

ALASKA LEGISLATURE

2345

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

sentatives – to the conclusion in 1963 that “the greatest unresolved political problem of the State was the matter of boroughs.”¹⁷

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

Alaska's best little secret...

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

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

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

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

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

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

²⁴ *Ibid.*

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

²⁶ Alaska Department of Community and Regional Affairs. *Study of Borough Formation: Studies*

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Conducted During 1988 and 1989: Copper River Basin, Lower Yukon Region, Delta Greely Region, Northwest Bristol Bay Region, Denali Region, Southwest Region/Dillingham Area, Chatham Region, Yukon-Koyukuk Region, Prince William Sound Region, and Western Aleutians Region, September 1989.

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

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

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

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

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

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

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

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

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

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

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

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

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

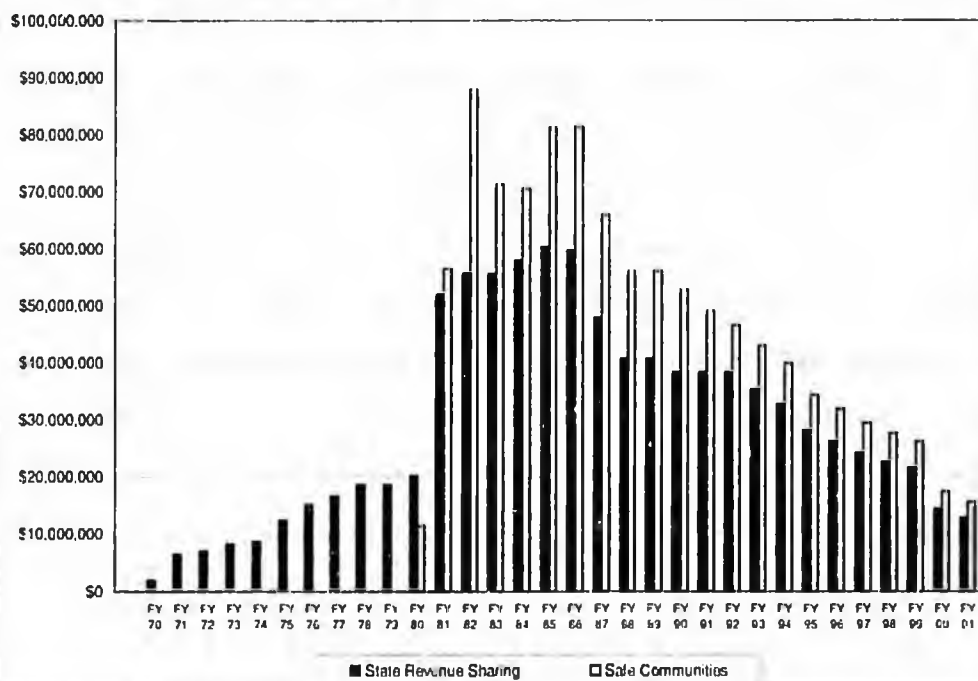
Characteristic	Southeast Alaska		Interior Alaska		Western Alaska	
	Gustavus	Hydaburg	Tok	Tanana	Bethel	St. Mary's
Municipal Status	Unincorporated	First class city	Unincorporated	First class city	Second class city	First class city
Local Responsibility for Schools	No	Yes	No	Yes	No	Yes
1999 Population	377	369	1,235	301	5,741	475
Predominant Population (1990)	96% Caucasian	87% Native American	86% Caucasian	76% Native American	60% Native American	82% Native American
1990 Median Family Income	\$43,750	\$22,639	\$32,039	\$24,375	\$45,203	\$29,583
1990 Employment per 100 Residents	48	27	40	32	43	34
1990 Unemployment	4.6%	21.8%	20.3%	21.8%	9.0%	19.2%

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

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

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

Table 2 - Funding History of State Revenue Sharing and Safe Communities Programs



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

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

“... the present system encourages dependence.”

—Dr. John J. Kirlin

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

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

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

³² AS 14.12.025.

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

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

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

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

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

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

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

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

13% of Alaskans live in the unorganized borough



70% of Alaska School Districts exist in the unorganized borough

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

³⁸ *Ibid.*, page 72.

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

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

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

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

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

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

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

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

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

E. The current system is inequitable.

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

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

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

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

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

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

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

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

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

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

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

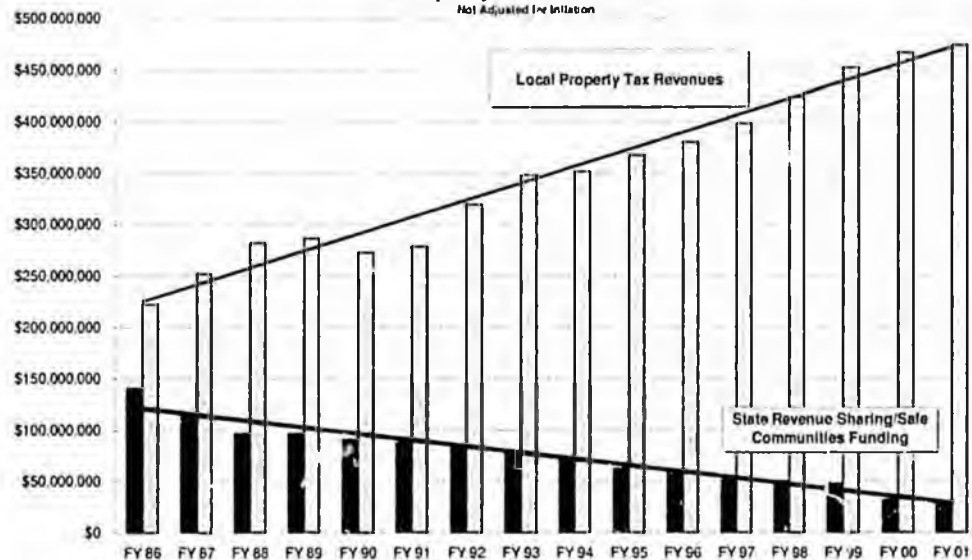
⁴³ Counted among those who are compelled to support fundamental services are residents of organized boroughs, home rule cities in the unorganized borough, and first class cities in the unorganized borough.

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

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

Conclusion. The Commission considers it significant that 85 of

Table 3 - State Revenue Sharing/Safe Communities Funding Versus Local Property Tax Revenues



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

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

Conclusion.

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

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

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

Section 2. Proposed Legislation

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE – FIRST SESSION

BY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

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

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

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

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

-1-

New Text Underlined [DELETED TEXT BRACKETED]

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

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

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

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

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

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

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

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

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

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

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

8

Section 3.

Sectional Analysis

Proposed Legislation for an Act Entitled

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

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

Section 1.

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

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

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

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

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

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

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

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

Section 2.

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

Subsection (a).

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

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

Subsection (b).

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

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

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

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

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

Subsection (c).

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

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

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

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

Subsection (d).

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

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

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

Subsection (e).

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

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

Subsection (f).

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

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

Time Line for Incorporation or Annexation Under Proposed Legislation

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

Summary of Standards for Borough Incorporation in Existing Law

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

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

Section 4. Biographical Information About the Local Boundary Commission

The Commission consists of five members appointed by the Governor for overlapping terms of five years. Members serve at the pleasure of the Governor. The Chairperson is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation. Appointments to the Commission are made, "...on the basis of interest in public affairs, good judgment, knowledge and ability in the field ... and with a view to providing diversity of interest and points of view in the membership." (AS 39.0. 060)

Information about current Commissioners follows.



Kevin Waring, a resident of Anchorage, has served on the Commission since July 15, 1996. He was appointed Chairperson on July 10, 1997. He was reappointed to a new term as Chairperson effective January 31, 1998. Commissioner Waring was one of the original division directors of the former

Alaska Department of Community and Regional Affairs (1973-1978). Between 1980 and the spring of 1998, he operated a planning/economics consulting firm in Anchorage. From the spring of 1998 until early 2000, Commissioner Waring was employed as manager of physical planning for the Municipality of Anchorage's Community Planning and Development Department. He has since returned to private consulting. Mr. Waring has been active on numerous Anchorage School District policy and planning committees. His current term on the LBC expires January 31, 2003.



