

SB

48

ALASKA STATE LEGISLATURE



Senator John Torgerson, Chair
Senator Gary Wilken, Vice Chair
Senator Alan Austerman
Senator Randy Phillips
Senator Georgianna Lincoln

STATE CAPITOL, Room 427
JUNEAU, AK 99801-1182
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SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

DATE: February 6, 2001
TO: C&RA Committee File
FROM: Mary Jackson, C&RA Committee Staff
RE: SB 48 – February 7, 2001 Meeting Materials

Materials for the February 7, 2001 meeting, distributed 2/6/01, are:

1. Revised Sponsor Statement
2. Revised Fiscal Note

Informational material requested at the last meeting has not yet been received and will be distributed when received.

We have had written testimony submitted on this bill. Those materials are available for your review at any time and will also be on my desk at the meetings during which the bill is heard.

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Member: Finance
Member: Health, Education, &
Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs



During Session:
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Website: www.garywilken.com
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SPONSOR STATEMENT

Senate Bill 48 Equity in Education Funding Act

Last year the Department of Education and Early Development distributed over \$121 million in General Fund money to fund K-12 educational programs in 19 Regional Educational Attendance Area (REAA) school districts from which no local match dollars were required from its local residents to help support their children's educational needs. Meanwhile, citizens residing in Alaska's organized municipal school districts were required by state law to contribute \$144 million local dollars to support their local education.

The reason for this apparent unfair disparity in state law is simple: residents of an REAA school district live within a community or area of our state that does not have the authority to levy or collect taxes and, therefore, cannot be mandated by the State to contribute any local dollars towards education. Senate Bill 48 recognizes this unequal level of personal responsibility and establishes a procedure to analyze the readiness of the people in unorganized Alaska to establish a system of local government with the powers of taxation and thereby the capability of assisting in funding the K-12 education of their children.

This legislation acknowledges that, while all communities of Alaska are perhaps not financially able to sustain a borough government, some areas of the state may very well have developed the capacity to operate boroughs or may meet applicable standards for annexation to current boroughs. Senate Bill 48 directs the Department of Community and Economic Development to annually present to the Local Boundary Commission a list of areas in the unorganized borough that reasonably appear to satisfy existing standards for borough incorporation or annexation.

The Local Boundary Commission will consider and then select from this list areas that may warrant incorporation or annexation. The Department of Community and Economic Development will then draft an incorporation or annexation petition for the selected area,

Rec'd 3:15 PM
2/06/01 - HJ
(SenCKA)

**Potential Revenue Related Impacts of
SB 48 Municipalities: Incorporation/Property Valuation
Department of Community & Economic Development**

- **National Forest Receipts:** This program distributes federal funds to organized boroughs, REAAs, and cities within national forests. Funds may be used only for education and roads. If both national forests in Alaska were wholly included in organized boroughs, four REAAs and sixteen cities located within the unorganized portion of the Tongass and Chugach National Forests would become ineligible for funding.

Potential Impact: The \$5,567,748 currently received each year by those four REAAs and sixteen cities would be shifted to organized boroughs. The organized boroughs would assume responsibility for education in the areas previously served by the four REAAs and in nine cities (of the sixteen) that currently provide education services.

- **Payment in Lieu of Taxes (PILT):** The federal Payment in Lieu of Taxes Program (PILT) provides payments to local governments, typically counties or boroughs, that contain federal lands (national forest, national parks, etc.). A special provision for Alaska provides for distribution of PILT funds to ninety-six cities located in the unorganized borough. Current annual PILT funding for these cities is \$5.1 million.

Potential Impact: If the unorganized borough became incorporated as boroughs, the cities located within those boroughs would become ineligible for PILT funds, which would subsequently be distributed directly to the new boroughs.

- **State Revenue Sharing:** Unincorporated communities and volunteer fire departments (VFDs) located within the unorganized borough qualify for funding under the state revenue sharing program. Currently, sixty-five unincorporated communities receive a total of \$241,000 annually and twenty-one VFDs received a total of \$12,000 annually.

Potential Impact: Upon incorporation of a borough, these entities would no longer be eligible for funding. Their allocations would be redistributed to all municipalities under the existing revenue sharing formulas.

- **Unincorporated Capital Match Grant:** There are currently two state capital matching grant programs. One program provides funding for municipalities that share available funding through a formula-based allocation. A second program provides fixed \$25,000 capital matching grants for unincorporated communities located within the unorganized borough. Currently, seventy-four unincorporated communities participate and receive a total of \$1,850,000 annually.

Potential Impact: Were the unorganized borough to be completely incorporated as boroughs, the unincorporated communities would no longer be eligible for direct participation in the program. Funding for the unincorporated community program would be rolled into the municipal capital match program in which the newly incorporated boroughs would participate.

- **Fisheries Business Tax:** Under the Shared Fisheries Business Tax Program, cities located within the unorganized borough retain one-half of the state fish tax collected based on fish processing which occurred within their respective city boundaries. Last year, thirty-one cities located in the unorganized borough received a combined total of about \$4.6 million annually.

Potential Impact: Under this program, cities that are located within a borough are required to split the local share with the borough. Consequently, after incorporation of a new borough, half of this locally shared amount would be distributed to the new borough in which the city is located. This change in distributing fish tax funds would occur over a five year period.

FISCAL NOTE

Revised/mj

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: SB 48
 () Publish Date: _____
 Dept. Affected: DCED
 BRU: Comm Asst&Econ Dev
 Component: Community & Business Development
 Component Number: 2486

Revision Date/Time (Note if correction): 1/31/2001 (1:10p.m.)
 Title: Municipalities: Incorporation/Property Valuation
 Sponsor: WILKEN, Donley, Cowdery, Green, Phillips
 Requester: Senate CRA

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual	100.0	100.0	100.0	100.0	100.0	100.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims	0.0	300.0	500.0	600.0	600.0	600.0
Miscellaneous						
TOTAL OPERATING	100.0	400.0	600.0	700.0	700.0	700.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	400.0	600.0	700.0	700.0	700.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS						
TOTAL	100.0	400.0	600.0	700.0	700.0	700.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Assumptions.

- SB 48 will be enacted in 2001.
 - Beginning in FY 2002, one petition for borough incorporation or annexation will initiated annually under the provisions of SB 48. Each petition initiated under SB 48 would not have otherwise been initiated under current law. (Of course, if no petition is initiated, there will be no expense).
 - Each borough incorporation or annexation petition that is initiated under SB 48 will be approved by the Local Boundary Commission and the Legislature. The first such incorporation or annexation will occur in FY 2003. (Of course, if the Local Boundary Commission or Legislature disapprove the petition, there will be no cost for an organizational grant.)
 - For each petition, a financial consultant with expertise in local government finance and property values will be utilized to prepare an independent analysis of the financial feasibility of the proposed borough.
- (continued on separate page)

Prepared by: Pat Poland
 Division: Community and Business Development
 Approved by: Commissioner Deborah B. Sedwick
 Agency: Department of Community & Economic Development

Phone (907) 269-4580
 Date/Time 01/29/01
 Date 1/31/2001 1:10p.m.

For distribution information, call the Governor's Legislative Office

Estimated costs.

Contractual Services. \$100.0 will be needed annually beginning in FY 2002. These funds are necessary to prepare and process a petition for incorporation or annexation. The funds will be used primarily to develop credible and thorough expenditure and revenue projections relating to each proposed borough incorporation or annexation. Detailed information will be needed regarding local revenue alternatives (e.g., property taxes, general sales taxes, bed taxes, alcohol taxes, tobacco taxes, fish taxes, and severance taxes) as well as State and Federal revenue sources. Additionally, it is important to the long-term interests of the State to obtain a thorough and credible estimate of the full and true value of each area proposed for incorporation or annexation.

Organization grants. Each borough incorporation and annexation will result in an entitlement to an organization grant under AS 29.05.190. Each grant entitlement is paid over three years (\$300.0 the first year, \$200.0 the second year, and \$100.0 the third year).

Year	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
Contractual Services	\$100.0	\$100.0	\$100.0	\$100.0	\$100.0	\$100.0
Grants	0.0	300.0	500.0	600.0	600.0	600.0
Total	\$100.0	\$400.0	\$600.0	\$700.0	\$700.0	\$700.0



ALASKA STATE LEGISLATURE

SENATOR JOHN TORGERSON


- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

Session:

State Capitol, Room 427, Juneau, AK 99801
Telephone 907/465-2828 Fax 907/465-4779

District:

45457 Kenai Spur Hwy.; Suite 101B, Soldotna, AK 99669
Telephone 907/260-3042 Fax 907/260-3044

DATE: February 20, 2001
TO: Tam Cook, Legal
FROM: Mary Jackson 
RE: SB 48 – Committee Substitute: CRA

Please prepare a CS for SB 48 which will accomplish the following.

1. Include a section that authorizes the previous 3rd class borough incorporation.
2. Include a section that requests the LBC to formalize the unorganized borough areas by naming them separate unorganized boroughs (i.e., in lieu of one, large unorganized area, providing names for the several proposed boroughs, still keeping them "unorganized").

The request would include the suggestion that the newly named unorganized boroughs look to the boundaries of the existing REAAs and Model Borough Boundary Plan as a basis for drawing up boundaries for the new unorganized boroughs.

Thank you for your time and consideration.

REPRESENTING THE KENAI PENINSULA

*Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo
Kaslaf Lowell Point Moose Pass Nanwalek Nikolaevsk Ninilchik Port Graham Razdolna Seward Seldovia Soldotna Stariski Sterling Voznesenka*

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 6, 2001

SUBJECT: Annexation by local action, authority of the Local Boundary Commission (SB 48)

TO: Senator John Torgerson, Chair
Senate Community and Regional Affairs Committee
Attn: Mary Jackson

FROM: Tamara Brandt Cook
Director *TBC*

You note that current statutes dealing with borough formation require a vote of the people. (AS 29.05.110) You ask whether it is possible to have an annexation process that requires a vote of the people. It is and such a process exists now. AS 29.06.040(c) provides:

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

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

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

For regulations implementing the process see in particular 3 AAC 110.590 and 110.600(b). It is worth noting that the state constitution permits boundary changes by local action under the last sentence of Art. X, Sec. 12: "The commission or board [Local Boundary Commission], subject to law, may establish procedures whereby boundaries may be adjusted by local action."

You also ask about the relationship between the authority of the legislature and the authority of the Local Boundary Commission with respect to establishing and changing municipal boundaries. Both bodies share authority. The legislature is charged with coming up with standards for borough incorporation and with establishing methods for

Senator John Torgerson
February 6, 2001
Page 2

incorporating, changing, and dissolving cities and boroughs. (Art. X, secs. 3 and 7) However, the legislature is precluded from making a specific boundary change because such an effort, unless it can be demonstrated to be a matter of statewide rather than local concern, amounts to local and special legislation prohibited under Art. II, sec. 19. (Abrams v. State, 534 P.2d 91 (Alaska 1975))

The Local Boundary Commission, on the other hand, is charged under the state constitution with making specific boundary change proposals which automatically become effective unless disapproved by the legislature. (Art. X, sec. 12) Furthermore, the Local Boundary Commission may present any proposed boundary change. As to these proposals, voter approval is not required. The framers of the Alaska Constitution determined that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. (Fairview Pub. Util. Dist. No. 1 v. City of Anchorage, 368 P.2d 540 (Alaska 1962); City of Douglas v. City of Juneau, 484 P.2d 1040 (Alaska 1971)) For this reason, even in instances that involve local action and a vote of the people, the boundary change is also subject to approval by the Local Boundary Commission. (See AS 29.05.100 as to approval of incorporation petitions)

TBC:glc
01-101.glc

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: CSSB 48 (CR¹)
 () Publish Date: _____

Revision Date/Time (Note if correction): 03/07/2001 11:36a.m. Dept. Affected: DCED
 Title: Municipalities: Incorporation/Property Valuation BRU: Comm. Asst & Econ. Dev
 Component: Community and Business Development
 Sponsor: Senator Wilken
 Requester: Senate CRA Component Number: 2486

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel	16.0					
Contractual	114.0	100.0	100.0	100.0	100.0	100.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims	0.0	300.0	500.0	600.0	600.0	600.0
Miscellaneous						
TOTAL OPERATING	130.0	400.0	600.0	700.0	700.0	700.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	130.0	400.0	600.0	700.0	700.0	700.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	130.0	400.0	600.0	700.0	700.0	700.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

- Assumptions.
- SB 48 will be enacted in 2001.
 - Beginning in FY 2002, one petition for borough incorporation or annexation will initiated annually under the provisions of SB 48. Each petition initiated under SB 48 would not have otherwise been initiated under current law. (Of course, if no petition is initiated, there will be no expense).
 - Each borough incorporation or annexation petition that is initiated under SB 48 will be approved by the Local Boundary Commission and the Legislature. The first such incorporation or annexation will occur in FY 2003. (Of course, if the Local Boundary Commission or Legislature disapprove the petition, there will be no cost for an organizational grant.)
 - For each petition, a financial consultant with expertise in local government finance and property values will be utilized to prepare an independent analysis of the financial feasibility of the proposed borough.
- (continued on separate page)

Prepared by: Pat Poland, Director Phone 907-269-4580
 Division: Community and Business Development Date/Time 03/07/2001 11:36a.m.
 Approved by: Commissioner Deborah B. Sedwick Date 3/7/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

Fiscal Note: SB 48 -- Additional Notes

Estimated costs.

Contractual Services. \$100.0 will be needed annually beginning in FY 2002. These funds are necessary to prepare and process a petition for incorporation or annexation. The funds will be used primarily to develop credible and thorough expenditure and revenue projections relating to each proposed borough incorporation or annexation. Detailed information will be needed regarding local revenue alternatives (e.g., property taxes, general sales taxes, bed taxes, alcohol taxes, tobacco taxes, fish taxes, and severance taxes) as well as State and Federal revenue sources. Additionally, it is important to the long-term interests of the State to obtain a thorough and credible estimate of the full and true value of each area proposed for incorporation or annexation.

Organization grants. Each borough incorporation and annexation will result in an entitlement to an organization grant under AS 29.05.190. Each grant entitlement is paid over three years (\$300.0 the first year, \$200.0 the second year, and \$100.0 the third year).

Year	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
Contractual Services	\$100.0	\$100.0	\$100.0	\$100.0	\$100.0	\$100.0
Grants	\$0.0	\$300.0	\$500.0	\$600.0	\$600.0	\$600.0
Total	\$100.0	\$400.0	\$600.0	\$700.0	\$700.0	\$700.0

Additional Fiscal Impacts as per CSSB 48 (CRA)

DCED estimates its fiscal impact of dividing the single unorganized borough into multiple unorganized boroughs in accordance with Section 6 of CSSB 48 (CRA) to be \$30.0. In particular, DCED estimates the following fiscal impacts for Fiscal Year 2002.

Action	Cost
Printing, publication, and mailing of initial informational materials to principal local service providers throughout the unorganized borough (114 cities, 19 REAAs, 4 CRSAs, 11 Native regional non-profit associations, approximately 65 unincorporated recipients of state revenue sharing, and approximately 150 federally recognized tribal entities)	\$8.0
Travel by DCED staff to ten regional centers to conduct public informational meetings	\$8.0
Publication and mailing of public notice of ten DCED informational meetings	\$1.0
Publication and distribution of report to the LBC	\$1.0
Publication and mailing of public notice of ten LBC hearings	\$1.0
Travel by LBC to ten regional centers to conduct public hearings (assumes that LBC will split into two groups to conduct hearings, with 2 or 3 commission members and 1 staff attending each hearing).	\$8.0
Long distance telephone charges for teleconference connections	\$2.0
Publication and distribution of LBC decisions.	\$1.0

Assumptions for Additional CSSB 48 (CRA) Fiscal Impacts

The foundation for the division of the single unorganized borough into multiple unorganized boroughs already exists in the form of the model borough boundaries established by the LBC between 1989 – 1992. The model borough boundaries project involved LBC hearings in 88 communities (in person or by teleconference). Thus, public informational meetings and hearings to divide the unorganized borough into unorganized boroughs as required by CSSB 48 would be limited to those relatively few unorganized areas where circumstances warrant further consideration of the suitability of model boundaries as boundaries of unorganized boroughs. DCED estimates that ten such areas exist. (continued on following page)

Fiscal Note: SB 48 -- Additional Notes (continued)

The fiscal impacts identified above do not include staff time since DCED's duties under existing law include serving as staff to the LBC. Moreover, DCED's duties include assisting local governments. DCED assumes that many communities will seek assistance from DCED on topics relating to CSSB 48. DCED is likely to include travel expenses and other expenses in that regard beyond the levels stated in the fiscal note. However, here again, such activities are consistent with the current duties and functions of DCED. Expenses incurred in such activities will be funded through DCED's normal operating funding.

A M E N D M E N T

#1

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 48(CRA), Draft Version "S"

1 Page 1, line 6, following "boroughs":

2 Insert "; and providing for an effective date"

3

4 Page 6, following line 6:

5 Insert a new bill section to read:

6 "* Sec. 8. This Act takes effect immediately under AS 01.10.070(c)."

vcvd 2/28/01
12:45 PM

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB 4 (CRA)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Municipal Property Tax Exemption BRU: Revenue Operations
Component: 2476
Sponsor: Senator Therriault
Requester: Senate Community and Regional Affairs Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollar.)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation, as amended by the committee substitute offered by Senate Community and Regional Affairs, would not have an effect on state revenues.

Prepared by: Dan Dickinson, Director Phone 269-1033
Division: Tax Division Date/Time Feb. 28, 2001, noon
Approved by: Larry Persily, Deputy Commissioner Date Feb. 28, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

22-LS0025\S
Cook
2/27/01

CS FOR SENATE BILL NO. 48(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS WILKEN, Donley, Cowdery, Green, Phillips

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the determination of full and true value of taxable municipal
2 property for purposes of calculating funding for education and certain other programs,
3 to incorporation of third class boroughs, to incorporation of certain boroughs in the
4 unorganized borough and annexation of portions of the unorganized borough to
5 boroughs and unified municipalities, and to the formation of separate unorganized
6 boroughs."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 **LEGISLATIVE PURPOSE.** (a) It is the purpose of the legislature to carry out the
11 directive contained in art. X, sec. 3, Constitution of the State of Alaska, which provides, in
12 part, "The entire State shall be divided into boroughs, organized or unorganized."

13 (b) The unorganized borough is divided into several unorganized boroughs to enable

1 the state to provide critical services on a more carefully controlled regional basis, to facilitate
2 the gathering of information that reflects regional differences, and to separately track state
3 expenditures and revenues in each of the unorganized boroughs.

4 (c) Permitting the incorporation of third class boroughs serves the purpose of
5 encouraging formation of organized boroughs by increasing options for the types of borough
6 government available to address unique local needs.

7 * Sec. 2. AS 14.17.510(a) is amended to read:

8 (a) To determine the amount of required local contribution under
9 AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the
10 Department of Community and Economic Development, in consultation with the
11 assessor for each district in a city or borough, shall determine the full and true value of
12 the taxable real and personal property in each district in a city or borough. If there is
13 no local assessor or current local assessment for a city or borough school district, then
14 the Department of Community and Economic Development shall make the
15 determination of full and true value from information available. In making the
16 determination, the Department of Community and Economic Development shall be
17 guided by AS 29.45.110. However, the full and true value of taxable real and
18 personal property in any area detached shall be excluded from the determination
19 of the full and true value of the municipality from which the property was
20 detached for the two years immediately preceding the effective date of the
21 detachment. Also, in making the determination for a municipality that is a
22 school district or for a city that is within a borough school district, the assessed
23 value of property taxable under AS 43.56 shall be excluded if a municipal tax is
24 not levied under AS 29.45.080 in that school district. The determination of full and
25 true value shall be made by October 1 and sent by certified mail, return receipt
26 requested, on or before that date to the president of the school board in each city or
27 borough school district. Duplicate copies shall be sent to the commissioner. The
28 governing body of a city or borough that is a school district may obtain judicial review
29 of the determination. The superior court may modify the determination of the
30 Department of Community and Economic Development only upon a finding of abuse
31 of discretion or upon a finding that there is no substantial evidence to support the

1 determination.

2 * Sec. 3. AS 29.05.031(a) is amended to read:

3 (a) An area that meets the following standards may incorporate as a home rule,
4 first class, [OR] second class, or third class borough, or as a unified municipality:

5 (1) the population of the area is interrelated and integrated as to its
6 social, cultural, and economic activities, and is large and stable enough to support
7 borough government;

8 (2) the boundaries of the proposed borough or unified municipality
9 conform generally to natural geography and include all areas necessary for full
10 development of municipal services;

11 (3) the economy of the area includes the human and financial resources
12 capable of providing municipal services; evaluation of an area's economy includes
13 land use, property values, total economic base, total personal income, resource and
14 commercial development, anticipated functions, expenses, and income of the proposed
15 borough or unified municipality;

16 (4) land, water, and air transportation facilities allow the
17 communication and exchange necessary for the development of integrated borough
18 government.

19 * Sec. 4. AS 44.33 is amended by adding a new section to article 11 to read:

20 **Sec. 44.33.830. Incorporation or annexation of unorganized areas.** (a) In
21 addition to other methods for incorporation and annexation provided by law, an area
22 of the unorganized borough may be incorporated as a first class, second class, or third
23 class borough or annexed to an existing borough or unified municipality under (b) - (f)
24 of this section. AS 44.33.814 - 44.33.828 apply to actions taken by the commission
25 under this section.

26 (b) The Department of Community and Economic Development shall
27 determine which areas of the unorganized borough reasonably appear to satisfy
28 standards for borough incorporation or for annexation to an existing borough or
29 unified municipality. By September 30 of each year, the department shall present to
30 the Local Boundary Commission a list of those areas that reasonably appear to satisfy
31 standards for borough incorporation or for annexation to an existing borough or

1 unified municipality, together with the department's analysis supporting its
2 conclusions regarding the incorporation or annexation standards for each of the areas.
3 By November 30 of each year, the commission shall select areas from the list provided
4 by the department that the commission determines may warrant incorporation or
5 annexation. By March 31 of the following year, the department shall prepare a
6 petition for borough incorporation or for annexation of each of the areas selected by
7 the commission. The department shall conduct at least one public meeting in each
8 area for the purpose of gathering information needed to prepare the petition. The
9 department shall provide public notice when the petition has been prepared, make
10 copies of the petition available, and provide any interested person with the opportunity
11 to submit written comments on the petition. After considering the comments, the
12 department may amend the petition. The department shall file the original petition or,
13 if amended, the amended petition with the commission.

14 (c) Upon receipt of a petition filed under (b) of this section, the Local
15 Boundary Commission shall hold at least one public hearing in or near the area
16 proposed for incorporation or annexation. Following the hearing, the commission may
17 amend the petition and may impose conditions on the incorporation or annexation. If
18 the commission determines that the incorporation or annexation meets applicable
19 standards under the state constitution as well as those established by law and
20 commission regulation and is in the best interests of the state, it may accept the
21 petition. Otherwise, it shall reject the petition. Each incorporation or annexation
22 approved by the commission shall be submitted to the legislature under AS 44.33.828
23 and takes effect as provided in that section.

24 (d) Regulations of the Local Boundary Commission filed under authority of
25 other provisions of law that apply to incorporation and annexation petitions and that
26 deal with the form and content of petitions, public notice of the filing of petitions,
27 service of petitions, opportunity to file responsive briefs, amendment of petitions,
28 notice and conduct of hearings, conduct of decisional sessions, and reconsideration
29 apply to the preparation and consideration of petitions under this section to the extent
30 they may be applied without conflicting with this section. The Local Boundary
31 Commission may adopt regulations providing additional standards and procedures for

1 incorporations or boundary changes under this section and to carry out the purposes of
2 this section.

3 (e) When a proposal for incorporation of an area under this section becomes
4 effective, the Local Boundary Commission shall immediately notify the director of
5 elections. Within 30 days after notification, the director of elections shall order an
6 election in the area for initial borough officials. The election shall be held under
7 AS 29.05.120 not less than 30 nor more than 90 days after the date of the election
8 order. The election order must specify the dates during which nomination petitions for
9 election of initial officials may be filed. AS 29.05.130 - 29.05.150, 29.05.190 -
10 29.05.210, and AS 29.65.030 apply to boroughs incorporated under this section.

