

HB

245

<TARGET><BILL>HB 245</BILL><SUBJECT>HB
245</SUBJECT><COMM>HJUD28</COMM></TARGET>

**Alaska State Legislature
House of Representatives**

Representative Tammie Wilson

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**House Bill 245
Sponsor Statement**

“An Act repealing the required local contribution to school funding; making conforming changes; and providing for an effective date.”

House Bill 245 would reform the inequitable and onerous state mandate for local contributions for organized areas in the state of Alaska.

The State of Alaska has a duty under Article VI, Section 1 of the Constitution of the State of Alaska to “establish and maintain a system of public schools open to all children of the state”. The Fiscal burden placed on local governments that must bear that burden is enormous and consuming. The State of Alaska provides only partial funding to organized boroughs, home-rule cities in the unorganized borough, and first-class cities in the unorganized borough to carry out the State’s responsibility for education by deducting a “local contribution” of 2.6 mils from the level of state aid as stated in 14.17.410(G)(2)

In the area of Alaska outside organized boroughs, home-rule cities in the unorganized boroughs, home-rule cities in the unorganized borough, and first-class cities in the unorganized borough, the State carries out its duties for education through State “educational service areas” established under AS14.08.031, which exempt them from the required local contribution. There are presently 19 State educational service areas, referred to as regional educational attendance areas (REAs).

In 1963 Alaska State Legislature passed, and Governor Egan signed into law, the “Mandatory Borough Act”, dictating that certain regions of Alaska; those encompassing Ketchikan, Juneau, Sitka, Kodiak Island, Kenai Peninsula, Anchorage, the Matanuska-Susitna valleys and Fairbanks to form organized boroughs by January 1, 1964. Furthermore, Section 1 of the Mandatory Borough Act promised that, “No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation.

HB245 removes the “required local contribution” penalty imposed by the State of Alaska on organized areas and again fulfills its Constitutional responsibility.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version:	HB 245
Fiscal Note Number:	3
(H) Publish Date:	2/10/2014

Identifier: HB245-EED-K12-1-31-14
 Title: SCHOOL FUNDING: REQ'D LOCAL CONTRIBUTION
 Sponsor: T.WILSON
 Requester: House Education Committee

Department: Fund Transfers
 Appropriation: Designated Reserves/Endowments
 Allocation: Public Education Fund (AS. 14.17.300)
 OMB Component Number: 2929

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits	206,463.7		206,463.7	206,463.7	206,463.7	206,463.7	206,463.7
Miscellaneous							
Total Operating	206,463.7	0.0	206,463.7	206,463.7	206,463.7	206,463.7	206,463.7

Fund Source (Operating Only)

1004 Gen Fund	206,463.7		206,463.7	206,463.7	206,463.7	206,463.7	206,463.7
Total	206,463.7	0.0	206,463.7	206,463.7	206,463.7	206,463.7	206,463.7

Positions

Full-time							
Part-time							
Temporary							

Change In Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
 If yes, by what date are the regulations to be adopted, amended or repealed? 12/30/14

Why this fiscal note differs from previous version:

Initial version.

Prepared By:	Elizabeth Nudelman	Phone:	(907)465-8679
Division:	School Finance	Date:	01/31/2014 10:00 AM
Approved By:	Mike Hanley	Date:	01/31/14
Agency:	Commissioner		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. HB245

Analysis

This fiscal note capitalizes the Public Education Fund (PEF) as set out in HB245 in order to provide sufficient funding to address the Public School Funding program (Foundation). There is a separate fiscal note for the Foundation Program that explains the funding increase.

The effective date is July 1, 2014, and should this act take affect after that date then it is retroactive to July 1, 2014.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version:	HB 245
Fiscal Note Number:	2
(H) Publish Date:	2/10/2014

Identifier: HB245-EED-K12-1-31-14
 Title: SCHOOL FUNDING: REQ'D LOCAL CONTRIBUTION
 Sponsor: T.WILSON
 Requester: House Education Committee

Department: Department of Education and Early Development
 Appropriation: K-12 Support
 Allocation: Foundation Program
 OMB Component Number: 141

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
 If yes, by what date are the regulations to be adopted, amended or repealed? 12/30/14

Why this fiscal note differs from previous version:

Initial version.

Prepared By:	Elizabeth Nudelman	Phone:	(907)465-8879
Division:	School Finance	Date:	01/31/2014 10:00 AM
Approved By:	Mike Hanley	Date:	01/31/14
Agency:	Commissioner		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB245

Analysis

This legislation repeals the required local contribution from the public school funding formula at AS 14.17.410. A municipality would no longer be required to contribute the lesser of 2.65 mills of the full and true property value or 45% of prior year basic need. AS 14.17.410(c) would be amended so that municipal school districts will have the option of contributing but not exceeding either 2 mills of the full and true property value or 23% of current year's basic need, whichever is greater.

In addition, HB245 amends AS 14.17.410(b)(1) providing that state aid equals basic need minus eligible federal aid. The state would now pay 90% of the required local contribution with the remaining 10% covered by federal impact aid. The FY2015 required local contribution amount is \$228,347,569 under the current public school funding formula.

Municipal school districts that previously retained more impact aid for contributing above the required local amount will no longer be able to do so. The impact aid deduction percentage changes as a result of repealing the required local contribution, setting all municipal districts to 90%. Any further changes to the federal impact aid program in the out years are unknown at this time.

Finally, AS 14.12.020(c) is amended so that the state rather than the municipality is responsible to maintain and operate the public schools. The municipality does have the option to contribute based on AS 14.17.410(c).

The effective date is July 1, 2014, and should this act take affect after that date then it is retroactive to July 1, 2014.

Department of Education & Early Development

Prepared 1/15/2014

HB245 "An Act repealing the required local contribution to school funding;"

School District	Projected FY2015 Required Local Effort	FY2015 Change in Federal Impact Aid with all district at 90% deduct	FY2015 Required Local cost minus 90% Impact Aid deduct = STATE Cost
Alaska Gateway	\$ -	\$ -	\$ -
Aleutian Region	-	-	-
Aleutians East Borough	615,358	(325,752)	289,606
Anchorage	97,578,452	(8,467,314)	89,111,138
Annette Island	-	-	-
Bering Strait	-	-	-
Bristol Bay Borough	829,813	(27,421)	802,392
Chatham	-	-	-
Chugach	-	-	-
Copper River	-	-	-
Cordova	808,972	(11,365)	797,607
Craig	342,223	(240,164)	102,059
Delta/Greely	-	-	-
Denali Borough	660,233	(3,972)	656,261
Dillingham	545,947	(331,065)	214,882
Fairbanks N. Star Borough	27,829,166	(4,932,131)	22,897,035
Galena	80,477	(78,622)	1,855
Haines Borough	1,015,859	-	1,015,859
Hoonah	194,633	(93,181)	101,452
Hydaburg	40,600	(52,134)	(11,534)
Iditarod Area	-	-	-
Juneau Borough	12,964,812	-	12,964,812
Kake	76,124	(162,857)	(86,733)
Kashunamiut	-	-	-
Kenai Peninsula Borough	23,593,944	-	23,593,944
Ketchikan Gateway Borough	4,438,076	-	4,438,076
Klawock	143,391	(140,004)	3,387
Kodiak Island Borough	4,016,219	(977,157)	3,039,062
Kuspuk	-	-	-
Lake & Peninsula Borough	378,755	(925,824)	(547,069)
Lower Kuskokwim	-	-	-
Lower Yukon	-	-	-
Mat-Su Borough	25,982,579	-	25,982,579
Nenana	77,614	(110)	77,504
Nome	1,004,049	(33,839)	970,210
North Slope Borough	12,896,094	(2,071,301)	10,824,793
Northwest Arctic Borough	2,020,777	(2,933,235)	(912,458)
Pelican	32,148	-	32,148
Petersburg	854,814	-	854,814
Pribilof	-	-	-
Saint Mary's	35,341	-	35,341
Sitka Borough	3,081,916	(4,191)	3,077,725
Skagway	458,316	-	458,316
Southeast Island	-	-	-
Southwest Region	-	-	-
Tanana	24,675	(1,080)	23,595
Unalaska	1,490,964	(10,735)	1,480,229
Valdez	3,494,998	(2,250)	3,492,748
Wrangell	542,378	(133)	542,245
Yakutat	197,852	(58,000)	139,852
Yukon Flats	-	-	-
Yukon/Koyukuk	-	-	-
Yup'it	-	-	-
Mt. Edgecumbe High School	-	-	-
TOTAL	\$ 228,347,569	\$ (21,883,837)	\$ 206,463,732

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version:	HB 245
Fiscal Note Number:	1
(H) Publish Date:	2/10/2014

Identifier: HB245-DCCED-DCRA-01-31-14
 Title: SCHOOL FUNDING: REQ'D LOCAL CONTRIBUTION
 Sponsor: T.WILSON
 Requester: House Education

Department: Department of Commerce, Community and Economic Development
 Appropriation: Community and Regional Affairs
 Allocation: Community and Regional Affairs
 OMB Component Number: 2879

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Scott Ruby, Director	Phone:	(907)289-4569
Division:	Community and Regional Affairs	Date:	01/31/2014 10:00 AM
Approved By:	Jeanne Mungle, Director	Date:	01/31/14
Agency:	Administrative Services		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. HB245

Analysis

This bill would amend existing statutes requiring a mandatory local contribution by borough or city school districts for operation of the public school system. The mandatory contribution requirement of 2.65 mill equivalent would no longer be required. This State would be responsible for the costs that were formally funded by the mandatory contributions.

There is no anticipated fiscal impact to the Division of Community and Regional Affairs from this bill.

APPENDICES FOR VOLUME II: ANALYSES OF THE LEGAL ISSUES

LOCAL CONTRIBUTIONS TO PUBLIC EDUCATION IN ALASKA: A REPORT TO THE KETCHIKAN GATEWAY BOROUGH ASSEMBLY

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- **Appendix A – Effects of Repeal of 50% Rule by Chapter 19, SLA 2012 (HCS CSSB 182 [FIN])**
 - **Appendix B – Justice As Fairness**
 - **Appendix C – Supreme Court Precedents Cited in the Williams Case**
 - **Appendix D – State Court Precedents Cited in the Kenai Case**

Appendix A

**Effects of Repeal of 50% Rule
by Chapter 19, SLA 2012 (HCS CSSB 182 [FIN])**

APPENDIX A

PROJECTED EFFECT OF REPEAL OF "50% RULE" IN TERMS OF LOCAL CONTRIBUTIONS REQUIRED OF THE KETCHIKAN GATEWAY BOROUGH
(PROJECTIONS BASED ON CHANGE IN FULL VALUE FROM 1999 TO 2011)

Full and True Value Year	State Fiscal Year	School Term	Ketchikan Gateway Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Required Local Contribution (State Underfunding of Basic Education)	Local Contribution if 50% Rule/4-Add Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
2010	2012	2011-2012	\$1,554,570,100	\$468,496,000	\$234,248,000	\$1,320,322,100	\$5,281,288	\$5,281,288	\$0
2011	2013	2012-2013	\$1,592,716,600	\$506,642,500	\$253,321,250	\$1,339,395,350	\$4,220,699	\$5,357,581	(\$1,136,882)
2012	2014	2013-2014	\$1,644,353,148	\$558,279,048	\$279,139,524	\$1,365,213,624	\$4,357,536	\$5,460,854	(\$1,103,319)
2013	2015	2014-2015	\$1,697,663,774	\$611,589,674	\$305,794,837	\$1,391,868,937	\$4,498,809	\$5,567,476	(\$1,068,667)
2014	2016	2015-2016	\$1,752,702,753	\$666,628,653	\$333,314,327	\$1,419,388,427	\$4,644,662	\$5,677,554	(\$1,032,891)
2015	2017	2016-2017	\$1,809,526,120	\$723,452,020	\$361,726,010	\$1,447,800,110	\$4,795,244	\$5,791,200	(\$995,956)
2016	2018	2017-2018	\$1,868,191,724	\$782,117,624	\$391,058,812	\$1,477,132,912	\$4,950,708	\$5,908,532	(\$957,824)
2017	2019	2018-2019	\$1,928,759,291	\$842,685,191	\$421,342,596	\$1,507,416,696	\$5,111,212	\$6,029,667	(\$918,455)
2018	2020	2019-2020	\$1,991,290,486	\$905,216,386	\$452,608,193	\$1,538,682,293	\$5,276,920	\$6,154,729	(\$877,809)
2019	2021	2020-2021	\$2,055,848,967	\$969,774,867	\$484,887,434	\$1,570,961,534	\$5,448,000	\$6,283,846	(\$835,846)
2020	2022	2021-2022	\$2,122,500,463	\$1,036,426,363	\$518,213,181	\$1,604,287,281	\$5,624,626	\$6,417,149	(\$792,523)
2021	2023	2022-2023	\$2,191,312,828	\$1,105,238,728	\$552,619,364	\$1,638,693,464	\$5,806,979	\$6,554,774	(\$747,795)
2022	2024	2023-2024	\$2,262,356,119	\$1,176,282,019	\$588,141,009	\$1,674,215,109	\$5,995,244	\$6,696,860	(\$701,617)
2023	2025	2024-2025	\$2,335,702,663	\$1,249,628,563	\$624,814,282	\$1,710,888,382	\$6,189,612	\$6,843,554	(\$653,941)
2024	2026	2025-2026	\$2,411,427,134	\$1,325,353,034	\$662,676,517	\$1,748,750,617	\$6,390,282	\$6,995,002	(\$604,721)
2025	2027	2026-2027	\$2,489,606,624	\$1,403,532,524	\$701,766,262	\$1,787,840,362	\$6,597,458	\$7,151,361	(\$553,904)
2026	2028	2027-2028	\$2,570,320,727	\$1,484,246,627	\$742,123,313	\$1,828,197,413	\$6,811,350	\$7,312,790	(\$501,440)
2027	2029	2028-2029	\$2,653,651,614	\$1,567,577,514	\$783,788,757	\$1,869,862,857	\$7,032,177	\$7,479,451	(\$447,275)
2028	2030	2029-2030	\$2,739,684,125	\$1,653,610,025	\$826,805,012	\$1,912,879,112	\$7,260,163	\$7,651,516	(\$391,354)
2029	2031	2030-2031	\$2,828,505,846	\$1,742,431,746	\$871,215,873	\$1,957,289,973	\$7,495,540	\$7,829,160	(\$333,619)
2030	2032	2031-2032	\$2,920,207,205	\$1,834,133,105	\$917,066,552	\$2,003,140,652	\$7,738,549	\$8,012,563	(\$274,014)
2031	2033	2032-2033	\$3,014,881,561	\$1,928,807,461	\$964,403,730	\$2,050,477,830	\$7,989,436	\$8,201,911	(\$212,475)
2032	2034	2033-2034	\$3,112,625,299	\$2,026,551,199	\$1,013,275,600	\$2,099,349,700	\$8,248,457	\$8,397,399	(\$148,942)
2033	2035	2034-2035	\$3,213,537,931	\$2,127,463,831	\$1,063,731,916	\$2,149,806,016	\$8,515,876	\$8,599,224	(\$83,349)
2034	2036	2035-2036	\$3,317,722,193	\$2,231,648,093	\$1,115,824,047	\$2,201,898,147	\$8,791,964	\$8,807,593	(\$15,629)
2035	2037	2036-2037	\$3,425,284,154	\$2,339,210,054	\$1,169,605,027	\$2,255,679,127	\$9,077,003	\$9,022,717	\$54,286
2036	2038	2037-2038	\$3,536,333,318	\$2,450,259,218	\$1,225,129,609	\$2,311,203,709	\$9,371,283	\$9,244,815	\$126,468
2037	2039	2038-2039	\$3,650,982,744	\$2,564,908,644	\$1,282,454,322	\$2,368,528,422	\$9,675,104	\$9,474,114	\$200,991
2038	2040	2039-2040	\$3,769,349,153	\$2,683,275,053	\$1,341,637,526	\$2,427,711,626	\$9,988,775	\$9,710,847	\$277,929
2039	2041	2040-2041	\$3,891,553,050	\$2,805,478,950	\$1,402,739,475	\$2,488,813,575	\$10,312,616	\$9,955,254	\$357,361
2040	2042	2041-2042	\$4,017,718,850	\$2,931,644,750	\$1,465,822,375	\$2,551,896,475	\$10,646,955	\$10,207,586	\$439,369
2041	2043	2042-2043	\$4,147,974,999	\$3,061,900,899	\$1,530,950,450	\$2,617,024,550	\$10,992,134	\$10,468,098	\$524,036
2042	2044	2043-2044	\$4,282,454,107	\$3,196,380,007	\$1,598,190,004	\$2,684,264,104	\$11,348,503	\$10,737,056	\$611,447
2043	2045	2044-2045	\$4,421,293,085	\$3,335,218,985	\$1,667,609,493	\$2,753,683,593	\$11,716,427	\$11,014,734	\$701,692
2044	2046	2045-2046	\$4,564,633,282	\$3,478,559,182	\$1,739,279,591	\$2,825,353,691	\$12,096,278	\$11,301,415	\$794,863
2045	2047	2046-2047	\$4,712,620,628	\$3,626,546,528	\$1,813,273,264	\$2,899,347,364	\$12,488,445	\$11,597,389	\$891,055
2046	2048	2047-2048	\$4,865,405,787	\$3,779,331,687	\$1,889,665,844	\$2,975,739,944	\$12,893,325	\$11,902,960	\$990,366
2047	2049	2048-2049	\$5,023,144,306	\$3,937,070,206	\$1,968,535,103	\$3,054,609,203	\$13,311,332	\$12,218,437	\$1,092,896
2048	2050	2049-2050	\$5,185,996,774	\$4,099,922,674	\$2,049,961,337	\$3,136,035,437	\$13,742,891	\$12,544,142	\$1,198,750
2049	2051	2050-2051	\$5,354,128,989	\$4,268,054,889	\$2,134,027,444	\$3,220,101,544	\$14,188,442	\$12,880,406	\$1,308,036
2050	2052	2051-2052	\$5,527,712,121	\$4,441,638,021	\$2,220,819,010	\$3,306,893,110	\$14,644,437	\$13,227,572	\$1,420,865
2051	2053	2052-2053	\$5,706,922,892	\$4,620,848,792	\$2,310,424,396	\$3,396,498,496	\$15,123,346	\$13,585,994	\$1,537,352
2052	2054	2053-2054	\$5,891,943,752	\$4,805,869,652	\$2,402,934,826	\$3,489,008,926	\$15,613,651	\$13,956,036	\$1,657,615
2053	2055	2054-2055	\$6,082,963,066	\$4,996,884,966	\$2,498,444,483	\$3,584,518,583	\$16,119,852	\$14,338,074	\$1,781,778
							\$388,477,591	\$187,850,682	\$576,909

APPENDIX A

STATE UNDERFUNDING OF BASIC NEED FOR KETCHIKAN GATEWAY BOROUGH SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Ketchikan Gateway Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Ketchikan Gateway Borough Required Local Contribution (State Underfunding of Basic Education)	Ketchikan Gateway Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$1,086,074,100	\$0	\$0	\$1,086,074,100	\$4,344,296		
1	2000	2002	2001-2002	\$1,116,923,700	\$30,849,600	\$15,424,800	\$1,101,498,900	\$4,405,996		
2	2001	2003	2002-2003	\$1,171,391,700	\$85,317,600	\$42,658,800	\$1,128,732,900	\$4,514,932		
3	2002	2004	2003-2004	\$1,158,404,600	\$72,330,500	\$36,165,250	\$1,122,239,350	\$4,488,957		
4	2003	2005	2004-2005	\$1,109,849,800	\$23,775,700	\$11,887,850	\$1,097,961,950	\$4,391,848		
5	2004	2006	2005-2006	\$1,117,297,100	\$31,223,000	\$15,611,500	\$1,101,685,600	\$4,406,742		
6	2005	2007	2006-2007	\$1,178,492,700	\$92,418,600	\$46,209,300	\$1,132,283,400	\$4,529,134		
7	2006	2008	2007-2008	\$1,255,171,900	\$169,097,800	\$84,548,900	\$1,170,623,000	\$4,682,492		
8	2007	2009	2008-2009	\$1,415,713,000	\$329,638,900	\$164,819,450	\$1,250,893,550	\$5,003,574		
9	2008	2010	2009-2010	\$1,543,578,500	\$457,504,400	\$228,752,200	\$1,314,826,300	\$5,259,305		
10	2009	2011	2010-2011	\$1,606,849,700	\$520,775,600	\$260,387,800	\$1,346,461,900	\$5,385,848		
11	2010	2012	2011-2012	\$1,554,570,100	\$468,496,000	\$234,248,000	\$1,320,322,100	\$5,281,288		
12	2011	2013	2012-2013	\$1,592,716,600	\$506,642,500	\$253,321,250	\$1,339,395,350	\$4,220,699	\$5,357,581	(\$1,136,882)
Totals							\$10,915,111			

STATE UNDERFUNDING OF BASIC NEED FOR KETCHIKAN GATEWAY BOROUGH SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value from 1990 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Ketchikan Gateway Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Ketchikan Gateway Borough Required Local Contribution (State Underfunding of Basic Education)	Ketchikan Gateway Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2011-2013	\$1,592,716,600	\$506,642,500	\$253,321,250	\$1,339,395,350	\$4,220,699	\$5,357,581	(\$1,136,882)
1	2012	2014	2013-2014	\$1,644,353,148	\$558,279,048	\$279,139,524	\$1,365,213,624	\$4,357,536	\$5,460,854	(\$1,103,319)
2	2013	2015	2014-2015	\$1,697,663,774	\$611,589,674	\$305,794,837	\$1,391,868,937	\$4,498,809	\$5,567,476	(\$1,068,667)
3	2014	2016	2015-2016	\$1,751,702,753	\$666,628,653	\$333,314,327	\$1,419,388,427	\$4,644,662	\$5,677,554	(\$1,032,891)
4	2015	2017	2016-2017	\$1,809,526,120	\$723,452,020	\$361,726,010	\$1,447,800,110	\$4,795,244	\$5,791,200	(\$995,956)
5	2016	2018	2017-2018	\$1,868,191,724	\$782,117,624	\$391,058,812	\$1,477,132,912	\$4,950,708	\$5,908,532	(\$957,824)
6	2017	2019	2018-2019	\$1,928,758,291	\$842,685,191	\$421,342,596	\$1,507,416,696	\$5,111,212	\$6,028,667	(\$918,455)
7	2018	2020	2019-2020	\$1,991,290,486	\$905,216,386	\$452,608,193	\$1,538,682,293	\$5,276,920	\$6,154,729	(\$877,809)
8	2019	2021	2020-2021	\$2,055,848,967	\$969,774,867	\$484,887,434	\$1,570,961,534	\$5,448,000	\$6,283,846	(\$835,846)
9	2020	2022	2021-2022	\$2,122,300,463	\$1,036,426,363	\$518,213,181	\$1,604,287,281	\$5,624,626	\$6,417,149	(\$792,523)
10	2021	2023	2022-2023	\$2,191,312,828	\$1,105,238,728	\$552,619,364	\$1,638,693,464	\$5,806,979	\$6,554,774	(\$747,795)
11	2022	2024	2023-2024	\$2,262,356,119	\$1,176,282,019	\$588,141,009	\$1,674,215,109	\$5,995,244	\$6,696,860	(\$701,617)
12	2023	2025	2024-2025	\$2,335,702,663	\$1,249,628,563	\$624,814,282	\$1,710,888,382	\$6,189,612	\$6,843,554	(\$653,941)
Totals							\$16,120,352		\$19,718,726	(\$13,598,374)

APPENDIX A

STATE UNDERFUNDING OF BASIC NEED FOR MUNICIPALITY OF ANCHORAGE SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Municipality of Anchorage Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Municipality of Anchorage Required Local Contribution (State Underfunding of Basic Education)	Municipality of Anchorage Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$15,660,957,500	\$0	\$0	\$15,660,957,500	\$62,643,830		
1	2000	2002	2001-2002	\$16,574,726,820	\$913,769,320	\$456,884,660	\$16,117,842,160	\$64,471,369		
2	2001	2003	2002-2003	\$18,261,699,360	\$2,600,741,860	\$1,300,370,930	\$16,961,328,430	\$67,845,314		
3	2002	2004	2003-2004	\$19,203,572,370	\$3,542,614,870	\$1,771,307,435	\$17,432,264,935	\$69,729,060		
4	2003	2005	2004-2005	\$21,214,674,720	\$5,553,717,220	\$2,776,858,610	\$18,437,816,110	\$73,751,264		
5	2004	2006	2005-2006	\$22,651,130,210	\$6,990,172,710	\$3,495,086,355	\$19,156,043,855	\$76,624,175		
6	2005	2007	2006-2007	\$25,077,495,890	\$9,416,538,390	\$4,708,269,195	\$20,369,226,695	\$81,476,907		
7	2006	2008	2007-2008	\$28,833,782,720	\$13,172,825,220	\$6,586,412,610	\$22,247,370,110	\$88,989,480		
8	2007	2009	2008-2009	\$33,080,270,082	\$17,419,312,582	\$8,709,656,291	\$24,370,613,791	\$97,482,455		
9	2008	2010	2009-2010	\$34,911,945,900	\$19,250,988,400	\$9,625,494,200	\$25,286,451,700	\$101,145,807		
10	2009	2011	2010-2011	\$35,128,863,600	\$19,467,906,100	\$9,733,953,050	\$25,394,910,550	\$101,579,642		
11	2010	2012	2011-2012	\$35,299,565,060	\$19,638,607,560	\$9,819,303,780	\$25,480,261,280	\$101,921,045		
12	2011	2013	2012-2013	\$35,633,951,010	\$19,972,993,510	\$9,986,496,755	\$25,647,454,255	\$94,429,970	\$102,589,817	(\$8,159,847)
Totals:										\$1,047,091,319

STATE UNDERFUNDING OF BASIC NEED FOR MUNICIPALITY OF ANCHORAGE SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value From 1999 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Municipality of Anchorage Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Municipality of Anchorage Required Local Contribution (State Underfunding of Basic Education)	Municipality of Anchorage Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2012-2013	\$35,633,951,010	\$19,972,993,510	\$9,986,496,755	\$25,647,454,255	\$94,429,970	\$102,589,817	(\$8,159,847)
1	2012	2014	2013-2014	\$38,160,827,554	\$22,499,870,054	\$11,249,935,027	\$26,910,892,527	\$101,126,193	\$107,643,570	(\$6,517,377)
2	2013	2015	2014-2015	\$40,866,890,095	\$25,205,932,595	\$12,602,966,297	\$28,263,923,797	\$108,297,259	\$113,055,695	(\$4,758,436)
3	2014	2016	2015-2016	\$43,764,845,081	\$28,103,887,581	\$14,051,943,790	\$29,712,901,290	\$115,976,839	\$118,851,605	(\$2,874,766)
4	2015	2017	2016-2017	\$46,868,299,998	\$31,207,342,498	\$15,603,671,249	\$31,264,628,749	\$124,200,995	\$125,058,515	(\$87,520)
5	2016	2018	2017-2018	\$50,191,827,267	\$34,530,869,767	\$17,265,434,884	\$32,926,392,384	\$133,008,342	\$131,705,570	\$1,302,773
6	2017	2019	2018-2019	\$53,751,032,671	\$38,090,075,171	\$19,045,037,586	\$34,705,995,086	\$142,440,237	\$136,823,980	\$8,616,256
7	2018	2020	2019-2020	\$57,562,628,629	\$41,901,671,129	\$20,950,835,565	\$36,611,793,065	\$152,540,966	\$146,447,172	\$6,093,794
8	2019	2021	2020-2021	\$61,644,512,674	\$45,983,555,174	\$22,991,777,587	\$38,652,735,087	\$163,357,959	\$154,630,940	\$8,747,018
9	2020	2022	2021-2022	\$66,015,851,487	\$50,354,893,987	\$25,177,446,994	\$40,838,404,494	\$174,942,006	\$163,359,618	\$11,588,388
10	2021	2023	2022-2023	\$70,697,170,900	\$55,036,213,400	\$27,518,106,700	\$43,179,064,200	\$187,347,503	\$172,716,257	\$14,631,246
11	2022	2024	2023-2024	\$75,710,452,273	\$60,049,494,773	\$30,024,747,387	\$45,685,704,887	\$200,632,699	\$182,742,820	\$17,889,879
12	2023	2025	2024-2025	\$81,079,235,710	\$65,418,278,210	\$32,709,139,105	\$48,370,096,605	\$214,859,975	\$193,480,386	\$21,379,589
Totals:								\$1,914,607,912	\$1,851,076,936	\$63,530,976

APPENDIX A
STATE UNDERFUNDING OF BASIC NEED FOR FAIRBANKS NORTH STAR BOROUGH SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Fairbanks North Star Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Fairbanks North Star Borough Required Local Contribution (State Underfunding of Basic Education)	Fairbanks North Star Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$4,714,171,310	\$0	\$0	\$4,714,171,310	\$18,856,685		
1	2000	2002	2001-2002	\$4,840,563,260	\$126,391,950	\$63,195,975	\$4,777,367,285	\$19,109,469		
2	2001	2003	2002-2003	\$5,020,369,220	\$306,197,910	\$153,098,955	\$4,867,270,265	\$19,469,081		
3	2002	2004	2003-2004	\$5,186,187,740	\$472,016,430	\$236,008,215	\$4,950,179,525	\$19,800,718		
4	2003	2005	2004-2005	\$5,418,779,600	\$704,608,290	\$352,304,145	\$5,066,475,455	\$20,265,902		
5	2004	2006	2005-2006	\$5,907,617,440	\$1,193,446,130	\$596,723,065	\$5,310,894,375	\$21,243,578		
6	2005	2007	2006-2007	\$6,458,961,200	\$1,744,789,890	\$872,394,945	\$5,586,566,255	\$22,346,265		
7	2006	2008	2007-2008	\$7,267,077,780	\$2,552,906,470	\$1,276,453,235	\$5,990,624,545	\$23,962,498		
8	2007	2009	2008-2009	\$8,216,673,480	\$3,502,502,170	\$1,751,251,085	\$6,463,422,395	\$25,861,690		
9	2008	2010	2009-2010	\$8,851,417,870	\$4,137,246,560	\$2,068,623,280	\$6,782,794,590	\$27,131,178		
10	2009	2011	2010-2011	\$9,268,836,820	\$4,554,665,510	\$2,277,332,755	\$6,991,504,065	\$27,966,016		
11	2010	2012	2011-2012	\$9,687,137,790	\$4,972,966,480	\$2,486,483,240	\$7,200,654,550	\$28,802,618		
12	2011	2013	2012-2013	\$9,654,743,990	\$4,940,572,680	\$2,470,286,340	\$7,184,457,650	\$25,585,072	\$28,737,831	(\$4,152,759)
Totals							\$100,300,770			

STATE UNDERFUNDING OF BASIC NEED FOR FAIRBANKS NORTH STAR BOROUGH SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value From 1999 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Fairbanks North Star Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Fairbanks North Star Borough Required Local Contribution (State Underfunding of Basic Education)	Fairbanks North Star Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2012-2013	\$9,654,743,990	\$4,940,572,680	\$2,470,286,340	\$7,184,457,650	\$25,585,072	\$28,737,831	(\$3,152,759)
1	2012	2014	2013-2014	\$10,249,091,707	\$5,534,320,397	\$2,767,160,198	\$7,481,631,508	\$27,160,093	\$29,926,526	(\$2,766,433)
2	2013	2015	2014-2015	\$10,880,027,572	\$6,165,856,262	\$3,082,928,131	\$7,797,099,441	\$28,832,073	\$31,188,398	(\$2,356,325)
3	2014	2016	2015-2016	\$11,549,803,958	\$6,835,632,648	\$3,417,816,324	\$8,131,987,634	\$30,606,980	\$32,527,951	(\$1,920,970)
4	2015	2017	2016-2017	\$12,260,811,896	\$7,546,640,586	\$3,773,320,293	\$8,487,491,603	\$32,491,152	\$33,949,966	(\$1,458,815)
5	2016	2018	2017-2018	\$13,015,589,605	\$8,301,418,295	\$4,150,709,148	\$8,864,880,458	\$34,491,312	\$35,459,522	(\$98,209)
6	2017	2019	2018-2019	\$13,816,831,562	\$9,102,660,252	\$4,551,330,126	\$9,265,501,436	\$36,614,604	\$37,062,006	(\$447,402)
7	2018	2020	2019-2020	\$14,667,398,112	\$9,953,226,802	\$4,976,613,401	\$9,690,784,711	\$38,868,605	\$38,763,139	\$105,466
8	2019	2021	2020-2021	\$15,570,325,687	\$10,856,154,377	\$5,428,077,188	\$10,142,248,498	\$41,261,363	\$40,568,994	\$692,369
9	2020	2022	2021-2022	\$16,528,837,640	\$11,814,666,330	\$5,907,333,165	\$10,621,504,475	\$43,801,420	\$42,486,018	\$1,315,402
10	2021	2023	2022-2023	\$17,546,355,755	\$12,832,184,445	\$6,416,092,222	\$11,130,263,532	\$46,497,843	\$44,521,054	\$1,976,789
11	2022	2024	2023-2024	\$18,626,512,462	\$13,912,341,152	\$6,956,170,576	\$11,670,341,886	\$49,360,258	\$46,681,368	\$2,678,890
12	2023	2025	2024-2025	\$19,773,163,804	\$15,058,892,494	\$7,529,446,247	\$12,243,667,557	\$52,398,884	\$48,974,670	\$3,424,214
Totals							\$187,605,658		\$159,817,132	\$17,788,526

APPENDIX A

STATE UNDERFUNDING OF BASIC NEED FOR MATANUSKA-SUSITNA BOROUGH SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Matanuska-Susitna Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Matanuska-Susitna Borough Required Local Contribution (State Underfunding of Basic Education)	Matanuska-Susitna Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$2,979,783,820	\$0	\$0	\$2,979,783,820	\$11,919,135		
1	2000	2002	2001-2002	\$3,256,885,340	\$277,101,520	\$138,550,760	\$3,118,334,580	\$12,473,338		
2	2001	2003	2002-2003	\$3,468,918,730	\$489,134,910	\$244,567,455	\$3,224,351,275	\$12,897,405		
3	2002	2004	2003-2004	\$3,722,613,180	\$742,829,360	\$371,414,680	\$3,351,198,500	\$13,404,794		
4	2003	2005	2004-2005	\$4,115,271,770	\$1,135,487,950	\$567,743,975	\$3,547,527,795	\$14,190,111		
5	2004	2006	2005-2006	\$4,845,713,010	\$1,865,929,190	\$932,964,595	\$3,912,748,415	\$15,650,994		
6	2005	2007	2006-2007	\$6,049,406,756	\$3,069,624,936	\$1,534,812,468	\$4,514,594,288	\$18,058,385		
7	2006	2008	2007-2008	\$7,507,998,500	\$4,528,214,680	\$2,264,107,340	\$5,243,891,160	\$20,975,565		
8	2007	2009	2008-2009	\$8,580,916,190	\$5,601,132,370	\$2,800,566,185	\$5,780,350,005	\$23,121,400		
9	2008	2010	2009-2010	\$8,697,868,950	\$5,718,085,130	\$2,859,042,565	\$5,838,826,385	\$23,355,306		
10	2009	2011	2010-2011	\$8,929,096,710	\$5,949,312,890	\$2,974,656,445	\$5,954,440,265	\$23,817,761		
11	2010	2012	2011-2012	\$9,103,817,690	\$6,124,033,870	\$3,062,016,935	\$6,041,800,755	\$24,167,203		
12	2011	2013	2012-2013	\$9,063,680,270	\$6,083,896,450	\$3,041,948,225	\$6,021,732,045	\$24,018,753	\$24,086,928	(\$68,175)
Totals								\$248,010,110		

