

**SB**

**291**

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 2/9/94

FURTHER: Judiciary  
Finance

Date of 5-Day Notice: 2/17/94  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-16-94

CRA Committee considered SB 291

"An Act relating to including all regions in the state in an organized borough or unified municipality; and providing for an effective date."

and recommends:

replace with \_\_\_\_\_ CS SB291 (CRA)  
 attaches amendment(s)

same title  
 new title  
 technical title change  
 (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Office of Governor	2/15/94	0	F495
DORA	3/9/94	#485	F495

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OTHER RECOMMENDATIONS:

Adrian L. Taylor Do not pass  
Karen A. Lewman No rec

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Roll E. Pappas Do Pass

Chair: Signature and Recommendation

# FISCAL NOTE

Revision Date: March 9, 1994 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to including all regions of the BRU: Local Government Assistance  
state in an organized borough or unified Component: Local Boundary Commission  
 Sponsor: municipality  
 Requestor: Senate C & RA Committee COMPONENT SERIAL NO. 674

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	27.4	13.7	14.0	28.0		
CONTRACTUAL	21.1	12.3	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS			0.0	0.0	0.0	0.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>48.5</b>	<b>26.0</b>	<b>14.0</b>	<b>28.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL	0.0	0.0	2,100.0	3,500.0	2,100.0	700.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.5	26.0	2,114.0	3,526.0	2,100.0	700.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>48.5</b>	<b>26.0</b>	<b>2,114.0</b>	<b>3,526.0</b>	<b>2,100.0</b>	<b>700.0</b>

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

(See attached analysis)

Prepared by: Remond Henderson, Director Phone: 465-4708  
 Division: Division of Administrative Services Date: 3/9/94  
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 3/9/94  
 Agency: Community & Regional Affairs

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FISCAL NOTE: Analysis

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

SENATE BILL 291

The following outlines the assumptions and other considerations used to project the fiscal impact of Senate Bill 291 on the Department of Community and Regional Affairs.

COMMITTEE ON MUNICIPALITIES

**Travel**

1. The fiscal note includes transportation and per diem costs only for the five members of the Committee on Municipalities appointed under Sec. 2(a)(3) - (7). It is assumed that transportation and per diem costs for the remaining four members of the Committee (Senate member, House member, LBC Chair and DCRA Commissioner) will be paid with funds otherwise allocated to those bodies and agencies.
2. It is assumed that the Committee will meet three times in Anchorage; twice during FY 95 and once during FY 96. Travel and per diem costs are estimated at \$500 per member for each meeting.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
5.0	2.5	0.0	0.0	0.0	0.0

**Contractual**

1. Public notice of the meetings of the Committee on Municipalities will be published one time for each meeting (2 notices in FY 95 and 1 in FY 96). Cost is estimated at \$200 per notice.
2. 400 copies of the Committee's report will be published and distributed in FY 96. Printing costs are estimated to be \$3.60 per copy, and postage costs are estimated to be \$1.00 per copy.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.4	2.0	0.0	0.0	0.0	0.0

BOUNDARY STUDY

**Travel**

The Local Boundary Commission will hold 24 hearings (based on the 1992 model boundary determinations showing five regions to have met boundary standards for annexation to existing boroughs and unified municipalities; and nineteen regions to have independently met borough boundary standards). The hearings will be held during the course of six extended trips (four hearings per trip). Sixteen of the hearings will be held in FY 95 and eight will be held in FY 96. Transportation and per diem costs for the Commission are estimated to be \$5,600 for each of the six extended trips.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
22.4	11.2	0.0	0.0	0.0	0.0

**Contractual**

1. Public notice of the hearings will be published three times for each hearing (48 publications in FY 95 and 24 in FY 96). Costs are estimated to be \$100 per publication.
2. 3,600 publications outlining the project, discussing the 1990-1992 model boundary determinations, inviting comment, etc., will be published. Of these, 2,400 publications will be printed and mailed in FY 95 and 1,200 in FY 96. Printing costs are estimated to be \$3.60 per copy, and postage costs are estimated to be \$1.00 per copy.
3. Each of the Commission's hearings will be teleconferenced to nine communities. Thus, 144 communities will participate by teleconference in FY 95 and 72 will participate by teleconference in FY 96. It is assumed that each teleconference segment will last two hours. Each teleconference is projected to cost \$33.61.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
20.7	10.3	0.0	0.0	0.0	0.0

**CHARTER COMMISSIONS****Travel**

Fourteen regions will be determined to have met borough incorporation standards. Of these, seven will incorporate boroughs under Sec 4(c). Thus, seven charter commissions will be established under Sec 6. Each seven member charter commission will meet three times; once in FY 97 and twice in FY 98. It is assumed that transportation and per diem costs will be paid for 4 of the seven members (the remaining three being residents of the community in which the meeting is held). It is further assumed that each meeting will last three days. Transportation and per diem costs are estimated to be \$500 per each of the four charter commission members that travel.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.0	0.0	14.0	28.0	0.0	0.0

**ORGANIZATIONAL GRANTS****Grants**

Of the fourteen regions determined to have met borough incorporation standards, seven will be incorporated in March of 1997 (FY 97) under Sec. 4(d). The remaining seven will be incorporated in October of 1997 (FY 98) under Sec. 8. Each newly formed borough will receive a \$600,000 organizational grant. \$300,000 of the grant is paid during the first year of incorporation, \$200,000 the following year and \$100,000 the third year.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.0	0.0	2,100.0	3,500.0	2,100.0	700.0

MUNICIPAL ASSISTANCE, REVENUE SHARING, NATIONAL FOREST RECEIPTS PROGRAM

No increase in funding is required. However, the level of funding to pre-existing municipalities will be diminished, at least with respect to the Municipal Assistance and Revenue Sharing programs.

DCRA STAFF COSTS

The Department of Community and Regional Affairs will use existing staff to carry out its duties with respect to the bill. Thus, no increase in personal services is provided in the fiscal note.

OTHER AGENCIES TO BE IMPACTED

DCRA notes that this bill could have fiscal impacts (positive and/or negative) on several other agencies. These agencies include the Department of Natural Resources, the Division of Elections, the Department of Education and the Department of Revenue.

TOTAL

Following is total estimated fiscal impact of Senate Bill 291 on the Department of Community and Regional Affairs.

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Svs	0.0	0.0	0.0	0.0	0.0	0.0
Travel	27.4	13.7	14.0	28.0	0.0	0.0
Contractual	21.1	12.3	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Grants	0.0	0.0	2,100.0	3,500.0	2,100.0	700.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
Total	48.5	26.0	2,114.0	3,528.0	2,100.0	700.0

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 223

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Tax Credit: Gifts to Public Broadcasting BRU: Revenue Operations  
 Component: Income and Excise Audit  
 Sponsor: Senator Taylor  
 Requestor: (S) CRA COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						
<b>REVENUE FUND SOURCE: General</b>	(**)	(**)	(**)	(**)	(**)	(**)

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)  
  
 (\*\*) See Attached

Prepared by: Larry E. Meyers *[Signature]* Phone: 465-2320  
 Division: Income and Excise Audit Date: March 1, 1994  
 Approved by Commissioner: Darrel J. Rexwinkel *[Signature]* Date: March 1, 1994  
 Agency: Department of Revenue

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SB 223

Tax Credit: Gifts to Public Broadcasting

March 1, 1994

Page 2 of 2

### Bill Analysis

This bill authorizes taxpayers to claim a credit against taxes due for cash contributions to private nonprofit corporations that are licensed as a public broadcasting station in the state. The credit, not to exceed \$150,000, may be claimed against the following tax types:

- Corporation Net Income (AS 43.20)
- Oil and Gas Production (AS 43.55)
- Oil and Gas Property (AS 43.56)
- Mining License (AS 43.65)
- Fisheries Business (AS 43.75)

During the taxpayer's tax year, credits claimed cannot be combined to exceed \$150,000.

This bill takes effect January 1, 1995.

### Revenue

Total amount of credits will vary each year depending on contributions made by taxpayers. Although it is not likely that all taxpayers will make contributions to reach the maximum \$150,000 credit allowed under this bill and have tax liabilities to the extent of the credit, following is the maximum impact on revenue assuming that the top 10% of taxpayers claim the maximum credit allowed (except that all oil and gas taxpayers would claim credits).

<i>Tax Type</i>	<i># Taxpayers</i>	<i>Total Credits (# Taxpayers x \$150,000)</i>
Corporation Net Income	685	\$102,750,000
Oil and Gas Production and Property	30	4,500,000
Mining License	50	7,500,000
Fisheries Business	50	7,500,000
<b>Total</b>	<b>815</b>	<b>\$122,250,000</b>

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 291

1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Office of the Governor

Title: "An act relating to including all

BRU: Division of Elections

regions in the state in an organized borough or unified municipality; and providing for an effective date."

Component: Elections Operations

Sponsor: Senator Donley

COMPONENT SERIAL NO. 21

Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	180.0	90.0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	0	180.0	90.0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	180.0	90.0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	180.0	90.0	0	0

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director

Phone: 465-4611

Division: Division of Elections

Date: 2/15/94

Approved by Commissioner: John B. Coghill, Lieutenant Governor

Agency: Office of the Governor

Date: 2/15/94

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 291

ANALYSIS:

In March of 1993, the Division of Elections held elections for the REAA/CRSA unincorporated areas throughout Alaska. The total cost of the election was \$90,000.00. If the areas described in the bill are assumed to be the same each election will cost \$90.0. Each additional election will cost \$90.0.

*now adopted*

A M E N D M E N T NO. 1

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 1, lines 4 - 8:

Delete all material and insert the following:

\*Section 1. LEGISLATIVE PURPOSE. It is the purpose of the Act to eliminate the unorganized borough by including all regions in the state in an organized borough or unified municipality in accordance with Article X, Section 3 of the Constitution of the State of Alaska.

*From  
House  
adopted*

A M E N D M E N T NO. 2

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 2, line 8 after, "Act (43 U.S.C. 1601 - 1628)":

Insert "from each of the four Judicial Districts;"

*Moved  
by  
adopted*

A M E N D M E N T NO. 4

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 2, line 30, after "least":

Delete "one public hearing"

Insert "two public hearings at different locations"

A M E N D M E N T NO. 5

*not moved*

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 3, line 16, after "may":

Insert:

"upon receipt of a petition signed by 15 percent of the number of voters who voted in the last general election in the region"

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Nineteenth"

*Do not  
potentially  
unconstitutional  
opposes amendment*

*not moved*

A M E N D M E N T NO. 5

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 3, line 16, after "may":

Insert:

"upon receipt of a petition signed by 15 percent of the number of voters who voted in the last general election in the region"

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Nineteenth"

*Adm ent #6-*

*Just the last portion  
Delete 18th  
Insert 20th*

A M E N D M E N T    N O .    6

OFFERED IN SCRA

BY LEMAN

TO: SB 291

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Twentieth"

To: Shirley Armstrong (fax: 465-4979)

From: Dan Bockhorst<sup>SB</sup> (telephone 269-4559 fax: 269-4539)

Date: March 4, 1994

Attached are three pages summarizing the constitutional, statutory and regulatory standards for borough incorporation.

There are no express constitutional or statutory standards for borough annexation, only regulatory standards. These are patterned largely after the boundary criteria for incorporation of boroughs. The regulatory criteria for annexation are found in 19 AAC 10.160 -19 AAC 10.210. Please advise me if you would like to provide you with a copy.

## SUMMARY OF STANDARDS FOR BOROUGH INCORPORATION

The standards applied by the Department of Community and Regional Affairs and the Local Boundary Commission in reviewing a borough incorporation petition are set out in the Alaska Constitution, Alaska Statutes and the Local Boundary Commission's regulations in the Alaska Administrative Code.

### CONSTITUTION

Article X is the Local Government Article. Its purpose is "to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions."

Each borough is to be established according to standards which shall "include population, geography, economy, transportation and other factors," and shall embrace an area and population with common interests to the maximum degree possible." (Article X, Section 3)

### STATUTES

AS 29.05.031(a) provides four general standards applicable to all boroughs.

1. The population of the area is interrelated and integrated as to its social, cultural and economic activities, and is large and stable enough to support borough government;
2. The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services.
3. The economy of the area includes human and financial resources capable of providing municipal services. Evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough.
4. Land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

## SUMMARY OF REGULATIONS

**COMMUNITY OF INTERESTS (19 AAC 10.045):** The social, cultural, and economic characteristics and activities of the people in the proposed borough must be interrelated and integrated. Considerations include:

- √ compatibility of urban and rural areas within the proposed borough;
- √ compatibility of economic lifestyles;
- √ existence of customary and simple transportation and communication patterns;
- √ the languages spoken throughout the proposed borough;

**PRESUMPTIONS:**

- at least two communities;
- all communities within the proposed borough are connected to the borough seat by road, regularly scheduled airline flights on at least a weekly basis, local air charter services or sufficient electronic media;

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**POPULATION (19 AAC 10.050):** The population must be sufficiently large and stable to support the proposed borough government. Considerations include:

- √ total census enumeration
- √ duration of residency
- √ historical population changes
- √ age distributions.

**PRESUMPTIONS:**

- at least 1,000 permanent residents

---

**RESOURCES (19 AAC 10.055):** The economy of the proposed borough must contain the human and financial resources necessary to provide essential borough services on an efficient, cost effective level. Considerations include:

- √ reasonably anticipated borough functions
- √ reasonably anticipated borough expenses
- √ reasonably anticipated borough income
- √ anticipated operating budget through the third full fiscal year of operation
- √ economic base of proposed borough
- √ property valuations
- √ land use
- √ existing and anticipated industrial, commercial and resource development
- √ personal income of residents
- √ need for and availability of employable skilled and unskilled people
- √ predictable level of commitment and interest of population in maintaining a borough government.

**BOUNDARIES (19 AAC 10.060):** The proposed borough boundaries must conform generally to natural geography and include all land and water necessary to provide for full development of borough services on an efficient, cost-effective level. Considerations include:

- √ land use and ownership patterns
- √ ethnicity and cultures
- √ population density patterns
- √ existing and reasonably anticipated transportation patterns and facilities
- √ natural geographic features and environmental factors
- √ extraterritorial powers of boroughs.

**PRESUMPTIONS:** • boundaries will not extend beyond model boundaries.



# TOK CHAMBER OF COMMERCE

"Main Street Alaska"

March 14, 1994

P.O. Box 389  
Tok, Alaska 99780

Senator Randy Phillips  
Chairman Community & Regional Affairs  
REF: SB 291 Borough Incorporation & Annexation

Senator Phillips,

The following are some of our concerns regarding this bill:

1. Most importantly, we question the Constitutionality of the legislature being able to overturn a state election result if it does not approve state-wide borough formation. This would lead one to wonder what other Constitutional rights you may choose to ignore or over rule.
2. There is no tax base in our area, other than possible timber sales at this time. We have an approximate 90 days of tourist business, which barely covers year-round expenses for our small businesses and the employees. We have a 35-45% unemployment rate from October through April. The local businesses cannot afford any type of a tax, including the proposed state income tax.
3. What will borough formation do for this area? We currently pay 0.13¢ p/KW of electric, and if the cities have their way and do away with PCE we will be paying 0.21¢ a KW. We now pay \$1.45 per gallon of unleaded gas, \$1.15 per gallon of heating fuel. It cost close to \$3,000.00 to put down a well, and over \$1500.00 for a sewer system. Now you want to take away our only source of State-wide news by not funding RATNET. Our newspaper comes in a day late, so we get Fridays news on Saturday, and don't get Monday's news until Tuesday afternoon. Anchorage could have a major catastrophe and we here in the Upper Tanana wouldn't even know it for five days.
4. The legislature won't even fund this LIO next year, expecting Tok to come up with a donated space. If you can't find \$5-6,000.00 for that funding, how on earth are you going to come up with the hundreds of thousands of dollars full cost for state-wide borough formation?
5. While the "rest of the state" is paying taxes to support the rural area, they are also getting the lion's share of monies out of Juneau, as well as most of the monies the bush spends on such basic items as food, medical/dental care, insurance and building supplies and banking needs.

Post-It™ brand fax transmittal memo 7871		# of pages > /	
To	Sen. Phillips	From	Tok Chamber
Co.		Co.	
Dept.	4079	Phone	883-5887
Fax #	405-4209	Fax #	

TOK CHAMBER OF COMMERCE

(b) The boundaries of the proposed city must include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of incorporation of that city.

(c) The boundaries of the proposed city must not include entire geographical regions or large unpopulated areas, except when such boundaries are justified by the application of the standards in 19 AAC 10.010 — 19 AAC 10.010.

(d) If a petition for incorporation of a proposed city describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for incorporation must also address and comply with all standards and procedures for either annexation of the new city to the existing borough, or detachment of the overlapping region from the existing borough, unified municipality, or city. The commission will consider and treat such an incorporation petition as also being either an annexation petition to the existing borough, or a detachment petition from the existing borough, unified municipality, or city. (Eff. 7/3/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.05.011 AS 44.47.980  
AS 44.47.567

**Article 2. Standards for Incorporation of Boroughs**

Section	Section
45. Community of interests	55. Resources
50. Population	60. Boundaries

**19 AAC 10.045. COMMUNITY OF INTERESTS.** (a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) the compatibility of urban and rural areas within the proposed borough;
- (2) the compatibility of economic lifestyles, and industrial or commercial activities;
- (3) the existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) the extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that an efficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for

the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) transportation schedules and costs;
- (2) geographical and climatic impediments;
- (3) telephonic and teleconferencing facilities; and
- (4) public electronic media.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are either connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, Alaska Const. AS 29.05.031 AS 44.47.567  
AS 29.05.100

**19 AAC 10.050. POPULATION.** (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, Alaska Const. AS 29.05.031 AS 44.47.567  
AS 29.06.100

**19 AAC 10.055. RESOURCES.** The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) the reasonably anticipated functions of the proposed borough;
- (2) the reasonably anticipated expenses of the proposed borough;
- (3) the reasonably anticipated income of the proposed borough, and its ability to collect revenue;

- (4) the feasibility and plausibility of the anticipated operating budget through the third full fiscal year of operation;
- (5) the economic base of the proposed borough;
- (6) property valuations;
- (7) land use;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents;
- (10) the need for and availability of employable skilled and unskilled people; and
- (11) the reasonably predictable level of commitment and interest of the population in sustaining a municipal corporation. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, AS 29.05.031 AS 44.47.567  
 Alaska Const. AS 29.05.100

**19 AAC 10.060. BOUNDARIES.** (a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;
- (5) natural geographical features and environmental factors; and
- (6) extraterritorial powers of boroughs.

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond the model borough boundaries adopted by the commission.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of the Department of Education, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough or unified municipality, the petition for incorporation must also address and comply with all standards and procedures for detach-

ment of the overlapping region from the existing organized borough or unified municipality. The commission will consider and treat such an incorporation petition as also being a detachment petition. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, AS 29.05.031 AS 44.47.567  
 Alaska Const. AS 29.05.100

**Article 3. Standards for Annexation to Cities**

Section	Section
90. Needs of the territory	130. Boundaries
100. Character	140. Legislative review
110. Resources	150. Local action
120. Population	

**19 AAC 10.090. NEEDS OF THE TERRITORY.** (a) The territory must exhibit a reasonable need for a city government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) existing or reasonably anticipated social or economic problems;
- (2) existing or reasonably anticipated health, safety, and general welfare problems;
- (3) existing or reasonably anticipated economic development;
- (4) adequacy of existing services; and
- (5) extraterritorial powers of adjacent municipalities.

(b) A territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
 sec. 12 AS 44.47.567

**19 AAC 10.100. CHARACTER.** The territory must be compatible in character with the annexing city. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) land use and subdivision platting;
- (2) suitability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
 sec. 12 AS 44.47.567

**19 AAC 10.110. RESOURCES.** The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city;
- (3) actual income and the reasonably anticipated ability to collect local revenue and income from the territory;
- (4) feasibility and plausibility of the anticipated operating budget of the city through the third full fiscal year of operation after annexation;
- (5) economic base of the territory after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled people. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.120. POPULATION.** The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.130. BOUNDARIES.** (a) The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;

(3) existing and reasonably anticipated transportation patterns and facilities;

(4) natural geographical features and environmental factors; and

(5) extraterritorial powers of cities.

(b) Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing city does not meet the minimal standards required for annexation.

(c) The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation of that city.

(d) The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards in 19 AAC 10.090 — 19 AAC 10.130.

(e) If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat the annexation petition to the existing organized borough, or a detachment petition from the existing organized borough, unified municipality, or city. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.140. LEGISLATIVE REVIEW.** Territory that meets all of the annexation standards specified in 19 AAC 10.090 — 19 AAC 10.130 may be annexed to a city by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including whether the

- (1) territory is an enclave surrounded by the annexing city;
- (2) health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city

residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;

(4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city; and

(6) territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.150. LOCAL ACTION.** Territory contiguous to the annexing city, that meets the annexation standards specified in 19 AAC 10.090 — 19 AAC 10.130 and has been approved for local action annexation by the commission, may be annexed to a city by

(a) city ordinance if the territory is wholly owned by the annexing city;

(b) city ordinance and a petition signed by all of the voters and property owners of the territory; or

(c) a majority of voters residing in the territory. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040 AS 44.47.980  
sec. 12 AS 44.47.567

**Article 4. Standards for Annexation to Boroughs or Unified Municipalities**

Section	Section
160. Community of interests	190. Boundaries
170. Population	200. Legislative review
180. Resources	210. Local action

**19 AAC 10.160. COMMUNITY OF INTERESTS.** (a) The social, cultural, and economic characteristics and activities of the people in the territory must be interrelated and integrated with the charac-

teristics and activities of the people in the existing borough or unified municipality. In this regard, the commission will, in its discretion, consider relevant factors, including the

(1) compatibility of urban and rural areas within the proposed borough or unified municipality boundaries;

(2) compatibility of economic lifestyles and industrial or commercial activities within the proposed borough or unified municipality boundaries;

(3) existence of customary and simple transportation and communication patterns throughout the proposed borough or unified municipality boundaries; and

(4) extent and accommodation of spoken language differences throughout the proposed borough or unified municipality boundaries.

(b) The communications media and the land, water, and air transportation facilities throughout the proposed borough or unified municipality boundaries must allow for the level of communications and exchange necessary to develop an integrated borough or unified municipality government. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities; and

(4) electronic media for use by the public. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.170. POPULATION.** The population of the proposed borough or unified municipality after annexation must be sufficiently large and stable to support the resulting borough or unified municipal government. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) total census enumerations;

(2) durations of residency;

(3) historical population patterns;

(4) seasonal population changes; and

(5) age distributions. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.180. RESOURCES.** The economy within the proposed borough or unified municipality boundaries must include the human and financial resources necessary to provide essential borough or

municipal services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) reasonably anticipated functions of the borough or unified municipality;
- (2) reasonably anticipated new expenses of the borough or unified municipality;
- (3) actual income and the reasonably anticipated ability of the borough or unified municipality to generate and collect local revenue and income from the new territory;
- (4) feasibility and plausibility of the anticipated operating budget of the borough or unified municipality through the third year of operation after annexation;
- (5) economic base of the borough after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development in the borough or unified municipality;
- (9) personal income of residents in the territory to be annexed and in the borough or unified municipality; and
- (10) the need for and availability of employable skilled and unskilled people. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.06.010 AS 44.47.557

AS 44.47.980

**19 AAC 10.190. BOUNDARIES.** (a) The proposed boundaries of the borough or unified municipality must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough or municipal services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
  - (2) ethnicity and cultures;
  - (3) population density patterns;
  - (4) existing and reasonably anticipated transportation patterns and facilities;
  - (5) natural geographical features and environmental factors; and
  - (6) extraterritorial powers of boroughs.
- (b) Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing borough or unified municipality does not meet the minimal standards required for annexation
- (c) Absent a specific and persuasive showing to the contrary, the commission, in its discretion, will not approve a proposed borough or

unified municipality with boundaries extending beyond the model borough boundaries adopted by the commission and identified in the 1992 Interim Report on Model Borough Boundaries.

(d) The commission will consult with the Department of Education in the process of balancing all standards for annexation to a borough or unified municipality.

(e) If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for annexation must also address and comply with the standards and procedures for detachment of the overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat such an annexation petition as also being a detachment petition from the existing organized borough, unified municipality, or city. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.06.010 AS 44.47.567 AS 44.47.980

Editor's notes. — Copies of the 1992 Dept. of Community and Regional Affairs Interim Report on Model Borough Boundaries may be obtained by writing the Local Boundary Commission Staff, 333 W. 4th Ave., Suite 220, Anchorage, AK 99501-2341.

**19 AAC 10.200. LEGISLATIVE REVIEW.** Territory that meets the annexation standards specified in 19 AAC 10.160 — 19 AAC 10.190 may be annexed to a borough or unified municipality by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including whether the

- (1) territory manifests a reasonable need for borough or municipal government that can be met most efficiently and effectively by the annexing borough or unified municipality;
- (2) territory is an enclave surrounded by the annexing borough or unified municipality;
- (3) health, safety, or general welfare of borough or unified municipality residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the borough or unified municipality to regulate or control the detrimental effect of those conditions;
- (4) extension of borough or unified municipality services or facilities into the territory is necessary to enable the borough to provide adequate services to borough or unified municipality residents, and it is impossible or impractical for the borough or unified

municipality to extend the facilities or services unless the territory is within the boundaries of the borough or unified municipality; (5) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of borough or unified municipal government without commensurate tax contributions, whether these benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(6) annexation of the territory will enable the borough or unified municipality to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the borough or unified municipality; and

(7) territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.210. LOCAL ACTION.** Territory that meets the annexation standards specified in 19 AAC 10.160 — 19 AAC 10.190 and has been approved for local action annexation by the commission, may be annexed to a borough or unified municipality by the following action:

(1) borough or unified municipality ordinance if the territory is wholly owned by the annexing borough or unified municipality;

(2) borough or unified municipal ordinance and a petition signed by all of the voters and property owners of the territory approving of the annexation; or

(3) approval by a majority of voters residing in the territory voting on the question at an election held. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**Article 5. Standards for Merger of Municipalities**

Section	Section
220. Standards	230. Local option

**19 AAC 10.220. STANDARDS.** (a) Two or more municipalities may merge if, upon completion of the merger, the remaining municipality meets the standards for incorporation of cities specified in 19 AAC 10.010 — 19 AAC 10.040, or boroughs specified in 19 AAC 10.045 — 19 AAC 10.060.