11 (f) When a proposal under this section for annexation of an area in the
12 unorganized borough becomes effective, the borough or unified municipality to which
13 the area is annexed shall receive an additional general grant land entitlement equal to
14 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land
15 within the boundaries of the area annexed. Additional general grant land entitlements
16 under this subsection are subject to AS 29.65.030 - 29.65.140 to the extent that those
17 provisions can be made applicable. The borough or unified municipality to which the
18 area is annexed is also entitled to an organization grant under AS 29.05.190, and, for
19 purposes of applying that section, the effective date of the annexation shall be treated
20 as though it were the date of incorporation.

21 * Sec. 5. AS 29.05.031(b) is repealed.

22 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **FORMATION OF UNORGANIZED BOROUGHES.** The Department of Community
25 and Economic Development shall, by September 30, 2001, submit a proposal to the Local
26 Boundary Commission to divide the entire area of the unorganized borough into separate
27 unorganized boroughs, taking into account population, geography, economy, and
28 transportation in each of the proposed unorganized boroughs. The Local Boundary
29 Commission shall submit each proposed unorganized borough it approves to the legislature
30 during the first 10 days of the Second Session of the Twenty-Second Alaska Legislature for
31 consideration under art. X, sec. 12, Constitution of the State of Alaska.

1 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 CONFORMING STATUTORY CHANGES. If separate unorganized boroughs are
4 formed under sec. 6 of this Act, after formation of the unorganized boroughs, the revisor of
5 statutes shall correct the statutes that refer to the single unorganized borough so that they refer
6 to the unorganized boroughs.

AMENDMENT #2

OFFERED IN THE SENATE

BY SENATOR LINCOLN

TO: CSSB 48(CRA), Draft Version "S"

1 Page 4, line 21:

2 Delete "incorporation or"

3

4 Page 5, lines 3 - 10:

5 Delete all material and insert:

6 "(e) When a petition for incorporation of an area is approved by the Local
7 Boundary Commission under (c) of this section, the commission shall immediately
8 notify the director of elections. Within 30 days after notification, the director of
9 elections shall order an election in the area to determine whether voters desire
10 incorporation and, if so, to elect the initial borough officials. The election shall be
11 held under AS 29.05.120 not less than 30 nor more than 90 days after the date of the
12 election order. The election order must specify the dates during which nomination
13 petitions for election of initial officials may be filed. If a majority of the voters voting
14 on the question approve incorporation, the area is incorporated on the first Monday
15 following certification of the election. AS 29.05.130 - 29.05.150, 29.05.190 -
16 29.05.210, and AS 29.65.030 apply to a borough incorporated under this section."

Senate Bill 48

Equity in Funding Education Act



Senate Community and Regional Affairs Committee
January 31, 2001

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Member: Finance
Member: Health, Education, &
Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs



During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: (907) 451-5501
Fax: (907) 451-0438

SPONSOR STATEMENT

Senate Bill 48 Equity in Education Funding Act

Last year the Department of Education and Early Development distributed over \$121 million in General Fund money to fund K-12 educational programs in 19 Regional Educational Attendance Area (REAA) school districts from which no local match dollars were required from its local residents to help support their children's educational needs. Meanwhile, citizens residing in Alaska's organized municipal school districts were required by state law to contribute \$144 million local dollars to support their local education.

The reason for this apparent unfair disparity in state law is simple: residents of an REAA school district live within a community or area of our state that does not have the authority to levy or collect taxes and, therefore, cannot be mandated by the State to contribute any local dollars towards education. Senate Bill 48 recognizes this unequal level of personal responsibility and establishes a procedure to analyze the readiness of the people in unorganized Alaska to establish a system of local government with the powers of taxation and thereby the capability of assisting in funding the K-12 education of their children.

This legislation acknowledges that, while all communities of Alaska are perhaps not financially able to sustain a borough government, some areas of the state may very well have developed the capacity to operate boroughs or may meet applicable standards for annexation to current boroughs. Senate Bill 48 directs the Department of Community and Economic Development to annually present to the Local Boundary Commission a list of areas in the unorganized borough that reasonably appear to satisfy existing standards for borough incorporation or annexation.

The Local Boundary Commission will consider and then select from this list areas that may warrant incorporation or annexation. The Department of Community and Economic Development will then draft an incorporation or annexation petition for the selected area,

**Sponsor Statement for SB 48
Equity in Education Funding Act**

hold local public meetings, and finalize and file the petition. Upon receipt of the final petition, the Local Boundary Commission will hold additional local public meetings and either accept or reject the petition as conforming or not conforming to existing applicable incorporation standards.

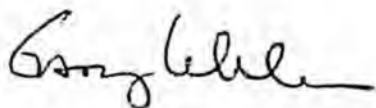
If, after a thorough review, the Local Boundary Commission accepts the incorporation or annexation petition, the decision will be submitted to the Legislature for an additional legislative review. If the Legislature does not reject the recommendation within a prescribed period of time, the new borough or annexation is approved.

It is important to note that SB 48 merely creates a new option in which a petition for borough incorporation or annexation is originated. After the petition is filed, the Local Boundary Commission will follow a process for legislative review that has been in place since statehood. That is, the current standards for incorporation will be followed as well as the current procedural requirements currently in state law. The selected area population must be suitably large, homogenous, and demonstrate the stability to support borough government before it is considered for incorporation or annexation.

Delegates to the Alaska State Constitutional Convention clearly envisioned in Article X that organized boroughs would be established wherever citizens were ready for and capable of assuming the responsibilities of local government. Senate Bill 48 assists in the formation of these boroughs. With the creation of an organized borough, its citizens will be empowered to contribute local dollars to supplement State funding for the operation of their schools, assist in the financing of new schools, and through cost efficiencies, be able to direct more local funds toward student instruction. In other words, the new borough residents will have an opportunity to improve their local educational system with their own local dollars.

Senate Bill 48 continues a process that began some 40 years ago with the passage of the Borough Act of 1961. A stronger, financially sound educational system throughout all areas of the State will be one of the major benefactors of this legislation.

I respectfully request your consideration and support of SB 48.



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 29, 2001

SUBJECT: Sectional Summary (SB 48)

TO: Senator Gary Wilken
Attn: Sheila Peterson

FROM: Tamara Brandt Cook *TBC*
Director

Sec. 1. In determinations of full and true value of taxable property used for purposes of local contributions for education, among others, requires the value of property in any area detached to be excluded from the determination for the municipality from which the property was detached for the two years immediately preceding the date of the detachment. Also excludes the value of certain oil and gas property if a municipal tax is not levied on it.

Sec. 2. Establishes an additional method for incorporation or annexation of an area of the unorganized borough. The Department of Community and Economic Development is directed to determine which areas of the unorganized borough satisfy standards for borough incorporation or for annexation to a borough and to present the Local Boundary Commission a list of those areas by September 30 each year. The LBC selects areas from the list that warrant incorporation or annexation and the department prepares an incorporation or annexation petition for them. After hearings, the LBC may accept or reject the petition. Each incorporation or annexation approved by the LBC is submitted to the legislature for possible disapproval. When an incorporation proposal becomes effective, an election for initial borough officials is held. When an annexation proposal becomes effective the borough or unified municipality to which the area is annexed qualifies for an additional general grant land entitlement and to an organization grant.

TBC:glc
01-065.glc

STRUCTURES of LOCAL GOVERNMENT in ALASKA

Type	No.	Requirement	Powers by	Jurisdiction-wide			Other Powers	Examples
				Educ	Plan ¹	Tax ²		
Home Rule City (Organized Boro)	7	= or >400 residents	Charter	NO	MAY ³	MAY	May exercise all legislative powers not prohibited by law or charter (Art.X, Sec 11, AK. Constitution)	S&W; Fr; Pl; Rc; Ut; Lb; P&H; Rd; Pk
Home Rule City (Unorganized Boro)	5	= or >400 residents	Charter	MUST	MUST	MAY	May exercise all legislative powers not prohibited by law or charter. (Art.X, Sec 11, AK. Constitution)	S&W; Fr; Pl; Rc; Ut; Lb; P&H; Rd; Pk
First Class City (Organized Boro)	8	= or >400 residents	State Statutes	NO	MAY ³	MAY	May exercise a power not otherwise prohibited by law (AS 29.35.250)	S&W; Fr; Pl; Rc; Lb; P&H; Rd; Hc
First Class City (Unorganized Boro)	13	= or >400 residents	State Statutes	MUST	MUST	MAY	May exercise a power not otherwise prohibited by law (AS 29.35.260)	S&W; Fr; Pl; Rc; Lb; P&H; Rd; Hc
Second Class City (Organized Boro)	34	= or >25 voters	State Statutes	NO	MAY ³	MAY	May exercise a power not otherwise prohibited by law (AS 29.35.250)	S&W; Fr; PS; Rc; Lb; Hc;Ws; Pk
Second Class City (Unorganized Boro)	78	= or >25 voters	State Statutes	NO	MAY	MAY	May exercise a power not otherwise prohibited by law (AS 29.35.260)	S&W; Fr; PS; Rc; Lb; Hc;Ws; Pk
Unified Municipalities (Unified Borough)	3	Area & population with same interests	Charter	MUST	MUST	MUST ⁵	May exercise all legislative powers not prohibited by law or charter. (Art.X, Sec 11, AK. Constitution)	S&W; Fr; Pl; Rc; Ut; Lb; P&H; Rd; Pk; Pz; Ac
Home Rule Borough (Non-Unified)	5	Area & population with same interests	Charter	MUST	MUST	MUST ⁵	May exercise all legislative powers not prohibited by law or charter. (Art.X, Sec 11, AK. Constitution)	S&W; Fr; Pl; Rc; Lb; P&H; Hc; Ws
First Class Borough (Non-Unified)	0	Area & population with same interests	State Statutes	MUST	MUST	MUST ⁵	May exercise by ordinance (not voter approval) on a non-areawide basis any power not otherwise prohibited by law. (AS 29.35.200)	No First Class Boroughs Exist
Second Class Borough (Non-Unified)	7	Area & population with same interests	State Statutes	MUST	MUST	MUST ⁵	May exercise by voter approval on a non-areawide basis any power not otherwise prohibited by law. (AS 29.35.200)	S&W; Fr; Pl; Rc; Lb; Rd; Pk; Pz; Ac; Hp
Third Class Borough (Non-Unified)	1	Area & population with same interests	State Statutes	MUST	NO	MUST ⁵	May exercise any power not prohibited by law, but only on a service area basis. Home Rule/1st Class city within Boro has land use powers. ⁴	Fr; Rc; Lb; Rd; Pz; Hc; P&H

¹ Plan means planning, platting and land use regulation.

² Tax means tax assessment and collection.

⁵ Borough must assess/collect taxes IF levied thru local choice.

³ This power requires delegation from the borough.

⁴ State law prohibits formation of new third class boroughs - AS 29.05.031.

Example of Other Powers -- Code Explanation

Ac - Animal Control

Fr - Fire/Paid or Volunteer

Hc - Health Clinic

Hp - Hospital

Lb - Library

Pk - Parks/Recreation

Pz - Planning/Zoning

Pl - Police/PSO

P&H - Ports & Harbors

Rc - Refuse Collection/Landfill

Rd - Road Maintenance

S&W - Sewer/Water

Ut - Utilities

Ws - Washeterias

STRUCTURES of LOCAL GOVERNMENT in ALASKA

Home Rule Cities								Unified Municipality	
Cordova	* Kenai	* Kodiak	* North Pole	Petersburg	Valdez			Municipality of Anchorage City & Borough of Juneau City & Borough of Sitka	
Fairbanks	* Ketchikan	Nenana	* Palmer	* Seward	Wrangell				
First Class Cities								Home Rule Borough	
Barrow	Galena	Hoonah	* King Cove	Pelican	* Seldovia	Tanana		Denali Lake and Peninsula North Slope Northwest Arctic Yakutat	
Craig	* Haines	Hydaburg	Klawock	St. Mary's	Skagway	Unalaska			
Dillingham	* Homer	Kake	Nome	* Sand Point	* Soldotna	* Wasilla			
Second Class Cities								Second Class Borough	
Akiak	Bethel	Eagle	* Houston	Kupreanof	Nikolai	* Port Heiden	Shishmaref	Aleutians East Bristol Bay Fairbanks North Star Kenai Peninsula Ketchikan Gateway Kodiak Island Matanuska-Susitna	
Akiak	Bettles	Eek	Hughes	Kwethluk	* Nondalton	* Port Lions	* Shungnak		
Akutan	Brevig Mission	* Egegik	Huslia	* Larsen Bay	* Noorvik	Quinhagak	Stebbins		
Alakanuk	* Buckland	Ekwok	* Kachemak	Lower Klaskag	* Nuiqsut	Ruby	Teller		
Aleknagik	Chefornak	Elim	* Kaktovik	Manokotak	Nulato	Russian Mission	Tenakee Sprg.		
Allakaket	Chevak	Emmonak	Kaltag	Marshall	Nunam Iqua	St. George	Thorne Bay		
Ambler	* Chignik	* False Pass	Kasaan	McGrath	Nunapitchuk	St. Michael	Togiak		
Anaktuvuk Pass	Chuathbaluk	Fort Yukon	* Kiana	Mekoryuk	* Old Harbor	St. Paul	Toksook Bay		
Anderson	Clark's Point	Gambell	* Kivalina	Mt. Village	* Quzinkie	Savoonga	Unalakleet		
Angoon	Coffman Cove	Golovin	* Kobuk	Napakiak	* Pilot Point	* Saxman	Upper Kalskag		
Aniak	* Cold Bay	Goodnews Bay	Kotlik	Napaskiak	Pilot Station	Scammon Bay	* Wainwright		
Anvik	* Deering	Grayling	* Kotzebue	NewStuyahok	Platinum	* Selawik	Wales		
Atka	Delta J'ct.	Holy Cross	Koyuk	* Newhalen	* Point Hope	Shageluk	White Mt.		
Atkasuk	Diomede	Hooper Bay	Koyukuk	Nightmute	Pt. Alexander	Shaktolik	Whittier		

*City is within an organized borough.

Third Class Borough
Haines
(1st Class Boro = none)

Organized City Government				Organized Borough Government		Definitions	
Type	In Org. Boro	In Unorg. Boro	Total				
Home Rule	7	5	12	Unified Municipalities	3	Areawide - throughout the entire borough	
First Class	3	13	21	Home Rule Boroughs	5	Non areawide - throughout the entire borough exclusive of the area lying within the corporate limits of city governments	
Second Class	34	78	112	First Class Boroughs	0	Service Area - an area in which the borough provides higher or different levels of service than it provides on an areawide or non-areawide basis.	
Total	49	96	145	Second Class Boroughs	7		
				Third Class Boroughs	1		
				Total	16		

Eight boroughs were formed under the 1963 Mandatory Borough Act. (Mat-Su, Kodiak Is., Ketchikan Gateway, Kenai Peninsula, Fairbanks North Star, Anchorage, Sitka, Juneau)
 In 2000, 87% of the total population resided in organized boroughs.
 Currently 83% of Alaskans live in mandated boroughs; 4% live in boros formed voluntarily.

* Denali, Lake and Peninsula, Northwest Arctic and Aleutians East Boroughs have no property tax.
 * Three percent of Alaskans live outside any municipal government.
 * Alaska is the only state in the union that has unorganized regions within its boundaries.

LEGISLATIVE REVIEW ANNEXATION PROCESS

Background: This process was established in 1959 under Alaska's Constitution. It has been successfully used in over 100 municipal boundary changes over the past 41 years.

- ◆ Petitioner files annexation petition.
- ◆ DCED:
 - ◆ reviews petition for technical adequacy
 - ◆ may hold local public meeting
 - ◆ reports findings and recommendations to LBC.
- ◆ LBC:
 - ◆ holds local public hearing(s)
 - ◆ accepts/rejects petition as meeting/not meeting annexation standards.
- ◆ If accepted, LBC submits decision for legislative review.
- ◆ Legislature may accept or reject decision. If accepted, annexation is approved.

PROPOSED NEW OPTION FOR BOROUGH INCORPORATIONS/ANNEXATIONS

Background: This process is proposed as a way to extend borough government to areas that meet existing standards for borough incorporation or annexation..

- ◆ DCED annually presents LBC with list of areas in unorganized borough that reasonably appear to satisfy standards for borough incorporation or annexation.
- ◆ LBC annually selects from list which area(s) may warrant incorporation or annexation.
- ◆ DCED, for selected area(s):
 - ◆ drafts petition
 - ◆ holds local public meeting(s)
 - ◆ finalizes and files petition.
- ◆ LBC:
 - ◆ holds local public hearing(s)
 - ◆ accepts/rejects petition as meeting/not meeting applicable standards.
- ◆ If accepted, LBC submits decision for legislative review.
- ◆ Legislature may accept or reject decision. If accepted, incorporation or annexation is approved.

Summary of Standards for Borough Incorporation

*Prepared by Local Boundary Commission Staff
Alaska Department of Community and Economic Development
550 West 7th Avenue, Suite 1790, Anchorage, Alaska 99501-3510
907-269-4559*

Standards regarding the creation of organized boroughs are provided in Alaska's Constitution, statutes, and regulations. The standards are summarized below

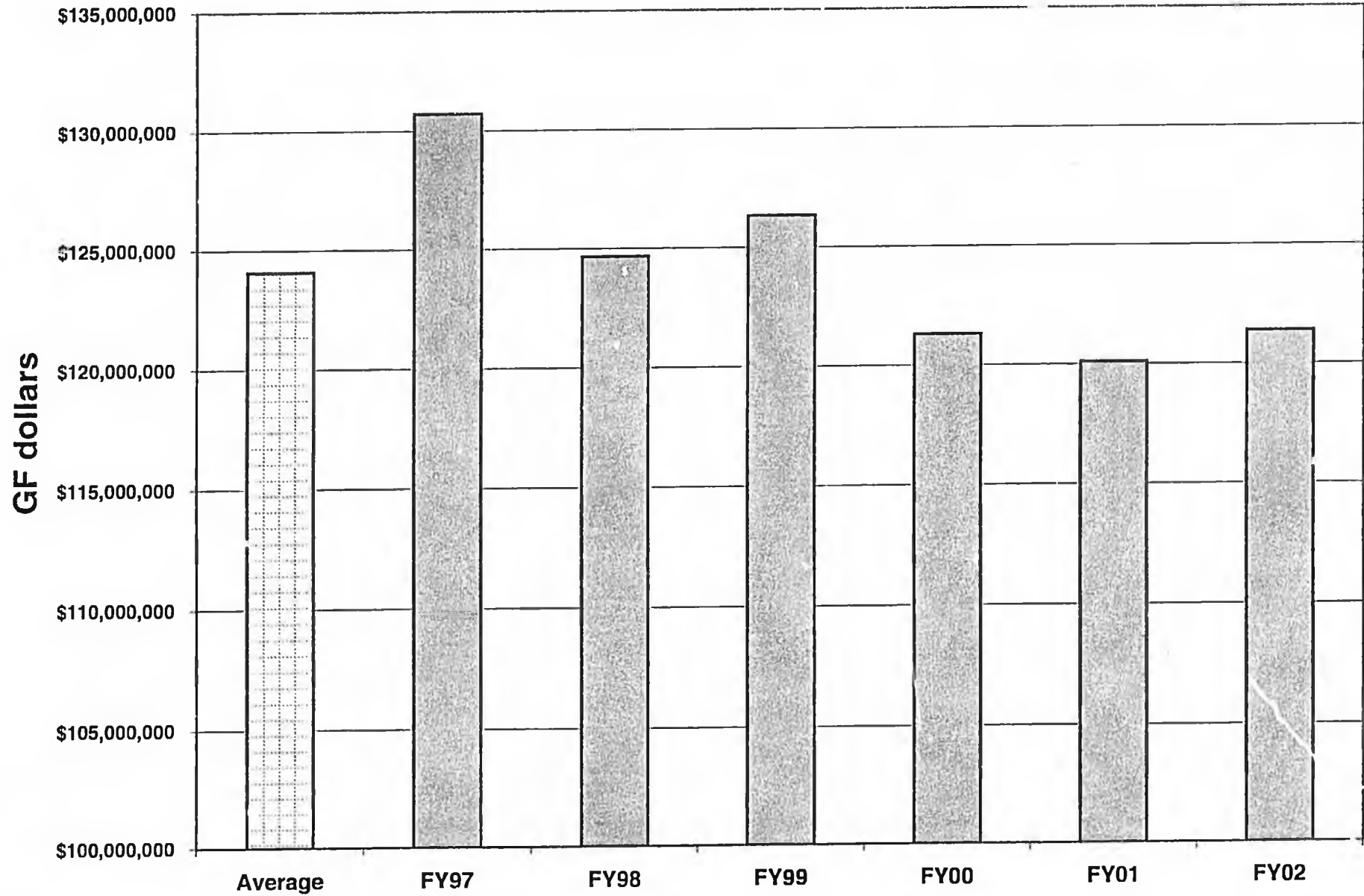
- Borough incorporation is encouraged under Alaska's Constitution. (Art. X, § 1, Ak. Const.)
- All of Alaska must be divided into boroughs (organized or unorganized) with each embracing an area and population with common interests to the maximum degree possible. (Art. X, § 3, Ak. Const.)
- Alaska's Constitution favors larger boroughs in order to avoid the proliferation of small boroughs. (Art. X, § 1, Ak. Const.)
- Borough incorporation must be in the best interests of the state. (AS 29.05.100)
- Borough residents must be socially, culturally, and economically interrelated and integrated. [AS 29.05.031(a)(1); 3 AAC 110.045(a)-(b)]
- The population must be large and stable enough to support borough government. It is formally presumed that a borough will have at least 1,000 permanent residents. (AS 29.05.031(a)(1); 3 AAC 110.050)
- Boundaries must conform generally to natural geography and include all areas necessary for full development of municipal services. [AS 29.05.031(a)(2); 3 AAC 110.060(a)]
- Consideration must be given to model borough boundaries adopted by the Local Boundary Commission. [3 AAC 110.060(b)]
- Boundaries must conform to regional educational attendance area boundaries, unless the Local Boundary Commission allows otherwise. [3 AAC 110.060(c)]
- There must be adequate human and financial resources to provide borough services. (AS 29.05.031(a)(3); 3 AAC 110.055)
- There must be adequate facilities to allow the communication and exchange necessary for the development of integrated borough government. [AS 29.05.031(a)(4); 3 AAC 110.045(c)-(d)]



Profile of the Unorganized Borough

- ◆ Created in 1961 as an instrumentality of the State of Alaska
- ◆ Comprised all of Alaska not within an organized borough
- ◆ Alaska State Legislature sits as the “assembly” for the unorganized borough
- ◆ Consists of 374,843 square miles (larger than France and Germany combined)
- ◆ Consists of four Coastal Resources Services Areas
- ◆ Encompasses 11 census areas
- ◆ Encompasses all or portions of nine Alaska State House election districts
- ◆ Encompasses all or portions of 10 of Alaska’s 12 regional Native Corporations
- ◆ Encompasses model borough regions for 19 unorganized areas
- ◆ Residents total 13% of Alaska’s population - 82,809 residents
- ◆ Includes 37 of Alaska’s 53 school districts (70% of all school districts)
- ◆ Includes 19 Regional Educational Attendance Areas (population - 52,702)
- ◆ Includes 18 city school districts (population - 30,107)
- ◆ Includes 96 of Alaska’s 145 cities (66% of all city governments)

**General Fund Contribution
Regional Educational Attendance Areas
FY 97 - FY 02**



10-year REAA School Capital Funding History

Fiscal Year (FY)	Amount
FY92	\$17,594,700
FY93	\$14,770,400
FY94	\$39,478,809
FY95	\$0
FY96	\$400,000
FY97	\$5,322,300
FY98	\$336,720
FY99	\$28,359,075
FY00	\$0
FY01	\$90,674,000

10-YEAR TOTAL	\$196,936,004
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10-YEAR AVERAGE	\$19,693,600
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Real Estate Advertisement
in a
Community Newsletter
(Community Location - in the Unorganized Borough)

Real Estate:

House for Sale or rent by owner. \$1,250/mo + utilities. 2 bedroom/ 1 loft, lots of storage. Located in [REDACTED]. Call [REDACTED] at (907) [REDACTED].

