

SB

96

<TARGET><BILL>SB 96</BILL><SUBJECT>SB
96</SUBJECT><COMM>SCRA27</COMM></TARGET>

CS FOR SENATE BILL NO. 96()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR KOOKESH

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the Village Safe Water Act."**

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

3 * **Section 1.** AS 46.07.080(2) is amended to read:

4 (2) "village" means a village listed in 43 U.S.C. 1610 or 1615 [AN
5 UNINCORPORATED COMMUNITY] that has between 25 and 1,000 residents [600
6 PEOPLE RESIDING WITHIN A TWO-MILE RADIUS], a second class city, or a
7 first class city or home rule city with not more than 1,000 [600] residents.

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

10 TRANSITION. Notwithstanding the amendment to AS 46.07.080(2) by sec. 1 of this
11 Act, a village for which Village Safe Water Act project funding was appropriated in a capital
12 budget bill approved by the legislature for a fiscal year before fiscal year 2012 shall remain
13 eligible to receive that Village Safe Water Act project funding after the effective date of this
14 Act regardless of whether the village meets the definition of "village" in AS 46.07.080(2) as
15 amended by sec. 1 of this Act.



SENATOR ALBERT M. KOOKESH
ALASKA STATE LEGISLATURE SENATE DISTRICT C

State Capitol, Room 11
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SPONSOR STATEMENT

CSSB 96 (C&RA): "An Act relating to the Village Safe Water Act"

This bill makes the following changes to the Village Safe Water Act:

1. Raises the maximum population eligible for funding from 600 to 1000 for villages and first-class cities. This would allow those municipalities which are still facing clean water and sanitation issues to receive VSW grants despite their population growth. First Class cities Sand Point, King Cove, Hoonah and Klawock would become eligible for VSW grants.
2. Adds home rule cities whose population is below 1000 residents. This would allow Nenana to become eligible to apply for VSW funding.
3. Changes the definition of village from "unincorporated community" to a village listed in 43 U.S.C. 1610 or 15 (ANCSA). This would make it mandatory for an applicant to have a structured government in place.

These changes to the Village Safe Water Act would direct the program funding to those regions of Alaska it was intended to help. Many villages in Alaska lack basic sanitation needs including safe sources of drinking water or hygienic means of sewage disposal.

The Department of Environmental Conservation is in full support of this bill. I urge your support the passing of this bill.

David Scott

From: Carlson-Van Dort, Marit K (DEC) [marit.carlson-van.dort@alaska.gov]
Sent: Tuesday, March 15, 2011 9:59 AM
To: David Scott
Cc: Griffith, Bill (DEC); Kent, Lynn J T (DEC)
Subject: RE: SB 96 Language

David,

We will shoot to get you an analysis of which districts would be most affected by the proposed changes in eligibility by early afternoon, but in the meantime, here are lists of communities that would be affected:

Regarding the communities that will be affected by the 600 to 1000 amendment:

The following 5 villages (1st class cities or unincorporated) now have a population between 600 and 1000. These communities have all received VSW funding in the past, but are not longer eligible under the current statute:

Klawock Hoonah King Cove Kipnuk Akiachak

In addition, the following 3 villages (1st class cities or unincorporated) have a population over 550 and are growing:

Kasigluk Galena Saint Mary's

Regarding the unincorporated communities with no local government ("homeowner associations"):

The following communities have no existing local government (neither a municipal government nor a federally recognized tribe) but have received funding through the VSW program:

Badger Richardson Elfin Cove	Lake Minchumina Lowell Point	Nikolaevsk Point Baker	Slana Voznesenka
Glennallen Hyder (subdivision)	McCarthy Naukati	Port Alsworth Port Protection	Whale Pass Anchor Point

In addition, the following communities represent a partial list of the communities which are eligible under the current VSW Act, would no longer be eligible under the proposed amendments, and have never received a VSW grant in the past:

Aleneva	Four Mile Road	Lake Louise	Salamatof
Beluga	Fox	Livengood	Salcha
Big Delta	Fox River	Lutak	Seldovia Village
Buffalo Soapstone	Funny River	McKinley Park	Shemya Station
Central	Game Creek	Mendeltna	Silver Springs
Chase	Glacier View	Moose Creek	Skwentna
Chiniak			Susitna
Clam Gulch	Halibut Cove	Mosquito Lake	Tolsona
Cooper Landing	Happy Valley	Mud Bay	Tonsina
Copperville	Harding-Birch Lakes	Nelchina	Trapper Creek
Covenant Life	Hollis	Northway Junction	Two Rivers
Crown Point	Hope	Paxson	Whale Pass
Cube Cove	Jakolof Bay	Petersville	Whitestone Logging Camp

Dry Creek
Edna Bay
Ferry
Fort Greely

Kasilof
Kenny Lake
King Salmon
Knik River

Pleasant Valley
Point MacKenzie
Primrose
Red Dog Mine

Willow Creek
Womens Bay

Mārit Carlson Van Dort

Legislative Liaison/Special Assistant to the Commissioner

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From: David Scott [mailto:David_Scott@legis.state.ak.us]

Sent: Mon 3/14/2011 8:09 PM

To: Carlson-Van Dort, Marit K (DEC)

Subject: SB 96 Language

The earlier the better - thanks. Then I will also need to know the communities that will be affected by the 600 to 1000 amendment and then the neighborhood associations...? This will take some thought. Who would be against? What districts? What reps? What senators? Unorganized?? Within boroughs??? I'm all for changing it but I need some ammo.

David Scott
Office of Sen. Donny Olson

Sent from my iPhone.
Please excuse any typos.

From: Carlson-Van Dort, Marit K (DEC)
Sent: Tuesday, March 15, 2011 9:59 AM
To: Scott, David (LAA)
Cc: Griffith, Bill (DEC); Kent, Lynn J T (DEC)
Subject: RE: SB 96 Language

David,

We will shoot to get you an analysis of which districts would be most affected by the proposed changes in eligibility by early afternoon, but in the meantime, here are lists of communities that would be affected:

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The following communities have no existing local government (neither a municipal government nor a federally recognized tribe) but have received funding through the VSW program:

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Glennallen Hyder (subdivision)	McCarthy Naukati	Port Alsworth Port Protection	Whale Pass Anchor Point

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Central	Game Creek	Mendeltna	Silver Springs
Chase	Glacier View	Moose Creek	Skwentna
Chiniak			Susitna
Clam Gulch	Halibut Cove	Mosquito Lake	Tolsona
Cooper Landing	Happy Valley	Mud Bay	Tonsina
Copperville	Harding-Birch Lakes	Nelchina	Trapper Creek
Covenant Life	Hollis	Northway Junction	Two Rivers
Crown Point	Hope	Paxson	Whale Pass
Cube Cove	Jakolof Bay	Petersville	Whitestone Logging Camp
Dry Creek	Kasilof	Pleasant Valley	

David Scott

From: Carlson-Van Dort, Marit K (DEC) [marit.carlson-van.dort@alaska.gov]
Sent: Tuesday, March 15, 2011 12:50 PM
To: David Scott
Cc: Griffith, Bill (DEC); Kent, Lynn J T (DEC)
Subject: FW: SB 96 Language

David,

We identified the communities that would benefit the most and those that would benefit the least if the suggested amendments are made - see table below. Those that will benefit are basically the communities that are near or over 600 people. Those that may not are unincorporated communities with recent or on-going VSW projects of significant size.

Many Bush communities would benefit from the changes, but especially the ones in the YK Delta (Hoffman/Herron). This is because there are so many water and sewer needs in those districts that we can't afford to fund. Changing the statute would reduce the number of eligible communities and allow us to focus on the communities with the greatest need (YK Delta has the most need).

	Senate District	Senator	House District	Representative
Benefit Most				
Klawock	C	Kookesh	5	Bill Thomas
Hoonah	C	Kookesh	5	Bill Thomas
King Cove	S	Hoffman	37	Edgmon
Kipnuk	S	Hoffman	38	Herron
Akiachak	S	Hoffman	38	Herron
Kasigluk	S	Hoffman	38	Herron
Galena	C	Kookesh	6	Dick
St. Mary's	T	Olson	39	Foster
Benefit Least				
Glennallen	F	Coghill	12	Feige
Lowell Point	R	Stevens	35	Seaton
Nikolaevsk	Q	Wagoner	34	Chenault
Slana	C	Kookesh	6	Dick
Anchor Point	R	Stevens	35	Seaton
Voznesenka	R	Stevens	35	Seaton

Marit Carlson-Van Dort
Legislative Liaison/Special Assistant to the Commissioner
Alaska Department of Environmental Conservation
(907) 465-5871phone

David Scott

From: Koeneman, Crystal A (CED) [crystal.koeneman@alaska.gov]
Sent: Friday, March 11, 2011 1:29 PM
To: Sen. Donny Olson; Carlson-Van Dort, Marit K (DEC); clair.fishwick@alaska.gov; Thayer, Curtis W (CED)
Cc: David Scott
Subject: RE: SB 96

Loren,

AS 46.07.080(2) defines which entities are eligible for sanitation grants under the Village Safe Water (VSW) program. The home rule city is a certain type of municipality that is currently excluded. Under the proposed definition, one community would be added to the list of those eligible for VSW grants and that would be the City of Nenana which has a population of 549.

Let me know if you have any further questions. Thanks!!!

