

# COMMITTEE REPORT

## SENATE

FURTHER:

5/1/85

Date 5/8/85

Mr. President

The Committee on FINANCE considered CSHB 72 (CSBA)

municipal government; etd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 92 (Fin)
- new title
- same title and recommends individual recommendation
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

### MEMBERS SIGNING

#### DO PASS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### MEMBERS HAVING

#### OTHER RECOMMENDATIONS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

*Handwritten notes:*  
9/24/83

Revision Date: 3/15/85

REQUEST

Bill/Resolution No.: CASHB 72 (C&RA)  
Title: An Act Relating to  
Municipal Government  
Sponsor: Rules/Governor  
Requestor: Senate C&RA Committee  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Community & Regional Affairs  
Program Category Affected: \_\_\_\_\_  
Community Development  
BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Community Assistance Grants  
Component: Organizational Grants

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-	400.0	350.0		
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	400.0	350.0		

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	400.0	350.0		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	400.0	350.0		

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED ANALYSIS

Prepared By: Doug Griffin, Deputy Director *griffin* Phone: 465-4750  
Division: Municipal & Regional Assistance Date: 3/15/85

Approved by Commissioner: *[Signature]* Date: 3/15/85  
Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note): *Super*  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

*Handwritten:* 71-94

AN ACT RELATING TO MUNICIPAL GOVERNMENT

ANALYSIS: This bill commits the State to paying increased levels of transitional assistance to newly incorporated cities and boroughs. However, given the increasingly complex requirements for incorporation, the fact that the bill does not become effective until January 1, 1986 (half way through FY 86), and the ability to request supplemental funding to pay transitional grants after the fact on a reimbursement basis, assumptions have been changed to produce a zero fiscal effect for FY 86. This will prevent money from being tied up to address incorporations which may not occur.

The Legislature does need to acknowledge that the bill does carry possible increased financial obligations, but it is impossible to predict when these added costs will be borne by the State. For this reason, the fiscal note reflects no additional cost for FY 86, but assumptions for future years are included as follows:

Assumptions: FY 86 - no incorporations  
FY 87 - two cities and one borough incorporate  
FY 88 - two cities incorporate

Program Summary: The only portion of this bill which will create fiscal impact is Sec. 29.05.180-190 which provides additional transitional assistance through increased organizational grants. The Department is also required to provide additional assistance to newly formed cities and boroughs in setting up a sales tax collection system and tax rolls for property taxation. It is difficult to gauge whether this type of assistance will in fact be requested. If it is requested, additional work will be required of the State Assessor and technical assistance sections of the Division of Municipal and Regional Assistance. Given this uncertainty, possible costs for this type of technical assistance are not reflected in this fiscal note.

Computations:

Grants in FY 86.....	-0-
Grants in FY 87.....	400.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$300,000 per -- first year grant)	
Grants in FY 88.....	350.0
(2 cities @ \$50,000 per -- first year grant)	
(2 cities @ \$25,000 per -- second year grant)	
(1 borough @ 200,000 per -- second year grant)	

Economic Impact: The economic impact on State and local governments will be limited.

Impact on Local Governments: This bill is strongly supported by the Alaska Municipal League and most municipalities of the State. Impacts will generally be positive, particularly for newly incorporated municipalities.



Official Business

# Alaska State Legislature

## Senate Finance Committee

5/7/85  
Sackett  
J  
Pouch V  
State Capitol  
Juneau, Alaska 99811

### M E M O R A N D U M

Date: May 6, 1985

To: Members, Senate Finance

From: Senator John Sackett

Subj: Amendments to SCS CSHB-72 (Jud)

1. Page 11, line 14:  
After "city" insert "or adopts a home rule charter"
2. Page 11, line 19:  
Delete "election or the reclassification" and inset ", reclassification, or adoption of a home rule charter"
3. Page 29, after line 9, insert the following new subsection to read:  
"(b) A second class city that exceeds 35 square miles in area may adopt a charter for its own government if the department determines from the best figures available that the population of the city is at least 3,500 permanent residents."

Reletter the following subsections accordingly.

The effect of the amendments would be to permit the City of Bethel, currently a second class city, to become a home rule charter city should the voters approve such a change in their status.

The 35 square mile and 3,500 population reference ensures that Bethel is the only community which would fall under the provisions of the amendments relating to home rule charter.

The City of Bethel has long requested the change in language so that they can conduct an election and let the voters decide if they want to adopt a home rule charter form of self government.

Cook  
#2  
Adopted

A M E N D M E N T

Offered in the SENATE

By ELIASON

TO: SCS CSHB 72(Jud)

Page 189, after line 9 insert the following new bill section:

"\* Sec. 20. AS 04.21.010(c) is amended to read:

(c) A municipality may not impose taxes on alcoholic beverages except

(1) property taxes on alcoholic beverage inventories; [AND]

(2) sales taxes on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality; and

(3) sales taxes on alcoholic beverage sales that were in effect before July 1, 1985."

Renumber the following bill sections accordingly

Testimony:

Senator Reef  
Scott Burgess, AK Mun League  
Jeff. Smith, C&RA

In favor.  
Against  
Supports

Am #2 Adopted — no ob

Burns Am

#3

Adopted  
Multivisions

PROPOSED AMENDMENT TO SENATE CS FOR CS  
FOR HOUSE BILL NO. 72 (JUDICIARY)

On page 34, line 3, add new (26) as follows and renumber  
remaining sections accordingly:

(26) AS 29.35.060 (local franchising)

On page 202, line 2, replace (1) with the following:

A person, utility, or cooperative that is exempt from regu-  
lation under AS 42.05.711(a) or (d) - (k) is not subject  
regulation by a municipality under AS 29.35.060 - 29.35.070  
[AS 29.48.060 - 29.48.090].

FF: *y* *SC*

Testimony:

Ted Burns  
Scott Burgess

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 7, 1985

SUBJECT: Franchises and permits (SCS CSHB 72(Jud))

TO: Senator Jan Faiks, Chair  
Senate Finance Committee

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

You have asked for an explanation of the section of the municipal code revision bill dealing with franchises and permits. Sec. 29.35.060 is not a home rule limitation and has not been a home rule limitation under any of the earlier versions of the municipal code. The section itself has not been changed from earlier versions either.

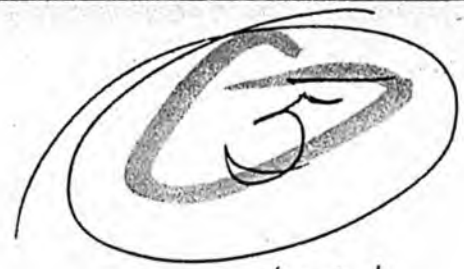
The existing provision on the subject is AS 29.48.050, which is a home rule limitation under AS 29.13.100(17). Subsection (c) of AS 29.48.050 specifically deals with the treatment of utilities that are regulated under AS 42.05, giving them the right to use streets and public places, and giving the municipalities the right to establish permit fees and reasonable terms and conditions. That subsection was entirely eliminated in the municipal code revision bill, so the section now addresses only franchises and permits for utilities not certificated by the Alaska Public Utilities Commission. Since the section does not prohibit the granting of franchises and permits to utilities that are regulated by APUC, and, in fact, does not address their treatment at all, merely making the section a home rule limitation would not clearly have the effect of prohibiting a home rule municipality from acting with regard to regulated utilities. At best, it might be argued that the grant of authority regarding franchises and permits for utilities that are not regulated amounts to a restriction regarding franchises and permits for utilities that are regulated through negative implication. This creates unnecessary confusion in the law.

Senator Jan Faiks  
May 7, 1985  
Page 2

If the Senate Finance Committee wishes to limit the power of a home rule municipality with respect to franchises and permits for regulated utilities, a possible approach would be to reincorporate AS 29.48.050(c) into Sec. 29.35.060 and make that section a home rule limitation. This would preserve the status quo by ensuring that the regulated utilities could use streets and public places while allowing both home rule and general law municipalities to establish reasonable fees and reasonable terms and conditions for that use.

TBC:ojb  
J14/093

Holl Am



Adopted

A M E N D M E N T

Offered in the SENATE

TO: SCS CSHB 72(Jud)

Page 75, line 17:

After "may" insert ", only within its boundaries,"

Testimony:

Holl  
Cook  
Burgess

AMENDMENT

# 7 - HOLD  
Adopted  
5/8/85  
pm

To: SCS CSHB-72 (Jud)

by Sackett

Date: May 8, 1985 a.m.

Replace amendment #4 with the following:

Page 74, line 28, add the following:

After the phrase "waste disposal," add  
"utility services"

- <sup>10</sup> Am #4  
p: -y, 1 86; - 06

Testimony:  
~~Hutchins~~  
~~Smith~~  
Cook

1 (5) to investigate an affair of the municipality and make  
2 inquiries into the conduct of a municipal department;

3 (6) to levy a tax or special assessment, and impose a lien  
4 for its enforcement;

5 (7) to enforce an ordinance and to prescribe a penalty for  
6 violation of an ordinance;

7 (8) to acquire, manage, control, use, and dispose of real  
8 and personal property, whether the property is situated inside or  
9 outside the municipal boundaries; this power includes the power of a  
10 borough to expend, for any purpose authorized by law, money received  
11 from the disposal of land in a service area established under AS 29.-  
12 35.450;

13 (9) to expend money for a community purpose, facility, or  
14 service for the good of the municipality to the extent the municipal-  
15 ity is otherwise authorized by law to exercise the power necessary to  
16 accomplish the purpose or provide the facility or service;

17 (10) to regulate the operation and use of a municipal right-  
18 of-way, facility, or service;

19 (11) to borrow money and issue evidences of indebtedness;

20 (12) to acquire membership in an organization that promotes  
21 legislation for the good of the municipality;

22 (13) to enter into an agreement, including an agreement for  
23 cooperative or joint administration of any function or power with a  
24 municipality, the state, or the United States;

25 (14) to sue and be sued.

26 Sec. 29.35.020. EXTRATERRITORIAL JURISDICTION. (a) To the  
27 extent a municipality is otherwise authorized by law to exercise the  
28 power necessary to provide the facility or service, the municipality  
29 may provide parks, playgrounds, cemeteries, emergency medical

1 services, solid and septic waste disposal, utility services, airports,  
2 streets (including ice roads), trails, transportation facilities,  
3 wharves, harbors and other marine facilities outside its boundaries  
4 and may regulate their use and operation to the extent that the juris-  
5 diction in which they are located does not regulate them. A regu-  
6 lation adopted under this section must state that it applies outside  
7 the municipality.

8 (b) A municipality may adopt an ordinance to protect its water  
9 supply and watershed, and may enforce the ordinance outside its bound-  
10 aries. Before this power may be exercised inside the boundaries of  
11 another municipality, the approval of the other municipality must be  
12 given by ordinance.

13 (c) This section applies to home rule and general law municipal-  
14 ities.

15 Sec. 29.35.030. EMINENT DOMAIN. (a) A municipality may exer-  
16 cise the powers of eminent domain and declaration of taking in the  
17 performance of a power or function of the municipality under the  
18 procedures set out in AS 09.55.250 -- 09.55.460.

19 (b) This section applies to home rule and general law municipal-  
20 ities.

21 Sec. 29.35.040. EMERGENCY DISASTER POWERS. (a) A municipality  
22 that is wholly or partially in an area that is declared by the Presi-  
23 dent or governor to be a disaster area may participate in and provide  
24 for housing, urban renewal, and redevelopment in the same manner as a  
25 home rule city. The exercise of these powers by a borough shall be on  
26 a nonareawide basis, except a borough may exercise the powers trans-  
27 ferred to it by a city as provided by AS 29.35.310.

28 (b) Powers granted by this section must be initiated within a  
29 period of not more than five years after the date of declaration of a

Offered: 5/2/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 72 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to municipal government; and provid-  
7 ing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature finds that the municipal code  
10 contains many provisions that have created problems for municipalities that  
11 must function under AS 29 and that the title is poorly organized and  
12 difficult for people to use. Therefore, it is the purpose of the  
13 legislature to revise and reorganize the municipal code to permit local  
14 government to function more effectively. Except as expressly provided, the  
15 legislature does not intend by this Act to alter or affect in any way the  
16 relationship or balance of authority between the state and home rule or  
17 general law municipalities with respect to the timing or manner of resource  
18 development under AS 31, AS 38, or other provisions of law. Except as  
19 expressly provided, the legislature does not intend by this Act to increase  
20 or reduce the authority of state agencies to carry out their functions  
21 under other titles.

22 \* Sec. 2. AS 29.03 is amended by adding a new section to read:

23 Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075,  
24 the Department of Natural Resources is the platting authority in the  
25 unorganized borough in the area outside all cities.

26 \* Sec. 3. AS 29 is amended by adding a new chapter to read:

27 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

28 Sec. 29.04.010. HOME RULE. A home rule municipality is a  
29 municipal corporation and political subdivision. It is a city or a

1 borough that has adopted a home rule charter, or it is a unified  
2 municipality. A home rule municipality has all legislative powers not  
3 prohibited by law or charter.

4 Sec. 29.04.020. GENERAL LAW. A general law municipality is a  
5 municipal corporation and political subdivision and is an unchartered  
6 borough or city. It has legislative powers conferred by law.

7 Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipali-  
8 ties are of five classes:

- 9 (1) first class boroughs;
- 10 (2) second class boroughs;
- 11 (3) third class boroughs;
- 12 (4) first class cities;
- 13 (5) second class cities.

14 Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A  
15 second class city may be reclassified as a first class city by holding  
16 an election on the question, if the department determines from the  
17 best figures available that the population of the city has reached 400  
18 permanent residents.

19 (b) An election on the question of reclassification may be ini-  
20 tiated in two ways:

21 (1) a number of voters equal to 15 percent of the number of  
22 votes cast in the city at the preceding regular election may file a  
23 petition with the council; or

24 (2) the council may propose reclassification.

25 (c) The council shall hold at least one public hearing in the  
26 city on the question of reclassification. The council shall then  
27 evaluate the ability of the city to assume first class status and make  
28 its findings public.

29 (d) The council shall, within 30 days after its findings have

1        been made public, order an election on the question of reclassifica-  
2        tion. The election shall be held at least 30 days after the order and  
3        not later than the next regular election occurring after the 30-day  
4        period. If more than one question is to be voted on at the election,  
5        each shall appear separately on the ballot.

6            (e) The council shall certify the election results to the de-  
7        partment. If the majority of votes cast is favorable, the city shall  
8        be considered reclassified to first class status 30 days after certi-  
9        fication of the election results.

10           Sec. 29.04.050. RECLASSIFICATION OF SECOND CLASS BOROUGHES. A  
11        second class borough may reclassify as a first class borough in the  
12        manner provided by AS 29.35.320 - 29.35.330 for the addition of an  
13        areawide power by a first or second class borough, except the petition  
14        or proposal requests reclassification instead of requesting addition  
15        of a power.

16           Sec. 29.04.060. RECLASSIFICATION OF THIRD CLASS BOROUGHES. (a)  
17        A third class borough may reclassify as a first or second class bor-  
18        ough in the manner provided by AS 29.35.320 - 29.35.330 for the addi-  
19        tion of an areawide power by a first or second class borough, except  
20        the petition or proposal requests reclassification instead of request-  
21        ing addition of a power. At the time of voting on reclassification of  
22        a third class borough to first or second class status, voters shall  
23        vote also on whether the borough shall, on reclassification, retain a  
24        combined assembly and school board or elect a separate assembly and  
25        board as otherwise provided for first and second class boroughs.

26           (b) If a combined assembly and school board are approved at the  
27        reclassification election, the assembly serving at the time of the  
28        election continues to serve as the assembly and board on voter ap-  
29        proval of reclassification and until terms of assembly members expire

1 as provided before reclassification.

2 (c) If a separate assembly and school board are approved at the  
3 reclassification election, a school board shall be elected in confor-  
4 mity with AS 14.12.030 - 14.12.100 at the next regular election, if it  
5 occurs within 90 days of the date of the reclassification election, or  
6 otherwise at a special election within 90 days of the date of the  
7 reclassification election. Expiration dates of terms of school board  
8 members elected at a special election must coincide with the date of  
9 the regular election. Until a board is elected and qualified, the  
10 assembly continues to serve as the board.

11 \* Sec. 4. AS 29 is amended by adding a new chapter to read:

12 CHAPTER 05. INCORPORATION.

13 ARTICLE 1. REQUIREMENTS.

14 Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that  
15 meets the following standards may incorporate as a first class city:

16 (1) the community has 400 or more permanent residents;

17 (2) the boundaries of the proposed city include all areas  
18 necessary to provide municipal services on an efficient scale;

19 (3) the economy of the community includes the human and  
20 financial resources necessary to provide municipal services; in con-  
21 sidering the economy of the community, the Local Boundary Commission  
22 shall consider property values, economic base, personal income, re-  
23 source and commercial development, anticipated functions, and the  
24 expenses and income of the proposed city, including the ability of the  
25 community to generate local revenue;

26 (4) the population of the community is stable enough to  
27 support city government;

28 (5) there is a demonstrated need for city government.

29 (b) A community that meets all the standards under (a) of this

1 section except (a)(1) may incorporate as a second class city.

2 Sec. 29.05.020. LIMITATIONS ON INCORPORATION OF A CITY. (a) A  
3 community in the unorganized borough may not incorporate as a city if  
4 the services to be provided by the proposed city can be provided by  
5 annexation to an existing city.

6 (b) A community within a borough may not incorporate as a city  
7 if the services to be provided by the proposed city can be provided on  
8 an areawide or nonareawide basis by the borough in which the proposed  
9 city is located, or by annexation to an existing city.

10 Sec. 29.05.030. INCORPORATION OF A BOROUGH. (a) An area that  
11 meets the following standards may incorporate as a home rule, first  
12 class, or second class borough:

13 (1) the population of the area is interrelated and inte-  
14 grated as to its social, cultural, and economic activities, and is  
15 large and stable enough to support borough government;

16 (2) the boundaries of the proposed borough conform gener-  
17 ally to natural geography and include all areas necessary for full  
18 development of municipal services;

19 (3) the economy of the area includes the human and finan-  
20 cial resources capable of providing municipal services; evaluation of  
21 an area's economy includes land use, property values, total economic  
22 base, total personal income, resource and commercial development,  
23 anticipated functions, expenses, and income of the proposed borough;

24 (4) land, water, and air transportation facilities allow  
25 the communication and exchange necessary for the development of inte-  
26 grated borough government.

27 (b) An area may not incorporate as a third class borough.

28 ARTICLE 2. PROCEDURE.

29 Sec. 29.05.060. PETITION. Municipal incorporation is proposed

1 by filing a petition with the department. The petition shall include  
2 the following information about the proposed municipality:

3 (1) class;

4 (2) name;

5 (3) boundaries;

6 (4) maps, documents, and other information required by the  
7 department;

8 (5) composition and apportionment of the governing body;

9 (6) a proposed operating budget for the municipality pro-  
10 jecting sources of income and items of expenditure through the first  
11 full fiscal year of operation;

12 (7) for a borough, based on the number who voted in the  
13 respective areas in the last general election, the signature and  
14 resident address of 15 percent of the voters in

15 (A) home rule and first class cities in the area of  
16 the proposed borough; and

17 (B) the area of the proposed borough outside home rule  
18 and first class cities;

19 (8) for a first class borough, a designation of areawide  
20 powers to be exercised;

21 (9) for a second class borough, a designation of areawide  
22 and nonareawide powers to be exercised;

23 (10) for a first or second class city, a designation of the  
24 powers to be exercised;

25 (11) for a first class city, based on the number who voted  
26 in the area in the last general election, the signatures and resident  
27 addresses of 50 voters in the proposed city or of 15 percent of the  
28 voters in the proposed city, whichever is greater;

29 (12) for a second class city, based on the number who voted

1 in the area in the last general election, the signatures and resident  
2 addresses of 25 voters in the proposed city or of 15 percent of the  
3 voters in the proposed city, whichever is greater;

4 (13) for a home rule borough, a proposed home rule charter.

5 Sec. 29.05.070. REVIEW. The department shall review an incorpo-  
6 ration petition for content and signatures and shall return a defi-  
7 cient petition for correction and completion.

8 Sec. 29.05.080. INVESTIGATION. (a) If an incorporation peti-  
9 tion contains the required information and signatures, the department  
10 shall investigate the proposal and shall hold at least one public  
11 informational meeting in the area proposed for incorporation. The  
12 department shall publish notice of the meeting.

13 (b) The department may combine incorporation petitions from the  
14 same general area.

15 (c) The department shall report its findings to the Local Bound-  
16 ary Commission with its recommendations regarding the incorporation.

17 Sec. 29.05.090. HEARING. The Local Boundary Commission shall  
18 hold at least one public hearing in the area proposed to be incorpo-  
19 rated for the purpose of receiving testimony and evidence on the  
20 proposal.

21 Sec. 29.05.100. DECISION. (a) If the Local Boundary Commission  
22 determines that a proposed municipality fails to meet the standards  
23 for incorporation, it shall reject the petition. If the commission  
24 determines that the proposed municipality meets the standards, it  
25 shall accept the petition. If the commission determines that the  
26 proposed municipal boundaries can be altered to meet the standards, it  
27 may alter the boundaries and accept the petition.

28 (b) A Local Boundary Commission decision under this section may  
29 be appealed under the Administrative Procedure Act (AS 44.62).

1           Sec. 29.05.110. INCORPORATION ELECTION. (a) The Local Boundary  
2 Commission shall immediately notify the director of elections of its  
3 acceptance of an incorporation petition. Within 30 days after notifi-  
4 cation, the director of elections shall order an election in the pro-  
5 posed municipality to determine whether the voters desire incorpora-  
6 tion and, if so, to elect the initial municipal officials. If incor-  
7 poration is rejected, no officials are elected. The election must be  
8 held not less than 30 or more than 90 days after the date of the  
9 election order. The election order must specify the dates during  
10 which nomination petitions for election of initial officials may be  
11 filed.

12           (b) A voter who has been a resident of the area within the pro-  
13 posed municipality for 30 days before the date of the election order  
14 may vote.

15           (c) Areawide borough powers included in an incorporation peti-  
16 tion are considered to be part of the incorporation question. In an  
17 election for the incorporation of a second class borough, each non-  
18 areawide power to be exercised is placed separately on the ballot.  
19 Adoption of a nonareawide power requires a majority of the votes cast  
20 on the question, and the vote is limited to the voters residing in the  
21 proposed borough but outside all cities in the proposed borough.

22           (d) A home rule charter included in an incorporation petition  
23 under AS 29.05.060(13) is considered to be part of the incorporation  
24 question. The home rule charter is adopted if the voters approve in-  
25 corporation of the borough.

26           (e) The director of elections shall supervise the election in  
27 the general manner prescribed by the Alaska Election Code (AS 15).  
28 The state shall pay all election costs under this section.

29           Sec. 29.05.120. ELECTION OF INITIAL OFFICIALS. (a) Nominations

1 for initial municipal officials are made by petition. The petition  
2 shall be in the form prescribed by the director of elections and shall  
3 include the name and address of the nominee and a statement of the  
4 nominee that the nominee is qualified under the provisions of this  
5 title for the office that is sought. A person may file for and occupy  
6 more than one office, but may not serve simultaneously as

7 (1) borough mayor and as a member of the assembly; or

8 (2) city mayor and as a member of the council in a first  
9 class city.

10 (b) Except for a proposed second class city, petitions to nomi-  
11 nate initial officials must include the signature and resident address  
12 of 50 voters in the area of the proposed municipality, or that area of  
13 the proposed municipality from which the officials are to be elected  
14 under the composition and apportionment set out in the accepted incor-  
15 poration petition.

16 (c) Petitions to nominate initial officials of a second class  
17 city must include the signature and resident address of 10 voters in  
18 the area of the proposed city.

19 (d) The director of elections shall supervise the election in  
20 the general manner prescribed by the Alaska Election Code (AS 15).  
21 The state shall pay all election costs.

22 (e) The initial elected officials take office on the first  
23 Monday following certification of their election.

24 (f) The initial elected members of the governing body shall  
25 determine by lot the length of their terms of office so that a propor-  
26 tionate number of terms expire each year, resulting in staggered terms  
27 of office for members subsequently elected.

28 Sec. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE  
29 AREAS. (a) A service area in a newly incorporated municipality shall

1 be integrated into the municipality within two years after the date of  
2 incorporation. On integration the municipality succeeds to all the  
3 rights, powers, duties, assets and liabilities of the service area.  
4 On integration all property in the service area subject to taxation to  
5 pay the principal and interest on bonds at the time of integration  
6 remains subject to taxation for that purpose.

7 (b) After integration, the municipality may exercise in a former  
8 service area all of the rights and powers exercised by the service  
9 area at the time of integration, and, as successor to the service  
10 area, may levy and collect special charges, taxes, or assessments to  
11 amortize bonded indebtedness incurred by the service area or by a  
12 municipality in which the service area was formerly located.

13 Sec. 29.05.140. TRANSITION. (a) The powers and duties exer-  
14 cised by cities and service areas that are succeeded to by a newly  
15 incorporated municipality continue to be exercised by the cities and  
16 service areas until the new municipality assumes the powers and func-  
17 tions, which may not exceed two years after the date of incorporation.  
18 Ordinances, rules, resolutions, procedures, and orders in effect  
19 before the transfer remain in effect until superseded by the action of  
20 the new municipality.

21 (b) Before the assumption, the new municipality shall give  
22 written notice of its assumption of the rights, powers, duties, as-  
23 sets, and liabilities under this section and AS 29.05.130 to the city  
24 or service area concerned. Municipal officials shall consult with the  
25 officials of the city or service area concerned and arrange an orderly  
26 transfer.

27 (c) After the incorporation of a new municipality, no service  
28 area in it may assume new bonded indebtedness, make a contract, or  
29 transfer an asset without the consent of the governing body.

1 (d) This section applies to home rule and general law municipal-  
2 ities.

3 Sec. 29.05.150. CHALLENGE OF LEGALITY. A person may not chal-  
4 lenge the formation of a municipality except within six months after  
5 the date of its incorporation.

6 ARTICLE 3. TRANSITIONAL ASSISTANCE.

7 Sec. 29.05.180. ORGANIZATION GRANTS TO CITIES. (a) To defray  
8 the cost of transition to city government and to provide for interim  
9 government operations, each city incorporated after December 31, 1985  
10 is entitled to an organization grant of \$50,000 for the first full or  
11 partial fiscal year after incorporation.

12 (b) To defray the cost of reclassification, each second class  
13 city in the unorganized borough incorporated before January 1, 1986  
14 that reclassifies as a first class city after December 31, 1985 is  
15 entitled to an organization grant equal to \$50,000 for the first full  
16 or partial fiscal year after reclassification.

17 (c) The department shall disburse an organization grant under  
18 (a) or (b) of this section within 30 days after certification of the  
19 incorporation election or the reclassification election, or as soon  
20 after certification as money is appropriated and available for the  
21 purpose.

22 (d) A city entitled to an organization grant under (a) or (b) of  
23 this section is entitled to a second organization grant of \$25,000.  
24 The department shall disburse the second organization grant within 30  
25 days after the beginning of the city's second fiscal year after incor-  
26 poration or reclassification, or as soon after that time as money is  
27 appropriated and available for the purpose.

28 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHES. (a) For the  
29 purpose of defraying the cost of transition to borough government and

1 to provide for interim governmental operations, each borough incorpo-  
2 rated after December 31, 1985, is entitled to organization grants as  
3 follows:

4 (1) \$300,000 for the borough's first full or partial fiscal  
5 year;

6 (2) \$200,000 for the borough's second fiscal year; and

7 (3) \$100,000 for the borough's third fiscal year.

8 (b) The department shall disburse the first organization grant  
9 to a borough within 30 days after certification of the incorporation  
10 election favoring incorporation of a borough, or as soon after that as  
11 money is appropriated and available for the purpose. The second grant  
12 shall be disbursed within 30 days after the beginning of the borough's  
13 second fiscal year, or as soon after that as money is appropriated and  
14 available for the purpose. The third grant shall be disbursed within  
15 30 days after the beginning of the borough's third fiscal year, or as  
16 soon after that as money is appropriated and available for the pur-  
17 pose.

18 (c) This section does not apply to a borough incorporated by  
19 consolidation or to a unified municipality.

20 Sec. 29.05.200. ORGANIZATION GRANT FUND. (a) The organization  
21 grant fund is established in the department. An appropriation made to  
22 the fund shall be used for organization grants to municipalities that  
23 qualify under AS 29.05.180 or 29.05.190.

24 (b) Before August 31 of each fiscal year the department shall  
25 submit a report to the Department of Administration indicating

26 (1) each municipality expected to qualify to receive an  
27 organization grant during the next fiscal year;

28 (2) the amount of money needed to cover all organization  
29 grants expected to be awarded during the next fiscal year.

1           Sec. 29.05.210.   TRANSITIONAL ASSISTANCE TO BOROUGHES.   (a)  
2   Within 30 days after the date of incorporation of a borough incorpo-  
3   rated after December 31, 1985, the department shall determine the  
4   population of the borough.

5           (b) The department shall provide assistance to each borough in-  
6   corporated after December 31, 1985, in

7                   (1) establishing the initial sales and use tax assessment  
8   and collection department if the borough has adopted a sales or use  
9   tax;

10                   (2) determining the initial property tax assessment roll if  
11   the borough has adopted a property tax, including contracting for  
12   appraisals of property needed to complete the initial assessment.

13           (c) This section does not apply to a borough incorporated by  
14   consolidation or to a unified municipality.

15   \* Sec. 5. AS 29 is amended by adding a new chapter to read:

16                   CHAPTER 06. ALTERATION OF MUNICIPALITIES.

17                           ARTICLE 1. CHANGE OF NAME.

18           Sec. 29.06.010. CHANGE OF MUNICIPAL NAME. (a) A municipality  
19   may change its official name by adopting an ordinance for the purpose  
20   that is ratified by the voters and filing the ordinance with the  
21   office of the lieutenant governor. Upon receipt of an ordinance  
22   ratified by the voters, the lieutenant governor shall issue an order  
23   to the municipality changing its name. The name change shall become  
24   effective on a date fixed in the order and occurring within 45 days  
25   after receipt of the ordinance. A copy of the order shall be trans-  
26   mitted to the department.

27           (b) If an ordinance adopted under (a) of this section that  
28   results in a change of the municipal name is subsequently repealed,  
29   the lieutenant governor shall issue an order reinstating the former

1 name within 45 days after the date of the order, unless a different  
2 name is adopted as provided in (a) of this section.

3 (c) When a municipal name change takes effect by means of an  
4 order issued under (a) or (b) of this section, a civil or criminal  
5 suit, application, petition, hearing or other proceeding to which the  
6 municipality is a party and that is pending at or brought after the  
7 date the name change takes effect shall proceed in the municipal name  
8 as changed by the order.

9 (d) This section applies to home rule and general law municipal-  
10 ities.

#### 11 ARTICLE 2. ANNEXATION AND DETACHMENT.

12 Sec. 29.06.040. LOCAL BOUNDARY COMMISSION. (a) The Local  
13 Boundary Commission may consider any proposed municipal boundary  
14 change. It may reject the proposed change, accept the proposed  
15 change, or alter the boundaries and accept the proposal as altered. A  
16 Local Boundary Commission decision under this subsection may be ap-  
17 pealed under the Administrative Procedure Act (AS 44.62).

18 (b) The Local Boundary Commission may present a proposed muni-  
19 cipal boundary change to the legislature during the first 10 days of a  
20 regular session. The change becomes effective 45 days after presenta-  
21 tion or at the end of the session, whichever is earlier, unless dis-  
22 approved by a resolution concurred in by a majority of the members of  
23 each house.

24 (c) In addition to the regulations governing annexation by local  
25 action adopted under AS 44.47.567, the Local Boundary Commission shall  
26 establish procedures for annexation and detachment of territory by  
27 municipalities by local action. The procedures established under this  
28 subsection include a provision that

29 (1) a proposed annexation and detachment must be approved

1 by a majority of votes on the question cast by voters residing in the  
2 area proposed to be annexed or detached;

3 (2) municipally owned property adjoining the municipality  
4 may be annexed by ordinance without voter approval; and

5 (3) an area adjoining the municipality may be annexed by  
6 ordinance without an election if all property owners and voters in the  
7 area petition the governing body.

8 (d) A boundary change effected under (a) and (b) of this section  
9 prevails over a boundary change initiated by local action, without  
10 regard to priority in time.

11 Sec. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS. A military  
12 reservation may be annexed to a municipality in the same manner as  
13 prescribed for other territory under AS 29.06.040. If a city in a  
14 borough annexes a military reservation under this section, the area  
15 encompassing the military reservation automatically is annexed to the  
16 borough in which the city is located.

17 Sec. 29.06.060. APPLICATION. AS 29.06.040 - 29.06.060 apply to  
18 home rule and general law municipalities.

19 ARTICLE 3. MERGER AND CONSOLIDATION.

20 Sec. 29.06.090. MERGER AND CONSOLIDATION. (a) Two or more  
21 municipalities may merge or consolidate to form a single municipality,  
22 except a third class borough may not be formed through merger or  
23 consolidation.

24 (b) Two methods may be used to initiate merger or consolidation  
25 of municipalities:

26 (1) petition to the Local Boundary Commission under regula-  
27 tions adopted by the commission; or

28 (2) the local option method specified in AS 29.06.100 -  
29 29.06.160.

1           Sec. 29.06.100. PETITION. (a) Residents of two or more municipi-  
2 palities may file a merger or consolidation petition with the depart-  
3 ment. The petition must be signed by a number of voters of each  
4 existing municipality equal to at least 25 percent of the number of  
5 votes cast in each municipality's last regular election.

6           (b) The petition includes

7                   (1) the name and class of each existing municipality;

8                   (2) the name and class of the proposed municipality;

9                   (3) the proposed composition and apportionment of the  
10 governing body;

11                   (4) maps, documents, and other information that shows that  
12 the proposed municipality meets the standards for municipal incorpora-  
13 tion.

14           Sec. 29.06.110. REVIEW. (a) The department shall review a  
15 merger or consolidation petition for content and signatures and shall  
16 return a deficient petition for correction or completion.

17           (b) If the petition contains the required information and signa-  
18 tures, the department shall investigate the proposal.

19           (c) The department shall report its findings to the Local Bound-  
20 ary Commission with its recommendations regarding the merger or con-  
21 solidation.

22           Sec. 29.06.120. HEARING. After receipt of the report by the  
23 department on a merger or consolidation petition, the Local Boundary  
24 Commission shall hold at least one public hearing in each of the  
25 existing municipalities included in the petition, unless officials of  
26 the municipalities agree to a single hearing.

27           Sec. 29.06.130. DECISION. (a) If the Local Boundary Commission  
28 determines that the proposed municipality fails to meet the standards  
29 for incorporation, it shall reject the merger or consolidation

1 petition. If the commission determines that the proposed municipality  
2 meets these standards, it shall accept the petition. If the commis-  
3 sion determines that the proposed boundaries or the composition and  
4 apportionment of the governing body can be altered to meet the stan-  
5 dards, it may alter the proposal and accept the petition.

6 (b) A Local Boundary Commission decision under this section may  
7 be appealed under the Administrative Procedure Act (AS 44.62).

8 Sec. 29.06.140. ELECTION. (a) The Local Boundary Commission  
9 shall immediately notify the director of elections of its acceptance  
10 of a merger or consolidation petition. Within 30 days after notifica-  
11 tion, the director of elections shall order an election in the area to  
12 be included in the new municipality to determine whether the voters  
13 desire merger or consolidation. The election must be held not less  
14 than 30 or more than 90 days after the election order. A voter who is  
15 a resident of the area to be included in the proposed municipality may  
16 vote.

17 (b) The director of elections shall supervise the election in  
18 the general manner prescribed by the Alaska Election Code (AS 15).  
19 The state shall pay all election costs.

20 (c) The director of elections shall certify the election re-  
21 sults. If merger or consolidation is approved, the director of elec-  
22 tions shall, within 10 days, set a date for election of officials of  
23 the new municipality. The election date must be not less than 60 or  
24 more than 90 days after the election order and it is the effective  
25 date for the merger or consolidation.

26 Sec. 29.06.150. ASSETS AND LIABILITIES. (a) When two or more  
27 municipalities merge, one succeeds to the rights, powers, duties,  
28 assets, and liabilities of the others.

29 (b) When two or more municipalities consolidate, the newly

1 incorporated municipality succeeds to the rights, powers, duties,  
2 assets, and liabilities of the consolidated municipalities.

3 Sec. 29.06.160. TRANSITION. After merger or consolidation, the  
4 ordinances, resolutions, regulations, procedures, and orders of the  
5 former municipalities remain in force in their respective territories  
6 until superseded by the action of the new municipality.

7 Sec. 29.06.170. APPLICATION. AS 29.06.090 - 29.06.170 apply to  
8 home rule and general law municipalities.

9 ARTICLE 4. UNIFICATION OF MUNICIPALITIES.

10 Sec. 29.06.190. UNIFICATION OF MUNICIPALITIES AUTHORIZED. A  
11 borough and all cities in the borough may unite to form a single unit  
12 of home rule government by complying with AS 29.06.190 - 29.06.410.

13 Sec. 29.06.200. UNIFICATION PROPOSED. (a) Formation of a  
14 charter commission to prepare a unification charter shall be proposed  
15 by resolution of the assembly or by petition. A resolution to propose  
16 formation of a charter commission may be adopted not more often than  
17 once every 12 months.

18 (b) An assembly, a council, or a person living in the area  
19 proposed for unification may initiate a unification petition.

20 Sec. 29.06.210. PETITION REQUIREMENTS. (a) A unification peti-  
21 tion shall read:

22 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICA-  
23 TION CHARTER. We, the undersigned, qualified voters of the borough do  
24 hereby petition that the following proposition be placed before the  
25 voters as provided by law: 'Shall a charter commission be formed (and  
26 charter commission members be elected as elsewhere provided on this  
27 ballot) to prepare, adopt and submit to the voters for their approval  
28 or rejection a proposed charter uniting the borough and all cities  
29 within it as a single unit of home rule government having the powers,

1 duties and functions of a unified municipality as authorized by law?  
2 Yes [ ] No [ ]'

3 Inside First Outside First  
4 Class or Class or  
5 Signature Address Home Rule City [ ] Home Rule City [ ]"

6 (b) The petition shall be signed by at least

7 (1) the number of voters residing outside all home rule and  
8 first class cities in the borough equal to 25 percent of the votes  
9 cast in that area in the last regular borough election; and

10 (2) the number of voters residing in home rule or first  
11 class cities in the borough equal to 25 percent of the votes cast in  
12 all home rule and first class cities in the borough in the last regu-  
13 lar borough election.

14 Sec. 29.06.220. REVIEW OF PETITION. The assembly shall review a  
15 unification petition within 15 days to determine whether it complies  
16 with AS 29.06.210. If the petition does not meet the designated re-  
17 quirements, it shall be immediately returned to the person who ini-  
18 tiated the petition with a statement indicating which requirements  
19 have not been satisfied.

20 Sec. 29.06.230. DUTIES OF CHARTER COMMISSION. The charter  
21 commission shall prepare, adopt, and submit to the voters for approval  
22 or rejection a proposed home rule charter for the area to be unified.

23 Sec. 29.06.240. COMPOSITION OF CHARTER COMMISSION. The charter  
24 commission shall consist of 11 voters, three of whom are residents  
25 elected at large from the borough and eight of whom, proportionate to  
26 the population as determined by the department, are

27 (1) residents of and elected from the area outside all home  
28 rule and first class cities in the borough; or,

29 (2) residents of and elected from home rule or first class

1 cities in the borough.

2 Sec. 29.06.250. CHARTER COMMISSION NOMINATIONS. (a) If the  
3 assembly determines that a unification petition meets the requirements  
4 of AS 29.06.210, or the assembly by its resolution proposes an elec-  
5 tion on formation of a charter commission, the assembly shall issue a  
6 call for the nomination of commission candidates, specifying the  
7 filing deadline and the procedure for making nominations.

8 (b) Charter commission candidates shall be nominated by petition  
9 signed by at least 50 voters of the area from which the candidate  
10 seeks election, or by a number of voters from that area equal to at  
11 least 10 percent of the number of votes cast from that area in the  
12 last regular borough election, whichever is less.

13 (c) Nomination petitions shall be filed with the borough clerk  
14 at least 30 days after notice of the call for nominations has been  
15 given and on or before a date fixed by the assembly.

16 (d) If at least one nomination of a qualified charter commission  
17 candidate for each available seat is not filed, the unification peti-  
18 tion or resolution to propose formation of a charter commission is  
19 void and no election on the question shall be held.

20 Sec. 29.06.260. QUALIFICATIONS OF CANDIDATES. A person is eli-  
21 gible to be nominated as a candidate for the charter commission if  
22 that person is a voter of the area from which election is sought and  
23 has been a voter of the area for at least one year immediately preced-  
24 ing the date the nomination petition is filed.

25 Sec. 29.06.270. ELECTION OF CHARTER COMMISSION. (a) After  
26 receipt of a valid unification petition or adoption of an assembly  
27 resolution to propose formation of a charter commission, the assembly  
28 shall submit to the voters the question of whether a charter commis-  
29 sion shall be formed to prepare a proposed unification charter. The

1 vote shall be held at the next regular borough election scheduled at  
2 least 90 days after receipt of the petition or adoption of the resolu-  
3 tion. The ballot shall be worded exactly as in AS 29.06.210(a).

4 (b) The election of charter commission members shall take place  
5 at the same time as the election on the question of formation of the  
6 commission.

7 (c) All costs incurred in conducting an election under AS 29.-  
8 06.190 - 29.06.410 shall be paid by the borough.

9 Sec. 29.06.280. REQUIREMENTS FOR APPROVAL OF FORMATION AND  
10 ELECTION OF CHARTER COMMISSION. (a) The votes on the question of  
11 formation of a charter commission shall be tabulated in two separate  
12 classifications. One classification consists of all votes cast in  
13 first class and home rule cities in the borough. The other classifi-  
14 cation consists of all votes cast in the remaining area of the bor-  
15 ough. In order for formation of a charter commission to be approved,  
16 a majority of the votes in each classification must favor formation of  
17 the commission.

18 (b) If formation of a charter commission is approved, the candi-  
19 dates who received the highest number of votes from their respective  
20 areas shall serve as members of the commission.

21 Sec. 29.06.290. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

22 (a) The charter commission shall hold its first meeting within 30  
23 days after certification of its election. The commission shall elect  
24 from among its members a chairman and a deputy chairman.

25 (b) A majority of the total membership of the charter commission  
26 constitutes a quorum. A decision of the commission is not valid or  
27 binding unless approved by the number of members necessary to consti-  
28 tute a quorum.

29 (c) The charter commission may elect other officials from among

1 its membership, adopt rules governing its procedures that are consis-  
2 tent with AS 29.06.190 - 29.06.410 and hire and discharge employees.

3 (d) Meetings of the charter commission shall be open to the  
4 public at all times. A journal of commission proceedings shall be  
5 kept and made available for public inspection at the borough office.

6 Sec. 29.06.300. VACANCIES. (a) Vacancies on the charter com-  
7 mission shall be filled by a majority vote of the commission, except  
8 the assembly shall appoint members to fill vacancies if, after a  
9 proposed charter is rejected by the voters, more than one-half of the  
10 members resign.

11 (b) A person who fills a vacancy on the charter commission must  
12 be a voter of the same area as the person succeeded and must have been  
13 a voter of that area for at least one year immediately preceding the  
14 date the vacancy is filled.

15 Sec. 29.06.310. PER DIEM. The assembly may grant a per diem  
16 allowance to members of the charter commission and may reimburse the  
17 members for travel expenses incurred in carrying out the duties pre-  
18 scribed by AS 29.06.190 - 29.06.410. Costs, fees, and other expenses  
19 incurred by the commission are a debt of the borough and shall be paid  
20 upon proper verification.

21 Sec. 29.06.320. CHARTER PROVISIONS. The charter shall include

22 (1) provision for

23 (A) the adjustment of existing bonded indebtedness and  
24 other obligations in a manner that will assure a fair and equit-  
25 able burden of taxation for debt service, subject to AS 29.06.-  
26 380;

27 (B) the establishment of service areas;

28 (C) if election of members of the governing body is  
29 not areawide, the establishment of districts for the election of

1 members of the governing body of the proposed unified municipal-  
2 ity and procedures by which to reapportion the election dis-  
3 tricts;

4 (D) the reapportionment of districts if they are  
5 established;

6 (E) nonpartisan government, and the selection, organi-  
7 zation, authority, and responsibilities of the governing body and  
8 its executive and administrator;

9 (F) the transfer or other disposition of property and  
10 other rights, claims, assets, and franchises of the municipal-  
11 ities to be unified under the charter;

12 (G) the exercise of the rights of initiative and  
13 referendum in accordance with AS 29.10.030;

14 (H) amending the charter in accordance with AS 29.10.-  
15 100;

16 (2) the date on which the charter, if approved at the  
17 charter election, is effective;

18 (3) designation of the proposed unified municipality's  
19 official name; and

20 (4) other charter provisions that may be included in a home  
21 rule charter.

22 Sec. 29.06.330. PUBLIC HEARINGS. Both before and after drafting  
23 the proposed home rule charter, the charter commission shall hold a  
24 public hearing in each area represented on the assembly. Other public  
25 hearings may be held by the commission as it considers necessary.

26 Sec. 29.06.340. FILING OF PROPOSED CHARTER. Upon the adoption  
27 of a proposed home rule charter by the charter commission, the charter  
28 shall be signed by at least a majority of the total membership of the  
29 commission and shall be filed with the borough clerk. A copy of the

1 charter with signatures affixed shall also be filed with the clerk of  
2 each city in the borough.

3 Sec. 29.06.350. PUBLICATION AND POSTING OF PROPOSED CHARTER.  
4 Within 10 days after filing the proposed home rule charter, the bor-  
5 ough clerk shall have it published. In addition, the clerk shall have  
6 a copy of the proposed charter posted in at least three public places  
7 in each city and each unincorporated community in the borough. Copies  
8 of the proposed charter shall be made available by the assembly to the  
9 public at both the office of the borough clerk and the office of the  
10 clerk of each city in the borough. The clerk shall have notice of the  
11 publication, posting, and availability of the proposed charter pub-  
12 lished.

13 Sec. 29.06.360. ELECTION ON CHARTER. (a) The proposed home  
14 rule charter adopted by the charter commission shall be submitted to  
15 the voters at a borough election held within 60 days of the date of  
16 publication and posting of the proposed charter. The borough clerk  
17 shall prepare the ballots for use in the election and shall give  
18 notice of the election by radio and television in a manner intended to  
19 apprise the entire borough population of the election. The election  
20 shall be conducted under procedures applicable to regular elections.

21 (b) A person who is a voter of the borough may vote in the elec-  
22 tion on the proposed charter.

23 (c) If a majority of the votes in the area of the borough out-  
24 side all home rule or first class cities, and a majority of the votes  
25 in all home rule and first class cities in the borough are cast in  
26 favor of the proposed charter, the charter is ratified. If the char-  
27 ter is ratified, election results shall be certified to the commission  
28 and two copies of the charter shall be filed with

29 (1) the lieutenant governor;

- 1                   (2) the department;  
2                   (3) the district recorder for the area of the borough;  
3                   (4) the clerk of the borough;  
4                   (5) the clerk of each city in the borough.

5                   (d) If a proposed charter is rejected, the charter commission  
6 shall prepare, adopt, and submit another proposed charter to the  
7 voters at a borough election held within one year after the date of  
8 the first charter election. If the second proposed charter is also  
9 rejected, the charter commission shall be dissolved and the question  
10 of unification shall be treated as if it had never been proposed or  
11 approved.

12                   Sec. 29.06.370. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon  
13 ratification, the home rule charter of a unified municipality operates  
14 to dissolve all municipalities in the area unified in accordance with  
15 the charter.

16                   Sec. 29.06.380. ASSETS AND LIABILITIES. A unified municipality  
17 shall succeed to all the assets and liabilities of the municipalities  
18 it unified. A bonded indebtedness or other debt incurred before  
19 unification remains the tax obligation of the area that contracted the  
20 debt, except that by ordinance the tax obligation may be assumed by a  
21 larger area if the governing body determines that the asset for which  
22 the bonded indebtedness or other debt was incurred benefited the  
23 larger area before unification, or benefits the larger area after  
24 unification. However, bonded indebtedness or other debt for sewage  
25 collection systems, water distribution systems, and streets, even if  
26 determined to be benefiting a larger area than that which incurred the  
27 debt, remains the tax obligation of the area that incurred the debt.

28                   Sec. 29.06.390. TRANSITION. Within two years after ratification  
29 of the home rule charter, the unified municipality shall revise,

1 repeal, or reaffirm all municipal ordinances, resolutions, and orders  
2 in effect in the area of the unified municipality on the date of  
3 unification. Each ordinance, resolution, regulation, or order in  
4 effect on the date of unification remains in effect until superseded  
5 by action of the unified municipality.

6 Sec. 29.06.400. RIGHT TO STATE AND FEDERAL AID. All provisions  
7 of law authorizing aid from the state or federal government to a  
8 former municipality that was in the area of a unified municipality  
9 remain in effect after unification.

10 Sec. 29.06.410. POWERS OF A UNIFIED MUNICIPALITY. A municipal-  
11 ity unified under AS 29.06.190 - 29.06.410 has all powers

12 (1) not prohibited by law or charter; and

13 (2) granted to a home rule borough.

14 Sec. 29.06.420. APPLICATION. AS 29.06.190 - 29.06.420 apply to  
15 home rule and general law municipalities.

#### 16 ARTICLE 5. DISSOLUTION.

17 Sec. 29.06.450. METHODS OF DISSOLUTION. (a) No petition  
18 methods may be used to initiate dissolution of a municipality;

19 (1) petition to the Local Boundary Commission under regula-  
20 tions adopted by the commission; or

21 (2) the local option method specified in AS 29.06.460 -  
22 29.06.510.

23 (b) The department shall investigate a municipality that it con-  
24 siders to be inactive and shall report to the Local Boundary Commis-  
25 sion on the status of the municipality. The commission may submit its  
26 recommendation to the legislature that the municipality be dissolved  
27 in the manner provided for submission of boundary changes in art. X,  
28 sec. 12 of the state constitution.

29 (c) A borough is dissolved when its entire territory is included

1 in a home rule or first class city or cities. A city is dissolved  
2 when all its powers become areawide borough powers.

3 Sec. 29.06.460. PETITION. (a) Voters of a municipality may  
4 file a dissolution petition with the department in the form prescribed  
5 by the department. The petition must be signed by a number of voters  
6 equal to at least 25 percent of the number of votes cast in the last  
7 regular election in that municipality.

8 (b) The petition must include

9 (1) the name of the municipality;

10 (2) maps, documents, and other information showing that the  
11 municipality meets the standards for dissolution.

12 Sec. 29.06.470. STANDARDS. (a) Except as provided in (b) of  
13 this section, voters of a municipality may petition for dissolution  
14 when the municipality is free of debt, or, if in debt, each of its  
15 creditors is satisfied with a method of repayment and

16 (1) it no longer meets the minimum standards prescribed for  
17 incorporation by AS 29.05, or former AS 29.18.030 if it is a third  
18 class borough; or

19 (2) the municipality ceases to use each of its mandatory  
20 powers.

21 (b) Voters of a city in a borough may petition for dissolution  
22 of the city if the borough consents to assume the city's rights,  
23 powers, duties, assets, and liabilities. The consent must be ratified  
24 by a majority of borough voters voting on the question.

25 Sec. 29.06.480. REVIEW. (a) The department shall review a dis-  
26 solution petition for content and signatures, and shall return a defi-  
27 cient petition for correction or completion.

28 (b) If the petition contains the required information and signa-  
29 tures, the department shall investigate the proposal.

1           Sec. 29.06.490. REPORT AND HEARING. (a) The department shall  
2 report its findings to the Local Boundary Commission with its recom-  
3 mendation regarding the dissolution of a municipality.

4           (b) The Local Boundary Commission shall hold at least one public  
5 hearing in the municipality proposed to be dissolved.

6           Sec. 29.06.500. DECISION. (a) If the Local Boundary Commission  
7 determines that a municipality fails to meet the standards for disso-  
8 lution, it shall reject the petition. If the commission determines  
9 that the municipality meets the standards, it shall accept the peti-  
10 tion.

11          (b) A Local Boundary Commission decision under this section may  
12 be appealed under the Administrative Procedure Act (AS 44.62).

13          Sec. 29.06.510. ELECTION. (a) The Local Boundary Commission  
14 shall immediately notify the director of elections of its acceptance  
15 of a dissolution petition. Within 30 days after notification, the  
16 director of elections shall order an election in the municipality to  
17 determine whether the voters desire dissolution. The election must be  
18 held at least 30 and not more than 90 days after the election order.  
19 A person who is a voter of the municipality may vote in the dissolu-  
20 tion election.

21          (b) The director of elections shall supervise the election in  
22 the general manner prescribed by the Alaska Election Code (AS 15).  
23 The state shall pay all election costs.

24          (c) The director of elections shall certify the election re-  
25 sults. If dissolution is approved, the director of elections shall  
26 declare that the municipality is dissolved effective on the date of  
27 certification.

28          Sec. 29.06.520. SUCCESSION. The government succeeding to a dis-  
29 solved municipality succeeds to all its rights, powers, duties,

1 assets, and liabilities.

2 Sec. 29.06.530. APPLICATION. AS 29.06.450 - 29.06.530 apply to  
3 home rule and general law municipalities.

4 \* Sec. 6. AS 29 is amended by adding a new chapter to read:

5 CHAPTER 10. HOME RULE MUNICIPALITIES.

6 ARTICLE 1. CHARTERS.

7 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. (a) A general law  
8 borough or first class city may adopt a charter for its own govern-  
9 ment.

10 (b) At an election for borough incorporation, an area in the  
11 unorganized borough may adopt a charter for its own government and in-  
12 corporate as a home rule borough.

13 (c) A home rule municipality may adopt a new charter.

14 (d) A proposed charter for an existing municipality is prepared  
15 by a charter commission of seven elected members. A charter commis-  
16 sion election is called by filing a petition with the governing body  
17 or by resolution of the governing body. The petition shall be signed  
18 by a number of voters equal to 15 percent of the votes cast in the  
19 last regular election in the municipality.

20 (e) The proposed charter for an area of the unorganized borough  
21 shall be prepared by the petitioners and filed under AS 29.05.060 with  
22 the petition to incorporate a home rule borough.

23 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at  
24 least one model home rule charter for a borough. The model charter  
25 shall be made available to persons interested in filing a petition to  
26 incorporate a home rule borough under AS 29.05.060.

27 Sec. 29.10.030. INITIATIVE AND REFERENDUM. (a) A home rule  
28 charter shall provide procedures for initiative and referendum.

29 (b) A charter may not require an initiative or referendum

1 petition to have a number of signatures greater than 25 percent of the  
2 total votes cast in the municipality at the last regular election.

3 (c) A charter may not permit the initiative and referendum to be  
4 used for a purpose prohibited by art. XI, sec. 7 of the state consti-  
5 tution.

6 Sec. 29.10.040. CHARTER COMMISSION CANDIDATES. (a) A candidate  
7 for a charter commission shall be a voter of an existing municipality  
8 for three years immediately preceding the charter commission election.

9 (b) A charter commission candidate is nominated by a petition  
10 signed by at least 50 voters or the number of voters equal to 10  
11 percent of the number of votes cast in the municipality during the  
12 last regular election, whichever is less. A nomination petition shall  
13 be filed with the municipal clerk on or before a date fixed by the  
14 governing body.

15 (c) If at least seven nominations for qualified charter commis-  
16 sion candidates are not filed, the petition or resolution calling for  
17 a charter commission is void and no election on the question may be  
18 held.

19 Sec. 29.10.050. CHARTER COMMISSION ELECTION. At a charter com-  
20 mission election the voters of an existing municipality shall consider  
21 the question "Shall a charter commission be elected to prepare a pro-  
22 posed charter?" and shall elect the members of the commission. If the  
23 question is approved, the seven candidates receiving the highest  
24 number of votes shall immediately organize as a charter commission.

25 Sec. 29.10.060. PREPARATION OF CHARTER BY CHARTER COMMISSION.  
26 The charter commission shall, within one year, prepare a proposed home  
27 rule charter for an existing municipality. The proposed charter shall  
28 be signed by a majority of the members of the commission and filed in  
29 the office of the municipal clerk. Within 15 days, the clerk shall

1 have the proposed charter published and make copies available. The  
2 commission shall give published notice of and hold at least one public  
3 hearing on the proposed charter before the signing and filing of the  
4 charter.

5 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule char-  
6 ter for an existing municipality shall be submitted to the voters at  
7 an election held not less than 30 days or more than 90 days after the  
8 proposed charter is published. The proposed home rule charter for an  
9 area in the unorganized borough shall be submitted to the voters at an  
10 incorporation election held under AS 29.05.110.

11 Sec. 29.10.080. CHARTER ADOPTION. (a) If a majority of those  
12 voting in an existing municipality favor the proposed charter or if a  
13 majority of those voting in an area in the unorganized borough favor  
14 incorporation of a home rule borough, the proposed charter becomes the  
15 organic law of the municipality effective on the date the election is  
16 certified. Thereafter, a court shall take judicial notice of the  
17 charter. The new home rule municipality shall file the indicated  
18 number of copies of the charter with

- 19 (1) the lieutenant governor -- two copies;  
20 (2) the department -- two copies;  
21 (3) the district recorder -- one copy;  
22 (4) the municipal clerk -- one copy.

23 (b) At the time of voting on the proposed charter in a third  
24 class borough, voters shall vote also on whether the borough shall, on  
25 adoption of the charter, retain a combined assembly and school board  
26 or elect a separate assembly and board as otherwise provided for home  
27 rule boroughs. If a combined assembly and school board are approved  
28 at the charter election, the assembly serving at the time of the  
29 election continues to serve as the assembly and board on voter

1 approval of the charter and until terms of assembly members expire as  
2 provided before adoption of the charter. If a separate board and  
3 assembly are approved at the charter election, a school board shall be  
4 elected in conformity with AS 14.12.030 - 14.12.100 at the next regu-  
5 lar election, if it occurs within 90 days of the date of the charter  
6 election, or otherwise at a special election within 90 days of the  
7 date of the charter election. Expiration dates of terms of school  
8 board members elected at a special election must coincide with the  
9 date of the regular election. Until a board is elected and qualified,  
10 the assembly continues to serve as the board.

11 Sec. 29.10.090. CHARTER REJECTION. (a) If a proposed charter  
12 for an existing municipality is rejected, the charter commission shall  
13 prepare another proposed charter to be submitted to the voters at an  
14 election to be held within one year after the date of the first char-  
15 ter election. If the second proposed charter is also rejected, the  
16 charter commission shall be dissolved and the question of adoption of  
17 a charter shall be treated as if it had never been proposed or ap-  
18 proved.

19 (b) If incorporation of a home rule borough is rejected by the  
20 voters in an area in the unorganized borough, the proposed charter is  
21 rejected.

22 Sec. 29.10.100. CHARTER AMENDMENT. (a) A home rule charter may  
23 be amended as provided in the charter, except that no amendment is  
24 effective unless ratified by the voters.

25 (b) This section applies to home rule municipalities.