Kathleen S. Wasserman, a resident of Pelican, is the Vice-Chairperson of the Commission. She serves from Alaska's First Judicial District. She was first appointed to the Commission for an unexpired term on September 14, 1995. She was reappointed to a new term beginning January 31,

1996. Commissioner Wasserman also serves as the current Mayor of the City of Pelican. She is currently serves as the District 1 representative on the Alaska Municipal League Board of Directors and as Secretary/Treasurer for the Alaska Conference of Mayors. In the past, Commissioner Wasserman has served as a member of the Assembly of the City and Borough of Sitka and as

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



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

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



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

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



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

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

Appendix A

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



1998 Per Capita Personal Income

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

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

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



1998 Local Employment in Alaska

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

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

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



1998 Per Capita Earnings from Local Employment

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

Region	1998 Earnings	1998 Population	1998 Per Capita Earnings
North Slope Borough	\$520,522,220	7,268	\$71,618
Nome Census Area	\$97,044,435	2,461	\$39,433
Denali Borough	\$55,286,386	1,868	\$29,597
Bristol Bay Borough	\$32,431,012	1,291	\$25,121
Aleutians West Census Area	\$108,882,321	5,346	\$20,367
Aleutians East Borough	\$41,027,273	2,145	\$19,127
Juneau Borough	\$531,813,449	30,021	\$17,715
Anchorage, Municipality of	\$4,487,741,618	257,260	\$17,444
Valdez-Cordova Census Area	\$177,367,744	10,274	\$17,264
Yakutat Borough	\$12,342,015	775	\$15,925
Ketchikan Gateway Borough	\$225,062,306	14,143	\$15,913
Northwest Arctic Borough	\$106,716,798	6,817	\$15,655
Dillingham Census Area	\$62,319,552	4,686	\$13,299
Sitka Borough	\$107,681,583	8,722	\$12,346
Fairbanks North Star Borough	\$993,377,321	83,045	\$11,962
Kodiak Island Borough	\$156,034,213	13,716	\$11,376
Skaqway-Hoonah-Angoon Census Area	\$38,853,608	3,642	\$10,668
Kenai Peninsula Borough	\$498,573,187	48,532	\$10,269
Wrangell-Petersburg Census Area	\$70,592,857	7,165	\$9,852
Haines Borough	\$22,964,855	2,461	\$9,332
Bethel Census Area	\$145,680,722	15,935	\$9,142
Prince of Wales-Outer Ketchikan Census Area	\$62,291,076	6,830	\$9,120
Yukon-Koyukuk Census Area	\$54,484,780	6,411	\$8,499
Lake and Peninsula Borough	\$13,525,967	1,842	\$7,343
Southeast Fairbanks Census Area	\$45,337,691	6,349	\$7,141
Matanuska-Susitna Borough	\$311,684,727	54,153	\$5,756
Wade Hampton Census Area	\$34,879,176	7,044	\$4,952



Regional Educational Attendance Areas

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

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

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



Borough School Districts

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

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



City School Districts

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

District	1999 Enrollment	FY 1999 Audited Expenditures	Expenditures per Student – All Expenditures	FY 1999 Required Local Effort	Voluntary Additional FY 1999 Contributions	Expenditures per Student - State & Federal Funding Only
City of Cordova	487	\$4,264,523	\$8,757	\$674,600	\$727,745	\$5,877
City of Craig	420	\$3,203,099	\$7,626	\$367,686	\$263,045	\$6,125
City of Dillingham	564	\$5,658,301	\$10,032	\$608,522	\$398,330	\$8,247
City of Galena	3,725	\$16,261,344	\$4,365	\$70,412	\$789,971	\$4,134
City of Hoonah	236	\$3,212,497	\$13,612	\$98,904	\$426,866	\$11,384
City of Hydaburg	108	\$1,768,547	\$16,375	\$23,809	\$8,254	\$16,079
City of Kake	166	\$2,115,154	\$12,742	\$59,431	\$160,254	\$11,358
City of Klawock	203	\$2,207,758	\$10,876	\$62,627	\$139,151	\$9,882
City of Nenana	1,005	\$2,670,749	\$2,657	\$66,968	\$20,013	\$2,571
City of Nome	774	\$6,845,554	\$8,844	\$626,146	\$588,874	\$7,275
City of Pelican	36	\$616,209	\$17,395	\$53,374	\$3,761	\$15,808
City of Petersburg	701	\$5,138,950	\$7,331	\$947,600	\$714,047	\$4,960
City of Saint Mary's	133	\$1,637,104	\$12,309	\$17,993	\$23,751	\$11,995
City of Skagway	133	\$1,484,376	\$11,161	\$525,021	\$131,689	\$6,223
City of Tanana	93	\$1,813,330	\$19,498	\$23,286	\$62,869	\$18,572
City of Unalaska	392	\$3,783,913	\$9,653	\$1,421,769	\$345,752	\$5,144
City of Valdez	868	\$8,044,695	\$9,268	\$2,616,877	\$1,439,010	\$4,595
City of Wrangell	505	\$3,897,032	\$7,717	\$651,476	\$750,914	\$4,940
Total	10,549	\$74,633,135	\$7,075	\$8,926,500	\$6,994,297	\$5,566

Senate Bill 48

Equity in Education Funding Act



Senate Finance Committee
March 22, 2001
(Prepared by Gary Wilken)

SB 48 Simply Asks:

**CAN YOU
HELP?**

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

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

Alaska State Legislature

Senate

During Session
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
Tel: (907) 465-3709 (outside Fbks.)
Fax: (907) 467-4714
Website: www.gary-wilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Interim
1551 Fox Ave
Fairbanks, Alaska 99701
Tel: (907) 451-5501
Fax: (907) 451-0438

SPONSOR STATEMENT

Senate Bill 48 Equity in Education Funding Act

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

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

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

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

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

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

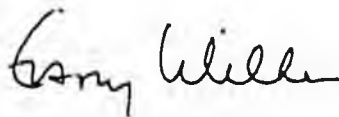
If, after a thorough review, the Local Boundary Commission accepts the incorporation or annexation petition, the decision will be submitted to the Legislature for an additional legislative review. If the Legislature does not reject the recommendation within a prescribed period of time, the new borough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

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

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

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

I respectfully request your consideration and support of SB 48.

