

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

338 SCOMM10: LOCAL GOVERNMENT STUDY 1979

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

CHRONOLOGY OF EVENTS: DECENTRALIZATION OF THE ALASKA STATE-OPERATED SCHOOL SYSTEM - 1974-1976

January 1974. Center for Northern Educational Research (CNER) releases its report, PreHigher Education in the Unorganized Borough: Analysis and Recommendations, produced at the request of the Eighth Alaska State Legislature's Interim Committee and of Native leaders.

January - May 1974. Eighth Alaska State Legislature meets and reviews CNER report in committee, but does not act on the recommendations of the report concerning rural education.

July 14-16, 1974. The Alaska Federation of Natives (AFN), having assessed the Legislature's inactivity, calls an Education Strategies Conference in Fairbanks to review CNER's recommendations, to prioritize issues addressed in the report, and to determine whether and how to bring CNER recommendations to the attention and action of the new State Legislature.

August 15, 1974. Mr. Gordon Jackson, Executive Vice-President for Human Resources, at the AFN presents the recommendations and strategies from the July conference to the State Board of Education and receives their unanimous support of those items.

October 14-16, 1974. The AFN Annual Convention endorses through resolutions the PreHigher Education's recommendations and strategies. The Human Resource Committee of AFN, meeting during the convention, endorses those principles and directs staff to include those concerns into the formal AFN Education Position Paper to be presented to the newly elected State Legislature.

January 1975. The Ninth Alaska State Legislature convenes, with several bills related to the CNER/AFN recommendations prefiled. These bills include Senate Bill (SB) 35, House Bill (HB) 24, and SB 94 and SB 136.

June 4, 1975. Governor Hammond signs into law (Chapter 124, SLA 75) the Free Conference version of SB 35 and HB 24. An interim administrative structure, AUBSK, is created for the transitional year.

September-October 1975. Representatives of DOE and DCRA hold formal hearings for REAAs; public hearings are held in 21 communities in the unorganized borough; 796 people attend, representing 83 communities.

July 1, 1976. Twenty-one Regional Educational Attendance Area school boards take responsibility for education in their regions.

SB 35 AND REGIONAL GOVERNMENT *

Patrick K. Poland

The transfer of the major operational responsibilities for rural Alaska's schools from the State of Alaska (Alaska Unorganized Borough School District) to regional school districts (Regional Educational Attendance Areas) with locally elected school boards was accomplished by Ch 124, Session Laws of Alaska, 1975 (popularly referred to as Senate Bill 35).

To a great extent, the ultimate impact of Senate Bill 35 is just beginning to be realized. However, there are already several definite implications for municipal government that have arisen from the implementation of Senate Bill 35. The purpose of this discussion is to underscore these implications as they relate to the development of municipal government in the Unorganized Borough. For purposes of this discussion, municipalities consist of boroughs and first-class cities; that is, municipalities having the education function.

Regional Identification

While rural Alaska's initial encounter with the concept of regionalism came about with passage of Public Law 92-746, the Alaska Native Claims Settlement Act (ANCSA), there is no doubt that Senate Bill 35 went far beyond the implications of the ANCSA in terms of developing regional identification. In the view of the Department of Community and Regional Affairs this was a positive step towards developing regional government in the Unorganized Borough. Prior to the passage and implementation of this particular act there were no real tests of the regional concept of service delivery taking place in the Unorganized Borough;¹ and while there were many advocates of this particular mechanism of service delivery, it remained, by and large, untested. However, with the mandate of regionalization created by Senate Bill 35, rural residents have, in a sense, been forced to test the concepts of regionalism in Alaska's vast Unorganized Borough.

Surprisingly, there seemed little if any real resistance to the idea of regional school districts. On the contrary, most rural residents seemed eager to embrace the concept. Much of this was undoubtedly due to the dissatisfaction many rural residents felt with the former State-Operated School System. Perhaps the strongest demonstration of this desire to participate in a regional approach to service delivery was the change in municipal status executed by the City of Selawik. In that particular instance, the City of Selawik, formerly a city of the first class in the Unorganized Borough and therefore having school responsibilities, petitioned the Local Boundary Commission² and convinced them of the need for the city to be dissolved and "reincorporated" as a second class city so that it might become a part of the particular Regional Educational Attendance Area (Northwest Arctic). Among

Very similar statutory language exists at AS 29.18.030, which is the statutory provision establishing standards for borough incorporation. The similarity of the standards goes a long way towards defining appropriate boundaries for potential regional governments. In fact, to some observers, the boundaries of the newly created Regional Educational Attendance Areas (with some exceptions) generally conform to good borough boundaries. This has been a little alarming to many rural residents, since no small number of them are still concerned that the state is going to "foist" boroughs upon them.

Finance

The second major subject area that has been the topic of much discussion as a result of Senate Bill 35 is that of local government finance. As presently constituted, Regional Educational Attendance Areas, in comparison to municipal school districts, have an advantageous funding schedule. In addition to 100 percent Public School Foundation Program funding, Regional Educational Attendance Areas also receive from the State an amount equal to the average local contribution per pupil in municipal school districts multiplied by the number of students in the Regional Educational Attendance Area. This advantageous funding schedule for REAAs versus municipal districts remains a hindrance rather than an enticement for REAAs to seek organized borough status.

Since most REAAs are property poor (hence, no ability to generate tax revenues), the thought of forming municipal school districts to provide services which are currently provided by Regional Educational Attendance Areas is almost out of the question. For example, the poorest existing borough has about \$20,000 worth of taxable property per capita. On the other hand, some of the Regional Educational Attendance Areas could probably expect to have considerably less than \$5,000 worth of taxable property per capita. Realistically, it is impossible to provide basic municipal services without adequate funding.

The major exceptions to this discussion, of course, are those areas surrounding "the pipeline." The regions surrounding Fort Yukon, Delta Junction, Glennallen, Copper Center, and Valdez have taxable property per capita values that could easily support borough government.

Partially in response to these obvious funding inequities, the Department of Community and Regional Affairs, as a part of its final conclusions reached in its study of regional government, recommended that a new system of financing regional governments be found. Basically, the system suggested was one that placed a state-wide property tax on all property associated with the exploitation of natural resources and then, in turn, distributed those tax revenues on the basis of population and services being provided by individual boroughs. It was determined that additional study of that particular proposal

The principal negative aspect of Senate Bill 35 has been the funding formula which maintains a disincentive to formation of municipal governments and fails to properly address the extremely poor tax base of much of rural Alaska.

Ultimately, the passage of Senate Bill 35, if for no reason other than the fact that it has generated discussion and interest, is going to have had a significant effect (probably the most significant since the passage of the 1964 mandatory borough act) towards developing regional government in this state.

Notes

1. Admittedly, certain state and federal agencies have been administering a few programs on a regional basis. However, these agencies have had the benefit of vast government financial and technical resources to assist them. In the opinion of this writer, the availability of these resources makes any comparison between the state/federal regional approach and the REAAs invalid.

2. The Local Boundary Commission is composed of five members and is responsible for reviewing and approving or disapproving all municipal incorporation, dissolution, and boundary change proposals.

3. While a final report was not issued at the end of the study, several comprehensive memorandums summarizing various aspects of the study are available from Community and Regional Affairs. As an additional result of the study, legislation calling for a Local Government Commission to study and make recommendations to the Legislature on all aspects of state/local relations is being introduced by Governor Hammond in the second session of the Tenth State Legislature (January 1978).

4. Alaska Constitution, Article X, Section 2. All local government powers shall be vested in boroughs and cities. The state may delegate taxing powers to organized boroughs and cities only.

5. For further information, the reader may wish to consult David Getches, Law and Alaska Native Education, pp. 32-34.

*Article reprinted from New School Districts in Rural Alaska: A Report on the REAAs After One Year, Center for Northern Educational Research, University of Alaska, 1978, pp. 137-142.

**This percentage was reduced to 20 percent by the Legislature with the passage of Sec 2 Ch. 147 SLA 1978.

LOCATION OF SCHOOLS AND SCHOOL DISTRICTS IN ALASKA - JULY 1, 1976

MUNICIPAL AND CITY SCHOOL DISTRICTS

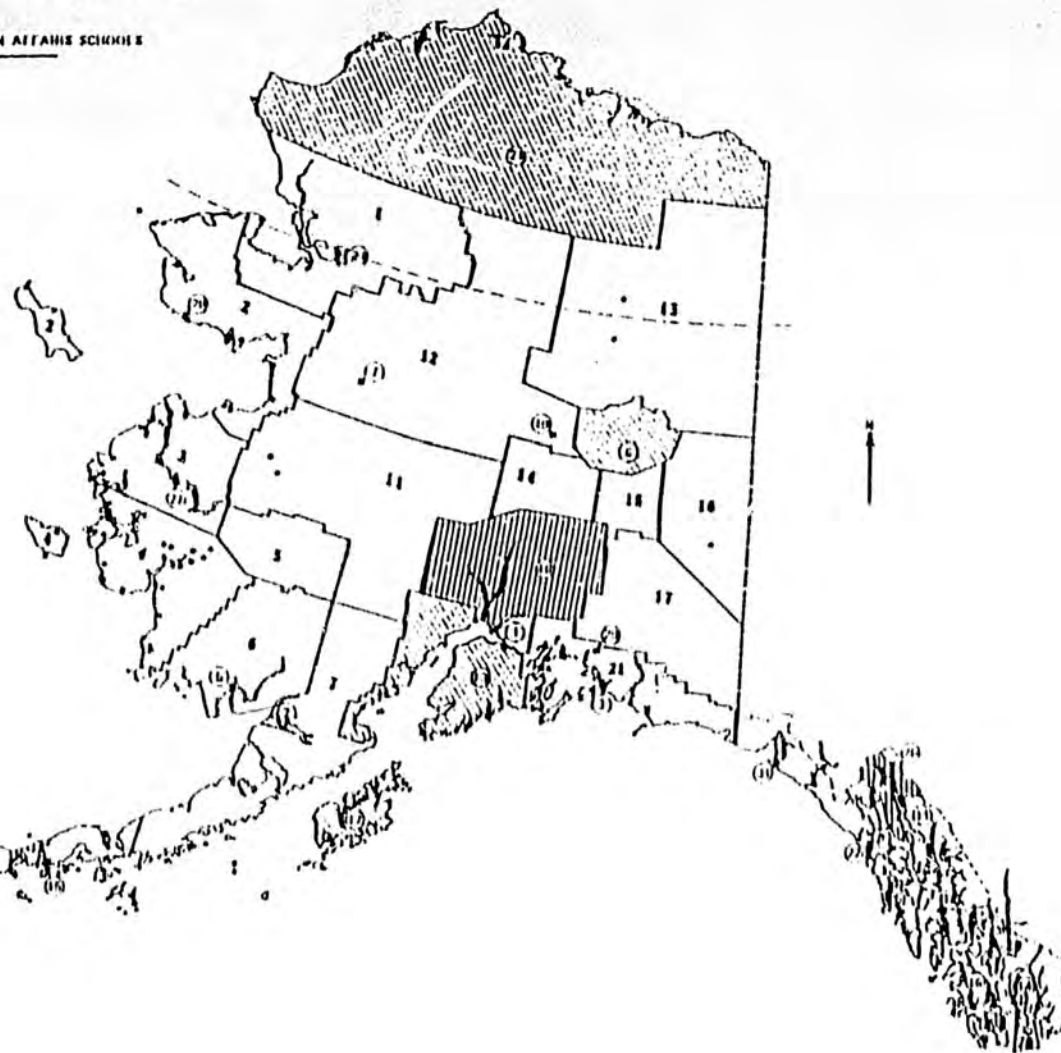
- (1) ANCHORAGE SCHOOL DISTRICTS
- (2) BOZEMAN CITY SCHOOL DISTRICTS
- (3) CHENAY CITY SCHOOL DISTRICTS
- (4) COAL CITY SCHOOL DISTRICTS
- (5) DELTA CITY SCHOOL DISTRICTS
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REGIONAL EDUCATION ATTENDANCE AREA SCHOOLS AND ADMINISTRATION HEADQUARTERS LOCATION

- 1 NORTHWEST ALASKA SCHOOLS KOTZEBE
- 2 BERING SCHOOLS KOTZEBE
- 3 LOWER YUKON SCHOOLS MARIETTA
- 4 LOWER KUSKOKWIM SCHOOLS MARIETTA
- 5 KUSKOKWIM SCHOOLS MARIETTA
- 6 SOUTHWEST ALASKA SCHOOLS DELTA
- 7 THE LAKE AND PENINSULA SCHOOLS DELTA
- 8 ALASKA GATEWAY SCHOOLS DELTA
- 9 PRINCE OF SCHOOLS AT SE. PAUL DELTA
- 10 ALASKA REGION SCHOOLS DELTA
- 11 DELTA AREA SCHOOLS DELTA
- 12 YUKON-KOYUKUK SCHOOLS DELTA
- 13 YUKON-FLAT SCHOOLS DELTA
- 14 UPPER HAIL BELT SCHOOLS DELTA
- 15 DELTA AREA SCHOOLS DELTA
- 16 ALASKA GATEWAY SCHOOLS DELTA
- 17 COPPER RIVER SCHOOLS DELTA
- 18 CHATHAM SCHOOLS DELTA
- 19 SOUTHEAST ISLANDS SCHOOLS DELTA
- 20 ADULT EDUCATION SCHOOLS DELTA
- 21 COMMUNITY SCHOOLS DELTA

BUREAU OF INDIAN AFFAIRS SCHOOLS

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Legend
• School Location in Alaska
--- School District Boundary
--- Regional Education Attendance Area Boundary

IV

IDENTIFICATION OF SERVICES AND PROGRAMS PROVIDED BY NON-GOVERNMENT AND
QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH

IDENTIFICATION OF SERVICES AND PROGRAMS PROVIDED BY NON-GOVERNMENTAL AND QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH

Throughout the organized and unorganized Alaska boroughs, there are a host of services and programs provided by non-governmental and quasi-governmental organizations. The majority of the services being delivered outside of the traditional Federal, State and local government agencies are being provided by Alaska Native nonprofit corporations.

The Alaska Native nonprofit corporations usually have regional jurisdiction boundaries following the same boundaries as the 12 Alaska Native regional profit corporations as described by the Alaska Native Claims Settlement Act (ANCSA.) These 12 regional boundaries are the divisions used in this report to depict what services are being provided by the various regional Native nonprofit corporations (Table I.) The same regional divisions have been used to identify the amount of program dollars flowing to the governmental and non-governmental entities of the organized and unorganized boroughs (Table II.) In addition, the 12 regional (ANCSA) divisions have been used to identify the proliferation of governmental and non-governmental organizations throughout the State of Alaska (Table III.)

Before the three Tables are explained, the importance of the regional Native nonprofits should be explored. The regional ANCSA boundaries reflect specific cultural and geographic areas. Consequently, the inhabitants of the regions have similar concerns for their land and way of life. In those areas of the State which have regional government, the nonprofits frequently are the representative organization of the Native community within a region. Conversely, the Native people in those areas of the State that are living within boroughs; i.e., Kodiak, still have a need to identify and preserve those aspects of their traditional ways of life necessary for the continuation of a cultural identity and use the Native nonprofit structure to meet this end.

The need for a collective voice, combined with the massive amount of Federal dollars available to the nonprofits, has created a situation in which these organizations are dynamic forces in the regions. Native nonprofit corporations are highly visible and offer the people of the various regions a voice in the determination of the services provided, and a chance to collectively combat the perceived forces of unwanted change.

IDENTIFICATION OF SERVICES AND PROGRAMS PROVIDED BY NON-GOVERNMENT AND QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH (Cont'd)

TABLE I

Services Provided by Native Regional Nonprofit Corporations

These services cover a wide range of activities and are predominately funded from a few Federal sources and to a lesser degree with some State funds. It can be seen from this listing that many of the nonprofits are offering a full complement of services normally provided by governmental entities. It should be further noted that if a region is totally or partially encompassed within a borough, the nonprofits still offer the same degree of services provided by those nonprofits totally within the unorganized borough. The nature of the Federal funding has created this situation. Many of the National Federal programs have specific monies set aside for Indian and Native Americans. In the Lower 48 states, these funds go to Indian reservations and Indian urban organizations. However, in Alaska, the Native nonprofits have been identified as the representative Indian and Native American organizations for Alaska. The State of Alaska subcontracts with some of the nonprofits because they have the regional structure needed for the provision of specific services; i.e., Adult Basic Education.

