school board, and the role that the parent plays with the local board. He felt that many people are unaware that they can attend board meetings and don't understand how to change things that displease them. (6/76)

There is less state control on the new REAAs, than with the former State Operated School system. He [the Commissioner] said that every effort would be made to allow flexibility at the local level, and will treat the small rural school districts no differently than Anchorage, Fairbanks, Juneau or Nome. (9/76)

[Board Member] said that in regard to the Board's defining basic education, when local control was granted to the small district, it was felt that more was known at the local level as to what the needs were than any other level. These small districts are the ones that should be developing the policies through the community schools, getting response from the village people, bringing it to the State Board if necessary, and possibly to the legislature. She said that she felt the small villages need to decide what is basic. (9/76)

[REAA Board Member] commented on local control in the REAAs. He stated that under SOS, the districts had no control over the people or schools. He felt the best thing that ever could have happened is giving them local control, although he felt there is still too much federal and state intervention. (12/76)

REAA/DOE/OCR* :
Lau Compliance Plan

[DOE Staff Member] said that the Department of Education has offered to enter into voluntary negotiations with OCR, in behalf of the 21 REAAs, since their time and resources are limited. She pointed out that the overriding concern is to support the decision-making authority of the new REAA school boards. (5/76)

[Commissioner] felt that too much time had been spent on this subject, and if the districts were given the option of complying with the detailed requirements OCR is proposing, or losing federal funding, they would probably forego the federal monies. (5/77)

[Board Member] expressed his concern about the Civil Rights issue, and said that every action on the part of the State Board and the Department of Education indicates they are totally dedicated to trying to improve civil rights and bilingual and bicultural education. Mr. ___ also commented that the Department and the state's school districts were being 'shoved and pushed around' too much. (5/77)

[REAA Superintendent] opposed the plan and presented the endorsements of others in opposition. He stated that it exceeds the requirements of the Office for Civil Rights for a complicity plan and restricts the options available to local school boards in determining program alternatives for their students. Objections were made to the memorandum of agreement as being unfair to the districts. Mr. ___ feels that the Office for Civil Rights should deal directly with the individual school districts. (6/77)

REAA/DOE Relations

[Board Member] disagreed with pressing these regulations, or any form of them, on the local boards at this time. He said he thought that the Board had one primary responsibility to these local boards in the next year, and that is to establish trust. He expressed his concern that the new boards might feel that the State Board is taking away the powers that have just been given to them. (5/76)

[Superintendent] expressed his concern with the Department's reluctance to allow the new districts to handle their own affairs; the confusion regarding directives from the Department; the many problems associated with the certification of teachers; the deficit which faces them and the prospect of cutting services to the students. (9/76)

[REAA Board President] ...reiterated part of what Mr. ___ said regarding communications problems with the Department, and added that she felt many of the meetings involving the new districts were unnecessary and time-consuming. (9/76)

[REAA Superintendent]...came before the Board to express the feelings of their Board, that the Department's and the State Board of Education's assistance in the forming of the new districts had always been honest and sincere, even though the answers were not always what they wanted to hear. (12/76)

We [an REAA] have received assistance from so many people in the State Education Department and the State Board that it would take perhaps a whole page to list them. (12/76)

Other REAA-Related Issues

Recall

He asked that the State Board be cautious in approving the ___ School Board recall petition. It was his contention that when a board...could no longer make a decision without the fear of recall, it would take away any tool that might be there for better education in the district. (5/77)

The recall matter was discussed as to certain portions of the statute which may need to be altered, particularly as it applies to REAAs which differ from the cities and boroughs...Mr. [Board Member] expressed concern over the Board of Education being involved in the matter, rather than the Office of the Lieutenant Governor. (6/77)

Membership on the State Board of Education (SB124)

In his [Board Member] opinion, the wording of this bill could imply that the present State Board was not sensitive to education in the rural areas; that it could cause a polarization effect (urban vs. rural), and that it could be a self-defeating action. He objected, unless it could be shown that it would be beneficial to education in this state.

[Board Member] stated that it was her opinion that until last July when the AUBSD was dissolved and the new REAAs were formed, that the AUBSD Board had been in contact with the outlying areas to get their input about the implementation of the REAAs, and that now that there is no longer an AUBSD Board, the rural areas feel they don't have that same kind of input into the decisions that are being made by the State Board of Education. (3/77)

School Construction/Department of Public Works

[REAA Superintendent] was concerned about the amount of money that the Department of Public Works was supposedly going to take from their funding of construction to apply towards inspection service, review of schematic drawings, etc.,...there would be a lesser amount of funding left for construction. (1/77)

[Board Member] stated that the State Board has gone on record many times as trying to tighten up the type of structures that are being built in the rural areas. She felt that this was part of the purpose of the reorganization of the Department of Public Works, inasmuch as buildings that were designed for California will not be allowed to be built in the bush. (1/77)

Regional Government

During the last legislative session, several other agencies felt that perhaps the REAAs were a way to deliver services provided by the state to the Unorganized Borough....The concern of the Department of Community & Regional Affairs, is if the Unorganized Borough is split up into so many different districts in the creation of specific boards with perhaps different boundaries, there will be a great deal of confusion with the overlapping and conflicting jurisdiction. A task force was convened.... Basically, the proposals call for dividing the now existing Unorganized Borough using REAA boundaries, and when necessary, combining REAAs to coincide more with the Regional Native Associations. [DCRA Staff Member.] (1/77)

Village High Schools

[Rural resident] stated that he felt that in keeping the students in their villages for their high school education was important. He felt that if the students could be kept in their own village up to even the sophomore year, that this would provide a better education for them. He said he thought the Title money should continue and that one of his concerns was the continuation of the Native culture, such as the language and art. He commented that when he had gone to school, the students were reprimanded if they spoke the Eskimo language, whereas now, there is an attempt to teach it. (9/76)

[Rural resident] said that formerly, it was felt that an education was not necessary for people who remained in the villages.... (9/76)

[Rural resident] commented that it was important for the villages to keep the children at home--that they are too young at the age of 13 or 14 to leave the villages. (9/76)

Teachers/Curriculum

[REAA Superintendent] responded that their main problem has been with the certification of teachers. He felt one improvement had been that the teachers had to account to the school boards, and that they had become better as a result. He added, however, that they have not been able as yet to develop a curriculum committee that has representatives from the total region to work with. He hoped that the accreditation the Department is working on will give them some real help. (9/76)

Other Issues

Other issues directly concerned with the REAAs discussed in the State Board Minutes but not in this series of comments included:

- Many problems facing REAAs
- Vocational Education
- Federal Regulation/Funds
- Non-school Use of REAA Facilities
- Teacher Turnover
- Teacher Negotiations
- Teacher Transfers Among REAAs
- Student Representative on REAA Boards
- REAA Takeover of Boarding Home Program
- Military Base Schools
- Need for Legal Counsel
- Eligibility for Election to REAA Boards
- Proposed REAA Boundaries/Hearings
- Clearinghouse for REAA Superintendent Hire

Assistance Act Elementary and Secondary Education Act,
93-638 Johnson O'Malley Act Public Law 874 "mini-
Senate Bill 35 Hootch v. Alaska State-Operated School
Judicial District Hearings on Rules and Regulations for
-10 79 Statute 27 ESEA Title I Program Guide No.
Senate Bill No. 564 National Indian Youth Council v.

Law and Alaska Native Education

David H. Getches

education students, and special education students. A.S.
25 C.F.R. Sec. 33.4, as amended by 23 Fed. Reg. 7107
355 F. Supp. 716, 726 (D.N.M. 1973) Appeal
of B.I.A. 25 C.F.R. Sec. 333.2(c)(1)(ii) (now 25 C.F.R.
of education in the community.") Public Law 89-10;
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r the Administration of the Johnson O'Malley Act Public
parent advisory committees Education Amendments of
Brown v. Board of Education Bureau of Indian Affairs
stitutional Convention, Minutes of the Committee on Local
ACP Legal Defense and Educational Fund The Federal

Alaska Center for Northern Educational Research
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Board of Education "A Foundation For Alaska's Public
"mini-874" School District N. 3 v. Jorgenson 25 U.S.C.
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Law and Alaska Native Education

**The Influence of Federal and State Legislation
upon Education of Rural Alaska Natives**

by

David H. Getches

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About the Author

Attorney David H. Getches practices law in Colorado, with the firm of Getches and Greene, doing litigation, research and writing, consulting and teaching. His clients include Indian organizations, public interest groups, educational institutions, and governmental agencies. For the past nine years he has been heavily involved in advocacy and litigation on behalf of Indian individuals, tribes, and groups in several states.

Getches was instrumental in formation of the Native American Rights Fund (NARF), a nonprofit law firm providing legal representation of Indian tribes, groups, and individuals in matters of major significance. As the first director of NARF, from 1970 through 1973, he worked with an all-Indian committee in fund raising, administration, attorney and staff recruitment, and supervision of litigation. Presently he is an attorney of counsel to NARF.

From 1968 through 1970 Getches was co-director of the Escondido office of the California Indian Legal Services. In 1967-68 Getches was an attorney with Luce, Forward, Hamilton & Scripps of San Diego, California

Getches has been a visiting lecturer and instructor on Indian law at the University of Colorado School of Law for the past three years. He has lectured and taught at several other colleges and universities. He has served as a consultant to the American Indian Policy Review Commission, the Alaska Native Foundation, and a number of other groups. He is now a member of an editorial board revising Felix S. Cohen's *Handbook of Federal Indian Laws*.

Publications include:

Cases and Materials on Federal Indian Law (with

Charles F. Wilkinson and Daniel F. Rosenfelt) in progress;

A Primer on Laws Important to Alaska Native Education, Fairbanks: University of Alaska, Center for Northern Educational Research, December 1976;

"The North Slope Borough, Oil, and the Future of Alaska," 3 UCLA-Alaska L. Rev. 55 (1973);

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"Special Treatment of Cemeteries," 40 So. Cal. L. Rev. 716 (1967);

"The Ex-Convict's Right to Vote," 40 So. Cal. L. Rev. 148 (1966).

Getches is admitted to practice in Colorado, California, the District of Columbia, and before the United States Supreme Court. He is a 1964 graduate of Occidental College, Los Angeles, where he majored in political science. He obtained a Doctor of Jurisprudence degree in 1967 from the University of Southern California Law School where he was on the staff of the *Southern California Law Review*.

A native of Pennsylvania, Getches now maintains his residence in the mountains west of Boulder, Colorado. He and his wife, Ann, have one son and twin daughters.

E. Dean Coon
Assistant Director
Center for Northern
Educational Research

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David H. Getches

Boulder, Colorado

Introduction

Rural Alaska is in an era of change in the education of its Native population. The state's unique physical environment and cultural characteristics of the rural population have presented special challenges to educators. Efforts of lawmakers to respond have had mixed results. Recently enacted laws hold some promise of dealing better with the problems than past attempts have, but solutions are far from complete.

The state includes a landmass about one fifth that of all the contiguous states. Problems of temperature extremes, small concentrations of population, rugged terrain, and distance exist nowhere else in the nation as they do in Alaska. Communication, transportation, and housing difficulties make education costlier and harder to administer. The strikingly different culture and economy of "bush" Alaska creates further complications. Isolated communities have survived in an inhospitable wilderness for centuries by heavy reliance on the animals, fish, and birds they hunted or vegetable resources they gathered in subsistence activities. In the past, a cash economy was superfluous to this survival-oriented society and only recently has begun to develop in most rural villages. Cultural values and practices in the bush differ tremendously from those of the rest of the United States and the western world.

Education must walk a fine line if it is to be nondestructive of the Native culture while still meeting the needs to develop basic skills and prepare the next generation of Native Alaskans for their inevitable contacts and dealings with the western world. School systems developed for the physical circumstances, cultural values, and economic needs of the continental United States simply have not been transplanted successfully to rural Alaska. Early concerns with developing a system of education to reach rural communities have changed to a current concern for the right system. The most notable change in approach has been involvement of Native people in the process.

Lawmakers have grappled ineptly with rural Alaska's education problems. Some very recent developments hold out hope for improvements, but ignore some lessons of the past and leave unrectified some of the accidents of the past. For instance, an anomalous, much criticized tripartite system remains in which three distinct governments—federal, state, and local—deliver educational services. A new state law, "S.B. 35," commands abrupt shifts in decision making from a centrally based state agency to regional boards. Proponents of "local control" of education are heartened, but the law stops short of the measure of autonomy embodied in the state's constitution and statutes for delivery of education through municipal governments. Municipal school districts remain a separate and parallel delivery system, the use of which has not been fully developed in the bush. Alaska's long-standing commitment to provide education to all children of the state continues to be met only by the presence of a third parallel system, independent of state authorities—the Bureau of Indian Affairs (BIA) schools.

This paper reviews the laws which have shaped Alaska's education systems and discusses how those which now are in force operate in rural Alaska.¹ The most important of the currently applicable laws are commented upon. It is hoped that a better understanding of the mechanisms which exist for educating Native children of rural Alaska will be promoted and that weakness in the legal structure underlying those mechanisms can be identified by administrators, policy makers, and legislators.

1. An important part of rural education in Alaska concerns the military "on-base" schools. This paper focuses on Native education and does not discuss the "on-base" schools because their use in military enclaves has little effect on Native children.

History: Evolution of Alaska's Parallel Systems of Education

A. Pre-Statehood

When the United States purchased Alaska from Russia in 1867,² there were over 50 Russian-supported schools functioning.³ Most were provided by the Russian Orthodox Church. Russian schools gradually closed after the American purchase; there were 17 in 1887, eight in 1896, and the last one closed in 1916.⁴

The period between 1867 and 1884 was one of near total neglect of Alaska education by the United States.⁵ The few schools that functioned in Alaska during this time were mostly those of religious missionaries. The Presbyterian Church had mission schools for Indians at Sitka, Wrangell, and other places in Southeastern Alaska. The Russian Orthodox Church maintained educational programs in the Aleutian Islands, Southwestern Alaska, and Sitka. And schools for Native children on the Pribilof Islands were maintained by the Alaska Commercial Company.⁶ It took many years to bring education back to the level at which it existed under the Russians.

Attempts were made to get the federal government to address the need for education in Alaska, but official reports reiterate the lack of success of such attempts.⁷ Recognizing an apparent lack of government interest in education, residents of Sitka, then the largest and most important city in Alaska, organized a city government and began their own school. It died out after only six years, however.⁸

In 1884, Congress passed Alaska's Organic Act.⁹ The act established civil government in the territory,

which had been without any civil law or devices for dispute resolution since the American purchase. Provision for education of children also was made. Under the act the Secretary of the Interior was charged with making "needful and proper provision for the education of the children of school age in the Territory of Alaska, without reference to race, until such time as permanent provision shall be made for the same. . . ."¹⁰ Although the act was temporary by its terms, Congress did not for many years legislate a mechanism for establishing schools other than those directly under the Secretary's control. In the meantime, the Secretary used his authority and annual appropriations to establish some schools, mostly by entering into contracts with churches and missionary societies. By this method a Moravian school was established at Bethel and schools were operated in the Yukon and Nushagak Valleys, Point Barrow, Point Hope, and Cape Prince of Wales. In addition, the government took over the operation of four existing Presbyterian schools and established new schools at Juneau, Sitka, and Unalaska.¹¹

Alliances between the government and the mission schools were facilitated through an official responsible for much of the missionary work of the Presbyterian Church, Dr. Sheldon Jackson, who was appointed General Agent for Education in the territory.¹² Jackson was a controversial figure in Alaska.¹³ He led a long and untiring fight for congressional attention to Alaska's education problems and remained active in Alaskan education for many years.¹⁴

Once the government agreed to pay a monthly tuition for Native children, contracting mission schools were especially tenacious of their students, even though there was no compulsory attendance law. An early case demonstrates the point. An Indian woman had orally agreed in 1883 to entrust her five-year-old child to the Presbyterian mission school in Sitka. Later the mission contracted with the

2. Treaty with Russia concerning the Cession of the Russian Possessions in North America, March 30, 1867, 15 Stat. 539.

3. H. Chevigny, *Russian America: The Great Alaska Venture, 1741-1867* at 247 (1965).

4. W. Marsh, *Alaska Department of Education, North to the Future* 9, (hereinafter cited as *North to the Future*).

5. The governor of Alaska, A. Swinford, reported in 1887:

It is a noticeable fact, in my opinion not altogether creditable to us, that the despotic government of Russia expends annually more money for the education and Christianization of the Native people of Alaska than does the professedly more free liberal, and enlightened, one to whose care and protection they were transferred twenty years ago.

Report of the Governor of Alaska to the Secretary of the Interior, 1888, 984.

6. C. Ray, *Alaska Native Education—An Historical Perspective*, Alaska Native Needs Assessment Part II, *Bureau of Indian Affairs, Office of Indian Education Programs, Research and Evaluation Report Series No. 18* at 1 (Albuquerque, n.d.) (hereinafter cited as *Ray*).

7. Report of the United States Commissioner of Education, 1881 at 451.

8. "Report on Education in Alaska 1886," S. Doc. No. 85, 49th Cong., 1st Sess. 20-21 (1886).

9. Act of May 17, 1884, c. 53, 23 Stat. 24.

10. *Id.* at 27-28.

11. *North to the Future*, *supra* at 17.

12. T. Hopkins, *The Federal Government as Agent of Cross-Cultural Education in Alaska*, in *Education in the North* (Darnell, ed.) at 56 (1972).

13. Compare J. Lazell, *Alaskan Apostle, the Life Story of Sheldon Jackson* 9 (1960) with J. Nichols, *Alaska, A History of Its Administration, Exploitation, and Industrial Development During Its First Half Century Under the Rule of the United States* 103-04, 167, 195 (1923).

14. The impressive accomplishments of Sheldon Jackson are chronicled in F. Darnell, *Alaska's Dual Federal-State School System: A History and Descriptive Analysis*, unpublished dissertation, 1970, (University of Alaska Library) 160-70 (hereinafter cited as *Darnell*).

government to teach Indian children for \$11.25 a month. In 1886 the mother attempted to get her child back, but the mission superintendent would not let her have the child. She sought a writ of habeas corpus in federal court, but it was denied and the oral relinquishment of the child was held to be binding and irrevocable. The court stated that "when sound morals, the good order and protection of civilized society demand it, the court has no alternative."¹⁵

Beginning in 1896, Congress showed a growing disposition away from use of denominational schools to educate Indians. In that year the Department of Interior Appropriations Act stated that it was the policy of the government to make no appropriation for Indian education in sectarian schools. A proviso was included to allow the Secretary to contract with such schools during 1897, but only where "nonsectarian schools can not be provided." No more than 50 percent of the 1895 contract amount could be so used.¹⁶ The next year's appropriation contained identical language and extended contracting authority another year, but at a rate of no more than 40 percent of the 1895 amount.¹⁷ The policy led to the phasing out of contract arrangements with mission schools.

A 1900 Act of Congress permitted communities having a population of 300 or more to incorporate as towns and to elect their own school boards to assume control of public school boards within them.¹⁸ This was in response to non-Native population growth during the gold rush. Many people felt that the federal funds being provided for education were inadequate. The effect of the act was of limited scope because so few communities were large enough to qualify.¹⁹ Those that did had rather generous budgets compared to the amounts available for federal schools.²⁰ It is significant, however, that the school board was given "exclusive supervision, management and control," and was funded directly by 50 percent of license fees paid under an earlier act²¹ by residents

and by persons and corporations for business carried on within the town.²²

In 1905, Congress dealt more comprehensively with the question of education in Alaska with passage of the Nelson Act.²³ The act made the territorial governor ex officio superintendent of public instruction, required establishment of public school districts in incorporated towns, and made provision for establishing school districts outside towns.²⁴ The 1900 Act had only permitted establishing schools. The Nelson Act said the town councils not only had power but it would "be their duty, in their respective towns to establish school districts, to provide the same with suitable schoolhouses, and to maintain public schools therein and to provide the necessary funds for the schools."²⁵ Once established, the schools were to be under the control of an elected board with power to employ teachers, maintain the school, and expend funds, except for construction and land, which was the prerogative of the town council. The act also allowed 12 or more adult citizens outside incorporated towns to petition the clerk of the U.S. district court to establish "a school district at any camp, village, or settlement." In order for the clerk to grant the petition there had to be at least "twenty resident white children between the ages of six and 20 years" in an area of no more than 40 square miles.²⁶ After being appointed initially, the district board was elected and had power to do everything necessary to run and maintain the school. Funds were made available to the districts by the governor but continued to be derived from one half of the business license fees collected in the incorporated areas. Once a Nelson Act school was created in a location, the federal Bureau of Education within the Interior Department was relieved of its responsibility there.

The schools set up under the Nelson Act were not for Alaska Natives. Section 7 stated:

That the schools specified and provided for this act shall be devoted to the education of white children and children of mixed blood who lead a civilized life. The education of the Eskimos and Indians in the district of Alaska shall remain under the direction and control of the Secretary of the Interior²⁷

The segregated nature of district schools apparently was firmly maintained for a while. It seems to have been grounded in a concern for racial and ethnic integrity rather than for the fiscal reason. Less than a year after the effective date of the Nelson Act six "mixed blood" children in Sitka sought and were

15. *In re Can-ah-couqua*, 29 F. 687, 690 (D. Alaska 1887).

16. Act of June 10, 1896, c. 398, § 1, 29 Stat. 345. For a discussion of the propriety of using Indian trust funds for sectarian schools, see *Quick Bear v. Leupp*, 210 U.S. 50 (1908).

17. Act of June 7, 1897, c. 3, § 1, 30 Stat. 79. The policy was restated in the 1917 Appropriations Act (Act of Mar. 2, 1917, c. 146, § 21, 39 Stat. 988) and was codified at 25 U.S.C. § 278. In 1968, the act was repealed and replaced with an act allowing use of Interior funds for education of Indians in sectarian vocational, technical and higher education institutions. 25 U.S.C. § 278a.