(b) Separate proceedings are not required for dissolution of a municipality that is being merged with another municipality. The dissolution occurs automatically at the time of the merger. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.230. LOCAL OPTION.** Municipalities that meet the merger standards required under 19 AAC 10.220, and are approved by the commission for local option merger, may merge if the petition for merger is submitted by the number of voters required under AS 29.06.100(a), and if a majority of the voters in the remaining municipality vote in favor of the merger in a subsequent election. The election must be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**Article 6. Standards for Consolidation of Municipalities**

Section	Section
240. Standards	250. Local option

**19 AAC 10.240. STANDARDS.** (a) Two or more municipalities may consolidate to form a new municipality if the new municipality meets the standards for incorporation of cities specified in 19 AAC 10.010 — 19 AAC 10.040, or boroughs specified in 19 AAC 10.045 — 19 AAC 10.060.

(b) Separate proceedings are not required for dissolution of the consolidating municipalities. The dissolutions occur automatically at the time of the consolidation. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567

**19 AAC 10.250. LOCAL OPTION.** Municipalities that meet the consolidation standards required under 19 AAC 10.240, and are approved by the commission for local option consolidation, may consolidate if the petition for consolidation was submitted by the number of voters required under AS 29.06.100(a), and if a majority of the voters in the remaining proposed new municipality vote in favor of the consolidation in a subsequent election. The election must be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980  
sec. 12 AS 44.47.567



# Alaska State Legislature

## SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair  
Senator Robin Taylor, Vice Chair  
Senator Loren Leman  
Senator Al Adams  
Senator Fred Zharoff

SESSION:  
State Capitol  
Juneau, Ak 99801-1182  
(907) 465-4989

INTERIM:  
P. O. Box 142  
Eagle River, Ak 99577  
(907) 694-4949

### AGENDA

March 10, 1994  
9:00 AM

Butrovich Room  
Room 205

1. Call to Order (time and members present)
2. SB 291 - Borough Incorporation and Annexation  
Sponsor - Senator Donley  
Staff - Alexis Miller  
DCRA - Dan Bockhorst - Questions model boroughs  
Teleconference
3. Poll the Committee regarding a wrap-up by Duane Guiley  
on the School Foundation Formula
4. Adjourn

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## Local Government

## Article X

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(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law. [Amendment approved November 6, 1990 - Effective January 2, 1991]

## Article X

### Local Government

#### Section 1 - Purpose and Construction.

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.

#### Section 2 - Local Government Powers.

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

#### Section 3 - Boroughs.

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

#### Section 4 - Assembly.

The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. [Amendment approved August 22, 1972 - Effective October 14, 1972]

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**Section 11 - Home Rule Powers.**

A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

**Section 12 - Boundaries.**

A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

**Section 13 - Agreements; Transfer of Powers.**

Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

**Section 14 - Local Government Agency.**

An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

**Section 15 - Special Service Districts.**

Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.



**LEGISLATIVE AFFAIRS AGENCY**  
**DIVISION OF PUBLIC SERVICES**

DATE: 3-15-94

Please accept the enclosed original(s) of written testimony for the SCRA SB291 teleconference hearing that was scheduled on 3-15-94.

A copy of this testimony was transmitted to your committee via fax on 3-15-94.

Thank you,

\_\_\_\_\_

Post-It™ brand fax transmittal memo 7871		# of pages	3
To	Sen. Phillips		
Co.	Tanacross Village		
Dept.			
Fax #	465-4979	Phone #	883-5024
		Fax #	

TO: JOYCE ERICKSON  
FROM: TANACROSS VILLAGE COUNCIL  
SUBJECT: STATEMENT  
DATE: MARCH 14, 1994

PLEASE DELIVER TO MEETING BEING HELD ON FORMATION OF A  
BOROUGH IN UPPER TANANA REGION ON BEHALF OF TANACROSS  
VILLAGE COUNCIL...

THANK YOU VERY MUCH FOR YOUR HELP..

JERRY ISAAC SR.  
PRESIDENT  
TANACROSS VILLAGE COUNCIL.

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To: <u>Joyce E</u>	From: <u>Jerry Isaac</u>	
Co.	Co. <u>TVC</u>	
Dept.	Phone # <u>883-5021</u>	
Fax # <u>883-5020</u>	Fax # <u>883-4497</u>	

3143 NO. 802 1 102

**Tanacross Village Council  
Tanacross, Alaska 99776**

**Telephone: 907 883-5024      Fax: 907 883-4497**

To Whom It May Concern:

On behalf of the Tanacross Village Council I would like to submit this statement to the public hearing being held in Tok, Alaska regarding the formation of a borough.

The Tanacross Village Council does not have any feelings pro or con in the formation of a borough within the Upper Tanana area at this time. We are very interested in becoming aware of how the issue may affect our village and community in the future.

We strongly feel that there is a need to be active participants in activities that will lend themselves to facilitating a decision on the issue by the people. We are requesting that meetings be scheduled within all communities which will be affected by the formation of an organized borough.

Furthermore, the week of March 14, 1994 is a very poor week to solicit participation from from the Alaska Native communities within the area because it is the week of the Tanana Chief Conference, Elders Conference, and the Doyon Limited meetings being held in Fairbanks. The majority of our community members and leadership will be attending meetings throughout the week in Fairbanks.

*Jerry Isaac*

Jerry Isaac  
President

## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

#### MEMORANDUM

February 21, 1994

**SUBJECT:** Including all regions in the state in an organized borough (SB 291)

**TO:** Senator Dave Donley

**FROM:** Tamara Brandt Cook  
Director 713C

Here is the sectional summary you requested.

Sec. 1. Statement of findings and purpose.

Sec. 2. Establishes a committee on municipalities charged with consideration of means to eliminate or reduce disincentives and enhance incentive for the formation of boroughs, and with consideration of ways to ensure greater equity in the distribution of financial aid to municipalities. The report is due January 1, 1996.

Sec. 3. The local boundary commission is required to conduct a boundary study of the unorganized borough to determine which areas meet the standards for borough incorporation and which should be annexed to existing boroughs or unified municipalities. The study is due by May 1, 1996.

Sec. 4. The local boundary commission is required to notify the director of elections of each region that should be incorporated as a borough and each area that should be annexed. An election shall be held in each region to determine whether the voters desire incorporation or annexation in accordance with the study. If annexation is approved, it is effective when the election results are certified. If incorporation is approved it is effective under sec. 8 of the bill. If annexation or incorporation is disapproved, the local boundary commission may submit the proposal to the legislature and it may be disapproved by the legislature only as permitted under the state constitution.

Sec. 5. The Department of Community and Regional Affairs is required to prepare a provisional home rule charter for boroughs to be incorporated under this bill. The

Senator Dave Donley  
February 21, 1994  
Page 2

voters of a region scheduled for incorporation may petition for an amendment to the provisional charter for that new borough.

Sec. 6. Sets out a method for selecting a charter commission or an area to be incorporated. The commission prepares a proposed charter for voter approval. If no charter is prepared and approved, the provisional charter becomes the charter for the new borough.

Sec. 7. An election of initial borough officials shall be held by the first Tuesday in October 1997.

Sec. 8. A region is incorporated as a home rule borough on the first Monday following certification of the election of initial officials.

Sec. 9. The Act takes effect immediately.

TBC:gc  
94-144.glc

Post-It™ brand fax transmittal memo 7671		# of pages • 2
To <i>Sen. Phillips</i>	From <i>Glen Marunde</i>	
Co.	Co.	
Dept.	Phone # <i>883-4601</i>	
Fax # <i>465-4979</i>	Fax #	

15 MAR 94

BOX 192  
TOK. ALASKA

TESTIMONY ON SENATE BILL NO. 291

AN ACT RELATING TO INCLUDING ALL REGIONS IN THE STATE IN AN ORGANIZED BOROUGH OR UNIFIED MUNICIPALITY; AND PROVIDING FOR AN EFFECTIVE DATE.

DEAR C &amp; RA SENATE COMMITTEE MEMBERS.

MY NAME IS GLEN MARUNDE AND I HAVE BEEN A RESIDENT OF THE TOK AREA FOR 33 YEARS. I MAKE MY LIVING AS AN ELECTRICAL AND MECHANICAL CONTRACTOR. I HAVE RAISED 5 CHILDREN HERE IN TOK.

I HAVE MIXED EMOTIONS CONCERNING SB NO 291. THERE ARE PARTS OF THIS BILL THAT ARE LONG OVERDUE AND THERE ARE PARTS THE CONCERN ME GREATLY.

MY FIRST CONCERN IS THE INTENT OF THE BILL. LINES 7 & 8 OF PAGE 1 WHICH STATE THAT THE INTENT OF THE BILL IS TO ELIMINATE THE UNORGANIZED BOROUGH CONCERN ME.

THE FRAMERS OF OUR CONSTITUTION DID A MARVELOUS JOB IN WRITING THE PORTION OF THE CONSTITUTION CONCERNING BOROUGH. THE CONSTITUTION HAS WORKED VERY WELL. WHILE SOME BELIEVE THAT THE PROCESS OF PARTS OF OUR STATE CHANGING FROM UNORGANIZED BOROUGH TO ORGANIZED BOROUGH HAS BEEN TOO SLOW AND BELIEVE THAT IT WILL BENEFIT OUR STATE TO SPEED THE PROGRESS BY PASSING LEGISLATION TO ELIMINATE UNORGANIZED BOROUGH. MANY OF US WHO LIVE IN THE UNORGANIZED BOROUGH BELIEVE DIFFERENTLY.

PASSING LEGISLATION TO ELIMINATE AN IMPORTANT PART OF OUR STATE CONSTITUTION IS NOT A GOOD PRECEDENT TO ESTABLISH!

THERE IS A PART OF THIS BILL THAT I APPLAUD. LINES 13, 14, AND 15 CALL FOR A PROCESS THAT IS AT LEAST 25 YEARS OVERDUE. HERE'S WHAT IT SAYS "THE COMMITTEE SHALL CONSIDER MEANS TO ELIMINATE OR REDUCE THE DISINCENTIVES AND ENHANCE INCENTIVES FOR THE FORMATION OF BOROUGH".

IN MY OPINION THE INTENT OF SB 291 SHOULD BE CHANGED FROM ELIMINATING THE ORGANIZED BOROUGH AND CHANGED TO "CONSIDER MEANS TO ELIMINATE OR REDUCE DISINCENTIVES AND ENHANCE INCENTIVES FOR THE FORMATION OF INCENTIVES"

I STRONGLY OBJECT TO THE LANGUAGE IN LINES 13, 19, 20 AND 21. WHICH STATE "A PROPOSAL FOR BOROUGH INCORPORATION MAY BE DISAPPROVED BY A CONCURRENT RESOLUTION ADOPTED BY A MAJORITY

OF EACH HOUSE WITHIN 45 DAYS AFTER THE THE PROPOPSAL IS  
SUBMITTED TO THE LEGISLATURE. IF IT IS NOT DISAPPROVED,  
BOUROUGH INCORPORTION BECOMES EFFECTIVE IN ACCORDANCE WITH  
SEC. 8 OF THIS ACT.

WHAT A LEFT-HANDED, BACKWARDS, SNEAKEY WAY TO IMPOSE A LAYER  
OF GOVERNMENT ON A GROUP OF THEIR FELLOW ALASKAN CITIZENS  
WHO HAVE VOTED NOT TO BECOME AN UNORGANIZED BOROUGH.  
WHAT A WAY TO CONTROL ALASKANS WOTHOUT THEIR CONSENT!  
THOMAS JEFFERSON WILL SURELY TURN OVER IN HIS GRAVE IF THIS  
EVENT TAKES PLACE.

WHAT A TERRIBLE PRECEDENT FOR FURTURE ACTIONS BY OUR  
LEGISLATURE.

~~AMERICAN SOLDIERS HAVE BEEN TRYING TO PREVENT THE IMPOSITION  
OF UNWANTED GOVERNMENT IN FOREIGN COUNTRIES.~~ *BM*

ALSO, THE BILL DOES NOT ADDRESS WHAT THE SITUATION WOULD BE  
IF THE MEMBERS OF EACH HOUSE ACTUALLY PASSED A RESOLUTION  
DISAPPROVING A PROPOSA FOR BOROUGH INCORPORATION.  
WHAT WOULD BR THE SITUATION IN THIS CASE???

LINES 18, 19, 20 AND 21 SHOULD BE ELIMATED FROM THIS BILL.

ADDITIONAL CONCERNS:

WHAT ABOUT NATIVE SOVEREIGNTY. WOULD THE SOVEREIGN NATIVE  
VILLAGES IN A NEWLY ORGANIZED BOROUGH BE EXEMPT FROM  
PARTICIPATING IN BOROUGH GOVERNMENT CAUSING A "SWISS  
CHEESE" PATTERN AND EMASCULATING MOST OF THE NEW  
BOROUGHs???

THANK YOU FOR CONSIDERING MY CONCERNS.

*Glenn Marunde*  
GLEN MARUNDE, ~~701~~ RESIDENT, UNORGANIZED BOROUGH

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

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February 28, 1994

The Honorable Randy Phillips  
Senator - District L  
State Capitol, Room 103  
Juneau, Alaska 99801-1182

RE: SB 291 - "An Act relating to including all regions in the state in an organized borough or unified municipality; and providing for an effective date."

Dear Senator Phillips:

This is in response to your request that the Department of Community and Regional Affairs advise you of any technical concerns it has regarding the above referenced bill. We offer the following comments in this respect. I wish to stress that these comments are not intended to either express support for or opposition to the legislation.

Sec. 2(b) provides that, "Members are not entitled to receive compensation, but the members appointed under (a)(3) - (7) of this section are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180." It is presumed that the other members of the committee [e.g., the chair of the Local Boundary Commission, who is not appointed under Sec (a)(3) - (7)] are also entitled to per diem and travel expenses.

Sec. 3 requires the Local Boundary Commission to conduct a boundary study to determine "(1) which regions meet the standards set out in AS 29.05.031 for borough incorporation; and (2) which areas should be annexed to existing boroughs or unified municipalities."

The Local Boundary Commission completed a "model borough boundary study" of the unorganized borough in 1992. The study represented a considerable effort on behalf of this agency and the Commission. The study identified areas of the unorganized borough which, based upon municipal boundary criteria, had

The Honorable Randy Phillips  
February 28, 1994  
Page Two

strong ties to five existing boroughs and unified municipalities. The study also identified nineteen areas of the unorganized borough that independently met the boundary criteria for borough governments. A map of these twenty-four areas was provided to you last year. Since the study was completed, no areas of the unorganized borough have been annexed to existing boroughs nor have any of these regions formed new boroughs.

The Commission's model boundary study perhaps differs from the study called for in Sec. 3 of SB 291 to the extent that the latter requires a determination as to which areas meet all four of the borough incorporation standards set out in AS 29.05.031. An examination of whether areas of the unorganized borough were economically viable as borough governments [as required by AS 29.05.031(a)(3)] was beyond the scope of the Commission's model boundary study.

However, during 1988 - 1990 the Department of Community and Regional Affairs and others conducted eleven borough feasibility studies. The studies examined approximately 80% of the unorganized borough. Generally, the studies showed most regions of the unorganized borough were capable of providing at least the minimum services required by law (i.e., education, planning, platting, land use regulation, tax assessment and tax collection).

Since those studies were conducted, however, the State has trimmed Revenue Sharing and Municipal Assistance funds by some 25 percent. Those two sources of local government funds are proposed for even more significant cuts this year. Additionally, federal impact aid to education (PL 81-874) is currently being considered for re-authorization by Congress. Prospective changes to that federal program may also have significant effects on the capacity of unorganized areas to support borough government. Of course, those changes also impact existing borough governments.

Sec. 4 (d) provides, "If a borough incorporation is disapproved, the commission may submit the proposal for incorporation to the legislature during the first 10 days of the First Regular Session of the Eighteenth Alaska State Legislature" (emphasis added). Obviously that is in error. Presumably, the line should read "First Regular Session of the Twentieth Alaska State Legislature."

**Other comments:** CSSB 164(JUD) would allow an unincorporated region to form a unified municipality. As noted previously by the Local Boundary Commission, there has long been interest in such a provision. The Chairman of the House C&RA Committee also expressed strong support for that particular provision during the Committee's February 22 meeting with the Commission. If CSSB 164 becomes law, it would be ideal to accommodate that option in SB 291. For example, you may wish to amend Sec. 4 of SB 291 to provide that, ". . .the local

The Honorable Randy Phillips  
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Page Three

boundary commission shall notify the director of elections of each region the  
commission determines should be incorporated as a borough or unified  
municipality . . . ."

I thank you for the opportunity to comment on this legislation.

Cordially,

A handwritten signature in cursive script, appearing to read "Robert K. Walsh".

Robert K. Walsh  
Director

cc: Senator Dave Donley, sponsor  
Bruce Geraghty, Deputy Commissioner, DCRA  
Local Boundary Commission members

### III. MAJOR PROJECTS

#### Model Borough Boundaries Project

On December 4, 1992, the Commission set model unorganized borough boundaries for the Dillingham/Nushagak area. That action was especially significant since it marked the conclusion of three years of public hearings and meetings on model borough boundaries statewide. The LBC has now adopted model boundaries for the entire unorganized borough. During the course of the model boundaries study, the Commission held public hearings in 88 separate communities. The extensive public hearing process familiarized the Commission with existing and potential regional government boundary issues throughout Alaska.

In 1992, the LBC held model borough boundary hearings in 22 communities in the following six regions:

**Southeast;**  
**Prince William Sound;**  
**East Central (Delta Greely, Copper River, Alaska Gateway);**  
**Calista, (Lower Yukon, Lower Kuskokwim, Kuspuk);**  
**Western Aleutian/Pribilofs (Adak, Unalaska, St. George-St. Paul);**  
**Greater Bristol Bay.**

Every LBC decision regarding borough boundaries affects three groups; residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Formation of new regional governments is a sensitive issue in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced. On the basis of such factors, the LBC concluded that, rather than examining regional boundaries only when petitions are lodged, the Commission would invite public testimony from throughout the entire state and adopt 'model' boundaries. Such 'model' boundaries will be used as a frame of reference to help evaluate future petitions. They will be considered when existing organized boroughs seek to annex unorganized borough territory or when unorganized borough residents petition for borough incorporation.

The Commission and its DCRA staff began planning the model boundary study in mid-1989. The Commission decided to focus first on the areas for which petitions for incorporation or annexation were pending. Research on the project began in earnest in 1990.

The LBC began its study of each area by sending out a large eight-page tabloid which explained the study and set out the questions the LBC expected to consider in its decision-making process. Each tabloid included a map on which recipients were requested to draw suggested boundaries. DCRA prepared and widely distributed a report of its findings and recommendations for the area, and then the LBC held hearings in as many communities as resources allowed.

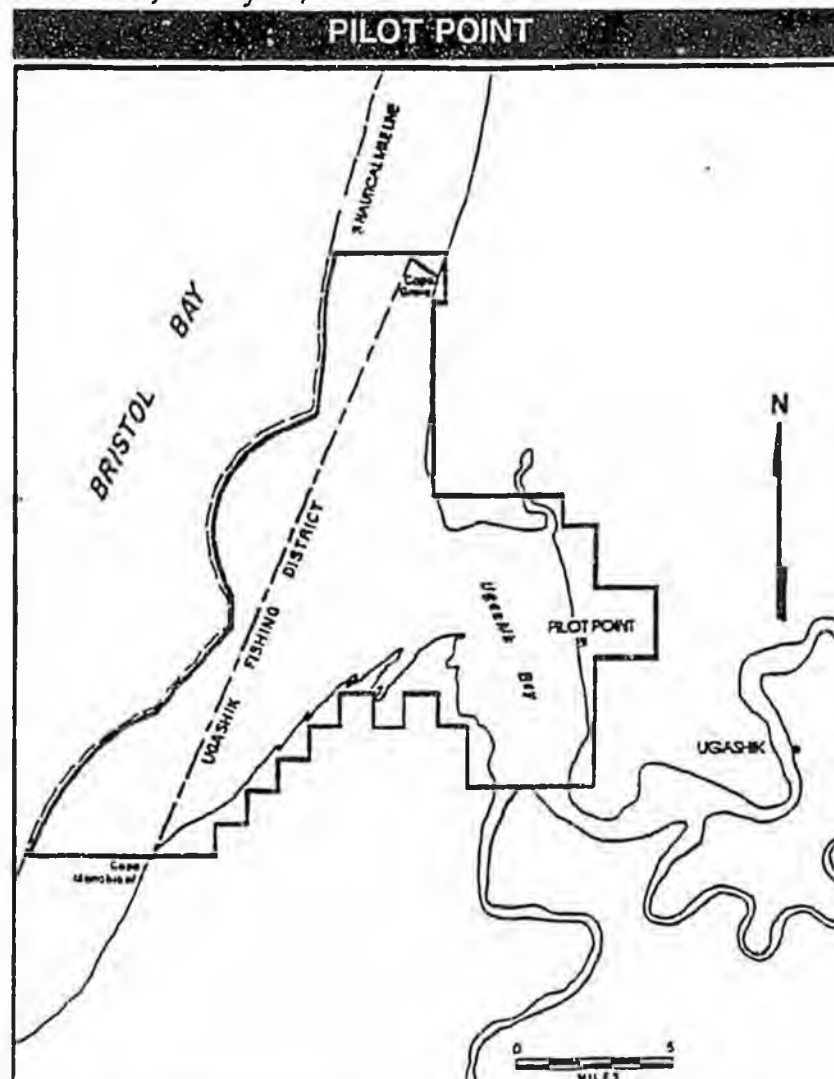
The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be set. Municipal governments and other public and

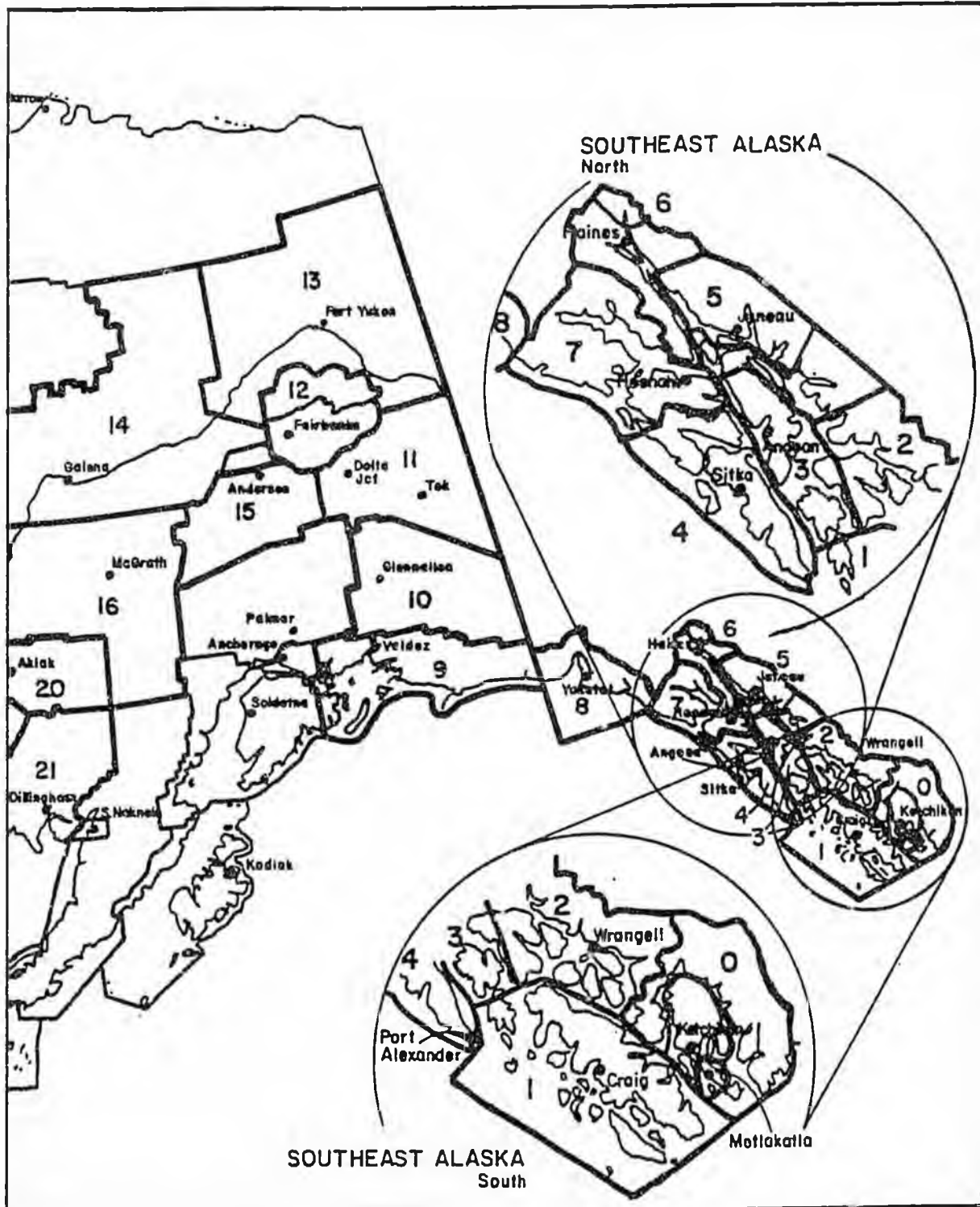
## City of Pilot Point

In October, 1990, voters in the community of Pilot Point petitioned to incorporate as a second class city. Pilot Point is a Lake & Peninsula Borough community of 50 to 80 permanent residents on the east shore of Ugashik Bay.

The LBC held its public hearing on the petition on October 12, 1991. At the decisional meeting immediately following the hearing, the LBC approved the petition, with minor changes to the boundary description, as recommended by DCRA. At the request of petitioners, the LBC ordered that voter approval of incorporation be contingent upon voter approval of a 3% sales and use tax on commercially caught fish. The LBC also deleted the provision for a property tax, which had been inadvertently included in the petition.