[illegible]

IDENTIFICATION OF SERVICES AND PROGRAMS PROVIDED BY NON-GOVERNMENT AND QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH (Cont'd)

TABLE II

Funding Sources for Regional Nonprofit Corporations

Table II breaks out on a regional basis the flow of dollars into the 12 regions of the State. Most of these dollars are going directly to the non-profit corporations. The Comprehensive Employment and Training Act (CETA) funds, Indian Health Service funds, Housing and Urban Development (HUD) funds, Bureau of Indian Affairs (BIA) contracted services funds, BIA Johnson-O'Malley (JOM) funds and the subcontracted RuralCAP funds go directly to the regional nonprofits. These funding levels for FY 1979 total over \$93,000,000. The \$41,000,000 listed under ongoing HUD projects are actually being spread over a period of several years, consequently giving a slight distortion to the overall funding levels. It should also be noted that not all of the BIA services have, as of yet, been contracted to the nonprofits. Once all of the BIA services are subcontracted to the nonprofits, there will be a considerable increase in the level of nonprofit funding.

The Federal and State revenue sharing figures reflect only those funds going to communities within the unorganized borough. In addition, the HUD Community Development Block Grants go directly to the community. These funds are listed so as to give a comparative picture of the funds available to the governmental organizations within the unorganized borough. The \$8,000,000 dollars going to the regional local governments is relatively small when compared to the massive amounts going to the regional nonprofits. This again emphasizes the level of importance held by the nonprofits within and outside of the unorganized borough.

Native Regional Corporations	O.V. of Indian Assets	U.S. Public Lands	HUD Indian Housing	HUD FY 79 Community Development	Federal State Revenue Sharing	State Revenue Grants	DIA Contracted Services	DIA JOH	Rural Cap
Cook (incl. Region)	2,499,950	1,350,077	2,149,995		20,000	1,771,292	413,656	80,600	
Kanlag	766,384	446,472	816,000	1,839,701	285,000	78,000	370,287	172,545	
Arctic Slope Region	1,456,761	446,012				767,107			
Admiral By AHI									
Native Corp.	1,164,157	1,062,219	225,000	127,024	147,124	52,150	306,237	285,545	
Sealaska	3,950,241	586,535		505,375	552,129	116,200	4,868,621	274,984	181,180
Chugach	397,062	304,521	1,432,000	353,080	470,539	17,000	4,736,696	160,094	96,000
Dayon	3,954,271	1,276,384	10,357,000	170,240	360,280	61,850	4,736,696	482,622	237,090
Alutian	503,320	444,000	489,600	6,772,800	80,888	234,500	136,497	253,023	116,000
Calista	6,642,150	2,794,560	4,161,600	5,723,600	479,040	763,205	1,721,766	204,190	1,165,450
Neting	2,010,085	1,574,205	12,742,003	240,000	212,976	503,232	113,877	308,103	11,951
HANA	1,466,067	975,174	2,751,054	730,000	161,020	214,533		246,780	
Total	6,325,807	12,382,954	5,467,200	11,557,953	2,683,550	2,069,020	14,757,091	3,421,036	1,057,990

TABLE III

Governmental and Non-governmental Structures within the Unorganized Borough

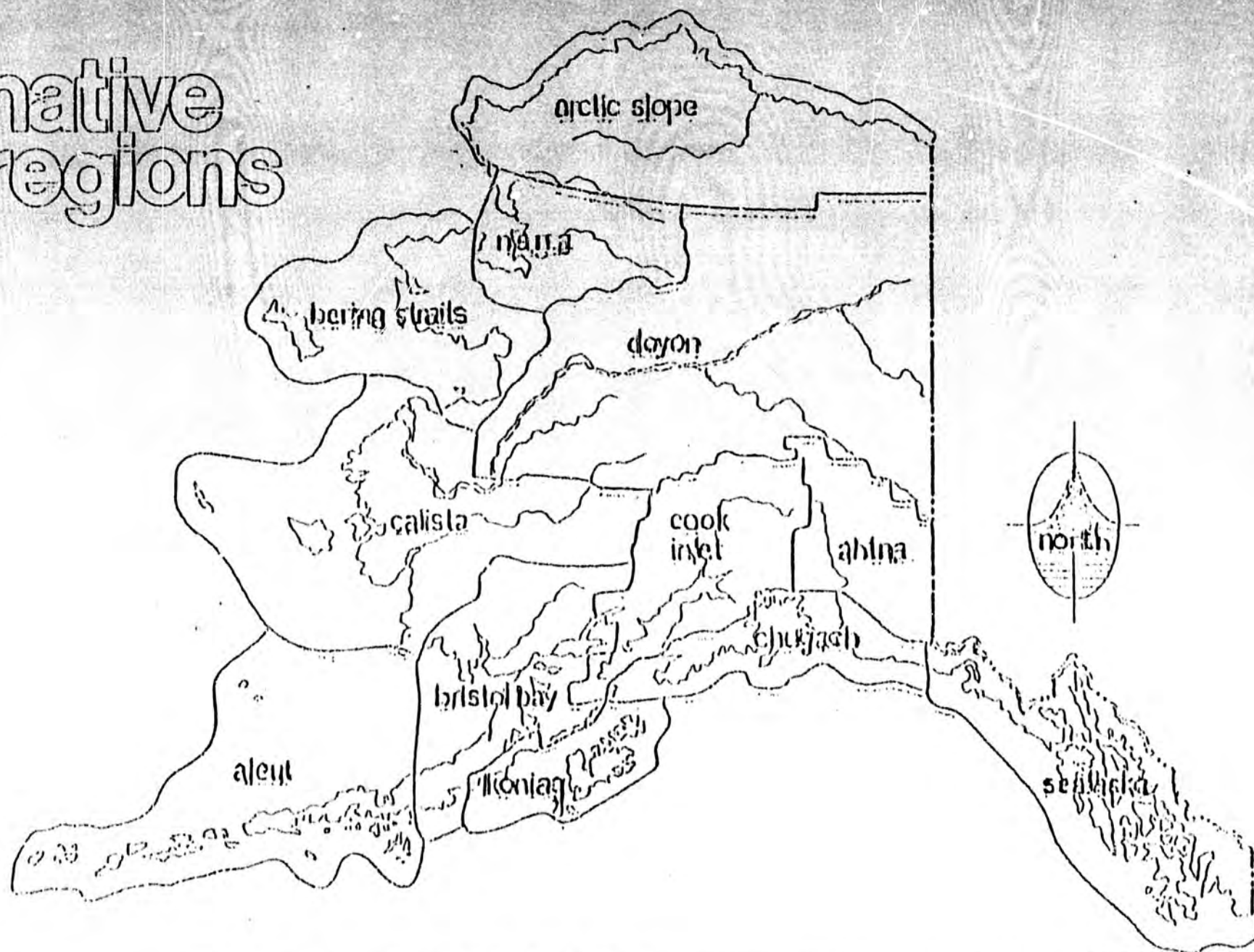
Table III is an attempt to look at the variety and numbers of governmental and non-governmental structures existing within the various regions. Within each region there are the constitutionally recognized forms of local government and public school systems. However, the Indian Reorganization Act (IRA) Councils and the nonprofits represent a system of Federally recognized and funded entities existing outside of the traditional forms of government. This confusion over who controls what in the unorganized borough, combined with the strength of the nonprofits, has resulted in the stagnation of the evolutionary process of regional governments in the unorganized borough.

It should be noted that the number of nonprofits is much larger than the actual number of regions. In all of the regions, there is one major nonprofit corporation providing most of the services. However, the majority of the regions have several additional nonprofit corporations offering specific programs; i.e., housing. In some cases this has resulted in the creation of several nonprofit entities within a region operating independently from other nonprofits within the region. Consequently, coordinative efforts become increasing difficult and duplication of efforts is unavoidable. The need to set regional plans and coordinate the flow of Federal and State dollars has been an incentive for the regions to contemplate the formation of regional governments.

TABLE III REGIONAL STRUCTURES

Regional Native Profit Corporations	Organized Boroughs			Incorporated Communities		IRA Councils		Native Profit Corporations	REAA's	Independent School Districts	BIA Schools	Village Corporations
	Unified Home Rule Municipalities	Home Rule	Second Class	Third Class	Home Rule Cities	First Class Cities	Second Class Cities					
Arctic Slope		1				1	3	5		1		8
Alutian						3	1	4	1	3		13
Adigua			1						2	1		0
Bering Strait						1	11	15	4	2	10	16
Wadsworth Bay			2			1	12	14	3	2		25
Cook Inlet	1		2		2	3	3	2	2	3		0
Ilana							11	0	2	1		1
Unalaska						1	35	10	6	1	27	44
Boyce			2		2	2	18	10	5	4	5	27
KANA			1		1		5	1	1	1		14
Chugach			1		3		1	2	2	1		5
Sealaska	2		1	1	3	9	7	10	3	3	14	12
Total	3	1	10	1	11	21	107	61	16	10	42	101

native regions



DEVELOPMENT OF TRADITIONAL, NON-TRADITIONAL AND QUASI-GOVERNMENTAL
NATIVE METHODS OF ORGANIZATION

EARLY POLITICAL FORMATIONS

The original traditional village council form of government varied in structure, size and activities throughout the regions. Primarily, the councils were composed of male elders, often from the same families, who had been successful in combat and food gathering. Their powers and duties included: deciding disputes, protection of village boundaries and hunting grounds, punishing violators of village customs and laws and the distribution of essential commodities.

All village governments were affected by the early contact with western culture. This was particularly true, however, in the Southeastern part of the State. There, churches and other groups introduced democratic concepts and methods by way of organizing Natives in church and social clubs. These activities gave Native leaders fundamental tools needed when the first federally recognized villages were formed under the organized Village Act of 1920. Angoon was, for example, among the first to organize (around 1920). The community elected a town council, built a town hall and installed electricity for the use of its residents.² Territorial legislation followed in 1915 to permit "Indian villages" to organize as units of local government. Their powers were limited along racial lines (i.e., they could not tax non-Native property) and the Act was repealed in 1929. Later Native communities were incorporated under Territorial law governing formation of local governments.³

Concurrent with these activities was the formation of the first regional Native political group. The Alaska Native Brotherhood (ANB) in 1912 and the Alaska Native Sisterhood (ANS) three years later were organized from members of the Tlingit and Tsimshian tribes. Both groups were concerned with obtaining citizenship for Alaska Natives, educational opportunities and the abandonment of aboriginal customs which were seen by whites as "uncivilized."⁴

Other Native organizations were soon to follow. The Tanana Chiefs was founded in 1913 for the purpose of strengthening village ties and dealing with outside forces. Until the 1960's a less-structured system of inter-village related activities existed in the West and Northwest regions based primarily on traditional and cultural functions.

One of the more effective and persistent of early Native groups has been the Tlingit-Haida Central Council. The organization was formed in 1929 as an off-shoot of ANS and ANB primarily to pursue a lawsuit against the U.S. Government for twenty-million acres in Southeast Alaska. The matter was finally settled in 1963 with the Council receiving a 7.5 million dollar judgment award. The group, which includes 27 communities as members, still exists and is recognized as a tribal organization under the Self-Determination Act of 1975.

The Indian Reorganization Act (IRA) of 1934, and as amended in 1938, states that "Indians in Alaska not heretofore recognized as bands or tribes, but having a common bond or occupation, or association, or residence with well-defined neighborhood, community or rural district may organize to adopt constitution and by-laws and receive charter of incorporation and federal loans..."⁵ Villages are to propose a constitution and by-laws that have to be accepted by a majority of village residents in a special election and additionally be approved by the Secretary of the Interior.

After fifteen years of the Act, thirty-two villages had incorporated and fifty-four by 1970. Currently there exist sixty-eight IRA Councils, plus two IRA Associations for credit purposes, and the Community of Merlakacia, an Indian Reserve and the only IRA corporation recognized by the State as a municipal corporation. Ninety villages are still governed solely by traditional village councils.

The major affect of incorporation was that it has lent credence to the legal existence of a village since its constitution has been approved by the Secretary of Interior. With the formation of the Council, many villages were, through a governmental process, able to regain control over economic activities such as the village cooperative stores, reindeer herding, and construction and repair of school property, which over the years has slowly become a function of the Bureau of Indian Affairs (BIA) representatives.⁶

The Council structure also serves as an introduction of the political process to rural Alaska and increases contacts between Native leaders and Federal Government representatives. This acculturation activity undoubtedly has had an affect on the ability of the Native population to deal with whites as increased contact has occurred in recent years. Additionally, the formation created a federally-sponsored local Native government that was eligible to receive and administer federal dollars. Furthermore, the Council works as a mechanism to train Natives for vital local government positions such as administrator and manager.

With the advent of statehood and State-recognized local government, chiefly Second Class cities, the role and power of the IRA Council has been reduced. Since the councils are not recognized by the State, the primary role of the Council has been that of a nonprofit association to obtain federal funds. The traditional public and municipal functions are performed by the State. For example, police power is still controlled by the State or a sub-unit of it. The IRA Council does have ability to pass resolutions and rules of contract; however, they are not enforceable by State or federal enforcement officers.

The IRA Councils do have the power, subject to the Secretary of Interior's approval, to obtain legal assistance, prevent the sale or disposal of tribal lands or other assets and to negotiate with Federal, State and local government. In addition, under Section 102 of the Indian Self-Determination Act of 1975, an IRA Council has the power to decide between receiving services provided by the BIA directly from BIA, or from the village council, or a regional nonprofit corporation. This would include such activities as employment assistance, higher education, social services, housing and tribal operations. And, Section 104 of the same Act allows

improvement of services, and health care, and the training of personnel, building of community halls and equipment and supplies.

Current Status

Village councils are not, as previously mentioned, State recognized entities and thereby lack nearly all municipal powers and responsibilities. The level of their activity, in part, depends upon whether there is a State-sponsored government in the community, the size of the village and the services performed by the regional profit and nonprofit organizations. In villages governed by traditional councils, the adoption of a constitution and by-laws is encouraged. This, as with the IRA Constitution, is assurance for the Federal Government that the body it deals with actually represents the residents.

Although the status of the IRA has diminished with the emergence of the second class cities, their existence has been maintained for a number of reasons. First, as stated before, under the Self-Determination Act of 1975, the IRA Councils have first priority for contracting and grants. Secondly, the councils are seen by Natives as a form of protection, in the event that whites obtain control of the villages. Additionally, there have been attempts to coordinate IRA Councils and State-City functions and funding sources. The Native nonprofit organization of Mauneluk, for example, is operating a training program to coordinate IRA Councils and State-governing councils in the eleven villages of the NANA region. It has also been reactivating IRA Councils in its region. Ten councils have so far been re-established.⁹ The advantages of this action include the improvement of services provided by the villages; it complements the services provided by existing state organized governments without threatening the police and regulatory authority of those governments; and at the same time assures the members of the IRA village that they will remain eligible for Federal Native programs under the criteria unrelated to their status as ANCSA stockholders.¹⁰

SECOND CLASS CITIES

Second class cities are the most common form of local government in Alaska today. One hundred and seven of the nearly 150 incorporated governmental units are second class cities. They are most often found in the unorganized borough (92 cities) as opposed to the organized borough (15) cities. The total population of second class cities represents approximately 8% of the population, while those in the unorganized borough represent about 6%.¹¹ The current average size of this class of city (excluding the larger ones; Bethel, Kotzebue and Delta Junction) in the unorganized borough is 264 residents as opposed to 208 residents in the organized borough (excluding Wasilla). The vast majority of second class cities are located in three general areas: Bristol Bay, Kuskokwim Bay and River area, and the Kobuk River area. The remaining cities are scattered throughout the State. The racial composition of the second class cities is predominantly Native with only 6% of them having a non-Native majority population.

...from a State class system of 1st, 2nd, 3rd and 4th class cities. The original distinction between city government levels was muddled during the 1960's and early 1970's by additional powers being granted by the Legislature to the different classifications. Consequently, the actual difference was in many cases nearly eliminated. The State responded to the situation by reclassifying all 1st, 2nd and 3rd class cities as 1st class cities and 4th class cities as 2nd class cities. Additionally, the Local Boundary Commission gave previously 1st, 2nd and 3rd class cities with a population under 400 (the number of residents required for a 1st class city) the opportunity to convince the State, within a two-year period of the start of reclassification, that their government infrastructure was adequate to fulfill the duties of a 1st class city.