VULTURES Welcome...
.Must Sell - 4bdrm, 2bath, 2 kitchen, over 2000 sq ft, full sand pad, out bldg with shop/steam in [REDACTED]. Appraised \$217,000 but WILL TAKE REASONABLE OFFER. Call [REDACTED] (907) [REDACTED].

[REDACTED]
\$160,000 Located in [REDACTED] Sub. Neighborhood is bounded by vacant land to the north, west and south and [REDACTED] to the east. Built in the early 80's, 1469 sq. feet of living space with one bedroom, a sleeping loft and one bath. Please do not disturb tenants. Call [REDACTED] at 907-[REDACTED] or [REDACTED] to view property. Tenants will need 24 hours notice to show.

HOUSE FOR SALE: Located at [REDACTED]. Four bedrooms with two baths. Large living room and kitchen with tons of storage space. Hot tub room off of main bath. Home is equipped with 1000-gallon water tank, forced air furnace, toy stove in living room with wood burner in kitchen. The house is 1700 sq feet located on 10,665 sq foot lot. Selling for \$202,000. Call [REDACTED].

REAA WAGES AND AVERAGE EMPLOYMENT (FY 1999)

Sorted by Average Wage Paid Per Employee

	WAGES PAID & TYPE			AVE. MONTHLY EMPLOYMENT			AVE. WAGE PER EMPLOYEE
	GOVT	PRIVATE	TOTAL	GOVT	PRIVATE	TOTAL	
A	\$ 4,420,482	\$ 13,378,554	\$ 17,799,036	137	291	428	\$ 41,587
B	18,397,803	10,103,250	28,501,053	464	456	920	30,979
C	8,606,578	19,870,388	28,476,966	249	710	959	29,694
D	3,520,907	11,313,030	14,833,937	135	397	532	27,883
E	9,215,718	22,268,163	31,483,881	30	832	1,139	27,642
F	9,635,672	3,458,778	13,094,450	323	153	476	27,509
G	6,085,262	5,410,114	11,495,376	202	216	418	27,501
H	6,858,381	4,118,284	10,976,665	238	163	401	27,373
I	1,878,633	5,638,392	7,517,025	60	225	285	26,376
J	2,870,581	4,394,216	7,264,797	109	171	280	25,946
K	3,530,441	5,480,661	9,011,102	203	163	366	24,620
L	7,975,413	9,790,055	17,765,468	233	507	740	24,007
M	55,882,109	67,719,747	123,601,856	2,166	3,059	5,225	23,656
N	5,718,320	3,035,657	8,753,977	204	167	371	23,596
O	22,749,598	12,218,767	34,968,365	1,146	808	1,954	17,896
P	13,553,081	8,312,138	21,865,219	654	625	1,279	17,096
Q	560,411	576,531	1,136,942	21	54	75	15,159
TOTAL:	\$ 181,459,390	\$ 207,086,725	\$ 388,546,115	6,851	8,997	15,848	\$ 24,517

REAA WAGES AND AVERAGE EMPLOYMENT (FY 2000)

Sorted by Average Wage Paid Per Employee

	WAGES PAID & TYPE			AVE. MONTHLY EMPLOYMENT			AVE. WAGE PER EMPLOYEE
	GOVT	PRIVATE	TOTAL	GOVT	PRIVATE	TOTAL	
A	\$ 2,011,322	\$ 10,095,444	\$ 12,106,766	57	275	332	\$ 36,466
B	17,487,371	11,346,584	28,833,955	441	454	895	32,217
C	9,180,009	22,968,470	32,148,479	260	763	1,023	31,426
D	5,707,415	16,340,738	22,048,153	200	557	757	29,126
E	5,992,336	8,303,762	14,296,098	204	294	498	28,707
F	3,993,804	4,184,346	8,178,150	123	165	288	28,396
G	9,899,516	2,904,719	12,804,235	349	112	461	27,775
H	3,906,584	10,985,199	14,891,783	150	397	547	27,224
I	2,888,538	4,981,138	7,869,676	104	187	291	27,044
J	8,020,743	12,091,961	20,112,704	219	566	785	25,621
K	57,926,362	79,694,548	137,620,910	2,270	3,363	5,633	24,431
L	3,554,465	4,938,452	8,492,917	205	152	357	23,790
M	6,770,588	2,047,390	8,817,978	246	131	377	23,390
N	5,176,002	3,401,499	8,577,501	217	190	407	21,075
O	20,345,573	8,948,128	29,293,701	867	684	1,551	18,887
P	23,282,177	14,091,253	37,373,430	1,107	883	1,990	18,781
Q	592,355	555,438	1,147,793	21	44	65	17,658
TOTAL:	\$ 186,735,160	\$ 217,879,069	\$ 404,614,229	7,040	9,217	16,257	\$ 24,889

R E C A P
of
Senate Bill 48
Equity in Education Funding Act

A Positive Approach

1. Alaskans who are able to financially help are asked to help fund their local educational program.
2. Existing state law regarding borough incorporation remains in place as an option for residents of the unorganized borough.
3. Local citizen participation in the education of their children is increased.
4. Additional dollars are available to appropriate statewide to increase the student dollar within the Education Funding Formula.
5. Proactive steps are taken to fulfill the intent of Article X of the Constitution of the State of Alaska.
- 6.
- 7.

Drawbacks

1. Initial "Up-front" costs – is it worth it?
- 2.
- 3.

**Testimony on Senate Bill 48
to the Senate Community & Regional Affairs Committee of the
First Session of the 22nd Alaska Legislature
January 31, 2001**

**by
Kevin Waring, Chairman, Local Boundary Commission**

Chairman Senator Torgerson and members of the Committee, thank you for this opportunity to testify on behalf of the Local Boundary Commission on Senate Bill 48. Since the Commission would play a central role in implementation of Senate Bill 48, I expect that legislators and others potentially affected by this legislation would like to hear how the Commission views this bill, and its responsibilities under the bill.

Last year, at the Commission's annual hearing before this Committee, I outlined a new legislative concept the Commission was considering. The concept involved two new steps by which borough government might be extended to the unorganized borough, but only to areas that met existing standards for borough incorporation or annexation. The topic stirred interest and questions, and was the most-discussed topic at our hearing last year.

Over the past year, the Commission held several work sessions on the concept. We examined the issues and worked on proposed legislation. Finally, in October, the Commission voted unanimously to propose draft legislation and make it available for legislative consideration. As background to the proposed legislation, the Commission also adopted a position paper on the need to reform State laws concerning borough incorporation and annexation. Copies of that position paper were given to you earlier.

You have also been provided several exhibits that summarize key points about the Commission's proposal.

- Exhibit 1 briefly describes key points in the Commission's proposal.
- Exhibit 2 compares the proposed new option to the existing legislative review annexation process.
- Exhibit 3 is a timeline that shows how the process would unfold, and shows how that process follows or parallels existing law.
- Exhibit 4 summarizes existing legislative standards for borough incorporation.

The Commission's goal in this matter was to put forward for legislative consideration and public discussion a fresh approach to borough government in the unorganized area that was uniformly fair, accountable, and within the framework of existing law. We believe the proposed legislation that Senator

Wilken and the co-sponsors have put before the Legislature in the form of Senate Bill 48 is consistent with these goals.

Senate Bill 48 has two sections. I will focus on Section 2, which deals with potential borough incorporations and annexations in unorganized areas. I will talk about incorporations, but my remarks pertain to the proposed method for administrative incorporation petitions, but also apply to proposed method for administrative annexations of unorganized areas.

Section 2 of Senate Bill 48 authorizes two new steps in the borough incorporation process:

- a new first step to initiate a borough incorporation petition; and
- a new last step to approve a petition.

Incorporation by Administrative Petition

Under current law, a petition for borough incorporation can only be initiated voluntarily by residents of a proposed borough. Few have volunteered. Only four percent of the State's residents live in boroughs that were created by local initiation. Another 83 percent live in boroughs established by the 1963 Mandatory Borough Act, an extraordinary act of local government legislation.

Senate Bill 48 adds a new option for incorporation by administrative petition. It directs the Department of Community and Economic Development to prepare annually a preliminary list, with supporting analysis, of unorganized areas that reasonably appear to satisfy existing legislative standards for borough incorporation or annexation. It further directs the Local Boundary Commission to select areas which may warrant incorporation or annexation, and to instruct the Department of Community and Economic Development to prepare and file a petition for incorporation. The Commission would then follow the established process for public review and local public hearings on petitions.

Petition Approval

The new final step involves a new method to approve incorporation petitions initiated under Senate Bill 48. This new step is modeled on the method the Legislature first established in 1959 for approval of local annexations.

Briefly, the legislature has already authorized a method for approval of certain municipal boundary changes without local election. Some annexation proposals, whatever their merits, are not well-received by affected residents. Therefore, the Constitution and legislature established a method by which contested petitions that met standards could be approved by the Local Boundary Commission without a local election, but subject to legislative veto. This method has been successfully followed in over 100 municipal boundary changes since statehood. Most significant annexations follow this method.

Similar to the method for legislative review annexation, Section 2(c) of Senate Bill 48 authorizes the Commission to approve incorporation petitions that meet the same incorporation standards that apply to all other boroughs, without a local election but subject to legislative veto.

Apart from these two new steps for initiating and approving a borough incorporation or annexation petition, the Commission would:

- follow other procedural requirements now in law, including local public hearings, and written decision by the Commission explaining its decision, and opportunity for administrative and judicial appeal; and
- implement standards for borough incorporation or annexation now in law.

The proposed steps include significant checks and balances. Before an incorporation could take place under this new method:

- the Department of Community and Economic Development must find that a region likely satisfies incorporation standards;
- the Commission must find that the petition meets all applicable standards and should be approved on its merits; and
- the Commission's approval is subject to legislative veto.

Next, let me raise and discuss directly some concerns that should be a part of legislative and public discussion about this bill.

First, in the view of the Commission, Senate Bill 48 is not the second coming of the 1963 Mandatory Borough Act, or any similar legislation. Unlike the Mandatory Borough Act, Senate Bill 48 authorizes a measured, case-by-case evaluation of proposed incorporations. Each petition will be evaluated on its merits. Proposals that do not meet the standards will not be approved. And, as under current law, even if a petition meets statutory standards, the Commission can reject the petition if there are sound public policy grounds to do so.

Here, I want to assure the legislature and other interested parties that the Commission does not have a mission to foster boroughs for the sake of boroughs. We don't see any purpose in worsening the standing of local government in rural Alaska by prematurely creating borough governments that are destined to fail. In this regard, I will point to the Commission's record. The record shows that in recent years the Commission has rejected several petitions to incorporate boroughs or annex unorganized areas to boroughs because those petitions did not meet applicable standards. Commission staff, with Commission concurrence, also returned two incorporation petitions that were deficient in content.

The Commission recognizes that some rural regions do not have the economic and financial resources needed to fund borough governments. The fiscal note that accompanies this bill reflects the our concern that any borough established

under Senate Bill 48 have a solid chance for success. The only new cost identified in the fiscal note, apart from already mandated organization grants, is the expense of conducting a thorough and independent analysis of the fiscal viability of each proposed borough.

Establishment of borough governments has been a matter of conflict for as long as Alaska has been a state. With that contentious history, it is easy to lose sight of the fact that borough governments have played an enormously positive role in Alaska's development. Boroughs have been our main tool to influence economic development for community benefit. For example, it is hard to believe that urban and rural communities affected by oil pipeline construction, oil and gas and mining development, management of forestry and fishing resources, growing energy demands, growth in tourism, and rapid urbanization would have managed better without borough government. Likewise, boroughs have been the means to fund and deliver better public services, accountable to local residents. In most matters, local government governs best.

Finally, let me note that the proposed legislation does remove on major disincentive to borough government. Section 1 (a) excludes locally untaxed oil and gas property from calculation of the required local contribution to education. Otherwise, Senate Bill 48 does not address other significant disincentives that have proven difficult to reform. The proposed legislation simply accepts those disincentives as a matter of fact, and leaves them to be addressed elsewhere.

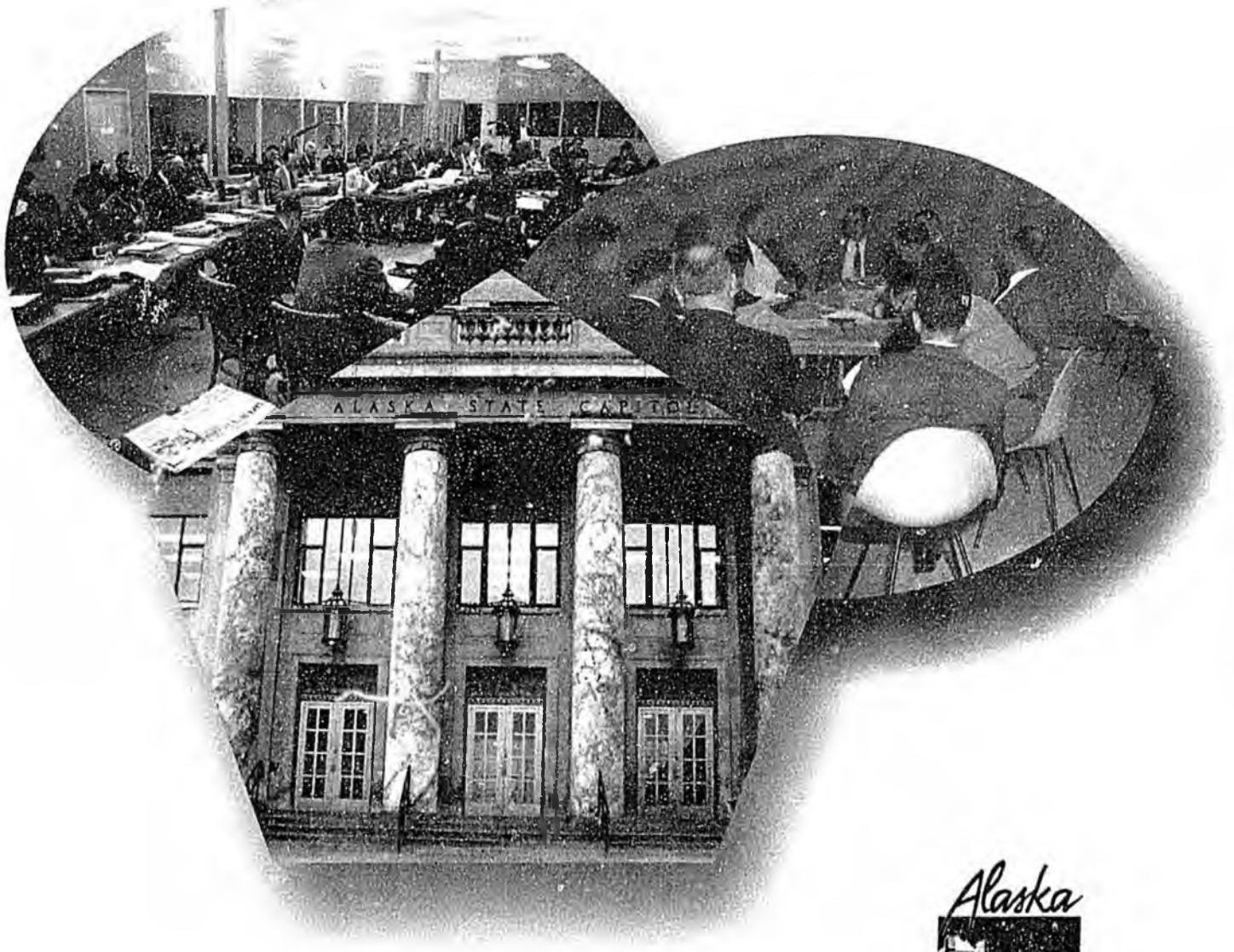
In closing, the Commission has done its best meet its goal of an approach that is uniformly fair, accountable, and within the framework of existing law. We believe the proposed approach:

- uniformly implements the standards for borough incorporation in existing law, but respects the diverse circumstances in different rural regions;
- provides checks and balances; and
- is modeled on existing law and minimally changes law.

That concludes my prepared remarks. I will be glad to respond to any questions.

Background on Boroughs in Alaska

November 2009



Deborah B. Sedwick
Commissioner



Department of
**Community and
Economic Development**

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Borough Government in Alaska

DISTINCTIONS BETWEEN CITIES AND BOROUGHS

Alaska has only two fundamental units of municipal government – cities and organized boroughs. Both are municipal corporations and political subdivisions of the State of Alaska. In certain instances, city governments and borough governments in Alaska have similar powers and duties. More particularly, the 18 home rule and first class city governments in the unorganized borough have virtually identical powers and duties as the 16 organized boroughs. A map listing the 18 cities appears on page 11.

While there are similarities between certain city governments and borough governments, there are also fundamental distinctions between the two. Paramount among these is the area served by each type of municipal government. Cities are community-based municipal governments. In contrast, organized boroughs are regional municipal governments. Consider the following:

- ◆ On average, the corporate boundaries of cities in Alaska encompass slightly more 27 square miles. In comparison, the average organized borough encompasses about 17,600 square miles (652 times the average size of cities).
- ◆ Current State law restricts the inclusion of large geographical regions or large unpopulated areas within cities. [3 AAC 110.040(b) - (c); 3 AAC 110.130(c) - (d)]. In contrast, several

provisions in Alaska's Constitution and laws promote borough boundaries that embrace large and natural regions. Specifically:

- ◆ Borough boundaries must conform generally to natural geography [AS 29.05.031(a)(2); 3 AAC 110.060; 3 AAC 110.190];
- ◆ Each borough must embrace an area and population with common interests to the maximum degree possible [Art. X, § 3, Ak. Const.];
- ◆ The Constitution promotes minimum numbers of local governments (which, in turn, encourages larger boroughs) [Art. X, § 1, Ak. Const.];
- ◆ Borough boundaries must conform to regional educational attendance area (REAA) boundaries (see REAA map on page 8) unless the Local Boundary Commission determines, after consultation with the Commissioner of the Department of Education and Early Development, that different boundaries are better suited [3 AAC 110.060(c); 3 AAC 10.190(d)]; and
- ◆ Borough boundaries must take into consideration the model boundaries defined by the Local Boundary Commission (see model borough boundaries map on page 12) [3 AAC 110.060(b); 3 AAC 110.190(c)].

- ◆ The boundaries of cities are limited to areas in which there is a need for city government. [3 AAC 110.010; 3 AAC 110.090]. Boroughs differ in that all of Alaska must be divided into boroughs (organized or unorganized) regardless of the need for borough services [Art. X, § 1, Ak. Const.].
- ◆ A city embraces a single community [AS 29.05.011; 3 AAC 110.040(b)]. In contrast, the law presumes that there will be multiple communities in a proposed new borough [3 AAC 110.045(b)].

CHARACTERISTICS OF EXISTING ORGANIZED BOROUGHS

Presently, there are 16 organized boroughs in Alaska.

Boroughs are adaptable to both rural and urban areas. More than 1/3 of Alaska's organized boroughs encompass areas that are exclusively rural (Bristol Bay, North Slope, Northwest Arctic, Aleutians East, Lake & Peninsula, and Yakutat). Another 1/3 of the boroughs include a number of rural communities (Kodiak Island, Kenai Peninsula, Haines, Ketchikan, Matanuska-Susitna, and Denali).

Eben Hopson, first Mayor of the North Slope Borough, promoted borough formation as a means to advance the social and economic well-being of North Slope residents. Additionally, he saw the North Slope Borough as a means to preserve and protect the Inupiat culture and language and to establish local control and self-determination. (Thomas Morehouse, et al., *Alaska's Urban and Rural Governments*, 1984, page 144.)

The Alaska Municipal League takes the following view concerning the suitability of boroughs in predominantly Native areas:

Borough government can be a valuable tool for local self-determination that allows municipal and tribal government/organizations to co-exist successfully while resources are maximized. (Alaska Municipal League, *AMI Issue Paper: Municipal Government in Alaska.*)

Home rule boroughs are the most popular form of organized borough in Alaska, followed closely by second class boroughs.

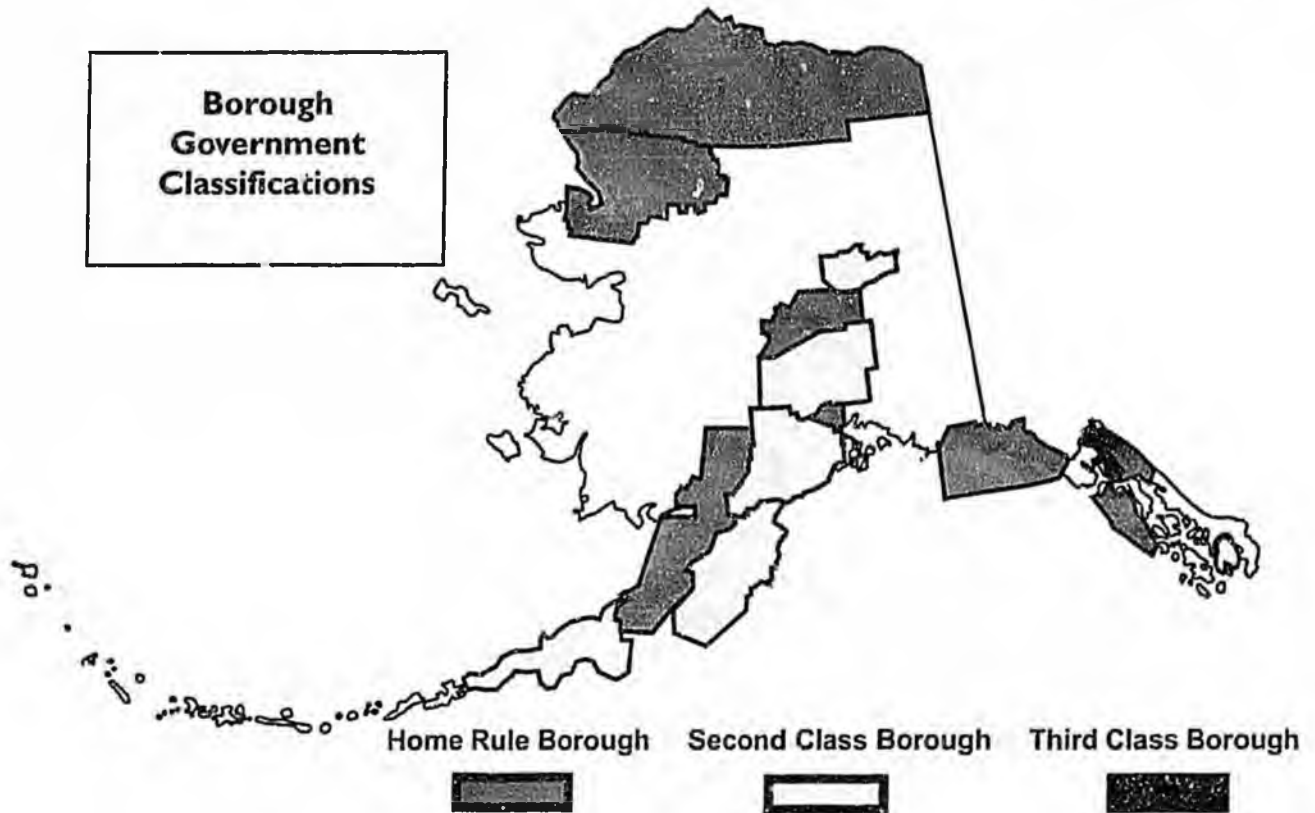
- ◆ Half of the organized boroughs in Alaska are home rule boroughs (8 of 16). These consist of the City and Borough of Sitka, City and Borough of Juneau, Municipality of Anchorage, City and Borough of Yakutat, Lake and Peninsula Borough, Denali Borough, Northwest Arctic Borough and the North Slope Borough. The first three listed in the previous sentence are "unified home rule municipalities" (home rule boroughs in which no cities may exist).
- ◆ Just over half of all Alaskans live in home rule boroughs (319,750 of 628,800, or 50.9%).
- ◆ Four of the last five boroughs to form are home rule boroughs (Northwest Arctic in 1986; Lake and Peninsula in 1989; Denali in 1990, and Yakutat in 1992).
- ◆ The most populous borough in Alaska is a home rule borough (Anchorage, population: 261,446).
- ◆ The least populous borough in Alaska is also a home rule borough (Yakutat, population 744).