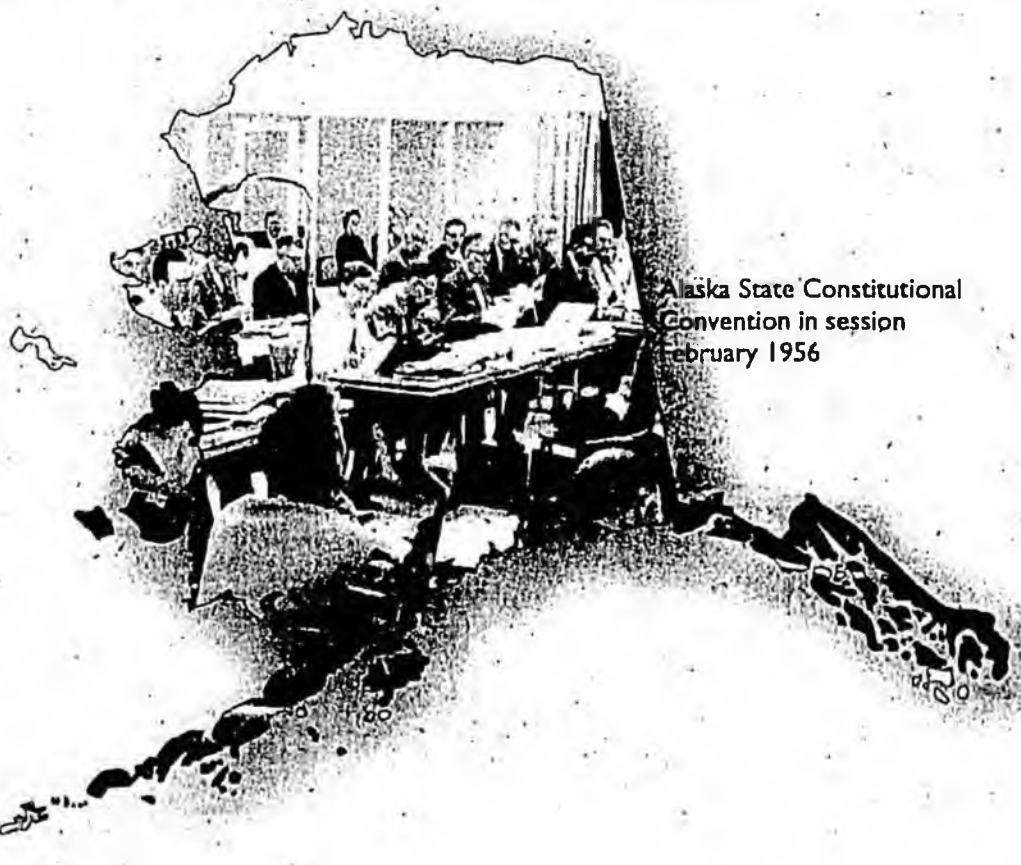




State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

The Need to Reform State Laws Concerning Borough Incorporation and Annexation



Alaska State Constitutional
Convention in session
February 1956

January 2001

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

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



Profile of the Unorganized Borough

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

Standards for Borough Incorporation

	Standard	Description	Authority			Citation
			Constitution	Statute	Regulation	
<input type="checkbox"/>	Adequate Facilities	Each area must have facilities that provide needed communication and integration of gov't.		X	X	AS 29.05.031(a)(4) 3 AAC 110.045(c)-(d)
<input type="checkbox"/>	Alaska must be divided into boroughs	Each area (organized or unorganized) should have a population and area with common interests.		X		AS 29.05.100
<input type="checkbox"/>	Best Interest	Borough incorporation must be in the best interest of the state.		X		AS 29.05.100
<input type="checkbox"/>	Conform to REAA Boundaries	Boundaries must conform to REAA boundaries, unless LBC allows otherwise.			X	3 AAC 110.060(c)
<input type="checkbox"/>	Financial/Human Resources	Each area must have the ability to support and provide government services.		X	X	AS 29.05.031(a)(3) 3 AAC 110.055
<input type="checkbox"/>	Incorporation Encouraged	Borough incorporation is encouraged under Alaska's Constitution.	X			Article X, Section 1
<input type="checkbox"/>	Interrelated & Integrated	Residents must be socially, culturally, and economically related.		X	X	AS 20.05.031(a)(1) 3 AAC 110.045(a)-(b)
<input type="checkbox"/>	Large/Stable Populations	Formally presumed that each area will have at least 1,000 permanent residents.		X	X	AS 20.05.031(a)(3) 3 AAC 110.050
<input type="checkbox"/>	Larger Boroughs	Constitution favors larger boroughs in order to avoid proliferation of small boroughs.	X			Article X, Section 3
<input type="checkbox"/>	Model Borough Boundaries	Consideration must be given to boundaries adopted by the Local Boundary Commission.			X	3 AAC 110.060(b)
<input type="checkbox"/>	Similar Geography	Boundaries must conform to natural geography and include areas necessary for full services.		X	X	AS 29.05.031(a)(2) 3 AAC 110.060(a)

Prepared by Local Boundary Commission Staff
Summarized by Senator Gary Wilken

**Founders intended that regions
would be classified as organized
boroughs or unorganized boroughs
depending on their readiness and
capability for government.**

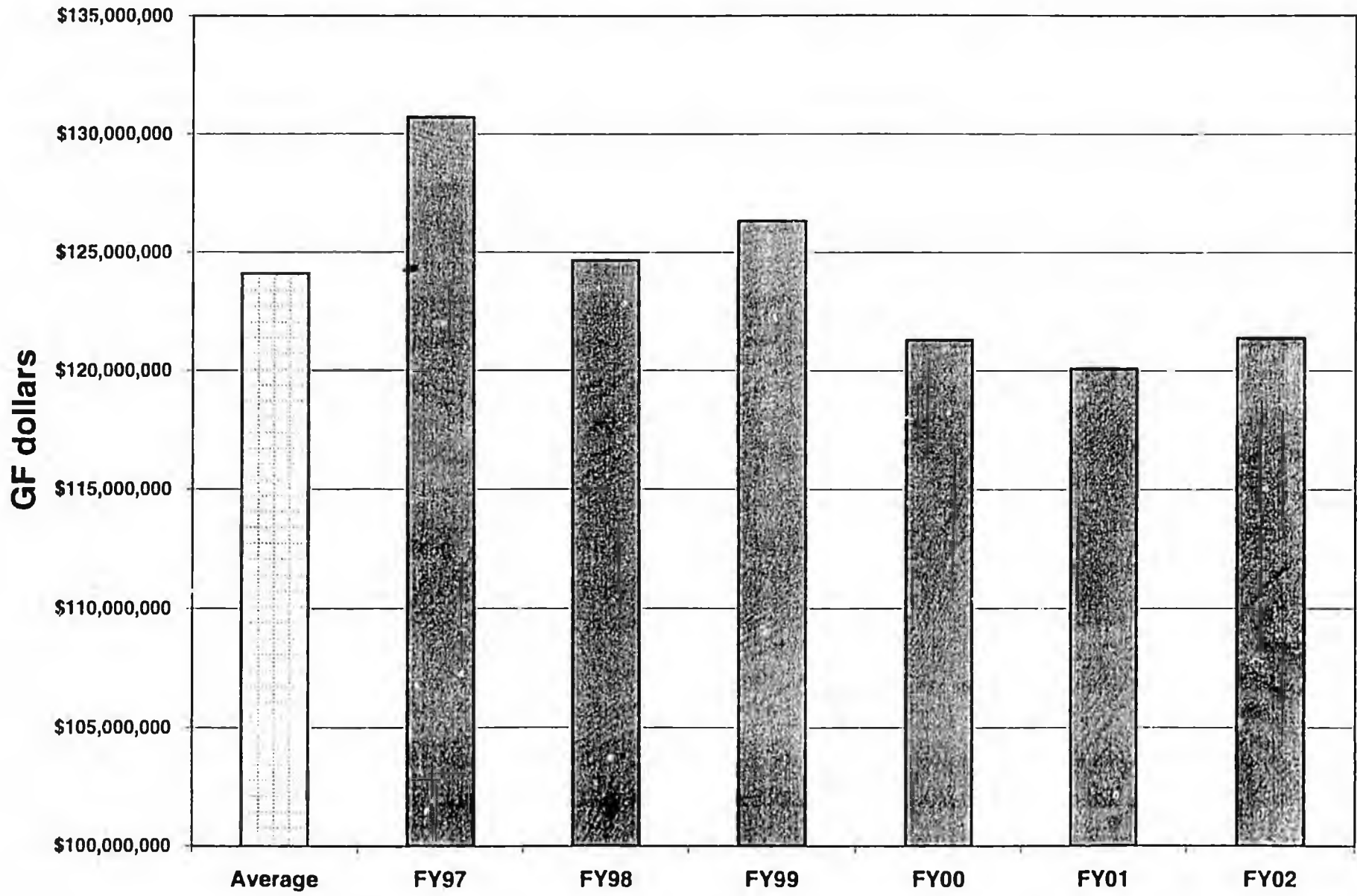
(Minutes of 11th, 12th meetings of the Local Government Committee of the
Constitutional Convention; Borough Government in Alaska, p. 39)

MANDATORY BOROUGH COMPACT

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

(See Ch. 52, SLA 1963)

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



10-year REAA School Capital Funding History

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

10-YEAR TOTAL **\$196,936,004**

10-YEAR AVERAGE **\$19,693,600**

State of Alaska
 Department of Education and Early Development
 Capital Improvement Projects (FY2002)
 Major Maintenance Grant Fund