On January 7, 1992, Pilot Point residents voted 33 to 8 in favor of incorporation. Pilot Point voters also authorized the City to levy a 3% raw fish tax. The City of Pilot Point became Alaska's 165th municipal government upon certification of the incorporation election by the Division of Elections on January 22, 1992.





## IV. SPECIAL ISSUES

### Suggested Changes to Title 29

The LBC and its DCRA staff work with many of the state's municipalities each year. As a result, the Commission routinely confronts requirements and procedures which appear, in practice, to have a different result for municipalities or the state than the legislature probably intended when enacting the statute. The following are some suggested changes to Title 29 which the Commission believes would be in Alaskans' best interest.

- Allow direct incorporation of home rule cities and unified municipalities.
- Provide state oversight in the reclassification of 2nd class cities in the unorganized borough.
- Technical amendments to laws relating to municipal dissolution.

**Amend AS 29.05.011 to Permit Incorporation of Home Rule Cities** - Currently, residents of an unincorporated community may not directly incorporate as a home rule city. Instead, the community must first incorporate as a first or second class city, and then go through the process of adopting a charter. In 1985, the Legislature amended state law to allow home rule boroughs to form directly. The LBC believes it would be sensible and more cost-efficient to allow an unincorporated city with a least 400 permanent residents (the minimum number of residents required for first class city status) to incorporate directly as a home rule city in a one-step process.

**Amend AS 29.04.040 and AS 29.10.010 to Require LBC Approval of Reclassification of a Second Class City in the Unorganized Borough** - State law currently allows a second class city with a population of at least 400 to reclassify as a first class city without approval from the state. A second class city with 3,500+ residents and an area of at least 35 square miles may also become a home rule city without approval from the state. Such a reclassification in the unorganized borough is an event of major state interest because first class and home rule cities in the unorganized borough must operate municipal school districts. Although AS 14.17.139 requires Department of Education approval for the formation of any new district with less than 250 students, DOE has indicated that it and the Attorney General's office have doubts about the enforceability of that requirement. Without state approval being required for reclassification, the state faces the prospect of a sharp increase in the number of small city school districts. Presently, there are 24 second class cities in the unorganized borough which could, under the current rules, reclassify to first class status. There are also six unincorporated communities with enough population to incorporate and then reclassify to first class. The LBC recommends that these reclassifications be treated similarly to direct incorporation of first class cities, requiring a petition to the LBC.

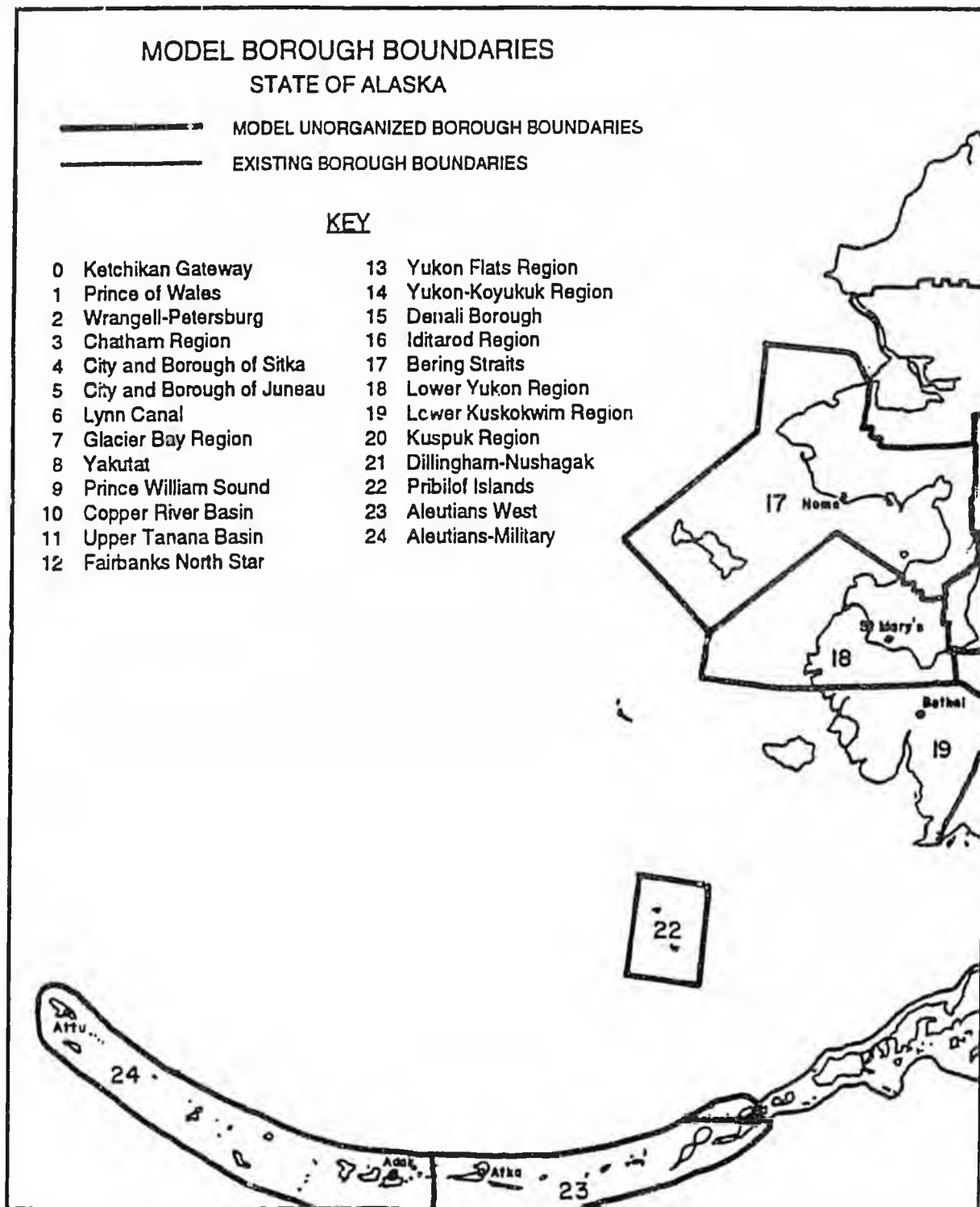
# LOCAL BOUNDARY COMMISSION

## MODEL BOROUGH BOUNDARIES STATE OF ALASKA

-  MODEL UNORGANIZED BOROUGH BOUNDARIES  
 EXISTING BOROUGH BOUNDARIES

### KEY

- |                              |                           |
|------------------------------|---------------------------|
| 0 Ketchikan Gateway          | 13 Yukon Flats Region     |
| 1 Prince of Wales            | 14 Yukon-Koyukuk Region   |
| 2 Wrangell-Petersburg        | 15 Denali Borough         |
| 3 Chatham Region             | 16 Iditarod Region        |
| 4 City and Borough of Sitka  | 17 Bering Straits         |
| 5 City and Borough of Juneau | 18 Lower Yukon Region     |
| 6 Lynn Canal                 | 19 Lower Kuskokwim Region |
| 7 Glacier Bay Region         | 20 Kuspuk Region          |
| 8 Yakutat                    | 21 Dillingham-Nushagak    |
| 9 Prince William Sound       | 22 Pribilof Islands       |
| 10 Copper River Basin        | 23 Aleutians West         |
| 11 Upper Tanana Basin        | 24 Aleutians-Military     |
| 12 Fairbanks North Star      |                           |



### LBC Regulations

In 1991, the Commission undertook a thorough review of all of its regulations, including those relating to municipal incorporation. The LBC worked with experienced legal counsel to complete the task. The Commission adopted the new regulations on June 29, 1991.

The revised regulations were reviewed and approved by the Department of Law on June 19, 1992 and by the Lieutenant Governor on July 1, 1992. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code. The revised regulations resolve problems found with the old rules, and are easier for petitioners to understand and use.

**Amend AS 29.06.190 to Allow Direct Incorporation of Unified Municipality** - Residents of a number of regions in Alaska's unorganized borough have expressed an interest in being permitted to incorporate unified municipalities. Currently, only incorporated cities and an organized borough may unify. The Commission believes it would be beneficial to allow the direct incorporation of unified municipalities in regions with multiple communities, whether or not those communities or a borough were incorporated prior to unification.

**Amend AS 29.06.470 & AS 29.06.500 to Clarify Dissolution Standards** - In 1988, the Legislature amended sections .470 and .500 to authorize the dissolution of a municipality if more than 50% of the voters in the last general election petitioned for dissolution and if the LBC determined that dissolution was in the best interests of the state. However, when the dissolution laws are read as a whole, it appears that the LBC, regardless of the state's best interests, may have no discretion to reject a dissolution petition when the municipality is free of debt or has satisfied its creditors with a method of repayment, and either a) ceases to use each of its mandatory powers or b) no longer meets the standards for incorporation. The LBC believes it should have the discretion to consider the state's best interests in all dissolutions, and recommends that the language be clarified.

In addition, AS 29.06.470 refers to the last "general" election in the municipality when describing how to determine the required number of signatures on a dissolution petition filed under AS 29.06.470(a)(3). However, AS 29.06.460 uses last "regular" election as the basis for determining the required number of signatures on a dissolution petition filed under its provisions. Under state law, municipal elections are called "regular" elections, while "general" election usually refers to a state election. If the Legislature intended that the number of required signatures required under AS 29.06.470 be based upon the turnout in the last municipal election, then, to be clear, the term should be changed from "general" to "regular."

## Local Boundary Commission Compensation

Volunteer service on the Local Boundary Commission has become increasingly complex and time-consuming. The LBC rarely meets less than 20 times a year. Members routinely undertake difficult travel to remote communities to conduct hearings and take public testimony. An example of the type of arduous schedule is demonstrated by Chairman Hargraves' itinerary during a recent week in November, 1992 (see table on following page). During the referenced week, he chaired five separate public hearings, heard the concerns of hundreds of Alaskans, endured difficult weather conditions in small aircraft and sacrificed a full week and much of the Thanksgiving holiday.

Issues addressed by the Commission, such as incorporations, annexations and model boundaries, often call forth a very emotional response from the public. Commissioners must have tact, patience and an ability to remain objective while being aggressively challenged.

Because of the often complex and sensitive nature of the issues brought before the Commission, LBC members must spend considerable time preparing for meetings and hearings. Since a number of LBC actions are challenged in court, work often does not end when a decision is made.

## LOCAL BOUNDARY COMMISSION

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### LBC CHAIRMAN'S ITINERARY NOVEMBER 19-26, 1992

<u>DATE</u>	<u>DEPARTURE</u>	<u>DESTINATION</u>
11/19	Ketchikan	Anchorage
11/20	Anchorage	Palmer <i>Palmer Hearing at 7:00 pm</i>
11/21	Anchorage	Cordova <i>Cordova Hearing at 7:00 pm</i>
11/22	Cordova	Anchorage
11/23	Anchorage	King Salmon <i>Naknek Hearing at 7:00 pm</i>
11/24	King Salmon	Togiak <i>Togiak Hearing at Noon</i>
11/24	Togiak	Dillingham <i>Hearing at 7:00 pm</i>
11/25	Dillingham	Anchorage
11/26 (Thanksgiving Day)	Anchorage	Ketchikan

The expertise required in the LBC's work is illustrated by history. Before the Commission assumed responsibility, most local boundary actions, including incorporations, were given directly to the courts. The savings realized by processing such petitions through the Local Boundary Commission are enormous. The Commissioners have developed comprehensive regulations which they apply to their actions, and they must also ensure compliance with the broadly-interpreted provisions of the Federal Voting Rights Act.

With 165 municipalities in Alaska today, and more likely to form each year, the number of local boundary actions the LBC must handle is almost certain to grow. Despite the major commitment of time and energy demanded from the five members of the Commission, the Commissioners currently are volunteers, receiving money only for per diem allowances, with no additional compensation for their time and expertise.

Because the burden of the LBC's workload is greater than might reasonably be expected of volunteers, bills have been introduced in the last several sessions of the legislature to provide for compensation of \$150 per day to each Commission member. Without such compensation, the members believe it will become more and more difficult for the State to find qualified Alaskans who are willing to stay on the Commission long enough to give it the continuity and experience demanded by the complexity of the decisions.

The fiscal impact of the proposed compensation would be minimal. Based upon an estimate of 25 one-day meetings per year and compensation of \$150 per day per member, the total cost of compensation would be only \$18,750 per year. Accordingly, the Commission believes it is both reasonable and responsible to again raise the issue of compensation, and requests the legislature to consider this request.

### **Meetings On-Site vs. Teleconference**

A rise in the number and complexity of petitions, coupled with the legitimate need to reduce the overall State operating budget, compels the Commission to make judgments regarding the most appropriate way to conduct its hearings and meetings. Complex and controversial municipal boundary proposals make it highly desirable that members of the Commission be present in the affected community or region whenever they conduct hearings. This allows the Commissioners to familiarize themselves first-hand with the unique circumstance surrounding each municipal boundary proposal and to deal directly with the petitioner and interested parties. In virtually every instance, petitioners and interested parties prefer to speak with the Commission in person.

However, during 1992, limited travel funds in many cases allowed only three of the five members of the commission (60%) to attend hearings. Even then, the Commission has been forced to combine several hearings on a single trip (see sample itinerary listed in the discussion of the issue of compensation for the Commission). Such demanding travel schedules are taxing on the members of the Commission.

Members of the Commission who do not travel to the hearing sites typically participate by teleconference or review the tape recordings of the hearings prior to the decisional session. In some instances, parties have raised strong objections when a member who did not attend a hearing in person (but did review the tape recordings), later voted on a petition.

Meetings of the Commission which involve neither hearings nor decisional sessions to act on petitions are almost invariably carried out by teleconference. Of the 32 meetings held by the Commission during 1992, approximately one-third were conducted entirely by teleconference.

It would require a doubling of the Commission's travel allocation to accommodate all requests for on site meetings and hearings. However, the Commission is all too aware that the financial resources of the State of Alaska are becoming more and more limited. Notwithstanding, the LBC wishes to inform the legislature of these matters and the likelihood that these issues will persist over the coming year.

## Municipal Tax Limitation Issues

Concerns have been expressed over the lack of reasonable limits on the authority of municipalities to levy taxes. In one particular case, a city government with a population of 53 year-round residents levies a 3% sales tax on commercially-caught fish. On the basis of preliminary fisheries data, it appears that the city in question will collect some \$650,000 from its tax in 1992.

The estimated tax revenue in this case amounts to more than \$12,000 for each resident of the community. This compares to a per capita average of all taxes levied by the remaining 164 municipal governments in Alaska amounting to \$1,165.<sup>8</sup> If municipal taxes on oil and gas properties were excluded, the average per capita municipal tax would be only \$704.

Presently, the law imposes no limitation on the rate at which a municipal government may levy a sales tax.<sup>9</sup> Additionally, according to the State Attorney General's Office, the limitations imposed by AS 29.45.090(b) do not apply to the levy of sales taxes.<sup>10</sup> Thus, there appear to be no legal limitations whatsoever on a municipality's authority to levy sales taxes (subject to voter ratification of rate increases). It was recently reported that officials of the city in question were even considering an increase in the tax beyond the current 3% levy.

The Local Boundary Commission is highly sensitive to the needs of municipal governments. Key among these is the ability to generate revenues necessary to provide local services. As State funding for local services continues to decline, this ability will become even more critical.

Nonetheless, the Commission believes that legitimate questions have been raised concerning the current lack of revenue limitations as noted. The Commission wishes to ensure that the legislature is aware of these concerns.

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<sup>8</sup> Tables published in Alaska Taxable, (DCRA, January 1992) on pages 14 - 17 indicate that during 1991, municipalities in Alaska collected \$79,457,675 in sales taxes; \$20,628,842 in "special taxes" such as alcohol, tobacco, bed and commercially caught fish; \$278,459,105 in non-oil & gas property taxes and \$248,364,653 oil and gas property taxes. These figures total \$626,910,275. According to the State Revenue Sharing and Municipal Assistance - FY 92 Final Report (DCRA March 1992) the populations of all municipal governments in Alaska total 538,079. Thus, the statewide average per capita municipal tax collected from all sources equals \$1,165.

<sup>9</sup> Chapter 159, Session Laws of Alaska 1990, repealed a 6% limitation on sales taxes.

<sup>10</sup> AS 29.45.090(b) states that "A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes (1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. The Attorney General's Office has verbally advised the Department of Community and Region Affairs that this law applies only to property taxes.

## V. LITIGATION

During 1992, two parties filed court appeals over the incorporation of the City and Borough of Yakutat. Also during 1992, the Superior Court acted on three appeals that had been filed earlier regarding other actions of the Commission. In every case, the Superior Court rulings have been appealed to the State Supreme Court. The matters under litigation are summarized below.

**Petitioners for Incorporation of City and Borough of Yakutat vs. Local Boundary Commission. Chugach Alaska Corporation vs. Local Boundary Commission.** On June 4, 1992, the petitioners for the incorporation of the City and Borough of Yakutat filed an appeal with Superior Court over the amendment of their petition to exclude territory west of 141st meridian. The appeal centered on allegations that:

- 1) The Commission abused its discretion and acted beyond its statutory authority when it amended the western boundary of the petition to exclude the territory from the 141st meridian to Cape Suckling.
- 2) The Commission lacks authority to adopt regulations concerning standards for borough incorporation, and the Commission erred in relying upon such regulations in the amendment of the western boundary.
- 3) The amendment of the western boundary violated Article X, Section 3 of the Constitution of the State of Alaska which provides that each borough shall embrace an area and population with common interests to the maximum degree possible.
- 4) The amendment of the western boundary operated to deprive the petitioners of their rights to due process of law under Article X and Article XIV of the Amendments to the U.S. Constitution, and under Article I, Section 7 of the Constitution of the State of Alaska.

On August 10, 1992, Chugach Alaska Corporation filed an appeal with Superior Court over the Commission's decision to approve the petition, with or without the boundary amendment. This appeal alleged that:

- 1) The Commission erred in granting the petition because the proposal failed to meet population standards concerning size, stability, interrelationship and integration; and that it also failed to meet standards regarding the human and financial resources needed to operate a borough.
- 2) The Commission erred in applying regulations which were not in effect when the petition was filed.
- 3) The Commission committed procedural errors in the consideration of the petition.
- 4) Approval of the petition violates Article X, Section 1 of the Constitution of the State of Alaska which mandates a minimum number of local governmental units.

The two appeals were consolidated into one case on October 6, 1992. Parties are currently preparing briefs in the matter.

## LOCAL BOUNDARY COMMISSION

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**City of Ekwok vs. Local Boundary Commission.** (Nushagak Villages litigation) - As was reported last year, this case was filed on February 22, 1989, by eleven cities, village councils and native corporations from the Nushagak River area. The appeal sought to exclude territory from the northwest portion of the Lake and Peninsula Borough.

On November 18, 1992, the Superior Court ruled that (1) the notice procedures were deficient; (2) such deficiencies had a diminished citizen involvement; (3) there was no de facto incorporation; (4) the Commission's previous reconsideration of its own decision did not constitute a reconsideration on the merits; and (5) laches does not preclude appellants from seeking relief. Consequently, the court ordered the Commission to reconsider the northwest boundary of the Lake and Peninsula Borough.

The State Attorney General's Office and the Lake & Peninsula Borough have appealed the matter to the State Supreme Court. In the interim, parties in the case are working out an agreement with respect to compliance with the Superior Court order.

### **David Shaw, Valleys Borough Support Committee vs. Local Boundary Commission.**

As was reported last year, on May 11, 1990, the Local Boundary Commission issued its written decision approving the petition to incorporate the Denali Borough. At the same time, the LBC rejected two competing petitions. One was an incorporation petition filed by supporters of a proposed Valleys Borough, and the other was an annexation petition filed by the Matanuska-Susitna Borough. All three petitions sought annexation or incorporation of a large overlapping area in and around Denali National Park and the nearby communities. The LBC considered the arguments and evidence presented through the petitions, DCRA's investigation and report, and seven public hearings. It then decided that the Denali Borough petition was the one best meeting the borough standards set out in the Constitution, statutes and regulations.

David Shaw, acting for the Valleys Borough Support Committee, appealed the LBC's decision. In addition to a question under the Voting Rights Act, the issues raised in the appeal include:

- 1) Does the LBC have the authority to ~~reject~~ a petition which meets minimal statutory criteria?
- 2) If presented with competing petitions which may all meet minimal criteria, does the LBC have the authority to choose and approve only one to be placed on the ballot?
- 3) Does the LBC have the authority to make approval of borough incorporation contingent upon passage of a ballot measure regarding a tax proposal?
- 4) Does the LBC have the authority to adopt regulations on the incorporation of cities and boroughs?

After briefing the issues, the appellants and the Attorney General's office presented their oral arguments in Fairbanks on November 26, 1991. At the hearing, the court ruled in the

Boundary Commission's favor on the question of connecting the incorporation election with a tax proposal, as well as on the Voting Rights question. On May 21, 1992, the Court ruled in favor of the Commission with respect to all of the remaining points.

The Valleys Borough Support Committee subsequently filed an appeal with the State Supreme Court. The appellant's appeal brief was filed on December 16, 1992.

**Jack Keane and Concerned Citizens of Bristol Bay vs. Local Boundary Commission.**

As reported last year, a group describing themselves as an unincorporated association of Pilot Point area residents, property owners and fishermen filed an appeal of the LBC's decision to accept the petition to incorporate Pilot Point as a second class city. Appellants claimed lack of proper notice and abuse of discretion by the LBC.

On September 3, 1992, the Superior Court ruled in favor of the Local Boundary Commission in the matter. The decision of the Superior Court was subsequently appealed to the Supreme Court. Parties are currently preparing briefs in the matter.

## VI. FUTURE ISSUES

Over the past year, the LBC and its DCRA staff have received questions and requests for information on a number of municipal boundary proposals. These are discussed below.

### Potential City Incorporations

Potential exists for several incorporation petitions in the near-term. Interest has been evident in several communities, as described in the following narrative.

A group of resident voters in the Kenai Peninsula Borough developed a petition to incorporate a second class **City of Nikiski**, encompassing territory on both the east and west shores of Cook Inlet. Backers of the proposal intended to file the petition in 1992. However, an informal vote taken by Tyonek residents at a village meeting on May 21 reflected overwhelming opposition to inclusion in the proposed City. The Nikiski organizing committee has been considering whether to continue to pursue incorporation efforts with modified boundaries.

Residents of **Nelson Lagoon**, a community in the Aleutians East Borough have recently worked on preparing a petition to incorporate as a second class city. However, no petition has been filed yet.

**Anchor Point** residents contemplating city status requested and received information regarding municipal incorporation procedures and standards.

A group of **Talkeetna** residents requested and received technical assistance in exploring second class city incorporation.

Residents of the Kenai Peninsula Borough's **Bear Creek** Fire Service Area located 6 miles from Seward advised that they were exploring incorporation of a city. Local interest in annexation was reportedly prompted by the City of Seward's study of the merits of annexing approximately one-half of the service area.

Residents of **Gustavus** have recently discussed the option of incorporation as a second class city.

Residents of **Hyder** are also reportedly exploring the merits of forming a city government.

**Takotna** residents met to explore city incorporation.

Residents of **Glacier View** within the Matanuska-Susitna Borough have expressed interest in incorporation.

## Potential Borough Incorporations

A number of other cities and communities have expressed interest in borough incorporation, and particularly in the formation of single-community boroughs. Borough formation remained an issue of widespread interest in 1992. Several factors may promote continued impetus toward borough incorporation. These include declining state budgets, local concerns over allocation and development of resources and legal challenges to the state's method of funding schools.

For nearly two years, **Wrangell** residents have been considering studying the question of forming a single-city borough. Local officials are reportedly in the initial stages of drafting a petition for incorporation.

Growing interest has been evident in incorporation of an organized borough which would include the **Dillingham** Census Area.

The City of **Pelican** has expressed interest in borough formation in recent years.

## Potential City Annexations

Several cities have expressed interest in annexing territory during the near future. These include the following:

The **Fairbanks** City Council has adopted an ordinance authorizing annexation of 454.74 acres, inhabited by approximately 20 residents. The estimated value of the property is approximately \$16,850,000. The petition for annexation was filed with the Department on January 12, 1993.

As reported earlier in this report, the City of **Seldovia** has committed to seeking the annexation of 35 lots using the legislative review method. All of the lots exist as enclaves within the boundaries of the City.

The Council of the City of **Seward** has authorized the filing of a petition for annexation of approximately 8.125 square miles. Staff provided officials of the City of Seward with information and materials needed to develop the petition.

The City of **Soldotna** is considering an ordinance (#559) for voluntary annexation of certain commercial properties.

Staff met with officials of the City of **Akutan** concerning their interest in annexing upwards of 70 square miles (Akutan Island and the remainder of Akutan Bay). City officials have indicated that they plan to submit a petition for the annexation of this territory in the near future.

The City of **King Cove** expressed plans to submit a proposal for legislative review annexation of some 13 square miles inhabited by about 20 individuals. The territory includes the airport, a potential hydroelectric project, and territory suitable for use by floating fish processors (Leonard Harbor). Staff provided information and materials necessary for the development of the petition.

## LOCAL BOUNDARY COMMISSION

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The City of **Newhalen** has requested information regarding standards and procedures for annexation. We have been advised that the Newhalen City Council is preparing a proposal to annex adjacent unincorporated **Iliamna**.

**Akhiok** city officials are reportedly considering annexation of territory during 1993.

Officials of the City of **Bettles** have been exploring the prospect of annexing the immediately adjacent settlement of **Evansville**.

Staff provided information to the City of **Chignik** concerning standards and procedures for annexation.

### Potential Consolidations

Consolidation is the creation of a new municipality from two or more existing municipalities. The original municipalities are automatically dissolved when the consolidation takes effect. Unlike unification, consolidation does not require the joining of a borough with all the cities within its boundaries, nor does it prevent the incorporation of new cities within the borough boundaries. In order for consolidation to be approved, the new municipality must meet the appropriate standards for incorporation.