**Crystal Koeneman, Special Assistant
Commerce, Community & Economic Development**

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✉: crystal.koeneman@alaska.gov

From: Sen. Donny Olson [mailto:Senator_Donny_Olson@legis.state.ak.us]
Sent: Friday, March 11, 2011 10:19 AM
To: Carlson-Van Dort, Marit K (DEC); clair.fishwick@alaska.gov; Thayer, Curtis W (CED); Koeneman, Crystal A (CED)
Cc: Scott, David (LAA)
Subject: SB 96

Good morning,

Regarding SB 96, an act relating to the Village Safe Water Act, it reads “* **Section 1.** AS 46.07.080(2) is amended to read: "village" means an unincorporated community that has between 25 and 600 people residing within a two-mile radius, a second class city, or a first class **or home rule** city with not more than 600 residents.”

Can you please explain the “home rule” and how it affects or will affect the Village Safe Water program? This bill is scheduled to go before the floor on **Tuesday, March 15.**

Thanks so much for your time and cooperation.

Sincerely,

Loren Peterson

Staff to Senator Donald Olson
Senate District T
p: 907 465-3707
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Alaska State Capitol, Room #508
Juneau, AK 99801-1182

David Scott

From: Koeneman, Crystal A (CED) [crystal.koeneman@alaska.gov]
Sent: Monday, March 14, 2011 10:21 AM
To: David Scott
Subject: FW: Home rule cities

Let me know if this answers your questions!

Crystal Koeneman

From: Ruby, Scott (CED)
Sent: Monday, March 14, 2011 10:20 AM
To: Koeneman, Crystal A (CED)
Subject: RE: Home rule cities

According to the numbers we have now (2010 Census is coming out this week or next week).

There would be no home rule cities added, the next smallest one is Cordova at 2,126

First Class Cities that would be added include:
King Cove 744
Hoonah 764
Klawock 782

If for some reason they changed the wording in the definition from "first class or home rule city" to "first class or home rule municipality", then that would include borough's and the following would be added.

Home rule borough
Yakutat 628

Skagway is the only 1st class borough, but it's population is 865

Scott

From: Koeneman, Crystal A (CED)
Sent: Monday, March 14, 2011 10:08 AM
To: Ruby, Scott (CED)
Subject: Home rule cities

If they were to increase the number in SB 96 from 600 to either 700 or 800 what other cities would they be looking at adding? Sen. Olson is curious.

(2) "village" means an unincorporated community that has between 25 and 600 people residing within a two-mile radius, a second class city, or a first class **or home rule** city with not more than [600] **700/800** residents.

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Alaska Department of Environmental Conservation Village Safe Water Program

The Alaskans We Serve

Rural Alaska is characterized by over 280 isolated villages scattered across an area more than twice the size of Texas. Populations in these communities are predominately Native and range between 25 and 6,000 residents, averaging about 300 residents per village. Nearly all villages are accessible by air and water only. Most residents practice a blended subsistence lifestyle and depend heavily on moose, caribou, walrus, whale, seal and fish for their food supply. Unemployment rates frequently exceed 50%. Many of these communities lack a safe source of drinking water or a safe means of sewage disposal – The Village Safe Water Program (VSW) is working to change this. As one of the three Facility Programs established within the Department of Environmental Conservation, Division of Water, the role of the VSW program is to work with rural communities to develop sustainable sanitation facilities.

How the Program Works

Communities apply each year to VSW for grants for sanitation projects. The applications are scored, based heavily on the proposed project's ability to address assessed critical public health needs, as well as the communities' demonstrated capacity to operate and maintain the facilities. Grants are awarded for the highest ranking projects. Federal and state funding for this program is administered and managed by the State of Alaska's Village Safe Water (VSW) program. VSW provides technical and financial support to Alaska's smallest communities to design and construct water and wastewater systems. VSW works directly with community officials to make sure that planning results in facilities that are appropriate for each community, that facilities are properly and efficiently constructed, and that state and federal grant funds are used effectively and efficiently. In some cases, funding is awarded by VSW through the Alaska Native Tribal Health Consortium, who in turn assist communities in design and construct of sanitation projects.

The role of the Village Safe Water Program is to work with rural communities to develop sustainable sanitation facilities.

communities have met agreed upon performance criteria and have demonstrated the capacity to operate and manage sanitation facilities. Although local capacity requirements may occasionally delay construction, they are an essential element of a comprehensive statewide sanitation plan.

Progress to Date

Appropriations through EPA and USDA coupled with state funding have resulted in substantial improvements in the health, safety, and well-being of thousands of Alaskans. In 1994 only 37% of rural Alaska households had adequate sanitation facilities. Today, 77% of rural Alaskan homes have running water and flush toilets.

With federal and state support, the percentage of rural households with basic sanitation services has increased by over 30% over the past decade. Similarly, there has been a significant increase in the number of trained rural utility operators, clerks, and managers.

Focus on Local Capacity

Local capacity is a vital component of developing sustainable sanitation systems throughout rural Alaska. Construction is only approved once

Types of Systems Used in Alaska

Climate, physical conditions, population density, community capacity, capital costs, operation/maintenance costs, and regulations are among the factors that must be considered in determining the type of system best suited to a particular community.

The types of systems built with assistance through the VSW program include:

- 'washeterias': centrally located community buildings with flush toilets, drinking water to haul home, and laundry and shower facilities
- septic tanks and wells, and
- piped systems (both above ground and underground)
- tank haul systems: separate holding tanks provide potable water and store wastewater for each home. Haul vehicles and equipment operated by the city fill the water tanks and remove the waste from sewage tanks.

Funding the Village Safe Water Program

Efforts to improve sanitation conditions in rural and Native Alaska began with a modest endeavor in the 1960's and 1970's by the Indian Health Service. The State of Alaska became involved in 1972 with the passage of the Village Safe Water Act. Between 1972 and 1994, the state contributed \$300 million to sanitation projects. The U.S. Department of Agriculture (USDA) and the Environmental Protection Agency (EPA) started providing funding in 1994 and 1995 respectively. Since 1994 when the federal/state Rural and Native Alaska Sanitation Development program began, the State has contributed an additional \$240 million to improve rural sanitation conditions and EPA/USDA together have contributed \$537 million. The funding level this year (federal fiscal year 2005) for the Village Safe Water program is \$45 million through EPA, \$26 million through

Post Construction

Once a project is complete, the community's local governing body takes ownership of the system and is responsible for its ongoing operation, maintenance and management. The Department of Environmental Conservation offers technical support and hands-on training in system operation and maintenance, and the Alaska Department of Commerce, Community and Economic Development offers utility management training and assistance. Together, these programs offer an insurance policy that safeguards sanitation systems by training local residents the necessary skills to properly operate, maintain, and manage their sanitation

Remaining Needs

Sanitation conditions in most Alaska villages have vastly improved. Yet one family in three still does not have access to a sanitary means of sewage disposal or an adequate supply of safe drinking water in their homes. For members of these families, buckets or pit privies are the only methods for disposing of human waste, and water must be hauled by individuals from community watering points or untreated sources such as creeks or rivers.

Every year, an assessment of the sanitation needs of Native Americans across the country is completed for the Indian Health Service. According to this assessment, the estimated total sanitation need of Alaska's 220 Native Villages is \$565 million. This assessment does not include the needs of 65 rural Alaska villages that are non-Native.

Contacts

For more information visit our website at:
<http://www.dec.state.ak.us/water/vsw/index.htm>

Greg Magee, VSW Program Manager
555 Cordova Street
Anchorage, Alaska 99501
(907) 269-7613
Greg_Magee@dec.state.ak.us

From: Carolyn Kuckertz
Sent: Thursday, March 17, 2011 10:56 AM
To: pressreleasedistribution
Subject: Senator Wagoner Creates Statehood Protection Fund
Attachments: 031711_Statehood_Protection_Fund.pdf

ALASKA STATE LEGISLATURE



Senator Thomas Wagoner Press Release

For Immediate Release: March 17th, 2011

Senator Wagoner Creates Statehood Protection Fund

JUNEAU-Today, Senator Wagoner took a stand in defense of state's rights. In the Senate Finance Subcommittee on Fish and Game, Wagoner introduced an amendment to the Governor's operating budget that would set aside \$103 million for use by the Department of Fish and Game and other state agencies to defend state interests when a federal agency interferes with state management of resources, particularly its wildlife.

"In 1959, Alaska became a state and the federal government ceded 102,550,000 acres of the United State's public land to the new state. The land was intended to support the state through development of its resources and expansion of its communities. Sometimes we find that we have to defend our state use of resources from federal intrusion. This appropriation, symbolically based on the acreage we were granted, establishes a statehood protection fund of \$1.00 for each acre."

Wagoner introduced the amendment in response to testimony from Cory Rossi of the Alaska Department of Fish and Game. Mr. Rossi testified about an ongoing struggle on Unimak Island between the state and the U.S. Fish and Wildlife Service over management of the Alaska Maritime National Wildlife Refuge caribou herd.

"Unimak is only one example of the conflict between state and federal resource management priorities and philosophies," Wagoner noted. "Other conflicts between the state and federal agencies have gained public attention in recent years- from RS 2477 land access rights, to fisheries management, to oil and gas permitting."

"The state needs funds to support negotiation, and if need be litigation, with federal agencies over the state's management of wildlife and other state resources. This statehood protection fund will give agencies the support they need," Wagoner explained during this morning's hearing, which can be heard [here](#).

For more information, please contact Mary Jackson in Senator Wagoner's office at (907) 465-2828.

(Pub. L. 92-203, §15, Dec. 18, 1971, 85 Stat. 705; Pub. L. 96-487, title IX, §908, Dec. 2, 1980, 94 Stat. 2447.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

AMENDMENTS

1980—Pub. L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

(a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Saxman, Southeast.
Yakutat, Southeast.