18. Act of June 6, 1900, c. 786, § 201-03, 31 Stat. 321, 521, *as amended*, 31 Stat. 1438.

19. Prior to 1905, only nine had incorporated under the act. (Juneau and Skagway in 1900; Ketchikan and Treadwell in 1901; Nome in 1902; Douglas, Eagle, Wrangell, and Valdez in 1903.) *North to the Future*, *supra* at 20.

20. Towns could receive \$15,000 a year for support of schools. The total available to towns equalled the amount appropriated for the rest of Alaska. *Id.*

21. Act of Mar. 3, 1899, c. 429, § 460, 30 Stat. 1336.

22. 31 Stat. at 521, *as amended*, 31 Stat. 1438. The amendment set aside license fees paid for doing business outside towns for the Secretary of the Interior to spend for school purposes in those areas.

23. Act of Jan. 27, 1905, c. 277, 33 Stat. 616.

24. *Id.* at 617.

25. *Id.*

26. *Id.* at 618.

27. *Id.* at 619.

denied admission to the Sitka public school. They then sued the district, asking the court to order them admitted as "civilized" mixed bloods.²⁸ The record showed nothing about the children that would create problems for the school, such as poor behavior or ill health. Their families were responsible people who participated in community life. However, the court seemed to attach great weight to the fact that the children lived in the Sitka Indian village and associated with others there. The court developed a test of what constituted the "civilized life":

[W]hether or not the persons in question have turned aside from old associations, former habits of life, and easier modes of existence; in other words have exchanged the old barbaric, uncivilized environment for one changed, new, and so different as to indicate an advanced and improved condition of mind, which desires and reaches out for something altogether distinct from and unlike the old life.²⁹

In rejecting the children's plea, the court considered that "[c]ivilization . . . includes . . . more than a prosperous business, a trade, a house, white man's clothes and membership in a church."³⁰ In 1912, Alaska was officially denominated a territory by Congress.³¹ Although the act gave Alaska a legislature, its powers were severely limited, specifically with respect to education.³² As if to spite Congress in protest for its stinginess with legislative powers, the territorial legislature enacted a uniform school act purporting to establish a school system throughout the state to assume education functions for all but Alaska Natives.³³ The act provided for a territorial board of education, a superintendent, and a means of financing schools earmarking a percentage of the territorial tax revenues for schools.³⁴

While the attempt at legislating a school system for Alaska was ultra vires under the act establishing the legislature, it was a potent expression of the determination of Alaskans to assume greater control of their own affairs, especially those related to education. It is not clear that either the futile attempts of the Alaska Territorial Legislature to override Congressional restrictions or memorials respectfully asking

for responsibility for education³⁵ actually motivated actions ultimately taken by Congress, however.

By the act of March 3, 1917, Congress empowered the territorial legislature "to establish and maintain schools for white and colored children and children of mixed blood who lead a civilized life."³⁶ Scattered school districts and attenuated responsibilities for education became unified under the territorial government—at least as to the education of non-Native students. The incorporated school districts kept much of their local control but became subject to a territorial department of education. Appropriations for schools were made by the legislature from territorial funds. The legislature took over from the Congress and the U.S. Bureau of Education the functions of establishing new schools and continuing old ones. The federal government remained solely responsible for Native education.

It seems that the primary impetus for the 1917 Act was another act the same year which effected prohibition in Alaska.³⁷ Because a major part of the budgets for Nelson Act schools had been from saloon licenses, revenues dried up along with the territory. An alternative for education funding had to be found and the shift to territorial responsibility was the answer.

Whether Congress would have bowed to Alaskan urgings for greater control of education in absence of the financial problems caused by prohibition is uncertain. Nevertheless, some control of education shifted to Alaska. The prematurely enacted Uniform School Act was lawfully reenacted in a modified form in 1917 by the territorial legislature.³⁸ With its enactment, the dual federal territorial school system began, continuing the racial segregation provided for in the bifurcated federal system under the Nelson Act.

Any lingering confusion over what would qualify a mixed-blood Native child as leading "a civilized life," entitling him or her to attend territorial schools should have been eliminated by the 1924 Citizenship Act³⁹ making Indians, including Alaska Natives, citizens. The Treaty of Cession from Russia⁴⁰ required the United States to naturalize all persons who remained in the territory, "with the exception of the uncivilized tribes." If the argument that "citizenship is tantamount to 'civilization,'" ⁴¹ were accepted, the only impediment to mixed bloods who wanted to enter territorial schools was removed. The education of Natives other than mixed bloods would still be under the federal government.

28. *Davis v. Sitka School Board*, 3 Alaska 481 (1908). It is interesting that counsel for the children was one William A. Kelly, who had been the superintendent of the Sitka Presbyterian Mission School against whom the habeas corpus proceeding in *In re Canah-couqua*, *supra*, was brought. For a period Kelly was Sitka District Superintendent for the Territorial Schools, also. North to the Future, *supra* at 18. The court indicated that efforts to gain admission to the school for the children in *Davis* "were not so much . . . those of the parents but those of Mr. Kelly" who had become interested because of his "peculiar field of labor among the native Alaskans." 3 Alaska at 489.

29. 3 Alaska at 488.

30. 3 Alaska at 491.

31. Act of Aug. 24, 1912, c. 387, 37 Stat. 512.

32. *Id.*

33. Ch. 74, [1915] Sess. Laws of Alaska, § 1.

34. *Id.* at § 2-29.

35. H. J. Memorial No. 12, Compiled Laws of Alaska, 1915 at 233-34 (1915).

36. Act of Mar. 3, 1917, c. 167, 41 Stat. 1131.

37. Act of Feb. 14, 1917, c. 53, 39 Stat. 903.

38. Ch. 64, [1917] Sess. Laws of Alaska.

39. 8 U.S.C. § 1401 (a)(2).

40. Treaty with Russia concerning the Cession of Russian Lands in North America, March 30, 1867, 15 Stat. 539.

41. *Cf. United States v. Lynch*, 7 Alaska 568, 572 (1927).

Alaska's racially segregated school system continued for many years as it was required to by law. However, strict racial barriers began to give way to practicality. Rather than insisting upon costly duplication of facilities in small villages, territorial schools often admitted Natives. Similarly, under rules applicable to federally run Native schools, the few whites who resided in almost totally Native villages were admitted when no territorial school was available.⁴² Deference to practicality was not universal, however, and dual, racially segregated facilities persisted in many places.⁴³ A general belief that "the highest good of both races [required] separate schools" predominated.⁴⁴

Acceptance of Native students in territorial schools remained difficult for many years. In 1926 a part Indian challenged as racially discriminatory an announced policy of admitting no children of Indian blood to the public school in Sitka. Prevailing law at the time found separate schools for children of different races to be constitutionally acceptable so long as they were on an equal plane with those maintained for the white race.⁴⁵ Accordingly, the school district claimed that the child's education was provided for in other schools maintained for Indians by the Secretary of the Interior. The court said that it could not determine whether the child was a full-blood Indian as contemplated by the Nelson Act and whether the Secretary did in fact maintain a school which was on an equal plane with territorial schools. Thus in Sing v. Sitka School Board, no decision was reached, but it was suggested that exclusion of the child from school if both of these conditions were not shown would be improper.⁴⁶

The right of part Indians to attend public school was bolstered by a court decision two years later. In Jones v. Ellis it was held that the right of mixed-blood children to attend the territorial schools in Ketchikan was equivalent to that of white children, so that the plaintiff could not be excluded to eliminate overcrowding simply because she was a mixed blood and had the alternative of attending the Indian school.⁴⁷ The fact that the district had chosen to retain four non-Native students who lived outside the

district, but for whom it received tuition payments pursuant to an act of the territorial legislature,⁴⁸ indicated the motive may not have been based entirely upon racial concerns.

To ease the financial problem and to help eliminate duplication of school facilities which existed in areas such as Sitka and Ketchikan where the Sing and Jones cases arose, Congress in 1930 authorized the Secretary to contract with school boards to educate "non-taxpaying Natives including those of mixed Native and white blood."⁴⁹ The act allowed payments up to the total cost of operating a separate Native school in the particular town and permitted the Secretary to lease government buildings to contracting school boards. This act should have been a significant step toward eliminating racial barriers. In many towns Natives were included in territorial schools, but funding was not sufficient to satisfy territorial officials and arrangements were made to transfer territorial schools with all Native enrollments to the Bureau of Indian Affairs.⁵⁰

The territorial legislature increased funding of schools under its jurisdiction in 1930, agreeing to provide between 70 and 80 percent of the costs (smaller schools received a larger percentage than larger schools).⁵¹

The practice of federal contracting with territorial schools for Native education responded to the consensus of observers that the separate school systems made little sense educationally or financially. Progress was slow, however, and it was many years before management of a significant number of federal schools was shifted to the territory.⁵² Between 1942 and 1949, however, some 19 schools were so transferred.⁵³ Federal officials had become concerned that their resources ought to be devoted to expanding services to communities with no schools. Duplication of facilities in several places was eliminated, freeing federal dollars to address unmet needs. Nevertheless, in 1950 there were 93 federal day schools and three boarding schools; and 30-40 communities and 1,800 children were still without any facilities at all.⁵⁴

A material inducement for territorial assumption of responsibility for educating Native children was the Johnson O'Malley Act of 1934.⁵⁵ A primary motivation for the act was an intent to provide

42. *Report of the Alaska Commissioner of Education, 1920*, 54 (1920). See 25 U.S.C. § 288 and 289 (1970) permitting enrollment of whites in Indian schools.

43. As late as 1930 at least 19 communities, many of them small villages, had separate, federally run Native schools and territorial schools. *Dept. of the Interior, Annual Report of the Governor of Alaska to the Secretary of the Interior for Fiscal Year ended June 30, 1930*, 83, 86.

44. *Report of the Alaska Commissioner of Education, 1920*, 55 (1920).

45. *Plessy v. Ferguson*, 163 U.S. 537, 544 (1896) (dicta).

46. 7 Alaska 616, 624-25 (1927).

47. 8 Alaska 146 (1929). The holding was expanded upon in a 1943 opinion of the territorial attorney general which ruled that Native children could not be compelled to attend a Native school if there was a territorial school in the same community. 1943 Op. Alaska Atty. Gen. No. 38271-1943-803.

48. Ch. 95, [1929] Sess. Laws of Alaska.

49. Act of May 14, 1930, ch. 273, 46 Stat. 279, 321.

50. *Report of the Alaska Commissioner of Education, 1935*, 40.

51. Ch. 119, [1931] Sess. Laws of Alaska.

52. For a comprehensive review of prestatehood proposals and policies concerning transfer of federal education functions from the BIA to the territory see Darnell, *supra* at 206-29.

53. Ray, *supra* (Appendix A) at 29. This is the same number of schools which had been transferred in the 1930's from the territory to the BIA because they were all Native schools. *Report of the Commissioner of Education, 1935*, 40.

54. *Id.* at 6, 27-28.

55. 25 U.S.C. § 452 (1970) (Act of April 16, 1934, c. 147, § 1, 48 Stat. 596, as amended 49 Stat. 1458).

means for transferring the education of Indian children from the federal government to state and local school systems.⁵⁶ The Secretary of the Interior was authorized to contract with states and territories, and later, political subdivisions, public and private institutions, and corporations,⁵⁷ for the education of Indians. Appropriations under the act were meager at first and contracts few. Although the legislature promptly authorized the Territorial Board of Administration to enter into contracts with the Secretary of the Interior⁵⁸ so that the territory could take advantage of the act, the first Johnson O'Malley contract was not entered into in Alaska until 1952.⁵⁹

A statement of Bureau of Indian Affairs policy in 1950 recommended use of Johnson O'Malley contracts to facilitate transfers of schools to the territory by providing support for the schools.⁶⁰ Which schools were to be transferred and when depended upon whether "Indians are ready" and whether "satisfactory arrangements" could be made with the territory.⁶¹

Readiness was apparently a condition that depended upon a determination by federal officials as to whether the transfer would be of "advantage to the Natives and with their concurrence."⁶²

Between 1951 and 1954, 27 more schools were transferred from federal to territorial control.⁶³ Then transfers were virtually halted until well after statehood because of the territory's anxiety over the costs involved.⁶⁴ A detailed analysis of projected costs and revenues for education in 1954 revealed that there were inadequate resources to continue takeovers of federal schools without "complete and continuing financial support [being] made available solely from federal sources."⁶⁵ This did not mesh with the Bureau of Indian Affairs' desire for phasing out its financial

responsibility for schools no longer operated by it. Territorial officials long had maintained that the federal government was responsible for educating Indian and Eskimo children.⁶⁶ And until statehood and the adoption of the Alaska Constitution they were correct as a matter of law.

B. Statehood and the Alaska Constitution

A constitutional convention called pursuant to an act of the Alaska Territorial Legislature⁶⁷ agreed on a constitution for the State of Alaska on February 5, 1956. The constitution was approved by the voters of Alaska on April 24 and became operative January 3, 1959,⁶⁸ after passage of the Statehood Act by Congress and proclamation by the president. The constitution included a strong statement committing the state to full responsibility for the education of all children:

The legislature shall by general law establish and maintain a system of public schools open to all children of the State⁶⁹

This replaced the permissive language of the 1917 act which "empowered" the territorial legislature to establish schools with mandatory language requiring the legislature to establish a public school system.

The Alaska Supreme Court has called the new provision a "constitutional mandate for pervasive state authority in the field of education."⁷⁰ The phrase "open to all children of the State," "guarantees all children of Alaska a right to public education."⁷¹ The unequivocal words in the constitution theoretically should have ended the dichotomy between schools for "white and colored children and children of mixed blood who lead a civilized life" on one hand, and Native children on the other. In practice the dual system continues today.

Notwithstanding the mandate in the new constitution, there was no major change in statutory law or in practice relative to rural education for several years after statehood. Most of the territorial school laws remained in effect, including a definition of "public schools" which excluded "schools for Alaska Natives under the control of the federal government and administered and supervised through the Bureau of Indian Affairs."⁷² An act creating nine boroughs with local education functions⁷³ resulted in merger of district schools and state-operated rural schools with-

56. NAACP Legal Defense and Educational Fund, *An Even Chance* 11-12 (1971) (hereinafter cited as *An Even Chance*). There was also concern that the presence of nontaxable Indian land within school districts should be compensated with federal aid. In that sense, Johnson O'Malley continued a policy begun in 1914, which allowed for tuition payments for Indian children in Public Schools. Act of Aug. 1, 1914, c. 222, 38 Stat. 582. The Alaskan situation did not fit well the in-lieu-of-taxes purpose of the tuition program or the regulations under it, however, because of the absence of property taxes and the fact that Native lands were not "trust lands" with title held by the government as were Indian lands in the states. See generally National Indian Education Association, *Study of Title II of P.L. 93-638*, prepared for the Bureau of Indian Affairs, 11-6 (1975) (hereinafter cited *Study of Title II*) for a comprehensive legislative history of the Johnson O'Malley Act.

57. Amendment added by Act of April 16, 1934, c. 147, 48 Stat. 596.

58. Ch. 85, [1935] Sess. Laws of Alaska.

59. *Study of Title II, supra* at 192.

60. Ray, *supra* (Appendix A) at 43.

61. *Id.*

62. *Id.* at 42.

63. *Id.* at 7.

64. *Id.* at 8. Only two schools were transferred from federal control between 1954 and 1967. (Tanana in 1958; Circle in 1959.)

65. *Id.* (Appendix D) at 76.

66. D. Dafoe, *Some Problems of Education of Native Peoples in Alaska*, 36 (1959).

67. Ch. 67, [1955] Sess. Laws of Alaska.

68. Act of July 7, 1958, Pub. L. No. 85-508, 72 Stat. 339.

69. Alaska Const. art VII, § 1.

70. *Macauley v. Hildebrand*, 491 P. 2d 120, 122 (Alaska, 1971).

71. *Breese v. Smith*, 501 P. 2d 159, 167 (Alaska, 1972).

72. *Alaska Stat.* § 14.6010(1) (1975), formerly A.C.L.A. § 37-1-3 (1949).

73. *Alaska Stat.* § 07.10.100-07.20.100 (1963).

in the boroughs into the borough system.⁷⁴ But there was no move toward consolidation of the dual state and federal systems for several years notwithstanding a need, generally acknowledged by educators, for merging rural schools under a state system.⁷⁵ It was widely understood that there would be no sudden state assumption of responsibility for federal schools in conformity with the requirements of the state constitution. Obedience to the constitution would have been a financial impossibility.

The first test of the state-federal relationship came after the issuance of bonds to build a new vocational school in 1960. The state, having no funds to operate the school which would be attended largely by Native students, asked the Bureau of Indian Affairs to pay for operations. But BIA was hesitant to do so because it had been left out of most of the planning and considered it essentially a state project. The questions raised by this incident about responsibility for planning and financing rural (i.e., primarily Native) education precipitated a meeting in Washington, D.C. between federal and state officials on March 1, 1962.⁷⁶

The Washington meeting resulted in a Memorandum of General Agreement between state and BIA officials.⁷⁷ The document stated an understanding that the state had primary responsibility for education of all children and that all schools in the state would be included in a single state system, but that because of the state's financial limitations, "Federal financial participation will remain essential for some time." There was mutual agreement that the state, aided by the federal government, should develop "with local participation" an overall education plan for transferring BIA-operated schools to state management and operation.⁷⁸ The Bureau's statement of intent carefully avoided a commitment either to continuing to operate schools or to turning them over to the state on any fixed schedule and merely pledged to "operate its schools or otherwise fulfill the commitments to the education of Alaskan Natives" consistent with the state education policy. The supplementary nature of BIA education activities was noted.

While the Statehood Act presumably relieved the Secretary of the Interior of the responsibility of educating Alaskans (which originated with the Organic Act⁷⁹ and was narrowed by other legislation to a duty only to educate Natives),⁸⁰ he still had, and continues to have, authority to spend monies appropriated for Indian education in Alaska under the general act charging him with the duty of expending funds

for education of Indians and other purposes.⁸¹ The strain which existing schools placed on the new state's budget precluded any real progress toward the goal of turning control of BIA schools over to the state. In order to meet serious needs to keep pace with increasing demands and to improve educational quality, BIA budgets and personnel for Alaska continued to increase, supported by annual congressional appropriation.

The greater ability of the state to shoulder financial burdens in education led to further transfer of BIA schools in 1967. Between 1967 and 1970, 28 schools were so transferred.⁸² Since then transfers have slowed; 44 day schools and one boarding school continue to be operated by BIA.⁸³ During the time transfers were being made, BIA was attempting to improve teacher-student ratios by adding new teachers and aides and upgrading physical facilities. Also the BIA has made efforts to increase local parent involvement in the schools through establishing advisory school boards and has attempted to address the need for more high schools. The BIA has been committed to making its system compatible with the developing statewide education policy.

Ultimate responsibility for education in Alaska resides in the state legislature under the constitution. But the drafters of the document clearly intended that eventual control would be in municipalities. A preference for maximum local self-government was expressed in the constitution,⁸⁴ and a unique system of local government was created by its provisions.⁸⁵ The constitutional convention was aware of many problems experienced by local governments elsewhere, such as the dissipation of local control and uncoordinated taxing power which occur when there are numerous, municipal governments providing special services and having boundaries which overlap with counties, cities, and each other. The delegates to the convention believed that a single system of municipal government with maximum sovereignty at the local level was desirable. Further, they knew that the system had to be flexible enough to fit the radically different local situations of their vast state-to-be and to adjust to changes which would be wrought by time in a rapidly growing place.⁸⁶

The Alaska Constitution embodied a strongly stated preference for dividing the state into local governments according to criteria which would reflect logically the broad functions and powers to be exer-

Mar. 3, 1917, c. 167, 41 Stat. 1131.

81. 25 U.S.C. § 13 (1970). It is clear that legislation and administration of programs for the benefit of Indians does not offend constitutional safeguards against racial classification. *E.g.*, *Morton v. Mancari*, 417 U.S. 535, 553 (1974).

82. Ray, *supra* (Appendix K) at 176.

83. Alaska Department of Education, 1975-76 Mini-Directory 29 (Feb. 1976).

84. Alaska Const. art. X, § 1.

85. Alaska Const. art. X, § 2-12.

86. Alaska Constitutional Convention, Minutes of the Committee on Local Government 1-3 (1955-56).

74. *Report of the Alaska Commissioner of Education, 1965*, 2.

75. Darnell, *supra* at 239.

76. Ray, *supra* at 8-9.

77. *Id.* (Appendix C) at 106-07.

78. *Id.* at 106.

79. Act of May 17, 1884, c. 53, 23 Stat. 27-28.

80. Act of Jan. 27, 1905, c. 277, 33 Stat. 619, Act of

cised and the ability of the constituents to act for their common interests. Article X, section 3 of the constitution states:

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, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible⁸⁷

To the extent that the state was not completely organized into boroughs it would be comprised of one or more "unorganized boroughs" in which local government functions would be performed by the legislature acting as a borough assembly.⁸⁸ Cities could be incorporated and would be part of the borough in which they were located.⁸⁹

In pursuit of the principles set out in the constitution, the legislature provided for the establishment of boroughs and cities with a high degree of locally exercisable powers. Boroughs are given area-wide powers throughout the incorporated territory, including in cities within them. One of the three mandatory areawide powers and duties to be exercised by every borough is education. "Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis."⁹⁰ All home-rule and first-class cities exercise the same power so long as they are not within a borough.⁹¹ A review of the state constitution, the implementing statutes, and available expressions of the intent behind them leads to the inescapable conclusion that operation of schools directly by the state is to be phased out in favor of municipal school districts.