During 1992, three groups were seriously studying the merits of consolidating a city and a borough. Local government officials in Ketchikan are studying the merits of consolidating the City of **Ketchikan** with the Ketchikan Gateway Borough. Individuals in the Fairbanks area are reportedly circulating a petition to consolidate the **Fairbanks North Star Borough** with the **City of Fairbanks**. **Kodiak** officials are also considering the merits of consolidating the **City of Kodiak** and the **Kodiak Island Borough**. The LBC's staff has provided information to all three groups.

### Potential Dissolutions

Due to staffing reductions, DCRA lacked resources to investigate the status of potentially inactive municipalities in the **Yukon-Kuskokwim** area pursuant to AS 29.06.450(b). At present, these include the inactive second class cities of **Atmautluak**, **Kasigluk**, **Newtok**, **Tununak** and **Tuluksak**. Staff will proceed with these investigations as resources permit. If the Commission concludes any of the municipalities meet the standards for dissolution, it would present its recommendations to the Legislature. The **Tuluksak** Tribal Council has reportedly decided to initiate dissolution proceedings for the non-functioning City of Tuluksak. DCRA regional office staff have committed to assist the Tuluksak Tribal Council in the preparation of the petition for dissolution.

## Potential Detachments

A petition to detach **North Pole** and **Salcha**, from the **Fairbanks North Star Borough** has been filed and is under review.

**Akutan** residents and officials have expressed interest in detachment from the **Aleutians East Borough**.

**Alexander Creek** residents have been considering petitioning for detachment from the **Matanuska-Susitna Borough** and incorporation of a new borough.

**Chiniak** residents are contemplating detachment from the **Kodiak Island Borough** of Chiniak and several villages within the Borough. Chiniak is a community of 200 people, linked to Kodiak by some 40 miles of road.

## LOCAL BOUNDARY COMMISSION

### VII. RECOMMENDATIONS FOR ANNEXATION UNDER ARTICLE X, § 12, ALASKA CONSTITUTION

The Local Government Article of the Alaska Constitution provides that the Local Boundary Commission may present proposed boundary changes to the legislature during the first ten days of any regular legislative session. The change becomes effective 45 days after being presented to the legislature or at the end of the session, whichever comes first, unless a majority of the members of each house concurs in a resolution disapproving the change (Art. X, Sec. 12). The LBC presents the following five proposed changes for consideration by the legislature in 1993.

#### HOONAH

The City of Hoonah submitted a petition to annex about 18.5 square miles under the legislative review method.

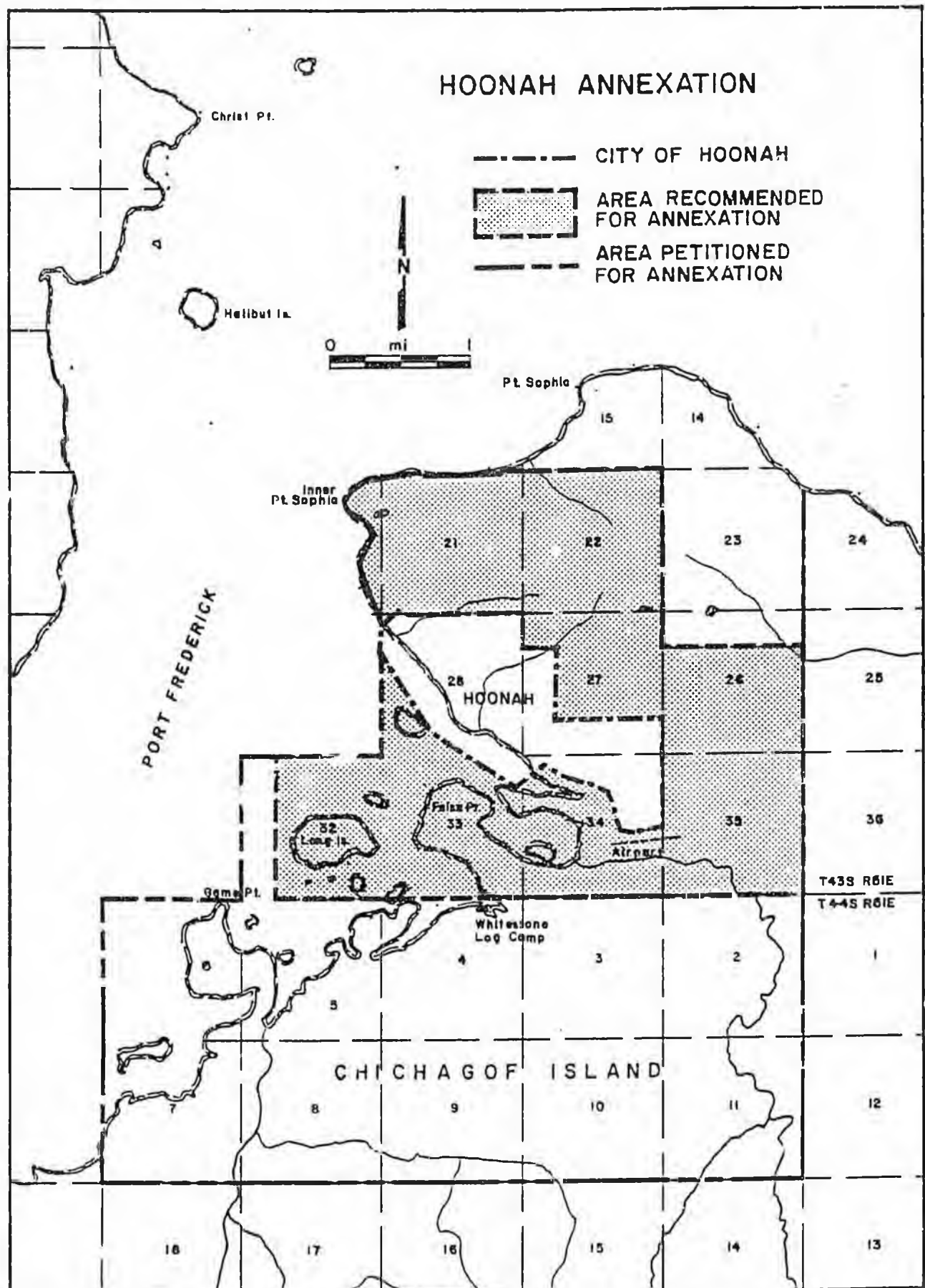
The Commission conducted a public hearing in Hoonah on October 10, 1992. On November 21, the Local Boundary Commission amended and approved the annexation petition of the City of Hoonah. The amendment reduced the territory to be annexed to approximately 7.25 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Hoonah's annexation petition are discussed in detail in the Commission's December 18, 1992, Statement of Decision. That document, comprising 18 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Hoonah:

Beginning at the protracted northeast corner of Section 22, T43S, R61E, Copper River Meridian (CRM);  
thence, south to the protracted southeast corner of the northeast one-quarter of the northeast one-quarter of Section 27, T43S, R61E, CRM;  
thence, east to the protracted northeast corner of the southeast one-quarter of the northeast one-quarter of Section 26, T43S, R61E, CRM;  
thence, south to the protracted southeast corner of Section 35, T43S, R61E, CRM;  
thence, west to a point within Port Frederick where the protracted southwest corner of the southeast one-quarter of the southwest one-quarter of Section 32, T43S, R61E, CRM; would be;  
thence, north to a point within Port Frederick where the protracted northwest corner of the northeast one-quarter of the northwest one-quarter of Section 32, T43S, R61E, CRM; would be;  
thence, east to a point within Port Frederick where the protracted northeast corner of Section 32, T43S, R61E, CRM would be;  
thence, north to the intersection with the boundary of Alaska Tidelands Survey No. 29, approved by the Director of the Alaska Division of Lands on June 25, 1964 (hereinafter ATS No. 29);  
thence, N 34° W to Corner No. 4 of ATS No. 29;  
thence, N 51° E to the line of mean-low water;  
thence, meandering along the line of mean-low water generally in a northerly and easterly direction to the intersection with extension of the protracted northern boundary of Section 21, T43S, R61E, CRM;  
thence, east to the protracted northeast corner of Section 22, T43S, R61E, CRM; the point of beginning;  
excluding therefrom, the territory currently within the boundaries of the City of Hoonah; containing 7.25 square miles, more or less, all in the Sitka Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



## LOCAL BOUNDARY COMMISSION

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### HAINES #1

On March 4, 1992, the City of Haines submitted a petition to annex about 4.75 square miles of land under the legislative review method. Following its October 9, 1992, public hearing on the matter, the LBC approved the petition.

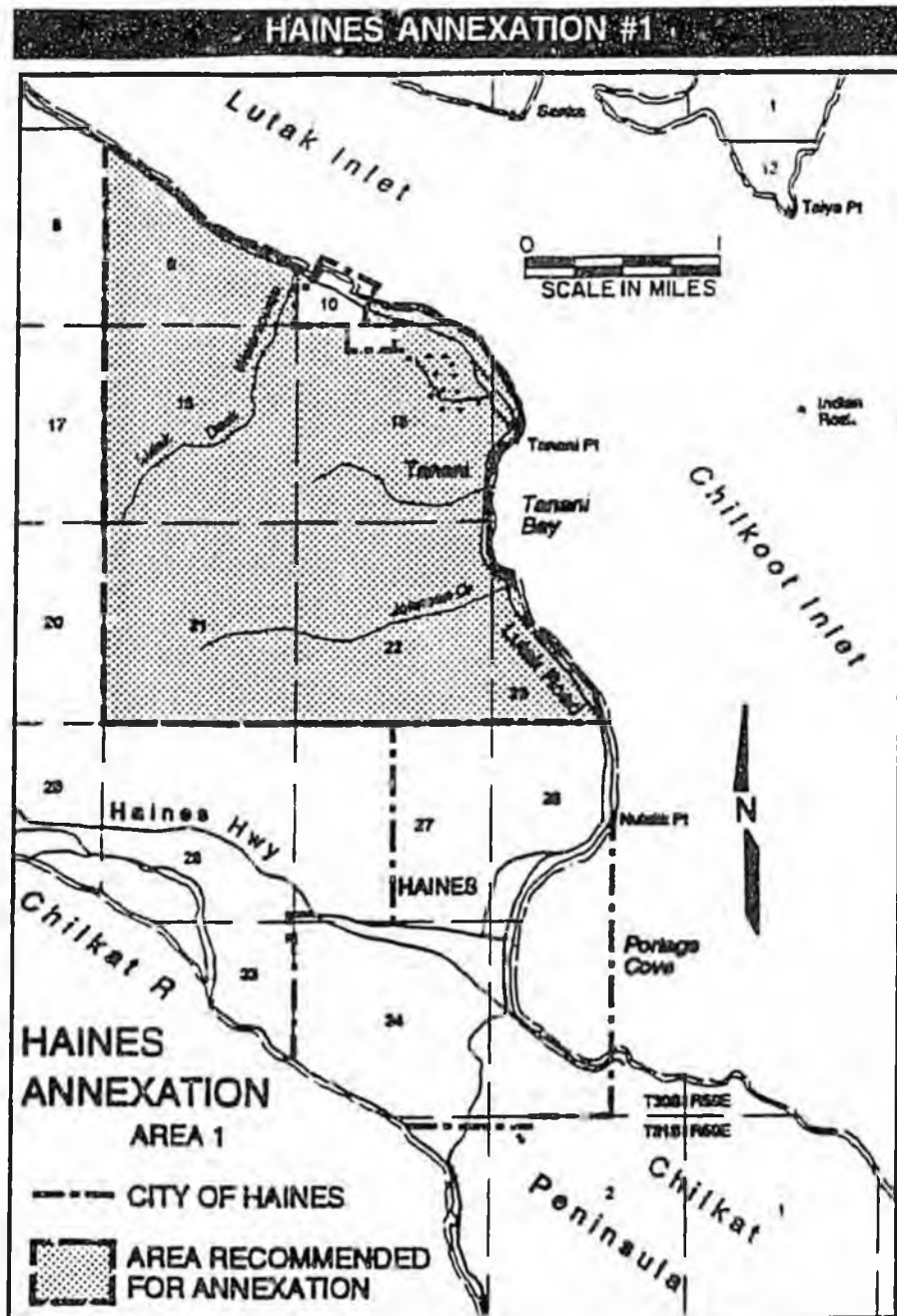
Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Haines' 4.75 square mile annexation petition are included in the Commission's November 5, 1992, Statement of Decision. That document, comprising 17-legal size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at

Local Boundary Commission Staff  
Department of Community and Regional Affairs  
333 W. Fourth Avenue, Suite 220  
Anchorage, AK 99501-2341  
Telephone: 269-4500, Fax: 269-4520

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Haines:

All of Sections 16, 21 and 22, and the on-shore portions of Sections 9, 23, 14, 10 and 15, Township 30 South, Range 59 East, Copper River Meridian, Alaska, which are not already within the existing boundaries of the City of Haines.

A map of the area recommended for annexation is presented on the following page.



## LOCAL BOUNDARY COMMISSION

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### HAINES #2

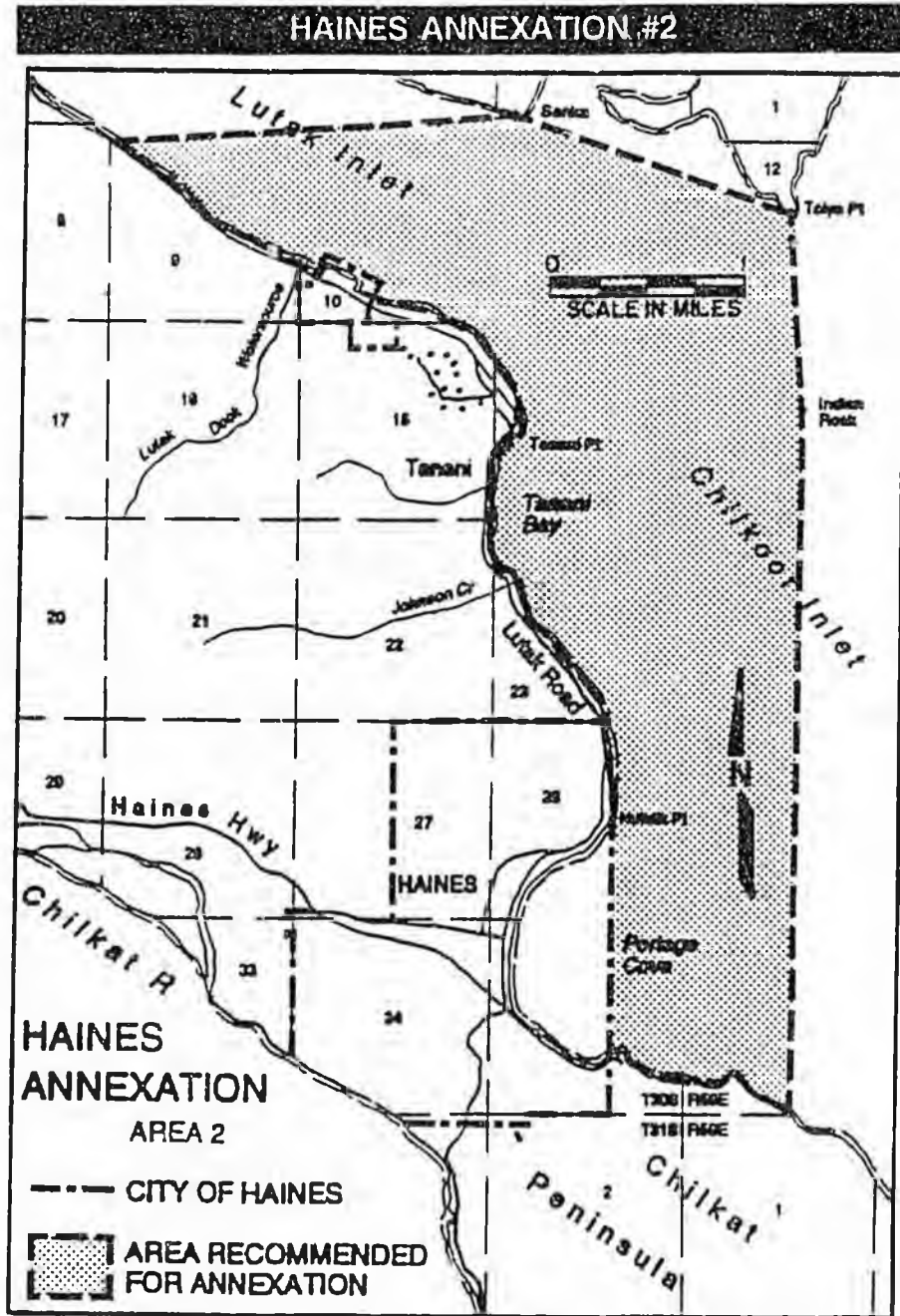
In addition to supporting the City's petition for the annexation of 4.75 square miles addressed on pages 42 and 43 of this report, DCRA recommended the annexation of an additional 7 square miles of adjacent tidelands. The Commission held a hearing on the matter on October 9. Following the hearing, the Commission provided an additional comment period, setting a November 27, 1992 deadline. On December 18, the Commission approved the annexation of the additional 7 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning this annexation proposal are included in the Commission's December 18, 1992, Statement of Decision. That document, comprising 10 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Haines:

Beginning at the point where the western boundary of Section 9, T30S, R59E, Copper River Meridian (CRM) intersects with the line of mean high tide of Lutak Inlet;  
thence, N 86° E (approximately), 11,000 feet more or less, across Lutak Inlet to U.S.G.S. triangulation station "Sanka";  
thence, S 71° E (approximately), 8,000 feet more or less, to U.S.G.S. triangulation station "Taiya Pt";  
thence, S 4° E (approximately) 5,250 feet more or less to the "Indian Rock Light";  
thence, South (approximately) 18,750 feet, more or less, to the line of mean high tide of Chilkoot Inlet at the point of intersection of the southern boundary of Section 36, T30S, R59E, CRM, and the line of mean high tide;  
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Portage Cove to the intersection with the eastern boundary of the City of Haines (said point also being Haines Township Boundary Corner No. 6);  
thence, north along the eastern boundary of the City of Haines to the northern boundary of the City of Haines, a point where the northern boundary of Section 26, T30S, R59E, CRM intersects with the line of mean high tide of Chilkoot Inlet (said point also being Haines Township Boundary Corner No. 4);  
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Lutak Inlet to the point of intersection with the eastern edge of the non-contiguous boundary of the City of Haines (encompassing the Lutak port facilities);  
thence, northeasterly, northwesterly, and southwesterly along the non-contiguous boundaries of the City of Haines to the point where the western edge of the non-contiguous boundaries of the City of Haines intersects with the line of mean high tide of Lutak Inlet;  
thence, meandering northwesterly along the line of mean high tide of Lutak Inlet to the point of intersection with the western boundary of Section 9, T30S, R59E, CRM, the point of beginning; containing 7 square miles, more or less, all in the Haines Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



## LOCAL BOUNDARY COMMISSION

### CORDOVA

The City of Cordova filed a petition for annexation of about 180 square miles inhabited by an estimated 469 residents. On November 21, 1992, the Commission conducted a public hearing in Cordova. On January 4, 1993, the Commission amended the petition to reduce the size of the area proposed for annexation to 68.23 square miles and approved the amended petition.<sup>11</sup>

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Cordova's annexation petition are discussed in more detail in the Commission's January 8, 1993, Statement of Decision. That document, comprising 22 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission's Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

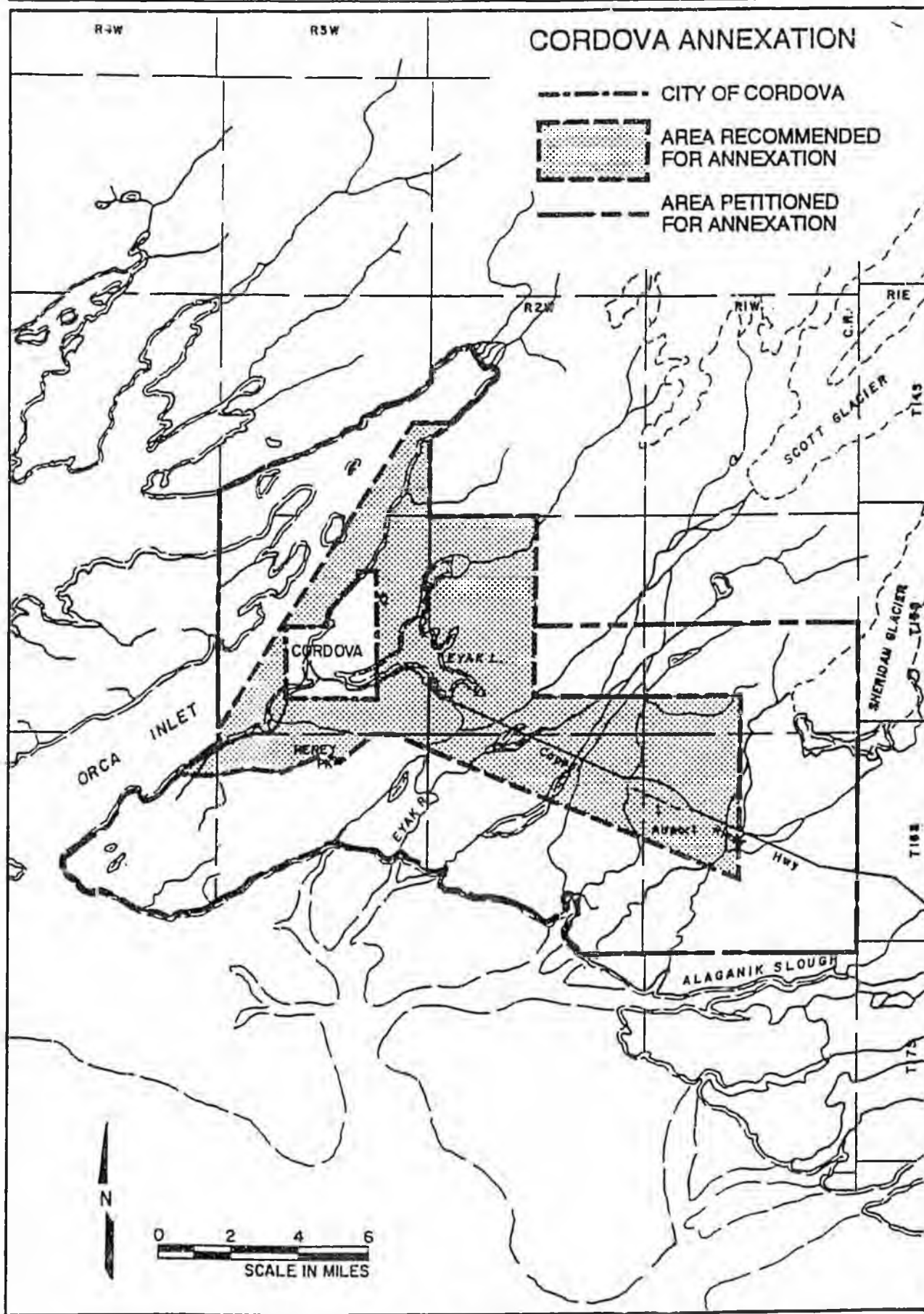
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Cordova:

Beginning at the northeast corner of protracted Section 4, T15S, R2W, Copper River Meridian (CRM);  
thence, south to the southeast corner of protracted Section 28, T15S, R2W, CRM;  
thence, east to the northeast corner of the northwest 1/4 of the northeast 1/4 of protracted Section 33, T15S, R1W, CRM;  
thence, south to the southeast corner of the southwest 1/4 of the southeast 1/4 of protracted Section 21, T16S, R1W, CRM;  
thence, northwesterly, in a straight line, to the northwest corner of protracted Section 1, T16S, R3W, CRM;  
thence, west, along the north boundary of protracted Section 2, T16S, R3W, to a point on the divide along the Heney Range separating the drainage into Orca Inlet from the drainage into the Copper River Delta and the Gulf of Alaska;  
thence, southwesterly along said divide to Heney Peak;  
thence, westerly in a straight line to the beginning of Hartney Creek;  
thence, westerly along the thread of Hartney Creek to the point where it enters Hartney Bay;  
thence, northerly and westerly along the line of mean high tide of the north shore of Hartney Bay to Bluff Point;  
thence, meandering along the line of mean high tide to the intersection with the east boundary of protracted Section 1, T16S, R4W, CRM;  
thence, north to a point in Orca Inlet at the northwest corner of the southwest 1/4 of the southwest 1/4 of protracted Section 31, T15S, R3W, CRM;  
thence, northeasterly, in a straight line, to a point in Orca Inlet at the northwest corner of the southeast 1/4 of protracted Section 24, T14S, R3W, CRM;  
thence, east to the line of mean high tide on Nelson Bay;  
thence, meandering southwesterly along the line of mean high tide of Nelson Bay to the intersection with the west boundary of protracted Section 19, T14S, R2W, CRM;  
thence, south, to the southeast corner of protracted Section 36, T14S, R3W, CRM;  
thence, east to the northeast corner of protracted Section 4, T15S, R2W, the point of beginning; containing 74.58 square miles, more or less, all in the Cordova Recording District, Third Judicial District, State of Alaska.

Excluding therefrom, the territory currently within the boundaries of the City of Cordova, comprising 6.35 square miles, more or less. The net territory approved for annexation comprises 68.23 square miles, more or less.

A map of the area recommended for annexation is presented on the following page.

<sup>11</sup> The decision of the Commission concerning this annexation became final under 19 AAC 10.570(g) on January 8, 1993. Under 19 AAC 10.580, interested parties have until January 28, 1993 to file a request for reconsideration of the decision.



## LOCAL BOUNDARY COMMISSION

### **PALMER**

On February 28, 1992, the City of Palmer filed a petition for annexation of approximately 7.5 acres using the legislative review method.