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 18, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C. 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250) [25 U.S.C. 461 et seq.], all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this chapter, or located on Admiralty Island.

(Pub. L. 92-203, §16, Dec. 18, 1971, 85 Stat. 705; Pub. L. 94-204, §§9, 10, Jan. 2, 1976, 89 Stat. 1150;

Pub. L. 94-456, § 1, Oct. 4, 1976, 90 Stat. 1934; Pub. L. 95-178, § 1, Nov. 15, 1977, 91 Stat. 1369.)

REFERENCES IN TEXT

The public land laws, referred to in subsec. (a), are classified generally to this title.

The mining laws and the mineral leasing laws, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

The Alaska Statehood Act, as amended, referred to in subsec. (a), is Pub. L. 85-508, July 7, 1958, 72 Stat. 239, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Act of July 9, 1968 (82 Stat. 307), referred to in subsec. (c), is Pub. L. 90-392, July 9, 1968, 82 Stat. 307, known as the Second Supplemental Appropriation Act, 1968, which is not classified to the Code.

The United States Court of Claims, referred to in subsec. (c), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Act of July 13, 1970 (84 Stat. 431), referred to in subsec. (c), is Pub. L. 91-335, July 13, 1970, 84 Stat. 431, which enacted section 1211 of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

Act of June 18, 1934, as amended by the Act of May 1, 1936, referred to in subsec. (d)(1), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended by act May 1, 1936, ch. 254, § 1, 49 Stat. 1250, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of chapter 14 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

Act of September 2, 1957, referred to in subsec. (d)(1), is Pub. L. 85-271, Sept. 2, 1957, 71 Stat. 596, which is not classified to the Code.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-178 struck out provisions relating to allocations received by the Regional Corporation for the southeastern Alaska region under section 1613(h)(8) of this title and selection and conveyance of such allocated lands.

1976—Subsec. (a). Pub. L. 94-456, § 1(a), struck out "Klukwan, Southeast." from list of villages.

Subsec. (b). Pub. L. 94-204, § 10, inserted provisions relating to the selection and conveyance of such allocation as the Regional Corporation for the southeastern Alaska region shall receive.

Subsec. (d). Pub. L. 94-456, § 1(b), designated existing provisions as par. (1), substituting provision relating to authorization and direction of Secretary to withdraw lands in order that the Village Corporation may select twenty-three thousand and forty acres for provision that the lands enclosing and surrounding the village which were withdrawn by subsec. (a) are rewithdrawn to the same extent and for the same purposes as provided by said subsec. (a) for one year from January 2, 1976, during which the Village Corporation shall select an area equal to twenty-three thousand and forty acres in accordance with subsec. (b) and inserting proviso against withdrawal of such lands from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture, and added par. (2).

Pub. L. 94-204, § 9, added subsec. (d).

§ 1616. Joint Federal-State Land Use Planning Commission for Alaska

(a), (b) Omitted

(c) **Prohibition against selection of lands from withdrawn area in event of withdrawal of utility and transportation corridor across public lands**

In the event that the Secretary withdraws a utility and transportation corridor across public lands in Alaska pursuant to his existing authority, the State, the Village Corporations and the Regional Corporations shall not be permitted to select lands from the area withdrawn.

(d) **Public Land Order Numbered 4582 revoked; withdrawal of unreserved public lands; classification and reclassification of lands; opening lands to appropriation; administration; contracting and other authority of Secretary not impaired by withdrawal**

(1) Public Land Order Numbered 4582, 34 Federal Register 1025, as amended, is hereby revoked. For a period of ninety days after December 18, 1971, all unreserved public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining (except locations for metalliferous minerals) and the mineral leasing laws. During this period of time the Secretary shall review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to insure that the public interest in these lands is properly protected. Any further withdrawal shall require an affirmative act by the Secretary under his existing authority, and the Secretary is authorized to classify or reclassify any lands so withdrawn and to open such lands to appropriation under the public land laws in accord with his classifications. Withdrawals pursuant to this paragraph shall not affect the authority of the Village Corporations, the Regional Corporations, and the State to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(2)(A) The Secretary, acting under authority provided for in existing law, is directed to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, and from selection by Regional Corporations pursuant to section 1610 of this title, up to, but not to exceed, eighty million acres of unreserved public lands in the State of Alaska, including previously classified lands, which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems: *Provided*, That such withdrawals shall not affect the authority of the State and the Regional and Village Corporations to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(B) Lands withdrawn pursuant to paragraph (A) hereof must be withdrawn within nine months of December 18, 1971. All unreserved public lands not withdrawn under paragraph (A) or subsection (d)(1) of this section shall be avail-

oil and gas. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

(g) Alaska Native Fund payments; cessation; reimbursement for advance payments

The payments required by this section shall continue only until a sum of \$500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipeline Authorization Act. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 407 of the Trans-Alaskan Pipeline Authorization Act. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of \$500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.

(h) Final payment; order of computation

When computing the final payment into the Fund the respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

- (1) first, from sources identified under subsections (b) and (c) hereof; and
- (2) then, from sources identified under subsection (d) hereof.

(i) Outer Continental Shelf mineral revenues; provisions of section inapplicable

The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

(Pub. L. 92-203, §9, Dec. 18, 1971, 85 Stat. 694; Pub. L. 93-153, title IV, §407(b), Nov. 16, 1973, 87 Stat. 591.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Alaska Statehood Act, referred to in subsecs. (b), (c), and (d), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 407 of the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (g), probably means section 407(a) of Pub. L. 93-153, which is set out as a note below.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93-153 inserted provisions covering advance payments into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipe-

line Authorization Act and the reimbursement of the United States Treasury for payments made.

ADVANCE PAYMENTS TO ALASKA NATIVES UNTIL COMMENCEMENT OF DELIVERIES OF NORTH SLOPE CRUDE OIL TO PIPELINE

Section 407(a) of Pub. L. 93-153 authorized \$5,000,000 to be paid from the United States Treasury to the Alaska Native Fund every six months of each fiscal year beginning with the fiscal year ending June 30, 1976, as advance payments chargeable against revenues paid under this section until delivery of North Slope crude oil to a pipeline commenced.

§ 1609. Limitation of actions

(a) Complaint, time for filing; jurisdiction; commencement by State official; certainty and finality of vested rights, titles, and interests

Notwithstanding any other provision of law, any civil action to contest the authority of the United States to legislate on the subject matter or the legality of this chapter shall be barred unless the complaint is filed within one year of December 18, 1971, and no such action shall be entertained unless it is commenced by a duly authorized official of the State. Exclusive jurisdiction over such action is hereby vested in the United States District Court for the District of Alaska. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title, and interest of the United States, the Natives, and the State of Alaska will vest with certainty and finality and may be relied upon by all other persons in their relations with the State, the Natives, and the United States.

(b) Land selection; suspension and extension of rights

In the event that the State initiates litigation or voluntarily becomes a party to litigation to contest the authority of the United States to legislate on the subject matter or the legality of this chapter, all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary to be potentially valuable for mineral development, timber, or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation. In the event of such suspension, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act shall be extended for a period of time equal to the period of time the selection right was suspended.

(Pub. L. 92-203, §10, Dec. 18, 1971, 85 Stat. 696.)

REFERENCES IN TEXT

The Alaska Statehood Act and section 6 of the Alaska Statehood Act, referred to in subsec. (b), are Pub. L. 85-508, July 7, 1958, 72 Stat. 339, and section 6 thereof, as amended, and are set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

§ 1610. Withdrawal of public lands

(a) Description of withdrawn public lands; exceptions; National Wildlife Refuge lands exception; time of withdrawal

(1) The following public lands are withdrawn, subject to valid existing rights, from all forms

of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

(A) The lands in each township that encloses all or part of any Native village identified pursuant to subsection (b) of this section;

(B) The lands in each township that is contiguous to or corners on the township that encloses all or part of such Native village; and

(C) The lands in each township that is contiguous to or corners on a township containing lands withdrawn by paragraph (B) of this subsection.

The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes other than Naval Petroleum Reserve Numbered 4.

(2) All lands located within the townships described in subsection (a)(1) hereof that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from the creation of third party interests by the State under the Alaska Statehood Act.

(3)(A) If the Secretary determines that the lands withdrawn by subsections (a)(1) and (2) hereof are insufficient to permit a Village or Regional Corporation to select the acreage it is entitled to select, the Secretary shall withdraw three times the deficiency from the nearest unreserved, vacant and unappropriated public lands. In making this withdrawal the Secretary shall, insofar as possible, withdraw public lands of a character similar to those on which the village is located and in order of their proximity to the center of the Native village; *Provided*, That if the Secretary, pursuant to section 1616, and 1621(e) of this title determines there is a need to expand the boundaries of a National Wildlife Refuge to replace any acreage selected in the Wildlife Refuge System by the Village Corporation the withdrawal under this section shall not include lands in the Refuge.

(B) The Secretary shall make the withdrawal provided for in subsection (3)(A) hereof on the basis of the best available information within sixty days of December 18, 1971, or as soon thereafter as practicable.

(b) List of Native villages subject to chapter; review; eligibility for benefits; expiration of withdrawals for villages; alternative eligibility; eligibility of unlisted villages

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.
 Akhiok, Kodiak.
 Akiachak, Southwest Coastal Lowland.
 Akiak, Southwest Coastal Lowland.
 Akutan, Aleutian.
 Alakanuk, Southwest Coastal Lowland.
 Alatna, Koyukuk-Lower Yukon.
 Aleknagik, Bristol Bay.
 Allakaket, Koyukuk-Lower Yukon.