#### 26 ARTICLE 2. HOME RULE LIMITATIONS.

27 Sec. 29.10.200. LIMITATION OF HOME RULE POWERS. Only the fol-  
28 lowing provisions of this title apply to home rule municipalities as  
29 prohibitions on acting otherwise than as provided. These provisions

1 supersede existing and prohibit future home rule enactments that  
2 provide otherwise:

- 3 (1) AS 29.05.140 (transition)
- 4 (2) AS 29.06.010 (change of municipal name)
- 5 (3) AS 29.06.040 - 29.06.060 (annexation and detachment)
- 6 (4) AS 29.06.090 - 29.06.170 (merger and consolidation)
- 7 (5) AS 29.06.190 - 29.06.420 (unification of municipali-  
8 ties)
- 9 (6) AS 29.06.450 - 29.06.530 (dissolution)
- 10 (7) AS 29.10.100 - (charter amendment)
- 11 (8) AS 29.20.010 (conflict of interest)
- 12 (9) AS 29.20.020 (meetings public)
- 13 (10) AS 29.20.050 (legislative power)
- 14 (11) AS 29.20.060 - 29.20.120 (assembly composition and  
15 apportionment)
- 16 (12) AS 29.20.140 (qualifications of members of governing  
17 bodies)
- 18 (13) AS 29.20.150 (term of office)
- 19 (14) AS 29.20.220 (executive power)
- 20 (15) AS 29.20.630 (prohibitions)
- 21 (16) AS 29.20.640 (reports)
- 22 (17) AS 29.25.010(a)(10) (municipal exemption on contractor  
23 bond requirements)
- 24 (18) AS 29.25.050 (codification)
- 25 (19) AS 29.25.060 (resolutions)
- 26 (20) AS 29.26.030 (notice of elections)
- 27 (21) AS 29.26.050 (voter qualification)
- 28 (22) AS 29.26.250 - 29.26.360 (recall)
- 29 (23) AS 29.35.020 (extraterritorial jurisdiction)

- 1 (24) AS 29.35.030 (eminent domain)  
2 (25) AS 29.35.050 (garbage and solid waste services)  
3 (26) AS 29.35.070 (public utilities)  
4 (27) AS 29.35.080 (alcoholic beverages)  
5 (28) AS 29.35.120 (post audit)  
6 (29) AS 29.35.145 (regulation of firearms)  
7 (30) AS 29.35.160 (education)  
8 (31) AS 29.35.170(b) (assessment and collection of taxes)  
9 (32) AS 29.35.180(b) (land use regulation)  
10 (33) AS 29.35.250 (cities inside boroughs)  
11 (34) AS 29.35.260 (cities outside boroughs)  
12 (35) AS 29.35.340 (acquisition of areawide power)  
13 (36) AS 29.40.160(a) - (c) (title to vacated areas)  
14 (37) AS 29.40.200 (subdivisions of state land)  
15 (38) AS 29.45.010 - 29.45.570 (property taxes)  
16 (39) AS 29.45.650(c) and (d) (sales and use tax)  
17 (40) AS 29.46.090 (exemption from special assessment)  
18 (41) AS 29.47.200(b) (security for bonds)  
19 (42) AS 29.47.260 (construction)  
20 (43) AS 29.60.050(a) (limitation on computation and use of  
21 payment)  
22 (44) AS 29.60.120(a) and (c) (state aid for health facili-  
23 ties and hospitals)  
24 (45) AS 29.65.010 - 29.65.140 (general grant land)

25 \* Sec. 7. AS 29 is amended by adding a new chapter to read:

26 CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

27 ARTICLE 1. CONFLICT OF INTEREST AND PUBLIC MEETINGS.

28 Sec. 29.20.010. CONFLICT OF INTEREST. (a) Each municipality  
29 shall adopt a conflict of interest ordinance that provides that

1 (1) a member of the governing body shall declare a substan-  
2 tial financial interest the member has in an official action and ask  
3 to be excused from a vote on the matter;

4 (2) the presiding officer shall rule on a request by a  
5 member of the governing body to be excused from a vote;

6 (3) the decision of the presiding officer on a request by a  
7 member of the governing body to be excused from a vote may be overrid-  
8 den by the majority vote of the governing body; and

9 (4) a municipal employee or official, other than a member  
10 of the governing body, may not participate in an official action in  
11 which the employee or official has a substantial financial interest.

12 (b) If a municipality fails to adopt a conflict of interest  
13 ordinance within 180 days after January 1, 1986, the provisions of  
14 this section are automatically applicable to and binding upon that  
15 municipality.

16 (c) This section applies to home rule and general law municipal-  
17 ities.

18 Sec. 29.20.020. MEETINGS PUBLIC. (a) Meetings of all municipal  
19 bodies shall be public as provided in AS 44.62.310. The governing  
20 body shall provide reasonable opportunity for the public to be heard  
21 at regular and special meetings.

22 (b) This section applies to home rule and general law municipal-  
23 ities.

24 ARTICLE 2. GOVERNING BODIES.

25 Sec. 29.20.050. LEGISLATIVE POWER. (a) The legislative power  
26 of a borough is vested in the assembly. The legislative power of a  
27 city is vested in the council.

28 (b) This section applies to home rule and general law municipal-  
29 ities.

1           Sec. 29.20.060. ASSEMBLY COMPOSITION AND APPORTIONMENT.   (a)  
2   Assembly composition and apportionment shall be consistent with the  
3   equal representation standards of the Constitution of the United  
4   States.

5           (b) The assembly of a newly incorporated borough is, after  
6   incorporation and until the adoption of an ordinance providing for a  
7   change in composition or apportionment, composed of the number of  
8   members and apportioned as set out in the incorporation petition  
9   approved by the voters. If the borough is already incorporated, the  
10   assembly shall be composed and apportioned in a manner that is consis-  
11   tent with the requirements of this section and prescribed by charter  
12   or ordinance.

13           (c) An assembly may not provide for weighted voting.

14           (d) A member of the assembly may not be elected or appointed by  
15   and from the council of a city in the borough.

16           (e) This section applies to home rule and general law municipal-  
17   ities.

18           Sec. 29.20.070. ASSEMBLY COMPOSITION AND FORM OF REPRESENTATION.

19           (a) The assembly shall provide for its composition and for the form  
20   of its representation.

21           (b) Not later than the first regular election that occurs after  
22   the report of a federal decennial census, the assembly shall propose  
23   and submit to the voters of the borough, at that regular election or  
24   at a special election called for the purpose, one or more forms of  
25   assembly representation. The forms of representation that the assem-  
26   bly may submit to the voters are:

27           (1) election of members of the assembly at large by the  
28   voters throughout the borough;

29           (2) election of members of the assembly by district,

1 including

2 (A) election at large by the voters throughout the

3 borough, but with a requirement that a candidate live in an

4 election district established by the borough for election of

5 assembly members; or

6 (B) election from election districts established by

7 the borough for the election of assembly members by the voters of

8 a district;

9 (3) election of members of the assembly both at large and

10 by district.

11 (c) A form of assembly representation that includes election of

12 assembly members under b)(2) or (b)(3) of this section shall be sub-

13 mitted to the voters of the borough with a plan of apportionment as

14 required by AS 29.20.080.

15 (d) The assembly shall, within 30 days after certification of

16 the results of the election held under this section, adopt an ordi-

17 nance providing for

18 (1) composition of the assembly;

19 (2) the form of assembly representation that received the

20 most votes; and

21 (3) if applicable, the apportionment of assembly seats in

22 accordance with the form of representation that received the most

23 votes.

24 (e) This section applies to home rule and general law municipal-

25 ities, except it does not apply to a

26 (1) unified municipality;

27 (2) home rule borough if the home rule charter contains

28 procedures for changing assembly composition and form of representa-

29 tion.

1           Sec. 29.20.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a)

2           Not later than two months after the official report of a federal de-  
3           cennial census, the assembly shall determine and declare by resolution  
4           whether the existing apportionment of the assembly meets the standards  
5           of AS 29.20.060. If the assembly submits to the voters a form of  
6           representation that includes election of assembly members under  
7           AS 29.20.070(b)(2) or (b)(3) the assembly shall submit with the propo-  
8           sition a proposed plan of apportionment that corresponds to the form  
9           of representation proposed. The assembly shall describe the plan of  
10          apportionment in the ballot proposition, and may present the plan in  
11          any manner that it believes accurately describes the apportionment  
12          that is proposed under the form of representation. If the assembly  
13          determines that its existing apportionment meets the standards of  
14          AS 29.20.060, the assembly may include the existing apportionment as a  
15          proposed plan of apportionment of assembly seats that corresponds to a  
16          form of representation that is proposed.

17          (b) The assembly shall provide, by ordinance, for a change in an  
18          existing apportionment of the assembly whenever it determines that the  
19          apportionment does not meet the standards of AS 29.20.060. At the  
20          same time, the assembly may, by ordinance, change the composition of  
21          the assembly.

22          (c) If a petition signed by not less than 50 voters requests the  
23          assembly to determine whether the existing apportionment meets the  
24          standards for apportionment in AS 29.20.060, and the petition contains  
25          evidence that the existing apportionment does not meet those stan-  
26          dards, the assembly may make the determination requested. The assem-  
27          bly shall make a determination required by this subsection within two  
28          months of receipt of a petition that meets the requirements of this  
29          subsection.

1           (d) An ordinance adopted by the assembly under (b) or (c) of  
2 this section shall be submitted to the voters for approval. In order  
3 for the ordinance to be approved it must receive the approval of a  
4 majority of the votes cast.

5           (e) Within six months after a determination by the assembly  
6 under (b) or (c) of this section that the current apportionment does  
7 not meet the standards of AS 29.20.060 the assembly shall adopt an  
8 ordinance providing for reapportionment and submit the ordinance to  
9 the voters. If, at the end of the six-month time period, an ordinance  
10 providing for reapportionment has not been approved by the voters, the  
11 commissioner shall provide for the reapportionment in accordance with  
12 the standards of AS 29.20.060 by preparing an order of reapportionment  
13 and delivering the order to the borough mayor.

14           Sec. 29.20.090. APPORTIONMENT APPEALS. (a) A reapportionment  
15 ordinance approved by the voters, or a decision of the assembly that  
16 the standards of AS 29.20.060 do not require a change in apportion-  
17 ment, may be appealed to the commissioner. Fifty voters may submit a  
18 petition to the commissioner requesting the commissioner to determine  
19 whether the proposed reapportionment ordinance approved by the voters  
20 meets the standards of AS 29.20.060 or whether a decision of the  
21 assembly that the standards of AS 29.20.060 do not require a change of  
22 apportionment is correct. If the petition asks the commissioner to  
23 review an ordinance approved by the voters under AS 29.20.080(e), the  
24 petition shall be delivered to the commissioner not later than 20 days  
25 after certification of the election. If the petition asks the commis-  
26 sioner to review a decision of the assembly under AS 29.20.080(c), the  
27 petition shall be delivered to the commissioner within 20 days of the  
28 decision of the assembly.

29           (b) The commissioner shall review the petition and may make the

1 determination requested. The commissioner shall provide copies of the  
2 determination to the persons petitioning for appeal and to borough  
3 officials not later than 60 days after the commissioner receives the  
4 petition.

5 (c) If the commissioner determines that the proposed reapportionment ordinance approved by the voters does not meet the standards  
6 of AS 29.20.060, or if the commissioner determines that the decision  
7 of the assembly that the standards of AS 29.20.060 do not require a  
8 change of apportionment is not correct, the commissioner shall, by  
9 order, direct the assembly to prepare a reapportionment ordinance that  
10 meets the standards of AS 29.20.060 and submit the ordinance to the  
11 voters.  
12

13 (d) When the assembly has been directed by the commissioner to  
14 prepare a reapportionment ordinance under (c) of this section, the  
15 assembly shall, within two months after its receipt of the commis-  
16 sioner's order, adopt an ordinance providing for reapportionment. The  
17 assembly shall submit an ordinance adopted under this subsection to  
18 the voters at an election held within 60 days after the date of adop-  
19 tion of the reapportionment ordinance.

20 (e) If at the end of the time period provided under (d) of this  
21 section an ordinance providing for reapportionment has not been ap-  
22 proved by the voters, the commissioner shall provide for the reapportionment of the assembly in accordance with the standards of AS 29.-  
23 20.060 by preparing an order of reapportionment and delivering the  
24 order to the borough mayor.  
25

26 Sec. 29.20.100. JUDICIAL REVIEW AND RELIEF. (a) The commis-  
27 sioner may request the superior court to enforce a reapportionment  
28 order issued under AS 29.20.090(e).

29 (b) Each of the following is subject to judicial review:

- 1           (1) a plan of reapportionment approved by the voters under  
2 AS 29.20.080(a);
- 3           (2) a determination by the assembly under AS 29.20.080 that  
4 the standards of AS 29.20.060 do not require a change in appor-  
5 tionment;
- 6           (3) a reapportionment ordinance approved by the voters  
7 under AS 29.20.080(d);
- 8           (4) a reapportionment order of the commissioner made under  
9 AS 29.20.090(c);
- 10          (5) a reapportionment ordinance approved by the voters  
11 under AS 29.20.090(d); and
- 12          (6) a reapportionment order of the commissioner made under  
13 AS 29.20.090(e).
- 14          Sec. 29.20.110. EFFECTIVE DATE OF APPORTIONMENT. (a) A change  
15 in assembly apportionment or composition under AS 29.20.080 or 29.20.-  
16 090 is effective beginning with the first regular election for members  
17 of the assembly that is held more than 60 days after the later of
- 18           (1) approval of a reapportionment ordinance by the voters  
19 under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or
- 20           (2) the delivery to the mayor of a reapportionment order of  
21 the commissioner under AS 29.20.090(d).
- 22          (b) The provisions of (a) of this section do not apply to a  
23 borough in which a change in assembly composition or apportionment is  
24 subject to review and approval or determination of nonobjection by the  
25 Attorney General of the United States under the Voting Rights Act of  
26 1965, as amended (42 U.S.C. 1971 - 1974). A change in assembly compo-  
27 sition or apportionment subject to review under the Voting Rights Act  
28 of 1965, as amended, is effective beginning with the first regular  
29 election for members of the assembly that is held more than 60 days

1 after

2 (1) receipt by the assembly of approval by the Attorney  
3 General of the United States of the proposed change in the composition  
4 or apportionment of the assembly;

5 (2) the delivery to the mayor of a reapportionment order of  
6 the commissioner under AS 29.20.090(e); or

7 (3) the last day on which the Attorney General of the  
8 United States may review a proposed change in the composition or  
9 apportionment of the assembly.

10 Sec. 29.20.120. APPLICABILITY OF APPORTIONMENT PROVISIONS. The  
11 provisions of AS 29.20.080 - 29.20.110 apply to home rule and general  
12 law municipalities, except they do not apply to a

13 (1) unified municipality;

14 (2) home rule borough if the borough, by home rule charter,  
15 provides for reapportionment of the assembly.

16 Sec. 29.20.130. CITY COUNCIL COMPOSITION. Each first class city  
17 has a council of six members elected by the voters at large. Each  
18 second class city has a council of seven members elected by the voters  
19 at large. The council of a first or second class city may by ordi-  
20 nance provide for election of members other than on an at-large basis  
21 for all members.

22 Sec. 29.20.140. QUALIFICATIONS. (a) A borough voter is eligi-  
23 ble to be a member of the assembly and a city voter is eligible to be  
24 a member of the council. A member of the governing body who ceases to  
25 be a voter in the municipality immediately forfeits office.

26 (b) A municipality may by ordinance establish a durational resi-  
27 dency requirement not to exceed three years for members of the govern-  
28 ing body.

29 (c) A municipality may by ordinance establish district residency

1 requirements for members of its governing body. A member of the  
2 governing body who represents a district and who becomes a resident of  
3 another district in the municipality continues to serve until the next  
4 regular election unless provided otherwise by ordinance.

5 (d) Except by ordinance ratified by the voters, no limit may be  
6 placed on the total number of terms or number of consecutive terms a  
7 voter may serve on the governing body.

8 (e) This section applies to home rule and general law municipal-  
9 ities.

10 Sec. 29.20.150. TERM OF OFFICE. (a) A member of the governing  
11 body is elected for a three-year term and until a successor qualifies,  
12 unless a different term not exceeding four years is prescribed by home  
13 rule charter or ordinance.

14 (b) Except when otherwise required by a change in composition or  
15 apportionment, if the term of a member of a governing body is changed  
16 by charter or ordinance the term of the member holding office when the  
17 change becomes effective is not affected.

18 (c) The regular term of office begins on the first Monday fol-  
19 lowing certification of the election, unless a different date is pre-  
20 scribed by charter or ordinance.

21 (d) This section applies to home rule and general law municipal-  
22 ities.

23 Sec. 29.20.160. PROCEDURES OF GOVERNING BODIES. (a) The assem-  
24 bly shall elect from among its members a presiding officer and a  
25 deputy presiding officer to serve at the pleasure of the members,  
26 except that in a borough that has adopted a manager form of government  
27 under AS 29.20.460 - 29.20.510 the mayor serves as presiding officer.  
28 In a city the mayor serves as presiding officer. If the presiding  
29 officer is not present or if the presiding officer is personally

1 disqualified, the deputy presiding officer shall preside.

2 (b) A governing body shall hold at least one regular meeting  
3 each month unless otherwise provided by ordinance. If a majority of  
4 the members are given at least 24 hours oral or written notice and  
5 reasonable efforts are made to notify all members, a special meeting  
6 of the governing body may be held at the call of the presiding officer  
7 or at least one-third of the members. A special meeting may be con-  
8 ducted with less than 24 hours notice if all members are present or if  
9 absent members have waived in writing the required notice. Waiver of  
10 notice can be made before or after the special meeting is held. A  
11 waiver of notice shall be made a part of the journal for the meeting.

12 (c) A majority of the total membership of a governing body  
13 authorized by law constitutes a quorum. A member disqualified by law  
14 from voting on a question may be considered present for purposes of  
15 constituting a quorum. In the absence of a quorum any number of  
16 members may recess or adjourn the meeting to a later date.

17 (d) Actions of a governing body are adopted by a majority of the  
18 total membership of the body. Each member present shall vote on every  
19 question, unless required to abstain from voting on a question by law.  
20 The final vote of each member on each ordinance, resolution, or sub-  
21 stantive motion shall be recorded "yes" or "no", except that if the  
22 vote is unanimous it may be recorded "unanimous".

23 (e) A governing body shall maintain a journal of its official  
24 proceedings that shall be a public record.

25 (f) To the extent otherwise permitted by law, a governing body  
26 may determine by ordinance its own rules of procedure and order of  
27 business.

28 Sec. 29.20.170. VACANCIES. The governing body may provide by  
29 ordinance the manner in which a vacancy occurs in any elected office

1       except the office of mayor or school board member. Unless otherwise  
2       provided by ordinance, the governing body shall declare an elective  
3       office, other than the office of mayor or school board member, vacant  
4       when the person elected

5               (1) fails to qualify or take office within 30 days after  
6       election or appointment;

7               (2) is physically absent from the municipality for 90  
8       consecutive days unless excused by the governing body;

9               (3) resigns and the resignation is accepted;

10              (4) is physically or mentally unable to perform the duties  
11       of office as determined by two-thirds vote of the governing body;

12              (5) is convicted of a felony or of an offense involving a  
13       violation of the oath of office;

14              (6) is convicted of a felony or misdemeanor described in  
15       AS 15.56 and two-thirds of the members of the governing body concur in  
16       expelling the person elected;

17              (7) is convicted of a violation of AS 15.13;

18              (8) no longer physically resides in the municipality and  
19       the governing body by two-thirds vote declares the seat vacant; or

20              (9) if a member of the governing body, misses three consec-  
21       utive regular meetings and is not excused.

22              Sec. 29.20.180. FILLING A VACANCY. (a) If a vacancy occurs in  
23       a governing body, the remaining members shall, within 30 days unless a  
24       different period is provided by ordinance, appoint a qualified person  
25       to fill the vacancy. If less than 30 days remain in a term, a vacancy  
26       may not be filled.

27              (b) Notwithstanding (a) of this section, if the membership is  
28       reduced to fewer than the number required to constitute a quorum, the  
29       remaining members shall, within seven days, appoint a number of

1 qualified persons to constitute a quorum.

2 (c) A person appointed under this section serves until the next  
3 regular election, when a successor shall be elected to serve the  
4 balance of the term.

5 ARTICLE 3. MUNICIPAL EXECUTIVE AND ADMINISTRATOR.

6 Sec. 29.20.220. EXECUTIVE POWER. (a) The executive power in a  
7 municipality is vested in a mayor. The mayor of a home rule or uni-  
8 fied municipality is elected by the voters. The mayors of other  
9 municipalities are elected in accordance with AS 29.20.230.

10 (b) The mayor acts as ceremonial head of government, executes  
11 official documents on authorization of the governing body, and is  
12 responsible for additional duties and powers prescribed by this chap-  
13 ter or by home rule charter.

14 (c) This section applies to home rule and general law municipal-  
15 ities.

16 Sec. 29.20.230. ELECTION AND TERM OF MAYOR. (a) The mayor of a  
17 borough or first class city is elected at large. The mayor of a  
18 borough or first class city serves a term of three years, unless by  
19 ordinance a different term not to exceed four years is provided. The  
20 current term of an incumbent mayor may not be altered. The regular  
21 term of a mayor of a borough or first class city begins on the first  
22 Monday following certification of the election.

23 (b) The mayor of a second class city is elected by and from the  
24 council, and serves until a successor is elected and qualifies. The  
25 council of a second class city shall meet on the first Monday after  
26 certification of the regular election and elect a mayor who takes  
27 office immediately. The mayor of a second class city serves a one-  
28 year term, unless a longer term is provided by ordinance. The mayor  
29 of a second class city may serve only while a member of the council

1 regardless of the term established for the office of mayor.

2 (c) Except by ordinance ratified by the voters, no limit may be  
3 placed on the total number of terms or number of consecutive terms a  
4 mayor may serve.

5 Sec. 29.20.240. QUALIFICATIONS FOR THE OFFICE OF MAYOR. (a) A  
6 voter of the municipality is eligible to hold the office of mayor in a  
7 borough or first class city. A member of the city council is eligible  
8 to hold the office of mayor in a second class city.

9 (b) Residency requirements for the office of mayor not exceeding  
10 three years may be prescribed by ordinance.

11 Sec. 29.20.250. POWERS AND DUTIES OF MAYOR. (a) If a munici-  
12 pality has not adopted a manager plan of government, the mayor is the  
13 chief administrator and the mayor has the same powers and duties as  
14 those of a manager under AS 29.20.500.

15 (b) The mayor may take part in the discussion of a matter before  
16 the governing body. The mayor may not vote, except that the mayor of  
17 a first class city or the mayor of a borough with a manager form of  
18 government may vote in the case of a tie. The mayor of a second class  
19 city, as a council member, may vote on all matters.

20 Sec. 29.20.260. EXECUTIVE ABSENCE. The borough mayor, subject  
21 to assembly approval, shall designate a person to act as mayor during  
22 the borough mayor's temporary absence or disability. If a manager  
23 plan has been adopted, the assembly shall designate by resolution a  
24 borough administrative official to act as manager during the manager's  
25 absence or disability.

26 Sec. 29.20.270. VETO. (a) Except as provided in (c) and (d) of  
27 this section, the mayor may veto an ordinance, resolution, motion, or  
28 other action of the governing body and may strike or reduce appropria-  
29 tion items.

1           (b) A veto must be exercised before the next regular meeting of  
2 the governing body and must be accompanied by a written explanation of  
3 the reasons for the veto. A veto may be overridden by vote of two-  
4 thirds of the authorized membership of the governing body within 21  
5 days following exercise of the veto, or at the next regular meeting,  
6 whichever is later.

7           (c) The veto does not extend to

8                   (1) appropriation items in a school budget ordinance;

9                   (2) actions of the governing body sitting as the board of  
10 equalization or the board of adjustment;

11                   (3) adoption or repeal of a manager plan of government.

12           (d) The mayor of a second class city has no veto power.

13           Sec. 29.20.280. VACANCY IN THE OFFICE OF MAYOR. (a) The gov-  
14 erning body shall, by two-thirds concurring vote, declare the office  
15 of mayor vacant only when the person elected

16                   (1) fails to qualify or take office within 30 days after  
17 election or appointment;

18                   (2) unless excused by the governing body, is physically  
19 absent for 90 consecutive days;

20                   (3) resigns and the resignation is accepted;

21                   (4) is physically or mentally unable to perform the duties  
22 of office;

23                   (5) is convicted of a felony or of an offense involving a  
24 violation of the oath of office;

25                   (6) is convicted of a felony or misdemeanor described in  
26 AS 15.56;

27                   (7) is convicted of a violation of AS 15.13;

28                   (8) no longer physically resides in the municipality; or

29                   (9) if a member of the governing body in a second class

1 city, misses three consecutive regular meetings and is not excused.

2 (b) A vacancy in the office of mayor occurring six months before  
3 a regular election shall be filled by the governing body. The person  
4 appointed serves until the next regular election when a successor is  
5 elected to serve the balance of the term. If a member of the govern-  
6 ing body is appointed mayor, the member shall resign the seat on the  
7 governing body. If a vacancy occurs more than six months before a  
8 regular election, the governing body shall call a special election to  
9 fill the unexpired term.

10 (c) Notwithstanding (b) of this section, a vacancy in the office  
11 of mayor of a second class city shall be filled by and from the coun-  
12 cil. A mayor appointed under this subsection serves the balance of  
13 the term to which appointed, except the mayor may serve only while a  
14 member of the council.

15 ARTICLE 4. BOARDS AND COMMISSIONS.

16 Sec. 29.20.300. SCHOOL BOARDS. (a) Each municipal school dis-  
17 trict has a school board. Except as provided in (b) of this section,  
18 members of a school board are elected at the regular election for  
19 three-year terms and until their successors take office. Members are  
20 elected at large unless a different method of election has been ap-  
21 proved by the voters in a regular election.

22 (b) The assembly is the school board for a third class borough.  
23 The mayor is the presiding officer of the assembly and president of  
24 the school board. However, the mayor may not veto an action of the  
25 school board.

26 Sec. 29.20.310. UTILITY BOARDS. (a) The governing body of a  
27 municipality operating a public utility may provide by ordinance for a  
28 utility board of five members and define the board's powers and  
29 duties.

1 (b) As determined by ordinance, members of a utility board are  
2 either appointed by the mayor and confirmed by the governing body or  
3 are elected at a regular election. The term of a utility board member  
4 is two years and until a successor is selected and qualifies. How-  
5 ever, the governing body may by ordinance provide for a different term  
6 not to exceed four years. The current term of an elected incumbent  
7 may not be altered.

8 (c) Vacancies on a utility board are filled by the mayor.  
9 Executive appointments shall be confirmed by the governing body. A  
10 person appointed to fill a vacancy on a utility board serves until the  
11 expiration of the term for which appointed and until a successor is  
12 elected and qualifies.

13 (d) Unless otherwise provided by ordinance, a utility board  
14 shall

15 (1) choose its chairman and secretary;

16 (2) appoint the manager of the public utility for a term  
17 not longer than five years and set the manager's salary;

18 (3) formulate and enforce the general rules and policies of  
19 the utility.

20 Sec. 29.20.320. OTHER BOARDS AND COMMISSIONS. (a) The govern-  
21 ing body may by ordinance establish advisory, administrative, techni-  
22 cal, or quasi-judicial boards and commissions.

23 (b) Members of boards and commissions, except for members of the  
24 board of adjustment and assembly members serving on the board of  
25 equalization, are appointed by the mayor and confirmed by the govern-  
26 ing body.

27 ARTICLE 5. OTHER OFFICIALS AND EMPLOYEES.

28 Sec. 29.20.360. APPOINTMENT OF OFFICIALS. Unless otherwise pro-  
29 vided by ordinance, the municipal clerk, attorney, treasurer, and

1 police chief are appointed by the chief administrator. Unless other-  
2 wise provided by ordinance, an official described in this section  
3 serves at the pleasure of the appointing authority and, if appointed  
4 by the chief administrator, must be confirmed by the governing body.

5 Sec. 29.20.370. MUNICIPAL ATTORNEY. The municipal attorney is  
6 the legal advisor of the governing body, the school board, and the  
7 other officials of the municipality. The municipal attorney repre-  
8 sents the municipality as attorney in civil and criminal proceedings.  
9 The school board may hire independent counsel when in its judgment  
10 independent counsel is needed.

11 Sec. 29.20.380. MUNICIPAL CLERK. (a) The municipal clerk shall

12 (1) give notice of the time and place of meetings of the  
13 governing body to the governing body and to the public;

14 (2) attend meetings of the governing body and keep the  
15 journal;

16 (3) arrange publication of notices, ordinances, and resolu-  
17 tions;

18 (4) maintain and make available for public inspection an  
19 indexed file containing municipal ordinances, resolutions, rules,  
20 regulations, and codes;

21 (5) attest deeds and other documents;

22 (6) perform other duties specified in this title or pre-  
23 scribed by the chief administrator or by the governing body.

24 (b) The governing body may combine the office of clerk with that  
25 of treasurer. If the offices are combined, the clerk-treasurer shall,  
26 as required of the treasurer, give bond to the municipality for the  
27 faithful performance of the duties as clerk-treasurer.

28 Sec. 29.20.390. MUNICIPAL TREASURER. (a) Except as provided in  
29 AS 14.14.060, the treasurer is the custodian of all municipal funds.

1 The treasurer shall keep an itemized account of money received and  
2 disbursed. The treasurer shall pay money on vouchers drawn against  
3 appropriations.

4 (b) The treasurer shall give bond to the municipality in a sum  
5 that the governing body directs.

6 Sec. 29.20.400. DEPARTMENTS. (a) The governing body may estab-  
7 lish municipal departments and distribute functions among them.

8 (b) Each municipal department is administered by a department  
9 head. With the consent of the governing body, the mayor may serve as  
10 head of one or more departments or a single administrator may serve as  
11 head of two or more departments.

12 Sec. 29.20.410. PERSONNEL SYSTEM. (a) Except as provided by  
13 (b) of this section, appointments and promotions of municipal employ-  
14 ees are made on the basis of merit. The governing body may provide  
15 for a personnel system and classified service.

16 (b) By ordinance the governing body may designate confidential  
17 or managerial positions that are wholly or partially exempt from the  
18 classified service. A wholly or partially exempt position is filled  
19 by a person who serves at the pleasure of the appointing authority and  
20 whose term of employment is determined by the appointing authority.

#### 21 ARTICLE 6. MANAGER PLAN.

22 Sec. 29.20.460. MANAGER PLAN. A municipality may adopt a man-  
23 ager plan of government. Adoption of a manager plan may be initiated  
24 either by petition or by motion of the governing body. A petition for  
25 the adoption of a manager plan is submitted to the governing body.  
26 The petition must be signed by a number of voters equal to the follow-  
27 ing percentage of the votes cast at the preceding regular election:

28 (1) 25 percent if the municipality has fewer than 7,500  
29 persons;

1                   (2) 15 percent if the municipality has 7,500 persons or  
2 more.

3                   Sec. 29.20.470. ELECTION ON ADOPTION OF MANAGER PLAN. On re-  
4 ceipt of a petition to adopt a manager plan or on its own motion to  
5 adopt a manager plan, the governing body shall provide by ordinance or  
6 resolution for a vote on the question at the next election.

7                   Sec. 29.20.480. ADOPTION OF MANAGER PLAN. (a) If a manager  
8 plan is approved, the governing body shall, within 60 days, adopt the  
9 plan by ordinance or resolution.

10                   (b) The governing body shall notify the department of the adop-  
11 tion of a manager plan.

12                   Sec. 29.20.490. APPOINTMENT OF MANAGER. (a) The governing body  
13 shall appoint a manager by a majority vote of its membership. A  
14 manager is chosen on the basis of administrative qualifications and  
15 receives the compensation set by the governing body. A member of the  
16 governing body may not be appointed manager of the municipality sooner  
17 than one year after leaving office, except by a vote of three-fourths  
18 of the authorized membership of the governing body.

19                   (b) Subject to the contract of employment, the manager holds  
20 office at the pleasure of the governing body.

21                   Sec. 29.20.500. POWERS AND DUTIES OF A MANAGER. The manager may  
22 hire necessary administrative assistants and may authorize an adminis-  
23 trative official to appoint, suspend, or remove subordinates. As  
24 chief administrator the manager shall

25                   (1) appoint, suspend, or remove municipal employees and  
26 administrative officials, except as provided otherwise in this title  
27 and AS 14.14.065;

28                   (2) supervise the enforcement of municipal law and carry  
29 out the directives of the governing body;

1           (3) prepare and submit an annual budget and capital im-  
2           provement program for consideration by the governing body, and execute  
3           the budget and capital improvement program adopted;

4           (4) make monthly financial reports and other reports on  
5           municipal finances and operations as required by the governing body;

6           (5) exercise custody over all real and personal property of  
7           the municipality, except property of the school district;

8           (6) perform other duties required by law or by the govern-  
9           ing body; and

10          (7) serve as personnel officer, unless the governing body  
11          authorizes the manager to appoint a personnel officer.

12           Sec. 29.20.510. INTERGOVERNMENTAL APPOINTMENT OF MANAGER. A  
13           borough adopting a manager plan may, on agreement with a city in the  
14           borough, provide that the manager of the city serve also as borough  
15           manager. A city adopting a manager plan may, on agreement with the  
16           borough in which it is located, provide that the manager of the bor-  
17           ough serve also as city manager. Appointment and service of the  
18           manager shall be as provided in AS 29.20.490 - 29.20.500. Nothing in  
19           this section affects the authority of the governing body to provide  
20           for other dual officeholding if the dual offices held are compatible,  
21           or otherwise to appoint officials and employees in accordance with  
22           law.

23           Sec. 29.20.520. REPEAL OF MANAGER PLAN. A municipality may  
24           repeal a manager plan in the same manner used for its adoption.  
25           Within 60 days after repeal of a manager plan, the governing body  
26           shall enact provisions for the reorganization of the municipal execu-  
27           tive and administrative functions.

28           ARTICLE 7. MISCELLANEOUS PROVISIONS.

29           Sec. 29.20.600. OATHS OF OFFICE. Before taking office a

1 municipal official shall affirm in writing that the duties of the  
2 office will be honestly, faithfully, and impartially performed by the  
3 official. The oath is filed with the municipal clerk.

4 Sec. 29.20.610. BONDING. The manager and the other municipal  
5 officials or employees that the governing body may designate shall  
6 give bond in the amount and with the surety prescribed by the govern-  
7 ing body. Premiums on bonds are paid by the municipality.

8 Sec. 29.20.620. COMPENSATION FOR ELECTED OFFICIALS. The govern-  
9 ing body shall by ordinance provide a method of determining the sal-  
10 aries of elected officials. The salary of the mayor may not be re-  
11 duced during the term of office of the mayor, unless during the term a  
12 manager plan is adopted. An elected official may not receive com-  
13 pensation for service to the municipality in addition to the salary  
14 received as an elected official, unless otherwise provided by ordi-  
15 nance. Per diem payments or reimbursements for expenses are not  
16 compensation under this section.

17 Sec. 29.20.630. PROHIBITIONS. (a) A person may not be  
18 appointed to or removed from municipal office or in any way favored or  
19 discriminated against with respect to a municipal position or  
20 municipal employment because of the person's race, color, sex, creed,  
21 national origin or, unless otherwise contrary to law, because of the  
22 person's political opinions or affiliations.

23 (b) Subject to AS 14.14.140, a state employee or school district  
24 employee may not be denied the right to serve as an elected municipal  
25 official because of employment by the state or a school district. For  
26 purposes of this subsection a school district employee is not a  
27 municipal employee.

28 (c) This section applies to home rule and general law municipal-  
29 ities.

1           Sec. 29.20.640. REPORTS. (a) A municipality shall file with  
2 the department

3           (1) maps and descriptions of all annexed or detached ter-  
4 ritory;

5           (2) a copy of the annual audit, or, for a second class  
6 city, an audit or statement of annual income and expenditures;

7           (3) tax assessment and tax levy figures as requested;

8           (4) a copy of the current annual budget of the municipal-  
9 ity;

10          (5) a summary of the optional property tax exemptions  
11 authorized together with the estimate of the revenues lost to the  
12 municipality by operation of each of the exemptions.

13          (b) Compliance with the provisions of this section is a prereq-  
14 uisite to receipt of municipal tax resource equalization assistance  
15 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous munici-  
16 pal services under AS 29.60.100 - 29.60.180. If a municipality does  
17 not comply with this section, the department shall withhold the allo-  
18 cations until the required reports are filed.

19          (c) This section applies to home rule and general law municipa-  
20 lities.

21 \* Sec. 8. AS 29 is amended by adding a new chapter to read:

22                           CHAPTER 25. MUNICIPAL ENACTMENTS.

23          Sec. 29.25.010. ACTS REQUIRED TO BE BY ORDINANCE. (a) In addi-  
24 tion to other actions that this title requires to be by ordinance, the  
25 governing body of a municipality shall use ordinances to

26           (1) establish, alter, or abolish municipal departments;

27           (2) provide for a fine or other penalty, or establish rules  
28 or regulations for violation of which a fine or other penalty is im-  
29 posed;

- 1 (3) provide for the levying of taxes;
- 2 (4) make appropriations, including supplemental appropria-  
3 tions or transfer of appropriations;
- 4 (5) grant, renew, or extend a franchise;
- 5 (6) adopt, modify, or repeal the comprehensive plan land  
6 use and subdivision regulations, building and housing codes, and the  
7 official map;
- 8 (7) approve the transfer of a power to a first or second  
9 class borough from a city;
- 10 (8) designate the borough seat;
- 11 (9) provide for the retention or sale of tax-foreclosed  
12 property;
- 13 (10) exempt contractors from compliance with general re-  
14 quirements relating to payment and performance bonds in the construc-  
15 tion or repair of municipal public works projects within the limita-  
16 tions set out in AS 36.25.025; this paragraph applies to home rule and  
17 general law municipalities.
- 18 (b) This section grants no authority but requires the governing  
19 body to use ordinances in exercising certain of its powers.
- 20 Sec. 29.25.020. ORDINANCE PROCEDURE. (a) An ordinance is  
21 introduced in writing in the form required by the governing body.
- 22 (b) The following procedure governs the enactment of all ordi-  
23 nances, except emergency ordinances:
- 24 (1) an ordinance may be introduced by a member or committee  
25 of the governing body, or by the mayor or manager;
- 26 (2) an ordinance shall be set by the governing body for a  
27 public hearing by the affirmative vote of a majority of the votes  
28 authorized on the question;
- 29 (3) at least five days before the public hearing a summary

1 of the ordinance shall be published together with a notice of the time  
2 and place for the hearing;

3 (4) copies of the ordinance shall be available to all  
4 persons present at the hearing, or the ordinance shall be read in  
5 full;

6 (5) during the hearing the governing body shall hear all  
7 interested persons wishing to be heard;

8 (6) after the public hearing the governing body shall  
9 consider the ordinance, and may adopt it with or without amendment;

10 (7) the governing body shall print and make available  
11 copies of an ordinance that is adopted.

12 (c) An ordinance takes effect upon adoption or at a later date  
13 specified in the ordinance.

14 Sec. 29.25.030. EMERGENCY ORDINANCES. (a) To meet a public  
15 emergency the governing body may adopt an emergency ordinance effec-  
16 tive on adoption. Each emergency ordinance shall contain a finding by  
17 the governing body that an emergency exists and a statement of the  
18 facts upon which the finding is based. An emergency ordinance may be  
19 adopted, amended and adopted, or rejected at the meeting at which it  
20 is introduced. The affirmative vote of all members present, or the  
21 affirmative vote of three-fourths of the total membership, whichever  
22 is less, is required for adoption of an emergency ordinance. The  
23 governing body shall print and make available copies of adopted emer-  
24 gency ordinances.

25 (b) An emergency ordinance may not be used to levy taxes, to  
26 grant, renew, or extend a franchise, or to regulate the rate charged  
27 by a public utility for its services.

28 (c) An emergency ordinance is effective for 60 days.

29 Sec. 29.25.040. CODES OF REGULATION. The governing body may in

1 a single ordinance adopt or amend by reference provisions of a pub-  
2 lished code of municipal regulations. The procedure under AS 29.25.-  
3 020 applies to an ordinance adopted under this section, except that  
4 neither the ordinance or its amendments must be distributed to the  
5 public or read in full at the public hearing. For a period of 15 days  
6 before adoption of an ordinance under this section, at least five  
7 copies of the code of regulations shall be made available for public  
8 inspection at a time and place set out in the hearing notice. Only  
9 the ordinance must be printed after it is adopted under this section.  
10 The governing body shall provide for an adopted code of regulations to  
11 be made available to the public at no more than cost.

12 Sec. 29.25.050. CODIFICATION. (a) Each ordinance shall be  
13 codified after it is adopted.

14 (b) Within three years after incorporation of a municipality,  
15 the municipal clerk or the clerk's designee shall have prepared a  
16 general codification of all municipal ordinances of general applica-  
17 bility having the force and effect of law. The municipal code shall  
18 be revised and printed at least every five years, unless the code is  
19 kept current by regular supplements.

20 (c) In (a) of this section, "codified" means

21 (1) the ordinance has been given a serial number or other  
22 permanent identifying number, and, bearing a notation of the date of  
23 adoption and the adopting authority, it has been entered by the munic-  
24 ipal clerk in a properly indexed book maintained for the purposes of  
25 organizing and recording the ordinances; or

26 (2) the ordinance is a provision that establishes a rule of  
27 conduct or behavior and that is included, or to be included, in a code  
28 of ordinances or other complete system of law enacted and kept current  
29 at reasonable intervals.

1 (d) This section applies to home rule and general law municipi-  
2 palities.

3 Sec. 29.25.060. RESOLUTIONS. (a) The governing body shall  
4 provide for the maintenance of a permanent file of resolutions that  
5 have been adopted.

6 (b) This section applies to home rule and general law municipal-  
7 ities.

8 Sec. 29.25.070. PENALTIES. (a) For the violation of an ordi-  
9 nance, a municipality may by ordinance prescribe a penalty not to  
10 exceed a fine of \$1,000 and imprisonment for 90 days.

11 (b) The municipality or an aggrieved person may institute a  
12 civil action against a person who violates an ordinance. In addition  
13 to injunctive and compensatory relief, a civil penalty not to exceed  
14 \$1,000 may be imposed for each violation. An action to enjoin a  
15 violation may be brought notwithstanding the availability of any other  
16 remedy. On application for injunctive relief and a finding of a  
17 violation or a threatened violation, the superior court shall grant  
18 the injunction. Each day that a violation of an ordinance continues  
19 constitutes a separate violation.

20 (c) The penalties authorized under this section may be imposed  
21 only if copies of the ordinance are made available for distribution to  
22 the public at no more than cost.

23 \* Sec. 9. AS 29 is amended by adding a new chapter to read:

24 CHAPTER 26. ELECTIONS.

25 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

26 Sec. 29.26.010. ADMINISTRATION. The governing body shall pre-  
27 scribe the rules for conducting an election and shall appoint an elec-  
28 tion board composed of at least three judges for each precinct. A  
29 judge shall be a voter of the precinct for which appointed unless no

1 voter is willing to serve.

2 Sec. 29.26.020. NOMINATIONS. (a) Subject to other provisions  
3 of this title, the governing body shall provide by ordinance for  
4 nominations of elected officials by providing for declaration of  
5 candidacy or for petition requiring the signatures of not more than 10  
6 voters, or for both.

7 (b) A person may be nominated for and occupy more than one  
8 office, but may not serve simultaneously as borough mayor and as a  
9 member of the assembly or, in a first class city, as city mayor and as  
10 a member of the council.

11 Sec. 29.26.030. NOTICE OF ELECTIONS. (a) Subject to other pro-  
12 visions of this title, a municipality shall give at least 20 days  
13 notice of an election.

14 (b) This section applies to home rule and general law municipal-  
15 ities.

16 Sec. 29.26.040. DATE. The date of a regular election is the  
17 first Tuesday of October annually, unless a different date or interval  
18 of years is provided by ordinance.

19 Sec. 29.26.050. VOTER QUALIFICATION. (a) A person may vote in  
20 a municipal election only if the person

21 (1) is a United States citizen who is qualified to vote in  
22 state elections;

23 (2) has been a resident of the municipality for 30 days  
24 immediately preceding the election;

25 (3) is registered to vote in state elections; and

26 (4) is not disqualified under art. V of the state constitu-  
27 tion.

28 (b) Voter registration by the municipality may not be required.  
29 However, a municipality may by ordinance require that a person be

1 registered to vote in state elections in the precinct in which that  
2 person seeks to vote in municipal elections.

3 (c) This section applies to home rule and general law municipal-  
4 ities.

5 Sec. 29.26.060. RUNOFF ELECTIONS. (a) Unless otherwise pro-  
6 vided by ordinance, a runoff election shall be held if no candidate  
7 receives over 40 percent of the votes cast for the office of

8 (1) mayor; or

9 (2) member of the governing body or school board if candi-  
10 dates run for a designated seat.

11 (b) Unless otherwise provided by ordinance, if candidates for  
12 the governing body or school board run at large, a runoff election for  
13 a seat shall be held if no candidate receives a number of votes great-  
14 er than 40 percent of the total votes cast for all candidates divided  
15 by the number of seats to be filled.

16 (c) Unless otherwise provided by ordinance, a runoff election  
17 shall be held within three weeks after the date of certification of  
18 the election for which a runoff is required, and notice of the runoff  
19 election shall be published at least five days before the election  
20 date. The runoff election shall be between the two candidates receiv-  
21 ing the greatest number of votes for the seat.

22 Sec. 29.26.070. ELECTION CONTEST AND APPEAL. (a) The governing  
23 body may provide by ordinance the time and procedure for the contest  
24 of an election.

25 (b) Unless otherwise provided by ordinance, an election may be  
26 contested only by a voter by filing a written affidavit with the  
27 municipal clerk specifying with particularity the grounds for the  
28 contest. An election may be contested before or during the first  
29 canvass of ballots by the governing body.

1 (c) Unless otherwise provided by ordinance, the governing body  
2 shall declare the election results at the first meeting to canvass the  
3 election, record the results in the minutes of that meeting, and  
4 authorize the results to be certified.

5 (d) A contestant shall pay all costs and expenses incurred in a  
6 recount of an election demanded by the contestant if the recount fails  
7 to reverse a result of the election, or the difference between the  
8 winning and losing vote on the result contested is more than two per-  
9 cent.

10 (e) A person may not appeal or seek judicial review of an elec-  
11 tion for any cause unless the person is a voter, has exhausted all  
12 administrative remedies before the governing body, and has commenced,  
13 within 10 days after the governing body has declared the election  
14 results, an action in the superior court in the judicial district in  
15 which the municipality is located. If court action is not commenced  
16 within the 10-day period, the election and election results are con-  
17 clusive and valid.

18 ARTICLE 2. INITIATIVE AND REFERENDUM.

19 Sec. 29.26.100. RESERVATION OF POWERS. The powers of initiative  
20 and referendum are reserved to the residents of municipalities, except  
21 the powers do not extend to matters restricted by art. XI, sec. 7 of  
22 the state constitution.

23 Sec. 29.26.110. APPLICATION FOR PETITION. (a) An initiative or  
24 referendum is proposed by filing an application with the municipal  
25 clerk containing the ordinance or resolution to be initiated or the  
26 ordinance or resolution to be referred and the address to which all  
27 correspondence relating to the petition may be sent. An application  
28 shall be signed by at least 10 voters who will sponsor the petition.  
29 An additional sponsor may be added at any time before the petition is

1 filed by submitting the name of the sponsor to the clerk. Within two  
2 weeks the clerk shall certify the application if the clerk finds that  
3 it is in proper form and, for an initiative petition, that the matter

4 (1) is not restricted by AS 29.26.100;

5 (2) includes only a single subject;

6 (3) relates to a legislative rather than to an administra-  
7 tive matter; and

8 (4) would be enforceable as a matter of law.

9 (b) A decision by the clerk on an application for petition is  
10 subject to judicial review.

11 Sec. 29.26.120. CONTENTS OF PETITION. (a) Within two weeks  
12 after certification of an application for an initiative or referendum  
13 petition, a petition shall be prepared by the municipal clerk. Each  
14 copy of the petition shall contain

15 (1) a summary of the ordinance or resolution to be initi-  
16 ated or the ordinance or resolution to be referred;

17 (2) the complete ordinance or resolution sought to be ini-  
18 tiated or referred as submitted by the sponsors;

19 (3) the date on which the petition is issued by the clerk;

20 (4) notice that signatures must be secured within 90 days  
21 after the date the petition is issued;

22 (5) spaces for each signature, the printed name of each  
23 signer, the date each signature is affixed, and the residence and  
24 mailing addresses of each signer;

25 (6) a statement, with space for the sponsor's sworn signa-  
26 ture and date of signing, that the sponsor personally circulated the  
27 petition, that all signatures were affixed in the presence of the  
28 sponsor, and that the sponsor believes the signatures to be those of  
29 the persons whose names they purport to be; and

1 (7) space for indicating the total number of signatures on  
2 the petition.

3 (b) If a petition consists of more than one page, each page  
4 shall contain the summary of the ordinance or resolution to be initi-  
5 ated or the ordinance or resolution to be referred.

6 (c) Copies of the petition shall be provided to each sponsor by  
7 the clerk.

8 Sec. 29.26.130. SIGNATURE REQUIREMENTS. (a) The signatures on  
9 an initiative or referendum petition shall be secured within 90 days  
10 after the clerk issues the petition. The statement provided under  
11 AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signa-  
12 tures shall be in ink or indelible pencil.

13 (b) The clerk shall determine the number of signatures required  
14 on a petition and inform each sponsor. A petition shall be signed by  
15 a number of voters based on the number of votes cast at the last  
16 regular election held before the date the petition was issued equal to

17 (1) 25 percent of the votes cast if a municipality has  
18 fewer than 7,500 persons; or

19 (2) 15 percent of the votes cast if a municipality has  
20 7,500 persons or more.

21 (c) Illegible signatures shall be rejected by the clerk unless  
22 accompanied by a legible printed name. Signatures not accompanied by  
23 a legible residence address shall be rejected.

24 (d) A petition signer may withdraw the signer's signature on  
25 written application to the clerk before certification of the petition.

26 Sec. 29.26.140. SUFFICIENCY OF PETITION. (a) All copies of an  
27 initiative or referendum petition shall be assembled and filed as a  
28 single instrument. Within 10 days after the date the petition is  
29 filed, the municipal clerk shall

1           (1) certify on the petition whether it is sufficient; and  
2           (2) if the petition is insufficient, identify the insuffi-  
3 ciency and notify the sponsors at the address provided under AS 29.-  
4 26.110(a) by certified mail.

5           (b) A petition that is insufficient may be supplemented with  
6 additional signatures obtained and filed before the 11th day after the  
7 date on which the petition is rejected.

8           (c) A petition that is insufficient shall be rejected and filed  
9 as a public record unless it is supplemented under (b) of this sec-  
10 tion. Within 10 days after a supplementary filing the clerk shall  
11 recertify the petition. If it is still insufficient, the petition is  
12 rejected and filed as a public record.

13           Sec. 29.26.150. PROTEST. If the municipal clerk certifies an  
14 initiative or referendum petition is insufficient, a signer of the  
15 petition may file a protest with the mayor within seven days after the  
16 certification. The mayor shall present the protest at the next regu-  
17 lar meeting of the governing body. The governing body shall hear and  
18 decide the protest.

19           Sec. 29.26.160. NEW PETITION. Failure to secure sufficient  
20 signatures does not preclude the filing of a new initiative or refer-  
21 endum petition. However, a new petition on substantially the same  
22 matter may not be filed sooner than six months after a petition is  
23 rejected as insufficient.

24           Sec. 29.26.170. INITIATIVE ELECTION. (a) Unless substantially  
25 the same measure is adopted, when a petition seeks an initiative vote  
26 the clerk shall submit the matter to the voters at the next regular  
27 election occurring no sooner than 45 days after certification of the  
28 petition. If no regular election occurs within 75 days after the  
29 certification of a petition, the governing body shall hold a special

1 election within 75 days, but not sooner than 45 days after certifica-  
2 tion.

3 (b) If the governing body adopts substantially the same measure,  
4 the petition is void and the matter initiated may not be placed before  
5 the voters.

6 (c) The ordinance or resolution initiated shall be published in  
7 full in the notice of the election, but may be summarized on the  
8 ballot to indicate clearly the proposal submitted.

9 (d) If a majority vote favors the ordinance or resolution, it  
10 becomes effective upon certification of the election, unless a diff-  
11 erent effective date is provided in the ordinance or resolution.

12 Sec. 29.26.180. REFERENDUM ELECTION. (a) Unless the ordinance  
13 or resolution is repealed, when a petition seeks a referendum vote the  
14 clerk shall submit the matter to the voters at the next election  
15 occurring no sooner than 45 days after certification of the petition.  
16 If no election occurs within 75 days of certification of a petition,  
17 the governing body shall hold a special election within 75 days, but  
18 not sooner than 45 days after certification.

19 (b) If a petition is certified before the effective date of the  
20 matter referred, the ordinance or resolution against which the peti-  
21 tion is filed shall be suspended pending the referendum vote. During  
22 the period of suspension, the governing body may not enact an ordi-  
23 nance or resolution substantially similar to the suspended measure.

24 (c) If the governing body repeals the ordinance or resolution  
25 before the referendum election, the petition is void and the matter  
26 referred shall not be placed before the voters.

27 (d) If a majority vote favors the repeal of the matter referred,  
28 it is repealed. Otherwise, the matter referred remains in effect or,  
29 if it has been suspended, becomes effective on certification of the

1 election.

2 Sec. 29.26.190. EFFECT. (a) The effect of an ordinance or  
3 resolution may not be modified or negated within two years after its  
4 effective date if adopted in an initiative election or if adopted  
5 after a petition that contains substantially the same measure has been  
6 filed.

7 (b) If an ordinance or resolution is repealed in a referendum  
8 election or by the governing body after a petition that contains sub-  
9 stantially the same measure has been filed, substantially similar  
10 legislation may not be enacted by the governing body for a period of  
11 two years.

12 (c) If an initiative or referendum measure fails to receive  
13 voter approval, a new petition application for substantially the same  
14 measure may not be filed sooner than six months after the election  
15 results are certified.

16 ARTICLE 3. RECALL.

17 Sec. 29.26.240. RECALL. An official who is elected or appointed  
18 to an elective municipal office may be recalled by the voters after  
19 the official has served the first 120 days of the term for which  
20 elected or appointed.

21 Sec. 29.26.250. GROUNDS FOR RECALL. Grounds for recall are  
22 misconduct in office, incompetence, or failure to perform prescribed  
23 duties.

24 Sec. 29.26.260. APPLICATION FOR RECALL PETITION. (a) An appli-  
25 cation for a recall petition shall be filed with the municipal clerk  
26 and shall contain

27 (1) the signatures and residence addresses of at least 10  
28 municipal voters who will sponsor the petition;

29 (2) the address to which all correspondence relating to the

1 petition may be sent;

2 (3) a statement in 200 words or less of the grounds for  
3 recall stated with particularity.

4 (b) An additional sponsor may be added at any time before the  
5 petition is filed by submitting the name of the sponsor to the clerk.

6 Sec. 29.26.270. RECALL PETITION. (a) If the municipal clerk  
7 determines that an application for a recall petition meets the re-  
8 quirements of AS 29.26.260, the clerk shall prepare a recall petition.  
9 All copies of the petition shall contain

10 (1) the name of the official sought to be recalled;

11 (2) the statement of the grounds for recall as set out in  
12 the application for petition;

13 (3) the date the petition is issued by the clerk;

14 (4) notice that signatures must be secured within 60 days  
15 after the date the petition is issued;

16 (5) spaces for each signature, the printed name of each  
17 signer, the date of each signature, and the residence and mailing  
18 addresses of each signer;

19 (6) a statement, with space for the sponsor's sworn signa-  
20 ture and date of signing, that the sponsor personally circulated the  
21 petition, that all signatures were affixed in the presence of the  
22 sponsor, and that the sponsor believes the signatures to be those of  
23 the persons whose names they purport to be; and

24 (7) space for indicating the number of signatures on the  
25 petition.

26 (b) Copies of the petition shall be provided to each sponsor by  
27 the clerk.

28 Sec. 29.26.280. SIGNATURE REQUIREMENTS. (a) The signatures on  
29 a recall petition shall be secured within 60 days after the date the

1 clerk issues the petition. The statement provided under AS 29.26.-  
2 270(a)(6) shall be completed and signed by the sponsor. Signatures  
3 shall be in ink or indelible pencil.

4 (b) The clerk shall determine the number of signatures required  
5 on a petition and inform each sponsor. If a petition seeks to recall  
6 an official who represents the municipality at large, the petition  
7 shall be signed by a number of voters equal to 25 percent of the  
8 number of votes cast for that office at the last regular election held  
9 before the date the petition was issued. If a petition seeks to  
10 recall an official who represents a district, the petition shall be  
11 signed by a number of the voters residing in the district equal to 25  
12 percent of the number of votes cast in the district for that office at  
13 the last regular election held before the date the petition was is-  
14 sued.

15 (c) Illegible signatures shall be rejected by the clerk unless  
16 accompanied by a legible printed name. Signatures not accompanied by  
17 a legible residence address shall be rejected.

18 (d) A petition signer may withdraw the signer's signature upon  
19 written application to the clerk before certification of the petition.

20 Sec. 29.26.290. SUFFICIENCY OF PETITION. (a) The copies of a  
21 recall petition shall be assembled and filed as a single instrument.  
22 A petition may not be filed within 180 days before the end of the term  
23 of office of the official sought to be recalled. Within 10 days after  
24 the date a petition is filed, the municipal clerk shall

25 (1) certify on the petition whether it is sufficient; and

26 (2) if the petition is insufficient, identify the insuffi-  
27 ciency and notify the sponsors at the address provided under AS 29.-  
28 26.260(a)(2) by certified mail.

29 (b) A petition that is insufficient may be supplemented with

1 additional signatures obtained and filed before the 11th day after the  
2 date on which the petition is rejected if

3 (1) the petition contains an adequate number of signatures,  
4 counting both valid and invalid signatures; and

5 (2) the supplementary petition is filed more than 180 days  
6 before the end of the term of office of the official sought to be re-  
7 called.

8 (c) A petition that is insufficient shall be rejected and filed  
9 as a public record unless it is supplemented under (b) of this sec-  
10 tion. Within 10 days after the supplementary filing the clerk shall  
11 recertify the petition. If it is still insufficient, the petition is  
12 rejected and filed as a public record.

13 Sec. 29.26.300. NEW RECALL PETITION APPLICATION. A new applica-  
14 tion for a petition to recall the same official may not be filed  
15 sooner than six months after a petition is rejected as insufficient.

16 Sec. 29.26.310. SUBMISSION. If a recall petition is sufficient,  
17 the clerk shall submit it to the governing body at the next regular  
18 meeting or at a special meeting held before the next regular meeting.

19 Sec. 29.26.320. ELECTION. (a) If a regular election occurs  
20 within 75 days but not sooner than 45 days after submission of the  
21 petition to the governing body, the governing body shall submit the  
22 recall at that election.

23 (b) If no regular election occurs within 75 days, the governing  
24 body shall hold a special election on the recall question within 75  
25 days but not sooner than 45 days after a petition is submitted to the  
26 governing body.

27 (c) If a vacancy occurs in the office after a sufficient recall  
28 petition is filed with the clerk, the recall question may not be sub-  
29 mitted to the voters. The governing body may not appoint to the same

1 office an official who resigns after a sufficient recall petition is  
2 filed naming that official.

3 Sec. 29.26.330. FORM OF RECALL BALLOT. A recall ballot shall  
4 contain

5 (1) the grounds for recall as stated in 200 words or less  
6 on the recall petition;

7 (2) a statement by the official named on the recall peti-  
8 tion of 200 words or less, if the statement is filed with the clerk  
9 for publication and public inspection within 20 days before the elec-  
10 tion;

11 (3) the following question: "Shall (name of person) be  
12 recalled from the office of (office)? Yes [ ] No [ ]".

13 Sec. 29.26.340. EFFECT. (a) If a majority vote favors recall,  
14 the office becomes vacant upon certification of the recall election.

15 (b) If an official is not recalled at the election, an applica-  
16 tion for a petition to recall the same official may not be filed  
17 sooner than six months after the election.

18 Sec. 29.26.350. SUCCESSORS. (a) If an official is recalled  
19 from the governing body, the office of that official is filled in  
20 accordance with AS 29.20.180. If all members of the governing body  
21 are recalled, the governor shall appoint three qualified persons to  
22 the governing body. The appointees shall appoint additional members  
23 to fill remaining vacancies in accordance with AS 29.20.180.

24 (b) If a member of the school board is recalled, the office of  
25 that member is filled in accordance with AS 14.12.070. If all members  
26 are recalled from a school board, the governor shall appoint three  
27 qualified persons to the school board. The appointees shall appoint  
28 additional members to fill remaining vacancies in accordance with  
29 AS 14.12.070.

1 (c) A person appointed under (a) or (b) of this section serves  
2 until a successor is elected and takes office.

3 (d) If an official other than a member of the governing body or  
4 school board is recalled, a successor shall be elected to fill the  
5 unexpired portion of the term. The election shall be held not more  
6 than 60 days after the date the recall election is certified, except  
7 that if a regular election occurs within 75 days after certification  
8 the successor shall be chosen at that election.

9 (e) Nominations for a successor may be filed until seven days  
10 before the last date on which a first notice of the election must be  
11 given. Nominations may not be filed before the certification of the  
12 recall election.

13 Sec. 29.26.360. APPLICATION. AS 29.26.250 - 29.26.360 apply to  
14 home rule and general law municipalities.

15 \* Sec. 10. AS 29 is amended by adding a new chapter to read:

16 CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

17 ARTICLE 1. GENERAL POWERS.

18 Sec. 29.35.010. GENERAL POWERS. All municipalities have the  
19 following general powers, subject to other provisions of law:

20 (1) to establish and prescribe a salary for an elected or  
21 appointed municipal official or employee;

22 (2) to combine two or more appointive or administrative  
23 offices;

24 (3) to establish and prescribe the functions of a municipal  
25 department, office, or agency;

26 (4) to require periodic and special reports from a municipi-  
27 pal department to be submitted through the mayor;

28 (5) to investigate an affair of the municipality and make  
29 inquiries into the conduct of a municipal department;

1           (6) to levy a tax or special assessment, and impose a lien  
2 for its enforcement;

3           (7) to enforce an ordinance and to prescribe a penalty for  
4 violation of an ordinance;

5           (8) to acquire, manage, control, use, and dispose of real  
6 and personal property, whether the property is situated inside or  
7 outside the municipal boundaries; this power includes the power of a  
8 borough to expend, for any purpose authorized by law, money received  
9 from the disposal of land in a service area established under AS 29.-  
10 35.450;

11           (9) to expend money for a community purpose, facility, or  
12 service for the good of the municipality to the extent the municipal-  
13 ity is otherwise authorized by law to exercise the power necessary to  
14 accomplish the purpose or provide the facility or service;

15           (10) to regulate the operation and use of a municipal right-  
16 of-way, facility, or service;

17           (11) to borrow money and issue evidences of indebtedness;

18           (12) to acquire membership in an organization that promotes  
19 legislation for the good of the municipality;

20           (13) to enter into an agreement, including an agreement for  
21 cooperative or joint administration of any function or power with a  
22 municipality, the state, or the United States;

23           (14) to sue and be sued.