The Commission conducted a public hearing on November 20, 1992, in Palmer. On December 18, the Commission approved the petition. Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Palmer's annexation petition are discussed in detail in the Commission's December 30, 1992, Statement of Decision. That document, comprising 11 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff  
Department of Community and Regional Affairs  
333 W. Fourth Avenue, Suite 220  
Anchorage, AK 99501-2341  
Telephone: 269-4500 Fax: 269-4520

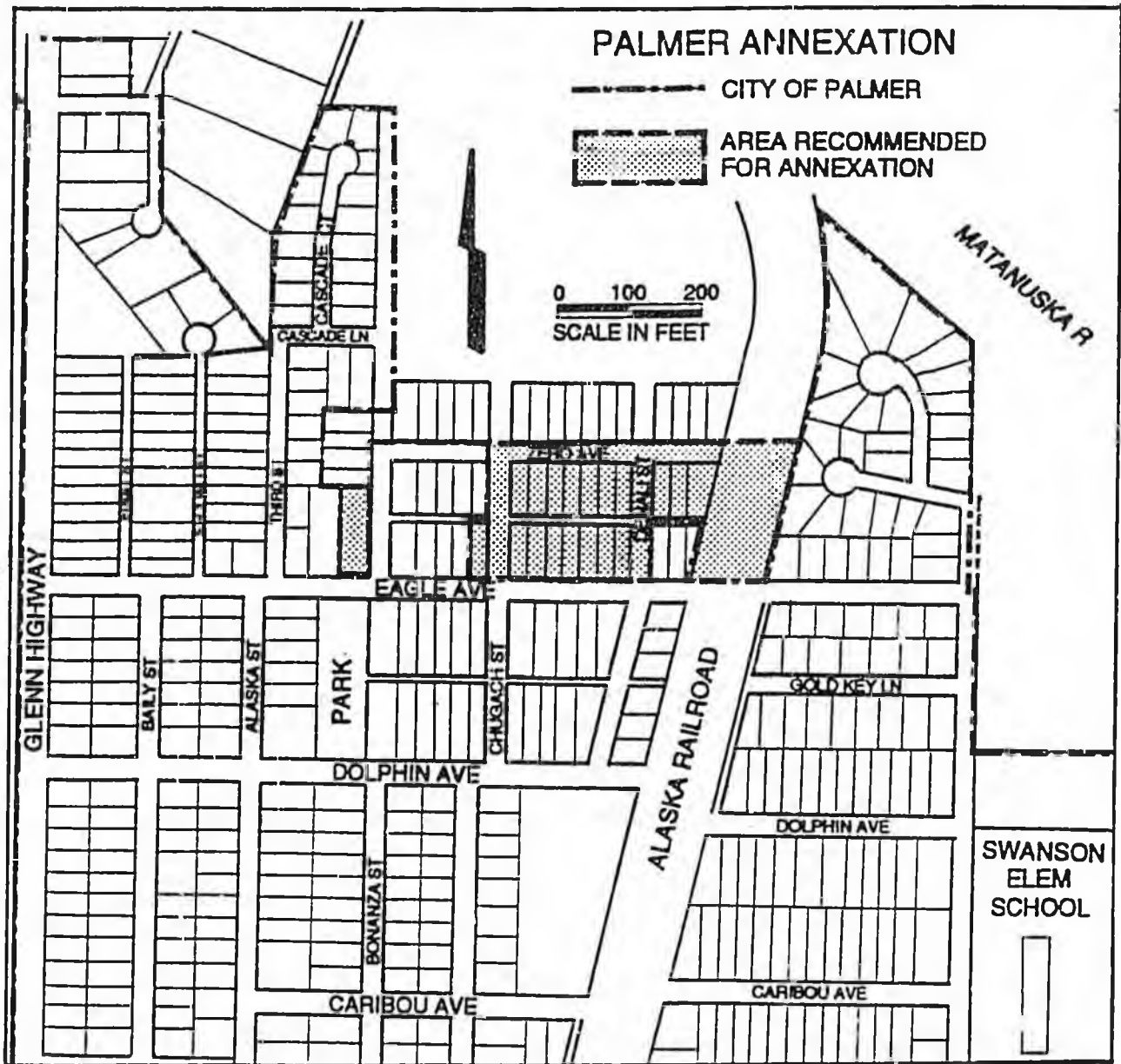
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Palmer:

Within Section 2 , Township 18N, Range 2E, Seward Meridian:

Pribyl, Grasse and Grasse Subdivision - Lot 22; Riverside Subdivision - Block 1, Lots 1 through 10 and Lots 20 through 27; and a portion of the right-of-way of the Alaska Railroad as shown on the City of Palmer's petition for annexation.

A map of the area recommended for annexation is presented on the following page.

PALMER ANNEXATION



## APPENDIX A

### 1992 LOCAL BOUNDARY COMMISSION MEETINGS

#### JANUARY (3 Meetings)

**January 17, 1992:** Public hearing on City & Borough of Yakutat incorporation petition and model boundaries of Prince William Sound, Yakutat and Cross Sound/Icy Straits. Parties participated from **Whittier, Cordova, Valdez, Tatitlek, Elfin Cove and Yakutat.**

**January 17, 1992:** Public hearing in **Hoonah** on Yakutat and Cross Sound/Icy Straits Model Boundaries. Parties from **Gustavus, Juneau, and Pelican** participated via teleconference.

**January 18, 1992:** Public hearing in **Yakutat** on City and Borough of Yakutat incorporation petition and model boundaries for Prince William Sound, Yakutat and Cross Sound/Icy Straits areas.

#### FEBRUARY (2 Meetings)

**February 5, 1992:** Meeting in **Anchorage** with teleconference hookup to **Yakutat** to conduct decisional session on **Yakutat Borough** incorporation and dissolution of the City of Yakutat.

**February 26, 1992:** Continuation of February 5 meeting in **Anchorage** with teleconference hookup to **Yakutat** on Yakutat Borough incorporation and dissolution of the City of Yakutat.

Consideration of petition from the **City of Palmer** to annex **35 acres** of city-owned property.

#### MARCH (1 Meeting)

**March 17, 1992:** Continuation of February 5 and 26 meetings with teleconference hookup to **Yakutat.**

#### APRIL (1 Meeting)

**April 10, 1992:** teleconference from Anchorage, North Pole, Nome, Fairbanks and Ketchikan to adopt Statement of Decision approving dissolution of the City of Yakutat and the incorporation of the City and Borough of Yakutat.

#### MAY (5 Meetings)

**May 8, 1992:** Meeting in **Fairbanks** to review certain requests for reconsideration of decision approving City of Yakutat dissolution and Yakutat Borough incorporation. Determination of model unorganized borough boundaries of **Cross Sound/Icy Straits** Model Boundaries and **Prince William Sound** model boundaries.

**May 8, 1992:** Public hearing in **Delta Junction** on East Central model unorganized borough boundaries.

**May 9, 1992:** Public hearing in **Tok** on East Central model unorganized borough boundaries.

**May 9, 1992:** Public hearing in **Glennallen** on model unorganized borough boundaries of the Copper River Basin.

**May 22, 1992:** Teleconference originating from Anchorage to review additional requests for reconsideration of decision approving the dissolution of the City of Yakutat and incorporation of the City and Borough of Yakutat.

### **JUNE (1 Meeting)**

**June 6, 1992:** Public hearing in **Tok** on Alaska Gateway Region Model Unorganized Borough Boundaries.

### **JULY (1 Meeting)**

**July 20, 1992:** Teleconference originating from Anchorage for consideration/action on City of **Palmer's** petition to annex 2-acre William Fogg Property. Consideration/action on City of **Wasilla** petition to annex 252.34 acres of city-owned property (new airport site). Scheduling of hearings regarding annexation petitions from Cities of **Haines, Hoonah, Cordova, Palmer** and **Whittier**. Scheduling of **Greater Bristol Bay** model borough boundaries; **Calista** region model borough boundaries; **Aleutians/Pribilof** region model borough boundaries; **East Central** Alaska region model borough boundaries decision.

### **SEPTEMBER (1 Meeting)**

**September 25, 1992:** Approval of **City of Seldovia's** annexation of approximately 110 acres of City-owned property (including the boat harbor). Training on due process, taking of evidence, evaluation of evidence on record, standards of review, Open Meetings Act and Executive Branch Ethics Act.

### **October (7 Meetings)**

**October 9 1992:** Hearing and approval of **City of Haines'** petition for annexation of 4.75 square miles.

**October 10, 1992:** Public hearing in **Hoonah** concerning the City's proposed annexation of 18.5 square miles. The Commission deferred action on the matter principally because a City Council member testified that he and three newly elected Council members did not support the City's petition. In particular, the Council member opposed the annexation of the Mt. Bether Bible Center at **Game Creek** and the **Whitestone Logging Camp**.

**October 20, 1992:** Teleconference public hearing on Aleutian/Pribilof model unorganized borough boundaries. Representatives of **St. Paul, St. George** and the **Tanadusix Corporation** testified.

**October 21, 1992:** Teleconference hearing on Western Aleutian model unorganized borough boundaries was conducted with **Adak**.

## LOCAL BOUNDARY COMMISSION

**October 23, 1992:** **Aniak** hearing on model unorganized borough boundaries for Kuspuk REAA.

**October 23, 1992:** **St. Mary's** hearing on model unorganized borough boundaries for Lower Yukon REAA model borough boundaries.

**October 24, 1992:** **Bethel** hearing on model unorganized borough boundaries for Lower Kuskokwim REAA.

### **NOVEMBER (6 Meetings)**

**November 5, 1992:** Teleconference hearing regarding Western Aleutians model unorganized borough boundary. **Akutan, Atka** and **Unalaska** participated via teleconference. Adopted written decisional statement regarding Haines #1 legislative review annexation.

**November 20, 1992:** Public hearing regarding **City of Palmer** petition for annexation of 7.5 acres in Prybl, Grasse & Grasse subdivision.

**November 21, 1992:** Public hearing in **Cordova** regarding the **Cordova** annexation petition. Model boundaries were set for the following;

- Upper Tanana Basin (combining Delta Greely & Alaska Gateway REAAs);
- Copper River Basin (following boundaries of Copper River REAA);
- Lower Yukon (combining Lower Yukon and Kashunamiut REAAs);
- Lower Kuskokwim (combining Lower Kuskokwim and Yupiit REAAs);
- Kuspuk (following Kuspuk REAA);
- Pribilofs (following Pribilofs REAA);
- Aleutians West (from Aleutians East Borough to mid-point of Fenimore Pass;
- Aleutians - Military (from mid-point of Fenimore Pass to the western boundary of the State.

Approve annexation of 10 acres to the City of **Seldovia**.

**November 23, 1992:** Public hearing in **Naknek** regarding model boundaries of the Greater Bristol Bay region.

**November 24, 1992:** Public hearing in **Togiak** on model unorganized borough boundaries for Nushagak/Dillingham area.

**November 24, 1992:** Public hearing in **Dillingham** on model unorganized borough boundaries for Nushagak/Dillingham area, with teleconference participation from **Chignik, Chignik Lake, Egegik, Kokhanok, Levelock, Newhalen, Nondalton, Pilot Point**.

### **DECEMBER (4 Meetings)**

**December 4, 1992:** Decisional meeting regarding City of **Palmer** petition for annexation of about 7.5 acres in Prybl, Grasse & Grasse subdivision. Decisional meeting regarding model unorganized borough boundaries for **Nushagak/Dillingham** region. Decisional meeting regarding annexation of 7 square miles of tidelands and submerged lands to the City of **Haines**.

**December 18, 1992:** Continuation of December 4 decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition. Adopted written decisional statements concerning Hoonah legislative review annexation and Haines #2 legislative review annexation,

**December 21, 1992:** Completion of decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition.

**December 30, 1992:** Meeting to approve statement of decision regarding **Palmer** 7.5 acre Prybl, Grasse & Grasse annexation.

## APPENDIX B

### SUMMARY OF STANDARDS & PROCEDURES

Portions of the Alaska Constitution, statutes and regulations governing LBC matters are listed below, followed by a summary of standards and procedures.

On June 29, 1991, the Local Boundary Commission adopted a revised set of regulations. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code.

#### Alaska Constitution

- Article X, Section 3 - Boroughs
- Article X, Section 7 - Cities
- Article X, Section 12 - Boundaries
- Article X, Section 14 - Local Government Agency

#### Alaska Statutes

- AS 29.05.011-031 - Standards for incorporation of cities and boroughs
- AS 29.05.060-150 - Procedures for incorporation of cities and boroughs
- AS 29.06.040-060 - Annexation and detachment
- AS 29.06.090-170 - Merger and consolidation
- AS 29.06.450-530 - Dissolution
- AS 44.47.565-583 - General provisions concerning the LBC

#### LBC Regulations

- 19 AAC 10.010-040 - Standards for incorporation of cities
- 19 AAC 10.045-060 - Standards for incorporation of boroughs
- 19 AAC 10.090-150 - Standards for annexation to cities
- 19 AAC 10.160-210 - Standards for annexation to boroughs or unified municipalities
- 19 AAC 10.220-230 - Standards for merger of municipalities
- 19 AAC 10.240-250 - Standards for consolidation of municipalities
- 19 AAC 10.260 - Standards for detachment from cities
- 19 AAC 10.270 - Standards for detachment from boroughs or unified municipalities
- 19 AAC 10.280-300 - Standards for dissolution of cities
- 19 AAC 10.310-330 - Standards for dissolution of boroughs or unified municipalities
- 19 AAC 10.400-660 - Procedures for petitioning
- 19 AAC 10.900-990 - General Provisions

## City Incorporation

The standards for incorporation of a city relate to the following factors:

1. The need for city government.
2. The community's human and economic resources.
3. The size and stability of the community's population.
4. Suitable boundaries.
5. Whether annexation to an existing city, or services performed by a borough, is more appropriate.

All of the standards must be met for the LBC to approve an incorporation petition.

The procedure for incorporation:

1. Residents submit a petition with supporting brief to the Department of Community and Regional Affairs.
2. DCRA reviews the form and content of the petition and determines whether it has enough valid signatures.
3. DCRA assists the petitioners in correcting any deficiencies in the petition and assists petitioners in mailing and publishing notice of the petition.
4. Interested parties are allowed at least seven weeks to review and submit comments on the incorporation proposal.
5. Petitioners are allowed at least two weeks to respond to comments from interested parties.
6. DCRA examines the petition and comments, and otherwise investigates the incorporation proposal. DCRA holds a public informational meeting in the area proposed for incorporation.
7. DCRA prepares a draft report and recommendation for the Commission on the proposed incorporation. The draft is circulated for public review for a minimum of four weeks. Following consideration of the comments, DCRA issues its final report.
8. The LBC holds at least one public hearing in the area. Within 90 days, the LBC makes a decision on the petition. The Commission may change the proposed municipal boundaries, and it may impose conditions on the incorporation. These conditions can include a requirement for voter approval of authority to levy municipal taxes (to ensure that the city will be financially viable).
9. If the LBC approves the incorporation petition, the Director of the Alaska Division of Elections orders a local election. This election includes selection of council members and possible council authorization to levy municipal taxes. DCRA prepares and submits the request to the U.S. Justice Department for federal Voting Rights Act preclearance.
10. After the election is held, the Division of Elections certifies the results. If a majority of those voting approve the incorporation (with any stated conditions) DCRA issues a certificate of incorporation for the city.

## LOCAL BOUNDARY COMMISSION

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### Borough Incorporation

The standards for incorporation of a borough relate to:

1. Social, cultural, and economic integration;
2. Population size and stability;
3. Human and financial resources to maintain and operate the mandatory powers of the borough on an efficient and cost-effective level;
4. The proposed boundaries and their conformance with the natural geography of the area and whether they include all of the territory necessary to provide the full development of borough services on an efficient, cost-effective level.

As with city incorporations, all of the borough incorporation standards must be met for the LBC to approve a petition. Borough incorporation procedures are the same as those set out above for city incorporation.

### Boundary Change Procedures

Procedures for annexation, detachment, merger, consolidation, and dissolution are similar in many respects to the procedures previously outlined for incorporation. However, there are some important differences.

Under current law, an incorporation petition can only be initiated by the resident voters. However, annexation, detachment, merger, consolidation and dissolution may be initiated in a variety of ways. Petitioners for those procedures may include a political subdivision of the State of Alaska, the Alaska Legislature, the Commissioner of DCRA, LBC staff or designee, or voters.<sup>12</sup>

In the case of simple and non-controversial boundary proposals, certain of the procedural steps can be eliminated. The Commission's new regulations give it flexibility to ensure that the rights of interested parties are protected while at the same time, the process used to consider the proposal is reasonable, speedy and inexpensive.

The method of final approval in these instances will vary. Some will involve elections conducted by the State or local government. In other cases final approval may be sought from the Legislature. In simple and non-contested boundary proposals, no approval beyond that of the Commission may be necessary.

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<sup>12</sup> A political subdivision is defined under 19 AAC 10.990(a)(11) to mean a borough, unified municipality, city, regional educational attendance area, or coastal resource service area organized and operated under state law.

Details about a particular process are available from:

Local Boundary Commission Staff  
Department of Community & Regional Affairs  
333 West 4th Avenue, Suite 220  
Anchorage, Alaska 99501-2341  
Telephone: 269-4500 Fax: 269-4520

## Annexation Standards

Standards for annexation to cities relate to:

1. The need for city government;
2. Whether the territory is compatible in character with the annexing city;
3. Whether the post-annexation boundaries of the city include the human and financial resources necessary to provide city services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries include a population sufficiently large and stable enough to support the extension of city government;
5. Whether the post annexation boundaries include all of the territory necessary to provide essential city services on an efficient, cost-effective level;
6. Whether the annexation serves the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

In order for any annexation to occur, the first five standards must be satisfied. In order for an annexation to be approved using the legislative review method for final approval, the sixth standard must also be met. In considering whether this sixth standard is met, the Commission may consider factors including whether the (1) territory is an enclave within the existing boundaries of the city; (2) health, safety, or general welfare of city residents is endangered, (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, (4) residents and/or property owners receive benefits from the city without commensurate tax contributions, (5) annexation will enable the city to plan and control anticipated growth or development and (6) the territory is so sparsely inhabited or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

Standards for annexation to boroughs relate to:

1. Whether the social, cultural and economic characteristics of the people are interrelated and integrated;
2. Whether the area has sufficient population size and stability;
3. Whether the post-annexation boundaries of the borough include the human and financial resources necessary to provide borough services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries conform to natural geography and include all of the territory necessary to provide essential borough services on an efficient, cost-effective level;
5. Annexation by the legislative review process requires a determination of whether the annexation services the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

## LOCAL BOUNDARY COMMISSION

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The factors to be considered with respect to the interests of parties are similar to those noted earlier for annexation to cities.

### Detachment Standards

Standards for detachment from cities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the city and the territory after detachment;
3. The ability of the city or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the area after detachment;
5. The historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
6. The historical pattern of cooperation and shared commitment between the people of the city and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining city to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining city, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Standards for detachment from boroughs and unified municipalities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the borough or unified municipality and the territory after detachment;
3. The ability of the borough or unified municipality or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
5. The historical pattern of providing to the territory municipal services that have been or should be, supported by tax levies in the territory;

6. The historical pattern of cooperation and shared commitment between the people of the borough or unified municipality and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining borough or unified municipality to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining borough or unified municipality, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

### **Consolidation and/or Merger Standards**

Consolidation of municipal governments is the creation of a new municipality from the union of two or more existing municipalities. Merger of municipalities is the absorption of one or more existing municipality by another existing municipality. The primary standard for either action is whether the successor municipality meets the applicable standards for incorporation for its type of municipality. Merger and consolidation are initiated with a petition to the LBC .

### **Municipal Dissolution Standards**

The standards for dissolution of a municipality relate to the following factors:

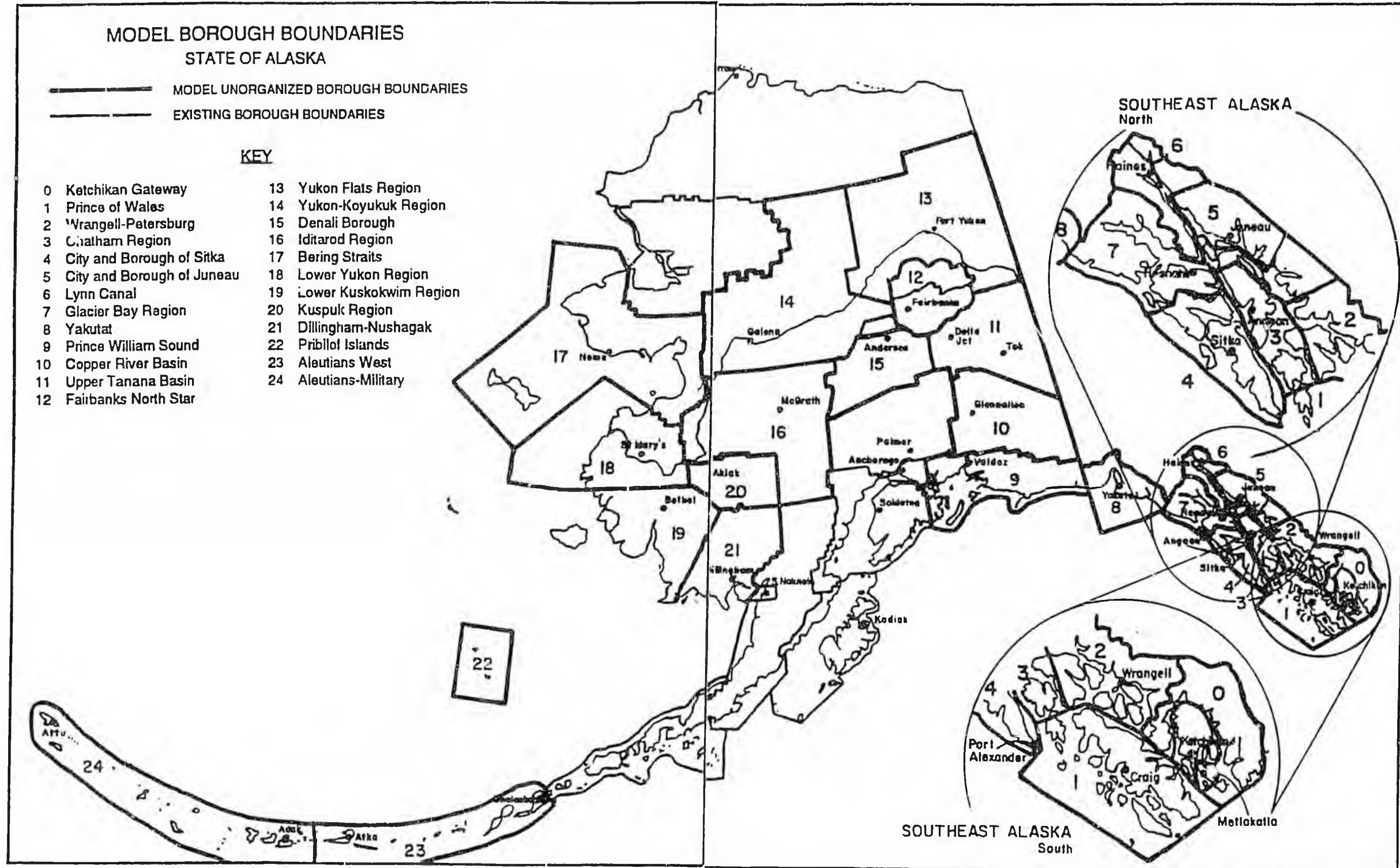
1. Whether the municipality is free of debt, or has satisfied each of its creditors;
2. Whether the municipality has ceased to use each of its mandatory powers;
3. Whether dissolution is in the best interests of the state;
4. Whether the municipality continues to meet the standards for incorporation;
5. Whether the municipality still meets the standards for incorporation;
6. Whether the municipality has ceased to exercise its mandatory powers.

MODEL BOROUGH BOUNDARIES  
STATE OF ALASKA

———— MODEL UNORGANIZED BOROUGH BOUNDARIES  
———— EXISTING BOROUGH BOUNDARIES

KEY

- |                              |                           |
|------------------------------|---------------------------|
| 0 Ketchikan Gateway          | 13 Yukon Flats Region     |
| 1 Prince of Wales            | 14 Yukon-Koyukuk Region   |
| 2 Wrangell-Petersburg        | 15 Denali Borough         |
| 3 Chatham Region             | 16 Iditarod Region        |
| 4 City and Borough of Sitka  | 17 Bering Straits         |
| 5 City and Borough of Juneau | 18 Lower Yukon Region     |
| 6 Lynn Canal                 | 19 Lower Kuskokwim Region |
| 7 Glacier Bay Region         | 20 Kuspuk Region          |
| 8 Yakutat                    | 21 Dillingham-Nushagak    |
| 9 Prince William Sound       | 22 Pribilof Islands       |
| 10 Copper River Basin        | 23 Aleutians West         |
| 11 Upper Tanana Basin        | 24 Aleutians-Military     |
| 12 Fairbanks North Star      |                           |



### III. MAJOR PROJECTS

#### Model Borough Boundaries Project

On December 4, 1992, the Commission set model unorganized borough boundaries for the Dillingham/Nushagak area. That action was especially significant since it marked the conclusion of three years of public hearings and meetings on model borough boundaries statewide. The LBC has now adopted model boundaries for the entire unorganized borough. During the course of the model boundaries study, the Commission held public hearings in 88 separate communities. The extensive public hearing process familiarized the Commission with existing and potential regional government boundary issues throughout Alaska.

In 1992, the LBC held model borough boundary hearings in 22 communities in the following six regions:

**Southeast;**  
**Prince William Sound;**  
**East Central (Delta Greely, Copper River, Alaska Gateway);**  
**Calista, (Lower Yukon, Lower Kuskokwim, Kuspuk);**  
**Western Aleutian/Pribilofs (Adak, Unalaska, St. George-St. Paul);**  
**Greater Bristol Bay.**

Every LBC decision regarding borough boundaries affects three groups; residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Formation of new regional governments is a sensitive issue in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced. On the basis of such factors, the LBC concluded that, rather than examining regional boundaries only when petitions are lodged, the Commission would invite public testimony from throughout the entire state and adopt 'model' boundaries. Such 'model' boundaries will be used as a frame of reference to help evaluate future petitions. They will be considered when existing organized boroughs seek to annex unorganized borough territory or when unorganized borough residents petition for borough incorporation.

The Commission and its DCRA staff began planning the model boundary study in mid-1989. The Commission decided to focus first on the areas for which petitions for incorporation or annexation were pending. Research on the project began in earnest in 1990.

The LBC began its study of each area by sending out a large eight-page tabloid which explained the study and set out the questions the LBC expected to consider in its decision-making process. Each tabloid included a map on which recipients were requested to draw suggested boundaries. DCRA prepared and widely distributed a report of its findings and recommendations for the area, and then the LBC held hearings in as many communities as resources allowed.