Reconsideration List

Dec 15	Nov 5	School District	Project Name	Amount Requested	Eligible Amount	EED Recommended Amount	Participating Share	State Share	Aggregate Amount
31	31	Kenai Peninsula	Kenai Central High School Reinsulate Exterior Walls	\$550,871	\$550,871	\$550,871	\$165,261	\$385,610	\$46,266,669
32	32		Multipurpose Recreational Complex Renovation Project REAA Project	\$981,237	\$981,237	\$981,237	\$19,625	\$961,612	\$47,228,281
33	33		Utility Conversion REAA Project	\$2,096,788	\$2,096,788	\$2,096,788	\$41,936	\$2,054,852	\$49,283,133
34	34	Tularood Area	Holy Cross School Bathroom & Shower Deterioration	\$48,500	\$48,500	\$48,500	\$970	\$47,530	\$49,330,663
35	35	Wrangell City	Wrangell Middle School Renovation	\$235,031	\$235,031	\$235,031	\$70,509	\$164,522	\$49,495,185
36	36	Sitka City Borough	Blatchley Domestic Water System Upgrade	\$953,366	\$953,366	\$953,366	\$286,010	\$667,356	\$50,162,541
37	37	Skagway City	Skagway Roof Replacement	\$268,635	\$268,635	\$268,635	\$94,022	\$174,613	\$50,337,154
38	0	Mat-Su Borough	Fire Alarm Systems, 5 Schools	\$912,353	\$912,353	\$912,353	\$273,706	\$638,647	\$50,975,801
39	38	Fairbanks	Districtwide Fire Protection System Upgrades	\$1,705,474	\$1,705,474	\$1,705,474	\$511,642	\$1,193,832	\$52,169,633
40	41	Yakutat City	Yakutat High School Gymnasium Structural Repair	\$101,401	\$101,401	\$101,401	\$30,420	\$70,981	\$52,240,614
41	39	Yukon-Koyukuk	Katlag School Renovation	\$2,467,400	\$2,467,400	\$2,467,400	\$49,348	\$2,418,052	\$54,658,666
42	0	Mat-Su Borough	Septic System Upgrade, Colony High School	\$234,341	\$234,341	\$234,341	\$70,302	\$164,039	\$54,822,705
43	40	Wrangell City	Wrangell Elementary School & High School Roof & Exterior Repairs	\$144,594	\$144,594	\$144,594	\$43,378	\$101,216	\$54,923,921
44	42	Northwest Arctic	Shungnak Improvements Phase II	\$3,557,510	\$3,045,024	\$3,045,024	\$304,502	\$2,740,522	\$57,664,443
45	43	Dillingham City	Elementary School Weatherization	\$209,800	\$150,597	\$150,597	\$45,179	\$105,418	\$57,769,861
46	44	Kuspuk	Chuathbaluk Crow Village Sam School Sewage System Replacement	\$383,328	\$383,328	\$383,328	\$7,667	\$375,661	\$58,145,522
47	45	Delta/Greely	Delta Junction School Renovation	\$24,224,135	\$7,523,849	\$7,523,849	\$150,477	\$7,373,372	\$65,518,894
48	46	Hoonah City	Hoonah Schools Renovation	\$1,671,110	\$1,435,458	\$1,435,458	\$143,546	\$1,291,912	\$66,810,806
49	47	Kake City	Kake Middle School Renovation	\$584,823	\$522,683	\$522,683	\$52,268	\$470,415	\$67,281,221
50	48	Denali Borough	Cantwell School Sprinkler Installation & Heating System Upgrade	\$1,848,178	\$976,662	\$976,662	\$292,999	\$683,663	\$67,964,884
51	49	Anchorage	Districtwide Renewal & Replacement/ADA Code Requirements	\$5,355,000	\$5,355,000	\$5,355,000	\$1,603,500	\$3,748,500	\$71,713,384
52	50	Chugach	Districtwide Fire Alarm Upgrade	\$69,883	\$69,883	\$69,883	\$1,398	\$68,485	\$71,781,869
53	51	Denali Borough	Upgrade	\$511,491	\$511,491	\$511,491	\$153,447	\$358,044	\$72,139,913
54	52	Kuspuk	Kalskag George Morgan Sr. High School Sewage System Replacement	\$1,882,188	\$454,886	\$454,886	\$9,098	\$445,788	\$72,585,701
55	0	Mat-Su Borough	Fuel Tank Replacement Districtwide	\$185,604	\$185,604	\$185,604	\$55,681	\$129,923	\$72,715,624
56	53	Tanana City	Tanana School Major Maintenance	\$3,223,883	\$3,223,883	\$3,223,883	\$161,194	\$3,062,689	\$75,778,313
57	54	Anchorage	Districtwide Roof Replacement & Repairs	\$3,437,000	\$3,437,000	\$3,437,000	\$1,031,100	\$2,405,900	\$78,184,213
58	55	Haines	High School Exterior Major Maintenance	\$214,778	\$183,670	\$183,670	\$55,101	\$128,569	\$78,312,782
59	56	Dillingham City	Central Administration, Roof	\$71,786	\$71,786	\$71,786	\$21,536	\$50,250	\$78,363,032
60	57	Southeast Island	Hyder Sprinkler System	\$90,109	\$90,109	\$90,109	\$1,802	\$88,307	\$78,451,339
61	0	Mat-Su Borough	Boiler & Water Heater Replacement, 4 Schools	\$324,945	\$324,945	\$324,945	\$97,483	\$227,462	\$78,678,801
62	58	Anchorage	Electrical Upgrades In Support Of Technology	\$5,866,000	\$5,866,000	\$5,866,000	\$1,759,800	\$4,106,200	\$82,785,001
63	59	Northwest Arctic	Deering Improvements Phase I	\$1,966,331	\$1,966,331	\$1,966,331	\$196,633	\$1,769,698	\$84,554,699
64	60	Alaska Gateway	Northway School Structural Upgrade	\$958,899	\$958,899	\$958,899	\$10,173	\$938,726	\$85,494,420
65	61	Alaska Gateway	Tellin Sewer Line Project	\$77,263	\$83,057	\$83,057	\$1,661	\$81,396	\$85,575,816

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



1998 Per Capita Earnings from Local Employment

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

Region	1998 Earnings	1998 Population	1998 Per Capita Earnings
North Slope Borough	\$520,522,220	7,268	\$71,618
Nome Census Area	\$97,044,435	2,461	\$39,433
Denali Borough	\$55,286,386	1,868	\$29,597
Bristol Bay Borough	\$32,431,012	1,291	\$25,121
Aleutians West Census Area	\$108,882,321	5,346	\$20,367
Aleutians East Borough	\$41,027,273	2,145	\$19,127
Juneau Borough	\$531,813,449	30,021	\$17,715
Anchorage, Municipality of	\$4,487,741,618	257,260	\$17,444
Valdez-Cordova Census Area	\$177,367,744	10,274	\$17,264
Yakutat Borough	\$12,342,015	775	\$15,925
Ketchikan Gateway Borough	\$225,062,306	14,143	\$15,913
Northwest Arctic Borough	\$106,716,798	6,817	\$15,655
Dillingham Census Area	\$62,319,552	4,686	\$13,299
Sitka Borough	\$107,681,583	8,722	\$12,346
Fairbanks North Star Borough	\$993,377,321	83,045	\$11,962
Kodiak Island Borough	\$156,034,213	13,716	\$11,376
Skagway-Hoonah-Angoon Census Area	\$38,853,608	3,642	\$10,668
Kenai Peninsula Borough	\$498,373,187	48,532	\$10,269
Wrangell-Petersburg Census Area	\$70,592,857	7,165	\$9,852
Haines Borough	\$22,964,855	2,461	\$9,332
Bethel Census Area	\$145,680,722	15,935	\$9,142
Prince of Wales-Outer Ketchikan Census Area	\$62,291,076	6,830	\$9,120
Yukon-Koyukuk Census Area	\$54,484,780	6,411	\$8,499
Lake and Peninsula Borough	\$13,525,967	1,842	\$7,343
Southeast Fairbanks Census Area	\$45,337,691	6,349	\$7,141
Matanuska-Susitna Borough	\$311,684,727	54,153	\$5,756
Wade Hampton Census Area	\$34,879,176	7,044	\$4,952

Excerpt from "The Need to Reform State Laws Concerning Borough Incorporation and Annexation," a Local Boundary Commission report.

Real Estate Advertisement
in a
Community Newsletter
(Community Location – in the Unorganized Borough)

Real Estate:

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

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

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

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

REAA WAGES AND AVERAGE EMPLOYMENT (FY 1999)

Sorted by Average Wage Paid Per Employee

	WAGES PAID & TYPE			AVE. MONTHLY EMPLOYMENT			AVE. WAGE PER EMPLOYEE
	GOVT	PRIVATE	TOTAL	GOVT	PRIVATE	TOTAL	
A	\$ 4,420,482	\$ 13,378,554	\$ 17,799,036	137	291	428	\$ 41,587
B	18,397,803	10,103,250	28,501,053	464	456	920	30,979
C	8,606,578	19,870,388	28,476,966	249	710	959	29,694
D	3,520,907	11,313,030	14,833,937	135	397	532	27,883
E	9,215,718	22,268,163	31,483,881	307	832	1,139	27,642
F	9,635,672	3,458,778	13,094,450	323	153	476	27,509
G	6,085,262	5,410,114	11,495,376	202	216	418	27,501
H	6,858,381	4,118,284	10,976,665	238	163	401	27,373
I	1,878,633	5,638,392	7,517,025	60	225	285	26,376
J	2,870,581	4,394,216	7,264,797	109	171	280	25,946
K	3,530,441	5,480,661	9,011,102	203	163	366	24,620
L	7,975,413	9,790,055	17,765,468	233	507	740	24,007
M	55,882,109	67,719,747	123,601,856	2,166	3,059	5,225	23,656
N	5,718,320	3,035,657	8,753,977	204	167	371	23,596
O	22,749,598	12,218,767	34,968,365	1,146	808	1,954	17,896
P	13,553,081	8,312,138	21,865,219	654	625	1,279	17,096
Q	560,411	576,531	1,136,942	21	54	75	15,159
TOTAL:	\$ 181,459,390	\$ 207,086,725	\$ 388,546,115	6,851	8,997	15,848	\$ 24,517

REAA WAGES AND AVERAGE EMPLOYMENT (FY 2000)