Since 1963, both the State and Federal Government have encouraged the incorporation of Native villages under State law. Normally the availability of revenue sharing or the installation of a village electric generator were the incentives for incorporation.¹² In the last ten years, seventy-six 2nd class cities have been incorporated, nearly all of them in the Northwest region of the unorganized borough. Many of these incorporated also for the opportunity to obtain land through the Alaska Native Claims Settlement Act.

Current Status

Second class cities located in the unorganized borough have been plagued with a number of fundamental weaknesses which have even brought into question the need for their legal existence. A number of the cities suffer from a lack of well-trained administrators, managers and financial officers. Too often when cities do obtain experienced personnel, their stay is brief with the lure of better pay and environment in larger communities. Adequate resources are still another problem. It is not uncommon for cities' officials to be unaware of their duties, powers and sources of possible funding, and just as important, the constant changes in State and Federal statutes affecting them.

The lack of adequate communications with other second class cities is noticeably absent. This is vital for coordinating inter-governmental policies as well as fostering better understanding between the communities.

To compound the problem even further, second class cities are quite often simply another layer of government/service organization upon small communities that are ill-equipped to properly manage the different entities without constant problems of duplication, confusion and mismanagement. Ideally, many of the smaller communities would be better operated by a single organization with one council or board. However, since the chances of a major consolidation of agencies and councils appear slim, the villages will have to continue to work within the existing framework.

Borough governments, based on rural second class census tracts, service organizations and village councils would, of course, depend upon its size, structure, duties and powers. Currently there exist two distinctly different "bush area" boroughs which share a number of common characteristics with the unorganized borough. As a method of assessing the impact on future boroughs or local structures, it is necessary to review the past experience of these two governments.

Bristol Bay Borough

Bristol Bay is a second class borough which was the only regional government formed in response to the 1961 Borough Act. The Borough is currently the smallest one both in size and population. The primary basis for its existence was the desire to control the local school system and to place a tax upon the local canneries. As noted by one pair of writers: "(This) was a clear demonstration that in the absence of adequate laws, standards and guidelines, the borough form of government would be shaped largely in response to local political current and controversies."¹³ This obvious lack of a 'natural' social, economic and political community was evident since it encompassed only three small villages in a region that contained a number of similar communities. Hence, many of the minimal standards, potential powers and responsibilities were absent.

Other than the Borough itself, there is no State sponsored government nor are there any IRA councils. There are two village corporations; Paug-Vik Incorporated Limited (Naknek) and an unnamed merger of the villages of Port Heiden and South Naknek.

The Borough does fulfill most of the basic duties and services on an adequate level. It does, for example, derive taxes from its local economic structure providing the possibility for accountability for dollars spent to the residents. It is active in planning and zoning and has a single, locally-controlled school board. Furthermore, having a single governmental unit is undoubtedly more efficient than many smaller units for this region.

On the other hand, however, the Borough has major defects. It is again, contrary to what was envisioned a structurally and functionally sound regional form of government. It is simply too small. The Borough does not contain the natural economic, social, political and geographical boundaries of the area for effective regional government. The residents of the Borough are still served by the nonprofit and profit corporations along with State and Federal government programs which also must be coordinated with communities, associations and groups outside the Borough. Hence, overlapping jurisdictional boundaries still exist and cause confusion, political conflict and duplication of services. Additionally, the Borough political power structure has not served as an inducement for other communities in the area which could possibly be an integral part of it.

Bristol Bay does not appear to be a model for future rural boroughs. Although its size preempts the need for city government, it is, by the same token, not the solution to the problem of overlap by the various corporations and groups which have responsibilities and powers inside as well as outside the borough.

North Slope Borough

The North Slope Borough was established in the midst of controversy in 1972. It is the largest borough in area and has a population of about 7,900. The formation of the Borough was opposed by the oil industry because of the threat of a Borough property tax upon the pipeline. After much litigation, the area was incorporated as a Home Rule Borough, which is currently the largest regional (non-tribal) Native-controlled government in the country. It has a number of natural advantages. For example, it derives 98% of its taxes from one source; the Trans-Alaska Pipeline operation. It is sparsely populated and has only one large city.

The Borough contains seven incorporated cities; Barrow being the only first class city, while the other six are second class cities. Additionally, there are eight village corporations, five IRA Councils and the regional corporation which covers the same area as the borough.

The Borough has attempted to provide equitable and efficient levels of services to all the residents by consolidating many of the traditional city powers within the Borough. This transfer of power was generally approved by the communities. The Borough currently possesses fifteen of the twenty-two possible area-wide powers. The main opposition to the centralization of authority has come from the City of Barrow. This was due, in part, to personal and institutional rivalries between the two government units. Nevertheless, the consolidation of powers has made the Borough one of the State's strongest regional governments. An additional ingredient, is that the regional corporation's (Arctic Slope Regional Corporation) jurisdiction is the same as the Borough's. Although it is not controlled by the same individuals nor does it necessarily have the same goals and objectives, it does, by the mere virtue of its boundary, only operate in the same region and thereby avoids responsibilities and powers outside the Borough. There is undoubtedly still some overlapping of authority and simply too many boards and councils. However, the strong, centralized borough is one approach to regionalized government.

The incorporation of boroughs in the rural regions would obviously have an impact on the existing infrastructure. By way of reviewing the experiences of the Bristol Bay and North Slope Boroughs, along with the successes and failures of the second class cities, a number of general observations can be made about this possible impact:

1. The jurisdictional lines of boroughs should be that of the "natural" boundaries and should follow or be followed by other major groups and associations (profit and/or nonprofit corporations). This, at least would eliminate the problems of a group having power and responsibilities both inside and outside of the borough.
2. IRA and traditional councils would probably continue as viable entities in a borough because of their historical connection with the Federal Government. They probably, in most instances, would continue to work with other village groups and associations in providing certain services.

3. Territorial corporations would probably continue to function as they presently do, since they too, are interlocked with Federal agencies specifically designed for Alaska Natives. Additionally, they may transfer some of their powers to a strong centralized borough structure. They probably, however, along with other groups within a new borough, would be forced to coordinate activities more often with that of the borough.

4. Local services would be available to the total population. There are currently restrictions on some of the quasi-governmental organizations which limit service only to the Native residents.

- (1) Case, David - The Special Relationship of Alaska Natives to the Federal Government - An Historical and Legal Analysis, Alaska Native Foundation, 1978.
- (2) Morgan, Lael - And the Land Provides: Alaska Natives in a Year of Transition, page 240. Garden City, New York: Anchor Press/Doubleday, 1974.
- (3) Case, Ibid, page 129.
- (4) Arnold, Robert - Alaska Native Land Claims, page 83, Alaska Native Foundation, 1978.
- (5) Composite Indian Reorganization Act for Alaska, 1936.
- (6) Jones, Dorothy - Aleutes in Transition, page 48, University of Washington Press, Seattle and London.
- (7) Case, Ibid, page 131.
- (8) Gorsuch, Lee - Impact of ANCSA on Federal, State, and Local Governmental Functions and Services, page 37, ISER 1979.
- (9) Ibid.
- (10) Ibid
- (11) Department of Community and Regional Affairs, 1979.
- (12) Case, Ibid, page 129.
- (13) Morehouse, Thomas and Fischer, Victor - Borough Government in Alaska, page 73, ISGER 1971.

VI

IDENTIFICATION OF REQUESTS RE BOROUGH FORMATION

AND

BOROUGH INCORPORATION STANDARDS AS INTERPRETED BY LOCAL BOUNDARY COMMISSION

RECORD OF INQUIRIES MADE OF THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
RE BOROUGH INCORPORATION

During the 1970's there have been numerous inquiries into the process of developing borough government from communities in the unorganized borough.

Most of these inquiries were simply that -- with no action being pursued by the community. Most were initiated in response to a particular need which it was perceived local government might meet.

Admiralty Island Angoon expressed interest in borough government. Primary motivation behind interest appeared to be concern about controlling any timber development that took place on Admiralty Island. When there appeared to be no immediate threat of timber development occurring, and the Community realized that they might have a difficult time satisfying the financial requirements of a regional government, interest waned.

Cordova At the time Cordova area was seriously being considered as the southern terminus of a North Slope gas line, that area seemed very interested in borough government. Once the gas pipeline became a non-reality for the Cordova area, so did the issue of borough government.

Kobuk A petition of incorporation was received in 1974, but no follow-up action was taken to remedy deficiencies in the petition. The primary motivating factor for the request appeared to be local control of schools.

Kotzebue NANA region expressed interest in regional government 1974-75. Primary interest seemed to be the exercise of the planning power, both in the sense of controlling development within the region and controlling State and Federal activities that were taking place, at that time, on a rather random basis. NANA Regional Strategies Proposal was developed and appears to have satisfied many of the planning requirements of that particular region.

Newson Island This is a small island located in the Calista Region, which has on it the communities of Nightmute, Toksook Bay and Tununak. In the early 1970's, there was some talk of these three communities uniting and forming a small borough. The person who was the primary mover, a consultant, disappeared and so did the enthusiasm for regional government.

Nome Nome has inquired into regional government, although the only interest the Community appears to have in borough government is how they might use it as a defense mechanism to keep themselves out of any other borough.

Prince of Wales Island Strong interest was expressed in the early 1970's. The local residents' thoughts appeared to be that they could obtain additional revenues through realization of stumpage fees for forestry activities taking place on the Island, as well as have more of a say in how timber development would affect them. An additional factor for at least one community on the Island was that they desired to remove themselves from the State-operated School System. However, in the end, the independent nature of the Communities of Craig, Hydaburg, Klawock and Thorne Bay rendered the situation such that they could simply not agree on the class of borough, the powers it would exercise and how the assembly ought to be composed.

RECORD OF INQUIRIES MADE OF THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
RE BOROUGH INCORPORATION (Cont'd)

Nenana Primary interest seems to be to expand the Community of Nenana to take in considerable amounts of agricultural lands, as well as Native lands which have potential for agricultural use. No official action has been taken by the City to pursue this.

Yukon-Koyukuk School District Reports were that the school superintendent was circulating a petition for incorporation as a third class borough, but no official contacts have been made with the Department of Community and Regional Affairs.

Bethel Prior to formation of REAAs, the City of Bethel and villages around it were exploring the concept of borough government so that they could remove themselves from the State-operated School System, which they were quite displeased with. Issue evaporated once the REAAs were formed. However, the Department of Community and Regional Affairs has a request from Mr. Carl Jack, Executive Director of AVCP, to discuss the general concept of regional government and how AVCP might acquire the funds necessary to do a full-fledged study of the implications and feasibility of regional government in the Bethel Region.

Fort Yukon During the 1978 Legislative Session, this area was successful in getting a special appropriation to fund a feasibility study for that area. The study is being conducted with completion scheduled the first of August. Initial indications from residents of the area during the public meetings are that they probably will petition for some form of borough government. The primary motivation in this particular case seems to be to utilize pipeline revenues to provide services and facilities that the State of Alaska is either unwilling, or not capable of providing; to have decisions affecting levels of service made at a local rather than State level; and finally, to control, or at least participate in the control, of any development that might take place within the region.

ALTERATIONS TO REGIONAL GOVERNMENTS

Bristol Bay Borough In 1975, the Bristol Bay Borough submitted to the Department a petition proposing annexation of all those lands lying between Iliamna Lake and Nelson Lagoon on the Alaska Peninsula. The Borough was told to hold public hearings in each of the communities potentially affected to obtain their comments on the proposal. In verbal conversations over the telephone, the Department of Community and Regional Affairs was told that the Borough was not interested in pursuing it, if one of the prerequisites was conducting the subject public hearings. Substantial amounts of correspondence from residents of the communities subject to annexation, objecting to the annexation both conceptually and in the manner it was being conducted, was received.

Valdez During the past three years, the City of Valdez has attempted, both through the legislative process, as well as through utilization of the Local Boundary Commission, to expand their boundaries and become a unified city/borough. The basic proposal of the City of Valdez seems to be to expand their boundaries to include substantial amounts of pipeline without taking any additional residents. There is currently legislation pending that would allow a home rule city in the unorganized borough to move to unified status, if the proposal were approved by the Local Boundary Commission. In reviewing previous proposals of the City of Valdez, the Local Boundary Commission has indicated reluctance to even consider the issue.

LOCAL BOUNDARY COMMISSION INTERPRETATION OF BOROUGH INCORPORATION STANDARDS

A review of the requests for borough incorporation which have been denied is helpful for the insight it gives into the Local Boundary Commission's interpretation of incorporation standards.

Article X Section 3 of the State Constitution outlines the standards for borough incorporation as follows:

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

These standards are further refined in the statutes.

AS 29.18.030 Organized boroughs An area may incorporate as an organized borough if it conforms to the following standards:

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

It is the role of the Local Boundary Commission to determine if a proposed borough meets the standards for incorporation. (AS 29.18.090 (a))

In 1973 the Local Boundary Commission had requests for borough incorporation from the Anchorage area (Cook Inlet Borough petition) and the Kenai area including the City of Kenai and the North Kenai Fire Service area (Nikiski Borough petition). The two were rejected on similar grounds.

The Department of Community and Regional Affairs, in its May 11, 1973 report to the Commission, made reference to the underlying principles which prompted the framers of the state constitution to provide for the borough system of government. It reviewed the concept of borough government as an approach to areawide and regional government, functionally adaptable throughout the State as variation in geography, economy and other circumstances required. The report emphasized that the boundaries of a city are not fixed -- that the constitutional framers directed that the boundaries might be altered and the power of a city extended in response to growth and development outward from the central core.

The Department stated:

"As with the Cook Inlet Borough proposal examined heretofore, it is the wider community interest, substantively independent of the concern of cities or service areas, that is the basis for effective borough government."

(Report to the Local Boundary Commission on the Nikiski Borough proposal, May 11, 1973)

The Department also called to the attention of the Commission 19 AAC 20. 020 (a)

"Nothing in this Chapter may be construed to require the Commission to approve a boundary change which the Commission determines not to be in the best interest of sound local government."

The Department recommended rejection of the petition because the proposed borough would violate the constitutional requirement that boroughs embrace an area and population with common interests to the maximum degree possible and that it would violate the provision that duplication of an multiplicity of tax-levying jurisdictions be avoided. Neither of the petitions were accepted.

In the Spring, 1974 a petition to create a third class borough in the Delta Junction area, the Delta Junction Borough, was reviewed by the Local Boundary Commission. The primary purpose of the incorporation request appeared to be to acquire tax revenues from the pipeline to support school construction. Residents were only interested in the educational function.

The Department of Community and Regional Affairs, in its report to the Local Boundary Commission on April 22, 1974, pointed out that the petition failed to conform to the geography standards established for incorporation of new boroughs. (AS 29.18.030 (a) and didn't properly embrace the entirety of a natural geographic unit and excluded areas both necessary and proper for the development of local services. It stated:

"Topographical features, far more than serving as guides in the delineation of the boundaries of regional units, serve also as factors limiting or facilitating the development of an area and hence, may contribute to or serve as obstacles in the delivery of public services. Even absent the requirement of the exercise of land use planning by a borough of the third class, elements of land tenure and use are not insignificant in the effective exercise of powers to provide other functions and services. Out of patterns of land ownership, out of the resources of the land itself, will develop the financial resources which sustain local initiatives and support ongoing public services." (p. 31, 32)

The Department also cited reference to Article X Section 1 which addresses the purpose and construction of the local government article:

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."

The Department recommended that the petition be denied unless the borough boundaries were expanded to include Tetlin, Tanaccross, Dot Lake, Northway --the entire area between Delta Junction and Tok--as the proposed borough stating, "We find no reason why the entirety of the valley, an area geographically distinct, economically sound, and having the requisite transportation facilities sufficient to foster communication and interrelationship of people in their activities should be divided into separate units." (Department of Community and Regional Affairs report to Local Boundary Commission on the Deltana Borough proposal, p. 33)

In its final decision on July 12, 1974, the Local Boundary Commission found that even if the boundaries were expanded, that based on the testimony received from the residents of the area, the boundaries of the area would not comply with the provisions of AS 29.18.030 (1) "as the population of the area was not interrelated and integrated as to its social, cultural, and economic activities..."

In its statement of decision on the petition for detachment of the Chugiak-Eagle River area from the Greater Anchorage Area Borough and for incorporation of a second class borough in the Chugiak-Eagle River area (March 15, 1976), the Commission cited the following reasons for rejecting the petition.