STATE UNDERFUNDING OF BASIC NEED FOR MATANUSKA-SUSITNA BOROUGH SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value From 1999 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Matanuska-Susitna Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Matanuska-Susitna Borough Required Local Contribution (State Underfunding of Basic Education)	Matanuska-Susitna Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2012-2013	\$9,063,680,270	\$6,083,896,450	\$3,041,948,225	\$6,021,732,045	\$24,018,753	\$24,086,928	(\$68,175)
1	2012	2014	2013-2014	\$9,944,078,910	\$6,964,295,090	\$3,482,147,545	\$6,461,931,365	\$26,351,809	\$25,847,725	\$504,084
2	2013	2015	2014-2015	\$10,909,994,882	\$7,930,211,062	\$3,965,105,531	\$6,944,889,351	\$28,911,486	\$27,779,557	\$1,131,929
3	2014	2016	2015-2016	\$11,969,734,896	\$8,989,951,076	\$4,494,975,538	\$7,474,759,358	\$31,719,797	\$29,899,037	\$1,820,760
4	2015	2017	2016-2017	\$13,132,412,528	\$10,152,628,708	\$5,076,314,354	\$8,056,098,174	\$34,800,893	\$32,224,393	\$2,576,501
5	2016	2018	2017-2018	\$14,408,026,603	\$11,428,242,783	\$5,714,121,392	\$8,693,905,212	\$38,181,270	\$34,775,621	\$3,405,650
6	2017	2019	2018-2019	\$15,807,547,178	\$12,827,763,358	\$6,413,881,679	\$9,393,665,499	\$41,890,000	\$37,574,662	\$4,315,338
7	2018	2020	2019-2020	\$17,343,009,883	\$14,363,226,063	\$7,181,613,032	\$10,161,396,852	\$45,958,976	\$40,645,587	\$5,313,389
8	2019	2021	2020-2021	\$19,027,619,429	\$16,047,835,609	\$8,023,917,805	\$11,003,701,625	\$50,423,191	\$44,014,806	\$6,408,385
9	2020	2022	2021-2022	\$20,875,863,163	\$17,896,079,343	\$8,948,039,671	\$11,927,823,491	\$55,321,097	\$47,711,294	\$7,609,743
10	2021	2023	2022-2023	\$22,903,633,655	\$19,923,851,835	\$9,961,925,917	\$12,941,709,737	\$60,694,634	\$51,766,839	\$8,927,796
11	2022	2024	2023-2024	\$25,128,375,393	\$22,148,591,573	\$11,074,295,786	\$14,054,079,606	\$66,590,195	\$56,216,318	\$10,373,876
12	2023	2025	2024-2025	\$27,569,214,748	\$24,589,430,928	\$12,294,715,464	\$15,274,499,284	\$73,058,419	\$61,097,997	\$11,960,422
Totals								\$777,910,301	\$711,740,766	\$66,169,535

APPENDIX A
STATE UNDERFUNDING OF BASIC NEED FOR KENAI PENINSULA BOROUGH SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Kenai Peninsula Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Kenai Peninsula Borough Required Local Contribution (State Underfunding of Basic Education)	Kenai Peninsula Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$4,050,912,920	\$0	\$0	\$4,050,912,920	\$16,203,652		
1	2000	2002	2001-2002	\$4,249,142,910	\$198,229,990	\$99,114,995	\$4,150,027,915	\$16,600,112		
2	2001	2003	2002-2003	\$4,528,712,330	\$477,799,410	\$238,899,705	\$4,289,812,625	\$17,159,251		
3	2002	2004	2003-2004	\$4,870,615,690	\$819,702,770	\$409,851,385	\$4,460,764,305	\$17,843,057		
4	2003	2005	2004-2005	\$5,343,012,390	\$1,292,099,470	\$646,049,735	\$4,696,962,655	\$18,787,851		
5	2004	2006	2005-2006	\$5,511,891,850	\$1,460,978,930	\$730,489,465	\$4,781,402,385	\$19,125,610		
6	2005	2007	2006-2007	\$5,766,580,547	\$1,715,667,627	\$857,833,814	\$4,908,746,734	\$19,634,987		
7	2006	2008	2007-2008	\$6,172,932,290	\$2,122,019,370	\$1,061,009,685	\$5,111,922,605	\$20,447,690		
8	2007	2009	2008-2009	\$6,849,014,330	\$2,798,101,410	\$1,399,050,705	\$5,449,963,625	\$21,799,855		
9	2008	2010	2009-2010	\$7,545,312,290	\$3,494,399,370	\$1,747,199,685	\$5,798,112,605	\$23,192,450		
10	2009	2011	2010-2011	\$8,133,669,680	\$4,082,756,760	\$2,041,378,380	\$6,092,291,300	\$24,369,165		
11	2010	2012	2011-2012	\$7,987,010,000	\$3,936,097,080	\$1,968,048,540	\$6,018,961,460	\$24,075,846		
12	2011	2013	2012-2013	\$8,338,641,710	\$4,287,728,790	\$2,143,864,395	\$6,194,777,315	\$22,097,401	\$24,779,109	(\$2,681,709)
Totals							\$261,330,915			

STATE UNDERFUNDING OF BASIC NEED FOR KENAI PENINSULA BOROUGH SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value From 1999 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Kenai Peninsula Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Kenai Peninsula Borough Required Local Contribution (State Underfunding of Basic Education)	Kenai Peninsula Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2012-2013	\$8,338,641,710	\$4,287,728,790	\$2,143,864,395	\$6,194,777,315	\$22,097,401	\$24,779,109	(\$2,681,709)
1	2012	2014	2013-2014	\$8,855,719,409	\$4,804,806,489	\$2,402,403,244	\$6,453,316,164	\$23,467,656	\$25,813,265	(\$2,345,608)
2	2013	2015	2014-2015	\$9,404,861,004	\$5,353,948,084	\$2,676,974,042	\$6,727,886,962	\$24,922,882	\$26,911,548	(\$1,988,666)
3	2014	2016	2015-2016	\$9,989,054,772	\$5,937,141,852	\$2,968,570,926	\$7,019,683,846	\$26,468,345	\$28,077,935	(\$1,609,590)
4	2015	2017	2016-2017	\$10,607,412,284	\$6,556,499,364	\$3,278,249,682	\$7,329,162,602	\$28,109,643	\$29,316,650	(\$1,207,008)
5	2016	2018	2017-2018	\$11,265,176,044	\$7,214,263,124	\$3,607,131,562	\$7,658,044,482	\$29,852,717	\$30,632,178	(\$779,461)
6	2017	2019	2018-2019	\$11,963,727,620	\$7,912,814,700	\$3,956,407,350	\$8,007,320,270	\$31,703,878	\$32,029,281	(\$325,403)
7	2018	2020	2019-2020	\$12,705,596,255	\$8,654,683,335	\$4,327,341,668	\$8,378,254,588	\$33,669,830	\$33,513,018	\$156,812
8	2019	2021	2020-2021	\$13,493,468,033	\$9,442,555,113	\$4,721,277,557	\$8,772,190,477	\$35,757,690	\$35,088,762	\$668,928
9	2020	2022	2021-2022	\$14,330,195,601	\$10,279,282,681	\$5,139,641,340	\$9,190,554,260	\$37,975,018	\$36,762,217	\$1,212,801
10	2021	2023	2022-2023	\$15,218,808,497	\$11,167,895,577	\$5,583,947,789	\$9,634,860,709	\$40,329,843	\$38,539,443	\$1,790,400
11	2022	2024	2023-2024	\$16,162,524,122	\$12,111,611,202	\$6,055,805,601	\$10,106,718,521	\$42,830,689	\$40,426,874	\$2,403,815
12	2023	2025	2024-2025	\$17,164,759,387	\$13,113,846,467	\$6,556,923,233	\$10,607,836,153	\$45,486,612	\$42,431,345	\$3,055,268
Totals							\$422,477,201		\$424,171,629	(\$1,694,428)

APPENDIX A

STATE UNDERFUNDING OF BASIC NEED FOR KODIAK ISLAND BOROUGH SCHOOLS

Actual Figures for "Class of 2013" Years (July 1, 2000 through June 30, 2013)

Grade for Class of 2013	Full and True Value Year	State Fiscal Year	School Term	Kodiak Island Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Kodiak Island Borough Required Local Contribution (State Underfunding of Basic Education)	Kodiak Island Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	1999	2001	2000-2001	\$936,735,100	\$0	\$0	\$936,735,100	\$3,746,940		
1	2000	2002	2001-2002	\$977,967,800	\$41,232,700	\$20,616,350	\$957,351,450	\$3,829,406		
2	2001	2003	2002-2003	\$977,779,200	\$41,044,100	\$20,522,050	\$957,257,150	\$3,829,029		
3	2002	2004	2003-2004	\$1,003,704,900	\$66,969,800	\$33,484,900	\$970,220,000	\$3,880,880		
4	2003	2005	2004-2005	\$995,067,200	\$38,332,100	\$19,166,050	\$965,901,150	\$3,863,605		
5	2004	2006	2005-2006	\$1,032,002,600	\$95,267,500	\$47,633,750	\$984,368,850	\$3,937,475		
6	2005	2007	2006-2007	\$1,095,488,400	\$158,753,300	\$79,376,650	\$1,016,111,750	\$4,064,447		
7	2006	2008	2007-2008	\$1,134,159,100	\$197,424,000	\$98,712,000	\$1,035,447,100	\$4,141,788		
8	2007	2009	2008-2009	\$1,191,737,300	\$255,002,200	\$127,501,100	\$1,064,236,200	\$4,256,945		
9	2008	2010	2009-2010	\$1,240,091,000	\$303,355,900	\$151,677,950	\$1,088,413,050	\$4,353,652		
10	2009	2011	2010-2011	\$1,288,364,300	\$351,629,200	\$175,814,600	\$1,112,549,700	\$4,450,199		
11	2010	2012	2011-2012	\$1,309,976,000	\$373,240,900	\$186,620,450	\$1,123,355,550	\$4,493,422		
12	2011	2013	2012-2013	\$1,378,257,100	\$441,522,000	\$220,761,000	\$1,157,496,100	\$3,652,381	\$4,629,984	(\$977,603)
Totals							\$57,500,170			

STATE UNDERFUNDING OF BASIC NEED FOR KODIAK ISLAND BOROUGH SCHOOLS

Projected Figures for "Class of 2025" Years (July 1, 2012 through June 30, 2025)

Projections Based on Average Annual Growth in Full Value From 1999 - 2011

Grade for Class of 2025	Full and True Value Year	State Fiscal Year	School Term	Kodiak Island Borough Full Value	Increase in 1999 Full Value Base	50% of Increase in Full Value Base	50% Increase Added to 1999 Base	Kodiak Island Borough Required Local Contribution (State Underfunding of Basic Education)	Kodiak Island Borough Local Contribution if 50% Rule and 4-Mill Contribution were Still in Place	(Savings) or Cost Due to Repeal of 50% rule
K	2011	2013	2012-2013	\$1,378,257,100	\$441,522,000	\$220,761,000	\$1,157,496,100	\$3,652,381	\$4,629,984	(\$977,603)
1	2012	2014	2013-2014	\$1,423,332,476	\$486,597,376	\$243,298,688	\$1,180,033,788	\$3,771,831	\$4,720,135	(\$948,304)
2	2013	2015	2014-2015	\$1,469,882,026	\$533,146,926	\$266,573,463	\$1,203,308,563	\$3,895,187	\$4,813,234	(\$918,047)
3	2014	2016	2015-2016	\$1,517,953,960	\$581,218,860	\$290,609,430	\$1,227,344,530	\$4,022,578	\$4,909,378	(\$886,800)
4	2015	2017	2016-2017	\$1,567,598,069	\$630,862,969	\$315,431,485	\$1,252,166,585	\$4,154,135	\$5,008,666	(\$854,531)
5	2016	2018	2017-2018	\$1,618,865,770	\$682,130,670	\$341,065,335	\$1,277,800,435	\$4,289,994	\$5,111,202	(\$821,207)
6	2017	2019	2018-2019	\$1,671,810,162	\$735,075,062	\$367,537,531	\$1,304,272,631	\$4,430,297	\$5,217,091	(\$786,794)
7	2018	2020	2019-2020	\$1,726,486,080	\$789,750,980	\$394,875,490	\$1,331,610,590	\$4,575,188	\$5,326,442	(\$751,254)
8	2019	2021	2020-2021	\$1,782,950,153	\$846,215,053	\$423,107,526	\$1,359,842,626	\$4,724,818	\$5,439,371	(\$714,553)
9	2020	2022	2021-2022	\$1,841,260,862	\$904,525,762	\$452,262,881	\$1,388,997,981	\$4,879,341	\$5,555,992	(\$676,651)
10	2021	2023	2022-2023	\$1,901,478,601	\$964,743,501	\$482,371,750	\$1,419,106,850	\$5,038,918	\$5,676,427	(\$637,509)
11	2022	2024	2023-2024	\$1,963,865,738	\$1,026,930,638	\$513,465,319	\$1,450,200,419	\$5,203,714	\$5,800,802	(\$597,087)
12	2023	2025	2024-2025	\$2,027,886,682	\$1,091,151,582	\$545,575,791	\$1,482,310,891	\$5,373,900	\$5,929,244	(\$555,344)
Totals							\$18,012,281		\$78,112,968	(\$10,123,693)

ON OCTOBER 21, 2013, THE KETCHIKAN GATEWAY BOROUGH ASSEMBLY WAIVED ATTORNEY-CLIENT PRIVILEGE FOR THIS DOCUMENT

Appendix B
Justice As Fairness

Fairbanks district superintendent: 50-70 teachers likely will lose jobs

Weston Morrow/wmorrow@newsminer.com | Posted: Wednesday, January 22, 2014 12:00 am

FAIRBANKS — Between 50 and 70 teachers in Fairbanks North Star Borough schools likely will lose their jobs at the end of the school year, according to school district superintendent Pete Lewis.

Lewis made the announcement as the district works to complete its proposed operating budget for the 2014-15 school year. The budget proposal is not finished and the district does not plan to release it until Feb. 1, Lewis said, but the cuts are not likely to be reduced in the remaining time frame unless funding from the state or borough increases significantly.

Throughout the past several years, the district's costs have grown while its funding sources have not. Enrollment in the district also has been declining in recent years.

The state, which funds the majority of the district's budget, has not raised its main funding formula in four years, and the governor's budget proposal recommends the trend continue for a fifth year.

"Costs continue to rise," Lewis said. "We have inflation factors. Things don't get cheaper from year to year."

Teacher layoffs usually cause increased class sizes, which the school board has sought to avoid as one of its top priorities. Last year, the district had to lay off several teachers for the first time in years.

After last school year, the district sent letters of doubtful employment status to 80 teachers and ended up laying off 16 but was able to hire about half of them back in some capacity by the start of the 2013-14 school year.

"This year, it will affect classrooms in a much more significant way," Lewis said.

Most of the cuts last year took place at the secondary level.

At this point in the budget process, it is unclear where the teacher reductions, which Lewis estimated around 60 to 63, would take place. The exact number and areas the layoffs occur will depend on factors such as retirements and enrollment changes.

Fairbanks is not the only school district facing layoffs in the upcoming school year. Anchorage School District, which has an operating budget a little more than twice the size of Fairbanks, announced Tuesday it will eliminate 219 teaching positions for 2014-15, 159 of those because of flat funding.

In the past four years, Anchorage has reduced its budget by 491 full-time equivalent positions, accounting for just more than 700 employees, Anchorage officials stated in a press release.

FNSB school board members have urged the Alaska Legislature, which convened for the first day of its 2014 session Tuesday, to reverse its recent course and increase its foundation funding to districts.

Contact staff writer Weston Morrow at 459-7520. Follow him on Twitter: @FDNMschools.

Fairbanks district officials cautious about Ketchikan funding lawsuit

Weston Morrow/wmorrow@newsminer.com | Posted: Friday, January 17, 2014 12:12 am

FAIRBANKS — School board members and administrators at Fairbanks North Star Borough School District reacted cautiously to news that Ketchikan Gateway Borough would sue the state over local education funding requirements.

Ketchikan filed a lawsuit earlier this week, claiming the state was unconstitutionally forcing local municipalities to pay a portion of school budgets that is technically the responsibility of the state. The state must fund “basic need” for each school district in the state but for years has been forcing municipalities to pick up a portion of the tab, while paying the full sum for rural districts outside a borough.

FNSBSD Superintendent Pete Lewis and several school board members attended a Fairbanks Borough Assembly work session in December in which Ketchikan officials presented their case to assembly members.

Lewis responded hesitantly to the news that Ketchikan had filed its lawsuit this week, saying that neither a win nor a loss would signal a definite change in funding to municipal districts like FNSBSD.

The state required taxpayers in Fairbanks North Star Borough to pay \$26 million of the district’s roughly \$151 million in basic need funding in 2013. The borough elected to cover much more than that, however, allocating \$48.3 million to the school district.

If Ketchikan does win the lawsuit and the state is forced to cover the required local contributions, it’s possible the biggest change — to the district — would simply be who pays that portion of its bill. That’s only one of many possibilities, though.

The state Legislature has not increased basic need for four years, and Gov. Sean Parnell’s 2015 budget proposal would extend that period a fifth year if the legislature follows suit. The House of Representatives’ Sustainable Education Task Force, created to examine, among other things, the cost of education in Alaska, recommended at the end of December that the state can not continue its current education funding levels.

In fiscal year 2014, municipalities are projected to pay \$221.5 million in required local contributions, not including the additional amount many contribute freely.

Lewis expressed concern about how such a large cost increase to the state might further increase the legislature's frenetic move to curtail education spending.

The state is expected to pay \$1.4 billion in basic need to districts in 2014.

Lewis also raised the concern that some municipalities might elect to not spend additional taxpayer money on education if the required local contribution were removed. For FNSB schools, that would mean a loss of \$22 million.

School board president Heidi Haas was one of the board members that sat in on the borough work session with Lewis. She said the lawsuit makes sense, but she said its outcome is less than certain.

"If you get down to the nitty gritty, it could end up hurting us and not helping us because there could be a change to the formula, because (the state) had to absorb additional costs," Haas said. "I agree with what their definition is, but I'm concerned about how that will play out in the long run in terms of education funding."

Fellow board member Sue Hull, who, in addition to FNSBSD, serves on the state school board, said the current state funding plan does seem to discourage areas that are willing to tax themselves.

"If the state is responsible for basic need, then shouldn't they be willing to pay for basic need for everybody," Hull said. "As a borough taxpayer I kind of think the state should be looking at that."

Hull also expressed concern for how the state could pick up an additional \$221 million tab when it is already facing declining revenues and deficits, but said if the courts rule in Ketchikan's favor the state won't have a choice.

Rep. Tammie Wilson, R-North Pole, pre-filed a similar bill with the state House of Representatives Jan. 10. The bill would, among other things, remove the required local contribution. Wilson also is co-chair of the Sustainable Education Task Force.

The legislative session begins Jan. 21.

Contact staff writer Weston Morrow at 459-7520. Follow him on Twitter: @FDNMSchools.

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT KETCHIKAN**

KETCHIKAN GATEWAY BOROUGH, an Alaska municipal corporation and political subdivision; AGNES MORAN, an individual, on her own behalf and on behalf of her minor son; JOHN COSS, a minor; JOHN HARRINGTON, an individual; and DAVID SPOKELY, an individual;

Plaintiffs,

vs.

STATE OF ALASKA; MICHAEL HANLEY, COMMISSIONER OF ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, in his official capacity;

Defendants.

SUMMONS

No. 1KE-14-114 Civil

**TO DEFENDANT: State of Alaska
Michael C. Geraghty
Attorney General
P.O. Box 110300
Juneau, Alaska 99811-0300**

YOU ARE HEREBY SUMMONED and required to file with the court an answer to the complaint which accompanies this summons. Your answer must be filed with the court at 415 Main Street, Ketchikan, Alaska 99901, within twenty (20)* days after the day you receive this summons. In addition, a copy of your answer must be sent to Plaintiff's attorney, K&L GATES LLP, Attorneys at Law, whose address is 420 L Street, Suite 400, Anchorage, Alaska 99501. If you fail to do so, judgment by default will be taken against you for the relief

SUMMONS

demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address/ Telephone number (TF-955)*, available at the clerk's office or on the court system's website at www.state.ak.us/courts/forms.htm, to inform the court.

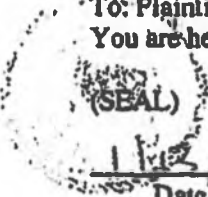
-OR-

If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(I).

NOTICE OF JUDICIAL ASSIGNMENT

To: Plaintiff and Defendant

You are hereby given notice that this case has been assigned to Judge Carey.



CLERK OF COURT

By: S. H. H. H. H.
Deputy Clerk

Date

Clerk of Trial Court

* The state or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT KETCHIKAN**

KETCHIKAN GATEWAY BOROUGH, an Alaska municipal corporation and political subdivision; AGNES MORAN, an individual, on her own behalf and on behalf of her minor son; JOHN COSS, a minor; JOHN HARRINGTON, an individual; and DAVID SPOKELY, an individual;

Plaintiffs,

vs.

STATE OF ALASKA; MICHAEL HANLEY, COMMISSIONER OF ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, in his official capacity;

Defendants.

SUMMONS

No. 1KE-14-116 Civil

**TO DEFENDANT: State of Alaska
Michael Hanley
Commissioner of Alaska Dept. Of Education and
Early Development
801 West 10th Street, Suite 200
Juneau, Alaska 99811**

YOU ARE HEREBY SUMMONED and required to file with the court an answer to the complaint which accompanies this summons. Your answer must be filed with the court at 415 Main Street, Ketchikan, Alaska 99901, within twenty (20)* days after the day you receive this summons. In addition, a copy of your answer must be sent to Plaintiff's attorney, **K&L GATES LLP**, Attorneys at Law, whose address is 420 L Street, Suite 400, Anchorage, Alaska

SUMMONS

99501. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address/ Telephone number (TF-955)*, available at the clerk's office or on the court system's website at www.state.ak.us/courts/forms.htm, to inform the court.

-OR-

If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(1).

NOTICE OF JUDICIAL ASSIGNMENT

To: Plaintiff and Defendant

You are hereby given notice that this case has been assigned to Judge Carey.

(SEAL):

CLERK OF COURT

1/12/14
Date

By: S. Hill
Deputy Clerk

Clerk of Trial Court

* The state or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT KETCHIKAN, ALASKA

KETCHIKAN GATEWAY BOROUGH, an Alaska municipal corporation and political subdivision; AGNES MORAN, an individual, on her own behalf and on behalf of her minor son; JOHN COSS, a minor; JOHN HARRINGTON, an individual; and DAVID SPOKELY, an individual;

Plaintiffs,

v.

STATE OF ALASKA; MICHAEL HANLEY, COMMISSIONER OF ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, in his official capacity;

Defendants.

Case No. 11KE14-16CF

FILED in the Trust
State of Alaska
at Ketchikan

JAN 13 2014

Clerk of the Trial

By _____

COMPLAINT

Plaintiffs Ketchikan Gateway Borough, Agnes Moran, John Coss, John Harrington, and David Spokely, by and through their counsel of record, submit the following as their complaint.

Parties, Jurisdiction, and Venue

1. Ketchikan Gateway Borough ("the Borough") is a second-class borough, general-law municipality established under Article X, Section 3 of the Alaska Constitution, Chapter 52 SLA 1963 (1963 Mandatory Borough Act), and former AS 07.10.010; exists under AS 29.04.030(b); and is provided with the capacity to sue under AS 29.35.010(14).

COMPLAINT
Ketchikan Gateway Borough, et al v. State of Alaska. Case No.
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THIS MATTER IS
FORMALLY ASSIGNED TO
WILLIAM B. CAREY
SUPERIOR COURT JUDGE

2. Plaintiff Agnes Moran is an individual residing within the boundaries of the Borough. Ms. Moran pays property and sales taxes to the Borough. Ms. Moran is also an elected official of the Borough. As a public servant, taxpayer, and mother of a child attending school operated by the Ketchikan Borough School District ("KGB School District"), Ms. Moran possesses a sincere interest in ensuring that schools operated by the KGB School District receive adequate funding in a manner consistent with the Alaska Constitution. Ms. Moran is the natural mother of Plaintiff John Coss, a minor.

3. Mr. Coss is an individual residing within the boundaries of the Borough. Mr. Coss is an eighth grade student at Schoenbar Middle School, a public school within the Borough operated by the KGB School District. Pursuant to Alaska R.Civ.P. 17, this suit is brought on Mr. Coss's behalf by his mother and next friend, Plaintiff Agnes Moran. Mr. Coss is likely to continue to attend public schools within the KGB School District for the next four school years. Mr. Coss possesses a sincere interest in ensuring that schools operated by the KGB School District receive adequate funding in a manner consistent with the Alaska Constitution. Mr. Coss is threatened with reduced educational opportunities because of the State's current underfunding of education within the Borough.

4. Plaintiff John Harrington is an individual residing within the boundaries of the Borough. Mr. Harrington pays property and sales taxes to the Borough. Mr. Harrington possesses a sincere interest in ensuring that schools operated by the KGB School District receive adequate funding in a manner consistent with the Alaska Constitution.

5. Plaintiff David Spokely is an individual residing within the boundaries of the Borough. Mr. Spokely pays property and sales taxes to the Borough. Mr. Spokely possesses a sincere interest in ensuring that schools operated by the KGB School District receive adequate funding in a manner consistent with the Alaska Constitution.

6. Defendant State of Alaska ("State") has enacted and enforced the unconstitutional statutory scheme that is the subject of this complaint. Defendant Michael Hanley is the Commissioner of the Department of Education and Early Development ("DEED"), the State agency responsible for enforcing the unconstitutional statutory scheme that is the subject of this complaint. The State and Commissioner Hanley are collectively referred to as "Defendants."

7. This court has jurisdiction over this action pursuant to AS 22.10.020.

8. Venue lies in this court pursuant to Alaska R.Civ. P. 3 because the First Judicial District is where the claims arose and is a judicial district where the Defendants may be personally served.

FACTS

9. Article VII, Section 1 of the Alaska Constitution provides that the State shall "establish and maintain a system of public schools."

10. The basic unit of school administration in Alaska is the school district. State funding for operation of school districts depends on whether the schools within the school district are located within an organized borough, a home-rule or first-class city that is outside an organized borough, or a regional educational attendance area ("REAA"). The REAAs are educational service areas established under AS 14.08.031(a)

COMPLAINT

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for the sole purpose of administering schools within an area of the unorganized borough.

11. Alaska currently has fifty-three school districts. Each of Alaska's nineteen organized boroughs constitutes a borough school district ("Borough District"). Each of Alaska's fifteen home-rule and first-class cities within the unorganized borough constitutes a city school district ("City District"). Borough and City Districts are referred to collectively herein as "Municipal Districts." The remaining nineteen school districts are within the portion of the unorganized borough exclusive of City Districts. These school districts are divided into State-created REAAs.

12. The State has used various methods over the years to fulfill its responsibilities and obligations provided for in Article VII, Section 1 of the Alaska Constitution. The current State program for providing operating funds for education uses a specified education fund which consists of those funds appropriated by the Alaska State Legislature ("Legislature") for distribution to school districts, the State boarding school, centralized correspondence study, and pupil transportation. AS 14.17.300.

13. Each school district is eligible for "State aid" under AS 14.17.410 ("State Aid") in an amount determined by a formula, but if the appropriations in a given year are insufficient to pay the amounts authorized, then the amount provided by the State to each district, for centralized correspondence study, and the State boarding school, is reduced on a pro-rata basis. AS 14.17.400.

14. Whether a Municipal District or an REAA, each school district is entitled to be funded adequately according to its "Basic Need." According to *Alaska's Public*

School Funding Formula: A Report to the Alaska State Legislature, DEED, p. 8, January

COMPLAINT

Ketchikan Gateway Borough, et al v. State of Alaska Case No.

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15, 2001, Basic Need is the level of educational funding at which "all districts are considered equal" and that "provides all districts with needed resources." In accordance with AS 14.17.410, Basic Need is determined using a weighting formula which takes into account the relative costs of providing services in various school districts, the number of students with special needs, enrollment in each school and associated economies of scale, the costs of vocational and technical instruction, and the number of correspondence students. The formula multiplies some of these adjustment factors by the number of students in average daily attendance during a student count period and adds weighted amounts to arrive at an adjusted average daily membership. This number is then multiplied by the base student allocation in AS 14.17.470 to arrive at Basic Need.

15. The three sources of funding that fulfill Basic Need are "state aid, a required local contribution, and eligible federal impact aid." AS 14.17.410(b). However, the State requires different combinations of this funding depending on whether the district is a Municipal District, on the one hand, or an REAA, on the other hand.

16. State Aid is provided from the funds appropriated to the Public Education Fund (AS 14.17.300) by the Legislature. These funds are subject to veto by the Governor of the State of Alaska ("Governor") in accordance with Article II, Section 15 of the Alaska Constitution. If the balance in the Public Education Fund is insufficient to make the full payments of State Aid, then the DEED is required to reduce each district's Basic Need on a pro rata basis.

17. Municipal Districts must be funded with a "required local contribution" ("RLC") provided by their respective municipalities in accordance with AS 14.17.410(b)

and AS 14.12.020(c). Not only are municipalities required to provide RLC payments to their districts -- the penalty for a Municipal District not doing so is that the State will not provide *any* State Aid to the Municipal District, AS 14.17.410(d), and the Municipal District will be disqualified from receiving supplemental funding under AS 14.17.490. Municipalities, therefore, are coerced to pay the RLC.

18. The RLC payments, which offset the amount of State Aid provided from the Public Education Fund to districts, are not appropriated by the Legislature to the Public Education Fund or for any other State expenditure. Correspondingly, the Governor is not given the opportunity to veto appropriations of RLC payments by the Legislature.

19. The RLC is 2.65 mills of the full and true value of the taxable real and personal property in the Municipal District in the second prior fiscal year (as of two preceding fiscal years ago). Taxable real and personal property in the "district" means taxable real and personal property within the City or Borough, because the City or Borough constitutes the district. The RLC is capped at 45% of a Municipal District's Basic Need in the preceding fiscal year. AS 14.17.410(b)(2).

20. Based upon the October 2013 student count period as reported by the KGB School District to DEED, expected FY 2014 Basic Need for the KGB School District is \$25,947,546. The Alaska Department of Labor and Workforce Development reported the population estimate of the Borough at 13,938 as of July 2012 (the most recent data available). This represents a Basic Need amount of approximately \$1.862 per person residing in the Borough.

21. The Borough's FY 2014 RLC is \$4,198,727. This is based upon a property tax equivalent to 2.65 mills on the full and true value of \$1,584,425,200 (January 1, 2012 value) as determined by the Alaska Department of Commerce, Community, and Economic Development (DCCED). Because of certain optional property tax exemptions, the actual taxable value in the Borough in FY 2014 is \$1,314,675,800. Therefore, the RLC equates to an actual mill levy of 3.19 on the FY 2014 taxable property within the Borough.

22. The per student amount for the Borough RLC payment in FY 2014 is approximately \$1,900. This number equals the FY 2014 RLC divided by the actual number of students in average daily membership reflected in the October 2013 student count period as reported by the KGB School District to DEED.

23. In FY 2014, the Borough and its residents provided \$4,198,727 in these compulsory payments, and an additional \$3,851,273 in optional local contributions and in-kind contributions allowed by AS 14.17.410(c), for a total property tax mill equivalent of 6.12 mills based on the FY 2014 assessed value in community resources allocated to operation of KGB School District schools.

24. The Borough raised revenues to meet these and other areawide Borough expenditures for FY 2014 through an areawide property tax levy of 5 mills and an areawide sales tax levy of 2.5%. There are additional taxes levied and fees charged for Borough service area and nonareawide functions, and additional sales and property taxes are levied by cities within the Borough for city services. Those taxes are paid to the Borough by the taxpayer Plaintiffs Agnes Moran, John Harrington, and David Spokely

("Taxpayer Plaintiffs").

25. As a result of the RLC, the KGB Borough School District has been substantially underfunded by the State, with the Borough and Taxpayer Plaintiffs being forced to make up the difference. The KGB School District receives less than 84 cents of every dollar from the State needed to adequately fund Basic Need. The shortfall in this funding depletes the resources of the Borough and the Taxpayer Plaintiffs. The RLC consumes just under two-thirds of the Borough's areawide property tax levy, and the remainder of the levy (as well as additional sales tax revenue) is devoted to other education-related operations funding by the Borough.

26. The RLC component of the State's education funding scheme is an unfunded State mandate imposed on the Borough and the Taxpayer Plaintiffs. It is a mandatory State tax or other State revenue source, or a dedicated fund, that is dedicated to a special purpose and is not subject to appropriation by the Legislature or veto by the Governor.

27. On October 9, 2013, the Borough paid \$4,198,727 to the KGB School District to satisfy the FY 2014 RLC. The Borough notified Defendant Hanley that the \$4,198,727 payment "was made under protest ..." because it is unconstitutional and illegal.

28. The Borough made this payment under duress and compulsion because without the payment, the KGB School District would receive *no* State Aid in FY 2014. Without State Aid, the KGB School District would be unable to operate, and students within the Borough and the KGB School District (including Plaintiff Coss) would be

COMPLAINT

Aetchikan Gatesray Borough, et al. v. State of Alaska, Case No.

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deprived of educational opportunities.

29. The Borough is restricted by AS 29.45.090 with respect to a maximum mill rate of 30 mills for property taxes other than those required to pay bonds, and a limit of total property tax revenues of \$1,500 per person residing in the Borough. The anticipated FY 2014 Basic Need of \$25,947,546 is approximately \$1,862 per person residing in the Borough. Thus, the Borough would be precluded from taxing its residents to make up for lost State Aid if all State Aid were withheld. The maximum that the Borough could levy is \$20,907,000 (13,938 x \$1,500) which is only 80.6% of the FY 2014 projected Basic Need for the KGB School District.

30. The Borough notified Defendant Hanley that it intended to take legal action to invalidate the RLC and seek repayment from the State of the entire \$4,198,727 that it paid under protest.

31. Should the RLC continue to be enforced against the Borough, the Borough will continue to suffer devastating fiscal harm. In addition to the millions of dollars that the Borough has paid in RLCs prior to FY 2014 and the recent \$4,198,727 paid under protest for FY 2014, the Borough will be coerced into paying millions of dollars per year in the future in unconstitutional and illegal RLC payments.

COUNT 1: DECLARATORY JUDGMENT AS TO ARTICLE IX, SECTION 7 OF ALASKA CONSTITUTION (AS 22.10.020(g))

32. Plaintiffs reincorporate herein by reference the allegations set forth above in paragraph 1 through 31.

33. Article IX, Section 7 of the Alaska Constitution provides that "[t]he

proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska." This anti-dedication clause prohibits any and all dedications beyond those mentioned in the text of the provision.

34. The RLC is a legislatively mandated payment required to be made directly to a dedicated payee (the Muncipal Districts) on an annual basis. It therefore constitutes a dedicated tax or other source of State revenue, or a dedicated fund, in violation of Article IX, Section 7 of the Alaska Constitution.

35. Plaintiffs request a declaratory judgment that the RLC component of the education funding statutory scheme is a dedicated tax or revenue, or a dedicated fund, in violation of Article IX, Section 7 of the Alaska Constitution, and is therefore unconstitutional. Further, Plaintiffs request a permanent injunction barring future enforcement of the unconstitutional RLC statutory scheme.

**COUNT II: DECLARATORY JUDGMENT AS TO ARTICLE IX, SECTION 13
OF ALASKA CONSTITUTION AND ARTICLE II, SECTION 15 OF ALASKA
CONSTITUTION (AS 22.10.020(g))**

36. Plaintiffs reincorporate herein by reference the allegations set forth above in paragraphs 1 -35.

37. Article IX, Section 13 of the Alaska Constitution provides: "No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by

law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void."

38. Article II, Section 15 of the Alaska Constitution provides that the Governor "may, by veto, strike or reduce items in appropriation bills."