Sorted by Average Wage Paid Per Employee

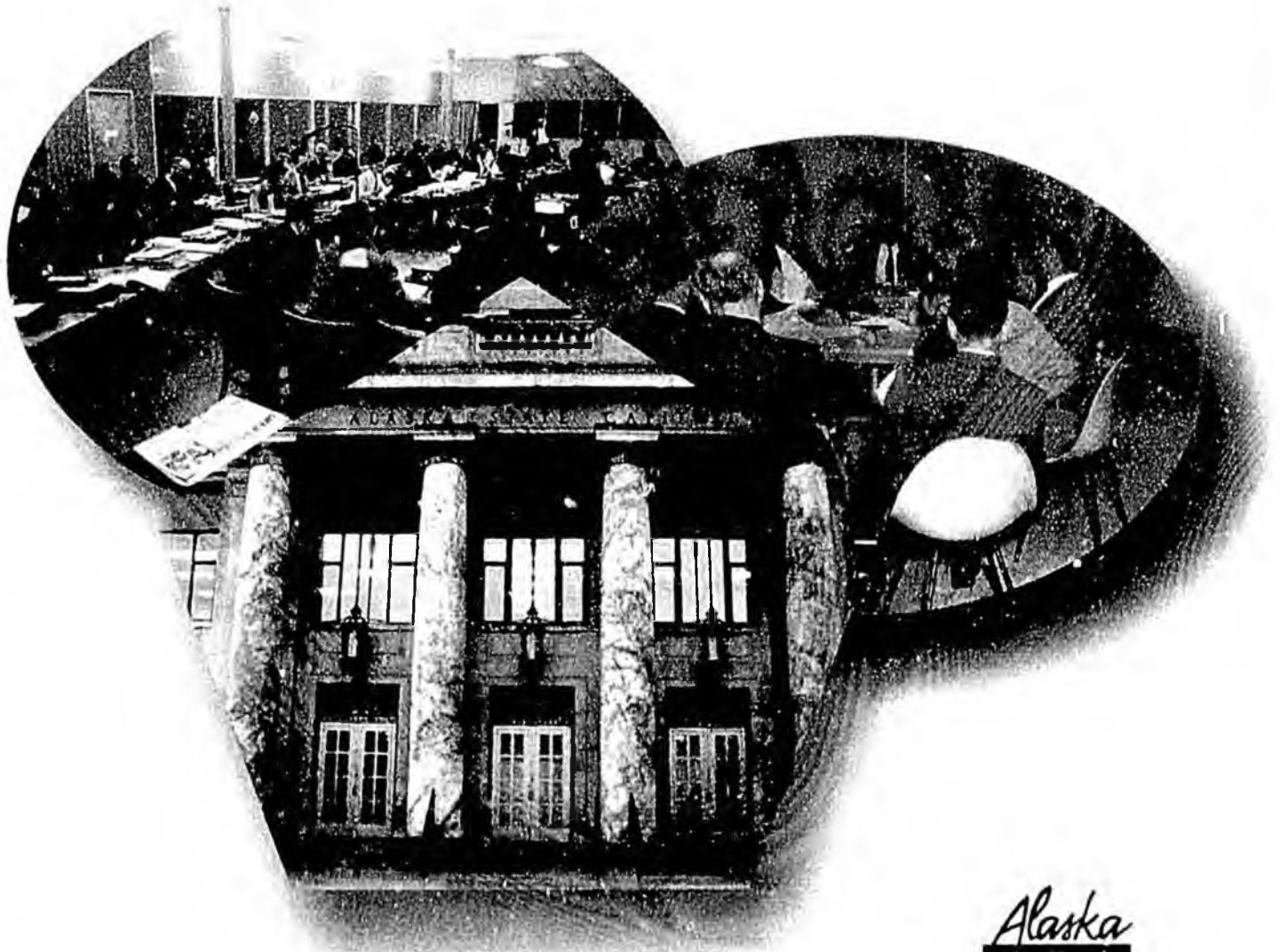
	WAGES PAID & TYPE			AVE. MONTHLY EMPLOYMENT			AVE. WAGE PER EMPLOYEE
	GOVT	PRIVATE	TOTAL	GOVT	PRIVATE	TOTAL	
A	\$ 2,011,322	\$ 10,095,444	\$ 12,106,766	57	275	332	\$ 36,466
B	17,487,371	11,346,584	28,833,955	441	454	895	32,217
C	9,180,009	22,968,470	32,148,479	260	763	1,023	31,426
D	5,707,415	16,340,738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

SB 48 Simply Asks:

**CAN YOU
HELP?**

Background on Boroughs in Alaska

November 2000



Deborah B. Sedwick
Commissioner



Department of
**Community and
Economic Development**

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

Borough Government in Alaska

DISTINCTIONS BETWEEN CITIES AND BOROUGHS

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

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

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

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

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

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

CHARACTERISTICS OF EXISTING ORGANIZED BOROUGHS

Presently, there are 16 organized boroughs in Alaska.

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

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

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

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

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

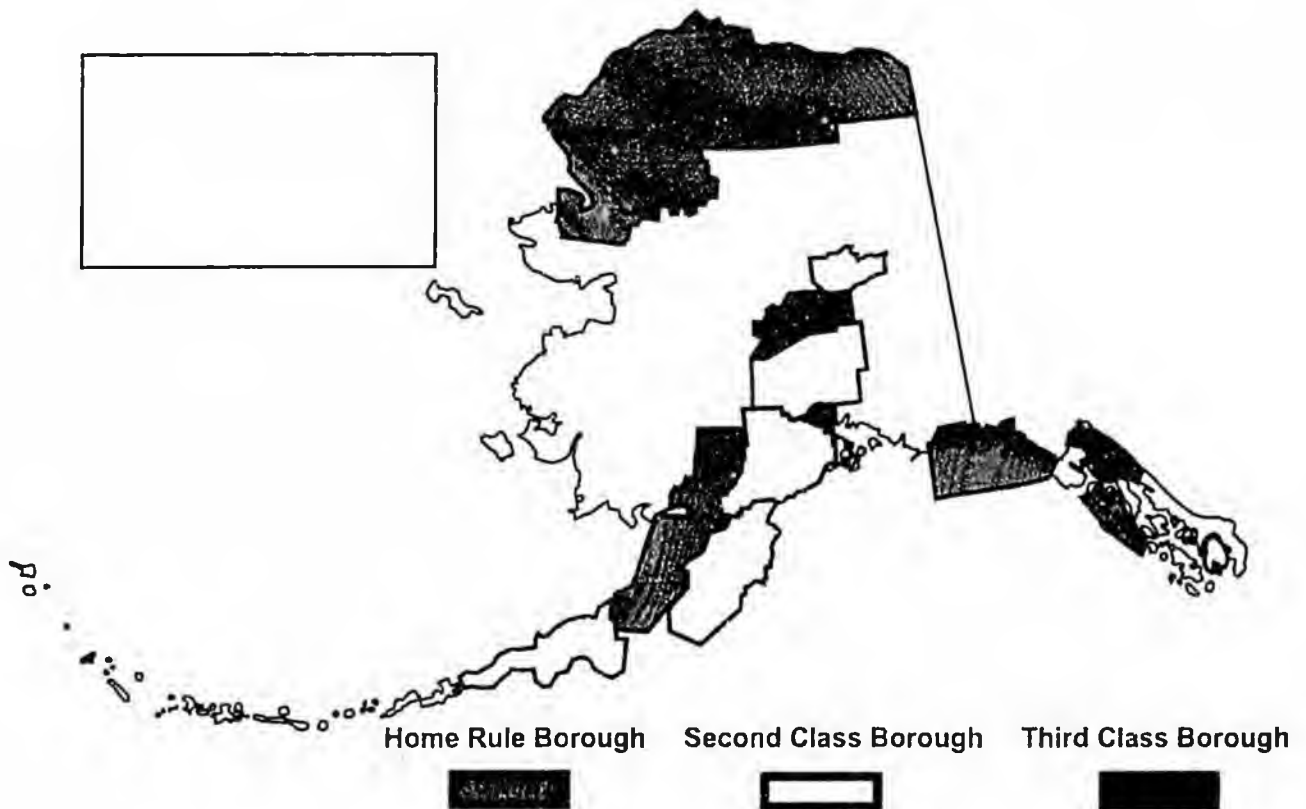
- ◆ Half of the organized boroughs in Alaska are home rule boroughs (8 of 16). These consist of the City and Borough of Sitka, City and Borough of Juneau, Municipality of Anchorage, City and Borough of Yakutat, Lake and Peninsula Borough, Denali Borough, Northwest Arctic Borough and the North Slope Borough.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

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

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

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

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



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

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

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

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

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The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units. (emphasis added)

