

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

371 SCOM10: LOCAL GOVERNMENT STUDY 1979

Bristol
Bay
Native
Corporation

445 E 5TH AVENUE / P.O. BOX 220 / ANCHORAGE, ALASKA 99510 / PH (907) 278-3602

March 31, 1978

The Honorable Lisa Rudd
Alaska State House of
Representatives
Pouch V
State Capitol Building
Juneau, AK 99811

Dear Representative Rudd:

We have reviewed the proposed H.B. 202 and S.B. 35 dealing with real property taxes in the unorganized borough. While real property taxes are the favored way to support school systems, they cannot be justified in the present instance.

1. Real property taxes have basically three virtues: they preserve the autonomy of the local decision-making; they are subject to ~~equitable exemptions for the poor and elderly~~; finally, they are relatively simple or inexpensive to administer. However, if real property taxes are levied in unorganized borough, none of these goals will be achieved.

a. Local autonomy cannot be fostered by the State Legislature making decisions on local tax rates, exemptions or spending. Not only is the State Legislature removed from the locale to be taxed, but seventy-five percent of that body is elected by persons not subject to the tax. *local income which wd. allow local autonomy to HB 202.*

b. Although Alaska Statute 29.53.025(a) permits certain equitable exemptions, they are optional only. For any of them to be effective, a municipality within the borough, then the borough, and finally, in some instances, the voters must act. Unless first-class cities within the unorganized borough have created a \$10,000 exemption for residences, the State Legislature functioning as a borough assembly cannot make said exemption a reality. Equity is thereby lost. *However, as some of state is thinking what are actually local govt. services in the unorganized area of the borough must support a state prop. tax plan*

has changed with reality in bush. too, using not included a fact

c. Real property taxes are, in general, relatively inexpensive to administer. This fact coupled with high compliance makes them extremely appealing to government. However, the factors which make these taxes inexpensive are absent in the bush. In the unorganized borough, real property descriptions, locations, or recorded owners are almost nonexistent. Furthermore, an identifiable market on which to base full and true value is also lacking. Since the comparable sales approach could not be used for valuation, only the capitalization of income and the cost replacement approaches remain. The income approach, of course, could be used only on income-producing property, yet values will be needed for all "improved" real property. Finally, the cost replacement approach is the least fair or reliable one and, in any case, is of aid only as to buildings. Giving these administrative and valuation problems, costs will be substantial, and the worth of any tax correspondingly reduced.

2. Certain weaknesses or problems are inherent in real property taxes. Such taxes are regressive, and their high effective rate influences economic behavior. Both of these problems are exacerbated when real property taxes are instituted in the bush.

a. Real property taxes are regressive. Unlike income taxes, they impose a greater proportional burden on those with low income. For instance, the estimated income per return of Bristol Bay residents is only half that of Anchorage residents while their cost of living is twenty-eight percent higher. Clearly, the proportional burden of real property taxes on such people is great.

b. Real property taxes influence economic choices or the use of resources. Therefore, care must be taken so that such taxes will foster the type of resource allocation which the State favors. At present, the State of Alaska is trying to protect traditional subsistence and, at the same time, trying to encourage development sufficient to reduce unemployment. Neither of these goals is enhanced by real property taxes.

For instance, it is very expensive for commercial enterprises to locate in rural Alaska. They incur additional costs in housing, communications and transportation by so doing. At present, only the fishing or extractive industries are drawn there because of certain resources.

As a result, rural Alaskans suffer from high unemployment which is only partially offset by their subsistence rights. Many outside communities which have struggled with depressed economies have not only cut taxation, but also donated lands to businesses willing to relocate. Yet Alaska is proposing a real property tax for depressed areas.