24           Sec. 29.35.020. EXTRATERRITORIAL JURISDICTION. (a) To the  
25 extent a municipality is otherwise authorized by law to exercise the  
26 power necessary to provide the facility or service, the municipality  
27 may provide parks, playgrounds, cemeteries, emergency medical ser-  
28 vices, solid and septic waste disposal, airports, streets (including  
29 ice roads), trails, transportation facilities, wharves, harbors and

1 other marine facilities outside its boundaries and may regulate their  
2 use and operation to the extent that the jurisdiction in which they  
3 are located does not regulate them. A regulation adopted under this  
4 section must state that it applies outside the municipality.

5 (b) A municipality may adopt an ordinance to protect its water  
6 supply and watershed, and may enforce the ordinance outside its bound-  
7 aries. Before this power may be exercised inside the boundaries of  
8 another municipality, the approval of the other municipality must be  
9 given by ordinance.

10 (c) A municipality that owns or operates a utility may extend  
11 service to adjacent areas outside its municipal boundaries. For that  
12 purpose the municipality may acquire, maintain, and operate utility  
13 facilities together with necessary interests in real property outside  
14 its boundaries.

15 (d) This section applies to home rule and general law municipal-  
16 ities.

17 Sec. 29.35.030. EMINENT DOMAIN. (a) A municipality may exer-  
18 cise the powers of eminent domain and declaration of taking in the  
19 performance of a power or function of the municipality under the  
20 procedures set out in AS 09.55.250 - 09.55.460. In the case of a  
21 second class city, the exercise of the power of eminent domain or  
22 declaration of taking must be by ordinance that is submitted to the  
23 voters at the next general election or at a special election called  
24 for that purpose. A majority of the votes on the question is required  
25 for approval of the ordinance.

26 (b) This section applies to home rule and general law municipal-  
27 ities.

28 Sec. 29.35.040. EMERGENCY DISASTER POWERS. (a) A municipality  
29 that is wholly or partially in an area that is declared by the

1 President or governor to be a disaster area may participate in and  
2 provide for housing, urban renewal, and redevelopment in the same  
3 manner as a home rule city. The exercise of these powers by a borough  
4 shall be on a nonareawide basis, except a borough may exercise the  
5 powers transferred to it by a city as provided by AS 29.35.310.

6 (b) Powers granted by this section must be initiated within a  
7 period of not more than five years after the date of declaration of a  
8 natural disaster by the President or governor, but these powers may be  
9 extended for an additional period of not more than three years.

10 Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES. (a) A muni-  
11 cipality may by ordinance

12 (1) provide for the establishment, maintenance, and opera-  
13 tion of a system of garbage and solid waste collection and disposal  
14 for the entire municipality, or for districts or portions of it;

15 (2) require all persons in the municipality or district to  
16 use the system and to dispose of their garbage and solid waste as  
17 provided in the ordinance;

18 (3) award contracts for collection and disposal, or provide  
19 for the collection and disposal of garbage and solid waste by muni-  
20 cipal officials and employees;

21 (4) pay for garbage and solid waste collection and disposal  
22 from available money;

23 (5) require property owners or occupants of premises to use  
24 the garbage and solid waste collection and disposal system provided by  
25 the municipality;

26 (6) fix charges against the property owners or occupants of  
27 premises for the collection and disposal; and

28 (7) provide penalties for violations of the ordinances.

29 (b) The governing body of a municipality may not prohibit a

1 person holding a valid certificate from the Alaska Public Utilities  
2 Commission from continuing to collect and dispose of garbage, refuse,  
3 trash, waste material, or provide other related services in an area in  
4 the municipality if the certificate authorizes the collection and  
5 disposal of garbage, refuse, trash, or other waste material and pro-  
6 viding of other services in the area, and the certificate was orig-  
7 inally issued before the municipality provided similar services. A  
8 municipality may not provide for a garbage, refuse, trash, or other  
9 waste material collection and disposal service in an area to the  
10 extent it lies in an area granted to a garbage, refuse, trash, or  
11 other waste material carrier by a certificate issued by the Alaska  
12 Public Utilities Commission to the carrier until it has purchased the  
13 certificate, equipment and facilities of the carrier, or that portion  
14 of the certificate that would be affected, at fair market value. A  
15 municipality may exercise the right of eminent domain to acquire the  
16 certificate, equipment and facilities of the carrier, or that portion  
17 of the certificate that would be affected.

18 (c) This section applies to home rule and general law municipal-  
19 ities.

20 Sec. 29.35.060. FRANCHISES AND PERMITS. (a) The assembly  
21 acting for the area outside all cities in the borough and the council  
22 acting for the area in a city may grant franchises, including exclu-  
23 sive franchise privileges, to a person, corporation, organization, or  
24 utility not certificated by the Alaska Public Utilities Commission and  
25 may permit the use of streets and other public places by the franchise  
26 holder under regulations prescribed by ordinance.

27 (b) Unless the grant is made on a competitive basis, the grant  
28 of an exclusive right to use a public street or right-of-way for more  
29 than five years to a utility or a transportation system not

1 certified by the Alaska Public Utilities Commission shall be valid  
2 only if approved by a majority of the voters at an election.

3 Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for  
4 the area outside all cities in the borough and the council acting for  
5 the area in a city may regulate, fix, establish, and change the rates  
6 and charges imposed for a utility service provided to the municipality  
7 or its inhabitants by a utility that it is not subject to regulation  
8 under AS 42.05 unless that utility is exempted from regulation under  
9 AS 42.05.711(a) or (d) - (k).

10 (b) A municipality may provide for a reasonable deposit for  
11 meters and service to be given if interest is paid on the deposit.

12 (c) Unless the utility is owned by the municipality, all rates,  
13 charges, and regulations established under this section shall be  
14 established by ordinance and shall be reasonable and permit a fair  
15 return on invested capital.

16 (d) This section applies to home rule and general law municipal-  
17 ities.

18 Sec. 29.35.080. ALCOHOLIC BEVERAGES. (a) A municipality may  
19 regulate the barter, sale, importation, and consumption of alcoholic  
20 beverages in accordance with AS 04.11.480 - 04.11.506 and AS 04.21.-  
21 010.

22 (b) This section applies to home rule and general law municipali-  
23 ties.

24 Sec. 29.35.090. MUNICIPAL PROPERTY. The governing body shall by  
25 ordinance establish a formal procedure for acquisition and disposal of  
26 land and interests in land by the municipality.

27 Sec. 29.35.100. BUDGET AND CAPITAL PROGRAM. (a) The governing  
28 body shall establish the manner for the preparation and submission of  
29 the budget and capital program. After a public hearing, the governing

1 body may approve the budget with or without amendments, and shall  
2 appropriate the money required for the approved budget.

3 (b) The governing body may make supplemental and emergency  
4 appropriations. Payment may not be authorized or made and an obliga-  
5 tion may not be incurred except in accordance with appropriations.

6 Sec. 29.35.110. EXPENDITURE OF BOROUGH REVENUES. Borough reve-  
7 nues received through taxes collected on an areawide basis by the  
8 borough may be expended on general administrative costs and on area-  
9 wide functions only. Borough revenues received through taxes col-  
10 lected on a nonareawide basis may be expended on general administra-  
11 tive costs and functions that render service only to the area outside  
12 all cities in the borough.

13 Sec. 29.35.120. POST AUDIT. (a) The governing body shall  
14 provide for an annual independent audit of the accounts and financial  
15 transactions of the municipality or, in the case of a second class  
16 city, an audit or statement of annual income and expenditures. To  
17 make the audit the governing body shall designate a public accountant  
18 who has no personal interest, direct or indirect, in the fiscal af-  
19 fairs of the municipality. Copies of the audit shall be available to  
20 the public upon request.

21 (b) This section applies to home rule and general law municipal-  
22 ities.

23 Sec. 29.35.130. EMERGENCY SERVICES COMMUNICATIONS CENTERS. (a)  
24 A municipality may establish an emergency services communications  
25 center with one or more other municipalities and one or more state,  
26 federal, or private agencies that provide emergency service communica-  
27 tions to the same geographic area. An emergency services communica-  
28 tions center established under this section may be organized and  
29 operated as a public nonprofit corporation under AS 10.20.

1           (b) An emergency services communications center under this  
2 section may be governed by a board of directors. A member of a board  
3 of directors of an emergency services communications center serves  
4 without compensation but is entitled to per diem and travel expenses.  
5 If an emergency services communications center is organized as a  
6 nonprofit corporation, a member of its board of directors may not be  
7 employed by the nonprofit corporation.

8           (c) An emergency services communications center may assess the  
9 feasibility and desirability of providing emergency services communi-  
10 cations for the geographic area in which it is located through one  
11 central office. An emergency services communications center may

12                 (1) combine or coordinate the existing emergency services  
13 communications programs of the participating municipalities and agen-  
14 cies;

15                 (2) operate a dispatch center to receive all requests for  
16 emergency services and dispatch those services;

17                 (3) study the need for improvement in the timely delivery  
18 of emergency services to residents of the participating municipali-  
19 ties;

20                 (4) hold public hearings to obtain information concerning  
21 the timely delivery of emergency services;

22                 (5) apply for and accept federal, state, municipal, and  
23 private money, property, or assistance for use in providing the timely  
24 delivery of emergency services;

25                 (6) enter into contracts to carry out the provisions of  
26 this section;

27                 (7) employ personnel necessary to carry out the provisions  
28 of this section.

29           (d) In this section

1           (1) "emergency services" means services provided by law  
2 enforcement agencies, fire departments, ambulance services, and other  
3 organizations that are intended to respond to emergency situations of  
4 imminent danger to life or property;

5           (2) "state agency" means a department, division, or office  
6 in the executive branch of state government.

7           Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A  
8 municipality may not regulate an activity regarding transportation of  
9 passengers or freight for hire if the regulation conflicts with the  
10 regulation of that activity by the Alaska Transportation Commission as  
11 the regulation existed on April 1, 1983 under former AS 02.05, former  
12 AS 42.07, or former AS 42.10.

13           Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may  
14 not, except by ordinance ratified by the voters, restrict the right to  
15 own or possess firearms or transport unloaded firearms.

16           (b) This section applies to home rule and general law  
17 municipalities.

18                           ARTICLE 2. MANDATORY AREAWIDE POWERS.

19           Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. A borough shall  
20 exercise the powers as specified and in the manner specified in  
21 AS 29.35.150 - 29.35.180 on an areawide basis.

22           Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a  
23 borough school district and establishes, maintains, and operates a  
24 system of public schools on an areawide basis as provided in AS 14.-  
25 14.060. A military reservation in a borough is not part of the bor-  
26 ough school district until the military mission is terminated or until  
27 inclusion in the borough school district is approved by the Department  
28 of Education. However, operation of the military reservation schools  
29 by the borough school district may be required by the Department of

1 Education under AS 14.14.110. If the military mission of a military  
2 reservation terminates or continued management and control by a re-  
3 gional educational attendance area is disapproved by the Department of  
4 Education, operation, management, and control of schools on the mili-  
5 tary reservation transfers to the borough school district in which the  
6 military reservation is located.

7 (b) This section applies to home rule and general law municipal-  
8 ities.

9 Sec. 29.35.170. ASSESSMENT AND COLLECTION OF TAXES. (a) A  
10 borough shall assess and collect property, sales, and use taxes that  
11 are levied in its boundaries, subject to AS 29.45.

12 (b) Taxes levied by a city shall be collected by a borough and  
13 returned in full to the levying city. This subsection applies to home  
14 rule and general law municipalities.

15 Sec. 29.35.180. LAND USE REGULATION. (a) A first or second  
16 class borough shall provide for planning, platting, and land use  
17 regulation in accordance with AS 29.40.

18 (b) A home rule borough shall provide for planning, platting,  
19 and land use regulation.

20 ARTICLE 3. ADDITIONAL POWERS.

21 Sec. 29.35.200. FIRST CLASS BOROUGH POWERS. (a) A first class  
22 borough may exercise by ordinance on a nonareawide basis any power not  
23 otherwise prohibited by law.

24 (b) A first class borough may by ordinance exercise the follow-  
25 ing powers on an areawide basis:

26 (1) provide transportation systems;

27 (2) provide water pollution control;

28 (3) provide air pollution control in accordance with

29 AS 46.03.140 - 46.03.230;

- 1                   (4) license day care facilities;  
2                   (5) license, impound, and dispose of animals.

3                   (c) In addition to powers conferred by (b) of this section, a  
4 first class borough may, on an areawide basis, exercise a power not  
5 otherwise prohibited by law if the power has been acquired in accor-  
6 dance with AS 29.35.300.

7                   Sec. 29.35.210. SECOND CLASS BOROUGH POWERS.     (a) A second  
8 class borough may by ordinance exercise the following powers on a  
9 nonareawide basis:

- 10                   (1) provide transportation systems;  
11                   (2) regulate the offering for sale, exposure for sale,  
12 sale, use or explosion of fireworks;  
13                   (3) license, impound, and dispose of animals;  
14                   (4) provide garbage, solid waste, and septic waste col-  
15 lection and disposal;  
16                   (5) provide air pollution control in accordance with  
17 AS 46.03.140 - 46.03.230;  
18                   (6) provide water pollution control;  
19                   (7) participate in federal or state loan programs for  
20 housing rehabilitation and improvement for energy conservation;  
21                   (8) provide for economic development;  
22                   (9) provide for the acquisition and construction of local  
23 service roads and trails under AS 19.30.111 - 19.30.251;  
24                   (10) establish an emergency services communications center  
25 under AS 29.35.130;  
26                   (11) subject to AS 28.01.010, regulate the licensing and  
27 operation of motor vehicles and operators.

28                   (b) A second class borough may by ordinance exercise the follow-  
29 ing powers on an areawide basis:

- 1 (1) provide transportation systems;  
2 (2) license, impound, and dispose of animals;  
3 (3) provide air pollution control in accordance with  
4 AS 46.03.140 - 46.03.230;  
5 (4) provide water pollution control;  
6 (5) license day care facilities.

7 (c) In addition to powers conferred by (a) of this section, a  
8 second class borough may, on a nonareawide basis, exercise a power not  
9 otherwise prohibited by law if the exercise of the power has been  
10 approved at an election by a majority of voters living in the borough  
11 but outside all cities in the borough.

12 (d) In addition to powers conferred by (b) of this section, a  
13 second class borough may, on an areawide basis, exercise a power not  
14 otherwise prohibited by law if the power has been acquired in accor-  
15 dance with AS 29.35.300.

16 Sec. 29.35.220. THIRD CLASS BOROUGH POWERS. (a) A third class  
17 borough may borrow money and issue negotiable or nonnegotiable bonds  
18 or other evidences of indebtedness as provided by AS 29.47.

19 (b) Areawide exercise of a power by a third class borough other  
20 than education and tax assessment and collection is not authorized.

21 (c) A third class borough may acquire the power to provide for  
22 planning, platting, and land use regulation as provided in AS 29.40  
23 for first and second class boroughs, except the power may only be  
24 exercised within a service area.

25 (d) A third class borough may acquire any power not otherwise  
26 prohibited by law, except the power may only be exercised within a  
27 service area.

28 ARTICLE 4. CITY POWERS.

29 Sec. 29.35.250. CITIES INSIDE BOROUGHs. (a) A city inside a

1 borough may exercise any power not otherwise prohibited by law.

2 (b) On adoption of a borough ordinance to provide for areawide  
3 exercise of a power, no city may exercise the power unless the borough  
4 ordinance provides otherwise or the borough by ordinance ceases to  
5 exercise the power.

6 (c) A home rule city in a third class borough shall provide for  
7 planning, platting, and land use regulation as provided by AS 29.35.-  
8 180(b) for home rule boroughs. A first class city in a third class  
9 borough shall provide for planning, platting, and land use regulation  
10 as provided by AS 29.35.180(a) for first and second class boroughs. A  
11 second class city in a third class borough may provide for planning,  
12 platting, and land use regulation as provided by AS 29.35.180(a) for  
13 first and second class boroughs.

14 (d) This section applies to home rule and general law cities.

15 Sec. 29.35.260. CITIES OUTSIDE BOROUGHES. (a) A city outside a  
16 borough may exercise a power not otherwise prohibited by law. A  
17 provision that is incorporated by reference to laws governing boroughs  
18 applies to home rule cities outside boroughs only if the provision is  
19 made applicable to home rule boroughs.

20 (b) A home rule or first class city outside a borough is a city  
21 school district and shall establish, operate, and maintain a system of  
22 public schools as provided by AS 29.35.160 for boroughs. A second  
23 class city outside a borough is not a school district and may not  
24 establish a system of public schools.

25 (c) A home rule city outside a borough shall provide for plan-  
26 ning, platting, and land use regulation as provided by AS 29.35.180(b)  
27 for home rule boroughs. A first class city outside a borough shall,  
28 and a second class city outside a borough may, provide for planning,  
29 platting, and land use regulation as provided by AS 29.35.180(a) for

1 first and second class boroughs.

2 (d) This section applies to home rule and general law cities.

3 ARTICLE 5. ACQUISITION OF ADDITIONAL POWERS.

4 Sec. 29.35.300. ADDITIONAL POWERS. (a) A first class borough  
5 acquires an additional areawide power by transfer of the power by a  
6 city or by holding an areawide election on the question.

7 (b) A second class borough acquires an additional power by  
8 transfer of the power by a city or by holding an election on the ques-  
9 tion. For acquisition of an areawide power, the election shall be  
10 held areawide. For acquisition of a nonareawide power, the election  
11 shall be held nonareawide.

12 (c) A third class borough acquires an additional power to exer-  
13 cise in a service area by forming a service area in accordance with  
14 AS 29.35.490(b) or (c).

15 Sec. 29.35.310. TRANSFER BY CITY. (a) A city in a first or  
16 second class borough may transfer to the borough in which it is lo-  
17 cated any of its powers or functions, subject to the approval of the  
18 assembly.

19 (b) A first or second class borough shall exercise all powers  
20 transferred to it by a city.

21 Sec. 29.35.320. INITIATION OF ACQUISITION OF POWER. (a) An  
22 election on the question of adding an areawide power in a first class  
23 borough or of adding an areawide or nonareawide power in a second  
24 class borough may be initiated in two ways:

25 (1) a number of voters equal to 15 percent of the number of  
26 votes cast at the preceding regular election in the area, either area-  
27 wide or nonareawide, in which the election is to be held may file a  
28 petition with the borough clerk; or

29 (2) the assembly may propose the acquisition of the power.

1           (b) An election on the question of adding a power in a third  
2 class borough for exercise in a service area may be initiated in two  
3 ways:

4           (1) a number of voters equal to 15 percent of the number of  
5 votes cast at the preceding regular election in a proposed service  
6 area in which the power is sought to be exercised may file a petition  
7 with the assembly; or

8           (2) the assembly may propose the acquisition of the power.

9           (c) The borough clerk shall certify whether a petition filed  
10 under (a) or (b) of this section contains the required number of  
11 signatures.

12           (d) Within 30 days after a petition is certified as containing  
13 the required number of signatures or the assembly proposes the acqui-  
14 sition of a power, at least one public hearing shall be held in the  
15 borough on the question. The assembly shall then evaluate the ability  
16 of the borough to exercise the power and make its findings public.  
17 Within 60 days after its findings have been made public, the assembly  
18 shall order an election on the question.

19           Sec. 29.35.330. ELECTION. (a) If more than one power is pro-  
20 posed for acquisition under AS 29.35.320, each shall appear separately  
21 on the ballot.

22           (b) If a power is proposed for exercise by a third class borough  
23 in a service area, only voters residing in the proposed service area  
24 may vote.

25           (c) A vote on the question of adding an areawide power in a  
26 first or second class borough shall be tabulated in two separate  
27 classifications. One shall consist of all votes cast in all cities  
28 located in the borough. The other shall consist of all votes cast in  
29 the borough area outside all cities. If the majority of the votes

1 cast in each classification is favorable, the borough shall assume the  
2 added power within 30 days after certification of the election re-  
3 sults.

4 (d) If a majority of the votes cast on the question of adding a  
5 nonareawide power in a second class borough or a power to be exercised  
6 in a service area in a third class borough is favorable, the borough  
7 shall assume the added power within 30 days after certification of the  
8 election results.

9 (e) The borough mayor shall certify the election results to the  
10 department.

11 Sec. 29.35.340. EFFECT OF ACQUIRING AN AREAWIDE POWER. (a) On  
12 acquisition of an areawide power the first or second class borough  
13 succeeds to all of the rights, powers, and duties of any city or  
14 service area with respect to that power. The borough succeeds to  
15 claims, franchises, and other contractual obligations, liability for  
16 bonded and all other indebtedness, and to all of the right, title, and  
17 interest in the real and personal property held by a city or service  
18 area for the exercise of the power.

19 (b) The assembly may levy and collect special charges, taxes, or  
20 assessments including interest for the purpose of amortizing bonded  
21 indebtedness previously incurred by a city or service area for exer-  
22 cising an areawide power acquired by the borough. When a city or  
23 service area had previously incurred bonded indebtedness, all property  
24 that was in the city or service area at the time the bonds were issued  
25 remains subject to taxation to pay the principal of and interest on  
26 the bonds.

27 (c) On acquisition of an additional areawide power the first or  
28 second class borough, in consultation with the city or service area  
29 personnel, shall arrange for an orderly and equitable transfer of

1 rights, assets, liabilities, powers, duties, and other matters related  
2 to acquisition of the areawide powers.

3 (d) This section applies to home rule and general law cities.

4 Sec. 29.35.350. DEFINITION. In AS 29.35.200 - 29.35.350,  
5 "power" means the provision of a public facility or service, or the  
6 exercise of a regulatory power.

7 ARTICLE 6. CONSTRUCTION OF POWERS.

8 Sec. 29.35.400. GENERAL CONSTRUCTION. A liberal construction  
9 shall be given to all powers and functions of a municipality conferred  
10 in this title.

11 Sec. 29.35.410. EXTENT OF POWERS. Unless otherwise limited by  
12 law, a municipality has and may exercise all powers and functions  
13 necessarily or fairly implied in or incident to the purpose of all  
14 powers and functions conferred in this title.

15 Sec. 29.35.420. ENUMERATION OF POWERS. Specific examples in an  
16 enumerated power or function conferred upon a municipality in this  
17 title is illustrative of the object and not a limitation on or exclu-  
18 sion from the exercise of the power or function.

19 ARTICLE 7. SERVICE AREAS.

20 Sec. 29.35.450. SERVICE AREAS. (a) A service area to provide  
21 special services in a borough may be established, operated, altered,  
22 or abolished by ordinance. Special services include services not  
23 provided on an areawide or nonareawide basis in the borough, or a  
24 higher or different level of service than that provided on an areawide  
25 or nonareawide basis. The borough may include a city in a service  
26 area if

27 (1) the city agrees by ordinance; or

28 (2) approval is granted by a majority of voters residing in  
29 the city, and by a majority of voters residing inside the boundaries

1 of the proposed service area but outside of the city.

2 (b) A new service area may not be established if, consistent  
3 with the purposes of art. X of the state constitution, the new service  
4 can be provided by an existing service area, by annexation to a city,  
5 or by incorporation as a city.

6 Sec. 29.35.460. SERVICE AREA BOARDS. The assembly may provide  
7 for an appointed or elected board to supervise the furnishing of  
8 special services in a service area.

9 Sec. 29.35.470. FINANCING. The assembly may levy or authorize  
10 the levying of taxes, charges, or assessments in a service area to  
11 finance the special services. If the assembly authorizes the levying  
12 of taxes, charges, or assessments, the rate of taxation and the issu-  
13 ance of bonds are subject to assembly approval.

14 Sec. 29.35.480. SERVICE AREAS IN FIRST CLASS BOROUGHES. In a  
15 first class borough, the assembly may exercise in a service area any  
16 power granted a first class city by law. The assembly may exercise in  
17 a service area any nonareawide power that may be exercised by a first  
18 class borough.

19 Sec. 29.35.490. SERVICE AREAS IN SECOND AND THIRD CLASS BOR-  
20 OUGHS. (a) A second class borough may exercise in a service area any  
21 power granted a first class city by law or a nonareawide power that  
22 may be exercised by a first class borough if

23 (1) the exercise of the power is approved by a majority of  
24 the voters residing in the service area; or

25 (2) all owners of real property in the service area consent  
26 in writing to the exercise of the power if no voters reside in the  
27 service area.

28 (b) If the exercise of the power is approved by a majority of  
29 the voters residing in the service area, a third class borough may

1 exercise in a service area any power not otherwise prohibited by law.  
2 (c) A second or third class borough may establish a service area  
3 that includes only vacant, unappropriated, and unreserved land owned  
4 by the borough. A second or third class borough may establish a  
5 service area, with the concurrence of the commissioner of natural  
6 resources, that includes only vacant, unappropriated, and unreserved  
7 land owned by the state and classified for disposal to individuals.  
8 By ordinance a second or third class borough may provide the services  
9 in a service area established under this subsection necessary to  
10 develop state or municipal land as required by the planning, platting,  
11 and land use regulations of the borough.

12 \* Sec. 11. AS 29 is amended by adding a new chapter to read:

13 CHAPTER 40. PLANNING, PLATTING, AND LAND USE REGULATION.

14 Sec. 29.40.010. PLANNING, PLATTING, AND LAND USE REGULATION.

15 (a) A first or second class borough shall provide for planning,  
16 platting, and land use regulation on an areawide basis.

17 (b) If a city in a borough consents by ordinance, the assembly  
18 may by ordinance delegate any of its powers and duties under this  
19 chapter to the city. The assembly may by ordinance, without first  
20 obtaining the consent of the city, revoke any power or duty delegated  
21 under this section.

22 Sec. 29.40.020. PLANNING COMMISSION. (a) Each first and second  
23 class borough shall establish a planning commission consisting of five  
24 residents unless a greater number is required by ordinance. Commis-  
25 sion membership shall be apportioned so that the number of members  
26 from home rule and first class cities reflects the proportion of  
27 borough population residing in home rule and first class cities lo-  
28 cated in the borough. A member shall be appointed by the borough  
29 mayor for a term of three years subject to confirmation by the

1 assembly, except that a member from a home rule or first class city  
2 shall be selected from a list of recommendations submitted by the  
3 council. Members first appointed shall draw lots for one, two, and  
4 three year terms. Appointments to fill vacancies are for the  
5 unexpired term. The compensation and expenses of the planning  
6 commission and its staff are paid as directed by the assembly.

7 (b) In addition to the duties prescribed by ordinance, the plan-  
8 ning commission shall

9 (1) prepare and submit to the assembly a proposed compre-  
10 hensive plan in accordance with AS 29.40.030 for the systematic and  
11 organized development of the borough;

12 (2) review, recommend, and administer measures necessary to  
13 implement the comprehensive plan, including measures provided under  
14 AS 29.40.040.

15 Sec. 29.40.030. COMPREHENSIVE PLAN. (a) The comprehensive plan  
16 is a compilation of policy statements, goals, standards, and maps for  
17 guiding the physical, social, and economic development, both private  
18 and public, of the first or second class borough, and may include, but  
19 is not limited to, the following:

20 (1) statements of policies, goals, and standards;

21 (2) a land use plan;

22 (3) a community facilities plan;

23 (4) a transportation plan; and

24 (5) recommendations for implementation of the comprehensive  
25 plan.

26 (b) With the recommendations of the planning commission, the  
27 assembly shall adopt by ordinance a comprehensive plan. The assembly  
28 shall, after receiving the recommendations of the planning commission,  
29 periodically undertake an overall review of the comprehensive plan and

1 update the plan as necessary.

2 Sec. 29.40.040. LAND USE REGULATION. (a) In accordance with a  
3 comprehensive plan adopted under AS 29.40.030 and in order to imple-  
4 ment the plan, the assembly by ordinance shall adopt or amend provi-  
5 sions governing the use and occupancy of land that may include, but  
6 are not limited to,

7 (1) zoning regulations restricting the use of land and  
8 improvements by geographic districts;

9 (2) land use permit requirements designed to encourage or  
10 discourage specified uses and construction of specified structures, or  
11 to minimize unfavorable effects of uses and the construction of struc-  
12 tures;

13 (3) measures to further the goals and objectives of the  
14 comprehensive plan.

15 (b) A variance from a land use regulation adopted under this  
16 section may not be granted if

17 (1) special conditions that require the variance are caused  
18 by the person seeking the variance;

19 (2) the variance will permit a land use in a district in  
20 which that use is prohibited; or

21 (3) the variance is sought solely to relieve pecuniary  
22 hardship or inconvenience.

23 Sec. 29.40.050. APPEALS FROM ADMINISTRATIVE DECISIONS. (a) By  
24 ordinance the assembly shall provide for an appeal from an administra-  
25 tive decision of a municipal employee, board, or commission made in  
26 the enforcement, administration, or application of a land use regula-  
27 tion adopted under this chapter. The assembly may provide for an  
28 appeal to a court, hearing officer, board of adjustment, or other  
29 body. The assembly shall provide for an appeal from a decision on a

1 request for a variance from the terms of a land use regulation when  
2 literal enforcement would deprive a property owner of rights commonly  
3 enjoyed by other properties in the district.

4 (b) By ordinance the assembly may provide for appointment of a  
5 hearing officer, or for the composition, appointment, and terms of  
6 office of a board of adjustment or other body established to hear  
7 appeals from administrative actions. The assembly may define proper  
8 parties and prescribe evidentiary rules, standards of review, and  
9 remedies available to the hearing officer, board of adjustment, or  
10 other body.

11 Sec. 29.40.060. JUDICIAL REVIEW. (a) The assembly shall pro-  
12 vide by ordinance for an appeal by a municipal officer or person  
13 aggrieved from a decision of a hearing officer, board of adjustment,  
14 or other body to the superior court.

15 (b) An appeal to the superior court under this section is an  
16 administrative appeal heard solely on the record established by the  
17 hearing officer, board of adjustment, or other body.

18 Sec. 29.40.070. PLATTING REGULATION. By ordinance the assembly  
19 shall adopt platting requirements that may include, but are not lim-  
20 ited to, the control of

21 (1) form, size, and other aspects of subdivision, dedica-  
22 tions, and vacations of land;

23 (2) dimensions and design of lots;

24 (3) street width, arrangement, and rights-of-way, including  
25 requirements for public access to lots and installation of street  
26 paving, curbs, gutters, sidewalks, sewers, water lines, drainage and  
27 other public utility facilities and improvements;

28 (4) dedication of streets, rights-of-way, public utility  
29 easements and areas considered necessary by the platting authority for

1 other public uses.

2 Sec. 29.40.080. PLATTING AUTHORITY. (a) The assembly by ordi-  
3 nance shall establish a platting authority to administer subdivision  
4 regulations and to perform other duties as required by the assembly.  
5 The platting authority may consist of members of the planning commis-  
6 sion or of other municipal residents.

7 (b) The assembly may by ordinance provide for an administrative  
8 official to act as the platting authority with regard to abbreviated  
9 plats.

10 Sec. 29.40.090. ABBREVIATED PLATS AND WAIVERS. (a) Notwith-  
11 standing other provisions of this chapter, the assembly shall by  
12 ordinance establish an abbreviated plat procedure for a plat that will

13 (1) subdivide a single lot into not more than four lots;

14 (2) provide legal and physical access to a public highway  
15 or street for each lot created by the subdivision;

16 (3) not contain or require a dedication of a street, right-  
17 of-way, or other area;

18 (4) not require a vacation of a public dedication of land  
19 or a variance from a subdivision regulation.

20 (b) The platting authority shall waive the preparation, submis-  
21 sion for approval, and recording of a plat on satisfactory evidence  
22 that the subdivision meets the requirements of (a) of this section and  
23 each lot created by the subdivision is five acres or larger.

24 Sec. 29.40.100. INFORMATION REQUIRED. A plat shall show

25 (1) initial point of survey;

26 (2) original or reestablished corners and their descrip-  
27 tions;

28 (3) actual traverse showing area of closure and all dis-  
29 tances, angles, and calculations required to determine initial point,

1 corners, and distances of the plat; and

2 (4) other information that may be required by ordinance.

3 Sec. 29.40.110. PLAT PROCEDURE. (a) The platting authority  
4 shall approve or disapprove a plat within 60 days after it is filed,  
5 or shall return it to the applicant for modification or correction.  
6 Unless the applicant for plat approval consents to an extension of  
7 time, the plat is considered approved and a certificate of approval  
8 shall be issued by the platting authority on demand if the platting  
9 authority fails to act within 60 days.

10 (b) The platting authority shall state in writing its reasons  
11 for disapproval of a plat. If the platting authority approves a plat,  
12 the plat shall be acknowledged and filed in accordance with AS 40.15.-  
13 010 - 40.15.020.

14 Sec. 29.40.120. ALTERATION OR REPLAT PETITION. A recorded plat  
15 may not be altered or replatted except by the platting authority on  
16 petition of the state, the borough, a public utility, or the owners of  
17 a majority of the land affected by the alteration or replat. A plat-  
18 ted street may not be vacated, except on petition of the state, the  
19 borough, a public utility, or owners of a majority of the land front-  
20 ing the part of the street sought to be vacated. The petition shall  
21 be filed with the platting authority and shall be accompanied by a  
22 copy of the existing plat showing the proposed alteration or replat.

23 Sec. 29.40.130. NOTICE OF HEARING. The platting authority shall  
24 fix a time for a hearing on an alteration or replat petition that may  
25 not be more than 60 days after the petition is filed. Notice shall be  
26 published by the platting authority stating when and by whom the peti-  
27 tion was filed, its purpose, and the time and place of the hearing.  
28 The notice shall generally describe the alteration or replat sought.  
29 The platting authority shall also mail a copy of the notice to each

1 affected property owner who did not sign the petition.

2 Sec. 29.40.140. HEARING AND DETERMINATION. (a) The platting  
3 authority shall consider the alteration or replat petition at a hear-  
4 ing and make its decision on the merits of the proposal.

5 (b) Vacation of a city street may not be made without the con-  
6 sent of the council. Vacation of a street in the borough area outside  
7 all cities may not be made without the consent of the assembly. The  
8 governing body shall have 30 days from the decision of the platting  
9 authority in which to veto a vacation of a street. If no veto is  
10 received by the platting authority within the 30-day period, consent  
11 is considered to have been given to the vacation.

12 Sec. 29.40.150. RECORDING. If the alteration or replat is ap-  
13 proved, the revised plat shall be acknowledged and filed in accordance  
14 with AS 40.15.010 - 40.15.020.

15 Sec. 29.40.160. TITLE TO VACATED AREA. (a) The title to the  
16 street or other public area vacated on a plat attaches to the lot or  
17 lands bordering the area in equal proportions, except that if the area  
18 was originally dedicated by different persons, original boundary lines  
19 shall be adhered to so that the street area that lies on one side of  
20 the boundary line shall attach to the abutting property on that side,  
21 and the street area that lies on the other side of the boundary line  
22 shall attach to the property on that side. The portion of a vacated  
23 street that lies inside the limits of a platted addition attaches to  
24 the lots of the platted addition bordering on the area. If a public  
25 square is vacated, the title to it vests in a city if it lies inside  
26 the city, and in the borough if it lies inside the borough but outside  
27 all cities. If the property vacated is a lot, title vests in the  
28 rightful owner.

29 (b) If the municipality acquired the street or other public area

1 vacated for legal consideration or by express dedication to the muni-  
2 cipality other than as a subdivision platting requirement, before the  
3 final act of vacation the fair market value of the street or public  
4 area shall be deposited with the platting authority to be paid to the  
5 municipality on final vacation.

6 (c) The provisions of (a) and (b) of this section apply to home  
7 rule and general law municipalities.

8 (d) The council of a second class city located outside a borough  
9 may vacate streets, alleys, crossings, sidewalks, or other public ways  
10 that may have been previously dedicated or established when the coun-  
11 cil finds that the streets, alleys, crossings, sidewalks, or other  
12 public ways are no longer necessary for the public welfare, or when  
13 the public welfare will be enhanced by the vacation. If the council  
14 determines that all or a portion of the area vacated under this sub-  
15 section should be devoted to another public purpose, title to the area  
16 vacated and held for another public purpose does not vest as provided  
17 in (a) of this section but remains in the city.

18 Sec. 29.40.17C. DELEGATIONS. The planning commission and the  
19 platting authority may, as authorized by ordinance, delegate powers to  
20 hear and decide cases under this chapter, including, but not limited  
21 to, delegations to

22 (1) one or more members of the planning commission or plat-  
23 ting authority;

24 (2) other boards or commissions;

25 (3) a hearing officer designated by the planning commission  
26 or platting authority.

27 Sec. 29.40.180. VIOLATIONS. It is unlawful for the owner of  
28 land located in a subdivision to transfer, sell, offer to sell, or  
29 enter into a contract to sell land in a subdivision before a plat of

1 the subdivision has been prepared, approved, and filed in accordance  
2 with this chapter. It is unlawful for a person to file a plat or  
3 other document depicting subdivided land in a public recorder's office  
4 unless the plat or document has been approved by the platting author-  
5 ity. For the violation of a provision of this chapter, a subdivision  
6 regulation adopted under this chapter, or a term, condition, or  
7 limitation imposed by a platting authority in the exercise of its  
8 powers under this chapter, a municipality may by ordinance prescribe a  
9 penalty not to exceed a fine of \$1,000 and imprisonment for 90 days.

10 Sec. 29.40.190. REMEDIES. (a) The municipality or an aggrieved  
11 person may institute a civil action against a person who violates a  
12 provision of this chapter, a subdivision regulation adopted under this  
13 chapter, or a term, condition, or limitation imposed by a platting  
14 authority. In addition to other relief, a civil penalty not to exceed  
15 \$1,000 may be imposed for each violation. An action to enjoin a  
16 violation may be brought notwithstanding the availability of any other  
17 remedy. Upon application for injunctive relief and a finding of a  
18 violation or threatened violation, the superior court shall grant the  
19 injunction.

20 (b) Each day that an unlawful act or condition continues consti-  
21 tutes a separate violation.

22 Sec. 29.40.200. SUBDIVISIONS OF STATE LAND. (a) The subdivi-  
23 sion requirements adopted under this chapter apply to a subdivision  
24 plat of undeveloped state land for disposal under AS 38.05 or AS 38.08  
25 filed with the platting authority. Subdivision ordinances and regula-  
26 tions adopted after the platting authority is notified by the commis-  
27 sioner of natural resources of a proposed sale of subdivided state  
28 land under AS 38.05 or AS 38.08 do not apply to the state land in the  
29 proposed sale.

1 (b) The platting authority shall approve and sign a subdivision  
2 plat of state land within 60 days after its receipt from the commis-  
3 sioner of natural resources unless the platting authority

4 (1) determines that the plat does not comply with subdivi-  
5 sion requirements; and

6 (2) notifies the commissioner of each determination of non-  
7 compliance within the 60-day period established in this subsection.

8 (c) The commissioner of natural resources may withdraw the sub-  
9 division plat and amend it in response to the determination of non-  
10 compliance by the platting authority under (b) of this section. The  
11 platting authority shall respond within 30 days to the amendment or  
12 response from the commissioner of natural resources.

13 (d) Nothing in this section relieves the Department of Natural  
14 Resources of its obligation to provide legal access to a subdivision.

15 (e) This section applies to home rule and general law municipal-  
16 ities.

17 \* Sec. 12. AS 29 is amended by adding a new chapter to read:

18 CHAPTER 45. MUNICIPAL TAXATION.

19 ARTICLE 1. MUNICIPAL PROPERTY TAX.

20 Sec. 29.45.010. PROPERTY TAX. (a) A unified municipality may  
21 levy a property tax. A borough may levy

22 (1) an areawide property tax for areawide functions;

23 (2) a nonareawide property tax for functions limited to the  
24 area outside cities;

25 (3) a property tax in a service area for functions limited  
26 to the service area.

27 (b) A home rule or first class city may levy a property tax  
28 subject to AS 29.45.550 - 29.45.560. A second class city may levy a  
29 property tax subject to AS 29.45.590.

1 (c) If a tax is levied on real property or on personal property,  
2 the tax must be assessed, levied, and collected as provided in this  
3 chapter.

4 Sec. 29.45.020. TAXPAYER NOTICE. (a) If a municipality levies  
5 and collects property taxes, the governing body shall provide the  
6 following notice:

7 "NOTICE TO TAXPAYER

8 For the current fiscal year the (city)(borough) has been allo-  
9 cated the following amount of state aid for school and municipal  
10 purposes under the applicable financial assistance Acts:

11	PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	
12	(AS 14.17)	\$
13	STATE AID FOR RETIREMENT OF SCHOOL CONSTRUC-	
14	TION DEBT (AS 14.11.100)	\$
15	MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	
16	(AS 29.60.010 - 29.60.080)	\$
17	STATE AID FOR MISCELLANEOUS MUNICIPAL	
18	SERVICES (AS 29.60.100 - 29.60.180)	\$
19	TOTAL AID	\$

20 The millage equivalent of this state aid, based on the  
21 dollar value of a mill in the municipality during the  
22 current assessment year and for the preceding assessment  
23 year, is:

24		MILLAGE EQUIVALENT	
25		PREVIOUS YEAR	THIS YEAR
26	PUBLIC SCHOOL FOUNDATION PROGRAM		
27	ASSISTANCE	....MILLS	....MILLS
28	STATE AID FOR RETIREMENT OF		
29	SCHOOL CONSTRUCTION DEBT	....MILLS	....MILLS

1	MUNICIPAL TAX RESOURCE EQUALI-		
2	ZATION ASSISTANCE	....MILLS	....MILLS
3	STATE AID FOR MISCELLANEOUS		
4	MUNICIPAL SERVICES	....MILLS	....MILLS
5	TOTAL MILLAGE EQUIVALENT	....MILLS	....MILLS"

6 Notice shall be provided

7 (1) by furnishing a copy of the notice with tax statements  
8 mailed for the fiscal year for which aid is received; or

9 (2) by publishing in a newspaper of general circulation in  
10 the municipality a copy of the notice once each week for a period of  
11 three successive weeks, with publication to occur not later than 45  
12 days after the final adoption of the municipality's budget.

13 (b) Compliance with the provisions of this section is a pre-  
14 requisite to receipt of municipal tax resource equalization assistance  
15 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous munici-  
16 pal services under AS 29.60.100 - 29.60.180. The department shall  
17 withhold annual allocations under those sections until municipal  
18 officials demonstrate that the requirements of this section have been  
19 met.

20 Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) The following prop-  
21 erty is exempt from general taxation:

22 (1) municipal, state, or federally owned property, except  
23 that a private leasehold, contract, or other interest in the property  
24 is taxable to the extent of the interest;

25 (2) household furniture of the head of a family or house-  
26 hold;

27 (3) property used exclusively for nonprofit religious,  
28 charitable, cemetery, hospital, or educational purposes;

29 (4) property of a nonbusiness organization or its auxiliary

1 composed entirely of persons with 90 days or more of active service in  
2 the armed forces of the United States whose conditions of service and  
3 separation were other than dishonorable;

4 (5) money on deposit;

5 (6) the real property of certain residents of the state to  
6 the extent and subject to the conditions provided in (e) of this sec-  
7 tion;

8 (7) real property or an interest in real property that is  
9 exempt from taxation under 43 U.S.C. 1620(d), as amended.

10 (b) In (a) of this section, "property used exclusively for  
11 religious purposes" includes the following property owned by a reli-  
12 gious organization:

13 (1) the residence of a bishop, pastor, priest, rabbi,  
14 minister, or religious order of a recognized religious organization;

15 (2) a structure, its furniture, and its fixtures used  
16 solely for public worship, charitable purposes, religious administra-  
17 tive offices, religious education, or a nonprofit hospital;

18 (3) lots required by local ordinance for parking near a  
19 structure defined in (2) of this subsection.

20 (c) Property described in (a)(3) or (4) of this section from  
21 which income is derived is exempt only if that income is solely from  
22 use of the property by nonprofit religious, charitable, hospital, or  
23 educational groups. If used by nonprofit educational groups, the  
24 property is exempt only if used exclusively for classroom space.

25 (d) Laws exempting certain property from execution under the  
26 Code of Civil Procedure (AS 09) do not exempt the property from taxes  
27 levied and collected by municipalities.

28 (e) The real property owned and occupied as a permanent place of  
29 abode by a resident 65 years of age or over or by a disabled veteran

1 is exempt from taxation of the assessed value of the real property.  
2 Real property may not be exempted under this subsection if the asses-  
3 sor determines, after notice and hearing to the parties concerned,  
4 that the property was conveyed to the applicant primarily for the  
5 purpose of obtaining the exemption. The determination of the assessor  
6 may be appealed under AS 44.62.560 and 44.62.570.

7 (f) An exemption may not be granted under (e) of this section  
8 except upon written application for the exemption on a form approved  
9 by the state assessor for use by local assessors. The claimant must  
10 file the application no later than January 15, or a date provided by  
11 ordinance that is not later than March 31, of the assessment year for  
12 which the exemption is sought. The governing body of the municipality  
13 for good cause shown may waive during a year the claimant's failure to  
14 make timely application for exemption for that year and authorize the  
15 assessor to accept the application as if timely filed. The claimant  
16 must file a separate application for each assessment year in which the  
17 exemption is sought. If an application is filed within the required  
18 time and is approved by the assessor, the assessor shall allow an  
19 exemption in accordance with the provisions of this section. If a  
20 failure to file by January 15, or a date provided by ordinance that is  
21 not later than March 31, of the assessment year has been waived as  
22 provided in this subsection and the application for exemption is  
23 approved, the amount of tax that the claimant has already paid for the  
24 assessment year for the property exempted shall be refunded to the  
25 claimant. The assessor shall require proof in the form the assessor  
26 considers necessary of the right to and amount of an exemption claimed  
27 under (e) of this section, and shall require a disabled veteran claim-  
28 ing an exemption under (e) of this section to provide evidence of the  
29 disability rating. The assessor may require proof under this section

1 at any time.

2 (g) The state shall reimburse a borough or city, as appropriate,  
3 for the real property tax revenues lost to it by the operation of (e)  
4 of this section. However, reimbursement will be made to a municipal-  
5 ity for revenue lost to it only to the extent that the loss exceeds an  
6 exemption that was granted by the municipality, or that on proper  
7 application by an individual would have been granted under AS 29.45.-  
8 050(a).

9 (h) Except as provided in (g) of this section, nothing in (e) -  
10 (j) of this section affects similar exemptions from property taxes  
11 granted by a municipality on September 10, 1972, or prevents a munici-  
12 pality from granting similar exemptions by ordinance as provided in  
13 AS 29.45.050.

14 (i) In (e) - (i) of this section

15 (1) "disabled veteran" means a disabled person separated  
16 from the military service of the United States under a condition that  
17 is not dishonorable who is a resident of the state, whose disability  
18 was incurred or aggravated in the line of duty in the military service  
19 of the United States, and whose disability has been rated as 50 per-  
20 cent or more by the branch of service in which that person served or  
21 by the Veterans' Administration;

22 (2) "real property" includes but is not limited to mobile  
23 homes, whether classified as real or personal property for municipal  
24 tax purposes.

25 (j) One motor vehicle per household owned by a resident 65 years  
26 of age or older on January 1 of the assessment year is exempt either  
27 from taxation on its assessed value or from the registration tax under  
28 AS 28.10.431. An exemption may be granted under this subsection only  
29 upon written application on a form prescribed by the Department of

1 Public Safety. The state shall reimburse a municipality for tax reve-  
2 nues lost to it because of the exemption required by this subsection.  
3 Reimbursement to a municipality equals the amount of registration tax  
4 authorized under AS 28.10.431(b) for each vehicle exempted under this  
5 subsection.

6 (k) The department shall adopt regulations to implement the pro-  
7 visions of (g) and (j) of this section.

8 (l) Two percent of the assessed value of a structure is exempt  
9 from taxation if the structure contains a fire protection system ap-  
10 proved under AS 18.70.081, in operating condition, and incorporated as  
11 a fixture or part of the structure. The exemption granted by this  
12 subsection is limited to

13 (1) an amount equal to two percent of the value of the  
14 structure based on the assessment for 1981, if the fire protection  
15 system is a fixture of the structure on January 1, 1981; or

16 (2) an amount equal to two percent of the value of the  
17 structure based on the assessment as of January 1 of the year immedi-  
18 ately following the installation of the fire protection system if the  
19 fire protection system becomes a fixture of the structure after  
20 January 1, 1981.

21 (m) For the purpose of determining property exempt under (a)(7)  
22 of this section, the following definitions apply to terms used in 43  
23 U.S.C. 1620(d) unless superseded by applicable federal law:

24 (1) "developed" means a purposeful modification of the  
25 property from its original state that effectuates a condition of  
26 gainful and productive present use without further substantial modifi-  
27 cation; surveying, construction of roads, providing utilities or other  
28 similar actions normally considered to be component parts of the  
29 development process, but that do not create the condition described in

1 this paragraph, do not constitute a developed state within the meaning  
2 of this paragraph; developed property, in order to remove the exemp-  
3 tion, must be developed for purposes other than exploration, and be  
4 limited to the smallest practicable tract of the property actually  
5 used in the developed state;

6 (2) "exploration" means the examination and investigation  
7 of undeveloped land to determine the existence of subsurface nonrenew-  
8 able resources;

9 (3) "lease" means a grant of primary possession entered  
10 into for gainful purposes with a determinable fee remaining in the  
11 hands of the grantor; with respect to a lease that conveys rights of  
12 exploration and development, this exemption shall continue with re-  
13 spect to that portion of the leased tract that is used solely for the  
14 purpose of exploration.

15 (n) If property or an interest in property that is determined  
16 not to be exempt under (a)(7) of this section reverts to an undevel-  
17 oped state, or if the lease is terminated, the exemption shall be  
18 granted, subject to the provisions of (a)(7) and (m) of this section.

19 Sec. 29.45.040. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A  
20 resident of the state 65 years of age or older or a disabled veteran  
21 who rents a permanent place of abode is eligible for a tax equivalency  
22 payment from the state through the department.

23 (b) For purposes of determining the amount of a payment to an  
24 eligible person, the department shall calculate at the rate of one  
25 percent per mill a property tax equivalent percentage for each munici-  
26 pality that levies a property tax. The property tax equivalent per-  
27 centage applied to the annual rent charged to the applicant equals the  
28 property tax equivalency payment payable under this section.

29 (c) To obtain a tax equivalency payment the eligible resident

1 must apply to the department for payment for the preceding year by  
2 January 15 of each year on forms and in the manner prescribed by the  
3 department. The department for good cause shown may waive an appli-  
4 cant's failure to make timely application for a tax equivalency pay-  
5 ment and accept the application as if timely filed. Each applicant  
6 shall submit with the application rental receipts or, if rental re-  
7 cepts are not available, other evidence satisfactory to the depart-  
8 ment for determination of the fact of payment of rent and the amount  
9 paid. A disabled veteran shall submit with the application evidence  
10 of the disability rating.

11 (d) If two or more persons occupy a residence as tenants, not  
12 all of whom are eligible for a tax equivalency payment under this  
13 section, the assessor shall determine equitable partial payments to be  
14 made to the eligible tenants. However, a tax equivalency payment to  
15 an eligible applicant may not be reduced because the spouse is less  
16 than 65 years of age or is not a disabled veteran. If all occupants  
17 in a residence are eligible for a tax equivalency payment under this  
18 section, the occupants shall decide between and among themselves which  
19 shall receive payment.

20 (e) In this section "disabled veteran" has the meaning given in  
21 AS 29.45.030(i).

22 Sec. 29.45.045. REIMBURSEMENT PAYMENTS. (a) A resident of the  
23 state 65 years of age or older or a disabled veteran who rents a  
24 permanent place of abode is eligible for a reimbursement payment from  
25 the state through the department if the abode is located in a munici-  
26 pality that

27 (1) does not levy and collect a property tax; and

28 (2) levies and collects a sales tax on rents paid for  
29 residential property.

1           (b) The amount of a reimbursement payment under this section  
2 equals the amount of sales taxes paid on the abode during the preced-  
3 ing year by the eligible resident.

4           (c) To obtain a reimbursement payment under this section an  
5 eligible resident must apply by January 15 of each year to the depart-  
6 ment for reimbursement of sales taxes paid for the preceding year.  
7 The application shall be on the form and filed as prescribed by the  
8 department. The department for good cause shown may waive an appli-  
9 cant's failure to make timely application for reimbursement and accept  
10 the application as if timely filed. Each applicant shall submit with  
11 the application rental receipts or, if rental receipts are not avail-  
12 able, other evidence satisfactory to the department for determination  
13 of the fact of payment of rent and the amount paid. A disabled  
14 veteran shall submit with the application evidence of the disability  
15 rating.

16           (d) If two or more persons occupy a residence as tenants, not  
17 all of whom are eligible for a reimbursement payment under this sec-  
18 tion, the assessor shall determine equitable partial payments to be  
19 made to the eligible tenants. However, a reimbursement payment to an  
20 eligible applicant may not be reduced because the spouse is less than  
21 65 years of age or not a disabled veteran. If all occupants in a  
22 residence are eligible for a reimbursement payment, the occupants  
23 shall decide between and among themselves which shall receive the  
24 payment.

25           (e) In this section "disabled veteran" has the meaning given in  
26 AS 29.45.030(i)(1).

27           Sec. 29.45.050. OPTIONAL EXEMPTIONS AND EXCLUSIONS.   (a) A  
28 municipality may exclude or exempt or partially exempt residential  
29 property from taxation by ordinance ratified by the voters at an

1 election. An exclusion or exemption authorized by this section may  
2 not exceed the assessed value of \$10,000 for any one residence.

3 (b) A municipality may by ordinance

4 (1) classify boats and vessels for the purposes of taxation  
5 and may establish the assessed valuation of boats and vessels on the  
6 basis of their registered or certificated net tonnage;

7 (2) classify and exempt from taxation

8 (A) the property of an organization not organized for  
9 business or profit-making purposes and used exclusively for  
10 community purposes if the income derived from rental of that  
11 property does not exceed the actual cost to the owner of the use  
12 by the renter;

13 (B) historic sites, buildings, and monuments;

14 (C) land of a nonprofit organization used for agricul-  
15 tural purposes if rights to subdivide the land are conveyed to  
16 the state and the conveyance includes a covenant restricting use  
17 of the land to agricultural purposes only; rights conveyed to the  
18 state under this subparagraph may be conveyed by the state only  
19 in accordance with AS 38.05.069(c);

20 (3) exempt personal property from taxation;

21 (4) exempt business inventories from taxation;

22 (5) classify as to type and exempt or partially exempt any  
23 or all types of motor vehicles from taxation.

24 (c) The provisions of (a) of this section notwithstanding,

25 (1) a borough may, by ordinance, adjust its property tax  
26 structure in whole or in part to the property tax structure of a city  
27 in the borough, including but not limited to, excluding personal  
28 property from taxation, establishing exemptions, and extending the  
29 redemption period;

1           (2) a home rule or first class city has the same power to  
2 grant exemptions or exclude property from borough taxes that it has as  
3 to city taxes if  
4           (A) the exemptions or exclusions have been adopted as  
5 to city taxes; and  
6           (B) the city appropriates to the borough sufficient  
7 money to equal revenues lost by the borough because of the exemp-  
8 tions or exclusions, the amount to be determined annually by the  
9 assembly;

10           (3) a city in a borough may, by ordinance, adjust its prop-  
11 erty tax structure in whole or in part to the property tax structure  
12 of the borough, including but not limited to exempting or partially  
13 exempting property from taxation.

14           (d) Exemptions or exclusions from property tax that have been  
15 granted by a home rule municipality in addition to exemptions autho-  
16 rized or required by law, and that are in effect on September 10,  
17 1972, and not later withdrawn, are not affected by this chapter.

18           (e) A municipality may by ordinance classify and exempt or par-  
19 tially exempt from taxation privately owned land, wet land and water  
20 areas for which a scenic, conservation, or public recreation use ease-  
21 ment is granted to a governmental body. To be eligible for a tax  
22 exemption, or partial exemption, the easement must be in perpetuity.  
23 However, the easement is automatically terminated before an eminent  
24 domain taking of fee simple title or less than fee simple title to the  
25 property, so that the property owner is compensated at a rate that  
26 does not reflect the easement grant.

27           (f) A municipality may by ordinance exempt from taxation all or  
28 part of the increase in assessed value of improvements to real prop-  
29 erty if an increase in assessed value is directly attributable to

1 alteration of the natural features of the land, or new maintenance,  
2 repair, or renovation of an existing structure, and if the alteration,  
3 maintenance, repair, or renovation, when completed, enhances the  
4 exterior appearance or aesthetic quality of the land or structure. An  
5 exemption may not be allowed under this subsection for the construc-  
6 tion of an improvement to a structure if the principal purpose of the  
7 improvement is to increase the amount of space for occupancy or non-  
8 residential use in the structure or for the alteration of land as a  
9 consequence of construction activity. An exemption provided in this  
10 subsection may continue for up to four years from the date the im-  
11 provement is completed, or from the date of approval for the exemption  
12 by the local assessor, whichever is later.

13 (g) A municipality may by ordinance exempt from taxation all or  
14 part of the increase in assessed value of improvements to a single-  
15 family dwelling if the principal purpose of the improvement is to  
16 increase the amount of space for occupancy. An exemption provided in  
17 this subsection may continue for up to two years from the date the  
18 improvement is completed, or from the date of approval of an applica-  
19 tion for the exemption by the local assessor, whichever is later.

20 Sec. 29.45.060. FARM OR AGRICULTURAL LAND. (a) Farm use land  
21 included in a farm unit and not dedicated or being used for nonfarm  
22 purposes shall be assessed on the basis of full and true value for  
23 farm use and may not be assessed as if subdivided or used for some  
24 other nonfarm purpose. The assessor shall maintain records valuing  
25 the land for both full and true value and farm use value. If the land  
26 is sold, leased, or otherwise disposed of for uses incompatible with  
27 farm use or converted to a use incompatible with farm use by the  
28 owner, the owner is liable to pay an amount equal to the additional  
29 tax at the current mill levy together with eight percent interest for

1 the preceding seven years, as though the land had not been assessed  
2 for farm use purposes. Payment by the owner shall be made to the  
3 state to the extent of its reimbursement for revenue loss under (e) of  
4 this section for the preceding seven years. The balance of the pay-  
5 ment shall be made to the municipality.

6 (b) An owner of farm use land must, to secure the assessment  
7 under this section, apply to the assessor before May 15 of each year  
8 in which the assessment is desired. The application shall be made  
9 upon forms prescribed by the state assessor for the use of the local  
10 assessor, and shall include information that may reasonably be  
11 required to determine the entitlement of the applicant. If the land  
12 is leased for farm use purposes, the applicant shall furnish to the  
13 assessor a copy of the lease bearing the signatures of both lessee and  
14 lessor along with the completed application. The applicant shall  
15 furnish the assessor a copy of the lease covering the period for which  
16 the exemption is requested.

17 (c) In this section "farm use" means the use of land for profit  
18 for raising and harvesting crops, for the feeding, breeding, and  
19 management of livestock, for dairying, or another agricultural use, or  
20 any combination of these. To be farm use land, the owner or lessee  
21 must be actively engaged in farming the land, and derive at least 10  
22 percent of yearly gross income from the land. This section does not  
23 apply to land for which the owner has granted, and has outstanding, a  
24 lease or option to buy the surface rights. A property owner wishing  
25 to file for farm use classification having no history of farm-related  
26 income may submit a declaration of intent at the time of filing the  
27 application with the assessor setting out the intended use of the land  
28 and the anticipated percentage of income. An applicant using this  
29 procedure shall file with the assessor before February 1 of the

1 following year a notarized statement of the percentage of gross income  
2 attributable to the land. Failure to make the filing required in this  
3 subsection forfeits the exemption.

4 (d) In the event of a crop failure by an act of God the previous  
5 year, the owner or lessee may submit an affidavit affirming that 10  
6 percent of gross income for the past three years was from farming.

7 (e) Subject to legislative appropriations for the purpose, the  
8 state shall reimburse a borough or city, as appropriate, for the prop-  
9 erty tax revenues lost to it by the operation of this section.

10 Sec. 29.45.070. MOBILE HOMES. Mobile homes, trailers, house  
11 trailers, trailer coaches and similar property used or intended to be  
12 used for residential, office, or commercial purposes and attached to  
13 the land or connected to water, gas, electric, or sewage facilities  
14 are classified as real property for tax purposes unless expressly  
15 classified as personal property by ordinance. This section does not  
16 apply to house trailers and mobile homes that are unoccupied and held  
17 for sale by persons engaged in the business of selling mobile homes.