1. The proposed petition fails to meet statutory and regulatory standards for detachment and incorporation contained in AS 29.18.030 and AAC 19.15.230 in that the area is an integral part of the municipality of Anchorage culturally, socially, and economically.
2. There are no natural boundaries separating the area from the remainder of the Anchorage municipality.
3. The detachment would be inimical to the interest of the State in that the constitutional mandate of a minimum of local government units and tax levying jurisdictions would be violated.
4. The area is not stable enough to support organized borough government in that the Eagle River-Chugiak tax base is not large enough to support necessary services without the support of the larger tax base of the entire Anchorage area.

The interpretation of the incorporation standard related to boundaries (AS 29.18.030 (2)) again became an issue with the formation of the North Slope Borough. The appellants in Mobil Oil Corporation v. Local Boundary Commission argued that neither the geography nor the transportation standards had been satisfied and that the Local Boundary Commission had erred in granting borough status to the North Slope.

In the Supreme Court decision on the case (January 16, 1974), the Court made reference to Article X Section 1 of the Constitution and stated:

"We read this to favor upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met."

The Court further found that the inclusion of Naval Petroleum Reserve No. 4 was desirable for integrated local government so that it might fall within the new borough's planning and zoning power. The record gave evidence of the Reserve's importance to the subsistence lifestyle of area residents and this evidence justified such inclusion.

The Court also concurred with the Local Boundary Commission and the Superior Court that travel facilities were adequate to support borough government when present and future capacity was considered in the context of transportation in Alaska generally and compared to the cost and availability of travel to centers of government which affect the lives of North Slope residents.

SUMMARY

GENERAL LAW BOROUGH COMPARISON

Characteristic	TYPE OF BOROUGH		
	1st Class	2nd Class	3rd Class
Upgrade to Home Rule Status	Yes	No	No
Mandatory Area-wide Powers (powers exercised throughout the borough including inside the areas of cities)	Tax assessment/collection education planning/platting/zoning	Tax assessment/collection education planning/platting/zoning	Tax assessment/collection education
To Assume Added Area-wide Powers	by transfer of all cities; or by area-wide referendum vote that must be approved by a majority of residents both inside and outside home rule and first-class city limits	by transfer of all cities and non-area-wide referendum vote; or by area-wide refer- endum vote that must be approved by a majority of residents both inside and out- side home rule and first- class city limits	not permitted
Non-area-wide Powers (powers exer- cised in that portion of the borough outside city limits)	none mandatory may be assumed by assembly ordinance	none mandatory may be assumed by referendum vote of residents outside city limits	not permitted
Service Areas (for provision of services on less than a non- area-wide basis)	established, operated, altered, or abolished by assembly exercise of power by assembly ordinance	established, operated, altered, or abolished by assembly exercise of power requires referendum vote of service area residents	established, operated, altered, or abolished by assembly exercise of power requires referendum vote of service area residents
Borough Executive	Mayor (with veto power)	Mayor (with veto power)	Mayor (without veto power)
Legislative Body	Assembly	Assembly	Assembly
Educational Body	School board (5 members)	School board (5 members)	Assembly
Borough Seat	determined by assembly	determined by assembly	determined by assembly

VII

ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT
IN THE UNORGANIZED BOROUGH

PROPOSED ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT IN UNORGANIZED
BOROUGH

Attached is a copy of the Department of Community and Regional Affairs' "white paper" on regional government in the unorganized borough. Because it is a comprehensive treatment of the subject, it is included in its entirety. Please note the Departmental disclaimer on the first page.

The product of this paper, a legislative proposal providing for "unorganized boroughs," was never introduced. However, two years later in 1978, recognition of the need for a comprehensive study of the subject of local government came with introduction of House Bill 585. This bill was not passed by the Legislature.

Mr. Phil Smith, Executive Director of Rural CAP, made these observations in correspondence on HB 585.

"I believe that one of the things that has generally been overlooked in the debate surrounding the creation of regional governments in the unorganized borough is that there are a wide variety of government services which are demonstrably best conducted by a regional structure (whether that be government, a nonprofit corporation, an REAA, or whatever). Merely decentralizing the educational function throughout the State did not solve the myriad governmental problems experienced in rural Alaska. Among these are such things as coastal zone management, planning and zoning functions, local taxation, localization of the A-95 Clearinghouse procedure, etc. All of these functions are most appropriately handled at a local or regional level.

Our position on HB 585, therefore, is that it is a good step in the right direction. However, we would again request that the membership on the council be expanded to include more residents of the Unorganized Borough. As well, I believe that it is most important that the incentive grants program be reinserted into the bill. As you well know, no local government is going to succeed unless and until the people who are to be governed agree that the form and structure of the government is appropriate to their needs. I am quite concerned that, if HB 585 is passed in its present form, the Commission (staffed by the Department of Community and Regional Affairs) will merely recommend minor adjustments to Title XXIX, submit their recommendations to the Legislature, and thereby impose a form of regional government on the Bush which is neither appropriate, needed, nor wanted.

The time has most certainly come to "turn the process around." If the Legislature were to create an incentive grants program, and give state-wide control of the program to a structure in which a reasonable amount of control were granted to residents of the Unorganized Borough, then local people, acting through their local and regional organizations, could request funding for a study, identify and hire their own staff to conduct the study, and have ultimate "sign-off" the recommendation presented to the Legislature. I believe that this process would be more effective because it would provide the Legislature with recommendations more closely attuned to the wishes of local people.

PROPOSED ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT IN UNORGANIZED
BOROUGH (Cont'd)

In my opinion, one of the main reasons that most of Alaska's land mass is presently "unorganized" is that the present Title XXIX is simply inappropriate to rural Alaskan governmental needs. Although the passage of the "Third Class Borough Bill" during the last session of the Legislature presented a few more options for rural residents, the Administration has done virtually nothing to implement either the mandate or the intent of that piece of legislation. Therefore, I suggest that the time has come to put the process into the hands of the people and to permit them to conduct their own studies, come up with their own recommendations, and live by their own decisions."

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO:

Bob LeReshe, Director
Division of Planning and Policy
Development

DATE:

July 21, 1976

FILE NO:

This document contains a discussion of a number of ideas and concepts being reviewed by the Department in 1976. It does not represent policies or recommendations of either the Department or the Administration.

TELEPHONE NO:

FROM:

Lee McAnerney, Commissioner
Community & Regional Affairs *LM*

SUBJECT:

REGIONAL GOVERNMENT IN THE UNORGANIZED BOROUGH

In response to my June 21 memorandum to Governor Hammond, you have asked that I expand upon our ideas relative to the above subject. The following is in response to that request and, basically, presents the alternatives (at least as we view them) together with a brief discussion of each; preliminary conclusions are offered in the final pages.

As noted in my previous memorandum, we feel that any legislation dealing with regional government in the unorganized borough must address three major subject areas: structure, financing and intergovernmental relations. Our presentation of alternatives follows that format.

STRUCTURE

Five alternative forms of government appear to be workable in the unorganized borough; they include:

1. Establishment of organized boroughs;
2. Creation of unorganized boroughs;
3. Creation of service areas in the unorganized borough;
4. Continuation of the Regional Educational Attendance Area (REAA) trend, i.e. delegation of municipal functions to independent boards and councils;
5. The status quo.

In reverse order, the above are discussed.

THE STATUS QUO

We feel strongly that the existing system of government in the unorganized borough is both inequitable and inefficient. Inequitable in the sense that residents are not, generally, afforded the opportunity to participate directly in the decision making process nor do they participate on an equal basis in terms of financing local services; inefficient in that existing service delivery mechanisms (cities and state regional offices) often lack the necessary expertise, be it professional or otherwise, to provide services on an efficient and responsive basis.

Being a department with extensive field contact, we have been made very much aware of many unorganized borough residents' dissatisfaction with existing municipal and state services--not necessarily with programs but with the manner in which those programs are administered. That the legislature, too, is receiving this message is evident from such legislation as HB 665 proposing health districts in the unorganized borough, SB 398 (Ch. 57, SLA 76) allowing for public works planning in the unorganized borough, HB 657 dealing with platting authority in the unorganized borough, SB 614 providing for taxation in the unorganized borough, HB 49 providing for organized boroughs in the unorganized borough and a number of other pieces of legislation dealing with service delivery problems in the unorganized borough.

Too, we hear non-profit regional native corporations talking about or actually providing such services as health, housing, electricity and comprehensive planning. While their efforts are commendable, they do not, in my opinion, fit into the scheme of local government provided for in our constitution. Nor, because of their own charters, may the corporations provide services to all residents of an area; on the contrary they are, by and large, limited to serving natives only and consequently can act as a service delivery mechanism for state and federal programs relating to services for Alaska natives.

Essentially, there are two major problems with the status quo. First, service delivery mechanisms established and those proposed are operated by independent boards or commissions acting totally without coordination. Additionally this method of service delivery generates a much greater need for human and financial resources from areas that are in short supply of both. Second, it promotes a trend contrary to establishment of borough government in the unorganized borough--a course in direct conflict with the local government article of our constitution.

CONTINUATION OF THE REAA TREND

In our view, continuation of the REAA trend is going to be the status quo of tomorrow.

There is one very positive aspect about the concept of REAA's: it provides for decision making at the local level--one of the main purposes of providing for government in the unorganized borough. However, as presently constituted residents of REAA's literally "have their cake and eat it too"--100% plus funding is provided by the state, yet total local control is allowed. While this may be a desirable situation for residents of REAA's, it is certainly not equitable in comparison to a resident of a municipal school district who must pay local taxes. I would suspect that residents of urban areas--the bulk of the state's population--would not tolerate extension of this particular form of service delivery beyond its existing state.

It should be noted, too, that the two major concerns expressed under the "status quo" section apply equally, if not more so, to the REAA concept. Especially real-

izing that with the REAA concept of 100% plus funding, any incentive for a region to move toward regional government is destroyed.

One thing further should be said about REAA-type boards; they are so exclusively single purpose (usually attracting board membership concerned only with its particular responsibility) that development of a number of boards could actually lessen the level of service being provided; primarily because of lack of interboard coordination and restricted use of financial and, particularly, human resources. Moreover, when boundaries are drawn to define districts and the only criteria used are those relevant to the particular service to be provided overlapping boundaries are likely to result. With overlapping boundaries comes confused residents (who do we go to? where do we go to?) and, consequently, dissatisfaction with the services being provided.

Of concern, too, is the lack of flexibility associated with the REAA's. Because they are not units of local government they cannot be given taxing authority nor can they provide "local government" services. While the legality of the current REAA's has not been challenged on the grounds of Article X, Section 2, of the Constitution (proponents of the REAA's argue that they are really service areas authorized under Article X, Section 6), there is good reason to believe that if additional REAA type boundaries are established they will be challenged and may very well end up being declared unconstitutional. Through establishment of REAA-type entities we, at best, guarantee a long court battle, at worst, an entity without legal standing.

CREATION OF SERVICE AREAS:

There are a number of features of the service area concept that make it a fairly attractive alternative. Leading the list is the fact that it is an existing, recognized mechanism for delivery of municipal services. The legislature is given constitutional authority to provide for service areas in the unorganized borough thereby negating any legal challenge. But, probably most important of all is the service area's flexibility. A service area could provide any municipal service and, if the legislature so elected, a tax could be levied within the service area for services provided. Of significant benefit, too, is that one service area board could be responsible for provision of all services within a given area.

Probably the biggest drawback to the service area concept is that service areas would be dependent upon the legislature, sitting as the assembly for the unorganized borough, to add or delete powers, change levels of funding, acquire taxation authority, etc. A lesser drawback of a service area is that the service area board, at least in the legal sense, would be advisory as a dependent agency of the assembly of the unorganized borough (legislature). Depending upon the language in the enabling legislation, the latter might not be a problem.

DIVISION OF THE UNORGANIZED BOROUGH

In many ways establishment of a number of unorganized boroughs would be much the same as establishment of service areas with one overshadowing exception: the unorganized boroughs could have local autonomy. Because of the lack of constitutional constraints placed upon unorganized boroughs, their establishment could yield a tailor made form of regional government. More specifically, the legislature could delegate any municipal power to an unorganized borough, grant it taxing authority, etc.

We feel, too, that the term unorganized borough has significant advantages. First, it implies what is intended to be--an interim step in the long range development of regional government in rural Alaska. Second, it is a recognized and accepted term--most residents of rural Alaska know they live in the unorganized borough. In our opinion, residents would be more receptive to division of a governmental organization that already exists rather than establishment of a new form of government.

As with an organized borough, unorganized boroughs would have specific boundaries, powers, and a governing body responsible for more than one municipal service. All, in our opinion, positive results.

ESTABLISHMENT OF ORGANIZED BOROUGHs:

Because it is a proven form of regional government, organized boroughs offer some obvious advantages (or disadvantages depending upon your view point). Their method of operation is basically understood; they have taxing authority and an ability to acquire additional municipal powers in response to resident requests; they may establish service areas to provide different levels of service and they have a maximum degree of local autonomy. Additionally, organized boroughs could represent a final, rather than an interim, step in regional government. Too, establishment of organized boroughs would provide a sense of equity among all residents of the state with regard to receipt of municipal services.

However, the organized borough is not without its disadvantages. One of the biggest, of course, is a product of the 1964 Mandatory Borough Act which made the term borough a "dirty" word in many an Alaskan's vocabulary.

There are structural disadvantages too: organized boroughs are locked into rigid methods of adding powers, levying a sales tax, changing class or unifying with the cities within them. Also, they must have separate assemblies, planning commissions and school boards. Depending upon the amount of activity of the borough this may or may not be a disadvantage.

FINANCING

At this stage our thoughts are very tentative in terms of generating the funds

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needed to pay for regional government in the unorganized borough. The following appear to be workable alternatives:

1. existing mechanisms, i.e. sales and property taxes levied and collected by and within the boundaries of each jurisdiction;
2. increase levels of funding of existing programs to cover all costs;
3. an ad valorem tax on property associated with the development of natural resources with distribution to regional governments, based on an equalization formula;
4. a sales or property tax throughout the unorganized borough with distribution to individual regional governments, based on an equalization formula;
5. levy of an additional income tax on wages earned in the unorganized borough with distribution to individual regional governments, based on an equalization formula.

1. Existing mechanisms: In our view, authority to levy sales and property taxes should continue to be an option available to organized municipalities. Although the constitution permits extension of taxing authority to unorganized boroughs, doing so does, in fact, create another class of organized borough. This is not, in our opinion, a viable, alternative structure.

The advantage, at least from the state's view, of a local property or sales tax is that it would be administered at the local level. However, the disadvantages appear to outweigh any advantage. First, a local sales or property tax reflects only the local economy; advantageous for those located along the pipeline; not so for those located on the lower Kuskokwim. Second, property taxes are, relatively speaking, regressive and expensive to collect. It is entirely possible that it might cost as much to levy and collect a tax in certain areas as the tax itself would generate. While a local sales tax would not be as expensive to levy and collect, an assessment and collection department in each taxing jurisdiction would need to be established.

2. Increase levels of funding: Basically, this approach is an extension of the funding mechanism provided for the REAA's. We oppose this method of funding because of its gross inequity. It is unpalatable for us to ask residents of one region to pay for municipal services while providing those services to another region at no cost to the residents. Additionally, such a method of funding totally discourages the formation of regional government; why pay if services can be received at no cost?

Of course, one means of alleviating the question of equity is to provide the same level of funding to all jurisdictions. However, at that point the costs seem to outweigh any advantage to be realized.

3. A "resources" tax: A fresh approach to funding local government services might be implementation of a resource tax. Essentially, the tax would be an ad valorem tax levied upon all property used for the exploitation of natural resources. The primary advantage of this tax is that administration of it would be relatively simple in that you would be assessing and collecting taxes on a fairly limited amount of property with a high dollar value. As we envision a resource tax, it would be levied and collected by the state throughout the unorganized borough and then redistributed to individual regional governments based on an equalization formula.

Optionally, the tax could be levied upon all resource related property throughout the state and redistributed on an equalization formula to all areas of the state. This would not only provide a source of funding for new regional governments in the unorganized borough but would also provide new revenues for existing regional governments.