2. did not exist
To complicate matters further, Bob Dozier of the State Assessor's office has proposed that the unimproved land be taxed too. Such an action would force the landowner to choose among developing, paying taxes out of his other income, or losing his land to the State. Therefore such taxes increase pressure for development but, as discussed above, without the existence of development opportunities. Given that many rural Alaskans do not have much by way of other income, more land would move into State ownership through foreclosure. Certainly, this does not protect a subsistence life-style or encourage development.

Even if the problems discussed above do not exist, two technical or legal difficulties remain. H.B. 202 and S.B. 35 fail to adequately take into account Section 21(d) of the Alaska Native Claims Settlement Act and Article IX, Section 7 of the Alaska Constitution. Confusion, litigation and additional expenses for the State and private property owners alike would result.

1. Generally, Section 21(d) provides that Native lands are exempt for twenty years provided that they are not leased or developed. Congress granted this tax moratorium for many reasons. Partially it was additional compensation for Native claims. Partially it was to allow for necessary adjustments to the economic mainstream. The intent was to give Native corporations time to experiment economically before assuming substantial tax burdens, to provide temporary sanctuary for traditional subsistence, and to retard the inexorable movement of Native lands to non-Native hands. Price, The Tax Exemption of Native Lands Under Section 21(d) of the Alaska Native Claims Settlement Act, 6 UCLA-AK. L.REV. 1 (1976). In so doing, Congress has preempted and limited the State of Alaska's options.

The relevant language of section 21(d) is as follows:

Real property interests conveyed, pursuant to this Act, to a Native individual, Native group, or Village or Regional Corporation which are not developed or leased to third parties, shall be exempt from State and local real property taxes for a period of twenty years ... Provided

The Honorable Lisa Rudd
March 31, 1978
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*Clear in ANCSA that state
can tax only lands which
have been cleared or developed.
Among those, HB 202 proposes
to tax only those which are "improved."*

That ... local real property taxes ... may be imposed upon leased or developed real property within the jurisdiction of any governmental unit under the laws of the State ...

Yet the State Legislature proposes to tax all improved real property. How does this fit with the phrase "leased or developed"? When the State Legislature is acting as a borough assembly, is it imposing a State or a local tax? Where is the landowner/third-party distinction recognized by the State? Certainly, the proposed bills as presently drafted do not make clear that the State will not encroach on Native rights granted by Congress.

2. Article IX, Section 7 of the Alaska Constitution states that "the proceeds of any State tax or license shall not be dedicated to any special purpose ..." Yet S.B. 35 appropriates the net revenues generated by taxation for the benefit of the unorganized borough. Assuming, arguendo, that S.B. 35 imposes a State tax, then the attempt to dedicate revenues to schools or to local government is unconstitutional. It is of no effect. 1969 Atty Gen'l Opinion #3.

Our final concern is that H.B. 202 and S.B. 35 attempt to link the burdens of taxation to the benefits of education. Yet for the foreseeable future, taxable lands in rural Alaska cannot pay for the high cost of education in the bush. Is the State retreating from its commitment to equal opportunities for all Alaska's children? At present, the State spends twice the money ADM in the unorganized borough as it does in the boroughs. If the State does not continue this type of commitment, only areas with a high assessed valuation of real property can choose to have quality education. For the unorganized borough, such choice is illusory. The State's withdrawal, therefore, would violate equal protection. *Serrano v. Priest*, 557 P.2d 929 (1977) cert. denied.

Very truly yours,

Elizabeth Johnston

Elizabeth Johnston
General Counsel

cc: Rep. Nels Anderson, Jr.
Bristol Bay Area Health Corp.
Bristol Bay Native Association

HB 70

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1978

MEMORANDUM

SUBJECT: Individual Income Tax Base in Municipalities (W.O. #4480)

TO: The Honorable Lisa Rudd

FROM: Ken Humphreys *K.H.*
Research Analyst

This memorandum is in response to your request for information concerning the income tax base in municipalities. We have obtained data from the Department of Revenue which sheds some light on the geographical distribution of individual Alaska income tax collections.