C. The State Foundation Program

An important direction in Alaska education, consistent with a strong local government bent, is shown by the history of substantial state support of district schools. Shortly after statehood, the state board of education questioned the adequacy of the state support program which had been in effect since territorial days. The 1931 law providing that the

territory assume most of the costs in such schools had been modified somewhat,⁹² but the basic approach remained approximately the same. A report on a study by the Department of Education pointed out that merely paying a percentage of actual costs did not provide aid in proportion to needs.⁹³ The report recommended a foundation program under which the state would guarantee financing of the basic needs of local school districts, less a required local share based on available resources. The local share was to be made up (or exceeded) by local tax effort. Such a plan was enacted by the legislature in 1962⁹⁴ and became effective in 1964. The complicated formula in the 1962 statute redistributed state aid for education so that poorer districts (based on the size of the tax base) got more and richer districts got less aid.⁹⁵

As the 1962 act was amended, the concept remained.⁹⁶ Based on a study committee's report,⁹⁷ however, the 1970 legislature made some major changes in the act.⁹⁸ Briefly stated, the new program called for determination of the "basic need" of a district. The amount of state aid to be paid toward basic need was to be adjusted by an "equalized percentage," which was based upon the relative wealth of the district. "Basic need" does not necessarily reflect actual needs of a district. Rather it is an amount approaching the cost of education as set by the legislature.

Under the statute basic need is established as follows. The number of "instructional units" in a school is determined based on the number of children who, on the average, are enrolled (average daily membership or ADM). A schedule of instructional units by school size is included in the statute.⁹⁹ Instructional unit allotments may be increased by a factor which reflects greater costs of transportation and operations by reason of remoteness or size of

87. The provision if implemented in Alaska Stat. Title 29. Requirements for organized boroughs are set out at Alaska Stat. § 29.18.030 (1972).

88. Alaska Const. art. X, § 6. See Alaska Stat. § 29.03.010 (1972) which states that all areas not in an organized borough constitute a single unorganized borough. The legislature has never sat as the assembly for the unorganized borough.

89. Alaska Const. art. X, § 7.

90. Alaska Stat. § 29.33.050 (1972). The other mandatory powers and duties are assessment and collection of taxes and planning, platting, and zoning. Alaska Stat. § 29.33.030 and .070 (1972). Additional areawide powers are acquired by transfers from cities and by areawide elections, § 29.33.250, and certain other powers outside cities can be approved at incorporation or added later, § 29.38.010 and .020.

91. Alaska Stat. § 29.43.030 (1972).

92. Ch. 27, [1953] Sess. Laws of Alaska; Ch. 68 [1953] Sess. Laws of Alaska; Ch. 49, [1955] Sess. Laws of Alaska.

93. E. Lindman, Alaska State Board of Education, A Foundation for Alaska's Public Schools (Sept. 1961).

94. Ch. 164, [1962] Sess. Laws of Alaska.

95. State aid under the new act ranged from 59% to 100% of operating expenses. R. Guthrie, A Brief Historical Review of Alaska's School Foundation Program 10 (Table 2) (State of Alaska Legislative Finance Division, December 12, 1974).

96. Ch. 70, [1963] Sess. Laws of Alaska; Ch. 153, [1966] Sess. Laws of Alaska; Ch. 125, [1968] Sess. Laws of Alaska; Ch. 95, [1969] Sess. Laws of Alaska. The 1969 Act added special state aid for districts impacted by state activities in the form of reimbursement to districts having children whose parents live and/or work on state (tax-exempt) property. This "mini-874" program operates similar to the federal impact aid program under P.L. 874 discussed *infra* in part II A.

97. J. Peterson, Final Report Memo to members of the School Finance Advisory Council, 27 January, 1970, discussed in R. Guthrie, A Brief Historical Review of Alaska's School Foundation Program 13-15 (State of Alaska Legislative Finance Division, December 12, 1974).

98. Ch. 238, [1970] Sess. Laws of Alaska.

99. Alaska Stat. § 14.17.041(1975). There are different schedules for schools under 1000 ADM, 1000 ADM or over, vocational education students, and special education students.

district.¹⁰⁰ The number of instructional units is multiplied by a "base instructional unit" (dollar amount) set from time to time by the legislature,¹⁰¹ to yield "basic need." State aid payments toward basic need are then adjusted for variations in district wealth which is available to support education. This is done by determining the "equalized percentage" of costs to be supplied by the state.¹⁰² This currently results in a minimum of 95 percent of basic need being supplied by the state to each district, with poorer districts getting a greater percentage.¹⁰³

There have been discussions about increasing state support to 100 percent of basic need; already Alaska ranks second nationally in the percentage of revenues it provides from state sources.¹⁰⁴ Given the wide disparities in wealth among school districts and their greatly different needs, which are usually in inverse relationship to wealth (the most remote, rural areas have the highest costs but typically have a low tax base), substantial state aid is necessarily the backbone of Alaska rural education in the public schools.

School districts exist in Alaska only under municipalities having education functions. Most of rural Alaska is in the unorganized borough, which is in no school district at all. Thus, the foundation program is of limited relevance except to the extent it encour-

ages or deters municipal incorporation.¹⁰⁵ Schools in the unorganized borough until 1976 were operated by the state directly with full funding by the legislature. The state-operated school system had always been considered an enigma by lawmakers and legislators and criticized by experts and lay observers alike. A frequent criticism was that it included far too much territory and had needs which were too divergent to be efficiently and effectively administered as a single service area. The control was said to be too remote from those whom it affected.

Since the early days of statehood a quest has continued for an acceptable and appropriate delivery system for educational services in rural Alaska. The first major effort was by the Governor's Committee on Education. The result of its work was a major report in 1963 entitled "An Overall Education Plan for Rural Alaska." The committee, which was chaired by Dr. Charles K. Ray of the University of Alaska, long a leader in Alaska education, recommended a system of elementary and junior high schools in villages with a minimum number of students (10 for elementary; 90 for junior high). For students from communities where 150 high-school-age children were not present, regional boarding high schools would be established with minimum enrollments of 300 students. The report emphasized the need to move toward a single school system under the state, but with continued federal financial support. High priority was placed on meeting needs of children for which no elementary or secondary education programs were available.¹⁰⁶ With some revisions, the plan has served to orient rural education. A change in direction from the concepts expressed in the plan was the result of recognition of long-standing Native sentiment favoring local, day high schools rather than regional boarding programs.¹⁰⁷ More recent trends are covered following the next section.

100. Alaska Stat. § 14.17.051 (1975).

101. Alaska Stat. § 14.17.056(a), (b) (1976). The base instructional unit for the fiscal year ending June 30, 1978 is \$27,500.00. In 1970 it was set at \$19,250.00 Ch. 238, [1970] Sess. Laws of Alaska. Increases were enacted in 1973, 1974, 1975, and 1976. Ch. 173 [1976] Sess. Laws of Alaska. Adjustments in the instructional unit allotment are provided for by statute in order to compensate for cost differences due to geography, climate, and distance from transportation facilities.

102. The formula is:

$$P_i = 1 - (1-K) \frac{V_i}{V_B} \text{ where}$$

P_i = state share; K = 95%; V_i = value of property in district per pupil; V_B = average value of property per pupil statewide. Alaska Stat § 14.17.021 (1976).

103. In 1975, the law was amended to increase state support from 90% to 93%, Ch. 81, [1975] Sess. Laws of Alaska. The percentage was increased to 95% in 1976. Ch. 173, [1976] Sess. Laws of Alaska.

104. R. Hartman & R. Reischauer, *Reforming School*

Finance 11 (1973).

105. The newly established regional education attendance areas are funded under a method which utilizes the foundation formula. Alaska Stat. § 14.08.121. See discussion *infra* in part III E.

106. Governor's Committee on Education, *An Overall Education Plan for Rural Alaska* (May 25, 1963, revised February 28, 1966), included in Ray, *supra* (Appendix E) at 78-101.

107. See discussion *infra* in part III.

Federal Programs of Financial Assistance

Since Alaska statehood a complex of munificent federal aid programs has developed. The purposes of most of the major programs and their importance to the state are discussed in this section. Continued federal support has been cited as the key to state assumption of education functions performed by BIA. Funds from federal programs related to the education of Native children have been especially critical for the state. Their availability has not been an important factor in promoting the transfer of educational responsibility to the state, however.

A. Impact Aid — P.L. 874

One of the greatest financial boons for state schools educating Native children has been federal impact aid under Public Law 81-874. This law was enacted in 1950 to assist local education agencies in operating and maintaining schools in areas affected by federal activities. The intent was to compensate communities for the effects of having real property removed from the local tax base because of the exempt nature of federally owned lands and sudden population increases due to federal activities. Financial assistance to school districts under P.L. 874 was according to a formula which placed federally connected children in categories for which rates of payments varied according to the degree of impact. The original impetus for the act came from the defense activities of the government. Because of areas of considerable military presence, the state has been relieved of much of the expense of operating on-base schools by aid under P.L. 874. At first Indians were excluded from being counted to determine the amount of federal assistance to which a district was entitled.¹⁰⁸ But in 1953 the law was amended to include Indians, reflecting the fact that most Indian lands are held by the government in trust for tribes or individual Indians and consequently are tax-exempt.¹⁰⁹

P.L. 874 places children in two categories: category A—those who reside on federal property and have a parent employed on federal property; and category B—those who either reside on federal property or have a parent employed on federal property. For children in the first category the government pays the "local contribution rate" (an amount based on comparable districts' expenditures).¹¹⁰ For chil-

dren in the latter class, the government pays one half the local contribution rate.¹¹²

The 1953 changes which included Indians under the act left some ambiguities because a state's governor was to choose whether Indians would be counted for the act. Whether the choice to count Indians for P.L. 874 purposes excluded the state from funding under the Johnson O'Malley Act (JOM) was unclear, although many states interpreted the legislation as having that effect.¹¹³ The uncertainty was resolved by a further amendment in 1958.¹¹⁴ The amendment indicated that payments to school districts under provisions of JOM would not be deducted from P.L. 874 payments and any exclusion of Indians was removed. This in turn led to a change in the JOM regulations so that in districts eligible for P.L. 874 aid, use of JOM funds would be limited to supplemental aid rather than basic support of the districts in most circumstances.¹¹⁵ This was the first clear articulation that JOM, unlike impact aid, could not be used for core expenditures of a school such as salaries, transportation, upkeep, and other things normally considered basic support. The limitation to use for supplemental purposes is important in most programs of federal assistance to education with the notable exception of P.L. 874 impact aid, which is not so restricted in its use.

A special exception in the impact aid act, created by the Alaska Omnibus Act shortly after statehood, gives the U.S. Commissioner of Education discretion to determine local contribution rates where a state agency is the local educational agency for a substantial proportion of the land in the state which is unorganized territory.¹¹⁶ This provision applies

state, but not less than one half the statewide or national average per pupil expenditure, whichever is greater, and not more than 100% of the statewide average.

^{112.} *Id.*

^{113.} Study of Title II, *supra* at 72-78.

^{114.} Act of Aug. 12, 1958, P.L. 87-344, 27 Stat. 559. The act also had been amended in 1956. Act of Aug. 3, 1956, c. 915, 70 Stat. 970.

^{115.} 25 C.F.R. § 33.4 (c), as amended 23 Fed. Reg. 7106 (1958). See *Natonabah v. Board of Education of Gallup-McKinley School District*, 355 F. Supp. 716, 726 (D.N.M. 1973).

^{116.} Act of June 25, 1959, P.L. 86-70, § 18(d)(1), 73 Stat. 141. The exception recognized Alaska's special needs. It goes beyond the underlying purpose of the act—relief from lost property taxes resulting from tax exempt status of federal lands. Native and federal lands in Alaska were exempt from tax under the Statehood Act, Act of July 7, 1958, P.L. 85-508, § 4, 72 Stat. 7999. To the extent this kept the legislature, acting as the assembly for the unorganized borough (*Alaska Const.* art. X, § 6), from instituting a local property tax scheme, it fits the act's rationale. But the exception was further justified in that finding comparable districts for setting local contribution rates would be nearly impossible because of special conditions which vary from place to place in Alaska.

108. 20 U.S.C. § 236 *et seq.* (1974).

109. The legislative history and intent of P.L. 874 is discussed in detail in Study of Title II, *supra* at 68-87.

110. Act of Aug. 8, 1953, c. 402, § 1, 67 Stat. 530.

111. 20 U.S.C. § 238 (1976 Supp.). The local contribution rate is normally the per pupil share of all local revenues in the second prior year in comparable school districts of the

only to Alaska, and under it the state has received a preferential rate for state-run schools in rural areas and on military bases of about twice that paid to city and borough school districts.¹¹⁷

The preferential rate has eased greatly the financial burdens on the state for running rural schools. But with the greater prosperity of the state in recent years has come a decision of the U.S. Commissioner of Education to phase out the preferential rate. Beginning in 1977 and for each successive year, the rate is to be diminished by 20 percent of the difference between the preferential rate and the normal rate, so that the state will receive only the normal rate in 1981 and later.¹¹⁸ The prospect of losing the P.L. 874 preferential rate had been suggested in letters to the state from the U.S. Office of Education in 1973 and 1974.¹¹⁹

As the preferential rate diminishes, so does a disincentive to the state's promoting creation of municipal school districts. So long as a school was in the state-operated system, it would have the bulk of its costs paid for by the federal government under P.L. 874. As a district school, payments under the foundation program from the state to the district would come from the state treasury and P.L. 874 funds would be made directly to the district (at the normal rates). The districts receive aid at the rate of approximately one half the state average per pupil expenditure (for the second prior year); the state has been receiving twice that much for schools maintained by it, or approximately 100 percent of the average statewide per pupil expenditure. As explained above, the state foundation program supports at least 95 percent of "basic need" of school districts.

Another possible disincentive to the state's urging creation of municipal districts was recently removed, but at the same time formation of municipal districts may have been made less attractive to local taxpayers. Until the Education Amendments of 1974, federal impact aid could not be counted in determining need for purposes of fixing the amount of state aid.¹²⁰ Thus, if a new district were created in Alaska,

the state would be paying at least 95 percent of "basic need," much of which formerly would have been reimbursed by the federal government. The district (not eligible for the preferential rate) would get about half of the federal payment formerly paid to the state but would not have to count it in figuring its need. This was like a bonus to the district. The amendments now allow consideration of these funds as a part of the equalization function of the foundation program.¹²¹ Only recently has Alaska's equalization formula been amended in response to this change in federal law to provide for a consideration of federal funds.¹²²

The importance of P.L. 874 impact aid has declined and will continue to do so as a result of the Alaska Native Claims Settlement Act.¹²³ Most of the lands where Natives now reside will pass into the private ownership of Native regional and village corporations created under the settlement act. Formerly nontaxable lands become taxable pursuant to that act after December 18, 1991, or when they are "developed or leased to third parties."¹²⁴ Even though the lands will technically be in private ownership, their tax-exempt status continues until that date or until they are developed or leased. With the tax exemption goes continued eligibility under P.L. 874.¹²⁵ But it is clear that Alaska's entitlement based on presence of Indian lands will gradually decrease over the next several years as lands become taxable, and will virtually cease in 1991.

B. Impact Aid (Construction) — P.L. 815

Another federal program similar in intent to P.L. 874 is Public Law 81-815.¹²⁶ It, too, was part of the package of "impact aid" enacted in 1950. The purpose of P.L. 815 was to provide financial assistance for construction of schools in federally impacted areas. Unlike P.L. 874, P.L. 815 allowed Indians to be counted from the start in determining a district's eligibility for aid. In practice, few were counted, however, as the act was administered to respond to impacts on communities from defense and military activities—the primary reason for its enactment.¹²⁷

Alaska's Indian and Native population has never accounted for much aid under P.L. 815. In fact,

117. 20 U.S.C. § 238(d)(3)(B)(iii) (1976 Supp.).

118. Letter from Nathaniel H. Cole, Deputy Commissioner, Alaska Department of Education, to David Getches dated April 12, 1976. The effect of the loss of preferential rate is cushioned somewhat by 1974 amendments to the act. 88 Stat. 522. The amendments include all Indian children in the category for which full payment of the local contribution rate is made, thus increasing payments for Indian parents who work off federal land. Another important change was to give priority to payments for Indian children when Congressional appropriations are inadequate to pay for entitlements nationally.

119. See Letter from T. H. Bell, U.S. Commissioner of Education to Marshall L. Lind, Commissioner of Education, Alaska Department of Education, dated July 9, 1974, contained in M. Lind, Alaska State Department of Education, SOS/BIA Schools Dissolution, Exh. 1 (n.d.) in which a phase-out of the preferential rate over 3 years was mandated. Later negotiations led to the five-year phase-out described in the text.

120. Carlsbad Union School Dist. v. Rafferty, 300 F. Supp. 434 (S.D. Cal. 1969); Shephard v. Godwin, 280 F. Supp. 869 (E.D. Va. 1968); Hergenrother v. Hayden, 295 F.

Supp. 251 (D. Kan. 1968); School Dist. No. 3 v. Jorgenson, 293 F. Supp. 849 (D.S.D. 1968).

121. 20 U.S.C. § 240(d)(2)(A) (1976 Supp.).

122. Alaska Stat. § 14.08.121(a) as amended by Ch. 90, [1977] Sess. Laws of Alaska, § 1(a)(i). See also Alaska Stat. § 14.17.061(c) (1974) which includes federal aid for the purpose of computing state supplemental aid.

123. 43 U.S.C. § 1601-1624 (1976 Supp.).

124. 43 U.S.C. § 1620(d) (1976 Supp.). The tax exemption of individual Indian allotments remaining in trust will not be affected. See 43 U.S.C. § 1617(a) (1976 Supp.); 25 U.S.C. § 334, 337 and Act of May 17, 1906, 34 Stat. 197.

125. 43 U.S.C. § 1620(e) (1976 Supp.).

126. 20 U.S.C. § 631-647 (1974), *revising and reenacting* Act of Sept. 23, 1950, c. 995, 64 Stat. 967.

127. Study of Title II, *supra* at 88.

between 1972 and 1974 the state received no funds at all under the act. But in fiscal year 1975, Alaska's State-Operated School System got \$2,835,000.00 to help defray costs of new schools in Togiak and Unalakleet.¹²⁸

The importance of P.L. 815 in Alaska and elsewhere in recent years has been minimal due to almost insignificant funding relative to the need. In response to the virtual obsolescence of P.L. 815 and the dire need for Indian school construction funds, Congress established a parallel program as a part of the Indian Self-Determination and Education Assistance Act of 1975.¹²⁹ The act authorizes funding of \$35 million a year for three years, at least 75 percent of which is to be used for Indian schools according to P.L. 815 eligibility requirements. However, up to 25 percent is earmarked for construction, acquisition, or renovation of "previously private schools" (such as mission schools) now under Indian control.¹³⁰

C. Johnson O'Malley Act

As mentioned above, the Johnson O'Malley Act¹³¹ has greatly aided rural Alaska schools and made feasible the transition from BIA to state control of many of them. The program has grown from one serving 56 eligible children in 1952 to a 14,880-student program in 1975.¹³² The act gives the Secretary of the Interior authority to contract with the state and with local agencies and corporations for the education of Indian children. Contracts under the act provided vitally needed funds for districts and for schools operated by the state in Alaska and elsewhere.

Use of JOM for operational expenses of an adequate basic school program may have been consistent with one of the act's original intents—to shift responsibility for educating Indian children from the federal government to the states.¹³³ Soon after the enactment of JOM, mention of using funds for "special services required for Indian children" crept into committee reports of hearings on appropriations. "The evolutionary process whereby states gradually would assume responsibility for the basic education of all Indian children because they were citizens was gaining momentum, and JOM funds were being pushed toward supplementary programs."¹³⁴ Although early uses of JOM were for "tuition money," the theory that it was a program for the special needs of Indian children actually began in the thirties.¹³⁵

The method of administering JOM aid differed tremendously from the expressions of legislators indicating that it should be for supplemental programs. The states had grown to expect federal support for Indians in public schools. Many years of tuition payments which were intended to compensate for loss of local taxes by local and state governments due to the presence of nontaxable land led to the assumption that JOM was playing the same role.¹³⁶

This purpose well fit Alaska's needs, and it would have been unrealistic to expect an overnight change to independence from federal aid.

Aid under the act might have been administered to shepherd the states into the business of educating Indians, culminating in full state support of educational programs for all children, with supplementary programs for Indians. That transition, however, was prolonged by regulations in 1951 and 1956 which required the presence of large blocks of untaxed land for a district to be eligible.¹³⁷ Although supplemental programs could be funded and a few were, the regulations provided a good indication of how the program in fact was administered. In many places, including Alaska, it was something of an Indian impact aid program.

With the inclusion of Indians among those qualifying for impact aid under P.L. 874 in 1958, much of the logic of using JOM for basic support disappeared. Accordingly, the JOM regulations were revised so that JOM spending for basic support would be limited to "meeting educational problems under extraordinary or exceptional circumstances" in districts eligible for P.L. 874 aid.¹³⁸ However, as recently as 1975, congressional hearings revealed that in spite of the 1958 regulations, most of the JOM funds nationally still were being used to satisfy the districts' basic needs.¹³⁹ While an increasing amount of JOM assistance was targeted by BIA for "special services," that term was loosely interpreted by school districts.¹⁴⁰

In Alaska JOM funds generally were contracted to the state. In 1970 the state and the BIA entered into an agreement constituting the JOM state plan. The plan anticipated that there would be annual contracts directly with the state. It recited that "extraordinary and exceptional circumstances currently exist in Alaska which can only be met through financial assistance from the Bureau of Indian Affairs," tracking the language of the regula-

128. 2(c) Report: Federal Programs and Alaska Natives—Task II—Federal Programs for Alaska Natives' Benefit (n.d.) (hereinafter cited as 2(c) Report).