18 Sec. 29.45.080. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROP-  
19 ERTY. (a) A municipality may levy and collect taxes on taxable  
20 property taxable under AS 43.56 only by using one of the methods set  
21 out in (b) or (c) of this section.

22 (b) A municipality may levy and collect a tax on the full and  
23 true value of taxable property taxable under AS 43.56 as valued by the  
24 Department of Revenue at a rate not to exceed that which produces an  
25 amount of revenue from the total municipal property tax equivalent to  
26 \$1,500 a year for each person residing in its boundaries.

27 (c) A municipality may levy and collect a tax on the full and  
28 true value of that portion of taxable property taxable under AS 43.56  
29 as assessed by the Department of Revenue which value, when combined

1 with the value of property otherwise taxable by the municipality, does  
2 not exceed the product of 225 percent of the average per capita  
3 assessed full and true value of property in the state multiplied by  
4 the number of residents of the taxing municipality.

5 (d) By February 1 of each assessment year a taxing municipality  
6 must inform the Department of Revenue which method of taxation the  
7 municipality will use.

8 (e) For purposes of this section, population shall be determined  
9 by the commissioner based on the latest statistics of the United  
10 States Bureau of the Census or on other reliable population data, and  
11 the commissioner shall advise each municipality of its population by  
12 January 15 of each year.

13 Sec. 29.45.090. TAX LIMITATION. (a) A municipality may not,  
14 during a year, levy and tax for any purpose in excess of three percent  
15 of the assessed value of property in the municipality. All property  
16 on which a tax is levied shall be taxed at the same rate during the  
17 year.

18 (b) A municipality, or combination of municipalities occupying  
19 the same geographical area, in whole or in part, may not levy taxes

20 (1) that will result in tax revenues from all sources ex-  
21 ceeding \$1,500 a year for each person residing within the municipal  
22 boundaries; or

23 (2) upon value that, when combined with the value of prop-  
24 erty otherwise taxable by the municipality, exceeds the product of 225  
25 percent of the average per capita assessed full and true value of  
26 property in the state multiplied by the number of residents of the  
27 taxing municipality.

28 (c) The commissioner shall apportion the lawful levy and equi-  
29 tably divide the tax revenues on the basis of need, services

1 performed, and other considerations in the public interest if two or  
2 more municipalities occupying the same geographical area, in whole or  
3 in part, attempt to levy a tax

4 (1) the combined levy of which would result in tax revenues  
5 from all sources exceeding \$1,500 a year for each person residing  
6 within the municipal boundaries; or

7 (2) upon value that, when combined with the value of prop-  
8 erty otherwise taxable by the municipality, exceeds the product of 225  
9 percent of the average per capita assessed full and true value of  
10 property in the state multiplied by the number of residents of the  
11 taxing municipality.

12 (d) For the purpose of (b) and (c) of this section, population  
13 shall be determined by the commissioner based on the latest statistics  
14 of the United States Bureau of the Census or on other reliable popula-  
15 tion data.

16 Sec. 29.45.100. NO LIMITATIONS ON TAXES TO PAY BONDS. The  
17 limitations provided for in AS 29.45.080 - 29.45.090 do not apply to  
18 taxes levied or pledged to pay or secure the payment of the principal  
19 and interest on bonds. Taxes to pay or secure the payment of princi-  
20 pal and interest on bonds may be levied without limitation as to rate  
21 or amount, regardless of whether the bonds are in default or in danger  
22 of default.

23 Sec. 29.45.103. TAXATION RECORDS. (a) Municipal records deal-  
24 ing with assessment, valuation or taxation may be inspected by the  
25 State Assessor or a designee.

26 (b) If a municipality's assessment and valuation has been done  
27 by a private contractor, records concerning the municipality's valua-  
28 tion and assessment shall be made available to the State Assessor or a  
29 designee on request.

1           Sec. 29.45.105. ERRORS IN TAXATION PROCEDURES. (a) If a  
2 municipality receives a notice from the State Assessor that major  
3 errors have been found in its assessment, valuation or taxation proce-  
4 dures, the municipality shall correct its procedures before the begin-  
5 ning of the next fiscal year or file an appeal under (b) of this  
6 section.

7           (b) A municipality may appeal a notice from the State Assessor  
8 that it has made a major error in assessment, valuation or taxation  
9 procedures by filing an appeal with the commissioner within 30 days  
10 after receipt of notice of error.

11           (c) The commissioner, after consulting with the Alaska Associa-  
12 tion of Assessing Officers, shall render a decision within 60 days  
13 after the receipt of a request under (b) of this section. If the  
14 commissioner determines that a major error has been made in assess-  
15 ment, valuation or taxation procedures the commissioner shall notify  
16 the municipality of changes that must be made and the municipality  
17 shall correct its procedures before the beginning of the next fiscal  
18 year.

19           (d) If errors in its assessment, valuation or taxation proce-  
20 dures have resulted in a loss of revenue to the state, the municipal-  
21 ity shall reimburse the state for the amount of revenues lost.

22           Sec. 29.45.110. FULL AND TRUE VALUE. (a) The assessor shall  
23 assess property at its full and true value as of January 1 of the  
24 assessment year, except as provided in this section, AS 29.45.060, and  
25 29.45.230. The full and true value is the estimated price that the  
26 property would bring in an open market and under the then prevailing  
27 market conditions in a sale between a willing seller and a willing  
28 buyer both conversant with the property and with prevailing general  
29 price levels.

1           (b) Assessment of business inventories may be based on the  
2 average monthly method of assessment rather than the value existing on  
3 January 1. The method used to assess business inventories shall be  
4 prescribed by the governing body.

5           (c) In the case of cessation of business during the tax year,  
6 the municipality may provide for reassessment of business inventories  
7 using the average monthly method of assessment for the tax year rather  
8 than the value existing on January 1 of the tax year, and for reduc-  
9 tion and refund of taxes. In enacting an ordinance authorized by this  
10 section, the municipality may prescribe procedures, restrictions, and  
11 conditions of assessing or reassessing business inventories and of  
12 remitting or refunding taxes.

13           Sec. 29.45.120. RETURNS. (a) The municipality may require each  
14 person having ownership or control of or an interest in property to  
15 submit a return in the form prescribed by the assessor, based on prop-  
16 erty values existing on January 1, except as otherwise provided in  
17 this chapter.

18           (b) The assessor may, by written notice, require a person to  
19 provide additional information within 30 days.

20           Sec. 29.45.130. INDEPENDENT INVESTIGATION. (a) The assessor is  
21 not bound to accept a return as correct. The assessor may make an  
22 independent investigation of property returned or of taxable property  
23 on which no return has been filed. In either case, the assessor may  
24 make the assessor's own valuation of the taxable property and this  
25 valuation is prima facie evidence of the value of the property.

26           (b) For investigation, the assessor or the assessor's agent may  
27 enter a premise during reasonable hours and may examine property on  
28 the premise. The assessor or the assessor's agent may examine all  
29 property records involved. A person shall, on request, furnish to the

1           assessor or the assessor's agent every facility and assistance for the  
2           investigation. The assessor may seek a court order to compel entry  
3           and production of records needed for assessment purposes.

4           (c) An assessor may examine a person on oath. On request, the  
5           person shall submit to examination at a reasonable time and place  
6           selected by the assessor.

7           Sec. 29.45.140. VIOLATIONS. For knowingly failing to file a tax  
8           statement required by ordinance or knowingly making a false affidavit  
9           to a statement required by a tax ordinance relative to the amount,  
10          location, kind or value of property subject to taxation with intent to  
11          evade the taxation, a municipality may by ordinance prescribe a  
12          penalty not to exceed a fine of \$1,000 or imprisonment for 90 days.

13          Sec. 29.45.150. REEVALUATION. A systematic reevaluation of  
14          taxable real and personal property undertaken by the assessor, whether  
15          of specific areas in which real property is located or of specific  
16          classes of real or personal property to be assessed, shall be made  
17          only in accordance with a resolution or other act of the municipality  
18          directing a systematic reevaluation of all taxable property in the  
19          municipality over the shortest period of time practicable, as fixed in  
20          the resolution or act.

21          Sec. 29.45.160. ASSESSMENT ROLL. (a) The assessor shall pre-  
22          pare an annual assessment roll. The roll shall contain

- 23                  (1) a description of all taxable property;  
24                  (2) the assessed value of all taxable property;  
25                  (3) the names and addresses of persons with property sub-  
26          ject to assessment and taxation.

27          (b) The assessor may list real property by any description that  
28          may be made certain. Real property is assessed to the record owner.  
29          The district recorder shall at least monthly provide the assessor a

1 copy of each recorded change of ownership showing the name and mailing  
2 address of the owner and the name and mailing address of the person  
3 recording the change of ownership. Other persons having an interest  
4 in the property may be listed on the assessment records with the  
5 owner. The person in whose name property is listed as owner is conclu-  
6 sively presumed to be the legal record owner. If the property owner  
7 is unknown, the property may be assessed to "unknown owner". An  
8 assessment is not invalidated by a mistake, omission, or error in the  
9 name of the owner, if the property is correctly described.

10 Sec. 29.45.170. ASSESSMENT NOTICE. (a) The assessor shall give  
11 each person named in the assessment roll a notice of assessment,  
12 showing the assessed value of the person's property. On each notice  
13 is printed a brief summary of the dates when taxes are payable, delin-  
14 quent, and subject to penalty and interest, and the dates when the  
15 board of equalization will sit.

16 (b) Sufficient assessment notice is given if mailed by first  
17 class mail 30 days before the equalization hearings. If the address  
18 is not known to the assessor, the notice may be addressed to the  
19 person at the post office nearest the property. Notice is effective  
20 on the date of mailing.

21 Sec. 29.45.180. CORRECTIONS. (a) A person receiving an assess-  
22 ment notice shall advise the assessor of errors or omissions in the  
23 assessment of the person's property. The assessor may correct errors  
24 or omissions in the roll before the board of equalization hearing.

25 (b) If errors found in the preparation of the assessment roll  
26 are adjusted, the assessor shall mail a corrected notice allowing 30  
27 days for appeal to the board of equalization.

28 Sec. 29.45.190. APPEAL. (a) A person whose name appears on the  
29 assessment roll or the agent or assigns of that person may appeal to

1 the board of equalization for relief from an alleged error in valua-  
2 tion not adjusted by the assessor to the taxpayer's satisfaction.

3 (b) The appellant shall, within 30 days after the date of mail-  
4 ing of notice of assessment, submit to the assessor a written appeal  
5 specifying grounds in the form that the board of equalization may  
6 require. Otherwise, the right of appeal ceases unless the board of  
7 equalization finds that the taxpayer was unable to comply.

8 (c) The assessor shall notify an appellant by mail of the time  
9 and place of hearing.

10 (d) The assessor shall prepare for use by the board of equaliza-  
11 tion a summary of assessment data relating to each assessment that is  
12 appealed.

13 (e) A city in a borough may appeal an assessment to the borough  
14 board of equalization in the same manner as a taxpayer. Within five  
15 days after receipt of the appeal, the assessor shall notify the person  
16 whose property assessment is being appealed by the city.

17 Sec. 29.45.200. BOARD OF EQUALIZATION. (a) The governing body  
18 sits as a board of equalization for the purpose of hearing an appeal  
19 from a determination of the assessor, or it may delegate this author-  
20 ity to one or more boards appointed by it. An appointed board may be  
21 composed of not less than three persons, who may be members of the  
22 governing body, municipal residents, or a combination of members of  
23 the governing body and residents. The governing body shall by ordi-  
24 nance establish the qualifications for membership.

25 (b) The board of equalization is governed in its proceedings by  
26 rules adopted by ordinance that are consistent with general rules of  
27 administrative procedure. The board may alter an assessment of a lot  
28 only pursuant to an appeal filed as to the particular lot.

29 (c) Notwithstanding other provisions in this section, a

1 determination of the assessor as to whether property is taxable under  
2 law may be appealed directly to the superior court.

3 Sec. 29.45.210. HEARING. (a) If an appellant fails to appear,  
4 the board of equalization may proceed with the hearing in the absence  
5 of the appellant.

6 (b) The appellant bears the burden of proof. The only grounds  
7 for adjustment of assessment are proof of unequal, excessive, im-  
8 proper, or under valuation based on facts that are stated in a valid  
9 written appeal or proven at the appeal hearing. If a valuation is  
10 found to be too low, the board of equalization may raise the assess-  
11 ment.

12 (c) The board of equalization shall certify its actions to the  
13 assessor within seven days. Except as to supplementary assessments,  
14 the assessor shall enter the changes and certify the final assessment  
15 roll by June 1.

16 (d) An appellant or the assessor may appeal a determination of  
17 the board of equalization to the superior court as provided by rules  
18 of court applicable to appeals from the decisions of administrative  
19 agencies. Appeals are heard on the record established at the hearing  
20 before the board of equalization.

21 Sec. 29.45.220. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor  
22 shall include property omitted from the assessment roll on a supple-  
23 mentary roll, using the procedures set out in this chapter for the  
24 original roll.

25 Sec. 29.45.230. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATU-  
26 RAL DISASTER. (a) The municipality may provide for assessment or  
27 reassessment and reduction of taxes for property destroyed, damaged,  
28 or otherwise reduced in value as a result of a natural disaster.

29 (b) An assessment or reassessment under this section may be made

1 by the assessor only upon the receipt of a sworn statement of the tax-  
2 payer that losses exceed \$1,000. A reduction of taxes may be made  
3 only on losses in excess of \$1,000 for the remainder of the year  
4 following the disaster. On reassessment, the municipality shall  
5 recompute this tax and refund taxes that have already been paid.

6 (c) The municipality shall give notice of assessment or re-  
7 assessment under this section and shall hold an equalization hearing  
8 as provided in this chapter, except that a notice of appeal must be  
9 filed with the board of equalization within 10 days after notice of  
10 assessment or reassessment is given to the person appealing. Other-  
11 wise, the right of appeal ceases unless the board finds that the  
12 taxpayer is unable to comply.

13 (d) In enacting an ordinance or resolution authorized by this  
14 section the municipality may, consistent with this section, prescribe  
15 procedures, restrictions, and conditions of assessing or reassessing  
16 property and of remitting, refunding, or forgiving taxes.

17 (e) In this section "disaster" means a major disaster declared  
18 by the President of the United States under the provisions of 42  
19 U.S.C. sec. 1855 - 1855g (Federal Disaster Act of 1950), or other  
20 federal law, or a disaster declared by the governor under AS 26.-  
21 23.010 - 26.23.110.

22 Sec. 29.45.240. TAX LEVY AND RATE. (a) The power granted to a  
23 municipality to assess, levy, and collect a property tax shall be  
24 exercised by means of an ordinance. The rate of levy, the date of  
25 equalization, and the date when taxes become delinquent shall be fixed  
26 by resolution.

27 (b) A municipality shall annually determine the rate of levy  
28 before June 15. By July 1 the tax collector shall mail tax statements  
29 setting out the levy, dates when taxes are payable and delinquent, and

1 penalties and interest.

2 Sec. 29.45.250. RATES OF PENALTY AND INTEREST. (a) A penalty  
3 not to exceed 20 percent of the tax due may be added to all delinquent  
4 taxes, and interest not to exceed 15 percent a year shall accrue upon  
5 all unpaid taxes, not including penalty, from the due date until paid  
6 in full. A municipality may impose a penalty not to exceed 20 percent  
7 of the tax due upon the late return of personal property assessment  
8 forms. A penalty under this section may be imposed according to a  
9 formula that increases the amount of the penalty as the length of time  
10 increases during which payment is delinquent or assessment forms are  
11 not returned.

12 (b) If a taxpayer is given the right to pay the tax in two in-  
13 stallments, penalty and interest on an unpaid installment accrues from  
14 the date the installment becomes due.

15 ARTICLE 2. ENFORCEMENT OF TAX LIENS.

16 Sec. 29.45.290. VALIDITY. Certified assessment and tax rolls  
17 are valid and binding on all persons, notwithstanding a defect, error,  
18 omission, or invalidity in the assessment rolls or proceedings per-  
19 taining to the assessment roll.

20 Sec. 29.45.300. TAX LIABILITY. (a) The owner of assessed per-  
21 sonal property is personally liable for the amount of taxes assessed  
22 against the property. The tax, together with penalty and interest,  
23 may be collected in a personal action brought in the name of the  
24 municipality.

25 (b) Property taxes, together with penalty and interest, are a  
26 lien upon the property assessed, and the lien is prior and paramount  
27 to all other liens or encumbrances against the property.

28 Sec. 29.45.310. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY  
29 DISTRAINT AND SALE. (a) A lien for personal property taxes may be

1 enforced by distraint and sale of the property. The municipality  
2 shall provide the procedure for distraint and sale by ordinance. A  
3 seizure, levy, or distraint is not legal unless demand is first made  
4 of the person assessed for the amount of the tax, penalty, and inter-  
5 est, and a sale is not valid unless made at public auction no sooner  
6 than 15 days after notice is published. The seizure is made by virtue  
7 of a warrant issued by the municipal clerk to a peace officer.

8 (b) If the personal property sold is not sufficient to satisfy  
9 the tax, penalty, and interest, and costs of sale, the warrant may  
10 authorize the seizure of other personal property sufficient to satisfy  
11 the tax, penalty, interest, and costs of sale. If the property is  
12 sold for more money than is needed to satisfy the tax, the municipali-  
13 ty shall remit the excess to the former record owner upon presenta-  
14 tion of a proper claim. A claim for the excess filed after six months  
15 of the date of sale is forever barred.

16 Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) The munici-  
17 pality shall enforce delinquent real property tax liens by annual  
18 foreclosure, unless otherwise provided by ordinance.

19 (b) If the tax on property described in AS 29.45.070 or on a  
20 taxable interest in tax-exempt property is not paid when due, a muni-  
21 cipality may enforce the tax by a personal action against the delin-  
22 quent taxpayer brought in the district or superior court, in addition  
23 to other remedies available to enforce the lien.

24 Sec. 29.45.330. FORECLOSURE LIST. (a) A municipality shall

25 (1) annually present a petition for judgment and a certi-  
26 fied copy of the foreclosure list for the previous year's delinquent  
27 taxes in the superior court for judgment;

28 (2) publish the foreclosure list for four consecutive weeks  
29 in a newspaper of general circulation distributed in the municipality

1 or, if there is no newspaper of general circulation distributed in the  
2 municipality, post the list at three public places for at least 30  
3 days;

4 (3) within 10 days after the first publication or posting,  
5 mail to the last known owner of each property as the owner's name and  
6 address appear on the list a notice advising of the foreclosure pro-  
7 ceeding in which a petition for judgment of foreclosure has been filed  
8 and describing the property and the amount due as stated on the list.

9 (b) The list shall be arranged in alphabetical order as to the  
10 last name and shall include

11 (1) the last known owner;

12 (2) the property description as stated on the assessment  
13 roll;

14 (3) years and amounts of delinquency;

15 (4) penalty and interest due;

16 (5) a statement that the list is available for public  
17 inspection at the clerk's office;

18 (6) a statement that the list has been presented to the  
19 superior court with a petition for judgment and decree.

20 (c) Completion of the requirements of (a) of this section con-  
21 stitutes and has the same force and effect as the filing of an indi-  
22 vidual and separate complaint and service of summons to foreclose a  
23 lien against each property described on the foreclosure list.

24 Sec. 29.45.340. CLEARING DELINQUENCIES. During the publication  
25 or posting of the foreclosure list and up to the time of transfer to  
26 the municipality a person may pay the taxes, together with the penal-  
27 ty, interest, and costs. The collector shall note payment on the  
28 foreclosure list.

29 Sec. 29.45.350. LIST TO LIENHOLDER. A holder of a mortgage or

1 other lien on real property may request the clerk to send by certified  
2 mail notice of a foreclosure list that includes the real property.

3 Sec. 29.45.360. GENERAL FORECLOSURE. A municipality shall bring  
4 one general foreclosure proceeding in rem against the properties in-  
5 cluded in the foreclosure list. If the owner is unknown, the property  
6 is proceeded against as belonging to "unknown owner."

7 Sec. 29.45.370. ANSWER AND OBJECTION. A person having an inter-  
8 est in a lot on the foreclosure list may file an answer within 30 days  
9 after the date of last publication, specifying the person's objection.  
10 The court shall make its decision in summary proceedings. The fore-  
11 closure list is prima facie evidence that the assessment and levy of  
12 the tax is valid and that the tax is unpaid.

13 Sec. 29.45.380. JUDGMENT. The court shall in a proper case give  
14 judgment and decree that the tax liens be foreclosed. It is a several  
15 judgment against each lot and a lien on each lot.

16 Sec. 29.45.390. TRANSFER AND APPEAL. (a) Foreclosed properties  
17 are transferred to the municipality for the lien amount. When answers  
18 are filed the court may enter judgment against and order the transfer  
19 to the municipality of all other properties on the list pending deter-  
20 mination of the matters in controversy. The court shall hear and  
21 determine the issues raised by the complaint and answers in the same  
22 manner and under the same rules as it hears and determines other  
23 actions.

24 (b) The court clerk shall deliver a certified copy of the judg-  
25 ment and decree to the municipal clerk. The certified judgment and  
26 decree constitutes a transfer to the municipality.

27 (c) The judgment and decree stops objections to it that could  
28 have been presented before judgment and decree. Appeal from a judg-  
29 ment and decree of foreclosure, or from a final order in the

1 proceeding, may be taken in the manner provided for appeals in civil  
2 actions.

3 Sec. 29.45.400. REDEMPTION PERIOD. Properties transferred to  
4 the municipality are held by the municipality for at least one year.  
5 During the redemption period a party having an interest in the prop-  
6 erty may redeem it by paying the lien amount plus penalties, interest,  
7 and costs, including all costs incurred under AS 29.45.440(a). Prop-  
8 erty redeemed is subject to all accrued taxes, assessments, liens, and  
9 claims as though it had continued in private ownership. Only the  
10 amount applicable under the judgment and decree must be paid in order  
11 to redeem the property.

12 Sec. 29.45.410. EFFECT. Receipt of redemption money by the  
13 municipality releases the judgment obtained under AS 29.45.380. The  
14 clerk or the clerk's designee shall record the redemption and issue a  
15 certificate containing a property description, the redemption amount,  
16 and the dates of judgment and decree of foreclosure. The clerk or the  
17 clerk's designee shall collect the recording fee at the time of re-  
18 demption and shall file the certificate with the record as part of the  
19 judgment roll.

20 Sec. 29.45.420. ADDITIONAL LIENS. If a property included in a  
21 foreclosure list is removed after payment of delinquencies or redemp-  
22 tion by another lienholder, the payment represented by receipt for  
23 payment constitutes an additional lien on the property, collectible by  
24 the lienholder in the same manner as the original lien.

25 Sec. 29.45.430. POSSESSION DURING REDEMPTION PERIOD. Foreclo-  
26 sure does not affect the former owner's right to possession during the  
27 redemption period. If waste is committed by the former owner or by  
28 anyone acting under the permission or control of the former owner, the  
29 municipality may declare an immediate forfeiture of the right to

1 possession.

2           Sec. 29.45.440. EXPIRATION. (a) At least 30 days before the  
3 expiration of the redemption period the clerk or the clerk's designee  
4 shall publish a redemption period expiration notice. The notice shall  
5 contain the date of judgment, the date of expiration of the period of  
6 redemption, and a warning that all properties ordered sold under the  
7 judgment, unless redeemed, shall be deeded to the municipality immedi-  
8 ately on expiration of the period of redemption and that every right  
9 or interest of a person in the properties will be forfeited forever to  
10 the municipality. The notice appears once a week for four consecutive  
11 weeks in a newspaper of general circulation distributed in the muni-  
12 cipality. If there is no newspaper of general circulation distributed  
13 in the municipality, the notice is posted in three public places for  
14 at least four consecutive weeks. The clerk shall send a copy of the  
15 notice by certified mail to each record owner of property against  
16 which a judgment of foreclosure has been taken and, if the assessed  
17 value of the property is more than \$10,000, to all holders of mort-  
18 gages or other liens of record on the property. The notice shall be  
19 mailed within five days after the first publication. The mailing  
20 shall be sufficient if mailed to the property owner and to the holder  
21 of a mortgage or recorded lien at the last address of record.

22           (b) The right of redemption expires 30 days after the date of  
23 the first notice publication.

24           (c) Costs incurred in the determination of holders of mortgages  
25 and other liens of record and costs of notice publication incurred by  
26 a municipality under (a) of this section are a lien on the property  
27 and may be recovered by the municipality.

28           Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) Unredeemed prop-  
29 erty in the area of the borough outside all cities is deeded to the

1 borough by the clerk of the court. Unredeemed property in a city is  
2 deeded to the city subject to the payment by the city of unpaid bor-  
3 ough taxes and costs of foreclosure levied against the property before  
4 foreclosure. The deed shall be recorded in the recording district in  
5 which the property is located.

6 (b) Conveyance gives the municipality clear title, except for  
7 prior recorded tax liens of the United States and the state.

8 (c) If unredeemed property lies in a city and if the city has no  
9 immediate public use for the property but the borough does have an  
10 immediate public use, the city shall deed the property to the borough.  
11 If unredeemed property lies in the borough outside all cities and if  
12 the borough does not have an immediate public use for the property but  
13 a city does have an immediate public use, the borough shall deed the  
14 property to the city.

15 (d) No deed is invalid for irregularities, omissions, or defects  
16 in the proceedings under this chapter unless the former owner has been  
17 misled so as to be injured. Two years after the date of the deed, its  
18 validity is conclusively presumed and a claim of the former owner or  
19 other person having an interest in the property is forever barred.

20 Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTY.

21 (a) The municipality shall determine by ordinance whether foreclosed  
22 property deeded to the municipality shall be retained for a public  
23 purpose. The ordinance shall contain the legal description of the  
24 property, the address or a general description of the property suffi-  
25 cient to provide the public with notice of its location, and the name  
26 of the last record owner of the property as the name appears on the  
27 assessment rolls.

28 (b) Tax-foreclosed property conveyed to a municipality by tax  
29 foreclosure and not required for a public purpose may be sold. Before

1 the sale of tax-foreclosed property held for a public purpose, the  
2 municipality, by ordinance, shall determine that a public need does  
3 not exist. The ordinance shall contain the information required under  
4 (a) of this section.

5 (c) The clerk or the clerk's designee shall send a copy of the  
6 published notice of hearing of an ordinance to consider a determina-  
7 tion required under (a) or (b) of this section by certified mail to  
8 the former record owner of the property that is the subject of the  
9 ordinance. The notice shall be mailed within five days after its  
10 first publication and shall be sufficient if mailed to the last record  
11 owner of the property as the name appears on the assessment rolls of  
12 the municipality.

13 (d) The provisions of (c) of this section do not apply with  
14 respect to property that has been held by the municipality for a  
15 period of more than 10 years after the close of the redemption period.

16 Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record  
17 owner at the time of tax foreclosure of property acquired by a muni-  
18 cipality, or the assigns of that record owner, may, within 10 years  
19 and before the sale or contract of sale of the tax-foreclosed property  
20 by the municipality, repurchase the property. The municipality shall  
21 sell the property for the full amount applicable to the property under  
22 the judgment and decree, with interest not to exceed 15 percent a year  
23 from the date of entry of the judgment of foreclosure to the date of  
24 repurchase, delinquent taxes assessed and levied as though it had  
25 continued in private ownership, and costs of foreclosure and sale.

26 (b) After adoption of an ordinance providing for the retention  
27 of tax-foreclosed property by the municipality for a public purpose,  
28 the right of the former record owner to repurchase the property  
29 ceases.

1           Sec. 29.45.480. PROCEEDS OF TAX SALE. (a) On sale of fore-  
2 closed real or personal property the municipality shall divide the  
3 proceeds less cost of collection, between the borough and the city  
4 having unpaid taxes against the property. The division is in propor-  
5 tion to the respective municipal taxes against the property at the  
6 time of foreclosure.

7           (b) If tax-foreclosed real property that has been held by a  
8 municipality for less than 10 years after the close of the redemption  
9 period and never designated for a public purpose is sold at a tax-  
10 foreclosure sale, the former record owner is entitled to the portion  
11 of the proceeds of the sale that exceeds the amount of unpaid taxes,  
12 the amount equal to taxes that would have been assessed and levied  
13 after foreclosure if the property had continued in private ownership,  
14 penalty, interest, and costs to the municipality of foreclosing and  
15 selling the property. If the proceeds of the sale of tax-foreclosed  
16 property exceed the total of unpaid and delinquent taxes, penalty,  
17 interest, and costs, the municipality shall provide the former owner  
18 of the property written notice advising of the amount of the excess  
19 and the manner in which a claim for the balance of the proceeds may be  
20 submitted. Notice is sufficient under this subsection if mailed to  
21 the former record owner at the last address of record of the former  
22 record owner. On presentation of a proper claim, the municipality  
23 shall remit the excess to the former record owner. A claim for the  
24 excess filed after six months of the date of sale is forever barred.

25           Sec. 29.45.490. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a  
26 municipality takes title to tax-foreclosed property for a public pur-  
27 pose, the municipality shall satisfy unpaid taxes and assessments  
28 against the property held by other municipalities, with accrued inter-  
29 est but without penalty. If the amount required to satisfy the unpaid

1 taxes and assessments exceeds the assessed value of the property, the  
2 municipality shall pay the other municipalities the assessed value,  
3 which shall be divided between the other municipalities in proportion  
4 to their respective taxes and assessments against the property at the  
5 time of foreclosure.

6 Sec. 29.45.500. REFUND OF TAXES. (a) If a taxpayer pays taxes  
7 under protest, the taxpayer may bring suit in the superior court  
8 against the municipality for recovery of the taxes. If judgment for  
9 recovery is given against the municipality, or, if in the absence of  
10 suit, it becomes obvious to the governing body that judgment for  
11 recovery of the taxes would be obtained if legal proceedings were  
12 brought, the municipality shall refund the amount of the taxes to the  
13 taxpayer with interest at eight percent from the date of payment plus  
14 costs.

15 (b) If, in payment of taxes legally imposed, a remittance by a  
16 taxpayer through error or otherwise exceeds the amount due, and the  
17 municipality, on audit of the account in question, is satisfied that  
18 this is the case, the municipality shall refund the excess to the tax-  
19 payer with interest at eight percent from the date of payment. A  
20 claim for refund filed one year after the due date of the tax is  
21 forever barred.

22 (c) The governing body may correct manifest clerical errors at  
23 anytime.

24 ARTICLE 3. CITY PROPERTY TAX.

25 Sec. 29.45.550. CITIES OUTSIDE BOROUGHES. Home rule and first  
26 class cities outside boroughs may assess, levy, and collect a property  
27 tax. A property tax if levied must be assessed, levied, and collected  
28 as provided by AS 29.45.010 - 29.45.500.

29 Sec. 29.45.560. CITIES INSIDE BOROUGHES. Home rule and first

1 class cities inside boroughs may levy a property tax. A property tax,  
2 if levied, is subject to AS 29.45.010 - 29.45.050, 29.45.090 - 29.45.-  
3 100, 29.45.250, 29.45.400 - 29.45.440 and 29.45.460 - 29.45.500. The  
4 council shall by June 15 of each year present to the assembly a state-  
5 ment of the city's rate of levy unless a different date is agreed upon  
6 by the borough and city.

7 Sec. 29.45.570. APPLICATION. AS 29.45.010 - 29.45.570 apply to  
8 home rule and general law municipalities.

9 Sec. 29.45.580. DIFFERENTIAL TAX ZONES. A city may by ordinance  
10 establish, alter, and abolish differential tax zones to provide and  
11 levy property taxes for services not provided generally in the city or  
12 a different level of service than that provided generally in the city.

13 Sec. 29.45.590. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS  
14 CITIES. A second class city may by referendum levy property taxes as  
15 provided for first class cities. However, levy by a second class city  
16 may not exceed one-half of one percent of the assessed value of the  
17 property taxed, except that the limit does not apply to a levy neces-  
18 sary to avoid a default upon payment of principal and interest of  
19 bonded or other indebtedness that is secured by a pledge to levy ad  
20 valorem or other taxes without limit to meet debt payments.

21 Sec. 29.45.600. COMBINING PROPERTY TAX WITH INCORPORATION OF A  
22 SECOND CLASS CITY. A petition for second class city incorporation may  
23 request that a property tax proposal be placed on the same ballot.  
24 The petition must state the proposed tax rate. The petition may re-  
25 quest that incorporation be dependent on the passage of the property  
26 tax proposition. If so, the incorporation proposition fails if the  
27 property tax fails.

28 ARTICLE 4. BOROUGH SALES AND USE TAX.

29 Sec. 29.45.650. SALES AND USE TAX. (a) A borough may levy and

1 collect a sales tax not exceeding six percent on sales, rents, and on  
2 services provided in the borough. The sales tax may apply to any or  
3 all of these sources. Exemptions may be granted by ordinance.

4 (b) A borough levying a sales tax may also by ordinance levy a  
5 use tax on the storage, use, or consumption of tangible personal  
6 property in the borough. The use tax rate must equal the sales tax  
7 rate and the use tax shall be levied only on buyers.

8 (c) A person who furnishes proof, in the form required by the  
9 borough tax collector, that the person has paid a sales tax on the  
10 source on which a use tax is levied by the borough is required to pay  
11 the use tax only to the extent of the difference between the amount of  
12 the sales tax paid and the amount of the use tax levied by the bor-  
13 ough. This subsection applies to a sales tax levied in any taxing  
14 jurisdiction whether inside or outside the state.

15 (d) If the assembly charges interest on sales taxes not paid  
16 when due, the rate of interest may not exceed 15 percent a year on the  
17 delinquent taxes and shall be charged from the due date until paid in  
18 full. This subsection applies to home rule and general law municipal-  
19 ities.

20 (e) A borough may provide for the creation, recording, and  
21 notice of a lien on real or personal property to secure the payment of  
22 a sales and use tax, and the interest, penalties, and administration  
23 costs in the event of delinquency. When recorded, a lien authorized  
24 under this section has priority over other liens except those for  
25 property taxes and special assessments.

26 Sec. 29.45.660. NOTICE OF SALES AND USE TAX. (a) If the bor-  
27 ough levies and collects only a sales tax and use tax, the assembly  
28 shall provide a notice substantially in the form set out in AS 29.45.-  
29 020. In providing notice under this subsection, the assembly shall

1 substitute for the millage equivalency its estimate of the equivalent  
2 sales tax rate for each of the categories of financial assistance set  
3 out in AS 29.45.020. Notice shall be provided

4 (1) by publishing in a newspaper of general circulation in  
5 the borough a copy of the notice once each week for a period of three  
6 successive weeks, with publication to occur not later than 45 days  
7 after the final adoption of the borough's budget; or

8 (2) if there is no newspaper of general circulation in the  
9 borough, by posting a copy of the notice for at least 20 days in at  
10 least two public places in the borough, with posting to occur not  
11 later than 45 days after the final adoption of the borough's budget.

12 (b) Compliance with the provisions of this section is a prereq-  
13 uisite to receipt of municipal tax resource equalization assistance  
14 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous municipi-  
15 pal services under AS 29.60.100 - 29.60.180. The department shall  
16 withhold annual allocations under those sections until municipal  
17 officials demonstrate that the requirements of this section have been  
18 met.

19 Sec. 29.45.670. REFERENDUM, ADOPTION, AND MODIFICATION. A new  
20 sales and use tax or an increase in the rate of levy of a sales tax  
21 approved by ordinance does not take effect until ratified by a major-  
22 ity of the voters at an election.

23 ARTICLE 5. CITY SALES AND USE TAXES.

24 Sec. 29.45.700. POWER OF LEVY. (a) A city in a borough that  
25 levies and collects areawide sales and use taxes may levy sales and  
26 use taxes on all sources taxed by the borough in the manner provided  
27 for boroughs, except that the assembly may by ordinance authorize a  
28 city to levy and collect sales and use taxes on other sources.

29 (b) A city in a borough that does not levy and collect sales and

1 use taxes for areawide borough functions may levy and collect sales  
2 and use taxes in the manner provided for boroughs.

3 (c) A city outside a borough may levy and collect sales and use  
4 taxes in the manner provided for boroughs.

5 Sec. 29.45.710. COMBINING SALES AND USE TAX WITH INCORPORATION  
6 OF A SECOND CLASS CITY. A petition for incorporation of a second  
7 class city may request that a sales and use tax proposal be placed on  
8 the same ballot. The petition must state the proposed tax rate. The  
9 petition may request that incorporation be dependent on the passage of  
10 the tax proposition. If so, the incorporation proposition fails if  
11 the tax fails.

12 \* Sec. 13. AS 29 is amended by adding a new chapter to read:

13 CHAPTER 46. SPECIAL ASSESSMENTS.

14 Sec. 29.46.010. ASSESSMENT AND PROPOSAL. The municipality may  
15 assess against the property of a state or federal governmental unit  
16 and private real property to be benefited by an improvement all or a  
17 portion of the cost of acquiring, installing, or constructing capital  
18 improvements. The state shall pay an assessment levied, except as  
19 otherwise provided by law and subject to its right of protest under  
20 AS 29.46.020(b). If a governmental unit other than the state benefit-  
21 ed by an improvement refuses to pay the assessment, it shall be denied  
22 the benefit of the improvement. An improvement proposal may be initi-  
23 ated by

24 (1) petition to the governing body of the owners of one-  
25 half in value of the property to be benefited; or

26 (2) the governing body.

27 Sec. 29.46.020. PROCEDURE. (a) The municipality may prescribe  
28 by ordinance the procedures relating to creating special assessment  
29 districts, making local improvements, levying and collecting

1 assessments, and financing improvements, including the following:

2 (1) a procedure for filing petitions;

3 (2) a survey and report by the mayor concerning the need  
4 for, desirable extent of, and estimated cost of each proposed local  
5 improvement;

6 (3) a public hearing on the necessity for the proposed  
7 local improvement;

8 (4) a resolution or ordinance determining to proceed or not  
9 to proceed with the proposed local improvement;

10 (5) a public hearing by the governing body on the special  
11 assessment roll for the proposed local improvement;

12 (6) published notice of each public hearing required by  
13 this section and mailing notice to each record owner of real property  
14 in the special assessment district;

15 (7) a resolution or ordinance confirming the special as-  
16 sessment roll for the proposed local improvement.

17 (b) If protests as to the necessity of a proposed local improve-  
18 ment are made by owners of property that will bear 50 percent or more  
19 of the estimated cost of the improvement, the governing body may not  
20 proceed with the improvement until the objections have been reduced to  
21 less than 50 percent, except on approval of not fewer than three-  
22 fourths of the governing body.

23 (c) To the extent that the municipality does not prescribe a  
24 procedure for special assessments as permitted by this section, the  
25 municipality shall comply with the special assessment procedures set  
26 out in AS 29.46.030 - 29.46.100.

27 Sec. 29.46.030. CREATION OF DISTRICT. (a) When an improvement  
28 proposal is filed with the municipal clerk and presented to the gov-  
29 erning body, the municipality shall find by resolution or ordinance

1 whether (1) the improvement requested is necessary and should be made,  
2 and (2) if by petition, the request has sufficient and proper peti-  
3 tioners. The findings under this section are conclusive.

4 (b) If the municipality approves an improvement proposal, it  
5 shall develop a proposed improvement plan including the total cost  
6 estimate and the percentage of the cost to be assessed against the  
7 benefited property. The improvement plan shall be filed with the  
8 municipal clerk.

9 (c) The governing body shall set a time for public hearing on  
10 the improvement plan and the period for filing objections to the plan.  
11 The governing body shall publish a notice of the hearing and of the  
12 period during which objections may be filed at least once a week for  
13 four consecutive weeks in a newspaper of general circulation if dis-  
14 tributed in the municipality and shall send notice by mail to every  
15 record owner of property in the special assessment district.

16 Sec. 29.46.040. RECORD OWNER. The person in whose name property  
17 is listed on the municipal property tax roll as owner is conclusively  
18 presumed to be the legal owner of record. If the owner is unknown,  
19 the assessment roll may designate "unknown owner".

20 Sec. 29.46.050. OBJECTIONS AND REVISION. (a) Objections to an  
21 improvement plan may be filed during a period of 60 days after publi-  
22 cation of notice. The municipality may by resolution or ordinance  
23 approve the plan and order the improvement subject to the limitation  
24 of (b) of this section.

25 (b) If objections are made in writing during the period set for  
26 objections by the owners of property bearing 50 percent or more of the  
27 estimated total cost of the improvement, the governing body may not  
28 proceed with the improvement unless it revises the plan to meet the  
29 objections and the objections are reduced to less than 50 percent. A

1 revised plan shall be approved and adopted as an original plan in  
2 accordance with AS 29.46.030.

3 Sec. 29.46.060. ASSESSMENT ROLL. (a) At any time after ap-  
4 proval of an improvement plan, the governing body shall assess the  
5 authorized percentage of the cost against property in the district  
6 included in the plan in proportion to the benefit received.

7 (b) The special assessment roll shall contain property descrip-  
8 tions, names of record owners, and assessment amounts.

9 (c) The governing body shall fix a time to hear objections to  
10 the roll. The municipal clerk shall send an assessment and hearing  
11 notice by mail to each record owner of an assessed property not less  
12 than 15 days before the hearing.

13 Sec. 29.46.070. HEARING AND SETTLEMENT. After the public hear-  
14 ing, the governing body shall correct errors and inequalities in the  
15 roll. If an assessment is increased, a new hearing shall be set and  
16 notice published, except that a new hearing and notice is not required  
17 if all record owners of property subject to the increased assessment  
18 consent in writing to the increase. Objections to the increased  
19 assessment shall be limited to record owners of property on which the  
20 assessment was increased. When the roll is corrected, it shall be  
21 confirmed by resolution or ordinance.

22 Sec. 29.46.080. PAYMENT. (a) The governing body shall fix  
23 times of payment, penalties on delinquent payments, and the rate of  
24 interest on the unpaid balance of the assessment. Payment may be in  
25 one sum or by installments. If payment is to be in one sum, payment  
26 may not be required sooner than 60 days after mailing of the assess-  
27 ment statement. The entire assessment may be prepaid without interest  
28 or penalty within 30 days after mailing of the assessment statement,  
29 and thereafter the assessment may be prepaid in whole or in part with

1 interest to the payment date.

2 (b) Within 30 days after fixing the time of payment the municipi-  
3 pal clerk shall mail a statement to the record owner of each property  
4 assessed. The statement designates the property, the assessment  
5 amount, method of payment, rate of interest on the unpaid balance of  
6 the assessment, the time of delinquency, and penalties on delinquent  
7 payments. Within five days after the statements are mailed, the clerk  
8 shall have notice published that the statements have been mailed.

9 (c) Assessments are liens on the property assessed and are prior  
10 and paramount to all liens except municipal tax liens. They may be  
11 enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of  
12 property tax liens.

13 Sec. 29.46.090. EXEMPTION. (a) The real property owned and  
14 occupied by a resident 65 years of age or over, or the spouse, widow,  
15 widower, or minor heir of the original applicant, on which is located  
16 only the permanent abode of the applicant that is a single-family  
17 residence, is exempt from (1) special sewer assessments levied by a  
18 municipality after September 2, 1975, and (2) special water assess-  
19 ments levied by a municipality after September 2, 1975. Only one  
20 exemption may be granted with respect to the same property, and, if  
21 two or more persons are eligible for an exemption with respect to the  
22 same property, the parties shall decide between or among themselves  
23 which shall receive the benefit of the exemption. Real property may  
24 not be exempted under this subsection that the municipality deter-  
25 mines, after notice and hearing to the parties concerned, has been  
26 conveyed to the applicant primarily for the purpose of obtaining the  
27 exemption. The determination of the municipality is appealable under  
28 AS 44.62.560 - 44.62.570.

29 (b) An exemption may not be granted under this section except

1 upon written application for the exemption on a form prescribed by the  
2 state assessor for use by local assessors and in accordance with the  
3 following requirements:

4 (1) The claimant must file the initial application during  
5 the period of time between the date the assessment roll is confirmed  
6 and the time of payment fixed by the governing body. Within one year  
7 after the date the assessment roll is confirmed the governing body for  
8 good cause shown may waive the claimant's failure to make timely  
9 initial application for the exemption and authorize the assessor to  
10 accept the application as if timely filed.

11 (2) A claimant receiving the exemption must file with the  
12 assessor by March 15 of each subsequent year a separate application  
13 proving eligibility as of January 1 in order to retain the exemption.  
14 Within the same year the assessor for good cause shown may waive the  
15 claimant's failure to make timely application and approve the applica-  
16 tion as if timely filed.

17 (3) If an application is filed within the required time  
18 under this subsection and is approved by the governing body, the  
19 exemption shall be allowed in accordance with the provisions of this  
20 section. If a waiver under this subsection is granted and the appli-  
21 cation for exemption approved, the amount of any assessment, penalty,  
22 or interest that the claimant has already paid on the assessment shall  
23 be refunded to the claimant. The municipality may at any time require  
24 proof in the form considered necessary of the right and amount of an  
25 exemption claimed under this section.

26 (c) The state shall reimburse a municipality for the sewer and  
27 water assessment revenues that it would receive but for the operation  
28 of this section. Reimbursement under this subsection is a lien in  
29 favor of the state against the property exempted to the extent of the

1 assessment against the property exempted. When properly recorded, the  
2 lien is prior and superior to other liens against the property except  
3 for property taxes or other special assessments and may be enforced by  
4 lien foreclosure. The lien becomes immediately due and payable

5 (1) upon sale or other transfer of the property except to a  
6 spouse, widow, widower, or minor heir; however, if the property is  
7 transferred to a minor heir the lien becomes due and payable on the  
8 date the minor heir reaches the age of 25 years;

9 (2) when property exempted under (a)(1) or (2) of this  
10 section receives more than one sewer connection or more than one water  
11 connection; or

12 (3) when the claimant fails to prove eligibility under  
13 (b)(2) of this section.

14 (d) This section applies to home rule and general law municipal-  
15 ities.

16 (e) In this section

17 (1) "minor heir" means a person who, at the time of trans-  
18 fer of the property, has not attained the age of 19 years or who, if  
19 under 22 years of age, is a full-time student at an educational insti-  
20 tution or a member of the armed forces of the United States;

21 (2) "real property" includes, but is not limited to, mobile  
22 homes, whether classified as real or personal property for municipal  
23 tax purposes.

24 Sec. 29.46.100. REASSESSMENT. (a) The governing body shall  
25 within one year correct any deficiency in a special assessment found  
26 by a court. Notice and hearing must conform to the initial assessment  
27 procedures.

28 (b) Payments on the initial assessment are credited to the prop-  
29 erty upon reassessment. The reassessment becomes a charge upon the

1 property notwithstanding failure to comply with any provision of the  
2 assessment procedure.

3 Sec. 29.46.110. ALLOWABLE COSTS. (a) When a special assessment  
4 district is created, there may be included in the assessments

5 (1) all of the cost of acquiring, installing, making, or  
6 constructing the local improvement;

7 (2) the costs of all engineering and surveying to be done  
8 in connection with creating the district or improvement;

9 (3) the cost of mailing and publishing notices;

10 (4) interest on interim financing;

11 (5) the cost of legal services and other expenses incurred  
12 in the formation of the special assessment district;

13 (6) the cost of completing the improvement and financing  
14 the improvement, including the issuance of bonds.

15 (b) The total amount of the assessment roll may not exceed  
16 actual costs, but actual costs may include reasonable estimates of the  
17 costs to be incurred in connection with issuance of bonds.

18 Sec. 29.46.120. OBJECTION AND APPEAL. (a) The validity of an  
19 assessment may not be contested by a person who did not file with the  
20 municipal clerk a written objection to the assessment roll before its  
21 confirmation.

22 (b) The decision of the governing body on an objection may be  
23 appealed to the superior court within 30 days after the date of con-  
24 firmation of the assessment roll. If no objection is filed or appeal  
25 taken within that time, the assessment procedure is considered valid  
26 in all respects.

27 Sec. 29.46.130. INTERIM FINANCING. (a) A municipality may  
28 provide by resolution or ordinance for the issuance of notes in pay-  
29 ment of the costs of a local improvement project, payable out of

1 special assessments for the improvement. The notes shall bear inter-  
2 est at a rate or rates authorized by the resolution or ordinance, and  
3 shall be redeemed either in cash or bonds for the improvement project.

4 (b) Notes issued against assessments shall be claims against the  
5 assessments that are prior and superior to a right, lien or claim of a  
6 surety on the bond given to the municipality to secure the performance  
7 of its contract for a local improvement project, or to secure the  
8 payment of persons who have performed work or furnished materials  
9 under the contract.

10 (c) The municipal treasurer may accept notes against special  
11 assessments on conditions prescribed by the governing body in payment  
12 of

13 (1) assessments against which the notes were issued in  
14 order of priority;

15 (2) judgments rendered against property owners who have  
16 become delinquent in the payment of assessments; and

17 (3) certificates of purchase when property has been sold  
18 under execution or at tax sale for failure to pay the assessments.

19 Sec. 29.46.140. SPECIAL ASSESSMENT BONDS. (a) The municipality  
20 may by ordinance authorize the issuance and sale of special assessment  
21 bonds to pay all or part of the cost of an improvement in a special  
22 assessment district. The principal and interest of bonds issued shall  
23 be payable solely from the levy of special assessments against the  
24 property to be benefited. The assessments shall constitute a sinking  
25 fund for the payment of principal and interest on the bonds. The  
26 benefited property may be pledged by the governing body to secure a  
27 payment.

28 (b) On default in a payment due on a special assessment bond, a  
29 bondholder may enforce payment of principal, interest, and costs of

1 collection in a civil action in the same manner and with the same  
2 effect as actions for the foreclosure of mortgages on real property.  
3 Foreclosure shall be against all property on which assessments are in  
4 default. The period for redemption is the same as for a mortgage  
5 foreclosure on real property.

6 (c) Before the governing body may issue special assessment  
7 bonds, it shall establish a guarantee fund and appropriate to the fund  
8 annually a sum adequate to cover a deficiency in meeting payments of  
9 principal and interest on bonds if the reason for the deficiency is  
10 nonpayment of assessments when due. Money received from actions taken  
11 against property for nonpayment of assessments shall be credited to  
12 the guarantee fund.

13 \* Sec. 14. AS 29 is amended by adding a new chapter to read:

14 CHAPTER 47. MUNICIPAL DEBT.

15 ARTICLE 1. REVENUE ANTICIPATION NOTES.

16 Sec. 29.47.010. BORROWING IN ANTICIPATION OF REVENUE. A muni-  
17 cipality that is authorized to incur indebtedness may borrow money to  
18 meet appropriations for any fiscal year in anticipation of the collec-  
19 tion of the revenues for that year, but all debt so contracted shall  
20 be paid before the end of the next fiscal year. Negotiable or nonne-  
21 gotiable revenue anticipation notes may be issued as evidence of the  
22 borrowing.

23 Sec. 29.47.020. ISSUANCE OF NOTES. A municipality may by ordi-  
24 nance or resolution authorize the issuance of revenue anticipation  
25 notes. The governing body may delegate to its chief fiscal officer  
26 the power to issue the notes from time to time under the terms and  
27 conditions of the ordinance or resolution that provides for the manner  
28 of their sale.

29 Sec. 29.47.030. ISSUANCE OF NOTES IN ANTICIPATION OF STATE,

1 FEDERAL GRANTS. (a) A municipality, on adoption of a long-range  
2 capital improvement budget by ordinance or resolution, may by  
3 resolution provide for negotiable or nonnegotiable revenue  
4 anticipation notes in an amount not to exceed the total amount of any  
5 state or federal grants finally committed for these projects. The  
6 notes mature no later than the end of the next fiscal year. The notes  
7 may be for single or multiple projects outlined in the adopted capital  
8 improvement budget.

9 (b) If the state or federal grants for capital improvement pro-  
10 jects have not been paid to the municipality before maturity of the  
11 notes issued in anticipation of the receipt of the revenue, the gov-  
12 erning body may issue new notes in order to meet payment of the notes  
13 then maturing or may renew the outstanding revenue anticipation notes.  
14 New notes issued or renewals of outstanding revenue anticipation notes  
15 mature not later than the end of the next fiscal year.

16 Sec. 29.47.040. PRIORITY OF REPAYMENT. The payment of the  
17 principal and interest on revenue anticipation notes is payable from  
18 revenues, and their payment additionally shall be secured by a pledge  
19 of the full faith and credit of the municipality issuing them.

20 ARTICLE 2. BOND ANTICIPATION NOTES.

21 Sec. 29.47.080. BOND ANTICIPATION BORROWING. A municipality may  
22 borrow money in anticipation of the sale of general obligation and  
23 revenue bonds if

24 (1) the general obligation bonds to be sold have been  
25 authorized by ordinance and ratified by a majority vote at an elec-  
26 tion;

27 (2) the revenue bonds to be sold have been authorized by  
28 ordinance.

29 Sec. 29.47.090. ISSUANCE OF NOTES. The governing body shall

1 issue negotiable or nonnegotiable notes for the amounts borrowed with  
2 a maturity date not to exceed one year from the date of issue. All  
3 notes and the interest on them are payable at fixed places on or  
4 before a fixed time from the proceeds of the sale of bonds in antici-  
5 pation of which the original note or notes were issued, unless the  
6 bonds have not been sold by the maturity date of the notes.

7 Sec. 29.47.100. ISSUANCE OF NEW NOTES. If the sale of the bonds  
8 has not occurred before the maturity of the notes issued in anticipa-  
9 tion of the sale, the governing body shall issue new notes in order to  
10 meet payment of the notes then maturing, or shall renew the outstand-  
11 ing bond anticipation notes. New notes issued or renewals of out-  
12 standing bond anticipation notes bear a maturity date not to exceed  
13 one year from the date of issue. Notes, new notes, and renewals of  
14 notes may not be outstanding for a total elapsed time of more than  
15 three years.

16 Sec. 29.47.110. REPAYMENT OF NOTES. Every note is payable from  
17 the proceeds of the sale of bonds that the notes anticipated or from  
18 the proceeds of the sale of new bond anticipation notes.

19 Sec. 29.47.120. SECURITY. (a) Notwithstanding other provisions  
20 of this chapter as to payment of notes, notes issued in anticipation  
21 of the sale of general obligation bonds and the interest on them are  
22 secured by the full faith and credit of the municipality. The muni-  
23 cipality may levy ad valorem taxes for payment without limitation of  
24 rate or amount.

25 (b) Notes issued in anticipation of the sale of revenue bonds  
26 and the interest on them are secured in the same manner as are the  
27 revenue bonds in anticipation of which the notes are issued.

28 Sec. 29.47.130. LIMITATION. The total amount of notes issued  
29 and outstanding may at no time exceed the total amount of bonds

1 authorized to be issued.

2 Sec. 29.47.140. USE OF PROCEEDS. The proceeds from the sale of  
3 notes shall be used only for the purposes for which the proceeds from  
4 the sale of bonds may be used, or to meet payment of outstanding bond  
5 anticipation notes.

6 ARTICLE 3. GENERAL OBLIGATION BONDS.

7 Sec. 29.47.180. GENERAL OBLIGATION BONDS. A municipality may  
8 acquire, construct, improve, and equip capital improvements and issue  
9 negotiable or nonnegotiable general obligation bonds for these pur-  
10 poses.

11 Sec. 29.47.190. VOTE AND NOTICE OF EXISTING INDEBTEDNESS RE-  
12 QUIRED. (a) A municipality may incur general obligation bond debt  
13 only after a bond authorization ordinance is approved by a majority  
14 vote at an election. Any municipal voter may vote in the bond elec-  
15 tion, except as otherwise provided by law.

16 (b) Before a general obligation bond issue election, the govern-  
17 ing body shall have published a notice of the total existing bond  
18 indebtedness at least once a week for three consecutive weeks. The  
19 first notice shall be published at least 20 days before the date of  
20 the election. A notice shall include

21 (1) the current total general obligation bonded indebted-  
22 ness, including authorized but unsold bonds of the municipality;

23 (2) the cost of the debt service on the current indebted-  
24 ness;

25 (3) the total assessed value of property in the municipal-  
26 ity.

27 Sec. 29.47.200. PAYMENT. (a) The full faith and credit of a  
28 municipality are pledged for the payment of principal and interest on  
29 general obligation bonds. The municipality may levy ad valorem taxes

1 for payment without limitation of rate or amount to pay or secure the  
2 payment of the principal and interest on bonds, regardless of whether  
3 the bonds are in default or in danger of default.

4 (b) General obligation bonds issued for acquiring, constructing,  
5 improving and equipping a municipally owned utility or other revenue-  
6 generating enterprise may be additionally secured by a pledge of the  
7 revenue derived from operation. Bonds so secured are not subject to a  
8 debt limitation imposed by a home rule charter. This subsection  
9 applies to home rule and general law municipalities.

10 ARTICLE 4. REVENUE BONDS.

11 Sec. 29.47.240. REVENUE BONDS. (a) A municipality may issue  
12 negotiable or nonnegotiable revenue bonds for a public enterprise or  
13 public corporation of the municipality where the only security is the  
14 revenue of the public enterprise or corporation.

15 (b) A municipality may issue its revenue bonds to finance the  
16 purchase of residential mortgage loans. The revenue bonds issued  
17 under this subsection are payable solely from the principal and inter-  
18 est of the mortgage loans and from other amounts pledged by the muni-  
19 cipality, except the pledge of revenues derived from taxes. Revenue  
20 bonds issued under this subsection do not constitute a general obli-  
21 gation of the municipality.

22 Sec. 29.47.250. NO ELECTION REQUIRED. An election is not re-  
23 quired to authorize the issuance and sale of revenue bonds, unless  
24 otherwise provided by ordinance.

25 Sec. 29.47.260. CONSTRUCTION. The prohibitions of AS 37.10.085  
26 do not apply to the issuance of revenue bonds or the use of proceeds  
27 from revenue bonds by a home rule or general law municipality.

28 ARTICLE 5. REFUNDING BONDS.

29 Sec. 29.47.300. AUTHORIZATION. If a municipality has

1 outstanding general obligation or revenue bonds and the governing body  
2 determines that it would be financially advantageous to refund the  
3 bonds, the municipality may provide by ordinance or resolution for the  
4 issuance of negotiable or nonnegotiable

5 (1) general obligation refunding bonds; or

6 (2) revenue refunding bonds.

7 Sec. 29.47.310. EFFECT OF REFUNDING BONDS. The refunding bonds  
8 may take up and refund all or part of outstanding bonds at or before  
9 their maturity or redemption date. The governing body may include  
10 various series and issues of bonds in a single issue of refunding  
11 bonds.

12 Sec. 29.47.320. NO ELECTION REQUIRED. An election is not re-  
13 quired to authorize the issuance and sale of refunding bonds. Their  
14 issuance may be authorized and all proceedings with reference to them  
15 prescribed by ordinance. However, when it is desirable to use general  
16 obligation bonds to refund a revenue bond issue, the governing body  
17 shall call an election on the question.

18 Sec. 29.47.330. PAYMENT OF REFUNDING BONDS. General obligation  
19 refunding bonds are payable according to AS 29.47.200. Revenue re-  
20 funding bonds are payable according to AS 29.47.240.

21 Sec. 29.47.340. SALE OF REFUNDING BONDS. General obligation or  
22 revenue refunding bonds may, at the discretion of the governing body,  
23 be exchanged for the bonds being refunded, or may be sold at public or  
24 private sale. They may be issued and delivered at any time before the  
25 date of maturity or redemption of the refunded bonds.

26 ARTICLE 6. MISCELLANEOUS PROVISIONS.

27 Sec. 29.47.390. OTHER MUNICIPAL FINANCING. (a) A municipality  
28 may authorize by ordinance or resolution the issuance of negotiable or  
29 nonnegotiable revenue bonds to finance any project that serves a

1 public purpose, and the bonds shall be secured and payable from any  
2 source except revenues, including tax revenue, of the municipality.

3 (b) Bonds issued under this section are not a debt or liability  
4 of the municipality and do not create or constitute an indebtedness,  
5 liability, or obligation of the municipality, nor do they constitute a  
6 pledge of faith, credit, or taxing power of the municipality. Each  
7 bond must contain on its face a statement that the municipality is not  
8 obligated to pay the principal or the interest on the bonds except  
9 from those sources indicated, and that neither the faith and credit  
- 10 nor the taxing power of the municipality is pledged to the payment of  
11 principal or interest on the bond.

12 (c) A municipality may

13 (1) loan the proceeds of the bonds issued under this sec-  
14 tion;

15 (2) pledge, mortgage or assign money, leases, agreements,  
16 property, or other assets of the project being financed;

17 (3) enter into covenants and agreements concerning bonds  
18 issued under this section that the municipality determines to be de-  
19 sirable;

20 (4) provide for any matter that affects the security of the  
21 bonds.

22 (d) In this section

23 (1) "bonds" means bonds, notes, or other evidence of in-  
24 debtedness;

25 (2) "project" includes commercial, manufacturing,  
26 agricultural, industrial, residential housing, recreation, tourism,  
27 and medical projects and programs.

28 Sec. 29.47.400. SALE. Bonds and notes issued under this chapter  
29 may be sold at either public or private sale by the municipality in

1 the manner and at the price it determines.