The enclosed table gives actual tabulations for the number of 1975 returns for each census district and total adjusted gross income. Returns were assigned to census divisions on the basis of zip codes. Some 70,348 returns (39% of the total number accounting for 44% of total adjusted gross income) were filed with a zip code outside the state; another 17,545 returns (about 10% of the total number accounting for about 10% of total adjusted gross income) had an Alaskan zip code but are "unclassified" by census district.

On the basis of these tabulations, we have assumed that income tax revenues are proportional to adjusted gross income and generated an estimate for state income tax revenues for each division. Finally, we have, as you requested, applied factors of 30%, 40% and 50% to the estimated state income tax revenues for each division to arrive at approximate amounts that might have been generated under a local income tax such as H.B. 75 would allow.

Census divisions have been categorized under a heading of either Organized Boroughs or Unorganized Borough even though boundaries do not exactly correspond.

Zip code allocation of 1976 returns will not be available until March at the earliest. Until then, the best estimate for 1976 individual income tax revenues by census division can be obtained by multiplying the

Hon. Lisa Rudd

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January 19, 1978

figures in the enclosed table by $\frac{176,732,500}{125,192,700}$ or 1.41, the ratio of 1976 to 1975 total collections. There is evidence to suggest that there are appreciable differences in the distribution of income from 1975 to 1976, so this method of estimation is not recommended.

Please let us know if you would like further information.

Attachment

KH:dh

STATE OF ALASKA
DEPARTMENT OF EDUCATION

	Revised ADM 1st Qtr.	Elem.	Second.	Sp.Ed. (non-add)	Corres.	Voc.Ed. (non-add)	Elem.	Sec.	Spec.Ed.	Voc. Corres.	Ed.	Total Units
Anchorage	35,125	17,212	17,913	2,107	-	1,806	801	977	198	--	102	2078*
Bristol Bay	237	103	134	12	-	38	9	11	2	--	3	25
Cordova	497	253	244	53	-	64	16	16	6	--	5	43
Craig	190	82	108	11	-	11	7	8	2	--	2	19
Dillingham	405	175	230	57	-	35	12	17	26	--	3	38
Fairbanks	9,003	4,640	4,214	517	149	574	241	237	48	10	38	574
Galena	164	72	92	9	-	24	6	7	2	--	2	17
Haines	423	207	216	40	-	27	14	16	5	--	3	38
Hoonah	276	132	144	48	-	33	9	10	5	--	3	27
Hydaburg	99	64	35	12	-	21	6	4	2	--	2	14
Juneau	4,305	2,129	2,167	366	9	348	114	123	35	1	21	294
Kake	200	107	93	18	-	32	8	7	3	--	3	21
Kenai	5,634	3,053	2,442	330	139	265	193	148	31	10	26	408
Ketchikan	2,563	1,176	1,336	206	51	180	66	78	20	5	11	180
King Cove	121	55	66	13	-	13	5	6	2	--	2	15
Klawock	77	77	-	9	-	-	6	-	2	--	-	8
Kodiak	2,040	1,139	878	216	23	150	77	58	21	3	12	171
Mat-Su	3,823	1,749	1,869	182	205	314	105	110	18	13	21	267
Nenana	198	127	71	17	-	26	9	6	3	--	4	22
Nome	799	438	361	101	-	55	26	24	10	--	4	64
North Slope	1,095	593	495	132	7	107	45	39	13	1	15	113
Pelican	35	21	14	-	-	2	3	2	-	--	-	5
Petersburg	581	406	175	43	-	45	25	12	5	--	4	46
Sitka	1,765	798	959	123	8	137	48	55	12	1	8	124
Skagway	232	124	108	12	-	17	9	8	2	--	2	21
St. Mary's	108	82	26	40	-	35	7	3	5	--	3	18
Unalaska	129	65	64	11	-	10	6	6	2	--	2	16
Valdez	826	368	458	134	-	63	22	32	13	--	6	73
Wrangell	499	267	232	47	-	42	17	15	6	--	4	42
Yakutat	168	94	74	21	-	16	7	6	3	--	2	18
TOTALS	71,617	35,808	35,218	4,887	591	4,490	1,919	2,041	482	44	313	4,799

* Based on a preliminary report from the district. The first quarter entitlement has not been determined at this date.