129. 25 U.S.C. § 450 *et seq.* (1976 Supp.). Other provisions of the Indian Self-Determination and Education Assistance Act are discussed *infra* in Part II G.

130. 25 U.S.C. § 458(c) (1976 Supp.).

131. 25 U.S.C. § 452 (1970).

132. Study of Title II, *supra* at 192-93.

133. *Id.* at 16.

134. *Id.* at 17.

135. *Id.* at 19. Early regulations of the BIA did not

require such uses, however. *Id.* at 37.

136. *Id.* at 43.

137. *Id.* at 44.

138. *Id.* at 46.

139. *Id.* at 47, citing *Hearings on Rules and Regulations for the Administration of the Johnson O'Malley Act before the Subcomm. on Indian Affairs of the Senate Comm. on Interior and Insular Affairs*, 93d Cong., 2d Sess. 34 (1975).

140. *Senate Committee on Labor and Public Welfare, Indian Education: A National Tragedy—A National Challenge*, S. Rep. No. 91-501, 91st Cong., 1st Sess. 40 (1969) (hereinafter cited *A National Tragedy—A National Challenge*).

tions.¹⁴¹ Most of the aid which was provided under contracts pursuant to the agreement was used to support the state's boarding home program. That program was instituted by the State Board of Education in 1967. Under it, Native students from villages lacking high schools were brought into larger communities which had them. The students then lived with local families while attending school.¹⁴²

Use of JOM funds for the boarding home program was justified as proper by classifying the added costs of transportation and paying for students' room and board as special education needs over and above normal school costs.¹⁴³

Alaska's JOM expenditures for the boarding program were challenged by parents of several Native school children in an administrative appeal to the Secretary of the Interior.¹⁴⁴ It was argued that the greater cost of furnishing a secondary education was a basic cost of the school system as much as bus transportation is in other places where some children live close enough to a school to walk and others live farther away. But the Secretary held that the boarding program was not "basic" in that "it is not ordinarily furnished to students elsewhere in Alaska, i.e., those in local school districts. From that perspective the program may appear designed to meet the special needs of rural students."¹⁴⁵

The most glaring error in the Secretary of the Interior's decision upholding the Alaska plan is its failure to recognize that JOM is not intended for rural students, but for Indians. Non-Indians from rural areas attended the boarding home program at state expense, but JOM was used to pay nearly all the costs for similarly situated Natives. The test differentiating "basic" from "special" programs asks whether the services are "normally and ordinarily furnished to all students in one district or to students in all the districts in the state."¹⁴⁶

The standard assumes that to be basic, services must be furnished to all similarly situated students (e.g., those without access to high schools) regardless of whether they are Indian. The Secretary overlooked this necessary implication. Had he read the standard with it in mind, he would have had to find that the boarding program was basic because it was supplied

to non-Native students in remote areas at state expense. It should be immaterial that the boarding program is not available to a student in Anchorage who lives two blocks from a high school.

Because of the conclusion that the boarding program was not basic, the Secretary did not have to reach the question of whether its funding might be justified by "extraordinary" and "exceptional" circumstances. This would have been the most legitimate rationale for validating the boarding program, but the record did not support the requisite finding. The area office of BIA was chided for not insisting that the state justify the challenged uses of JOM in its application for aid and warned that "the Bureau in executing contracts providing reimbursement for basic, operational expenses should make detailed findings on this matter, and submit a statement of reasons therefore."¹⁴⁷ There appears from the decision some suggestions that had there been a sufficient showing under the "extraordinary and exceptional circumstances" exception, the boarding program might have been justified on that ground. Instead the decision went to great pains to find that the program was supplemental. This may be explained partly by the fact that the fiscal year for which use of JOM funds was challenged was then fast drawing to a close. Nearly \$4 million of JOM funds earmarked for the boarding programs had been spent or obligated.¹⁴⁸

It would have been disruptive, to say the least, for Interior to require immediate reallocation¹⁴⁹ after several years of unabashed BIA support of the program, let alone require repayment (which was not sought by the Native appellants). The decision was probably influenced, too, by indications from the state (which intervened in the appeal) that it would seek fully to fund the boarding program in 1975.¹⁵⁰ Furthermore, Interior must have been aware that administration of JOM funds was taking an important turn in the direction of Native control. The State Board of Education, just two months before Interior's decision on the administrative appeal, directed the State Department of Education to cease its role as sole administrator of the JOM program and called

147. Hootch administrative appeal, *supra*, Decision dated May 6, 1974 at 10.

148. Alaska was at the time contracting for about one fifth of the total JOM funds available nationally. 2(c) Report, *supra* "Johnson O'Malley Program" 1.

149. During pendency of the Hootch administrative appeal the Department of Interior had withheld \$1,156,250 which was due the state under the FY 1973 JOM contract.

150. The proponents of the administrative appeal were in the midst of litigation in which they were attacking the boarding programs as denying them equal educational opportunity and as violating the state constitutional mandate that schools be "open to all children of the state" (Alaska Const. art. VII, § 1). They sought provision of secondary schools within or nearby their home villages. Hootch vs. Alaska State-Operated School System, No. 72-2450, Superior Court of the State of Alaska Third Judicial District, on remand after appeal from partial summary judgment, 536 P. 2d 739 (Alaska, 1975). See discussion *infra* in Part III B.

141. "An Agreement Between the State of Alaska and the Bureau of Indian Affairs for the Administration of Johnson O'Malley Act Funds" (Alaska State Plan), 1970, included as Appendix B in Ray, *supra* at 14-49.

142. Alaska Department of Education, Coordinators' Guide to the Boarding Home Program (Feb., 1970), included as Appendix G in Ray, *supra* at 118-32.

143. 2(c) Report, "Johnson O'Malley Program" 1. See Natonabah v. Board of Education of Gallup-McKinley School Dist., *supra*.

144. Appeal and Petition of Molly Hootch, *et al.* re Administrative Determination of B.I.A. Juneau Area Office, August 15, 1973 (Dept. of Interior) (hereinafter cited as Hootch administrative appeal).

145. *Id.*, Decision dated May 6, 1974 at 7.

146. Natonabah v. Board of Education of Gallup-McKinley School Dist., *supra* at 726.

upon BIA to create a statewide JOM program review committee to maximize Native input. Such a group was formed, consisting of members chosen by each of the 12 regional corporations set up under the Alaska Native Claims Settlement Act. The committee began screening proposals and recommending which should be funded in 1973.¹⁵¹

One of the first acts of the committee was to indicate that it considered the boarding home program to be basic and not supplemental. In spite of its reservations about the program's educational value, the committee approved the use of JOM to fund it for the ensuing year (FY 1974). It opposed any use of JOM for the boarding program in FY 1975, however.¹⁵²

New JOM regulations were adopted and became effective on September 30, 1974. They were designed to correct past abuses and ambiguities and to signal some new directions in the program.¹⁵³ They emphasized special educational needs, parent participation and control, and accountability. The new regulations were developed in a series of meetings among BIA officials and numerous Indian interest organizations, including Alaska Native groups.¹⁵⁴ Special hearings were held soon after their adoption to ascertain the views of all interested parties, including Indians, tribes, organizations, educators, and school officials.¹⁵⁵ The hearings were open, public participatory meetings, unusual for congressional committees.

Some controversy necessarily had been sparked by the new regulations because they placed much of the control of JOM funds outside the customary channels—away from professional educators and into the hands of Indian parents. This understandably was threatening to many school officials who had used JOM funds with few impediments for many years. Indian Education Committees were to participate in planning programs, negotiating contracts, and evaluat-

ing and monitoring funded projects. The committees had full veto power over all supplemental programs and expenditures.¹⁵⁶

Also disturbing to some states and school districts was the tightening of restrictions on use of JOM for basic support found in the 1974 regulations. Only on a showing that minimum state standards cannot be satisfied after a reasonable local tax effort (at least equal to the state average) and use of all other sources of aid, including P.L. 874 and state aid, can a district receive JOM aid for basic operating needs. And only those districts with a 70 percent Indian enrollment are eligible in any event.¹⁵⁷

Alaska was not as concerned as many other states because it was on the road to conformity with the concepts embodied in the parent participation provisions and the restrictions on use of JOM for basic programs found in the 1974 regulations. There already was a statewide JOM review committee and the state and BIA were earnestly trying to make the JOM truly supplemental as the state's JOM program review committee was insisting it ought to be. The commitment was also in response to views from Native communities combined with the new federal policy of Indian self-determination. The movement was probably buoyed in part by the cautionary words in the decision on unsuccessful administrative appeal described above.

There are some parts of the 1974 regulations which were very important to Alaska. The manifestation of intent, JOM funds not be tied to public school districts but may be used in Indian community projects and by Indian corporations, makes it easier for village and regional corporations organized pursuant to the Alaska Native Claims Settlement Act and nonprofit Native corporations which exist at the state, regional, and community levels to contract for the funds.¹⁵⁸

Potentially of special importance to Alaska are the parts of the regulations requiring equalization of aid on a per capita basis among and within states.¹⁵⁹ Alaska, as the state with the single largest share of Johnson O'Malley (\$5,684,000 in fiscal 1975) had the most to lose under the equal distribution regulations.¹⁶⁰ Although there had been wide variations in per pupil allocations among contracts let by the BIA and among states, the amount of those contracts did not correlate with demonstrated needs or numbers of Indian children in the districts.¹⁶¹ Factors such as

151. 2(c) Report, *supra*, "Johnson O'Malley Program" at 1.

152. *Id.* The decision of the Hootch administrative appeal required that the supplemental nature of programs be justified each year and suggested that continuing a program for several years could make it basic. Hootch administrative appeal, Decision dated May 6, 1974 at 9. Thus, it may have been more difficult to justify the boarding program as a proper use of JOM funds in successive years, in any event.

153. 25 C.F.R. part 33 (now 25 C.F.R. part 273). Further, but not significant, revision of the regulations, and a recodification of existing regulations, became effective on December 4, 1975 as a result of the Indian Self-Determination and Education Assistance Act which made some changes in JOM, 40 Fed. Reg. 51303-10 (Nov. 4, 1975). Citations to the new, 1975 codification in the Code of Federal Regulations are given in the footnotes, along with an indication of any substantive change.

154. See *Alaska Federation of Natives, et. al., Proposed Johnson O'Malley Regulations*, February 28, 1974. This was the basic draft from which the finally promulgated regulations were taken.

155. *Hearings on Rules and Regulations for the Administration of the Johnson O'Malley Act before the Subcomm. on Interior and Insular Affairs*, 93d Cong., 2d Sess. (1975).

156. Under the present regulations the veto power extends to all programs, basic as well as supplemental. 25 C.F.R. § 273.16 (2) (revising 25 C.F.R. § 33.3(d)).

157. 25 C.F.R. § 273.13(b).

158. 25 C.F.R. § 33.2(b), (now 25 C.F.R. § 273.37).

159. 25 C.F.R. § Subsection (a) & (b) now provide for the phasing out of existing noncomplying operational support programs in FY 1977 and 1978 with a one-third reduction each year, and assurance that supplemental programs will be no less than 75% for FY 1977 of sums received in FY 1975.

160. Study of Title II, *supra* at 193.

161. *Id.* at 161-71.

past administrative practice, the applicant's sophistication, and relationships with BIA may have been influential in attracting better contracts. Thus, the regulations sought to insure greater fairness and equity.

The equalization provisions allow consideration of the varying costs of delivering education among states.¹⁶² But disparities in educational costs and in special cultural, linguistic, social, or educational needs which are unique to areas within a state may only be reflected in distribution among contractors if the commissioner makes an exception.¹⁶³ "Obviously, in a state such as Alaska the costs of educational services in Anchorage are considerably lower than on the North Slope."¹⁶⁴ If equalization is rigidly applied, much of the latitude and imagination that could come with control by a local Indian community would be lost. The local role in defining needs certainly becomes less relevant if there is a rigid per capita entitlement.

Congress recognized the problems which might be created for some areas and states and was aware that limited appropriations would be diluted to the point of ineffectiveness if equalization of JOM were strictly carried out. Congress included in its fiscal 1976 appropriations act a proviso that equalization cannot result in reductions for any state from the prior year's contract amount.¹⁶⁵ This is a stop-gap measure and cannot replace more adequate funding of the act.

In 1975, the Indian Self-Determination and Education Assistance Act was passed by Congress.¹⁶⁶ Title II of the Act amended the Johnson O'Malley Act for the first time since 1936.¹⁶⁷ States are required to submit an education plan with "objectives which adequately address the educational needs of the Indian . . . beneficiaries of the contract."¹⁶⁸ Besides requiring a plan, the legislation attempts to prevent public school districts from diverting JOM funds into general support by requiring that where non-Indian students participate in programs under the contract, money spent will be prorated to cover only participation of Indian students.¹⁶⁹ Every school district affected by a JOM contract must have an elected Indian parent committee which has authority to approve or reject programs.¹⁷⁰ No such committee is required if there is a majority of Indians on the

local school board; former JOM advisory boards can be the committee if the pertinent tribal governments (villages and regional and village corporations in Alaska) consent. Similarly, they may consent to use of the Indian Education Act committees for JOM purposes.¹⁷¹ Unlike the JOM committees called for by the act, these committees are selected not just by participating Indian parents, but by teachers, too, and they need to contain only a majority of Indian parents.¹⁷²

The Alaska Federation of Natives (AFN) (a statewide Native organization) in 1973 became the prime contractor with BIA for all JOM programs except within the Aleut region where the Bureau contracted directly with the Native corporations.¹⁷³ AFN and Aleut then contracted with local education agencies and Native profit or nonprofit corporations for special programs recommended by the local Indian education committees. AFN's operation of the program was under the statewide JOM review committee which reviewed program proposals submitted by prospective contractors.¹⁷⁴ For fiscal 1975, 120 proposals totalling \$11 million were submitted.¹⁷⁵ Of these, 40 were funded.¹⁷⁶ The proposals were evaluated based on need, direct benefits to Native students, and outreach to as many students as possible.¹⁷⁷

A question has been raised as to whether all villages have benefited under the act as administered by AFN because overlapping, although nonduplicative, programs were funded.¹⁷⁸ The problem was that many good programs addressing different objectives (e.g., a regionwide bilingual program, a village cultural heritage program, a multivillage course on the claims settlement act) may have been concentrated on some villages while missing others entirely.

A new JOM state plan is being developed by AFN which should lead to alleviation of problems of coordination and distribution consistent with the new regulations. The work is in progress with input coming from all of the 12 Native regions in Alaska.¹⁷⁹

AFN determined in 1976 that it would no longer be able to serve as the prime contractor for JOM in Alaska.¹⁸⁰ In fiscal 1977, the BIA contracted directly with entities which formerly would have been subcontractors. Heavy reliance for choice of programs to be funded remained upon the local Indian education committees.

162. 25 C.F.R. § 273.31(a). The need for more aid per student in some states was recognized in the regulations largely as the result of urgings by Indian and Alaska Native groups. *Alaska Federation of Natives, Proposed Johnson O'Malley Regulations, supra* at 13-14.

163. 25 C.F.R. § 273.31(b) & (c).

164. Study of Title II, *supra* at 168.

165. Act of Dec. 23, 1975, Pub. L. No. 94-165, 88 Stat. 985.

166. Act of Jan. 4, 1975, Pub. L. No. 93-638, 88 Stat. 2206; 25 U.S.C. § 450-458e (1976 Supp.).

167. Act of June 4, 1936, c. 490, 49 Stat. 1458.

168. *Id.* at § 455.

169. *Id.*

170. 25 U.S.C. § 456 (1976 Supp.).

171. *Id.*

172. See 20 U.S.C. § 241 dd(b)(2)(B)(ii) (1974).

173. 2(c) Report, *supra*, "Johnson O'Malley Program" at 3.

174. Study of Title II, *supra* at 193-94.

175. 2(c) Report, *supra*, "Johnson O'Malley Program" at 8.

176. Study of Title II, *supra* at 193.

177. *Id.* at 194.

178. *Id.* at 195.

179. *Id.* at 194.

180. See Minutes, Statewide Johnson O'Malley Native Education Committee, Jan. 27-28, 1976.

D. ESEA Title I

In 1965, Congress enacted the Elementary and Secondary Education Act (ESEA).¹⁸¹ The act was based on the well-established proposition that children of low-income families have special educational needs and that concentrations of such families have an impact on local education agencies. Grants under Title I of the act are for "meeting the special educational needs of educationally deprived children."¹⁸² The impoverished villages of Alaska with great numbers of children in need of compensatory education were especially appropriate targets for Title I aid.

A district's entitlement to funds under ESEA Title I is the number of children from low-income families, as determined by a statutory definition of poverty level, multiplied by 40 percent of the state's average per pupil expenditure.¹⁸³ The State Department of Education receives a lump sum payment from the U.S. Commissioner of Education, the size of which is fixed by these calculations. The state agency then approves and funds programs for educationally disadvantaged children which are proposed by local school districts and which meet the requirements of the act.¹⁸⁴ The state agency must then monitor the program and fiscal aspects of funded projects. School districts receiving Title I grants are required to use funds in programs which supplement, and not supplant, state and local expenditures.¹⁸⁵ Thus a district must use state and local funds in Title I schools in amounts per student which are comparable to such amounts in non-Title I schools. In other words, Title I uses are to be in addition to the normal school program and those which would not and could not be provided without federal assistance.

All children counted for Title I purposes do not participate in funded programs because local education agencies are to concentrate the monies on programs for a limited number of students in order to secure a strong and effective program. Local officials select as "target schools" for Title I services those which have the highest concentrations of eligible (poverty level) students.¹⁸⁶

Parent advisory councils for each district and each target school are required to be involved in

planning, implementing, and evaluating programs under the act and are entitled to access to information concerning programs and projects.¹⁸⁷ As the name indicates, the parent committee's role is advisory only and varies in importance from community to community.

Although the Title I legislation has been modified somewhat, the program has remained essentially the same. One notable change for Alaska occurred in 1966. The act was amended to add a provision for educationally deprived Indian children on Indian reservations served by BIA schools.¹⁸⁸ A special "set aside" was authorized for that purpose. The Bureau of Indian Affairs receives one percent of the Title I funding nationally which it then allocates to the various BIA area offices, including the Juneau Area Office which serves Alaska. The area office allocates funds within the state partly based on numbers of students, partly based on whether monies are needed for starting new projects. Some small schools get additional funds in recognition of their greater operating costs.¹⁸⁹

Alaska has received large grants for ESEA Title I purposes. In fiscal 1974, \$5,680,710 was allocated—\$2,898,078 to the State Department of Education and \$2,782,632 to the BIA.¹⁹⁰ This makes Title I the largest categorical program in the state. Higher incomes due to increased job opportunities and distributions to Native shareholders as a result of the Alaska Native Claims Settlement Act may reduce the number of students eligible for Title I.¹⁹¹ Title I programs in Alaska now necessarily exclude thousands of children, however. Presumably, Title I funds can be used for the benefit of eligible children whose needs are now unmet, and funded programs will continue to be of great importance in rural Alaskan education.

A pervasive problem in administration of Title I is that typically there is a long delay in receiving payments from the federal government. Congressional allocation occurs after programs are underway; it is even longer before funds are received. Programs often suffer because they must begin long before funds are available or even the amount of the grant is known.¹⁹² Assurance in the statute that funding will be at least 85 percent of the last year's allocation¹⁹³ is not a sufficient base for sound program planning. In Alaska, where supplies must be ordered as much as

181. Act of Apr. 11, 1965, Pub. L. No. 89-10, Title I, 79 Stat. 27; 20 U.S.C. § 241a *et seq.* (1976 Supp.).

182. 20 U.S.C. § 241a.

183. *Id.* at § 241c. The per pupil expenditure cannot be less than 80% or more than 120% of the average per pupil expenditure nationally. The formula was originally 50% of the product of the low-income factor times the per pupil expenditure. Adjustments in the low-income factor have qualified more people, however.

184. *Id.* at § 241e.

185. 20 U.S.C. § 241e(a)(3) (1974). Until a 1970 amendment (Act of Apr. 13, 1970, Pub. L. No. 91-230, Title I, 84 Stat. 124) the requirement was found in the guidelines. ESEA Title I Program Guide No. 44, Guideline 7.1 (Mar. 18, 1968).

186. 45 C.F.R. § 116.17 (d).

187. 20 U.S.C. § 241e(a)(14). This requirement was added to the statute in 1974. Act of Aug. 21, 1974, Pub. L. No. 93-380, Title I, 88 Stat. 496. It strengthened the requirement of parent advisory committees then in the regulations. 45 C.F.R. § 116.17(e).

188. Act of Nov. 3, 1966, Pub. L. No. 89-150, Title I, 80 Stat. 1191; 20 U.S.C. § 241c(a)(1)(C) (1974).

189. 2(c) Report, *supra*, "Title I, part A, ESEA," at 6.

190. *Id.*

191. *Id.* at 10-11.