The major disadvantages of a resource tax appears to be that it is an unknown quantity and, probably most important, an encroachment upon and placing under state taxing jurisdiction a tax base that, in the past, has been considered the exclusive tax base of local governments. Perhaps the latter problem, at least to some degree, could be relieved by allowing a local taxing jurisdiction having resource related property within its boundaries the right to levy a tax up to a certain limit and then "piggybacking" the state tax on top of the local. The resource tax would be similar to the present oil and gas tax of the state but would additionally apply to all other natural resources.

4. Unorganized borough sales or property tax: The advantages and disadvantages of a property or sales tax have been defined in the preceding discussion of alternatives. The change we are suggesting here is that the tax be levied throughout the unorganized borough and be collected by the state, thereby minimizing administrative costs. Tax proceeds would be redistributed to individual regional governments based on an equalization formula.

While levy of a property tax would undoubtedly yield sufficient revenues to cover the cost of regional government, it would seem that the additional net revenues received from extending the tax to all property, rather than just resource related property, would be so minimal as to hardly justify its levy.

An unorganized borough sales tax would yield sufficient revenues to cover the costs of regional government and would be much more simple and, accordingly, less costly to administer. We estimate a 2% sales tax levied and collected in the unorganized borough would generate in excess of \$10 million annually.

5. An additional income tax: As with the sales tax, the primary advantage of an income tax appears to be ease of administration. Collection could be accomplished by the state at the same time that state income taxes are collected and then redistributed to regional governments, based on an equalization formula.

A product of this tax is that you extend taxing jurisdiction previously restricted to the state to local governments, thereby strengthening the tax base of all local governments. (As a practical matter, if the income tax is established as a system of local government finance in the unorganized borough, it would have to also be extended, at least on an optional basis, to organized boroughs.)

Of the above, we tend to favor either the resource tax or a sales or income tax. The administrative burden imposed by a comprehensive property tax would, in our opinion, create more problems that it would solve. We also favor levy of a tax at the state level with redistribution to individual regional governments based upon an equalization formula. Administration of the tax in this manner would minimize costs and provide for consistent administration throughout the state.

Presently, we estimate that an additional \$7 million will be required to fully fund the program (see attached budget). This figure does not include existing shared revenues that might be made available to new regional governments. Preliminary calculations show that a 1.5% sales tax or a 2 mill (or less) resource property tax could generate this amount of revenue. Data needed to estimate the percentage for an income tax is not yet available.

INTERGOVERNMENTAL RELATIONSHIPS

Without doubt one of the major factors that will determine the success, or lack of it, of a regional government proposal is the relationship between a new regional government and the cities and other service mechanisms located within it. While a detailed discussion of intergovernmental relationships is not possible until the form of regional government to be used is specified, there are certain key elements that should be present regardless of the form of government. Those elements are:

1. promotion of regionalism: any form of government should encourage regional provision of services; that is not to say that services could not be provided at the local level but rather, that policy development and overall control should rest at the regional level;
2. certain services should mandatorily be at a regional level; these services should include at a minimum, planning, health, education and public safety;
3. if any form of regional government less than an organized borough is established, home rule cities should not be forced to relinquish any authority to the region;
4. an alternative to second class city government should be established (see attached memorandum) relieving many villages of the obligation to provide

municipal services;

5. any form of regional government established should, to the maximum degree possible, be free from state and federal control.

CONCLUSIONS

Based on the above discussion and several in-house work sessions on the subject, we think that the following would be the best method of establishing and operating regional governments in the unorganized borough.

STRUCTURE

Establishment of unorganized boroughs with boundaries that would meet organized borough standards. Each unorganized borough would have the mandatory powers of:

Education
Health
Planning
Public Safety (fire and police protection)

Home rule cities located within an unorganized borough would continue to exercise all of the above powers unless they elected to participate on a regional basis. The assembly of the unorganized borough would have absolute authority, subject to state and federal law, over the exercise of the above powers. Additional powers could only be added by a process requiring state approval and voter ratification in the region.

The unorganized borough would be governed by an assembly with separate boards for school and planning functions. The assembly could assume the responsibilities of the school board and planning commission upon voter approval. The unorganized borough would be required to employ a professional manager.

FINANCING

Unorganized boroughs would not have taxing authority. A resource tax as previously described would be the recommended source of funding; as an alternative, a sales or income tax would be levied and collected, by the state, in all of the unorganized boroughs and then redistributed based on an equalization formula. Unorganized borough assemblies would have full budget authority.

INTERGOVERNMENTAL RELATIONS

The unorganized borough would be the regional government for the area; state and federal agencies would be obligated to treat it as we currently do an organized borough.

VIII

OUTLINE OF SIGNIFICANT LEGISLATIVE PROPOSALS
RELATED TO ORGANIZATION AND FINANCIAL EQUALIZATION
IN THE UNORGANIZED BOROUGH

(NONE OF THE BILLS CITED BECAME LAW)

LEGISLATIVE PROPOSALS
UNORGANIZED BOROUGH

SB 101 (1969)

HB 730 (1970)

HB 161 (1971)

HB 122 (1973)

FORM OF
REGIONAL
GOVERNMENT
AUTHORIZED

Six unorganized boroughs and service area within unorganized boroughs (Northwestern, Western, Interior, Southwestern, Southcentral, Southeastern) Residents of each unorganized borough represented on elected five-member advisory board.

Regional unorganized boroughs, as a prerequisite to so-called regional boroughs; service areas authorized within regional unorganized boroughs. A regional borough, once established, would be supervised by an elected regional council.

None; service areas of the unorganized borough were authorized. Authority was given to the director of Local Affairs Agency to establish, alter and abolish unorganized borough areas in accordance with standards he developed. Once established, the service areas would be controlled and directed by Regional Service Area Commissions, appointed or elected, whose principal responsibilities were advisory.

Second class boroughs with boundaries corresponding to the boundaries of the 12 geographic areas described by the Alaska Native Claims Settlement Act. The bill made provision for elections to determine the initial powers which the second class boroughs would enjoy and for the choice of initial borough officers.

MANNER OF
ORGANIZATION

Directive as to the number of unorganized boroughs; discretionary with the Legislative Affairs Agency as to the subsequent establishment of service areas.

Boundary determinations for regional unorganized boroughs were mandatory; the first election for the establishment of a regional borough was also mandatory, but subsequent action seeking incorporation of regional boroughs required submission of a petition from area voters.

Discretionary with the director of the Local Affairs Agency.

Mandatory, in accordance with the provisions of the legislation which required mandatory incorporation if no voluntary incorporation occurred before Jan. 1, 1977.

FISCAL INCENTIVES
AND IMPLICATIONS

Authority was retained by the legislature to levy service area taxes, with the Local Affairs Agency authorized to collect any taxes which were levied; the unorganized borough boards were granted the authority to receive and expend funds.

A Regional and Community Affairs Fund was established as a source of shared revenues for borough gov'ts. and for regional unorganized boroughs (with a 10% reserve for cities of the unorganized borough), to be distributed on the basis of population ratio and income deficiency. No fiscal estimate was provided. Regional unorganized boroughs might select 10% land entitlement.

No authority was granted to a service area to raise revenues within the region; presumably state grants would be made available for purposes of organization operation and provision of state services.

No incentives; the bill specifically denied to "boroughs incorporated by this act" the benefits of the then applicable ten percent land selection authorization.

LEGISLATIVE PROPOSALS
UNORGANIZED BOROUGH

SB 122 (1973)

HB 291 (1973)

HB 202 (1977) HB 9 (1979)

Governor's 1972 "Package"
HB 596, HB 597, HB 598

FORM OF
REGIONAL
GOVERNMENT
AUTHORIZED

None. This was the predecessor of legislation eventually enacted in 1975 to provide for the decentralization of responsibility for the operation of schools.

Unorganized borough districts. This legislation is quite similar to HB 596 except that the entities are called "unorganized borough districts" and it modified the local hearing requirements with respect to the drawing of the boundaries of these districts and requires affirmative legislative approval of the proposed boundaries.

None.

FORM OF REGIONAL GOV'T.
Unorganized borough units each of which would have authority to adopt home rule charters. (HB 596)
Boundaries would be recommended by the Boundary Commission. Voters would choose 11 member advisory council in each borough.

MANNER OF ORGANIZATION
Mandatory formation of unorganized borough units. (HB 596)

MANNER OF
ORGANIZATION

Mandatory formation of educational service areas.

(See above and HB 596)

Not applicable.

FISCAL INCENTIVES AND IMPLICATIONS

Extension of the property tax levy on a statewide basis (HB 597), with the levy of a premium rate on certain real and personal property of companies engaged in oil and gas activities (HB 598), was, even with the credits & exemptions allowed, expected to be sufficient to meet revenue sharing demands built into the two bills. The sharing of general property tax revenue, involving population and fiscal capacity factors, represented a realistic effort to address economic disparities. Major source of shared revenue was to be 20 mill tax on pipeline property (HB 598) however, sharing scheme was converted in the House to one based on economic impact - real or imagine-non-conductive to providing revenues on a sustained basis to meet the costs of public services at the local level.

FISCAL INCENTIVES
AND IMPLICATIONS

Full state funding of the basic costs of educational services to be provided; no authorization to generate and expend revenues from local sources.

(See above and HB 596)

The levy of a millage rate, the proceeds of which are to be deposited in the General Fund to partially off-set state-funded educational costs, would constitute the first general property tax levy in the unorganized borough. The tax would necessarily fall on the improved commercial property as possibility exists 2nd Class cities would establish residential exemptions.

IX

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION

Organizational Grants (AS 29.18.180) To defray the cost of transition to borough government status and to provide for its development and interim governmental operations, each newly created borough is entitled to an organizational grant of \$25,000 or \$10 per voter voting in the incorporation election, whichever is greater.

The organizational grants have not been a statutory incentive to encourage borough incorporation because the grant is not adequate and is not intended to pay for the entire cost of borough organization. Although there are no guidelines for the use of the organizational grants, a newly incorporated borough may use the funds to defray the cost of hiring a borough administrator, paying for a local assessment of real and personal property, obtaining office space, etc.

In order to provide an incentive to borough incorporation, an organizational grant would have to be at least \$75,000 to \$100,000 plus the initial cost involved in conducting a feasibility study on borough incorporation, and an amount equal to the cost of conducting the initial assessment and appraisal of real and personal property.

Land Selections (AS 29.18.203) A newly created borough may select ten percent of the total acreage of vacant, unappropriated, unreserved land within its boundaries on the date of incorporation. In the selection of land under the Statehood Act, it has been the policy of the State to make available to boroughs and cities the maximum land area from which to make selections consistent with the State's best interest.

The municipal land selection process is an incentive to borough incorporation to the extent that the boundaries proposed for a borough would probably include the maximum allowable vacant, unappropriated, and unrestricted lands from which to select its ten percent. However, the boundaries of a proposed borough must conform to natural geography and include all areas necessary for full development of local services.

State Revenue Sharing Program (AS 43.18.010-045) The State Revenue Sharing Program annually distributes grants to cities and boroughs based on the number of local residents in a municipality, the eligible powers exercised by each local government, the cost of living allowance used in computing total grant entitlements and the total appropriation approved for the grant program.

During each fiscal year, the Department of Community and Regional Affairs distributes State Revenue Sharing Funds to eligible cities or organized boroughs which provide specific services, and exercise the powers as follows:

<u>Municipal Service</u>	<u>Rate of Entitlement</u>
Police Protection	\$12. per capita
Military	\$ 5. per capita
Fire Protection	\$ 7.50 per capita
Water or Air Pollution	\$ 2. per capita
Land-Use Planning	\$ 2. per capita
Parks and Recreation	\$ 5. per capita

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION (Cont'd)

<u>Municipal Service (Cont'd)</u>	<u>Rate of Entitlement (Cont'd)</u>
Military	\$ 1.25 per capita
Transportation Facilities	\$ 5.00 per capita
Military	\$ 2.50 per capita
Road Maintenance	
- Public Roads	\$ 1,500. per mile
- Ice Roads	\$ 900. per mile
Health Facilities	\$ 4,000. per fac. OR
	\$ 1,000. per bed
Health Services	\$ 2. per capita
Hospitals	\$75,000. per host. OR
	\$25,000. per hosp. OR
	\$ 1,000. per bed
State Construction Aid	\$ 2,500. per bed

State Revenue Sharing has had an increasing impact on municipalities since its enactment in 1969. The program funding has increased from \$2.0 million in 1970 to \$18.6 million in FY 1979, and municipalities have become increasingly dependent on these grants. However, due to the limited amount of funding made available for the program each year, municipalities have not received 100 percent of their grant entitlements. Last fiscal year municipalities received only 38.7 percent of their total grant entitlements and next fiscal year the Department of Community and Regional Affairs expects the program to be funded at approximately 85 percent of all the grant entitlements.

The current formula is intended to encourage existing local governments to provide financial incentives to exercise powers, improve upon existing services provided and reduce any local taxes.

Local Service Road and Trail Program (LSR&T) (AS 19.30.111-251) The Local Service Roads and Trail Program provides state assistance in the development of roads and trails on routes that are not eligible for Federal-aid highway funds. These funds are intended to provide local service roads, year-around foot trails, winter trail staking, bicycle paths, erosion control, foot bridges, boardwalks, etc.

This program is 100 percent State-funded through State bond issues. Under the program, funds are allocated to organized boroughs and home-rule cities according to a strict area/population formula. Each local government receives its allocation by submitting a three-year program with project priorities noted to the Regional Highway Engineer by October 1 of each year. A portion of the fund is also allocated to the unorganized boroughs; this money is administered by DOTPF. The communities within the unorganized boroughs receive funding based on priority and need. Each community selects its project and submits it to the Department for consideration.

The Department of Transportation and Public Facilities (DOTPF) is responsible for maintaining, causing to be maintained, or constructing any project under the LSR&T Program. However, a project constructed within the boundaries of a local government which exercises the power of streets and sidewalks may be transferred to a local government upon the approval of DOTPF and acceptance by the local government.

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION (Cont'd)

Local Service Road and Trail Program (LSR&T) (AS 19.30.111-251) (Cont'd)

A road, street or highway transferred to a local government under this process can be eligible to receive State Revenue Sharing funding equal to \$1,500 a mile for each eligible mile for streets or highways maintained by the local government.

Although a borough stands a greater chance of being awarded local service roads and trails projects under the area/population formula, and although roads, streets and highways may be transferred to a municipality, the LSR&T Program has not been a sufficient incentive to encourage borough incorporation.

Regional Education Attendance Area (REAA's) REAA's were created with the passage of Chapter 124, Session Laws of Alaska, 1975 (popularly referred to as Senate Bill 35,) thus transferring the major operational responsibilities for rural Alaska schools (Alaska Unorganized Borough School District) to regional school districts (REAA's.) Although the REAA's created have provided a greater amount of local control over local municipal-type services, strengthened the existing regional identification of these areas, and provided boundaries that are useful to establishing future boroughs, the State funding formula has been a disincentive to the formation of borough government, and it fails to properly address the extremely poor tax base for much of rural Alaska. In addition to receiving funding for 100 percent of the Public School Foundation Program and 100 percent of the cost for new school construction, REAA's receive from the State an amount equal to the average local contribution per pupil in municipal school districts multiplied by the number of students which will approximate \$710 per student this year. The Public Foundation Program will be funded approximately at 100 percent this year, and the State school construction cost will only be funded at approximately 80 percent this year. The advantageous funding schedule mentioned above for REAA's still remains a disincentive to the formation of organized boroughs unless the borough school districts can obtain additional funding to offset the increased level of funding for REAA's.

State-Shared Taxes State-shared taxes are specific taxes levied and collected by the State of Alaska (Department of Revenue) and are, in part, refunded to cities and boroughs providing municipal services. State-shared taxes refunded to municipalities include the following:

Amusement and Gaming Taxes (AS 43.35.010-090) Fifty percent of the taxes collected under this program are refunded to the municipality in which the tax is collected. Payments are made automatically, on a semi-annual basis, to all cities and boroughs upon receipt of notice of incorporation.

Aviation Fuel Taxes (AS 43.40.010-040) Sixty percent of the taxes collected under this program are refunded to the municipality in which the tax is collected, if that municipality owns and/or operates a public airport.

Corporate Income Taxes (AS 43.20.010) Effective July 1, 1979, each municipality will receive a refund equal to the amount they received as a refund under the former Business License Tax Program. Refunds are mailed automatically to municipalities, once a year.