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PUBLIC SCHOOL FOUNDATION PROGRAM COMPUTATIONS
REVISED REPORT RECAPITULATIONS
1977-78 FISCAL YEAR

1-9-78

	Final ADM (1976-77)	Revised ADM 1st Qtr.	Instr. Units	Instr. Unit Allotment	Basic Need	Level of State Support (95% Min.)	Final Computation of Entitlement	Per ADM
Anchorage	35,332	35,125	2,078*	\$27,500	\$57,145,000	96.1108	\$54,922,517	\$1564
Bristol Bay	264	237	25	42,625	1,065,625	95.9740	1,022,723	4315
Cordova	533	497	43	31,625	1,359,875	97.7110	1,328,747	2674
Craig	182	190	19	29,700	564,300	99.0795	559,106	2943
Dillingham 40/39	411	405	38	42,625	1,619,750	98.9024	1,601,972	3955
Fairbanks	9,071	9,003	574	30,800	17,679,200	95.0000	16,795,240	2926
Galena	136	164	17	42,625	724,625	99.6460	722,060	4403
Haines	454	423	38	31,625	1,201,750	96.8998	1,164,493	2753
Hoonah	280	276	27	30,800	831,600	99.5608	827,948	3000
Hydaburg	100	99	14	29,700	415,800	99.5315	413,852	4180
Juneau	4,253	4,305	294	27,500	8,085,000	97.2258	7,860,706	1826
Kake	202	200	21	29,700	623,700	99.6117	621,278	3106
Kenai	5,162	5,634	408	29,700	12,117,600	95.0000	11,511,720	2043
Ketchikan	2,583	2,563	180	27,500	4,950,000	96.5021	4,776,854	1864
King Cove	126	121	15	41,250	618,750	99.3085	614,471	5078
Klawock	79	77	8	29,700	237,600	99.5700	236,578	3072
Kodiak	2,102	2,040	171	30,800	5,266,800	97.3900	5,129,377	2514
Mat-Su	3,501	3,823	267	28,600	7,636,200	95.6691	7,305,484	1911
Nenana	189	198	22	36,781**	809,182	99.3426	803,862	4060
Nome	829	799	64	42,625	2,728,000	99.1189	2,703,964	3384
North Slope	1,069	1,095	113	42,625	4,816,625	95.0000	4,575,794	4179
Pelican	33	35	5	31,040**	155,200	97.2383	150,914	4312
Petersburg	597	581	46	28,600	1,315,600	97.9211	1,288,250	2217
Sitka	1,656	1,765	124	28,600	3,546,400	96.8836	3,435,880	1947
Skagway	208	232	21	29,700	623,700	96.3125	600,701	2589
St. Mary's	101	108	18	42,625	767,250	99.7768	765,537	7088
Unalaska	119	129	16	41,250	660,000	96.0630	634,016	4915
Valdez	953	826	73	31,625	2,308,625	95.0000	2,193,194	2655
Wrangell	516	499	42	28,600	1,201,200	97.3827	1,169,761	2344
Yakutat	152	168	18	33,000	594,000	99.4429	590,691	3516
TOTALS	71,457	71,617	4,799		141,668,957		136,327,690	
Centralized Corres.	434	537	32	27,500	880,000	100.00	880,000	1639

**SLA 1977, Chapt 90, Sec. 9

* Based on a preliminary report from the district. The first quarter entitlement has not been determined at this date.