192. Study of Title II, *supra* at 269.

193. 20 U.S.C. § 241h (1976 Supp.).

a year in advance, there is necessarily a crippling time lag caused by the delay.¹⁹⁴

Lack of federal controls combined with pressing local needs invites serious abuses of Title I funds. Use of them for general support, allowing them to displace (supplant) local expenditures, spending them for all children and not just eligible children, and failing to concentrate use of the funds on less than all eligible children are common.¹⁹⁵ In 1969, ESEA's prohibition of such abuses was strengthened.¹⁹⁶

Misuses of Title I funds in Alaska have been discovered. A 1971 Department of Health, Education and Welfare audit revealed use of Title I for basic support of the state-operated schools rather than solely for educationally disadvantaged children.¹⁹⁷ The State Department of Education was directed to end its unlawful practices, but a 1974 review found that a few projects in the state still were using Title I funds for general support.¹⁹⁸ There is no indication that similar investigations have been made of BIA Title I usage. It may be that since nearly every child is eligible, BIA administrators should not be held to the same standard. But the law does require concentration of the available funds for particular programs, and it appears that the BIA is complying.¹⁹⁹

Although the only detected misuses of Title I funds in Alaska have been minor, the state and BIA should be especially vigilant. The U.S. Office of Education has remedies,²⁰⁰ although it rarely exercises them. There is also the possibility of costly and time-consuming litigation which could force reallocation of funds, even retroactively.²⁰¹ But perhaps the greatest threat is from Congress, which has in the past expressed its displeasure over abuses in the program and the failure of the Office of Education to do anything about them.²⁰² In the future such displeasure could take the form of stricter and more complicated administrative requirements, smaller appropriations, or curtailment of the program. But the greatest reason for using the funds in conformity with the law is that they are held by the state and local education agencies as a trust, exclusively for poverty level children determined to be educationally disadvantaged.

E. ESEA — Other Titles

Two other sections of the ESEA have been important for the education of Natives in Alaska. Title II provides special grants for library resources, including audio-visual equipment and materials for schools getting Title I aid. The act was early amended to provide for participation by BIA schools.²⁰³ In 1972, the Indian Education Act²⁰⁴ made it possible for discretionary grants for library resources to be received under a new section.²⁰⁵

Title VII of the ESEA was added in 1968, providing aid to support bilingual programs for children of limited English-speaking ability.²⁰⁶ BIA schools and nonprofit or tribal reservation schools were included in the act in 1970.²⁰⁷ The congressional hearings make it clear that there is to be parental and tribal participation in the development and operation of projects under the act.²⁰⁸ There is no statutory requirement to this effect, but the regulations do require parent participation.²⁰⁹

It appears that programs under the ESEA are here to stay, at least for the foreseeable future. The Education Amendments of 1974 authorized the programs to continue to June 30, 1978, updated the Title I aid formula, and expanded the Title VII bilingual program, especially with respect to Indians.²¹⁰

F. Indian Education Act of 1972

In reaction to extensive documentation that education of Indians has been abysmally poor and that special federal programs in many cases have given short shrift to Indian students because of the way they are administered,²¹¹ the Indian Education Act was passed in 1972.²¹² The act amends P.L. 874 and ESEA, largely by adding special programs to benefit Indians to existing aid provisions.

Part A of the act amends P.L. 874 to authorize new grant funds for pilot programs, planning projects, and equipment to meet the special educational needs of Indian children.²¹³ Programs must be formulated in consultation with Indian parents, including holding

194. The Education Amendments of 1974 provide for research on the extent to which planning and programming are handicapped by late funding of Title I. Act of Aug. 21, 1974, Pub. L. No. 93-380, Title VIII, 88 Stat. 601.

195. See generally, An Even Chance, Ch. III, *supra*.

196. Act of Apr. 13, 1970, Pub. L. No. 91-230, Title I, 84 Stat. 124-26 (20 U.S.C. § 241e & f).

197. 2(c) Report, *supra*, "Title I, part A, ESEA" at 11.

198. *Id.*

199. In 1974 services were programmed for less than one half the eligible BIA students. By contrast the state programmed funds for all but about 10% of its students. Study of Title II, *supra* at 268-69.

200. 20 U.S.C. § 241j (1976 Supp.).

201. *Cf.*, *Natonabnah v. Board of Education of Gallup-McKinley School Dist.*, *supra*.

202. Study of Title II, *supra* at 101-02.

203. Act of Nov. 3, 1966, Pub. L. No. 89-150, Title II, 80 Stat. 1191.

204. Act of June 23, 1972, Pub. L. No. 92-318, Title IV, 86 Stat. 335. The act is discussed in more detail *infra* in Part II F.

205. 20 U.S.C. § 887c(e)(1)(C) (1974).

206. Act of Jan. 2, 1968, Pub. L. No. 90-247, Title VII, 81 Stat. 816, 20 U.S.C. § 880b, 880b-5 (1974).

207. Act of Apr. 13, 1970, Pub. L. No. 91-230, Title I, 84 Stat. 151; 20 U.S.C. § 880b-3a (1974).

208. 1970 U.S.C. Cong. & Admin. News 2803.

209. 45 C.F.R. § 123.16.

210. 20 U.S.C. § 880b-7-880b-13 (1976 Supp.).

211. See *A National Tragedy—A National Challenge*, *supra*.

212. Act of June 23, 1972, Pub. L. No. 92-318, Title IV, 86 Stat. 335; 20 U.S.C. § 241aa-241ff, 887c, 1119a, 1211a, 1221f-h (1974).

213. 20 U.S.C. § 241cc (1974).

public hearings and the participation and approval of a committee having a majority of Indian parents.²¹⁴ Ten percent of the funds for this section is earmarked for Indian-controlled schools.²¹⁵

The act creates an "entitlement" program. Thus, funds have been distributed within Alaska's state-operated school system among regions corresponding to the 12 regions under the Alaska Native Claims Settlement Act, roughly in proportion to numbers of eligible students.²¹⁶ The amount of the grant is determined by multiplying the number of eligible students by the statewide average of per pupil expenditures of local agencies combined with direct state expenditures.²¹⁷ In fiscal 1974, \$3,706,936 was paid under the act for programs in Alaska.²¹⁸ They included cultural heritage, land claims and bilingual-bicultural classes, and counseling services.²¹⁹ Within each region funds are allocated among schools by a regional parent advisory committee. The projects are designed at the local level by parent advisory committees for particular schools.²²⁰ Grants are funded rapidly. Proposals are generally submitted in March, a decision reached in June, and operations begun in September.²²¹

Part B of the Indian Education Act allows for discretionary grants under the ESEA for special projects to meet remedial education needs of Indian children.²²² The Alaska Native Education Board, a nonprofit corporation with representatives from the 12 regions, operated a bilingual-bicultural program under this part of the act in fiscal 1974 and 1975.²²³ The Cook Inlet Native Association was funded for a Native Cultural and Youth Center in 1975.²²⁴ Total funding of Part B in Alaska for fiscal 1974 programs was \$253,000.²²⁵

G. Indian Self-Determination and Education Assistance Act

The most recent federal legislation dealing with Indian education is the Indian Self-Determination and Education Assistance Act of 1975.²²⁶ The first title of the act is designed to strengthen tribal governments and permits them to contract to take over planning, conduct, or administration of nearly any service performed for Indians by the Bureau of Indian

Affairs or the Department of Health, Education, and Welfare. This would include assumption of BIA school operations or some part of them (e.g., administration, plant operation, and instruction services) and anything now covered by the Johnson O'Malley program.²²⁷ Because many Indian groups may not be equipped to assume this responsibility, the Secretary can make grants to assist them in designing programs to improve their capacity to enter into contracts with the federal government and generally to improve tribal government by developing and administering their own planning and other systems.²²⁸

Villages and regional and village corporations are eligible as "Indian tribes" for grants and contracts under this act.²²⁹ In addition, when the appropriate tribe requests, any Indian organization made up of persons democratically selected from the community to be served would be eligible to contract to take over all or part of BIA school operations or other such programs.²³⁰ Thus, village and regional nonprofit Native corporations and the Alaska Federation of Natives would qualify. Similarly, a school district board or board of a regional education attendance area, with a majority of Native members, can contract to perform education and other functions now under the BIA if the appropriate village or regional corporation requests. As yet, neither those Native groups defined as tribes nor those defined as Indian organizations have sought to take over BIA schools. If and when they do, the Secretary will be obligated to enter into a contract with them, absent an appropriate justification for his refusal.²³¹

The mechanisms provided under the act are adequate to pave the way to assumption of local Native control of BIA schools. BIA may see shifting management of its schools in Alaska to Natives as a step away from the ultimate goal of transferring all schools to the state, but the dominant federal policy embodied in the act is one of fostering self-determination. There should be no dilemma for federal officials, however, as a strong congressional policy eclipses the administrative goal of transferring BIA schools to the state. To be sure, contracting with Natives will mean continued federal expenditures for Alaska Native education which could be avoided by a state (or district) takeover of a BIA school. But this result is consistent with the act's purpose.

As discussed earlier, Title II of the Indian Self-Determination and Education Assistance Act also changed the manner in which JOM aid is administered.²³² Title II of the act also has an important provision for funding tribes and tribal organizations which operate previously private (i.e. mis-

214. *Id.* at § 241dd(b)(2)(B).

215. See 20 U.S.C. § 241bb(b) (1974), amended by Education Amendments of 1974 to increase percentage from 5 to 10 percent. 20 U.S.C. § 241bb(b) (1976 Supp.).

216. Study of Title II, *supra* at 269.

217. 20 U.S.C. § 241bb(a) (1976 Supp.).

218. 2(c) Report, *supra*, "Indian Education Act" at 5.

219. Study of Title II, *supra* at 269.

220. 2(c) Report, *supra*, "Indian Education Act" at 4.

221. *Id.* at 7.

222. 20 U.S.C. § 887c (1974, 197 Supp.).

223. 2(c) Report, *supra*, "Indian Education Act" at 7.

224. *Id.*

225. *Id.* at 5.

226. Act of Jan. 4, 1975, Pub. L. No. 93-638, 88 Stat. 2206; 25 U.S.C. § 450-458e (1976 Supp.).

227. 25 U.S.C. § 450f (1976 Supp.).

228. *Id.* at § 450h.

229. *Id.* at § 450b(b).

230. *Id.* at § 450b(c).

231. *Id.* at § 450f(a).

232. See 25 U.S.C. § 455-456 (1976 Supp.).

sion) schools.²³³ Special funds for construction and renovation of such schools are also available.²³⁴ The latter provisions are further incentives for Native communities in Alaska to assume control of their schools where they are now denominational schools.

States and individual school districts near Indian lands are eligible for funds (at least 75 percent of the total authorized) to construct or renovate schools for Indians.²³⁵ Before entering into any such contracts for construction of Indian schools, the Secretary must consult with the Indian education committee and relevant tribal governing bodies except where the school board is Indian controlled.²³⁶ Assistance in constructing and renovating schools in Indian communities should aid the process of transferring schools from BIA to state or district operation, as well as in promoting decentralization and the concept of community-based schools.

233. 25 U.S.C. § 458d (1976 Supp.).

234. *Id.* at § 458(c).

235. *Id.* at § 458(b).

236. *Id.* at § 458(e).

Localizing Education and Its Control

As education has spread to children in the most remote parts of the bush, Alaska Natives and educators alike have realized that the fact of education alone is no panacea. Indeed, recent history has shown that the staggering financial costs of Native education in Alaska may be matched by costs more difficult to measure: social and psychological damage, breakdown of family structure, and culture loss.

An appreciation that the social organization and culture of bush Alaska are as fragile as its rugged-appearing, but easily disturbed, environment is a new phenomenon. Superimposition of an education system that works in New York or Kansas may be more than ineffective: it can be damaging. Just as bulldozer tracks will turn into permanent gullies in tundra rather than disappear with a few seasons, the effects of an ill-conceived education system can cut deeply and irreparably into the core of Native life.

The existence of cultural difference was perceived by early educators, but their missionary zeal blinded them to the negative influences of some aspects of western education. However, some were able to adapt their approach to local needs because they were closer to the people they came to serve than to the structure under which they nominally operated. Then government assumed functions once performed by religious orders, and bureaucracy eventually overwhelmed individuality. Altruism was diluted, if not lost, as a motive. Certainly there have always been perceptive non-Native educators. But often it was futile for them to raise a distant voice against a powerful, impersonal government.

The outcry for rural Alaskans to gain control of their education has been primarily their own. By the 1950's, some of the negative fallout from an alien education system was apparent. A generation of Natives which was "fortunate" enough to have had many of its number "educated" protested a continuation of the same system for their children. For years, forward-looking educators had warned against perpetuating a culturally irrelevant system of Native education.²³⁷ Their unheeded advice has become wisdom.

A. Growing Opposition to Boarding Programs

Disruption of rural Alaska community life has been traced in part to the influence of the school. Education often required much of a village's youth to be taken away for months at a time. On their return,

237. See C. Ray, *A Program of Education for Alaska Natives* (1959); See also Summary of recommendations in this regard in Darnell, *supra* at 239, Cf., L. Meriam, *The Problems of Indian Administration* (1928).

they neither knew the survival skills which for centuries had made possible the existence of their families and ancestors; nor did they care to. Disrespect for family and culture was spawned. Young people were educated, but they were ill-suited for most of the opportunities available to them.

The boarding school syndrome was one of the first principal objects of Native ire, and it still is. Indeed, a substantial change in policy with respect to boarding high schools can be attributed largely to the strength and effectiveness of Native opposition. A meeting with the Alaska congressional delegation in Sitka in late 1968 was the turning point. Protests against perpetuating boarding high schools were forcefully raised by Natives in attendance. A change in philosophy resulted.²³⁸

The state (and the BIA, consistent with its commitment to coordinate directions in education) had been pursuing a concept of establishing large regional school complexes as recommended in a 1967 study by a Virginia consulting firm.²³⁹ The concept of regional schools was not entirely new; it had been embodied in the "Overall Education Plan for Rural Alaska,"²⁴⁰ and was reflected in the 1962 BIA State Memorandum of Agreement.²⁴¹ The overall plan had recommended regional schools as the least disruptive of rural home and community life, consistent with furnishing a sound education. It was based on two major policy considerations: (1) the need to preserve home ties, and (2) the need to establish schools of adequate size to offer a full program.²⁴² Relatively small regional schools were seen as a step closer to home than were distant BIA boarding schools. By contrast, the 1967 study proceeded on assumptions derived primarily from experiences outside Alaska: A high school must have a minimum enrollment of 500 to have an adequate curriculum, and there must be integration of students of different racial and socioeconomic backgrounds to avoid the negative effects of segregation. These assumptions were contrary to practice and policy in Alaska, which had been to provide local high schools regardless of their small size.²⁴³ Furthermore, the consultants

238. Ray, *supra* at 15.

239. Training Corporation of America State of Alaska Regional Secondary School System: Implementation Plan (Feb. 3, 1967) (mimeo.) (hereinafter cited as TCA Study).

240. Ray, *supra* (Appendix E) at 78-101. See text accompanying note 106, *supra*.

241. *Id.* (Appendix C) at 106-07. See text accompanying note 77, *supra*.

242. *Id.* (Appendix E) at 86.

243. The TCA Study itself showed that in 1966 there were 43 BIA or public schools in Alaska (excluding on-base schools) with less than 500 students; only seven had 500 or more. TCA Study, *supra* at 1-4a-4b.

failed to consider or comprehend adequately what would be entailed for Alaska Natives to attend school so that those assumptions could be satisfied. There necessarily would be interference with family, culture, and individual student psyches as a result of transplanting adolescents in foster homes for long periods.

A recent study of the effects of boarding programs on Native children and their families documented long-held complaints and reinforced the dissatisfaction of Natives with the system.²⁴⁴ The adolescent period is critical in the development of identity formation.²⁴⁵ Boarding programs were shown to have had an adverse influence on Native children during this stage of their lives. Many students in boarding schools developed severe emotional and social problems, turning to drinking, violence, vandalism, and even suicide attempts.²⁴⁶ The strains on Native children away from home have led to large numbers dropping out of school.²⁴⁷ Children who have been removed from their communities do not fit readily back into them upon their return.

When [the Native student] returns to his village each summer, he finds only vestiges of his formerly comfortable family relationship, and he encounters increasing frustrations because of the differences between himself and his village. His exposure to western education has taught him to respect (though not necessarily to understand) western standards, and at the same time it has decreased his respect for the Native culture. He finds himself, figuratively with a foot in each culture, unable fully to identify with either group and accepted by neither as well.²⁴⁸

The unpopular policy favoring large regional high schools attended by children from small, rural villages living in dormitories or private foster homes eventually was repudiated. But it took a while for practice to catch up with policy. The Beltz Regional Boarding School in Nome had been in operation since 1966. Similar schools were being built and eventually opened in Kodiak (1968) and Bethel (1972).²⁴⁹ The state had boarding home programs in Anchorage, Fairbanks, and several of the principal rural communities. And BIA had been operating a boarding high school at Mt. Edgecumbe near Sitka since 1947.

As demands exceeded the capacity of Mt. Edgecumbe, Native students were sent to the BIA's Chemawa School in Oregon and Chilocco in Oklahoma.

The Bureau of Indian Affairs was aware that Natives were concerned about the deleterious effects of transporting children to the distant schools. For that reason, efforts were made to curtail the practice, while local BIA school programs expanded to add higher grades and a few state high schools were established in villages. The main alternatives to BIA boarding schools were usually state-run boarding schools or schools connected with the boarding home program. Ironically, the BIA paid for the state boarding program via a Johnson O'Malley contract.²⁵⁰ For some reason, BIA's negative experiences with high school boarding situations was not perceived as transferable to the state program.

There was considerable anxiety in many villages over the continuation of the supposedly repudiated boarding programs. Children in a large number of villages, reluctant to pay the price of being removed from their families and homes for long periods to attend a boarding school or boarding home program, simply received no secondary education. Because of their distance from existing facilities they were exempt from the state's compulsory attendance laws.²⁵¹ A rarely utilized option was correspondence study conducted by the state.²⁵² No child was categorically denied a high school education. In fact, rural children had available the option of attending a regular high school with all expenses paid including room and board. But many had no real alternative to sacrificing family relations, social solidarity, and cultural integrity to get such an education.

The strong Native sentiment for local schools was bolstered by a judgment of the state legislature. A 1966 law said that while arrangements between one school district and another district, the state, or BIA might be necessary to provide "more efficient or more economical educational services," whenever such an

arrangement requires pupils to live away from their usual homes, the school board shall provide classes within the district for any grade represented by more than three elementary pupils or five secondary pupils.²⁵³

The statute was amended in 1974 to require "classes within the attendance area when there are at least eight children eligible to attend elementary and sec-

244. J. Kleinfeld, *A Long Way From Home* (1973) (hereinafter cited as Kleinfeld).

245. E. Erickson, *Childhood and Society* 261-62 (1963); J. Goldstein, A. Freud & A. Solnit, *Beyond the Best Interests of the Child* 19 (1973).

246. Kleinfeld, *supra* at 34.

247. Kleinfeld, *supra*, Appendix II & III. Approximately two thirds of the students surveyed by this study in the boarding home program and one third of those in boarding schools dropped out.

248. Salisbury, *Teaching English to Alaska Natives*, 6 J. Am. Indian Educ. 1, 6 (1967). See also Berginan, *Boarding Schools and the Psychological Problems of Indian Children*, paper presented at Annual Meeting of American Academy of Pediatrics, Indian Health Committee (1967).

249. Ray, *supra* at 15.

250. See text following note 141, *supra*.

251. Alaska Stat. § 14.30.010(h)(7) (1975).

252. 4 Alaska Adm. C. § 33.030. Between 1959 and 1972 only 41 students received high school diplomas from the correspondence program. Only a few of them had spent two years or more in correspondence study. Deposition of Margaret Justice, June 8, 1973, *Hootch v. State-Operated School System, supra*.

253. Ch. 9, § 1. [1966] Sess. Laws of Alaska.

ondary school.”²⁵⁴ While the section only applies to the cooperative arrangement situation, it manifested a legislative determination as to the threshold number of children for operating a school,²⁵⁵ specifically demanding establishment of such schools as an alternative to removal of children from their homes in such circumstances.

Five ninth-grade students from the village of Kivalina sued the state in 1971 to compel provision of a secondary school in their village.²⁵⁶ The suit was settled with a resolution of the issue as to that village. The Kivalina elementary school expanded to include 12 grades. As a part of the settlement, the state promulgated a regulation in 1971 stating that “[e]very child of school age shall have the right to a secondary education in his community of residence”²⁵⁷ At the same time, minimum standards for offering secondary education were adopted in the form of a regulation. The standards described the type of programs to be established, reiterated that there is a right to an education in a child’s community of residence, and added: “No child of school age shall be required to live away from his usual home in order to obtain an education.”²⁵⁸ The regulations were straightforward statements of policy, but many Natives were displeased with the failure of the state to implement them.

B. The Hootch Litigation

In 1972 a number of children commenced another suit asking the court to require the state to carry out what the regulations said and order establishment of high schools in their communities.²⁶⁰ The children lived in several villages throughout the state where they were unable to attend high school on a daily basis. Some had never attended school beyond the grades offered in their home communities; others had attended boarding schools but dropped out; some were still in such schools.²⁶⁰ The state admitted in the suit that there were no programs or facilities in 108 communities and pointed out that such programs were to begin in 17 communities in 1974.²⁶¹

The suit (the Hootch case) charged that the state was not abiding by its own rules, but more significantly, that it was denying secondary school age children their rights under the state constitution

which requires the legislature to “maintain a system of public schools open to all children of the state,”²⁶² and that the denial deprives them of equal protection of the law. The state did not argue that it would be unwise to provide community schools or that it did not want to do so. Indeed, it offered evidence that it was moving in that very direction but argued that it was not compelled to do so by the state constitution. The plaintiffs’ motion for summary judgment was denied, and thereafter, summary judgment was granted for the state defendants as to the claims under the state constitutional provision. An appeal was taken to the state supreme court. The supreme court found that the phrase “open to all” did not require that schools must be constructed and operate in every village.