39. Under State law, RLC payments must be provided directly to Municipal Districts instead of being paid into the State treasury for possible appropriation by the Legislature to school districts, or for some other purpose to be determined by the Legislature. Instead, the RLC circumvents the Legislature's authority to appropriate the funds by compelling a direct transfer from the Borough or City to the respective Borough or City District. The RLC therefore violates the appropriations power of the Legislature provided for in Article IX, section 13 of the Alaska Constitution.

40. Similarly, the Governor has no opportunity to exercise his item veto power. The RLC therefore violates Article II, section 15 of the Alaska Constitution.

41. Plaintiffs request a declaratory judgment that the RLC component of the education funding statutory scheme violates the appropriations power of the Legislature provided for in Article IX, Section 13 of the Alaska Constitution and/or the Governor's veto power provided for in Article II, Section 15 of the Alaska Constitution. Further, Plaintiffs request a permanent injunction barring future enforcement of the unconstitutional RLC statutory scheme.

COUNT III: ASSUMPSIT

42. Plaintiffs reincorporate herein by reference the allegations set forth above in paragraphs 1 - 41.

43. The Borough remitted the FY 2014 RLC to the KGB School District, as required by AS 14.17.410(b). This payment was required in order to compensate for the State's failure to fully meet the Basic Need of the KGB School District. The RLC is unlawful, as it constitutes an unconstitutional dedicated tax or other revenue source, or dedicated fund, and circumvents the Legislature's power to appropriate funds and the Governor's right to exercise an item veto over any appropriation.

44. The Borough made this payment under duress, namely the threat of all State Aid for the KGB School District being withheld. The Borough made this payment under express protest.

45. The State has been unjustly enriched by the RLC because it relieved the State of the obligation to fully fund the KGB School District's Basic Need.

46. The State should be required to pay back the \$4,198,727 RLC for FY 2014, and any subsequent RLCs, in assumption.

COUNT IV: RESTITUTION

47. Plaintiffs reincorporate herein by reference the allegations set forth above in paragraphs 1 - 46.

48. The RLC is a form of imposition or assessment (hereafter "assessment") required by the State under the color of public authority.

49. The RLC is an illegally collected assessment, as it constitutes an unconstitutional dedicated tax or other source of revenue, or dedicated fund, and circumvents the Legislature's power to appropriate funds and the Governor's right to exercise an item veto over any appropriation.

50. The State was unjustly enriched as a result of the RLC because it relieved the State of the obligation to fund the KGB School District's Basic Need.

51. The State should be required to pay back the \$4,198,727 RLC for FY 2014, and any subsequent RLCs, in restitution.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for the following relief:

1. For a declaratory judgment that the RLC component of the State education funding statutory scheme is a dedicated tax or other revenue, or a dedicated fund, in violation of Article IX, Section 7 of the Alaska Constitution;

2. For a declaratory judgment that the RLC component of the State education funding statutory scheme violates the requirement of a legislative appropriation under Article IX, Section 13 of the Alaska Constitution;

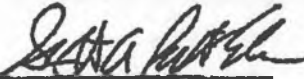
3. For a declaratory judgment that the RLC component of the State education funding statutory scheme violates the requirement that the Governor have the opportunity to exercise an item veto under Article II, Section 15 of the Alaska Constitution;

4. For a permanent injunction (a) prohibiting Defendants from requiring the Borough to pay the RLC in accordance with AS 14.12.020 and AS 14.17.410(b); (b) prohibiting Defendants from denying State Aid in accordance with AS 14.17.410 and State supplemental aid in accordance with AS 14.17.490(c) to the KGB School District as a result of enjoining the State from requiring the Borough to pay the RLC; and (c) requiring Defendants to fund the Basic Need of the KGB School District notwithstanding the absence of an RLC;

5. For an order requiring the State to pay back the FY 2014 RLC of \$4,198,727, and any subsequent RLCs paid by the Borough:
6. For Plaintiffs' full attorneys' fees and costs; and
7. For such other, further, and different relief as the court deems just and proper.

Dated this 13th day of January 2014.

KETCHIKAN GATEWAY BOROUGH

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Please reflect on the 2012 legislative session when, literally in a matter of hours, the 50% Rule limiting the annual increase in the required local contribution was repealed. Bob Hicks referred to that legislative act as "an intergenerational betrayal [that] imposes on the children in Ketchikan an increase in the unfunded mandate when they become the municipal voters and taxpayers."

The Alaska Legislature could, in a matter of hours, re-impose the pre-FY 2001 required local contribution rate of 4 mills for municipal governments that operate schools. Based on FY 2014 figures, that change alone would raise an additional \$104,425,324 in school funding without increasing the State's costs one penny. The additional \$104,425,324, taken from the 34 municipalities that operate school districts would, of course, be shared proportionately among all 53 school districts in Alaska, including the 19 that provide no local funding.

Alternatively, such an increase in the required local contribution would allow the State to cut its costs by \$104 million annually without cutting school funding.

Going from 2.65 mills to 4 mills would increase the required local contribution of municipal governments by 51%. A return to 4-mills and the repeal of the 50% Rule would mean that rates would climb ever higher each year. As noted previously in the case of the KGB, going from a 2.65 mill required contribution for the KGB in FY 2014 to a 4-mill required contribution in FY 2015 would increase the required local contribution of the KGB from \$4.2 million to \$6.7 million, an increase of almost 60%.

I believe it is reasonable to assume an increase in the required local contribution would mean that municipal school districts would receive *significantly less* supplemental funding as allowed by AS 14.17.410(c). For example, presently, the KGBSD receives \$4.2 million in payments from the KGB to backfill State underfunding of Basic Need, and \$3.8 million from the KGB in funding to supplement Basic Need. If the State boosted the required local contribution of the KGB to \$6.7 million, the supplemental funding by the KGB might drop from \$3.8 million to only \$1.3 million. It is difficult to envision a 38% increase in areawide property taxes to generate another \$2.5 million annually to fund a higher local mandatory contribution imposed by the State of Alaska.

Increasing the required contribution in such a significant manner would likely have additional significant indirect positive fiscal impact for the State. Burdened by greater unfunded mandates, local governments would be less able to provide supplemental funding and therefore would be less able to shield federal impact aid deductions by the State. This would increase the level of federal impact aid retained by the State and further reduce the State's cost.

**LOCAL CONTRIBUTIONS
TO
PUBLIC EDUCATION
IN ALASKA:
A REPORT TO THE
KETCHIKAN GATEWAY BOROUGH ASSEMBLY**

**VOLUME I:
STATEMENT OF THE PROBLEM**

By Robert Eldridge Hicks¹

February 2012

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FOREWORD

This study was commissioned by the Ketchikan Gateway Borough Assembly. Borough Manager, Dan Bockhorst, and Borough Attorney, Scott Brandt-Erichsen, have provided invaluable assistance to me during the past eight months, supplying me with their insights, their earlier work products, and an overwhelming amount of source material for my research and analyses. I thank them most heartedly and sincerely.

I avoid plagiarism of my source materials only by acknowledging here and now that I have paraphrased studies and reports liberally, and that undoubtedly I have failed in some instances to give full and proper credit in my citations. I do apologize, but in the comfort of my optimistic expectation that I may be giving new life to dusty studies that were "shelved" after much hard work and detailed analyses by earlier disappointed and frustrated authors.

My work began with rereading the Alaska Supreme Court case of *Matanuska-Susitna School District et al. v. State of Alaska*. It is not a decision founded in proven facts or statistics. Two justices decided only one of four local contribution issues, reasoning from one "expert" opinion replete with erroneous stereotypes regarding the geographic, demographic and economic characteristics of regional educational attendance areas ("REAA's") and municipal school districts. The same two justices refused to decide three other major issues, arguing correctly that there was no evidence before them to support the assertions of the borough and taxpayers. Two other justices sidestepped all of the substantive issues in the case by invoking in conclusory fashion the rationale of "non-justiciable issues." The fifth justice did not participate in the decision.

My work began with rereading the Alaska Supreme Court case of *Matanuska-Susitna School District et al. v. State of Alaska*. It is not a decision founded in proven facts or statistics. Two justices decided only one of four local-contribution issues, reasoning from one "expert" opinion replete with erroneous stereotypes . . .

Hence, I begin Volume I of my Report with the foreknowledge that (1) the Alaska Supreme Court has never decided whether the requirement of a local contribution from municipal school districts and not from REAA's denies any students of educational opportunities in violation of constitutional equal protection; (2) the Alaska Supreme Court has never seen hard demographic, geographic or economic data showing that these two classifications – *all* municipal school districts vs. *all* REAA's – bear no reasonable relationship to the legitimate governing purpose of funding public education statewide; (3) the Alaska Supreme Court has never considered the constitutionality of a sweeping classification which

for purposes of exemption from a local contribution encompasses virtually¹ the entire "unorganized borough;" and (4) the Alaska Supreme Court has never considered whether a statute founded in stereotyping raises the primacy of the impaired constitutional interests above that "lowest level of scrutiny" applied to the single issue decided in the *Mat-Su* case.

In this Volume I of my Report, I analyze the available data and challenge a classification that groups all REAAs together for the same exemption, and all municipal school districts together for a mandatory local contribution. I then describe earlier studies amply proving that many REAAs are prosperous and viable as borough governments but lack incentives to incorporate. In Volume II, I review the law and I use the data from Volume I to build arguments, pro and con, for the likelihood of success of any future attempt to litigate variations on the issues raised in the *Mat-Su* case, as well as many new legal issues never litigated in that case. In Volume III, I discuss the relative merits of pursuing various alternative courses of action that might bring a legislative change in the present system.

¹ Home-rule and first-class cities outside boroughs are municipal school districts in the unorganized borough. Hence, technically, the REAAs do not include the entire unorganized borough. Nonetheless, when treated as one entity for purposes of an exemption from a local contribution, the REAAs run the full breadth and distance of the unorganized borough, and include the immensely diverse socio-economic and geographical characteristics of that amorphous unorganized borough.

INTRODUCTION

In all of Alaska's 18 organized boroughs,² public school administration is an "areawide" municipal function performed by the borough government.ⁱ In all of the 16 home-rule and first-class Alaska cities located outside organized boroughs,³ public school administration is a function of those city governments.ⁱⁱⁱ

At least seven regions of this huge remnant qualify fully in resources, revenue-potential and economic prosperity to become organized boroughs.

Together these 34 political subdivisions comprise what is known as "the municipal school districts" in Alaska. Some are affluent metropolitan communities enjoying diverse, robust economies and strong local tax bases. Others are rural and remote, economically distressed boroughs and cities with few job opportunities, weak or no cash economies, and a dearth of taxable properties.

A huge, diverse and irregular remnant of the State of Alaska – the entire area outside of organized boroughs – is known in a haphazard and indiscriminately singular fashion as "the unorganized borough."⁴ It encompasses 373,268 square miles, 56% of Alaska. It ranges from the southernmost tip of the State (Dall Island and nearby Prince of Wales Island) to points above the Arctic Circle, and from the eastern border with Canada (Tok) to the westernmost Aleutian Islands that bend the International Date Line. It is four times larger than Alaska's largest organized borough, and it is 23 times larger than the average organized borough. It is larger than the countries of France and Germany combined.

At least seven regions of this huge remnant qualify fully in resources, revenue-potential and economic prosperity to become organized boroughs. Other regions of this random residuum called "the

² Aleutians East Borough, Bristol Bay Borough, City and Borough of Juneau, City and Borough of Sitka, City and Borough of Wrangell, City and Borough of Yakutat, Denali Borough, Fairbanks North Star Borough, Haines Borough, Kenai Peninsula Borough, Ketchikan Gateway Borough, Kodiak Island Borough, Lake and Peninsula Borough, Matanuska-Susitna Borough, Municipality of Anchorage, Municipality of Skagway, North Slope Borough, Northwest Arctic Borough.

³ Cordova, Craig, Dillingham, Galena, Hoonah, Hydaburg, Kake, Klawock, Nenana, Nome, Pelican, Petersburg, Saint Mary's, Tanana, Unalaska, Valdez.

⁴ AS 29.03.010 ensures that the "single unorganized borough" will always be an arbitrary remnant, because it can never be more or less than the "[a]reas of the state that are not within the boundaries of an organized borough..." Since its 1961 enactment, AS 29.03.010 exists in direct contradiction of the constitutional mandate in Art. X, §6 for legislative administration of a plural number of unorganized "boroughs," according to Art. X, §3 commonalities of geographic, socio-economic and transportation interests. REAAs were indeed created as subdivisions of the unorganized borough by the legislature, but for purposes of the required local contribution to public education these subdivisions exist only *pro forma*. That local-contribution mandate, AS 14.17.410(b)(2), addresses in practice only an irrational, comprehensive amalgam of all REAAs without regard for their radically different socio-economic and transportation characteristics, and in effect grants a sweepingly broad exemption to the entire, singular, unconstitutional unit called the "unorganized borough." See, Chapter 7 below.

unorganized borough" are best characterized as remote Native-culture villages with economically distressed populations living in largely subsistence economies. This Report will show that, contrary to conventional wisdom, the Alaskans who live in this behemoth "unorganized borough" share no common socio-economic or cultural traits. They share in common only one aberrational fact: *They live in an entity that will always be a leftover remnant of the state, outside the rational boundaries created by local and regional governments.*

For purposes of administering public education in this default remnant, "the unorganized borough," the state legislature has created 19 single-function service areas known as "regional educational attendance areas."⁵ These REAAs do indeed constitute subdivisions that, to some extent,⁶ manifest within their respective boundaries common socio-economic, cultural and geographical characteristics. Some of them embrace areas in Alaska that could not possibly support a regional government because they are too remote and too isolated, economically distressed, and lacking in skilled local human resources.

But, more than one-third of these REAAs (at least seven⁷) encompass regions of Alaska where relatively affluent local people enjoy diverse industries, many cash-employment opportunities and much unencumbered private-property ownership.

Hence, when viewed or treated separately and individually, and except for the exclusion of home-rule and first-class cities from their boundaries, the REAAs manifest well-reasoned divisions with internal commonalities. But, when the REAAs are administered as "all REAAs," they become a mere synonym for that oversized, perchance amalgam called "the unorganized borough." In their merged form – whether the legislature calls it "the REAAs" or "the unorganized borough" – they lack any commonality whatsoever and they manifest nothing more or different than a huge, amorphous and anomalous, geographic remnant of the State of Alaska.

⁵ AS 14.08.031. They are the Alaska Gateway REAA, Aleutian Region REAA, Annette Island REAA, Bering Strait REAA, Chatham REAA, Copper River REAA, Chugach REAA, Delta-Greely REAA, Iditarod Area REAA, Kashunamlut REAA (Chevak), Kuspuik REAA, Lower Kuskokwim REAA, Lower Yukon REAA, Pribilof Islands REAA, Southeast Island REAA, Southwest Region REAA, Yukon Flats REAA, Yukon-Koyukuk REAA, and Yuplit REAA.

⁶ REAAs do not embrace constitutional common interests to the maximum extent because all home-rule and first-class cities outside boroughs are enclaves excluded from the REAA administrative boundaries.

⁷ *Unorganized Areas of Alaska that Meet Borough Incorporation Standards, A Report by the Alaska Local Boundary Commission to the Alaska Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002, February, 2003.* According to the LBC, the seven regions that meet borough incorporation standards are (1) the Aleutians REAA as the "Aleutians West Model Borough," (2) the Delta-Greely REAA and Alaska Gateway REAA as the "Upper Tanana Basin Model Borough," (3) the Copper River REAA as the "Copper River Basin Model Borough," (4) the Chugach REAA as the "Prince William Sound Model Borough," (5) the "Glacier Bay Model Borough," (6) the Chatham REAA as the "Chatham Model Borough," and (7) the Wrangell-Petersburg Model Borough. Shortly before publishing the final report, the Southeast Island REAA was withdrawn because of "recent socioeconomic trends" and "pending more up-to-date information and further analysis" which never occurred. See, Chapter 6 below.

State law^{iv} requires that the residents of all municipal school districts, indiscriminately, must subsidize state funding of local public education by contributing 4 mills on assessable property value or 45% of the "basic need" in that school district, whichever is less.⁸ By the precise terms of this statute, State aid will not be provided to any municipal school district that fails to make this local contribution.^v This contribute-or-else mandate applies without regard for the remote or central location of the municipal school district, without regard for the distressed or prosperous status of the local economy, and without regard for the cash and wage-earning ability of the local people to contribute.

But, that same state law fully exempts the residents of all REAAs, indiscriminately, from making any local contribution whatsoever. This exemption applies without regard for the ability of the local people to contribute. *All citizens in that amorphous, anomalous "unorganized borough" enjoy 100% state/federal-funding of their local public education, without regard for differing regional human and economic resources, how many industries or wage earning jobs exist in the region, how much assessable private property exists in the region, or what level of economic prosperity the local people of the region enjoy.*

In essence, the legislature is saying that everyone living in that huge, socio-economically diverse residuum called "the unorganized borough" outside of home-rule and first-class cities receives full state-aid without regard for local ability to contribute, and everyone living in every municipal school district must contribute 4 mills of property value (up to 45% of basic need) without regard for culture, demographics or distressed economic conditions of those cities and boroughs.

This Report questions this sweepingly broad, irrational and arbitrary classification: an amorphous and socio-economically diverse unorganized borough on the one hand, and all municipal school districts on the other hand. What makes the Delta-Greely REAA, the Copper River REAA, and the Chugach REAA sufficiently similar to the Lower Yukon REAA, the Lower Kuskokwim REAA, and the Yupit

In a bizarre Orwellian twist, ignoring the fact that the required local contribution was an unfunded mandate in the first place, DEED referred to this 50% Rule as the state's "tax subsidy" of the cost of public education in municipal school districts.

⁸ See, Appendix A for a detailed description of the formulae and calculation-process by the Department of Education and Early Development. Since 2002, the 4-mill equivalent is computed on 50% of the increase in real and personal property over the 1999 full and true value. In a bizarre Orwellian twist, ignoring the fact that the required local contribution was an unfunded mandate in the first place, DEED referred to this 50% Rule as the state's "tax subsidy" of the cost of public education in municipal school districts. Transcript of House Committee on Education, January 26, 2009 at p. 8 et seq. A "subsidy" is a grant of money, not a partial reprieve from a previously more onerous unfunded mandate. A modification from a flogging with a cat-o'-nine-tails to a flogging with five knotted cords does not make the latter a grant or a "subsidy." The words "tax subsidy" in this context aren't even close enough to truth to qualify as a euphemism. See n. 50 below for another example of verbal legerdemain by DEED regarding the mandatory local contribution.

REAA such that all of them should be treated the same for the economic purpose of being fully exempted from a local contribution to public education? What makes the economically distressed cities of Hoonah, Kake and Pelican sufficiently similar to Anchorage, Fairbanks and Juneau, such that all should be required to contribute 4 mills on their assessed taxable private property value toward the cost of their local public education? How are Nenana, Nome and Dillingham different from Glennallen, Delta-Junction and Tok, such that the Alaskans in the former cities must contribute local tax dollars to public education while citizens of the latter communities are exempt from any local contribution whatsoever?

The classification of all REAAs vs. all municipal school districts is, in practical application, a classification of all people in municipally-run school districts vs. all people outside home-rule and first-class cities in the unorganized borough. This Report will show that this classification is the result of widespread, erroneous stereotypes that cannot be explained by hard-core socio-economic or cultural data. Conventional wisdom is incorrect in the perception that all REAAs are "rural" and that all municipal school districts are "urban." Some Alaska cities required by law to pay a local contribution to public education are subsistence-based, "economically distressed" communities, while some exempted REAAs are multi-industry regions with high wage/salary employment and hundreds of millions of dollars in assessable unencumbered private property. While the legislature imposed mandatory borough governments on eight regions of the state in a 1963 statute,⁹ the citizens of at least seven¹¹ other prosperous regions – 37% of the 19 REAAs – have successfully avoided incorporating similar local or regional governments that would result in the levy and collection of a tax for a local contribution to the public education of their children.

Alaska, the most prosperous state in the Union, per capita,¹⁰ is constitutionally committed to an admirably modern and progressive system of "statewide public education," yet this same State has arbitrarily imposed on some-but-not-all local subdivisions an unfunded mandate requiring them to pay a portion of the basic need for local public education. The result is that many 100% economically distressed municipal school districts like the Wrangell Borough and the cities of Hoonah, Kake and Pelican are subsidizing full-financing by the State of local public education in 100% non-distressed, affluent REAAs like Delta-Greely REAA, Aleutians Region REAA and Pribilof Islands REAA, some of which obstinately refuse to incorporate a local government despite meeting all standards for incorporation, so that they can avoid taxing themselves to pay the 4-mill local contribution required from municipal school districts.

Another result is that these affluent-but-exempted REAAs spurning the formation of local government and unabashedly enjoying the windfall State dole are draining valuable State aid-to-education money that should be invested in other REAAs and in some municipal school districts that are truly distressed economically, truly isolated geographically, and truly limited both in transportation patterns and in the existence of taxable private property.

⁹ Ch. 52, SLA 1963. The areas compelled to form regional governments were Anchorage, the Matanuska-Susitna Valley, Fairbanks, Juneau, Sitka, Ketchikan, Kodiak Island and the Kenai Peninsula. In Section 1 of the enactment, the legislature assured these regions that they would not be penalized by the forced incorporation.

¹⁰ Alaska joins North Dakota, Wyoming and West Virginia as the only states enjoying budget surpluses in 2011.

It is important to note up front that this Report does not question or criticize the principle of fair and equitable apportionment of State public-education resources according to local need, such that educational opportunities and benefits are maximized throughout the State. Indeed, it might be argued that some remote, cross-cultural regions and economically distressed communities should receive a higher proportion of state aid, in order to achieve equitable educational results statewide.

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This Report only questions and criticizes the gross irrationality and unfairness of the *particular* classifications chosen by the legislature for assessing a required local contribution and for apportioning state aid to public education: Everyone in the unorganized borough outside home-rule and first-class cities (*all* REAAs without exception) fully exempted, and *all* citizens in municipal school districts contributing locally.

Chapter 1 of this Report sets the framework for the Ketchikan Gateway Borough authorizing this study. Chapters 2 through 4 set forth analyses of racial, cultural, socio-economic and geographical data proving the unreasonableness and the unfairness of the present statutory classifications for required local contributions and for granting blanket exemptions throughout the unorganized borough. Chapters 5 and 6 contain detailed information about the seven present REAAs that clearly meet all Alaska Local Boundary Commission standards for incorporation as boroughs, but which are unlikely to ever take local action to

form borough governments because they then would lose the present 100% state and federal financing of their local public education, and instead would be required to make local tax contributions to the education of their children. Chapter 7 then discusses the constitutional requirement for the creation of "unorganized boroughs" in the plural form, and the neglect of the Alaska Legislature to treat such subdivided constitutional units in differentiating fashion for purposes of administering the local-contribution requirement in public education.

Volumes II and III of this Report then explore possible *routes* toward solutions, as opposed to solutions per se. Before choosing specific routes toward solutions, local and regional elected and administrative officials must engage in decisional processes fitted to their particular needs. Municipal attorneys must evaluate the likelihood of success in litigation, which is the subject of Volume II. Decision-makers must evaluate the strength of their elected senators, representatives and lobbyists for affecting change. In some instances, a broader, more fundamental public political education may be the solution, or, raising and pressing new commitments from candidates campaigning for the state house and senate might be the best approach to a solution. These political routes to a solution are discussed in Volume III.

The reader of Volume I should keep in mind the following questions that are subsequently addressed in Volumes II and III of the Report:

- Do the disparities in these present classifications fail to manifest a “fair and substantial relationship”¹¹ to the governing purpose of funding statewide public education, such that these classifications constitute a denial of constitutional equal protection?
- Do the disparities in these present classifications arise from erroneous stereotypes that raise the primacy of constitutional interest in the problem, and hence warrant a higher “intermediate level” of judicial scrutiny¹² for purposes of determining whether these classifications constitute a denial of equal protection?
- Given the vast differences among REAAs, does the treatment of all of them together in singular fashion as the unorganized borough, for purposes of granting an exemption from a local contribution to public education, violate the requirements in Art. X, §§3 and 6 of the Alaska Constitution requiring a plural number of unorganized boroughs classified by enumerated characteristics and assigned regionally appropriate powers and functions?¹³
- Does the grant of this exemption throughout the amorphous unorganized borough violate the provision of Art. X, §6 requiring maximum *local* “responsibility”?
- Does the grant of this exemption throughout the amorphous unorganized borough violate the provision of Art. I, §1 requiring “corresponding obligations” from the citizens of Alaska?
- Would a statewide public political education campaign be an effective method for breaking through the erroneous stereotypes presently causing Alaskan voters to assume incorrectly, without supporting data, that the classifications of universally taxed municipal school districts and universally exempted REAAs represent a reasonable division of the “urban” and “rural” State for purposes of local contributions to public education?

¹¹ When applying the lowest level of scrutiny that allows for the broadest level of over- and under-inclusiveness in an enactment containing a discriminating classification, the Alaska Supreme Court requires that the means chosen by the lawmakers must bear a “fair and substantial relationship” to a legitimate governmental purpose in order to pass constitutional muster as Equal Protection.

¹² If, on its “sliding scale” or “continuum,” the Alaska Supreme Court chooses to apply a higher level of scrutiny than what is represented in footnote 11 above, such as the “intermediate level” generally applied to erroneous stereotypes of, e.g., gender, far less over- and under-inclusiveness would be constitutionally tolerable. See, Chapters 2-4 below.

¹³ On the surface, it appears that, for purposes of administering public education, the state legislature has indeed subdivided the unorganized borough into reasonable divisions called REAAs. In practical effect, however, those reasoned subdivisions are not being used by the state legislature for purposes of granting or denying the exemption from a local contribution to local public education. In its operative effect, AS 14.17.410(b)(2) amalgamates all REAAs back into that single, heterogeneous remnant known as the “unorganized borough.”

- Could new political action groups and new candidates for the state legislature frame the issue and bring these local-contribution inequities to the fore in local political campaigns, thereby motivating incumbent senators and representatives to support changes to more equitable classifications?
- Should burdened municipal school districts form their own statewide coalition for purposes of publicizing, lobbying and campaigning for legislative changes to a fairer system?
- Might it be possible for economically distressed municipal school districts to form a coalition with economically distressed REAAs in order to stop the drain of limited State monies to those affluent REAAs that have no incentive to form tax-contributing municipal corporations?
- Can public interest research groups, public interest law firms, and taxpayer organizations be mobilized to conduct additional in-depth studies of various facets of this Report, or to pursue litigation, or to pressure the Alaska Legislature for change to a fairer system?
- Can the Alaska Legislature be convinced to enact another Mandatory Borough Act, compelling seven affluent REAAs to form borough governments and to begin making local contributions to public education from taxable property?
- Should a presently incorporated borough or first-class/home-rule city outside boroughs begin municipal dissolution proceedings so that they too can obtain the exempt status that eliminates a local taxpayer-contribution to public education?

CHAPTER 1. Ketchikan Gateway Borough Resolution No. 2296

On January 17, 2011, the Ketchikan Gateway Borough Assembly unanimously adopted Resolution No. 2296¹⁴ asking the state legislature “to mitigate the onerous and discriminatory State penalty imposed by AS 14.17.410(b)(2) on municipalities that operate school districts.” (See, Appendix B.) The Resolution was a conclusion from 14 well-documented findings of fact (“whereas” clauses) that can be summarized as follows:

According to the Alaska Department of Revenue, the State of Alaska “is in the strongest financial position in its history and has a stable outlook with tremendous opportunities.”¹⁵ The Alaska Permanent Fund stands at more than \$38.5 Billion. There is another \$12 Billion in savings in the State treasury. FY 2010 revenues to the State were \$13.9 Billion. The Department of Revenue projects a substantial state budget surplus again in 2012.

In his Budget Address on December 15, 2010, Governor Parnell deplored the federal unfunded mandate for Medicaid coverage, which requires from the State of Alaska “a \$123 million annual increase in mandated coverage.” The Governor bluntly threw down the gauntlet: “They [the Feds] made this mess, and I’m challenging them to clean it up and fund it.”

“The unfunded mandatory Medicaid payment by the State of Alaska is substantial in absolute terms (\$630 million), but it constitutes a relatively small portion of State revenues (4.6 percent of FY 2010 revenues).”

Financial impact aside, it is the political principle of enacting unfunded federal mandates that frustrates Governor Parnell’s ability to administer the State of Alaska efficiently.

Paradoxically, while most state legislators share the Governor’s political philosophy opposing unfunded mandates, the Alaska Legislature itself continues to enact state laws that impose ever-increasing burdens on struggling local Alaska governments. These state-level unfunded mandates include expenditures that in far less prosperous times were paid by the state government.¹⁶ This

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¹⁴ “A Resolution of the Assembly of Ketchikan Gateway Borough Acknowledging that Unfunded Federal Mandates Impose a Significant Burden on the State of Alaska; Recognizing, however, that Unfunded State Mandates Impose an Even Greater Burden on the Ketchikan Gateway Borough and Other Local Governments; and Urging the Twenty-Seventh Alaska State Legislature to Mitigate those Unfunded State Mandates.” Appendix B.

¹⁵ Alaska Department of Revenue, Press Release No. 10-006, November 23, 2010.

¹⁶ One method for legislators to avoid the criticism that comes with crippling a program through budget cuts is to simply transfer more funding responsibility to the local taxpayers.

burdensome trend has now reached such an extreme that, in its *2011 Policy Statement*, the Alaska Municipal League urged mitigation of unfunded State mandates imposed on local governments.

The Alaska Constitution requires the legislature to “establish and maintain” a statewide system of public education “open to all children of the State.”¹⁷ The Alaska Municipal League recently adopted

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a policy recognizing that the state has “fallen short” in its public-education obligation.¹⁷ The Education Law Center concluded in a study funded by the Ford Foundation that the State of Alaska deserves no better than a “D” grade for the level of effort it makes to fairly fund its public schools.¹⁸

While enjoying unparalleled prosperity, a budget surplus and an enviable savings account, the State of Alaska has not only sorely neglected (to the point of grade D, near-failure) fair funding of the constitutionally mandated statewide public school system, but also has arbitrarily shifted a portion of its financial responsibility to classifications of some-but-not-all-local regions and subdivisions.

The requirement of a “local contribution” to public-school education is the most significant and the most burdensome of all unfunded state mandates imposed by the Legislature on the Ketchikan Gateway Borough. For FY 2012, the

taxpayers of the Borough were required to contribute \$5,385,848. This amounts to \$29,921 for each day of school. Stated another way, the mandatory local contribution consumes 74% of the present area-wide property tax revenues collected in the Borough. Adding insult to injury, another unfunded mandate enacted by the State legislature requires that in FY 2012 the Borough must contribute \$1.2 million as a local share for school capital facilities.

The state-imposed unfunded mandate applying to the operating costs of local education in municipal school districts statewide results in a FY 2012 subsidy of \$229,207,921 paid by these municipal taxpayers toward the State’s constitutional obligation to establish and maintain a statewide public

¹⁷ *2011 Policy Statement* at 8.

¹⁸ *Is School Funding Fair? A National Report Card*, pp. 26-28, September 2010.

education system. While onerous for the local people, many of whom are in economically distressed areas of the State, the unfunded mandate has "a relatively minor fiscal benefit to the State of Alaska, equal to just 1.6% of FY 2010 State revenues."

To make the matter even more unfair, the law establishing this unfunded mandate exempts 19 of the State's 53 school districts from any local contribution whatsoever. This exemption from a local contribution is not based on fiscal capacity, financial ability, or any other economic criterion relevant to the funding of public educational needs. It extends arbitrarily across a huge, economically eclectic remnant¹⁹ of the state, "the unorganized borough," which in turn circumscribes and amalgamates these 19 educational service areas known as "regional educational attendance areas." These REAAs share only one characteristic in common: *the people in these communities are not organized into regional boroughs or local first-class/home-rule city governments.*

The Ketchikan Gateway Borough Resolution notes that this state legislation creates "a circumstance that is equivalent to the federal government exempting 18 of the 50 states from [those] federal mandates" that Governor Parnell deplored so forcefully.²⁰ Imagine too that the exemption of these 18 states bore no reasonable relationship to an exempted state's ability to contribute to the federal unfunded mandate.

The following chapters of this volume of the Report discuss the immense racial and socio-economic diversity among REAAs, the contrasting economic distress of some municipal school districts required to make local contributions, the disincentives for any prosperous REAA to create a regional or local government, and the total irrationality and arbitrariness of the classifications chosen by the Legislature for imposing the unfunded mandate and for granting the exemptions.

¹⁹ Art. X, §§ 3 and 6 of the Alaska Constitution require the state legislature to create and administer a plural number of "unorganized boroughs." The legislature has failed to implement that requirement, but instead has simply allowed by default for all portions of the state outside local governments to be treated as a "single unorganized borough." AS 29.03.010. While AS 14.08.031 does subdivide this amorphous remnant into special service areas for purposes of public education, AS 14.17.410 grants a blanket exemption to all of these service areas, thereby in practice treating the unorganized state as one entity rather than as a plural number of "unorganized boroughs."

²⁰ Appendix C is a letter to the editor by Ketchikan Gateway Borough Assembly member Agnes Moran imploring Governor Parnell to "lead by example" in his oft-stated policies of "pushing back on unfunded federal mandates, broken promises made at statehood and keeping taxes low to encourage economic growth." She articulately summarizes the disincentive to creation of a borough: "When the state forced areas to organize into boroughs in 1963, they promised there would be no penalties or loss of services in these areas. Sadly, the state has failed to keep this promise. For example, citizens in organized boroughs and city school districts are forced to pay an areawide property tax for their local contribution to schools. Additionally, they are required to pay up to 35% of capital costs for school construction projects. Citizens in other unorganized areas (60% of the state) are not required to pay this tax and their contribution for school construction projects is a flat 2%."

CHAPTER 2. Geographic Characteristics Among Municipal School Districts and REAAs
a. The Stereotypes.

Conventional wisdom holds that REAAs are always "rural" in character and municipal school districts are always "urban." In fact, that is frequently incorrect.

Another common misconception among Alaskans is that REAAs are predominantly "Alaskan Native" in racial and cultural composition. In fact, many are not.

Stereotypically, REAAs are also cast in a mold as "economically distressed" areas with largely subsistence life styles and little or no fee-simple private ownership of land. In fact, many REAAs manifest quite the opposite economic and property-ownership characteristics.

In still another hackneyed generalization, REAAs are misperceived as off-road areas with relatively isolated and expensive transportation patterns. In fact, that too is not necessarily correct.

As noted in the Introduction, the only common feature that distinguishes all REAAs from all municipal school districts, is the irrelevant fact that the REAA service areas are geographically located in that eclectic, singular default remnant called "the unorganized borough," while all municipal school districts are always found in incorporated boroughs and incorporated home-rule/first-class cities.

Statistics in this and the following chapters show that the citizens in some regions of that huge, amorphous and variegated default-residuum are situated on major Alaska road systems, enjoying highly industrialized cash economies with extensive private property owned by a predominantly Caucasian population and by large natural-resource extraction corporations. In nearly one-third of all REAAs, the population is concentrated in racially White communities, with industry and property ownership no different from the neighboring incorporated municipal school districts.

By contrast, the statistical data in this Volume prove that some municipal school districts required by law to make the mandatory local contributions to public education are predominantly Alaska Native communities whose citizens live largely subsistence lifestyles in "distressed" economies off the major transportation corridors, and with very little unencumbered private property on the tax rolls.

The mistaken perception that all REAAs are in "rural" areas and all municipal governments are in "urban" areas can be found in a number of statewide policy-making contexts where important educational decisions are being made.

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For example, the superior court case of Kasavulie v. State of Alaska^{viii} raised issues of disparities in state statutes for school construction and maintenance funding, which the statutes divide into REAAs and into municipal school districts. In his decisional Order of March 27, 2001, Judge Reese used the stereotypical word “rural” 16 times and *never once* wrote the correct statutory word “regional” when he referred to school-construction funding laws that, by their precise legal wording, apply specifically and only to REAAs (regional educational attendance areas) – some of which are “rural” and some “urban.”