Second class boroughs are the second most popular form of organized borough. Seven of the 16 organized bor-

oroughs in Alaska are second class. They consist of the Bristol Bay Borough, Ketchikan Gateway Borough, Kodiak Island Borough, Kenai Peninsula Borough, Matanuska-Susitna Borough, Fairbanks North Star Borough, and Aleutians East Borough.

Bristol Bay Borough is the smallest (850 square miles).

Alaska's 16 organized boroughs are inhabited by 545,664 individuals, or nearly 87% of the total population of the state. Of the 545,664 residents of organized boroughs



There is one third class borough in Alaska, the Haines Borough. The legislature authorized the creation of third class boroughs in Alaska in 1968, but amended the law in 1985 to prohibit the incorporation of new third class boroughs. Page 14 includes a map showing each of the 16 organized boroughs.

As noted previously, organized boroughs encompass an average of 17,600 square miles. However, the size of individual organized boroughs varies considerably. The largest organized borough is the North Slope Borough (94,770 square miles). The

in Alaska approximately 18% also live within a city government.

Organized boroughs encompass only about 43 percent of the geographic area of Alaska. That part of Alaska lying outside of organized boroughs is defined by law (AS 29.03.010) as comprising a single unorganized borough. (See map on page 6.) As it is presently configured, the unorganized borough encompasses 374,843 square miles. The unorganized borough is inhabited by 83,136 residents. Alaska is the only state in the nation with unorganized regions.

Table 1 - Organized Boroughs in Alaska

	Number	2K Population
Unified Home Rule	3	300,833
Non-Unified Home Rule	5	18,917
First Class	0	0
Second Class	7	223,398
Third Class	1	2,516
Total	16	545,664

CLASSIFICATIONS OF BOROUGHs

There are five different classifications of organized boroughs in Alaska. These are unified home rule, non-unified home rule, first class, second class, and third class.¹ First class, second class, and third class boroughs are general law governments. Table 1 lists the number of boroughs of each classification.

BOROUGH POWERS

Article X of Alaska's Constitution establishes the framework for local government in Alaska. Section 1 of the local government article states the following with respect to the purpose and construction of the constitutional provisions regarding local government:

¹ A unified municipality is considered to be an organized borough for several reasons. First, a unified municipality is defined by the Local Boundary Commission as a borough [3 AAC 110.990(1)]. Second, unified municipalities exhibit certain characteristics that are exclusive to organized boroughs (e.g., operation of service areas and regional nature), but none exhibit characteristics that are exclusive to city governments. Further, all unified municipalities must exercise the mandatory areawide borough powers under AS 29.35.150 - 180 (however, home rule and first class cities in the unorganized borough must also exercise these powers). Third, the legislature consistently treats unified municipalities as organized boroughs. For example, State statutes utilize the same standards for incorporation of a borough as they do for incorporation of a unified municipality (AS 29.05.031). By contrast, the legislature has established separate standards for incorporation of a city (AS 29.05.011). Additionally, AS 29.06.190(b) provides that "an area that is not incorporated as a borough, including any cities in the area, may incorporate as a unified municipality under AS 29.05.031." Another example is found in the fact that newly formed unified municipalities and boroughs are entitled to identical organization grants and other transitional assistance (AS 29.05.190; 29.05.210), whereas newly formed cities are entitled to different levels of organization grants and transitional assistance. Yet another example is found in AS 29.06.410 which describes the powers of a unified municipality to include all powers granted to a home rule borough. Fourth, all three of the existing unified municipalities in Alaska recognize themselves as boroughs in that each is governed by an assembly. Art. X, Sec. 4 of Alaska's constitution reserves the term "assembly" for the governing body of a borough, whereas Art. X, Sec. 8 of Alaska's constitution reserves the term "council" for the governing body of a city.

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. (emphasis added)

All local governments in Alaska – general law cities, home rule cities, general law boroughs, and home rule boroughs – enjoy broad powers. The Alaska Supreme Court has interpreted the constitution provision for a liberal construction of the powers of local government as follows:

The constitutional rule of liberal construction was intended to make explicit the framers' intention to overrule a common law rule of interpretation which required a narrow reading of local government powers. (footnote omitted)

Liberati v. Bristol Bay Borough, 584 P.2d 1115, 1120 (Alaska 1978).

In concert with the liberal construction clause of Article X, Section 1, the legislature long ago enacted broad statutory provisions concerning the construction of general law municipal powers in a manner that is consistent with Article X, Section 1. These provisions state as follows:

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and func-

tions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

In 1983, the Alaska Supreme Court again addressed the liberal construction clause of Article X, Section 1 along with the version of the two statutes noted above that was then in effect. The issue then before the court involved what was arguably a conflict between State law and an ordinance of a general law borough. The court used the same rule to resolve the conflict that it used previously to resolve a conflict between a State statute and home rule municipal ordinance. In doing so, the court clearly enhanced the powers of general law municipalities in Alaska. *Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983)

The powers of general law municipalities in Alaska were further enhanced to a great degree in 1985 when the State legislature eliminated the enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and the enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists of powers were replaced with the broadest possible grant of powers to general law municipalities; i.e., "...any power not otherwise prohibited by law." [AS 29.35.200(a) & (c); 210(c) & (d); 220(d); 250(a); 260(a)]

A principal distinction between a first class borough and a second class borough relates to the manner in which powers are assumed. A first class borough may exercise any power not prohibited by law on a non-areawide basis (i.e., in the area of the borough outside cities) by adopting an ordinance. In contrast, a second class borough must gain voter approval for the authority to exercise many non-areawide powers.

The powers of a third class borough are more restrictive. Unlike all other organized boroughs, a third class borough can only exercise two powers on an areawide basis — education and taxation. The law prohibits the creation of new third class boroughs.

While general law local governments in Alaska have broad powers, home rule local governments have even greater powers. Article X, Section 11 of Alaska's Constitution provides that:

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

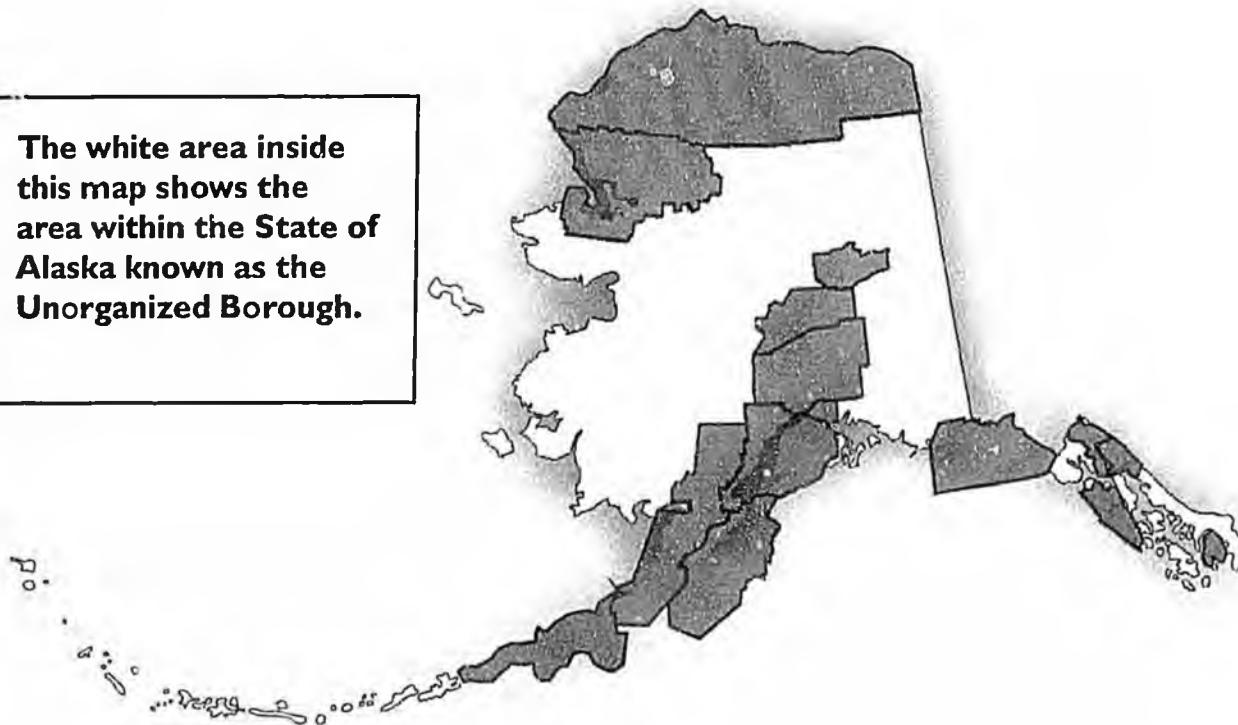
Adoption of a home rule charter promotes maximum local self-government to the greatest extent possible.

DUTIES OF ORGANIZED BOROUGHS

All local governments have certain fundamental duties such as conducting elections and holding regular meetings of the governing bodies. Beyond this, the duties of municipalities in Alaska vary considerably.

All organized boroughs (as well as home rule cities in the unorganized borough and first class cities in the unorganized borough) must operate municipal school districts on an areawide basis. All organized boroughs except third class boroughs must also exercise planning, platting, and land use regulation throughout the municipality. Organized boroughs also have the duty to collect municipal property, sales, and use taxes levied within their boundaries. Otherwise, municipal powers are exercised at the discretion of local governments.

The white area inside this map shows the area within the State of Alaska known as the Unorganized Borough.



Organized boroughs may provide services on three levels. These are (1) areawide (i.e., throughout the entire borough); (2) non-areawide (i.e., in that part of the borough outside of cities; and (3) service area (the size and configuration of service areas may vary, they may even include cities under certain circumstances). Alaska's Constitution (Article X, § 5) and Alaska Statutes (AS 29.35.450) prohibit the creation of new service areas if services can be provided by an existing service area, annexation to a city, or incorporation of a new city.

THE UNORGANIZED BOROUGH

Unlike organized boroughs, the unorganized borough is not a municipal corporation or political subdivision of the State of Alaska. Rather, it is an instrumentality of the State – a unit of state government.

Unorganized boroughs were intended to serve as a means to decentralize and regionalize State services and to foster local participation in the administration of state programs within regions not ready or suited for organized borough status.

Art. X, § 6 of Alaska's constitution stipulates that, "The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough."

To carry out the constitutional mandate that the entire state be divided into

boroughs, organized or unorganized, the 1961 legislature enacted a law providing that all areas not within the boundaries of an organized borough constitute a single unorganized borough. [AS 29.03.010] That action was ostensibly taken to preserve maximum flexibility in the setting of boundaries for organized boroughs. At that time, no organized boroughs existed.

Despite the requirement in Art. X, § 3 of Alaska's Constitution that each borough embrace an area and population with common interests to the maximum degree possible, the unorganized borough has never exhibited such characteristics. In 1991 and 1992, the Local Boundary Commission defined model borough boundaries throughout the unorganized borough according to standards for setting boundaries of organized boroughs. As noted previously, a map of model borough boundaries appears on page 12. The Commission recognizes that, at least in certain instances, changing social and economic conditions since the model borough boundaries were defined must be taken into consideration in future boundary determinations.

The legislature has enacted two key provisions to allow for local participation and responsibility in the delivery of State services in the unorganized borough. These are described below.

Regional educational attendance areas (REAA's) are state service areas to provide public education to the unorganized borough, except within home rule and first class cities. The 1975 legislature required the former Department of Community and Regional Affairs, in consultation with the former Department of Education and local communities, to divide the unorganized borough into educational service areas. The

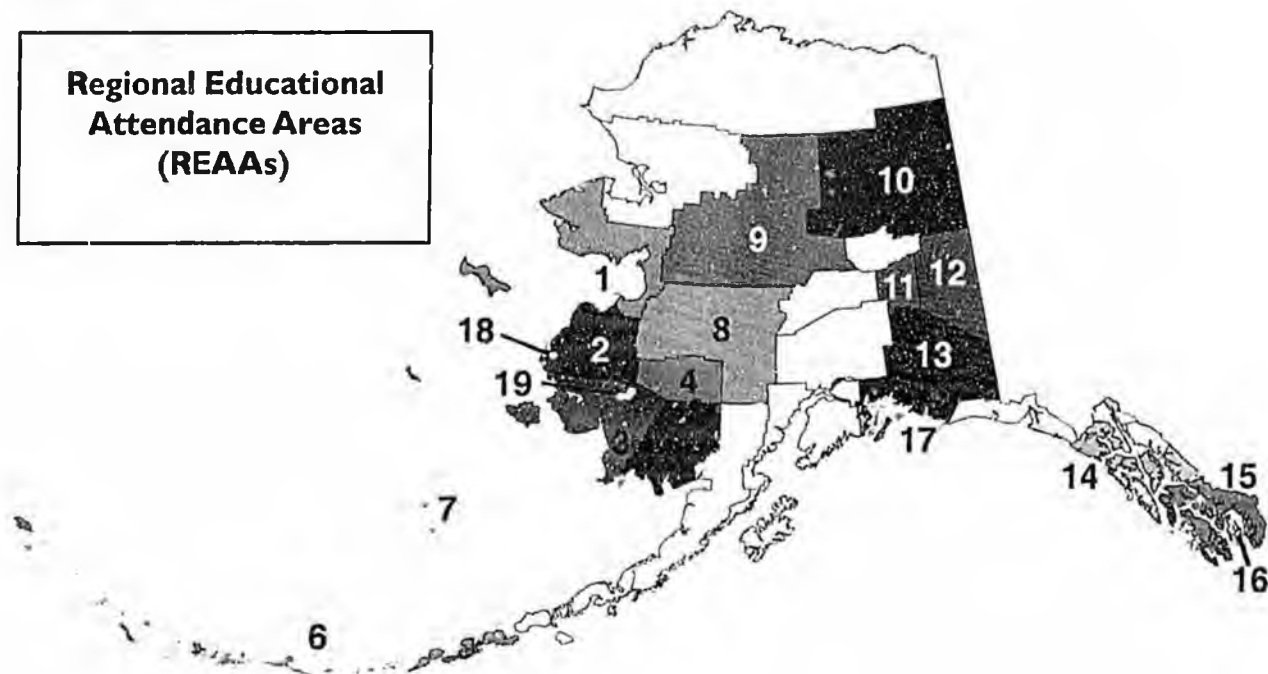
criteria used to establish the boundaries of REAAs are similar in many respects to the criteria for setting boundaries of organized boroughs. [AS 14.08.031] In a number of instances, the model borough boundaries set by the Local Boundary Commission in 1991-1992 follow the boundaries of REAAs.

Initially, 21 REAAs were established. These were: Adak, Alaska Gateway (headquartered in Tok), Aleutian Region, Annette Island, Bering Strait, Chatham (headquartered in Angoon), Chugach (serving Prince William Sound), Copper River, Delta/Greely, Iditarod Area, Kuspuk, Lake and Peninsula, Lower Kuskokwim, Lower Yukon, Northwest Arctic, Pribilof Islands, Railbelt, Southeast Island, Southwest Region, Yukon Flats, and Yukon-Koyukuk.

In 1985, the State Legislature passed a law leading to the formation of two "federal transfer regional educational attendance areas." One was Kashunamiut, an enclave in the Lower Yukon REAA encompassing the single community of Chevak. The other was the Yupiit REAA, comprising three non-contiguous enclaves in the Lower Kuskokwim REAA serving the communities of Akiachak, Akiak, and Tuluksak.

Since the mid-1970s, five organized boroughs have formed. The formation of the Northwest Arctic Borough, Lake and Peninsula Borough and Denali Borough, resulted in the dissolution of the REAAs in those areas.

**Regional Educational
Attendance Areas
(REAAs)**



1. Bering Straits REAA
2. Lower Yukon REAA
3. Lower Kuskokwim REAA
4. Kuspuk REAA
5. Southwest Region REAA
6. Aleutian Region REAA
7. Pribilof Islands REAA
8. Iditarod Area REAA
9. Yukon-Koyukuk REAA
10. Yukon Flats REAA

11. Delta/Greely REAA
12. Alaska Gateway REAA
13. Copper River REAA
14. Chatham REAA
15. Southeast Island REAA
16. Annette Island REAA
17. Chugach REAA
18. Kashunamiut REAA
19. Yupiit REAA

In the case of the other two new boroughs, the Aleutians East Borough and the City and Borough of Yakutat encompassed only portions of the REAAs in those regions. Thus, in those two instances, the remnant REAAs remained in existence.

In 1997, the Aleutians Region REAA and Adak REAA were consolidated into one unit. Today, there are 19 REAAs.

Coastal resource service areas (CRSAs) may be formed in the unorganized borough to perform certain duties under the Alaska Coastal Management Program [AS 46.40.110 - 46.40.180]. CRSAs are organized to develop and recommend for State approval a coastal management plan for the area within the boundaries of the CRSA. The State implements the plan. CRSAs are advisory only and have no implementing authority.

There are presently four CRSAs in the unorganized borough. These are the Bristol Bay CRSA, the Aleutians West CRSA, the Cenaliulriit CRSA and the Bering Straits CRSA.

The Bristol Bay CRSA conforms to the boundaries of the Southwest Region REAA and includes the first class City of Dillingham. The Aleutians West CRSA has the same boundaries as the Aleutian Region REAA and includes the first class City of Unalaska.

The Cenaliulriit CRSA encompasses four REAAs. These are the Lower Yukon, Lower Kuskokwim, Kashunamiut and Yupiit REAAs. The latter two are the small federal transfer REAAs formed in 1985. The Cenaliulriit CRSA excludes the second class City of Bethel.

The Bering Straits CRSA conforms to the boundaries of the Bering Straits REAA. The first class City of Nome is excluded from that CRSA.

Salmon Production Regional Associations. AS 16.10.380 provides that a qualified salmon production regional association, when it becomes a nonprofit corporation under AS 10.20, is established as a service area in the unorganized borough under AS 29.03.020 for the purpose of providing salmon enhancement services.

Other Service Areas in the Unorganized Borough. AS 29.03.020 provides that the legislature may establish, eliminate, or change service areas of the unorganized borough. Specifically, it provides that:

Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, that may include but are not limited to schools, utilities, land use regulations, and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

PRINCIPLES AND STANDARDS RELATING TO BOROUGH INCORPORATION AND ANNEXATION

Alaska's Constitution encourages boroughs.

- ◆ Art. X, § 1 encourages the formation of boroughs.
- ◆ Art. X, § 1 also encourages annexation of unorganized areas to boroughs where applicable standards are met.

Alaska's Constitution favors minimizing the number of boroughs.

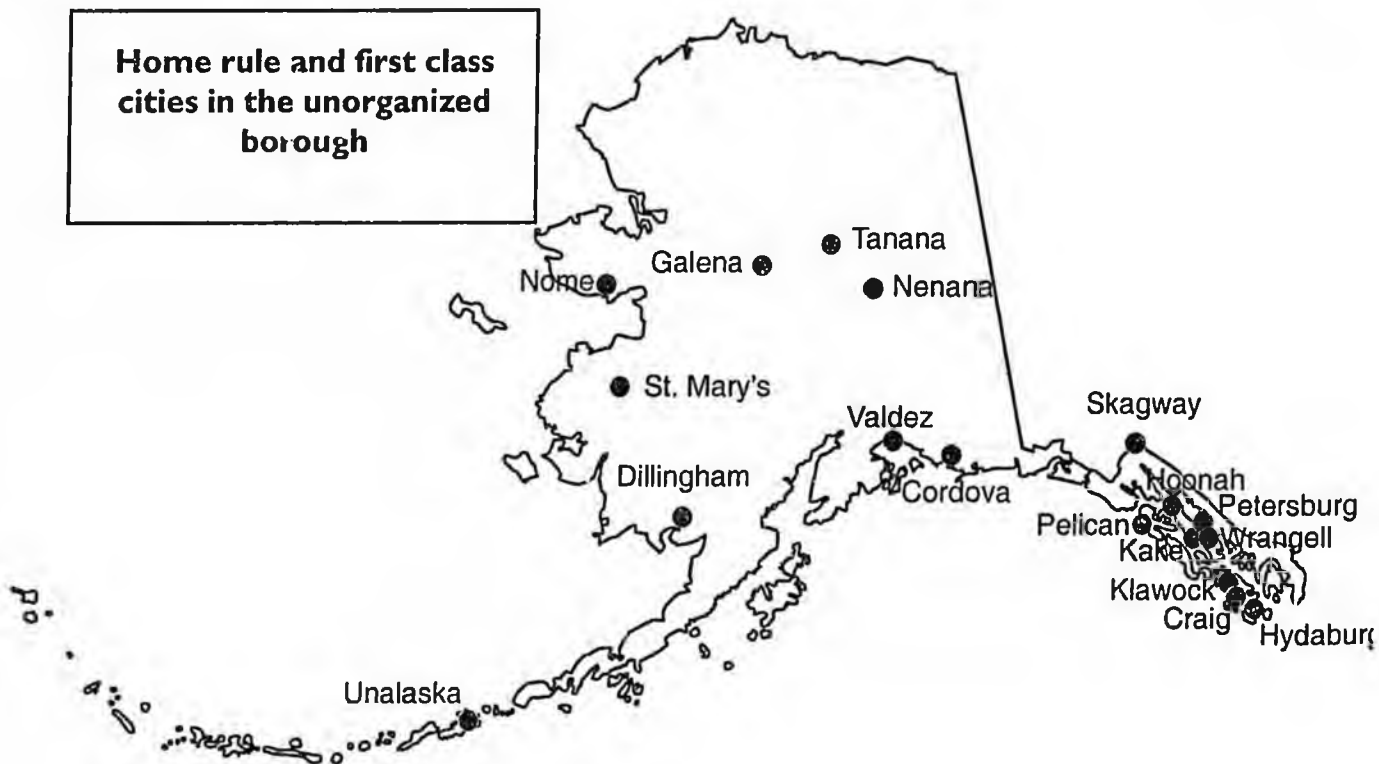
- ◆ Art. X, § 1 is an express policy of minimizing the number of cities and boroughs.

Boroughs must embrace a natural region.

- ◆ All of Alaska must be divided into boroughs — organized or unorganized [Art. X, § 1, Ak. Const.].
- ◆ Each borough must embrace an area and population with common interests to the maximum degree possible [Art. X, § 1, Ak. Const.].
- ◆ The population must be socially, culturally and economically interrelated and integrated [AS 29.05.031(a)(1); 3 AAC 110.045; 3 AAC 110.160].
- ◆ The boundaries must conform generally to natural geography [AS 29.05.031(a)(2); 3 AAC 110.060; 3 AAC 110.190].
- ◆ Land, water, and air transportation facilities must allow the communication and exchange needed for integrated government [AS 29.05.031(a)(4); 3 AAC 110.045; 3 AAC 110.160].
- ◆ Boundaries may not extend beyond the model boundaries defined by the Local Boundary Commission, unless the Commission determines that an extension is warranted [3 AAC 110.060(b); 3 AAC 110.190(c)].
- ◆ Boundaries must conform to REAA boundaries unless the Local Boundary Commission determines, after consultation with the Commissioner of the Department of Education, that different boundaries are better suited [3 AAC 110.060(c); 3 AAC 110.190(d)].
- ◆ There must be at least two communities in the borough, unless the Local Boundary Commission determines that a sufficient interrelationship exists with only one community [3 AAC 110.045(b)].

Boroughs must have resources to operate efficiently & effectively.

- ◆ The population must be large and stable enough to support borough government [AS 29.05.031(a)(1); 3 AAC 110.050; 3 AAC 110.170].
- ◆ There must be at least 1,000 permanent residents unless the Local Boundary Commission determines that a smaller number is suitable [3 AAC 110.050(b)].
- ◆ The boundaries must include all areas necessary for full development of municipal services [AS 29.05.031(a)(2); 3 AAC 110.060; 3 AAC 110.190].
- ◆ The economy must have the human and financial resources capable of providing municipal services [AS 29.05.031(a)(3); 3 AAC 110.180].