2 Sec. 29.47.410. FORMS AND TERMS. The municipality may by ordi-  
3 nance or resolution fix the date, denominations, maturities, rate or  
4 rates of interest, redemption terms, registration privileges, manner  
5 of execution, signatures required, purchase price, manner of sale, and  
6 other requirements for issuing bonds or notes under this chapter. If  
7 an official whose signature appears on the bonds or coupons ceases to  
8 be an official before delivery of the bonds, the signature of the  
9 former official is valid as if the former official had remained in  
10 office until delivery.

11 Sec. 29.47.420. INTEREST RATE. The interest rate payable on a  
12 bond or note issued under this chapter shall be determined by the  
13 municipality and is not subject to the usury rate limitations of  
14 AS 45.45.010.

15 Sec. 29.47.430. REDEMPTION BEFORE MATURITY. A bond or note  
16 issued under this chapter may be made subject to redemption before  
17 maturity as stated in the authorization or in the bond or note.

18 Sec. 29.47.440. BOROUGH INDEBTEDNESS. (a) A borough may incur  
19 indebtedness

20 (1) on an areawide basis for areawide functions; or

21 (2) on a nonareawide basis for functions performed only in  
22 the borough area outside all cities; or

23 (3) on a service area basis for functions performed only in  
24 a service area.

25 (b) Payment of debt principal and interest as well as other  
26 costs shall be derived from the area incurring the debt under (a)(2)  
27 or (a)(3) of this section, except that the full faith and credit of  
28 the entire borough may be pledged to guarantee payment of principal  
29 and interest.

1 (c) If the bonded debt to be incurred by a borough is an area-  
2 wide debt, the vote is areawide. If the full faith and credit of the  
3 entire borough is pledged for the payment of the debt of the borough  
4 area outside all cities or of a service area, an areawide election is  
5 held and the proposition must pass both areawide and in the area that  
6 will benefit from the improvement. If the bonded indebtedness to be  
7 incurred is limited to the borough area outside all cities, the vote  
8 is limited to voters outside all cities. If the indebtedness to be  
9 incurred is limited to a service area, the vote is limited to voters  
10 in the service area. Only the full faith and credit of the area  
11 voting on the indebtedness is pledged for the payment of the debt.

12 (d) The indebtedness of a municipality reclassified under  
13 AS 29.04.040 - 29.04.060 is not affected by reclassification. All  
14 property in a municipality that is reclassified remains subject to  
15 taxation to amortize bonded or other indebtedness affecting the muni-  
16 cipality and authorized on the effective date of reclassification.

17 Sec. 29.47.450. SERVICE AREA DEBT. The indebtedness of a ser-  
18 vice area acquired under AS 29.47.440 remains the indebtedness of the  
19 area that incurred the debt, notwithstanding a subsequent court deter-  
20 mination that the service area was not validly formed under law or by  
21 virtue of a defect in the proceedings creating the service area. All  
22 property in the service area remains subject to taxation to pay the  
23 bonded indebtedness.

24 \* Sec. 15. AS 29 is amended by adding a new chapter to read:

25 CHAPTER 55. MUNICIPAL PROGRAMS.

26 Sec. 29.55.010. CREATION OF LOCAL HISTORICAL DISTRICT COMMIS-  
27 SIONS. The governing body of a municipality may establish a local  
28 historical district commission or designate the planning commission or  
29 itself to serve as the historical district commission.

1           Sec. 29.55.020. ESTABLISHMENT OF HISTORICAL DISTRICTS. (a) In  
2 addition to existing municipal authority providing for the preserva-  
3 tion, protection, and maintenance of historic sites, the local histor-  
4 ical district commission, in consultation with the Historic Sites  
5 Advisory Committee in the Department of Natural Resources, may estab-  
6 lish historical districts within the boundaries of the municipality.

7           (b) A historical district shall be a reasonably compact area of  
8 historical significance in which two or more structures important in  
9 state or national history, and related by physical proximity or his-  
10 torical association, are located. For purposes of this section,  
11 "structures important in state or national history" means properties  
12 recommended by historical district commissions that are listed in the  
13 National Register of Historic Places or are characteristic of the  
14 Russian-American period before October 18, 1867, the early territorial  
15 period before 1930, or early Native heritage, reflecting the indige-  
16 nous characteristics of Native culture in Alaska. On recommendation  
17 of the governing body of a municipality and the Historic Sites Advi-  
18 sory Committee, the Department of Natural Resources may by regulation  
19 formulate additional criteria for the establishment of historical  
20 districts not inconsistent with this subsection.

21           (c) The establishment of a historical district under this sec-  
22 tion shall be consistent with any applicable comprehensive plan for  
23 the municipality.

24 \* Sec. 16. AS 29 is amended by adding a new chapter to read:

25                           CHAPTER 60. STATE PROGRAMS.

26                           ARTICLE 1. MUNICIPAL TAX RESOURCE EQUALIZATION.

27           Sec. 29.60.010. STATE EQUALIZATION OF TAX RESOURCES FOR MUNICI-  
28 PAL SERVICES. (a) During each fiscal year the department shall  
29 compute an equalization entitlement for municipal services provided by

1 a taxing unit.

2 (b) The equalization entitlement computed for a taxing unit is  
3 based on the population, relative ability to generate revenue, and  
4 local tax burden of the taxing unit and is determined by the applica-  
5 tion of the formula

6 Entitlement = P x R

7 where P = population, and

8 R = millage rate equivalent, determined by dividing the sum  
9 of the locally generated revenue of the taxing unit by one-tenth of  
10 one percent of the full and true value of assessed property of the  
11 taxing unit determined under AS 29.60.030(d); however, the per capita  
12 property value used under this subsection may not be less than 15  
13 percent of the statewide average per capita full and true assessed  
14 property value.

15 (c) For purposes of this section, locally generated revenue

16 (1) includes

17 (A) the actual revenue derived from the levy and  
18 collection of local taxes in the taxing unit for municipal ser-  
19 vices during the preceding fiscal year of the taxing unit;

20 (B) motor vehicle payments received by the municipal-  
21 ity during the preceding fiscal year under AS 28.10.431;

22 (C) revenue from fees, rentals, leases, penalties,  
23 licenses or permits received during the preceding fiscal year by  
24 the municipality for a function or service over which it has con-  
25 trol, including revenues derived from parks and recreation ser-  
26 vices, mass transit, offstreet parking, and garbage and solid  
27 waste disposal services;

28 (D) special assessments received during the preceding  
29 fiscal year; and

1 (E) payments received by a municipality from a utility  
2 that are in place of taxes levied and collected by the municipal-  
3 ity;

4 (2) excludes

5 (A) revenue derived from the levy and collection of  
6 municipal taxes and appropriated for the operating expenses and  
7 debt service of utilities;

8 (B) revenue from interest earned on investments and  
9 from the sale and lease of land or equipment; and

10 (C) all other revenue from whatever service derived.

11 Sec. 29.60.020. DETERMINATION OF POPULATION. For purposes of  
12 AS 29.60.010 - 29.60.080, the population of a taxing unit shall be  
13 determined annually by the latest figures of the United States Bureau  
14 of the Census or other population data that in the judgment of the  
15 department is reliable.

16 Sec. 29.60.030. DETERMINATION OF MILLAGE RATE EQUIVALENT. (a)  
17 The department may require a municipality to return a certification,  
18 signed by the municipal treasurer or manager and the mayor, that pro-  
19 vides an estimate of the locally generated revenue received by the  
20 municipality during the preceding fiscal year.

21 (b) By October 15 of each year, the department shall make an  
22 initial determination of the millage rate equivalent of each taxing  
23 unit to be used for computing and distributing equalization entitle-  
24 ments for the current fiscal year under AS 29.60.010 - 29.60.080. The  
25 department shall base the initial determination on the estimates in  
26 the certification returned by a municipality under (a) of this sec-  
27 tion.

28 (c) As early as possible, but not later than December 15 of each  
29 year, the department shall make a final determination of the millage

1 rate equivalent of each taxing unit to use to compute and distribute  
2 equalization entitlements under AS 29.60.010 - 29.60.080. The depart-  
3 ment shall base the determination on audits, financial statements and  
4 other financial reports prepared and submitted by a municipality. The  
5 department shall adjust the locally generated revenue reported by a  
6 municipality to exclude the municipal revenue claimed that does not  
7 qualify for inclusion in or recognition as locally generated revenue  
8 for municipal purposes under AS 29.60.010(c)(1). The adjustment shall  
9 be made by deducting from total revenue claimed by the municipality  
10 the amount of the department's estimate of revenue that is not recog-  
11 nized for municipal purposes.

12 (d) The full and true assessed property value shall be deter-  
13 mined by the department in the manner provided for the computation of  
14 state aid to education under AS 14.17.140. When the determination of  
15 locally generated revenue includes revenue of a utility received under  
16 AS 29.60.010(c)(1)(E), the full and true assessed property value shall  
17 include the computed assessed value of the utility, determined by  
18 dividing the amount of the payment in place of taxes made by the  
19 utility by the millage rate that would apply to the utility if the  
20 utility were subject to levy and collection of taxes under AS 29.45.

21 (e) In addition to the computation for municipalities that levy  
22 and collect a property tax, the department shall determine an esti-  
23 mated full and true assessed property value under (d) of this section  
24 for

25 (1) each municipality that is a school district and that  
26 does not levy and collect a property tax;

27 (2) each second class city with a population of 750 or more  
28 persons; however, a computation is not required under this paragraph  
29 more often than once during a period of three successive calendar

1 years; and

2 (3) all other second class cities, by determining the  
3 average per capita full and true assessed property value of all cities  
4 having a population of less than 750 persons in which an assessment  
5 has been completed by a municipality or for which a determination is  
6 not made under (1) or (2) of this subsection.

7 (f) The department shall annually compute a statewide average  
8 per capita full and true assessed property value.

9 Sec. 29.60.040. REPORTS. A payment of an equalization entitle-  
10 ment may not be made to a municipality under AS 29.60.010 - 29.60.080  
11 until the municipality has submitted its certificate of estimated  
12 revenue and its financial report to the department for the fiscal year  
13 preceding the year for which the equalization entitlement is sought,  
14 together with a budget for the municipality's current fiscal year.  
15 The financial report shall include a listing of general revenue col-  
16 lected from taxes levied and assessed and any other revenue that, in  
17 the opinion of the municipal officials, is eligible for inclusion in  
18 computations of the locally generated revenue of the taxing unit.

19 Sec. 29.60.050. LIMITATION ON COMPUTATION AND USE OF PAYMENTS.  
20 (a) An equalization entitlement generated by the tax levy of a taxing  
21 unit may be used only for authorized expenditures of that taxing unit,  
22 but up to 15 percent of the payment of an equalization entitlement  
23 generated by areawide revenue of a municipality may be used by the  
24 municipality for areawide or nonareawide purposes at the discretion of  
25 its governing body. This subsection applies to home rule and general  
26 law municipalities.

27 (b) An equalization entitlement determined with reference to  
28 revenue other than revenue obtained from the levy and collection of  
29 taxes may be used for areawide or nonareawide purposes, at the

1 discretion of the governing body.

2 Sec. 29.60.060. TAX EQUALIZATION ACCOUNT. The tax equalization  
3 account is established. Money to carry out the provisions of AS 29.-  
4 60.010 - 29.60.080 shall be allocated by the department to the ac-  
5 count. The amount allocated to the account shall be fully distributed  
6 by the department as payments to municipalities to fulfill each share  
7 authorized under AS 29.60.010. The amount allocated to the account  
8 shall be distributed by the department pro rata among eligible munici-  
9 palities.

10 Sec. 29.60.070. ADMINISTRATION. (a) The department may adopt  
11 regulations necessary to implement AS 29.60.010 - 29.60.080. The  
12 regulations shall include, among other provisions,

13 (1) procedures and filing dates for submitting certifica-  
14 tion and financial reports;

15 (2) procedures for obtaining information required to com-  
16 pute and determine the municipality's millage rate equivalent; and

17 (3) procedures by which the department shall notify a  
18 municipality in writing of the reasons for a proposed disallowance or  
19 adjustment of any factor bearing upon the determination of the muni-  
20 cipality's entitlement and by which the municipality will be provided  
21 reasonable time in which to respond or to challenge the department's  
22 determination.

23 (b) The department shall make reasonable efforts to advise and  
24 assist municipalities in collecting information and completing reports  
25 necessary for the determination of entitlements under AS 29.60.010 -  
26 29.60.080.

27 (c) The department shall, by regulation, classify for inclusion  
28 or exclusion as a component of a municipality's millage rate equiva-  
29 lent under AS 29.60.010 any tax revenue appropriated for a utility not

1 included in the definition set out in AS 29.60.080(2).

2 Sec. 29.60.080. DEFINITIONS. In AS 29.60.010 - 29.60.080

3 (1) "taxing unit" means a municipality and

4 (A) in a borough or unified municipality, a service  
5 area or the entire area outside cities;

6 (B) in a city, a differential tax zone;

7 (2) "utility" means electric, water, sewer, gas heat, tele-  
8 phone, or refuse and garbage collection service.

9 ARTICLE 2. STATE AID FOR MISCELLANEOUS PURPOSES.

10 Sec. 29.60.100. REVENUE SHARING PAYABLE. In addition to the  
11 equalization entitlements paid under AS 29.60.010 - 29.60.080, during  
12 each fiscal year the department shall pay aid

13 (1) to a municipality or other eligible recipient that has  
14 the power to provide the services described in AS 29.60.110 - 29.60.-  
15 130 and exercises the power in the manner required by AS 29.60.100 -  
16 29.60.180;

17 (2) to an unincorporated community under AS 29.60.140.

18 Sec. 29.60.110. STATE AID TO MUNICIPALITIES FOR ROADS. (a) The  
19 department shall pay to a municipality that has power to provide for  
20 road maintenance and exercises that power, \$2,500 a mile for each mile  
21 of road, street, or highway maintained by the municipality, excluding  
22 (1) the official state highway system, (2) roads, streets, or highways  
23 not dedicated to public use, (3) roads, streets, or highways main-  
24 tained under the local service road program (AS 19.30.111 - 19.30.-  
25 251), and (4) alleyways, in accordance with regulations adopted by the  
26 Department of Transportation and Public Facilities. A payment may not  
27 be made under this subsection for maintenance of a road that is not  
28 used by automotive equipment.

29 (b) A frozen waterway and a connection from an inhabited area to

1 a waterway that may be safely used for public transportation by auto-  
2 motive equipment and is so used during a portion of a year is eligible  
3 for a payment of \$1,500 per mile if the waterway and connection are  
4 maintained during the period of use by a municipality or combination  
5 of municipalities. The department, after consultation with the De-  
6 partment of Transportation and Public Facilities, shall determine  
7 which waterways and connections qualify and, where the waterways or  
8 connections lie outside the corporate limits of a municipality, which  
9 municipalities shall receive the payments under this subsection,  
10 unless the municipalities involved have agreed in writing to a partic-  
11 ular distribution.

12 Sec. 29.60.120. STATE AID TO MUNICIPALITIES AND OTHER ELIGIBLE  
13 RECIPIENTS FOR HEALTH FACILITIES AND HOSPITALS. (a) The department  
14 shall pay

15 (1) to a municipality that has the power to provide hospi-  
16 tal facilities and services and that exercises that power, \$1,000 per  
17 bed for each bed actually used for patient care, limited to the number  
18 of beds provided for in the construction design of the hospital, or  
19 \$250,000 a hospital for those hospitals with 10 or more beds, or  
20 \$50,000 a hospital for those hospitals with less than 10 beds, as the  
21 municipality may elect; money received under this paragraph may be  
22 used only for hospitals and shall be apportioned among qualifying  
23 hospitals as the municipality determines;

24 (2) on the basis set out in (1) of this subsection to a  
25 municipality for a nonprofit hospital not operated by a municipality  
26 if the municipality first certifies to the department that the non-  
27 profit hospital is in compliance with all standards for hospitals that  
28 have been adopted by the municipality; money may not be paid on behalf  
29 of a nonprofit hospital without this certification; payments to the

1       municipality shall be transferred to the nonprofit hospital in accor-  
2       dance with the basis by which the payment was generated by the hospi-  
3       tal, and shall be applied to the annual cost of operation and mainte-  
4       nance of the hospital or for the provision of health care service at  
5       the hospital as the directors of the hospital determine;

6               (3) to a municipality in which a licensed health facility  
7       is operated, \$2,000 per bed for each bed actually used for patient  
8       care, limited to the number of beds provided for in the construction  
9       design of the health facility, or \$8,000 per health facility as the  
10      municipality determines.

11             (b) A hospital may not receive payment under both (a)(1) and  
12      (a)(2) of this section.

13             (c) Money received by a municipality under (a)(3) of this sec-  
14      tion shall be used for expenses of health services or operation and  
15      maintenance of health facilities as the municipality determines.

16             (d) Before money may be distributed under this section, the com-  
17      missioner of health and social services shall certify to the commis-  
18      sioner of community and regional affairs that any accumulation of  
19      assets by nonprofit corporations or other recipients under this sec-  
20      tion is dedicated irrevocably to a public purpose.

21             (e) Subsections (a) and (c) of this section apply to home rule  
22      and general law municipalities.

23             (f) In this section

24               (1) "health facility"

25                     (A) means a facility that is licensed or certified by  
26                     the state or approved under regulations adopted by the department  
27                     and that is owned or operated or both by a municipality or by a  
28                     nonprofit corporation or other nonprofit sponsor;

29                     (B) includes a public health center, maternity home,

1 community mental health center, facility for the mentally or  
2 physically handicapped, nursing home, convalescent center,  
3 domestic violence or sexual assault shelter qualified to receive  
4 a grant or contract under AS 18.66, or alcohol or drug abuse  
5 facility that meets standards established under AS 47.37;

6 (C) excludes a facility operated or wholly supported  
7 by the state or the federal government;

8 (2) "hospital" means a licensed hospital determined by the  
9 Department of Health and Social Services to be a general or special  
10 hospital; the term excludes a facility operated or wholly supported by  
11 the state or the federal government.

12 Sec. 29.60.130. STATE AID TO VOLUNTEER FIRE DEPARTMENTS NOT IN  
13 ORGANIZED MUNICIPALITY. (a) The department shall pay to a volunteer  
14 fire department registered with the state fire marshal and serving an  
15 area not in an organized municipality a sum for protection purposes  
16 equal to \$10 per capita for the population served by the fire depart-  
17 ment, as determined by the state fire marshal.

18 (b) A grant shall be made under (a) of this section to facili-  
19 tate the organization of a volunteer fire department in an area not in  
20 an organized municipality, upon application of the proposed fire  
21 protection group to the state fire marshal and upon approval of appli-  
22 cations according to standards of organization and service prescribed  
23 by regulations adopted by the state fire marshal.

24 Sec. 29.60.140. STATE AID TO UNINCORPORATED COMMUNITIES. (a)  
25 The department shall pay to each unincorporated community an entitle-  
26 ment of \$25,000 each fiscal year to be used for a public purpose. The  
27 department with advice from the Department of Law shall determine  
28 whether there is in each unincorporated community an incorporated  
29 nonprofit entity or a Native village council that will agree to

1 receive and spend the entitlement. If there is more than one  
2 qualified entity in an unincorporated community, the department shall  
3 pay the money under the entitlement to the entity that the department  
4 finds most qualified to receive and spend the money. The department  
5 may not pay money under an entitlement to a Native village council  
6 unless the council waives immunity from suit for claims arising out of  
7 activities of the council related to the entitlement. A waiver of  
8 immunity from suit under this subsection must be on a form provided by  
9 the Department of Law. If there is no qualified incorporated  
10 nonprofit entity or Native village council in an unincorporated  
11 community that is willing to receive money under an entitlement, the  
12 entitlement for that unincorporated community may not be paid.  
13 Neither this subsection nor any action taken under it enlarges or  
14 diminishes the governmental authority or jurisdiction of a Native  
15 village council.

16 (b) In this section "unincorporated community" means a place in  
17 the unorganized borough that is not incorporated as a city and in  
18 which 25 or more persons reside as a social unit.

19 Sec. 29.60.150. POPULATION DETERMINATION. For purposes of  
20 AS 29.60.100 - 29.60.180, population shall be determined by the latest  
21 figures of the United States Bureau of the Census or other population  
22 data that in the judgment of the department is reliable.

23 Sec. 29.60.160. AREA COST-OF-LIVING DIFFERENTIAL. (a) Payments  
24 to a municipality or other eligible recipient under AS 29.60.110 -  
25 29.60.130 shall reflect area cost-of-living differentials. Payments  
26 shall be based on the sum of per capita, per mile and per bed or  
27 facility grants due each municipality or other recipient multiplied by  
28 the appropriate area cost-of-living differential. The area cost-of-  
29 living differential for each recipient shall be determined annually by

1 election district under the provisions of AS 39.27.030. Application  
2 of the area cost-of-living differential may not result in distribution  
3 of an amount less than the amount of the payment determined without  
4 reference to application of this section.

5 (b) The election districts used to establish area cost-of-living  
6 differentials under (a) of this section are those designated by the  
7 proclamation of reapportionment and redistricting of December 7, 1961,  
8 and retained for the house of representatives by proclamation of the  
9 governor September 3, 1965.

10 Sec. 29.60.170. MISCELLANEOUS SERVICES ACCOUNT. The miscella-  
11 neous services account is established. Money to carry out the provi-  
12 sions of AS 29.60.100 - 29.60.180 shall be allocated by the department  
13 to the account in accordance with AS 29.60.280. If amounts in the  
14 account are insufficient to pay each municipality's or other recip-  
15 ient's share authorized under AS 29.60.100 - 29.60.180, the amounts  
16 that are available shall be distributed pro rata among eligible muni-  
17 cipalities and other recipients.

18 Sec. 29.60.180. REGULATIONS. The department shall adopt regula-  
19 tions necessary to carry out the purposes of AS 29.60.100 - 29.60.180.  
20 The regulations shall include minimum standards required to qualify a  
21 municipality or other recipient for payments for each service. The  
22 department may require a municipality or other recipient to submit a  
23 performance report adequate to demonstrate to the department that a  
24 service for which payment is requested under AS 29.60.100 - 29.60.180  
25 was performed by the municipality or other recipient and meets minimum  
26 standards of service prescribed by regulation.

27 ARTICLE 3. ADMINISTRATION OF STATE AID PROGRAMS.

28 Sec. 29.60.280. ALLOCATION AND DISTRIBUTION. (a) Each year,  
29 the department shall allocate money appropriated to the accounts

1 established in AS 29.60.060, 29.60.170, and former AS 29.90.020 in the  
2 amounts determined by the legislature.

3 (b) Money in the miscellaneous services account established in  
4 AS 29.60.170 that exceeds the amount required to fully fund distribu-  
5 tions authorized by AS 29.60.100 - 29.60.180 shall be reallocated to  
6 the tax equalization account established in AS 29.60.060 and distri-  
7 buted according to the provisions of AS 29.60.010 - 29.60.080.

8 (c) Money in the hospital and health facility construction  
9 assistance account established in former AS 29.90.020 that exceeds the  
10 amount required to fully fund distributions authorized by sec. 9, ch.  
11 95, SLA 1983 shall be reallocated to the tax equalization account  
12 established in AS 29.60.060 and distributed according to the provi-  
13 sions of AS 29.60.010 - 29.60.080.

14 Sec. 29.60.290. QUALIFICATION FOR MINIMUM PAYMENT. (a) A  
15 municipality qualifying for an entitlement under AS 29.60.010 - 29.-  
16 60.080 or 29.60.100 - 29.60.180 shall receive a minimum payment of  
17 \$25,000 plus an area cost-of-living differential for each fiscal year  
18 if

19 (1) the municipality has conducted a regular election  
20 during the fiscal year preceding the year for which payment of an  
21 entitlement is authorized by AS 29.60.010 - 29.60.080 or 29.60.100 -  
22 29.60.180 and has reported the results of the election to the commis-  
23 sioner;

24 (2) regular meetings of the governing body are held in the  
25 municipality during the fiscal year preceding the year for which  
26 payment of an entitlement is authorized by AS 29.60.010 - 29.60.080 or  
27 29.60.100 - 29.60.180 and a record of the proceedings is maintained;

28 (3) a municipal budget has been adopted for the fiscal year  
29 during which payment of an entitlement is authorized by AS 29.60.010 -

1 29.60.080 or 29.60.100 - 29.60.180 and an audit or financial statement  
2 for the preceding fiscal year has been prepared and furnished to the  
3 department in accordance with AS 29.20.640(a); and

4 (4) local ordinances adopted by the municipality have been  
5 codified in accordance with AS 29.25.050.

6 (b) The area cost-of-living differential payable to each municipi-  
7 pality under this section shall be determined annually by election  
8 district under the provisions of AS 39.27.030. Except as provided in  
9 AS 29.60.300, application of the area cost-of-living differential may  
10 not result in a payment that is less than the minimum payment deter-  
11 mined under (a) of this section. For purposes of this subsection, the  
12 election districts used are those designated by the proclamation of  
13 reapportionment and redistricting of December 7, 1961, and retained  
14 for the house of representatives by proclamation of the governor  
15 September 3, 1965.

16 (c) The department shall pay to each municipality eligible to  
17 receive a minimum payment under this section an amount equal to the  
18 difference between the minimum payment determined under (a) and (b) of  
19 this section and the sum of the amounts payable for the same fiscal  
20 year under AS 29.60.010 - 29.60.080 and 29.60.100 - 29.60.180.

21 (d) A payment under this section may be prorated and reduced  
22 under AS 29.60.300.

23 (e) Payments under this section shall be made from the money  
24 allocated to the tax equalization account established in AS 29.60.060.

25 Sec. 29.60.300. PRORATION OF PAYMENTS. (a) Payments under  
26 AS 29.60.290 and 29.60.010 - 29.60.180 shall equal the amount allo-  
27 cated to the tax equalization account (AS 29.60.060), adjusted in  
28 accordance with AS 29.60.280.

29 (b) Adjustments of payments shall be determined by prorating

1 amounts payable under AS 29.60.290 and amounts payable under AS 29.-  
2 60.010 - 29.60.180 by a factor that, when applied, reduces all pay-  
3 ments in equal proportion so that payment under AS 29.60.290 and  
4 payments under AS 29.60.010 - 29.60.180 equal the amount allocated to  
5 the tax equalization account established in AS 29.60.060.

6 ARTICLE 4. MUNICIPAL ASSISTANCE.

7 Sec. 29.60.350. MUNICIPAL ASSISTANCE FUND. (a) There is estab-  
8 lished in the department the municipal assistance fund. The legisla-  
9 ture may appropriate to the municipal assistance fund during each  
10 fiscal year an amount equal to or greater than 30 percent of the  
11 income tax revenue received by the state under AS 43.20.011(e) for the  
12 previous fiscal year.

13 (b) The department shall distribute money from the municipal  
14 assistance fund to each municipality on an annual basis as provided in  
15 AS 29.60.360 and 29.60.370. A municipality may not receive payment  
16 until it submits to the department a resolution approved by the gov-  
17 erning body of the municipality that requests the money. Distribution  
18 of money from the municipal assistance fund to a municipality with a  
19 fiscal year beginning on January 1 shall be made on February 1 of the  
20 state fiscal year for which the appropriation to the fund is made.  
21 Distribution of money from the municipal assistance fund to all other  
22 municipalities shall be made on June 1 of the state fiscal year for  
23 which the appropriation to the fund is made. A municipality that  
24 incorporates after December 31 of a state fiscal year is not eligible  
25 for a distribution under this section until the following state fiscal  
26 year.

27 Sec. 29.60.360. BASE AMOUNT OF ASSISTANCE. (a) The base amount  
28 to be distributed from the municipal assistance fund to each munici-  
29 pality for the fiscal year shall be the amount received by the

1 municipality during fiscal year 1978 under AS 43.70.080. A city  
2 incorporated within a borough after June 30, 1977, shall receive as a  
3 base amount a share of the amount distributed to the borough in which  
4 it is located based on the ratio of population in the city to the  
5 total population in the borough. A city incorporated outside a  
6 borough after June 30, 1977, shall receive as a base amount the amount  
7 received by the city in the state most closely approximating it in  
8 population at the time of its incorporation. A borough incorporated  
9 after June 30, 1977, shall receive as a base amount the amount re-  
10 ceived by the borough in the state most closely approximating it in  
11 population at the time of its incorporation.

12 (b) If the amount appropriated to the municipal assistance fund  
13 by the legislature during a fiscal year is insufficient for distri-  
14 bution of the full base amount to each municipality, the department  
15 shall prorate the amount available for distribution on the basis of  
16 amounts received during the fiscal year 1978 under AS 43.70.080.

17 Sec. 29.60.370. INCREASED ASSISTANCE. (a) If the amount in the  
18 municipal assistance fund at the time of distribution exceeds the base  
19 amount to be distributed under AS 29.60.360, the excess amount shall  
20 be distributed to each municipality on the basis of population.  
21 Population for the purpose of this section shall be as certified by  
22 the commissioner of community and regional affairs. In determining  
23 the population of a borough, the population of all cities in the  
24 borough shall be deducted from the total population of the borough.

25 (b) The intent of (a) of this section is that a municipality  
26 that levies property taxes reduce those levies in reasonable propor-  
27 tion to the amount of increased state aid received by the municipal-  
28 ity. The governing body of each municipality shall furnish a notice  
29 with each tax statement describing its use of this increased state

1 aid.

2 ARTICLE 5. COMMUNITY FACILITIES GRANTS.

3 Sec. 29.60.400. GRANTS FOR COMMUNITY FACILITIES. (a) Within  
4 the limits of appropriations for the purpose the Department of Com-  
5 merce and Economic Development shall make matching grants in accor-  
6 dance with the provisions of AS 29.60.410 - 29.60.440 to municipal-  
7 ities or their nonprofit designees equal to

8 (1) 50 percent of the estimated reasonable costs of con-  
9 struction of municipal civic, convention, and community recreation  
10 centers; and

11 (2) 50 percent of the cost of feasibility studies relating  
12 to the construction of municipal civic, convention, and community  
13 recreation centers.

14 (b) A grant may be made under this section only to a municipal-  
15 ity with the power to implement the study or project for which the  
16 grant is authorized or to its nonprofit designee. A grant for only  
17 one study and one project may be awarded to a municipality or its  
18 designee under this section.

19 (c) In this section "costs of construction" means, in addition  
20 to costs directly related to a project, the sum of all costs of fi-  
21 nancing and carrying out the project, including the costs of all  
22 necessary studies, surveys, plans and specifications, architectural,  
23 engineering or other special services, acquisition of real property,  
24 site preparation and development, purchase, construction, recon-  
25 struction and improvement of real property and the acquisition of  
26 machinery and equipment necessary to the project; an allocable portion  
27 of the administrative and operating expenses of the grantee; and the  
28 cost of financing the project, including interest on bonds issued to  
29 finance the project, the cost of indemnity and surety bonds, premiums

1 on insurance, legal fees, fees and expenses of trustees, depositaries,  
2 financial advisors, and the costs associated with the issuance of  
3 bonds. It does not include the cost of feasibility studies.

4 Sec. 29.60.410. GRANT PROCEDURES. (a) An application for a  
5 grant under AS 29.60.400 shall be made in a form prescribed by the  
6 commissioner of commerce and economic development.

7 (b) A grant shall be allotted in accordance with an agreement  
8 made between the commissioner of commerce and economic development on  
9 behalf of the state and the grantee. The agreement may include any  
10 provision agreed upon by the parties and shall include in substance  
11 the following provisions:

12 (1) estimates of reasonable costs of the study or project  
13 as approved by the commissioner after consultation with the Department  
14 of Transportation and Public Facilities;

15 (2) a schedule of disbursements of money from the grant if  
16 the commissioner determines that the grant money is not to be dis-  
17 bursed in one sum;

18 (3) agreement by the grantee

19 (A) to proceed with and complete the proposed study or  
20 project expeditiously;

21 (B) not to discontinue operation or dispose of all or  
22 part of a community facility for which it receives a grant with-  
23 out the approval of the commissioner;

24 (C) to apply for and make reasonable efforts to secure  
25 federal assistance that may be available for the study or proj-  
26 ect, subject to any conditions the commissioner may require to  
27 maximize the amounts of that assistance available for all proj-  
28 ects in the state;

29 (D) to provide for payment of the grantee's share of

1 the cost of the study or project;

2 (E) that, if federal assistance for a study or project  
3 becomes available to the grantee that was not included in the  
4 calculation of the amount of the grant, the value of the federal  
5 assistance shall be subtracted from the total value of the proj-  
6 ect and the balance shall be equally divided between the grantee  
7 and the state;

8 (4) alteration or modification of an approved study or  
9 project;

10 (5) alteration or modification of an existing facility that  
11 would have qualified for a grant at the time of initial construction  
12 if AS 29.60.400 - 29.60.440 had been in effect;

13 (6) remedies in case of failure to perform the agreement or  
14 noncompliance with regulations adopted under AS 29.60.420.

15 (c) The commissioner of commerce and economic development shall  
16 require in negotiations and in each grant agreement that continued  
17 maintenance of the community facility is the responsibility of the  
18 municipality. The municipality must show the feasibility of continu-  
19 ing to maintain the facility before state money may be authorized for  
20 a grant.

21 Sec. 29.60.420. POWERS AND DUTIES OF THE COMMISSIONER. (a) The  
22 commissioner of commerce and economic development shall provide an  
23 annual report to the legislature about grants made under AS 29.60.400.

24 (b) The commissioner of commerce and economic development shall  
25 adopt regulations to carry out the purposes of AS 29.60.400 - 29.60.-  
26 440.

27 Sec. 29.60.430. ALLOCATION OF MONEY. If the amount of money  
28 appropriated by the legislature for grants under AS 29.60.400 is not  
29 adequate to satisfy amounts required for approved grant applications,

1 money shall be allocated on the basis of priority established by  
2 regulations of the Department of Commerce and Economic Development.

3 Sec. 29.60.440. LIMITATION. AS 29.60.400 - 29.60.440 does not  
4 require that a recipient of a grant for a feasibility study must  
5 proceed with construction of the project, regardless of whether the  
6 project is determined to be feasible.

7 \* Sec. 17. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 65. GENERAL GRANT LAND.

9 Sec. 29.65.010. DETERMINATION OF ENTITLEMENT OF BOROUGHES AND  
10 UNIFIED MUNICIPALITIES. (a) The general grant land entitlement of  
11 each of the municipalities in this section is the amount set out  
12 opposite each:

- 13 (1) Municipality of Anchorage - 44,893 acres;
- 14 (2) City and Borough of Juneau - 19,584 acres;
- 15 (3) City and Borough of Sitka - 10,500 acres;
- 16 (4) Bristol Bay Borough - 2,898 acres;
- 17 (5) Fairbanks North Star Borough - 112,000 acres;
- 18 (6) Haines Borough - 2,870 acres;
- 19 (7) Kenai Peninsula Borough - 155,780 acres;
- 20 (8) Ketchikan Gateway Borough - 11,593 acres;
- 21 (9) Kodiak Island Borough - 56,500 acres;
- 22 (10) Matanuska-Susitna Borough - 355,210 acres;
- 23 (11) North Slope Borough - 89,850 acres.

24 (b) This section is a continuation of the provisions of former  
25 AS 29.18.201 and does not grant additional entitlements.

26 Sec. 29.65.020. DETERMINATION OF ENTITLEMENT FOR CITIES. (a)  
27 The general grant land entitlement of a city formerly eligible to  
28 receive general grant land under the provisions of former AS 29.18.190  
29 and 29.18.200 is 10 percent of the maximum total acreage of vacant,

1 unappropriated, unreserved land in the boundaries of each city at any  
2 time between the initial date of eligibility under former AS 29.18.190  
3 and 29.18.200 and July 1, 1978. Within six months after July 1, 1978,  
4 the director shall determine the entitlement for each city eligible to  
5 receive general grant land under former AS 29.18.202 and certify that  
6 entitlement to the city.

7 (b) This section is a continuation of the provisions of former  
8 AS 29.18.203 and does not grant additional entitlements to cities  
9 incorporated before January 1, 1986.

10 Sec. 29.65.030. DETERMINATION OF ENTITLEMENT FOR NEWLY INCOR-  
11 PORATED MUNICIPALITIES. (a) The general grant land entitlement of a  
12 municipality incorporated after July 1, 1978, is 10 percent of the  
13 total acreage of vacant, unappropriated, unreserved land within the  
14 boundaries of the municipality on the date of its incorporation.

15 (b) Within six months after the date of incorporation of a muni-  
16 cipality that is incorporated after July 1, 1978, the director shall  
17 determine the entitlement of each municipality eligible to receive  
18 general grant land under (a) of this section and certify the entitle-  
19 ment to the municipality.

20 (c) This section is a continuation of the provisions of former  
21 AS 29.18.203 and does not grant additional entitlements to  
22 municipalities incorporated before January 1, 1986.

23 Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After July 1,  
24 1978, general grant land entitlements provided in former AS 29.18.201  
25 and former AS 29.18.202 are vested property rights that must be  
26 fulfilled as provided in AS 29.65.050 or 29.65.080.

27 (b) General grant land entitlements provided by AS 29.65.030 are  
28 property rights that vest on the date of incorporation of the muni-  
29 cipality. The entitlement must be fulfilled as provided in

1 AS 29.65.050.

2 (c) Land may be selected or nominated for selection by a municipi-  
3 pality to satisfy a general grant land entitlement under former  
4 AS 29.18.201 and 29.18.202 at any time before October 1, 1980. How-  
5 ever, if a municipal selection or nomination or a part of a municipal  
6 selection or nomination is rejected by the director, the municipality  
7 may, not later than 90 days after receipt of the rejection, select  
8 additional state land as necessary to satisfy its entitlement.

9 (d) Land may be selected by a municipality to satisfy a general  
10 grant land entitlement under AS 29.65.030 at any time within one year  
11 after the director certifies the entitlement to the municipality.

12 (e) The time limitations imposed by (c) and (d) of this section  
13 for exercising a vested general grant land entitlement do not apply to

14 (1) the portion of an entitlement that cannot be satisfied  
15 by that date because of a shortage of land suitable for residential,  
16 commercial, and industrial purposes that is vacant, unappropriated,  
17 unreserved land;

18 (2) payments for land deficiency under AS 29.65.080;

19 (3) the portion of an entitlement that cannot be satisfied  
20 because the land selected by a municipality has been selected by a  
21 party entitled to select land owned by the United States or the state;  
22 or

23 (4) the portion of an entitlement that cannot be satisfied  
24 because the land nominated for selection by the municipality is not  
25 tentatively approved for patent to the state.

26 Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS. (a) The  
27 acreage of each municipality's land selections for which patent has  
28 been issued before July 1, 1978, shall be credited toward fulfillment  
29 of the entitlement of that municipality.

1           (b) All approved selections under former AS 29.18.190 and 29.-  
2 18.200 for which patent has not been issued to a municipality on  
3 July 1, 1978, shall be reviewed by the director within nine months  
4 after July 1, 1978. Any approved selection of land that was vacant,  
5 unappropriated, or unreserved on the date of selection is valid as of  
6 the date of the approval under former AS 29.18.190 and 29.18.200, and  
7 a patent shall be issued to the municipality within three months after  
8 approval by the director of a plat of survey. The acreage shall be  
9 credited toward fulfillment of the municipality's entitlement. A  
10 municipality is not entitled to receive patent under this chapter to  
11 more than its entitlement determined under AS 29.65.010 - 29.65.030.  
12 Any prior approval by the director of municipal selections for land  
13 that was not vacant, unappropriated, or unreserved on the date of  
14 selection shall be rescinded, and patent may not be issued except when  
15 disposal to a third party by sale or lease has occurred. Transfers of  
16 land to municipalities under this chapter are subject to AS 38.05.321.  
17 Classification actions as reflected on the land status records of the  
18 Department of Natural Resources are determinative of land classifica-  
19 tion status for purposes of this chapter.

20           (c) The director shall approve each selection for patent within  
21 nine months of its selection by a municipality, and a patent shall be  
22 issued to the municipality for land selected in satisfaction of a  
23 general grant land entitlement vested under AS 29.65.010 - 29.65.030  
24 within three months after approval by the director of a plat of sur-  
25 vey.

26           Sec. 29.65.060. SCHOOL AND MENTAL HEALTH LAND. (a) If an  
27 entitlement determined under AS 29.65.010 or 29.65.020 results in a  
28 per capita entitlement for the municipality of less than one and  
29 one-half acre, the municipality may select vacant school or mental

1 health land in the municipality in partial fulfillment of its land  
2 entitlement under this chapter. School or mental health land may be  
3 selected notwithstanding the fact that this land is not unappropriated  
4 and unreserved within the meaning of this chapter and under former  
5 AS 29.18.190 and 29.18.200, but each selection of school or mental  
6 health land by a municipality must be vacant, unappropriated, or  
7 unreserved land as defined in this chapter, except that it need not be  
8 general grant land.

9 (b) The acreage of school, university or mental health land, if  
10 any, in a municipality may not be included in the determination of  
11 entitlement under AS 29.65.010 or 29.65.020.

12 (c) Land conveyed under this section will be credited against a  
13 municipality's remaining land entitlement under this chapter.

14 (d) Within six months after approval of a municipal selection of  
15 school or mental health land, the director shall identify state  
16 general grant land of approximately equal value to the land requested  
17 by the municipality and shall propose the replacement land for the  
18 concurrence of the appropriate board. If a proposal by the director  
19 is rejected by the board, the director shall meet with the board as  
20 often as necessary to determine the type and amount of equal value  
21 replacement land that would be required to obtain the board's concur-  
22 rence, and shall propose the replacement land for consideration by the  
23 board. The replacement land shall thereafter be managed for the pur-  
24 poses for which the land selected by the municipality was acquired by  
25 the Territory and State of Alaska.

26 (e) The notice provisions of AS 38.05.945 apply to the designa-  
27 tion of other general grant land as school, university or mental  
28 health land in replacement of land selected under this section. The  
29 provisions of AS 38.50 do not apply to such designations under this

1 section.

2 (f) For purposes of determining the per capita entitlement under  
3 (a) of this section, the population of a municipality shall be the  
4 population determined by the commissioner under former AS 43.18.010  
5 for the program year beginning July 1, 1978, for a municipality whose  
6 entitlement was determined under former AS 29.18.201 or 29.18.202.

7 Sec. 29.65.070. SELECTION AND CONVEYANCE PROCEDURE. (a) If  
8 land selected by a municipality is unsurveyed at the time of approval,  
9 the director shall survey, or may approve the municipality's survey  
10 of, the exterior boundaries of an approved selection without interior  
11 subdivision, and shall issue patent in terms of the exterior boundary  
12 survey. The cost of the survey shall be borne by the municipality.  
13 If land selected by a municipality has been surveyed at the time of  
14 its selection, the boundaries shall conform to the public land subdivi-  
15 sions established by the approved survey.

16 (b) The director may approve municipal selections of land that  
17 have been tentatively approved or patented to the state by the federal  
18 government but may not issue patent to a municipality until the land  
19 has first been patented to the state. After approval of a selection  
20 by the director, but before patent to a municipality, the municipality  
21 may execute conditional leases and make conditional sales only with  
22 the consent of the director. Conditional sales and conditional leases  
23 made before July 1, 1978, do not require the consent of the director.

24 (c) Nothing in this chapter affects a valid existing claim,  
25 location, or entry under the laws of the state or the United States  
26 whether for homestead, mineral, right-of-way, or other purposes.  
27 Nothing in this chapter affects the rights of an owner, claimant,  
28 locater, or entryman to the full use and enjoyment of the land so  
29 occupied.

1           Sec. 29.65.080. PAYMENT FOR LAND DEFICIENCY. (a) The Alaska  
2 municipal land account is established in the general fund for the  
3 following purposes:

4           (1) providing payment to the boroughs and unified muni-  
5 cipalities designated in AS 29.65.010 for a deficiency of land phys-  
6 ically suitable for residential, commercial, or industrial purposes;  
7 or

8           (2) providing payment to the boroughs and unified muni-  
9 cipalities designated in AS 29.65.010 for certain general grant lands  
10 selected by the state and conveyed to a Native corporation under the  
11 provisions of the Alaska Native Claims Settlement Act.

12           (b) A municipality shall receive payment for its land deficiency  
13 from the municipal land account. A municipality is eligible to re-  
14 ceive payment for land deficiency if, after July 1, 1980, the amount  
15 of land selected by a municipality that is physically suitable for  
16 residential, commercial, or industrial purposes amounts to less than  
17 one-third acre per capita. Any entitlement under AS 29.65.010 that is  
18 less than one-third acre per capita will, for the purposes of this  
19 subsection, be considered a land deficiency. An unselected remaining  
20 entitlement will, for the purpose of deficiency payment under this  
21 subsection, be considered as land physically suitable for residential,  
22 commercial, or industrial purposes. A municipality eligible under  
23 this subsection is entitled to receive a payment for land deficiency  
24 equal to \$1,000 per acre for a number of acres equal to the difference  
25 between one-third of the population of the municipality less the  
26 number of acres physically suitable for residential, commercial or  
27 industrial purposes that has been selected by the municipality. For  
28 the purpose of this subsection, the population of the municipality  
29 shall be the population determined in accordance with AS 29.65.060(f).

1 No payment may be made to a municipality under this subsection in  
2 excess of \$9,000,000.

3 (c) If a municipality selected vacant, unappropriated, unre-  
4 served land on or before December 18, 1971, to which the state had  
5 received tentative approval or patent, and that land was also selected  
6 by a Native corporation organized under the Alaska Native Claims  
7 Settlement Act (P.L. 92-203), and title to that land is ultimately  
8 vested in that Native corporation, the municipality may, at its op-  
9 tion, request payment for land deficiency from the municipal land  
10 account. The acceptance of payment under this subsection by a muni-  
11 cipality constitutes a relinquishment of any other right, title, or  
12 claim to the land by that municipality. The total payment to a muni-  
13 cipality under this subsection may not exceed \$1,000 per acre to a  
14 maximum of 8,000 acres.

15 (d) The governor shall annually submit to the legislature a  
16 request for an appropriation to the municipal land account for the  
17 municipalities that have elected to receive payments under (b) or (c)  
18 of this section. The request for appropriation shall distinguish  
19 between amounts necessary to make payments for land deficiency under  
20 (b) of this section and those required to make payments for land  
21 deficiency under (c) of this section.

22 (e) For purposes of fulfilling entitlements under this section,  
23 the legislature is authorized to appropriate

24 (1) not more than \$4,000,000 per fiscal year, and not more  
25 than \$12,000,000 in total, for the purpose of paying entitlements  
26 under (b) of this section;

27 (2) not more than \$1,000,000 per fiscal year, and not more  
28 than \$8,000,000 in total, for the purpose of paying entitlements under  
29 (c) of this section.

1 (f) If an annual appropriation is not sufficient to meet the  
2 amount due to all municipalities that have elected to accept payment  
3 for land deficiency under (b) or (c) of this section, the governor  
4 shall apportion the appropriation among the municipalities in propor-  
5 tion to the payment calculated for each municipality for that year.  
6 When a distribution of payments is made under (c) of this section, the  
7 remaining entitlement of a municipality to which payment is made shall  
8 be reduced in an amount equal to the number of acres for which payment  
9 was received. An appropriation made under this section is in addition  
10 to other grants and entitlements authorized to eligible municipali-  
11 ties.

12 (g) Payments authorized by this section may not be made to a  
13 municipality eligible for an entitlement under AS 29.65.020 or 29.65.-  
14 030.

15 (h) Payments made under this section shall be used by a muni-  
16 cipality that levies property taxes to reduce the levy in proportion  
17 to the amount of state payments received by the municipality for a  
18 given fiscal year. The governing body of each municipality shall  
19 furnish a notice with the tax statement describing the effect on  
20 property tax levies of payments received under this section.

21 Sec. 29.65.090. AUTHORIZATION FOR LAND EXCHANGES. The director,  
22 and a municipality are authorized to exchange land or interests in  
23 land when it is in the public interest. Land or interests in land  
24 exchanged under this section must be of approximately equal value,  
25 including the nonmonetary value of public benefits. Exchange  
26 procedures shall comply with applicable law and municipal ordinances.  
27 The notice and review provisions of AS 38.05.945 apply to exchanges of  
28 land under this section. The provisions of AS 38.50 do not apply to  
29 exchanges of land under this section.

1           Sec. 29.65.100. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Con-  
2           sistent with the best interests of the state, if a municipality does  
3           not contain and cannot reasonably acquire sufficient nonfederal land  
4           within its boundaries to meet its legitimate needs for public or  
5           private settlement or development, it is the policy of the state to  
6           select federal land reasonably necessary to meet the needs of the  
7           municipality and to make the land selected available to the municipal-  
8           ity under AS 38.05.810 or (b) of this section.

9           (b) The state may contract with a municipality to act as its  
10          agent in an auction of state land under applicable statutes. When a  
11          municipality acts as the agent of the state in an auction, the munici-  
12          pality may retain from the proceeds of the auction the capital and  
13          other expenses that the director determines to be necessary and  
14          reasonable.

15          (c) Nothing in this chapter limits or impairs the authority of  
16          the director to transfer land to municipalities, without limit or  
17          consideration, for public purposes in accordance with AS 38.05.810.  
18          If there is a remaining entitlement of the municipality, land trans-  
19          ferred under AS 38.05.810 shall be credited toward fulfillment of the  
20          entitlement.

21          Sec. 29.65.110. ELECTION OF BENEFITS. (a) A municipality that  
22          on July 1, 1978, was engaged in litigation, or that becomes engaged in  
23          litigation, regarding a claim to state land under former AS 29.18.190  
24          or 29.18.200 shall elect either to obtain the benefits provided in  
25          this chapter or to pursue the litigation and waive any claim to en-  
26          titlement under this chapter. An election shall be made by filing a  
27          motion for dismissal with prejudice in the court in which the litiga-  
28          tion is pending. If the claim involves a municipality identified in  
29          AS 29.65.010, the municipality shall file its motion for dismissal

1 within 60 days after July 1, 1978. If a claim involves a city eligi-  
2 ble to receive an entitlement under AS 29.65.020, the city shall file  
3 its motion for dismissal within 60 days after receiving the certifi-  
4 cate of entitlement provided by the director under AS 29.65.020.  
5 Failure of the municipality to file a motion for dismissal during the  
6 time period provided in this subsection is considered a waiver of  
7 entitlement under this chapter.

8 (b) A municipality that was eligible to file land selections  
9 under former AS 29.18.190 or 29.18.200 and that does not enter into  
10 litigation over a claim to rights under those sections before the  
11 expiration of the time period within which it could make an election  
12 under (a) of this section is considered to have elected to receive  
13 benefits under this chapter and to have waived any claim that might  
14 have been raised under former AS 29.18.190 or 29.18.200.

15 (c) The provisions of this chapter do not affect the rights of a  
16 party to litigation regarding former AS 29.18.190, 29.18.200 or  
17 29.18.420 maintained by a municipality that has elected not to obtain  
18 the benefits provided by this chapter.

19 Sec. 29.65.120. ADMINISTRATION. The commissioner of natural  
20 resources may adopt regulations in accordance with the Administrative  
21 Procedure Act (AS 44.62) necessary to carry out the purposes of this  
22 chapter.

23 Sec. 29.65.130. DEFINITIONS. In this chapter, unless the con-  
24 text otherwise requires,

25 (1) "approved selection" means a municipal land selection  
26 that has been approved in writing by the director for transfer by  
27 patent to a municipality;

28 (2) "director" means the director of lands, Department of  
29 Natural Resources;

- 1                   (3) "general grant land"
- 2                   (A) means land patented or tentatively approved to the
- 3 state from the United States under sec. 6(a) or (b) of the Alaska
- 4 Statehood Act;
- 5                   (B) does not include university land;
- 6                   (4) "mental health land" means land granted under Title II,
- 7 sec. 202 of P.L. 84-830, as amended before or after July 1, 1978;
- 8                   (5) "municipal land selection" means a request by a munici-
- 9 pality, filed in writing with the director under authority of former
- 10 AS 29.18.190 and 29.18.200 or under this chapter for vacant, unappro-
- 11 priated, unreserved general grant land within its municipal boundaries
- 12 in partial fulfillment of its municipal entitlement;
- 13                   (6) "patent" means a document, issued by the director to a
- 14 municipality for a previously approved selection, that conveys and
- 15 quitclaims all the right, title, and interest of the state without
- 16 reservation or condition except as may be required by law;
- 17                   (7) "remaining entitlement" means the general grant land
- 18 entitlement determined in accordance with this chapter, reduced by the
- 19 total acreage of approved selections, including both patented and un-
- 20 patented parcels;
- 21                   (8) "school land" means those rectangular sections 16 and
- 22 36 within each township surveyed on or before January 3, 1959, and
- 23 confirmed and transferred to the State of Alaska upon its admission
- 24 under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other
- 25 land designated solely for school revenues;
- 26                   (9) "university land" has the meaning given in
- 27 AS 38.05.365;
- 28                   (10) "vacant, unappropriated, unreserved land" means general
- 29 grant land as defined in (3) of this section, excluding minerals as

1 required by sec. 6(i) of the Alaska Statehood Act, that

2 (A) has not been set aside by statute for one or more  
3 particular uses or purposes;

4 (B) has not been approved for patent to a municipality  
5 under this chapter or former AS 29.18.190 and 29.18.200; or

6 (C) is unclassified or, if classified under AS 38.05.-  
7 300, is classified for agricultural, grazing, commercial, indus-  
8 trial, private recreational, residential, utility, or open-to-  
9 entry purposes, or is classified in accordance with an agreement  
10 between a municipality and the state providing for state manage-  
11 ment of land of the municipality.

12 Sec. 29.65.140. APPLICATION. This chapter applies to home rule  
13 and general law municipalities.

14 \* Sec. 18. AS 29 is amended by adding a new chapter to read:

15 CHAPTER 71. GENERAL PROVISIONS.

16 Sec. 29.71.010. ADVERSE POSSESSION. A municipality may not be  
17 divested of title to real property by adverse possession.

18 Sec. 29.71.020. DEDICATION OF MUNICIPAL PROPERTY. Dedication of  
19 streets, rights-of-way, easements or other areas for public use may  
20 not be construed to require the municipality to maintain, improve or  
21 provide for municipal services in the area dedicated and the dedica-  
22 tion does not impose any liability on the municipality for the condi-  
23 tion of the area dedicated.

24 Sec. 29.71.030. TAXATION OF MUNICIPALITIES. No state law or  
25 regulation may assess or tax, or be construed to assess or tax, a  
26 municipality unless the law or regulation expressly provides that the  
27 municipality is to be assessed or taxed by the particular law or  
28 regulation.

29 Sec. 29.71.800. DEFINITIONS. In this title, unless otherwise

- 1 provided or the context otherwise requires,
- 2 (1) "areawide" means throughout a borough, both inside and  
3 outside all cities in the borough;
- 4 (2) "assembly" means the governing body of a borough;
- 5 (3) "borough" means a general law borough or a home rule  
6 borough;
- 7 (4) "city" means a general law first or second class city  
8 or a home rule city;
- 9 (5) "commissioner" means the commissioner of community and  
10 regional affairs;
- 11 (6) "consolidation" means dissolution of two or more muni-  
12 cipalities and their incorporation as a new municipality;
- 13 (7) "council" means the governing body of a city;
- 14 (8) "department" means the Department of Community and  
15 Regional Affairs;
- 16 (9) "election" means a regular or special municipal elec-  
17 tion and does not include a state election;
- 18 (10) "governing body" means the legislative body of a muni-  
19 cipality that is the assembly of a borough or the council of a city;
- 20 (11) "majority" means a simple majority;
- 21 (12) "merger" means dissolution of a municipality and its  
22 absorption by another municipality;
- 23 (13) "municipality" means a political subdivision incor-  
24 porated under the laws of the state that is a home rule or general law  
25 city, a home rule or general law borough, or a unified municipality;
- 26 (14) "nonareawide" means throughout the area of a borough  
27 outside all cities in the borough;
- 28 (15) "owner" or "record owner" means the owner of record or  
29 purchaser of record as shown in the records of the district recorder;

1           (16) "personal property" means tangible property other than  
2 real property, such as merchandise, stock in trade, machinery, equip-  
3 ment, furniture, fixtures, vehicles, boats, and aircraft;

4           (17) "property" means real and personal property;

5           (18) "published" means appearing at least once in a news-  
6 paper of general circulation distributed in the municipality or, if  
7 there is no newspaper of general circulation distributed in the muni-  
8 cipality, posting in three public places for at least five days;

9           (19) "real property" means land and improvements, all pos-  
10 sessory rights and privileges appurtenant to the property, and in-  
11 cludes personal property affixed to the land or improvements;

12           (20) "regular election" means the municipal election held on  
13 the first Tuesday of October annually, or on a different date or  
14 interval of years provided by ordinance or charter;

15           (21) "special election" means a municipal election and does  
16 not include a regular election or a state election;

17           (22) "street" includes streets, avenues, boulevards, roads,  
18 lanes, alleys, and other ways;

19           (23) "subdivision"

20           (A) means the division of a parcel of land into two or  
21 more lots or other divisions for the purpose of sale or building  
22 development, includes resubdivision, and relates to the process  
23 of subdividing or to the land subdivided;

24           (B) does not include cadastral plats, cadastral con-  
25 trol plats, open-to-entry plats, or remote parcel plats created  
26 by or on behalf of the state regardless of whether these plats  
27 include easements or other public dedications;

28           (24) "unified municipality" means a municipality unified in  
29 accordance with AS 29.06.190 - 29.06.410;

1           (25) "voter" means a United States citizen who is qualified  
2 to vote in state elections, has been a resident of the municipality  
3 for 30 days immediately preceding the election, is registered to vote  
4 in state elections, and is not disqualified under art. V of the state  
5 constitution.

6 \* Sec. 19. AS 01.10.060 is amended by adding a new paragraph to read:

7           (15) "municipality" means a political subdivision incor-  
8 porated under the laws of the state that is a home rule or general law  
9 city, a home rule or general law borough, or a unified municipality.

10 \* Sec. 20. AS 05.35.040 is amended to read:

11           Sec. 05.35.040. POWER OF MUNICIPALITY. A municipality may own,  
12 maintain and employ a facility constructed under AS 05.35.010 -  
13 05.35.070. The exercise of this power on an areawide basis is at the  
14 option of the borough and is not subject to the restrictions on ac-  
15 quiring additional areawide powers in AS 29.35.300 - 29.35.330  
16 [AS 29.33.250 - 29.33.290].

17 \* Sec. 21. AS 09.45.845 is amended to read:

18           Sec. 09.45.845. VACATING OF STREETS IN WHOLE OR IN PART. The  
19 vacating of streets in whole or in part by the voluntary action of a  
20 municipality, for the purpose of making it possible for the court to  
21 mitigate the hardships suffered by individuals because of the change  
22 in land boundaries caused by the act of God, consisting of an earth-  
23 slide, can be accomplished by the offer of the municipality expressed  
24 in the complaint followed by the court's approval of it in the action  
25 authorized in AS 09.45.800 - 09.45.880, without other formalities.  
26 This provision is a special emergency substitute for the provisions  
27 contained in AS 29.40.120 - 29.40.160 [AS 29.33.200 - 29.33.240].

28 \* Sec. 22. AS 09.55.275 is amended to read:

29           Sec. 09.55.275. REPLAT APPROVAL. No agency of the state or

1 municipality may acquire property located within a municipality exer-  
2 cising the powers conferred by AS 29.35.180 or 29.35.260(c) that  
3 [AS 29.33.150 - 29.33.245 WHICH] results in a boundary change unless  
4 the agency or municipality first obtains from the municipal platting  
5 authority preliminary approval of a replat showing clearly the loca-  
6 tion of the proposed public streets, easements, rights-of-way, and  
7 other taking of private property. Final approval of replat shall be  
8 similarly obtained. However, if a state agency clearly demonstrates  
9 an overriding state interest, a waiver to the approval requirements of  
10 this section may be granted by the governor. The platting authority  
11 shall treat applications for replat made by state or local govern-  
12 mental agencies in the same manner as replat petitions originated by  
13 private landowners.

14 \* Sec. 23. AS 09.65.070(e)(1) is amended to read:

15 (1) "municipality" has the meaning given in AS 01.10.-  
16 060 and [MEANS A HOME RULE BOROUGH OR CITY, A GENERAL LAW BOROUGH OR  
17 CITY OF ANY CLASS, A UNIFIED MUNICIPALITY ESTABLISHED UNDER AS 29.-  
18 68.240 - 29.68.440, OR A MUNICIPALITY ESTABLISHED BY MERGER OR CON-  
19 SOLIDATION UNDER AS 29.68.030 - 29.68.110; THE TERM] includes a public  
20 corporation established by a municipality;

21 \* Sec. 24. AS 14.08.071(b) is amended to read:

22 (b) Except for the first election of regional school members  
23 under (a) of this section, elections [ELECTION] shall be held annually  
24 on the first Tuesday in October. Elections shall be supervised by the  
25 director of elections in the office of the lieutenant governor, but  
26 shall be administered within second class cites as part of the regular  
27 municipal election. The lieutenant governor shall adopt [PROMULGATE]  
28 regulations for the conduct of the election of regional school board  
29 members comparable, as far as practicable, to those prescribed for

1 election of school board members under AS 14.12 and AS 29.20.300  
2 [AS 29.28] except that the majority election requirements of AS 29.-  
3 26.060 [AS 29.28.040] do not apply to, nor may the regulations require  
4 runoff elections for, the first election of regional school board  
5 members under (a) of this section or, if a school board by resolution  
6 so requests, to subsequent elections in the regional educational  
7 attendance area served by that school board.