Ambler, Bering Strait.
 Anaktuvuk, Pass, Arctic Slope.
 Andreadsey, Southwest Coastal Lowland.
 Aniak, Southwest Coastal Lowland.
 Anvik, Koyukuk-Lower Yukon.
 Arctic Village, Upper Yukon-Porcupine.
 Atka, Aleutian.
 Atkassok, Arctic Slope.
 Atmautlauk, Southwest Coastal Lowland.
 Barrow, Arctic Slope.
 Beaver, Upper Yukon-Porcupine.
 Belkofsky, Aleutian.
 Bethel, Southwest Coastal Lowland.
 Bill Moore's, Southwest Coastal Lowland.
 Biorka, Aleutian.
 Birch Creek, Upper Yukon-Porcupine.
 Brevig Mission, Bering Strait.
 Buckland, Bering Strait.
 Candle, Bering Strait.
 Cantwell, Tanana.
 Canyon Village, Upper Yukon-Porcupine.
 Chalkyitsik, Upper Yukon-Porcupine.
 Chanilut, Southwest Coastal Lowland.
 Cherfornak, Southwest Coastal Lowland.
 Chevak, Southwest Coastal Lowland.
 Chignik, Kodiak.
 Chignik Lagoon, Kodiak.
 Chignik Lake, Kodiak.
 Chistochina, Copper River.
 Chitina, Copper River.
 Chukwuktoligamute, Southwest Coastal Lowland.
 Circle, Upper Yukon-Porcupine.
 Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kuskokwim.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eagle, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuk, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 False Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Gulkana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Katovik, Arctic Slope.
 Kalskag, Southwest Coastal Lowland.
 Kaltag, Koyukuk-Lower Yukon.

Karluk, Kodiak.
 Kasigluk, Southwest Coastal Lowland.
 Kiana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.
 Koliganek, Bristol Bay.
 Kongiganak, Southwest Coastal Lowland.
 Kotlik, Southwest Coastal Lowland.
 Kotzebue, Bering Strait.
 Koyuk, Bering Strait.
 Koyukuk, Koyukuk-Lower Yukon.
 Kwethluk, Southwest Coastal Lowland.
 Kwigillingok, Southwest Coastal Lowland.
 Larsen Bay, Kodiak.
 Levelock, Bristol Bay.
 Lime Village, Upper Kuskokwim.
 Lower Kalskag, Southwest Coastal Lowland.
 McGrath, Upper Kuskokwim.
 Makok, Koyukuk-Lower Yukon.
 Manley Hot Springs, Tanana.
 Manokotak, Bristol Bay.
 Marshall, Southwest Coastal Lowland.
 Mary's Igloo, Bering Strait.
 Medfra, Upper Kuskokwim.
 Mekoryuk, Southwest Coastal Lowland.
 Mentasta Lake, Copper River.
 Minchumina Lake, Upper Kuskokwim.
 Minto, Tanana.
 Mountain Village, Southwest Coastal Lowland.
 Nabesna Village, Tanana.
 Naknek, Bristol Bay.
 Napaimute, Upper Kuskokwim.
 Napakiak, Southwest Coastal Lowland.
 Napaskiak, Southwest Coastal Lowland.
 Nelson Lagoon, Aleutian.
 Nenana, Tanana.
 Newhalen, Cook Inlet.
 New Stuyahok, Bristol Bay.
 Newtown, Southwest Coastal Lowland.
 Nightmute, Southwest Coastal Lowland.
 Nikolai, Upper Kuskokwim.
 Nikolski, Aleutian.
 Ninilchik, Cook Inlet.
 Noatak, Bering Strait.
 Nome, Bering Strait.
 Nondalton, Cook Inlet.
 Nooiksut, Arctic Slope.
 Noorvik, Bering Strait.
 Northeast Cape, Bering Sea.
 Northway, Tanana.
 Nulato, Koyukuk-Lower Yukon.
 Nunapitchuk, Southwest Coastal Lowland.
 Ohogamiut, Southwest Coastal Lowland.
 Old Harbor, Kodiak.
 Oscarville, Southwest Coastal Lowland.
 Ouzinkie, Kodiak.
 Paradise, Koyukuk-Lower Yukon.
 Pauloff Harbor, Aleutian.
 Pedro Bay, Cook Inlet.
 Perryville, Kodiak.
 Pilot Point, Bristol Bay.
 Pilot Station, Southwest Coastal Lowland.
 Pitkas Point, Southwest Coastal Lowland.
 Platinum, Southwest Coastal Lowland.
 Point Hope, Arctic Slope.
 Point Lay, Arctic Slope.
 Portage Creek (Ohgsenakale), Bristol Bay.
 Port Graham, Cook Inlet.
 Port Heiden (Meshick), Aleutian.
 Port Lions, Kodiak.
 Quinhagak, Southwest Coastal Lowland.
 Rampart, Upper Yukon-Porcupine.
 Red Devil, Upper Kuskokwim.
 Ruby, Koyukuk-Lower Yukon.
 Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim.
 Russian Mission (Yukon), Southwest Coastal Lowland.
 St. George, Aleutian.
 St. Mary's, Southwest Coastal Lowland.
 St. Michael, Bering Strait.
 St. Paul, Aleutian.
 Salamatof, Cook Inlet.
 Sand Point, Aleutian.
 Savonoski, Bristol Bay.
 Savoonga, Bering Sea.
 Scammon Bay, Southwest Coastal Lowland.
 Selawik, Bering Strait.
 Seldovia, Cook Inlet.
 Shageluk, Koyukuk-Lower Yukon.
 Shaktoolik, Bering Strait.
 Sheldon's Point, Southwest Coastal Lowland.
 Shishmaref, Bering Strait.
 Shungnak, Bering Strait.
 Slana, Copper River.
 Sleetmute, Upper Kuskokwim.
 South Naknek, Bristol Bay.
 Squaw Harbor, Aleutian.
 Stebbins, Bering Strait.
 Stevens Village, Upper Yukon-Porcupine.
 Stony River, Upper Kuskokwim.
 Takotna, Upper Kuskokwim.
 Tanacross, Tanana.
 Tanana, Koyukuk-Lower Yukon.
 Tatilek, Chugach.
 Tazlina, Copper River.
 Telida, Upper Kuskokwim.
 Teller, Bering Strait.
 Tetlin, Tanana.
 Togiak, Bristol Bay.
 Toksook Bay, Southwest Coastal Lowland.
 Tulusak, Southwest Coastal Lowland.
 Tuntutuliak, Southwest Coastal Lowland.
 Tununak, Southwest Coastal Lowland.
 Twin Hills, Bristol Bay.
 Tyonek, Cook Inlet.
 Ugashik, Bristol Bay.
 Unalakleet, Bering Strait.
 Unalaska, Aleutian.
 Unga, Aleutian.
 Uyak, Kodiak.
 Venetie, Upper Yukon-Porcupine.
 Wainwright, Arctic Slope.
 Wales, Bering Strait.
 White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a modern and urban character, and a majority of the residents are Natives.

(Pub. L. 92-203, § 11, Dec. 18, 1971, 85 Stat. 696.)

REFERENCES IN TEXT

The public land laws, referred to in subsec. (a)(1), are classified generally to this title.

The mining laws and the mineral leasing laws, referred to in subsec. (a)(1), are classified generally to Title 30, Mineral Lands and Mining.

The Alaska Statehood Act, as amended, referred to in subsec. (a)(1), (2), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

§ 1611. Native land selections

(a) Acreage limitation; proximity of selections and size of sections and units; waiver

(1) During a period of three years from December 18, 1971, the Village Corporation for each Native village identified pursuant to section 1610 of this title shall select, in accordance with rules established by the Secretary, all of the township or townships in which any part of the village is located, plus an area that will make the total selection equal to the acreage to which the village is entitled under section 1613 of this title. The selection shall be made from lands withdrawn by section 1610(a) of this title: *Provided*, That no Village Corporation may select more than 69,120 acres from lands withdrawn by section 1610(a)(2) of this title, and not more than 69,120 acres from the National Wildlife Refuge System, and not more than 69,120 acres in a National Forest: *Provided further*, That when a Village Corporation selects the surface estate to lands within the National Wildlife Refuge System or Naval Petroleum Reserve Numbered 4, the Regional Corporation, for that region may select the subsurface estate in an equal acreage from other lands withdrawn in section 1610(a) of this title within the region, if possible.

(2) Selections made under this subsection (a) of this section shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than 1,280 acres: *Provided*, That the Secretary in his discretion and upon the request of the concerned

Village Corporation, may waive the whole section requirement where—

(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this chapter.

(b) Allocation; reallocation considerations

The difference between twenty-two million acres and the total acreage selected by Village Corporations pursuant to subsection (a) of this section shall be allocated by the Secretary among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) on the basis of the number of Natives enrolled in each region. Each Regional Corporation shall, not later than October 1, 2005, reallocate such acreage among the Native villages within the region on an equitable basis after considering historic use, subsistence needs, and population. The action of the Secretary or the Corporation shall not be subject to judicial review. Each Village Corporation shall select the acreage allocated to it from the lands withdrawn by section 1610(a) of this title.

(c) Computation

The difference between thirty-eight million acres and the 22 million acres selected by Village Corporations pursuant to subsections (a) and (b) of this section shall be allocated among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) as follows:

(1) The number of acres each Regional Corporation is entitled to receive shall be computed (A) by determining on the basis of available data the percentages of all land in Alaska (excluding the southeastern region) that is within each of the eleven regions, (B) by applying that percentage to thirty-eight million acres reduced by the acreage in the southeastern region that is to be selected pursuant to section 1615 of this title, and (C) by deducting from the figure so computed the number of acres within that region selected pursuant to subsections (a) and (b) of this section.