In the same vein, the stereotypical “urban” appears three times in the Order of Judge Reese, and he *never once* uses the correct statutory words for this alternative statutory division, “city and borough school districts” or “municipal school district” – a category that includes many remote and isolated small towns and some whole boroughs both rural in nature and having distressed economies.

State legislators and executive-branch officials also mistakenly substitute the word and the concept of “rural” for what are actually a broader, more generic set of “regional educational attendance areas.” For example, Section 1 of HCS CSSB 237 opens with references to “rural” and “urban” school districts, largely parroting Judge Reese. The second sentence of HCS CSSB 237 then slips easily but mindlessly into references to “REAAs,” as though a general reference to that broad category of educational service areas is always and unquestionably synonymous with the references in the first sentence to “rural.”²¹

The new legislation then addresses changes in the treatment of REAAs and municipal government school districts, again assuming that these classifications represent respectively the “rural” and “urban” school districts described in the opening sentence of the legislation.

In the Attorney General Opinion Letter of May 18, 2010, evaluating the legality of HCS CSSB 237, the assistant AG writing for the signature of Attorney General Daniel S. Sullivan falls into the same erroneous stereotype found in the writings and analyses of Judge Reese and the drafters of HCS CSSB 237 – that of assuming that “regional educational attendance area” is synonymous with “rural” and that “municipal school district” is synonymous with “urban.” Although the title of HCS CSSB 237 clearly refers only to the statutory “regional educational attendance areas” and the statutory “municipal school districts,” the attorney general refers to REAAs as being “rural” 14 times in his opinion letter, and he addresses municipal school districts as being “urban” 9 times. This erroneous stereotype is so strong in the mind of the author of this AG Opinion Letter that on two occasions s/he mistakenly refers to the statutory “regional educational attendance areas” as “*rural* education attendance areas.”^{ix}

²¹ “The mechanisms that currently exist in statute to provide construction funding to regional educational attendance areas (REAA) have not resulted in sufficient funding for projects approved for those districts.” As stated, the observation is correct. But, the underlying fact is that some REAAs are economically distressed regions manifesting subsistence economies, while other REAAs are cash economies enjoying diverse industries and huge potential assessments of private-property ownership.

b. Geographic Characteristics.

There are municipal school districts in eight or more "rural" cities outside boroughs.²² As noted in the Introduction, the "rural" Yukon River village of St. Mary's shares nothing in common with the

[This] prevents limited State educational resources from going to the most needy areas, but also literally paralyzes implementation of the constitutional mandate for maximizing local self-government in Alaska.

"urban" Municipality of Anchorage, other than the fact that both administer a *municipal* school district. St. Mary's shares much more in common with its Yukon River neighbors like Mountain Village and Emmonak, both located in the Lower Yukon REAA. Does the word "urban" accurately describe the municipal school districts of Galena, Hoonah, Hydaburg, Kake, Klawock, Nenana, Pelican, Tanana or Yakutat?

The "rural" island community of Hoonah shares none of the socio-economic characteristics of the "urban" Fairbanks North Star Borough, other than the fact that both are *municipal* school districts. Hoonah shares much more in common with Klukwan in the Chatham REAA and Metlakatla in the Annette Island REAA.

It is also a supreme fallacy to stereotype all borough school districts geographically as "urban." As the Alaska Local Boundary Commission has noted, borough governments are suitable to rural areas as

well as urban areas.²³ This fact has also been recognized by the Alaska Supreme Court.²³ Six of Alaska's boroughs govern exclusively rural communities.²⁴ Another seven boroughs include mostly rural communities.²⁵ Can anyone possibly argue that the word "urban" describes the municipal school districts of the Bristol Bay Borough, the North Slope Borough, the Northwest Arctic Borough, the Aleutians East Borough, the Lake & Peninsula Borough or the Yakutat Borough?

²² Excluding "regional centers" like Dillingham, Nome and Unalaska that are probably "rural," and excluding a few other remote communities that are relatively prosperous, no one can deny the "rural" nature of Galena, Hoonah, Hydaburg, Kake, Klawock, Nenana, Pelican and Saint Mary's.

²³ *Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d. 92, 98 (Alaska 1974). "The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adapted to both urban and sparsely populated areas of Alaska...."

²⁴ Bristol Bay Borough, North Slope Borough, Northwest Arctic Borough, Aleutians East Borough, Lake & Peninsula Borough, and Yakutat Borough.

²⁵ Kodiak Island Borough, Kenai Peninsula Borough, Haines Borough, Skagway Borough, Ketchikan Gateway Borough, Matanuska-Susitna Borough and Denali Borough.

A quick review of a boundary map of Alaska reveals the supreme fallacy of stereotyping all REAAs geographically as "rural." They share no common "rural" characteristic. Indeed, they share no relevant common characteristic whatsoever – not cultural roots nor presence/absence of industry, nor economic status, nor encumbrances on private property ownership. While some REAAs are truly rural and distinct in all regards from Anchorage, Fairbanks, Juneau and Ketchikan, etc., many others objectively meet all financial and economic qualifications for borough incorporation but vigorously spurn petitions for the formation of local government, continuing instead to enjoy the windfall of 100% state-funded public schools and no local tax contribution to the public education of their children – a distorted form of being "on the dole" that not only prevents limited State educational resources from going to the most needy areas, but also literally paralyzes implementation of the constitutional mandate for maximizing local self-government in Alaska.²⁶

Serious consequences result from the erroneous stereotype that "REAA" is synonymous with "rural" and that "municipal school district" is synonymous with "urban." Many prosperous local Alaskans in REAAs that manifest flourishing economies and valuable private property escape local taxation and a local contribution completely and enjoy full State funding of local public education, while many local Alaskans in relatively remote areas outside cash economies and in economically distressed circumstances make local tax contributions to the public education of their children, simply because many years ago they either chose to follow the mandate of the Alaska Constitution to maximize local governance, or, more onerously, they were compelled by the state legislature to form regional governments under the Mandatory Borough Act of 1963 – with the hollow promise that they would not be penalized for doing so.²⁷

[M]any years ago they either chose to follow the mandate of the Alaska Constitution to maximize local governance, or, more onerously, they were compelled by the state legislature to form regional governments under the Mandatory Borough Act of 1963 – with the hollow promise that they would not be penalized for doing so.

²⁶ Art. X, §1 of the Alaska Constitution states, "The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdiction. A liberal construction shall be given to the powers of local government units." (Emphasis mine.)

CHAPTER 3. Racial Characteristics Among Municipal School Districts and REAAs

In Alaska, the racial composition of a community or region can be one meaningful measure of local cultural and cross-cultural characteristics, local cash vs. subsistence economies, and the extent of unencumbered, taxable fee-simple land ownership. The following data shows that there is no correlation between the classifications of REAAs on the one hand, and municipal school districts on the other hand, that represents any similar divisions along racial or cultural (and hence economic) commonalities.

The Alaska Department of Labor and Workforce Development, Research & Analysis Section used 2010 U.S. Census data to classify all students in all of Alaska's school districts by race.²⁷ The resulting spreadsheet shows clearly that many exempted REAAs are predominantly non-Native, and many municipal school districts paying a local contribution are predominantly Alaska Native. The same Census data also shows that racial compositions are highly variable within the arbitrary statutory classifications that group all REAAs exempt and all municipal school districts contributing 4 mills up to 45% of basic need.

Of the 19 REAAs exempted from the mandatory local contribution, more than one-third (seven in number or 37%) of them enroll less than 36% "American Indians and Alaska Natives."²⁸ Of the same 19 exempted REAAs, nearly one-third (six in number or 31.6%) show an enrollment of more than 50% "White" students.²⁹

- Although the Delta-Greely REAA has the lowest percentage enrollment of Alaska Natives (3.1%) *in the entire State of Alaska* and a larger White enrollment (89%) than any school district in the State except Denali and Skagway Boroughs, AS 14.17.410 grants the Delta-Greely region an exemption from any local contribution.³⁰
- The student population in the Southeast Island REAA is only 6% Alaska Native and 87% White, yet this region too enjoys the exemption from a local contribution.
- The exempted Aleutian REAA contributes no local funding of public schools although only 17.38% of its students are Alaska Natives and 78.3% are other races (with a large Asian population included with Whites)
- The exempted Copper River REAA enrolls 21% Alaska Natives and 70.5% White students, yet this region enjoys an exemption from any local contribution.

²⁷Ingrid Zaruba, Research Analyst, Census & Geographic Information Network, Alaska Department of Labor and Workforce Development, Research & Analysis Section. See, Appendix D, which also identifies which school districts are REAAs and which are municipal school districts.

²⁸ Alaska Gateway REAA, Aleutian Region REAA, Chatham REAA, Chugach REAA, Copper River REAA, Delta-Greely REAA and Southeast Island REAA.

²⁹ Alaska Gateway REAA, Chatham REAA, Chugach REAA, Copper River REAA, Delta-Greely REAA and Southeast Island REAA. Adding Asians, the Aleutian Region REAA joins this non-Native Alaskan group.

³⁰ The Alaska Department of Commerce, Community, and Economic Development concluded that, in FY 2006, only 2.5% of the entire population in the Delta-Greely REAA was Alaska Native or American Indian, and that even when analyzed as Alaska Native or American Indian in combination with another race, i.e. bi-racial parentage, only 4% of the population fit that category. *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation*, Feb. 2007 at 100 and Tables 2-18.

- The exempted Chugach REAA shows a student population that is 24.3% Alaska Native and 68.4% Non-Native (excluding bi-racial), or, 59.7% White.
- The students in the exempted Alaska Gateway REAA are only 31.8% Alaska Native and fully 60% White – a “whiter” student population than the Kodiak Borough School District, and as “white” as the Pelican City School District, both of which are required to make a local contribution to basic need for local public education.
- The exempted Chatham REAA is only 35.4% Alaska Native and 55% White (60% if other non-Native races are included).

By contrast, seven (or 20%) of the 34 municipal school districts required by AS 14.17.410(b) to make a local contribution enroll more than 63% “Alaska Native” students.³¹ Among these same 34 municipal school districts required by the unfunded mandate to make a local contribution, 12 districts (35%) have less than one-third “White” enrollment,³² and seven of those 12 districts have less than a one-quarter “White” enrollment.³³ Six of these seven municipal school districts still show less than one-quarter total enrollment of *all combined* non-Native races: White, Black, Asian, and Hispanic/Latino.

- Although the St. Mary’s City School District is 91.5% Alaska Native students and only 3.8% White students, it is burdened by AS 14.17.410(b)(2) with the unfunded mandate of a local contribution to public education.
- The Tanana City School District is 86.6% Alaska Native and only 9.8% White students, yet it too must contribute 4 mills to the “basic need” for public education.
- The racial profile of students in the Northwest Arctic Borough School District is 81.4% Alaska Native and only 11.3% White, yet AS 14.17.410(b)(2) requires that region to make a local contribution.
- The Hydaburg City School District pays 4 mills on assessed property value into the State’s “basic need” computation, despite the fact that it is 77.1% Alaska Native students and only 11.4% White students.
- It’s neighbor, Kake City School District is 69.1% Alaska Native and only 17.1% White, yet it pays a local contribution for school funding while the unincorporated remainder of Prince of Wales Island, enjoying the arbitrary default classification of Southeast Island REAA, is exempted despite a contrasted enrollment that is 86.6% White and only 6% Native.
- The Lake and Peninsula Borough School District enrolls 65% Alaska Native students and 23.3% White students, but this predominantly Native district also must make a mandatory local contribution under AS 14.17.410(b)(2).

³¹ Galena, Hydaburg, Kake, Lake and Peninsula Borough, Northwest Arctic Borough, St. Mary’s and Tanana.

³² Aleutians East Borough (21% White), Dillingham (31%), Galena (29%), Hoonah (33%), Hydaburg (11%), Kake (17%), Lake and Peninsula Borough (23%), Nome (30%), North Slope Borough (33.37%), Northwest Arctic Borough (11%), St. Mary’s (4%), and Tanana (10%).

³³ Aleutians East Borough, Hydaburg, Kake, Lake and Peninsula Borough, Northwest Arctic Borough, St. Mary’s and Tanana.

In its 2003 Report to the Legislature on "Unorganized Areas of Alaska that Meet Borough Incorporation Standards," the Local Boundary Commission noted that five boroughs (municipal school districts) are predominately Alaskan Native, and that 72 of 223 Alaska villages recognized by the Bureau of Indian Affairs are located within the municipal school districts of organized boroughs.^{xii}

There are many more statistics that make the same point undeniable: REAAs as a whole have no common racial, ethnic or cultural characteristics, and no common distinguishing features from municipal school districts as a whole, that might justify the legislature treating all REAAs as an integral singularity for purposes of a blanket exemption from a local contribution to public education. Similarly, municipal school districts – as a singular classification – share no racial, ethnic or cultural characteristics in common. Race, ethnicity and culture simply cannot provide a rational basis for the legislated classifications that distinguish between who pays 4 mills toward local public education and who is fully exempted from any such contribution.

In the last analysis, there are no urban/rural or racial/cultural distinctions manifest in the classifications of REAAs vs. municipal school districts. Assumptions to the contrary are nothing more than erroneous stereotypes. Furthermore, if the racial and cultural distinctions shade across and obfuscate any rational basis for the statutory classifications of REAAs vs. municipal school districts, then racial and cultural distinctions also cannot provide an opening gambit into other possibly reasoned distinctions that might justify that choice of a statutory division, like cash vs. subsistence economies, or isolation vs. convenient transportation patterns, or taxable vs. encumbered property ownership. Those characteristics are analyzed below.

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CHAPTER 4. Economic Characteristics Among Municipal School Districts and REAAs

a. Introduction.

In protracted litigation (1986-97), the Matanuska-Susitna Borough and local *Mat-Su* taxpayers unsuccessfully challenged the legality of requiring municipal school districts to make a local contribution to public education.^{xiii} Both the State Attorney General's Office (representing the State as a party) and the Alaska Supreme Court relied heavily³⁴ on the following patently incorrect "expert" testimony introduced by the State's attorneys at the trial-court level:

Michael W. Worley, tax assessor for the State, affied that the available tax base in REAAs is limited by a number of factors: the tax-exempt status of certain Native-owned lands, the widespread lack of ownership records, and the fact that property ownership is often poorly defined in these areas.^{xiv}

As will be shown in Chapters 5 and 6 below, that statement is patently absurd regarding ownership records and property ownership in at least seven of the 19 REAAs. Without citing any supporting demographic or economic evidence whatsoever, State Assessor Worley, the trial judge and the appellate justices accepted the erroneous conventional wisdom that all REAAs encompass primarily encumbered property of Native people living in subsistence economies. They unfortunately failed to look more closely at the specific regions forming REAAs, and to contrast affluent REAAs like Delta-Greely, Copper River, Chugach, the Aleutians and Pribilof REAAs from the truly subsistence-based REAAs like the Kashunamiut, Lower Kuskokwim, Lower Yukon, Southwest Region, Yukon Flats and Yupiit regions.

At the same level of oversight, they failed to look more closely at specific municipal school districts to discern the levels of economic distress, such as what is found in the Wrangell and Haines boroughs and in the Hoonah, Kake

At the same level of oversight, they failed to look more closely at specific municipal school districts to discern the levels of economic distress, such as what is found in the Wrangell and Haines boroughs and in the Hoonah, Kake and Pelican city school districts – all of which are 100% "economically distressed" yet burdened with the legislative mandate to contribute to local education the equivalent of 4-mills on taxable property value.

³⁴ The erroneous testimony of State Assessor Worley is the "evidence" cited as the rationale for the findings of Justices Compton and Eastaugh that the classifications – REAA vs. municipal school districts – bear a "fair and substantial relationship" to the purpose served by the statute, and therefore do not violate constitutional Equal Protection.

and Pelican city school districts – all of which are 100% “economically distressed” yet burdened with the legislative mandate to contribute to local education the equivalent of 4-mills on taxable property value.

In fact, there are many predominantly White REAAs along the major road systems of Alaska that manifest flourishing cash economies, year-round employment opportunities in diverse major industries, and complete land records of clearly defined, unencumbered private property ownership with no greater quantity of “Native-owned lands” than in and around the major cities of Alaska. After extensive study, mandated by the State Legislature, the Alaska Local Boundary Commission concluded in 2003 that fully six and possibly seven REAAs qualify to become incorporated boroughs in every regard – *including the existence of sufficient taxable private property to run a municipal school system.*³⁵

The following statistical analyses will show that economically distressed regions of the State are a veritable checkerboard of REAAs and municipal school districts Intermixed; that economically prosperous regions of the State include many REAAs as well as municipal school districts; and that economic conditions between these two extremes consist of an equally motley admixture of REAAs and municipal school districts. There simply is no correlation between the economic ability or inability of a region to make a local contribution to public education, and the simplistic, bipolar distinction found in AS 14.17.410 between all REAAs and all municipal school districts.

b. The Denali Commission Report.

In May 2010, the Denali Commission published its “Distressed Community Criteria 2010 Update,” which is attached here as Appendix E. An Alaska community was considered economically “distressed” if it met any two of the following three criteria:

- The average annual market income in the community in 2009 was less than the minimum wage of \$14,969.
- More than 70% of community residents age 16 and over earned less than \$14,969 in 2009.
- Less than 30% of community residents age 16 and over worked all four quarters of 2009.³⁶

The determinative data was collected from Alaska Permanent Fund Dividend demographics, from state unemployment insurance reports and from state commercial fishery income reports.³⁶

Some marginal communities then were moved by the Denali Commission into the economically “distressed” category for 2010 by “the 3% formula” if any two of the following modified criteria existed: (1) the average earnings in 2009 were less than $\$14,968 \times 1.03 = \$15,417$; (2) more than 67% of community residents earned less than \$14,968; (3) less than 33% of community residents worked all

³⁵ *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra.* As discussed in greater detail in Chapter 6 below, the seven regions that qualify for borough incorporation are the Aleutians Area REAA as the “Aleutians West Model Borough,” the Delta-Greely REAA and Alaska Gateway REAA as the “Upper Tanana Basin Model Borough,” The Copper River REAA as the “Copper River Basin Model Borough,” the Chugach REAA as the “Prince William Sound Model Borough,” the Chatham REAA as the “Glacier Bay Model Borough” and the “Wrangell-Petersburg Model Borough.” Shortly before publishing, the Southeast Island REAA was removed from the list for “further analysis.” Since that 2003 report was published, Wrangell (a city school district) joined two other communities to become a borough, and a petition to incorporate Petersburg (a city school district) as a borough is now pending before the Local Boundary Commission.

four quarters.^{xvii} In the present Report, all cities and communities in the category of "the 3% formula" are listed as "economically distressed."

A few limitations of the Denali Commission report should be recognized up front. It does not convey the full picture of the local economies of cities and communities in Alaska. It is primarily a jobs and income report. It does, however, accurately portray cash economies vs. subsistence economies. Also, one needs to recognize that the entities identified in the Denali Commission report are as vastly different as Anchorage with a population of 292,000 and Chisina with a population of zero.³⁶ Finally, the report does not apply accurately to military bases and federal enclaves like Fort Eielson, Fort Greely and Kodiak Station because the raw data did not include federal or military income.

Nonetheless, jobs and income potential measured in the Denali Commission report are accurate indices of the health of the broader regional economies. The conclusions one draws from this Chapter 4 – jobs and cash-earnings – correlate remarkably well with the later analyses in Chapters 5 and 6 of the full breadth of regional economies and resources in seven of the REAAs.

c. Economic Status by School District.

Appendix F places all Denali Commission cities and "communities" in their respective school districts. For this purpose, the word "community" includes both unincorporated villages and federal census-designated places ("CDPs"). I assume in the computations below that all of the federal CDPs given an economic status in the Denali Commission report are in fact inhabited places, although I know that is not true in fact.³⁷

When all of the Denali Commission cities and communities are placed in their respective REAAs and municipal school districts, it becomes quite apparent that there is no correlation between (1) local income or the prosperity of a local cash economy, and (2) the statutory classifications distinguishing municipal school district from REAAs for purposes of ability to make a local contribution. Appendix F discloses that at least five of the municipal school districts³⁸ are 100% "economically distressed," while six of the REAAs³⁹ are some of the most prosperous regions of the State of Alaska.

All 11 cities and communities⁴⁰ in the Lower Yukon REAA (100%) are "economically distressed." The one city (Chevak) in the Kashunamiut REAA is "economically distressed." In the Yupiit REAA, all three of the cities and communities (100%) are "economically distressed." In the Southwest Region REAA, all nine cities and communities (100%) are "economically distressed." They deserve substantial State financial help in local public education.

³⁶ Chisina is listed as "distressed" in the Denali Commission report.

³⁷ Chisana, in the Chugach REAA and Ester in the Fairbanks North Star Borough are listed as "distressed" CDPs in the Denali Commission report, but both are uninhabited. I have not checked to see how many other CDPs in the Denali Report might be designated as "distressed" but in fact are largely uninhabited locations that should not be included in the classifications.

³⁸ Haines Borough, Wrangell City and Borough, Hoonah, Kake and Pelican.

³⁹ Delta-Greely, Chugach, Copper River, Aleutians Region, Annette Island and the Pribilof REAAs.

⁴⁰ Every CDP in this REAA is an incorporated second-class city except Pitkas Point.

But, Appendix F also shows that the Wrangell City and Borough and the Haines Borough are deserving of the same level of help. In the Wrangell City and Borough, all three communities (100%) are "economically distressed, and in the Haines Borough all six communities (100%) are "economically distressed." Why then are the Wrangell and Haines Boroughs not exempted from the locally assessed 4-mill contribution to their public school education?

According to the Denali Commission, the Cities of Hoonah, Kake and Pelican are 100% "economically distressed." This means that nearly 20% of the 16⁴¹ city school districts burdened with a mandatory 4-mill local contribution are economically "distressed." The arbitrary division in AS 14.17.410 between "municipal school districts" and "REAs" is the only distinction between these three "distressed" cities and their neighbors, Angoon, Kupreanof, Port Alexander, Coffman Cove, Kasaan, and Thorne Bay which are equally "distressed" cities but exempted from the local contribution because they are perchance located in REAs.

Looking at the Appendix-F school districts in the mid-range of being "distressed" and "non-distressed," one sees that, in the Copper River REAA, 64% of the communities⁴² are "economically distressed." In the neighboring Denali Borough, 60% of the communities are "economically distressed." In the Lake and Peninsula Borough, 59% of the cities and communities are "economically distressed." In the Northwest Arctic Borough, 58% of the cities and communities are "economically distressed." In the Kenai Peninsula Borough, 53% of the cities and communities are "economically distressed." In the Chugach REAA, 50% of the cities and communities are "economically distressed."

What makes the Copper River REAA and the Chugach REAA reasonably different from these similarly situated Denali, Lake and Peninsula, Northwest and Kenai borough school districts, such that the two REAs should enjoy a blanket exemption from providing any local money for public education while equally distressed boroughs are required to pay the equivalent of a 4-mill local contribution to the funding of their local public education?

In the Delta-Greely REAA, 40% of the cities and communities are designated by the Denali Commission as "economically distressed," when in fact this region numbers among the most prosperous in the state.⁴³ (See Chapter 5 below) In the Bristol Bay Borough, 33% of the communities are "economically distressed." In the Matanuska-Susitna Borough, 32% of the cities and communities are "economically distressed." In the Fairbanks North Star Borough, 27% of the cities and communities are "economically distressed."⁴⁴ In the Kodiak Island Borough, 27% of the cities and communities are "economically distressed." Why should the Delta Greely REAA enjoy a windfall exemption from the 4-mills that these similarly situated boroughs are contributing to their local public education?

⁴¹ Cordova, Craig, Dillingham, Galena, Hoonah, Hydaburg, Kake, Klawock, Nenana, Nome, Pelican, Petersburg, St. Mary's, Tanana, Valdez and Unalaska (Dutch Harbor).

⁴² There is no incorporated city in this REAA.

⁴³ See pp. 22-23 below and Chapter 5 of this Report. One distressed "community" is in fact a huge, sparsely populated CDP. The other is a remote Native village.

⁴⁴ This computation makes a correction for the fact that Eielson AFB is listed incorrectly as "economically distressed" in the Denali Report. See p. 21 above.

d. Ranking School Districts by Economic Status.

If Appendix F is transposed to a list ranking levels of "economically distressed" status, one can see graphically that some municipal school districts rank with some REAAs as 100% distressed; that some REAAs rank with municipal school districts as being 0% distressed; and that the percentages between are a checkerboard mix of REAAs and municipal school districts. From the most "distressed" to the most affluent, the cash-earnings economies of the 53 Alaska school districts rank as follows:

<u>Municipal School District or REAA</u>	<u>% Economically Distressed</u>
Chatham REAA	100%
City of Hoonah	100%
City of Kake	100%
City of Pelican	100%
Haines Borough	100%
Kashunamiut REAA	100%
Lower Yukon REAA	100%
Southeast Island REAA	100%
Southwest Region REAA	100%
Wrangell City and Borough	100%
Yupit REAA	100%
Yukon Flats REAA	92%
Lower Kuskokwim REAA	86%
Alaska Gateway REAA	83%
Bering Strait REAA	80%
Iditarod Area REAA	78%
Kuspuk REAA	78%
Yukon-Koyukuk REAA	71%
Copper River REAA	64%
Denali Borough	60%
Lake and Peninsula Borough	59%
Northwest Arctic Borough	58%
Kenai Peninsula Borough	53%
Chugach REAA	50%

Delta-Greely REAA ⁴⁵	40%
Bristol Bay Borough	33%
Matanuska-Susitna Borough	32%
Fairbanks North Star Borough	27%
Kodiak Island Borough	27%
Aleutians East Borough	0%
Aleutians Region REAA	0%
Annette Island REAA	0%
City and Borough of Juneau	0%
City and Borough of Sitka	0%
Cordova	0%
Craig	0%
Dillingham	0%
Galena	0%
Hydaburg	0%
Ketchikan Gateway Borough	0%
Klawock	0%
Municipality of Anchorage	0%
Nenana	0%
Nome	0%
North Slope Borough	0%
Petersburg	0%
Pribilof Islands REAA	0%
Saint Mary's	0%
Skagway Borough	0%
Tanana	0%
Unalaska	0%
Valdez	0%
Yakutat City and Borough	0%

⁴⁵ See, Chapter 5 for a detailed analysis of the municipal maturity and affluence of this REAA.

It is clear from the above ranking that, viewed in terms of relative cash-earnings ability to pay a local contribution to local public education, the statutory classifications distinguishing municipal school districts from REAAs are meaningless and irrational.

Focusing specifically on Southeast Alaska, the above listing shows that in the Chatham REAA all eight cities and communities (100%) are "economically distressed." In the Southeast Island REAA, 12 of 13 cities and communities (92%) are "economically distressed." In the Wrangell City and Borough, all three cities and communities (100%) are "economically distressed." In the Haines Borough, all six of the communities (100%) are "economically distressed." The city school districts of Hoonah, Kake and Pelican are also 100% "economically distressed."

Why are some of these cities required by law to contribute 4 mills to local education while the "non-distressed" community of Metlakatla enjoys a full exemption from any local contribution? Why are the Chatham REAA and the Southeast Island REAA treated differently from their equally distressed neighbors for purposes of a required local levy of 4 mills for local public schools? What "fair and substantial" difference justifies these two contrived classifications among so many Southeast Alaskan neighbors?

Focusing now on Interior Alaska, one notes that 61% of the communities in the Copper River REAA are "economically distressed."⁴⁶ Its neighbor, the Denali Borough is 60% "economically distressed." Yet Denali must make a local contribution to its public education and Copper River is totally exempt. The statutory distinction between them is baseless and arbitrary.

Expanding this contrast with the 61%-status of the Copper River REAA, the Lake and Peninsula Borough is a comparable 59% "economically distressed" and the Northwest Arctic Borough is 58% "economically distressed." What makes the "economically distressed" communities of Egegik, Nondalton, Chignik Lagoon, Chignik Lake, Kokhanok, Levelock, Perryville, Pope-Vannoy Landing, Port Alsworth and Ugashik (i.e., fly-in communities in the Lake and Peninsula Borough) so different from the Copper River REAA that the former group of cities and communities must pay a 4-mill equivalency to their local public educational expenses, while the seven "non-distressed," road-system communities of Copper Center, Copperville, Glennallen, Gulkana, Mendaltna, Silver Springs and Tazlina in the Copper River REAA get a total free ride? And while these "non-distressed" Copper River REAA communities

[V]iewed in terms of relative cash-earnings ability to pay a local contribution to local public education, the statutory classifications distinguishing municipal school districts from REAAs are meaningless and irrational.

⁴⁶ See, Chapter 6 below for a detailed review of the Copper River REAA by the Alaska Department of Commerce, Community, and Economic Development, and the Alaska Local Boundary Commission.

skate free, the "distressed" Inupiat cities of Ambler, Kiana, Kivalina, Kobuk, Selawik, Shungnak and Noatak (Northwest Arctic Borough) see 4-mills of the monies in their borough coffer⁴⁷ spent to support local public education rather than other regional social and infrastructure needs.

Redirecting focus now to the relatively prosperous Aleutian Chain and Bering Sea islands, the City of Unalaska is "non-distressed," and none of the six cities and communities in the Aleutians East Borough is "economically distressed." The adjoining Aleutians Region REAA shares the same affluence, with none of its three cities and communities "economically distressed." In the neighboring Pribilof Islands REAA, neither city is "economically distressed." Given the indisputable fact that the Aleutians/southern Bering Sea is a 100%-prosperous region of Alaska, what "fair and substantial" economic difference justifies AS 14.17.410(b)(2) compelling the Aleutians East Borough and the City of Unalaska to make 4-mill local contributions to public education while the two prosperous neighboring REAAs contribute absolutely nothing toward their local educational expenses?

In Western Alaska, Saint Mary's, Dillingham and Kotzebue are economically "non-distressed" cities located in municipal school districts. They make the equivalency-contribution of 4-mills of local property value. But, Aniak, Bethel and McGrath also enjoy a sufficient level of cash-economies to merit the category of "non-distressed" cities. Like Saint Mary's, Dillingham and Kotzebue, they are incorporated rural cities that serve as regional hubs off the Alaska road system. Yet Aniak, Bethel and McGrath are totally exempted from paying any amount toward their local public education because they are located within REAAs.

The Delta-Greely REAA presents a unique situation: The Denali Commission report lists the city of Delta Junction and the community of Deltana as being "non-distressed," while the communities of Big Delta and Healy Lake join Fort Greely as being "economically distressed." As noted above, the Denali Commission acquired no reliable data for federal enclaves. Fort Greely is a bustling economy, far from being "distressed." Big Delta is a CDP but not a settlement of people in the strict sense. It is a huge expanse of 61 square miles inhabited by only 14 people per square mile. Racially, that sparsely scattered population is 96% White, 2.5% Latino and 1.5% Native American. Healy Lake is a legitimately "distressed" off-road Native village.

The Delta-Greely REAA as a whole is the most racially White region in Alaska enjoying a flourishing cash economy with major industries (a huge gold mine, extensive agriculture, a highly technical military base and a thriving recreation/tourism industry) at a crossroads of major Alaska road systems – all of which is exempt from the tax levy and the 4-mill local contribution to local school funding. This REAA is reviewed as "A Case In Point" in Chapter 5 of this Report.

In summary, Appendix F and the above ranking list of school districts illustrate clearly that AS 14.17.410(b)(2) requires 4-mills of local funding without regard for the ability of distressed taxpayers to pay the local contribution. This data also shows that the statute does not consider regional affluence or regional levels of assessable real and personal property. It exempts *every* city and community in *every* REAA. Simply put, the data does not support any economically "fair and substantial" relationship

⁴⁷ The Northwest Arctic Borough pays its equivalent 4-mills on property value without levying a property tax, because it receives a payment in lieu of taxes ("PILT") from the Red Dog Mine. Nevertheless, this is locally generated tax money that could be spent on capital improvements and social programs in these many cities and communities with distressed economies.

between the gross classifications in the statute and the legitimate governmental purpose of funding State public education.

e. Ranking Cash-Earnings Among Communities Hosting School Sites.

The above data in section d applies comprehensively to all Denali Commission cities, settlements and CDPs in the 19 REAAs and the 34 municipal school districts. However, the percentages of "distressed" and "non-distressed" settlements is distorted by some unknown measure because some CDPs are no more than large, relatively unpopulated land areas and, in at least a few known instances they contain virtually no population.

If one instead assumes that communities hosting a school building are more likely to be populated areas with meaningful employment and unemployment characteristics, then reviewing only those communities will partially alleviate the above distortion. The outcome should be an improved accuracy in the comparisons and the contrasts of cash and earnings potential in REAAs and in municipal school districts.

If an entire REAA or an entire municipal school district is 100% "economically distressed" in Appendix F and in the above list, then honing in on cities and communities hosting a school will not change that status. Likewise, if an entire REAA or municipal school district is 0% "economically distressed" in the above list, then no purpose is served by focusing on the lesser number of communities and cities hosting a school building. Hence, the list below and Appendix G focus on only those REAAs and municipal school districts that fall between the two extremes of fully "distressed" or fully "non-distressed." In Appendix F, they can be identified as the underlines cities and communities. Regional changes in rankings appear as follows:

<u>Municipal School District or REAA</u>	<u>% Economically Distressed</u>
Yukon-Koyukuk REAA	100%
Alaska Gateway REAA	86%
Kuspuk REAA	86%
Lower Kuskokwim REAA	86%
Yukon Flats REAA	86%
Bering Strait REAA	80%
Iditarod Area REAA	71%
Northwest Arctic Borough	64%
Copper River REAA	60%
Lake and Peninsula Borough	57%
Kenai Peninsula Borough	50%
Chugach REAA	33%

Denali Borough	33%
Kodiak Island Borough	29%
Matanuska-Susitna Borough	23%
Fairbanks North Star Borough	20%
Bristol Bay Borough	0%
Delta-Greely REAA	0%

In this refined list, the Yukon-Koyukuk REAA now joins the Chatham REAA, the City of Hoonah, the City of Kake, the City of Pelican, the Haines Borough, the Kashunamiut REAA, the Lower Yukon REAA, the Southeast Island REAA, the Southwest Region REAA, the Wrangell City and Borough and the Yupiit REAA as 100% economically distressed. All 12 of these school districts probably lack the cash-earnings ability to fund their local public education, but AS 14.17.410(b)(2) prevents 42% of them from receiving the deserved exemption from a local contribution, for reasons having no rational relationship to their ability to pay.

In this new focus on school sites, the Lower Kuskokwim REAA and the Bering Strait REAA remain unchanged at 86% and 80% "economically distressed," respectively. The Yukon Flats REAA, Lower Kuskokwim REAA, Alaska Gateway REAA,⁴⁸ Kuspuk REAA and Bering Strait REAA join this category as deserving recognition as having relatively few wage-earning job opportunities in their respective regions.

The indicators in two school districts show increasingly distressed regional profiles when one focuses only on cities and communities with school sites: The Northwest Arctic Borough rises from 58% to 64%, and the Kodiak Island Borough rising from 27% to 38% economically distressed.

But, regional indicators show more prosperity as "distressed" percentages drop in some other school districts. The Denali Borough drops from 60% to 33%, the Chugach REAA drops from 50% to 33%, and the Delta-Greely REAA joins the Bristol Bay Borough in dropping to 0%.⁴⁹ The Chugach REAA and Delta-Greely REAA are now seen in a more accurate light as regions clearly capable of supporting a local-government borough, and contributing to the costs of their local public education, as indicated in Chapter 6 below.

f. Disparate Treatment Among School Districts of Similar Size, Basic Need and Cost Factors.

Sections c, d and e above demonstrate that there is no categorical difference between all REAAs on the one hand and all municipal school districts on the other when employment and cash-earnings are

⁴⁸ Note however that, if the Alaska Gateway REAA was treated as a part of the Upper Tanana Basin Model Borough, it becomes an economically viable borough government according to the Alaska Local Boundary Commission. See Chapter 6 below.