8 \* Sec. 25. AS 14.08.081 is amended to read:

9 Sec. 14.08.081. RECALL. The members of a regional school board  
10 are subject to recall in accordance with AS 29.26.240 - 29.26.360  
11 [AS 29.28.130 - 29.28.250], except that the director of the division  
12 of elections shall perform the functions of a municipal clerk, and the  
13 lieutenant governor shall perform the functions of the assembly or  
14 council under those sections.

15 \* Sec. 26. AS 14.12.030(c) is amended to read:

16 (c) The [NOTWITHSTANDING THE] provisions of (a) and (b) of this  
17 section do not apply if [, WHERE] the [BOROUGH] assembly serves as the  
18 school board of the borough school district [UNDER AS 29.41.020 THE  
19 NUMBER OF MEMBERS OF THE ASSEMBLY-SCHOOL BOARD SHALL BE DETERMINED IN  
20 THE MANNER PRESCRIBED BY AS 29.23.020].

21 \* Sec. 27. AS 14.12.110 is amended to read:

22 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD. Not-  
23 withstanding the provisions of this chapter or other law, a single  
24 body may serve as both the [BOROUGH] assembly and [BOROUGH] school  
25 board in the manner provided for third class boroughs under AS 29.20.-  
26 300(b) [AS 07.17.030], if

27 (1) an [A BOROUGH] ordinance for that purpose is approved  
28 by the assembly and ratified by a referendum of a majority of the  
29 qualified borough voters voting on the question at a regular or

1 special election; [,] and

2 (2) [IF] the public school population within the borough is  
3 500 pupils or less.

4 \* Sec. 28. AS 14.14.020 is amended to read:

5 Sec. 14.14.020. BOND REQUIRED. Before the officer responsible  
6 for custody [OF], investment, or management of school district money  
7 enters upon the duties of office, the district, or the municipality if  
8 the treasury is centralized, shall obtain a bond with sufficient  
9 sureties in an amount equal to the money that may come into the offi-  
10 cer's official custody, but not to exceed \$50,000. The bond shall be  
11 conditioned on the officer's honest and faithful disbursement and  
12 accounting of all money that may come into the official custody of the  
13 officer. The bond shall be filed with the clerk of the school board.  
14 This section does not apply to an officer who has been bonded under  
15 AS 29.20.610 [AS 29.23.520].

16 \* Sec. 29. AS 14.14.050(d) is amended to read:

17 (d) The school board shall not make the audit if an audit that  
18 [WHICH] satisfies the requirements of this section and that [WHICH] is  
19 filed and posted as required by this section [,] is made according to  
20 AS 29.35.110 [AS 29.48.220].

21 \* Sec. 30. AS 14.17.140(a) is amended to read:

22 (a) The Department of Community and Regional Affairs, in  
23 consultation with the assessor for each district, shall determine the  
24 full value of the taxable real and personal property in each district.  
25 Exemptions granted under AS 43.25 shall be honored. If there is no  
26 local assessor or current local assessment for a district, then the  
27 Department of Community and Regional Affairs shall make the deter-  
28 mination of full value from information available. In making the  
29 determination, the Department of Community and Regional Affairs shall

1 be guided by AS 29.45.110 [AS 29.53.060]. The determination of full  
2 value shall be made before October 1 and sent by certified mail,  
3 return receipt requested, before that date to the president of the  
4 school board in each district. Duplicate copies shall be sent to the  
5 commissioner. The governing body of the municipality that [BOROUGH OR  
6 CITY WHICH] is the district may obtain judicial review of the deter-  
7 mination by filing a motion in the superior court of the judicial  
8 district in which the district is located within 30 days after receipt  
9 of the determination. The superior court may modify the determination  
10 of the Department of Community and Regional Affairs only upon a find-  
11 ing of abuse of discretion or upon a finding that there is no substan-  
12 tial evidence to support the determination.

13 \* Sec. 31. AS 15.13.010(a) is amended to read:

14 (a) This chapter applies in every election for governor, lieu-  
15 tenant governor, a member of the state legislature, a delegate to a  
16 constitutional convention, or judge seeking electoral confirmation.  
17 It also applies to every candidate for election to a municipal office  
18 in a municipality [CITY OR BOROUGH] with a population of more than  
19 1,000 inhabitants according to the latest United States census figures  
20 or estimates of population certified as correct for administrative  
21 purposes by the Department of Community and Regional Affairs. A  
22 municipality may exempt its elected municipal officers from the re-  
23 quirements of this chapter if a majority of the voters voting on the  
24 question at a [ANY] regular election, as defined by AS 29.71.800(20)  
25 [AS 29.78.010(14)], or a special municipality-wide election called for  
26 that purpose, vote to exempt its elected municipal officers from the  
27 requirements of this chapter. The question of exemption from the  
28 requirements of this chapter may be submitted by the governing body  
29 [CITY COUNCIL OR BOROUGH ASSEMBLY] by ordinance or by initiative

1        election [ORDINANCE]. Nothing in this chapter prohibits a municipal-  
2        ity from regulating by ordinance campaign contributions and expendi-  
3        tures.

4        \* Sec. 32. AS 15.13.120(f)(3) is amended to read:

5                (3) AS 29.20.170 [AS 29.23.060(c)], if the candidate is a  
6        candidate for the borough assembly;

7        \* Sec. 33. AS 15.13.120(f)(4) is amended to read:

8                (4) AS 29.20.280 [AS 29.23.130(f)], if the candidate is a  
9        candidate for borough mayor;

10       \* Sec. 34. AS 15.13.120(f)(5) is amended to read:

11               (5) AS 29.20.170 [AS 29.23.210(b)], if the candidate is a  
12       candidate for city council;

13       \* Sec. 35. AS 15.13.120(f)(6) is amended to read:

14               (6) AS 29.20.280 [AS 29.23.255], if the candidate is a  
15       candidate for city mayor;

16       \* Sec. 36. AS 15.56.110(b)(2) is amended to read:

17               (2) a member of the borough assembly [ASSEMBLYMAN] under  
18       AS 29.20.170(6) [AS 29.23.060(c)];

19       \* Sec. 37. AS 15.56.110(b)(3) is amended to read:

20               (3) a borough mayor under AS 29.20.280(6) [AS 29.23.130-  
21       (f)];

22       \* Sec. 38. AS 15.56.110(b)(4) is amended to read:

23               (4) a member of the city council [COUNCILMAN] under AS 29.-  
24       20.170(6) [AS 29.23.210(b)];

25       \* Sec. 39. AS 15.56.110(b)(5) is amended to read:

26               (5) a city mayor under AS 29.20.280(6) [AS 29.23.255];

27       \* Sec. 40. AS 16.20.036(g) is amended to read:

28               (g) The establishment of a refuge under this section does not  
29       impair or alter existing rights of a municipality [BOROUGH OR CITY] to

1        state land selected [SELECT STATE LAND] under former AS 29.18.190 -  
2        29.18.200.

3        \* Sec. 41. AS 16.20.038(g) is amended to read:

4                (g) The establishment of a refuge under this section does not  
5        impair or alter existing rights of a municipality [BOROUGH OR CITY] to  
6        state land selected [SELECT STATE LAND] under former AS 29.18.190 -  
7        29.18.200.

8        \* Sec. 42. AS 18.26.25G(2) is amended to read:

9                (2) municipality [MUNICIPAL CORPORATION OR POLITICAL SUB-  
10        DIVISION OF THE STATE AS THE TERMS ARE USED IN AS 29];

11        \* Sec. 43. AS 18.80.290(d) is amended to read:

12                (d) The governing [LEGISLATIVE] body of a general law or home  
13        rule municipality has the authority under AS 29.20.320 [AS 29.48.035]  
14        to grant to local commissions powers and duties similar to those  
15        exercised by the Alaska Human Rights Commission under the provisions  
16        of this chapter [ACT].

17        \* Sec. 44. AS 19.30.241(2) is amended to read:

18                (2) "home rule city" means a city as defined in AS 29.04.-  
19        010 [AS 29.08.010];

20        \* Sec. 45. AS 19.30.241(3) is amended to read:

21                (3) "local government" means an organized borough of any  
22        class, a unified municipality [ORGANIZED UNDER AS 29.68.240 - 29.68.-  
23        440], a home rule city, or a first class city [OF THE FIRST CLASS];

24        \* Sec. 46. AS 19.30.260 is amended to read:

25                Sec. 19.30.260.        PURPOSE.        The purpose of AS 19.30.260 -  
26        19.30.320 is to facilitate funding for the upgrading, reconstruction,  
27        rehabilitation, or paving of existing subdivision roads within a road  
28        maintenance service area established under AS 29.35.450 [AS 29.63] or  
29        under a home rule charter.

1 \* Sec. 47. AS 19.30.280(a) is amended to read:

2 (a) After establishing a road maintenance service area under  
3 AS 29.35.450 [AS 29.63], or under a home rule charter, a municipality  
4 may apply to the department for a grant as money is available for road  
5 improvements, subject to regulations adopted by the department to  
6 carry out the provisions of AS 19.30.260 - 19.30.320. The department  
7 shall require a municipality to submit a five-year plan for the up-  
8 grading, reconstructing, rehabilitating, or paving of maintenance  
9 service area roads for approval before October 1 of each fiscal year.

10 \* Sec. 48. AS 26.23.230(5) is amended to read:

11 (5) "political subdivision" means a home rule or general  
12 law borough or city [, WHETHER HOME RULE OR OTHERWISE,] including a  
13 unified municipality [MUNICIPALITIES UNIFIED UNDER AS 29.68.240 -  
14 29.68.440], an unincorporated village, or other unit of local govern-  
15 ment;

16 \* Sec. 49. AS 28.15.051(d) is amended to read:

17 (d) The department may issue a special driver's permit to a  
18 person who is at least 14 years of age with the consent of the per-  
19 son's parents or guardians for the purpose of driving a motor-driven  
20 cycle. This permit may be issued upon application and successful  
21 completion of all prescribed tests and fees, and is valid for the same  
22 period of time as a driver's license. The permit is not valid in a  
23 municipality that [WHICH] by ordinance prohibits the driving of a  
24 motor-driven cycle by a person under the age of 16 years; a borough  
25 may adopt the ordinance on a nonareawide basis only, unless the power  
26 to adopt it on an areawide basis is acquired under AS 29.35.300 -  
27 29.35.330 or former AS 29.33.250 - 29.33.290.

28 \* Sec. 50. AS 38.04.020(b)(1) is amended to read:

29 (1) land nominated for selection or selected by a

1 municipality to satisfy a general grant land entitlement under  
2 AS 29.65 or former AS 29.18.201 - 29.18.213;

3 \* Sec. 51. AS 38.04.020(e)(4) is amended to read:

4 (4) preliminary feasibility studies, engineering design  
5 work, right-of-way acquisition, and construction of access roads and  
6 capital improvements required by municipal subdivision ordinance or  
7 regulation of the platting authority [BOARD UNDER AS 29.33.150];

8 \* Sec. 52. AS 38.04.021(a) is amended to read:

9 (a) A municipality may apply for financial assistance for the  
10 execution of a land disposal program of general grant land entitle-  
11 ments received from the state under AS 29.65 or former AS 29.18.201 -  
12 29.18.213 by submitting a request to the commissioner for inclusion in  
13 the request submitted to the legislature under AS 38.04.020(e). A  
14 municipality may request financial assistance for expenses of survey-  
15 ing land, designing subdivision plats, installing improvements re-  
16 quired by municipal ordinance or regulation of the local platting  
17 authority [BOARD], and other reasonable direct costs of land disposal.

18 \* Sec. 53. AS 38.04.021(d) is amended to read:

19 (d) A grant made under this section may not exceed five times  
20 the amount of money appropriated by a first class city, a borough, or  
21 a unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440] for  
22 the disposal of municipal land in the current fiscal year unless the  
23 commissioner exempts the municipality from this subsection.

24 \* Sec. 54. AS 38.04.021(e)(2) is amended to read:

25 (2) a first class city, a borough, or a unified municipal-  
26 ity that [UNIFIED UNDER AS 29.68.240 - 29.68.440 WHICH] is exempted by  
27 the commissioner under (d) of this section.

28 \* Sec. 55. AS 38.04.900(b) is amended to read:

29 (b) A municipality has standing to petition the commissioner for

1 the adoption of a regulation, or for the amendment or repeal of an  
2 existing regulation, or to appeal a decision of the commissioner with  
3 respect to classification, management, or disposal of land made under  
4 authority of a regulation adopted under (a) of this section with  
5 respect to state land outside the corporate boundaries of the muni-  
6 cipality to protect any interest which the municipality is authorized  
7 to regulate outside its boundaries under AS 29.35.020 [AS 29.48.037].

8 \* Sec. 56. AS 38.05.127(d) is amended to read:

9 (d) Upon application by a municipality or an affected owner of  
10 land, the department may vacate, release, modify, or relocate an ease-  
11 ment and right-of-way for public access to or along navigable or  
12 public waters reserved by the department in a patent issued under  
13 AS 29.65 or former AS 29.18.011 - 29.18.460, [AS 29.18] if the commis-  
14 sioner determines the action is consistent with the public interest.

15 \* Sec. 57. AS 38.05.290(b) is amended to read:

16 (b) Consistent with the best interests of the state, in the  
17 selection of general grant land it is the policy of the state to make  
18 available the maximum land area from which municipalities may fulfill  
19 land entitlements under AS 29.65 or former AS 29.18.201 - 29.18.213.

20 \* Sec. 58. AS 38.05.321(b) is amended to read:

21 (b) State land classified as agricultural land that [WHICH] has  
22 been selected by a municipality under former AS 29.18.190 - 29.18.200  
23 or former AS 29.18.205(e) may be approved by the director for patent  
24 under AS 29.65.050(c) [AS 29.18.205(f)]; however, only rights in the  
25 land for agricultural purposes may be transferred and all other inter-  
26 ests in the land will remain with the state. Agricultural land ap-  
27 proved for patent to a municipality [UNDER AS 29.18.205(f)] shall be  
28 credited, acre for acre, toward fulfillment of that municipality's  
29 entitlement under AS 29.65.010 - 29.65.030 or former AS 29.18.201 -

1 29.18.203. If the director later determines it to be in the best  
2 interests of the state to transfer some or all of the additional  
3 rights in that approved or patented agricultural land, those rights  
4 shall pass without consideration to the municipality in which the land  
5 is located. The notice and review provisions of AS 38.05.945 are  
6 applicable to conveyance of rights under this section.

7 \* Sec. 59. AS 38.05.321(c) is amended to read:

8 (c) The provisions of this section do not apply to

9 (1) [TO] state land classified as agricultural land that  
10 has been selected by a municipality under the provisions of former  
11 AS 29.18.190 - 29.18.200 if the selection is an approved selection  
12 before April 1, 1978 and is otherwise valid under AS 29.65.050(b) or  
13 former AS 29.18.205(b); or

14 (2) a quitclaim of the interest of the state to the federal  
15 government under AS 38.05.035(b)(9).

16 \* Sec. 60. AS 38.09.080 is amended to read:

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munici-  
18 pality has filed a selection of state lands under AS 29.65 or former  
19 AS 29.18.201 - 29.18.213 with the commissioner, the state land se-  
20 lected may not be designated for homestead entry; if the commissioner  
21 determines that land selected by a municipality is not available for  
22 patent to the municipality under AS 29.65 or former AS 29.18.201 -  
23 29.18.213, the state land is available for designation by the commis-  
24 sioner for homestead entry under AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local  
26 platting, recording, or subdivision requirements established under  
27 AS 29.35.180 [AS 29.33] and AS 40.15.

28 \* Sec. 61. AS 39.50.145 is amended to read:

29 Sec. 39.50.145. PARTICIPATION BY MUNICIPALITIES. A municipality

1 may exempt its municipal officers from the requirements of this chap-  
2 ter if a majority of the voters voting on the question at a [ANY]  
3 regular election, as defined by AS 29.71.800(20) [AS 29.78.010(14)],  
4 or a special municipality-wide election, vote to exempt its municipal  
5 officers from the requirements of this chapter. The question of  
6 exemption from the requirements of this chapter may be submitted by  
7 the city council or borough assembly by ordinance or by initiative  
8 election [ORDINANCE].

9 \* Sec. 62. AS 39.50.200(a)(7) is amended to read:

10 (7) "municipal officer" includes a borough or city mayor,  
11 borough assemblyman, city councilman, school board member, elected  
12 utility board member, city or borough manager, members of a city or  
13 borough planning or zoning commission within a home rule or general  
14 law city or borough, or [INCLUDING BUT NOT LIMITED TO] a unified muni-  
15 cipality [UNDER AS 29.68];

16 \* Sec. 63. AS 40.15.075 is amended to read:

17 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD  
18 CLASS BOROUGH. The division of lands is the platting authority in  
19 the area outside organized boroughs and outside cities in the unor-  
20 ganized borough and in the third class borough for only the purposes  
21 of hearing and acting on petitions for the change or vacation of plats  
22 and shall execute this function substantially in conformity with the  
23 provisions of AS 29.40.130 - 29.40.160 [AS 29.33.210 - 29.33.240].  
24 Costs of publication and mailing [AS WELL AS OTHER COSTS] authorized  
25 in AS 29.40.130 [AS 29.33.210] shall be paid to the division by the  
26 petitioner. The Department of Natural Resources shall adopt reason-  
27 able regulations governing the exercise of the authority conferred by  
28 this section upon the division of lands.

29 \* Sec. 64. AS 40.15.200 is amended to read:

1           Sec. 40.15.200.   APPLICATION TO STATE AND POLITICAL SUBDIVI-  
2           SIONS. All subdivisions of land made by the state, its agencies,  
3           instrumentalities and political subdivisions are subject to the provi-  
4           sions of this chapter and AS 29.40.070 - 29.40.160 [AS 29.33.150 -  
5           29.33.240], or home rule ordinances or regulations governing subdivi-  
6           sions, and shall comply with ordinances and other local regulations  
7           adopted under this chapter and AS 29.40.070 - 29.40.160 or former  
8           AS 29.33.150 - 29.33.240, or under home rule authority, in the same  
9           manner and to the same extent as subdivisions made by other land-  
10          owners.

11       \* Sec. 65. AS 41.35.180(5) is amended to read:

12               (5) consult with local historical district commissions re-  
13               garding the establishment of historical districts under AS 29.55.010 -  
14               29.55.020 [AS 29.48.108 - 29.48.110] and the approval of project  
15               alterations under AS 45.98.040; recommend, if appropriate, the formu-  
16               lation of additional criteria for the designation of historical dis-  
17               tricts under AS 29.55.020(b) [AS 29.48.110(b)]; approve plans for and  
18               evaluate the suitability of specific structures for purposes of loan  
19               eligibility and continuance under the historical district revolving  
20               loan fund (AS 45.98); and consult with the Department of Commerce and  
21               Economic Development relative to the adoption of regulations for  
22               historical district loans under AS 45.98.

23       \* Sec. 66. AS 41.98.175(d) is amended to read:

24               (d) In (a) of this section "municipalities" includes cities or  
25               organized boroughs of any class and unified municipalities exercising  
26               powers to initiate projects described in AS 41.98.170 and acquire  
27               parks and open space land, as otherwise authorized by law [, AND  
28               INCLUDES BUT IS NOT LIMITED TO UNIFIED MUNICIPALITIES ORGANIZED UNDER  
29               AS 29.68.240 - 29.68.440].

1 \* Sec. 67. AS 42.05.711(1) is amended to read:

2 (1) A person, utility, or cooperative that is exempt from regu-  
3 lation under AS 42.05.711(a) or (d) - (k) is not subject to regulation  
4 by a municipality under AS 29.35.070 [AS 29.48.060 - 29.48.090].

5 \* Sec. 68. AS 43.56.010(b) is amended to read:

6 (b) A municipality may levy and collect a tax under AS 29.45.080  
7 [AS 29.53.045] at the rate of taxation that applies to other property  
8 taxed by the municipality. The tax shall be levied at a rate no  
9 higher than the rate applicable to other property taxable by the  
10 municipality. No municipality may exempt from taxation property  
11 authorized to be taxed under this chapter. Exemptions shall be lim-  
12 ited to those in AS 29.45.030, 29.45.050, [AS 29.53.020 AND AS 29.53.-  
13 025] and AS 43.56.020.

14 \* Sec. 69. AS 43.56.010(c) is amended to read:

15 (c) If the total value of assessed property of a municipality  
16 taxing under AS 29.45.080(c) [AS 29.53.045(c)] exceeds the product of  
17 225 percent of the average per capita assessed full and true value of  
18 property in the state (to be determined by the department and reported  
19 to each municipality by January 15 of each year) multiplied by the  
20 number of residents of the taxing municipality, the department shall  
21 designate the portion of the tax base against which the local tax may  
22 be applied. [FOR PURPOSES OF THIS SUBSECTION THE AVERAGE PER CAPITA  
23 ASSESSED FULL AND TRUE VALUE OF PROPERTY IN THE STATE SHALL BE  
24 CALCULATED WITHOUT REGARD TO THE ASSESSED VALUE OF TAXABLE PROPERTY  
25 UNDER AS 43.58.]

26 \* Sec. 70. AS 43.56.010(d) is amended to read:

27 (d) A tax paid to a municipality under AS 29.45.080 or former  
28 AS 29.53.045 on or before June 30 of the tax year shall be credited  
29 against the tax levied under (a) of this section for that tax year.

1 If, however, a tax is not paid to a municipality until after June 30  
2 of the taxable year, the department upon application shall refund to  
3 the taxpayer the amount of tax paid to the municipality under AS 29.-  
4 45.080 or former AS 29.53.045. The credit or refund of taxes paid to  
5 a municipality may not exceed the total amount of tax levied by the  
6 department upon the taxpayer for the tax year, under (a) of this  
7 section.

8 \* Sec. 71. AS 43.56.060(a) is amended to read:

9 (a) The department shall assess property for the tax levied  
10 under AS 43.56.010(b) and AS 29.45.080 [AS 29.53.045] on property used  
11 or committed by contract or other agreement for use for the pipeline  
12 transportation of gas or unrefined oil or for the production of gas or  
13 unrefined oil at its full and true value as of January 1 of the as-  
14 sessment year.

15 \* Sec. 72. AS 43.75.130(1) is amended to read:

16 (1) to each unified municipality [UNIFIED UNDER AS 29.68.-  
17 240 - 29.68.440,] and to each city located in the unorganized borough,  
18 50 percent of the amount of tax revenue collected in the municipality  
19 from taxes levied by AS 43.75;

20 \* Sec. 73. AS 44.33.403(2)(A) is amended to read:

21 (A) has the authority under AS 29.35 [AS 29.41 OR  
22 AS 29.48] to provide and maintain a cultural facility;

23 \* Sec. 74. AS 44.47 is amended by adding new sections to read:

24 ARTICLE 12. BOROUGH FEASIBILITY STUDIES.

25 Sec. 44.47.700. BOROUGH FEASIBILITY STUDIES. (a) The commis-  
26 sioner may contract for studies of the feasibility of establishing  
27 boroughs in the unorganized borough. A study may be conducted under  
28 this section only if

29 (1) appropriations are available for that purpose; and

1           (2) the study is requested by a person residing in the area  
2 to be studied or by a city located in the area to be studied.

3           Sec. 44.47.710. REQUESTS FOR STUDIES. A request for a study of  
4 the feasibility of establishing a borough in the unorganized borough  
5 shall be submitted to the commissioner in writing and shall include

6           (1) a description of the boundaries of the area of the pro-  
7 posed study; and

8           (2) an indication of local interest in the proposed study  
9 consisting of either

10           (A) a petition requesting the study containing the  
11 signatures and addresses of five percent of the voters residing  
12 in the area of the proposed study based on the number of voters  
13 who voted in the area in the last statewide election; or

14           (B) resolutions requesting the study adopted by the  
15 governing bodies of at least five percent of the cities within  
16 the area of the proposed study.

17           Sec. 44.47.720. BOUNDARIES. The boundaries of an area studied  
18 shall conform to the boundaries indicated in the request for the study  
19 under AS 44.47.710 unless the commissioner, after a public hearing  
20 held in the area of the proposed study, determines that the boundaries  
21 should be altered. In determining the boundaries of an area to be  
22 studied, the commissioner shall consider

23           (1) the standards applicable to the incorporation of bor-  
24 oughs under AS 29.05.030;

25           (2) boundaries of regional corporations established under  
26 43 U.S.C. 1606;

27           (3) census divisions of the state used for the 1980 census;

28           (4) boundaries of the regional educational attendance areas  
29 established under AS 14.08.031; and

1 (5) boundaries of coastal resource service areas organized  
2 under AS 46.40.110 - 46.40.210.

3 Sec. 44.47.730. CONTRACTS. (a) The commissioner shall contract  
4 for a study of the feasibility of establishing a borough in the unor-  
5 ganized borough by following the procedures set out in AS 36.98. The  
6 commissioner shall include terms in the contract that provide for

7 (1) public participation in the preparation of the study;  
8 (2) completion of the study not later than June 30 of the  
9 third year after the year the contract is executed.

10 (b) A study under this section shall include

11 (1) a recommendation for or against incorporation of a bor-  
12 ough containing all or part of the area studied;

13 (2) an evaluation of the economic development potential of  
14 the area studied;

15 (3) an evaluation of capital facility needs of the area  
16 studied;

17 (4) an evaluation of demographic, social, and environmental  
18 factors affecting the area studied;

19 (5) an evaluation of the relationships among regional  
20 educational attendance areas, coastal resource service areas, and  
21 other regional entities responsible for providing services in the area  
22 studied;

23 (6) an evaluation of the relationships between the existing  
24 cities within the area studied and regional entities responsible for  
25 providing services in the area; and

26 (7) specific recommendations for

27 (A) organization of a home rule or general law borough  
28 government if one is recommended;

29 (B) changes in organization of cities in the area

1           studied; or

2                       (C) the improvement of the delivery of services to the  
3           public by the state in the area studied.

4   \* Sec. 75. AS 44.83.162(m) is amended to read:

5           (m) For purposes of (c) of this section, the number of residents  
6           of the community equals the number of residents of the community  
7           determined by the Department of Community and Regional Affairs in  
8           accordance with AS 29.60.020 [AS 29.88.015].

9   \* Sec. 76. AS 44.85.270(i) is amended to read:

10           (i) All references to the "reserve fund" in this section include  
11           special accounts within the reserve fund which may be created by the  
12           authority to secure the payment of particular bonds, including, with-  
13           out limitation, bonds issued by the capital city established under  
14           AS 29.14.010 [AS 29.18.510]. The commissioner of revenue may lend  
15           surplus money in the general fund to the authority for deposit to any  
16           account in the reserve fund in an amount equal to the required debt  
17           service reserve. The loans shall be made on such terms and conditions  
18           as may be agreed upon by the commissioner of revenue and the author-  
19           ity, including, without limitation, terms and conditions providing  
20           that the loans need not be repaid until the obligations of the corpo-  
21           ration secured and to be secured by the account in the reserve fund  
22           are no longer outstanding.

23   \* Sec. 77. AS 44.85.410(3)(A) is amended to read:

24           (A) a general obligation bond that [WHICH] is a direct  
25           and general obligation of a political subdivision of the state,  
26           all the taxable property within which is subject to taxation to  
27           pay the bond, note or evidence of debt, and the interest without  
28           limitation, as to rate or amount generally to the extent permit-  
29           ted by law or to avoid a default as provided for second class

1 cities under AS 29.45.590 [AS 29.53.410]; or

2 \* Sec. 78. AS 44.85.410(3)(D) is amended to read:

3 (D) a bond of a borough issued as a general obligation  
4 of a service area under AS 29.47.440 or former AS 29.58.340; [.]

5 \* Sec. 79. AS 45.98.020 is amended to read:

6 Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and  
7 plan approval by a local historical district commission established  
8 under AS 29.55.010 or former AS 29.48.108 and the recommendation of a  
9 majority of the members of the Historic Sites Advisory Committee, the  
10 Department of Commerce and Economic Development may make loans to a  
11 person, firm, business or municipality subject to applicable laws for  
12 the restoration, improvement, rehabilitation, or maintenance of a  
13 structure that [WHICH] is

14 (1) within the boundaries of a historical district estab-  
15 lished under AS 29.55.020 or former AS 29.48.110;

16 (2) identified as important in state or national history as  
17 provided for in AS 29.55.020(b) or former AS 29.48.110(b); and

18 (3) another building or structure within a historical dis-  
19 trict, and suitable for superficial modification so that it can con-  
20 form to the period or motif of the surrounding buildings or structures  
21 that are the reason for the area's designation as a historical dis-  
22 trict.

23 \* Sec. 80. AS 46.03.210(a) is amended to read:

24 (a) A municipality with a population in excess of 1,000 may,  
25 within five years from August 5, 1969, establish and administer within  
26 its jurisdiction an air pollution control program. Organized boroughs  
27 may establish an air pollution control program on an areawide basis,  
28 and the exercise of powers with respect to the program is not subject  
29 to the restrictions on acquiring additional areawide powers specified

1 in AS 29.35.300 - 29.35.330 [AS 29.33.250 - 29.33.290]. Local pro-  
2 grams shall

3 (1) provide by ordinance for requirements compatible with  
4 those imposed by the provisions of AS 46.03.140 and 46.03.170 and  
5 applicable regulations;

6 (2) provide for the enforcement of the requirements imposed  
7 through appropriate administrative and judicial processes;

8 (3) provide for a local administrative organization, staff,  
9 and other resources necessary to effectively carry out the purposes of  
10 the program; and

11 (4) be approved by the department as being satisfactory to  
12 meet the requirements of AS 46.03.140 - 46.03.170 and the applicable  
13 regulations.

14 \* Sec. 81. AS 46.11.040(3)(A) is amended to read:

15 (A) is constructed under an exception to the municipal  
16 building code granted because the exception will result in in-  
17 creased energy efficiency [UNDER AS 29.33.080(g)]; or

18 \* Sec. 82. AS 46.11.900(8) is amended to read:

19 (8) "state financial assistance" means a loan, grant,  
20 guarantee, insurance, payment, rebate, subsidy, or other form of state  
21 assistance (other than aid under AS 29.60 [AS 29.88, AS 29.89, AS 29.-  
22 90, AS 29.95,] and AS 43.18) including the purchase by a state agency  
23 of a loan to finance the construction of a new residential, commer-  
24 cial, or industrial building;

25 \* Sec. 83. AS 46.35.200(3) is amended to read:

26 (3) "local government" means a city or borough including a  
27 unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440];

28 \* Sec. 84. AS 46.40.140(h) is amended to read:

29 (h) Members of coastal resource service area boards are subject

1 to recall on the same grounds and in the same manner as provided for  
2 recall of municipal officials in AS 29.26.240 - 29.26.350 [AS 29.28.-  
3 130 - 29.28.250]. The lieutenant governor functions in place of the  
4 assembly or council and municipal clerk for receipt and review of  
5 recall petitions and the conduct of recall elections.

6 \* Sec. 85. AS 46.40.210(2)(A) is amended to read:

7 (A) unified municipalities [ESTABLISHED UNDER AS 29.-  
8 68.240 - 29.68.440];

9 \* Sec. 86. AS 47.35.010(b) is amended to read:

10 (b) The department shall, within 90 days after receiving a  
11 written request that it do so, delegate its powers relating to nur-  
12 series under this section and under AS 47.35.040 - 47.35.060 to a  
13 municipality that [WHICH] has adopted an ordinance providing for day  
14 care licensing under home rule powers or as authorized under AS 29.-  
15 35.200 - 29.35.210 [AS 29.48.035(a)(20)]. A municipality to which  
16 these powers have been delegated may waive or modify any regulation or  
17 standard established by the department under the authority of AS 47.-  
18 35.010 - 47.35.080 as it applies to nurseries or the application of  
19 any such regulation or standard as it applies to a particular day care  
20 licensee but must notify the department of any waiver.

21 \* Sec. 87. The following laws are repealed: AS 04.11.400(c); AS 04.-  
22 21.080(b)(11); AS 14.56.065(b), 14.56.180(3); AS 15.13.130(6); AS 18.55.-  
23 950(10); AS 19.20.015(f); AS 24.55.330(3); AS 28.40.100(a)(10); AS 29.08;  
24 AS 29.13; AS 29.18; AS 29.23; AS 29.28; AS 29.33; AS 29.38; AS 29.41;  
25 AS 29.43; AS 29.48; AS 29.53; AS 29.58; AS 29.63; AS 29.68; AS 29.73;  
26 AS 29.78; AS 29.88; AS 29.89; AS 29.95; AS 30.15.070(3); AS 30.30.170(2);  
27 AS 35.15.120(3); AS 42.06.630(6); AS 43.20.016; AS 43.56.210(8); AS 44.-  
28 07.360(8); AS 44.33.417(6); AS 44.47.310(5); and AS 44.85.410(4).

29 \* Sec. 88. A right or liability of a municipality existing on

1 January 1, 1986, is not affected by the enactment of this Act. Ordinances  
2 and regulations in effect on January 1, 1986, remain in effect unless they  
3 conflict with provisions of this Act. Ordinances and regulations in effect  
4 on January 1, 1986, that conflict with provisions of this Act remain in  
5 effect for 180 days after January 1986. The terms of elected or appointed  
6 municipal officials in office on January 1986, are not affected by this  
7 Act, and their terms expire as provided before January 1, 1986.

8 \* Sec. 89. This Act takes effect January 1, 1986.

municipality of Anchorage, however, expects to lose "a couple hundred thousand dollars" the first year. In Anchorage the program will apply to approximately 180,000 vehicles. Included in that total are approximately 15,000 which may be exempt.

Referring to the fiscal note, Co-chairman Sackett advised that the FY 86 operating budget includes a \$150.5 increment with five permanent full time positions relating to the emission program. He asked if the request was approved by both finance committees. Mr. Brown explained that two of the positions relate to mail-out requirements for the program, one position is for the Fairbanks field office, and the remaining two are for the Anchorage field office. Contact with states having similar programs indicates that time required to explain the program to the public and to process additional paperwork increases the amount of time needed to complete registrations. At the present time, it takes approximately 5 minutes to process a registration. The time requirement will increase by 1 minute (a 20% increase). The additional positions for Anchorage and Fairbanks reflect the 20% increase. The five positions are all clerical.

Senator Halford asked if state and municipal vehicles would have to pass inspection, and Mr. Brown replied affirmatively.

Senator Ferguson inquired concerning the cutoff date for vehicles in terms of age. Mr. Husson responded that the cutoff date for Fairbanks is 1975. As the program goes forward, the cutoff will increase to "a fifteen model-year inclusion." The Anchorage program is based on vehicles fifteen years old and newer with graduated standards for the vehicles. Senator Halford noted that cost-wise, those with newer vehicles appear to have an advantage over those with older cars. Mr. Lauzen explained that 10 to 15-year-old vehicles in Anchorage will not receive an under-the-hood inspection. They will simply be subjected to a tailpipe test. Under other programs throughout the United States, the cost of such a test is minimal. Vehicles which have been maintained should quickly pass. Discussion followed concerning vehicle testing. Mr. Lauzen advised that nothing in the program would require adding anything to a vehicle which was not originally manufactured. Program standards vary for different vehicles and parallel the manufacturer's standards.

Co-chairman Faiks directed that the bill be held in committee pending the drafting of waiver language and incorporation of the language into a Senate Finance Committee Substitute. At Senator Halford's suggestion, she further proposed that language be included which provides that the state program will not effect requirements beyond those of the federal government. No objection having been raised, it was so ordered.

HB 72

Co-chairman Faiks directed that SCS for CSHB 72 (Judiciary) (AN ACT RELATING TO MUNICIPAL GOVERNMENT) be brought on for discussion. She directed attention to a sectional analysis and a fiscal note projecting the need for operating funds of \$400.0 for FY 87.

JEFF SMITH, Acting Commissioner, Dept. of Community & Regional Affairs appeared before committee. Co-chairman Faiks directed attention to the following amendments:

Amendment No. 1 (Senator Sackett)

Co-chairman Sackett moved for adoption of Amendment No. 1, relating to home rule cities (specifically applicable to Bethel). Acting Commissioner Smith advised that the department has no objection to the amendment. No objection having been raised, the amendment was adopted.

Amendment No. 2 (Senator Eliason)

Senator Eliason moved for adoption of Amendment No. 2, relating to sales taxes on alcoholic beverages. He explained that in 1980 the legislature restructured liquor bills. Language contained in the proposed amendment was inadvertently dropped out of legislation at that time. Consequently, some communities have instituted a sales tax on a single item--alcohol. The state totally regulates liquor, and last year effected a tax increase. The ability to tax alcoholic beverage sales should thus remain with state government. Communities retain the ability to vote on whether or not to go dry, and they may establish bar hours. Imposing a local tax upon a single industry is discriminatory, however, and should be discouraged.

Communities (Craig, Juneau, and Kotzebue) which imposed a local sales tax on alcoholic beverages prior to July 1, 1985, will be grandfathered in and allowed to maintain the tax. The amendment would prohibit other communities from imposing a sales tax on alcoholic beverages alone. The intent is to treat all commodities equally.

Mr. Smith advised of his understanding that the amendment would specify that a community could not set a higher tax for alcohol than for other commodities. Exemptions for prescriptions and other designated goods would not be affected. Co-chairman Faiks advised that the municipality of Anchorage currently has no sales tax. She then stated her understanding that should the municipality wish to tax alcohol only, it would be prohibited from doing so under the proposed amendment.

TAMARA COOK, Deputy Director, Legal Services, Legislative Affairs Agency, appeared before committee, advising that the amendment would not preclude the taxing of alcohol as long as some other commodity was also taxed. Aside from that, there is flexibility

in terms of what items are taxed. If a municipality imposed a sales tax on anything other than alcohol, it would be free to include alcohol within its tax structure.

Senator Halford asked if all sales taxes require voter approval. Ms. Cook responded that they do and added that under existing law a municipality is only allowed to place a sales tax question on the ballot once a year. Senator Halford then asked if the amendment would limit voters' rights to choose to tax alcoholic beverage sales. Ms. Cook responded that the amendment would limit voter and municipal ability to impose a sales tax only on the sale of alcoholic beverages.

Co-chairman Faiks directed that Amendment No. 2 remain pending until tomorrow when it would again be before committee.

#### ADJOURNMENT

Due to time constraints, the meeting was adjourned at approximately 11:05 a.m.

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SFC-85, #55, Side 2 (117-end)  
SFC-85, #56, Side 1 (000-end)  
SFC-85, #56, Side 2 (000-780)

SENATE FINANCE COMMITTEE

May 8, 1985

8:45 a.m.

SFC-85, #57, Side 1 (000-end)

SFC-85, #57, Side 2 (000-end)

SFC-85, #58, Side 1 (000-517)

CALL TO ORDER

Co-chairman Jan Faiks called the meeting to order at approximately 8:45 a.m.

PRESENT

In addition to Co-chairman Faiks, all committee members (Co-chairman Sackett, and Senators Eliason, Ferguson, P. Fischer, Halford, and Kerttula) were present.

ALSO ATTENDING: Senators Edna DeVries; Bettye Fahrenkamp, Jack Coghill, and Bill Ray; Representatives Peter Goll, Katie Hurley, and Mike Navarre; Jeff Smith, Acting Commissioner of Dept. Community & Regional Affairs; Doug Griffin, Deputy Director, Division of Municipal and Regional Assistance, Dept. of Community & Regional Affairs; Tamara Brandt Cook, Deputy Director, Division of Legal Services, Legislative Affairs Agency; Scott A. Burgess, Executive Director, Alaska Municipal League; Ted Burns, Vice President, Multivisions; David Hutchens, Executive Director, Alaska Rural Electric Corporation; Kay Brown, Director, Division of Oil and Gas, Dept. of Natural Resources; Lisa Nelson and Gayle Horetski, Assistant Attorneys General, Criminal Division, and Susan Cox, Assistant Attorney General, Civil Division, Dept. of Law; Paul B. Arnoldt, Director of Investments, Dept. of Commerce & Economic Development; James D. Vaden, Deputy Commissioner, Dept. of Public Safety; Art Snowden, Director, Court System; Barbara Miklos, Executive Director, Council on Domestic Violence and Sexual Assault; Margot Dick, Coordinator, Alaska Network on Domestic Violence and Sexual Assault; Caren Robinson, Executive Director, AWARE, Inc.; Patricia O'Brien, Social Services Program Officer, Dept. of Health & Social Services; Frank Barthel, Social Services Program and Court Coordinator, Dept. of Health & Social Services; John Coffee, Planner, S.E.R.R.C.; Robert J. Walker, Lobbyist, Exxon; Ken Lauzen, Vehicle Program Manager, Municipality of Anchorage; L. D. Verelli, Air Quality Program Manager, Dept. of Environmental Conservation; Lee Husson, Vehicle I/M Program Administrator, Fairbanks North Star Borough; Sherrie Goll, Lobbyist, Alaska Women's Lobby; Susan Knighton, Research Analyst, Dept. of Corrections; Bill Brown, Chief, Driver Services, Dept. of Public Safety; Dave Kaiser, PSEA; Edward T. Harter, PSEA; David R. Meek, President, Public Safety Employees Association; Mike Greany, Director, Division of Legislative Finance; Elizabeth Hickerson, Senate Advisory Council; aides to committee members and other members of the legislature; and representatives of the press.

SUMMARY INFORMATION

- HB 67 - Act relating to the admissibility of hearsay evidence of certain statements by children before grand juries, amending Alaska Criminal Rule 6 (r)
- CS HB 67 (Finance) was held in committee for further discussion at the afternoon meeting.
- HB 72 - Act relating to municipal government
- SCS CS HB 72 (Judiciary) was held in committee for further discussion at the afternoon meeting (Amendments 6 and 7, pending)
- HB 81 - Act relating to motor vehicle emission inspection
- SCS HB 81 (Finance) was held in committee for redrafting of exemption provisions
- SB 21 - Act relating to background checks on certain employees who come into contact with children
- CS SB 21 (HESS) was held in committee pending organization and assessment of child protection fiscal notes
- SB 219 - Act establishing a special unit for the investigation of criminally exploited and missing children
- CS SB 219 (Finance) was held in committee pending receipt of a fiscal note from the Dept. of Law.
- SB 232 - Act approving the sale of Prudhoe Bay royalty oil by the State of Alaska to the Golden Valley Electric Association
- CS SB 232 (Finance) was held in committee for members' review prior to passage at the afternoon meeting.

HB 72

Co-chairman Faiks moved that SCS CS HB 72 (Judiciary) (ACT RELATING TO MUNICIPAL GOVERNMENT) be brought on for discussion and advised that Amendment No. 2 was pending before committee.

Senator Eliason explained that he had requested that Senator Bill Ray testify concerning the background of the amendment, noting that it dates back to the day that the alcohol code was revamped.

SENATOR BILL RAY came before committee advising that his expertise in the area of alcohol legislation commenced in 1959

when he was appointed to the ABC Board. In 1980 Title IV was recodified. Senator Ray explained that originally there was no property tax on liquor inventory because license fees were returned to the municipality in lieu of property taxes. As time passed and enforcement problems arose, it was determined that license fees should be used strictly for enforcement.

Language which prohibits the limiting of sales taxes to alcohol alone was inadvertently dropped out of previous legislation when finalized in conference committee. It was never the intent of the conference committee to eliminate the language.

Senator Halford inquired concerning the effect of the proposed amendment, advising of his understanding that sales taxes cannot be imposed without a vote of the people. He noted that he felt differently about limitations on voters' power as opposed to limitations on municipal power.

Senator Ray advised of his belief that it is discriminatory to "have an additional tax on anything--in other words select an additional tax on matches because they have a lot of fires in town." Senator Halford said, "We do, for example, allow boats to be taxed differently than houses." Someone living on a \$200,000 boat pays a tonnage fee while someone who lives in a \$200,000 house pays real property taxes at a substantially higher value.

Senator Eliason explained that the only limitation being imposed upon local governments by the amendment relates to the fact that they cannot enact "a specific sales tax on a specific industry." The amendment says that if a municipality wants to tax liquor and something else, whatever that might be, that is all right. The intent is to keep municipalities from selecting an industry and taxing it and no one else. A ballot proposition which proposed a 10% tax on liquor and tobacco would not be in violation of amendment provisions. However, if the proposition read, "Shall we impose a 10% tax on tobacco, only," the municipality could not do so under provisions of the proposed amendment.

Senator Ray reiterated previous statements, advising that historically it was considered that additional revenues generated to the state through the sale of alcohol and license fees were sufficient and an inventory tax was not needed. Inherent problems later led to application of an inventory tax, and it was subsequently determined that it was acceptable to also levy a sales tax "if the sales tax was generated from everything else within the community." It is a policy question.

Senator Kerttula asked if the proposed amendment had been offered in the course of previous hearings on the bill before other legislative committees. Senator Ray explained that provisions contained within the amendment should earlier have been included in statute and were inadvertently omitted or perhaps left out of previous legislation by an attorney at Legislative Affairs who was proficient at "making things rhyme out and sound nice,

irrespective of what it really did." The language in his mind might have seemed redundant. In response to restatement of Senator Kerttula's question, Senator Ray advised that to his knowledge the language contained within the amendment had not been proposed to other committees.

Senator Kerttula advised of his understanding that under the proposed provision a tax could be imposed by a municipality if two or more things were taxed. One commodity, however, cannot be selected for taxation. Senator Eliason concurred in the foregoing understanding, noting that the amendment attempts to avoid zeroing in on one specific industry for a specific tax.

SCOTT BURGESS, Executive Director, Alaska Municipal League, next came before committee. He voiced opposition to Amendment No. 2 for the following reasons:

1. It reflects a policy issue which has not gone through the processes dealing with the bill.
2. It amends Title 4 rather than Title 29, the subject of the bill.
3. Local options should be maintained.

The Municipal League has attempted to "keep controversial issues off this bill." It passed once before, and controversial items were added at the last moment which caused it to be vetoed. The issue raised by the amendment should be brought in separate legislation rather than tagged onto the instant bill.

In terms of local options, all sales taxes must go before the voters and are imposed only at the will of the majority. Proposed taxes, whether they be on alcohol or anything else, would be voted for by the people.

As background, Mr. Burgess explained that discussion with the Juneau attorney involved on the technical committee for Title 29, indicates that there was a specific request during hearings and rewrite of Title 4 by alcoholism groups "to put that in there." It appears to have been a conscious effort.

In a concluding statement, Mr. Burgess advised that the Municipal League views the amendment as a new issue which is potentially controversial. The League opposes the amendment.

Co-chairman Sackett advised that the committee substitute currently before committee reflects "the result of people tinkering in every committee with all of their different amendments." The fact that Senate Finance is the last committee of referral does not deny Finance the opportunity to "also tinker with the bill."

Senator Paul Fischer noted previous veto by the Governor and asked Mr. Burgess if he had talked to the Governor to determine whether Amendment No. 2 posed a critical problem. Mr. Burgess responded negatively, advising that due to the fact that the issue had only recently been raised, he had not had time to undertake a lot of research.

Senator Ferguson called for a vote on the question of adoption of AMENDMENT NO. 2.

Senator Kerttula advised of his understanding that the League seeks to "retain every option for a vote of the people on decisions like this." Mr. Burgess replied affirmatively.

Senator Kerttula noted that legislation establishing second class boroughs states that "the people have a right to impose any new conditions on the borough that weren't imposed in the original act." The proposed legislation "doesn't seek a vote of the people in which to impose the new conditions upon them." Mr. Burgess advised of his understanding that the foregoing statements relate to "the new power of economic development." He acknowledged that he was at somewhat of a loss in that the bill has been around a long time, but he was unaware of why economic development was added as a power which specifically does not require a vote of the people. It represents a non-area-wide exercise of power. Mr. Burgess supposed that reasoning behind the provision might be:

1. Economic development is something that both the state and communities have attempted to encourage.

2. Ability to designate non-area-wide development sites (industrial development) would stimulate economic development.

Mr. Burgess advised that he did not know why the provision had been added to the bill and acknowledged his understanding of a potential conflict between "pushing for a vote in one case and not in the other."

In response to earlier statements by Mr. Burgess to the effect that the instant bill deals only with Title 29, Senator Eliason disputed the claim, advising that it also deals with Titles 9, 14, 15, 28, 38, etc. Mr. Burgess replied that the League had appeared at previous hearings on the bill and voiced support or opposition for proposed changes. The concern at this point is "that we not get into new policy areas, and that we try to get this bill which has had review and statewide hearings" passed. He acknowledged that the bill deals with "other sections." The concern is that a prohibition on introduction of sales tax on liquor specifically is something that was addressed in revisions to Title 4.

The power of municipalities to issue sales tax is granted in Title 29. The issue of alcohol is dealt with in Title 4. The

concern here is whether municipalities should have the right to have a tax on sales. The issue before committee through Amendment No. 2 is whether that sales tax should be limited. The major concern is the new policy.

Co-chairman Faiks reminded Mr. Burgess and others attending the meeting that "there is over ninety years of legislative experience sitting at this table." It would be impossible for the committee not to look very closely at every bill before it.

JEFF SMITH, Acting Commissioner, Dept. of Community & Regional Affairs, next came before committee. He advised that following review of and staff discussion of the amendment, the department supports it.

Co-chairman Faiks called for a show of hands on adoption of Amendment No. 2. The vote showed Co-chairmen Faiks and Sackett and Senators Ferguson, Eliason, and Kerttula in favor. No objection having been raised, AMENDMENT NO. 2 was ADOPTED.

Senator Ferguson MOVED for adoption of Amendment No. 3 (adding a new subsection 26, dealing with local franchising, to AS 29.35.060 and continuing exemptions for utilities and cooperatives) and requested that those in attendance wishing to speak to the amendment be allowed to do so.

TED BURNS, Attorney and Vice President of Multivisions Cable Television in Anchorage, came before committee advising that he noted a potential problem in SCS CS HB 82 (Judiciary). He explained that under the bill, existing law is being changed and powers of municipalities expanded.

Present law dealing with the ability of municipalities to adopt franchises and engage in franchise regulation is covered under AS 29.48.050. That section, which applies to all municipalities, says that municipalities cannot engage in franchise regulation for public utilities--utilities which are regulated under APUC. In the proposed bill, the foregoing section has been eliminated. The replacement section says, in essence, the same thing: municipalities may not grant franchises and engage in franchise regulation of utilities holding APUC certificates of public convenience. However, the new section is inapplicable to home-rule municipalities. That means that municipalities such as Kenai, Juneau, Anchorage, and many others will be free to adopt franchise regulations which would affect public utilities such as cable television. It would allow, among other things, the imposition of franchise taxes. Federal law now permits franchise taxes of up to 5% of gross revenues. This taxing ability would be in addition to local sales tax. If a 5% franchise tax were levied in addition to a 5 or 6% sales tax, consumers could pay a 10 or 11% tax.

Other things typically done in the wake of franchise regulations are regulation of customer service policies, line extension

policies, ownership of systems (including mandatory buy-outs at the end of franchise periods).

The foregoing raises concern and represents a significant change in existing law. This issue should be focused on separately. It has great potential for controversy. Mr. Burns expressed his preference for going back to the status quo, making the section applicable to all municipalities.

Senator Halford asked if adoption of the amendment would weaken municipal ability to control easements for cable extension and installation, etc. Mr. Burns explained that right-of-way matters are covered in the APUC code (42.05.251). This section states that cities have the right to regulate right-of-ways by the permitting process. The section further sets up the APUC to arbitrate disputes between utilities and cities regarding terms and conditions of street and right-of-way use. That language is not affected by the instant bill.

SCOTT BURGESS, Executive Director, Alaska Municipal League, again came before committee speaking to the section of Amendment No. 3 relating to exemption of utilities and cooperatives from municipal regulation. He advised that proposed language changes current law and engenders confusion. The total effects of changes are unknown.

TAM COOK, Deputy Director, Legal Services, Legislative Affairs, next came before committee advising that AS 29.48.050 contains the counterpoint to franchise language. AS 29.48.050 relating to franchises is not dealt with in the amendment proposed for Page 202, Line 2, calling for deletion of subsection (1) and replacement with the following:

A person, utility, or cooperative that is exempt from regulation under AS 42.05.711 (a) or (d) - (k) is not subject to regulation by a municipality under AS 29.35.060 - 29.35.070 [AS 29.48.060 -29.48.090].

As further explanation, Ms. Cook stated that the amendment as presented accurately sets out the statute as printed. The material in brackets sets out cites covered by the provision. The section dealing with franchises, AS 29.48.050 is not dealt with in this particular section under existing law.

Co-chairman Faiks asked if adoption of the proposed amendment would adopt the status quo. Ms. Cook replied negatively, advising that adoption would include 29.48.050. It would insert the section dealing with franchises and permits.

Co-chairman Sackett inquired concerning the effect of inclusion. Ms. Cook answered that the amendment represents "a fairly complex area that could stand more than a superficial looking into." The amendment says that a person, utility, or cooperative that is exempt from regulation would not be subject to regulation by a

municipality under the franchises and permits section. This means "that they could not charge a permit fee or impose reasonable terms and conditions . . . for the use of streets and right-of-ways." Under existing law, "they are required to make streets and right-of-ways available to utilities that are regulated." In the case of cable T.V., an interesting question arises since it is not regulated. It is a specifically exempted utility.

Ms. Cook noted curiosity as to how the franchise and permits section which now exists applies to cable T.V. It may be that municipalities have a little more power in this area than they would for a regulated utility.

Ms. Cook further advised that members should be aware that in Title 29 revisions rather than preserving the phrase "utilities regulated under AS 42.05.711, revisors instead inserted the phrase that the franchise and permits section applies "to utilities certificated by APUC." Ms. Cook noted that she was unsure whether cable T.V. is so certificated. Thus, limitations contained in the franchise and permits section would not currently apply to cable T.V. This represents an unusual status in that cable T.V. would be specifically exempted from regulation.

Senator Kerttula noted problems when a regulated utility also picks up a cable television franchise and uses its allowable right of trespass to lay television rather than telephone cable. Who controls that? Ms. Cook explained that the foregoing activity would be exempt and thus unregulated.

TED BURNS again came before committee, advising of two types of regulation.

1. The right-of-way permitting process. This deals with day-to-day use of public streets and right-of-ways, and governs things like how deep cables can be buried, how far from the centerline of the street they can be laid, in what order utilities will be installed in public right-of-ways. These things were formally mentioned in old sections of Title 29. The language which appeared there was omitted from the instant bill from the beginning. It was omitted because it was identical and duplicative of language contained in the APUC code, Title 42. The language existing under Title 42 is not affected by the instant bill. Utilities have the right to use municipal streets and right-of-ways, but cities have the right to establish permits and impose "reasonable terms and conditions and a reasonable permit fee." None of that is affected by anything happening in Title 29 legislation.

2. Franchises. The present section deals primarily with franchising. This is a different matter which gets into other forms of regulation:

1. Franchise fees
2. Customer service policies
3. Systems and programming

Co-chairman Faiks advised of her understanding that Amendment No. 3 contains two parts. The first relates to franchises. Adoption of that portion of the amendment would revert to existing law. There does not appear to be a great amount of controversy here.

Problems relate to the second half of the amendment, beginning on Page 202, Line 2. Mr. Burns explained that proffered language does not represent a change although it may appear that way. The franchise section was not dealt with under AS 42.05.711 because, by its terms, cities were precluded from granting franchises to regulated utilities. The second portion of the amendment is "merely a matter of consistency." If cities, as they presently are, should be prohibited from engaging in franchise regulation of public utilities, the proposed amendment would eliminate an otherwise inconsistent statement in the law.

Mr. Burns noted for the record that it is a misnomer to say that cable television is unregulated by APUC. It is unregulated for "certain, specific things." A cable company must have a certificate of public convenience and necessity. It can be called before the commission for violation of any term or condition of the certificate, and subscribers have the right to petition the commission for further regulation.

Co-chairman Faiks called for a show of hands on the motion for adoption of Amendment No. 3. The vote showed Co-chairmen Faiks and Sackett and Senators Ferguson and Kerttula in favor of the motion, and AMENDMENT NO. 3 was ADOPTED.

Co-chairman Sackett requested that Amendment No. 4, relating to Garbage and Solid Waste Services, be rescheduled to the bottom of the committee calendar. No objection having been raised, it was so ordered. (Amendment No. 4 was later WITHDRAWN, see p. 12)

Senator Halford MOVED for adoption of Amendment No. 5, and Co-chairman Faiks advised that Representative Goll would speak to the amendment.

REPRESENTATIVE GOLL asked for an interpretation of Amendment No. 2. Co-chairman Faiks responded that the calendar before committee was long and asked that he proceed at this time with testimony relating to Amendment No. 5.

Mr. Goll explained that Amendment No. 5 relates to eminent domain. Eminent domain for second class cities was adopted in the House. It provides that a vote of the people is required prior to exercise of the power. However, previous law has been

revised so that it is no longer necessary for second class cities to go to the Dept. of Community & Regional Affairs for approval.

The amendment is a reflection of changes made in Senate Judiciary which replaced in statute what had been eliminated in the original bill: language stating that a municipally owned utility could acquire property extra-territorially to provide service. That is a noble purpose, but when you combine the vote of the people in exercising eminent domain, and the right of a municipality to act extra-territorially, it seems appropriate that eminent domain be exercised within the corporate boundaries of the municipality and not within the boundaries of some other municipality or an unincorporated area. The amendment merely limits the power of eminent domain to the municipality where it belongs.

SCOTT BURGESS, Executive Director, Alaska Municipal League, came before committee advising that the power to exercise eminent domain outside the boundaries is existing law. That power is a traditional power of both the state and its political subdivisions. This exercise is in the public interest to provide services to the public. This power is also enjoyed by public utility companies, coops, and mining companies. Even private companies providing utilities and/or services to the public can exercise the power of eminent domain. Surely the vote of the people is not involved in those issues.

Senator Eliason asked if the amendment had been proposed before other committees of the legislature. Mr. Burgess responded negatively. The Senator advised of his understanding that if the amendment is adopted, municipalities would have to go to the legislature or state to exercise eminent domain outside their boundaries. Mr. Burgess advised that he could not answer the question.

TAM COOK, Deputy Director, Legal Division, Legislative Affairs, came before committee advising that under the terms of the amendment a municipality would not be able to acquire a right-of-way unless it was able to get landowners to transfer needed easements voluntarily. There is a possibility that municipalities could prevail upon the state to act in certain situations.

Senator Halford advised that it is amazing that Alaskan communities currently have extra-territorial powers of eminent domain without any apparent check by the state. He said that he had no problem with municipalities going through the state to exercise eminent domain, but to think that a municipality could take by eminent domain the private property of another residing outside the municipality with no vote and no recourse is mind boggling.

Senator Kerttula noted need for cities hoping to acquire electrical, water, or sewer line connections to have "more than

just a convenience section" to acquire that right-of-way when its not in their borders. It ought to be made available through negotiation with the state.

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Senator Halford advised that he had no objection to municipalities acquiring property outside their boundaries if a private owner is willing to sell. He noted, however, that he had problems with municipalities which go outside their boundaries "and take from someone who cannot even vote in that municipality and has no protection other than to come to the state . . . ." This appears to load the system against the resident and in favor of municipalities.

Co-chairman Sackett called for a vote on adoption of Amendment No. 5. A show of hands evidenced, Co-chairmen Faiks and Sackett and Senators Ferguson and Kerttula in support. AMENDMENT NO. 5 was thus ADOPTED.

Co-chairman Sackett MOVED for adoption of Amendment No. 6, advising that Senator Coghill was present to speak to the amendment.

SENATOR JACK COGHILL came before committee advising that the amendment would remove new language found at page 164 (Sec. 29.60.140) and return to the status quo through insertion of language found at Sec. 29.89.050 of the municipal code. The Senator noted pending lawsuits in this area relating to unincorporated native villages and "the \$25,000 which has gone to them." The Dept. of Community & Regional Affairs has indicated that current language "is basically what they're doing." The old language, however, identifies what a native village government means.

Senator Coghill advised that he and Representative Goll would be dealing with these statutes during the next session of the legislature, "putting in eight basic steps of government going from the IRA (traditional village councils) . . . through first, second, third class cities."

REPRESENTATIVE PETER GOLL next came before committee in support of the amendment, advising that fine tuning could be accomplished during the coming year.

He brought to committee attention the fact that one of the statutory changes included in SCS CS HB 72 (Jud) is the "waiver of sovereign immunity with regard to the moneys received." Co-chairman Sackett acknowledged that "the waiver is a part of the existing legislation."