It seems likely that the drafters of the constitution had in mind the vast expanses of Alaska, its many isolated small communities which lack effective transportation and communication systems, and the diverse culture and heritage of its citizens Thus, in Art. VII, § 1, the Alaska Constitution appears to contemplate different types of educational opportunities including boarding, correspondence, and other programs without requiring that all options be available to all students.²⁶³

The issue of the state’s obligation under the board of education’s regulations was also raised. The Superior Court had found the “community of residence” language ambiguous, but interpreted it to mean that a child living within the state-operated school district would have a right merely to attend school somewhere in the unorganized borough—most of the rural part of the state. In line with this interpretation the State Board of Education repealed the regulations and replaced them with ones which stated the right of children to an education in their “district of residence.”²⁶⁴ It is clear that the change in the regulations was motivated by the lower court ruling.²⁶⁵ On review, the Supreme Court did not find improper the change in the regulations and thus rejected that ground for the plaintiffs’ claim.

The Hootch court did not make any decision on the equal protection claims. Those issues were referred back to the Superior Court. There were impressively strong legal and factual grounds for the plaintiffs’ claims.

The United States Constitution forbids a state to deny any person equal protection of the law.²⁶⁶ Similarly, the Alaska Constitution guarantees all persons “equal rights, opportunities, and protection under the law.”²⁶⁷ The United States Supreme Court

254. Alaska Stat. § 14.14.110 (1975).

255. See also Alaska Stat. § 14.14.120(a), indicating that a district may be declared inoperative any year in which enrollment falls below eight.

256. Sage v. State Board of Education, C.A. No. 71-1245 (Third Judicial District, Superior Court of Alaska).

257. 4 Alaska Adm. C. § 06.020 (repealed and re-enacted effective July, 1974).

258. 4 Alaska Adm. C. § 06.025(2) (repealed effective July, 1974).

259. Hootch v. Alaska State-Operated School System, No. 72-2450, Alaska Superior Court, Third Judicial District, filed Aug. 15, 1972.

260. Brief for Appellants at 5-6, Hootch v. Alaska State-Operated School System, 536 P. 2d 793 (Alaska, 1975).

261. *Id.* 536 P. 2d at 811.

262. Alaska Const. art. VII, § 1.

263. 536 P. 2d at 803.

264. 4 Alaska Adm. C. § 06.020(a).

265. 536 P. 2d at 806, n. 50.

266. U.S. Const. amend. 14.

267. Alaska Const. art. I, § 1; See also art. I, § 3 prohibiting denial of civil or political rights because of race, creed or national origin.

recogn'zed the importance of public education in the leading case of Brown v. Board of Education.²⁶⁸

Today, education is perhaps the most important function of the state and local governments . . . [I]t is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Alaska boarding programs have been used almost entirely for village Native children, and there is ample evidence that in those programs they received an inferior education and experienced a high degree of failure and other problems.²⁶⁹ Although there is nothing patently unconstitutional about a boarding program, even an inadequate one, the fact that the program operates to the disadvantage of a particular racial group makes it vulnerable to constitutional attack. It is clear that "a law nondiscriminatory on its face may be grossly discriminatory in its operation."²⁷⁰ And the Supreme Court has held that the equal protection clause bans state-sponsored racial inequality.²⁷¹

The compelling facts of the Hootch case supported a finding that the disadvantages of the boarding home program weighed most heavily upon a racially defined group—Alaska Natives. The State Supreme Court has recognized that the "prestatehood pattern of high school locations"—local high schools for most non-Natives, boarding programs for Natives—"which has been reflected in the current system of secondary education, was generated by the dual school system."²⁷² And the dual system is a de facto vestige of a de jure segregated scheme created by federal statutes.²⁷³ Given this background and the negative consequences of the system for Native children, there was an ample basis for concluding that an opportunity for an education has not been made available to them on equal terms and that both the state and federal constitutions were offended.

A further constitutional argument supporting the village students' demands for community high schools was that they cannot be required to give up other protected rights as the price of receiving an education. The Court has recognized that certain areas of private conduct, such as family relationships, are shielded from unwarranted governmental interference.²⁷⁴ Decisions of the Alaska Supreme Court have

been even more protective of private conduct and preferences, circumscribing carefully those matters which are beyond state manipulation.²⁷⁵

It is well documented that destruction of Native family life is a frequent by-product of the boarding programs. Family relationships are important in any society but are especially vital to the Native Alaskan culture. Native lifestyle in many areas still depends on maintaining a precarious balance with the land, water, and resources upon which Natives depend for subsistence. Families work together much of the year to meet their subsistence needs through hunting, fishing, trapping, gathering, and making use of all parts of the animal, fish, and vegetative products of their harvest. Survival for people in some communities turns upon involvement in these endeavors of as many able people as possible in a tiny, isolated village. This lifestyle has been a "dominant and characteristic way of life for most of the Native communities."²⁷⁶ This remains true in a large expanse of rural Alaska where Native foods are the foundation of a typical villager's diet.²⁷⁷ These foods could not readily be replaced with substitute foods because an adequate cash economy simply does not exist in many remote villages. Of course, a cash economy has taken root in some of the more accessible villages.

The integrity of the Native culture, upon which hinges sustenance, family life, and a value system, is threatened by the boarding program. Absent a compelling state interest, state interference with such deeply rooted and important personal matters is of questionable legitimacy.²⁷⁸ The United States Supreme Court held in Wisconsin v. Yoder²⁷⁹ that Amish children could not be required to attend public schools because to do so might "undermin[e] the Amish community and religious practice." School attendance would interfere with a distinctive lifestyle and prevent parents from rearing children in the traditional manner, thus destroying the Amish community.

The reasoning of the Yoder Court fits the circumstances of the Hootch case's attack on severance of community ties as the price of a high school education.

The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals and values contrary to beliefs, and by substantially interfering with . . . integration into the way of life of the Amish faith community at the crucial adolescent

268. 347 U.S. 483, 493 (1954).

269. See, e.g., Kleinfeld, *supra*.

270. Griffin v. Illinois, 361 U.S. 12, 17 n.11 (1956); Yick Wo v. Hopkins, 118 U.S. 356, 373-74 (1886).

271. E.g., Evans v. Newton, 382 U.S. 296 (1966).

272. 536 P. 2d at 800.

273. E.g., Stanley v. Illinois, 405 U.S. 645, 651 (1972); Meyer v. Nebraska, 262 U.S. 390, 399 (1923); Prince v. Massachusetts, 321 U.S. 158, 166 (1944); Pierce v. Society of Sisters, 268 U.S. 510, 535 (1925).

274. E.g., Ravin v. State, 537 P. 2d 494 (Alaska 1975)

(holding a state law prohibiting private use of marijuana to be an unconstitutional interference with private conduct); Breese v. Smith, 501 P. 2d 159 (Alaska 1972) (holding a school rule forbidding students to wear long hair to be an unwarranted invasion of individual liberties).

275. *Id.*

276. Federal Field Committee for Development Planning in Alaska, Alaska Natives and the Land 87 (1968).

277. *Id.* at 52.

278. E.g., Breese v. Smith, *supra*.

279. 406 U.S. 205, 218 (1972).

stage of development, contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.²⁸⁰

Yoder, however, involved a readily identifiable religious interest which the Court long has recognized to be protectable.

Although no organized religion is involved, the customs and traditions of Natives are so categorically a part of their lives that they rise almost to the level of religious practices. The extension of the First Amendment argument has not yet been accepted by the Court. However, a lower court in Florida has applied Yoder to prevent application of compulsory attendance laws to an Indian child whose family protested that it would attenuate his cultural and community ties.²⁸¹ And the United States Court of Appeals for the Eighth Circuit has ruled that wearing long hair by an Indian prison inmate consistent with tradition is in the nature of a religious practice which is beyond government control.²⁸²

The Alaska Supreme Court has shown in other contexts its understanding of the peculiar circumstances of rural Native Alaskan life and has varied legal rights and obligations accordingly.²⁸³ There has been a strong tendency to conform state conduct to "such basic values as the preservation of maximum individual choice, protection of minority sentiments, and appreciation for divergent lifestyles."²⁸⁴ It would not be surprising if the court were to hold that the Native village lifestyle is protected by the Alaska Constitution so that the state cannot demand that it be sacrificed in order for a child to obtain a secondary education.

During the Hootch litigation it was apparent that the legislature and the Department of Education were moving in the direction of the relief requested by the plaintiffs. There was little dispute as to the desirability of local schools, and increased state

monies were being made available for their construction. This must have dissuaded the Supreme Court in Hootch from dealing with the equal protection issue on the initial appeal and from otherwise developing relief for the plaintiffs.²⁸⁵ But the Court said it would not "hesitate to intervene if a violation of the constitutional rights to equal treatment under either the Alaska or United States Constitutions is established."²⁸⁶

A recent settlement agreement concluded between the plaintiffs and the state promises to forestall the need for adjudication of the equal protection issues.²⁸⁷ If all the conditions of the agreement and consent decree are met, the matter will be concluded with no further trial. The settlement is the result of more than a year of negotiations. Largely in response to the plaintiffs' demands, the governor proposed a \$20 million bond issue for construction of rural high schools. The legislature approved submission of a \$59,290,000 bond issue measure to the voters which would authorize sale of bonds for construction of rural schools.²⁸⁸ Under the settlement agreement at least \$20 million is to be used to build new rural high schools promptly.²⁸⁹

The State Board of Education, on May 6, 1976, adopted new regulations concerning establishment of local schools and operation of boarding programs.²⁹⁰ These regulations will govern to a large extent where proceeds of bonds for rural schools must be spent. They are given muscle by the Hootch settlement agreement. The newly promulgated regulations recite that every school age child has a right to be educated in his local community and that he cannot be required to live away from the community in order to

280. *Id.*

281. *Florida v. Clay*, 38-50312, County Judges Court, Collier County, Fla., Order Granting Defendant's Motion to Dismiss dated July 24, 1972.

282. *Teterud v. Burns*, 522 F. 2d 352 (8th Cir. 1975). *But see New Rider v. Board of Education*, 480 F. 2d 693 (10th Cir. 1973), *cert. denied*, 414 U.S. 1097 (1973), denying first amendment protection to an Indian suspended from school for wearing braids in the traditional fashion. Dissenting from the denial of certiorari Justice Douglas decried the BIA boarding system with its "policy of stripping the Indian child of his cultural heritage and identity." Further, he linked the poor achievement and high dropout rate of Indian children in both BIA and public schools to policies which seek to assimilate and abolish cultural differences in Indian youths. *Id.*, 414 U.S. 1097 (Douglas dissenting).

283. *E.g.*, *Aguchak v. Montgomery Ward Co.*, 520 P. 2d 1352 (Alaska 1974) (special notice requirements in suit against village defendant); *Carle v. Carle*, 503 P. 2d 1050 (Alaska 1972) (child custody may not turn upon cultural bias against Native village way of life); *Alvarado v. State*, 486 P. 2d 891 (Alaska 1971) (Native villager defendant entitled to have jurors selected from Native communities because of uniqueness of all aspects of Native life).

284. *Breese v. Smith*, *supra* at 169.

285. *See* 536 P. 2d at 808-09.

286. *Id.* at 809.

287. Agreement of Settlement, dated September 13, 1976, *Tobeluk v. Lind*, No. 72-2450, Alaska Superior Court, Third Judicial Dist. The case has a new name as a result of a change of parties.

288. Ch. 131, [1976] Sess. Laws of Alaska. The legislation did not make clear how much was used for high school construction in villages which have no secondary schools, but legislative history indicates an intent that high schools be built in many specific communities. *E.g.*, Chairman's Report on the Committee substitute for S.B. 564, House Finance Committee, Alaska Ninth Legislature, 1976. *See also* enumeration of several sites in the legislation.

289. Agreement of Settlement, *supra* note 285, p. 19, paragraph 8(a). The bond issue was approved by the voters and planning and construction are underway in a number of villages. The State Department of Education is bound to use its best efforts to secure approval for issuance of another \$20,570,000 in bonds, adjusted by an inflationary factor, for building rural secondary schools, which would be submitted to the voters for approval in November, 1978. Any amounts above \$20 million from the 1976 bond issue used for rural secondary schools as provided in the settlement agreement may be subtracted from the amount which must be produced by the 1978 issue. The agreement specifies the locations where schools are to be constructed and provides for construction at other unspecified sites where needs are identified. *Id.*, pp. 19-23, paragraphs 8-13.

290. 4 Alaska Adm. C. § 06. Under the settlement agreement, these regulations may not be changed. *Id.*, p. 16, paragraph 1.

C. The North Slope Borough

obtain an education.²⁹¹ Elementary schools must be established in every community with eight or more children available to attend, and high school programs must be established wherever there is an elementary school and any available high school students.²⁹² The school programs were required to be in operation by September 1, 1976, where there were suitable facilities in the community. Subject to waiver by the commissioner of education, the required schools must be in operation by September 1, 1977, in any event.²⁹³ Only after a properly constituted request that no school be established is received from a community school committee (or if none, the BIA advisory school board or the village or city council), can a school district be relieved of its responsibilities.²⁹⁴ Every district must provide a free boarding school for all secondary students without daily access to a secondary school and may provide the option of a boarding school program to address the special needs of students.²⁹⁵ The section requiring boarding schools where there is no daily access should become obsolete as districts comply with the regulations and establish schools in virtually all communities. Provision of boarding schools as supplemental facilities will continue.

Whether or not all the issues raised in the *Hootch* litigation are resolved by the settlement agreement, there has been significant progress toward development of community high schools in Alaska. The 1976 bond issue incorporated in the settlement was the fourth major issuance of bonds to help finance rural schools in Alaska since just before the *Hootch* case was commenced.²⁹⁶ Furthermore, the new regulations provide a solid legal entitlement which it would be hard for the state to deny in the future. If the principles in the regulations are abandoned, the state would be in an embarrassing situation before the court. And the facts which would govern any litigated solution are carefully set forth in the settlement agreement in a manner which strongly supports the plaintiffs' legal position. Thus, if the settlement agreement fails for any reason, it is likely that remedies at least as effective could be expected from the court.

291. 4 Alaska Adm. C. § 05.030.

292. 4 Alaska Adm. C. § 05.040(a) & (b). The settlement agreement includes requirements for informing communities of their rights under these regulations, and sets up a schedule for compliance related to specific communities. Agreement of Settlement, *supra*, note 285, pp. 16-18, paragraphs 3 & 6.

293. 4 Alaska Adm. C. § 05.040(c). Procedures for seeking an extension of time for compliance are found at 4 Alaska Adm. C. § 05.060.

294. 4 Alaska Adm. C. § 05.050.

295. 4 Alaska Adm. C. § 09.050.

296. Ch. 170, [1970] Sess. Laws of Alaska, \$20,300,000; Ch. 195 [1972] Sess. Laws of Alaska, \$16,000,000; Ch. 142, [1974] Sess. Laws of Alaska, \$20,337,000.

Perhaps the most obvious and effective means of securing localized education and responsiveness to rural community needs is through a borough or city school district. It is the method created for that purpose by the architects of Alaska's Constitution and government. It has not been used extensively to solve education problems of bush Alaska because local tax bases are usually thin and state funding of school districts, while substantial, is inadequate. The device has been used in one notable case with considerable success.

About the time the *Hootch* case was filed, Eskimos in the Arctic were in the process of forming a local government which was to include the entire Arctic Slope. They were moved by a lack of state or BIA responsiveness to local educational needs and a strong desire for local control. An adequate tax base was available because of oil exploration and development activity.

[T]here were no schools in the entire North Slope area with classes above the tenth grade. Outside of Barrow, the highest grade for any school was the eighth grade. Of the five schools operating on the North Slope, three were run by the Bureau of Indian Affairs and two by the state. None was subject to local control.²⁹⁷

The meager provision of schools and total absence of secondary facilities for the predominantly Eskimo residents of this gargantuan and hostile Arctic desert seemed to be a problem which lent itself to local solution. The growing tax base resulting from Prudhoe Bay petroleum development made feasible consideration of incorporating a borough. Although there were other reasons, such as protecting the land and game resources on which the people rely for subsistence from imbrided activity by the oil industry, "[t]he lack of a high school in the immense region was perhaps the single greatest impetus to borough development."²⁹⁸

Formation of the North Slope Borough to include a 56.5 million-acre area was hotly contested in a lawsuit brought by the oil companies who would foot most of the tax bill (*Mobil Oil Corp. v. Local Boundary Commission*).²⁹⁹ The State Supreme Court upheld its creation, however, finding that the Alaska Constitution "favor[s] upholding organization of boroughs."³⁰⁰ The court acknowledged the importance of local government in establishing and controlling an education system.³⁰¹

The North Slope Borough School District is now the basis for locally controlled, locally based educa-

297. Getches, *The North Slope Borough, Oil, and the Future of Local Government in Alaska*, 3 U.C.L.A.-Alaska L. Rev. 55, 59-60 (1973).

298. *Id.* at 60.

299. 518 P. 2d 92 (Alaska 1974).

300. *Id.* at 99.

301. *Id.* at 102, n. 30.

tion. The district has expanded the education program, and the board is free to shape it consistent with community will. High school facilities are available within the borough so that no child need forego a secondary education as the alternative to a lengthy separation from family and community while attending school in areas hundreds or thousands of miles away. The all-Native school board has input from advisory councils in each of the seven villages it includes.³⁰²

D. Legislative Reform of State-Operated Schools

The furor over the lack of high schools in many Alaska villages and the unresponsiveness of administrators to community needs should be seen as a part of a larger struggle for local control of education in the state. Many villages apparently felt some of the same impulses for autonomy that moved proponents of statehood. They were, however, at the mercy of the state legislature, which was in a key position to make systemic changes. Displeasure voiced from the politically impotent bush met with little action.

In 1966, the state made a concession aimed at permitting more local direction for rural education. An act of the legislature instituted elective advisory school boards in all communities where state schools were operating.³⁰³ Like their counterparts in the BIA system, the boards had no legal power. Their only "duty" was to "advise and assist the Board of Directors . . . through the local official administering the school." Most of the boards under the Alaska State-Operated School System never functioned effectively. In 1975, some 50 percent of the boards were considered nonfunctional.³⁰⁴

The education system for the entire state, outside municipalities (the unorganized borough), had been administered by the State Department of Education. There was not even a statewide policy-making board to address the diverse needs of the area separately from those of the state as a whole. Concern for the clumsy, inefficient system led the legislature to create a state corporation called the Alaska State-Operated School System (ASOSS) in 1970.³⁰⁵

ASOSS was a separate quasi-agency charged with responsibility for education throughout the unorganized borough. It was governed by a board

of directors appointed by the governor. Six of the nine board members had to be from rural areas, outside boroughs and military reservations.³⁰⁸ The board was delegated some of the authority which formerly had been exercised by the legislature and the State Board of Education, although the exact relationship between the state and ASOSS board was never clear. Administration of rural schools became separate from the State Department of Education's many other duties. Administrative matters still had to be funnelled through the State Department of Administration, however.

The conception of an entity whose sole responsibility was delivery of education in the unorganized borough may have appeared to be a wise move. At the least it would enable a policy-making board and full-time administrators to focus exclusively on that task. But the fundamental impediment of no localized decision making continued. There was not even a procedure for getting input to the board of directors from advisory school boards.

Because ASOSS was still administering an unwieldy system, great improvement was not forthcoming, nor could it have been expected. The capability of ASOSS for effecting change was severely limited because of its behemoth service area with distant clusters of population and a variety of conditions.

Individualized attention was needed for each of the more than 130 schools served by ASOSS but was out of the question. Native leaders saw little difference in rural education in the state system as viewed from the receiving end; they remained essentially disenfranchised in education matters. They urged that the only solution would be decentralization of control.

Energies of Native leaders had been concentrated heavily upon the issue of resolving their claims to land and other rights in the years prior to 1972. Congress had been considering enactment of legislation that would extinguish those claims. It had been prodded not just by Natives seeking justice and a settlement of claims that had been preserved since the purchase of Alaska from Russia, but by oil companies needing to clear land titles in order to get permits to build an 800-mile pipeline which would bisect the state.³⁰⁹

On December 18, 1971, the Alaska Native Claims Settlement Act was signed into law.³¹⁰ The complicated act left much to be done by Natives—formation of 12 regional corporations and more than 165 village corporations, selection of 80 million acres to be held by the corporations, and more. But its passage freed some Native leaders so that they could concentrate on matters at home with new vigor. Their

302. Interview with Dr. John Anttonen, Superintendent, North Slope Borough School District, January 19, 1976.

303. Ch. 98, [1966] Sess. Laws of Alaska; Alaska Stat. § 14.14.170 (revised and reenacted in 1975).

304. *Id.* at § 1; Alaska Stat. § 14.14.200 (revised and reenacted in 1975).

305. Alaska State-Operated School System, FY 1975 Budget Submission, Analytic Statement, 00808 (Nov. 15, 1973).

306. In 1965 the department had been reorganized to establish a separate Division of State-Operated Schools. *Report of the Alaska Commissioner of Education, 1965*, 23. Any change in delivery of rural education was imperceptible.

307. Ch. 46, [1970] Sess. Laws of Alaska.

308. *Id.*, as amended, § 1, Ch. 199, [1972] Sess. Laws of Alaska. Formerly there were seven members, four from rural areas.

309. See generally, M. Berry, *The Alaska Pipeline* (1975).

310. 43 U.S.C. § 1601 *et seq.* (1976 Supp.).

successful experience with Congress added to their confidence and credibility.

The ASOSS board and staff were impressed not only by the increased pressure for local control, but also by the demonstrated need for it. Their suggestions and discussions with the State Department of Education led to a proposal in early 1973 by Commissioner of Education Marshall L. Lind that there be a thorough investigation of alternatives for education in the unorganized borough and development of recommendations.