⁴⁹ This exercise of focusing only on cities and communities hosting school sites produces no remarkable change in the percentages of "economically distressed" cities and communities in the Copper River REAA (64% to 60%), the Lake and Peninsula Borough (59% to 57%), the Kenai Peninsula Borough (54% to 47%), the Matanuska Susitna Borough (29% to 23%), and the Fairbanks North Star Borough (27% to 20%).

used as a measure of economic conditions. The statutory classifications are totally obfuscated when these statistics are applied.

The data below will now show that, even when applying the statutory formulae for computing state aid, the classifications dividing all municipal school districts from all REAAs are arbitrary and irrational. Many municipal school districts manifest virtually the same enrollments, the same school sizes, and – most importantly for economic analysis – the same local cost factors as many of the REAAs. But, in a statutory division and classification totally unrelated to local cost factors in education, the entire former group is required to make a local tax contribution while the entire latter group enjoys a full exemption.

As with geography, demographics and local economies, many municipal school districts are strikingly similar to many REAAs when one compares this “adjusted basic need,” thus proving again, from still another perspective, that there is no “fair and substantial relationship” between the means . . . and the goal of fair apportionment of state aid among the 53 school districts in Alaska.

As described in greater detail in Appendix A, the formula used by The Alaska Department of Education and Early Development for state-aid to local public education includes an elaborate process of (1) determining an enrollment-number adjusted for differing local cost factors and school-size factors, then (2) adding another factor for special-needs students, then (3) adding a third factor for enrolled correspondence students, and then (4) multiplying that sum (called the “total basic need”) by the legislative appropriation of “basic student allocation” for the particular funding year.

If the “adjusted basic need” in (1) above is the sum of factors including local enrollment, local school size and local cost factors, then it is reasonable to conclude that school districts with similar “adjusted basic need” are similarly situated in terms of costs of operations and costs of services. As with geography, demographics and local economies, many municipal school districts are strikingly similar to many REAAs when one compares this “adjusted basic need,” thus proving again, from still another perspective, that there is

no “fair and substantial relationship” between the means chosen by the legislature (the classifications distinguishing simplistically between the entire unorganized borough and all municipal school districts) and the goal of fair apportionment of state aid among the 53 school districts in Alaska.

In December 2009, the Alaska Department of Education and Early Development published “Public School Funding Program Overview Updated December 2009. That document set forth detailed “FY 2011 Projections” of the effects of the funding formulae in each of the state’s 53 school districts.

The 53 school districts are listed alphabetically in that table, and not identified as REAAs or municipal school districts. One can however bring focus on this distinction in treatment by following the column, which DEED euphemistically labels "required local effort."⁵⁰

Appendix H summarizes the "FY 2011 Projections" of DEED in a format that more clearly (1) identifies which school districts are REAAs and which are municipal school districts, (2) shows the "basic

Political language "has to consist largely of euphemism, question-begging and sheer cloudy vagueness" because it is "largely the defense of the indefensible."

– George Orwell

need" calculation in descending dollar amounts, for easier ability to compare and contrast, (3) shows the ADMs adjusted for local cost factors, and (4) shows which districts pay what amount – or nothing – as a required local contribution.

The narrative below follows this Appendix H, with a focus on the REAAs that the Alaska Local Boundary Commission identified in 2003 as fully capable

of supporting borough government. (See Chapter 6 below.) It shows how municipal school districts, similar to relatively prosperous REAAs in terms of local student populations adjusted for local costs of education, are nonetheless treated differently for purposes of the requirement of a local contribution to public education.

The Alaska Gateway REAA (part of the LBC-recommended Upper Tanana Basin Model Borough) the Aleutians East Borough and the City of Dillingham all have similar "basic need" of \$6.6 million, \$6.4

⁵⁰ No correct English meaning of the word "effort" can possibly define the process of the required local contribution, the unfunded mandate, imposed by law on municipal school districts. The word "effort" denotes and connotes willingly trying to "get there." An "effort" is a *consciously voluntary* expending of energy in an *attempt* to achieve an end, with no implied assurance that the goal will ever be reached. Quality teachers and good coaches frequently remind their students of the distinction between "effort" and "achievement."

By contrast, the mandatory local contribution is a bald-faced, tyrannical command from the state legislature that unwilling local property owners in municipal school districts shall and must pay-over a local subsidy to state public school aid, whether or not they want to do so and without any option or excuse for failing to do so. AS 14.17.410(d) specifically withholds all state aid from a municipal school district that fails to make that local contribution.

In "*Politics and the English Language*," that insightful essay studied by every college freshman in English 101, George Orwell noted that political language "has to consist largely of euphemism, question-begging and sheer cloudy vagueness" because it is "largely the defense of the indefensible." Orwell also observed that "the slovenliness of our language makes it easier for us to have foolish thoughts." Whether one attributes DEED's use of the euphemistic phrase "local effort" to "defense of the indefensible" or simply to bureaucratic "slovenliness" in the use of language, the rest of us can avoid "foolish thoughts" by exposing this verbal legerdemain for what it is, and by viewing the required statutory local contribution in the true sense of its practical impact as an unfunded mandate imposed upon some hapless citizens regardless of regional socio-economic characteristics, while an irrational blanket exemption is granted to other prosperous citizens simply because they reside in that amorphous and unconstitutional remnant known singularly as "the unorganized borough."

See, n. 8 above for another example of DEED verbal deception regarding the required local contribution.

million and \$6.1 million respectively. Their ADM enrollments, adjusted for local cost factors, range similarly across an 83-point spread at 895.72, 924.06 and 841.35 respectively. The local taxpayers in the Aleutians East Borough are required to contribute \$506,163 to local education, and the property owners in the City of Dillingham must contribute \$646,546 to the education of their children in their public schools. However, no private property owner in the entire Alaska Gateway REAA contributes even a penny to the cost of educating the students in that region.

The Aleutians Region REAA (which the LBC has identified as a region ripe for borough formation)⁵¹, the Yakutat Borough and the economically distressed^{xviii} City of Kake all have "basic need" in the same range of \$1.5 million, \$1.6 million and \$1.5 million respectively. Their ADM enrollments, adjusted for the local cost factors show only a 50-point spread, being 207.35, 241.33 and 191.25 respectively. Yakutat taxpayers must contribute \$222,452 to local public education, and taxpayers in the distressed City of Kake are required to contribute \$91,313 to local education. The local citizens in the Aleutians Region REAA enjoy a windfall and pay nothing, despite the relative economic comfort of that region. The educational expenses for their children are fully subsidized by state aid and federal monies.

The Chatham REAA (recommended for incorporation as the LBC's Chatham Model Borough⁵² and Glacier Bay Model Borough) and the City of St. Mary's have "basic need" of \$3.1 million and \$3.2 million respectively. Their ADM enrollments, adjusted for local cost factors, are also similar, with a spread of only 15 points, at 417.17 and 431.71 respectively. But, St. Mary's contributes \$34,867 from a meager tax base, while the Chatham REAA contributes nothing.

The Chugach REAA, (a/k/a Prince William Sound Model Borough recommended by the LBC for incorporation), the economically distressed^{xix} City of Hoonah and the City of Klawock all have "basic need" in the same range of \$2.2 million to \$2 million. Their ADM enrollments, adjusted for local cost factors, are also similar, within a 68-point spread at 195.65, 254.81 and 263.24 respectively. While the taxpayers in Hoonah contribute \$192,240 to their public education, and the taxpayers in Klawock pay \$171,762, the entire Chugach REAA is exempted by the statute from any local contribution whatsoever.

The Copper River REAA (embracing the Copper River Basin Model Borough⁵³ recommended for incorporation by the LBC), the City of Valdez and the City of Petersburg have "basic need" in the same range of \$6.8 million to \$7.2 million. Their ADM enrollments, adjusted for local cost factors, are also similar within a 131-point spread at 994.6, 992.34 and 863.21 respectively. While the local taxpayers in Valdez are required to contribute \$3,273,440 and taxpayers in the City of Petersburg must contribute \$1,212,452 to local public education, the prosperous Copper River REAA contributes absolutely nothing to local educational costs.

⁵¹ The new borough would include the City of Unalaska with the REAA.

⁵² The Chatham REAA does not include Kake, but the Chatham Model Borough does.

⁵³ The Chugach REAA does not include the City of Valdez and the City of Cordova, while the Prince William Sound Model Borough does.

The Delta-Greely REAA (coterminous with the LBC-approved but ill-fated Deltana Borough), the Lake and Peninsula Borough, and the City of Nome all have "basic need" in the same range of \$9.3 million to \$10.4 million, according to the FY 2011 Projections by DEED. Their ADM enrollments, adjusted for local cost factors, fall in another range of close similarities, showing only a 98-point spread at 1302.82, 1394 and 1295.67 respectively. But, they are treated differently for purposes of state aid to education: The taxpayers of Nome are required to contribute \$1,013,362 to local public education, and the Lake and Peninsula Borough is required to contribute \$285,129 from its local tax revenues. The prosperous Delta-Greely REAA pays absolutely nothing. The local people in the Delta-Greely REAA quietly enjoy the epitome of a government dole: 100% funding of their local public education paid by the state and federal governments.

The Southeast Island REAA, (withdrawn from the LBC list of eight regions potentially ripe for borough formation, for "further analysis" that never occurred), the economically distressed Wrangell City and Borough, and the Haines Borough have "basic need" of \$4.3 million, \$4.3 million and \$4.1 million respectively. Their ADM enrollments, adjusted for the local cost factors, fall within a 95-point spread at 595.23, 517.26 and 499.84 respectively. The Wrangell City and Borough taxpayers are required by state law to contribute \$668,150 to local public education, and the Haines Borough property owners dutifully must contribute \$1,051,112 toward the cost of educating their children. In the Southeast Island REAA, the local private property owners and resident consumers pay absolutely nothing toward the cost of their local public education.

In summary, Chapter 2 exposed the errors in the stereotype that "REAA" is synonymous with "rural" and that "municipal school district" is synonymous with "urban." Chapter 3 exposed the errors in assuming that REAAs and municipal school districts reflect any respective classifications of race or culture. The present Chapter 4 exposes the mistaken assumptions that REAAs and municipal school districts reflect any meaningful difference in ability to pay, in cash vs. subsistence economies or in cost factors for local public education.

The next two chapters draw from precise and detailed studies of the full panoply of economic factors and available resources in seven REAAs – factors and resources that distinguish them in radical fashion from truly distressed and remote REAAs and from truly distressed and remote municipal school districts.

CHAPTER 5. A Case In Point: The Ill-fated Effort to Incorporate a Deltana Borough

The Delta-Greely REAA is only one illustration of the ripeness of at least seven REAAs for borough incorporation. It is not singled-out here for separate treatment because it deserves any greater scrutiny than the other relatively affluent REAAs. It warrants a whole chapter here because we have the most information about this REAA. It has been subjected to intense research and analyses first by a commission of local residents and their expert, then in the heavily annotated Petition for Incorporation by 259 local residents, then in scores of public comments and two public hearings, then in two studies by the Department of Commerce, Community, and Economic Development, and finally in the Finding and Conclusions of the Alaska Local Boundary Commission – an entity which the Alaska Supreme Court defers to as the experts in this field of municipal incorporation. In Chapter 6, I will bring into focus the other six REAAs that evidence similar socio-economic and geographic characteristics warranting either incorporation as boroughs or some other form of an assessed local contribution to local public education.

a. Methods for Incorporating Boroughs.

The Framers of the Alaska Constitution recognized that local political determination of matters pertaining to municipal boundary changes (incorporation, annexation, detachment, dissolution, etc.) do not always result in the wisest decisions in the best interests of either the local citizenry or the state as a whole, and that these matters should be decided on a statewide basis. The Alaska Supreme Court has endorsed and repeated that fundamental principle of governance many times.⁵⁴

Hence, Art. X, § 12⁵⁵ of the Alaska Constitution requires the creation “by law”⁵⁶ of the Local Boundary Commission (“LBC”).⁵⁷ The Constitution then assigns to the LBC broad authority to “consider any proposed local government boundary change”⁵⁸ subject to a possible legislative veto. If the LBC so

⁵⁴ E.g. *Fairview Public Util. Dist. No. 1 v. City of Anchorage*, 368 P. 2d 540, 543 (Alaska 1962). “An examination of the relevant minutes of those [Committee on Local Government] meetings shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level.”

⁵⁵ “A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.”

⁵⁶ Whenever the Constitution says “by law,” it means by the legislature. Art. 12, §11, Alaska Constitution.

⁵⁷ There are more than 120 boards and commissions in Alaska state government. The LBC is one of only five that were mandated by the Alaska Constitution. The others are the Alaska Judicial Council, the Commission on Judicial Conduct, the University of Alaska Board of Regents and the Redistricting Board.

⁵⁸ Art. X, §12 provides for a “local government boundary change” through the legislative review process. Every incorporation of a borough is a “boundary change” carved out of the unorganized borough. In 1991, the Alaska Attorney General stated, “In our view ‘changing local boundary lines’ includes not only annexation or detachment proceedings but also incorporation proceedings.” 1991 Inf. Op. Att’y Gen. (Feb. 15; 663-91-0212). Mr. Vic Fischer, delegate to Alaska’s Constitutional Convention

chooses,⁵⁹ it also can establish procedures "subject to law" for boundaries to be "adjusted" by local action. The LBC consists of five commissioners appointed by the governor. One commissioner is appointed from each of the four judicial districts, and the fifth "at large" commissioner is the chair.^{xx}

The LBC performs multiple functions pertaining to borough formation, including acting on petitions for borough incorporation,^{xxd} merger,^{xxiii} consolidation,^{xxiii} dissolution,^{xxiv} and conducting studies of local government boundary problems,^{xxv} as well as establishing procedures for formation of boroughs by local action.^{xxvi}

There are three methods for creating a new borough in Alaska. The "legislative review" method is a procedure precisely outlined in the Alaska Constitution. The LBC considers a petition for incorporation originating from any number of possible sources, including the commission itself and its staff.⁶⁰ An LBC decision approving incorporation is final unless, within the first 10 days of the next legislative session, both houses of the state legislature pass a resolution rejecting incorporation.^{xxvii}

The second method for incorporating a borough is through the "local action" procedure authorized in the following sentence of Art. X, §12 of the Alaska Constitution: "The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action." This "local action" method evinces three significant differences from the "legislative review" method. (1) It is "subject to law," meaning that the legislature can dictate how the LBC administers this method. There is no such language in Art. X, § 12 pertaining to the "legislative review" method. Instead, the Constitution itself describes how that method is administered. (2) The "local action" method is discretionary with the LBC. The LBC "may" establish procedures for this method. The LBC is not required to provide for a "local action" method, but is subject to legislative direction if it chooses to allow that method. (3) If the LBC approves the incorporation of the new borough, "local action" means that the electorate then gets to vote on whether they want to incorporate. A borough is created only if a majority of those voting approve incorporation.^{xxviii} Hence, although both the framers of the

and Secretary to the Committee on Local Government, and an expert highly respected in opinions of the Alaska Supreme Court, has noted, "The Local Boundary Commission has total authority to establish boroughs subject to legislative veto, within the 45-day provision" of Art. X, §12 of the Alaska Constitution. *Transcript of Review of Local Government Article of Alaska's Constitution*, Department of Community and Regional Affairs, Feb. 13-14, 1996 at p. 14. The Alaska Supreme Court has consistently recognized the broad powers of the LBC in the creation of local governments in Alaska. E.g., *Mobil Oil Corp. v. Local Boundary Commission*, 518 P. 2d 92, 99 (Alaska 1974).

The Alaska legislature recently attempted to limit the constitutional authority of the LBC by adding a sentence to AS 44.33.812(a)(3) providing that "'boundary change' may not be construed to include a borough incorporation." It is highly likely that this attempt at a statutory limitation of the LBC is unconstitutional. The Alaska Constitution provides that the LBC is "established" by the legislature, but once it has been established, nothing in the Constitution authorizes the legislature to limit the broad constitutional authority of the LBC to "consider any proposed local government boundary change," subject only to later legislative review in some instances. (Emphasis mine.) The Alaska Supreme Court has consistently recognized the broad powers of the LBC in the creation of local governments in Alaska.

⁵⁹ The "legislative review" method is constitutionally mandated. The "local action" method exists for use only in the discretion of the LBC.

⁶⁰ "The idea was advanced that boundaries be established by a separate local government boundary commission, ... which could undertake such on its own initiative. The legislature would be given the power to veto or revise any decisions of such a commission." Minutes of the 18th meeting of the Local Government Committee at the Constitutional Convention, December 4, 1955. (Emphasis mine.)

Constitution and the Alaska Supreme Court recognized that local political decisions usually do not result in wise policy decisions in boundary matters, the LBC is authorized by the Constitution to make exceptions, in its own discretion.

The third method for incorporating a borough has been used only once in Alaska state history. It is a method apparently⁶¹ deriving from Art. X, §3 of the Alaska Constitution. In the 1963 Mandatory Borough Act, the legislature simply declared unilaterally that eight specific independent school districts would automatically become incorporated boroughs, effective January 1, 1964, unless these regions incorporated themselves by the "local option" method prior to that date.⁶² At that time, those regions were assured by the Legislature and Governor that no harmful or prejudicial consequences would come from the mandatory incorporation.^{xxx} Clem Tillion, a member of the House of Representatives in 1963, stated in a later interview "that the 1963 Mandatory Borough Act was approved by the legislature with the understanding that other unorganized areas would be compelled to organize by subsequent legislatures."^{xxx} That has never happened.

[T]hose regions were assured by the Legislature and Governor that no harmful or prejudicial consequences would come from the mandatory incorporation.

⁶¹ Art. X, §3 states, *inter alia*, "... [Boroughs] shall be established in a manner and according to standards provided by law. ... The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law."

This wording of §3 doesn't really say that the legislature can create boroughs. It says that the legislature establishes the "manner," "standards," classifications, and "methods" for the incorporation of boroughs. This must be read in the context of two observations about Art. X, §12. First, §12 assigns to the LBC "any local government boundary change" without exception. Secondly, §12 limits the legislature to creating the LBC (in the first sentence), and making any local action "subject to law" (in the last sentence) but only if and when the LBC in its discretion chooses to invoke and allow local action. It is very possible that Art. X should be read in its entirety as distinguishing the actual creation of boroughs (as residing exclusively in the LBC), from the creation of manners, standards and methods of incorporation (as the domain of the legislature).

By this interpretation, the legislature builds the standards and procedures in all contexts except "legislative review," and the LBC has the exclusive decisional authority within those standards and procedures to change local government boundaries whether by incorporation, dissolution or some other action.

The contrary argument stems only from the fact that, when the Alaska Legislature passed the 1963 Mandatory Borough Act compelling eight election districts to become boroughs, six of the 20 senators (30%) and two members of the House had been delegates to the Constitutional Convention, and did not object to the legislature exercising this power. *Unorganized Areas of Alaska that Meet Borough Incorporation Standards, supra* at 44.

⁶² 52 SLA 1963, §3. The eight affected regions were Anchorage, Matanuska-Susitna Valleys, Fairbanks, Juneau, Sitka, Ketchikan, the Kenai Peninsula, and Kodiak Island. The only other independent school district in the state, the Lynn Canal Icy Straits election district, was excluded from House Bill 90 by the Senate. In a subsequent decision, the Alaska Supreme Court held that 52 SLA 1963, §3 was "local or special legislation" within the meanings of Art. II, §19 and Art. XI, §7 of the Alaska Constitution, and hence not subject to the referendum process. *Walters et al. v. Cease, et al.*, 394 P.2d 670 (1964). The parties never challenged the question of whether the legislature possesses constitutional authority to create boroughs directly, i.e., the issue of the precise meaning of Art. X, §3, discussed in n. 85 above, or, whether the legislation violated Art. II, §19 of the Constitution. Both of these legal questions are addressed in greater detail as legal analyses in Volume II of this Report.

b. The Deltana Borough Petitioning and Review Process.

From March 17, 2004 through November 2005, a local "Deltana Borough Charter Commission" met at least monthly to consider the incorporation of a new borough for that region. Its boundaries would conform exactly to the common-interest boundaries of the Delta-Greely REAA, which have been in place since 1975.^{xxxi} The local Charter Commission retained an outside expert in municipal government to assist in their evaluation. This effort was the third attempt in ten years by people in the Delta-Greely region to petition the LBC for the creation of a regional borough government.

On January 3, 2006, a multi-volume Petition was submitted to the LBC by 259 local Delta-Greely voters. It included over a year's research and compilations of maps, economic data, history of self-governing success, inventory of resources and local industries, *pro forma* budgets, taxable private property values, and other support for a unified home-rule borough.

The proposed Deltana Borough would create one local government to provide basic municipal services in the Deltana area, including education, planning, platting, land use regulation, cemetery, landfill, street and road maintenance, parks and recreation, community center, library, volunteer fire/EMS/ambulance/rescue squad, airport maintenance and collection of proposed gas and energy taxes along with the payments in lieu of taxes from the Pogo Mine. Most of these services were previously provided by three separate government entities: the City of Delta Junction, the Delta-Greely Regional Educational Attendance Area (REAA) and in the case of platting, the State of Alaska.^{xxxii}

The petitioners proposed the "local action" method for incorporation: If the LBC approved the Petition and allowed "local action," then a majority of local people motivated to mail a ballot back to the Division of Elections⁶³ would determine the final outcome. The Petition proposed not only that the voters approve incorporation *per se*, but also approve a 3% home-heating fuel and vehicle gas sales tax, a 10% tax on the sale of electric power, and an agreement with the Teck-Pogo gold mining company for a payment in lieu of taxes (a "PILT").^{xxxiii} Like four other existing boroughs in Alaska,⁶⁴ the proposed Deltana Borough would not need to levy a property tax to meet its revenue needs.^{xxxiv}

No formal opposition was filed as responsive briefing, but 39 individuals and groups sent written comments to the LBC staff during a three-month period through March 31, 2006.^{xxxv} During the next seven months, the staff of the LBC,⁶⁵ functioning within the Department of Commerce, Community, and

⁶³ As a cost-saving measure, the Division of Elections in recent years has chosen exclusively mail-in balloting processes for local-action elections, despite objections from the Local Boundary Commission and criticism of the method from the staff within the Department of Commerce, Community, and Economic Development.

⁶⁴ Denali Borough, Northwest Arctic Borough, Aleutians East Borough and Lake and Peninsula Borough.

⁶⁵ AS 29.05.080 requires the LBC staff to investigate each borough-incorporation proposal and report its "findings to the local boundary commission with recommendations regarding the incorporation." The LBC staff is required by statute to ascertain the fiscal and administrative viability of a borough, and to issue both a preliminary and final report to the LBC.

Economic Development ("DCCED"), engaged in thorough reviews and analyses of the material supplied in the Petition and in public comments.⁶⁶

The reviews and analyses performed by the LBC staff at DCCED were not (and never are) a simple task. The Constitution,⁶⁷ state statutes^{xxxvi} and elaborate LBC regulations⁶⁸ require detailed parsing and precise analyses of many aspects and characteristics of a local area before it qualifies for incorporation as a borough government:

- The population must be large and stable enough to support local government.^{xxxvii}
- The boundaries of the area must be contiguous, without enclaves or overlap with other boroughs,^{xxxviii} must conform to natural boundaries,^{xxxix} must encompass a sufficiently large area with common social, cultural and economic interests that are interrelated and integrated into a minimum number of local governments,^{xl} and must include all areas needed for efficient, cost-effective delivery of municipal services.^{xli} Model borough boundaries or presently existing REAA boundaries are preferred.^{xlii}
- The communications media and transportation facilities must be sufficiently developed and integrated.^{xliii}
- The plan for transition from present status to fully functioning local government must be adequate.^{xliv} The area must have adequate financial resources, and the 6-year budget must be both plausible and feasible.^{xlv}
- There can be no detrimental effects on civil or political rights.^{xlvi}
- The incorporation of the new borough must serve the best interests of the state.^{xlvii}

On November 6, 2006, DCCED published its Preliminary Report concluding that the Deltana Petition for incorporation of a borough met all of the standards of every applicable statute and regulation.^{xlviii}

"The foregoing analysis of the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the sixth full fiscal year of operation reflect a fiscally viable proposal.

⁶⁶ AS 29.05.050(a) and (c) require the Alaska Department of Commerce, Community, and Economic Development to investigate all petitions and report to the Alaska Local Boundary Commission.

⁶⁷ Art. X, §1 of the Alaska Constitution states, "The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions...." Art. X, §3 then states, "The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible...."

⁶⁸ AS 29.05.100 specifically requires satisfaction of the borough incorporation standards adopted by the LBC in its administrative regulations.

The economic base, property valuations, land use, existing and reasonably anticipated development, and personal income are evidence of an economy that is fully capable of supporting borough government. Lastly, the availability of employable persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government reflect positively on the region. Accordingly, Commerce concludes that the standards set out in AS 29.05.031(a)(3) and 3 AAC 110.055 regarding the human and financial resources are fully satisfied by the Petition.^{xlix}

One must keep in mind that the boundaries of the region described in the above DCCED conclusion, and the region described in greater detail below in this subsection, follow precisely the same regional boundaries as the present Delta-Greely REAA – an educational service area that, despite the above 2006 findings of prosperity and multiple resources, enjoys today the windfall of a blanket exemption from any local contribution to the cost of local public education.

On December 4, 2006, DCCED conducted an informational public meeting in the Delta-Greely region proposed for borough incorporation. Written comments on the Preliminary Report were accepted through December 13, 2006. The *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal* was published in February 2007. The LBC staff in DCCED concluded:

“After due consideration of the timely written public comments submitted to the LBC regarding the Petition and the November 2005 Preliminary Report and the comments provided at the December 4, 2006 informational meeting in Delta Junction, Commerce reaffirms the conclusions and recommendations of the Preliminary Report that the Deltana Borough proposal meets all the applicable legal standards and should be approved by the LBC.”^l

The locally generated Petition for Incorporation, the 2006 Preliminary Report of the LBC staff within DCCED, and the 2007 Final Report to the Local Boundary Commission constitute three volume-sized studies providing a vividly detailed and precisely accurate picture of the affluence within this REAA that still today enjoys a full exemption from any local contribution to the costs of its local public education.

On the evening of March 16, 2007, all five Commissioners of the LBC held another public hearing in Delta Junction. 251 members of the public attended, and public comments continued for two and a half hours. At a decisional meeting the next morning, March 17, 2007, the LBC determined that the Petition met all applicable standards, and the five commissioners unanimously approved the Petition without amendment or conditions (other than the various voter-approval conditions stated in the Petition itself).

Following an appeal and litigation, the matter was submitted to the voters in accordance with law. On the ballot, incorporation was conditioned on local voter approval of (1) the PILT agreement with the Teck-Pogo mine operators, (2) the proposition authorizing the new borough to levy a 3% home

heating fuel and vehicle gas sales tax, and (3) the proposition authorizing the new borough to levy a 10% tax on the sale of electrical power – all presented to the voters as a single question.

Incorporation crashed in resounding defeat at the polls. Instead of a Deltana Borough with the anticipated \$7 million surplus in its treasury in 2011, and instead of the State of Alaska saving \$1,347,348 annually in educational expenses in the Delta-Greely REAA, the local electorate in that Delta Greely REAA today still enjoys what one LBC commissioner dubbed at the public hearing “educational welfare.”

c. Proven Prosperity in the Delta-Greely REAA.

The 2005 estimated population in the Delta-Greely REAA was 4,148 residents, with 1,047 (25.2%) of these people residing in the second-class city of Delta Junction.⁶⁹ The LBC staff noted in 2006 that at that time there were six successfully incorporated boroughs in Alaska with populations of fewer than 5,000 residents.⁶⁹ “The average 2005 population for those six boroughs was 1,667, which was 40 percent of the size of the 2005 population of the proposed Deltana Borough.”ⁱⁱⁱ

“The economy of the Deltana region [the Delta-Greely REAA] is diverse and includes agriculture, forestry, mining, highway tourism, and the military. The abundant fish and wildlife promises income from recreation and tourism.”ⁱⁱⁱ Farming is the major land use of privately owned lands. The Delta region of the Tanana Valley has over 75 farms. ... Agricultural products range from livestock to vegetables to grain, and include feed crops, and forage and bedding straw.”^{iv} Tables and narrative in the DCCED *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation* describe the prosperous economic base,^{iv} and show diverse occupations of the employed civilian population by industry,^{vi} and also break down sources of income for employed civilians, both private and government.^{vi}

Property values in the Petition derived from the State Assessor’s analysis in 2005.^{vi} The Petitioners projected the value of land and property as of January 1, 2008 at \$411 million, and DCCED increased that valuation another \$70 million based on the State Assessor’s higher valuation of the Pogo Mine.^{ix} The projected full and true value of taxable real and personal property in the Delta-Greely REAA for 2010 was \$337 million, representing lower projected values of the Pogo Mine than earlier estimates.⁷⁰ Excluding the Pogo Mine⁷¹ and the Trans-Alaska Pipeline corridor⁷² running through the

⁶⁹ The six listed boroughs are Aleutians East Borough with a population of 2,659, Bristol Bay Borough at 1,073, Denali Borough at 1,823, Haines Borough at 2,207, Lake and Peninsula Borough at 1,620 and Yakutat Borough at 619. *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 37. There now is a seventh borough with a population under 5,000, the Skagway Borough.

⁷⁰ It assumes Teck-Pogo at \$260 million in 2008 with straight-line declining value to \$71 million in 2015. *Id.* at 69-70.

⁷¹ The mine would be making a payment in lieu of taxes.

⁷² AS 14.17.510(a) was amended in 2006 to exclude taxable value of oil and gas property from the calculation of the local contribution required by AS 14.17.410(b)(2) if no property taxes are levied on these properties by that borough or city.

Deltana region [the Delta Greely REAA], the state assessor estimated the value of the remaining taxable property at \$182 million.^{lx}

As noted by the Office of the Attorney General,

If incorporated, the proposed Deltana Borough would rank second among the seventeen boroughs [in full and true value of taxable property], behind only the North Slope Borough. The per capita assessed value of the proposed Deltana Borough is more than twice the figure for the Fairbanks North Star Borough. The average for all boroughs was \$105,505 per resident. The median figure is \$88,601. The figure for the proposed Deltana Borough is \$64,837 (61.5 percent) greater than the average figure and \$81,741 (92.3 percent) greater than the median figure.^{lxj}

The Attorney General's Office concluded that "in fact, the fiscal resources, particularly the value of taxable property, of the proposed Deltana Borough would be the envy of most organized boroughs in Alaska."^{lxiii}

In terms of the maturity of human resources to run a borough government, the LBC found in its Statement of Decision that

The City of Delta Junction has provided services to the region on an areawide basis for many years.⁷³ The City has successfully operated and managed the cemetery, landfill, parks, library and other community buildings, and has maintained the airport and roads used by all residents of the Deltana area [i.e. Delta Greely REAA]. Thus, the City of Delta Junction has long demonstrated that it has the human resources necessary to serve the residents of the Deltana region.

"[I]n fact, the fiscal resources, particularly the value of taxable property, of the proposed Deltana Borough would be the envy of most organized boroughs in Alaska."

~ State Attorney General's Office

The Delta-Greely REAA has provided educational services throughout its 5,892-square-mile jurisdiction since its formation in 1975.

....

Since its incorporation as a second-class city in 1960, the City of Delta Junction has assessed and collected revenues and fees needed to operate and manage the cemetery, landfill, parks,

library and other community buildings, Thus, the City of Delta Junction has long demonstrated its capacity to generate and collect local revenue,^{lxiv}

⁷³ "The record in this proceeding indicates that some have stated that the City of Delta Junction has provided services for the entire region for the past three decades." *Local Boundary Commission Statement of Decision, supra* at n. 18.

At Fort Greely, the Department of Defense maintained nine Ground-Based Midcourse Defense ("GMD") interceptor missiles in 2007. The Federal defense-spending bill for FY 2007 appropriated \$200 million to the national defense system operated at Fort Greely.

The Missile Defense Agency allocated \$24.8 million to mitigate potential community impacts on the region by the GMD program. The Delta-Greely REAA built a new elementary school with \$9.5 million of that federal money, and another \$15 million of that federal money financed the following infrastructure and programs for these residents of an exempted REAA:

- a new regional land fill,
- new fire and emergency equipment,
- a new fire station,
- renovation/conversion of the old fire station to a public works facility,
- a new library,
- renovations and improvements to the local ice arena (\$2 M),
- reconstruction of a TV transmission tower (\$3 M) and
- social services, job training and adult education programs.^{lxiv}

The pro forma budgets submitted in the Petition for review by DCCED and the LBC showed revenues of over \$13 million in 2009, over \$12 million in 2010, over \$11.8 million in 2011 and over \$11.6 million in 2012. Expenditures in 2012 were projected at \$11 million, leaving a surplus (total expenditures minus total revenues) of \$673,806 for the sixth fiscal year as a borough.^{lxv} The cumulative surplus for years 1 through 6 was over \$7 million.^{lxvi} DCCED concluded, "Since the revenues exceed the expenditures resulting in a generous surplus of funds available for operation of the borough, not only in the sixth full fiscal year of operation but in the preceding years, Commerce concluded that the proposed budget and the Deltana Borough incorporation are fiscally viable."^{lxvii}

The PILT agreement with the Pogo Mine was very similar to the funding arrangement between the Red Dog lead and zinc mine and the Northwest Arctic Borough. The Pogo PILT would have provided more than \$2 million every year for ten years, which DCCED evaluated as "the bulk of the local cost of schools."⁷⁴ ^{lxviii} Moreover, when a region becomes an organized borough, it has the ability to not only defer responsibility for the assumption of schools for as long as two years,^{lxix} but also can then phase in required local contributions for funding those schools.^{lxx} In addition, a new borough is entitled to organization grants during each of the first three years of operation.^{lxxi}

⁷⁴ The amount of the PILT was based on an annual reevaluation of the value of the mine, and would be a minimum of \$2 million per year or 10 mills multiplied by the then-current value of the mine, whichever was greater. *Id.* at 16-17. In addition, the Teck-Pogo PILT would increase with any general obligation bonds of the new borough. *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 19.

As a part of its favorable Statement of Decision, the LBC accepted and adopted the analysis in the Petition that showed that "the local assumption of education responsibility will save the State of Alaska \$1,347,348 annually."⁷⁵ Today we can conclude that if the people in the Delta-Greely REAA were required to make a local contribution to public education in 2011, the State could have distributed at

least \$1,347,348 in additional funding among either all 53 school districts, or among more needy municipal school districts and REAAs. Stated another way, if the Delta-Greely REAA was required to make a local contribution of \$1,347,348, then the State could raise the level of "basic need" without increasing the present funding level of State aid.

[B]y not including that well-to-do REAA among regions that fit the stereotypical rationales presently applied in legislation to municipal school districts, every student in Alaska is deprived of educational opportunities.

In FY 2012, the legislature decided to provide a level of basic need for Alaska's 53 school districts equal to \$1,368,209,817. But, the legislature only funded \$1,066,177,711 of that total from the State treasury. To make up the shortfall, the State took \$235,380,655 from municipal school districts in required local contributions. It also added \$66,651,451 in federal impact aid.

If the Delta-Greely REAA were required to contribute \$1,347,348 to the pool of local contributions, that element of public school education funding would increase to \$236,728,003. The level of "basic need" for Alaska's 53 school districts would increase to \$1,369,557,165.

By adding a 4-mill levy in that one prosperous REAA, the "basic need" funding for every student in Alaska rises.⁷⁵ Conversely, by not including that well-to-do REAA among regions that fit the stereotypical rationales presently applied in legislation to municipal school districts, every student in Alaska is deprived of educational opportunities.⁷⁶

In summary, overwhelming socio-economic, demographic and geographic evidence establishes indisputably that the Delta-Greely REAA is a more prosperous region than many municipal school districts in Alaska, and that the Delta-Greely REAA could easily administer a successful borough government – with its corollary responsibility of making a 4-mill equivalent local contribution to local

⁷⁵ In the Ketchikan Gateway Borough, the "basic need" funding rises fully \$22,856 just by adding that one borough to the equation.