JEFF SMITH, Deputy Commissioner, Dept. of Community & Regional Affairs, next came before committee advising that when changes in revenue sharing were made in 1980 the subject language was

included. An attorney general's opinion was later rendered which stated that the language was unconstitutional and the department would be required to provide aid to all unincorporated communities. That opinion was further amended to exclude unincorporated communities located in organized boroughs. The program has been implemented in this manner for the past four years, and the department will continue this implementation whether the amendment is adopted or not. The department will continue to operate the program under the attorney general's opinion that states that "all unincorporated communities outside of organized boroughs should receive this aid.

Senator Halford stated his understanding that in adopting the proposed amendment the committee would be "reinserting language that according to the attorney general is unconstitutional . . . ." Mr. Smith concurred, advising that the department has "never implemented that section the way it was written in statute." Co-chairman Sackett noted his understanding that cases relating to the attorney general's opinion are currently progressing through the courts. Sec. 29.60.140 takes the attorney general's opinion and attempts to incorporate it within statute. The Co-chairman expressed a preference for letting the court decide the issue rather than placing language in statute and possibly having to change it later.

Senator Halford stated that he felt the committee should review the attorney general's opinion prior to action on the amendment. Co-chairman Faiks directed that Amendment No. 6 be HELD for later discussion.

Co-chairman Sackett MOVED to WITHDRAW AMENDMENT NO. 4. No objection having been raised, AMENDMENT NO. 4 was WITHDRAWN.

Co-chairman Sackett MOVED for adoption of AMENDMENT NO. 7, explaining that the amendment relates to 29.35.020 (Extra-territorial jurisdiction). Existing law includes public utilities. It was tinkered with in Senate Judiciary and wording relating to utilities was deleted. The proposed amendment would reinsert "utility services" in existing law.

DAVE HUTCHENS, Executive Director, Alaska Rural Electric Cooperative Association, came before committee, advising that the Association proposed, in Senate Judiciary, that "public utilities" be removed from one section and that existing law be reinstated through amendment as a subsequent subsection covering, specifically, extra-territorial powers relating to public utilities.

Co-chairman Sackett directed attention to page 75 of SCS CS HB 72 (Jud), advising that new subsection (c) reflects a "fight between Valdez and some electric utility down there." Mr. Hutchens advised that subsection (c) which is new to the bill in terms of earlier drafts is actually "reenactment of existing law exactly as it is."

JEFF SMITH, Deputy Director, Dept. of Community & Regional Affairs, again came before committee advising of opposition to Senate Judiciary action and support for Co-chairman Sackett's amendment which would reinstate language contained in the bill which issued from Community & Regional Affairs Committee.

TAM COOK, Deputy Director, Legal Division, Legislative Affairs, came before committee explaining that controversy surrounding subsection (c) rests on existing language which allows a municipality which owns or operates a utility to extend services into adjacent areas. By removing subsection (c) and inserting "utility services" into the extra-territorial jurisdiction section under (a), the committee would "remove the limitation that they may only extend utilities into adjacent areas." That was a deliberate change in law made in earlier drafts of the bill. Extension of utilities into "adjacent areas," only, reflects existing law.

Ms. Cook noted that when the issue first arose four or five years ago, municipalities "very, very much wanted to get rid of this limitation on adjacent service because of situations such a Pt. MacKenzie." In Juneau, before the city was unified, if the city wanted to extend services to the valley, and skip areas in between, a problem might have arisen.

Senator Kerttula inquired further concerning problems relating to Valdez. No additional information was available at the present time, and the Senator then requested that AMENDMENT NO. 7 be HELD in committee for later discussion. No objection having been raised, it was so ordered.

Co-chairman Faiks advised that SCS CS HB 72 (Judiciary) would be HELD for later discussion with Amendments 6 and 7 pending.

#### HB 81

Co-chairman Faiks moved that HB 81 (ACT RELATING TO MOTOR VEHICLE EMISSION INSPECTION) be brought on for discussion, explaining that SCS HB 81 (Finance) contains amending language relating to exemptions at subsection (5) on page 3. The Co-chairman further advised that in light of new exemption language, the bill requires further amendment and directed attention to an amendment which would insert a new Sec. 4 at Page 3, Lines 6 and 7.

The Co-chairman noted that most committee members "don't like the program," but realize that it is mandated. The committee sought through subsection (5) to exempt from the emission control program automobiles which were registered in one locality (Anchorage and Fairbanks) but used elsewhere.

LISA NELSON, Assistant Attorney General, Criminal Division, Dept. of Law, came before committee advising that due to the manner in which the exemption was drafted, it only applied to municipalities of 1,000 or more per provisions in existing law.



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Section-by-Section Analysis

SCS CSHB 72 (Jud)

FOURTEENTH LEGISLATIVE SESSION

\* Sec. 1. This is a purpose clause indicating the intent of the legislature to revise and reorganize the municipal code so local government can function more effectively. The legislature does not intend to alter the balance of authority between the state and local governments with respect to resource development or alter the authority of state agencies to carry out their functions under other titles.

\* Sec. 2.

Sec. 29.03.030 is added to the chapter dealing with the unorganized borough in order to cross-reference the section authorizing the division of lands to act as the platting authority in the unorganized borough.

\* Sec. 3. CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.04.010. No substantive change. (AS 29.08.010)

Sec. 29.04.020. No change. (AS 29.08.020)

Sec. 29.04.030. No change. (AS 29.08.030)

Sec. 29.04.040. (a) The phrase "as provided in this subsection" is deleted as unnecessary. (AS 29.08.040(a))

(b) No change. (AS 29.08.040(b))

(c) No change. (AS 29.08.040(c))

(d) No substantive change. (AS 29.08.040(d) and (e))

(e) "Department of Community and Regional Affairs" is altered to read "department". This bill adds "department" to the definitions section and uses that term throughout the

title in place of "Department of Community and Regional Affairs". (AS 29.08.040(f))

Sec. 29.04.050. This deletes the provision for reclassification of a second class borough to a third class borough. The material dealing with a combined assembly and school board is entirely deleted. (AS 29.08.045(a),(b))

Sec. 29.04.060. No substantive change. (AS 29.08.045(a),(c))

\* Sec. 4. CHAPTER 05. INCORPORATION.

Sec. 29.05.010. No substantive change (AS 29.18.011)

Sec. 29.05.020. The term "organized borough" is altered to "borough", which is defined for the title. (AS 29.18.020)

Sec. 29.05.030. (a) This provides for incorporation of a home rule, first class, or second class borough, but not for incorporation of a third class borough. This section contains several technical changes. The term "organized borough" is replaced with "borough" since that is defined. The term "local services" is replaced by "municipal services". The term "local government" is replaced by "borough government" as being more precise since this section deals with the incorporation of boroughs and not cities. (AS 29.18.030)

(b) This is new and provides that an area may not incorporate as a third class borough.

Sec. 29.05.060. "Department of Community and Regional Affairs" is replaced by the word "department" which is defined for the title. The paragraphs are reorganized so that the most general requirements precede the most specific requirements for incorporation. (AS 29.18.050)

(7) Signature requirements apply to home rule and first class cities as a unit and then to the rest of the voters in the area of the proposed borough as another unit. Under existing law only first class cities are treated as a special unit for the purpose of gathering signatures. (AS 29.18.050(10))

(13) This is a new provision for incorporation of a home rule borough requiring that a proposed home rule charter be filed with the incorporation petition.

Sec. 29.05.070. No substantive change. (AS 29.18.060)

Sec. 29.05.080. (a) Combines material currently found in two subsections. Adds requirement that notice of the meeting be published. "Published" is defined for the title. (AS 29.18.070(a) and (c))

(b) No change. (AS 29.18.070(b))

(c) No substantive change. (AS 29.18.080(a))

Sec. 29.05.090. "Department of Community and Regional Affairs" is altered to "department". (AS 29.18.080(b))

Sec. 29.05.100. No substantive change. (AS 29.18.090)

Sec. 29.05.110. This section contains a few minor changes, so that the use of language is consistent throughout the bill. The word "officer" is changed to "official" and that is the term used throughout. Currently, Title 29 uses the terms municipal "officer" and "official" interchangeably. Effective January 1, 1981, the director of elections became responsible for conducting state elections rather than the lieutenant governor and here the responsibility for the election is conferred on the director of elections. (AS 29.18.110)

Sec. 29.05.120. This section is reorganized. Current references to the lieutenant governor are changed to the director of elections. (AS 29.18.120)

(a) Contains material currently found in AS 29.18.120(b).

(b) Contains material currently found in AS 29.18.120(b).

(c) Contains material currently found in AS 29.18.120(b).

(d) Contains material currently found in AS 29.18.120(c).

(e) Contains material currently found in AS 29.18.120(d).

(f) Contains material currently found in AS 29.18.120(e).

Sec. 29.05.130. The phrase "borough assembly or city council" is replaced by the word "municipality". The last line of the current section is dropped as no longer necessary. The provisions of this section apply to all boroughs whether incorporated or organized before or after September 10, 1972. (AS 29.18.130)

Sec. 29.05.140. Minor wording changes are made to improve readability and to insure that terms are used consistently throughout the title. (AS 29.18.140)

(d) This is added to clarify that the section applies to home rule and general law municipalities, however, this is not a substantive change because the section currently applies to home rule municipalities under AS 29.13.100(2).

Sec. 29.05.150. No substantive change. (AS 29.18.150)

Sec. 29.05.180. This section now applies only to organization grants for cities incorporated after December 31, 1985. A new section has been added to the bill to deal with organization grants for boroughs. A newly incorporated city or a second class city in the unorganized borough that reclassifies shall be entitled to a first year organization grant of \$50,000 and to a second organization grant of \$25,000. Under existing law, a municipality is entitled to receive \$10 for every voter or \$25,000 minimum, and the municipality receives no grant the second year. (AS 29.18.180)

Sec. 29.05.190. This section deals with organization grants to boroughs only and applies to boroughs incorporated after December 31, 1985. A borough shall be entitled to a first year organization grant of \$300,000; a second year grant of \$200,000; and a third year grant of \$100,000. Under existing law a borough receives \$10 for every voter or a minimum \$25,000 grant. (AS 29.18.180)

Sec. 29.05.200. This is new material establishing an organization grant fund. The Department of Community and Regional Affairs is required to prepare a yearly report on the fund to be presented to the Department of Administration.

Sec. 29.05.210. This is new material which requires the Department of Community and Regional Affairs to determine the population of a newly incorporated borough, help the borough establish an initial assessment and collection

department if it has adopted a sales or use tax; and help the borough to determine the initial assessment roll if the borough has adopted a property tax.

\* Sec. 5.            CHAPTER 06. ALTERATION OF MUNICIPALITIES.

Sec. 29.06.010. The phrase "ratified by the qualified voters voting on the question at a regular or special election" is replaced by "ratified by the voters". The word "voter" is defined for the title. References to the lieutenant governor are changed to the director of elections.  
(AS 29.73.050)

(d) This is added and applies the section to home rule municipalities. This is not a substantive change since the section is a home rule limitation under AS 29.13.100 (32).

Sec. 29.06.040. (a) Authorizes an appeal of a decision of the Local Boundary Commission regarding a proposed municipal boundary change. (AS 29.68.010(a))

(b) No substantive change. (AS 29.68.010(a))

(c) Deletes outdated time period during which the Local Boundary Commission was to establish certain procedures.  
(AS 29.68.010(b))

(d) Reorganized but no substantive change.  
(AS 29.68.010(c))

Sec. 29.06.050. No substantive change. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying all sections dealing with annexation as home rule limitations. The material contained in sec. 29.06.040 of this bill is currently a limitation on home rule municipalities under AS 29.13.100(26).

Sec. 29.06.090. Adds a provision that a third class borough may not be formed through merger or consolidation.  
(AS 29.68.030)

Sec. 29.06.100. The words "existing" and "proposed" are added to make it clear that some requirements refer to an existing municipality and some to a proposed municipality.  
(AS 29.68.040)

Sec. 29.06.110. "Department of Community and Regional Affairs" is changed to "department". (AS 29.68.050, 29.68.060, 29.68.070(a))

Sec. 29.06.120. No substantive change. (AS 29.68.070(b))

Sec. 29.06.130. "Assembly or council" is changed to "governing body" which is defined for the title. Material contained in the last sentence under current law is placed into a new subsection (b). (AS 29.68.080)

Sec. 29.06.140. Material currently contained in AS 29.68.090(a) and (b) is combined into (a). The statutory reference in AS 29.68.090(d) is eliminated as unnecessary. References to "lieutenant governor" are changed to "director of elections". (AS 29.68.090)

Sec. 29.06.150. No substantive change. (AS 29.68.100)

Sec. 29.06.160. No substantive change. (AS 29.68.110)

Sec. 29.06.170. This is a new section clarifying that the article on merger and consolidation applies to home rule municipalities. These sections are currently applied to home rule municipalities under AS 29.13.100(27).

Sec. 29.06.190. No substantive change. (AS 29.68.240)

Sec. 29.06.200. No substantive change. (AS 29.68.250)

Sec. 29.06.210. "Unification" is added to make it clear that this is a special type of petition. (b)(1) and (2) are slightly rewritten for clarity. (AS 29.68.260)

Sec. 29.06.220. No substantive change. (AS 29.68.270)

Sec. 29.06.230. No substantive change. (AS 29.68.350(a))

Sec. 29.06.240. This is rewritten for clarity. Under existing law membership is divided between the area outside cities and the area inside cities. This approach is altered so that membership is divided between the area outside home rule and first class cities and the area inside home rule and first class cities in the borough. (AS 29.68.310)

Sec. 29.06.250. (a) No substantive change. (AS 29.68.280)

(b) No substantive change. (AS 29.68.290(a))

(c) No substantive change. (AS 29.68.290(b))

(d) This is new material providing that a resolution or petition for unification is void if insufficient nominations are received for the charter commission.

Sec. 29.06.260. No substantive change. (AS 29.68.300)

Sec. 29.06.270. (a) The question submitted to the voters is whether a charter commission shall be formed, not whether unification shall take place. (AS 29.68.320(a) and (b))

(b) No substantive change. (AS 29.68.320(c))

(c) No substantive change. (AS 29.68.320(d))

Sec. 29.06.280. Reworded to clarify that formation of a charter commission is being considered, not unification. (AS 29.68.330)

Sec. 29.06.290. No substantive change. (AS 29.68.340(a) - (d))

Sec. 29.06.300. No substantive change. (AS 29.68.340(e), 29.68.390(e))

Sec. 29.06.310. No substantive change. (AS 29.68.340(f))

Sec. 29.06.320. The language "at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter" is deleted since this appears elsewhere. Parts have been slightly rewritten for clarification and statutory references to other sections in AS 29.68.350(a)(5) and (7) are deleted as unnecessary. AS 29.68.350(b) is deleted as unnecessary. (AS 29.68.350)

Sec. 29.06.330. Some excessive verbage is eliminated. (AS 29.68.360)

Sec. 29.06.340. No substantive change. (AS 29.68.370)

Sec. 29.06.350. The language "once in at least one newspaper having general circulation distributed within the

borough, if there is a newspaper having general circulation distributed in the borough" is eliminated as unnecessary since "published" is defined for the title. (AS 29.68.380)

Sec. 29.06.360. (a) No substantive change.  
(AS 29.68.635(a), 29.68.390(a))

(b) No substantive change. (AS 29.68.390(b))

(c) No substantive change. (AS 29.68.390(c))

(d) No substantive change. (AS 29.68.390(d))

Sec. 29.06.370. The statutory reference to the article on unification is eliminated as unnecessary. (AS 29.68.400)

Sec. 29.06.380. This section is slightly reworded for clarity. (AS 29.68.410)

Sec. 29.06.390. This section is slightly reworded for clarity. (AS 29.68.420)

Sec. 29.06.400. This is reworded for clarity and the statutory reference to the unification article is deleted as unnecessary. (AS 29.68.430)

Sec. 29.06.410. (2) is changed so that it is clear that a unified municipality has the powers of a home rule borough, since a unified municipality is a home rule unit of government. (AS 29.68.440)

Sec. 29.06.420. This is a new section making the provisions dealing with unification applicable to home rule municipalities. Although annexation, merger and consolidation, and dissolution are currently home rule limitations, the sections dealing with unification are not listed as home rule limitations under existing law.

Sec. 29.06.450. No changes other than changes in terminology used consistently throughout in this bill.  
(AS 29.68.500)

Sec. 29.06.460. No changes except for minor rewording for clarity. (AS 29.68.510)

Sec. 29.06.470. No changes, except for minor rewording for clarity. (AS 29.68.520)

Sec. 29.06.480. "Department of Community and Regional Affairs" is altered to "department". (AS 29.68.530, 29.68.540)

Sec. 29.06.490. No changes except for minor rewording for clarity. (AS 29.68.550)

Sec. 29.06.500. (a) No change. (AS 29.68.560)

(b) Provides for an administrative appeal of a Local Boundary Commission decision.

Sec. 29.06.510. Material contained in AS 29.68.570(a) and (b) is consolidated into (a). References to the "lieutenant governor" are changed to the "director of elections", who is now in charge of state elections. (AS 29.68.570)

Sec. 29.06.520. The statutory reference contained in existing law is deleted as unnecessary. (AS 29.68.580)

Sec. 29.06.530. This is a new section clarifying that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100(28) makes these sections applicable to home rule municipalities under current law.

\* Sec. 6. CHAPTER 10. HOME RULE MUNICIPALITIES.

Sec. 29.10.010. A first class city or borough of any class may adopt a home rule charter. This is a change from existing law which allows first class boroughs and cities, and second class boroughs to adopt a charter, but does not authorize a third class borough to adopt a charter. An area in the unorganized borough may adopt a charter and incorporate as a home rule borough. A proposed charter for an unincorporated area is prepared by the petitioners and filed with the incorporation petition. (AS 29.13.010)

Sec. 29.10.020. This is new and requires the Department of Community and Regional Affairs to prepare a model charter to be available to persons interested in filing a petition to incorporate a home rule borough.

Sec. 29.10.030. No substantive change. (AS 29.13.050)

Sec. 29.10.040. (a) This has been reworded slightly, but contains no significant changes. (AS 29.13.010)

(b) No substantive change. (AS 29.13.020)

(c) This is new material providing that if enough nominations for candidates are not filed no election is held on the question of forming a charter commission.

Sec. 29.10.050. Changed to reflect the fact that a charter commission is elected only in an existing municipality considering the question of home rule. For incorporation of a home rule borough, the charter is prepared and filed by the petitioners with the incorporation petition. (AS 29.13.030)

Sec. 29.10.060. The clerk shall have the charter published, which is defined, and shall make copies available. Under existing law the governing body is responsible for publishing a charter. (AS 29.13.040)

Sec. 29.10.070. "Municipal" is deleted as no longer necessary as "voter" is defined. "Regular or special" is deleted since "election" is defined. Adds a provision that a proposed charter for an area shall be voted on at the incorporation election. (AS 29.13.060)

Sec. 29.10.080. (a) The provision that the charter becomes effective on the date the election is certified has been added. (AS 29.13.070)

(b) This is new and authorizes voters to determine if a combined assembly and school board should be retained when voting on adoption of a home rule charter in a third class borough.

Sec. 29.10.090. (a) No substantive change. (AS 29.13.070(b))

(b) This is new providing that if incorporation of a home rule borough is rejected, the proposed charter is rejected as well.

Sec. 29.10.100. The provision that a charter may be amended by initiative referendum has been deleted. The charter is amended as provided in the charter itself. (AS 29.13.080)

Sec. 29.10.200. The following paragraphs contain sections which are added to the limitations of home rule powers:

- (5) unification of municipalities;
- (10) legislative power;
- (11) assembly composition and apportionment (only one section on assembly composition and reapportionment, AS 29.23.021 which is, now sec. 29.60.060, is a limitation under existing law), however, AS 29.20.033 provides that the other section might apply to some home rule municipalities;
- (12) qualifications of members of governing bodies;
- (14) executive power;
- (27) alcoholic beverages;
- (29) regulation of firearms;
- (31) assessment and collection of taxes;
- (32) land use regulation;
- (36) title to vacated areas;
- (38) property taxes (this adds sec. 29.45.450 - 500 and sec. 29.45.550 to the limitations listed under existing law);
- (42) construction;
- (45) general grant land;

The following paragraphs under AS 29.13.100 no longer appear as limitations:

- (4) election and term of mayor;
- (8) municipal elections (material now contained in AS 29.28.010 is not a limitation under this bill; material in AS 29.28.020(b) is expanded so that the notice requirement covers both regular and special elections and the requirement is a limitation under this bill);
- (15) borough building code jurisdiction within cities (the material is deleted from this bill);

- (20) expenditures of borough revenue;
- (25) bond attorneys (the material is deleted from this bill);
- (35) bonded debt for school construction (the material is deleted from this bill);
- (37) zoning of state land for homesite entry (this was repealed in 1979);
- (39) applicability of local platting regulations (the material is deleted from this bill);
- (40) expulsion of borough assemblymen (this material is substantially rewritten and not made binding upon home rule municipalities);
- (41) removal of borough mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);
- (42) expulsion of city councilmen (this material is substantially rewritten and not made applicable as a home rule limitation);
- (43) removal of mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);
- (44) expulsion, removal from office (this material is substantially rewritten and not made applicable as home rule limitation).

\* Sec. 7. CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

Sec 29.20.010. Each municipality shall adopt a conflict of interest ordinance. A member of the governing body shall declare a financial interest he has in an official action and ask to be excused. The presiding officer rules on the question and his decision may be overridden. Under existing law an officer or employee is required to disqualify himself from participating in an official action in which he has a substantial financial interest. (AS 29.23.555)

Sec. 29.20.020. "Assembly and council" is altered to "governing body" and the section is divided into subsections for ease of use. (AS 29.23.580)

Sec. 29.20.050. The second sentence is new material, however it does not substantively change existing law since it can be implied that the legislative power of a city is vested in the council. This is applicable as a home rule limitation. (AS 29.23.010)

Sec. 29.20.060. No substantive change. This is made specifically applicable to home rule municipalities, but is a home rule limitation now under AS 29.13.100(3). (AS 29.23.021)

Sec. 29.20.070. "Borough" is dropped before the word "assembly" when it appears and "assembly" is defined for the title. The statutory reference contained in AS 29.23.023(e)(1) is deleted as unnecessary since "unified municipality" is defined. (AS 29.23.023)

Sec. 29.20.080. "Borough" is deleted as unnecessary when it appears before the word "assembly". In (e) "of the Department of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.025)

Sec. 29.20.090. "Borough" is deleted as unnecessary when it appears before "assembly". "Of Community and Regional Affairs", appearing several times in the section, is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect renumbering. (AS 29.23.027)

Sec. 29.20.100. "Borough" is deleted where it appears before "assembly". "Of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.029)

Sec. 29.20.110. Statutory references are altered to reflect new numbering. (AS 29.23.031)

AS 29.20.120. The statutory reference in (1) is deleted since "unified municipality" is defined for the title. Statutory references are revised to reflect new numbering. (AS 29.23.033)

Sec. 29.20.130. No change. (AS 29.23.200(a))

Sec. 29.20.140. This section is substantially rewritten to combine material concerning the qualifications for membership in assemblies with material concerning the qualifications for membership in councils.

(a) Rewritten, but no substantive change. (AS 29.23.050, 29.23.200(b))

(b) Combines material currently found in different sections. (AS 29.23.050, 29.23.200(b))

(c) This contains new material allowing a municipality to establish district residency requirements for members of the assembly or council. Current law allows an assemblyman elected from one district who becomes a resident of another district to serve only until the next regular election. The subsection allows a municipality to provide otherwise by ordinance. It is also made applicable to city councils. Under existing law a council may be elected by district rather than at-large, but no provision deals with the possibility that a councilman might change his district residency. (AS 29.23.050, 29.23.200(a))

(d) New material prohibiting a municipality from limiting the number of terms or number of consecutive terms a voter may serve on the assembly or council, unless the limit is ratified.

(e) This is applicable to both home rule and general law municipalities. Under current law the qualifications for assemblymen are applicable to home rule and general law municipalities but the qualifications for city councilmen are not. (AS 29.23.050, 29.23.200)

Sec. 29.20.150. Combines material dealing with the term of office of members of the assembly with material dealing with the term of office of members of the council.

(a) This is substantially rewritten, however, the only substantive change is that members of the council may serve different terms when allowed by charter, as well as by ordinance. (AS 29.23.040(a), 29.23.200(c))

(b) No substantive change. (AS 29.23.040(a), 29.23.200(c))

(c) The material permitting a different date to be prescribed by charter or ordinance is made applicable to city councils. (AS 29.23.040(b), 29.23.200(c))

(d) This is added as a home rule limitation with respect to city councils. (AS 29.23.040(c))

Sec. 29.20.160. Combines material dealing with assemblies and with councils into one section.

(a) The last line dealing with the presiding officer is new material as it applies to the council. (AS 29.23.060(b), 29.23.240)

(b) The material dealing with the calling of a special meeting is substantively changed. Under existing law a special meeting may not be called unless all members receive 24 hours written notice or, if there is an emergency and all absent members waive the notice. As rewritten, a special meeting may be held if a majority of the members receive 24 hours notice and reasonable efforts are made to notify all members. (AS 29.23.060(a), 29.23.210(a))

(c) A member of the governing body disqualified from voting is considered present for purposes of constituting a quorum. A majority of the membership of a council constitutes a quorum, while under existing law four councilmen constitute a quorum. This is not a substantive change, since a first class city has a council of six members and second class city has a council of seven members. Four councilmen are still required for a quorum. (AS 29.23.060(d), 29.23.210(c))

(d) Actions are adopted by a majority of the total membership of the governing body, while under existing law actions are adopted by a majority of votes authorized on the question. All members vote and unless they are required to abstain by law, while under existing law a member may abstain if permitted by the governing body, and must abstain if he has a substantial financial interest in the question. This section is applicable to city councils as well as to assemblies. (AS 29.23.060(d), 29.23.210(c))

(e) Specifically provides that the journal shall be a public record. (AS 29.23.060(c), 29.23.210(b))

(f) Requires a governing body to determine by ordinance its rules and order of business. (AS 29.23.060(c), 29.23.210(b))

Sec 29.20.170. This allows the governing body to prescribe the manner in which a vacancy occurs in any elected office, other than the office of mayor or member of the school board. The governing body is required to declare an elective office vacant under specific conditions, unless a municipality establishes otherwise by ordinance. (AS 29.-23.060(c), 29.23.080, 29.23.210(b), 29.23.220, 29.23.570)

Sec. 29.20.180. (a) Requires a vacancy to be filled within 30 days unless a different period is established by ordinance. If less than 30 days remain in a term, a vacancy need not be filled, unless filling the vacancy is necessary to preserve a quorum. The material contained in AS 29.23.080 dealing with filling a vacancy in dual assembly council seats has been deleted. (AS 29.23.080, 29.23.220)

(b) This is new material requiring appointments within seven days if needed to preserve a quorum.

(c) No substantive change. (AS 29.23.080, 29.23.220)

Sec. 29.20.220. This section is substantially rewritten to combine material dealing with the mayor of a city with material dealing with the mayor of a borough.

(a) This is a clear statement that the executive power is vested in a mayor, which is only implied with reference to cities under current law. The mayor of a home rule or unified municipality is elected by the voters, which is not a substantive change. (AS 29.23.200(a) and (c), 29.23.240)

(b) This material currently exists with respect to city mayors but not with respect to borough mayors, although these duties may be implied for borough mayors. The language "and is responsible for additional duties and powers prescribed by this chapter or by home rule charter" is new, but is not a substantive change. (AS 29.23.240)

(c) This section is a limitation on home rule municipalities. Under existing law it is not listed as a limitation.

Sec. 29.20.230. This is substantially rewritten in order to combine material dealing with the election and term of a borough mayor and a city mayor.

(a) No substantive change. (AS 29.23.130(c), 29.23.250(b) and (d))

(b) Allows a second class city to provide by ordinance for a term longer than one year for the office of mayor, as long as the mayor is a member of the council. Existing law provides a one-year term of office for the mayor of a second class city. (AS 29.23.250(c) and (d))

(c) This is new material providing that the number of terms or number of consecutive terms a mayor may serve may not be limited.

Sec. 29.20.240. Rewritten to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.130(b), 29.23.250(a) and (c))

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated. This section is not a limitation on home rule governments, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority. (AS 29.23.130(b), 29.23.250(a))

Sec. 29.20.250. This is rewritten to combine sections dealing with a city and sections dealing with a borough, and to achieve a clear statement of existing law.

(a) No substantive change. (AS 29.23.130(a), 29.23.290)

(b) Authorizes the mayor of a borough with a manager form of government to vote in the case of a tie. The fact that a mayor may take part in discussions is not stated with respect to the mayor of a city under existing law. (AS 29.23.160, 29.23.260)

Sec. 29.20.260. No change, except for minor rewording for clarity. (AS 29.23.150)

Sec. 29.20.270. This is substantially rewritten in order to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.270(a))

(b) The material requiring that a veto be overridden within 21 days after the exercise of the veto or during the next regular meeting is new. Current law does not specify a time period during which a veto may be overridden.  
(AS 29.23.170(a), 29.23.270(a))

(c) A veto does not extend to actions of a city council sitting as a board of equalization or a board of adjustment, nor may the city mayor veto the adoption or repeal of a manager form of government. Current law is silent as to these issues with respect to a city. (AS 29.23.170(a) and (b), 29.23.270)

(d) No change. (AS 29.23.270(b))

Sec. 29.20.280. (a) Under existing law the governing body has the option of declaring the office of mayor vacant when he is convicted of a corrupt practice. (AS 29.23.130(f), 29.23.255, 29.23.570)

(b) No substantive change. (AS 29.23.180, 29.23.280(a))

(c) No substantive change. (AS 29.23.280(b))

Sec. 29.20.300. The statutory reference to a repealed section is deleted. School board members may be elected by area rather than at-large, if approved by the voters.  
(AS 29.23.310)

Sec. 29.20.310. No change, except for minor rewording so the usage is consistent throughout the title.  
(AS 29.23.340)

Sec. 29.20.320. This is new material allowing the governing body to establish boards and commissions. Arguably, this power is implied to exist in current law as part of the ability of a governing body to delegate responsibility.  
(AS 29.48.010(1))

Sec. 29.20.360. Certain officials shall be appointed by the chief administrator unless otherwise provided by ordinance.

Under current law these officials are appointed by the chief administrator or by the governing body as determined by ordinance. Current law provides that appointments by the chief administrator are subject to confirmation, and this section allows a municipality to provide otherwise by ordinance. (AS 29.23.360)

Sec. 29.20.370. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.23.370)

Sec. 29.20.380. No change, except for minor rewording in order to achieve consistent usage. (AS 29.23.380)

Sec. 29.20.390. The statutory reference is added to provide notice that, when a central treasury is established for the school board and the municipality, the treasurer is not custodian of the funds. (AS 29.23.390)

Sec. 29.20.400. Slightly reworded for clarity. (AS 29.23.070)

Sec. 29.20.410. Allows the governing body to provide for a classified service and to designate positions which are wholly or partially exempt from the classified service. (AS 29.23.550)

Sec. 29.20.460. No change, except for minor rewording to achieve consistent usage. (AS 29.23.410, 29.23.420)

Sec. 29.20.470. The last line dealing with notice requirements is omitted because notice requirements for elections are now contained in Sec. 29.26.030. At least 20 days notice shall be provided, while under current law 30 days notice is required before an election to adopt a manager plan. (AS 29.23.430)

Sec. 29.20.480. No change, except for minor rewording to achieve consistent usage. (AS 29.23.440)

Sec. 29.20.490. In the second line the word "solely" and the word "executive" have been omitted, so that the manager is to be chosen on the basis of his administrative qualifications. A member of the governing body may not be appointed manager until one year after leaving office unless authorized by more than a majority vote. Under existing law

this limitation applies to all elected municipal officials.  
(AS 29.23.450, 29.23.460)

Sec. 29.20.500. This is substantially rewritten so that material dealing with duties of a city manager and material dealing with duties of a borough manager are combined. A statutory reference to the section concerning appointment of school employees is added for clarification. The requirement that the manager prepare and make available to the public an annual report on municipal affairs is deleted. AS 29.23.140(10)(A) and (C), requiring the borough manager to administer functions of borough employees and to administer public works is deleted because those requirements appear adequately covered by (1) and (5) of this section.  
(AS 29.23.140, 29.23.290)

Sec. 29.20.510. Rewritten slightly for clarity.  
(AS 29.23.130(e))

Sec. 29.20.520. After repeal of a manager plan, the governing body has 60 days to reorganize the municipal executive and administrative functions. Under existing law, no time period is provided for reorganization. (AS 29.23.480)

Sec. 29.20.600. No change, except for rewording to achieve uniform usage. (AS 29.23.500)

Sec. 29.20.610. No change, except for minor rewording to achieve uniform usage. (AS 29.23.520)

Sec. 29.20.620. A method of determining salaries shall be provided by ordinance, while under current law the governing body fixes by ordinance the salaries of elected officials. The salary of the mayor may be reduced during his term of office if a manager plan is adopted. An elected official may not receive compensation for additional service to the municipality, unless provided otherwise by ordinance.  
(AS 29.23.530)

Sec. 29.20.630. Municipal employment is added in AS 29.23.540(a). Subject to requirements contained in the title dealing with education, a school district employee, or state employee may not be denied the right to serve as an elected municipal official. Current law allows a municipality to prohibit the right to serve by charter or ordinance. (AS 29.23.540)

Sec. 29.20.640. No changes, except for rewording for consistency and changes in statutory references to reflect renumbering. (AS 29.23.560)

\* Sec. 8. CHAPTER 25. MUNICIPAL ENACTMENTS.

Sec. 29.25.010. The governing body is no longer required to fix the compensation of members of the assembly or council by ordinance, nor is it required to regulate the rate charged by a public utility by ordinance. (AS 29.48.130)

Sec. 29.25.020. This is substantially reorganized, but contains no substantive changes. (AS 29.48.140, 29.48.150)

Sec. 29.25.030. No change, except for minor word changes in order to achieve maximum clarity. (AS 29.48.160)

Sec. 29.25.040. Requires the governing body to see that the adopted code is made available to the public at no more than cost, while existing law requires the governing body to provide for the adopted code to be sold to the public. (AS 29.48.170)

Sec. 29.25.050. (b) allows the designee of the municipal clerk to prepare a general codification of municipal ordinances and deletes the requirement that the codification be prepared with the assistance of a legal advisor. The rest of the section is unchanged. (AS 29.48.180)

Sec. 29.25.060. This has been made applicable as a home rule limitation. (AS 29.48.185)

Sec. 29.25.070. A penalty not to exceed a fine of \$1,000 and imprisonment for 90 days may be imposed for a violation of an ordinance. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. The municipality or aggrieved person may institute a civil action against a person who violates an ordinance, and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and, upon a finding of a violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues is a separate violation. These penalties are authorized only if copies of the ordinance are made available. (AS 29.48.200)

\* Sec. 9. CHAPTER 26. ELECTIONS.

Sec. 29.26.010. A judge shall be a voter of the precinct for which he is appointed unless no voter is willing to serve. The language "the municipality may not alter voter qualification requirements of this title" is deleted as unnecessary. This is no longer a limitation on home rule municipalities. (AS 29.28.010)

Sec. 29.26.020. The language "subject to other provisions of this title" is added because other sections in the title provide a procedure for the nomination of candidates, for example, see secs. 29.06.250 and 29.10.040. (AS 29.28.015)

Sec. 29.26.030. At least 20 days notice of a regular or special election is required. This applies as a limitation on home rule municipalities, whereas under existing law only the notice requirement for a special election applies. (AS 29.28.020(b))

Sec. 29.26.040. No change, except for minor rewording for clarity. (AS 29.28.020(a))

Sec. 29.26.050. This has been reorganized. To qualify to vote in municipal elections a person must have been registered to vote in state elections for at least 30 days preceding the municipal election. Existing law requires only that the person be registered to vote in state elections without a durational requirement. A municipality may require a person to be registered to vote in the precinct in which he seeks to vote. (AS 29.28.030)

Sec. 29.26.060. The runoff election requirement is limited to the office of mayor, member of the governing body, or school board and the municipality may adopt an ordinance to alter this runoff requirement. A runoff election shall be held three weeks after the date of certification of the original election, rather than within two weeks, and is between the two candidates that received the greatest number of votes for the seat. (AS 29.28.040)

Sec. 29.26.070. This has been rewritten for clarity. A requirement that the governing body authorize the election results to be certified is added in (c). The provision that expulsion of certain officials is final and not subject to judicial review contained in AS 29.28.050(f) is deleted. In this bill there is no provision denying judicial review in cases involving the declaration of vacancy in office. (AS 29.28.050)

Sec. 29.26.100. No substantive change. (AS 29.28.060)

Sec. 29.26.110. This is new material establishing a process for applying for a petition for initiative or referendum. An application is signed by ten voters who sponsor the petition. If the clerk finds that an application is in proper form and that the four listed requirements are met, he shall certify the application. A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Within two weeks after certification of application a petition is prepared by the municipal clerk. Signatures must be obtained within 60, rather than 90 days from the date the petition is first circulated. Spaces are provided for signatures, the printed name of each signer, the date signature is affixed, and the residence and mailing addresses of each signer. Each petition contains a statement that the sponsor circulated the petition, that all signatures were fixed in his presence, and that he believes the signatures to be those of the persons whose names they purport to be. Spaces are provided for indicating the total number of signatures on a petition. If the petition consists of more than one page, each page contains a summary of the matter to be initiated or referred. Copies of the petition are supplied to each sponsor. (AS 29.28.065)

Sec. 29.26.130. Signatures must be secured within 60, rather than 90 days. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The number of signatures required remains identical to the number required under current law, except that no provision is made for signatures only from persons in services areas or outside cities when the matter to be initiated or referred applies only to the service area or area outside cities. Illegible signatures must be rejected by the clerk, whereas under existing law they may be rejected. A signer may withdraw his signature before certification of the petition, whereas under existing law he may only withdraw his signature within 7 days after the petition is filed. (AS 29.28.070)

Sec. 29.26.140. All copies of a petition are filed as a single instrument. An insufficient petition may be supplemented only with signatures obtained within ten days after the date the petition is rejected, while under current law there is no requirement that the signatures be obtained during this period. (AS 29.28.073)

Sec. 29.26.150. No change, except for minor rewording for consistency. (AS 29.28.075)

Sec. 29.26.160. "On substantially the same matter" has been added so that it is clear that the waiting period for filing a new petition does not apply if the petition sought to be filed deals with a different subject. (AS 29.28.077)

Sec. 29.26.170. Unless the same measure is adopted, the clerk submits a petition seeking an initiative vote to the voters at the next regular election occurring no sooner than 45 days after certification of the petition, or, if no regular election occurs within 75 days, a special election is held. If the governing body adopts the same measure, the petition is void and the subject is not placed before the voters, while under existing law the governing body may not adopt an ordinance or resolution within 10 days from the date of election. If the vote is favorable, the ordinance or resolution becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution, while under existing law an ordinance or resolution becomes effective when the election results are declared. There is no provision for the governing body to reject a petition, as there is in current law. (AS 29.28.080)

Sec. 29.26.180. When a petition seeks a referendum vote the clerk shall submit the matter to the voters in the same manner as provided for an initiative election. Under current law the vote is held during the next regular or special election, or within 75 days of filing the petition. If a petition is certified before the effective date of the matter referred, the ordinance or resolution is suspended, while under existing law the suspension occurs if a sufficient petition is filed within 30 days after passage of the ordinance or before the effective date of the ordinance. If the governing body repeals the ordinance or resolution, the petition is void and no election is held. If a majority vote does not favor repeal of the matter referred, it remains in effect, or, if it has been suspended becomes effective upon certification of the election. Existing law is silent as to the effective date of a suspended ordinance in this situation. (AS 29.28.090)

Sec. 29.26.190. If adopted in an initiative election or if adopted after a petition has been filed, an ordinance or resolution may not be repealed or amended within one year.

If an ordinance or resolution is repealed in a referendum election, or after a petition has been filed, similar legislation may not be enacted for a period of one year. Existing law provides that the governing body may not act in any way within two years to modify or negate the effect of a successful initiative or referendum and if an ordinance has been repealed after a petition has been filed, the governing body may not enact similar legislation for one year. (AS 29.28.110)

Sec. 29.26.240. This is broadened to include an official appointed to elected office, because when a vacancy occurs an official may, in certain cases, be appointed. He will be subject to recall just as an elected person would be. An official may be recalled when he has served 120 days of a term for which elected or appointed, while under existing law there is some ambiguity as to the status of an official who is reelected to the same office. (AS 29.28.130)

Sec. 29.26.250. No change. (AS 29.28.140)

Sec. 29.26.260. This is new material establishing a procedure for applying for a recall petition. The application must contain information concerning 10 voters who will sponsor the petition, the address to which correspondence relating to the application may be sent, and a statement in 200 words or less of the grounds of the recall. Additional sponsors may be added.

Sec. 29.26.270. A recall petition is prepared by the clerk. It contains the names of the official sought to be recalled, the grounds for recall, the date the petition is issued by the clerk, notice that the signatures are secured within 60 days after the date the petition is issued (while under existing law a petition must be filed within 60 days after the date of the earliest signature on it), spaces for signatures, printed name, date of each signature, and residence and mailing addresses of each signor, a statement that the sponsor personally circulated the petition, all signatures were fixed in his presence, and he believes the signatures to be those of the persons they purport to be, and space for indicating the number of signatures on the petition. Copies of the petition are provided to each sponsor. (AS 29.28.150)

Sec. 29.26.280. Signatures are secured within 60 days after a recall petition is issued. Signatures not accompanied by

a legible residence address are rejected. The clerk determines the number of signatures required and informs each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of voters residing in the district equal to 25 percent of the number of votes cast in that district for the office. Under existing law signature requirements are identical to the requirements for initiative and referendum. (AS 29.28.150, 29.28.160)

Sec. 29.26.290. Copies of a recall petition are filed as a single instrument. An insufficient petition may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, while under existing law there is no requirement that the signatures be obtained during that time period. A petition which does not contain an adequate number of signatures, both valid and invalid signatures, may not be supplemented and this is a new provision not contained in existing law. (AS 29.28.160, 29.28.170)

Sec. 29.26.300. Reworded so that it is clear that the six-month waiting period before a new petition may be obtained applies only to a petition seeking to recall the same official. (AS 29.28.180)

Sec. 29.26.310. No change, except for minor rewording for consistency. (AS 29.28.190)

Sec. 29.26.320. The requirement that an election to recall an official not be held sooner than 45 days after submission of the petition to the governing body is added. The governing body may not appoint to the same office an official who resigns after a petition is filed. (AS 29.28.200)

Sec. 29.26.330. The grounds for recall must be stated in 200 words or less. (AS 29.28.210)

Sec. 29.26.340. The provision that an office becomes vacant upon certification of the election is added. (AS 29.28.230, 29.28.240)

Sec. 29.26.350. When an official is recalled, his office is filled in accordance with the provision dealing with

vacancies. If all members of a governing body are recalled the governor appoints three persons and they appoint additional members needed to fill vacancies in accordance with the provisions dealing with vacancies. If all members of the school board are recalled the governor appoints three persons and they appoint additional members to fill remaining vacancies. A person appointed by the governor serves until a successor is elected. After an official is recalled, the clerk conducts an election for a successor. The election is held not more than 60 days from the date the recall election is certified unless a regular election is held within 75 days, in which case the successor is chosen at the regular election. Nominations may be filed until seven days before the last date upon which notice of the election must be published, but they may not be filed until the election is certified. Under existing law the election of successor shall be held at least ten but not more than 45 days from the date of the recall election and there are no provisions dealing with a situation involving the recall of all members of the governing body or school board.  
(AS 29.28.250)

Sec. 29.26.360. The sections dealing with recall are made applicable as limitations on home rule municipalities, and are currently limitations under AS 29.13.100(9).

\*Sec. 10. CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

Sec. 29.35.010.

- (1) No change. (AS 29.48.010(2))
- (2) No change, except for rewording due to a change in organization. (AS 29.23.510)
- (3) No change. (AS 29.48.010(1))
- (4) Minor rewording. (AS 29.48.010(5))
- (5) Minor rewording. (AS 29.48.010(3))
- (6) "and impose liens for their enforcement" is added. (AS 29.48.010(7))
- (7) No change. (AS 29.48.010(8))

(8) "for a purpose authorized under this title, federal law, or other law, or in accordance with such law" is deleted as excessive verbage. (AS 29.48.010(9))

(9) "facility or service" is added.  
(AS 29.48.010(11))

(10) This is added as a general power. Under existing law the power may be exercised by a first class borough on a nonareawide basis, so long as the borough seeks to have it transferred from cities or proposes joint city/borough exercise of the power. A first class borough may exercise the power on an areawide basis if it is assumed. A second class borough may exercise the power on an areawide or nonareawide basis if it is assumed. (AS 29.38.010, 29.48.035(a) and (b))

(11) No change. (AS 29.48.010(12))

(12) Minor rewording. (AS 29.48.010(10))

(13) Minor rewording. (AS 29.48.010(4))

(14) No change. (AS 29.48.010(6))

Sec. 29.35.020. A municipality may not exercise outside of its boundaries a power which it may not exercise within its boundaries. The word "roads" has been changed to "streets" which is defined for the title. The following have been included within the list of facilities which a municipality may provide outside its boundaries: solid and septic waste facilities, transportation facilities, wharves, harbors and other marine facilities. A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Existing law provides that a municipality may regulate a facility outside its boundaries, and provides no right for the municipality within which the facility is located to regulate it. (AS 29.48.037, 29.48.040)

Sec. 29.35.030. This deletes the requirement that a second class city obtain formal approval of the Department of Community and Regional Affairs, before exercising eminent domain and declaration of taking. This is a limitation on home rule municipalities, and is an existing limitation under AS 29.13.100(29). (AS 29.73.020)

Sec. 29.35.040. This becomes applicable when a disaster is declared by the governor as well as by the President. Since (a) allows a municipality within a disaster area to exercise the powers in the same manner as a home rule city, the subsection providing that differences between areawide and non-areawide powers do not apply has been eliminated as redundant. (AS 29.48.270)

Sec. 29.35.050. This is reorganized and minor changes are made to the wording for clarity. The phrase "provide the charges for collection and disposal shall be paid by the property owner or occupants of the premises" is eliminated as implied within the specified ability to fix charges. (AS 29.48.033)

Sec. 29.35.060. (a) The language "for the construction, operation and maintenance of bus transportation systems and public utilities" is eliminated, so that franchises and permits may be granted without restrictions as to type of franchise involved. This applies only to an entity not certificated by the Alaska Public Utilities Commission. (AS 29.48.050(a))

(b) Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of any exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system which is not certificated is valid only if approved by vote. Under existing law no franchise is valid unless it is submitted to the qualified voters for approval. The material dealing with use of streets by utilities contained in AS 29.48.050(c) is deleted. (AS 29.48.050(b))

Sec. 29.35.070. The governing body may regulate rates and charges of a utility that is not subject to regulation under AS 42.05 exempted from regulation or. Under existing law, a municipality may regulate only a municipally owned utility which is not regulated by the state. This section applies as a home rule limitation, and is an existing limitation under AS 29.13.100(17). (AS 29.48.060, 29.48.070)

Sec. 29.35.080. Requires municipal regulation of alcoholic beverages to conform to state requirements and is made a home rule limitation. (AS 29.48.035(a)(10))

Sec. 29.35.090. The governing body is required by ordinance to establish a formal procedure for acquisition and disposal

of land. The provisions authorizing a municipality to acquire, hold and dispose of real property are deleted as unnecessary. The provisions dealing with the requirements which must be met in the formal procedure established for disposal of land have been eliminated to provide more flexibility. The provisions dealing with restricting land to agricultural use have been deleted. (AS 29.48.260)

Sec. 29.35.100. Under existing law, obligations requiring payment of funds from appropriations of later years must be approved by ordinance. This has been eliminated as misleading in that it could be construed to suggest that bonded indebtedness may be acquired, whether or not for a capital project, so long as the indebtedness is approved by ordinance. AS 29.48.190(d) is eliminated as unnecessary. (AS 29.48.190)

Sec. 29.35.110. This is rewritten for clarity.  
(AS 29.48.210)

Sec. 29.35.120. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.48.220)

Sec. 29.35.130. No substantive change. (AS 29.73.080)

Sec. 29.35.140. No substantive change. (AS 29.48.036)

Sec. 29.35.145. This is a new section prohibiting a municipality from restricting the right to own and possess firearms or transport unloaded firearms except by ordinance ratified by the voters.

Sec. 29.35.150. Statutory references have been added to reflect reorganization. (AS 29.33.010(a))

Sec. 29.35.160. No change, except for minor rewording to achieve consistent usage. This is a home rule limitation, and exists as a limitation under AS 29.13.100(34). (AS 29.33.050)

Sec. 29.35.170. The subsection dealing with collection by a borough of taxes levied by a city is made applicable as a limitation on home rule municipalities. (AS 29.33.030)

Sec. 29.35.180. This is a new statement requiring first and second class boroughs to provide for planning and land use

regulation under provisions of Chapter 40 so that this article will contain a complete list of areawide powers. A home rule borough is required to provide for planning, platting, and land use regulation.

Sec. 29.35.200. (a) Allows a first class borough to exercise on a nonareawide basis any power not otherwise prohibited by law. Under existing law a first class borough may exercise on a nonareawide basis any general law municipal power, but before exercising the power, the borough must seek to have it transferred from cities or propose joint city/borough exercise. (AS 29.38.010)

(b) No change. (AS 29.48.030, 29.48.035(b))

(c) Allows a first class borough to exercise on an areawide basis any power not prohibited by law if it has been acquired. Under existing law, a first class borough may acquire additional areawide municipal powers, but only the powers listed in Title 29. The authority to acquire powers which is granted in this bill is broader, since a borough may acquire any power not specifically prohibited by statute whether or not it is identified as a municipal power in Title 29. (AS 29.33.250)

Sec. 29.35.210. (a) Allows a second class borough to exercise certain powers on a nonareawide basis. Under existing law before a nonareawide power may be exercised, the borough must seek to have it transferred from cities or propose joint borough/city exercise of the power, and the requirement is not contained in this bill. (AS 29.38.020)

(1) No change. (AS 29.48.030(a)(12))

(2) No substantive change. (AS 29.48.020(1))

(3) No change. (AS 29.48.020(2), 29.48.035(a)(5) and (b))

(4) Under existing law this power is subject to the section dealing with garbage and solid waste, sec. 29.35.050 of this bill. (AS 29.48.020(5))

(5) Under existing law providing air pollution control is permitted on an areawide basis only. (AS 29.48.035(a)(18) and (b))

- (6) No change. (AS 29.48.020(6), 29.48.035(a)(17) and (b))
- (7) Minor rewording. (AS 29.48.020(7))
- (8) This is new material.
- (9) No change. (AS 29.48.020(8))
- (10) No change. (AS 29.48.020(9))

Under existing law a second class borough may exercise the following additional nonareawide powers not specified in this bill:

- (1) powers approved at incorporation (AS 29.38.020);
- (2) regulate snow vehicles, subject to other law (AS 29.48.020(4));
- (3) licensing of day care facilities (AS 29.48.035(a)(20) and (b)).

(b)(1) No change. (AS 29.48.030(12))

- (2) No change. (AS 29.48.035(a)(5) and (b))
- (3) No change. (AS 29.48.035(a)(18) and (b))
- (4) No change. (AS 29.48.035(a)(17) and (b))
- (5) No change. (AS 29.48.035(a)(20) and (b))

(c) Allows a second class borough to exercise a nonareawide power not otherwise prohibited by law if the exercise of the power is approved by the voters living in the borough area outside the cities. Under existing law a second class borough may acquire additional nonareawide powers upon approval of the voters. However, the powers which may be acquired are limited to those itemized in Title 29, so under this bill broader authority to acquire powers is provided. (AS 29.38.030, 29.38.040, 29.38.050)

(d) Allows a second class borough to exercise an areawide power not otherwise prohibited by law if the exercise of the power is approved by the voters or transferred by the cities

in the borough. Under existing law a borough may acquire only the powers authorized in Title 29. (AS 29.33.250)

Sec. 29.35.220. (a) No substantive change.  
(AS 29.41.010(c))

(b) No substantive change. (AS 29.41.010(a))

(c) No substantive change. (AS 29.41.010(b))

(d) A third class borough may acquire any power not prohibited by law for exercise in a service area.  
(AS 29.41.010(b))

Sec. 29.35.250. This expands the authority of the city to exercise powers, since under existing law a city may only exercise listed municipal powers. A city may not exercise a power once that power has been exercised on an areawide basis by the borough. Existing law is in conflict as to whether a city may exercise a power being exercised on an areawide basis by the borough. In one section, existing law provides that the city may not do so, while in another section it provides that a city may exercise the power if the borough by ordinance permits exercise of the power by the city or ceases to exercise the power. (AS 29.33.010(b), 29.43.040(b), 29.48.035(b))

Sec. 29.35.260. (a) A city outside a borough may exercise a power not otherwise prohibited by law. Under existing law, a city is granted only enumerated powers, so this is a broader authorization. (AS 29.43.010)

(b) Minor rewording. (AS 29.43.030)

(c) Requires a home rule city to provide for planning, platting, and land use regulation but it does not have to comply with Chapter 40. General law cities that provide for land use regulation must do so in accordance with Chapter 40. (AS 29.43.040)

(d) This is new making the section applicable as a home rule limitation. Under existing law material contained in (c) is not a limitation on home rule municipalities.

Sec. 29.35.300. Combines material dealing with the acquisition of areawide and nonareawide powers. (AS 29.33.250, 29.41.010)

Sec. 29.35.310. No change, except for minor rewording for consistent usage. (AS 29.33.260)

Sec. 29.35.320. Provides that a petition shall be filed with the borough clerk who certifies whether it contains sufficient signatures. After certification the assembly orders an election to be held within 60 days of the order, while under existing law, the election is held at least 30 days after the order, but not later than the next regular election. (AS 29.33.270, 29.33.280, 29.33.290(a), 29.38.030, 29.38.040, 29.38.050(a), 29.41.010(b))

Sec. 29.35.330. No change, except for minor rewording to achieve consistent usage. (AS 29.33.290(b) and (c), 29.38.050(b) and (c))

Sec. 29.35.340. Reorganized, but no substantive change. (AS 29.33.290(c))

Sec. 29.35.400. No substantive change. (AS 29.48.310)

Sec. 29.35.410. No substantive change. (AS 29.48.320)

Sec. 29.35.420. No substantive change. (AS 29.48.330)

Sec. 29.35.450. (a) Allows a borough to include a city in a service area if the city council agrees by ordinance or if approval is granted by a majority of voters residing in the city and by a majority of voters residing outside the city, but within the service area boundaries. Existing law is silent as to whether a city may be included within a service area. (AS 29.63.090(a))

(b) No change. (AS 29.63.090(d))

Sec. 29.35.460. No substantive change. (AS 29.63.090(c))

Sec. 29.35.470. No substantive change. (AS 29.63.090(b) and (e))

Sec. 29.35.480. No substantive change. (AS 29.63.090(a) and (e))

Sec. 29.35.490. New material has been added to allow owners of real property within a service area to consent in writing to the exercise of a power if no voters reside within the service area. (AS 29.41.010(b), 29.63.090(a) and (e))

(b) No change. (AS 29.41.010(b), 29.68.010(f))

Sec. 11. CHAPTER 40. PLANNING, PLATTING, AND LAND USE  
REGULATION.

The word "zoning" has been replaced by the phrase "land use regulation" throughout the title in order to confer broader planning powers on municipalities. The term "land use regulation" allows a municipality to use a variety of planning tools which might not necessarily be regarded as falling within traditional "zoning" practices.

Sec. 29.40.010. The assembly may delegate any of its planning responsibilities to a city if the city consents by ordinance. The assembly may, without obtaining the consent of the city, revoke the power delegated. Under existing law, there is no requirement that a city consent to the delegation of planning power. (AS 29.33.070)

Sec. 29.40.020. Membership on the planning commission shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in those cities. Under existing law membership is apportioned so that the number of members from first class cities reflects the proportion of borough population residing in first class cities, but the population of home rule cities is not taken into account. The planning commission shall prepare measures necessary to implement the comprehensive plan, while under existing law the planning commission is required to prepare a zoning ordinance to implement the plan. Under this bill, the planning commission has authority to utilize methods other than zoning to implement a plan. (AS 29.33.080(a) and (b))

Sec. 29.40.030. This is reorganized and reworded for clarity. After receiving the recommendations of the planning commission, the assembly is required periodically to undertake an overall review of the plan and update it as necessary. Under existing law, the planning commission is required to undertake an overall review of the plan at least once every two years and present recommendations to the assembly. (AS 29.33.085)

Sec. 29.40.040. (a) This is substantially new material. It requires the assembly to implement a comprehensive plan through zoning regulations, land use permit requirements, or

other methods. The material dealing with "contract zoning" has been eliminated. The list of items for which zoning may be used in AS 29.33.090(b) and (c) has been eliminated. The material contained in AS 29.33.090(e), allowing a business licensed by the Alcoholic Beverage Control Board to continue to operate before the adoption of the zoning ordinance, is eliminated. (AS 29.33.090(a))

(b) No substantive change. (AS 29.33.110(c))

Sec. 29.40.050. (a) Requires the assembly to provide for an appeal from the application of a land use regulation. Under existing law, the board of adjustment hears appeals. (AS 29.33.110(b))

(b) Allows the assembly to provide for the appointment of hearing officers or of a board of adjustment to hear appeals. Under existing law, the assembly is the board of adjustment, but may delegate its functions. (AS 29.33.110(a))

Sec. 29.40.060. (a) Allows for an appeal from a decision dealing with land use regulation. Under existing law, appeals are limited to decisions from the board of adjustment. (AS 29.33.130(a) and (b))

(b) An appeal from a land use regulation is an administrative appeal. The provision in AS 29.33.130(c), that an appeal stays enforcement proceeding unless the court issues an enforcement order, has been eliminated. (AS 29.33.130(d) and (e))

Sec. 29.40.070. Material in paragraph (4) dealing with dedication of rights-of-way and easements is added. (AS 29.33.150(a))

Sec. 29.40.080. This is new material requiring the assembly to establish a platting authority. Under existing law, the planning commission acts as platting authority. The material contained in AS 29.33.150(b) dealing with subdivisions of state land, is eliminated. (AS 29.33.150(a))

Sec. 29.40.090. (a) This is new and requires the assembly to establish an abbreviated plat procedure for plats meeting certain requirements.

(b) Requires waiver of plat requirements if a subdivision meets requirements for an abbreviated plat and each lot is five acres or larger. (AS 29.33.170)

Sec. 29.40.100. Rewritten for clarity. (AS 29.33.180)

Sec. 29.40.110. This is rewritten for clarity. Material dealing with filing a preliminary subdivision plat contained in AS 29.33.160(c) has been eliminated. (AS 29.33.160(a) and (b))

Sec. 29.40.120. Allows a plat to be altered upon petition of the state, the borough, a public utility, or the owners of a majority of the land affected. Existing law allows a plat to be altered only upon petition of the owners of a majority of the land or by the platting board. A platted street may be vacated upon petition of the state, the borough, a public utility, or owners of the majority of the land fronting the portion of the street sought to be vacated. Under existing law, only the municipality or owners of the majority of the land fronting the part of the street sought to be vacated may petition to vacate a street. (AS 29.33.200)

Sec. 29.40.130. Requires the platting authority to publish notice of a hearing for a replat petition. "Published" is defined to require publication once in a newspaper of general circulation or posting in three public places. Under existing law, notice is required to be published once a week for two consecutive weeks. (AS 29.33.210)

Sec. 29.40.140. Rewritten for clarity. (AS 29.33.220)

Sec. 29.40.150. Requires a plat to be acknowledged and filed by the recorder with a certificate that taxes have been paid. (AS 29.33.230)

Sec. 29.40.160. Minor rewording. The material in (a) - (c) has been applied as a home rule limitation. None of this section is a limitation under existing law. (AS 29.33.240)

Sec. 29.40.170. Rewritten for clarity. (AS 29.33.245)

Sec. 29.40.180. For violations involving land use regulation a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. (AS 29.33.190)

Sec. 29.40.190. A civil action may be initiated against a person who violates a section of law of the chapter dealing with land use regulation, a subdivision regulation or a term imposed by the platting authority. An action to enjoin may be brought and the superior court shall grant an injunction upon a finding of violation or threatened violation. In addition, a civil penalty not to exceed \$1,000 may be imposed and each day that an unlawful condition continues constitutes a separate violation. Under existing law, a person who transfers land in a subdivision before a plat has been recorded, and a person who records a plat which has not been approved by the platting board may be punished by a fine of not more than \$500. (AS 29.33.190)

Sec. 29.40.200. Made applicable to home rule municipalities. Under existing law only the material contained in (a) of this section is a home rule limitation under AS 29.13.100(39). (AS 29.33.150(b) - (g))

Sec. 12. CHAPTER 45. MUNICIPAL TAXATION.