Lind requested the Center for Northern Educational Research (CNER) at the University of Alaska to coordinate the project.³¹¹ CNER had been established in 1971 to foster improvement of education in Alaska through research, program development, and educational policy analysis.³¹² Together with the Alaska Federation of Natives Human Resources Committee and the Alaska Legislative Committee on PreHigher Education, CNER undertook a year-long study. CNER was assisted in the undertaking by its advisory council—a committee of eminent educators, legislators, public officials, and organization leaders, most of whom were Natives. A series of meetings was held to address issues surrounding the matter, including meetings of the CNER advisory council, of the AFN Human Resources Committee, of the council and the Legislative Interim Committee jointly, and a rural input meeting where “grass roots” sentiment was expressed by bush residents. The CNER staff of professionals met with education agencies, regional corporations, and other groups to discuss the problem and the process of attacking it. The staff also compiled materials, presented alternatives for optimizing local control, and generally coordinated efforts.³¹³

In December, 1973, a Forum on Education in the Unorganized Borough was held by the CNER consortium. Position papers were presented by persons from throughout the state. After that meeting a report was prepared by CNER staff for the Legislative Interim Committee on PreHigher Education.³¹⁴

During the course of the CNER study two bills were introduced in both houses of the state legislature³¹⁵ to decentralize the state-operated schools by establishing educational service areas in the unorganized borough. Neither bill passed, but the plans proffered in them were fodder for discussion. Eight

other types of alternatives (e.g., regionalization, status quo, and municipalities) were debated in the CNER inquiry. Each was exhaustively explored, and many participants in the process formed their opinions.

The CNER report found consensus that delivery of educational services in the unorganized borough had not satisfied the consumers' needs, that ASOSS had been a mistake, and that continuation of central policy and decision making was unacceptable because it was inefficient and squelched local leadership. The report concluded that community control best could be attained through formation of local governments. It found that both ASOSS and BIA are peculiar bureaucracies which inhibit improvements in education and stifle democracy among the segment of Alaskan population which they are supposed to serve and that both should be phased out.

The CNER report made numerous detailed recommendations which would convert ASOSS into a transitional agency until areas of the unorganized borough could form into districts. State government would foster the conversion process through an active program of school district development, including public education, assistance, and grants. All schools would be under districts and removed from ASOSS or BIA by 1980. Some communities would be required to incorporate as municipalities. State financing of schools would be studied to appraise its abilities to deal with the recommended changes. Provision would be made for waiver of existing school laws and regulations to allow innovation.³¹⁶

The legislature failed to act on the CNER recommendations during the 1974 session. The Alaska Federation of Natives (AFN) took steps to insure that the recommendations would be acted upon in the next session. When the legislature convened in 1975, several bills were introduced reflecting the CNER and AFN positions.³¹⁷ Similar bills were passed in both houses (S.B. 35 and H.B. 24) after considerable lobbying and input from Native groups. The conference version of the bills was signed into law on June 9, 1975.³¹⁸

The act which now is law (S.B. 35) deviates considerably from several of the CNER recommendations, although it heeds others. Basically, S.B. 35 made ASOSS transitional, charting it for dissolution by July 1, 1976. ASOSS was replaced with several regional education attendance areas (REAA), each with elected school boards controlling all but ultimate fiscal decisions.

Perhaps the most remarkable aspect of the legislation is the rapidity with which it had to be implemented. The shape of Alaskan education always has

311. Letter from Dr. Marshall Lind to Dr. Frank Darnell, dated January 8, 1973, included in Center for Northern Educational Research, *Delivery of Educational Services to the Unorganized Borough 392-93* (Univ. of Alaska, Aug., 1973).

312. *Resolution Concerning the Establishment of A Center For Northern Education*, University of Alaska Board of Regents, Fairbanks, Feb. 18, 1971.

313. F. Darnell, K. Hecht & J. Orvik, *Prehigher Education in the Unorganized Borough: Analysis and Recommendations 9-14* (1974) (hereinafter cited as Darnell, Hecht & Orvik).

314. *Id.*

315. H.B. 192 & S.B. 122, Alaska Eighth Legislature, 1st Sess (1973).

316. Darnell, Hecht & Orvik, *supra* at 33-53.

317. S.B. 35, S.B. 94, S.B. 136, H.B. 24, Alaska Ninth Legislature, 1st Sess. (1975).

318. Ch. 124, [1975] Sess. Laws of Alaska; Alaska Stat. § 14.08.011 *et seq.* (1975).

depended on the legislative will of the federal and state governments. But never has such radical change been required so quickly. The irony is that because change must occur so suddenly, many things which ought to change will remain the same. The new REAA boards scurried to be functioning by the July 1, 1976 deadline. Some had to retain mediocre ASOSS administrators because time did not permit their replacement. Under these circumstances, little substantive improvement in local school management is predictable.

E. Decentralizing Under S.B. 35

The first major task under S.B. 35 was to determine the boundaries of the REAAs. Hearings were held throughout the state to solicit views from the affected citizens as to the extent of the REAA in which they would be located. The legislation provided that REAA boundaries would follow regional boundaries set under the Alaska Native Claims Settlement Act.³¹⁹ The statute appears to authorize division of the unorganized borough into as many REAAs as there are regional corporations, along coterminous lines. But use of regional lines was not intended to be exclusive. This is shown by subsection (b) of the same section, prescribing certain characteristics for REAAs. REAAs must contain an integrated and homogenous socioeconomic, linguistic, and cultural area. Consideration also is given to transportation and communication. Geographic features and existing boundaries are to be used in describing boundaries.³²⁰ Of course, first-class cities and organized boroughs are excluded, as they constitute existing school districts.³²¹ Taken together, the two subsections suggest that REAA boundaries are to follow, rather than cross, regional corporation boundaries where they contact them and conform to natural or other predetermined boundaries. This is how the State Department of Community and Regional Affairs, which was charged with administering the act in consultation with the State Department of Education, interpreted it in a series of informational meetings in rural areas around the state in July and August, 1975. Later they began implementing it similarly when hearings were held in numerous bush locations regarding proposed boundaries. The result of the hearings was a division of the state into some 21 REAAs.³²²

Within each REAA the voters elect a board of from five to 11 members.³²³ To determine the exact number for each REAA, the department of education consulted with communities during the hearings described above. To permit representation of small communities whose voices might be unheard in a large REAA, an area can be divided into school board sections, each with one or more seats on the board.³²⁴ Section lines are drawn based on population distribution, but by adjusting the number of seats on the board, representation for very small communities can be had in most cases, assuring that they will have a resident on the board. Board members are elected at large by all voters of an REAA.³²⁵ It was necessary to have REAA boundaries, numbers of representatives, and sections determined quickly, as elections were scheduled for February, 1976.

In addition to the elected board for each REAA, every community (or military reservation) with a school has a community school committee.³²⁶ Members are elected at regular municipal elections or special elections set by the department of education. As with the old advisory school boards which functioned under the state-operated school system and which are replaced by these committees, duties are loosely defined and powers nonexistent. The statute merely charges them to "review and make recommendations to the board" of the REAA "concerning the curriculum, program, and general operation of the local school."³²⁷ They may, however, be delegated other functions by the school board.

Powers of the regional school boards are not plenary, as are the powers of a district school board. Because of their financial relationship with the department of education and the fact that their only powers are those delegated by the legislature, there are limits on many things which they are able to do. For instance, the REAA boards' operation of schools and decisions to establish new schools or close old ones are all subject to approval by the commissioner of education.³²⁸ Authority with respect to construction is limited in that an REAA may have to rely upon the State Department of Public Works to build schools requested by the REAA using funds appropriated by legislature or to accept and use grants from that department.³²⁹ Whether the REAA or the department uses the money, choice of sites and other important matters rest in the discretion of departmental officials operating under state regulations.

319. Alaska Stat. § 14.08.031(a) (1975). The statute also uses the word "sub-boundaries" in reference to the regional corporations. It is not clear what this refers to.

320. Alaska Stat. § 14.08.031(b) (1975).

321. Alaska Stat. § 14.12.010 (1975).

322. Originally 20 REAAs were created by the Commissioner of Community and Regional Affairs on November 1, 1975, pursuant to authority in Alaska Stat. § 14.08.031(a). But after a meeting of residents of REAA 17 and the governor, REAA 21 (including Whittier and Tatitlek) was created on November 24, 1975, dividing REAA 17 along the boundary

between the Chugach and Ahlta Regional Corporations. Memorandum to REAA file from Michael C. Harper, Deputy Commissioner, Department of Community and Regional Affairs, dated December 3, 1975.

323. Alaska Stat. § 14.08.041 (1975).

324. *Id.* at § 14.08.051.

325. *Id.* at § 14.08.041(d).

326. *Id.* at § 14.14.170.

327. *Id.* at § 14.14.200.

328. *Id.* at § 14.08.101(6).

329. Alaska Stat. § 14.08.101(7), 14.08.161 (1976).

Ownership of all school buildings and land remains in the state; REAAs will have use permits for them.³³⁰

Because of overriding authority of the commissioner with respect to REAA school operations, it is not clear how significant the enumerated powers of boards are, as the new act is only beginning to be implemented. The extent to which the power to "adopt regulations governing organization, policies and procedures for the operation of the schools"³³¹ can be exercised free of the commissioner's disapproval authority remains to be determined. Similarly, the board's duty to "develop a philosophy of education, principles and goals for its schools"³³² must be read in light of the commissioner's overriding control of school operations.

Matters of employment, salaries, purchasing, and disbursement of funds are lodged with the REAA boards.³³³ All funds for REAAs are furnished by the state legislature. They receive "basic need," as used in computing foundation aid to districts, plus an amount equal to the average per pupil local tax contributions in city and borough districts.³³⁴ Thus, they are relieved of local effort requirements, but the amount they can receive from the state over and above basic need is indirectly determined by city and borough decisions regarding their local tax effort.

It is unclear whether the REAAs can receive and expend voluntary contributions. It is conceivable that a local industry, a village or regional corporation, or an individual would donate funds. The donation could be motivated by sheer beneficence or it could be an inducement to the community not to form a local government which could tax the donor's property. There is no express bar to receiving and using supplemental funds, but the powers of the REAA are delegated to it by the legislature and, therefore, must be construed narrowly. If they extend only to the

enumerated powers, use of funds other than those appropriated by the legislature or received under a contract with BIA, the department or some public agency would be unauthorized.³³⁵

Contracting authority in the statute does enable REAA's to receive Johnson O'Malley funds directly.³³⁶ They also are eligible for assistance under the Indian Education Act. Indeed, they are eligible until 1979 for funding under special provisions for schools which have been local education agencies for less than three years.³³⁷ Funds under the Elementary and Secondary Education Act programs are available also but are administered through the state agency, i.e., the department of education.³³⁸ The REAAs do not receive P.L. 874 impact aid funds directly as districts do.³³⁹ As discussed earlier, a Native-controlled REAA board is eligible to contract with BIA to take over its school operations under provisions of the Indian Self-Determination and Education Assistance Act.³⁴⁰

The unmistakable import of S.B. 35 is to vest boards in communities with local management of schools. Management is not synonymous with control, however. Many local objectives can be achieved by selecting the personnel to staff and administer schools. Innovation in operation and curriculum, choice of school locations, and design and condition of facilities are all quite important, too, but are not functions vested solidly in the REAAs. It may be that the commissioner and the department will administer the act to maximize the local control which is possible under it. There is no indication that they will do otherwise, but the specter of state intervention remains. And there is always the possibility that a policy of minimizing involvement in and preemption of local decisions will change, especially as personnel in the department changes.

330. Alaska Stat. § 14.08.151 (1975).

331. *Id.* at § 14.01.101(5).

332. *Id.* at § 14.08.111(2).

333. *Id.* at § 14.08.101(3) & (4); § 14.08.111(3), (4) & (5).

334. *Id.* at § 14.08.121.

335. *Id.* at § 14.08.101(2).

336. See *supra*, Part II C.

337. See *supra*, Part II F.

338. See *supra*, Part II D.

339. See *supra*, Part II A.

340. See *supra*, Part II G, especially text accompanying notes 230-31.

Surviving the Cures: Prognosis

There was little room for Native input in education under the Russians or in the early mission schools. Natives were fortunate if their community had a government school in territorial days, and unless it was a school for Natives, chances are they would not even be able to attend.³⁴¹ So much energy and resources during the first half of the twentieth century were devoted simply to trying to meet the barest of educational needs in rural Alaska that maximizing quality, preserving culture, and making education responsive to local wills were luxuries. This is not to say that these issues were nowhere raised or dealt with; but necessarily they were not foremost.

By the early 1950's when a statehood move was well afoot, talk of "local control" struck a responsive chord with Alaskans who were weary of having their affairs determined by a distant government which had little comprehension of their situation. Inclusion of strong provisions for local autonomy in the state constitution was a manifestation of a desire to wrest control of Alaskan affairs away from the federal government. The constitutional assumption of responsibility for all of Alaska's education, notwithstanding whatever noble motives underlay it, had little practical significance because of the limited financial abilities of the fledgling state.

While state support of education has vastly increased, the proportion of federal aid has increased even more. Of course, all states have enjoyed an infusion of federal assistance during the last two decades. This has cushioned the burdens of rising education costs which fall on property taxpayers in local districts in most states, but in Alaska it has kept a state-run system of education afloat. Because of Alaska's foundation program, however, it has been cheaper at the local level to maintain state responsibility for local schools rather than to have control vested in borough and city school districts as anticipated by the state constitution.

The last decade has seen long-awaited action to remedy the most glaring structural defects in rural Native education. Native sentiments and professional concerns have evoked positive changes. The process also has yielded some perplexing side effects which must be dealt with.

Fulfillment of Native desires for local control of education is now frustrated by two ironic developments. First, there are multiple vehicles for local input via myriad boards and committees which in a small community can dissipate available talent and interest to the point of insignificance. Second, the regional education attendance areas formed under

S.B. 35, while allowing far more local control than was possible under the state-operated school system, has sidetracked the movement toward local government. Indeed, the enactment may be fatally flawed by its conflict with the state constitution. Meanwhile, transfer of BIA schools to districts and REAAs may experience an acceleration greater than that with which many Native people are comfortable.

A. Community Control: Too Much of It?

Mechanisms for community input into education-related decision making have proliferated in recent years. The citizens of a single small village may be called upon to elect members to an REAA board, a community school committee, a BIA advisory school board, a BIA agency level school board, a Johnson O'Malley Indian Education Committee, an Indian Parent Committee under the Indian Education Act, a Title I Parent Advisory Committee, a Title VII bilingual education Community Advisory Group, and so on. There is provision in the law for the JOM Indian Education Committee to be the same as the Indian Parent Committee. And there need not be an Indian Education Committee if the school board has a majority of Indians (Natives).³⁴² But the structures of the various committees and boards differ just enough that there can be little other consolidation of functions without statutory and regulatory changes.

The limits of participatory democracy in rural Alaska are being tested. How many people in a village of 50, 100, or even 2,000 people have the interest, abilities, and time to serve as an unpaid board or committee member? Of those, how many are consumed with tasks as board members, officers, or employees of one of the 12 regional or 165 village corporations or with other Native activities? Native people with capabilities and inclinations for school boards and committees are in tremendous demand.

The initial REAA election placed 147 people on 21 school boards and subsequent elections and appointments placed more than 450 people on community school committees.³⁴³ Inevitably many of these people will have to serve on more than one panel. This can dilute their effectiveness in fulfilling their responsibilities. It is unfair to expect anyone, let alone people from rural Alaska, far from resources or technical assistance and often with limited organizational background or formal education, to perform

342. See notes 171-72 *supra*, and accompanying text.

343. Statement by Nathaniel H. Cole, Deputy Commissioner, Alaska Department of Education, to E. Dean Coon, Assistant Director, Center for Northern Educational Research, December 29, 1976.

341. See *supra*, Part I A.

flawlessly. It is essential that there be appropriate amendment of statutes and regulations, especially those relating to federal programs, to allow consolidation of the "local input" committees. The elimination of the parallel BIA school system would itself eliminate one type of local committee.

Requirements of local committees and boards are well motivated, needed, and can serve essential functions. But it would be a travesty if communities were so burdened by their participation and their efforts spread so thin that local control collapsed of its own weight. It is not enough to build into the structure means for local input; the system must be made workable in light of actual conditions.

B. S.B. 35 — A Constitutional Clash

S.B. 35 was intended to give rural Alaska the voice in education which it was without in the state-operated system. But the legislation stops short of the most logical solution, and indeed impedes it. Municipalities and school districts formed under them indisputably are the most effective vehicles for achieving local control. Mechanisms for establishing them have existed since statehood. The state constitution manifests a strong purpose to divide the state into organized boroughs and cities which would perform education functions locally. To be sure, there have been impediments to this, especially financial ones.

A reasonable way of dealing with the need for local involvement in education while remaining consistent with existing statutes and the state constitution would have been to enact legislation which would remove impediments to, and affirmatively assist, the formation of municipalities. This would be logical as there are existing local government forms which can perform educational services without creating new structures. This was precisely the recommendation of a statewide, year-long study prepared for the Alaska Interim Committee on Pre-Higher Education and the department of education in 1974.³⁴⁴ The recommendations surprisingly were not followed.

The new legislation (S.B. 35), while shifting considerable control to communities, still retains much authority at the state level and frustrates the goal of fostering local governments. Instead of attempting to bring rural education into the grand scheme of local government of the Alaska Constitution, a special layer of quasi-government just for education in the unorganized borough is perpetuated. Governance of educational functions is divided geographically, and this is a major improvement. But the maximum degree of local control, available only through the municipal form, is not secured to the communities.

In spite of imperfections in the approach, local

people will probably strive hard to make the REAAs work as vehicles of local control. But the movement for maximum local control will be sidetracked in the process. Farther-reaching measures—such as pursuing local government forms—will await the test of S.B. 35. Expectations may be disappointed somewhat, but the new law's presence will diffuse the local control crusade as community leaders try to optimize the new law's efficacy. Beyond a preoccupation with effectuating S.B. 35, there are restraints built into the scheme which will deter municipal formation.

Perhaps the REAAs are the best available devices for consolidating the BIA and state systems, coalescing the various arms of "local control" and staging for eventual creation of autonomous districts. For this to be a reality, the system must be purged of disincentives to the goal.

There is no incentive for an REAA which lacks adequate school facilities to become an independent district, at least until construction needs have been met at state expense. Usually, it would be folly for an area to incorporate as a municipality before fully state-financed construction was completed. School districts receive only limited state aid for construction costs.³⁴⁶ But if an area in need of school construction is blessed with an especially strong tax base (as the North Slope Borough with its valuable oil exploration activity), it may make sense to assume the local burden of revenue production in exchange for optimizing local control. Otherwise, municipal incorporation becomes an unnecessarily costly enterprise, probably outweighing the benefits of added local control. It should be noted, however, that there is no barrier to the state's assuming the full burden of financing municipal school district construction.³⁴⁶

Even at the sacrifice of some autonomy, voters of an REAA might reason that forming a municipality would be too costly relative to the REAA system. The foundation program simply is not as generous in its funding as is the method for financing REAA schools. Until there is provision for full funding of basic need under the foundation program, and until there is assurance that the formula for "basic need" accurately reflects operating costs in the widely disparate areas of the state, formation of municipalities in the unorganized borough, with its frail tax base, will stagnate.

To remove the financial deterrents to the municipal form the state must move toward full financing of educational needs in district schools through the

345. Alaska Stat. § 43.18.100 (1974) provides for reimbursement of one half of school construction costs or payments on indebtedness for such costs. Three quarters of the cost of vocational education facilities is paid by the state. Payments are deferred until the year following payments by the district on bonded indebtedness. Alaska Stat. § 43.50.140 earmarks state cigarette tax revenues for school construction.

346. The bond issue authorized by the legislature in 1976 included funding for school construction in a number of school districts. S.B. No. 564, Alaska Ninth Legislature, 2d Sess. (1976). See *supra*. Note 285.

344. Darnell, Hecht & Orvik, *supra*.

equalizing medium of a revamped foundation program. Meager local tax bases then can be used to finance non-education costs of municipalities. The foundation formula should allow state aid to abate to some extent for wealthier municipalities. Nothing would prevent them from using their wealth to provide optional and enhancing educational services also. A more adequate and reliable state program of construction financing must also be developed. These measures, supplemented by the panoply of federal programs available especially for the rural Native population, can lead to a system of healthy, locally directed schools. Local control does not depend on local revenue, and this can be confirmed in Alaska if but a few hurdles are cleared.

There are open questions as to some of the practicalities once a decision is made to incorporate a city or borough. It is not clear that the state is obligated to transfer all schools it operates to a new municipality. The state attorney general has indicated that on incorporation, "the Department of Education must transfer the school to the local political subdivision so such political subdivision can carry out its function of providing, operating, and maintaining schools."³⁴⁷ He concluded further that the state would not be authorized "to continue maintaining and insuring such school buildings after formation of a newly organized borough or city."³⁴⁸ But this transfer is not mandated in any statute.³⁴⁹

There are operational problems with any general conclusion as to the existence of an obligation to transfer. It is not unreasonable to expect that new boroughs and cities in the now unorganized borough will coincide with REAA boundaries in many cases. The standards for organized boroughs and legislative guidelines or setting REAA boundaries are similar in most respects.³⁵⁰ The fact that a borough must raise revenue locally might lead it to exclude nonrevenue-generating territory in an REAA where costly services would have to be furnished. Cities are usually incorporated around single communities in contrast to the generally areawide nature of a borough and are even more likely to exclude parts of an REAA, although they may include all the schools now attended by more children than reside within the incorporated area.

347. 1963 Alaska Op. Atty. Gen. No. 24.

348. *Id.*

349. There is authority for the department to make such transfers. Alaska Stat. § 14.07.030(9) (1975).

350. Compare Alaska Stat. § 29.18.030 with § 14.08.031. Each must take account of social, economic, cultural, and geographic features and must consider transportation and communication. The requirement of an economic base sufficient to support local services is required for borough incorporation, but not for a REAA. There is some indication that the legislature understood that new municipalities would not include entire REAAs. Alaska Stat. § 14.17.210 (1975), allowing continued full state funding for REAA schools which become city or borough schools, refers to individual schools and not to REAAs as entities.