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

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

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

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

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

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

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

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

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

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

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

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

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

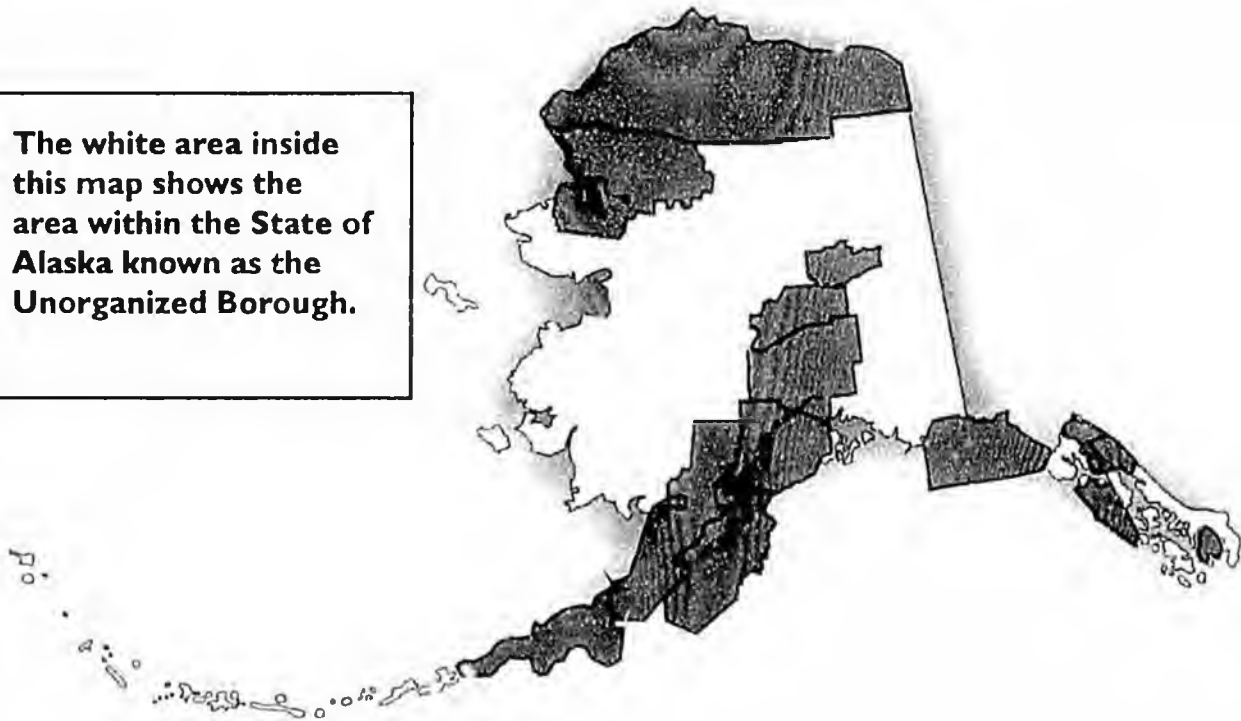
Adoption of a home rule charter promotes maximum local self-government to the greatest extent possible.

DUTIES OF ORGANIZED BOROUGHS

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

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

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



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

THE UNORGANIZED BOROUGH

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

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

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

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

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

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

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

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

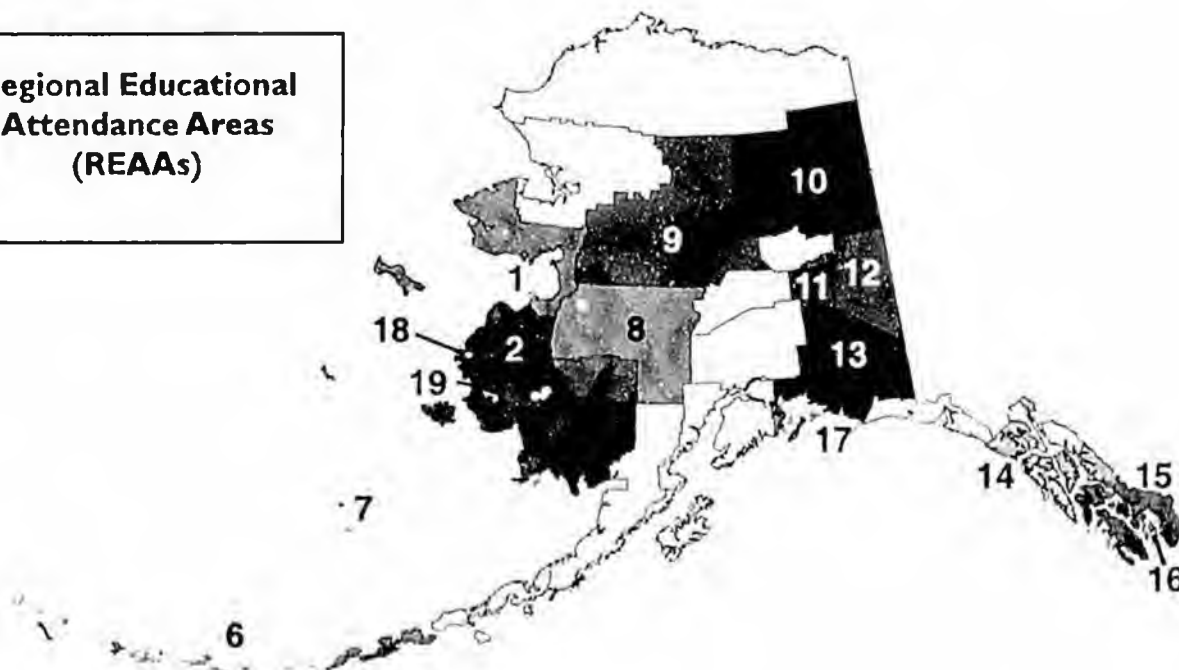
criteria used to establish the boundaries of REAAs are similar in many respects to the criteria for setting boundaries of organized boroughs. [AS 14.08.031] In a number of instances, the model borough boundaries set by the Local Boundary Commission in 1991-1992 follow the boundaries of REAAs.

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

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

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

**Regional Educational
Attendance Areas
(REAAs)**



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

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

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

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

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

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

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

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

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

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

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

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

PRINCIPLES AND STANDARDS RELATING TO BOROUGH INCORPORATION AND ANNEXATION

Alaska's Constitution encourages boroughs.

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

Alaska's Constitution favors minimizing the number of boroughs.

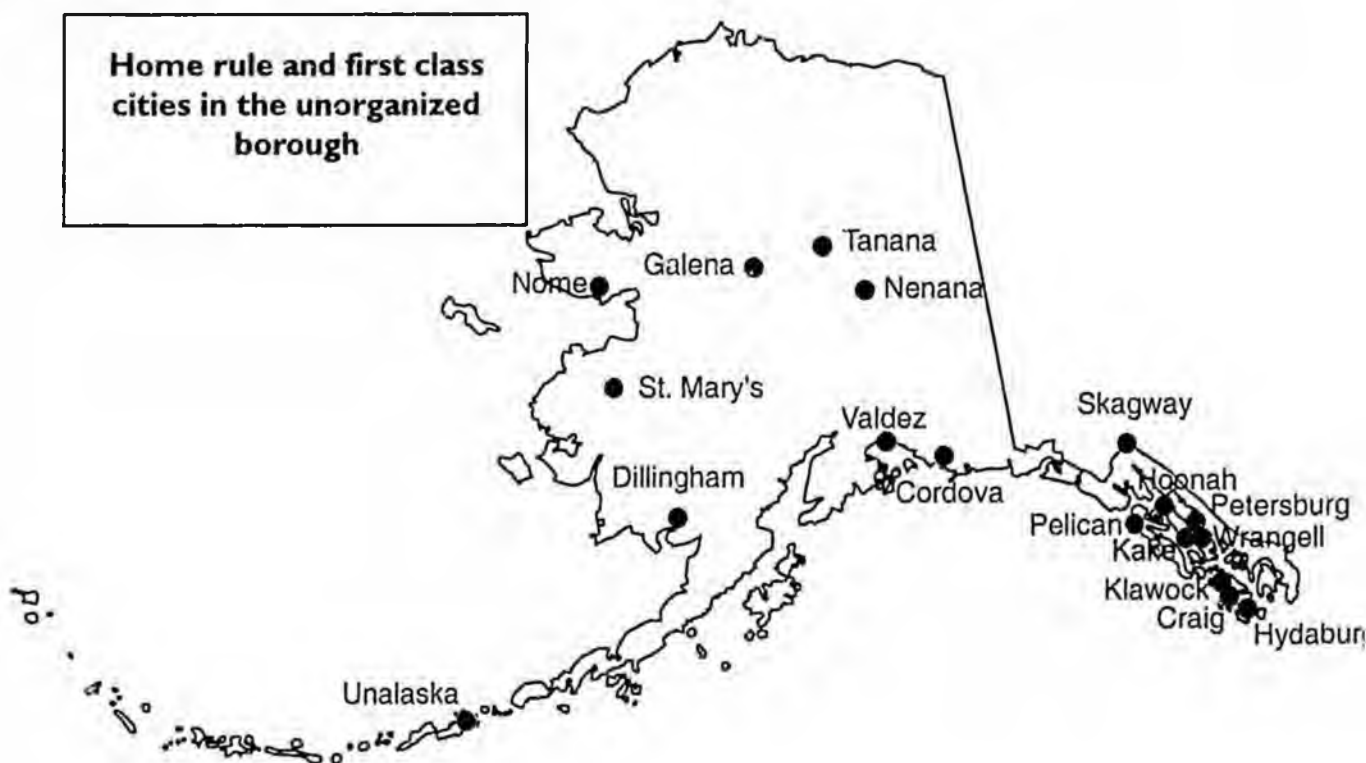
- ◆ Art. X, § 1 is an express policy of minimizing the number of cities and boroughs.