Sec. 29.45.010. Authorizes a municipality to levy a property tax on real or on personal property. The distinction between areawide and nonareawide property taxes as applied to a unified municipality is eliminated. A property tax may be levied in a service area for functions in the service area. Cross-references to the provisions dealing with the taxing power of cities are added. (AS 29.53.010)

Sec. 29.45.020. No substantive change. (AS 29.73.070(a) and (c))

Sec. 29.45.030. Household furniture is exempt from taxation without regard to the value of the furniture. Property of an auxiliary of a nonbusiness organization is exempt. Under existing law, lots supporting and adjacent to a structure used for religious purposes are exempt from taxation. That exemption is eliminated. Property from which income is derived is exempt if used by nonprofit educational groups for classroom space, or by nonprofit religious, charitable or hospital groups. Under existing law, there is some ambiguity as to whether property, other than property used for classroom space, is exempt. An exemption for real property owned as a permanent place of abode by a resident 65 years of age or over or a disabled veteran may not be granted except upon written application. Under existing law, there is some ambiguity as to whether any exemption may be granted

without a written application. One motor vehicle per household owned by a resident 65 years of age or older is exempt. (AS 29.53.020)

Sec. 29.45.040. No substantive change. (AS 29.73.060)

Sec. 29.45.045. No substantive change. (AS 29.73.062)

Sec. 29.45.050. (a) No change, except "regular or special" is deleted since "election" is defined. (AS 29.53.025(a))

(b) Eliminates the requirement that a tax based upon tonnage not exceed five dollars a year for a boat of less than five net tons, and not exceed fifteen dollars a year for a boat of more than five tons. The optional exemption of household furniture over five hundred dollars in value has been eliminated since all household furniture is exempted under this bill. (AS 29.53.025(b))

(c) The reference to "weighted" voting is eliminated. (AS 29.53.025(c))

(d) "Act" has been changed to "chapter". (AS 29.53.025(d))

(e) No substantive change. (AS 29.53.025(e))

(f) Minor rewording. (AS 29.53.025(f))

(g) No change. (AS 29.53.025(g))

Sec. 29.45.060. No substantive change. (AS 29.53.035)

Sec. 29.45.070. No substantive change. (AS 29.53.040)

Sec. 29.45.080. No substantive change. (AS 29.53.045)

Sec. 29.45.090. Requires all property upon which a tax is levied to be taxed at the same rate during the year. Reorganized and slightly reworded for clarity. (AS 29.53.050)

Sec. 29.45.100. Statutory references are altered to reflect new numbering. (AS 29.53.055)

Sec. 29.45.103. Minor rewording. (AS 29.53.103)

Sec. 29.45.105. Minor rewording. (AS 29.53.105)

Sec. 29.45.110. Statutory reference is altered to reflect new numbering. (AS 29.53.060)

Sec. 29.45.120. "Assembly" is replaced by "municipality". (AS 29.53.070)

Sec. 29.45.130. Allows the assessor to seek a court order to compel production of records, as well as to compel entry. (AS 29.53.080)

Sec. 29.45.140. A person who fails to file a tax statement or makes a false tax statement may be punished under a municipal ordinance prescribing a penalty not to exceed a fine of \$1,000 or imprisonment for 90 days. Under existing law, he is guilty of a misdemeanor punishable by a fine of \$500 or by imprisonment for up to 30 days or both. (AS 29.53.090)

Sec. 29.45.150. "Assembly" and "borough" are replaced by "municipality". (AS 29.53.095)

Sec. 29.45.160. No substantive change. (AS 29.53.100)

Sec. 29.45.170. No substantive change. (AS 29.53.110)

Sec. 29.45.180. No substantive change. (AS 29.53.120)

Sec. 29.45.190. No substantive change. (AS 29.53.130)

Sec. 29.45.200. (a) Requires an appointed board to be composed of no less than three persons, and eliminates the requirement that the board consist of the number of members of the assembly above the number required for a quorum. Requires the governing body to establish by ordinance the qualifications for board membership. (AS 29.53.135)

(b) Allows the board to alter an assessment only if an appeal is filed as to that particular lot. (AS 29.53.135)

(c) This subsection is new, allowing an appeal directly to the superior court on the issue of whether property is taxable.

Sec. 29.45.210. Provides that if, upon appeal, a valuation is found to be too low, the board may raise the assessment. An appeal to the superior court shall be tried as an

administrative appeal, while under existing law an appellant may demand a jury trial. (AS 29.53.140)

Sec. 29.45.220. No change. (AS 29.53.150)

Sec. 29.45.230. Reassessment is permitted when property is affected by a disaster declared by the President, or by the governor. Under existing law, this section applies only when property is affected by a disaster declared by the President. (AS 29.53.160)

Sec. 29.45.240. Minor rewording. (AS 29.53.170)

Sec. 29.45.250. Allows a penalty not to exceed 20 percent of the tax due to be added to delinquent taxes and interest at the rate of 15 percent a year to accrue upon unpaid taxes. Under existing law, a penalty not to exceed 10 percent may be added, and interest at the rate of eight percent shall accrue. A penalty not to exceed 20 percent of the tax due may be imposed upon the late return of personal property assessment forms. Under existing law, only 10 percent of the tax due may be imposed. If a taxpayer may pay a tax in two installments, penalty and interest on the unpaid installment accrues from the date the installment becomes due. Under existing law, if the taxpayer does not pay the first half when due, the entire tax becomes delinquent. A penalty of eight percent is added on delinquent taxes until the due date fixed for payment of the second half, and after the due date of the payment of the second half, the penalty may be increased to 10 percent. (AS 29.53.180)

Sec. 29.45.290. No substantive change. (AS 29.53.200)

Sec. 29.45.300. Property taxes, together with penalty and interest are a lien upon the property assessed, while under this section of existing law, only real property taxes are mentioned as a lien upon the property assessed. However, under AS 29.53.220 it is clear that unpaid personal property taxes are also a lien. (AS 29.53.210)

Sec. 29.45.310. If property is sold for more money than needed to satisfy the tax, the municipality is required to remit the excess to the former record owner. A claim for the excess filed after six months is barred. Under existing law, there is no provision for remitting the excess to the former record owner. (AS 29.53.220)

Sec. 29.45.320. Reworded slightly, and the statutory reference is altered to reflect new numbering. (AS 29.53.230)

Sec. 29.45.330. Minor rewording. (AS 29.53.240)

Sec. 29.45.340. "Borough" is altered to "municipality".  
(AS 29.53.250)

Sec. 29.45.350. "Such" is altered to "the". (AS 29.53.260)

Sec. 29.45.360. Minor rewording, and the statutory reference is altered to reflect new numbering. (AS 29.53.270)

Sec. 29.45.370. "Tract" is altered to "lot".  
(AS 29.53.280)

Sec. 29.45.380. Minor rewording. (AS 29.53.290)

Sec. 29.45.390. Minor rewording and reorganization.  
(AS 29.- 53.300)

Sec. 29.45.400. The material currently contained in AS 29.-53.310(b), allowing a person holding a lien against part of real property included in a judgment and decree of foreclosure to redeem only that part, has been eliminated.  
(AS 29.53.310)

Sec. 29.45.410. Receipt of redemption money by the municipality releases the judgment obtained through foreclosure. Under existing law, receipt of redemption by the clerk releases all claims of the municipality to the property.  
(AS 29.53.320)

Sec. 29.45.420. No change. (AS 29.53.330)

Sec. 29.45.430. No substantive change. (AS 29.53.340)

Sec. 29.45.440. Allows the clerk's designee to publish a redemption period expiration notice. (AS 29.53.350)

Sec. 29.45.450. Minor rewording. (AS 29.53.360)

Sec. 29.45.460. Allows the designee of the clerk to send a copy of the published notice, while under existing law, the clerk is required to send the copy. (AS 29.53.370)

Sec. 29.45.470. Minor rewording. (AS 29.53.375)

Sec. 29.45.480. No substantive change. (AS 29.53.380)

Sec. 29.45.490. "City or borough" is changed to "municipality". (AS 29.53.385)

Sec. 29.45.500. New material is added to this section so that if, in the absence of suit, it becomes obvious to the governing body that judgment for recovery of taxes would be obtained, the municipality shall refund the amount of taxes plus interest. The governing body is permitted to correct manifest clerical errors at any time. (AS 29.53.390)

Sec. 29.45.550. Minor rewording. (AS 29.43.020)

Sec. 29.45.560. Statutory references are altered to reflect new numbering. All sections under existing law which apply to taxes levied by a city apply under this bill as well.

Sec. 29.45.250, dealing with rates of penalty and interest; sec. 29.45.460, dealing with disposition and sale of foreclosed property; sec. 29.45.470, dealing with repurchase by record owner; sec. 29.45.490, dealing with payment of taxes upon public utilization; sec. 29.45.500, dealing with refund of taxes have been added as provisions which a city is subject to. (AS 29.53.400)

Sec. 29.45.570. This is new, applying the provisions dealing with property taxes to home rule municipalities as a limitation.

Sec. 29.45.580. Minor rewording. (AS 29.53.405)

Sec. 29.45.590. No substantive change. (AS 29.53.410)

Sec. 29.45.600. This is new material allowing a petition for second class city incorporation to request that a property tax proposal be placed on the same ballot. The petition may request that incorporation be dependent on passage of the property tax. Under existing law, a petition may combine a request for sales and use tax with a request for incorporation, but no provision exists for combining a request for property tax with a request for incorporation.

Sec. 29.45.650. Interest at the rate of 15 percent, rather than eight percent may be charged on delinquent sales and use taxes, and this is made applicable as a home rule limitation. Material in (e) has been added to allow a lien to

be placed on the property to secure the payment of a sales and use tax. (AS 29.53.415)

Sec. 29.45.660. Minor rewording. (AS 29.73.070(b) and (c))

Sec. 29.45.670. The requirement that a sales tax proposition be presented only once a year has been eliminated. Material now in AS 29.53.420(b) is deleted. (AS 29.53.420(a))

Sec. 29.45.700. Allows the borough assembly by ordinance to authorize the city to levy and collect sales and use taxes on sources other than the sources being taxed by the borough. Under existing law, a city within a borough may levy sales and use taxes only upon sources taxed by the borough. The provision that a city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs has been added. (AS 29.53.440, 29.53.450)

Sec. 29.45.710. No substantive change. (AS 29.53.460)

\* Sec. 13. CHAPTER 46. SPECIAL ASSESSMENTS.

Sec. 29.46.010. Minor rewording and the statutory reference is altered to reflect new numbering. (AS 29.63.010)

Sec. 29.46.020. A list of procedures which the governing body may prescribe includes procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments, and financing improvements. Under existing law, the governing body is authorized to prescribe the complete special assessment procedure for local improvements. Statutory references are altered to reflect new numbering. (AS 29.63.015)

Sec. 29.46.030. The heading is altered from "DECISION AND NOTICE" to "CREATION OF DISTRICT". Minor rewording. (AS 29.63.020)

Sec. 29.46.040. Minor rewording. (AS 29.63.025)

Sec. 29.46.050. Objections may be filed any time within 60 days after publication of notice. Under existing law, objections to an improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the governing body. Minor rewording. (AS 29.63.030)

Sec. 29.46.060. Minor rewording for clarity.  
(AS 29.63.040)

Sec. 29.46.070. Requires a new hearing if the assessment is increased as a result of correcting errors and inequalities in the assessment roll. Objections to the increased assessment are limited to record owners of property on which the assessment was increased. Under existing law, there is no provision for an additional hearing if an assessment is increased as a result of correcting errors. (AS 29.63.050)

Sec. 29.46.080. Minor rewording for clarity, and statutory references are altered to reflect new numbering.  
(AS 29.63.060)

Sec. 29.46.090. Slightly reorganized, and statutory references are altered to reflect new numbering. The section is applicable as a home rule limitation, and is a limitation now under AS 29.13.100(36). (AS 29.63.065)

Sec. 29.46.100. Minor reorganization and rewording.  
(AS 29.63.070)

Sec. 29.46.110. (a) This is new material itemizing the costs which may be included in a special assessment.

(b) The total amount of the assessment roll may not exceed actual costs, but actual costs may include reasonable estimates of the costs incurred in connection with issuance of bonds. (AS 29.63.040(a))

Sec. 29.46.120. Minor rewording and reorganization.  
(AS 29.63.080)

Sec. 29.46.130. This is new material allowing the governing body to issue notes to secure payment of the costs of a local improvement project. The notes are payable out of special assessments for the improvement and the notes are claims against the assessments.

Sec. 29.46.140. Minor rewording. The last line of AS 29.63.085(c), providing that interest on the guarantee funds are a cost of the improvement district, is eliminated.  
(AS 29.63.085)

\* Sec. 14. CHAPTER 47. MUNICIPAL DEBT.

- Sec. 29.47.010. Minor rewording. (AS 29.58.010)
- Sec. 29.47.020. Minor rewording. (AS 29.58.020)
- Sec. 29.47.030. Minor rewording. (AS 29.58.040)
- Sec. 29.47.040. Minor rewording. (AS 29.58.050)
- Sec. 29.47.080. Minor rewording. (AS 29.58.070)
- Sec. 29.47.090. "Assembly or council" is replaced with "governing body". (AS 29.58.080)
- Sec. 29.47.100. "Assembly or council" is replaced by "governing body".
- Sec. 29.47.110. No substantive change. (AS 29.58.100)
- Sec. 29.47.120. Minor rewording. (AS 29.58.110)
- Sec. 29.47.130. Minor rewording. (AS 29.58.120)
- Sec. 29.47.140. No change. (AS 29.58.130)
- Sec. 29.47.180. Minor rewording. (AS 29.58.150)
- Sec. 29.47.190. Minor rewording. The reference to a charter is eliminated since this section does not apply as a home rule limitation. (AS 29.58.160)
- Sec. 29.47.200. Minor rewording. The last sentence in (b) is added since this subsection applies to home rule municipalities as a limitation. It is currently a limitation under AS 29.13.100(24). (AS 29.58.180)
- Sec. 29.47.240. Rewritten for clarity. (AS 29.58.200)
- Sec. 29.47.250. Minor rewording. (AS 29.58.205)
- Sec. 29.47.260. This is a new section excluding revenue bonds from the application of the prohibition against a political subdivision of the state making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation.
- Sec. 29.47.300. Minor rewording. (AS 29.58.240)

Sec. 29.47.310. No substantive change. (AS 29.58.250)

Sec. 29.47.320. "Assembly or council" is replaced by "governing body". (AS 29.58.260)

Sec. 29.47.330. The statutory reference is altered to reflect new numbering and the fact that sections dealing with payment on bonds are combined into one section. (AS 29.58.270)

Sec. 29.47.340. The requirement that refunding bonds be exchanged at par for bonds being refunded is eliminated, so that refunding bonds may be exchanged at the discretion of the governing body. (AS 29.58.280)

Sec. 29.47.390. This contains new material allowing the issuance of revenue bonds to finance any project and to be secured and payable from any source except revenues at the municipality. The city or borough is not obligated to make payments on the bonds from any other sources. (AS 29.58.200(c))

Sec. 29.47.400. Bonds and notes may be sold in the manner and at the price determined by the municipality. Under existing law, no bonds may be sold at less than par value. (AS 29.58.060, 29.58.140, 29.58.300)

Sec. 29.47.410. Minor rewording. (AS 29.58.170, 29.58.210)

Sec. 29.47.420. Allows the interest rate payable on a bond or note to exceed the usury rate. Under existing law, no bond or note may bear an interest which exceeds the contract usury rate. (AS 29.58.310)

Sec. 29.47.430. No substantive change. (AS 29.58.320)

Sec. 29.47.440. Rewritten for clarity. The statutory reference is altered to reflect new numbering. (AS 29.58.340)

Sec. 29.47.450. This is new material providing that the indebtedness of a service area will remain a debt even though a court subsequently determines that the service area was not validly formed under law.

\* Sec. 15. CHAPTER 55. MUNICIPAL PROGRAMS.

Sec. 29.55.010. "General or home rule" is eliminated since "municipality" includes by definition both a general law and a home rule municipality. (AS 29.48.108)

Sec. 29.55.020. The statutory reference to the preceding section is eliminated as unnecessary. (AS 29.48.110)

\* Sec. 16. CHAPTER 60. STATE PROGRAMS.

Sec. 29.60.010. "Local government services" is replaced by "municipal services". (AS 29.88.010)

Sec. 29.60.020. Material in AS 29.88.015(b) is deleted, which included within the population determination the population of any military reservation that is part of the taxing unit. Since municipal tax resource equalization is organized as an article, rather than a chapter, the statutory reference is added. (AS 29.88.015)

Sec. 29.60.030. Statutory references are added since this material is no longer located in a separate chapter. (AS 29.88.020)

Sec. 29.60.040. Statutory references are added since this material no longer appears as a separate chapter. (AS 29.88.025)

Sec. 29.60.050. Subsection (a), dealing with limitation on use of payments, is a home rule limitation. Under existing law all of the tax equalization program is a home rule limitation under AS 29.13.100(46). "Assembly or council" is replaced by "governing body". (AS 29.88.030)

Sec. 29.60.060. Statutory references are added, since this material is no longer contained in a separate chapter. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.035)

Sec. 29.60.070. Statutory references are added, since this material is no longer contained in a separate chapter. Statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.040)

Sec. 29.60.080. Definitions of "department" and "municipality" are eliminated since these are now defined with respect to the entire title. (AS 29.88.045)

Sec. 29.60.100. Statutory references are altered to reflect new numbering. Provision for revenue sharing payable to a "Native village government" is altered to "an unincorporated community". (AS 29.89.010)

Sec. 29.60.110. "Local government" is replaced by "municipality". (AS 29.89.020)

Sec. 29.60.120. Subsections (a) and (c) dealing with distribution and use of money, are home rule limitations. Under existing laws all of the program of aid for miscellaneous services is a limitation under AS 29.13.100(47). A health facility must be licensed or certified by the state or approved under regulations. It specifically includes certain domestic violence or sexual assault shelters and alcohol or drug abuse facilities. (AS 29.89.030, 29.89.100(2) and (3))

Sec. 29.60.130. "Borough or city" is replaced by "municipality". (AS 29.89.040)

Sec. 29.60.140. Provides for aid to unincorporated communities rather than to Native village governments. The Department of Community and Regional Affairs shall pay the money to the entity in an unincorporated community most qualified to receive it. No money may be paid to a Native village council unless it waives immunity from suit. If there is no entity in an unincorporated community willing to receive the money, the community receives no entitlement. (AS 29.89.050)

Sec. 29.60.150. The last portion of the section listing possible sources of population data is eliminated. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.060)

Sec. 29.60.160. Statutory references are altered to reflect new numbering. Authorizes area cost-of-living differentials to be reflected in payments to volunteer fire departments. (AS 29.89.070)

Sec. 29.60.170. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.89.080)

Sec. 29.60.180. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.090)

Sec. 29.60.280. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.010)

Sec. 29.60.290. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.020)

Sec. 29.60.300. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.030)

Sec. 29.60.350. Administration of the municipal assistance fund is transferred from the Department of Revenue to the Department of Community and Regional Affairs. (AS 43.20.016(a))

Sec. 29.60.360. No substantive change. (AS 43.20.016(b))

Sec. 29.60.370. No substantive change. (AS 43.20.016(c) and (d))

Sec. 29.60.400. Reorganized and reworded. (AS 29.89.110(a), (b), (h)(2))

Sec. 29.60.410. Reorganized and reworded. (AS 29.89.110(b), (e))

Sec. 29.60.420. Reorganized and reworded. (AS 29.89.110(f), (g))

Sec. 29.60.430. Reorganized and reworded. (AS 29.89.110(c))

Sec. 29.60.440. Reorganized and reworded. (AS 29.89.110(d))

\* Sec. 17. CHAPTER 65. GENERAL GRANT LAND.

Sec. 29.65.010. (b) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.201)

Sec. 29.65.020. (b) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.202)

Sec. 29.65.030. (c) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.203)

Sec. 29.65.040. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.18.204)

Sec. 29.65.050. The statutory references to repealed sections are deleted as unnecessary in (a). The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.205)

Sec. 29.65.060. Statutory references are altered to reflect new numbering. (AS 29.18.206)

Sec. 29.65.070. No substantive change. (AS 29.18.207)

Sec. 29.65.080. Reworded for clarity. The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.208)

Sec. 29.65.090. "Any" is changed to "a". (AS 29.18.209)

Sec. 29.65.100. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.210)

Sec. 29.65.110. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.211)

Sec. 29.65.120. Since this material is now organized in a separate chapter, the statutory reference to the sections dealing with general grant land is eliminated. (AS 29.18.212)

Sec. 29.65.130. Since this material is now organized in a separate chapter, the statutory reference is eliminated. The definition of "municipality" is eliminated since that term is now defined for the entire title. (AS 29.18.213)

Sec. 29.65.140. This is a new section indicating that the chapter dealing with general grant land applies to home rule municipalities as well as to general law municipalities.

This material is not a specific home rule limitation under existing law.

\* Sec. 18. CHAPTER 71. GENERAL PROVISIONS.

Sec. 29.71.010. No substantive change. (AS 29.73.030)

Sec. 29.71.020. This is a new section providing that dedication of rights of way or other areas for public use does not require the municipality to maintain, improve, or provide for municipal services in the area dedicated and does not impose any liability on the municipality for the condition of the area dedicated. The section is applicable to home rule municipalities.

Sec. 29.71.030. No substantive change. (AS 29.73.040)

Sec. 29.71.800. The following definitions are added or changed from existing law:

(1) "areawide" is defined to include cities in the borough. (AS 29.78.010(18))

(2) this is added;

(3) includes home rule as well as general law boroughs; (AS 29.78.010(1))

(4) includes home rule as well as general law cities; (AS 29.78.010(2))

(5) this is added;

(7) this is added;

(8) this is added;

(9) "election" includes both regular and special municipal elections, but does not include a state election; (AS 29.78.010(7))

(10) this is added to refer to either a borough or city legislative entity;

(13) "municipality" includes a home rule or general law borough, city, or unified municipality, while the

existing definition includes only general law municipal corporations; (AS 29.78.010(8))

(14) "nonareawide" includes the area of a borough outside cities in the borough, while under existing law "nonareawide power" is defined; (AS 29.78.010(19))

(15) "owner" or "record owner" means the owner of record shown in the records of the district recorder; (AS 29.78.010(9))

(20) minor rewording; (AS 29.78.010(14))

(21) this has been added;

(23) subparagraph (A) has been reworded and (B) is new; (AS 29.78.010(16))

(24) this has been added; and

(25) a person qualified to vote in municipal elections under the applicable statute is a "voter". (AS 29.78.010(17))

The definition of "conditional use" has been eliminated. (AS 29.78.010(3))

\* Sec. 19. A definition of "municipality" is added for all Alaska Statutes.

\* Sec. 20. The statutory references are altered to reflect new numbering.

\* Sec. 21. The statutory references are altered to reflect new numbering.

\* Sec. 22. The statutory references are altered to reflect new numbering.

\* Sec. 23. Incorporates definition of "municipality" added for all Alaska Statutes.

\* Sec. 24. The statutory references are altered to reflect new numbering. Minor rewording.

\* Sec. 25. Statutory references are altered to reflect new numbering.

- \* Sec. 26. Reworded to delete incorrect statutory references.
- \* Sec. 27. Reorganized. Statutory references are altered to reflect new numbering.
- \* Sec. 28. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 29. The statutory references are altered to reflect new numbering.
- \* Sec. 30. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 31. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 32. The statutory references are altered to reflect new numbering.
- \* Sec. 33. The statutory references are altered to reflect new numbering.
- \* Sec. 34. The statutory references are altered to reflect new numbering.
- \* Sec. 35. The statutory references are altered to reflect new numbering.
- \* Sec. 36. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 37. The statutory references are altered to reflect new numbering.
- \* Sec. 38. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 39. The statutory references are altered to reflect new numbering.
- \* Sec. 40. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 41. Minor rewording for consistency.

- \* Sec. 42. Redundant language is deleted because "municipality" is defined for all statutes.
- \* Sec. 43. Minor rewording and statutory references are altered.
- \* Sec. 44. The statutory reference is altered to reflect new numbering.
- \* Sec. 45. Minor rewording. Incorrect statutory references are deleted.
- \* Sec. 46. The statutory reference is altered.
- \* Sec. 47. The statutory reference is altered.
- \* Sec. 48. The statutory reference is deleted as unnecessary.
- \* Sec. 49. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.
- \* Sec. 50. A statutory reference is included to reflect new numbering. "Former" is added before citations to sections repealed in this bill.
- \* Sec. 51. The statutory reference is deleted.
- \* Sec. 52. The word "former" is added before the statutory citation because those sections are repealed in this bill. A statutory reference is included.
- \* Sec. 53. The statutory reference is deleted.
- \* Sec. 54. The statutory reference is deleted.
- \* Sec. 55. The statutory reference is altered to reflect new numbering.
- \* Sec. 56. The statutory reference is added to reflect new numbering and "former" is inserted before repealed sections.
- \* Sec. 57. The statutory reference is added to reflect new numbering and "former" is inserted before repealed sections.

\* Sec. 58. Minor rewording. The statutory references are altered to reflect new numbering and "former" is added before repealed sections

\* Sec. 59. The statutory reference is added and "former" is added before repealed sections.

\* Sec. 60. The statutory references are added to reflect new numbering and "former" is added before repealed sections.

\* Sec. 61. The statutory reference is altered to reflect new numbering.

\* Sec. 62. Rewording and the statutory reference is deleted.

\* Sec. 63. The statutory references are altered to reflect new numbering. Minor rewording,

\* Sec. 64. The statutory references are altered to reflect new numbering and "former" is inserted before the citation to repealed sections.

\* Sec. 65. The statutory references are altered to reflect new numbering.

\* Sec. 66. Reworded and a statutory reference is deleted.

\* Sec. 67. The statutory references are altered to reflect new numbering.

\* Sec. 68. The statutory references are altered to reflect new numbering.

\* Sec. 69. The statutory reference is altered to reflect new numbering and reference to a repealed chapter is deleted.

\* Sec. 70. The statutory references are altered to reflect new numbering. "Former" is added before sections repealed in this bill.

\* Sec. 71. Statutory reference is altered.

\* Sec. 72. The statutory references are deleted as unnecessary.

\* Sec. 73. Statutory references are altered.

\* Sec. 74. Adds new sections dealing with borough feasibility studies. Authorizes the commissioner of community and regional affairs to contract for a study requested by a person residing in the area to be studied. Sets out requirements for the contract and what a study must include.

\* Sec. 75. The statutory reference is altered to reflect new numbering.

\* Sec. 76. The statutory reference is altered to reflect new numbering.

\* Sec. 77. The statutory reference is altered to reflect new numbering.

\* Sec. 78. The new statutory reference is inserted and "former" added before the citation to a section repealed by this bill.

\* Sec. 79. The new statutory references are inserted and "former" added before citations to sections repealed by this bill.

\* Sec. 80. The statutory references are altered to reflect new numbering.

\* Sec. 81. The statutory reference to a repealed section is deleted and language inserted to take the place of the deleted reference.

\* Sec. 82. The statutory references are altered to reflect new numbering.

\* Sec. 83. The statutory references are deleted as unnecessary.

\* Sec. 84. The statutory references are altered to reflect new numbering.

\* Sec. 85. The statutory references are deleted as unnecessary.

\* Sec. 86. The statutory references are altered to reflect new numbering.

\* Sec. 87. All of Title 29 is repealed except for AS 29.03.010 and AS 29.03.020. Additional provisions are repealed to reconcile this bill with other titles.

\* Sec. 88. A right or liability of a municipality in existence on the effective date of this Act is not affected by this Act. Ordinances and regulations in effect on the effective date of this Act remain in effect unless they conflict with a provision of this Act. If an ordinance or regulation conflicts, it remains in effect for 180 days. The terms of elected or appointed municipal officials are not affected by the Act and their terms expire as they would have before the effective date of this Act.

\* Sec. 89. The Act takes effect January 1, 1986.

In addition to the material already noted as having been deleted from this bill, the following sections have been eliminated entirely:

- AS 29.18.202 (determination of entitlement for cities);
- AS 29.18.220 - 29.18.460 (development cities);
- AS 29.18.510 - 29.18.610 (Capital City Incorporation Act);
- AS 29.23.395 - 29.23.401 (involvement of young people in local government);
- AS 29.23.470 (appointment of temporary or new manager);
- AS 29.28.220 (election procedure);
- AS 29.33.120 (adjustment procedure);
- AS 29.43.100 - 29.43.110 (curfews)
- AS 29.45.480 (proceeds of tax sale);
- AS 29.48.070 (hearing for regulation of utilities rates);
- AS 29.48.080 (right to participate and compel testimony);
- AS 29.48.090 (further proceedings);
- AS 29.48.100 (application);
- AS 29.48.250 (centralized purchasing);
- AS 29.53.030 (mining claims);
- AS 29.58.220 (payment);
- AS 29.58.315 (bond attorneys, bond and financial consultants);
- AS 29.58.345 (bonded indebtedness for school construction);
- AS 29.58.350 (bond guarantee fund).

TBC:ojb  
AS29/004



Official Business

# Alaska State Legislature

Senate

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 30, 1985

Letter of Intent to Accompany Senate Committee Substitute  
for Committee Substitute for House Bill 72 (Judiciary)

It is not the intent of the Legislature through the passage of HB72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25.540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee

  
Pat Rodey, Chairman

# Alaska State Legislature

## House of Representatives

### Committee on Community & Regional Affairs

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



LETTER OF INTENT  
to  
CSHB 72 (C&RA)

It is not the intent of the House Community and Regional Affairs Committee in adopting AS 29.53.045 as the renumbered section 29.45.080 in CSHB 72 (C&RA) to alter the substance or effect of that provision.

Peter Goll  
Chairman

*Peter Goll*  
\_\_\_\_\_  
*ROBERT J. GIBSON*  
\_\_\_\_\_  
*Wesley*  
\_\_\_\_\_  
*John*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Adopted by House #116/85*

#2

A M E N D M E N T

Offered in the Senate Finance Committee

TO: Senate CS for CS for H.B. 72 (Judiciary)

Page 189, line 6:

\*Sec. 19. AS 04.21.010(c) is amended:

A municipality may not impose taxes on alcoholic beverages except (1) property taxes on alcoholic beverage inventories and (2) sales taxes on alcoholic beverage sales.[] if levied on other property or sales within the municipality.

\* Renumber remaining sections accordingly.

CS COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL  
SS NO. 239 amended was read the third time.

SB  
239  
am

The question being: "Shall COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) pass the Senate?" The roll was taken with the following result:

CS SS SB 239 AM 3RD

Yeas: 18 Bennett, Colletta, Dankworth,  
Fahrenkamp, Ferguson, Hackney,  
Hohman, Kelly, Kerttula, Meland,  
Mulcahy, Ray, Rodey, Stimson,  
Sturgulewski, Sumner, Tillion,  
Ziegler

Nays: 1 Bradley

Excused: 0

Absent: 1 Sackett

and so, COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clauses. Without objection, it was so ordered.

#### UNFINISHED BUSINESS

SCS The President stated that the Free Conference Committee  
CS on SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR  
HB HOUSE BILL NO. 91 (making appropriations to the Departments  
91 of Law, Health and Social Services, Community and Regional  
Affairs, and the office of the ombudsman) and COMMITTEE  
SUBSTITUT. FOR HOUSE BILL NO. 91 amended (making a supple-  
mental appropriation to the Department of Law) is dis-  
charged. (See pages 705 and 706.)

The Secretary was requested to notify the House.

Senator Ray gave notice of reconsideration on COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) and moved and asked unanimous consent that it be taken up at this time. Senator Bradley objected, then withdrew his objection. There being no further objection, it was so ordered.

CS  
SS  
SE  
239  
am

#### SENATE BILLS IN THIRD READING

COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) was before the Senate at this time on reconsideration.

Senator Ray moved that the Senate adopt the Judiciary Committee's letter of intent (Senate Supplement No. 23) as a Senate letter of intent on COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended.

The question being: "Shall the Senate adopt the Judiciary Committee's letter of intent as it appears in Senate Supplement No. 23 as a Senate Letter of Intent?" The roll was taken with the following result:

CS SS SB 239 AM RECON MOTION

Yeas: 19 Bennett, Bradley, Colletta,  
Dankworth, Fahrenkamp, Ferguson,  
Hackney, Hohman, Kelly, Kerttula,  
Meland, Mulcahy, Ray, Rodey, Stimson,  
Sturgulewski, Sumner, Tillion,  
Ziegler

Nays: 0

Excused: 0

Absent: 1 Sackett

and so, the Senate adopted the letter of intent.

The question to be reconsidered is: "Shall COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) pass the Senate?" The roll was taken with the following result:

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 28, 1985

SUBJECT:           Limitation on the authority of municipalities  
                  to tax alcoholic beverages  
                  (CSSB 142 (C&RA))

TO:                 Senator Frank Ferguson

FROM:             Tamara Brandt Cook  
                  Deputy Director  
                  Division of Legal Services

Here is the amendment to the municipal revision code bill that you requested repealing AS 04.21.010(c). You have asked that several items be looked into in connection with this amendment.

1. Supply a brief chronology on how the subsection ended up in the final bill which rewrote Title 4.

The bill rewriting the alcoholic beverages title was introduced as SB 239 sponsored by the Title 4 Code Revision Committee. That version did not contain the material on municipal taxation of alcoholic beverages that is now AS 04.21.010(c). A sponsor substitute, however, did include that material in a slightly expanded form in what was Section 04.21.010(b) of that bill:

A municipality may impose no taxes on alcoholic beverages except (1) property taxes on alcoholic beverage inventories and (2) sales taxed on alcoholic beverage sales if levied on other property or sales within the municipality. (Underlined portion does not appear in existing law.)

The language in the sponsor substitute was not changed in CS SSSB 239(Jud), nor was it changed on the floor of the Senate which passed CS SSSB 239(Jud)am. However, the first committee substitute that came out of the House, HCS CS SSSB 239(Jud), changed the language to the form it is now in and it stayed in that form through subsequent versions on the

Sackett Am

#4

AMENDMENT

TO: SCS CSHB 72 (Jud)

BY: Sackett

Page 76, Delete Line 29

Page 77, Delete Lines 1 - 19

Sackett: y, r s; v Ob

1 President or governor to be a disaster area may participate in and  
2 provide for housing, urban renewal, and redevelopment in the same  
3 manner as a home rule city. The exercise of these powers by a borough  
4 shall be on a nonareawide basis, except a borough may exercise the  
5 powers transferred to it by a city as provided by AS 29.35.310.

6 (b) Powers granted by this section must be initiated within a  
7 period of not more than five years after the date of declaration of a  
8 natural disaster by the President or governor, but these powers may be  
9 extended for an additional period of not more than three years.

10 Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES. (a) A muni-  
11 cipality may by ordinance

12 (1) provide for the establishment, maintenance, and opera-  
13 tion of a system of garbage and solid waste collection and disposal  
14 for the entire municipality, or for districts or portions of it;

15 (2) require all persons in the municipality or district to  
16 use the system and to dispose of their garbage and solid waste as  
17 provided in the ordinance;

18 (3) award contracts for collection and disposal, or provide  
19 for the collection and disposal of garbage and solid waste by muni-  
20 cipal officials and employees;

21 (4) pay for garbage and solid waste collection and disposal  
22 from available money;

23 (5) require property owners or occupants of premises to use  
24 the garbage and solid waste collection and disposal system provided by  
25 the municipality;

26 (6) fix charges against the property owners or occupants of  
27 premises for the collection and disposal; and

28 (7) provide penalties for violations of the ordinances.

29 (b) The governing body of a municipality may not prohibit a

1 person holding a valid certificate from the Alaska Public Utilities  
2 Commission from continuing to collect and dispose of garbage, refuse,  
3 trash, waste material, or provide other related services in an area in  
4 the municipality if the certificate authorizes the collection and  
5 disposal of garbage, refuse, trash, or other waste material and pro-  
6 viding of other services in the area, and the certificate was orig-  
7 inally issued before the municipality provided similar services. A  
8 municipality may not provide for a garbage, refuse, trash, or other  
9 waste material collection and disposal service in an area to the  
10 extent it lies in an area granted to a garbage, refuse, trash, or  
11 other waste material carrier by a certificate issued by the Alaska  
12 Public Utilities Commission to the carrier until it has purchased the  
13 certificate, equipment and facilities of the carrier, or that portion  
14 of the certificate that would be affected, at fair market value. A  
15 municipality may exercise the right of eminent domain to acquire the  
16 certificate, equipment and facilities of the carrier, or that portion  
17 of the certificate that would be affected.

18 (c) This section applies to home rule and general law municipal-  
19 ities.

20 Sec. 29.35.060. FRANCHISES AND PERMITS. (a) The assembly  
21 acting for the area outside all cities in the borough and the council  
22 acting for the area in a city may grant franchises, including exclu-  
23 sive franchise privileges, to a person, corporation, organization, or  
24 utility not certificated by the Alaska Public Utilities Commission and  
25 may permit the use of streets and other public places by the franchise  
26 holder under regulations prescribed by ordinance.

27 (b) Unless the grant is made on a competitive basis, the grant  
28 of an exclusive right to use a public street or right-of-way for more  
29 than five years to a utility or a transportation system not

COMMITTEE REPORT  
SENATE

FURTHER: JUDICIARY  
FINANCE

Date April 18, 1985

Mr. President

The Committee on C&RA considered CSHB 72(C&RA) am  
municipal government; efd.

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

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

MEMBERS SIGNING  
DO PASS

[Signature]  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_

[Signature]

Chairman

[Signature]

Chairman recommendation



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:  
Senator Ferguson, Vice Chairman  
Senator Coghill  
Senator Sturgulewski  
Senator V. Fischer

Pouch V  
Juneau, Alaska 99811

April 18, 1985

Letter of Intent to Accompany Committee Substitute for  
CSHB 72 (C&RA) am

It is not the intent of the Legislature through the passage of HB 72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25.540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

A handwritten signature in cursive script, reading "Edna DeVries".

-----  
Senator Edna DeVries, Chairman

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSHB 72(C&RA) am

Affairs Committee

Page 1, after line 8, insert a new bill section to read:

"\* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code to permit local government to function more effectively. Except as expressly provided, the legislature does not intend by this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend by this Act to increase or reduce the authority of state agencies to carry out their functions under other titles."

Page 1, line 9, delete "\* Section 1." and insert "\* Sec. 2."

Renumber following bill sections accordingly.

Page 2, line 4, delete "600" and insert "400"

Page 4, line 2, delete "home rule or"

Page 4, line 4, delete "600" and insert "400"

Page 6, line 13, delete "home rule or"

Page 6, line 21, delete "municipality" and insert "borough"

Page 8, line 14, delete "municipality" and insert "borough"

Page 11, line 3, delete "home rule or"

Page 28, line 28, after "ment." through page 29, line 4:

Delete all material and reletter following subsections accordingly.

Page 29, line 15, delete "unincorporated community or an"

Page 29, line 18, delete "municipality" and insert "borough"

Page 29, lines 20 and 21:

Delete "and at least one model home rule charter for a city"

Page 29, line 21, delete "charters" and insert "charter"

Page 29, line 23, delete "municipality" and insert "borough"

Page 31, line 6, delete "unincorporated community or for an"

Page 31, line 11, delete "unincorporated community or in an"

Page 31, lines 12 and 13, delete "municipality" and insert "borough"

Page 31, lines 13 and 14, delete "municipality" and insert "borough"

Page 32, line 18, delete "municipality" and insert "borough"

Page 32, line 19, delete "unincorporated community or"

Page 55, lines 15 - 19, after "PROHIBITIONS.":

Delete all material and reletter the following subsections accordingly.

AMENDMENT (Coghill)

p 164

6

SACKETT - HOLD  
Withdrawn

Substitute

Sec. 29.89.050. State aid to Native Village governments

for Sec 29.60.140 STATE AID TO UNINCORPORATED COMM.

Testimony: Coghill  
Goll  
Smith

ated irrevocably to a public purpose. (§ 3 ch 155 SLA 1980; am §§ 1, 2 ch 103 SLA 1981)

**Effect of amendments.** — The 1981 amendment substituted "\$250,000" for "\$75,000" preceding "a hospital" and substituted "\$50,000" for "\$25,000" preceding "a hospital" in paragraph (1) of subsection

(a). The amendment also substituted "\$2,000" for "\$1,000" preceding "per bed" and substituted "\$8,000" for "\$4,000" preceding "per health facility" in paragraph (3) of subsection (a).

#### NOTES TO DECISIONS

For case interpreting the former revenue sharing scheme for hospitals and health care facilities, see Municipality

of Anchorage v. Sisters of Providence in Wash., Inc., Sup. Ct. Op. No. 2343 (File Nos. 5017, 5018, 5329), 628 P.2d 22 (1981).

**Sec. 29.89.040. State aid to volunteer fire departments in the unorganized borough.** (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or city a sum for protection purposes equal to \$10 per capita for the population served by the department, as determined by the state fire marshal.

(b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized borough or city, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 3 ch 155 SLA 1980)

**Sec. 29.89.050. State aid to Native village governments.** The state shall pay \$25,000 to a Native village government for a village which is not incorporated as a city under this title. In this section, "Native village government" means

(1) a local governing body organized by authority of the Act of Congress of 25 U.S.C. 476 (the Act of Congress of June 18, 1934)

(2) a traditional village council or, if there is no traditional village council, the paramount chief or other governing body of a Native village which meets the requirements of 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act). (§ 3 ch 155 SLA 1980)

**Sec. 29.89.060. Population determination.** For purposes of AS 29.89.010 — 29.89.100, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls. (§ 3 ch 155 SLA 1980)

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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

April 15, 1981

Hon. Ramona L. Barnes  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: Grants to unincorporated  
communities

Dear Representative Barnes:

This responds to your request for advice on the constitutionality of limiting revenue sharing for unincorporated communities to those organized under the Indian Reorganization Act of 1934 (IRA), 25 U.S.C.A. § 476 (1963), or eligible as a Native Village under the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C.A. § 1611.

We believe that the limitation may well be unconstitutional under the equal protection clause of the state constitution. Alaska Const., art. I, § 1.

According to the Department of Community and Regional Affairs, there are 30 unincorporated communities outside of organized boroughs, with a population of 3,867 people, which are not IRA or ANCSA villages. These include, for example, Tok, Big Delta, Chicken, Dunbar, Elfin Cove, Evansville, Glenallen, Gustavus, Healy, Hyder, McKinley Park, Point Baker, Thorne Bay, Two Rivers, and Whale Pass.

To meet equal protection requirements, the basis for distinguishing between unincorporated communities must bear a reasonable relationship to a legitimate governmental goal. The goal is to provide public benefits in the form of facilities and services made available to the public at large on a nondiscriminatory basis. That can be done by any identifiable, responsible local group which, given the grant, is ready, willing, and able to do so. This is precisely how the program for rural development assistance works under AS 44.-47.130. Accordingly, limiting grantees to tribal councils appears to have no reasonable basis, and therefore, may violate the equal protection clause. It is this limitation

Honorable Ramona L. Barnes

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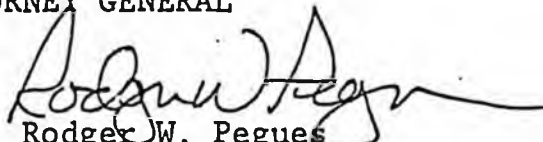
April 15, 1981

which runs afoul of the constitution, not the categorical grants themselves.

The proper corrective action is to amend the revenue sharing legislation to enlarge the class of beneficiaries.

Sincerely yours,

WILSON L. CONDON  
ATTORNEY GENERAL

By:   
Rodger W. Pegues  
Assistant Attorney General

RWP/pjg

# MEMORANDUM

State of Alaska

TO: Hon. Lee McAnerney, Commissioner  
Dept of Community & Regional Affairs

DATE: April 27, 1981

FILE NO: J-66-335-81

ATTN: Palmer McCarter, Director  
Div. of Local Gov't Asst

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: State revenue sharing  
with IRA councils and  
traditional councils,  
chiefs, or other gov-  
erning bodies

By: Rodger W. Pegues  
Assistant Attorney General

You have asked for additional advice on this subject.

Under AS 29.89.050, the state pays \$25,000 annually to a "Native village government for a village which is not incorporated as a city . . . ." The term is defined as a local governing body organized under section 16 of the Indian Reorganization Act, 25 U.S.C.A. 476 (1963) which was applied to Alaska by the Act of May 1, 1936, 25 U.S.C.A. § 473a (1963), \*/ or as a traditional village council, paramount chief, or other governing body of a village.

This statute creates serious constitutional problems. If the money is not expended by the recipient to provide public services in a racially non-discriminatory manner, the public purpose clause \*\*/ and the equal protection clause \*\*\*/ of the Alaska Constitution will have been violated. Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963). The test, however, is not the racial or religious character of the recipient but the character of the use to which the money will be put. Id. And the courts will look at the entire factual and governmental context on a case-by case basis to determine whether the expenditure serves a public purpose. Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). Accordingly, the constitutional provisions which require a public purpose and equal protection will not be offended so long as the services

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\*/ There is a question whether any section 16 tribal organization, other than the Metlakatla Indian Community Annette Islands Reserve, Alaska, still exercises governmental powers after the enactment of the Alaska Native Claims Settlement Act.

\*\*/ Alaska Const., art. IX, § 6. "No tax shall be levied, or appropriation of public money made, or public property transferred . . . except for a public purpose."

\*\*\*/ Alaska Const., art. I, § 1; U.S. Const., Amend. XIV, § 1.

provided by a village council are furnished on a non-discriminatory basis.

A much less easily resolved problem lies in another provision of the Alaska Constitution, article X, section 2:

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

This limitation of "local government power" to boroughs and cities is preceded by a purpose clause which states:

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

The record of the debates at the Constitutional Convention makes it clear beyond reasonable doubt that this three-fold statement of purpose and construction precisely and concisely sums up the essence of the article on local government and the intent of its framers. The framers perceived three evils hobbling local government in Alaska and elsewhere: One, there were a multiplicity of overlapping, special (often single) purpose districts, each little known to the average voter and each monomaniacally pursuing its own goals in disregard and often in conflict with other special purpose districts occupying the same, or part of the same, area. Two, many of these districts operated on revenues from special purpose projects, for example sewage disposal districts. Others levied taxes. Their single purpose orientation, lack of centralized control and responsibility, distance from any meaningful relationship to the voters, and lack of any need to compete for a share of an integrated budget made tax levies and expenditures excessive and irrational. Three, the courts had hobbled local governments with general rules for construing their powers under which local governments could not respond to pressing needs because they could not find some express provision of a statute or charter which gave them the power to act on the subject. The framers crafted article X to cure or remove all three evils. Fairview Pub. Util. Dist. No. 1 v. City of Anchorage, 368 P.2d 540, 543-545 (Alaska 1962).

The provisions of article X carry out the framers

April 27, 1981

purposes. They prescribe that a "liberal construction shall be given to the powers of local government units." Alaska Const., art. I, § 1. They limit local government powers to cities and boroughs. Id., § 2. They allow the legislature to delegate taxing power to boroughs and cities only. Id. They prohibit new special districts ("service areas") from being established "if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city." Id., § 5. The adoption of home rule charters is placed in the hands of local voters, id., § 9, and home rule local governments have all powers not prohibited by law or charter. Id., § 11. Finally, to make boundary changes, including mergers, as easy as possible, a state commission is empowered to change them, subject only to a two-house veto by the legislature. Id., § 12. In other words, if the constitution is followed, none of the three evils the framers sought to cure and avoid can exist in Alaska.

The use of traditional village councils or IRA councils to provide local government services is at odds with the constitution's provisions on local government. The public services they would perform are those which local governments perform. The Alaska Constitution limits the exercise of those powers by political subdivisions of the state to boroughs and cities. The tribal councils are neither. If they are duly organized under section 16 of the Act, 25 U.S.C.A. 476 (1963), they are tribal governments with sovereign immunity. Parker Drilling Co. v. Metlakatla Indian Community, 451 F.Supp. 1127 (D. Alaska 1978); Atkinson v. Haldane, 569 P.2d 151 (Alaska 1977). Financing a broad range of tribal government activities on the part of the councils is not for a public purpose of the state. Financing a broad range of non-tribal, local government activities through the councils would effectively raise them to the status of local governments. That conflicts with the constitutional mandate that the legislature may only use cities or boroughs to provide local government, and it indubitably removes any incentive -- or even any rational basis -- for a village to incorporate as a city. It would also have the practical effect of creating or sanctioning a racially exclusive de facto local government under color of state law, which is the reason that tribal councils cannot be designated by the state to be cities or local governments. Under the Equal Protection Clause, the state cannot set up racially exclusive political subdivisions.

This is not to say that the state cannot contract with a racially (or religiously) exclusive group to provide

April 27, 1981

public services or manage a public facility on a non-discriminatory basis for all the residents of a community. On a limited basis, therefore, grants can be made to IRA councils in their capacity as business corporations to provide some public services. The state constitution, however, bars the de facto establishment under state law of these councils as the local governments of Alaska's villages.

There is still another problem. In making monetary distribution to Native village governments but not to other potential applicants for grants in those villages and in other unincorporated communities, the statute may create equal protection problems by discriminating against the latter without a reasonable basis, if these are responsible parties which are equally capable of providing community services. This problem can be solved by amending the law to open the class of beneficiaries to other entities and other communities and including them, on application, in the distribution. We understand that there are 30 of these communities.

Turning to your specific questions, first to be eligible to participate in the revenue sharing program, the community must meet the statutory requirements, make application, and undertake to expend the money for public purposes on a non-discriminatory basis. Because the contract cannot be enforced in court unless Congress waives the tribal government's sovereign immunity, you should use forfeiture of the grantee's right to a grant in the following fiscal year as an enforcement mechanism.

Second, state money cannot be expended for the costs of general administration because the village councils and other groups are not public agencies of the state or its political subdivisions. They are, on the one hand, federally recognized and organized tribal entities, and on the other, private associations or corporations. With respect to the former, depending on whether they are organized under section 16, section 17, or both of the Indian Reorganization Act, they are governmental, corporate, or both. In their governmental role, they are tribal. In their corporate role, they are private. All of them can provide public services on a non-discriminatory basis, and to the extent that they do so, a proportional share of their general administrative costs can be paid from state money.

Third, we know of no way to insure that the money will be spent for the good of the whole community. Obviously, each recipient must be required to promise that the money will

Palmer McCarter, Director  
C&RA - Local Government Asst

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April 27, 1981

be spent for the good of the entire community and to specify what public services it will provide on a racially non-discriminatory basis. Enforcement will be difficult against a tribal council acting in its governmental capacity under section 16 of the IRA. For that reason, if a section 17 corporation exists, the grant-contract should state that it is with the village council acting in its capacity as a business corporation.

RWP/pjg

cc: Hon. William R. Nix  
Commissioner  
Department of Public Safety

Daniel W. Hickey  
Chief Prosecutor  
Juneau AGO - Criminal Section

# MEMORANDUM

# State of Alaska

TO: Hon. Lee McAnerney, Commissioner DATE: September 2, 1981  
Dept of Community & Regional Affairs  
FILE NO: J-66-829-81  
ATTN: Palmer McCarter, Director  
Div. of Local Gov't Asst TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON SUBJECT: State financial aid  
ATTORNEY GENERAL to benefit unincor-  
porated communities

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

By your memoranda of May 17 and June 12, 1981, you have asked us to address a number of questions related to state financial assistance to benefit unincorporated communities. First, as to your authority to distribute money to unincorporated villages under AS 29.89.050, we believe that statute to be unconstitutional if read literally to restrict aid to Native villages. We also believe that the statute may be construed in a constitutional manner by severing the words "Native" and "government" and the definition of "Native village government." Second, with regard to state financial aid to unincorporated communities in general, we will discuss the relevant constitutional principles which apply to the questions you have raised.

AS 29.89 provides for annual revenue sharing with municipalities (for roads, AS 29.89.020), operators of health facilities and hospitals (AS 29.89.030), volunteer fire departments in the unorganized borough (AS 29.89.040), and Native village governments (AS 29.89.050). As discussed in our memorandum of April 27, 1981, aid to Native village governments raises serious issues under (1) article IX, section 6 of the Alaska Constitution which prohibits expenditure of public money unless the expenditure is for a public purpose; (2) article I, section 1, which accords equal protection to all persons; and, (3) article X, section 2, which provides for the exercise of local governmental powers only by cities and boroughs which are incorporated under state law.

We stated that the public purpose requirement was satisfied if the money were used for public benefit, and not for the private benefit of a racially exclusive group. We also indicated that a local organization could receive and spend state money for the benefit of a community without becoming a de facto unit of local government. As to equal protection, we stated that the distribution of state money to a racially exclusive organization did not deny equal protection to persons who are not members of the organization, if benefits provided with the funds were made available to the public at large.

September 2, 1981

However, as we noted, the payment of state money under AS 29.89.050 only to those unincorporated communities which are identified as Native villages does exclude from participation a number of similarly situated communities which are not Native villages. The first inquiry necessary to determine if a statute is valid under Alaska's equal protection test is whether the statute has a legitimate purpose. State v. Erickson, 574 P.2d 1 (Alaska 1978).

Of the three possible purposes for AS 29.89.050 which we have identified, the only legitimate one is to provide public services to residents of unincorporated communities. \*/ If the statutory purpose were illegitimate under the Alaska Constitution, the statute would be unenforceable. There is a heavy presumption in favor of the constitutionality of any statute. SUTHERLAND STATUTORY CONSTRUCTION § 45.11.

Assuming that the legislature intended by AS 29.89.-050 to provide public services to the residents of unincorporated

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\*/ A purpose to benefit Native villages solely because of the racial ancestry of their inhabitants would not be legitimate in the absence of a special motivation such as compensation for loss of aboriginal property rights. No such special motivation appears to be present here. A purpose to encourage the Native villages to assume the responsibilities of local governmental units would be in conflict with article X, section 2, of the constitution, and thus will not be inferred, despite the use of the term "Native village government."

We note that the Act which added AS 29.89 stated no purpose for that chapter, but did state a purpose for adding the general revenue sharing chapter, AS 29.88, as follows:

It is the purpose of sec. 2 of this Act to

(1) improve the revenue raising and distribution system for the benefit of residents of home rule and general law municipalities by providing for more equitable allocation of financial resources among municipalities to improve their fiscal capacities; and

(2) assure that no municipality suffers impoverishment of necessary public services, relative to other municipalities, because of the chance location of taxable wealth in the state.

September 2, 1981

rated communities, the means chosen are only loosely suited to that purpose because of the existence in the state of a substantial number of unincorporated communities whose residents would not be benefitted by the literal language of AS 29.89.050. Since the distinction is based upon the racial ancestry of the communities, we might conclude that the statute is unconstitutional despite its legitimate purpose. However, we note that the Alaska Supreme Court has held that a statute which denied equal protection by limiting its application to members of one sex (prohibiting prostitution by females) could be construed as constitutional by severing the offending restrictive language, and thereby expanding application of the statute to all persons. Plas v. State, 598 P.2d 966 (Alaska 1979).

The interpretation of AS 29.89.050 presents an analogous problem. The effect of severing the offending restriction to "Native" village "governments," and deleting the definition of that term, is to expand the group of eligible communities to include all "villages." \*/ Although this interpretation alters the literal wording of the statute significantly and is, therefore, not to be implemented hastily, State v. Campbell, 536 P.2d 105 (Alaska 1975), it does avoid the alternative interpretation that the statute is unconstitutional and void. The law strongly favors the construction of statutes to be consistent with constitutional requirements. State v. Sundberg, 611 P.2d 44 (Alaska 1980); Summers v. Anchorage, 589 P.2d 863 (Alaska 1979). According to Sutherland:

It has even been said that "a strained construction is not only permissible, but desirable if it is the only construction that will save constitutionality."

SUTHERLAND STATUTORY CONSTRUCTION § 45.11 at 34 (footnote omitted). We believe that the interpretation of AS 29.89.050 to authorize grants of state money to all villages is the only interpretation consistent with our constitution.

According to your estimates, the dilution of revenue sharing funds caused by including other unincorporated communities under AS 29.89.050 will not cause significant diminution in the fund allotments. Further, this interpretation

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\*/ A parallel deletion of "Native" and "government" from AS 29.89.010(b) is also necessary.

September 2, 1981

is consistent with the subsequent action of the legislature in providing for grants to all unincorporated communities. 1981 Alaska Sess. L., ch. 60, § 2. We believe that under the circumstances, the Alaska courts would uphold an administrative interpretation of AS 29.89.050 to permit revenue sharing to all villages in the state, regardless of their racial composition or ancestry.

A question arises as to the meaning of "village" under AS 29.89.050, in the absence of the language limiting it to a Native village organized under federal law. Generally, a village is any discrete and identifiable place where a group of people reside in close proximity, intend to remain in the place indefinitely, and carry on ordinary human social and economic activities as a community. Wyandotte Sav. Bank v. Eveland, 78 N.W.2d 612, 617, 347 Mich. 33; Union Sav. Bank of Patchogue v. Saxon, 335 F.2d 718, 721 (D.C. Cir. 1964). Your administrative regulations interpreting and implementing chapter 60, SLA 1981 should provide appropriate guidelines for both that Act and for AS 29.89.050.

Your memorandum of May 17 asked a number of questions regarding your assistance to local governments and to communities in the unorganized borough. Generally, the three constitutional principles discussed above should guide your conduct. You must administer money under your control in order to ensure that it is spent to achieve a public purpose. This requires active supervision of all grants and contracts, especially those transferring money to an organization other than a municipal government. Village and regional Native corporations are not incorporated as cities or boroughs and are not considered to be local governments under state law.

The equal protection provision requires that you administer your programs in order to provide similar treatment for people or organizations which are similarly situated, unless there is a very strong reason for treating them differently. The distinction between a municipality and an unincorporated village is created by the Alaska Constitution. This different treatment of municipalities is justified because of their status and duties as governmental entities. For example, the state may make general revenue sharing grants to municipalities, to be used at the discretion of the municipal government. The public purpose requirement is met by the operation of state law and the Alaska Constitution controlling the activities of municipal governments. The state may not make general revenue sharing grants to non-governmental entities. In administering the grants to villages under AS 29.89 and to unincorporated communities under chapter 60,

Palmer McCarter, Director  
C&RA - Local Gov't Assistance

- 5 -

September 2, 1981

SLA 1981, you must ensure that the money is spent to achieve a public purpose.

The local government article of the Alaska Constitution (article X) provides for the exercise of local government powers by cities and boroughs and for the provision of services by multi-purpose service areas. In administering services in the organized borough, the state may contract with any entity capable of providing the needed service, as long as the contractor is actively supervised by the state, and not permitted to become de facto, a local government.

You are not absolutely prohibited by the constitution from contracting for the delivery of services by profit-making corporations or by Native organizations which may have sovereign status, if the services are necessary and no other capable and responsible contractor is available. However, it would be inconsistent with your duties as an administrator of public funds, to contract with these organizations if another more responsible and capable contractor is available. An entity which may be immune from contract enforcement because of its sovereign status should be considered less responsible to accept a state grant than any corporate entity.

We will defer your request for an authoritative statement of the powers of tribal governments for the time being, and hope that these general guidelines are adequate to resolve your immediate problems.

LLD/pjg

# MEMORANDUM

# State of Alaska

TO: Hon. Lee McAnerney, Commissioner      DATE: November 18, 1981  
Dept of Community & Regional Affairs

FILE NO: J-66-261-82

ATTN: Palmer McCarter, Director

Div. of Local Gov't Asst      TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Revenue sharing  
to unincorporated  
communities

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

This responds to your memorandum of October 1, 1981. It is our opinion that AS 29.89.050 should be interpreted to authorize payments only to those unincorporated communities located outside the boundaries of any municipality, and administered in a manner similar to that provided for aid to unincorporated communities under chapter 60, SLA 1981. Our reasoning follows:

Our memoranda of April 27, 1981 and September 2, 1981 set forth and explain the legal principles which prohibit the recognition of any entity other than an incorporated city, borough, or unified municipality as a unit of local government in Alaska. We advised by those memoranda that general revenue sharing with an unincorporated community would be unconstitutional. In order to avoid the conclusion that AS 29.89.050, "State aid to Native village governments," is unconstitutional and void, we suggested that the legislative intent behind that section was to provide state assistance for public services in unincorporated communities.

Any community located within a municipality is a part of the municipality. Adult members of the community are eligible to vote in municipal elections and the municipality is the unit of local government for that community. There is no need for the state to provide services through another organization where a municipality exists. To do so would contravene the constitutional provision that "all local government powers shall be vested in boroughs and cities." Alaska Const., art X, § 2.

Accordingly, we advise that AS 29.89.050 should be administered not as general revenue sharing, but as aid for specific purposes which are identified in a manner similar to that provided for aid to unincorporated communities in chapter 60, SLA 1981. Payments should be made under AS 29.89.050 only for the benefit of communities located outside any municipality.

We understand that the Senate community and regional

Palmer McCarter, Director  
CRA-Local Government Assistance

November 18, 1981  
Page #2

affairs committee has discussed introducing legislation to amend AS 29.89.050 to provide for aid to unincorporated communities similar to chapter 60, SLA 1981. Such legislation would confirm our interpretation of the legislative intent behind AS 29.89.050 and would avoid the constitutional problems discussed in our earlier memoranda. We hope that this answers your questions.

LLD/pjg