The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be set. Municipal governments and other public and

private local and regional organizations helped execute the model boundaries project. Many hundreds of interested parties provided written comment or oral testimony.

Completion of the study renders the LBC and DCRA much better prepared to evaluate future petitions. A wealth of information and public comment was obtained in the study process.

'Model' boundaries are not rigid or unchangeable. Petitioners for borough incorporation or alteration of existing borough boundaries can successfully propose different boundaries if they make a specific and persuasive showing to the Commission why other boundaries are more appropriate.<sup>7</sup>

### Conclusion

The goal of the study has been achieved. The Commission has developed a useful tool for long-term regional government boundary planning. The LBC based its model boundaries map upon extensive testimony from throughout Alaska. Alaskans have become better acquainted with the LBC, borough incorporation standards and their neighbors' perspectives. A statewide map of model boundaries adopted by the Commission is shown on pages 26 and 27 of this report.

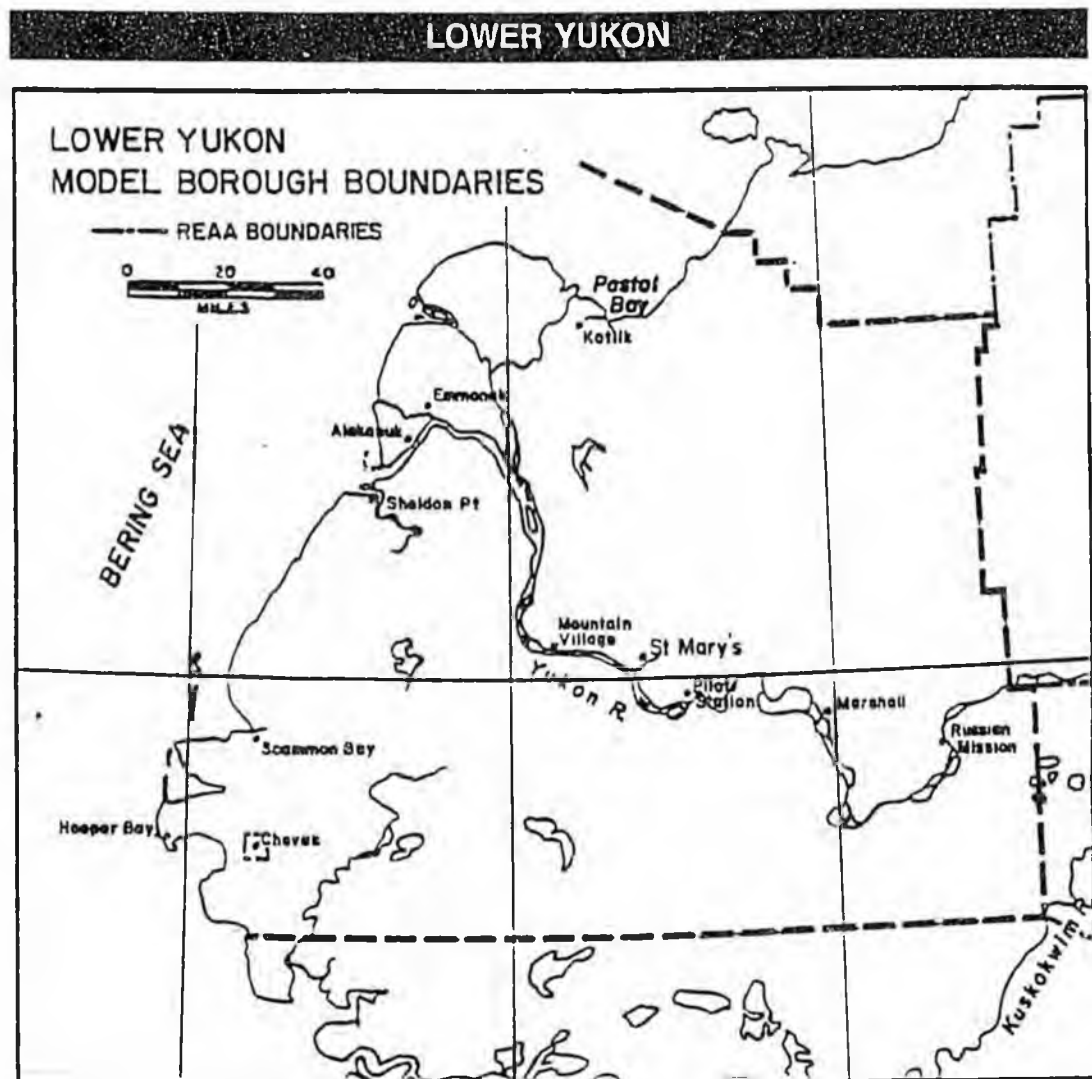
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<sup>7</sup> 19 AAC 10.060(b) and 19 AAC 10.190(c).

## LOCAL BOUNDARY COMMISSION

### Lower Yukon Model Unorganized Borough

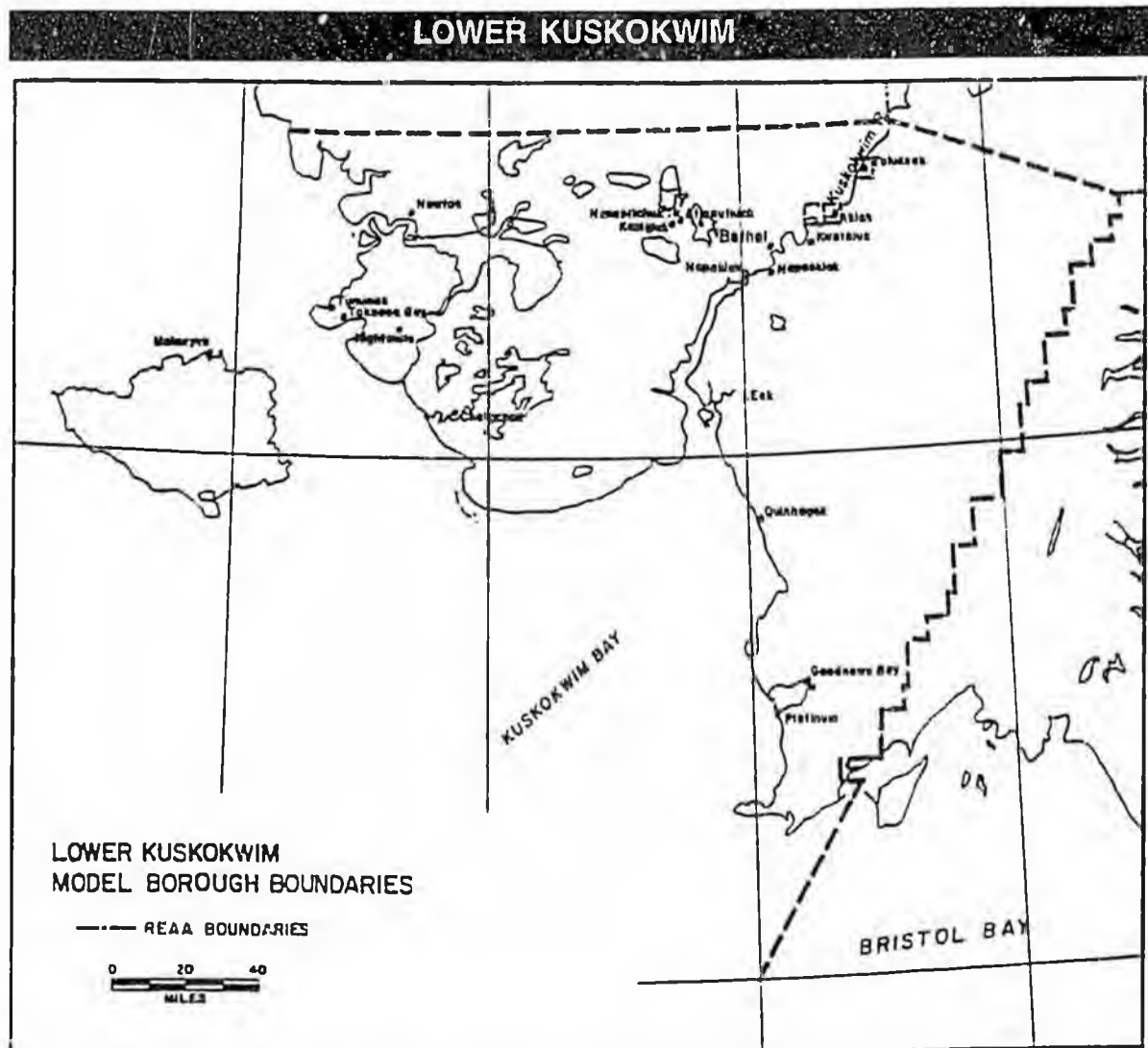
Model borough boundaries for this area combined the Lower Yukon and Kashunamiut REAs, the first class City of St. Mary's and eleven second class cities. These are Alakanuk, Chevak, Emmonak, Hooper Bay, Kotlik, Marshall, Mountain Village, Pilot Station, Russian Mission, Scammon Bay and Sheldon Point. The area's population totals approximately 5,791. The LBC held model borough boundary hearings in St. Mary's on October 23, 1992.



**Lower Kuskokwim Model Unorganized Borough**

Model borough boundaries for this area are based upon boundaries of the Lower Kuskokwim and Yupiit REAAs. The LBC held model borough boundary hearings in Bethel on October 24, 1992. On November 21, 1992, the Local Boundary Commission set Lower Yukon, Lower Kuskokwim and Kuspuk model boundaries.

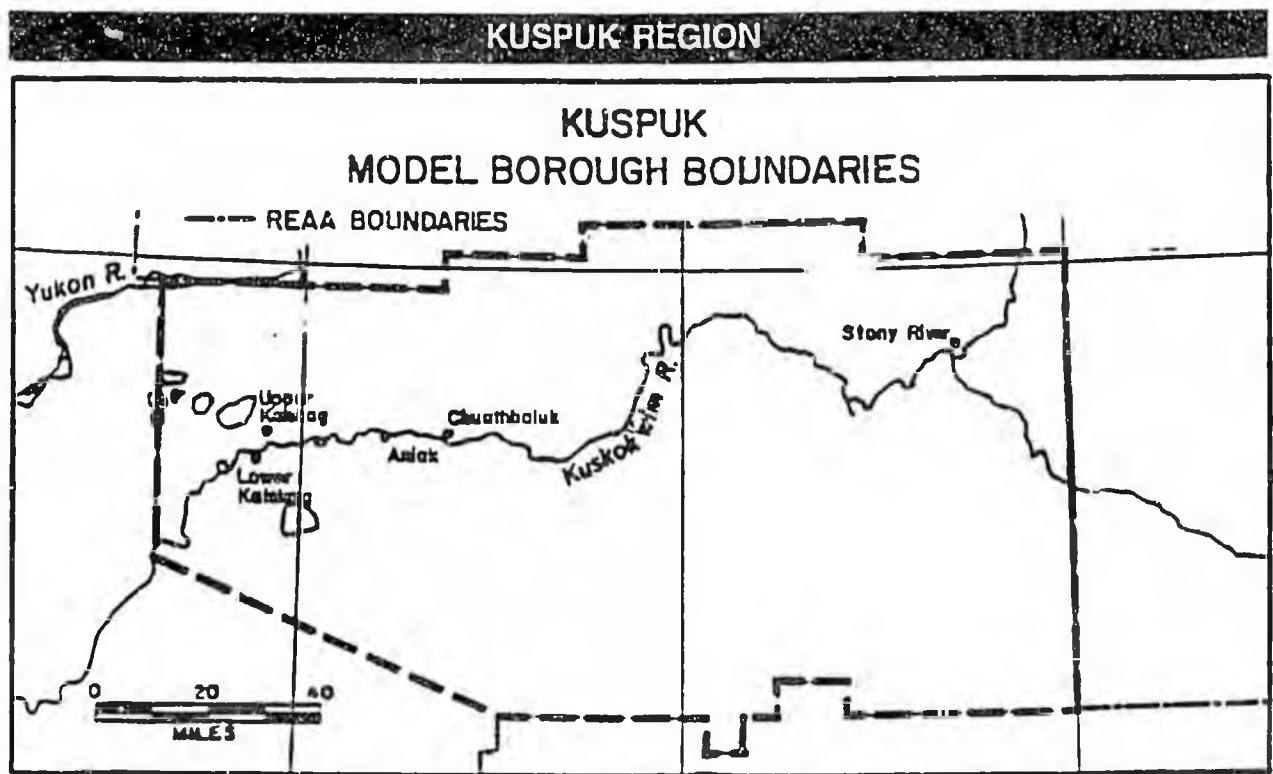
Twenty-five communities with a total population of approximately 12,125 are included in this area. These include Akiachak, Akiak, Atnautluak, Bethel, Chefornak, Eek, Goodnews Bay, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Oscarville, Platinum, Quinhagak, Toksook Bay, Tuluksak, Tuntutuliak, and Tununak.



## LOCAL BOUNDARY COMMISSION

### KuspuK Region Model Unorganized Borough

KuspuK unorganized borough model boundaries follow the KuspuK REAA boundaries. The LBC conducted a public hearing in Aniak on October 23, 1992. The area has about 1,490 residents distributed among Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



### Glacier Bay Model Unorganized Borough

The LBC conducted hearings on model boundaries for this region in Hoonah, Pelican and Gustavus in January, 1992. After taking testimony, the LBC defined Glacier Bay model borough boundaries extending from Cape Fairweather to Chatham Strait. These model boundaries encompass Glacier Bay and the communities of Elfin Cove, Pelican, Hoonah, Gustavus and Tenakee Springs. The area had a 1990 population of 1,858. The Commission set model boundaries for the region on May 8, 1992.

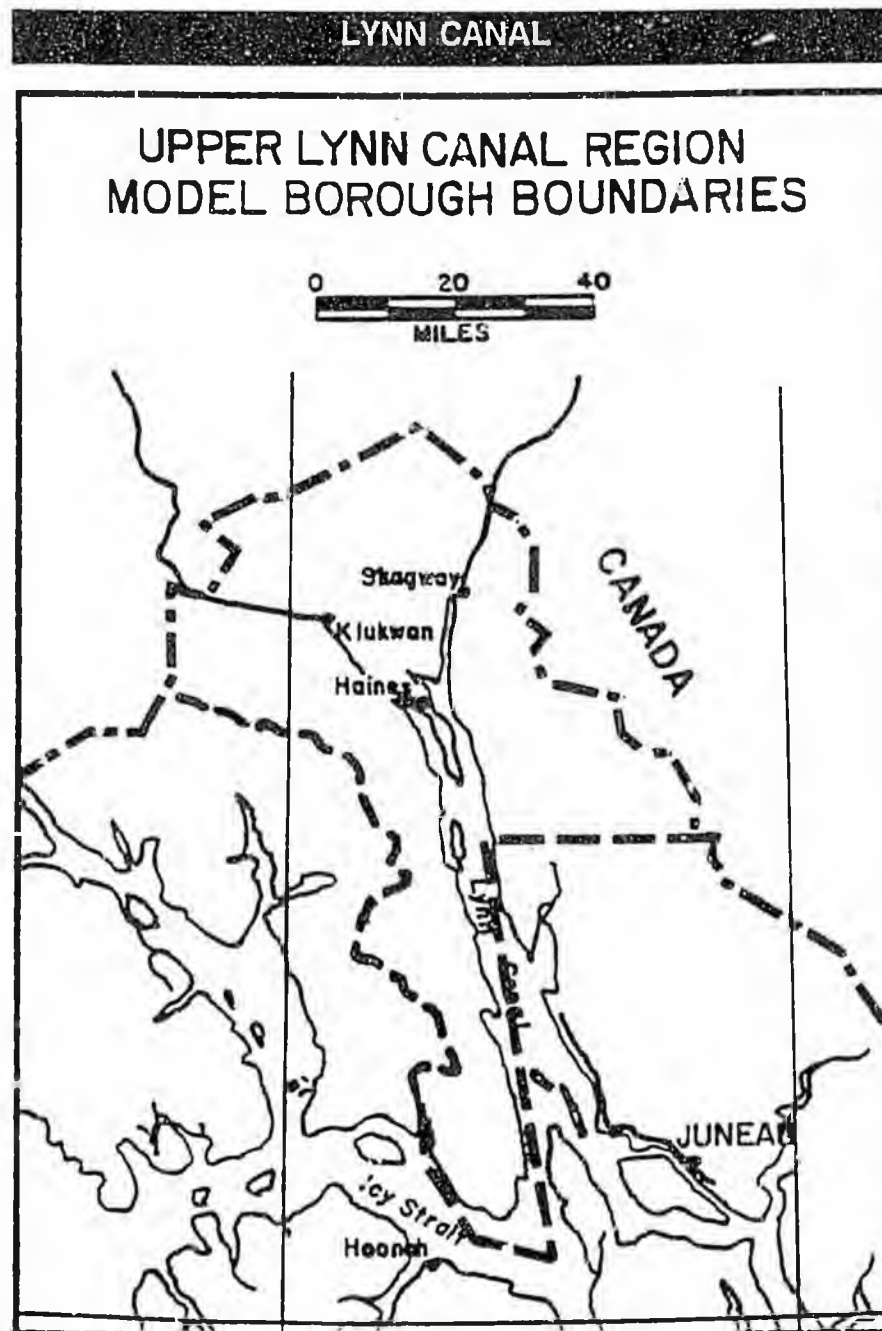


## LOCAL BOUNDARY COMMISSION

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### Upper Lynn Canal - Haines Borough

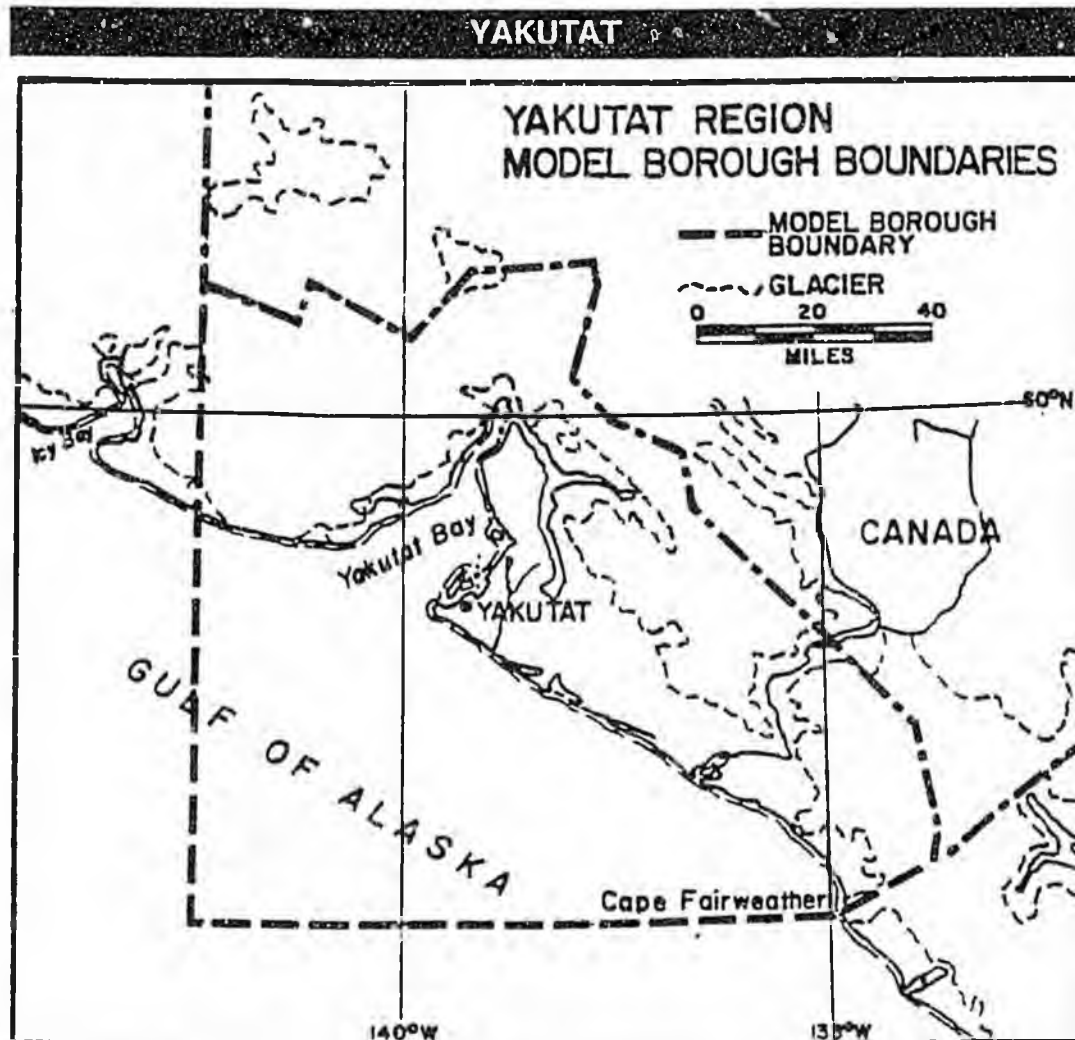
The LBC identified model boundaries encompassing the area within the present Haines Borough as well as Skagway and Klukwan. The area had a 1990 population of 2,938. The Commission set Upper Lynn Canal model boundaries on May 8, 1992.



Yakutat Borough

Yakutat model boundaries set by the LBC are identical to those approved for incorporation. The amended Yakutat model boundaries encompassed approximately 4,224 square miles with boundaries extending from the 141st Meridian to Cape Fairweather. The area has a population of approximately 705.

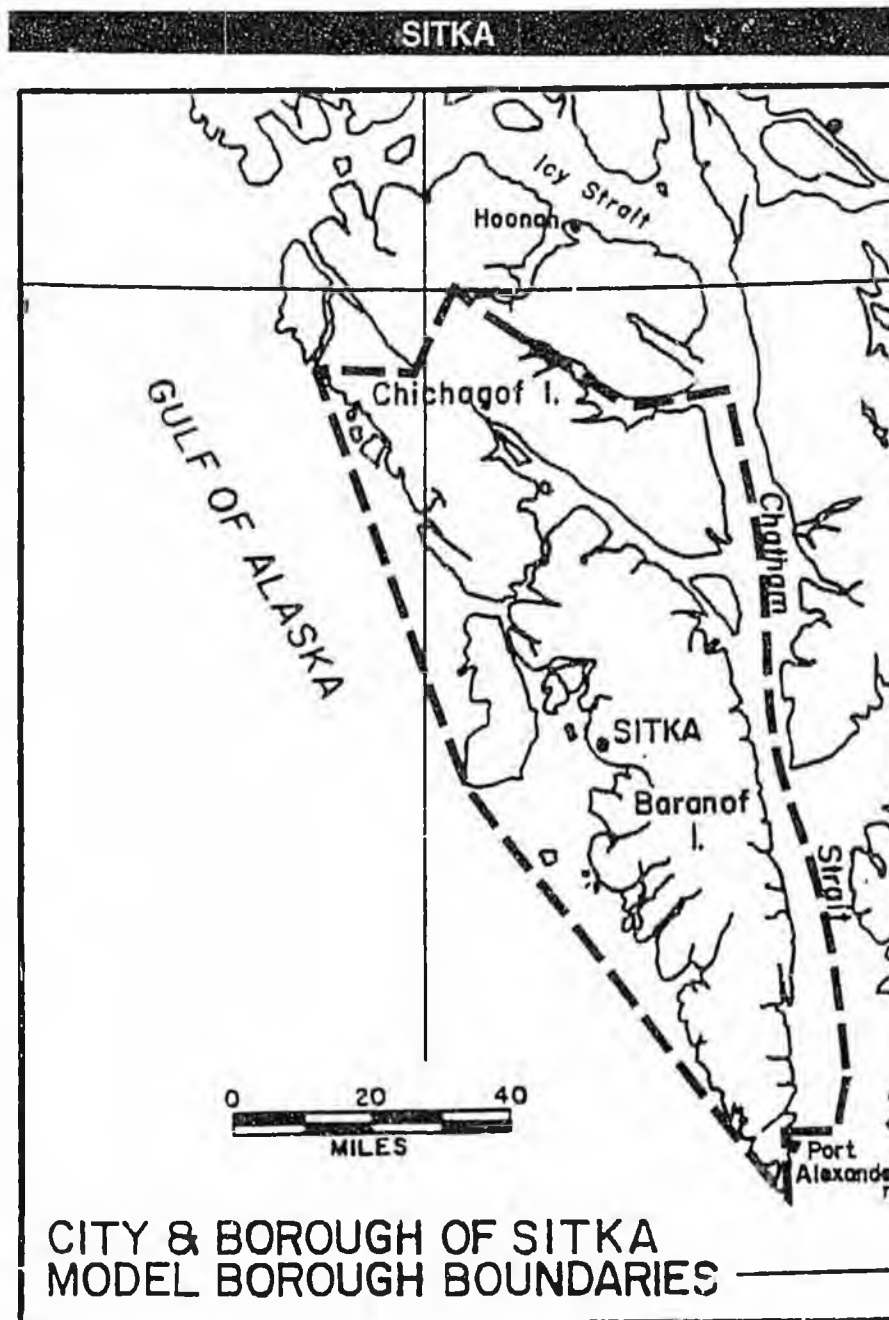
(The Yakutat Borough incorporation is more fully discussed in Section II of this report.) The Commission set Yakutat model boundaries on May 8, 1992.