Supplement to REAA Revised Foundation Report dated 12-13-77

STATE OF ALASKA
DEPARTMENT OF EDUCATION

1977-78 Revised ADM

Instructional Units

REAA	1st Qtr. ADM 1977-78	Elem.	Sec.	Spec.Ed. (Non-Add)	Corres.	Voc. Ed (Non-add)	Elem.	Sec.	Spec. Ed.	Corres.	Voc. Ed.	Total
Adak	615	411	204	6	-	29	25	15	1	-	3	44
AK Central Railbelt	357	198	159	14	-	24	19	17	2	-	4	42
Alaska Gateway	415	225	138	30	52	15	20	16	4	5	2	47
Aleutian	231	156	64	24	11	8	18	9	3	2	1	33
Annette Metlakatla	325	167	158	32	-	29	11	11	4	-	3	29
Bering Straits	472	119	344	28	9	93	15	35	4	1	10	65
Chatham	189	95	94	13	-	11	11	8	2	-	2	23
Chugach	48	39	9	5	-	-	5	2	1	-	-	8
Copper River	751	422	247	55	82	44	35	18	6	7	4	70
Delta/Greely	765	412	317	54	36	65	25	22	6	4	5	62
Iditarod	271	156	103	11	12	27	18	14	2	2	4	40
Kuspuk	356	212	130	11	14	11	25	17	2	2	2	48
Lake & Peninsula	384	281	91	37	12	23	33	13	5	2	3	56
Lower Kuskokwim	1469	622	847	137	-	98	41	61	14	-	9	125
Lower Yukon	902	608	294	72	-	71	45	26	8	-	8	87
Northwest	1514	769	735	106	10	106	64	59	11	2	12	148
Pribilof	187	114	73	16	-	12	10	7	3	-	2	22
Southeast	437	272	65	27	100	13	35	7	4	8	2	56
Southwest	518	345	160	48	13	34	35	17	6	2	5	65
Yukon Flats	285	204	66	19	15	13	19	11	3	2	2	37
Yukon-Koyukuk	657	349	226	34	82	44	38	24	4	7	5	78
TOTALS	11,148	6,176	4,524	779	448	770	547	409	95	46	88	1,185

SUPPLEMENT TO REVISED FOUNDATION REPORT DATED 1-9-78

STATE OF ALASKA
DEPARTMENT OF EDUCATION

School District	Revised ADM 1st Qtr. 1977-78	1-1-76 Property Value	Value per ADM	Index	Level of State Support (95% Min.)	Matching Ratio: 1 Local Support
Anchorage	35,125	\$3,739,897,143	\$106,474	.77783	96.1108	22.2248
Bristol Bay	237	26,122,279	110,221	.80521	95.9740	23.8386
Cordova	497	31,145,500	62,667	.45781	97.7110	42.6866
Craig	190	4,788,275	25,201	.18411	99.0795	107.6446
Dillingham	405	12,169,965	30,049	.21952	98.9024	90.1098
Fairbanks	9,003	1,237,213,035	137,422	1.00393	95.0000	19.0000
Galena	164	1,589,500	9,692	.07080	99.6460	281.5049
Haines	423	35,901,910	84,874	.62004	96.8998	31.2557
Koonah	276	3,318,375	12,023	.08783	99.5608	226.7108
Hydaburg	99	1,269,775	12,826	.09370	99.5315	212.4497
Juneau	4,305	326,964,635	75,950	.55485	97.2258	35.0464
Kake	200	2,126,165	10,631	.07766	99.6117	256.5145
Kenai	5,634	908,583,275	161,268	1.17813	95.0000	19.0000
Ketchikan	2,563	245,439,315	95,763	.69958	96.5021	27.5886
King Cove	121	2,290,785	18,932	.13831	99.3085	143.6015
Klawock	77	906,400	11,771	.08600	99.5700	231.4853
Kodiak	2,040	145,763,615	71,453	.52199	97.3900	37.3143
Mat-Su	3,823	453,284,865	118,568	.86619	95.6691	22.0899
Nenana	198	3,563,695	17,998	.13149	99.3426	151.1019
Nome	799	19,273,555	24,122	.17622	99.1189	112.4944
North Slope	1,095	1,794,223,660	1,638,560	11.97034	95.0000	19.0000
Pelican	35	2,646,250	75,607	.55234	97.2383	35.2109
Petersburg	581	33,067,805	56,915	.41579	97.9211	47.1024
Sitka	1,765	150,585,865	85,318	.62328	96.8836	31.0883
Skagway	232	23,421,050	100,953	.73750	96.3125	26.1186
St. Mary's	108	660,000	6,111	.04464	99.7768	446.8984
Unalaska	129	13,903,863	107,782	.78739	96.0630	24.4002
Valdez	826	544,885,760	659,668	4.81914	95.0000	19.0000
Wrangell	499	35,755,600	71,655	.52347	97.3827	37.2073
Yakutat	168	2,562,435	15,253	.11143	99.4429	178.5104