Methods of Annexation

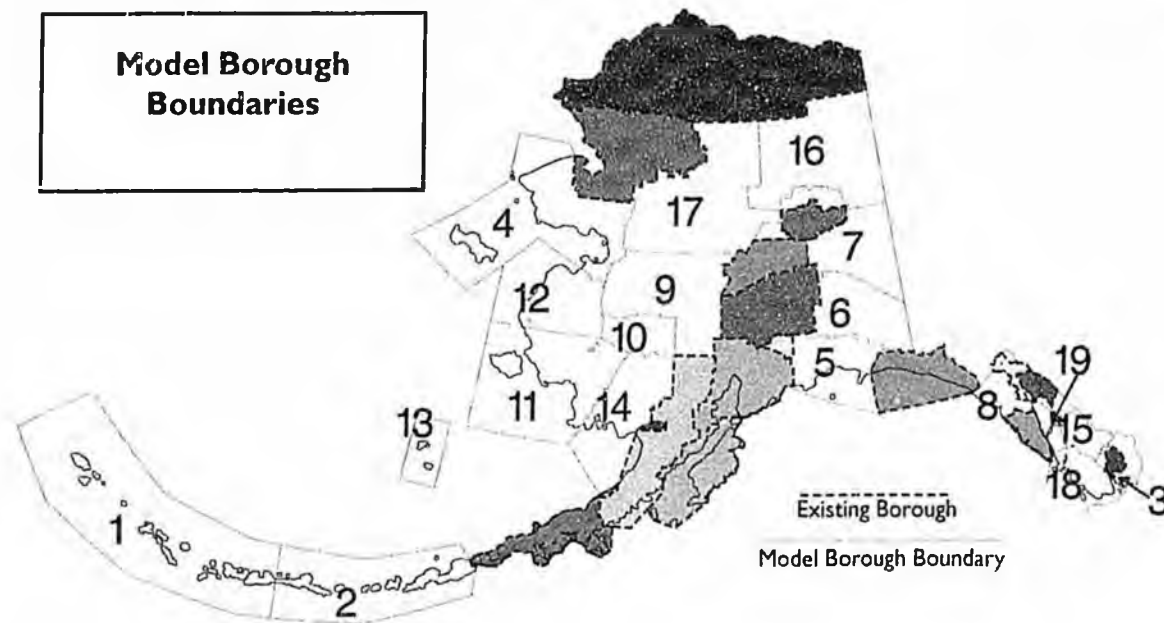
State law allows four different methods of annexation to boroughs. The different methods are outlined below. The first three listed are seldom used.

Annexation of Adjoining Borough-Owned Property. Borough-owned property that is contiguous to the boundaries of the borough, may be annexed to that borough. The borough assembly must adopt an ordinance and then petition the Local Boundary Commission.

Annexation Upon Unanimous Consent of Owners and Resident Voters. An area adjoining a borough may be annexed

if all of the property owners and all of the voters living in the area proposed for annexation consent. Typically, this process is used for the annexation of small numbers of parcels, often in conjunction with requests from property owners for the extension of services. To implement annexation, the borough must adopt an ordinance and then petition the Local Boundary Commission.

Annexation by Election. An area may be annexed upon approval by the Local Boundary Commission, subject to ratification by the voters in the area proposed for annexation. To pass, the proposition must be approved by a majority of those voting on the question. This type of annexation is seldom used.



- | | |
|---------------------------|--------------------------------|
| 1. Aleutian - Military | 11. Lower Kuskokwim |
| 2. Aleutians West Region | 12. Lower Yukon |
| 3. Annette Island Reserve | 13. Pribilof Islands |
| 4. Bering Straits | 14. Dillingham-Nushagak-Togiak |
| 5. Prince William Sound | 15. Wrangell/Petersburg |
| 6. Copper River Basin | 16. Yukon Flats |
| 7. Upper Tanana Basin | 17. Yukon-Koyukuk |
| 8. Glacier Bay | 18. Prince of Wales Island |
| 9. Iditarod Region | 19. Chatham |
| 10. Kuspuk | |

Annexation by Legislative Review.

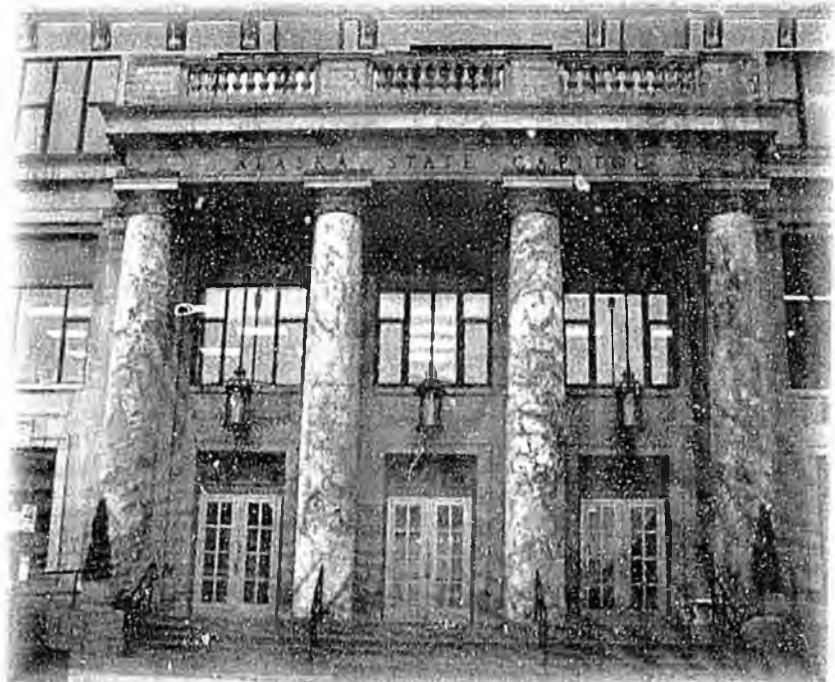
An area may be annexed without approval by the voters or property owners under the legislative review process. Proposals may be initiated by the borough, State Legislature, voters, and others. Such proposals require approval by the Local Boundary Commission as well as review and tacit approval by the State legislature.

Legislative review is initiated when the Local Boundary Commission files a recommendation for the annexation with the legislature. Such recommendations may be filed only during the first 10 days of a *regular* session of the legislature. The recommendation is rejected only if the legislature adopts a concurrent resolution to deny the action within 45 days of the date that it was filed. Otherwise, the proposal gains tacit approval from the legislature.

Annexation Procedures

Procedures governing annexation are designed to secure the informed, reasonable, timely, and inexpensive determination of every proposal that comes before the Commission. The procedures and requirements include:

- ◆ Extensive public notice that a petition has been filed with the Local Boundary Commission.
- ◆ Public access to a complete set of petition documents.
- ◆ At least seven weeks for individuals and organizations to file comments or responsive briefs with the Local Boundary Commission in support of or in opposition to the petition.
- ◆ At least two weeks for the petitioner to file a brief with the Local Boundary Commission in reply to the responsive briefs and comments.
- ◆ At least four weeks for interested persons and organizations to review and comment upon a preliminary report by DCED concerning the annexation proposal.
- ◆ Opportunity to review DCED's final report on the annexation proposal at least three weeks prior to a Local Boundary Commission hearing on the matter.
- ◆ Opportunity to participate at the Local Boundary Commission hearing on the matter (those who filed a responsive brief may make an opening statement; provide sworn testimony, and make a closing statement; the general public is also afforded an opportunity for comment). Hearings are typically held in or near the area proposed for annexation.
- ◆ Opportunity to review a written decisional statement setting out the basis for the decision by the Commission. (The Commission may approve a petition, amend and approve a petition; impose conditions on annexation; or deny the petition.)
- ◆ Opportunity to seek reconsideration of the Commission's decision.
- ◆ Requirement for review of the proposal under the Federal Voting Rights Act.
- ◆ Further processing of the proposal in accordance with the method of annexation being utilized (e.g., legislative review, election, etc.).



Alaska State Capitol

**Organized
Borough
Governments**



Borough Incorporation Procedures

Current law expressly provides that borough incorporation proposals may only be initiated by voters. However, it must be stressed, that the Legislature has overridden those laws in the past to compel certain areas to organize. In fact, boroughs have been formed voluntarily in parts of Alaska that encompass only 4% of the state's population. In contrast, boroughs have been formed under mandates from the Legislature in areas that encompass 83% of Alaskans.

The following describes the voluntary incorporation process set out in current law.

- ◆ Incorporation proposals are initiated by at least 15% of the number who voted in the proposed borough in the last State general election in each of the following two categories:
 - ◆ The combined area of home rule and first class cities in the proposed borough.
 - ◆ The remainder of the proposed borough.
- ◆ Extensive public notice that a petition has been filed with the Local Boundary Commission.
- ◆ Public access to a complete set of petition documents.

- ◆ At least seven weeks for individuals and organizations to file comments or responsive briefs with the Local Boundary Commission in support of or in opposition to the petition.

provide sworn testimony, and make a closing statement; the general public is also afforded an opportunity for comment). Hearings are typically held in or near the area proposed for annexation.
- ◆ At least two weeks for the petitioner to file a brief with the Local Boundary Commission in reply to the responsive briefs and comments.
- ◆ At least four weeks for interested persons and organizations to review and comment upon a preliminary report by DCED concerning the annexation proposal.
- ◆ Opportunity to review DCED's final report on the annexation proposal at least three weeks prior to a Local Boundary Commission hearing on the matter.
- ◆ Opportunity to participate at the Local Boundary Commission hearing on the matter (those who filed a responsive brief may make an opening statement;
- ◆ Opportunity to review a written decisional statement setting out the basis for the decision by the Commission; (The Commission may approve a petition, amend and approve a petition; impose conditions on annexation; or deny the petition).
- ◆ Opportunity to seek reconsideration of the Commission's decision.
- ◆ Requirement for review of the proposal under the Federal Voting Rights Act.
- ◆ Submission of a proposition to the voters of the proposed borough which requires approval from a majority of the areawide vote.

Notes:



State of Alaska Local Boundary Commission

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November 2000

Need for a New Option for Borough Incorporations and Annexations

Alaska has the most flexible and efficient system of local government in the nation. The key element in that system is the organized borough, Alaska's innovative tool for regional self-government and regional development.

Alaska's Constitution encourages borough formation. Further, the Constitution and State law establish specific standards and procedures for incorporation of proposed boroughs. However, those standards are not equally applied. Today, about 87 percent of Alaska's residents live in the 16 organized boroughs. Of the areas that remain in the unorganized borough, some appear to have the capacity to operate boroughs, or may meet standards for annexation to existing boroughs. Other areas may not meet borough standards. Various disincentives have impeded formation of new boroughs or borough annexations in areas where they might be feasible.

Over the past four decades, many public interest groups (including the Alaska Municipal League), local government experts, State and local officials, and citizens have urged implementation of borough government as envisioned in the Alaska Constitution. The Local Boundary Commission has developed a proposal for legislation to promote progress toward that Constitutional goal.

The Commission's Proposal

The Commission's proposal would create a new option to initiate a petition for borough incorporation or annexation, modeled on the existing option for legislative review boundary changes. Under this new option, the Department of Community and Economic Development would annually present the Commission with a list of unorganized areas that reasonably appear to meet standards for borough incorporation or annexation. The Commission would select which area(s) tentatively may warrant incorporation or annexation, and direct the Department to prepare and file a petition. Thereafter, the Commission would follow the process that has been in place since statehood for legislative review annexation petitions. (See Attachment.)

Apart from the new option for filing a borough incorporation or annexation petition, the proposed process:

- follows other procedural requirements now in law;
- implements standards for incorporation now in law; and
- requires legislative review of borough incorporations or annexations approved by the Commission.

As part of its proposal, the Commission also urges elimination of several disincentives to incorporation of new boroughs or annexation to boroughs.

LEGISLATIVE REVIEW ANNEXATION PROCESS

Background: This process was established in 1959 under Alaska's Constitution. It has been successfully used in over 100 municipal boundary changes over the past 41 years.

- ◆ Petitioner files annexation petition.
- ◆ DCED:
 - ◆ reviews petition for technical adequacy
 - ◆ may hold local public meeting
 - ◆ reports findings and recommendations to LBC.
- ◆ LBC:
 - ◆ holds local public hearing(s)
 - ◆ accepts/rejects petition as meeting/not meeting annexation standards.
- ◆ If accepted, LBC submits decision for legislative review.
- ◆ Legislature may accept or reject decision. If accepted, annexation is approved.

PROPOSED NEW OPTION FOR BOROUGH INCORPORATIONS/ANNEXATIONS

Background: This process is proposed as a way to extend borough government to areas that meet existing standards for borough incorporation or annexation.

- ◆ DCED annually presents LBC with list of areas in unorganized borough that reasonably appear to satisfy standards for borough incorporation or annexation.
- ◆ LBC annually selects from list which area(s) may warrant incorporation or annexation.
- ◆ DCED, for selected area(s):
 - ◆ drafts petition
 - ◆ holds local public meeting(s)
 - ◆ finalizes and files petition.
- ◆ LBC:
 - ◆ holds local public hearing(s)
 - ◆ accepts/rejects petition as meeting/not meeting applicable standards.
- ◆ If accepted, LBC submits decision for legislative review.
- ◆ Legislature may accept or reject decision. If accepted, incorporation or annexation is approved.

Time Line for Incorporation or Annexation Under Proposed Legislation

By September 30 ↓	DCED lists prospective borough incorporations & annexations	New provision in law
By November 30 ↓	LBC selects proposals from DCED list	New provision in law
December 1 ↓	DCED conducts meetings in regions selected by LBC	Parallel provision in existing law [AS 29.05.080(a)]
	DCED prepares petitions	Parallel provision in existing law [AS 44.33.812(a)(3)]
	DCED provides public notice of petitions	Existing law (3 AAC 110.450)
	Interested persons allowed to comment on petitions	Existing law (3 AAC 110.480)
	Based on comments DCED may amend petitions	Existing law (3 AAC 110.540)
March 31 ↓	DCED files petitions with LBC	Existing law [3 AAC 110.440(c)]
April 1 ↓	Notice given of LBC hearings	Existing law (3 AAC 110.550)
	LBC conducts hearing in region	Existing law (AS 29.05.090)
	LBC approves, rejects, or amends/conditions/approves petitions	Existing law [AS 29.05.100(a)]
	LBC adopts written decisional statement for each petition	Existing law [3 AAC 110.570(f)]
	Interested parties may seek reconsideration of LBC decision	Existing law (3 AAC 110.580)
mid- January ↓	LBC files recommendations with Legislature	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
	Legislature considers LBC recommendations for 45 days	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
late-March ↓	Recommendations approved unless rejected	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
	LBC notifies Division of Elections of approved boroughs	Existing law [AS 29.05.110(a)]
late -March to late-April ↓	Division of Elections orders election for initial borough officials	Existing law (AS 29.05.120)
by late-July	Division of Elections conducts elections for initial borough officials	Existing law (AS 29.05.120)

Summary of Standards for Borough Incorporation

Standards regarding the creation of organized boroughs are provided in Alaska's Constitution, statutes, and regulations. The standards are summarized below

- ▶ Borough incorporation is encouraged under Alaska's Constitution. (Art. X, § 1, Ak. Const.)
- ▶ All of Alaska must be divided into boroughs (organized or unorganized) with each embracing an area and population with common interests to the maximum degree possible. (Art. X, § 3, Ak. Const.)
- ▶ Alaska's Constitution favors larger boroughs in order to avoid the proliferation of small boroughs. (Art. X, § 1, Ak. Const.)
- ▶ Borough incorporation must be in the best interests of the state. (AS 29.05.100)
- ▶ Borough residents must be socially, culturally, and economically interrelated and integrated. [AS 29.05.031(a)(1); 3 AAC 110.045(a)-(b)]
- ▶ The population must be large and stable enough to support borough government. It is formally presumed that a borough will have at least 1,000 permanent residents. (AS 29.05.031(a)(1); 3 AAC 110.050)
- ▶ Boundaries must conform generally to natural geography and include all areas necessary for full development of municipal services. [AS 29.05.031(a)(2); 3 AAC 110.060(a)]
- ▶ Consideration must be given to model borough boundaries adopted by the Local Boundary Commission. [3 AAC 110.060(b)]
- ▶ Boundaries must conform to regional educational attendance area boundaries, unless the Local Boundary Commission allows otherwise. [3 AAC 110.060(c)]
- ▶ There must be adequate human and financial resources to provide borough services. (AS 29.05.031(a)(3); 3 AAC 110.055)
- ▶ There must be adequate facilities to allow the communication and exchange necessary for the development of integrated borough government. [AS 29.05.031(a)(4); 3 AAC 110.045(c)-(d)]



State of Alaska Local Boundary Commission

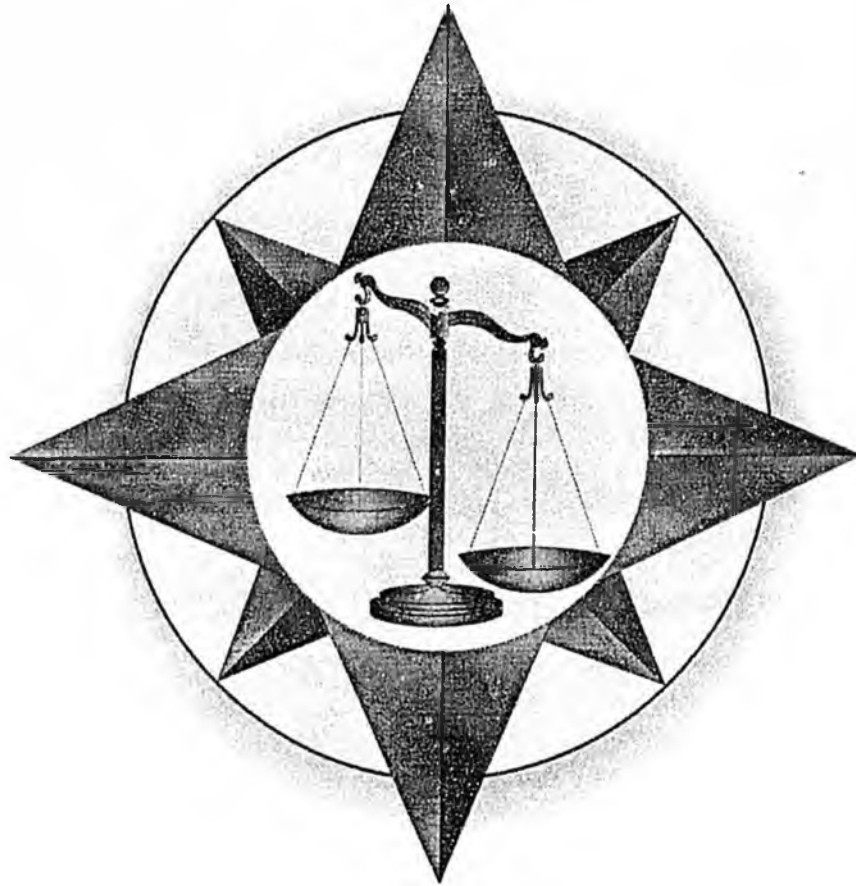
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The Need to Reform State Laws Concerning Borough Incorporation and Annexation



Alaska State Constitutional
Convention in session
February 1956

January 2001



The Local Boundary Commission complies with the Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560.

This report is also available on the Local Boundary Commission's website at:

[Http://www.dced.state.ak.us/mra/LBC/Mrad_lbc.htm](http://www.dced.state.ak.us/mra/LBC/Mrad_lbc.htm)

Photos of the Constitutional Convention were supplied by the Anchorage Museum of History and Art, Steve McCutcheon, Photographer.

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Introduction

This year marks the 40th anniversary of the enactment of legislation to institute borough government in Alaska. Repeatedly throughout the past 40 years, an array of public interest groups, local government experts, State and local officials, and citizens have pointed out serious shortcomings in the manner in which the borough concept has been implemented.

In response to growing difficulties resulting from those shortcomings, the Local Boundary Commission is proposing remedial legislation. The proposed legislation would:

- eliminate certain disincentives to the incorporation of new boroughs;
- implement incentives for borough incorporation and annexation; and
- facilitate borough incorporation and annexation of unorganized areas that have the resources to support borough government.

The legislation proposed by the Commission will address the following issues:

- **Alaskans Treated Unequally.** Citizens of municipal school districts in Alaska must make substantial financial contributions in support of schools while all others have no such responsibility.
- **No Rational Basis for Unequal Treatment.** There is no legitimate public policy basis for the disparate treatment of Alaskans noted above. While some unorganized regions are poor, others have resources that are superior to areas that long ago accepted local responsibility for schools.
- **Lack of Local Authority to Fund Education.** Regional educational attendance areas (REAs) are instrumentalities of the State of Alaska. REA residents depend on the State for educational services. When funds are needed for new schools, major capital improvements, or increased operational funding, REA residents must look to the State of Alaska, which has exclusive responsibility for such matters.
- **Unorganized Regions Unique to Alaska.** Alaska is the only state that is not organized at the regional level into counties or their equivalent. Alaska is also unique among state governments in the extent to which it assumes responsibility for local services.

- **Unorganized Borough Sustains Inefficient Service Delivery.** Essential services are delivered in the unorganized borough in a highly fragmented manner. This perpetuates inefficient and ineffective governmental operations.
- **State Fiscal Policies Encourage Avoidance of Local Responsibility.** The State continues to shoulder the burden for education and plating services in communities that decline to accept local responsibility, even though many such communities have ample resources. At the same time, the State of Alaska has dramatically reduced financial aid to communities that have assumed local responsibility for services.
- **Unorganized Borough Impedes Development.** The lack of regional government has hindered economic and social development in unorganized areas.
- **Overpowering Borough Disincentives.** The deterrents in State law to form boroughs are so pervasive and so overwhelming that they impede successful incorporation of new borough governments.
- **Procedures Stifle Incorporation.** The process for incorporation of new boroughs actually thwarts local initiative in certain cases. For example, by requiring each of two different classes of voters to initiate incorporation (those within city school districts and those outside city school districts) a relatively small number of voters may block local efforts to incorporate.
- **System Promotes Flawed Boundaries.** Forming boroughs under the current ad hoc and voluntary basis has led to compromises with regard to ideal municipal boundaries. In some cases, boroughs have sought to draw boundaries to maximize their financial and political resources to the detriment of adjacent communities.

The Local Boundary Commission takes the view that timely attention to these matters is warranted. Details about the problems and the Commission's proposed legislative solutions follow.

Background

The Local Boundary Commission is one of five State boards created under Alaska's Constitution. Its duties include reviewing proposals for borough incorporation and annexation. Additionally, the Commission has the responsibility under AS 44.33.812 to make studies of "local government boundary problems." The Commission considers the lack of a strong State policy promot-

ing the extension of borough government to be the most pressing "local government boundary problem" facing Alaska.

"The state has failed to continue the evolution of local government directed by the Constitution."

- Alaska Municipal League

The Commission considers the natural development of government in the unorganized borough to be

stymied. Alaska's Constitution encourages the extension of borough government.¹ Yet, present circumstances have led the Alaska Municipal League to take the position that, "The state has failed to continue the evolution of local government directed by the Constitution."²

The Local Boundary Commission joins others that have previously expressed a preference for voluntary extension of borough government. However, many of those have also taken the position that the State should compel the extension of borough government in regions capable of

supporting boroughs if citizens choose not to organize voluntarily. For example, the constitutional convention delegates who wrote the local government provisions of Alaska's Constitution held the view that creation of boroughs should be compulsory, with provision for local initiative.³



Local Government Committee of the Alaska Constitutional Convention, February 1956

¹ *Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 101 (Alaska 1974).

² Alaska Municipal League, *AML Issue Paper: Municipal Government in Alaska*, (printed from the Alaska Municipal League's Internet site at: <http://www.akmunileague.org/whitepaper.htm>), page 2.

³ Victor Fischer, *Alaska's Constitutional Convention*, 1975, page 119.

Several who have favored voluntary incorporation have also acknowledged that, to be successful, such an approach requires adequate incentives to encourage incorporation. Unfortunately, current law has many provisions that act as disincentives to borough formation and annexation. However, if the disincentives were removed, it is unlikely that the State still could provide sufficient inducements to motivate all of its citizens to incorporate boroughs voluntarily.