(2) In the event that the total number of acres selected within a region pursuant to subsections (a) and (b) of the section exceeds the percentage of the reduced thirty-eight million acres allotted to that region pursuant to subsection (c)(1)(B) of this section, that region shall not be entitled to receive any lands under this subsection (c). For each region so affected the difference between the acreage calculated pursuant to subsection (c)(1)(B) of this section and the acreage selected pursuant to subsections (a) and (b) of this section shall be deducted from the acreage calculated under subsection (c)(1)(C) of

LOCAL GOVERNMENT IN ALASKA

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Section 1 – Alaska has just two types of municipal government – cities and organized boroughs.

Unlike most other states that typically have local government structures consisting of many overlapping local government service providers, Alaska's system of local government is simple, efficient, and effective. It consists of just two types of municipal government as described below.

A. Cities.

Federal law did not allow the incorporation of city governments in Alaska until 1900. The City of Skagway was the first city government incorporated in Alaska.

A city government is a municipal corporation and political subdivision of the State of Alaska. It generally encompasses a single community.

On average, the corporate boundaries of cities in Alaska encompass just over 27 square miles. However, there are wide variations in the size of individual cities. The City of Skagway encompasses the largest area (466 square miles), while the City of Kiana encompasses the smallest area (0.3 square miles).

Current State law restricts the inclusion of large geographical regions or large unpopulated areas in cities. [3 AAC 110.040(b) - (c); 3 AAC 110.130(c) - (d)]. A city is also part of the borough in which it is located. [Art. X, § 7, Ak. Const.]

Presently, there are 145 city governments in Alaska. In 2000, those cities were inhabited by 161,591 individuals or 25.7% of the state's total population of 628,800.

The 2000 population of cities ranged from a high of 31,423 (City of Fairbanks) to a low of 24 (City of Kupreanof).

B. Organized Boroughs.

Prior to statehood, federal law prohibited the creation of counties in Alaska

Like a city, an organized borough in Alaska is a municipal corporation and political subdivision of the State of Alaska. However, organized boroughs are intermediate-sized governments – much larger than cities.

Alaska's Constitution requires that the entire state be divided into boroughs, organized or unorganized. The Constitution also requires that each borough embrace an area and population with common interests to the maximum degree possible. (Art. X, § 3, Ak. Const.) The "maximum common interests" clause must be harmonized with the provisions of Article X, § 1 of Alaska's Constitution that call for minimum numbers of local governments. Together, those constitutional provisions promote large boroughs embracing natural regions.

Presently, there are 16 organized boroughs in Alaska. On average, organized boroughs encompass just over 17,400 square miles (644 times the average size of cities). Like cities, the size of individual organized boroughs varies considerably. The largest organized borough is the North Slope Borough (93,823 square miles), while the Bristol Bay Borough is the smallest (918 square miles)



In 2000, Alaska's 16 organized boroughs were inhabited by 545,664 individuals, or 86.8% of the total population of the state. Of the 545,664 residents of organized boroughs in Alaska, 98,246 (18.0%) also lived within a city government during 2000.

Organized boroughs encompass about 43 percent of the geographic area of Alaska.

State law provides that the part of Alaska outside organized boroughs comprises a single unorganized borough. As it is presently configured, the unorganized borough encompasses 374,843 square miles. The unorganized borough was inhabited by 83,136 residents in 2000. Additional information about the unorganized borough is provided later.

Section 2 – Classification of Cities and Boroughs.

A. Cities.

There are three different classifications of city governments in Alaska – home rule, first class, and second class cities. A community must have at least 400 permanent residents to form a home rule or first class city.

First and second class cities are general law cities – State law defines their powers, duties, and functions. General law is distinct from home rule. Home rule cities have all legislative powers not prohibited by law or charter. Details about the differences between the two types of government are provided in Section 3.

Table 1 lists the number of cities of each classification and indicates whether those cities are inside or outside an organized borough. The classification and location of cities are significant in terms of the powers and duties of city governments in Alaska as addressed in Section 3.

Classification	Within Organized Boroughs		Within the Unorganized Borough		Total	
	Number of Cities	2000 Population	Number of Cities	2000 Population	Number of Cities	2000 Population
Home Rule Cities	7	62,496	5	13,104	12	75,600
First Class Cities	8	22,112	13	17,537	21	39,649
Second Class Cities	34	13,638	78	32,704	112	46,342
Total	49	98,246	96	63,345	145	161,591

B. Organized Boroughs.

The word "borough" has its origins in 5th century Europe. It means "place organized for local government purposes." A number of countries and a number of states in the US have boroughs; however, they are unlike boroughs in Alaska.

There are five different classifications or types of organized boroughs in Alaska. These are unified home rule, non-unified home rule, first class, second class, and third class.¹ First, second, and third class boroughs are general law governments.

Table 2 lists the number of boroughs according to classification. Details about the distinctions among the different classifications of boroughs are provided in Section 3.

Classification	Number	2000 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

¹ A unified municipality is an organized borough. A unified municipality is defined as such by the Local Boundary Commission in 3 AAC 110.990(1). Alaska's constitution recognizes only two types of municipalities, cities and boroughs (Art. X, Sec. 2). The legislature consistently treats unified municipalities as 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). 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. Additionally, all 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. Lastly, none of the unified municipalities exhibits characteristics that are exclusive to city governments.

Section 3 – Alaska’s Cities and Organized Boroughs – both General Law and Home Rule – Enjoy Broad Powers.

A. Provisions Applicable to all Local Governments in Alaska.

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:

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 noted with respect to 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.²

² The rule, called Dillon’s rule states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

Merriam v. Moody’s Executors, 25 Iowa 163, 170 (1868). The minutes of the constitutional convention reveal that the liberal construction clause of Article X, Section 1 was intended to assure that general law municipalities, as well as those having home rule powers, would not be governed by this rule, but would have their powers liberally interpreted. The following colloquy between delegates Hellenenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called “Dillon’s Rule”, or something like that, that a statement to this

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

B. General Law Cities and Boroughs.

As noted in Section 2, general law local governments derive their powers from laws enacted by the State legislature. The constitutional principle of liberal construction of local government powers is reflected in the laws enacted by the legislature granting powers to general law governments. Among the statutes are the following provisions:

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 functions 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 addressed Article X, Section 1 along with the similar version of the two statutes noted above that was in effect at the time. The Court concluded that a second class (general law) borough had powers beyond those expressly stated in law. Specifically, the Court concluded that even though State statutes did not specifically authorize a second class borough to dispose of land by lottery, that power was "fairly implied." (*Gilman v. Martin*, 662 P.2d 120, 124 [Alaska 1983])

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it utilized in *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974).

effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

.....

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 - 96.

The court made no distinction as to the deference due to an enactment by a home rule municipality as compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman v. Martin* clearly enhanced the powers of general law municipalities in Alaska.

Those powers 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)]

The statutory grant of powers to general law municipalities has no general limitations such as '...any municipal power' or '...any local government power' which would imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of Article X, § 1, *Liberati v. Bristol Bay Borough*, *Gilman v. Martin*, and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of Article X, § 1 reads "A liberal construction shall be given to the powers of local government units" instead of, "A liberal construction shall be given to local government powers." The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a "local government power" as envisioned by the courts across the nation, then the court need not apply a liberal construction to it. The actual language of Alaska's Constitution does not lend itself as easily to such an interpretation and, coupled with the language of the Title 29 grants ("any power not otherwise prohibited by law"), would make it difficult for a court (in a well briefed case) to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

As a practical matter, under the present language of Title 29, the nature of the powers to which a general law municipality has access are substantially the same as those to which a home rule

municipality has access, bearing in mind the specific Title 29 limitations that apply to general law municipalities.

C. Distinctions Among General Law Boroughs.

A principal distinction between a first class borough and a second class borough relates to the authority to assume powers. 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 even more restrictive. A third class borough can only exercise education and taxation on an areawide basis. A third class borough may exercise other powers, however, with one exception, those powers can be exercised only on a service area basis after voter approval is obtained.

D. Home Rule Cities and 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. Tom Morehouse and Vic Fischer, recognized experts in Alaska local government, wrote the following account of the views of the constitutional convention delegates with regard to this matter:



Committee on Local Government meeting during the Alaska Constitutional Convention, February 1956

An oft-repeated theme of the [Alaska constitutional] convention, and one of the stated purposes of the local government article, was provision of maximum local self-government to the people of Alaska. . . . Home rule was held to be the vehicle for strengthening both state and local governments by permitting the people to deal with local problems at the local level. It was also to be the means for promoting local government adaptation in a state with great variations in geographic, economic, social, and political

conditions.

This home rule philosophy was not believed to be inconsistent with a strong state role in local affairs. As the above discussion indicates, the exercise of state authority was considered essential in matters of incorporation and boundaries, i.e., the creation of local governments and their areas of jurisdiction were felt to be matters ultimately of state responsibility. When properly established, however, their internal organization and operations were to be primarily local concerns, particularly in the case of home rule units. Moreover, a "strong state role" also meant that the state would support local governments with financial aid and technical assistance.

Before Alaska became a state, there was little self-determination either at territorial or local levels. Federal law prescribed the powers of the territorial legislature, severely limiting the scope and types of local government that could be established and restricting the powers that could be exercised by incorporated cities. Throughout its deliberations, therefore, the Local Government Committee emphasized the need for effective constitutional provisions for home rule.

(Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, p. 56 [1971].)

In 1963, the Alaska Supreme Court ruled as follows:

By constitutional provision cities have "the powers and functions conferred by law or charter."
(footnote omitted) The meaning of this provision is that where a home rule city is concerned the charter, and not a legislative act, is looked to in order to determine whether a particular power has been conferred upon the city. It would be incongruous to recognize the constitutional provisions stating that a home rule city "may exercise all legislative powers not prohibited by law or by charter" and then to say that the power of a home rule city is measured by a legislative act."

(*Lien v. City of Ketchikan*, 383 P.2d 721, 723 [Alaska 1963])

In 1974, the Alaska Supreme Court ruled that the prohibitions referred to in Article X, Section 11 can be either in express or implied terms. Specifically, the Court stated:

The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded with weight of law.

(Jefferson v. State, 527 P.2d 37, 43 [Alaska, 1974])

There are 135 sections of the current Alaska Statutes that specifically refer to home rule local governments. Most of those (102) are found in Title 29 of the Alaska Statutes dealing with municipal government. The remaining 33 are scattered in 19 other titles of the Alaska Statutes.

Section 4. The Duties of Cities and Boroughs Depend Upon Classification. City Duties also vary in terms of Location Inside or Outside 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 and first class cities in the unorganized borough must operate municipal school districts. Second class cities in the unorganized borough and cities in organized boroughs are not authorized to do so.

All organized boroughs (except third class boroughs), along with home rule and first class cities in both the unorganized borough and third class boroughs must also exercise planning, platting, and land use regulation. Second class cities in the unorganized borough are permitted, but not required, to exercise those powers. Home rule, first class, and second class cities in organized boroughs may exercise planning, platting, and land use regulation powers only if those powers have been delegated to them by the borough (except that home rule and first class cities in a third class borough must exercise those powers).

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. Second class cities are not obligated by law to provide any particular service.

Organized boroughs may provide services on three levels. These are (1) areawide (i.e., throughout the entire borough); (2) nonareawide (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).³ 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.

Tables 3 and 4 provide additional information concerning the powers and duties of the various types of cities and boroughs.

Section 5 – The Unorganized Borough is Unlike an Organized Borough.

Unlike cities and 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.

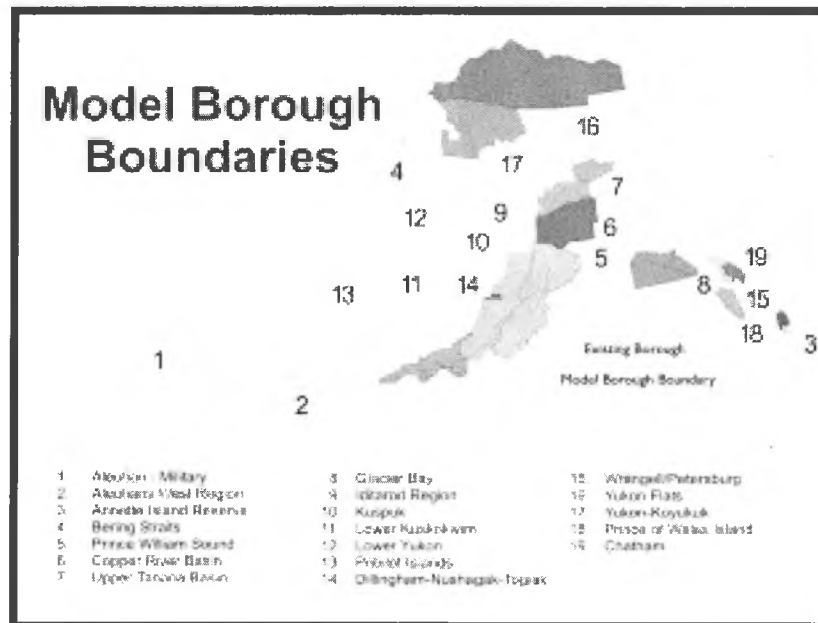
Unorganized boroughs were intended to serve as a means to decentralize State services and to foster local participation in the administration of state programs within regions not ready or suited for organized borough status.

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)

³ "service area" means an area in which borough services are provided that are not offered on an areawide or nonareawide basis, or in which a higher or different level of areawide or nonareawide services are provided; borough service areas are not local governments, they lack legislative and executive powers; nonetheless, borough service areas are local government *units* in the context of the minimum of local government units clause found in Article X, § 1 of Alaska's Constitution;

From its beginning, the unorganized borough has never embraced an area and population with common interests to the maximum degree possible. 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. [see Report on Model Borough Boundaries]



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.

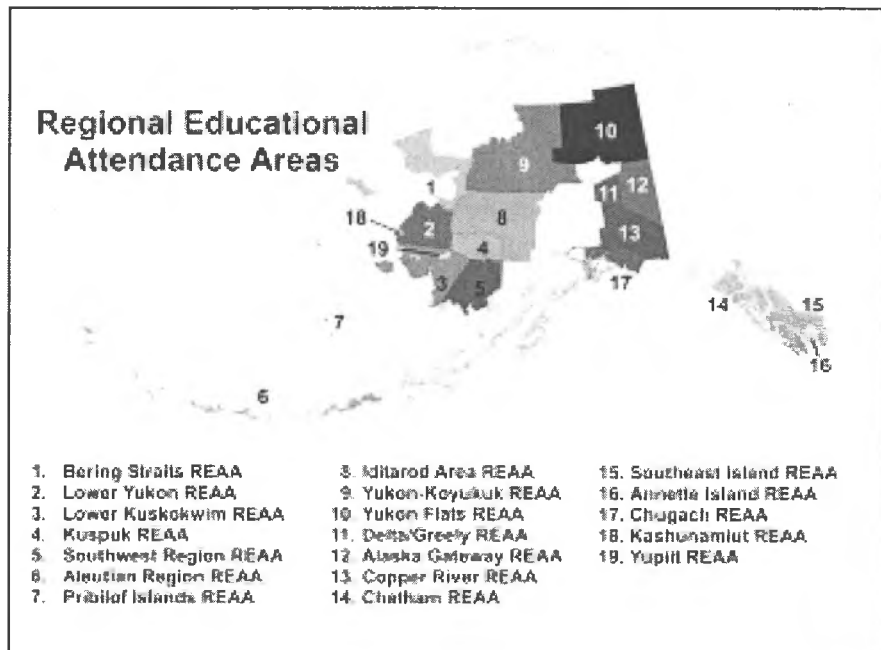
Regional educational attendance areas (REAs) are state service areas to provide public education to the unorganized borough, except within home rule and first class cities. The 1975 legislature required the Department of Community and Regional Affairs, in consultation with the Department of Education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

Initially, 21 REAs were established. These were: Adak, Alaska Gateway (headquartered in Tok), Aleutian Region, Annette Island, Bering Straits, 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, Bureau of Indian Affairs stopped funding schools in Akiachak, Akiak, Tuluksak, Chevak and Chefnak. The 1985 Legislature passed a law allowing the formation of two "federal transfer regional educational attendance areas" to assume the operation of those schools, subject to voter approval.

Voters in Chevak approved the proposition to form the Kashunamiut REAA. Voters in the other communities, except Chefnak, also approved the proposition to form the Yupiit REAA. Consequently, Chefnak became part of the Lower Kuskokwim REAA.



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.

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

On July 1, 1997, the Adak REAA was merged into the Aleutian Region REAA.

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 Cenaliuriiit 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. Although the Adak REAA is geographically in the middle of the Aleutians West CRSA, it is excluded from that service area.

The Cenaliuriiit 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 Cenaliuriiit 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.

Other Entities

Other entities may be established under State or federal law to provide public or quasi-public services to residents of Alaska. They include; tribal governments, port authorities, local emergency planning committees, soil and water conservation districts, regional housing authorities, civil defense districts, consolidated health districts, telephone and electrical cooperatives, historical districts, grazing districts public utility districts, registration districts and local improvement districts. It is beyond the scope of this discussion to provide details about these other entities other than to recognize their existence.

**TABLE 3
POWERS AND DUTIES OF CITIES**

POWERS AND DUTIES	HOME RULE CITY	FIRST CLASS CITY	SECOND CLASS CITY	REFERENCE
Public Education	If the city is in the unorganized borough it must provide the service in accordance with AS 14. A home rule city is not permitted to do so within organized boroughs.	Same as for a home rule city.	The city is not allowed to provide the service under any circumstance.	AS 29.35.260(b) AS 14.12.010 AS 14.12.025
Planning, Platting & Land Use Regulation	If the city is in the unorganized borough or a 3rd class borough, it must exercise the powers. If it is in an organized borough, it may be permitted by borough to exercise the powers.	Same as for a home rule city, except the power must be exercised in accordance with AS 29.40.	The city is not required to exercise the powers in any circumstance, but may be permitted in all cases in the manner described for first class cities.	AS 29.35.250(c) AS 29.35.260(c)
Property Tax	The city may tax up to 30 mills, except where a higher levy is necessary to avoid default on debt. Some home rule charters require voter approval to authorize the levy property taxes.	The city may tax up to 30 mills except where a higher levy is necessary to avoid default on debt. Voter approval is not required by statute, however, some general law municipal governments have more restrictive limitations imposed at the local level.	The city may tax up to 20 mills, except where a higher levy is required to avoid default. Voter approval is required.	AS 29.45.550- AS 29.45.590;
Sales Tax	The rate of levy may be limited by charter. Requirements for voter approval may also be set by charter	There is no limit on the rate of levy of sales taxes; however, voter approval is required.	Same as for a first class city.	AS 29.45.700
Other Powers	Possess all legislative powers not prohibited by law or charter	May exercise other powers not prohibited by law	May exercise other powers not prohibited by law	Art. X, § 11 Ak. Const. AS 29.35.250
City Council composition and apportionment	Determined by charter or ordinance.	6 members elected at-large, except the council may provide for election other than at-large.	7 members elected at-large, except the council may provide for election other than at-large.	AS 29.20.130