TOTALS 71,617 \$9,803,324,350
136,885 average

STATE OF ALASKA DEPARTMENT OF EDUCATION
PUBLIC SCHOOL FOUNDATION PROGRAM COMPUTATIONS
REVISED REPORT RECAPITULATION
1977-78 FISCAL YEAR

12-13-77

Regional Education Attendance Areas	Final ADM 1976-77	Revised ADM 1st qtr.	Instr. Units	Instr. Unit Allot.	Basic Need	Equiv. of Local Support Estimate \$650.00	Revised Computation of Entitlement	per ADM
Adak	588	615	44	\$38,500	\$1,694,000	\$399,750	\$2,093,750	\$3,404
AK Central Railbelt	356	357	42	36,781*	1,544,802	232,050	1,776,852	4,977
Alaska Gateway	423	415	47	33,000	1,551,000	269,750	1,820,750	4,387
Aleutian	220	231	33	41,250	1,361,250	150,150	1,511,400	4,387
Annette Metlakatla	398	325	33/29**	28,875*	952,875	211,250	1,164,125	3,582
Bering Straits	306	472	65	42,625	2,770,625	306,800	3,077,425	6,520
Chatham	157	189	23	29,958*	689,034	122,850	811,884	4,296
Chugach	64	48	9/8**	33,206*	298,854	31,200	330,054	6,876
Copper River	699	751	70	31,625	2,213,750	488,150	2,701,900	3,598
Delta/Greely	786	765	62	33,000	2,046,000	497,250	2,543,250	3,325
Iditarod	277	271	40	42,625	1,705,000	176,150	1,881,150	6,941
Kuspuk	360	356	48	42,625	2,046,000	231,400	2,277,400	6,397
Lake & Peninsula	362	384	56	42,625	2,387,000	249,600	2,636,600	6,866
Lower Kuskokwim	1418	1469	125	42,625	5,328,125	954,850	6,282,975	4,277
Lower Yukon	704	902	87	42,625	3,708,375	586,300	4,294,675	4,761
Northwest	1318	1514	148	42,625	6,308,500	984,100	7,292,600	4,817
Pribilof	181	187	22	41,250	907,500	121,550	1,029,050	5,503
Southeast	397	437	56	28,875*	1,617,000	284,050	1,901,050	4,350
Southwest	530	518	65	42,625	2,770,625	336,700	3,107,325	5,998
Yukon Flats	293	285	37	42,625	1,577,125	185,250	1,762,375	6,184
Yukon-Koyukuk	682	657	78	42,625	3,324,750	427,050	3,751,800	5,702
TOTALS	10,519	11,148	1,190/1,185		46,802,190	7,246,200	54,048,390	

* SLA 1977, Chapter 90, Sec.9

** AS Sec.14.17.031(d)

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

ISEGR OCCASIONAL PAPERS

No. 9, January 1973

Equalization of
Local Government Revenues in Alaska

RICHARD W. CARNETT, III



INSTITUTE OF SOCIAL, ECONOMIC
AND GOVERNMENT RESEARCH
UNIVERSITY OF ALASKA
Fairbanks, Alaska

To Art
Petersen
in the interests
of sound local
government policy
Richard W. Garnett

Library of Congress Catalogue No. 73-620002

ISBN 0-88353-404-5

ISEGR Occasional Papers are published periodically by the Institute of Social, Economic and Government Research, University of Alaska. Authors are free to develop their own ideas on their own topics.