Alaska's "Task Force on Governmental Roles", established by the 1991 Legislature to define Federal, State, and local relationships in the delivery of public services, "stopped short of endorsing mandatory borough formation legislation but agreed that continued formation of additional borough governments should be a *primary* state policy goal."⁴ (emphasis added) However, instead of promoting borough formation, State policy has actually continued to regress in that arena since the 1991 Task Force study.⁵

Citizens and local officials in some areas have become frustrated over procedural and policy impediments to borough formation. For example, before any laws had been written concerning borough government in Alaska, residents of Cordova who attended a January 6, 1960 meeting of the Local Boundary Commission at the Cordova High School Auditorium expressed an immediate need for a Prince William Sound borough.

A clear majority recommended that borough boundaries in this area include Prince William Sound, east to the Canadian border, south along the border to Yakutat, then west to Prince William Sound: that this area be unorganized until borough standards are established so that a decision on a "home rule" or so-called "general law" boroughs (sic) can be made. (emphasis added) They felt that although they are probably not ready for "home rule" at this time, there is a real need for organized borough government in this area as soon as possible. (emphasis added)

There is a definite feeling of tie-in with all of Prince William Sound, the "highway communities" and the Copper River Valley when that road is finished. They definitely desire that the fishing areas on the west side of Prince William Sound be included in this area. Yakutat should be included if such is the wish of that community.⁶

Despite the aspiration among Cordova residents for a Prince William Sound Borough in 1960, such a borough, of course, has yet to form. However, current officials of the City of Cordova

⁴ Brad Pierce, Governor's Office of Management and Budget, and the Alaska Municipal League, *Final Report: Task Force on Governmental Roles*, July 10, 1992, page 15.

⁵ The Local Boundary Commission has chronicled an extensive and growing list of borough disincentives in its annual reports to the Legislature since the 1980s. Most recently this issue was addressed on pages 38-41 of the Commission's report to the 2001 Legislature. That report is available on the Internet at: http://www.dced.state.ak.us/rira/LBC/pubs/2000_LBC_Annual_Rpt.pdf

⁶ Local Boundary Commission, *First Report to the Second Session of the First Alaska State Legislature*, February 2, 1960, page 2-4.

"They felt . . . there is a real need for organized borough government in this area as soon as possible." - Local Boundary Commission, commenting on January 6, 1960 meeting with Cordova residents

⁷ Zeine, Ed, Mayor of the City of Cordova, letter to the Chairman of the Local Boundary Commission, December 20, 1999.

⁸ City of Cordova, *Proposal for Reform of State Law Regarding Borough Formation*, December 1999.

⁹ City of Cordova *Resolution 12-99-83*.

¹⁰ See comments by Thomas Morehouse and Victor Fischer in *Borough Government in Alaska*, page 73, former Governor Jay Hammond in *Tales of Alaska's Bush Rat Govern*, page 149; John Rader in *The Metropolitan Experiment In Alaska - A Study of Borough Government*, page 91; Thomas A. Morehouse, et al., *Alaska's Urban and Rural Governments*, page 43; House Research Agency in *A New Mandatory Borough Act: Local Education Costs and Potential Revenues of Newly Created Boroughs*, page 14; and City of Cordova in *Proposal for Reform of State Law Regarding Borough Formation*, December 1999.

¹¹ *Mobil Oil Corporation v. Local Boundary Commission*, *supra*, 98.

continue to recognize the need for a borough government. They cite procedures established under the Borough Act of 1961 as a principal reason for the lack of a Prince William Sound borough. Dissatisfaction with the status quo is evident in the following recent comments from Ed Zeine, Mayor of Cordova:

The City of Cordova and many other smaller Alaska cities have been frustrated in previous attempts to establish borough governments. The current process is cumbersome and self-defeating.⁷

In December of 1999, circumstances led the City of Cordova to propose legislation that is similar to the Commission's current proposal for reform of State law regarding borough incorporation and annexation.⁸ The Cordova City Council adopted a formal resolution providing as follows:

... the City Council of Cordova, Alaska, hereby encourages the executive and legislative branches of the government of the State of Alaska to review and amend the borough formation process, and offers the paper "Proposal for the Reform of State Law Regarding Borough Formation" as a starting point for the process of change.⁹

Several respected Alaskans and institutions have concluded - some as far back as the early 1960s - that it is naive to assume that the voluntary approach to borough formation will succeed except in rare instances.¹⁰ The test of time has clearly proven them to be correct. During the past four decades, boroughs have formed voluntarily in areas that encompass only four percent of Alaskans. In contrast, eighty-three percent of Alaskans live in organized boroughs formed in a matter of a few months under the 1963 Mandatory Borough Act. The remaining thirteen percent live in the unorganized borough. Stated in other terms, ninety-six percent of Alaskans live in regions of the state that have not embraced borough government voluntarily.

Boroughs are adaptable to both rural and urban areas.¹¹ More than one-third of Alaska's organized boroughs encompass areas that are *exclusively* rural (Bristol Bay, North Slope, Northwest Arctic, Aleutians East, Lake & Peninsula, and Yakutat). Another one-third of the boroughs include a number of rural communities (Kodiak Island, Kenai Peninsula, Haines, Ketchikan, Matanuska-Susitna, and Denali).

Eben Hopson, first Mayor of the North Slope Borough, promoted borough formation as a means to advance the social and economic well-being of North Slope residents. Additionally, he saw

the North Slope Borough as a means to preserve and protect the Inupiat culture and language and to establish local control and self-determination.¹²

A report prepared for the Alaska Federation of Natives in 1999 noted that boroughs have the capacity that other organizations lack to address particular needs of Native communities:

In many Native communities, neither tribal government nor (city) status provides the powers or jurisdiction necessary to control land uses and protect subsistence fish and wildlife habitat in the much larger area surrounding the community. Also, developments in the surrounding area are outside the taxing powers of these local governments. One solution to these problems is to create an areawide or regional borough government under state law in order to bring these lands under local governmental jurisdiction. In addition to land use planning and control and tax powers, borough government also can localize control of public education. These are all mandatory powers of borough government.¹³

The Alaska Municipal League takes the following view concerning the suitability of boroughs in predominantly Native areas:

Borough government can be a valuable tool for local self-determination that allows municipal and tribal government/organizations to co-exist successfully while resources are maximized.¹⁴

Several existing boroughs are inhabited predominantly by Natives. These include the Aleutians East Borough, Lake and Peninsula Borough, North Slope Borough, Northwest Arctic Borough, and the City and Borough of Yakutat. Other existing boroughs include significant Native populations. At present, one-third of the villages recognized by the Bureau of Indian Affairs are within organized boroughs.¹⁵

It is unlikely that regions in the unorganized borough - those inhabited predominantly by non-Natives as well as those inhabited predominately by Natives - will form boroughs voluntarily under the present circumstances. In an effort to resolve the conflict between the constitutional goal of "maximum local self-government with a minimum of local government units", and the near absence of local initiative, the Local Boundary Commission urges reform of State law concerning boroughs. Specifically, the Commission supports procedures wherein the State would take the initiative to extend borough government to those areas that have the human and financial resources needed to support boroughs.

The Commission's suggested reform proposes roles for both the executive and legislative branches of State government, including the Commission itself, to determine whether regions of the

¹² Thomas Morehouse, et al., *Alaska's Urban and Rural Governments*, 1984, page 144.

¹³ Cornell, Stephen, et al., The Economic Resource Group, Inc.; and Victor Fischer and Thomas Morehouse, Institute of Social and Economic Research, University of Alaska, Anchorage. *Achieving Alaska Native Self-Governance: Toward Implementation of the Alaska Natives Commission Report*, May 1999, page 44.

¹⁴ Alaska Municipal League, *supra.*, page 4.

¹⁵ Cornell, et al., *supra.*, Appendix A lists 223 BIA-recognized villages, 72 of which are within organized boroughs.

¹⁶ See Thomas A. Morehouse and Victor Fischer; *Borough Government in Alaska*; 1971, pages 43 - 46.

unorganized borough have adequate human and financial resources to support borough government. The proposed process is patterned after the method established in Alaska's Constitution for review of municipal boundary changes by the Commission and Legislature. That system has been in place since 1959 and has been used extensively throughout both rural and urban parts of Alaska.

Section 1 of this policy paper provides a more detailed discussion of the fundamental public policy issues that compel attention to this matter. Section 2 includes a copy of the remedial legislation proposed by the Local Boundary Commission. Section 3 provides a sectional analysis of the legislation, a timeline to illustrate how the proposed process would be implemented, and a summary of the standards for borough incorporation. Lastly, Section 4 offers background information concerning the Local Boundary Commission.

Section 1. Discussion of the need for reform.

This section of the policy statement outlines reasons why the Local Boundary Commission advocates the extension of borough government to unorganized regions of Alaska that possess the human and financial resources to operate borough government. Further details on these topics are available from the Commission upon request.

A. Boroughs are Alaska's fundamental political subdivision for delivery of municipal services, yet the State has never established a rational basis for the creation of new boroughs or the expansion of existing boroughs.

Boroughs were conceived as the fundamental political subdivision of the State of Alaska through which municipal services would be delivered.¹⁶ The failure of the policy to establish boroughs through voluntary efforts in the early years of statehood led John Rader - Alaska's first State Attorney General and a former member of the State House of Repre-

"The greatest unresolved political problem of the State was the matter of boroughs." -
John Rader, Alaska's first State Attorney General and former legislator

sentatives - to the conclusion in 1963 that "the greatest unresolved political problem of the State was the matter of boroughs."¹⁷

Given the critical role of borough governments in the delivery of fundamental services, it is remarkable that the State has never developed an ordered process to determine when areas of Alaska should be compelled to organize boroughs if local citizens decline to take initiative. In the Commission's view, financial capacity and adequacy of human resources are appropriate criteria upon which to base determinations concerning whether boroughs should be required to form in particular regions.

For the past 40 years, with one brief exception, the State has delegated to local citizens decisions as to whether boroughs should be organized. Given the lack of incentives to form boroughs, it is not surprising that few regions have chosen to voluntarily take on the responsibility for borough government.

The exception referred to in the preceding paragraph was, of course, the 1963 Mandatory Borough Act. That act compelled the formation of boroughs encompassing Ketchikan, Sitka, Juneau, Kodiak Island, Kenai Peninsula, Anchorage, Matanuska-Susitna valleys, and Fairbanks.¹⁸ Today, those eight boroughs encompass eighty-three percent of the state's population. The 1963 Mandatory Borough Act was the product of a bipartisan legislative effort that was supported by Governor Egan. John Rader, author of the 1963 Mandatory Borough Act, characterized the impetus for action as follows:

In striving to form viable units of local self-government, the people of Alaska have used the courts, the executive branch of their Territorial Government, and the local subdivisions themselves. It was only after a series of repeated failures that in 1963 the State legislature finally exercised the authority which had previously been delegated to others.¹⁹

In today's light, Mr. Rader's statement is overly broad. The 1963 Mandatory Borough Act was applied only to eight particular regions of Alaska. Although an understanding had reportedly been reached among legislators prior to approval of the 1963 Mandatory Borough Act that there would be subsequent legislation to compel other areas to form boroughs, the exercise of the State's authority to form boroughs was utilized only in that single instance.²⁰ The State subsequently returned to its prior policy which Mr. Rader characterized as an ineffective delegation of responsibility for formation of boroughs.

¹⁷ Ronald C. Cease and Jerome R. Saroff; eds., *The Metropolitan Experiment in Alaska: A Study of Borough Government, 1968*, page 93.

¹⁸ The bill originally included other areas that were subsequently omitted in order to win passage of the Mandatory Borough Act. Moreover, an area exceeding 11,000 square miles was detached from the Fairbanks North Star Borough shortly after it was formed under the Mandatory Borough Act. The detached area included much of what today comprises the Delta Greely Regional Educational Attendance Area and the Alaska Gateway Regional Educational Attendance Area. Those areas were detached not because they lacked the resources needed to support borough government, but because they lacked sufficient ties to the Fairbanks North Star Borough.

¹⁹ Cease and Saroff, *supra.*, page 81.

²⁰ Clem Tillion, a member of the 1963 State House of Representatives, indicated that the 1963 Mandatory Borough Act was

Footnote continued from previous page

approved by the Legislature with the understanding that other unorganized areas would be compelled to organize by subsequent legislatures. (Personal communication with Local Boundary Commission staff, April 28, 2000).

²¹ Gerald A. McBeath and Thomas A. Morehouse; eds., *Alaska State Government and Politics*, 1987, page 44.



Victor Fischer, constitutional convention delegate and Secretary to the Convention's Committee on Local Government reflected in 1987 that, "Despite the constitutional convention's emphasis on state leadership in establishing the borough system, governors and legislatures have been reluctant to create boroughs, largely because of frequent local opposition to establishment of another level of government."²¹

"Despite the constitutional convention's emphasis on state leadership in establishing the borough system, governors and legislatures have been reluctant to create boroughs, largely because of frequent local opposition to establishment of another level of government." - Victor Fischer, Constitutional Convention Delegate and Secretary to the Committee on Local Government

As noted earlier, the Commission takes the view that financial capacity is an appropriate criterion for deciding whether regions should organize as boroughs. The Commission recognizes that certain areas of the unorganized borough may have limited fiscal capacities - places where there are few jobs, marginal tax bases, and undeveloped economies. Still, even in certain communities with such characteristics, citizens have taken on local responsibility for the same duties and obligations imposed on organized boroughs by State law. For example, citizens of Galena, Hoonah, Hydaburg, Kake, Nenana, Pelican, St. Mary's, and Tanana all operate first class cities in the unorganized borough that have duties to provide services and to make local contributions in support of education identical to those required of organized boroughs. Yet, more prosperous communities such as Gustavus, Tok, Glennallen, Delta Junction, and Bethel bear no financial responsibility for education. A comparison of economic characteristics of certain of these communities is provided in Table 1 on page 12.

Although not typical of homes either in organized boroughs or the unorganized borough, these homes in Gustavus are outside any municipal tax jurisdiction and are also outside a school district with local financial responsibilities.

Alaska's best little secret...
GUSTAVUS, ALASKA
 A Cozy Community at the Mouth of Glacier Bay.

<p>PRISTINE 3 STORY SINGLE FAMILY 4 bedroom on 2 acres with meadow, water, and mountain view. Appropriate for family living and business opportunities. Asking \$450,000</p> 	<p>CUSTOM CHALET Located on 3 acres. Solarium, reading loft, hot tub, and garden. Unique design and interior decoration. Asking \$357,700</p> 
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Regional statistics suggest that there are a number of areas in the unorganized borough that enjoy relatively strong economies. For example:

- Seven of the eleven (64%) census areas in the unorganized borough had per capita personal incomes in 1998 that were greater than that of the Matanuska-Susitna Borough and the Lake and Peninsula Borough. (See Appendix A-1.) The Matanuska-Susitna Borough is Alaska's third most populous municipal government and was one of the eight regions organized under the 1963 Mandatory Borough Act.²²
- 1998 local employment per 1000 residents was higher in three of eleven (27%) census areas of the unorganized borough than it was in eight of the sixteen (50%) of the organized boroughs in Alaska.²³ (See Appendix A-2.)
- Per capita earnings from local employment in Alaska were higher during 1998 in three of the eleven census areas of the unorganized borough than they were in ten of the sixteen (62.5%) organized boroughs in Alaska.²⁴ (See Appendix A-3.)
- June 2000 employment statistics show that more than half of the census areas in the unorganized borough had lower unemployment rates than the Kodiak Island Borough, North Slope Borough, Northwest Arctic Borough, Yakutat Borough, Bristol Bay Borough, and the Lake and Peninsula Borough.²⁵
- Previous borough studies have concluded that many regions of the unorganized borough have the capacity to support organized boroughs.²⁶

As is the case with regard to financial capacity, there are indications that many regions of the unorganized borough have human resources sufficient to operate borough governments. Consider, for example:

- The 1999 population of the unorganized borough was 35% greater than the *combined* 1999 populations of eleven of the sixteen (69%) organized boroughs in Alaska.
- The 1999 population of the unorganized borough was 20% greater than the *combined* populations of seven of the eight organized boroughs formed under the 1963 Mandatory Borough Act at the time of incorporation.

²² U.S. Department of Commerce, Bureau of Economic Analysis, *Personal Income and Per Capita Personal Income by County, 1996-98, Alaska* (printed from the Internet at http://www.bea.doc.gov/beat/regional/reis/scb/svy_ak.htm)

²³ Per capita employment figures were extrapolated from data published by Alaska Department of Labor and Workforce Development (ADLWD). Employment data from 1998 Employment & Earnings Summary Report, ADLWD, February 2000; population data from ADLWD website at <http://www.labor.state.ak.us/research/pop/ca2.htm>

²⁴ *Ibid.*

²⁵ Source: Alaska Department of Labor and Workforce Development. *Labor Force by Region and Census Area*, printed from the Internet at <http://www.labor.state.ak.us/news/news01-06.htm>

²⁶ Alaska Department of Community and Regional Affairs. *Synopsis of Borough Feasibility Studies*

Footnote continued from previous page

Conducted During 1983 and 1989: Copper River Basin, Lower Yukon Region, Delta Greely Region, Northwest Bristol Bay Region, Denali Region, Southwest Region/Dillingham Area, Chaiham Region, Yukon-Koyukuk Region, Prince William Sound Region, and Western Aleutians Region, September 1989.

²⁷ 52,702 of the 82,809 residents in the unorganized borough live outside home rule and first class cities (1999 population data from the Alaska Department of Community and Economic Development).

- More than one-third of Alaska's organized borough governments have successfully operated with fewer than 2,500 residents. One borough has fewer than 750 residents.
- Education, the most important service offered by boroughs, has long been under local control in all areas of the unorganized borough through REAAs and city school districts. Education is one of just three services required of boroughs.

Conclusion. Significant distinctions exist with regard to the delivery of essential local services for Alaskans in boroughs vis-à-vis Alaskans in unorganized areas. Those distinctions lack an equitable basis in terms of the most fundamental criteria - financial and human capacity. Some unorganized areas appear to have financial and human resources that are superior to such resources in areas that were earlier compelled to form boroughs. These discrepancies run counter to Article I, Section 1 of Alaska's Constitution and to the intent of the framers of Alaska's Constitution regarding the formation of organized boroughs.

The reform proposed by the Local Boundary Commission would establish an equitable basis for deciding, on the merits and according to standards now in law, which areas of Alaska might be included within new or existing organized boroughs.

B. There is a lack of local responsibility for education and platting services in most of the unorganized borough.

Residents of the unorganized borough outside home rule and first class cities have no obligation under State law to support fundamental services such as public education and platting. (See Appendix A-4.) Residents of those areas comprise two-thirds of the population of the unorganized borough. The number of people living in the unorganized borough outside of home rule and first class cities is nearly equivalent to the population of the Matanuska-Susitna Borough, Alaska's third most populous municipal government.²⁷

A 1991 study of Alaska's education foundation funding formula raised fundamental public policy concerns stemming from the absence of local responsibility:

Another serious drawback with full state funding is that it provides no incentive for schools to reduce costs when they can do so without reducing the quality of education. Local taxpayers elect local school boards, mayors, and assembly members who make decisions about school budgets. If local taxpayers pay the same minimum amount for education

regardless of the size of their school district's budget - as is the case with the current Alaska required local effort provisions - there is no incentive for schools to reduce costs.²⁸

"Another serious drawback with full state funding is that it provides no incentive for schools to reduce costs when they can do so without reducing the quality of education." - Institute of Social and Economic Research, University of Alaska

²⁸ Matthew Berman and Eric Larson, Institute of Social and Economic Research, University of Alaska, *Education Equity and Taxpayer Equity: A Review of the Alaska Public School Foundation Funding Program*, 1991, page 89.

In contrast to residents of regional educational attendance areas, all other Alaskans are legally obliged to provide financial support for local public education. Thus, Alaskans living in the state's sixteen organized boroughs and eighteen of the ninety-six city governments in the unorganized borough have financial responsibility for operation of local schools. (See Appendices A-5 and A-6.) In Fiscal Year 2000, that obligation amounted to approximately \$144 million. The required local contributions of municipal school districts in effect reduce the level of education funding that the State would otherwise be obligated to provide. The State has chosen to bear the burden for fundamental services in two-thirds of the unorganized borough, again, without regard for local fiscal capacity or human resources. Table 1 emphasizes the lack of a rational basis in terms of fiscal capacity for the disparate treatment of Alaskans. Comparisons are made in each of three regions of Alaska between a community that is obligated by State law to provide education and plating services and one that is not.

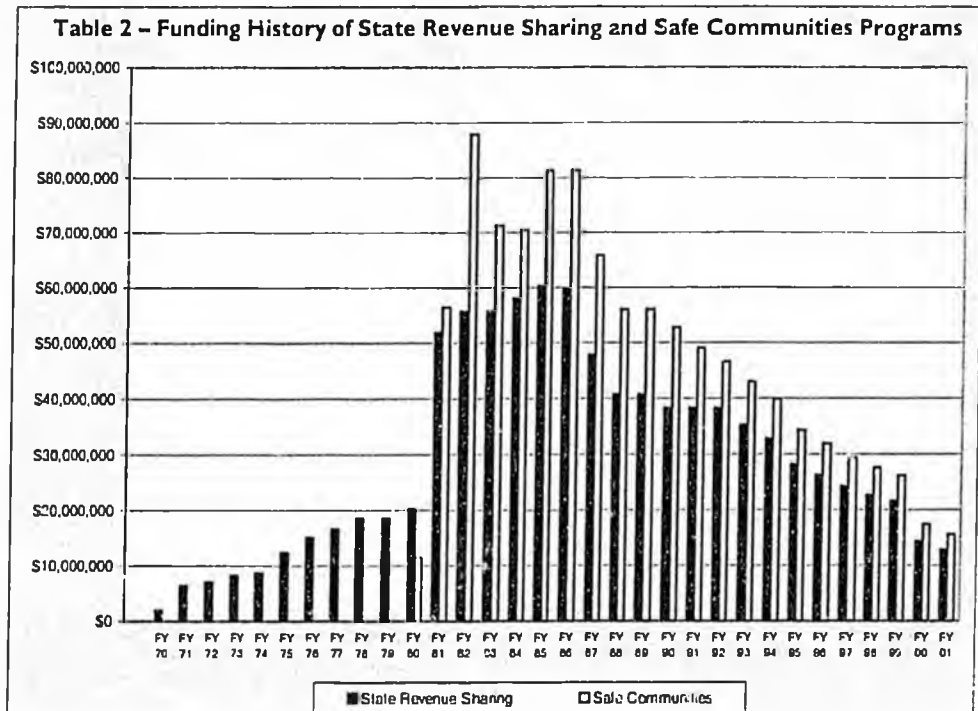
TABLE 1
COMPARISON OF SELECTED COMMUNITIES IN THREE REGIONS OF THE UNORGANIZED BOROUGH

Characteristic	Southeast Alaska		Interior Alaska		Western Alaska	
	Gustavus	Hydaburg	Tok	Tanana	Bethel	St. Mary's
Municipal Status	Unincorporated	First class city	Unincorporated	First class city	Second class city	First class city
Local Responsibility for Schools	No	Yes	No	Yes	No	Yes
1999 Population	377	369	1,235	301	5,741	475
Predominant Population (1990)	96% Caucasian	87% Native American	86% Caucasian	76% Native American	60% Native American	82% Native American
1990 Median Family Income	\$43,750	\$22,639	\$32,039	\$24,375	\$45,203	\$29,583
1990 Employment per 100 Residents	48	27	40	32	43	34
1990 Unemployment	4.0%	21.8%	20.3%	21.8%	9.0%	19.2%

²⁹ Bill Rolfsen, Alaska Department of Community and Economic Development. Note: data for Fiscal Years 1970 - 1979 do not include gross business receipts taxes shared by the State with municipalities. When the gross business receipts tax was repealed, the Municipal Assistance Program was instituted to replace revenues that would otherwise be lost for municipal governments. Thus, the revenues shown in the table for Fiscal Years 1970 - 1979 are underreported.

³⁰ Governor's Office of Management and Budget and the Alaska Municipal League, *supra*, page 15.