⁷⁶ Can it be guaranteed that, if Delta Greely was making a local contribution, the State would hold its level of state-aid the same and allow basic need to increase, as in the example? No. But, the opposite argument is even more speculative and incapable of proof, in light of the overwhelming evident that the Alaska Legislature would like to fund education at a higher level, and that school districts want more funding. For purposes of evaluating fairness and equities, one must take the facts *as they exist today*, without speculating regarding *future* legislative funding.

public education. A Petition from 259 local residents, two DCCED reports, and the findings/decision of the LBC all agreed that:

- The local population in the Delta-Greely REAA is large enough and stable enough for borough government.
- The diverse economy in the Delta-Greely REAA includes agriculture, forestry, mining, the military, highway tourism and fish/wildlife recreational tourism.
- Taxable real and personal property in the Delta-Greely REAA was valued in 2005 at \$336.8 million.
- Six years of pro forma budgets show not only feasibility and plausibility of financing borough government in the Delta-Greely REAA, but a cumulative surplus of more than \$7 million.
- Local administration of a myriad of local government services and functions in the Delta-Greely REAA has already proven successful over many decades of time.
- The communications media and the land, air, and water transportation facilities in the Delta-Greely REAA are highly developed and well integrated.
- Boundaries running coterminous with the 1975 Delta-Greely REAA boundaries comprise a sufficiently large region for efficient, cost-effective delivery of borough government services to residents possessing common social, cultural and economic interests that are interrelated and integrated.

[T]he elephant in the room is AS 14.17.410 – that blanket exemption from a local contribution to local public education, granted indiscriminately to all REAAs. It looms portentously as a powerful disincentive to the formation of any local government that would then be penalized with a mandatory local contribution as all municipal school district are penalized today.

The Deltana petition for incorporation of a borough met every one of the plethora of standards found in Art. I, §1 and Art. X, §§1, 3 and 12 of the Alaska Constitution, in Alaska Statutes 29.05.031 and 100, in DCCED regulations 3 AAC 11-.045--065 and .900—990, and in the federal law, 42 USC §1973 – passing comfortably through a gantlet of scrutiny few governmental decisions are ever subjected to.

Even Governor Frank Murkowski said that he believed the area is capable of supporting a borough and should be encouraged to do so. He noted that the area has a significant tax base and was benefiting from the Pogo Mine and the missile defense site at Fort Greely.^{lxviii} Why, then, is this region

of the unorganized borough not a borough government in a State where Art. X, § 1 of the Constitution calls for "maximum local self-government with a minimum of local government units."?

Quite simply, the elephant in the room is AS 14.17.410 – that blanket exemption from a local contribution to local public education, granted indiscriminately to all REAAs. It looms portentously as a powerful disincentive to the formation of any local government that would then be penalized with a mandatory local contribution as all municipal school district are penalized today.

In the meantime, the State's "base student allocation" is lower for every school district than it would be if the Delta-Greely REAA was making the local contribution estimated at \$1,347,348 annually, and if six relatively prosperous REAAs (discussed below) were either incorporated borough governments paying the 4-mill-equivalency as a local contribution, or, required to make a local contribution in the form of a levied state assessment imposed by the legislature on the regions.

CHAPTER 6. The Extent of the Problem

The Delta Greely REAA is not an anomaly. In 2003, the LBC concluded in a report to the legislature that seven regions of the state, six REAAs, meet all of the elaborate standards for borough incorporation. Another region, an REAA, was pulled from the conclusion late in the study, for purposes of further analysis that never occurred.

The 2002 Legislature unanimously⁷⁷ directed the Alaska Local Boundary Commission to review conditions in the unorganized borough, to identify areas that meet the standards for borough incorporation, and to report its results the following year to the Twenty-Third Alaska State Legislature.⁷⁸

In February, 2003, the Alaska Local Boundary Commission finished its study and published a report entitled *"Unorganized Areas of Alaska that Meet Borough Incorporation Standards: A Report by the Alaska Local Boundary Commission to the Alaska Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002,"* concluding that seven regions of the unorganized borough could sustain a viable regional borough government.^{lociv} Those seven regions are:

- Aleutians REAA as the "Aleutians West Model"⁷⁹ Borough"
- Delta-Greely REAA and Alaska Gateway REAA as the "Upper Tanana Basin Model Borough"
- Copper River REAA as the "Copper River Basin Model Borough"
- Chugach REAA as the "Prince William Sound Model Borough"
- A Portion of Chatham REAA as the "Glacier Bay Model Borough"
- A Portion of Chatham REAA as the "Chatham Model Borough"
- "Wrangell-Petersburg Model Borough"

As a part of its conclusions, the LBC noted that "if boroughs formed in the seven regions determined to meet all borough incorporation standards in this report, the number of school districts servicing those regions would be reduced from fourteen to seven. Additionally, if the Prince of Wales Island region incorporated as a borough, the four school districts in that region would be consolidated into one."^{locv}

⁷⁷ The vote on the Senate bill was 19 – 0 with 1 member absent. The vote on the House bill was 35 – 0 with 5 members absent.

⁷⁸ Chapter 53, SLA 2002. Section 3 of the law states, "NEW BOROUGH INCORPORATION. The Local Boundary Commission shall review conditions in the unorganized borough ... [and] shall report to the legislature the areas it has identified that meet the standards for incorporation. ..."

⁷⁹ For many years, opponents of borough incorporation have argued that the LBC Model Boroughs are outdated and obsolete. However, with few exceptions, the LBC Model Borough boundaries closely follow REAA boundaries. "In fact, the vast majority of residents of the unorganized borough live in model boroughs that are identical to the REAAs in which they live. The fact that there is no clamor to change the boundaries of REAAs suggests ... that those advocating changes in or abandonment of model borough boundaries are more fundamentally opposed to borough government boundaries as embodied in Alaska's constitution, rather than just the model borough boundaries." In fact, borough standards at AS 29.05.031 are remarkably similar to REAA standards at 14.08.031, with the exception that there are no economic capacity standards for REAAs because they are fully funded by the State. *Unorganized Boroughs in Alaska That Meet Borough Incorporation Standards* at 73 and 80. (Assigning economic capacity standards to REAAs would be a method of then determining which REAAs should be granted an exemption from a local contribution, and which should be either taxed a 4-mills equivalent by the legislature or become a mandatory borough.)

The LBC report first describes a process that included many months of extensive hearings throughout the State, many written comments from the public, six deliberative meetings of the LBC, and a methodical process of elimination of those regions of the State that could not meet the strict standards for borough incorporation (described in detail in Chapter 5 above). First the LBC eliminated from consideration all "unorganized remnants" adjacent to existing organized boroughs and also located within the model borough boundaries, i.e., parcels that probably would eventually exhibit regional commonalities and broad public interest characteristics with an existing borough.⁸⁰ Then the LBC eliminated ten unorganized areas "marginal in terms of their financial capacity to support the services mandated for borough government."⁸¹ This left the LBC reviewing in greater detail eight unorganized areas in the State, including the seven they concluded were sufficiently mature for borough government.⁸²

All of Chapter 2 (55 pages) of the LBC's final report to the legislature is devoted to describing the elaborate breadth and depth of legal standards applied by the DCCED staff and the Commission itself to the question of whether a region qualifies for incorporation as an organized borough.^{lxvii} As noted in Chapter 5 above, it is no simple task. For that reason, the 2003 findings and conclusions in the LBC report, *Unorganized Areas of Alaska that Meet Borough Incorporation Standards*, should be highly persuasive as an accurate read of the municipal maturity of the regions considered in that report.

With regard to all seven areas that met borough incorporation standards, the LBC observed that reasonably anticipated borough income sources include real and personal property taxes, a general sales tax, various targeted taxes,⁸³ licenses and permits, service charges, enterprise revenues and others. Each of the potential new boroughs also would receive from the State organization grants⁸⁴ to provide for interim operation of government. Moreover, the newly organized boroughs could defer responsibility for the assumption of schools for as long as two years,^{lxviii} and also could then phase-in the required local contributions for funding local schools.^{lxviii} The newly formed boroughs also would receive 10% of the vacant, unreserved and unappropriated State land within their boundaries, and that land could be sold to generate revenues or used for any other purpose suitable to the borough

⁸⁰ *Unorganized Boroughs in Alaska That Meet Borough Incorporation Standards* at 91-92. The "unorganized remnants" are found in the Denali Model Borough, Fairbanks-North Star Model Borough, Lynn Canal Model Borough, Juneau Model Borough and Ketchikan Gateway Model Borough.

⁸¹ *Id.* at 92. The ten "marginal" areas were Yukon Flats Model Borough, Yukon-Koyukuk Model Borough, Iditarod Model Borough, Kuspuk Model Borough, Dillingham-Nushagak-Togalak Model Borough, Pribilof Islands Model Borough, Lower Kuskokwim Model Borough, Bering Strait Model Borough and Annette Island Model Borough.

⁸² Originally, the LBC also included the Prince of Wales region, the Southeast Island REAA, as ripe for borough incorporation, based on economic capacity, population size and stability, regional commonalities and broad public interest. However, shortly before publishing the final Report, the LBC withdrew this region from its list because of "recent socioeconomic trends," and "pending more up-to-date information and further analysis..." *Id.* at 2. No one has compiled that "up-to-date information and further analysis" during the past nine years.

⁸³ E.g., raw fish tax, bed tax, car rental tax, sale of tobacco tax, aircraft flat tax, severance tax on natural resources, tour tax, liquor tax, guide fee tax, fuel tax, etc.

⁸⁴ AS 29.05.190. During the first full or partial year of borough governance, the amount is \$300,000. It is reduced to \$200,000 in the second year and \$100,000 in the third year.

government. The federal government pays all boroughs a PILT for certain federally owned lands known as "entitlement lands." Monies are also distributed to organized boroughs from National Forest Receipts, the Safe Communities Program, Fisheries Business Tax, Fisheries Landing Tax, Coastal Management service areas and many capital matching grants.

The LBC found that the poverty levels in all eight unorganized regions were, in every instance, lower than at least one existing and successfully functioning organized borough, and that the rates of unemployment ("a fundamental measure of the strength of the economic base of a region") were also lower than at least one existing and successfully functioning organized borough.^{lxxxix} The LBC analyzed and discussed the "economic capacity" of each of the eight unorganized areas with city-by-city precision.^{lxxx}

The State Assessor calculated estimates of the taxable property within each of the unorganized areas for the year 2001.^{lxxxi} The total taxable property in these eight unorganized areas outside city school districts (i.e., only within REAAs), excluding the value of oil and gas properties, was \$454 million, which at 4 mills would increase local contributions throughout the state by \$1.8 million in 2001 property valuations – an amount that every student in Alaska still loses every year. If oil and gas properties were to be included in the equation, the total taxable property in these eight^{lxxxv} unorganized areas outside city school districts (i.e., only within REAAs) would be over \$1.8 Billion in 2001 valuations. At 4 mills, the sum of the annual statewide loss of the benefit of local contributions from these REAAs that could be boroughs is \$7.3 million, measured in 2001 property values.

The 2003 findings and conclusions of the LBC regarding the "Wrangell-Petersburg Model Borough" are excluded from consideration here because Wrangell has since become an organized borough, and a petition for incorporation of the Petersburg Borough is pending before the LBC. The detailed findings and conclusions of the LBC, including the marginal and withdrawn Southeast Island REAA ("Prince of Wales Model Borough"), are set forth below by region:

Aleutians REAA as the "Aleutians West Model Borough." The mandatory^{lxxxii} borough powers of (1) education, (2) assessment and collection of taxes, and (3) land use regulation are already being performed successfully by the City of Unalaska, located within the new borough. The Aleutians REAA is a second existing school district experienced in educational administration, which would be integrated into the new borough.

Five organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{lxxxiii}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$14,601,366.^{lxxxiv}

Delta-Greely REAA and Alaska Gateway REAA as the "Upper Tanana Basin Model Borough." As noted in Chapter 5, the City of Delta Junction has performed areawide services for decades, and that

^{lxxxv} The Southeast Island REAA as the "Prince of Wales Model Borough" was included in the economic study, but set aside in the final recommendation "for further study."

city would continue to exist within the new borough. There also are two REAA school districts in this region that would be consolidated and integrated into the new borough government, both experienced in educational administration since 1975.

Two organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{lxxxv} If the Delta-Greely REAA was considered alone, as the proposed Deltana Borough described in Chapter 5 above, the unemployment rate plummets.

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$185,804,095, excluding the value of oil and gas properties.^{lxxxvi} Oil and gas properties added another \$283,241,629 to the total taxable valuation in 2001.

Copper River REAA as the "Copper River Basin Model Borough." The human resources and infrastructure of the Copper River REAA are assimilated and preserved in the new borough for the administration of public education.

One organized borough had higher rates of unemployment than this unorganized area in 2000.^{lxxxvii}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$82,465,139, excluding the value of oil and gas properties.^{lxxxviii} Oil and gas properties added another \$420,294,030 to the total taxable valuation in 2001.

Chugach REAA as the "Prince William Sound Model Borough." The mandatory borough powers of (1) education, (2) assessment and collection of taxes, and (3) land use regulation are already being performed successfully by the Cities of Cordova and Valdez, located within the new borough. Also, the established and experienced Chugach REAA infrastructure is assimilated into the new borough.

Thirteen organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{lxxxix}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$53,314,539, excluding the value of oil and gas properties.^{xc} Oil and gas properties added another \$657,050,730 to the total taxable valuation in 2001.

Chatham REAA as the "Glacier Bay Model Borough." The mandatory borough powers of (1) education, (2) assessment and collection of taxes, and (3) land use regulation are already being performed successfully by the Cities of Hoonah and Pelican, located within the new borough. Also, part of the Chatham REAA is assimilated into this LBC-recommended borough.

Two organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{xcI}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$24,018,189.^{xcll}

Chatham REAA as the "Chatham Model Borough." The mandatory borough powers of (1) education, (2) assessment and collection of taxes, and (3) land use regulation are already being performed successfully by the City of Kake, located within the new borough. Also, parts of the Chatham REAA and the Southeast Island REAA are integrated into this new borough.

One organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{xcll}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$18,092,997.^{xclv}

Southeast Island REAA as the "Prince of Wales Model Borough." The mandatory borough powers of (1) education, (2) assessment and collection of taxes, and (3) land use regulation are already being performed successfully by the Cities of Craig, Klawock and Hydaburg, located within the new borough. Also, a major portion of the established Southeast Island REAA infrastructure is included in this LBC-recommended borough.

"[T]he lack of a strong State policy promoting the extension of borough government [is] the most pressing 'local government boundary problem' facing Alaska."

— Local Boundary Commission

Five organized boroughs had higher rates of unemployment than this unorganized area in 2000.^{xcv}

In 2001, the taxable property outside city school districts (i.e. new "local contribution" funding to public education) was estimated by the State Assessor at \$75,334,584.^{xcv}

The LBC eventually concluded in 2003 that more study of this region was required, as a result of then-recent changes in the timber industry. That further study was never performed.

In conclusion, the LBC formally declared in 2001 that it "considers the lack of a strong State policy promoting the extension of borough government to be the most pressing 'local government boundary problem' facing Alaska."^{xcvii} Two years later, in response to a request from the legislature, the LBC formally declared that seven and perhaps eight regions of the State qualified in all respects for borough formation. Senator Gary Wilken then sponsored Senate Concurrent Resolution 12, which would have required the LBC to consider borough incorporation for four of the REAAs previously

determined to meet borough formation standards. SCR 12 passed the Senate, but died in the House Committee on Community and Regional Affairs.^{xviii}

Today, in 2012, seven of 19 REAs continue to receive full state aid to local public education without contributing a dime locally, despite their population size and stability, their highly developed transportation and communications patterns, their economic capacity to do so, their regional dissimilarities from other economically distressed REAs and other distressed municipal school districts, and the broad statewide public interest deriving from maximizing local government with the least number of units, where the number of school districts in these regions would drop from 14 to seven, and where precious state funding of public education could be allocated to other, more needy regions of the state.

More than 96% of Alaskans live in areas that have not voluntarily initiated borough incorporation.^{xix} The effort to incorporate the Deltana Borough by local action was unsuccessful. Only one of the eight unorganized areas of the State recognized by the LBC in 2003 as meeting borough-incorporation standards has become a borough. The people in these regions have no incentive to incorporate organized boroughs as long as they can retain 100% state-and-federal government aid to their local public education.

Finally, as noted in Chapter 4 above, the State's "expert" in the *Mat-Su* litigation, State Assessor Michael Worley, significantly influenced the decision of Alaska Supreme Court by playing upon the erroneous stereotype suggesting that property ownership in REAs was predominately exempted Native lands and poorly defined

ownership. State Assessor Worley was also cited by the Supreme Court for an equally incorrect assumption that "[b]orough organization generally occurs when a tax base develops or is discovered in the area which is adequate to support local government and to yield, in addition, greater services than are otherwise provided by the state."^c In truth, it is highly unlikely that the citizens in these regions will ever vote to form boroughs, because that change of status would block their presently successful end-run around the requirement of a tax levy for contributions to their local public education expenses. As Governor Jay Hammond observed in his book, "Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves to pay for services received from the state, gratis?"^d

"Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves to pay for services received from the state, gratis?"

— Jay Hammond

Nothing short of mandatory borough formation, or major changes in the education-finding formulae will correct the present inequities resulting from treating the entire unorganized borough as a singular unit for exemption from AS 14.17.410(b)(2), and the present inequities of assessing a local contribution from economically distressed municipal school districts while affluent REAs enjoy a free ride at State expense.

**CHAPTER 7. That Arbitrary Remnant Called
"the Unorganized Borough"**

Art. X, §6 of the Alaska Constitution requires the Alaska state legislature to

"provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility."

Two words in this constitutional provision are noteworthy for present purposes. Unorganized boroughs are referenced in the plural form, not as the one amorphous remnant of the State embodied in AS 29.03.010 which states, "Areas of the state that are not within the boundaries of an organized borough constitute a single⁸⁶ unorganized borough." (Emphasis mine.)

Also, the provision requires maximization of local "responsibility" in the unorganized borough(s).⁸⁷ Applied as simple English usage, those constitutionally pluralized "unorganized boroughs" that are not distressed economically should carry the same "local ... responsibility" for a local contribution to public education that municipal school districts are now required to endure.⁸⁸ A blanket exemption from that local-contribution requirement, applying sweepingly across a single unconstitutional unorganized borough, without regard for vast, regional socio-economic differences within that unorganized borough, violates both of these requirements of Art. X, §6 of the Alaska Constitution.

Art. X, §3 of the Alaska Constitution is another relevant section, deserving a quote in full:

[T]he Alaska Legislature in 1961 enacted a law making all areas outside organized boroughs one motley remaining portion known as "the single unorganized borough" – without the constitutionally required regard for vast internal differences in "population, geography, economy, transportation, and other factors" and without regard for the constitutional requirement that each unorganized borough "shall embrace an area and population with common interests to the maximum degree possible."

⁸⁶ Incorporation of a Petersburg Borough is pending before the LBC. The second-class city of Kupreanof is opposing inclusion, arguing that a single unorganized borough is unconstitutional.

⁸⁷ This is consistent with the provision in Art. X, §1 of the Constitution requiring "maximum local self-government." It is also consistent with the provision in Art. I, §1 "that all persons have corresponding obligations to the people and to the State."

⁸⁸ Not only does Art. X, §6 require "maximum...responsibility" at a local level, but also Art. 1, §1 recites the fundamental tenet that "all persons have corresponding obligations to the people and to the State."

The entire State shall be divided into boroughs, organized and unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.⁸⁹

The word "they" refers to all "boroughs, organized and unorganized." As noted by the LBC,^{ci} the language in Art. X, §3 requires the state legislature to

1. Enact standards for establishing both organized and unorganized boroughs
2. Enact procedures for establishing both organized and unorganized boroughs
3. Classify organized and unorganized boroughs
4. Prescribe the powers and functions of organized and unorganized boroughs, and
5. Enact methods for boroughs to be "organized, incorporated, merged, consolidated, reclassified, or dissolved."

These 53 years after Statehood, the Alaska State Legislature still has not enacted

- standards and procedures for establishing unorganized boroughs,
- classifications for unorganized boroughs,
- powers and functions in unorganized boroughs, or
- methods for unorganized boroughs to be incorporated, reclassified or dissolved.

Instead of following its constitutional duty to form unorganized boroughs in the plural form, the Alaska Legislature in 1961 enacted a law making all areas outside organized boroughs one motley remaining portion known as "the single unorganized borough"^{cii} – without the constitutionally required regard for vast internal differences in "population, geography, economy, transportation, and other factors" and without regard for the constitutional requirement that each unorganized borough "shall embrace an area and population with common interests to the maximum degree possible." As noted by the LBC,

From its inception, the single unorganized borough has embraced an area and population with highly diverse interests rather than the maximum common interests required by the constitution. The diversity of the social, cultural, economic, transportation, and geographic characteristics of the unorganized borough is

⁸⁹ "As used in this constitution, the terms 'by law' and 'by the legislature,' or variations of these terms, are used interchangeably when related to law-making powers." Art. XII, §11, Alaska Constitution.

remarkable. As currently configured, the existing unorganized borough contains an estimated 374,843 square miles – 57% of the total area of Alaska. It ranges in a non-contiguous manner from the southernmost tip of Alaska to approximately 150 miles above the Arctic Circle. This borough extends in a non-contiguous manner from the easternmost point in Alaska (at Hyder) to the westernmost point in Alaska at the tip of the Aleutian Islands.^{6V}

Viewed another way, in 2003 the unorganized borough included portions of each of Alaska's four judicial districts, a total of 11 entire census districts, portions of 10 State House election districts, all or portions of 6 State Senate election districts, 19 entire REAAs, all or portions of 10 of Alaska's 12 ANCSA regional Native corporations, 18 entire model boroughs and model-borough territory for five existing organized boroughs. "Clearly, the unorganized borough remains a vast area with extremely diverse interests rather than common interests as required by the constitution."^{6V}

The descriptions above clearly are not what the Alaska Constitution means when it refers to "boroughs, organized and unorganized" being established and classified by "population, geography, economy, transportation, and other factors" such that each of them "shall embrace an area and population with common interests to the maximum degree possible."

Nowhere is this unconstitutional inequity more flagrantly apparent than in AS 14.17.410(b)(2), the statutory provision requiring the unfunded mandate of a local contribution to public education from only municipal school districts while exempting approximately two-thirds of all citizens⁹⁰ in that singular, amorphous and diverse 374,843-square-mile remnant that has never been properly subdivided by the legislature in compliance with the Alaska Constitution. To whatever extent one tries to argue that the REAAs are

Nowhere is this unconstitutional inequity more flagrantly apparent than in AS 14.17.410(b)(2), the statutory provision requiring the unfunded mandate of a local contribution to public education from only municipal school districts while exempting approximately two-thirds of all citizens in that singular, amorphous and diverse 374,843-square-mile remnant that has never been properly subdivided by the legislature in compliance with the Alaska Constitution.

⁹⁰ Approximately one-third of the population of the unorganized borough resides in first-class/home-rule city school districts outside organized boroughs. *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra* at 20.

"classifications" with "powers and functions" in compliance with the Constitution, the response is that REAAs per se are not the operative unit for the exemption from the local-contribution requirement.⁹¹ Because all REAAs obtain the exemption without regard for ability to pay, the operative unit is the unorganized borough outside city school districts. If all REAAs are treated as an integrated singularity, without regard for whether they fall in an economically prosperous Group A or a distressed Group B, then the REAAs are treated as an unconstitutional, single unorganized borough. Essentially, what AS 14.17.410(b)(2) says is that everyone in the unconstitutionally singular unorganized borough is exempt, while everyone outside that singular unit must pay, without regard for socio-economic and cultural distinctions among the exempted entities and without regard for the socio-economic and cultural similarities between many of the exempted entities and many of the assessed municipal school districts. It is not enough to create classifications called REAAs, and then ignore their distinctions in the administration of a required local contribution to local public education.

Art. X, §1 of the Alaska Constitution calls for not only "maximum local self-government" but also "with a minimum of local government units." Addressing the greater economies of scale achieved by the formation of boroughs, the LBC stated,

[E]ach organized borough comprises a single school district. Yet the lone unorganized borough encompasses thirty-seven different school districts – more than twice the number in all organized boroughs combined. The unorganized borough has just thirteen percent of Alaska's population, yet it contains seventy percent of the school districts in the state. If the state were organized along the model borough boundaries defined by 3 AAC 110.990(9), the number of school districts servicing the area now within the unorganized borough would be reduced by more than 50%.^{cv}

The LBC noted that, based on 2001-02 enrollments, 35% of the school districts in the unorganized borough have fewer than 250 students, the threshold established in law for a new school district.^{cvii} One-third of these school districts in the unorganized borough obtained waivers for FY 2000 of the requirement that at least 65% of operating funds be budgeted for instruction.^{cviii}

⁹¹ Also, REAAs do not "embrace an area and population with common interests to the maximum degree possible," because REAAs exclude from their boundaries enclaves of home-rule/first class cities outside boroughs.

CHAPTER 8. Concluding Summary

While all 19 REAAs receive 100% of local public education funding from state and federal sources, all 34 municipal school districts are required by AS 14.17.410(b)(2) to make a local contribution amounting to the equivalent of 4 mills on a modified assessment of local property values (up to a maximum of 45 percent of basic need). Because all REAAs receive the exemption regardless of socio-economic or geographic characteristics, the operative effect is a widespread exemption across a huge, diverse and variegated statutory remnant called the "single unorganized borough," which in itself is an unconstitutional entity, and which includes some of the most prosperous regions of the State of Alaska. Because all municipal school districts must pay the local contribution, the operative effect is to assess many economically distressed boroughs and cities in Alaska.

The classifications of REAAs vs. municipal school districts are replete with erroneous stereotypes. They do not divide along rural and urban characteristics, or separate isolated fly-in regions from more accessible road-system transportation patterns. Six of Alaska's boroughs govern exclusively rural communities. Five REAAs are located in whole or part along the road systems of continental Alaska, while 11 city school districts and 11 boroughs are located in more isolated fly-in regions.

Neither classification as a whole manifests predominately Native Alaskan racial and cultural characteristics or predominately occidental cultural characteristics. Seven REAAs enroll less than 36% American Indians and Alaska Natives. Six REAAs show an enrollment of more than 50% White students. By contrast, seven municipal school districts enroll more than 63% Alaska Native students, and 12 municipal school districts have less than 25% White enrollment. Five boroughs are predominately Alaska Natives, and 72 of 223 Alaska villages recognized by the BIA are located within the municipal school districts of organized boroughs.

They do not divide subsistence economies from cash economies, or economically distressed from economically non-distressed regions. Five municipal school districts – two boroughs and three cities outside boroughs – are 100% economically distressed, according to the Denali Report, yet they must make the 4-mill equivalent local contribution to local education while four REAAs that are 100% "non-distressed" enjoy the windfall of full state and federal funding of their local public education. All REAAs and municipal school districts between these two extremes are an intermingled hodge-podge

[T]he operative effect is a widespread exemption across a huge, diverse and variegated statutory remnant called the "single unorganized borough," which in itself is an unconstitutional entity, and which includes some of the most prosperous regions of the State of Alaska.

with no distinguishing economic characteristics following their arbitrary REAA vs. municipal-school-district classifications.

Local enrollment numbers, school-size factors and differing local cost factors also do not explain the classifications of all REAAs vs. all municipal school districts. School districts of virtually identical size and cost factors appear on both sides of the arbitrary divide created by the two classifications.

Municipal school districts share nothing in common but the fact that they incorporated a local or regional government at some time in the past – many unwillingly, as a result of mandatory state legislation carrying the broken promise that they would not be penalized later.

The classifications do not bifurcate taxable private property ownership from encumbered property ownership immune from a 4-mill levy. The Alaska Local Boundary Commission and the State Assessor estimated that the value of the total 2001 taxable property in eight unorganized areas outside city school districts (i.e., only within REAAs) was \$454 million excluding the value of oil and gas properties, and \$1.8 billion if values of oil and gas properties were included.

REAAs share nothing in common among themselves but the fact that they are in the “single unorganized borough.” Municipal school districts share nothing in common but the fact that they incorporated a local or regional government at some time in the past – many unwillingly, as a result of mandatory state legislation carrying the broken promise that they would not be penalized later.

Today, in 2012, seven of 19 REAAs continue to receive full state aid to local public education without contributing a dime locally, despite their population size and stability, their highly developed transportation and communications patterns, their economic ability to contribute, their regional dissimilarities from other

economically distressed REAAs and other distressed municipal school districts, and the broad statewide public interest deriving from maximizing local government with the least number of units, where the number of school districts in these regions would drop from 14 to seven and where precious state funding of public education could be allocated to other, more needy regions of the state.

Whether or not the formulae and classifications for state funding of local education were ever rational and relevant to meaningful school-district characteristics, they clearly are irrational and obsolete today. Grouping *all* REAAs for an exemption and *all* municipal school districts for a local assessment creates overly broad classifications founded in erroneous stereotypes that bear no fair and substantial relationship to the underlying purpose of funding statewide education.

ENDNOTES

ⁱ The author, Robert Eldridge Hicks, has practiced law in Alaska for over 40 years. Immediately after his 1971 graduation from the Harvard Law School, Mr. Hicks came to Juneau as a Supreme Court law clerk first to Justice John Dimond and then to Justice Robert Boochever. He was appointed the first Executive Director of the Alaska Judicial Council in 1973, conducting many studies of bush justice in Alaska until 1975 when he entered the private practice of law in Anchorage. During his many decades in private practice, Mr. Hicks specialized in municipal law and education law with clients throughout the State, serving at various times as the city attorney for Nome, Bethel, Dillingham, Unalaska, Seldovia, Emmonak and Kotlik, as special counsel to the North Slope Borough Assembly, and as legal counsel to the Nome City School District, the Delta-Greely REAA, the Alaska Gateway REAA and the Craig City School District. Mr. Hicks was retained by the Alaska Local Boundary Commission in 1987-88 to perform a comprehensive rewrite of its regulations. On numerous occasions, the Local Boundary Commission has invited him to conduct seminars for newly appointed commissioners. He also has served as a commissioner and as vice-chair of the Local Boundary Commission.

ⁱⁱ AS 29.35.160 and 14.12.010(2).

ⁱⁱⁱ AS 29.35.260(b) and AS 14.12.010.

^{iv} AS 14.17.410(b)(2).

^v AS 14.17.410(d).

^{vi} *Unorganized Areas of Alaska that Meet Borough Incorporation Standards*, *supra* at footnote 7.

^{vii} Art. VII, §1, Alaska Constitution.

^{viii} Case No. 3AN-97-3782 (1999).

^{ix} *Alaska Attorney General Opinion Letter*, May 18, 2010 at 2.

^x *Unorganized Areas of Alaska that Meet Borough Incorporation Standards*, *supra* at 27.

^{xi} See, Appendix C and Section 1 of Ch. 52, SLA 1963.

^{xii} *Unorganized Areas of Alaska That Meet Borough Incorporation Standards*, *supra* at 28.

^{xiii} *Matanuska-Susitna Borough School District et al. v. State of Alaska et al.*, 931 P.2d 391 (Alaska 1997).

^{xiv} *Id.* at 400, n 13.

^{xv} Denali Commission, *Distressed Community Criteria 2010 Update*, May 2010 at p. 2.

^{xvi} *Id.* at 1-2.

^{xvii} *Id.* at 12-13.

^{xviii} Denali Commission, *Distressed Community Criteria, 2010 Update*, *supra* at 33.

^{xix} *Id.* at 33.

^{xx} AS 44.33.810.

^{xxi} AS 29.05.090--100.

^{xxii} AS 29.06.120--130.

^{xxiii} AS 29.06.120--130.

^{xxiv} AS 29.06.490--500.

^{xxv} AS 44.33.812(a)(1).

^{xxvi} AS 44.33.812 and AS 29.06.040(c).

^{xxvii} Art. X, §12, Alaska Constitution, AS 44.33.812(b)(2) and AS 29.06.040(a).

^{xxviii} AS 29.05.110(a).

^{xxix} 52 SLA 1963, §1.

^{xxx} *Unorganized Areas of Alaska That Meet Borough Incorporation Standards*, *supra* at 19 and n. 10.

^{xxxi} *Local Boundary Commission Statement of Decision*, April 12, 2007, at 18.

^{xxxii} *Id.* at 16.

^{xxxiii} *Final Report to the Local Boundary Commission on the Deltana Borough Incorporation*, Feb. 2007 at 16.

^{xxxiv} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation*, *supra* at p. 82.

^{xxxv} *Local Boundary Commission Statement of Decision*, *supra* at 2.

^{xxxvi} AS 29.05.031 and .100(a).

^{xxxvii} 3 AAC 110.050(a).

^{xxxviii} 3 AAC 110.060(e).

^{xxxix} 3 AAC 110.060(a).

^{xi} Art. X, §§1 & 3, Alaska Constitution; 3 AAC 110.045(a).

^{xii} 3 AAC 110.060(a).

^{xiii} 3 AAC 110.060(b) and (c).

^{xlii} 3 AAC 110.045(c).

^{xliii} 3 AAC 110.900.

^{xliiii} 3 AAC 110.055.

^{xliiii} 3 AAC 110.910.

^{xvii} 3 AAC 110.065.

^{xviii} Art. I, §1 and Art. X §§1, 3 and 12, Alaska Constitution; AS 29.05.031 and .100; 3 AAC 110.045 – .065 and 110.900 – .990; and 42 USC §1973.

^{xix} *Preliminary Report to the LBC on the Deltana Borough Incorporation, supra* at 93.

ⁱ *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 48.

ⁱⁱ *Local Boundary Commission Statement of Decision, supra* at 15.

ⁱⁱⁱ *Id.* at 23.

ⁱⁱⁱⁱ *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 38.

^{lv} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 86.

^{lv} *Id.* at 75-77.

^{lvi} *Id.* at 88, Table 2-13.

^{lvii} *Id.* at 88, Table 2-14.

^{lviii} *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 42.

^{lix} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 69.

^{lx} *Local Boundary Commission Statement of Decision, supra* at 38.

^{lxi} "Memorandum In Opposition to Appellant's Supplemental Motion for Preliminary Injunction to Stay the Election of the Deltana Borough," *Murphy et al. v. Local Boundary Comm.*, Case No. 4FA-07-01738 CI, July 26, 2007 at 9.

^{lxii} *Id.* at 8.

^{lxiii} *Local Boundary Commission Statement of Decision, supra* at 34-35 and 37.

^{lxiv} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 60.

^{lxv} *Id.* at 71, Table 2-4.

^{lxvi} *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 44.

^{lxvii} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 75.

^{lxviii} *Final Report to the Local Boundary Commission Regarding the Deltana Borough Proposal, supra* at 11.

^{lxix} AS 29.05.130-.140.

^{lxx} AS 14.17.410(e).

^{lxxi} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra* at 68.

^{lxix} *LBC Statement of Decision Regarding Deltana Borough Incorporation, supra at 42; Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra at 18.*

^{lxxii} *Preliminary Report to the Local Boundary Commission on the Deltana Borough Incorporation, supra at 20.*

^{lxxiv} *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra.*

^{lxxv} *Id.* at 3.

^{lxxvi} *Id.* at 35-90.

^{lxxvii} AS 29.05.130-140.

^{lxxviii} AS 14.17.410(e).

^{lxxx} *Unorganized Areas of Alaska that Meet Borough Incorporation Standards, supra at 109 and Chart 3-B.*

^{lxxx} *Id.* at 112-130.

^{lxxxi} *Id.* at 130-31 and Table 3-21.

^{lxxxii} AS 29.35.150.

^{lxxxiii} *Unorganized Areas of Alaska that Meet Borough Incorporation Standards, supra at 109, Chart 3-B.*

^{lxxxiv} *Id.* at 131, Table 3-21.