Table continued on next page

**TABLE 3 - Continued
POWERS AND DUTIES OF CITIES**

POWERS AND DUTIES	HOME RULE CITY	FIRST CLASS CITY	SECOND CLASS CITY	REFERENCE
Election and Term of Mayor	Determined by charter or ordinance.	Elected at large for a 3-year term, unless a different term not to exceed 4 years is provided by ordinance.	Elected from the city council for a 1-year term, unless a longer term is provided by ordinance. Mayor is selected by council (or by voters upon adoption of ordinance)	AS 29.20.230 AS 29.20.240
Vote by Mayor	Determined by charter or ordinance.	May vote to break a tie vote on the city council.	Votes on all matters.	AS 29.20.250
Veto Power of the Mayor	Determined by charter or ordinance, except veto is not permitted of ordinance prohibiting possession of alcohol.	Has veto power with the same exception noted for home rule cities.	Has no veto power.	AS 29.20.270
Power of Eminent Domain	Permitted by statute.	Permitted by statute.	Permitted, but requires voter approval.	AS 29.35.030
Ability to Attain Home Rule Status	Already has home rule status.	Voters may adopt home rule charter.	May not adopt home rule charter without first reclassifying to a first class city.	AS 29.10.010

**TABLE 4
POWERS AND DUTIES OF ORGANIZED BOROUGHS**

POWER	UNIFIED MUNICIPALITY AND HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH	THIRD CLASS BOROUGH
Public Education (education powers have been broadly interpreted by the Ak Dept of Law)	The borough or unified municipality must provide the service areawide in accordance with AS 14.	Same as for a home rule borough.	Same as for a home rule borough.	Same as for a home rule borough.
Planning, Platting & Land Use Regulation	The borough or unified municipality must exercise the powers areawide, but not necessarily in accordance with AS 29.40.	The borough must exercise the powers areawide; in accordance with AS 29.40; the borough may allow cities to assume such powers within their boundaries	Same as for a first class borough.	The borough may exercise the power only on a service area basis with approval by the voters or , in certain circumstances, with approval from DNR
Provide Transportation Systems, Water & Air Pollution Control, Animal Regulation	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide or nonareawide basis by ordinance; approval from voters or property owners required for service area powers.	May be exercised only on a service area basis with voter approval or, in certain circumstances, with approval from DNR.
License Day Care Facilities	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide basis by ordinance; voter approval required for exercise on a nonareawide or service area basis.	May be exercised only on a service area basis, with voter approval or, in certain circumstances, approval from DNR.

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**TABLE 4 - Continued
POWERS AND DUTIES OF ORGANIZED BOROUGHS**

POWER	UNIFIED MUNICIPALITY AND HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH	THIRD CLASS BOROUGH
Regulate Fireworks, Provide Solid & Septic Waste Disposal, Housing Rehabilitation, Economic Development, Roads & Trails, EMS Communications, Regulate Motor Vehicles and Development Projects	Determined by charter or ordinance	May be exercised areawide upon approval of areawide voters or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide or service area basis.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide basis; may be exercised on a service area basis with voter approval	May be exercised only on a service area basis with voter approval or, in certain circumstances, approval from DNR.
Hazardous Substance Control	Determined by charter or ordinance	Same as above.	Same as above.	May be exercised by ordinance but only on a nonareawide basis.
Other Powers Not Prohibited	Determined by charter or ordinance	Same as above.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities and approval of nonareawide voters; may be exercised nonareawide upon approval of nonareawide voters; may be exercised on a service area basis with voter approval	may be exercised only on a service area basis, which requires voter approval or, in certain circumstances, approval from DNR.

Table continued on next page

**TABLE 4 - Continued
POWERS AND DUTIES OF ORGANIZED BOROUGHS**

POWER	UNIFIED MUNICIPALITY AND HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH	THIRD CLASS BOROUGH
Property Tax	Limited to 30 mills except where a higher levy is necessary to avoid default on debt; voter approval to levy property taxes is required by some charters	Same as home rule except there is no charter. Still some general law boroughs have more limited taxing authority established by local action.	Same as for a first class borough.	Same as for a first class borough.
Sales Tax	The rate of levy may be limited by charter and voter approval to levy sales taxes may be required by charter.	No limit exists on the rate of levy; however, voter approval is required to levy sales taxes.	Same as for a first class borough.	Same as for a first class borough.
Assembly composition and apportionment	Flexible; determined according to AS 29.20.060 - 29.20.120	Same as for a home rule borough.	Same as for a home rule borough.	Same as home rule; assembly is also the school board
Election and Term of Mayor	Established by charter or ordinance.	Elected at large for a 3 year term, unless a different term not to exceed 4 years is provided by ordinance.	Same as for a first class borough.	Same as for a first class borough.
Vote by Mayor	Established by charter or ordinance.	may vote to break a tie vote only if the borough has a manager form of government	Same as for a first class borough.	Same as for a first class borough.
Veto Power of the Mayor	Generally determined by charter, except veto not permitted of ordinance prohibiting possession of alcohol.	generally has veto power, except veto not permitted of ordinance prohibiting possession of alcohol.	Same as for a first class borough.	Same as for a first class borough.
Ability to Attain Home Rule Status	Already has home rule status.	Voters may adopt home rule charter.	Same as for a first class borough.	Same as for a first class borough.

POPULATION CHARACTERISTICS OF MUNICIPAL GOVERNMENTS IN ALASKA

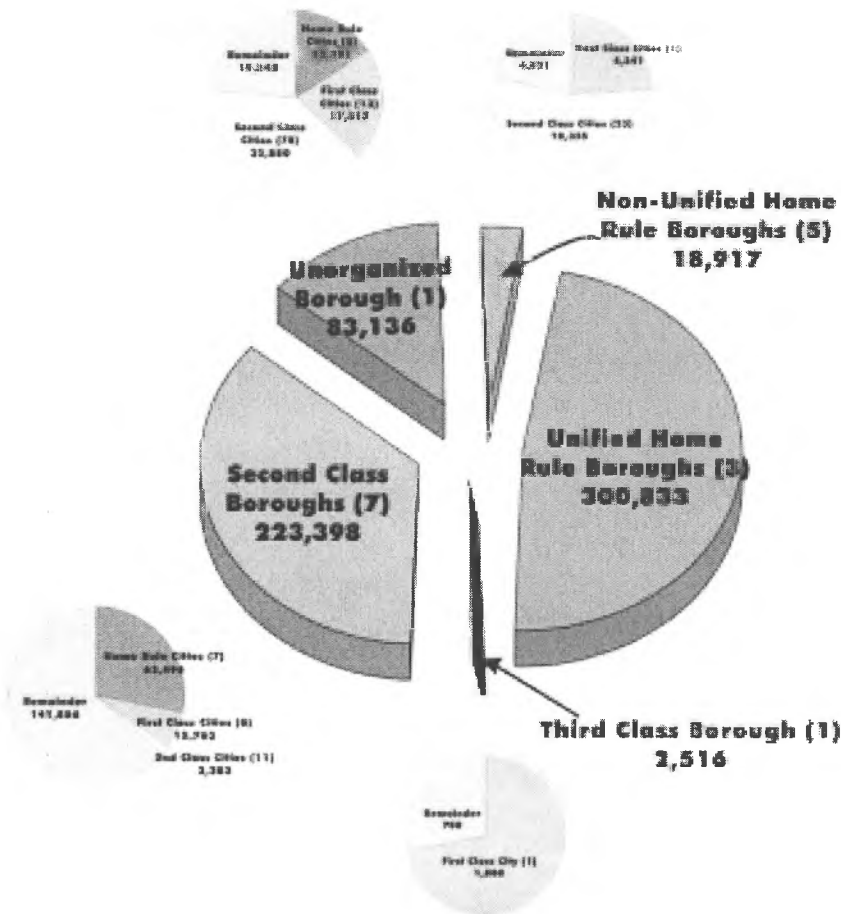
(based on July 1, 2000 population figures)

96.9% of Alaskans live in at least one municipal government; the remaining 3.1% live outside a municipal government

86.8% of Alaskans live within organized boroughs; the remaining 13.2% live in the unorganized borough