The inequity of the current system has been exacerbated by a reduction of more than 80% in general financial aid from the State to all municipalities since the peak level of funding in Fiscal Year 1982. Table 2 depicts general financial aid to local governments in Alaska since the inception of the State revenue sharing program in Fiscal Year 1970.²⁹



The State could, of course, impose taxes on unorganized areas. In fact, the previously noted 1991 Task Force on Governmental Roles took the position that "the inequity in tax burden between residents of municipalities and residents of the unorganized borough is better addressed via state fiscal policies (taxes, shared revenue programs, education foundation funding and municipal grants) than by imposing areawide government on people who do not want it."³⁰ The Commission notes that there were a number of attempts to levy taxes on unorganized areas following the report of the Task Force. However, every attempt met intense opposition from residents of unorganized areas and none was implemented.

In a 1981 study of service delivery in the unorganized borough by the former Alaska Department of Community and Regional Affairs, Dr. John J. Kirlin characterized the situation as follows:

"... the present system encourages dependence."

- Dr. John J. Kirlin

... the present system encourages dependence. Inhabitants of the unorganized borough are encouraged to be supplicants and clients of service-delivery structures, and largely spectators upon the political life of the

State. They are not citizens effectively participating in the governance of the policy. Moreover, this system is not supportive of native cultures and effectively requires natives to submerge or abandon traditional cultural values in order to participate in the State's politics.³¹

Conclusion. Tension clearly exists between the circumstances described herein and two key provisions in Alaska's Constitution. The first is Article I, Section 1, which provides, in relevant part, "that all persons are equal and are entitled to equal rights, opportunities, and protection under the law; and that *all persons have corresponding obligations to the people and to the State.*" (emphasis added) The second is Article X, Section 6 which provides in relevant part, "The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, *allowing for maximum local participation and responsibility.*" (emphasis added)

The reform proposed by the Local Boundary Commission would extend responsibility for fundamental services to those presently unorganized areas that can afford to assume such responsibility.

C. The lack of organized boroughs has resulted in a highly fragmented structure for the delivery of public services.

Organized boroughs are the keystones for the delivery of efficient and effective municipal services. Organized boroughs deliver fundamental services such as education and plating on an areawide basis. In contrast, education services are delivered in the unorganized borough in a highly fragmented manner through a combination of service areas and cities. Consequently, although the unorganized borough has just thirteen percent of Alaska's population, it encompasses seventy percent of its school districts.

More than one-third of the school districts in the unorganized borough have fewer than 250 students. That figure was established by the State as the minimum threshold fifteen years ago for new school districts.³² Moreover, one-third of the school districts in the unorganized borough required waivers for FY 2000 from the State Board of Education regarding the requirement that at least 65 percent of operating funds must be budgeted for instruction.

³¹ Alaska Department of Community and Regional Affairs. *Problems and Possibilities for Service Delivery and Government in the Alaska Unorganized Borough*, September 1981, page 54.

³² AS 14.12.025.

³³ Alaska Municipal League, *supra*, page 3.

³⁴ Alaska Department of Community and Regional Affairs, *supra*, page 54.

In organized boroughs, citizens tend to streamline municipal government through unification or consolidation. In 1970, half of the people who lived in organized boroughs also lived in city governments. Today, the figure stands at just eighteen percent. Approval of pending proposals for consolidation of local governments in Fairbanks, Ketchikan, and Haines would reduce that figure to less than ten percent.

13% of Alaskans live in the unorganized borough



70% of Alaska School Districts exist in the unorganized borough

In contrast, more than three-quarters of unorganized borough residents live in city governments where no regional municipal structure is available. Here again, with only 13% of the state's population, the unorganized borough has a disproportionately high number (66%) of the city governments in Alaska.

The Alaska Municipal League offered the following characterization of the manner in which services are delivered in the unorganized borough:

Local services are currently provided by the state and a patchwork of over 400 separate municipal governments, non-profit corporations, regional school attendance areas, tribal governments, etc. Current service delivery is neither inexpensive or efficient, due to the lack of coordinated service delivery. Therefore, borough government would not be new and could be less expensive and more efficient than the "system" now in place.³³

In the previously referenced 1981 study of the unorganized borough, Dr. John J. Kirilin characterized the current structure as follows:

To assert that the present situation is a "worst case" scenario is not comforting to those seeking to make this system effective, but it may well be accurate. The label is warranted as much for the incapacity for future development of the present system or for its current dysfunctions. This system has extremely limited capacity to develop and implement policies; it has even less capacity to "learn" (that is, to discern preferable institutions and policies) and to change. Moreover, the very existence of this complex, jury-rigged non-system provides disincentives

"To assert that the present situation is a 'worst case' scenario is not comforting to those seeking to make this system effective, but it may well be accurate." - Dr. John J. Kirilin

to change, including decreases in state and federal funding if incorporation occurs. The present system is also apparently expensive to operate and does not succeed in delivery of needed services to many inhabitants of the unorganized borough. Alternative systems may not be less expensive, but the present situation can hardly be defended as economical.³⁴

In terms of the natural evolution of local governments³⁵ and the constitutional policy of minimum numbers of local governments, it is noteworthy that the 1991 Task Force on Governmental Roles endorsed the unification and consolidation of cities and organized boroughs "wherever possible to provide for more efficient and cost-effective service delivery."³⁵

Conclusion. The absence of organized boroughs throughout Alaska has led to a proliferation of governmental and quasi-governmental organizations in the unorganized borough. The reform proposed by the Local Boundary Commission would create the foundation to promote greater efficiency and effectiveness in the delivery of services in the area currently encompassing the unorganized borough.

D. The lack of regional government has hindered social and economic development in unorganized areas.

Most, if not all, organized boroughs successfully engage in economic development activities. Examples include promotion of the visitor industry in Anchorage through bed taxes, development of port facilities at Point Mackenzie by the Matanuska-Susitna Borough, and support for a trans-Alaska natural gas pipeline by the Fairbanks North Star Borough and North Slope Borough.

Boroughs also play a key role in economic development in rural areas. A study conducted last year concerning fisheries in the

"... borough governments in rural Alaska are often the largest employer and serve as the economic engine for the area." - Northern Economics, Inc.

Bristol Bay region stressed that "... borough governments in rural Alaska are often the largest employer

and serve as the economic engine for the area."³⁶ The Lake and Peninsula Borough describes its economic development activities as follows:

The Borough provides a variety of planning functions related to community and economic development. Such functions include grant writing and management, technical assistance on local government and development issues, general assistance in community planning, assistance with planning for and financing capital projects, and general economic development assistance; especially in the areas of fisheries and tourism.

³⁵ Governor's Office of Management and Budget and the Alaska Municipal League. *supra*, page 15.

³⁶ Northern Economics, Inc., in association with KEA Environmental Inc., and HDR Alaska, Inc. *Impacts of the 1997-1998 Bristol Bay Fishing Disasters*, June 1999, page ES-4.

³⁷ Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor*, June 1999, page 65.

³⁸ *Ibid.*, page 72.

Moreover, boroughs can also be effective advocates in the promotion of public policies that benefit local economies. For example, the Aleutians East Borough operates a Natural Resources Department to provide residents of the Borough with representation before various fishery advisory and management bodies. It also assists in the development and implementation of scientific efforts and regulations regarding commercial fisheries in the region.

Organized boroughs also have the legal capacity to issue bonds to finance economic development projects such as roads, docks, and airports. The Aleutians East Borough has secured an estimated \$100 million for capital improvements since its incorporation in 1987. Local funds raised through the sale of bonds were leveraged to obtain State and Federal funding for a variety of capital projects in the Aleutians East Borough.

Further, organized boroughs can also provide stable and predictable political environments that encourage economic development. For example, the incorporation of the Northwest Arctic Borough was a key to opening the Red Dog zinc mine. Today, the Red Dog mine provides hundreds of jobs to residents of the Northwest Arctic Borough.

In addition to economic development, boroughs can provide the jurisdictional basis for addressing social issues. For example, there is no mechanism to provide for alcohol control on a regional basis in the unorganized borough. However, the law allows voters in organized boroughs to establish areawide alcohol controls.

The Alaska Commission on Rural Governance and Empowerment recognized the existence of "a range of land-based jurisdictional issues involving alcohol and other substance abuse control, economic development, environmental management and local governance innovation" in rural Alaska.³⁷

"The State of Alaska must invest in its future by ensuring that a strong, stable, and accountable unit of State government carries out rural development functions." - Alaska Commission on Rural Governance and Empowerment

The Rural Governance Commission also concluded that, "The State of Alaska must invest in its future by ensuring that a strong, stable, and accountable unit of State government carries out rural development functions."³⁸ While the Local Boundary Com-

mission does not view that statement as an endorsement for borough government, boroughs certainly possess the characteristics listed.

Conclusion. The reform proposed by the Local Boundary Commission would offer important tools for economic development and social reform in areas that today remain unorganized.

E. The current system is inequitable.

The 1961 Legislature mandated that every organized borough must operate a system of public schools. In doing so, the State delegated its constitutional duty for operation of schools within those boroughs to those boroughs.

Two years later, the State mandated that eight specific regions of Alaska form boroughs. The 1963 mandate to form boroughs

**"No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation." - 1963
Alaska Legislature and Governor Egan**

was tempered with the promise that organized boroughs would continue to receive the same levels of funding as unorganized areas. The 1963 Mandatory Borough Act provided that: "No

area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation."³⁹

However, the commitment for equal funding was short lived. Requirements by the State for local contributions in support of schools on the part of municipal school districts reduced levels of State aid to borough school districts. Initially, the disparate treatment was small in relative terms - single digit reductions in the percentage of State education foundation aid. However, in 1987, following the dramatic reduction in State oil revenues, the State imposed far deeper cuts.⁴⁰ Today, the financial burden of the boroughs' required contribution to local education amounts to \$135 million annually.

The local taxpayer disenchantment that prompted the recently defeated statewide local property tax cap initiative stemmed in part from significant increases in city and borough property taxes to offset previously-noted reductions in State funding for local

³⁹ Section 1, Chapter 52, *Session Laws of Alaska*, 1963.

⁴⁰ A brief history of education funding in Alaska is provided in *Education Equity and Taxpayer Equity: A Review of the Alaska Public School Foundation Funding Program*, Institute of Social and Economic Research, University of Alaska, 1991, pages 26-27 and 75-76.

⁴¹ Source: Laura Walters, Research Analyst, Alaska Department of Community and Economic Development.

⁴² AS 14.11.008 provides that a municipal school district with a full value per ADM (average daily membership of students) ranging from \$1 - \$100,000 must contribute 5%. Municipal districts in the range of \$100,001 - \$200,000 must contribute 10%, those ranging from \$200,001 - \$600,000 must contribute 30%; and those with a full value per ADM in excess of \$600,000 must contribute 35% of the cost.

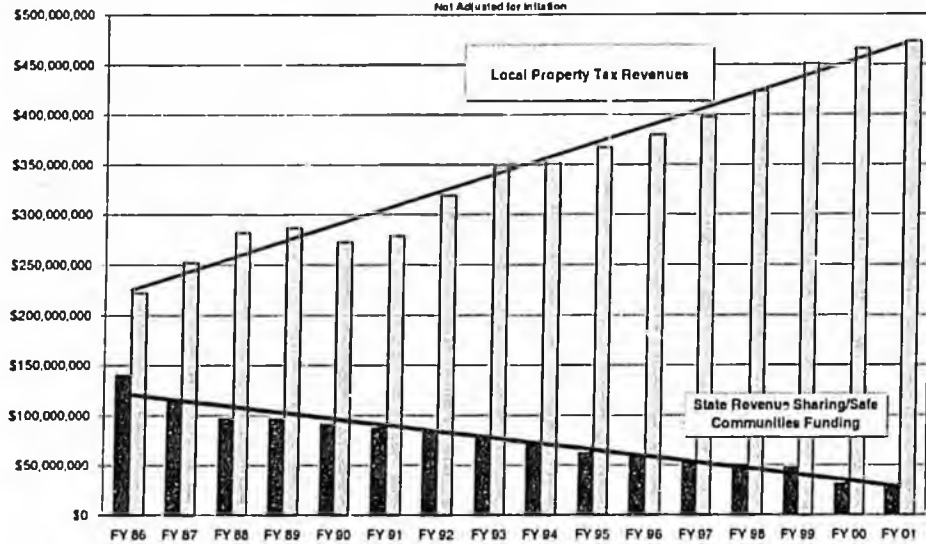
⁴³ Counted among those who are compelled to support fundamental services are residents of organized boroughs, home rule cities in the unorganized borough, and first class cities in the unorganized borough.

governments. Concerns over taxpayer equity also likely played a role. Table 3 below compares increases in property taxes and the reductions in State revenue sharing and safe communities funding since Fiscal Year 1986.⁴¹

Another example of inequity is found in the State's grant programs for construction, rehabilitation, and improvement of schools. Municipal school districts are required to contribute a share of the cost of grant projects ranging from a minimum of five percent to a maximum of thirty-five percent, depending on their fiscal capacity. However, regional educational attendance areas are required to contribute only two percent regardless of the fiscal capacity of the region. Thus, the poorest municipal school districts in Alaska are required to contribute 2½ times the level required from the most prosperous regional educational attendance areas.⁴²

Conclusion. The Commission considers it significant that 85 of

Table 3 - State Revenue Sharing/Safe Communities Funding Versus Local Property Tax Revenues
Not Adjusted for Inflation



every 1,000 Alaskans - more than one in twelve — receives fundamental public services at no cost, *without regard to fiscal capacity*, while all others are compelled to pay for the same services.⁴³ The 1991 Task Force on Governmental Roles noted that, "The inequity in tax burden between residents of first class cities and general law boroughs and those residing in unorganized areas is a perennial area of conflict in Alaska politics."

The reform proposed by the Local Boundary Commission would alleviate the inequity described herein.

Conclusion.

As noted in the Introduction, many public interest groups, local government experts, public officials, and citizens have pointed out serious shortcomings over the past 40 years regarding the manner in which the borough concept has been implemented in Alaska. Yet, with the exception of the 1963 Mandatory Borough Act, efforts to implement the constitutional policy promoting formation of boroughs have been generally ineffectual. In fact, since 1963 the State has steadily regressed in terms of promoting the formation of organized boroughs.

On the 40th anniversary of the enactment of legislation intended to implement the borough concept, the Commission urges timely consideration of the reform proposed by the Local Boundary Commission.

Opportunity costs resulting from continuation of the unorganized borough as it is presently configured continue to mount while the capacity of Alaska to support systemic inefficiency in its municipal government framework continues to erode. The Commission urges the Legislature and Governor to take action to resolve this chronic public policy issue.

Section 2. Proposed Legislation

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the determination of full and true value of taxable municipal
2 property for purposes of certain programs; and relating to incorporation of
3 second class boroughs in the unorganized borough, and to annexation of
4 portions of the unorganized borough to boroughs and unified municipalities."

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

6 *Section 1. AS 14.17.510(a) is amended to read:

7 (a) To determine the amount of required local contribution under AS
8 14.17.410(b)(2) and to aid the department and the legislature in planning, the
9 Department of Community and Economic Development, in consultation with
10 the assessor for each district in a city or borough, shall determine the full and
11 true value of the taxable real and personal property in each district in a city or
12 borough. If there is no local assessor or current local assessment for a city or

-1-

New Text Underlined [DELETED TEXT BRACKETED]

1 borough school district, then the Department of Community and Economic
2 Development shall make the determination of full and true value from
3 information available. In making the determination, the Department of
4 Community and Economic Development shall be guided by AS 29.45.110.
5 However, the full and true value of taxable real and personal property in
6 any area detached shall be excluded from the determination of the full and
7 true property value of the municipality from which the property was
8 detached for the two years immediately preceding the effective date of the
9 detachment. In making the determination for a municipality that is a
10 school district or for a city that is within a borough school district, the
11 assessed value of property taxable under AS 43.56 shall be excluded if a
12 municipal tax is not levied under AS 29.45.080 in that school district. The
13 determination of full and true value shall be made by October 1 and sent by
14 certified mail, return receipt requested, on or before that date to the president of
15 the school board in each city or borough school district. Duplicate copies shall
16 be sent to the commissioner. The governing body of a city or borough that is a
17 school district may obtain judicial review of the determination. The superior
18 court may modify the determination of the Department of Community and
19 Economic Development only upon a finding of abuse of discretion or upon a
20 finding that there is no substantial evidence to support the determination.

21 *Sec. 2. AS 44.33 is amended by adding a new section to article 11 to read:

22 **Sec. 44.33.830. Incorporation or annexation of unorganized areas.**

23 (a) In addition to other methods for incorporation and annexation provided by
24 law, an area of the unorganized borough may be incorporated as a second
25 class borough or annexed to an existing borough or unified municipality under
26 (b) – (f) of this section. AS 44.33.814 – 44.33.828 apply to actions taken by
27 the commission under this section.

1 (b) The Department of Community and Economic Development shall
2 determine which areas of the unorganized borough reasonably appear to
3 satisfy standards for borough incorporation or for annexation to an existing
4 borough or unified municipality. By September 30 of each year, the
5 department shall present to the Local Boundary Commission a list of those
6 areas that reasonable appear to satisfy standards for borough incorporation or
7 for annexation to an existing borough or unified municipality, together with
8 the department's analysis supporting its conclusions regarding the
9 incorporation or annexation standards for each of the areas. By November 30
10 of each year, the commission shall select areas from the list provided by the
11 department that the commission determines may warrant incorporation or
12 annexation. By March 31 of the following year, the department shall prepare
13 a petition for borough incorporation or for annexation of each of the areas
14 selected by the commission. The department shall conduct at least one public
15 meeting in each area for the purpose of gathering information needed to
16 prepare the petition. The department shall provide public notice when the
17 petition has been prepared, make copies of the petition available, and provide
18 any interested person with the opportunity to submit written comments on the
19 petition. After considering the comments, the department may amend the
20 petition. The department shall file the original petition or, if amended, the
21 amended petition with the commission.

22 (c) Upon receipt of a petition filed under (b) of this section, the Local
23 Boundary Commission shall hold at least one public hearing in or near the
24 area proposed for incorporation or annexation. Following the hearing, the
25 commission may amend the petition and may impose conditions on the
26 incorporation or annexation. If the commission determines that the
27 incorporation or annexation meets applicable standards under the state
28 constitution as well as those established by law and commission regulation,
29 and is in the best interests of the state, it may accept the petition. Otherwise, it

1 shall reject the petition. Each incorporation or annexation approved by the
2 commission shall be submitted to the legislature under AS 44.33.828 and
3 takes effect as provided in that section.

4 (l) Regulations of the Local Boundary Commission filed under
5 authority of other provisions of law that apply to incorporation and annexation
6 petitions and that deal with the form and content of petitions, public notice of
7 the filing of petitions, service of petitions, opportunity to file responsive
8 briefs, amendment of petitions, notice and conduct of hearings, conduct of
9 decisional sessions, and reconsideration apply to the preparation and
10 consideration of petitions under this section to the extent they may be applied
11 without conflicting with this section. The Local Boundary Commission may
12 adopt regulations providing additional standards and procedures for
13 incorporations or boundary changes under this section and to carry out the
14 purposes of this section.

15 (e) When a proposal for incorporation of an area under this section
16 becomes effective, the Local Boundary Commission shall immediately notify
17 the director of elections. Within 30 days after notification, the director of
18 elections shall order an election in the area for initial borough officials. The
19 election shall be held under AS 29.05.120 not less than 30 nor more than 90
20 days after the date of the election order. The election order must specify the
21 dates during which nomination petitions for election of initial officials may be
22 filed. AS 29.05.130 – 29.05.150, 29.05.190 – 29.05.210, and AS 29.65.030
23 apply to boroughs incorporated under this section.

24 (f) When a proposal under this section for annexation of an area in the
25 unorganized borough becomes effective, the borough or unified municipality
26 to which the area is annexed shall receive an additional general grant land
27 entitlement equal to 10 percent of the maximum total acreage of vacant,

1 unappropriated, unreserved land within the boundaries of the area annexed.
2 Additional general grant land entitlements under this subsection are subject to
3 AS 29.65.030 – 29.65.140 to the extent that those provisions can be made
4 applicable. The borough or unified municipality to which the area is annexed
5 is also entitled to an organization grant under AS 29.05.190, and, for purposes
6 of applying that section, the effective date of the annexation shall be treated as
7 though it were the date of incorporation.

8

Section 3.

Sectional Analysis

Proposed Legislation for an Act Entitled

“An Act relating to the determination of full and true value of taxable municipal property for purposes of certain programs; and relating to incorporation of second class boroughs in the unorganized borough, and to annexation of portions of the unorganized borough to boroughs and unified municipalities.”

Overview. The principal purpose of the proposed legislation is to establish a process under which the State of Alaska will systematically initiate proceedings for borough incorporation and annexation in portions of the unorganized borough that have the human and financial resources necessary to support the extension of borough government. Additionally, the proposed legislation would diminish certain deterrents to the extension of borough government, and add incentives for borough incorporation and annexation. It also resolves an inequity in education funding that arises in rare instances where territory is detached from a municipal school district.

Section 1.

Under current law, if an area is detached from an organized borough, home rule city in the unorganized borough, or first class city in the unorganized borough which is subject to the 4-mill equivalent local contribution in support of schools required by AS 14.17.410(b)(2), that contribution will, for two years following detachment, be based on property values that include the detached territory. The proposed legislation would eliminate that inequity.

Provisions in Section one also eliminate a major disincentive to borough formation in certain regions of Alaska. In less developed parts of Alaska, property taxes are not necessarily the most practical or preferred means of generating municipal revenue. This is evidenced by the fact that four of the last five organized boroughs formed in Alaska do not levy property taxes. Those four boroughs comprise twenty-five percent of all organized boroughs in Alaska.

⁴⁴ AS 14.17.410(b)(2) provides that "the required local contribution of a city or borough school district is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Economic Development under AS 14.17.510 and AS 29.45.110, not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under (1) of this section." Since the value of the trans-Alaska Oil Pipeline is so substantial, the inclusion of portions of the Pipeline within an organized borough increases that borough's local contribution for schools required under AS 14.17.410 to an extent that the only practical way for the borough to meet that requirement is to levy a property tax.

However, current laws governing education funding effectively dictate that any organized borough encompassing substantial oil and gas exploration, production, and pipeline transportation properties such as the trans-Alaska Oil Pipeline must levy a property tax.⁴⁴ Many residents in unorganized areas along the trans-Alaska Oil Pipeline view the inexorable need for a property tax as a significant disincentive to borough formation.

When a municipal government levies property taxes on the trans-Alaska Oil Pipeline or other oil and gas exploration, production and pipeline transportation properties, the proceeds from that tax are deducted from revenues that the State of Alaska would otherwise receive under AS 43.56.010. Thus, the State's financial gains from including oil and gas properties in the local required contribution determinations for a municipality under AS 14.17.410 are offset by an equal loss in State taxes levied under AS 43.56 on oil and gas properties. Moreover, the State incurs a net financial loss when such municipalities invariably levy property taxes on oil and gas properties to meet costs beyond their required local contributions for schools. The certainty of adverse financial impacts to the State that would result from formation of more boroughs along the Pipeline has been a long-standing argument against borough incorporation by critics of such.

Section 1 of the proposed legislation is intended to address the borough disincentive and State fiscal policy issue noted above by eliminating provisions in law which effectively require that boroughs encompassing the trans-Alaska Oil Pipeline levy property taxes. Municipalities would retain the option of levying property taxes, however, they would not be effectively required to do so as they are now. Section 1 provides that if municipal property taxes are not levied within a municipal school district, the value of any oil and gas properties within the municipality shall be excluded from the determination of that municipality's required local contribution for schools. The provision would apply to any home rule or first class city in the unorganized borough and to all municipalities within an organized borough (i.e., the borough and all cities within the borough). To take advantage of the alternative, neither a borough nor any city within that borough could levy property taxes on oil and gas properties.

In addition to determinations of local required contributions in support of schools, Section 1 applies the same principle for the identical reasons to other provisions in State law concerning municipalities. These consist of provisions relating to: (1) school district participation under AS 14.11.008 in grant programs for construction, rehabilitation, and improvement of schools and

education-related facilities; (2) supplementary public school funding floor under AS 14.17.490; and (3) determination of millage rate equivalents under AS 29.60.030 for municipal tax resource equalization entitlements.

Section 2.