^{lxxxv} *Id.* at 109, Chart 3-B.

^{lxxxvi} *Id.* at 131, Table 3-21.

^{lxxxvii} *Id.* at 109, Chart 3-B.

^{lxxxviii} *Id.* at 131, Table 3-21.

^{lxxxix} *Id.* at 109, Chart 3-B.

^{xc} *Id.* at 131, Table 3-21.

^{xc} *Id.* at 109, Chart 3-B.

^{xcii} *Id.* at 131, Table 3-21.

^{xciii} *Id.* at 109, Chart 3-B.

^{xciv} *Id.* at 131, Table 3-21.

^{xcv} *Id.* at 109, Chart 3-B.

^{xcvi} *Id.* at 131, Table 3-21.

^{xcvii} *The Need to Reform State Laws Concerning Borough Incorporation and Annexation, Local Boundary Commission, Jan. 2001 at p. 3.*

^{xcviii} *Preliminary Report to the LBC on the Delta Borough Incorporation, supra* at 26.

^{xcix} 83% of Alaskans live in boroughs that were formed under the 1963 Mandatory Borough Act and 13% of Alaskans live in the unorganized borough. *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra* at 28.

^c *Matanuska-Susitna Borough School District et al. v. State of Alaska et al.*, 931 P.2d 391, 400 n. 13 (Alaska 1997).

^{ci} Jay Hammond, *Tales of a Bush Rat Governor* at 149.

^{cii} *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra* at 4.

^{ciii} AS 29.03.010.

^{civ} *Unorganized Areas of Alaska That Meet Borough Incorporation Standards, supra* at 19.

^{cv} *Id.*, at 64.

^{cvi} *Id.*, 22.

^{cvi} *Id.* See, AS 14.12.410.

^{cvi} *Id.*

APPENDIX H

DEED PROJECTIONS FOR FY 2011: "BASIC NEED"; ADM ADJUSTED FOR COST; AND LOCAL CONTRIBUTIONS

REAA	BASIC NEED (Millions of Dollars)	ADM Adjusted for Local Cost Factor	MUNI SCHOOL DISTRICT	REQUIRED LOCAL CONTRIBUTION (Millions of Dollars)
	420.0	53,099.02	Municipality of Anchorage	101.60
	153.0	18,541.13	Mat-Su Borough	23.80
	146.0	17,336.75	Fairbanks No. Star Borough	28.00
	91.0	11,694.10	Kenai Peninsula Borough	24.40
Lower Kuskokwim REAA	69.4	9,580.79		0.00
	51.0	6,207.00	Juneau Borough	13.70
Lower Yukon REAA	36.5	5,192.77		0
Bering Strait REAA	35.5	5,032.40		0
	33.8	4,703.74	Northwest Arctic Borough	2.10
	28.5	3,833.78	Kodiak Island Borough	4.50
	26.6	3,812.31	North Slope Borough	11.40
	22.5	3,024.76	Ketchikan Gateway Borough	5.40
	19.0	527.95	City of Galena	0.10
	14.8	1,806.78	Sitka Borough	3.60
Southwest Region REAA	12.7	1,766.14		0
Yukon/Koyukuk REAA	12.3	1,004.94		0
Delta Greely REAA	10.4	1,302.82		0
	9.7	1,394.00	Lake and Peninsula Borough	0.29
	9.3	1,295.67	City of Nome	1.00
Yupiat REAA	8.7	1,249.38		0
Yukon Flats REAA	7.6	1,064.32		0
Kuspuk REAA	7.5	1,075.35		0
	7.4	992.34	City of Valdez	3.30
Copper River REAA	7.4	994.60		0
	6.8	863.21	City of Petersburg	1.20
Alaska Gateway REAA	6.6	895.72		0
	6.5	418.45	City of Nenana	0.09
	6.4	924.06	Aleutians East Borough	0.50
	6.1	841.35	City of Oillingham	0.65
	5.7	522.34	City of Craig	0.42
	5.4	780.64	City of Unalaska	1.70
Iditarod Area REAA	5.1	683.05		0
Kashunamiut REAA	5.0	696.04		0
	4.7	536.28	Denali Borough	0.70
	4.6	615.59	City of Cordova	0.78
Southeast Island REAA	4.3	595.23		0
	4.3	517.26	Wrangell City and Borough	0.67
	4.1	499.84	Haines Borough	1.00
Annette Island REAA	3.7	513.59		0
	3.2	431.71	City of St. Mary's	0.03
Chatham REAA	3.1	417.17		0
	2.7	372.92	Bristol Bay Borough	0.90
Chugach REAA	2.2	195.60		0
	2.0	254.81	City of Hoonah	0.19
	2.0	263.24	City of Klawock	0.17
Pribolof Islands REAA	1.9	283.15		0
	1.6	241.33	Yakutat Borough	0.22
Aleutians Region REAA	1.5	207.35		0
	1.5	191.25	City of Kake	0.09
	1.3	164.49	Skagway Borough	0.70
	1.1	152.13	City of Hydaburg	0.04
	1.1	145.37	City of Tanana	0.03
	0.4	56.71	City of Pelican	0.05

From: Dan Bockhorst [mailto:danb@kqbak.us]
To: Mayor and Assembly (Open Meetings Act format) [mailto:danb@kqbak.us]
Cc: Kacie Paxton [mailto:kaciep@kqbak.us], 'Deanna Garrison' [mailto:deannag@kqbak.us], Scott Brandt- Erichsen [mailto:scottb@kqbak.us]
Sent: Fri, 17 Jan 2014 13:02:42 -0900
Subject: Fairbanks School Officials Express Caution About KGB Lawsuit

Mayor and Assembly Members:

Attached is an article that appears in today's *Fairbanks Daily News-Miner*. The article carries the headline "Fairbanks district officials cautious about Ketchikan funding lawsuit," and focuses on concerns that Fairbanks school district officials have expressed about our lawsuit.

There are four points in the article that warrant comment here to foster a better understanding of the complex issue.

Issue # 1: "[Superintendent] Lewis responded hesitantly to the news that Ketchikan had filed its lawsuit this week, saying that neither a win nor a loss would signal a definite change in funding to municipal districts like FNSBSD."

Superintendent Lewis is correct; the FNSBSD will receive Basic Need funding regardless of whether the KGB wins or loses the lawsuit. As noted in the article, it is a question who will pay that Basic Need funding. As the reporter, Weston Morrow, states "it's possible the biggest change — to the district — would simply be who pays that portion of its bill." There is nothing "simple" about the prospective changes — especially not in terms of the fiscal impact to the affected municipalities and the State of Alaska.

This is not a new issue, we found those same views expressed by other school district officials and officials from our own district in prior years. It may not matter to school districts who pays the bill. However, it certainly should matter to the FNSB and to the FNSB taxpayers. Currently, the FNSB is paying \$26,940,883 (17.8%) of the FNSBSD's estimated FY 2014 Basic Need of \$151,471,514. If the lawsuit is successful, the FNSB will no longer have to pay that amount.

Issue #2: "[Superintendent] Lewis expressed concern about how such a large cost increase to the state might further increase the legislature's frenetic move to curtail education spending."

It is important to note that Superintendent Lewis expresses the belief that the legislature is already engaged in a "frenetic move to curtail education spending."

It is not difficult, therefore, to reach the conclusion — as I have expressed previously — that the most politically expedient means of cutting the State's cost of education funding without cutting education funding itself, is to increase the required local contribution of the 34 municipal governments that operate school districts.

Issue #3: "The state is expected to pay \$1.4 billion in basic need to districts in 2014."

This statement reflects a fundamental misunderstanding of education funding. It overstates the cost to the State of Alaska by 25.8 percent.

While FY 2014 Basic Need is projected to be \$1,405,643,065, it is also projected that the State will pay "only" \$1,116,945,938 of that, not the entire \$1.4 billion.

Issue #4: "[Superintendent] Lewis also raised the concern that some municipalities might elect to not spend additional taxpayer money on education if the required local contribution were removed. For FNSB schools, that would mean a loss of \$22 million."

The Fairbanks North Star Borough and all municipal governments that operate schools are strictly limited by State law (which is imposed to enforce federal disparity limits) as to how much supplemental aid municipalities can provide their respective districts - i.e., "the cap."

For FY 2014, the FNSB limit on supplemental funding is \$34,838,448. The FNSB budgeted \$21,419,117 in supplemental funding for its district in FY 2014, leaving a margin of \$13,419,331 in supplemental funding under the cap. Thus, by law, the FNSB cannot provide more than an additional \$13,419,331 to its district. If the FNSB saved \$26,940,883 through the elimination of the required local contribution, it would be prohibited by law from providing all of that savings to its district. However, the FNSB could much more easily provide the \$13,419,331 to fully fund its district "to the cap." The difference of \$13,521,552 (\$26,940,883 minus additional \$13,419,331) could be used for taxpayer relief or for other essential local services.

This circumstance doesn't mean that the School District would "lose" \$13,521,552 as might be suggested by the article. In this example, the District would gain \$13.4 million while taxpayers would gain a virtually equal share. The same circumstance would exist here in Ketchikan.

Dan



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Office of the Borough Manager



Written Testimony before the House Judiciary Committee in Support of HB 245, Repealing the Required Local Contribution to School Funding

Dan Bockhorst, Borough Manager, Ketchikan Gateway Borough
February 24, 2014

PART I – DETERMINING “BASIC NEED”

A. “Basic Need” Formula is Complex, but Fair and Rational

Comprised of 7 pages, Alaska’s Basic Need formula is complicated. However, it has been carefully crafted and is logical. It has served well for the past 16 years, with improvements over time in some areas such as the implementation of new district cost factors beginning in FY 2009 and periodic increases to the base student allocation.

Last year, Allan C. Lewis, Chief Administrative Law Judge for the U.S. Department of Education, noted that Alaska’s formula “in a state so large and diverse” reflects “the disparate cost of education across the state so that the resulting figure represents the cost of educating one student (in aggregate) in each district, irrespective of the cost factors facing that district.”¹

Alaska Superior Court Judge Sharon Gleason has held that, “the current formula was carefully considered and represents a rational approach to educational funding.”²

Basic Need takes into consideration seven components for each district: (1) student enrollment (“average daily membership”); (2) school size adjustment to reflect economies of scale; (3) district cost factor to adjust for higher operating costs relative to Anchorage; (4) funding for special education, gifted and talented education, vocational education, and bilingual education services; (5) vocational and technical instruction; (6) correspondence students; and (7) funding for special education students who receive intensive services.

To illustrate, the projected FY 2014 Basic Need for the Ketchikan Gateway Borough School District is depicted in Figure 1.

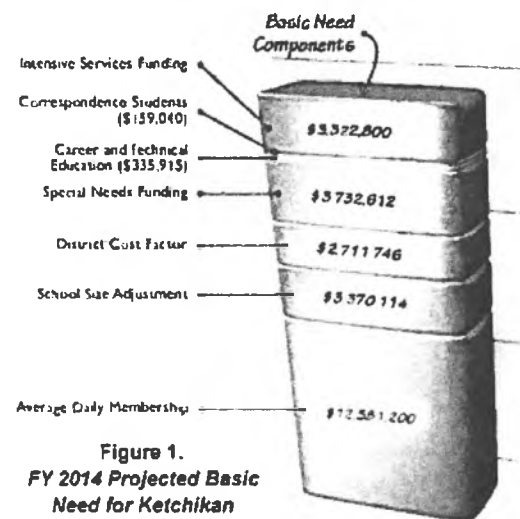


Figure 1.
FY 2014 Projected Basic
Need for Ketchikan
(\$26,213,427)

B. Basic Need Formula Provides Equal Treatment and Equal Opportunities for All Districts

The Alaska Department of Education and Early Development emphasizes that “all districts are considered equal at basic need.”³ That is, Basic Need equalizes expenditures for free public education among all school districts in Alaska, a critical standard in terms of Federal Impact Aid (see Part II-C below).

¹ Docket No. 11-61-I, Federal Impact Aid Proceeding, page 10 (January 2013).

² *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, page 182 (June 21, 2007).

Basic Need ranges from as little as \$5,241 per student in one district to as much as \$48,449 per student in another district. That disparate per-student funding is a function of the enormous diversity recognized last year by Judge Allan C. Lewis with regard to Alaska's 53 school districts encompassing 665,384 square miles.

The scope of diversity is reflected, for example, in numbers of students served. One district educates only 15 students, while Alaska's most populous district serves nearly 50,000 students. Clearly, the economies of scale in providing educational services in those two districts are significantly different. Moreover, district cost factors range from a low of 1.000 to 2.116, reflecting the fact that the cost of delivering educational services in some remote districts is more than twice that of other districts. Diversity is also reflected in geographic size: a number of districts are tiny – less than 1 square mile – while Alaska's largest district encompasses 94,796 square miles, an area larger than 40 of the 50 states in our nation.

C. Basic Need Formula Represents Adequate Funding for Schools

The University of Alaska, Institute of Social and Economic Research, describes Basic Need as “. . . the dollar amount which the state determines is sufficient to provide the Alaska schoolchild with acceptable educational services wherever he or she lives.”⁴

The Alaska Department of Education and Early Development states that Basic Need “provides all districts with needed resources based on the various formula adjustments.”⁵

Superior Court Judge Sharon Gleason concluded in 2007 that “The State has proven by a preponderance of the evidence that it is adequately funding education for school children within the State of Alaska.”⁶

PART II – FUNDING OF BASIC NEED

A. Formula for Funding Basic Need is Simple, but Unfair

AS 14.17.410(b)(1) provides that “state aid equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year.”

Because of the Required Local Contribution component, the formula for funding Basic Need is unfair. Information in support of that contention is provided in Part II-B and elsewhere in this written testimony.

Figure 2. Basic Need Funding Formula

State Basic Need Funding Formula
Required Local Contribution
Plus: 90% Federal Impact Aid
Plus: State Aid
Equals: Basic Need

³ *Alaska's Public School Funding Formula: A Report to the Alaska State Legislature*, (January 15, 2001)

⁴ *"Alaska" in Public School Finance Programs for the United States and Canada: 1998-99* (February 2001)

⁵ *Alaska's Public School Funding Formula: A Report to the Alaska State Legislature*, (January 15, 2001)

⁶ *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, page 141 (June 21, 2007).

B. The Required Local "Contribution" is Applied to only 34 of 53 School Districts in Alaska – Less than Two of Every Three – Thus Significantly Diminishing Equal Rights and Opportunities, as well as Corresponding Obligations, of those in Municipal Districts

Alaska's 19 organized boroughs, 3 home-rule cities in the unorganized borough, and 12 first-class cities in the unorganized borough are required by State law to operate school districts. Additionally, the State has established 19 State educational service areas, called regional educational attendance areas (REAs), to provide education services in the remainder of the state.

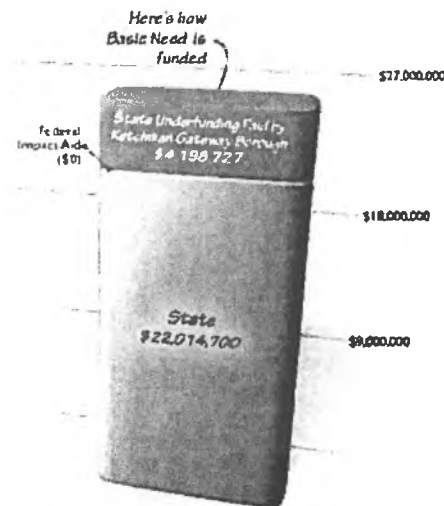


Figure 3. FY 2014 Basic Need Funding for the Ketchikan Gateway Borough

The 34 boroughs and cities that operate schools are also required by State law to pay a so-called "contribution" to fund a portion of Basic Need for their respective districts. The 19 REAs are exempt from any such Required Local Contribution.

The Required Local Contribution is the equivalent of a 2.65 mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, not to exceed 45 percent of a district's basic need for the preceding fiscal year.

In the current fiscal year, the 34 boroughs and cities will be forced to contribute \$221,558,397 toward Basic Need for their districts. That represents an average of 19.3 percent of the Basic Need for those districts. Exhibit A included with this written testimony shows the FY 2014 Required Local Contribution of each school district in Alaska.

C. Federal Impact Aid Treatment is Guided by Federal Law

Federal Impact Aid is intended to assist local school districts that have lost property tax revenue due to tax-exempt Federal property, or that have incurred increased costs due to the enrollment of federally connected students. The U.S. Department of Education describes the program as follows:

Many local school districts across the United States include within their boundaries parcels of land that are owned by the Federal Government or that have been removed from the local tax rolls by the Federal Government, including Indian lands. These school districts face special challenges — they must provide a quality education to the children living on the Indian and other Federal lands and meet the requirements of the No Child Left Behind Act, while sometimes operating with less local revenue than is available to other school districts, because the Federal property is exempt from local property taxes.

Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program. Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt Federal property, or that have

experienced increased expenditures due to the enrollment of federally connected children, including children living on Indian lands.⁷

However, if a state holds school districts harmless from lost property tax revenue and increased costs due to enrollment of federally connected students, that state is permitted to consider Federal Impact Aid in providing state aid to those districts. Specifically, federal law states:

A State may reduce State aid to a local educational agency that receives [Federal Impact Aid] . . . if the Secretary determines, and certifies . . . that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.⁸

Alaska is one of only three states that meet the federal requirements to utilize Federal Impact Aid to reduce state aid.⁹

Since the Secretary of the U.S. Department of Education certifies that Alaska has a program of State aid that equalizes expenditures for free public education among local school districts, the State of Alaska is allowed to deduct "eligible federal impact aid"¹⁰

funding in proportion to the share that a district's Required Local Contribution is of the total local tax revenues for that district. In cases where there are no local tax revenues for current expenditures and the State provides all revenues on behalf of a district – as is the case for all REAAs – the State may consider up to 100 percent of the eligible federal impact aid in allocating State aid to that district. Determinations of proportionality must be made on a case-by-case basis for each district.

Alaska is one of only three states that meet the federal requirements to utilize Federal Impact Aid to reduce state aid.

Specifically, 34 CFR 222.163 states as follows:

§ 222.163 What proportion of Impact Aid funds may a State take into consideration upon certification?

(a) Provision of law. Section 8009(d)(1)(B) provides that, upon certification by the Secretary, in allocating State aid a State may consider as local resources funds received under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81-874 only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues. Determinations of proportionality must be

⁷ U.S. Department of Education, Office of Elementary and Secondary Education, *About Impact Aid – Overview* (<<http://www2.ed.gov/about/offices/list/oes/impactaid/whatisia.html>>)

⁸ Title VIII of the Elementary and Secondary Education Act of 1965, as amended through January 29, 2013, SEC. 8001. [20 U.S.C. 7701]

⁹ *Impact Aid*, National Association of Federally Impacted Schools, page 6 (March 13, 2013) (<<https://pta.org/files/PTA%20Impact%20Aid.pdf>>)

¹⁰ AS 14.17.990(5) provides that, " 'eligible federal impact aid' means the amount of federal impact aid received by a district as of March 1 of the fiscal year as a result of an application submitted in the preceding fiscal year, including advance payments and adjustments received since March 1 of the preceding fiscal year from prior year applications, under 20 U.S.C. 7701 - 7714, except payments received under former 20 U.S.C. 7703(f)(2)(B), to the extent the state may consider that aid as local resources under federal law."

made on a case-by-case basis for each LEA affected and not on the basis of a general rule to be applied throughout a State. (Authority: 20 U.S.C. 7709)

(b) Computation of proportion.

(1) In computing the share that local tax revenues covered under a State equalization program are of total local tax revenues for an LEA with respect to a program qualifying under § 222.162, the proportion is obtained by dividing the amount of local tax revenues covered under the equalization program by the total local tax revenues attributable to current expenditures for free public education within that LEA.

In cases where there are no local tax revenues for current expenditures and the State provides all of those revenues on behalf of the [school district], the State may consider up to 100 percent of the funds received under the Act by that [school district] in allocating State aid.

34 CFR 222.163(b)(2)

(2) In cases where there are no local tax revenues for current expenditures and the State provides all of those revenues on behalf of the LEA, the State may consider up to 100 percent of the funds received under the Act by that LEA in allocating State aid. (Authority: 20 U.S.C. 7709(d)(1)(B))

(c) Application of proportion to Impact Aid payments. Except as provided in § 222.161(a)(1)(ii) and (iii), the proportion established under this section (or a lesser proportion) for any LEA receiving payments under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81-874 may be applied by a State to actual receipts of those payments or payments under Pub. L. 81-874. (Authority: 20 U.S.C. 7709(d)(1)(B))

Projections indicate that 42 of Alaska's 53 school districts will qualify for \$97,934,221 in Federal Impact Aid in FY 2014.¹¹ Projected FY 2014 Federal Impact Aid payments for Alaska are summarized in Table 1 below.

Type of District	Number of Districts that Qualify	Impact Aid Generated	Local Contributions	Impact Aid that may be Applied Under Federal Law to Basic Need as Determined by Local Contributions	Amount Actually Applied to Basic Need
REAs	18 of 19	\$51,972,108	\$0	\$51,972,108	\$46,774,897
Boroughs	12 of 19	\$43,287,975	\$445,103,406	\$20,496,575	\$18,446,920
Cities	12 of 15	\$2,674,138	\$19,949,031	\$1,266,239	\$1,139,614
Total	42 of 53	\$97,934,221	\$465,052,437	\$73,734,922	\$66,361,431

Details regarding FY 2014 Federal Impact Aid for each district are provided in Exhibit B attached to this written testimony.

¹¹ FY 2014 Foundation Projections, Alaska Department of Education and Early Development (November 15, 2012). Excluded from that figure is the State-operated boarding school at Mount Edgecumbe, which is not a school district.

PART III – MATANUSKA-SUSITNA BOROUGH V. STATE, 931 P.2d 391 (ALASKA 1997)

On February 10, 2014, the Alaska State House Education Committee heard HB 245 for the second time. At that second hearing, testimony was provided by Assistant Attorney General Rebecca Hattan regarding the unsuccessful challenge to the Required Local Contribution made by the Matanuska-Susitna Borough and decided by the Alaska Supreme Court in 1997. Aspects of that testimony and the case are addressed here.

A. Does the 1997 *Mat-Su* Case have “Significant Weight” on HB 245 Issues; did the Court Find that Required Local Contribution is a “Reasonable Way” to Deal with Lack of Required Contribution in REAAs; and why doesn’t Ketchikan’s Lawsuit Allege Equal Protection Violations?

Assistant Attorney General Rebecca Hattan testified, in part, as follows on February 10:

I wanted to draw the committee’s attention to a 1997 decision by the Alaska Supreme Court that I think has significant weight on the issues in front of you today. The case is *Mat-Su Borough v. State* and it was an equal protection challenge brought by the Mat-Su Borough as well as a class of individual taxpayers challenging the issue that Representative LeDoux just mentioned.

The allegations brought in that suit were that the disparate treatment of REAAs versus municipal school districts violated the equal protection rights of both the Borough and the individual taxpayers. And I just wanted to draw the Committee’s attention to the result in that case: the State won that case and the decision rendered by the Alaska Supreme Court done in 1997 was that the Required Local Contribution was a reasonable way of dealing with the reality that the REAAs are unable to levy property taxes.

So that sort of equal protection challenge was decided some time ago by our Supreme Court. And just for clarification, I understand the City and Borough of Ketchikan has spoken a lot in public and expressed their displeasure with the *Mat-Su* decision and have expressed their opinion that it is wrongly decided, but I want to clarify that the current, the newly filed lawsuit by the City and Borough of Ketchikan – I’m sorry, not the City, I think they would want me to clarify that, just the Borough of Ketchikan, does not allege that the State has violated anyone’s equal protection rights. That is not the claim made in that lawsuit; I just wanted to make that clear. Thank you. (Emphasis added)

Comments regarding AAG Hattan’s Testimony:

(1) Does *Mat-Su* have Significant Weight on HB 245 Issues?

The testimony on February 10 might have given some the impression that HB 245 conflicts with the *Mat-Su* decision or that HB 245 lacks merit because of the *Mat-Su* case. That is not so.

HB 245 is certainly a viable choice under the *Mat-Su* decision. However, *the current system is not viable in view of the prohibition on dedicated taxes and other constitutional issues* raised in the Ketchikan Gateway Borough’s pending lawsuit.

While the Court ruled against the Matanuska-Susitna Borough, Justices Matthews and Rabinowitz stated that “any available remedy must be pursued through majoritarian processes rather than through the courts” – this is precisely what HB 245 seeks to accomplish.

The *Mat-Su* decision neither backs nor goes against HB 245. The Court said that it was up to the legislature to choose an appropriate policy. HB 245 is certainly a viable choice under the *Mat-Su* decision. However, the *current system is not viable in view of the prohibition on dedicated taxes and other constitutional issues raised in the Ketchikan Gateway Borough’s pending lawsuit.*

(2) Did the Court Find that the Required Local Contribution is a “Reasonable Way” to Deal with Lack of Required Contribution from REAAs?

Was it accurate to have characterized the *Mat-Su* Court as concluding that “the Required Local Contribution was a reasonable way of dealing with the reality that the REAAs are unable to levy property taxes?” The two justices that dealt with that question – Justices Compton and Eastaugh – actually concluded that while the disparate taxation was permissible, it “may not have been ... most protective of taxing equality.” In other words, it was held to be legal, but may not have been the fairest approach. Specifically, Justices Compton and Eastaugh concluded as follows:

In order to meet its goal of ensuring equitable educational opportunity across the state, the legislature had to find some means of accommodating the fact that REAAs cannot raise taxes on their own. The means it chose may not have been those most protective of taxing equality, but they do bear a substantial relationship to the goals of the legislation. The classifications relied upon meet the minimal requirement that they “rest upon some ground of difference having a fair and substantial relation to the object of the legislation.” (emphasis added)

Moreover, in reaching the conclusion that it was permissible to exempt *some* classes of students, taxpayers, parents, and residents from a Required Local Contribution while imposing that burden on *other* classes of students, taxpayers, parents, and residents, Justices Compton and Eastaugh considered the purpose of the public school

“The means it chose may not have been those most protective of taxing equality.”

Compton, Justice, Alaska Supreme Court
Robert Ladd Eastaugh, Justice, Alaska Supreme Court

foundation program stated in AS 14.17.220. That law declared that the purpose was “to assure an equitable level of educational opportunities for those in attendance in the public schools of the state.” In his exhaustive analysis¹² of the *Mat-Su* case for the Ketchikan Gateway Borough, Robert Hicks noted:

But the question before the court was not whether the statutory section containing a self-serving “stated purpose” of the entire chapter of laws, AS 14.17, was enough to make that entire chapter and everything in it “legitimate.” The question before the court was whether one small subsection, AS 14.17.410(b)(2) was “legitimate.”¹³

¹² *Local Contributions to Public Education in Alaska: A Report to the Ketchikan Gateway Borough Assembly, Volume II: Analyses of the Legal Issues*, Robert Eldridge Hicks, pages 14 - 67 (June 2013).

¹³ *Id.*, page 51.

Finally, it is noteworthy that in the year following the *Mat-Su* decision, the legislature repealed the purpose-statement in AS 14.17.220 that was applied by the Supreme Court in determining the legitimacy of the Required Local Contribution. (*Sec. 39 ch 83 SLA 1998*)

(3) Why Doesn't Ketchikan's Lawsuit Pursue Equal Protection Violation Claims?

It is correct that the Ketchikan Gateway Borough's pending lawsuit doesn't raise equal protection claims. However, that doesn't mean that the Ketchikan Gateway Borough isn't concerned over equal protection issues relating to the Required Local Contribution. In fact, it would be fair to say that Ketchikan's lawsuit is motivated by equal protection concerns.

There are three fundamental and closely connected reasons why Ketchikan's lawsuit doesn't include equal protection claims. In brief, these are: (1) equal protection claims would require a major effort to distinguish or overturn precedents that would bear on equal protection claims; (2) distinguishing or overturning precedents would add significantly to the cost of litigation; and (3) the three claims pursued by the Borough are compelling by themselves.

In his legal review, Robert Hicks concluded that the *Mat-Su* case is a "weak and vulnerable 'precedent' in the common law."¹⁴ Moreover, Mr. Hicks expressed the view with respect to the *Kenai Peninsula Borough* case (establishing the precedent that municipal governments lack constitutional equal protection rights) that important Alaska constitutional history was overlooked. Mr. Hicks concluded that the constitutional history that should have been considered probably warranted following an entirely different line of earlier decisions by entirely different state courts than those courts cited as authority for the determination in the *Kenai Peninsula Borough* case.

Notwithstanding the potential that the precedents involving equal protection issues relating to the Required Local Contribution might be overturned or distinguished, the effort to do so would add complexity to the case. In preparing its contemporary litigation plan, the Borough recognized that to attempt to distinguish a contemporary lawsuit involving equal protection issues from the *Mat-Su* and *Kenai Peninsula Borough* cases would have added significantly to the cost of the lawsuit. Lastly, the constitutional claims raised by the Borough in its pending litigation – namely that the Required Local Contribution violates: (1) the Anti-Dedication Clause in Article IX, § 7 of our constitution; (2) the appropriation requirement of Article IX, § 13; and (3) the Governor's veto requirement of Article II, § 15 – are compelling arguments.

B. Does Alaska's Education Funding Scheme Truly Provide Equal Treatment and Equal Opportunities?

During the testimony by Assistant Attorney General Hattan, House Education Committee Vice-Chair Representative Reinbold, Representative LeDoux, and Representative Peggy Wilson pursued a line of questions whether the current Required Local Contribution is fair and good public policy.

Representative Peggy Wilson noted that there are REAAs that have a tax base but that the State isn't "asking them to do anything about that." She asked whether that exposes the State to claims.

¹⁴ *Local Contributions to Public Education in Alaska: A Report to the Ketchikan Gateway Borough Assembly – Volume II: Analyses of the Legal Issues*, page 2, by Robert Eldridge Hicks (June 2013) available online at <http://www.kebak.us/documents/AnalysesofLegalIssuesbyBobHicks.ApprovedforPublicRelease10-21-2013.pdf>.

Vice-Chair Reinbold asked pointedly, "is it truly equal protection when some pay and some don't?" Representative Reinbold noted that there are many unorganized areas that want to become boroughs, but don't because they are fearful that the State will take advantage of the situation and require

"Is it truly equal protection when some pay and some don't?"

Representative Lora Reinbold
Vice-Chair, House Education Committee

local contributions. She concluded by observing sensibly, "I'm not sure that I understand the equal protection that the court justified when some have to pay and some don't."

Representative LeDoux inquired whether the Court in the *Mat-Su* case ever got to the hard demographic data showing that some boroughs were struggling and some unincorporated areas had had a tax base. That led to the following exchange:

Assistant AG Hattan:

Just for perspective although this is a 1997 Supreme Court case, this case was originally filed in 1987 in the superior court. Hearings in the superior court stretched over years, and so this case – Mat-Su's claims that this was not a rational distinction – between the strict line between REAAs not having a Required Local Contribution, and municipalities and state and city school districts having to contribute – that it wasn't rational. So the number of years spent – basically in motion practice – provided the Mat-Su Borough with pretty ample opportunity to make those arguments and the Supreme Court was sitting as an appellate court, and so it was in a position where it was - attempting to review what the superior court had had done.

Rep. LeDoux:

Well, the fact that they had ample opportunity to do it doesn't necessarily mean that they did do it though, does it?

Assistant AG Hattan:

I don't want to oversell my familiarity with the superior court record in this case, but substantial evidence about the nature and economic viability of various places in the state certainly was explored in that case.

The February 10 testimony to the House Education Committee that the *Mat-Su* case spanned from 1987¹⁵ to 1997, involving "[h]earings in the superior court stretched over years," along with "years spent . . . in motion practice" and that "substantial evidence about the nature and economic viability of various places in the state certainly was explored in that case" warrant review here.

¹⁵ The *Mat-Su* case was originally filed in 1986, not 1987.

(1) *Were the Mat-Su Proceedings a Decade-Long Grind through the Courts?*

It may have been an inadvertent presumption that led to the characterization that the interim between the filing of the Mat-Su challenge in 1986 and the rendering of the Supreme Court decision in the case in 1997 involved extensive motion practice and lengthy court deliberations.

The following characterizes the Ketchikan Gateway Borough Manager's understanding of the genesis of the *Mat-Su* case, and the manner in which it was conducted.

Between 1970 and 1985, the population of the Matanuska-Susitna Borough increased nearly six fold, growing from 6,509 residents in 1970 to 37,670 fifteen years later. That significant growth outpaced sources of funding for school construction and operations in the Matanuska-Susitna Borough.

The Superintendent of the Matanuska-Susitna Borough School District hired a consultant to compile data to examine whether there were dramatic disparities in available funding per student between municipal school districts and REAAs.

After filing its legal challenge in 1986, the Mat-Su case languished for years. In the early 1990s, the superior court was on the verge of dismissing the case for want of prosecution. At that point, the Matanuska-Susitna Borough retained private legal counsel to pursue resolution of those issues in the case that could be determined on summary judgment.

By that time, the data that the District's expert had compiled were determined to be either stale, irrelevant, or both. The District chose not to invest in additional expert support for the case.

Thus, rather than some exhaustive, decade-long effort by the Matanuska-Susitna Borough on a groundbreaking case with statewide impact, the plaintiffs' efforts were constrained by a tight legal-services budget. The Matanuska-Susitna Borough was 'going-it-alone' on the case.

The plaintiffs chose the cost-saving strategy of attacking the statute on its face. The argument was that inequities rising to levels of unequal protection are self-evident in the language of the statute itself.

No data were provided by the plaintiffs to break the stereotype that REAAs are highly distinguishable from cash economies and property-tax bases in borough and city school districts.

No data were provided by the plaintiffs to break the stereotype that REAAs are highly distinguishable from cash economies and property-tax bases

in borough and city school districts. That stereotype, replete with sympathy for the inability of REAAs to contribute to funding public education and to the reasonableness of the categorization, has been extinguished in the two-volume work by Mr. Hicks.

(2) Did the Courts Explore Substantial Evidence About the Nature and Economic Viability of Various Places in the State?

In his meticulous review of the *Mat-Su* case, Robert Hicks addressed this point on page 110 of his Volume II work as follows:

The plaintiffs in that case brought forth no evidence of a denial of educational opportunities, and only paltry evidence of alleged harm to taxpayers. They offered no factual evidence of disparities among school districts, such as one finds in Volume I of this Report. They failed to challenge highly incorrect statements of "fact" by experts for the defending State of Alaska.

PART IV - THE PROMISE THAT BOROUGHES SHALL NOT BE DEPRIVED OF STATE SERVICES, REVENUES, OR ASSISTANCE; AND THAT BOROUGHES SHALL NOT BE OTHERWISE PENALIZED BECAUSE OF INCORPORATION

Chapter 52, SLA 1963 (the "1963 Mandatory Borough Act") forced the incorporation of organized boroughs in Ketchikan, Fairbanks, Anchorage, Kenai Peninsula, Mat-Su, Sitka, Kodiak, and Juneau.

Consistent with the intent of the drafters of Alaska's Constitution to make borough government appealing to Alaskans, the 1963 Mandatory Borough Act, passed by the Legislature and signed into law by then-Governor William Egan, declared that the State intended that boroughs would not suffer reduced State funding and that they would not otherwise be penalized. Specifically, Section 1 of the 1963 Act states as follows (emphasis added):

Declaration of Intent. It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation. With the exception of planning and zoning, education, and tax collection and assessment, all powers granted the first-class boroughs are exercised at the option of the borough assemblies.

It is undeniable that the Required Local Contribution has deprived boroughs of State aid for education (AS 14.17.400). State aid for education paid to each borough school district is reduced by a Required Local Contribution.¹⁶ In contrast, State aid for education paid to each REAA is not reduced by a Required Local Contribution. Thus, compared to REAAs, boroughs are severely deprived of State services, revenues, or assistance or are otherwise penalized because of incorporation.