## LOCAL BOUNDARY COMMISSION

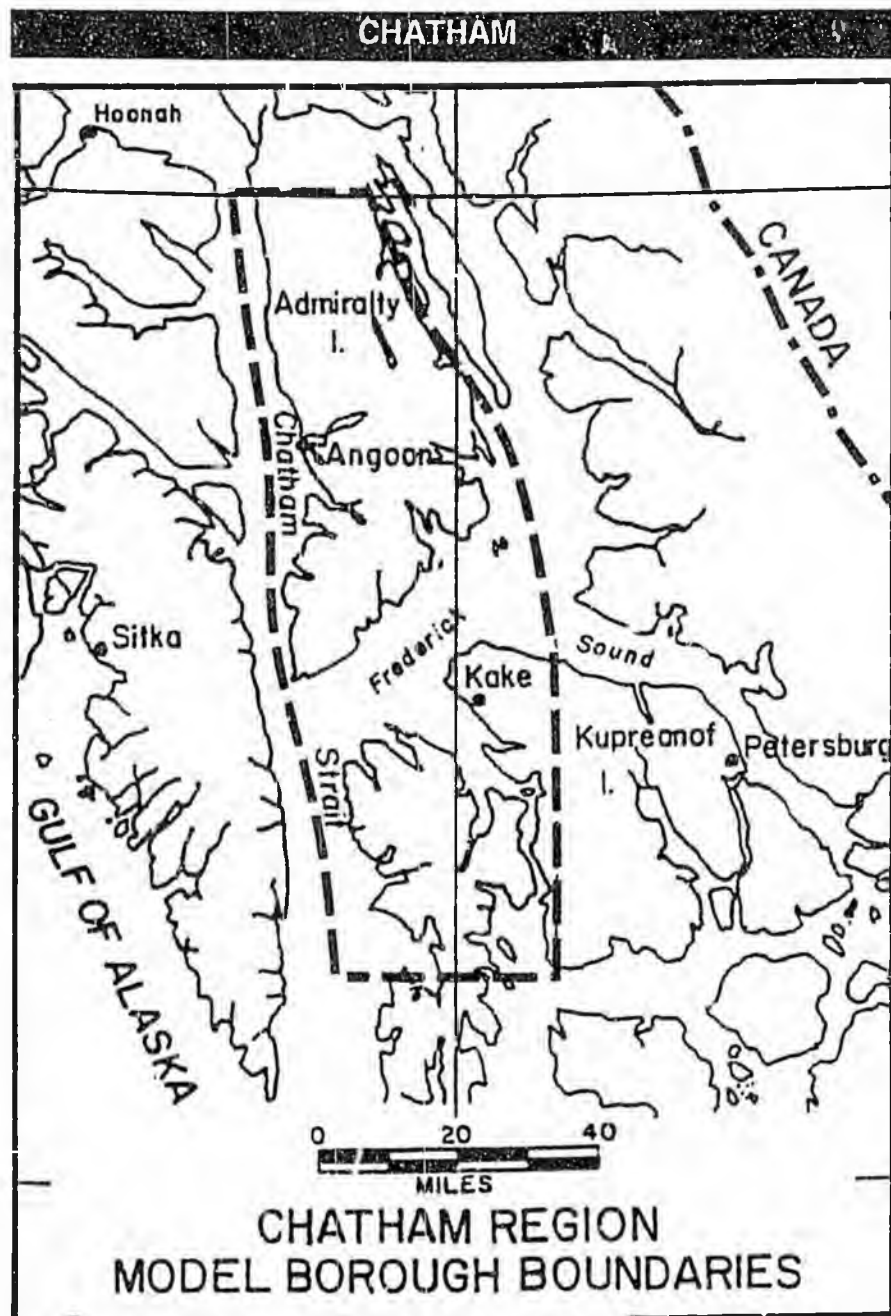
### City and Borough of Sitka

Model boundaries for the City & Borough of Sitka were identified as the same as its existing boundaries, which encompass 4,849 square miles and a population of 8,588. The Commission conducted teleconferenced public hearings regarding the area in November, 1990. The Commission set Sitka model boundaries on May 8, 1992.



### Chatham Unorganized Borough

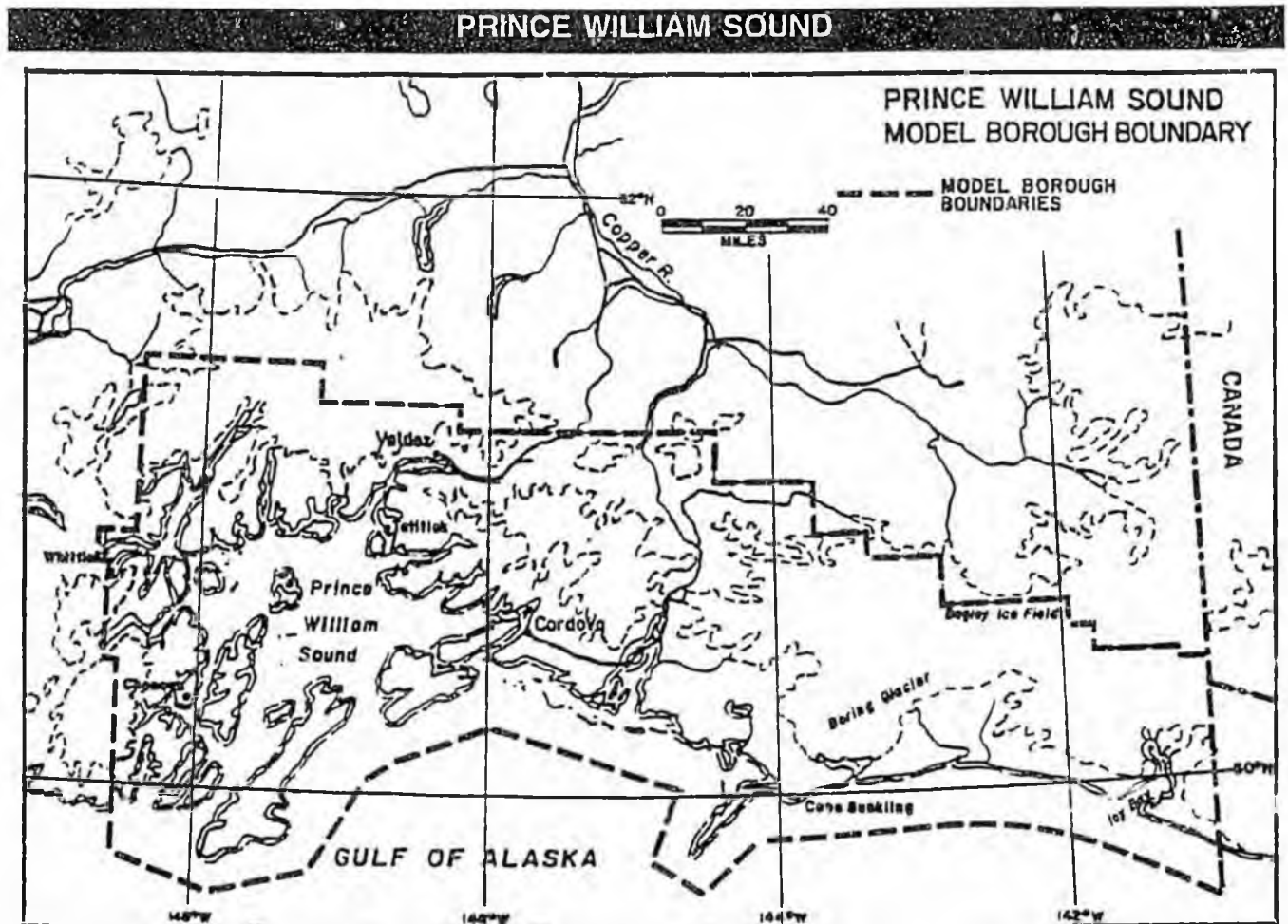
In November, 1990, the Commission conducted public hearings throughout Central Southeast Alaska. Parties in Gustavus, Haines, Skagway, Yakutat, Tenakee Springs, Pelican, Sitka, Elfin Cove, Port Alexander, Angoon, Hoonah, Kake and Cube Cove participated. On May 8, 1992, the Commission adopted model boundaries for the Chatham Unorganized Borough encompassing Kake and Angoon. The area had a 1990 population of 1,663.



## LOCAL BOUNDARY COMMISSION

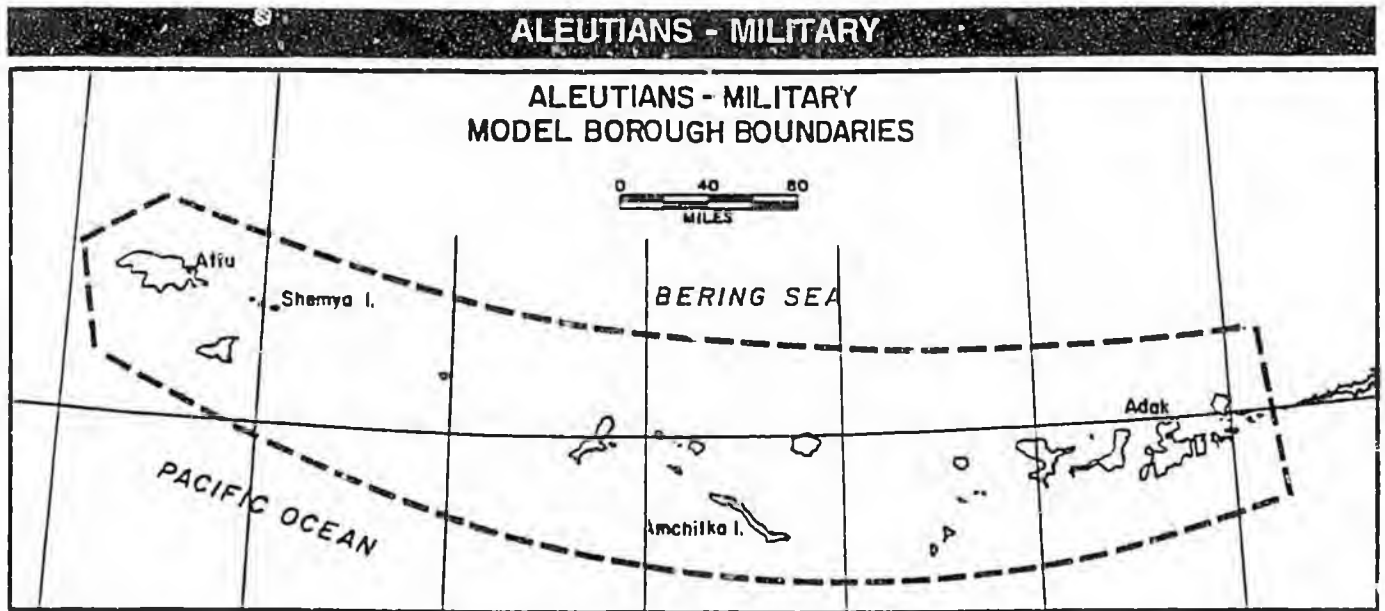
### Prince William Sound Unorganized Borough

Model boundaries for this area conform to the Chugach REAA, encompassing the Cities of Cordova, Valdez and Whittier and the unincorporated communities of Chenega and Tatitlek. The area had a 1990 population of 7,189. The Commission set model boundaries for the area on May 8, 1992. The LBC conducted a public hearing in the area in January, 1992.



**Aleutians - Military Unorganized Borough**

Model boundaries for this region extend from the mid-point of Fenimore Pass to the boundary of the State at the western end of the Aleutian Chain. The boundaries include the military settlements of Adak, Attu and Shemya. The area had a 1990 population of 5,345. The Commission conducted a public hearing on model boundaries via teleconference on October 21, 1992. The Commission set model boundaries for the region on November 21, 1992.

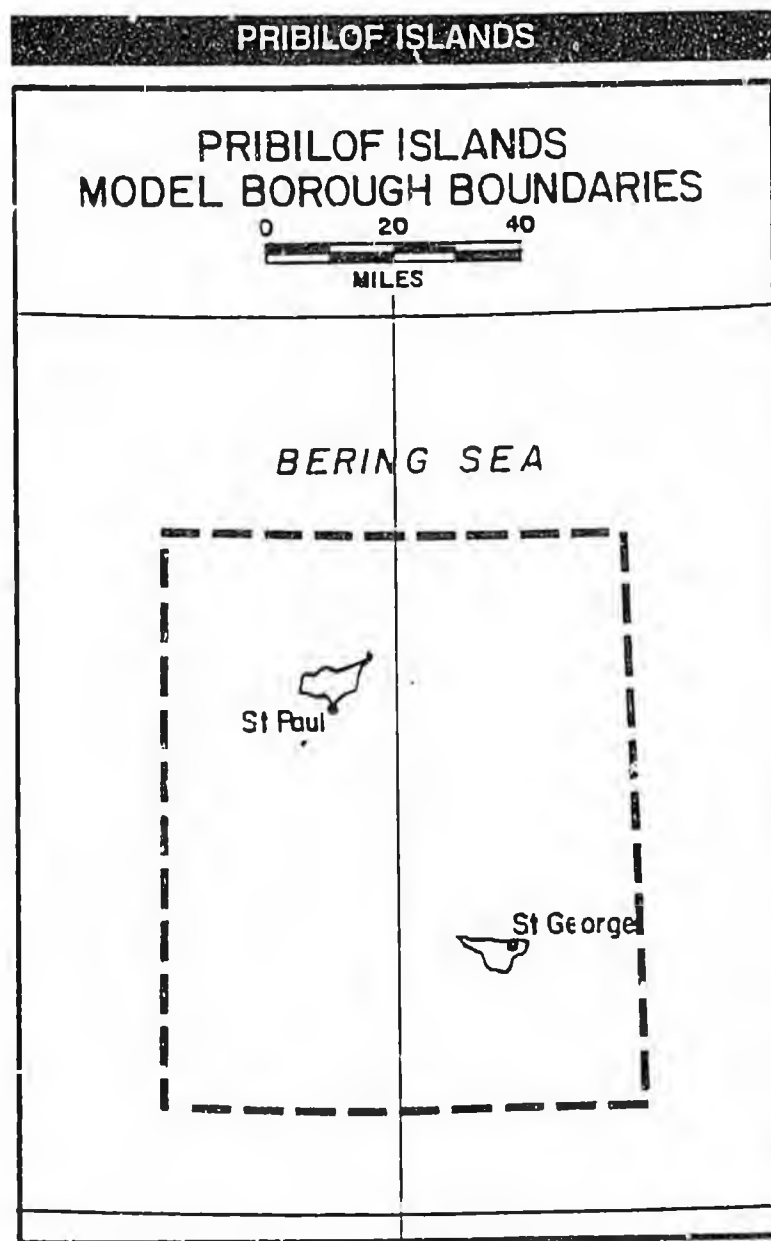


## LOCAL BOUNDARY COMMISSION

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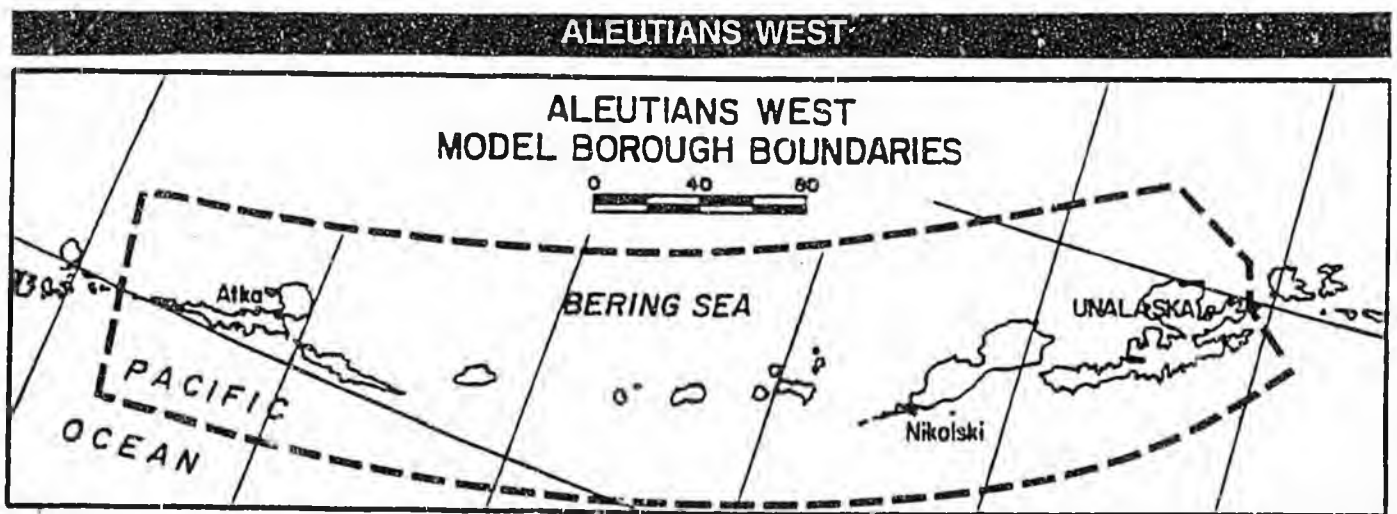
### Pribilof Unorganized Borough

Model boundaries designated by the Commission conform to the Pribilof REAA and include the Cities of St. Paul and St. George. The area had a 1990 population of 901. The boundaries reflected testimony received via teleconference from representatives of St. Paul, St. George and the Tanadusix Corporation at the October 20, 1992, public hearing. The Commission set model boundaries for the area on November 21, 1992.



### Aleutians West Unorganized Borough

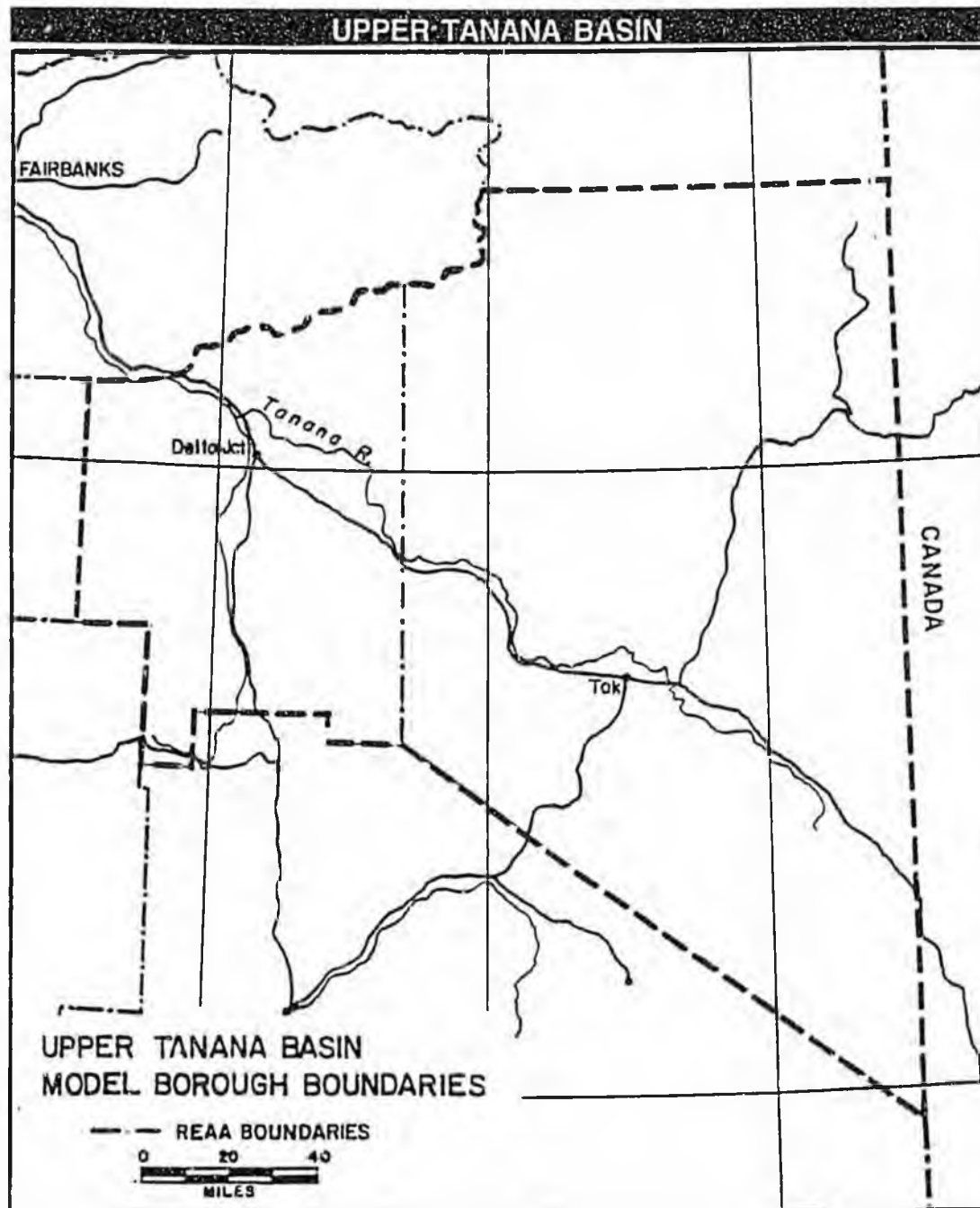
Boundaries designated by the Commission extend from the western boundary of the Aleutians East Borough to the mid-point of Fenimore Pass, including Atka, Nikolski and Unalaska. The area had a 1990 population of 3,232. The LBC received testimony on model boundaries in the area through public hearings with teleconference participation from Atka, Unalaska and Akutan on November 5. The Commission set model boundaries for the area on November 21, 1992.



## LOCAL BOUNDARY COMMISSION

### Upper Tanana Basin Unorganized Borough

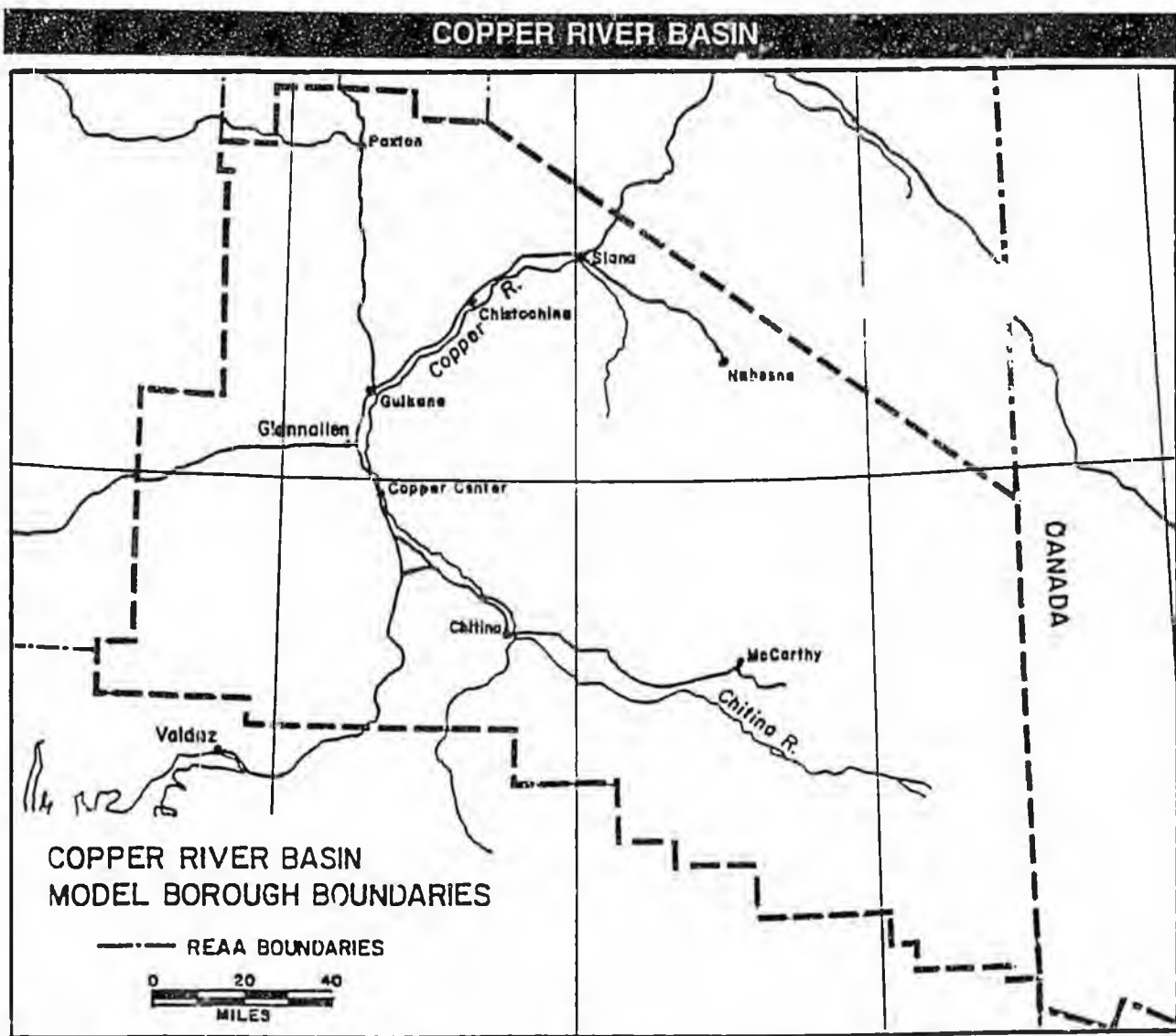
The Commission determined that the Upper Tanana Basin model boundaries should encompass the Delta Greely and Alaska Gateway REAA areas. The area had a 1990 population of 6,021. These model boundaries encompass an estimated 26,235 square miles. The LBC conducted hearings on model borough boundaries for the region in Delta Junction on May 8, 1992 and in Tok on May 9 and June 6. The Commission set model boundaries for the area on November 21, 1992. Communities within the region include two second class cities, the City of Delta Junction and the City of Eagle. Unincorporated communities in the area include Boundary, Chicken, Dot Lake, Dry Creek, the Native Village of Eagle, Fort Greely, Healy Lake, Mentasta Lake, Northway, Tanacross, Tetlin and Tok.



## Copper River Basin Unorganized Borough

The LBC held a hearing on model boundaries in Glennallen on May 9, 1992. Additional information concerning the model boundaries for the Copper River Basin was provided to the Commission from residents of the region in June. On November 21, the Commission determined that the Copper Basin model unorganized borough boundaries should follow boundaries of the Copper River REAA. The area encompasses an estimated 20,649 square miles and a 1990 population of 2,638.

Copper River Basin model borough boundaries defined by the Commission conform to the boundaries of the Copper River School District, extending from the Canadian Border on the east to the boundaries of the Matanuska-Susitna Borough on the west. Communities within the area include, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy, Paxson, Slana, Tazlina and Tonsina.