As noted in the overview, this section establishes a process under which the State of Alaska will initiate proceedings for borough incorporation and annexation in portions of the unorganized borough that have the human and financial resources necessary to support the extension of borough government. A detailed analysis and explanation of each of the seven subsections of Section 2 follows.

Subsection (a).

This subsection provides that in addition to procedures for borough incorporation and annexation in existing law, incorporation of second class boroughs and annexation to existing boroughs (including unified municipalities) may occur as outlined under subsection (b) - (f) of Section 2.

Additionally, subsection (a) provides that existing State laws (AS 44.33.814 - 44.33.828) governing the Local Boundary Commission generally apply to actions taken by the commission under Section 2. Those existing laws relate to Local Boundary Commission meetings, hearings, minutes, records, notice of public hearings, quorum, approval of boundary changes, expenses, hearings on boundary changes, and effective dates of boundary changes.

Subsection (b).

This subsection requires that by September 30 of each year, the Alaska Department of Community and Economic Development (DCED) must provide the Local Boundary Commission with a list of areas that DCED concludes reasonably appear to satisfy standards for borough incorporation or for annexation to an existing borough or unified municipality. DCED must also provide the Commission with the department's analysis supporting listings.

By November 30 of each year, the Commission must select areas from the list that the Commission determines may warrant incorporation or annexation.

By March 31 of the following year, DCED must prepare a petition for borough incorporation or for annexation of each of the areas selected by the Commission. In the course of preparing the petitions, DCED must conduct at least one public meeting in each area to gather information needed to prepare the petition.

DCED must provide public notice when a petition has been prepared. DCED must provide copies of the petition and must provide opportunity for the public to submit written comments on the petition.

After considering written comments on the petition, DCED may amend the petition. DCED must then file the original petition, or if amended, the amended petition, with the Local Boundary Commission.

Subsection (c).

After the Commission receives a petition, it must hold at least one public hearing in or near the area proposed for incorporation or annexation.

Following the hearing, the Commission may amend the petition and may impose conditions on the incorporation or annexation.

If the Commission determines that the incorporation or annexation meets applicable standards under the state constitution as well as those established by law and commission regulation, and is in the best interests of the state, it may accept the petition. Otherwise, it must reject the petition.

Each incorporation or annexation approved by the Commission must be submitted to the legislature during the first ten days of a regular legislative session. The legislature then has 45 days to review the incorporation or annexation. The incorporation or annexation is tacitly approved by the legislature unless both the House and Senate adopt a concurrent resolution rejecting the proposal within the 45-day review period. This is consistent with the process set out in Article X, Section 12 of Alaska's Constitution for municipal boundary changes recommended by the Commission.

Subsection (d).

This subsection provides that certain regulations adopted by the Local Boundary Commission apply to the preparation and consideration of petitions under Section 2 as long as they do not

conflict with Section 2. These consist of regulations dealing with the form and content of petitions, public notice of the filing of petitions, service of petitions, opportunity to file responsive briefs, amendment of petitions, notice and conduct of hearings, conduct of decisional sessions, and reconsideration. These regulations are found under 3 AAC 110.

Subsection (d) further provides that the Commission may adopt regulations providing additional standards and procedures for incorporations or boundary changes under Section 2 and to carry out the purposes of Section 2.

Subsection (e).

If a proposal for incorporation of a second class borough receives tacit approval from the legislature, the Commission must notify the State director of elections. Within 30 days, the director of election must order an election in the area for initial borough officials. The election must be held under AS 29.05.120 not less than 30 or more than 90 days after the date of the election order. The election order must specify the dates during which nomination petitions for election of initial officials may be filed.

Subsection (e) provides that other general laws governing borough incorporation apply to boroughs incorporated under Section 2. These consist of laws relating to integration of special districts and service areas (AS 29.05.130); transition (AS 29.05.140); challenge of legality (AS 29.05.150); organization grants (AS 29.05.190); organization grant fund (AS 29.05.200); transitional assistance to boroughs (AS 29.05.210); and land grants (AS 29.65.030).

Subsection (f).

This subsection provides two incentives for borough annexation. First, it extends land grants to boroughs that annex parts of the unorganized borough. Like grants for newly incorporated boroughs, the grant equals 10 percent of the total acreage of vacant, unappropriated, unreserved land within the boundaries of the portion of the unorganized borough that was annexed. Land grants are subject to general laws governing municipal land grants under AS 29.65.030 - 29.65.140 to the extent that those provisions can be made applicable.

Additionally, the borough to which an unorganized area is annexed is also entitled to an organization grant under AS 29.05.190.

Time Line for Incorporation or Annexation Under Proposed Legislation

By September 30 ↓	DCED lists prospective borough incorporations & annexations	New provision in law
By November 30 ↓	LBC selects proposals from DCED list	New provision in law
December 1 ↓	DCED conducts meetings in regions selected by LBC	Parallel provision in existing law [AS 29.05.080(a)]
	DCED prepares petitions	Parallel provision in existing law [AS 44.33.812(a)(3)]
	DCED provides public notice of petitions	Existing law (3 AAC 110.450)
	Interested persons allowed to comment on petitions	Existing law (3 AAC 110.480)
	Based on comments DCED may amend petitions	Existing law (3 AAC 110.540)
March 31 ↓	DCED files petitions with LBC	Existing law [3 AAC 110.440(c)]
April 1 ↓	Notice given of LBC hearings	Existing law (3 AAC 110.550)
	LBC conducts hearing in region	Existing law (AS 29.05.090)
	LBC approves, rejects, or amends/conditions/approves petitions	Existing law [AS 29.05.100(a)]
	LBC adopts written decisional statement for each petition	Existing law [3 AAC 110.570(f)]
	Interested parties may seek reconsideration of LBC decision	Existing law (3 AAC 110.580)
mid- January ↓	LBC files recommendations with Legislature	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
	Legislature considers LBC recommendations for 45 days	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
late-March ↓	Recommendations approved unless rejected	Parallel provision in existing law (Art. X, § 12, Ak. Const.)
	LBC notifies Division of Elections of approved boroughs	Existing law [AS 29.05.110(a)]
late -March to late-April ↓	Division of Elections orders election for initial borough officials	Existing law (AS 29.05.120)
by late-July	Division of Elections conducts elections for initial borough officials	Existing law (AS 29.05.120)

Summary of Standards for Borough Incorporation in Existing Law

Standards regarding the creation of organized boroughs are provided in Alaska's Constitution, statutes, and regulations. The standards are summarized below

- Borough incorporation is encouraged under Alaska's Constitution. (Art. X, § 1, Ak. Const.)
- All of Alaska must be divided into boroughs (organized or unorganized) with each embracing an area and population with common interests to the maximum degree possible. (Art. X, § 3, Ak. Const.)
- Alaska's Constitution favors larger boroughs in order to avoid the proliferation of small boroughs. (Art. X, § 1, Ak. Const.)
- Borough incorporation must be in the best interests of the state. (AS 29.05.100)
- Borough residents must be socially, culturally, and economically interrelated and integrated. (AS 29.05.031(a)(1); 3 AAC 110.045(a)-(b))
- The population must be large and stable enough to support borough government. It is formally presumed that a borough will have at least 1,000 permanent residents. (AS 29.05.031(a)(1); 3 AAC 110.050)
- Boundaries must conform generally to natural geography and include all areas necessary for full development of municipal services. (AS 29.05.031(a)(2); 3 AAC 110.060(a))
- Consideration must be given to model borough boundaries adopted by the Local Boundary Commission. (3 AAC 110.060(b))
- Boundaries must conform to regional educational attendance area boundaries, unless the Local Boundary Commission allows otherwise. (3 AAC 110.060(c))
- There must be adequate human and financial resources to provide borough services. (AS 29.05.031(a)(3); 3 AAC 110.055)
- There must be adequate facilities to allow the communication and exchange necessary for the development of integrated borough government. (AS 29.05.031(a)(4); 3 AAC 110.045(c)-(d))

Section 4. Biographical Information About the Local Boundary Commission

The Commission consists of five members appointed by the Governor for overlapping terms of five years. Members serve at the pleasure of the Governor. The Chairperson is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation. Appointments to the Commission are made, "...on the basis of interest in public affairs, good judgment, knowledge and ability in the field ... and with a view to providing diversity of interest and points of view in the membership." (AS 39.05.060)

Information about current Commissioners follows.



Kevin Waring, a resident of Anchorage, has served on the Commission since July 15, 1996. He was appointed Chairperson on July 10, 1997. He was reappointed to a new term as Chairperson effective January 31, 1998. Commissioner Waring was one of the original division directors of the former Alaska Department of Community and Regional Affairs (1973-1978). Between 1980 and the spring of 1998, he operated a planning/economics consulting firm in Anchorage. From the spring of 1998 until early 2000, Commissioner Waring was employed as manager of physical planning for the Municipality of Anchorage's Community Planning and Development Department. He has since returned to private consulting. Mr. Waring has been active on numerous Anchorage School District policy and planning committees. His current term on the LBC expires January 31, 2003.



Kathleen S. Wasserman, a resident of Pelican, is the Vice-Chairperson of the Commission. She serves from Alaska's First Judicial District. She was first appointed to the Commission for an unexpired term on September 14, 1995. She was reappointed to a new term beginning January 31, 1996. Commissioner Wasserman also serves as the current Mayor of the City of Pelican. She is currently serves as the District 1 representative on the Alaska Municipal League Board of Directors and as Secretary/Treasurer for the Alaska Conference of Mayors. In the past, Commissioner Wasserman has served as a member of the Assembly of the City and Borough of Sitka and as

Mayor of the City of Kasaa. Additionally, she has served as president of the Southeast Island Regional Educational Attendance Area School Board. Commissioner Wasserman is self-employed. Her present term on the Commission expires January 31, 2001.



Nancy E. Galstad serves from the Second Judicial District. She was appointed to the LBC on September 14, 1995 and reappointed to a new term effective January 31, 1999. Formerly Special Assistant to the Commissioner of the Alaska Department of Labor, Ms. Galstad now serves as the

Manager of the City of Kotzebue. She is currently Second Vice-President of the Alaska Municipal Managers' Association. Ms. Galstad was a member of the Alaska Safety Advisory Council for eight years and currently serves as Vice Chair of the Alaska Municipal League Joint Insurance Association. She also served as a member of the State's Task Force on Education Funding in 1995. Ms. Galstad's current term on the LBC expires January 31, 2004.



Allan Tesche serves from the Third Judicial District and is a resident of Anchorage. He was appointed to the LBC on July 10, 1997. In April 1999, Mr. Tesche was elected to the Assembly of the Municipality of Anchorage. In the past, Mr. Tesche has served as Deputy and Assistant Municipal Attorney

in Anchorage and Borough Attorney for the Matanuska-Susitna Borough. He is a founder and past president of the Alaska Municipal Attorneys' Association and served as a member of the attorneys' committee which assisted the Alaska legislature in the 1985 revisions to the Municipal Code (AS 29). Mr. Tesche is a shareholder in the Anchorage law firm of Russell, Tesche, Wagg, Cooper & Gabbert, PC. Mr. Tesche's term on the Commission expires January 31, 2002.



Ardith Lynch serves from the Fourth Judicial District and lives in the greater Fairbanks area. She was appointed to the LBC on December 21, 1999. Ms. Lynch is the Borough Attorney for the Fairbanks North Star Borough. She has also worked for the State of Alaska as an Assistant Attorney General

and as Deputy Director of the Child Support Enforcement Division. Ms. Lynch has served on the Board of Governors of the Alaska Bar Association and is a past president of the Alaska Municipal Attorneys' Association. Her term on the Commission expires December 21, 2004.

Appendix A

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Shaded areas identify seven regions in the unorganized borough with 1998 per capita personal income higher than those in the Matanuska-Susitna Borough and the Lake & Peninsula Borough



1998 Per Capita Personal Income

(Source: U.S. Commerce Department, Bureau of Economic Analysis)

Borough or Census Area	1998 Per Capita Personal Income
Bristol Bay Borough	\$43,439
City and Borough of Juneau	\$33,516
Municipality of Anchorage	\$32,659
Denali Borough	\$32,152
Ketchikan Gateway Borough	\$31,803
Haines Borough	\$30,059
North Slope Borough	\$29,271
City and Borough of Sitka	\$28,480
Aleutians West Census Area	\$28,356
Valdez-Cordova Census Area	\$28,256
City and Borough of Yakutat	\$27,352
Wrangell-Petersburg Census Area	\$25,983
Fairbanks North Star Borough	\$25,341
Kenai Peninsula Borough	\$25,120
Dillingham Census Area	\$25,046
Skagway-Hoonah-Angoon Census Area	\$24,086
Kodiak Island Borough	\$24,166
Aleutians East Borough	\$24,069
Southeast Fairbanks Census Area	\$21,614
Northwest Arctic Borough	\$20,700
Nome Census Area	\$20,508
Matanuska-Susitna Borough	\$18,752
Lake and Peninsula Borough	\$18,419
Prince of Wales – Outer Ketchikan Census	\$18,278
Yukon-Koyukuk Census Area	\$18,005
Bethel Census Area	\$17,524
Wade Hampton Census Area	\$12,684

Shaded areas identify three regions in the unorganized borough with 1998 local employment per 1,000 residents higher than those in eight organized boroughs.



1998 Local Employment in Alaska

(Source: Alaska Department of Labor and Workforce Development)
(employment per 1,000 residents extrapolated by DCED)

Borough or Census Area	Total Employment	1998 Population	Employment Per 1,000 Residents
North Slope Borough	8,515	7,268	1,171.6
Denali Borough	1,732	1,868	927.2
Bristol Bay Borough	1,070	1,291	828.8
Aleutians East Borough	1,725	2,145	804.2
Aleutians West Census Area	3,439	5,346	643.3
Juneau Borough	16,460	30,021	548.3
Yakutat Borough	422	775	544.5
Ketchikan Gateway Borough	7,025	14,143	496.7
Anchorage, Municipality of	126,776	257,260	492.8
Dillingham Census Area	2,307	4,686	492.3
Valdez-Cordova Census Area	4,763	10,274	463.6
Sitka Borough	3,875	8,722	444.3
Kodiak Island Borough	5,737	13,716	418.3
Skaqway-Hoonah-Angoon Census Area	1,521	3,642	417.6
Northwest Arctic Borough	2,735	6,817	401.2
Fairbanks North Star Borough	32,336	83,045	389.4
Haines Borough	933	2,461	379.1
Nome Census Area	3,525	9,341	377.4
Bethel Census Area	5,880	15,935	369.0
Lake and Peninsula Borough	662	1,842	359.4
Wrangell-Petersburg Census Area	2,543	7,165	354.9
Kenai Peninsula Borough	16,586	48,532	341.8
Prince of Wales-Outer Ketchikan Census	2,201	6,830	322.3
Yukon-Koyukuk Census Area	2,001	6,411	312.1
Wade Hampton Census Area	1,941	7,044	275.6
Southeast Fairbanks Census Area	1,634	6,349	257.4
Matanuska-Susitna Borough	11,368	54,153	209.9

Shaded areas identify three regions in the unorganized borough with 1998 per capita earnings from local employment higher than those in ten organized boroughs



1998 Per Capita Earnings from Local Employment

(Source: Alaska Department of Labor and Workforce Development)
(employment per 1,000 residents extrapolated by DCED)

Region	1998 Earnings	1998 Population	1998 Per Capita Earnings
North Slope Borough	\$520,522,220	7,268	\$71,618
Nome Census Area	\$97,044,435	2,461	\$39,433
Denali Borough	\$55,286,386	1,868	\$29,597
Bristol Bay Borough	\$32,431,012	1,291	\$25,121
Aleutians West Census Area	\$108,882,321	5,346	\$20,367
Aleutians East Borough	\$41,027,273	2,145	\$19,127
Juneau Borough	\$531,813,449	30,021	\$17,715
Anchorage, Municipality of	\$4,487,741,618	257,260	\$17,444
Valdez-Cordova Census Area	\$177,367,744	10,274	\$17,264
Yakutat Borough	\$12,342,015	775	\$15,925
Ketchikan Gateway Borough	\$225,062,306	14,143	\$15,913
Northwest Arctic Borough	\$106,716,798	6,817	\$15,655
Dillingham Census Area	\$62,319,552	4,686	\$13,299
Sitka Borough	\$107,681,583	8,722	\$12,346
Fairbanks North Star Borough	\$993,377,321	83,045	\$11,962
Kodiak Island Borough	\$156,034,213	13,716	\$11,376
Skagway-Hoonah-Angoon Census Area	\$38,853,608	3,642	\$10,668
Kenai Peninsula Borough	\$498,375,187	48,532	\$10,269
Wrangell-Petersburg Census Area	\$70,592,857	7,165	\$9,852
Haines Borough	\$22,964,855	2,461	\$9,332
Bethel Census Area	\$145,680,722	15,935	\$9,142
Prince of Wales-Outer Ketchikan Census Area	\$62,291,076	6,830	\$9,120
Yukon-Koyukuk Census Area	\$54,484,780	6,411	\$8,499
Lake and Peninsula Borough	\$13,525,967	1,842	\$7,343
Southeast Fairbanks Census Area	\$45,337,691	6,349	\$7,141
Matanuska-Susitna Borough	\$311,684,727	54,153	\$5,756
Wade Hampton Census Area	\$34,879,176	7,044	\$4,952



Regional Educational Attendance Areas

(excludes 18 home rule and first class cities in the unorganized borough)

(Based on information from the
Alaska Department of Education and Early Development)

A-4

District	1999 Enrollment	FY 1999 Audited Expenditures	Expenditures per Student - All Expenditures	FY 1999 Required Local Effort	Voluntary Additional FY, 1999 Contributions	Expenditures per Student - State & Federal Funding Only
1. Alaska Gateway REAA	480	\$5,191,833	\$10,816.32	\$0	\$0	\$10,816.32
2. Aleutian Region REAA	79	\$1,318,555	\$16,690.57	\$0	\$0	\$16,690.57
3. Annette Island REAA	374	\$4,268,456	\$11,412.98	\$0	\$0	\$11,412.98
4. Bering Strait REAA	1864	\$25,248,054	\$13,545.09	\$0	\$0	\$13,545.09
5. Chatham REAA	248	\$2,988,420	\$12,050.08	\$0	\$0	\$12,050.08
6. Chugach REAA	166	\$1,997,541	\$12,033.38	\$0	\$0	\$12,033.38
7. Copper River REAA	745	\$5,888,245	\$7,903.68	\$0	\$0	\$7,903.68
8. Del'a/Greely REAA	1107	\$7,004,552	\$6,327.51	\$0	\$0	\$6,327.51
9. Iditarod Area REAA	594	\$7,130,288	\$12,003.85	\$0	\$0	\$12,003.85
10. Kashunimuit REAA	300	\$3,004,401	\$10,014.67	\$0	\$0	\$10,014.67
11. Kuspuk REAA	497	\$6,777,351	\$13,636.52	\$0	\$0	\$13,636.52
12. Lower Kuskokwim REAA	3687	\$45,218,520	\$12,264.31	\$0	\$0	\$12,264.31
13. Lower Yukon REAA	1946	\$20,431,861	\$10,499.41	\$0	\$0	\$10,499.41
14. Pribilof REAA	160	\$2,164,574	\$13,528.59	\$0	\$0	\$13,528.59
15. Southeast Island REAA	298	\$3,644,951	\$12,231.38	\$0	\$0	\$12,231.38
16. Southwest Region REAA	745	\$10,388,823	\$13,944.73	\$0	\$0	\$13,944.73
17. Yukon Flats REAA	382	\$6,518,032	\$17,062.91	\$0	\$0	\$17,062.91
18. Yukon/Koyukuk REAA	556	\$8,182,436	\$14,716.61	\$0	\$0	\$14,716.61
19. Yupiit REAA	402	\$6,048,746	\$15,046.63	\$0	\$0	\$15,046.63
Total	14,630	\$173,415,639	\$11,853.43	\$0	\$0	\$11,853.43



Borough School Districts

(Based on information from the Alaska Department of Education and Early Development)

A-5

District	1999 Enrollment	FY 1999 Audited Expenditures	Expenditures per Student - All Expenditures	FY 1999 Required Local Effort	Voluntary Additional FY 1999 Contributions	Expenditures per Student - State & Federal Funding Only
Aleutians East	362	\$5,213,401	\$14,402	\$365,761	\$471,992	\$12,087
Anchorage	49,382	\$293,650,692	\$5,947	\$55,828,890	\$38,573,995	\$4,035
Bristol Bay	308	\$3,051,117	\$9,906	\$860,657	\$513,424	\$5,445
Denali	329	\$3,899,941	\$11,854	\$459,758	\$639,427	\$8,513
Fairbanks North Star	15,999	\$107,381,962	\$6,712	\$17,106,689	\$13,584,091	\$4,793
Haines	425	\$3,468,985	\$8,162	\$674,832	\$477,824	\$5,450
Juneau	5,699	\$37,041,180	\$6,500	\$9,380,326	\$6,445,574	\$3,723
Kenai Peninsula	10,225	\$73,237,898	\$7,163	\$15,751,444	\$13,725,341	\$4,280
Ketchikan Gateway	2,643	\$17,437,478	\$6,598	\$4,552,513	\$3,154,676	\$3,682
Kodiak Island	2,817	\$22,916,263	\$8,135	\$3,588,780	\$2,909,130	\$5,828
Lake and Peninsula	491	\$11,109,637	\$22,627	\$268,776	\$955,761	\$20,133
Matanuska-Susitna	12,735	\$84,155,364	\$6,608	\$9,922,903	\$13,917,154	\$4,736
North Slope	2,131	\$41,270,164	\$19,367	\$8,791,243	\$15,045,224	\$8,181
Northwest Arctic	2,192	\$25,844,110	\$11,790	\$1,484,493	\$1,010,427	\$10,652
Sitka	1,746	\$11,265,994	\$6,452	\$2,500,230	\$1,836,746	\$3,969
Yakutat	159	\$1,998,427	\$12,569	\$144,356	\$309,404	\$9,715
Totals	107,643	\$742,942,613	\$6,902	\$131,681,651	\$113,570,190	\$4,624

City School Districts

(Based on information from the Alaska Department of Education and Early Development)



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District	1999 Enrollment	FY 1999 Audited Expenditures	Expenditures per Student - All Expenditures	FY 1999 Required Local Effort	Voluntary, Additional FY 1999 Contributions	Expenditures per Student - State & Federal Funding Only
City of Cordova	487	\$4,264,523	\$8,757	\$674,600	\$727,745	\$5,877
City of Craig	420	\$3,203,099	\$7,626	\$367,666	\$263,045	\$6,125
City of Dillingham	564	\$5,658,301	\$10,032	\$608,522	\$398,330	\$8,247
City of Galena	3,725	\$16,261,344	\$4,365	\$70,412	\$789,971	\$4,134
City of Hoonah	236	\$3,212,497	\$13,612	\$98,904	\$426,866	\$11,384
City of Hydaburg	108	\$1,768,547	\$16,375	\$23,809	\$8,254	\$16,079
City of Kake	166	\$2,115,154	\$12,742	\$69,431	\$160,254	\$11,358
City of Klawock	203	\$2,207,758	\$10,876	\$62,627	\$139,151	\$9,882
City of Nenana	1,005	\$2,670,749	\$2,657	\$66,968	\$20,013	\$2,571
City of Nome	774	\$6,845,554	\$8,844	\$626,146	\$588,874	\$7,275
City of Pelican	36	\$626,209	\$17,395	\$53,374	\$3,761	\$15,808
City of Petersburg	701	\$5,138,950	\$7,331	\$947,600	\$714,047	\$4,960
City of Saint Mary's	133	\$1,637,104	\$12,309	\$17,993	\$23,751	\$11,995
City of Skagway	133	\$1,484,376	\$11,161	\$525,021	\$131,689	\$6,223
City of Tanana	93	\$1,813,330	\$19,498	\$23,286	\$62,869	\$18,572
City of Unalaska	392	\$3,783,913	\$9,653	\$1,421,769	\$345,752	\$5,144
City of Valdez	868	\$8,044,695	\$9,268	\$2,616,877	\$1,439,010	\$4,595
City of Wrangell	505	\$3,897,032	\$7,717	\$651,476	\$750,914	\$4,940
Total	10,549	\$74,633,135	\$7,075	\$8,926,500	\$6,994,297	\$5,566