Boroughs must embrace a natural region.

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

Boroughs must have resources to operate efficiently & effectively.

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



Methods of Annexation

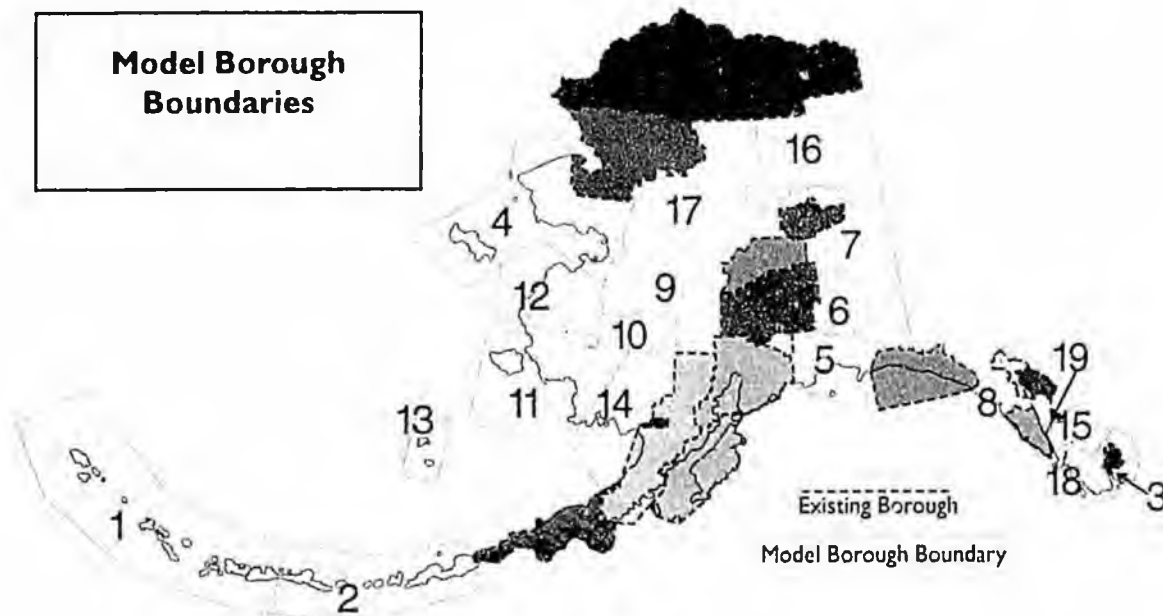
State law allows four different methods of annexation to boroughs. The different methods are outlined below. The first three listed are seldom used.

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

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

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

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



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

Annexation by Legislative Review.

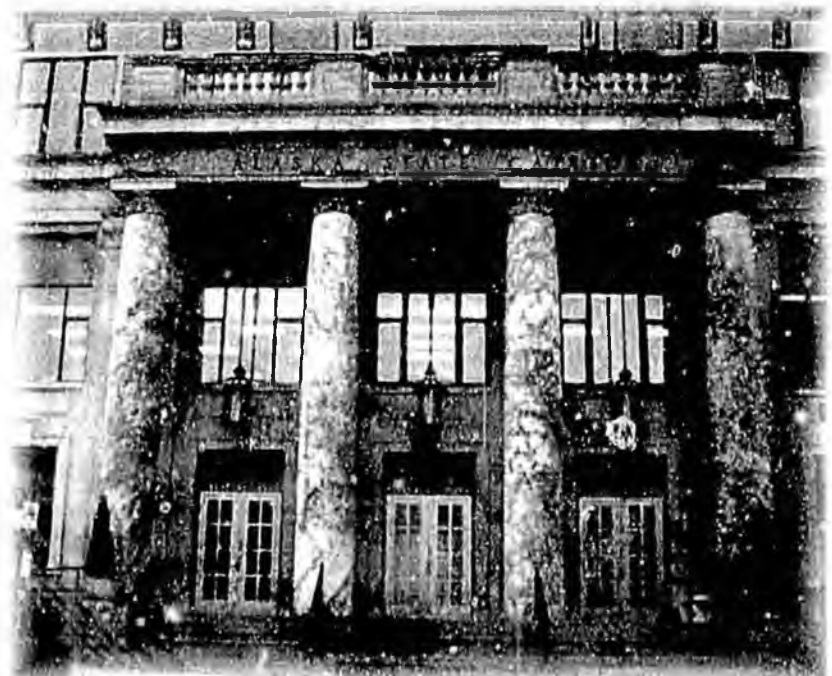
An area may be annexed without approval by the voters or property owners under the legislative review process. Proposals may be initiated by the borough, State Legislature, voters, and others. Such proposals require approval by the Local Boundary Commission as well as review and tacit approval by the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

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

Annexation Procedures

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

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



Alaska State Capitol

**Organized
Borough
Governments**



Borough Incorporation Procedures

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

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

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

- ◆ At least seven weeks for individuals and organizations to file comments or responsive briefs with the Local Boundary Commission in support of or in opposition to the petition.
- ◆ At least two weeks for the petitioner to file a brief with the Local Boundary Commission in reply to the responsive briefs and comments.
- ◆ At least four weeks for interested persons and organizations to review and comment upon a preliminary report by DCED concerning the annexation proposal.
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- ◆ Opportunity to review a written decisional statement setting out the basis for the decision by the Commission; (The Commission may approve a petition, amend and approve a petition; impose conditions on annexation; or deny the petition).
- ◆ Opportunity to seek reconsideration of the Commission's decision.
- ◆ Requirement for review of the proposal under the Federal Voting Rights Act.
- ◆ Submission of a proposition to the voters of the proposed borough which requires approval from a majority of the areawide vote.

Notes:

Robert Kopchak
03/22/01

CITY OF CORDOVA



March 22, 2001

RE: SB 48

Senate Finance Committee Members:

The City of Cordova has been in favor of the formalization of a borough government for the Prince William Sound and Copper River region for many years. In the past two decades, at least four borough studies for the area have been undertaken. These are in addition to the work done by the Local Boundary Commission, and represent significant investment by the community and the state. The Cordova City Council has adopted a "Borough Priority", and an additional "in house" borough economics study was completed about four months ago in a continuing effort to move this governance issue forward.

For our region the borough government concept seems to be economically desirable, and politically difficult. There are significant disincentives for the formation of a borough, and few resources available to provide for the level of financial analyses and concept promotion needed to gain broad regional approval. In areas with diverse interests, concentrations of population, and rich/poor communities, current borough formation law allows the "haves" to dictate the regional politics related to borough formation at the expense of the "have nots". I would offer the following example.

The model boroughs proposed by the LBC for Prince William Sound (5) and the Copper River Basin (6) would be combined to reflect a more "ideal" approach to responsive and representative regional government. Entire drainages undivided by multiple political/jurisdictional borders provide for the maximum local participation in decisions that would affect residents of the region. This borough would encompass the entire drainage system, reflect the interconnected dependence on regional resources, and the shared risks from pollution and catastrophic oil spills that damage subsistence lifestyles, economies and ecologies. Coastal Zone Management, Platting, and other related land use issues within the drainage would be consolidated, and communities would share in the risks and rewards related to resource development and land use. Drainage boundaries would allow "upriver" residents to share in the value of fisheries resources exploited by coastal communities, resources that depend on the upriver areas for their health and vitality. Coastal communities, and communities removed from oil transportation corridors and ports, would share in the value of the business of transporting oil. Sharing in this value during normal safe operations would help offset the impacts from inevitable spills and catastrophic events.