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION (Cont'd)

Liquor License Taxes (AS 04.10.460) One hundred percent of the amount collected under this tax program is refunded to the municipality in which it was collected if the municipality has a police force and actively enforces State, Federal, and local liquor laws. Refunds are mailed automatically to municipalities semi-annually.

Punchboard Taxes (AS 43.35.100-150) Seventy-five percent of the amount collected under this tax program is refunded to the municipality in which it was collected. Refunds are mailed automatically to municipalities once a year.

Raw Fish Taxes (AS 43.75.130-135) Currently each borough receives twenty percent of the amount of tax revenues collected in the area outside cities and ten percent of the amount of tax revenues collected within cities. Refunds to eligible municipalities are mailed annually.

Telephone and Electric Cooperative Taxes (AS 10.25.570) One hundred percent of the tax collected from telephone and electric cooperatives is refunded to the municipalities in which the cooperative does business. A municipality's entitlement is based upon the amount of gross revenue the cooperative received from operations within the municipality's boundaries. The tax is refunded annually.

With the exception of the raw fish tax refunds, all other State-shared taxes contribute a relatively small amount of revenue to an organized borough and would not provide a statutory inducement to municipal incorporation. Depending on the amount of fish products processed within the boundaries of a proposed borough, the raw fish tax could provide an incentive to borough incorporation; i.e., the Aleutian Islands.

LOCAL GOVERNMENT in ALASKA

CITY GOVERNMENT

SECOND CLASS - GENERAL LAW CITY
A Second Class City has only those powers given to it by the State. Those powers are: general powers (financial, administrative & legal); powers to provide public facilities and services; and regulatory powers. These powers allow a city to provide a wide range of community facilities and services.

FIRST CLASS - GENERAL LAW CITY
At least 400 permanent residents are required before a city may become a first class municipality. A first class city has the financial, administrative & legal powers; power to provide public facilities & services and regulatory powers, the same as a second class city. If a first class city is located in the unorganized borough, it has the responsibility for providing education, planning and zoning in addition to its other powers.

FIRST CLASS - HOME RULE CITY
A home rule municipality is a first class city which has adopted a Charter. The Charter establishes specific powers and duties of the city. A home rule city has all the powers not prohibited by State Statute or Local Charter. This is different from a general law municipality which has only those powers given to it by the State.

REGIONAL GOVERNMENT

THIRD CLASS BOROUGH - GENERAL LAW MUNICIPALITY. The only areawide powers it can exercise are those of education and tax assessment/collection. A Third Class Borough may establish service areas in which to provide additional services and facilities. A majority vote of the people residing in the area affected is necessary to establish a service area.

SECOND CLASS BOROUGH - GENERAL LAW MUNICIPALITY. In addition to the duties of a third class borough, a second class borough must provide for planning, platting, and zoning. To acquire additional areawide powers, a majority of the people must vote to adopt the power. To adopt non-areawide powers, (all areas within the borough but outside city limits) a majority vote of the residents outside of the city limits is necessary. It may also adopt powers on a service area basis.

FIRST CLASS BOROUGH - GENERAL LAW MUNICIPALITY. The only difference between a second class borough and a first class borough is in the manner in which they adopt powers on a non-areawide basis. A first class borough adopts non-areawide powers by ordinance, no election is necessary. It may also adopt powers on a service area basis.

HOME RULE BOROUGH like the home rule city, the home rule borough has all of the powers not prohibited by State Statute or Charter.

UNIFIED HOME RULE MUNICIPALITY
This form of government combines all of the cities and borough governments into one single unit of government. Even though there are no separate cities within a unified municipality, service areas may be established, and are administered by the Municipal Assembly.

HOME RULE MUNICIPALITIES - BOTH CITIES AND BOROUGHs are tailored to meet the needs of the residents, both inside the cities and outside the cities.

The chart on the back lists the powers and responsibilities of the different types of governments more fully. For more information contact:

Department of Community
and Regional Affairs
Division of Local Government
Assistance
225 Cordova, Bldg. B
Anchorage, Alaska 99501

POWERS & DUTIES	CITY GOVERNMENTS			BOROUGH GOVERNMENTS				UNIFIED MUNICIPALITY
	2 nd CLASS	1 st CLASS	HOME RULE	3 rd CLASS	2 nd CLASS	1 st CLASS	HOME RULE	
EDUCATION	NO	NO if in boro YES in unorganized boro	NO if in boro	YES-AREAWIDE (All boro area)	AREAWIDE (AS 29.33.050)	AREAWIDE (AS 29.33.050)	AREAWIDE (AS 29.33.050)	AREAWIDE (29.68.440)
TAX LEVY	YES-if supported by voters (AS 29.53.400-440)	YES (AS 29.53.400-440)	YES (AS 29.53.400-440)	YES (AS 29.41.010)	YES AS 29.53.400-440	YES (AS 29.53.400-440)	YES (AS 29.400-440)	YES (AS 29.68.440)
TAX ASSESSMENT COLLECTION	NO if in boro YES in unorganized boro	NO if in boro	NO if in boro	YES	YES	YES	YES	YES
PROPERTY TAX LIMITS	5 mills (AS 29.53.410)	30 mills (AS 29.53.050)	30 mills (AS 29.53.050)	30 mills (AS 29.53.050)	30 mills (AS 29.53.050)	30 mills (AS 29.53.050)	30 mills (AS 29.53.050)	mills (AS 29.53.050)
SALES TAX LIMIT	3% (AS 29.53.415)	3% (AS 29.53.415)	Limits established by Charter (AS 29.53.415)	3% (AS 29.53.415)	3% (AS 29.53.415)	3% (AS 29.53.415)	Limits established by Charter (AS 29.53.415)	Limits established by Charter (AS 29.53.415)
PLANNING PLANNING & ZONING GENERAL	OPTIONAL (AS 29.43.040)	Within city limits Yes if in the unorg.	If not by boro anized boro	In service areas by general election	YES (AS 29.33.070)	YES (AS 29.33.070)	YES (AS 29.33.070)	YES (29.33.070)
POWERS: Administrative, legal, financial	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (AS 29.48.010)	YES (29.48.010)
FACILITIES & SERVICES: Health, Police, Fire, etc.	YES (AS 29.48.030)	YES (AS 29.48.030)	YES (AS 29.48.030)	In service areas by general election (AS 29.41.010)	YES (AS 29.48.030)	YES (AS 29.48.030)	YES (AS 29.48.030)	YES (29.48.030)
REGULATORY POWERS: Animal conduct, alcohol, etc.	YES (AS 29.48.035)	YES (AS 29.48.035)	YES (AS 29.48.035)	In service areas by general election only (AS 29.41.010)	YES (AS 29.48.035)	YES (AS 29.48.035)	YES (AS 29.48.035)	YES (AS 29.48.035)
AUTHORITY BODIES	CITY COUNCIL (AS 29.23.200)	CITY COUNCIL (AS 29.23.200)	CITY COUNCIL (AS 29.23.200)	ASSEMBLY/SCHOOL BOARD (one body, two functions)	ASSEMBLY SCHOOL BOARD PLANNING COMMISSION	ASSEMBLY SCHOOL BOARD PLANNING COMMISSION	ASSEMBLY SCHOOL BOARD PLANNING COMMISSION	ASSEMBLY SCHOOL BOARD PLANNING COMMISSION

X

LIST OF DISPLAY MATERIAL AVAILABLE AT SYMPOSIUM

DISPLAY MATERIALS
AVAILABLE AT SYMPOSIUM

MAPS/OVERLAYS

1. Service Areas
2. Administrative Units
3. Land Status
 - (a) Federal
 - (b) State
 - (c) Native
4. Cities and Boroughs
5. Miscellaneous (Transportation, Communication, Renewable/Nonrenewable Resources)

MATRICES

1. Local Government Structures
2. Land Statistics

VIDEO-TAPE

"Our Land - Our Life", a video tape on the role of subsistence in the life of the Native Alaskan. Produced by Yupiktak Bista.

ACKNOWLEDGMENTS

The staff of the Senate/House Community and Regional Affairs Committee Local Government Study would like to acknowledge and thank those individuals who contributed to the development of this resource material.

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Vic Fischer, Institute of Social and Economic Research

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OVERLAYS

A. LOCAL GOVERNMENT AND SERVICE AREAS

- (A - 1) EXISTING BOROUGHES
- (A - 2) REGIONAL EDUCATIONAL ATTENDANCE AREAS
- (A - 3) COASTAL MANAGEMENT SERVICE AREAS

B. ADMINISTRATIVE DISTRICTS & REGIONS

- (B - 1) DEPT. OF ENVIRONMENTAL CONSERVATION REGIONAL BOUNDARIES
- (B - 2) DEPT. OF PUBLIC SAFETY - TROOPER DETACHMENT AREAS
- (B - 3) DEPT. OF HEALTH & SOCIAL SERVICES - DIVISION OF SOCIAL SERVICES REGIONS
- (B - 4) DEPT. OF TRANSPORTATION AND PUBLIC FACILITIES REGIONAL AND DISTRICT BOUNDARIES
- (B - 5) DEPT. OF HEALTH & SOCIAL SERVICES - DIVISION OF CORRECTIONS REGIONS
- (B - 6) DEPT. OF FISH AND GAME - GAME MANAGEMENT UNITS
- (B - 7) DEPT. OF FISH AND GAME - SPORT FISH REGULATORY AREAS

C. GENERAL

- (C - 1) ALASKA NATIVE CLAIMS SETTLEMENT ACT REGIONAL CORPORATION BOUNDARIES
- (C - 2) CENSUS AREAS - 1980
- (C - 3) ELECTION DISTRICTS - 1974
- (C - 4) STATE PLANNING REGIONS

REAA

CZM

aquaculture

m 3 mandated by statute

OVERLAYS

A. LOCAL GOVERNMENT AND SERVICE AREAS

- (A - 1) EXISTING BOROUGHS ✓
- (A - 2) REGIONAL EDUCATIONAL ATTENDANCE AREAS ✓
- (A - 3) COASTAL MANAGEMENT SERVICE AREAS ✓

B. ADMINISTRATIVE DISTRICTS & REGIONS

173 units used by
state agencies
+ federal.

- (B - 1) DEPT. OF ENVIRONMENTAL CONSERVATION REGIONAL BOUNDARIES ✓
- (B - 2) DEPT. OF PUBLIC SAFETY - TROOPER DETACHMENT AREAS ✓
- (B - 3) DEPT. OF HEALTH & SOCIAL SERVICES - DIVISION OF SOCIAL SERVICES REGIONS ✓
- (B - 4) DEPT. OF TRANSPORTATION AND PUBLIC FACILITIES REGIONAL AND DISTRICT BOUNDARIES ✓
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- (C - 4) STATE PLANNING REGIONS ✓

several dept
have adopted for
data collection

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Vic

6/23/79
Jim SANDERS

MAJOR EVENTS AFFECTING REGIONAL GOVERNMENT IN ALASKA

- 1912 ORGANIC ACT (CREATION OF THE TERRITORIAL LEGISLATURE)
- 1934 INDIAN REORGANIZATION ACT
- 1935 CREATION OF PUBLIC UTILITY AND INDEPENDENT SCHOOL DISTRICTS
- 1955-56 STATE CONSTITUTIONAL CONVENTION
- 1958 ALASKA STATEHOOD ACT
 - ° BOROUGH/UNORGANIZED BOROUGH CONCEPT
 - ° LOCAL GOVERNMENT AGENCY
 - ° LOCAL BOUNDARY COMMISSION
 - ° HOME RULE
- 1961 BOROUGH ACT OF 1961
- 1963 MANDATORY BOROUGH ACT (8 BOROUGHES ORGANIZED BY 1/68)
- 1967 UNIFICATION AUTHORIZED
- 1967 HAINES 3RD CLASS BOROUGH (EDUCATIONAL DUTIES ONLY)
- 1970 JUNEAU-DOUGLAS UNIFICATION
- 1971 SITKA UNIFICATION
- 1972 ANSCA -D2
 - NORTH SLOPE BOROUGH (REGIONAL BOROUGH CONCEPT)
 - COASTAL ZONE MANAGEMENT ACT PASSED
 - COMMUNITY AND REGIONAL AFFAIRS DEPARTMENT CREATED
- 1975 ANCHORAGE MUNICIPALITY ESTABLISHED
- INDIAN SELF-DETERMINATION AND EDUCATION ACT
- 1976 CREATION OF THE REAA'S
 - CRA'S PUSH FOR ORGANIZING THE "UNORGANIZED BOROUGH" IS UNSUCCESSFUL
- 1979 TANANA CHIEFS' "REGIONAL GOVERNMENT GOVERNMENT" ALTERNATIVE PROPOSED
- NANA STRATEGY EVOLVES
- YUKON FLATS BOROUGH STUDY
- 1980 U.S. CENSUS
- 1982 REAPPORTIONMENT OF ELECTION DISTRICTS GOES INTO EFFECT.

①
6/25/77
Through out the organized and unorganized Alaska Boroughs there are a host of services and programs provided by non-governmental and quasi-governmental organizations. The majority of the ~~services~~^{service} being delivered outside of the traditional Federal, State and Local Government agencies are being provided by Alaska Native Non-profit Corporations.

The Alaska Native nonprofit Corporations usually have regional jurisdiction boundaries following the same boundaries as the 12 Alaska Native Regional Profit Corporations as described by the Alaska Native Claims Settlement Act (ANCSA). These 12 regional boundaries are the divisions used by this report to depict what services are being provided by the various regional Native non-profit corporations ^(table I). The same regional divisions have been used to identify the amounts of program dollars flowing to the governmental and non-governmental entities of the organized and unorganized borough ^(table II). In addition, the 12 regional (ANCSA) divisions have been used to identify the proliferation of governmental and non-governmental organizations through out the State of Alaska ^(table III).

Before the three tables are explained, the importance of the regional Native non-profits should be explored. The regional ANCSA boundaries reflect specific cultural and geographic areas. Consequently, the inhabitants of the regions have similar concerns for their land and way of life. In those areas of the State that have no regional government, the non-profits frequently are the representative organization of the Native community within a region. Conversely, the Native people in those areas of the state that are living within Boroughs (i.e. Kodiak) still have a need to identify and preserve those aspects of their traditional ways of life necessary for the continuation of a cultural identity and use the Native non-profit structure to meet this end.

②

The need for a collective voice , combined with the massive amounts of federal dollars available to the non-profits have created a situation where these organizations are dynamic forces in the regions. These Native non-profit corporations are highly visiable and offer the people of the various regions a voice in the determination of the services provided, and a chance to collectively combat the percieved forces of unwanted change.

TABLE I

Table I lists the services provided by the Native non-profit corporations on a regional bases. These services cover a wide range of activities and are pred~~o~~minately funded from a few Federal sources and to a lesser degree with some State funds. It can be seen from this listing that many of the non-profits are offering a full compliment of services normally provided by governmental entities. It should be further noted that if a region is totally or partially enveloped by a borough, the non-profits still offer the same degree of services provided by those non-profits existing ~~whotex~~ totally within the unorganized borough. The nature of the Federal funding has created this situation. Many of the National Federal programs have specific monies set aside for Indian and Native Americans. In the lower 48 states these funds go to Indian reservations and Indian Urban Organizations. However, in Alaska the Native non-profits have been identified as the representative Indian and Native American organizations for ~~the State of~~ Alaska. The State of Alaska subcontracts with some of the non-profits because they have the regional structure needed for the provision of specific serives (i.e. Adult Basic Education).

0125/19

TABLE II

Table II breaks out on a regional basis the flow of dollars into the 12 regions of the State. Most of these dollars are going directly to the non-profit corporations. The CETA funds, Indian Health Service funds, HUD Indian Housing Funds, BIA contracted Services Funds, BIA JOM funds and the sub-contracted Rural Cap funds go directly to the regional non-profits. These funding levels for FY79 total over \$93,000,000 dollars. The \$41,000,000 dollars listed under ongoing HUD projects are actually being spread over a period of several years, consequently giving a slight distortion to the overall funding levels. It should also be noted that not all of the BIA services have as of yet been contracted to the non-profits. Once all of the BIA services are subcontracted to the non-profits, there will be a considerable increase in the level of non-profit funding.

The Federal and State Revenue Sharing figures reflect only those funds going to communities within the unorganized Borough. *in addition,* The HUD Community Development Block Grants go directly to the Community. These funds are listed so as to give a comparative picture of the funds available to the governmental organizations within the unorganized Borough. The \$8,000,000 dollars going to the ^{REGIONAL} local governments is relatively small when compared to the massive amounts going to the regional non-profits. This reiterates the level of importance held by the non-profits within and outside of the ~~the unorganized~~ Unorganized Borough.