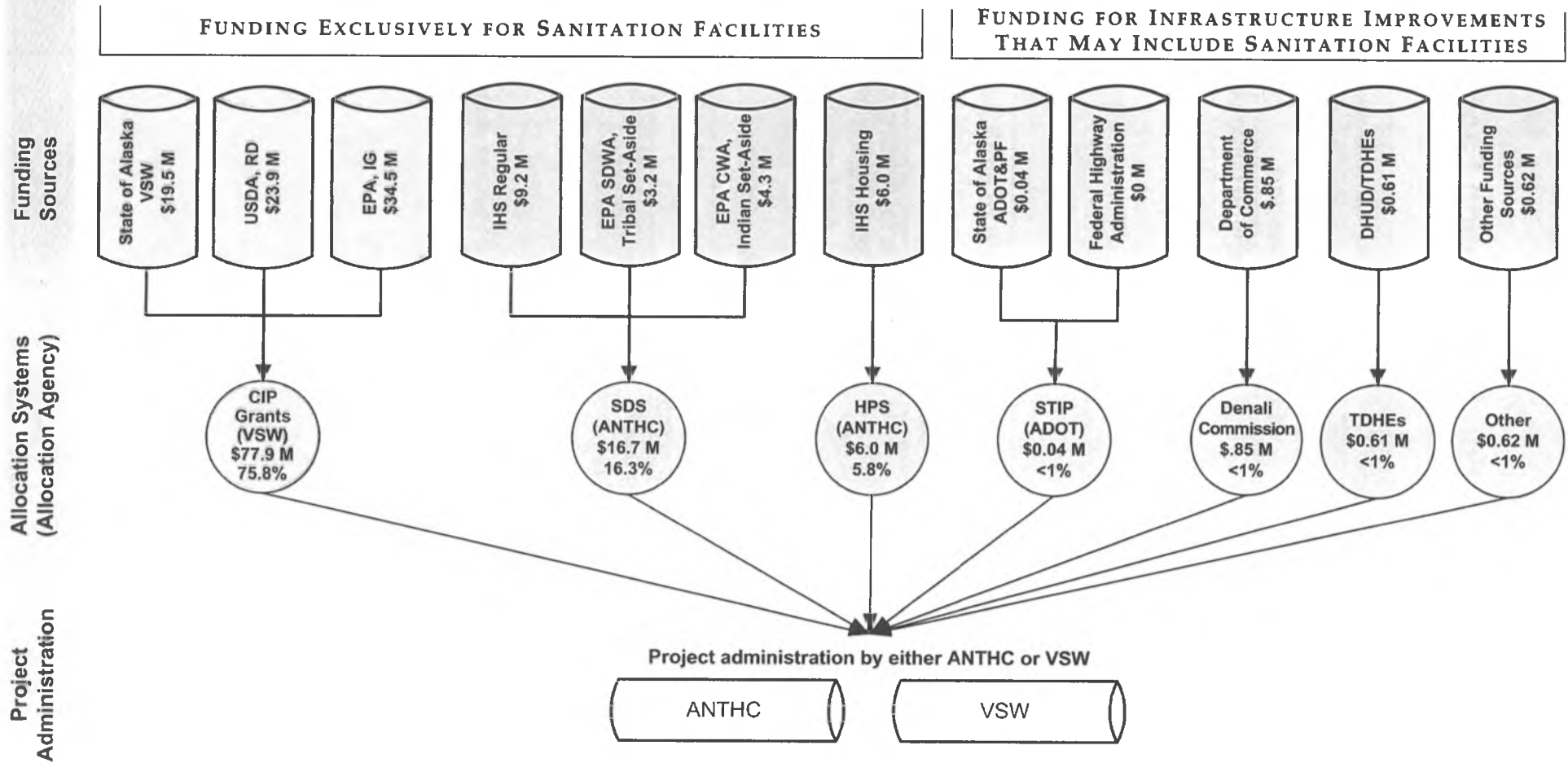
82.0% of organized borough residents receive municipal services exclusively from their borough; the remaining 18.0% receive municipal services from their city government and their borough.

91.7% of Alaskans live in municipal school districts; the remaining 8.3% of Alaskans live in regional educational attendance areas



Primary Sources of Alaska Rural Sanitation Facility Improvement Funding: Three-Year Average of Federal Fiscal Years 2005 - 2007

(i.e., an average of \$103 million was annually allocated)



Source: ANTHC, Division of Environmental Health and Engineering; and State of Alaska, Village Safe Water

Abbreviations:

ADOT&PF: Alaska Dept. of Transportation & Public Facilities
 ANTHC: Alaska Native Tribal Health Consortium
 CIP: Capital Improvement Project
 CWA, ISA: Clean Water Act, Indian Set-Aside
 DHUD: Dept. of Housing & Urban Development
 EPA: Environmental Protection Agency
 HPS: Housing Priority System
 IG: Infrastructure Grant

IHS: Indian Health Services
 SDS: Sanitation Deficiency System
 SDWA, TSA: Safe Drinking Water Act, Tribal Set-Aside
 STIP: Statewide Transportation Improvement Program
 TDHEs: Tribally Designated Housing Entities
 USDA, RD: U.S. Dept. of Agriculture, Rural Development
 VSW: Village Safe Water

**Primary Sources of Alaska Rural Sanitation
Facility Improvement Funding**

**Funding Allocation Summary FY 99/00 -- FY 05/06
Major Sources of Sanitation Facility Improvement Funding**

SDS project funds allocated FY 1999--2006

Funding Source	1999	2000	2001	2002	2003	2004	2005	2006	Estimated 2007	Total FY99-FY05
IHS Regular	\$ 10,472,000	\$ 10,732,000	\$ 10,800,000	\$ 11,473,000	\$ 11,787,900	\$ 10,174,000	\$ 9,217,100	\$ 9,434,000	\$ 9,000,000	\$ 99,090,000
EPA CWA-ISA	\$ 2,344,000	\$ 2,398,000	\$ 6,813,300	\$ 6,830,330	\$ 8,190,600	\$ 5,966,700	\$ 4,652,200	\$ 4,397,000	\$ 4,000,000	\$ 56,592,130
EPA SDWA-TSA	\$ 10,305,600	\$ 8,050,250	\$ 4,020,400	\$ 3,958,200	\$ 3,752,600	\$ 3,500,000	\$ 3,554,800	\$ 3,039,100	\$ 3,000,000	\$ 55,180,950
Total Funding	\$ 23,121,600	\$ 21,180,250	\$ 21,633,700	\$ 22,261,530	\$ 23,731,100	\$ 19,640,700	\$ 17,424,100	\$ 16,870,100	\$ 16,000,000	\$ 180,863,080

HPS project funds allocated FY 1999--2006

Funding Source	1999	2000	2001	2002	2003	2004	2005	2006	Estimated 2007	Total FY99-FY05
IHS Housing	\$ 5,800,000	\$ 6,259,000	\$ 6,300,000	\$ 6,036,950	\$ 6,080,000	\$ 6,044,000	\$ 5,962,900	\$ 5,987,000	\$ 6,000,000	\$ 63,469,850

VSW CIP Grant Application Program project funds allocated SFY 2000--2007, FFY 1999-2006

Funding Source	2000	2001	2002	2003	2004	2005	2006	2007	Estimated 2008	Total SFY00-SFY06
State of Alaska	\$ 20,644,950	\$ 15,371,250	\$ 16,985,400	\$ 19,873,800	\$ 21,241,300	\$ 19,899,800	\$ 21,442,900	\$ 18,516,120	\$ 15,000,000	\$ 168,975,520
EPA IG	\$ 28,000,000	\$ 26,649,450	\$ 31,750,600	\$ 35,494,500	\$ 35,133,800	\$ 32,960,900	\$ 39,807,600	\$ 31,905,490	\$ 22,500,000	\$ 277,702,340
RD	\$ 20,000,000	\$ 19,464,400	\$ 19,200,000	\$ 23,120,000	\$ 28,583,900	\$ 26,734,600	\$ 24,312,700	\$ 23,642,880	\$ 22,500,000	\$ 200,058,480
Total Funding	\$ 68,644,950	\$ 61,485,100	\$ 67,936,000	\$ 79,488,300	\$ 84,959,000	\$ 79,595,300	\$ 85,563,200	\$ 74,064,490	\$ 60,000,000	\$ 616,736,340

Denali Commission project funds allocated FY 2001--2006

Funding Source	1999	2000	2001	2002	2003	2004	2005	2006	Estimated 2007	Total FY99-FY06
Denali Commission	---	---	---	\$ 3,509,650	\$ 415,000	\$ 1,319,600	\$ 705,350	\$ 742,000	\$ 1,100,000	\$ 5,534,600

Total Funding **\$ 97,566,550** **\$ 88,924,350** **\$ 99,379,350** **\$111,296,430** **\$ 115,185,100** **\$ 106,599,600** **\$ 109,655,550** **\$ 97,663,590** **\$ 83,100,000** **\$ 866,603,870**

ANTHC Sanitation Facility Funding Sources, Intended Uses, Limitations

<i>Source</i>	<i>Use</i>	<i>Limitations</i>
IHS Regular	Community and individual sanitation facilities, including interior plumbing for Native-owned homes.	DHUD-funded or non-Native-owned homes can only be served with community facilities.
EPA, SDWA - TSA	Community water facilities for Native Alaskan communities. Will pay for design studies.	No individually owned facilities (interior plumbing, service lines, individual wells). No sewer or solid waste facilities. No capitol equipment.
EPA, CWA – ISA	Community sewer facilities for Native Alaskan communities. Will pay 50% of washeteria cost. Will pay for individually owned septic tanks and drainfields.	No interior plumbing or service lines. No water or solid waste facilities.
IHS Housing	Individual water and sewer facilities for "like-new," Native-owned homes.	Cannot be used for interior plumbing.
State of Alaska, VSW	Community and individual sanitation facilities, including interior plumbing. Will pay for planning projects.	Sanitation facilities improvements to DHUD-constructed homes requires advance coordination by DEHE with VSW and DHUD.
USDA, RD	Community and individual water, sewer, and solid waste facilities. Home service lines and interior plumbing (as of February 2001), conceptual planning, design studies.	
EPA, Infrastructure Grant	Community and individual water and sewer facilities including interior plumbing. Will pay for planning projects.	Will not provide plumbing or service lines for DHUD-constructed homes built after 2000.
ADOT/PF	Roads and boardwalks associated with sanitation facilities.	
DHUD/TDHEs	Individual water and sewer facilities for DHUD-funded homes (primarily used for service lines).	