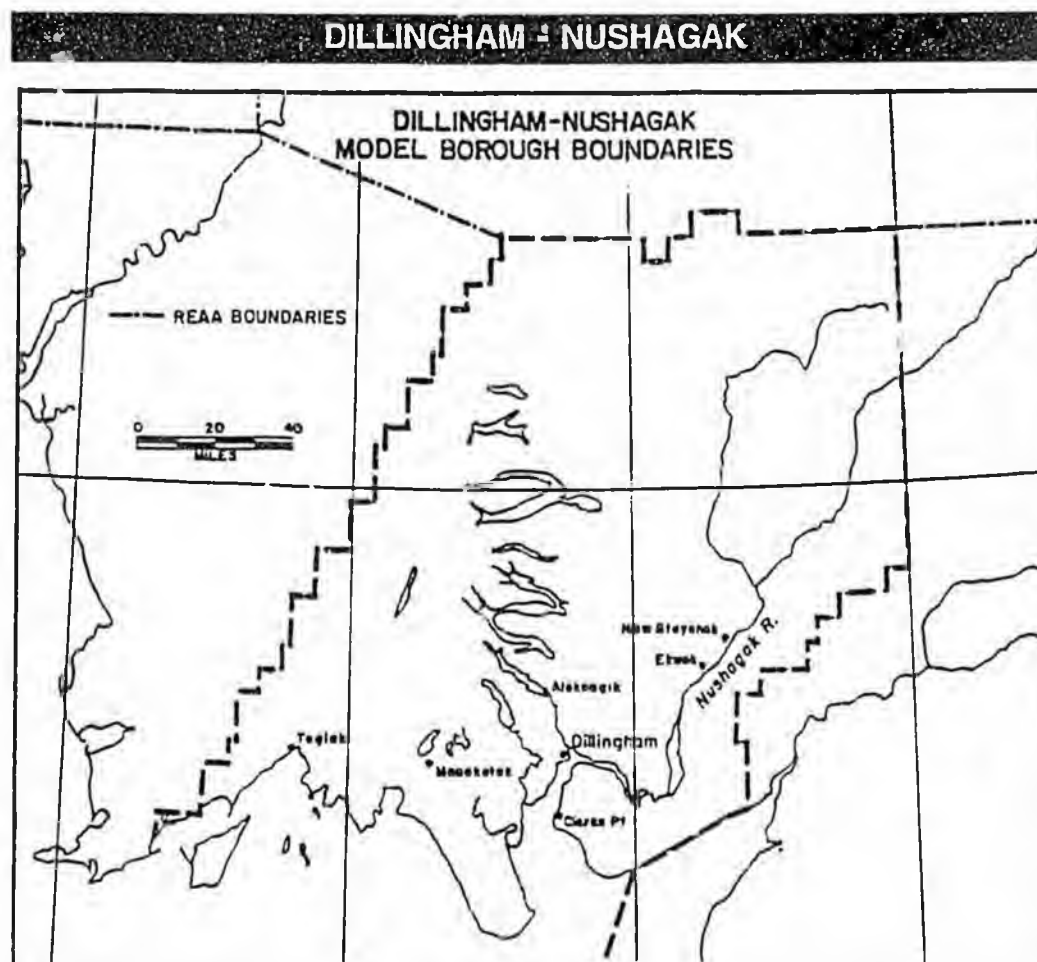
## LOCAL BOUNDARY COMMISSION

### Bristol Bay Study

The LBC approved Lake & Peninsula Borough incorporation in 1989. At that time, the Commission directed that staff revisit boundary questions raised during the incorporation public hearing process. In June of 1991, the City of Dillingham asked that the Commission's staff also analyze the merits of forming a "super borough" which would include the Bristol Bay Borough, the Lake & Peninsula Borough and the Dillingham Census Area.

The Commission conducted public hearings in Dillingham, Naknek and Togiak on November, 23-24, 1992. At the request of local residents, Kokhanok, Pilot Point, Chignik, Levelock, Egegik, Newhalen, Nondalton and Chignik Lake participated in the November 24 Dillingham hearing by teleconference. Most of the comment and testimony at Naknek urged that Bristol Bay Borough boundaries be left unaltered. Testimony at Togiak suggested a local preference for a Northwest Bristol Bay unorganized borough. Testimony at Dillingham suggested that boundaries based upon existing Dillingham Census Area boundaries would be most appropriate.

On December 4, 1992, the LBC identified model boundaries encompassing the existing Dillingham Census Area. Dillingham, Aleknagik, Clark's Point, Ekuk, Ekwok, Koliganek, Manokotak, New Stuyahok, Portage Creek, Togiak and Twin Hills are included in the model boundaries.



## SUMMARY OF STANDARDS FOR BOROUGH INCORPORATION

The standards applied by the Department of Community and Regional Affairs and the Local Boundary Commission in reviewing a borough incorporation petition are set out in the Alaska Constitution, Alaska Statutes and the Local Boundary Commission's regulations in the Alaska Administrative Code.

### CONSTITUTION

Article X is the Local Government Article. Its purpose is "to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions."

Each borough is to be established according to standards which shall "include population, geography, economy, transportation and other factors," and shall embrace an area and population with common interests to the maximum degree possible." (Article X, Section 3)

### STATUTES

AS 29.05.031(a) provides four general standards applicable to all boroughs.

1. The population of the area is interrelated and integrated as to its social, cultural and economic activities, and is large and stable enough to support borough government;
2. The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services.
3. The economy of the area includes human and financial resources capable of providing municipal services. Evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough.
4. Land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

*Reqs 19 AAC 10.160-19 AAC 10.210*

## SUMMARY OF REGULATIONS

**COMMUNITY OF INTERESTS (19 AAC 10.045):** The social, cultural, and economic characteristics and activities of the people in the proposed borough must be interrelated and integrated. Considerations include:

- √ compatibility of urban and rural areas within the proposed borough;
- √ compatibility of economic lifestyles;
- √ existence of customary and simple transportation and communication patterns;
- √ the languages spoken throughout the proposed borough;

**PRESUMPTIONS:**

- at least two communities;
- all communities within the proposed borough are connected to the borough seat by road, regularly scheduled airline flights on at least a weekly basis, local air charter services or sufficient electronic media;

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**POPULATION (19 AAC 10.050):** The population must be sufficiently large and stable to support the proposed borough government. Considerations include:

- √ total census enumeration
- √ duration of residency
- √ historical population changes
- √ age distributions.

**PRESUMPTIONS:**

- at least 1,000 permanent residents

---

**RESOURCES (19 AAC 10.055):** The economy of the proposed borough must contain the human and financial resources necessary to provide essential borough services on an efficient, cost effective level. Considerations include:

- √ reasonably anticipated borough functions
- √ reasonably anticipated borough expenses
- √ reasonably anticipated borough income
- √ anticipated operating budget through the third full fiscal year of operation
- √ economic base of proposed borough
- √ property valuations
- √ land use
- √ existing and anticipated industrial, commercial and resource development
- √ personal income of residents
- √ need for and availability of employable skilled and unskilled people
- √ predictable level of commitment and interest of population in maintaining a borough government.

**BOUNDARIES (19 AAC 10.060):** The proposed borough boundaries must conform generally to natural geography and include all land and water necessary to provide for full development of borough services on an efficient, cost-effective level. Considerations include:

- √ land use and ownership patterns
- √ ethnicity and cultures
- √ population density patterns
- √ existing and reasonably anticipated transportation patterns and facilities
- √ natural geographic features and environmental factors
- √ extraterritorial powers of boroughs.

**PRESUMPTIONS:** • boundaries will not extend beyond model boundaries.



FEB 13 1993

**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

DATE: February 14, 1994  
TO: Senator Randy Phillips, Chair  
Senate Community and Regional Affairs  
FROM: Senator Dave Donley *DD*  
RE: Scheduling of SB 291

I request a hearing on SB 291, relating to including all regions of the state in an organized borough or unified municipality.

Article X of the state constitution supports the concept that all areas of Alaska should have some form of local government. The recent report by the Local Boundary Commission has identified the inequities in our current system. Residents and property owners in mandatory boroughs pay local taxes for basic services, while residents in towns or areas outside local governments typically pay no taxes to support these same services.

I think it is unfair that some residents must pay for services used by others who do not pay simply because they live in an unorganized borough. Currently about 20 percent of the state falls in this category. Which means state governments must bear the financial responsibility for providing services that local governments provide in organized areas.

SB 291 simply sets out a process by which the 20 percent of Alaska without local government would be organized. This legislation will substantially downsize state bureaucracy and reduce the state's operating budget. It is a modest step toward uniform and fair local responsibility for the cost of government.

If you need additional information please don't hesitate to contact my office. Thanks for your attention to this request.

DD/arm

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-5571

CO-CHAIR: Anchorage Caucus • MEMBER: Senate Judiciary Committee • Senate Resources Committee



# SENATOR DAVE DONLEY

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## ALASKA STATE LEGISLATURE

CONTACT: Alexis Miller  
465-3892

DATE: February 9, 1994

### DONLEY BILL ESTABLISHES PROCESS TO PLACE ALL AREAS OF ALASKA UNDER LOCAL GOVERNMENT

In an effort to reduce state government and more fairly distribute financial responsibility, Senator Dave Donley (D-Anchorage) today introduced SB 291 to fulfill the intent of Article X of the state constitution that all of Alaska have some form of local government.

The 1994 report of the Local Boundary Commission identified the basic problem as one of inequity:

"There are inequities in the manner in which the borough concept has been implemented. In 1963, the Legislature mandated the formation of eight boroughs. Today, those eight mandatorily formed boroughs encompass about 80% of Alaska's population. The residents and property owners in the mandatory boroughs typically pay substantial local taxes for basic services. In contrast, there are other areas of the state that lie outside any local government. Some of those areas enjoy services comparable to the services in the mandatory boroughs. Further, some of these areas have resources at least comparable to areas within the mandatorily formed boroughs. Notwithstanding, the areas outside local government pay no taxes to support the services.

SB 291 sets out a process by which the approximately 20 percent of Alaska, currently without local government, would be organized. Currently in these unorganized areas the state must bear total responsibility and cost for providing services that local governments provide elsewhere in Alaska.

This is unfair to the citizens of Alaska in organized areas who pay local taxes for these kinds of government services. It also places an undue burden on state government, which is forced to act as the local government for unorganized areas.

"It is in the best interests of the state for all its residents to have the opportunity to participate in government on the local level and enjoy the benefits and share the responsibility of local government," Senator Donley said.

"I recognize that all the unorganized areas of Alaska may not be able to fairly carry an equal financial burden as the more populated areas, but all Alaskans who are able should pay something toward the cost of providing local government services."

"With declining state revenues Alaskans can simply not expect the state to do everything for them anymore. This legislation will substantially downsize state bureaucracy and reduce the state's operating budget. It is a modest step toward uniform and fair fundamental local responsibility for the cost of government," Senator Donley added.

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## OTHER ISSUES

Occasionally, concerns beyond those noted previously are brought to the LBC. Typically, such concerns deal directly or indirectly with State laws and policies on municipal incorporations and boundary changes. Examples of such include the following.

- ❖ There are inequities in the manner in which the borough concept has been implemented. In 1963, the Legislature mandated the formation of eight boroughs. Today, those eight mandatorily formed boroughs encompass about 80% of Alaska's population. The residents and property owners in the mandatory boroughs typically pay substantial local taxes for basic services. In contrast, there are other areas of the state that lie outside any local government. Some of those areas enjoy services comparable to the services in the mandatory boroughs. Further, some of these areas have resources at least comparable to areas within the mandatorily formed boroughs. Notwithstanding, the areas outside local government pay no taxes to support the services.
- ❖ There are disparities in funding for education. Because of requirements for local contributions, some areas of Alaska receive State and federal aid amounting to only about two-thirds of their defined level of "basic need" for education. Other districts receive more State funding because they are required to contribute little or nothing in support of education. Further, some districts receive funding not available to other districts (e.g., National Forest Receipts). The result is that some districts receive substantially more State and federal aid for education – upwards of twice the level of basic need – than other districts.

Here again, the Commission raises these issues simply in order to keep the legislature informed of the nature of concerns brought to the attention of the LBC.

### FOOTNOTE 14 CONTINUED FROM PREVIOUS PAGE:

each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality." The Attorney General's Office takes the position that this law applies only to property taxes.

	July 1, 1992 Population	Land Area Sq. Miles
Alaska	586,900	570,373.6
Juneau Borough	28,621	2,593.6
Sitka Borough	9,100	2,881.5
Anchorage Borough	240,258	1,697.6
Denali Borough	1,670	8,872.7
Lake & Peninsula Borough	1,789	23,632.3
North Slope Borough	6,691	87,860.5
Northwest Arctic Borough	6,514	35,862.5
Aleutians East Borough	2,567	6,984.8
Bristol Bay Borough	14,561	519.2
Fairbanks North Star Borough	81,383	7,362.4
Kenai Peninsula Borough	44,019	16,078.9
Ketchikan Gateway Borough	14,664	1,219.6
Kodiak Island Borough	15,245	6,462.6
Matanuska-Susitna Borough	44,582	24,693.6
Haines Borough	2,267	2,357.0
Not in Boroughs	73,069	341,294.8
% Not in Boroughs	12.4	59.8

22,978.8  
 1  
 24,693.6  
 570,373.6

Alaska Department of Labor, Research & Analysis. Demographic Unit.

# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

April 7, 1993

## MEMORANDUM

TO: Representative Eileen MacLean

FROM: Dale O. Brandt <sup>35</sup>  
Legislative Analyst

RE: Population of Boroughs at Date of Incorporation  
Research Request 93.199

You asked us to provide the name of each borough, date of incorporation, population at date of incorporation and the present population. This information is presented in the attached table.

If you have any questions or need additional information, please contact this office.

Attachment

**ALASKA BOROUGHS  
YEAR INCORPORATED AND POPULATION**

Borough	Year of Incorporation	Population in Year of Incorporation*	1991 Population
Aleutians East Borough	1987	1,573	2,464
Municipality of Anchorage	1975 (Unification) 1964 (Borough)	173,600 81,160	237,907
Bristol Bay Borough	1962	1,040	1,410
Denali Borough	1990	1,797	1,783
Fairbanks North Star Borough	1964	27,250	77,720
Haines Borough	1968	1,240	2,212
City and Borough of Juneau	1970 (Unification) 1963 (Borough)	13,556 10,888	28,965
Kenai Peninsula Borough	1964	11,786	40,802
Ketchikan Gateway Borough	1963	9,150	13,828
Kodiak Island Borough	1963	5,020	15,535
Lake and Peninsula Borough	1989	1,793	1,668
Matanuska-Susitna Borough	1964	5,720	41,797
North Slope Borough	1972	3,700	8,288
Northwest Arctic Borough	1986	6,010	6,113
City and Borough of Sitka	1971 (Unification) 1963 (Borough)	6,100 6,130	8,588
City and Borough of Yakutat	1992	729	N/A

\* Estimated populations are interpolated using decennial census statistics. N/A = Not available

Source: Year of incorporation and 1991 population -- Department of Community and Regional Affairs, "1992 Community/Borough Map;" Population at date of incorporation -- Alaska Department of Labor, Demographic Unit.

Prepared by the Legislative Research Agency, April 1993 (93.199)

## ARTICLE X

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### LOCAL GOVERNMENT

**L**ike Article VIII (Natural Resources), Article X reflects considerable constitutional innovation. In drafting this article, the delegates tried to steer a middle course between too little and too much detail about local government structure. Existing constitutional provisions varied between New Jersey's silence on the subject and New York's long, discursive local government article.

Looking at metropolitan government elsewhere in the United States, members of the local government committee saw a ragged patchwork of counties and cities crisscrossed with single-purpose, special service districts, all pursuing their duties narrowly without regard for economies that could be realized from consolidation and cooperation. County and city governments were inflexible, physically and functionally. This rigidity, financial handicaps, the absence of centralized control over the activities of the various jurisdictions, the distance of these governmental units from the average voter and the lack of an integrated budget for their operations made local government despairingly inefficient and irrational in many parts of the country.

Furthermore, the courts tended to construe the powers of local governments very narrowly (unlike state governments with inherent power, local governments derive their authority solely from the state via express constitutional and statutory grants of power). Thus, municipal governments were often barred from dealing with pressing problems because they could not find some explicit provision that authorized them to act in the area.

At the time of the convention, local government institutions were quite undeveloped in Alaska. Scattered around the territory were small cities and a few school and public utility districts (Congress had prohibited the creation of counties in the Territorial Act of 1912). It was evident that a majority of Alaskans would live in or near cities. Unincorporated areas on the periphery of cities, such as Spenard and Fairview near Anchorage, for example, were growing rapidly. Conflicts between special purpose districts and cities were already occurring. Things were not yet as bad as in other parts of the country, and the delegates wanted to prevent problems by limiting the number of permissible local government units.

There was general agreement on the long-term need for a unit of general purpose government between the state and the city. The delegates feared that in the absence of

As events unfolded in some areas, particularly areas with a single urban core, it became evident that local government could be provided more efficiently with a single unit. A movement to unify cities and boroughs emerged, and today Anchorage, Juneau and Sitka are unified home-rule municipalities. Thus, the ideal of a single areawide government has been realized to some extent. In other areas, city and borough governments have generally accommodated to each other, and relationships among boroughs, cities and school districts have tended to stabilize.

The brief 15 sections of this article provide a unique and flexible framework for the development of local government institutions in Alaska. The article accommodates tiny, second-class cities with only rudimentary powers of local government and the vast North Slope Borough, the largest (in area) and richest (in per capita tax revenue) local government unit in the United States. No substantial changes in this once-controversial article are now being seriously discussed inside or outside of government. However, there are issues which may need future attention by the legislature, such as the extension of boroughs to the remaining rural, unorganized areas of the state.

### Section 1. Purpose and Construction

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.

This section expresses the constitutional policy of encouraging the spread of local government in Alaska within the institutional framework of cities and boroughs as provided in subsequent sections. It establishes a strong presumption in favor of local government. When oil companies sued on numerous grounds to block formation of the North Slope Borough, the Alaska Supreme Court was bound by the constitution to uphold the formation of new boroughs whenever the requirements for incorporation have been minimally met (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 1974). In that decision, the court said: "Aside from the standards for incorporation [in statute], there are no limitations in Alaska law on the organization of borough governments. Our constitution encourages their creation."

(Thus, for example, school districts in Alaska do not have independent taxing power, unlike the situation in many other parts of the United States.) Subsequent sections of this article provide for the creation of boroughs and cities.

The Alaska Supreme Court declared unconstitutional a state law that authorized private aquaculture associations to collect mandatory assessments on the sale of salmon by commercial fishermen, saying the scheme amounted to a delegation of taxing powers to an entity other than a city or borough (*State v. Alex* 646 P.2d 203, 1982). The legislature amended the law accordingly (see AS 43.76).

### Section 3. Boroughs

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

This section mandates the creation of boroughs -- the larger of the two units of local government authorized by the constitution. The legislature is given wide latitude to shape this new creature: the constitution provides only that standards for creating boroughs must include population, geography, economy, and transportation, with the area and population of boroughs sharing common interests. More specific guidelines were avoided by the delegates (some constitutions establish the boundaries of every county) because they recognized that the borough concept would have to be adapted to a wide variety of local circumstances. The directive to "classify" boroughs reflects the expectation that the basic concept would need some customizing to suit diverse socioeconomic and geographic conditions across the vast state. The local government committee envisioned three classes of boroughs. Reference to these classes was dropped from the final document, but the thinking of the committee is revealing. In the commentary accompanying the draft, the committee said:

An amendment in 1972 to this section deleted a requirement that cities within a borough have formal representation on the borough assembly. The original provision was intended to promote cooperation between cities and boroughs and the integration of their activities. However, it violated principles of legislative apportionment enunciated in a series of federal reapportionment cases of the early 1960s (see commentary under Article VI) and was amended to allow for apportionment of the assembly on the basis of population.

### Section 5. Service Areas

Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be 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. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

This provision authorizes service areas, but keeps them within the jurisdiction of boroughs and minimizes their number. A service area may be created within a borough, but only if the service cannot be provided by an existing service area or by a city. Property receiving such services as road improvement, water supply, and fire protection from a special district may be taxed differentially to pay for them. Sections 2 and 15 prevent the existence of autonomous service areas outside the overall jurisdiction of a borough.

The local government committee saw a special need for service areas in sparsely settled areas. Commentary by the committee said:

One of the local government problems in Alaska today is the inability of small communities to organize for provision of just one or a few local services. By authorizing the establishment of service areas within boroughs, the proposed article makes it possible for a small unincorporated community or a relatively isolated area to meet a specific local need.

## Section 7. Cities

**Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.**

This section provides constitutional elaboration on cities, the second of the two local government units authorized in Section 2. It requires that cities be part of a surrounding borough if one exists (but they retain their independence of borough government with regard to their internal affairs). The section gives broad power to the legislature to build a statutory framework for the creation and operation of cities. The constitution suggests by reference to "classification" of cities and boroughs in this and other sections that flexibility should be provided by authorizing the creation of cities with different sets of duties and responsibilities. Two classes of cities are recognized by statute -- first- and second-class cities (see AS 29.04.030 and AS 29.35.250-350) -- in addition to home-rule cities (see Section 9 below and AS 29.04.010).

This section also gives the legislature broad power to specify how the separate existence of cities may be terminated (i.e., through merger, consolidation or unification, or dissolution). Statutory procedures for unification of a city and borough need not give voters of the dissolved city the right to ratify the change, even if the city is a home-rule city (*City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040, 1971; see also Section 12 on page 204).

## Section 8. Council

**The governing body of a city shall be the council.**

This section provides that the governing body of a city be referred to as the "council" and Section 4 provides that the governing body of a borough be referred to as the "assembly."

Statutes provide that a general-law borough or first-class city may adopt a home-rule charter, as may a second-class city that exceeds 35 square miles in area if the Department of Community and Regional Affairs determines that the population of the city is at least 3,500 permanent residents (AS 29.10.010).

### Section 11. Home Rule Powers

**A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.**

This broad grant of home-rule power is unusual among state constitutions. Typically, other state constitutions enumerate the powers that may be exercised by home-rule municipalities, and courts have tended to interpret these enumerated powers narrowly. By extending "legislative powers" not otherwise prohibited to home-rule municipalities, the authors of Alaska's local government article sought to make home-rule powers as expansive as possible.

Unfortunately, it is often unclear whether state laws were intended to preempt local action, and the courts have been called on repeatedly to determine whether municipal ordinances are valid in the face of seemingly contrary state law. Thus, the judicial task has not been to wrestle with a definition of "legislative powers" but to ascertain, often through arcane statutory exegesis, whether state laws were meant to further a specific statewide policy and have uniform statewide application. If so, then the local enactment must yield. For example, an Anchorage building permit ordinance prohibited an electric utility from extending power lines to certain portions of the service area awarded to it by the Alaska Public Utility Commission. The court said that the authority of the commission derived from state law should prevail (*Chugach Electric Association v. City of Anchorage*, 476 P.2d 115, 1970). Similarly, the court found that a local ordinance which required a person with a tort claim against the home-rule city to give written notice to the city within 120 days after the incident giving rise to the claim thwarted state law which established a two-year period within which such claims could be filed (*Johnson v. City of Fairbanks*, 583 P.2d 181, 1978). In *McCauley v. Hildebrand* (491 P.2d 120, 1971), the court prevented a home-rule city from requiring the local school district to participate in a centralized accounting system without the school board's consent, as such consent was required by state law (see also *Simpson v. Municipality of Anchorage*, 635 P.2d 1197, 1981; and *City of Valdez v. State*, 793 P.2d 532, 1990).

## Local Government

committee, this scheme allows boundary decisions to be made "at a level where area-wide or statewide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively."

The term "boundary change" encompasses a number of actions, including annexation, detachment, and alterations inherent in the creation of new units of local government. However, the Alaska Supreme Court has interpreted this section to apply to such changes as annexations and detachments, not to the creation of new cities and boroughs. Although the local boundary commission plays a key role in new incorporation, it does so through authority conferred on it by the legislature under Sections 3 and 7 of this article (which says that cities and boroughs may be incorporated, merged, consolidated, classified, or dissolved in the manner provided by law). Therefore, the local boundary commission does not have to submit its decisions in these matters to legislative review under the procedure specified in this section (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92; 1974).

Boundary changes that result from annexation may well involve the dissolution of an existing unit of government. In such cases, approval of the annexation by the local boundary commission, if it survives legislative scrutiny as provided here, is decisive, even if statutory procedures regarding dissolution require ratification by the voters of the dissolved governmental unit (see *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 1962, involving the dissolution through annexation of a public utility district without ratification, and *Oesau v. City of Dillingham*, 430 P.2d 180, 1968, involving the dissolution through annexation of a fourth-class city).

The local boundary commission must consider proposals for local government boundary changes requested of it by the legislature, the commissioner of the Department of Community and Regional Affairs, or a political subdivision of the state (AS 44.47.567). Thus, for example, the local boundary commission considered and approved a request by the commissioner of the Department of Community and Regional Affairs for detachment from the North Slope Borough of the mineralized zone around the Red Dog mining property. This detachment was critical to the success of the proposed Northwest Arctic Borough, incorporation of which the commission also approved.

Procedures for merger, consolidation and dissolution through petition by local residents are specified in AS 29.06.

**Section 14. Local Government Agency**

**An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.**

The agency established by this section is the Department of Community and Regional Affairs (formerly the Local Affairs Agency). It is the only executive agency mandated by the constitution (the local boundary commission created in Section 12 is one of five boards and commissions created by the constitution). Its presence here symbolizes both the importance placed on local government matters by the constitution's authors and the state interest they saw in fostering strong local self-government.

**Section 15. Special Service Districts**

**Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.**

At the time of the convention, school districts were the primary special service districts in existence. In keeping with the general constitutional objectives of minimizing local jurisdictions and favoring general purpose over special purpose government, the delegates voted to require school districts to be absorbed by boroughs. Under this scheme, the borough levies taxes to support education and approves the budget of the school district, which otherwise continues under the management of a local school board and separate school administration. Within general tax and budget restraints, borough school districts have substantial autonomy. A number of the delegates wanted independent school districts to remain autonomous after statehood; they were defeated by the approach adopted by convention which is reflected in this section.