The Ketchikan Gateway Borough was the first borough formed under the 1963 Mandatory Borough Act. Residents of Ketchikan and the other seven regions in Alaska incorporated under the 1963 Mandatory Borough Act had every right and every reason to expect that the State would fulfill its intent that boroughs

¹⁶ State education aid for home-rule and first-class cities in the unorganized borough is also reduced by a Required Local Contribution.

would not be penalized because of incorporation. Fifty-one years following its enactment, Chapter 52, SLA 1963 remains part of the uncodified law of the State of Alaska.

PART V - THE REQUIRED LOCAL CONTRIBUTION CAUSES THE STATE TO SIDESTEP ITS CONSTITUTIONAL DUTY TO MAINTAIN A SYSTEM OF PUBLIC SCHOOLS WHEN IT COMES TO MUNICIPAL SCHOOL DISTRICTS

This position is based on the following progression of facts:

- (a) The State of Alaska has the constitutional duty to “maintain a system of public schools.”¹⁷
- (b) The State’s duty to maintain a system of public schools is exclusive; the Alaska Supreme Court has repeatedly held that “no other unit of government shares responsibility.” The Alaska Supreme Court has expressed that conclusion in four cases over the span of 30 years.¹⁸
- (c) Judge Sharon Gleason has held that the State’s duty to maintain a system of schools includes the obligation to adequately fund that system of schools.¹⁹
- (d) Adequate funding of schools is represented by “Basic Need” determined under AS 14.17.410.²⁰

¹⁷ Art. VII, § 1, Alaska Constitution.

¹⁸ *Maccauley v. Hildebrand*, 491 P.2d 120, Alaska, November 30, 1971 (NO. 1550); *Hootch v. Alaska State-Operated School System*, 536 P.2d 793, Alaska, May 23, 1975 (NO. 2157); *Matanuska-Susitna Borough School Dist. v. State*, 931 P.2d 391, 116 Ed. Law Rep. 401, Alaska, January 31, 1997 (NO. S-5513); and *Municipality of Anchorage v. Repasky*, 34 P.3d 302, 158 Ed. Law Rep. 822, Alaska, October 26, 2001 (NO. S-8985).

The paramount authority of the State regarding education does not preclude the delegation of certain educational functions to local school boards in order that Alaska schools might be adapted to meet the varying conditions of different localities. Removal of the required local contribution does nothing to diminish local control. In some cases, the school boards of the 19 REAAs that make no local contribution have stronger local control than municipal school boards.

Moreover, repeal of the required local contribution would not preclude supplemental funding for schools by municipal governments. In fact, as noted in Part VI, elimination of the required local contribution would better enable municipal governments to provide supplemental funding.

¹⁹ Superior Court Judge Sharon Gleason ruled that the State’s constitutional obligation to maintain a system of schools includes the duty to adequately fund schools. *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, (June 2007), p. 174.

²⁰ As noted in Part I, the Alaska Department of Education and Early Development states that Basic Need “provides all districts with needed resources based on the various formula adjustments” and that Basic Need is a measure at which “all districts are considered equal.” *Alaska’s Public School Funding Formula: A Report to the Alaska State Legislature*, DEED, p. 8, January 15, 2001, Tab 2-Comparison of Old to New Funding Formula, p. 8.

The University of Alaska, Institute of Social and Economic Research, states that “Basic educational need is essentially the dollar amount which the state determines is sufficient to provide the Alaska schoolchild with acceptable educational services wherever he or she lives.” *Public School Finance Programs for the United States and Canada: 1998-99*, page 8 (February 2001).

Alaska State Senator Mike Dunleavy, who can reasonably be characterized as an expert in education in Alaska, succinctly characterized Basic Need as “the revenue needed by districts to provide a basic education.” *Funding Alaska Public Schools – A Brief Explanation of the Foundation Formula*, page 7 (August 20, 2013). Senator Dunleavy holds a Master’s Degree in Education from the University of Alaska Fairbanks. He began a teaching career in 1984 in the Bering Strait School District, later moving to the Northwest Arctic Borough School District where he was ultimately appointed as the Superintendent. He later served as President of the Matanuska-Susitna Borough School Board. He was elected to the Alaska State Senate in 2013. He currently serves as the Chair of the Senate Finance subcommittees for Education & Early Development. He also serves as Vice Chair for the Senate Education Committee. He was appointed to the Alaska Commission on Postsecondary Education by the Senate President in February 2013.

In her June 21, 2007 decision in *Moore, et al. v. State of Alaska*, 3AN-04-9756 CI, Judge Sharon Gleason described the State foundation funding formula used to determine Basic Need and then concluded that Basic Need satisfied the requirement for adequate funding (unlike the arguments here, the *Moore* case did not distinguish the Required Local Contribution from among the components of Basic Need funding). Specifically, Judge Gleason stated that “[t]he Legislature currently allocates operational funding to districts through a formula that contains ‘adjustments’ based on legislatively-selected factors, including school size, district cost

(e) The State of Alaska deducts from education funding paid to municipal districts Required Local Contributions equal to, on average, nearly 20 percent of Basic Need.²¹

Given (a), (b), (c), (d), and (e) above, it follows that the State does not provide adequate funding for municipal schools; but instead provides, on average, only about 80 percent of adequate funding (Basic Need).

Since, as noted both in Part I-C and here, that Basic Need equals adequate funding, it is indisputable that students, taxpayers, and residents in municipal districts are, deprived, on average, of approximately 20 percent of adequate State funding for schools.

Students, taxpayers, and residents in municipal districts are, deprived, on average, of approximately 20 percent of adequate State funding for schools.

PART VI – THE REQUIRED LOCAL CONTRIBUTION DIMINISHES THE ABILITY OF MUNICIPAL GOVERNMENTS TO PROVIDE SUPPLEMENTAL FUNDING FOR SCHOOLS

Municipal governments that operate school districts are allowed, within limits, to supplement Basic Need funding.²² However, because of competing demands for scarce funds, many municipal governments that operate schools have difficulty funding “to the cap.” Exhibit A, referred to under Part II-B of this written testimony, lists FY 2014 supplemental funding provided by municipal governments to their school districts (in addition to listing the Required Local Contribution of school districts).

The Ketchikan Gateway Borough is allowed to provide \$6,029,088 in supplemental funding this year. However, after balancing the need to fund other essential services and considering the fiscal capacity of local taxpayers, the Assembly appropriated \$3,851,273 in supplemental funding for its district this year. That figure represents 63.88% of the maximum funding allowed by law.²³

The competing needs include requirements for funding other aspects of schools beyond operational costs that are imposed on local governments. For example, in addition to the \$4,198,727 Required Local Contribution, the Ketchikan Gateway Borough Assembly has committed to add \$3,851,273 in supplemental

factors, special needs, intensive instruction, and correspondence instruction. The evidence presented indicated that the current formula was carefully considered and represents a rational approach to educational funding.” (p. 182). Judge Gleason then concluded that the “constitutional obligation to adequately fund education” was met (p. 186).

²¹ AS 14.17.410(b)(2)

²² Under AS 14.17.410(c), the supplemental funding may not exceed the greater of: (1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; or (2) 23 percent of the district’s basic need.

²³ Some have argued against elimination of the Required Local Contribution on the basis that local communities should have “skin in the game” with regard to education. As reflected in the paragraph above, the Ketchikan Gateway Borough would continue to have a great deal of skin in the game if the Required Local Contribution were eliminated. Elimination of the Required Local Contribution would not preclude the payment of supplemental funding for schools under AS 14.17.410(c) by municipal governments. Based on the current budget, the Ketchikan Gateway Borough would continue to pay \$8,774,477 for its schools (\$12,973,204 less the Required Local Contribution of \$4,198,727). Elimination of the Required Local Contribution would provide the Ketchikan Gateway Borough with greater fiscal capacity to provide supplemental funding. Presently, the Ketchikan Gateway Borough has the legal capacity to provide an additional \$2,177,815 in supplemental funding for its School District, but not the wherewithal to do so given other fiscal pressures, community needs and commitments.

It is also noteworthy that those who advance the argument for “skin in the game” have been silent on that point for the past 4 decades with respect to the 19 districts that escape any required local contribution.

contributions for school operations in FY 2014. Further, our Borough will pay a local share of debt service for schools amounting to \$1,446,981 this year. As well, the Borough projects that it will fund \$3,476,223 for major maintenance and capital improvements for its schools in FY 2014.²⁴ These figures total \$12,973,204.

Additionally, funding for school operations, debt service, capital projects, and major maintenance must compete with other local needs. For example, in addition to local schools, the Ketchikan Gateway Borough operates the following services and facilities:

- | | |
|------------------------------------|-----------------------------------|
| 1. Ketchikan International Airport | 12. Docks |
| 2. Fire Protection | 13. Bus System |
| 3. Road Maintenance | 14. Solid Waste |
| 4. Libraries | 15. Platting |
| 5. Wastewater | 16. Tax Assessment and Collection |
| 6. Planning | 17. Public Works |
| 7. Land Use Regulation | 18. Animal Protection |
| 8. Parks and Recreation | 19. Regulation of Alcohol |
| 9. Economic Development | 20. Aquatic Center |
| 10. Ferry System | 21. Recreation Center |
| 11. Emergency Medical Services | |

In the fiscal year just completed, the Ketchikan Gateway Borough levied and collected \$17,608,528 in areawide taxes and payments in lieu of taxes.²⁵ That figure represents a local areawide tax effort on the part of the Ketchikan Gateway Borough equivalent to 13.9 mills based on the FY 2013 areawide assessed value of \$1,269,523,500.

Borough residents who live and/or shop within the boundaries of the City of Ketchikan also pay property and/or sales taxes levied by the City of Ketchikan. The City of Ketchikan collected an estimated \$17,310,628 in local taxes and payments in lieu of taxes in 2013.²⁶ That is a burden from City taxes equivalent to 21.7 mills. Thus, residents of the City of Ketchikan bear a burden equivalent to 21.7 mills in City taxes, and a burden equivalent to 13.9 mills of areawide Borough taxes.

Additionally, the Ketchikan Gateway Borough levied nonareawide property taxes (0.7 mills) and service area property taxes ranging as high as 4.8 mills. Thus, the FY 2013 Ketchikan Gateway Borough tax effort was the equivalent of 19.4 mills in some areas of the Ketchikan Gateway Borough outside the boundaries of cities.

PART VII – THE REQUIRED LOCAL CONTRIBUTION DENIES EQUAL TREATMENT TO STUDENTS, PARENTS OF STUDENTS, TAXPAYERS, AND OTHERS IN MUNICIPAL SCHOOL DISTRICTS

The framers of Alaska's Constitution placed at the fore, among the 206 original sections of the constitution, the guarantee that, "all persons are *Since 1992 alone, students, parents of students, and taxpayers in the Ketchikan Gateway Borough have been deprived of more than \$100 million through the State's underfunding of Basic Need.*

²⁴ Ketchikan Gateway Borough Ordinance No. 1703.

²⁵ *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2013*, Ketchikan Gateway Borough, page 18 (December 24, 2013).

²⁶ *Id.*, page B-20.

equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.” (Article I, § 1, Alaska Constitution)

As noted in Part 1-B, the Alaska Department of Education and Early Development maintains that “all districts are considered equal at basic need.” (i.e., Basic Need equalizes expenditures for free public education among all school districts in Alaska.) Because of the Required Local “Contribution” levied against the 34 municipal governments that operate schools, which amounts to approximately 20 percent of Basic Need, it is incontestable that students, taxpayers, and residents in municipal districts are, on average, only *four-fifths* equal to those in REAAs when it comes to State funding of Basic Need.

Since 1992 alone, students, parents of students, and taxpayers in the Ketchikan Gateway Borough have been deprived of more than \$100 million through the State’s underfunding of Basic Need. Considered in the context of a district with enrollment hovering around 2,200 students, the figure is truly staggering.

At the same time, students, parents of students, and “taxpayers” in Alaska’s 19 REAAs have suffered no deprivation of funding for Basic Need.

As reflected in the work by Robert Hicks, there is no rational basis for the disparate treatment between municipal governments that are subject to the Required Local Contribution and REAAs that are not. Consider the following comparison:

Table 2 – Comparison of the Delta Greely REAA, which is Exempt from the Required Local Contribution, to the City of St. Mary’s, which is Subject to the Required Local Contribution		
Description	Subject to the Required Local Contribution	Exempt from the Required Local Contribution
District	City of St. Mary’s School District	Delta-Greely REAA
Population (2012)	544	4,870
Number of students (2014)	168	832
Per capita income (2012)	\$18,176 (margin of error: +/- \$4,545)	\$32,177 (margin of error: +/- \$3,282)
Per capita full value of taxable property (2006)	\$8,911 per capita full value of taxable property ²⁷	\$170,342 estimated per capita full value of taxable property ²⁸
Location	Located along the Andreaafsky River, 5 miles from its confluence with the Yukon River; 450 air miles west-northwest of Anchorage	Bordered by the Fairbanks North Star Borough, Denali Borough, and Matanuska-Susitna Borough. The Alaska Highway and Richardson Highway traverse the REAA.

²⁷ Alaska Taxable 2006, page 45, Alaska Department of Commerce, Community, and Economic Development (January 2007).

²⁸ Local Boundary Commission’s Memorandum in Opposition to Appellant’s Supplemental Motion For Preliminary Injunction to Stay the Election of the Delta Borough, page 9, Office of the Attorney General, State of Alaska (July 26, 2007).

Exhibit C attached to this written testimony shows 2012 per capita income for each of Alaska's 53 school districts. The data show the following notable results:

- The Aleutians Region REAA ranks as having the highest per capita income in Alaska. *Of the four school districts serving Prince of Wales Island, one REAA and three municipal districts, the REAA has the highest per capita income. In fact, the per capita income of the Southeast Island REAA – which pays no Required Local Contribution – is nearly 50 percent greater than the City of Hydaburg – which is compelled to make a Required Local Contribution.*
- The per capita annual income of the unorganized Delta-Greely REAA is only \$167 less than the Fairbanks North Star Borough which was incorporated a half century ago by legislative fiat following the rejection of a borough proposal by local voters.
- The per capita income of the unorganized Chatham REAA is \$509 less than that of the mandatorily incorporated Ketchikan Gateway Borough.
- Just under two-thirds of all REAAs have higher per capita incomes compared to the municipal district with the lowest figure.
- Of the four school districts serving Prince of Wales Island (one REAA and three municipal districts) the REAA has the highest per capita income. In fact, the per capita income of the Southeast Island REAA – which pays no Required Local Contribution – is nearly 50 percent greater than the City of Hydaburg – which is compelled to make a Required Local Contribution. Details are reflected in Table 3 below.

School District	2012 Per Capita Income	Difference Compared to Southeast Island REAA	Margin of Error
Southeast Island REAA	\$29,030	\$0	+/-3,048
City of Craig	\$28,099	-\$931	+/-3,544
City of Klawock	\$26,978	-\$2,052	+/-3,583
City of Hydaburg	\$19,428	-\$9,602	+/-4,725

In 2007, the State Attorney General's Office characterized the unorganized Delta-Greely REAA as having fiscal resources that would be the envy of most boroughs (all except the North Slope). At that time, Delta-Greely had an estimated per capita full and true value of \$170,342 – nearly 20 times that of the municipal district with the lowest value at the time.

PART VIII – THE REQUIRED LOCAL CONTRIBUTION, MORE THAN ANY OTHER ASPECT OF STATE-LOCAL RELATIONS, RENDERS BOROUGH GOVERNMENT APPEALING ON PAPER ALONE

The Alaska Supreme Court has opined that Alaska's constitution encourages the creation of organized boroughs.²⁹

The framers of Alaska's Constitution intended that the Alaska legislature and governor would create inducements for the formation of organized boroughs.³⁰

However, rather than encouragement and inducements, the State has offered disincentives to borough formation. Former Governor Jay Hammond observed candidly:

Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves for services received from the state, *gratis*?³¹

The greatest disincentive to borough formation is the Required Local Contribution.³² Instead of reciting the vision of those who wrote Alaska's Constitution, some officials today speak of the "misery of boroughs."

PART IX – THE REQUIRED LOCAL CONTRIBUTION VIOLATES ARTICLE IX, § 7; ARTICLE IX, § 13; AND ARTICLE II, § 15 OF THE CONSTITUTION OF THE STATE OF ALASKA

On January 13, 2014, the Ketchikan Gateway Borough filed suit against the State of Alaska complaining that the Required Local Contribution violates:

- (1) the Anti-Dedication Clause in Article IX, § 7 of the Alaska Constitution;³³
- (2) the appropriation requirement of Article IX, § 13 of the Alaska Constitution;³⁴ and
- (3) the Governor's veto requirement of Article II, § 15 of the Alaska Constitution.³⁵

²⁹ *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92 (Alaska 1974).

³⁰ *Alaska's Constitutional Convention*, Victor Fischer, p. 120 (1975).

³¹ *Tales of Alaska's Bush Rat Governor*, Jay Hammond, page 149 (1996).

³² *The Need to Reform State Laws Concerning Borough Incorporation and Annexation*, Local Boundary Commission (2001). See also, draft Resolution # 2013-01 online at:

<http://www.commerce.alaska.gov/dnn/Portals/4/pub/DRAFT%20Proposed%20Resolution%20Urging%20Full%20State%20Funding%20of%20Basic%20Need%20for%20All%20School%20Districts.pdf>

³³ The Anti-Dedication Clause states as follows:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

³⁴ The appropriation requirement of Article IX, § 13 states:

No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void.

³⁵ The Governor's veto requirement of Article II, § 15 provides:

The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return any vetoed bill, with a statement of his objections, to the house of origin.

In brief, the Ketchikan Gateway Borough takes the position that the Required Local Contribution is an unfunded State mandate imposed on the Ketchikan Gateway Borough and its taxpayers. The Required Local Contribution is a mandatory State tax or other State revenue source, or a dedicated fund, which is dedicated to a special purpose and is not subject to appropriation by the Legislature or veto by the Governor. For those reasons, the Required Local Contribution violates Article IX, § 7; Article IX, § 13 and Article II, § 15 of the Alaska Constitution.

A copy of the Ketchikan Gateway Borough's complaint is available online at:

<http://borough.ketchikan.ak.us/documents/KGBLitigation-01-13-2014SummonsandComplaint.pdf>

On February 6, the Ketchikan Gateway Borough filed a motion for summary judgment in the lawsuit. A copy of the Plaintiffs' Motion and Memorandum in Support of Motion for Summary Judgment is available online at:

<http://borough.ketchikan.ak.us/documents/02-06-14MotionandMemoranduminSupportofMotionforSummaryJudgement.pdf>

CONCLUDING REMARKS

Thank you for the opportunity to provide testimony regarding HB 245. Requests to clarify any aspect of this testimony, or to provide additional information or materials are welcome.

**EXHIBIT A -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH
FY 2014 Local Funding of Schools
Required Contribution and Supplemental Funding**

Column A	Column B	Column C	Column D	Column E	Column F	Column G
School District	Total Budgeted Local Funding	Required Local Contribution - AS 14.17.410(b)(2)	Budgeted Supplemental Funding - AS 14.17.410(c)	Projected Supplemental Funding Allowed by Law	Additional Supplemental Funding Capacity	Budgeted Supplemental Funding as a Percentage of Maximum Allowed Supplemental Funding
Alaska Gateway REAA	\$0	\$0	\$0			
Aleutian Region REAA	\$0	\$0	\$0			
Aleutians East Borough	\$1,585,000	\$615,516	\$969,484	\$1,366,481	\$396,997	70.95%
Anchorage, Municipality of	\$192,645,942	\$94,828,797	\$97,817,145	\$98,267,774	\$450,629	99.94%
Annette Island REAA	\$0	\$0	\$0			
Bering Strait REAA	\$0	\$0	\$0			
Bristol Bay Borough	\$1,215,631	\$715,872	\$499,759	\$561,347	\$61,588	89.03%
Chatham REAA	\$0	\$0	\$0			
Chugach REAA	\$0	\$0	\$0			
Copper River REAA	\$0	\$0	\$0			
Cordova, City of	\$1,654,764	\$709,139	\$945,625	\$977,475	\$31,850	96.74%
Craig, City of	\$642,949	\$338,704	\$304,245	\$1,226,631	\$922,386	24.80%
Delta/Greely REAA	\$0	\$0	\$0			
Denali Borough	\$2,252,834	\$658,294	\$1,594,540	\$1,594,540	\$0	100.00%
Dillingham, City of	\$1,300,000	\$526,870	\$773,130	\$1,596,591	\$823,461	48.42%
Fairbanks North Star Borough	\$48,360,000	\$26,940,883	\$21,419,117	\$34,838,448	\$13,419,331	61.48%
Galena, City of	\$1,330,885	\$80,489	\$1,250,396	\$4,467,169	\$3,216,773	27.99%
Haines Borough	\$1,556,866	\$907,376	\$649,490	\$924,801	\$275,311	70.23%
Hoonah, City of	\$405,334	\$195,429	\$209,905	\$495,870	\$285,965	42.33%
Hydaburg, City of	\$104,849	\$40,849	\$64,000	\$263,788	\$199,788	24.26%
Iditarod Area REAA	\$0	\$0	\$0			
Juneau, City and Borough of	\$24,134,400	\$12,464,402	\$11,669,998	\$11,743,099	\$73,101	99.38%
Kake, City of	\$130,780	\$75,414	\$55,366	\$480,964	\$425,598	11.51%
Kashunamiut REAA	\$0	\$0	\$0			
Kenai Peninsula Borough	\$43,500,000	\$22,690,959	\$20,809,041	\$22,526,386	\$1,717,345	92.38%
Ketchikan Gateway Borough	\$8,050,000	\$4,198,727	\$3,851,273	\$6,029,088	\$2,177,815	63.88%
Klawock, City of	\$200,000	\$147,806	\$52,194	\$516,773	\$464,579	10.10%
Kodiak Island Borough	\$10,649,720	\$3,806,666	\$6,843,054	\$6,859,018	\$15,964	99.77%
Kuspuk REAA	\$0	\$0	\$0			
Lake and Peninsula Borough	\$735,594	\$391,926	\$343,668	\$2,173,000	\$1,829,332	15.82%
Lower Kuskokwim REAA	\$0	\$0	\$0			
Lower Yukon REAA	\$0	\$0	\$0			
Matanuska-Susitna Borough	\$51,291,720	\$25,355,209	\$25,936,511	\$37,040,947	\$11,104,436	70.02%
Nenana, City of	\$75,994	\$75,994	\$0	\$1,496,207	\$1,496,207	0.00%
Nome, City of	\$1,873,120	\$834,289	\$1,038,831	\$2,120,627	\$1,081,796	48.99%
North Slope Borough	\$35,375,626	\$12,573,041	\$22,802,585	\$35,734,496	\$12,931,911	63.81%
Northwest Arctic Borough	\$4,342,021	\$2,216,005	\$2,126,016	\$8,560,852	\$6,434,836	24.83%
Pelican, City of	\$51,847	\$39,553	\$12,294	\$93,068	\$80,774	13.21%
Petersburg Borough	\$1,800,000	\$901,121	\$898,879	\$1,531,650	\$632,771	58.69%
Pribilof REAA	\$0	\$0	\$0			
Saint Mary's, City of	\$75,000	\$36,034	\$38,966	\$725,117	\$686,151	5.37%
Sitka, City and Borough of	\$5,093,762	\$3,051,149	\$2,042,613	\$3,780,343	\$1,737,730	54.03%
Skagway, Municipality of	\$1,113,689	\$425,600	\$688,089	\$688,089	\$0	100.00%
Southeast Island REAA	\$0	\$0	\$0			
Southwest Region REAA	\$0	\$0	\$0			
Tanana, City of	\$24,863	\$24,863	\$0	\$272,985	\$272,985	0.00%
Unalaska, City of	\$2,803,342	\$1,462,492	\$1,340,850	\$1,365,266	\$24,416	98.21%
Valdez, City of	\$7,922,673	\$3,576,713	\$4,345,960	\$4,538,784	\$192,824	95.75%
Wrangell, City and Borough of	\$696,799	\$470,852	\$225,947	\$1,022,088	\$796,141	22.11%
Yakutat, City and Borough of	\$298,750	\$181,364	\$117,386	\$376,047	\$258,661	31.22%
Yukon Flats REAA	\$0	\$0	\$0			
Yukon/Koyukuk REAA	\$0	\$0	\$0			
Yupik REAA	\$0	\$0	\$0			
Totals	\$453,294,754	\$221,558,397	\$231,736,357	\$296,255,805	\$64,519,452	78.22%

Prepared by Don Bookbinder, Ketchikan Gateway Borough Borougher, February 24, 2014.

EXHIBIT B -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH
Treatment of Federal Impact Aid

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I
District	Type of District	Eligible Federal Impact Aid	Required Local Contribution AS 14.17.410(b)(2)	Supplemental Local Contribution AS 14.17.410(c)*	Total Local Contribution**	Percent of Impact Aid that May be Used under Federal Law to Offset State Aid	Amount of Impact Aid that May be Used to Offset State Aid	Actual Amount of Impact Aid Used to Offset State Aid (90.0% of Maximum Allowed)
Alaska Gateway	REAA	\$321,942	\$0	\$0	\$0	100.00%	\$321,942	\$289,748
Aleutian Region	REAA	\$24,970	\$0	\$0	\$0	100.00%	\$24,970	\$22,479
Aleutians East	Borough	\$683,016	\$615,516	\$825,636	\$1,441,152	42.71%	\$291,716	\$262,545
Anchorage	Borough	\$17,862,949	\$94,828,797	\$109,985,019	\$204,813,816	46.30%	\$8,270,545	\$7,443,491
Annette Island	REAA	\$1,757,208	\$0	\$0	\$0	100.00%	\$1,757,208	\$1,581,487
Bering Strait	REAA	\$10,547,255	\$0	\$0	\$0	100.00%	\$10,547,255	\$9,492,529
Bristol Bay	Borough	\$128,610	\$715,872	\$593,570	\$1,309,442	54.67%	\$70,311	\$63,280
Chatham	REAA	\$188,617	\$0	\$0	\$0	100.00%	\$188,617	\$168,755
Chugach	REAA	\$44,496	\$0	\$0	\$0	100.00%	\$44,496	\$40,046
Copper River	REAA	\$272,259	\$0	\$0	\$0	100.00%	\$272,259	\$245,093
Cordova	City	\$13,727	\$709,139	\$1,050,075	\$1,759,214	40.31%	\$5,533	\$4,980
Craig	City	\$438,055	\$338,704	\$461,636	\$800,340	42.32%	\$185,385	\$166,847
Delta/Greely	REAA	\$352,420	\$0	\$0	\$0	100.00%	\$352,420	\$317,178
Denali	Borough	\$11,852	\$658,294	\$1,421,624	\$2,079,918	31.65%	\$3,751	\$3,976
Dillingham	City	\$644,443	\$526,870	\$734,490	\$1,261,360	41.77%	\$269,184	\$242,265
Fairbanks	Borough	\$13,001,630	\$26,940,883	\$20,390,254	\$47,331,137	56.92%	\$7,400,528	\$6,660,475
Galena	City	\$15,048	\$80,489	\$1,568,876	\$1,649,365	4.88%	\$734	\$661
Haines	Borough	\$0	\$907,376	\$651,421	\$1,558,797	58.21%	\$0	\$0
Hoonah	City	\$197,387	\$195,429	\$198,820	\$394,249	49.57%	\$97,845	\$88,060
Hydaburg	City	\$283,659	\$40,849	\$185,211	\$226,060	18.07%	\$51,257	\$46,131
Iditarod Area	REAA	\$259,362	\$0	\$0	\$0	100.00%	\$259,362	\$233,426
Juneau	Borough	\$0	\$12,464,402	\$11,232,180	\$23,696,582	52.60%	\$0	\$0
Kake	City	\$326,074	\$75,414	\$181,884	\$257,298	29.31%	\$95,572	\$86,015
Kashunamiut	REAA	\$1,947,522	\$0	\$0	\$0	100.00%	\$1,947,522	\$1,752,770
Kenai Peninsula	Borough	\$0	\$22,690,959	\$21,386,273	\$44,077,232	51.48%	\$0	\$0
Ketchikan Gateway	Borough	\$0	\$4,198,727	\$4,110,648	\$8,309,375	50.53%	\$0	\$0
Klawock	City	\$600,244	\$147,806	\$52,690	\$200,496	73.72%	\$442,500	\$398,250
Kodiak Island	Borough	\$1,877,029	\$3,806,666	\$6,534,725	\$10,341,391	36.81%	\$690,934	\$621,841
Kuspuk	REAA	\$1,679,850	\$0	\$0	\$0	100.00%	\$1,679,850	\$1,511,865
Lake & Peninsula	Borough	\$1,624,255	\$391,926	\$1,046,335	\$1,438,261	27.25%	\$442,610	\$398,349
Lower Kuskokwim	REAA	\$17,137,316	\$0	\$0	\$0	100.00%	\$17,137,316	\$15,423,584
Lower Yukon	REAA	\$9,160,843	\$0	\$0	\$0	100.00%	\$9,160,843	\$8,244,759
Mat-Su	Borough	\$0	\$25,355,209	\$24,595,951	\$49,951,160	50.76%	\$0	\$0
Nenana	City	\$0	\$75,994	\$53,534	\$129,528	58.67%	\$0	\$0
Nome	City	\$30,236	\$834,289	\$1,215,561	\$2,049,850	40.70%	\$12,306	\$11,075
North Slope	Borough	\$3,685,919	\$12,573,041	\$20,750,683	\$33,323,724	37.73%	\$1,390,697	\$1,251,628
Northwest Arctic	Borough	\$4,206,871	\$2,216,005	\$2,802,122	\$5,018,127	44.16%	\$1,857,754	\$1,671,979
Pelican	City	\$0	\$39,553	\$14,107	\$53,660	73.71%	\$0	\$0
Petersburg	Borough	\$0	\$901,121	\$953,037	\$1,854,158	48.60%	\$0	\$0
Pribilof	REAA	\$563,287	\$0	\$0	\$0	100.00%	\$563,287	\$506,959
Saint Mary's	City	\$0	\$36,034	\$41,962	\$77,996	46.20%	\$0	\$0
Sitka	Borough	\$20,659	\$3,051,149	\$2,305,503	\$5,356,652	56.96%	\$11,767	\$10,591
Skagway	Borough	\$0	\$425,600	\$705,412	\$1,131,012	37.63%	\$0	\$0
Southeast Island	REAA	\$0	\$0	\$0	\$0	100.00%	\$0	\$0
Southwest Region	REAA	\$3,779,752	\$0	\$0	\$0	100.00%	\$3,779,752	\$3,401,777
Tanana	City	\$88,096	\$24,863	\$0	\$24,863	100.00%	\$88,096	\$79,286
Unalaska	City	\$22,362	\$1,462,492	\$1,417,563	\$2,880,055	50.78%	\$11,355	\$10,220
Valdez	City	\$14,807	\$3,576,713	\$4,607,985	\$8,184,698	43.70%	\$6,471	\$5,824
Wrangell	Borough	\$1,037	\$470,852	\$1,091,883	\$1,562,735	30.13%	\$312	\$281
Yakutat	Borough	\$184,147	\$181,364	\$327,371	\$508,735	35.65%	\$65,648	\$59,084
Yukon Flats	REAA	\$567,343	\$0	\$0	\$0	100.00%	\$567,343	\$510,609
Yukon/Koyukuk	REAA	\$452,806	\$0	\$0	\$0	100.00%	\$452,806	\$407,525
Yupik	REAA	\$2,914,860	\$0	\$0	\$0	100.00%	\$2,914,860	\$2,623,374
Totals		\$97,934,221	\$221,558,397	\$243,494,041	\$465,052,438		\$73,734,922	\$66,361,431

* Equals "Total Local Contribution" (Column F) minus "Required Local Contribution" (Column D)

** Figures are extrapolated by dividing published data for the "Required Local Contribution" (Column D) by data listed as "Impact Aid Percent" in original publication (Column G)

EXHIBIT C -- FEBRUARY 24, 2014 TESTIMONY OF KETCHIKAN GATEWAY BOROUGH

2012 Per Capita Income for Alaska School Districts

District Type	School District	Estimate	Margin of Error
REAA	Aleutian Region Regional Educational Attendance Area	\$54,792	+/-14,555
Borough	North Slope Borough	\$41,712	+/-4,189
Borough	City and Borough of Yakutat	\$39,428	+/-10,439
Borough	Denali Borough	\$38,621	+/-4,979
City	City of Cordova	\$38,287	+/-4,703
Borough	City and Borough of Juneau	\$37,917	+/-1,763
Borough	Bristol Bay Borough	\$37,150	+/-4,234
City	City of Valdez	\$36,609	+/-6,029
Borough	Municipality of Skagway	\$36,470	+/-5,040
Borough	Municipality of Anchorage	\$36,145	+/-756
City	City of Dillingham	\$33,193	+/-3,014
Borough	Petersburg Borough	\$32,874	+/-3,789
Borough	Fairbanks North Star Borough	\$32,344	+/-1,093
REAA	Delta/Greely Regional Educational Attendance Area	\$32,177	+/-3,282
Borough	City and Borough of Sitka	\$32,162	+/-2,055
City	City of Nome	\$31,695	+/-2,631
City	City of Unalaska	\$31,578	+/-2,304
Borough	Kenai Peninsula Borough	\$30,789	+/-999
Borough	Ketchikan Gateway Borough	\$30,610	+/-1,588
REAA	Chatham Regional Educational Attendance Area	\$30,101	+/-3,940
Borough	Matanuska-Susitna Borough	\$29,465	+/-660
Borough	Haines Borough	\$29,141	+/-4,349
REAA	Southeast Island Regional Educational Attendance Area	\$29,030	+/-3,048
Borough	City and Borough of Wrangell	\$28,267	+/-2,918
City	City of Craig	\$28,099	+/-3,544
Borough	Kodiak Island Borough	\$27,865	+/-1,138
City	City of Nenana	\$27,815	+/-4,052
City	City of Galena	\$27,004	+/-2,980
City	City of Klawock	\$26,978	+/-3,583
REAA	Chugach Regional Educational Attendance Area	\$26,765	+/-4,418
City	City of Pelican	\$26,286	+/-5,616
REAA	Copper River Regional Educational Attendance Area	\$25,382	+/-2,663
City	City of Hoonah	\$24,978	+/-4,138
Borough	Aleutians East Borough	\$24,932	+/-2,055
Borough	Lake And Peninsula Borough	\$22,087	+/-2,162
Borough	Northwest Arctic Borough	\$21,902	+/-1,857
REAA	Annette Island Regional Educational Attendance Area	\$21,694	+/-2,409
City	City of Tanana	\$21,133	+/-5,208
REAA	Alaska Gateway Regional Educational Attendance Area	\$20,579	+/-2,417
REAA	Yukon Flats Regional Educational Attendance Area	\$20,522	+/-2,432
City	City of Kake	\$20,291	+/-4,456
REAA	Lower Kuskokwim Regional Educational Attendance Area	\$20,013	+/-1,424
City	City of Hydaburg	\$19,428	+/-4,725
REAA	Iditarod Area Regional Educational Attendance Area	\$19,125	+/-2,079
REAA	Pribilof Regional Educational Attendance Area	\$18,539	+/-3,613
City	City of St. Mary's	\$18,176	+/-4,545
REAA	Kuspuk Regional Educational Attendance Area	\$17,277	+/-2,070
REAA	Yukon-Koyukuk Regional Educational Attendance Area	\$16,726	+/-1,536
REAA	Southwest Region Regional Educational Attendance Area	\$13,245	+/-1,155
REAA	Bering Strait Regional Educational Attendance Area	\$12,746	+/-829
REAA	Lower Yukon Regional Educational Attendance Area	\$11,191	+/-483
REAA	Yupik Regional Educational Attendance Area	\$11,172	+/-1,162
REAA	Kashunamiut Regional Educational Attendance Area	\$8,707	+/-1,117

Source: American Community Survey, U.S. Census Bureau

Prepared by Dan Bockhorst, Ketchikan Gateway Borough Manager (February 24, 2014)