TABLE III

Table III is an attempt to look at the variety and numbers of governmental and non-governmental structures existing within the various regions. Within each region there are the ~~recognized~~ ^{constitutionally} recognized forms of local government and public school systems. However, the IRA Councils and the non-profits represent a system of Federally recognized and funded entities existing outside of the traditional forms of government. ~~xxxxxxx~~ ^{confusion} This ~~xxxxxxx~~ over who controls what in the unorganized Borough, combined with the strenght of the non-profits has resulted in the stagnation of the evolutionary process of regional governments in the unorganized Borgough.

It should be noted ^{that} the number of non-profits is much larger than the actual number of regions. In all of the regions there is one major non-profit corporation provideing most of the services. However, the majority of the regions have several additional non-profit corporations offering specific programs (i.e. Housing). In some cases this has resulted in the creation of several nonprofit entities within a region operating independently from other non-profits within the region. Consequently, ~~coordinative~~ ^{coordinative} efforts ~~and~~ become increasing difficult ~~and duplication of efforts is unavoidable.~~ and duplication of efforts is unavoidable. The need to set regional plans and coordinate the flow of federal ^{an} and state dollars has been ~~xxxxxxx~~ incentive for the regions to comtemplate the formation of regional governments.

Native
Regional
Corporations

	Adult Basic Education	BIA- Agri- culture	BIA- ANA grant	BIA Credit	BIA tribal operations	BIA Employment Assistance	BIA Higher Education	BIA Housing Improvement	BIA Realty	BIA- Social Services	Community Planning -FDA-	Cultural Preservation	Education JOM	Employment CETA	Health Service	Housing	Local Government Training	Subsistence Resource Advocacy
Cook Inlet Region	X					X	X			X	X	X	X	X	X	X		X
Koniag	X										X		X	X	X	X		X
Arctic Slope Region		X	X	X	X				X	X		X			X	X		
Bristol Bay Native Corp.											X		X	X	X	X	X	X
Sealaska				X	X	X		X		X	X	X	X	X	X	X	X	X
Chugach			X									X	X	X	X	X		X
Doyon			X		X	X	X			X	X	X	X	X	X	X	X	X
AHTNA											X	X	X	X	X	X		
Aleutian	X										X	X	X	X	X	X		
Calista	X					X	X			X	X	X		X	X	X	X	X
Bering Straits	X											X		X	X	X		
NANA			X	X		X	X	X		X	X	X		X	X	X	X	X

Native Regional Corporations	Div. of Indian/ Native Affairs CETA	FY 79	U.S. Public Health Service Indian Health Services	HUD Indian Housing		HUD FY 79 Community Development Block Grants	Federal Revenue Sharing	State Revenue Sharing	State RDA Grants	BIA Contracted Services	BIA JOM	Rural Cap
				FY 79	other on- going projects							
Cook Inlet Region	2,499,950	1,350,077			2,149,995				20,000	1,721,292	413,656	80,000
Koniag	766,384	446,472		816,000	1,839,701	285,000			78,000	250,223	370,287	172,545
Arctic Slope* Region	1,456,761	446,012								767,107		
*Administered by AFN												
Bristol Bay Native Corp.	1,164,157	1,062,219				225,000	137,094	143,724	52,150		386,237	285,545
Sealaska	3,950,241 656,862 586,535	711,705				698,000	505,324	557,339	116,200	4,868,621	974,984	381,180
Chugach	397,862	384,521			1,632,000		353,080	470,539	17,000		160,094	96,000
Doyon	3,954,371	1,776,384			10,357,000	191,000	120,248	368,288	61,850	4,736,696	482,622	237,090
AHTNA	190,254	396,617					19,348		40,000		86,784	
Aleutian	583,320	444,000		489,600	6,772,800		80,088	236,508	124,000	136,497	253,023	1168,000
Calista	6,642,158	2,794,568		4,161,600	5,793,600	401,350	479,040	763,205	219,000	1,721,766	284,198	1,165,450
Bering Straits	2,010,085	1,574,205			12,741,003	240,000	212,976	503,232	113,877	308,103	11,951	272,180
NANA	1,466,867	975,174			2,751,854	230,000	161,020	214,533		246,788		
Total	26,325,807	12,382,954		5,467,200	71,557,953	2,683,550	2,069,028	3,257,868	842,077	14,757,093	3,423,836	2,857,990

Regional Native Profit Corporations	Unified Home Rule Municipalities	Organized Boroughs			Incorporated Communities		IRA Councils		Native Profit Corporations	REAA's	Independant School Districts	BIA Schools	Village Corporations
		Home Rule	Second Class	Third Class	Home Rule Cities	First Class Cities							
Arcic Slope		1				1	3	5	4		1		8
Aleutian						3	1	4	2	1	3		13
AHTNA			1						2	1			8
Bering Straits						1	11	15	4	2	1	10	16
Bristol Bay			2			1	12	14	3	2	2		25
Cook Inlet	1		2		2	3	3	2	2		3		8
NANA							11	8	2	1			1
Calista						1	35	10	6	3	1	27	44
Doyon			2		2	2	18	10	5	4	2	5	27
KANA			1		1		5	1	1		1		14
Chugach			1		3		1	2	2	1	2		5
Sealaska	2		1	1	3	9	7	10	3	3	14		12
Total	3	1	10	1	11	21	107	81	36	18	30	42	181

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This paper concerns task number four of objective four of the local government study pertaining to the social, political and cultural patterns in the unorganized borough and their relation to local government formation. It specifically looks at some of the early native political formations including both traditional and IRA village councils. This is followed by a description of the second class cities and their method of operation and some current trends. Lastly, there are some comments about possible borough government impact on existing infrastructure in the unorganized borough. The topic of profit and non-profit governmental activities is omitted since the matter is adequately addressed in another part of the study.

EARLY POLITICAL FORMATIONS

The original traditional village council form of government varied in structure, size and activities throughout the regions. Primarily, the councils were composed of male elders, often from the same families, who had been successful in combat and food gathering. Their powers and duties included: deciding disputes, protection of village boundaries and hunting grounds, punishing violators of village customs and laws and the distribution of essential commodities.

All village governments were affected by the early contact with western culture. This was particularly true, however, in the Southeastern part of the state. There, churches and other groups introduced democratic concepts and methods by way of organizing native involved church and social clubs. These activities gave native leaders fundamental tools needed when the first federal recognized villages were formed under the organized Village Act of 1920.¹ Angoon was, for example, among the first to organize (around 1920). The community elected a town council, built a town hall and installed electricity for the use of its residents.² Territorial legislation followed in 1915 to permit "indian villages" to organize as units of local government. Their powers were limited along racial lines (i.e., they couldn't tax non-native property) and the act was repealed in 1929. Later native communities were incorporated under territorial law governing formation of local government.³

Concurrent with these activities was the formation of the first regional native political group. The Alaska Native Brotherhood (ANB) in 1912 and the Alaska Native Sisterhood (ANS) three years later were organized from members of the Tlinget and Tsimshian tribes. Both groups were concerned with obtaining citizenship for Alaska natives, education opportunities and the abandonment of aboriginal customs which were seen by whites as "uncivilized."⁴

Other native organizations were soon to follow. The Tanana chiefs was founded in 1915 for the purpose of strengthening village ties and dealing with outside forces. Until the 1960's a less structured system of inter-village related activities existed in the West and Northwest regions based primarily on traditional and cultural functions.

One of the more effective and persistent of early native groups has been the Tlinget-Heida Central Council. The organization was formed in 1929 as an off-shoot of ANS and ANB to primarily pursue a lawsuit against the U.S. Government for twenty million acres in Southeast Alaska. The matter was finally settled in 1968 with the council receiving a 7.5 million dollar judgment award. The group, which includes 21 communities as members, still exist and is recognized as a tribal organization under the Self-Determination Act of 1975.

INDIAN REORGANIZATION ACT COUNCILS/TRADITIONAL COUNCILS

The Indian Reorganization Act (IRA) of 1934 and as amended in 1936 states that "Indians in Alaska not heretofore recognized as bands or tribes, but having a common bond or occupation, or association, or residence with well defined neighborhood, community or rural district may organize to adopt constitution and by-laws and receive charter of incorporation and federal loans...."5 Villages are to propose a constitution and by-laws that have to be accepted by a majority of village residents by a special election and additionally be approved by the Secretary of the Interior.

After fifteen years of the act, thirty-two villages have incorporated and fifty-four by 1970. Currently there exist sixty-eight IRA Councils plus two IRA Associations for credit purposes and the community of Metlakatla, the only IRA corporation recognized by the state as a municipal corporation. Ninety villages are still governed solely by traditional village councils.

The major affect of incorporation was that it lent credence to the legal existence of a village since its constitution has been approved by the Secretary of Interior. With the formation of the council, many villages were, through a governmental process, able to regain control over economic activities such as the village cooperative stores, reindeer herd, and construction and repair of school property which over the years has slowly become a function of the Bureau of Indian Affairs (BIA) representatives.⁶

The council structure also serves as an introduction of the political process to rural Alaska and increased contacts between native leaders and federal government representatives. This acculturation activity undoubtedly has had an effect on the ability of the native population to deal with whites as increased contact has occurred in recent years. Additionally, the formation created a federal sponsored local native government that was eligible to receive and administer federal dollars. Furthermore, the council worked as a mechanism to train natives as administrators, managers and other vital local government positions.

With the advent of statehood and state recognized local government, chiefly 2nd class cities, the role and power of the IRA Council has been reduced. Since the councils are not recognized by the state, the primary role of the council has been that of a nonprofit association to obtain federal funds. The traditional public and municipal functions are performed by the state government unit. For example, police power is still controlled by the state or a sub-unit of it. The IRA Council does have ability to pass resolutions and rules of contract, however, they are not enforceable by state or federal enforcement officers.

The IRA Councils do have the power, subject to the Secretary of Interior approval, to have legal assistance, prevent the sale or disposal of tribal lands or other assets and to negotiate with federal, state and local government. In addition, under Section 102 of the Indian Self-Determination Act of 1975, an IRA Council has the power to decide between receiving services provided by the BIA directly, from BIA or from the village council or a regional nonprofit corporation. This would include such activities as employment assistance, higher education, social services, housing and tribal operations. And, under Section 104 of the same act allows village council the right to request funds for "the strengthening or improvement of tribal government which could involve monies for training personnel, building of community halls and equipment and supplies."

Current Status

Village councils are not, as previously mentioned, state recognized entities and thereby lack nearly all municipal powers and responsibilities. The level of their activity, in part, depends upon whether there is a state sponsored government in the community, the size of the village and the services performed by the regional profit and nonprofit organizations. In villages governed by traditional councils, the adoption of a constitution and by-laws is encouraged. This, as with the IRA Constitution, is assurance for the federal government that the body it deals with actually represents the residents.

Although the status of the IRA has diminished with the emergence of the second class cities, their existence has been maintained for a number of reasons. First, as stated before, under the Self-Determination Act of 1975, the IRA Council have first priority for contracting and grants.⁷ Secondly, the councils are seen by natives as a form of protection, in the event that whites obtain control of the village.⁸ Additionally, there has been attempts to coordinate IRA Councils and state city functions and funding sources. The native nonprofit organization of Mauneluk, for example, is operating a training program to coordinate the IRA and state governing councils in the eleven villages of the Nana region. It has also been reactivating IRA Councils in its region. Ten councils have so far been re-established.⁹ The advantages of this action include the improvement of services provided by the villages, it complements the services provided by existing state organized governments without threatening the police and regulatory authority of those governments and at the same time assures the members of the IRA village that they will remain eligible for federal native programs under the criteria unrelated to their status as ANCSA stockholders.¹⁰

Second class cities are the most common form of sub-state government Alaska today. 107 of the nearly 150 incorporated governmental units are second class cities. They are most often found in the unorganized borough (92 cities) as opposed to the organized borough (15) cities. The total population of second class cities represent approximately 8% of the population, while those in the unorganized borough represent about 6%.¹¹ The current average size of this class of city (excluding the larger ones; Bethel, Kotzebue and Delta Junction) in the unorganized borough is 264 residents as opposed to 208 residents in the organized borough (excluding Wasilla). The vast majority of second class are located in three general areas: Bristol Bay, Kuskokwim Bay and River area and the Kobuk River area. The remaining cities are scattered throughout the state. The racial composition of the second class cities is predominantly native with only 6% of them having a non-native majority population.

The present second class cities evolved from a state classification system of 1st, 2nd, 3rd and 4th class cities. The original distinction between city government levels was muddled during the 1960's and early 1970's by additional powers being granted by the legislature to the different classifications. Consequently, the actual difference was, in many cases nearly eliminated. The state responded to the situation by reclassifying all 1st, 2nd and 3rd class cities as 1st class cities and 4th class cities as 2nd class cities. Additionally, the Local Boundary Commission gave previously 1st, 2nd and 3rd class cities with a population under 400 (the number of residents required for a 1st class city) the opportunity to convince the state, within a two year period of the start of reclassification, that their government infrastructure was adequate to fulfill the duties of a 1st class city.

Since 1963, both the state and federal government have encouraged the incorporation of native villages under state law. Normally the availability of revenue sharing or the installation of a village electric generator were the incentives for incorporation.¹² In the last ten years seventy-six 2nd class cities have been incorporated, nearly all of them in the Northwest region of the unorganized borough. Many of these incorporated also for the opportunity to obtain land through the Alaska Native Claims Settlement Act.

Current Status Second class cities located in the unorganized borough have been plagued with a number of fundamental weaknesses which have even brought into question the need for their legal existence. A number of the cities suffer from a lack of well trained administrators, managers and financial officers. Too often when cities do obtain experienced personnel, their stay is brief with the lure of better pay and environment in larger communities. Adequate resources are still another problem. It is not uncommon for cities' officials to be unaware of their duties, powers and sources of possible funding, and just as important, the constant changes in state and federal statutes affecting them. The lack of adequate

communications with other second class cities is noticeably absent. This is vital for coordinating inter-governmental policies as well as fostering better understanding between the communities.

To compound the problem even further, second class cities are quite often simply another layer of government/service organization upon small communities that are ill-equipped to properly manage the different entities without constant problems of duplication, confusion and mismanagement. Ideally, many of the smaller communities would be better operated by a single organization with one council or board. However, since the changes of a major consolidation of agencies and councils are slim, the villages will have to continue to work with the existing framework.

7/24/77

⑤

Borough government impact on rural second class cities, service organizations and village councils would, of course, depend upon its size, structure, duties and powers. Currently there exist two distinctly different "bush area" boroughs who share a number of common characteristics as the unorganized borough. As a method of assessing the impact on future boroughs or local structures it is necessary to review the past experience of these two governments.

Bristol Bay Borough: Bristol Bay is a second class borough which was the only regional government formed in response to the 1961 Borough Act. The Borough is currently the smallest one; both in size and population. The primary basis for its existence was the desire to control the local school system and to place a tax upon the local canneries. As noted by one pair of writers: "(This) was a clear demonstration that, in the absence of adequate laws, standards and guidelines, the borough form of government would be shaped largely in response to local political current and controversies."¹⁵ This obvious lack of a 'natural' social, economic and political community" was evident since it encompassed only three small villages in a region that contained a number of similar communities. Hence, many of the minimal standards, potential powers and responsibilities were absent.

Other than the borough itself, there is no state sponsored government nor are there any IRA councils. There are two village corporations; Paug-Vik Incorporated Limited (Naknek) and an unnamed merger of the villages of Port Heiden and South Naknek.

The borough does fulfill most of the basic duties and services on an adequate level. It does, for example, derive taxes from its local economic structure (hence some accountability for dollars spent). It is active in planning and zoning and has a single locally controlled school board. Furthermore, having a single governmental unit is undoubtedly more efficient and effective than these small ones for regions.

On the other hand, however, the borough has major defects. It is again, contrary to what was envisioned a structurally and functionally sound regional form of government. It is simply too small. The borough does not contain the natural economic, social, political and geographical boundaries or the area. The residents of the borough are still covered by functions of nonprofit and profit corporations along with state and federal programs which also must be coordinated with communities, associations and groups outside the borough. Hence, overlapping jurisdiction boundaries still exist and cause confusion, political conflict and duplication of services. Additionally, the borough political power structure has not served as an inducement for other communities in the area which could possibly be an integral part of it.