Each community within this region shares a dependence on the resources supported by the waters of Prince William Sound and the Copper River/Bering River. Some communities are completely dependent on the fisheries and subsistence game found within the region. Over 75% of Cordova's economy is directly tied to the fisheries of PWS, the Copper River and North Gulf of Alaska. In PWS, Chenega and Tatitlek are 95% dependent on true subsistence and commercial fishing. Although the shipment and loading of oil is a huge part of the regional economy, few of the benefits of the dollars generated by this part of the regions economy are shared outside Valdez and the support service communities located adjacent to the pipeline. It is interesting to note that "down stream" communities most likely to be damaged by oil spills enjoy virtually none of the economic benefits from oil transportation and shipment. A break in the pipeline at a river crossing has the potential of devastating salmon production on the Copper River, impacting subsistence and commercial fishing communities, both upriver and coastal, for generations. These communities receive no benefits from the shipment of oil across lands and waters put at risk. It is unconscionable that a community at slight financial risk to oil spill damage has a reserve

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account in excess of \$70,000,000 from regional oil transportation revenues, while neighboring villages and communities whose economies and subsistence lifestyles were damaged by and are still at risk to spills struggle.

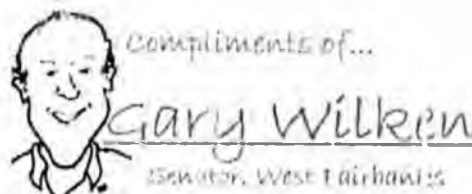
Most communities in this region do not contribute to the local cost of education, and facilities and programs suffer from limited budgets spent on duplicate administration. It is interesting to note that in a recent evaluation of school students ability to take the standardized graduation tests, it was in communities with the greatest tax base/student ratios that students performed best. Revenues produced from modest borough taxes would easily pay the cost of a consolidated regional education program and still allow for local education control. In the region, the benefits of modest tax programs in an expanded regional base are significant. After paying the costs of Borough government administration, regional education costs, and plating/coastal zone management, sufficient revenues would remain to provide \$100,000 in revenue sharing to each community, and a per capita share of any revenue surplus. This would be after a \$450,000 deposit to a Borough Reserve account. For the Prince William Sound/Copper River Region, a borough makes financial sense from an education and a revenue sharing standpoint. Why isn't there a borough?

The ineffectiveness of the voluntary incorporation provisions of the 1961 law is evident in the fact that only 4% of Alaskans live in boroughs that were formed in a truly voluntary manner. That is contrasted to 82.6% of Alaskans who live in boroughs that were formed under the 1963 mandate drafted by Representative Rader. It must also be recognized that most of the boroughs that formed voluntarily had extraordinary resources that make boroughs particularly attractive. The North Slope accounts for 25% of the residents of Alaska that have formed voluntary boroughs, and their tax base is an enviable \$1,550,950 per capita.

If we look at the "ability to pay" as it relates to existing and proposed boroughs, we note that 10 of the 12 areas in the "unorganized borough" have a larger per capita income than the Mat-Su, which was compelled to form a borough through legislative action. Of the "Top Ten" areas on the state per capita income list, it is notable that #1 (the Cordova/Valdez census area) is the only non-borough area.

The difficulty in using local initiative to form a borough results from decades of incrementally expanding disincentives to borough formation. An unfair burden is placed on communities with the fewest assets. To even begin the borough process they must pursue complicated, difficult and costly processes. The resources simply are not there.

Boroughs empower regional populations and enable them to provide for their own interests. With a modification in the borough formation process that removes some of the burdens to formation, additional boroughs will follow.



Kevin Waring
03/22/01

**Testimony on CS for Senate Bill 48(CRA)
to the Senate Finance Committee of the
First Session of the 22nd Alaska Legislature
March 22, 2001**

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

Chairman Donley, Chairman Kelly, and members of the Committee, thank you for this opportunity to testify on behalf of the Local Boundary Commission on Senate Bill 48. One of the duties of the Local Boundary Commission under the Alaska Constitution and under state law is the duty to review and approve or disapprove all proposed city and borough incorporations and boundary changes. The Commission would play a central role in implementation of SB 48. My purpose today is to explain how the Commission views this bill, and its responsibilities under the bill.

First, some history on the origin of SB 48. Over the past year, the Commission has worked to develop a new legislative approach to borough incorporation in the unorganized borough. We held several work sessions to study the issues and to work on draft legislation. In October, the Commission voted unanimously to approve a draft bill, and to make it available for legislative consideration. Our goal was to put forward for legislative and public discussion a fresh approach to incorporation of new borough governments that was uniformly fair, accountable, and within the framework of existing law. The Commission believes that the legislation that Senator Wilken and the co-sponsors have introduced as SB 48 meets those goals.

As background for the proposed legislation, the Commission also prepared and provided to committee members:

- a position paper on **The Need to Reform State Laws Concerning Borough Incorporation and Annexation;**
- a factual booklet that provides **Background on Boroughs in Alaska;** and
- a four-page handout that summarizes key points about the Commission's proposal and how it fits into existing law.

SB 48 as amended has eight sections. My remarks focus on Section 4, which authorizes a new method for borough incorporations and annexations in unorganized areas. I will talk about the new method proposed for borough incorporations. The method proposed for annexations of unorganized areas to existing boroughs works similarly.

Section 4 of SB 48 authorizes two new steps in the borough incorporation process:



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

New First Step: Incorporation by Administrative Petition

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

Section 4 of SB 48 adds a new option for incorporation by administrative petition. It directs the Department of Community and Economic Development to prepare annually a preliminary list, with supporting analysis, of unorganized areas that reasonably appear to satisfy existing legislative standards for borough incorporation. It further directs the Local Boundary Commission to select from this list areas that may warrant incorporation, and to instruct the Department of Community and Economic Development to prepare and file a petition for incorporation. The Commission would then follow the process now established in law for public review and local public hearings on petitions.

New Final Step: Petition Approval

Section 4 also proposes a new final step to approve incorporation petitions initiated under SB 48. This new step is modeled on the process for approval of city and borough annexations established by Alaska's Constitution, which was overwhelmingly ratified by the voters in 1956.

Briefly, Article X, section 12 of the Alaska Constitution established a method for approval of municipal boundary changes without local election. The first legislature put this process into law. Some annexation proposals, whatever their merits, are not well-received by affected residents. Therefore, the Constitution and legislature established a method by which contested petitions that met standards set out in law could be approved by the Local Boundary Commission without a local election, but subject to legislative veto. Legislative review annexation has been successfully used for over 100 city and borough boundary changes since statehood. Most significant annexations are approved by this method.

Similar to the existing method for legislative review annexation, Section 4(c) of SB 48 authorizes the Commission to approve incorporation petitions that meet the same incorporation standards that apply to all other boroughs without a local election but subject to legislative veto.

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

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

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

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

Concerns Raised in Public Testimony

Next, I want to address three specific concerns that have been raised in public testimony. A statement of how the Commission would implement SB 48, if adopted, may help dispel them as unfounded.

First, there has been concern that the Commission might approve incorporation of areas that did not have the economic resources to support borough government. Existing law—AS 29.05.031—already requires a Commission finding that the economy of any area proposed for incorporation has the human and financial resources needed to support municipal services. The Commission's regulations, at 3 AAC 110.055, spell out in detail the factors on which the Commission must make its findings. Given the public concern on this topic, the Commission is working with DCED staff to develop objective economic benchmarks that a region should meet before it would be nominated for incorporation.

Second, there has been concern that the Commission might not hold adequate local public hearings for incorporation petitions filed under the bill. SB 48 specifically requires the Commission to hold at least one local public hearing in each affected region. In practice, the Commission's intent would be to hold local public hearings at regional centers and, at minimum, in any community with 400 or more residents and in every home rule and first class city in the affected region.

Third, there has been concern that the Commission might move quickly to approve numerous borough incorporations. In reality, given the resources and time available to the Commission and its staff, the Commission could, at most, take up one or two petitions a year. In our view, implementation of this law would likely stretch out over many years.

The Commission would support amendments to incorporate these points into SB 48.

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

To sum matters up, the Commission does not view SB 48 as the second coming of the 1963 Mandatory Borough Act, or any similar legislation. The Commission is not on a mission to foster boroughs for the sake of boroughs. Unlike the 1963 Mandatory Borough Act, SB 48 provides for a measured, case-by-case evaluation of each proposed incorporation. Each petition will be evaluated on its merits. Proposals that do not meet statutory standards will not be approved. And, as under current law, even if a petition meets standards, the Commission can reject the petition when there are sound reasons to do so.

In closing, the Commission believes the new incorporation steps authorized by SB 48 meet its goal for an approach that:

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

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



State of Alaska Local Boundary Commission

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November 2000

Need for a New Option for Borough Incorporations and Annexations

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

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

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

The Commission's Proposal

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

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

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

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