If a borough were established which included less than an entire REAA or parts of more than one REAA and omitted areas where children resided but included the schools, would the state transfer all school facilities to the new municipality?

The Local Boundary Commission has authority to alter boundaries of proposed boroughs and cities before it accepts a petition for incorporation.³⁵¹ This power could be used to force coincidence between REAA and municipal boundaries, but only where it is necessary to meet statutory standards for borough incorporation or, in the case of cities, if the proposed boundaries are too restrictive or too expansive for efficient local government. It is regrettable that the legislature did not mandate the setting of REAA boundaries with future incorporation of municipalities in mind and express that goal as their purpose. Supplemental legislation could convert the REAAs into truly transitional instruments, bringing the REAA arrangement into conformity with the spirit of the local government preferences in the state constitution.

Palliatives may set the REAA mechanism on course, but probably cannot redeem it from a most rudimentary defect. The whole system may be tainted with a constitutional infirmity.

The legislation delegating management and control of REAA schools to the respective boards refers to REAAs as "educational service areas."³⁵² This is language used in the Alaska Statutes and Constitution. The constitution allows borough assemblies to establish service areas for provision of special services³⁵³ and the legislature can do anything for the unorganized borough that the borough assembly can do for an organized borough.³⁵⁴ The constitution is clear that "[a] new service area shall not be established if, consistent with the purposes of this [local government] article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city."³⁵⁵ The purpose of the article "is to provide for maximum local self-government with a minimum of local government units."³⁵⁶

There is no doubt from the "service area" language that the legislature intended to act pursuant to the constitutional and statutory powers it has with respect to the unorganized borough. The Alaska attorney general several years ago ruled that the legislature could, under these provisions, establish school service areas in the unorganized borough.³⁵⁷

351. Alaska Stat. § 29.18.090 & .100 (1972).

352. *Id.* at § 14.08.031.

353. Alaska Const. art. X, § 5.

354. Alaska Const. art. X, § 6.

355. Alaska Const. art. X, § 5. This section has been implemented by Alaska Stat. § 29.03.020 (1972) which states that the legislature can establish service areas and reiterates the limitation to areas where services cannot be provided via incorporation or annexation.

356. Alaska Const. art. X, § 1.

357. 1961 Alaska Op. Atty. Gen. No. 24. A recent opinion letter of the Attorney General indicates that the

C. The Uncertain Role of the BIA

The attorney general warned, however, that establishment of such areas would be subject to the restrictive limitations of Art. X, § 5. Thus the establishment of every new service area must be predicated upon a finding that the service cannot be provided by incorporation as a city or by annexation.

It appears that the creation of every REAA which arguably could be incorporated as a first-class city, i.e., "[a] community having 400 or more permanent residents,"³⁵⁸ is subject to constitutional attack. Similarly, those areas adjacent to incorporated first-class cities and which might be annexed are under a cloud of legal doubt.³⁵⁹ The Alaska Supreme Court has taken a dim view of legislative acts which do not comport with the intent of the local government sections of the constitution.³⁶⁰ There is no reason to believe it would look with favor on the REAA scheme in light of its impact and the purpose of the local government article.

How many of the REAAs were lawfully created as educational service areas in the unorganized borough depends on an analysis of each to determine which could have become new cities or could have been included in existing ones. Any estimate would be speculation, but the attorney general in 1961 suggested that because of the constitutional limitation, "school service areas would not be a widely applicable means of school organization for Alaska."³⁶¹

If disgruntled citizens affected by S.B. 35 sue to challenge the creation of a particular REAA, the whole REAA design may fall. If a court found that a particular REAA could not become a city or be annexed simply because the boundary lines had been drawn in a manner which excluded that possibility, the scheme may be found to be inherently offensive to the constitution. The task of drawing REAA lines was delegated to the State Department of Regional and Community Affairs. To withstand scrutiny the delegation must have been exercised consistent with the constitution. Unless all possible new cities and annexations were carved out of the unorganized borough before service area lines were drawn, the determination of the department of community and regional affairs may be suspect. The very delegation of authority in the act without limitation to the constitutional restraints on service area creation is questionable. A constitutional method would require findings on the matter as REAA lines are drawn and standards for reaching them consistent with the local government article of the constitution.

It has been intimated that the federal government is not legally required to educate Indians and Alaska Natives and consequently could cease serving them at will.³⁶² It has further been suggested that the absence of treaties with Alaska Natives in which promises of education services are made weakens their claim to such services.³⁶³ As a technical matter, this may be so, but enforceability of treaty obligations is limited because few treaties are specific as to how obligations will be discharged.³⁶⁴ Treaty promises generally are fulfilled by including Indians of treaty tribes in BIA school programs and in statutory aid programs,³⁶⁵ such as those under the Johnson O'Malley Act. Courts have recognized great latitude and discretion in the Congress and Executive in determining how obligations to Indians will be carried out.³⁶⁶ Thus, Indian beneficiaries of a general treaty promise to furnish education would not be in a more advantageous legal position than Alaska Natives or other Native Americans who are without the benefit of such a promise.

The absence of a specifically enforceable duty does not leave the BIA unrestrained in its decision making with respect to Indian education programs. In order to cut off Native Americans from substantive rights in federal programs administered by the BIA for their benefit, the Secretary must give notice and an opportunity to be heard to the public pursuant to the federal Administrative Procedure Act.³⁶⁷ Because the BIA had led Congress and Natives themselves to believe that its education programs would include Alaska Natives, a sudden curtailment of those programs in Alaska by administrative action would be improper and not in keeping with the "overriding duty of our federal government to deal fairly with Indians wherever located."³⁶⁸ The "distinctive obligation of trust incumbent upon the government in its dealings" with Indians³⁶⁹ is as applicable to Alaska

362. See Rosenfelt, *Indian Schools and Community Control*, 25 Stan L. Rev. 489, 502 (1973) (hereinafter cited as Rosenfelt).

363. See, e.g., discussion in Ray, *supra* at 3-5 and F. Darnell, *Systems of Education for the Alaskan Native Population*, in *Education in the North* (Darnell, ed.) 296-97 (1972).

364. Rosenfelt, *supra* at 503.

365. See Wilkinson and Volkman, *Judicial Review of Indian Treaty Abrogation: As Long as Water Flows, or Grass Grows Upon the Earth—How Long a Time is That?* 63 Calif. L. Rev. 601, 602, n. 4 (1975); Rosenfelt, *supra* at 503.

366. E.g., *National Indian Youth Council v. Bruce*, 366 F. Supp. 313, 322 (N.D. Utah 1973), *affirmed* 485 F. 2d 97, 99 (10th Cir. 1973), *cert. denied* 417 U.S. 920 (1974). The lack of specific treaty language likewise has prevented a tribe from recovering damages for failure to provide adequate medical and education services. *Gila River Pima-Maricopa Indian Community v. United States*, 427 F. 2d 1194 (Cl. Ct. 1970), *cert. denied* 400 U.S. 819 (1970).

367. 5 U.S.C. § 551 *et. seq.* (1970).

368. E.g., *Morton v. Ruiz*, 415 U.S. 199, 236 (1974).

369. *Seminole Nation v. United States*, 316 U.S. 286, 296 (1942), cited in *Morton v. Ruiz*, *supra*, 415 U.S. at 236.

analysis is one in which he still "fully concur[s]." Letter from Attorney General, by Ronald W. Lorenson, to Robert S. Gates, Alaska Department of Administration, dated March 26, 1976.

358. Alaska Stat. § 29.18.010 (1972).

359. Annexations are subject to the will of the voters of the area to be annexed in most cases. See Alaska Stat. § 29.68.010 (1972).

360. *Cf. Abrams v. State*, 534 P. 2d 91 (Alaska 1975).

361. 1961 Alaska Op. Atty. Gen. No. 24 at 6.

Natives as to other Native Americans.³⁷⁰ Natives cannot insist on any specific type of education from the federal government, and the state clearly has ultimate responsibility for their education. But it would be beyond the Secretary's authority for him to withdraw services so rapidly that the state could not as a practical matter do its job, leaving Alaska Natives with no means of getting an education.

The enactment of the Alaska Native Claims Settlement Act has the effect of extinguishing all Native claims based on aboriginal title, statute, or treaty and settling those claims "without establishing any permanent racially defined institutions, rights, privileges, or obligations . . . or lengthy wardship or trusteeship."³⁷¹ The future of "all Federal programs primarily designed to benefit Native people" is left open. The Secretary was to study the subject and to report back to the Congress with "his recommendations for future management and operation of these programs . . ."³⁷² That study has been completed.³⁷³ The Department of the Interior contracted for the study to be done by Robert R. Nathan Associates, Inc., but the report was not intended to, and did not, include policy recommendations. So far the Secretary has not made any recommendations on the subject, although the act required a report and recommendations by December 18, 1974.

What recommendations will flow from the study and what action Congress might take are uncertain. Congress could decide that the new status of Natives after the Settlement Act, Alaska's growing financial ability to carry out its duties to educate all children in the state, and the newly created REAA mechanism signal a reason to pull out of Alaska. It does not appear, however, that there is as yet any move toward terminating federal educational services for Alaska Natives. Indeed, Congress has passed increased funding for BIA schools and Johnson O'Malley aid in Alaska in the years since the act.³⁷⁴

While the BIA has no unwavering legal duty to educate Alaska Natives, and the Alaska Native Claims Settlement Act renders uncertain the future of all

BIA services in Alaska, there is no likelihood of withdrawal of education services in the near future. Practical, political, and legal impediments will slow the withdrawal. The principal question, then, is how to accommodate BIA policy to serve best Alaska's rural population. In recent years BIA has been committed to aligning its education goals with those of the state and facilitating transfer of its education functions to the state system (including local districts). The transfer policy has been reiterated in public statements for 30 years. The 1962 Memorandum of General Agreement between the BIA and the state manifested this intention. Remarkably, the BIA Area Office in Juneau has terminated the existing agreement and invited the state to reopen negotiations for a new memorandum of agreement on school transfer.³⁷⁵

The timing and conditions of transfers have been something of a problem. The state's financial inability to assume full responsibility consistent with its legal obligation has been the main impediment. The state's shortage of revenue is being turned around with the development of petroleum.³⁷⁶ Community preference for keeping BIA schools has dissuaded the Bureau from some transfers. It takes the position that schools should not be transferred unless there is local assent. The 1962 Memorandum of General Agreement refers to "local participation" in planning the transfer process. Also, the government's current policy is one of self-determination for Indians which supports a requirement of consent.³⁷⁷ One reason communities favor retention of BIA schools is that several jobs for local people are related to the schools, such as maintenance, cooking, etc. There is fear that fewer jobs will be available if the schools are transferred to the state.

Another barrier to transfer of BIA schools has been the high cost of bringing some of the federal facilities to state standards.³⁷⁸ A policy statement from the State Department of Education in 1969 indicated that "[no] facilities should be transferred to the state, cities or boroughs unless they meet minimum standards for safety and the program to be offered by the date of the proposed transfer."³⁷⁹ Such costs can be extremely high, and the state's reluctance to assume them is understandable. On the other hand, the BIA has no legal obligation to transfer its

370. *Alaska Pacific Fisheries v. United States*, 248 U.S. 78 (1918); *United States v. Ferrigan*, 2 Alaska 442 (1906); *Edwardsen v. Morton* 369 F. Supp. 1359 (D.D.C. 1973); *Koning, Inc. v. Kleppe*, 405 F. Supp. 1360 (D.D.C. 1975), appeal pending *sub nom. Salamantof Village Assoc. & Cook Inlet Region, Inc. v. Kleppe*, Nos. 76-1325-35 (D.C. Cir.); F. Cohen, handbook of Federal Indian Law 404 (1942). See generally, on the trust relationship, Chambers *Judicial Enforcement of the Federal Trust Responsibility to Indians*, 27 Stan. L. Rev. 1213 (1975).

371. 43 U.S.C. § 1601(b) (1976 Supp.).

372. *Id.* § 1601(c).

373. 2(c) Report, *supra*.

374. Budget data indicate the following monies were spent for education in Alaska in the years shown:

	Johnson O'Malley	BIA Schools
FY 1972	\$3,505,092	\$ 9,368,975
FY 1973	4,600,000	10,581,460
FY 1974	4,500,000	11,476,900

2(c) Report, *supra*, "Indian Education, Federal Schools Program" at 13.

375. Letter from Clarence Antioquia, Area Director, Bureau of Indian Affairs, Juneau, to Honorable Jay S. Hammond, Governor of Alaska, dated January 20, 1977.

376. It has been estimated that severance taxes will account for \$4 billion in state revenues by 1985. Study of Title II, *supra* at 271.

377. See, e.g., Statement of Emil Kowalczyk, Assistant Area Director, BIA Juneau Area Office, included in Darnell, Hecht & Orvik, *supra*, Appendix at 37; Lind, SOS/BIA Schools Dissolution (undated, unpublished) at 5; 2(c) Report, *supra* "Education Programs" at 1.

378. 2(c) Report, *supra*, "Indian Education, Federal Schools Program" at 1.

379. Ray, *supra* (Appendix C) at 57.

schools to the state or a school district. The apparent policy of transferring schools without charge when the state or district agrees to operate the schools is a reasonable one. It has the effect of encouraging the state to perform its constitutional duties but is not legally compelled.³⁸⁰ So long as BIA accedes to state demands that federal schools be renovated to meet state standards before they will be accepted, the state cannot be faulted. But it would be shortsighted to refuse "gifts" of even substandard school buildings from the federal government which can facilitate the state's assumption of its legal duty to provide education for all the state's children.

The establishment of regional education attendance areas under Senate Bill 35 has prompted discussions between BIA and the State Department of Education concerning transfers. It has been agreed that BIA will transfer schools to the state in any communities where REAA boards by resolution agree to operate them.³⁸¹ Several REAAs have accepted the invitation, and transfer of a number of BIA schools has been effected.³⁸² To the extent that consent of an REAA board does not reflect the will of the community this new policy marks a retreat from BIA's earlier insistence on a manifestation of local desire to have schools transferred from BIA to state operation. The BIA objected, however, to a state proposal³⁸³ that suggested REAAs would take over all BIA schools unless the REAA board expressly opposed the transfer.³⁸⁴

It is predictable that many communities with BIA schools will adopt a policy of "wait and see" before pushing for transfer of the schools to the state. For those who choose to wait, there will be the

advantage of being able to assess the performance of the particular REAA of which they are part.

BIA schools are within REAAs,³⁸⁵ and voters, regardless of the fact their children may attend a BIA school, are entitled to vote for school board members and community school committees and even to serve on those bodies. Although under the statute voting is to be by "qualified voters of the communities receiving educational services in the entire regional attendance area,"³⁸⁶ this would not exclude people in a BIA-served community. Because no REAA school is in fact in a community does not mean people there are not "receiving educational services." There is no proviso saying that "services" refers only to those supplied by the REAA. It would be absurd if voters were disenfranchised because BIA gratuitously was doing a job in their community which the state legally is required to do. Furthermore, the absence of an REAA school building does not mean that the community is not served. Services may be available from the REAA in the form of boarding programs, resource centers, or libraries.

Communities with BIA schools can begin to participate in their REAA now. As they perceive that the system is working well, they can determine the best time and conditions for transferring their local school to REAA control. In the meantime, the possibility of seeking state-financed, supplemental services for children being educated by the BIA could be considered. The REAAs have a duty to "provide . . . an educational program for each school age child who is a resident of the district."³⁸⁷ This implements in the unorganized borough the constitutional mandate requiring the legislature "to establish and maintain a system of public schools open to all children of the state."³⁸⁸ It is well established that public education must be made available to all children on equal terms.³⁸⁹

Given the constitutional duty of the REAAs, they may have to bear the brunt of remedying any deficiencies or inequalities that are shown to exist in BIA schools vis-a-vis REAA schools. For instance, assume that a particular REAA (and schools in the state generally) have a regular program for assisting children with the inability to speak and understand English. Assume that the BIA has no such program. The fact that BIA has elected to maintain a school in a community does not relieve the state of giving children there an equal educational opportunity. It is reasonable, then, to conclude that the state must, at a minimum, assure that there are programs necessary to rectify language deficiencies of children suffering from them.³⁹⁰ Consequently, an REAA (and the

380. Such transfers in the past were considered unlawful without specific congressional authorization. 29 *Op. Atty. Gen.* 272 (1911). In 1950 Congress enacted a blanket authorization for conveyance of school properties to school authorities (then under the territorial government) whenever the secretary determines that the properties are no longer required for Native school purposes. Act of Aug. 23, 1950, 64 Stat. 470.

381. Letter from Marshall L. Lind, Commissioner, Alaska State Department of Education to Chairman, REAA Board, dated March 5, 1976.

382. E. Dean Coon, Anne E. Just, and Jerry N. Waddell, *School Finance in Alaska Report No. 1: An Overview of Current Issues, Sources and Distribution of Funds for Public Elementary and Secondary Education* (Fairbanks, Alaska: University of Alaska, Center for Northern Educational Research, 1976), p. 5. REAAs and the BIA schools they accepted on or after July 1, 1970 included: Northwest Arctic REAA—Kotzebue (K-12), Kiana (K-12); Lower Yukon Schools REAA—Emmonak (1-8), Hooper Bay (K-9), and Mountain Village (7-8); and Kuspuk Schools REAA—Kalskag and Lower Kalskag (1-8).

383. Memorandum of Agreement, State of Alaska and Bureau of Indian Affairs, Juneau Area Office (proposed), April 15, 1976.

384. Letter to Dr. Marshall Lind, Commissioner of Education, from John A. Moore, Acting Area Director, Juneau Area, Bureau of Indian Affairs, dated April 16, 1976. BIA also objected to provisions for continued federal funding of the schools once under REAA operation, which funding was to phase out over a five-year period.

385. Alaska Stat. § 14.08.031(d) (1975).

386. *Id.* at § 14.08.041(b) & (d).

387. Alaska Stat. § 14.08.111(1).

388. Alaska Const. art. VII, § 1.

389. *Brown v. Board of Education*, *supra*, 347 U.S. at 493. See discussion *supra* in text accompanying notes 266-71.

390. Compare *Lau v. Nichols*, 414 U.S. 563 (1974).

state) may have an enforceable duty to assure that all schools under its jurisdiction have programs to prevent children from being deprived of meaningful schooling.

A harder question is whether parents can insist upon having their children educated in a REAA school rather than a BIA school. The outcome if the question were litigated would depend partly on the reason for the parents' objection. If the school were deficient, the remedy probably would not be a court order requiring a second school to be built in a small village where a BIA school already operates. Rather it might be designed to deal with specific deficiencies, such as language disabilities discussed above. On the other hand, if the only available school were a mission school and the objection were based on constitutional grounds, the possibility of an order requiring the state to provide schools for all children "free from sectarian control" would be substantially greater.³⁹¹ Furthermore, the state could not claim that education in a religious milieu satisfies its legal obligation in light of the prohibition against establishment of religion in the first amendment to the United States Constitution,³⁹² which is substantially reiterated in the state constitution.³⁹³

If courts are faced with questions of whether the state's obligation to provide an education system for all children has been met, they will undoubtedly apply a rule of reasonableness. They will probably find that to the extent BIA schools assure an equal educational opportunity, the state's duty is done. The history of education in the state, the fact that state and the BIA have long had an agreement to cooperate in educating rural Native children, the realities of state finance, and the progress toward transfer of BIA schools to the state and its political subdivisions would all be influential.

Another possibility short of complete abandonment of a community's BIA school exists. Native communities have options for obtaining control of BIA school operations under the Indian Self-Determination and Education Assistance Act.³⁹⁴ As we have indicated earlier, local communities, via Native corporations or village councils, can contract to take over some or all of the BIA's education functions. With the approval of such tribal groups even a Native-controlled REAA board can contract to run a BIA school with federal money. So far this device has been untried.

391. Alaska Const. art. VII, § 1; U.S. Const. amend. 1.

392. U.S. Const. amend. 1, cl. 1. Dependency of state function upon a religious function has been held to be unconstitutional. *E.g.*, *School Dist. of Abington Township v. Schempp*, 374 U.S. 203 (1963).

393. Alaska Const. art. 1, § 4.

394. See Part II G, *supra*.

Conclusion

Education for rural Alaska Natives has come along a lengthy and tortuous path. The saga is far from complete, but the willingness to try fresh approaches and the sincerity of those who are shaping policy are encouraging.

The major attempt of the state to decentralize control—S.B. 35—will not fully achieve the goal, but will be a vast improvement over the state-operated school system it replaces. It also should speed up the withdrawal of BIA education functions. The new law raises some serious legal problems because of its inconsistency with Alaska's local government mandate. Prompt legislative attention to this problem is needed. Action before the S.B. 35 system is declared unconstitutional is essential if dislocations and disappointed expectations are to be avoided.

Federal assistance for Native education adds an array of options for bush education. Perhaps the most notable is the contracting mechanism in the Indian Self-Determination and Education Assistance Act. The patchwork of community-based committees, es-

pecially for federal programs, must be simplified. Local control should not become a charade which drains the time and energy of Native leadership through innumerable board and committee meetings, and is so dispersed that there is no real power in any one entity. Consolidating functions would ease burdens on Native participants and broaden the effect they can have.

There is reason to be optimistic about the future. The most remarkable phenomenon is that Native people have remained involved and hopeful in a situation which could be expected to evoke cynicism. They continue to work with state and federal officials and to invest their personal and emotional resources in the search for the right education system for bush Alaska. Assuming the good faith efforts of responsible agency personnel and education professionals are sustained, progress toward the goals of optimizing local control and enhancing the quality of rural education compatibly with Native lifestyles and desires can continue.

14.17.250(1) Indian Self Determination and Education
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