Obviously, Bristol Bay is not a model for future rural boroughs. Although its size preempts the need for city government it is, by the same token, not the solution to the problem of overlap by the various corporations and groups which have responsibilities and powers inside as well as outside the borough.

North Slope Borough: The North Slope Borough was established in the midst of controversy in 1972. It is the largest borough and has a population of about 7,900. The formation of the borough was opposed by the oil industry because of the threat of a borough property upon the

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pipeline. After much litigation, the area was incorporated as a home rule borough which is currently the largest regional (non-tribal) native controlled government in the country. It has a number of natural advantages. For example, it derives 98% of its taxes from one source; the Trans-Alaska Pipeline operation. It is sparsely populated and has only one large city.

The borough contains seven incorporated cities; Barrow being the only first class city, while the other six are second class cities. Additionally, there are eight village corporations, five IRA Councils and the regional corporation which covers the same area as the borough. The borough has attempted to provide an equitable and efficient level of services to all the residents by consolidating many of the traditional city powers within the borough. This transfer of power was generally approved by the communities. The borough currently possesses fifteen of the twenty-two possible area wide powers. The main opposition to the centralization of authority has come from the City of Barrow. This was due, in part, to personal and institutional rivalries between the two government units. Nevertheless, the consolidation of powers has made the borough one of the state's strongest regional governments. An additional ingredient to this fact is that the regional corporation's (Arctic Slope Regional Corporation) jurisdiction is the same as the borough. Although it is not controlled by the same individuals nor does it necessarily have the same goals and objectives, it does by the mere virtue of its boundary only operate in the same region and thereby avoids responsibilities and powers outside the borough. There is undoubtedly still some overlapping of authority and simply too many boards and councils. However, the strong centralized borough is a good approach and can be discerned as a plausible model for other boroughs to follow.

The incorporation of a borough in the rural regions will obviously have an impact on the existing infrastructure. By way of reviewing the experiences of the Bristol Bay and North Slope Boroughs, along with the successes and failures of the second class cities, a number of general observations can be made about this possible impact:

1. The jurisdictional lines of boroughs should be that of the "natural" boundaries and should follow or be followed by other major groups and associations (profit and/or nonprofit corporations). This, at least, insures their operations and functions solely within the same area. It would not prevent inter-group conflict, but at least eliminates the problems of a group from having power and responsibilities both in and out of the borough.

2. Centralization of authority with the borough should occur when possible, since it will probably have a stronger tax base than the cities and thereby provide services on a more equitable and efficient basis.

3. Second class cities, in some situations, probably should be eliminated or have its powers and responsibilities reduced. For example,

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in a scheme with a strong centralized borough government, second class cities may be simply too costly and ineffective to continue as a legal entity. Many of the smaller tasks could be decided by the village councils or village associations.

4. IRA and traditional councils would probably continue as viable entities in a borough because of their historical connection with the federal government. They probably, in most instances, would continue to work with other village groups and associations in providing certain services.

5. Nonprofit corporations would probably continue to function as they presently do, since they too, are interlocked with federal monies specifically designed for Alaska natives. Additionally, they may transfer some of their powers to a strong centralized borough structure. They probably, however, along with other groups within a new borough, would be forced to coordinate its activities more often with that of the borough's.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

BOROUGH ACT OF 1961 (Ch. 146, SLA 1961) (CSHB 17)

Introduced "By Request of the Governor and the Legislative Council," and described by Governor William A. Egan as legislation which "seeks the most in local government for urban, suburban and rural areas," the bill authorized formation of first and second class boroughs in response to public petition, review, hearing and determination by the Local Boundary Commission, and a local referendum on incorporation. The legislation

- (1) defined standards for the incorporation of new boroughs;
- (2) described standards for the composition and apportionment of the borough assembly;
- (3) defined the general powers of all boroughs, and the mandatory powers -- tax assessment and collection, education, and planning and zoning -- required of first and second class boroughs;
- (4) described the manner of exercise of additional areawide and non-areawide powers by first and second class boroughs, and the acquisition of responsibility for services through transfer of powers from cities;
- (5) provided for the establishment of, and defined the duties, responsibilities, and manner of operation of, borough assemblies;
- (6) provided for a borough executive: an elected borough chairman and (optionally) an appointed borough manager, defining the responsibilities and manner of selection of each; and
- (7) described additional powers, duties, and responsibilities of organized borough governments.

Form of regional government authorized:

First and second class general law boroughs.

Manner of organization:

Optional: upon submission of a petition containing information as to

- (1) the class of the proposed borough;
- (2) the name of the borough and location of the borough seat;
- (3) the boundaries of the proposed borough, in accordance with statutory standards prescribed;
- (4) proposed assembly size, composition and apportionment;
- (5) designation of powers assumed by the borough upon its incorporation;
- (6) supporting and supplemental information required by the local affairs agency;
- (7) necessary signatures: 25 percent of the qualified voters of each first class city within the proposed borough and 25 percent of the voters living outside first class cities and voting in the last general election.

Acceptance of the petition by the Local Boundary Commission, and an election on the petition in which the overall majority carries the vote.

Fiscal incentives and implications:

The borough enjoyed authority

"to levy taxes and special assessments, enforce tax liens, and assess and collect penalties in the manner provided for first class cities;"

and

"[to] levy or authorize the levying of taxes, charges, or assessments in service areas to finance special services."

The borough enjoyed standing to receive from the state shared taxes "to the extent that the taxes are collected in the borough but outside any city which receives a share of the same tax."

(1) If the offense be a first violation, by imprisonment for not less than ten nor more than thirty years and by a fine of not less than \$5,000.00 nor more than \$10,000.00:

(2) If the offense be a second violation, or if, in the case of a first violation, the offender shall previously have been convicted of any violation of this Act or of the laws of the United States or of any other state, territory or district relating to narcotic drugs, by imprisonment for not less than fifteen or more than thirty years, and by a fine of not more than \$25,000.00:

(3) If the offense be a third violation, or if, in the case of either a first

or second violation, the offender shall previously have been convicted two or more times in the aggregate of any violation of this Act or of the laws of the United States, or of any other state, territory or district relating to narcotic drugs, by imprisonment for the remainder of his or her natural life.

The imposition or execution of sentence shall not be suspended and probation or parole shall not be granted until the minimum imprisonment herein provided for the offense shall have been served.

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Became law without signature April 29, 1961

CHAPTER 146

(C.S.H.B. 17)

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Relating to organized a

Be it enacted by the State of Alaska:

Article

The Unorganized

Section 1.01. Establish in the state which are boundaries of an organization a single unorganized

Sec. 1.02. Service Areas. maximum local participation, under the powers of the assembly, may establish service areas within the borough to provide special services which are not provided by the utilities, land use regulation. A new service area may be established if the new service area is provided by an existing service area corporation as a city, or a city.

Sec. 1.03. Transition Districts. Special services on the effective date of the act continue to exercise their powers under existing law or until such time with they are integrated into borough government, or incorporated as cities, or established as areas in the unorganized

Article

Incorporation of an O

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- Sec. 7.47. Report to Local Boundary Commission
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CHAPTER 146

AN ACT

Relating to organized and unorganized boroughs; and providing for an effective date.

(C.S.H.B. 17)

Be it enacted by the Legislature of the State of Alaska:

Article I

The Unorganized Borough

Section 1.01. Establishment. All areas in the state which are not within the boundaries of an organized borough constitute a single unorganized borough.

Sec. 1.02. Service Areas. Allowing for maximum local participation, the legislature, under the powers of a borough assembly, may establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to, schools, utilities, land use regulation, and fire protection. A new service area shall not be established if the new service can be provided by an existing service area, by incorporation as a city, or annexation to a city.

Sec. 1.03. Transition of Special Service Districts. Special service districts existing on the effective date of this Act may continue to exercise their powers and functions under existing law until July 1, 1963, or until such time within this period that they are integrated into city or organized borough government, annexed to or incorporated as cities, or established as service areas in the unorganized borough.

Article II

Incorporation of an Organized Borough

Sec. 2.01. Incorporation Proposed by Petition. The incorporation of a first or second class organized borough is proposed

by filing a petition with the Local Affairs Agency.

Sec. 2.02. Form of Petition. The petition shall be in the form prescribed by the Local Affairs Agency and shall include the following:

(1) the class of the proposed organized borough, either first class or second class as provided in Art. III of this Act;

(2) the name and borough seat of the proposed borough;

(3) the boundaries of the proposed borough under the standards prescribed by Sec. 2.03 of this Act;

(4) the proposed composition and apportionment of the assembly under the standards prescribed by Sec. 2.04 of this Act;

(5) if the petition is for the incorporation of a first class borough, a designation of any areawide power to be exercised under the standards prescribed by Sec. 2.05 of this Act;

(6) if the petition is for the incorporation of a second class borough, a designation of any areawide power to be exercised under the standards prescribed by Sec. 2.05 of this Act and a designation of any power to be exercised in the area outside cities only and not on an areawide basis as prescribed by Sec. 3.72 of this Act;

(7) maps, documents, and other information which may be required by the Local Affairs Agency to show that the proposed organized borough meets the standards for incorporation; and

(8) the signature and resident address of 25 percent of the qualified voters in each first class city and 25 percent of the qualified voters in the area outside first class cities who voted in person in the last general election.

Sec. 2.03. Standards for Incorporation. No area may be incorporated as an organized borough unless it conforms to the following standards:

(1) the population of the area proposed for incorporation shall be interrelated and integrated as to its social, cultural, and economic activities. The population shall be qualified and willing to assume the duties arising out of incorporation, shall have a clear understanding of the nature of the undertaking for which they ask, and shall be large enough and stable enough to warrant and support the operation of organized borough government;

(2) the boundaries of the proposed organized borough shall conform generally to the natural geography of the area proposed for incorporation, shall include all areas necessary and proper for the full development of integrated local government services, but shall exclude all areas such as military reservations, glaciers, ice caps, and uninhabited and unused lands unless such areas are necessary or desirable for integrated local government;

(3) the economy of the proposed organized borough shall encompass a trading area with the human and financial resources capable of providing an adequate level of governmental services. In determining the sufficiency and stability of an area's economy, land use, property valuations, total economic base, total personal income, present and potential resource or commercial development, anticipated functions, expenses, and income of the proposed organized borough, shall be considered;

(4) the transportation facilities in the area proposed for incorporation shall be of such a unified nature as to facilitate the communication and exchange necessary for the development of integrated local government and a community of interests. Means of transportation may include surface (both water and land) and air. Areas which are accessible to other parts of a proposed organized borough by water or

air only may not be included within the organized borough unless access to them is reasonably inexpensive, readily available, and reasonably safe. In considering the sufficiency of means of transportation within a proposed organized borough, existing and planned roads and highways, air transport and landing facilities, boats and ferry systems, and railroads, shall be included.

Sec. 2.04. Standards for Composition and Apportionment. The borough assembly shall be apportioned according to the following standards:

(1) the borough assembly is composed of 5 to 13 members;

(2) the borough assembly is composed of at least one assemblyman from each first class city and at least one assemblyman from the area outside the first class cities within the organized borough;

(3) except as provided in Paragraph (4) of this section; the remaining assembly seats are first apportioned between each first class city and the remainder of the organized borough in direct proportion to the total population residing in each, with fractional proportions being resolved in favor of the major fraction;

(4) after apportioning the assembly by population, the apportionment shall be adjusted as follows:

(a) if a first class city or the area outside first class cities has more than half of the total population of the borough, it shall have a delegation on the assembly larger than the total number of all other members;

(b) if a first class city or the area outside first class cities has a population that is more than twice as large as the remaining population of the borough, it may have only two more members on its delegation than the total number of all other members;

(c) if a first class city or the area outside of first class cities has a population that is not more than twice as large as the remaining population of the borough, it may have only one more member on its delegation than the total number of all other members.

Sec. 2.05. Standards for Assignment of

Area-wide Powers. In a wide powers required area-wide powers which more efficiently and economically on an area-wide basis or through ice areas by the organized borough. The powers be assigned to the proper determining efficiency present and anticipated operation, responsiveness ability to operate over the feasibility of integration factors shall be considered.

Sec. 2.06. Review Agency. Upon receipt Local Affairs Agency proceed with a review (1) if the petition is in proper form and (2) if the by the required number

Sec. 2.07. Return of Local Affairs Agency petition is not substantially in form or lacks the minimum qualified voters signing agency shall not accept may return it for correction

Sec. 2.08. Investigation Affairs Agency determination is substantially in the contains the required number voters' signatures, the conduct an investigation to the proposed incorporation (2) if the proposed composition of the borough (3) if the proposed area-wide powers meet the standards by this Act. In investigation apportionment of the borough the agency shall use the the United States Bureau However, if these figures inadequate by the agency cent population changes tions in the use of these figures may use any method necessary ine most accurately the

b. The Local Affairs combine petitions for incorporation same general area whether the same area is included. Petitions shall be investigated deemed advisable by the Agency, and not necessarily received.

Sec. 2.09. Report to

Areawide Powers. In addition to the areawide powers required by this Act, those areawide powers which can be exercised more efficiently and economically on an areawide basis or through the use of service areas by the organized borough shall be assigned to the proposed borough. In determining efficiency and economy, the present and anticipated benefit and cost of operation, responsiveness to people served, ability to operate over extended distances, the feasibility of integration, and other factors shall be considered.

Sec. 2.06. Review by Local Affairs Agency. Upon receipt of a petition, the Local Affairs Agency shall immediately proceed with a review of it to determine (1) if the petition is substantially in the proper form and (2) if the petition is signed by the required number of qualified voters.

Sec. 2.07. Return of Petition. If the Local Affairs Agency determines that the petition is not substantially in the proper form or lacks the minimum number of qualified voters signing the petition, the agency shall not accept the petition but may return it for correction or completion.

Sec. 2.08. Investigation. a. If the Local Affairs Agency determines that the petition is substantially in the proper form and contains the required number of qualified voters' signatures, the agency shall conduct an investigation to determine (1) if the proposed incorporation of the borough, (2) if the proposed composition and apportionment of the borough assembly, and (3) if the proposed assignment of areawide powers meet the standards prescribed by this Act. In investigating the proposed apportionment of the borough assembly, the agency shall use the latest figures of the United States Bureau of the Census. However, if these figures are considered inadequate by the agency because of recent population changes or other limitations in the use of these figures, the agency may use any method necessary to determine most accurately the actual population.

b. The Local Affairs Agency may combine petitions for incorporation from the same general area whether all or part of the same area is included in the petitions. Petitions shall be investigated in the order deemed advisable by the Local Affairs Agency, and not necessarily in the order received.

Sec. 2.09. Report to Local Boundary

Commission. The Local Affairs Agency shall report the findings of its investigation to the Local Boundary Commission together with any recommendations it may have regarding the incorporation of the proposed organized borough, the composition and apportionment of the assembly, and the assignment of areawide powers.

Sec. 2.10. Hearing by Local Boundary Commission. The Local Boundary Commission shall hold at least one hearing in the area to be incorporated as an organized borough for the purpose of hearing public comment on the proposal for the incorporation of the organized borough, the composition and apportionment of the borough assembly, the assignment of areawide powers, and the location of borough boundaries.

Sec. 2.11. Determination by Local Boundary Commission. After considering the findings of the Local Affairs Agency and the comments at the public hearing, the Local Boundary Commission shall determine if the petition is to be accepted. If the commission determines that the proposed organized borough fails to meet the standards for incorporation or the composition and apportionment of the assembly prescribed by this Act, the commission shall reject the petition. If the commission determines that the proposed organized borough meets the standards for incorporation and the composition and apportionment of the assembly prescribed by this Act, the commission shall accept the petition. If the Local Boundary Commission determines that the proposed organized borough would meet the standards prescribed by this Act, if changes were made in the composition and apportionment of the borough assembly, the boundaries of the proposed borough, or the areawide powers to be exercised by the proposed borough, the commission may change the boundaries of the proposed organized borough or the composition and apportionment of the borough assembly or the areawide powers of the proposed organized borough and accept the petition. Any person aggrieved by any determination of the Commission may appeal to the Superior Court in the manner and within the scope of review prescribed by Sections 24 and 25, Ch. 2, of the Administrative Procedure Act.

Sec. 2.12. Election. a. **Date of Election.** If the Local Boundary Commission accepts the petition, it shall immediately