Richard W. Garnett, III is Assistant Attorney General, Department of Law, State of Alaska.

Preparation of this paper was supported in part by the U.S. Department of Health, Education and Welfare under Title I of the Higher Education Act of 1965.

Price \$1.00

Victor Fischer, Director of the Institute

EQUALIZATION OF LOCAL GOVERNMENT REVENUES IN ALASKA

by

Richard W. Garnett, III

Now fine and just actions, which political science investigates, admit of much variety and fluctuation of opinion, so that they may be thought to exist only by convention and not by nature. . . . We must be content, then, in speaking of such subjects and with such premises to indicate the truth roughly and in outline. . . . In the same spirit therefore should each type of statement be received; for it is the mark of an educated man to look for precision in each class of things just so far as the nature of the subject admits.

Aristotle, *Ethics*.

Introduction

As the development of natural resources in Alaska accelerates, the need to determine how the taxable wealth of the state is to be distributed becomes increasingly important. This paper discusses revenue sharing in Alaska as a means toward equalizing, rather than simply augmenting, revenues of local governments.¹ First, the general problem of financing municipal services is

¹The term "revenue sharing" ordinarily is applied to transfer downward from one level of government to another, as in the federal-state program recently enacted (H.R. 11950) or the state municipal services revenue sharing program (AS 43.18).

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reviewed briefly. Then a description of the Alaska case provides background for discussion of recent legislative efforts in Alaska and suggestions for future policy approaches.

This paper does not discuss fully every aspect of revenue equalization among localities. Rather, it focuses primarily on technical and legal problems involved with such a program. Nevertheless, a realistic approach to this topic cannot ignore the influence of strong social and political forces at work in Alaska on any effort to readjust local tax revenues.

One of these forces is related to the widely accepted, anthropomorphic idea that towns and regions have rights and interests of their own apart from the sum of the rights and interests of the individuals involved. Consequently, a program that takes from one governmental unit and gives to another suggests to many a form of economic egalitarianism that they find unacceptable at both individual and corporate levels.

Further, a comprehensive equalization program involves creation of new taxing units and, perhaps, a state tax to eliminate tax havens. Naturally, the businesses and individuals who benefit from the present situation will oppose changes that subject them to additional taxation and government control.

Race is another factor affecting the situation in Alaska. Rural Alaska is inhabited primarily by Indian and Eskimo people. The growth of political consciousness among Alaska Natives, dramatically symbolized by passage of the Alaska Native Claims Settlement Act, has paralleled a tremendous increase in the wealth and the prospect of wealth in rural Alaska and in the North Slope region in particular. Many regional Native leaders are distinctly wary of any state government activity that might affect the economic prospects of their constituents. Moreover, there is a general fear that local government in rural areas may somehow compete with or impede full implementation of the Claims Act.

By definition, an adequate local government revenue equalization program will result in less economic power for those regions

most extraordinarily endowed with natural wealth.² The justification, if any, for reduction of economic power of the North Slope or other regions is the corresponding benefit to other, equally needy and deserving areas where nature was less generous.

The General Problem

Municipal services in the United States are financed largely by revenues from an ad valorem tax on property located within the taxing jurisdiction. The level and quality of services therefore depends on the value of the tax base, which varies widely among different communities and regions. As a result, areas with low valuation per capita must tax themselves at a higher rate than more wealthy areas in order to raise the same revenue.

The value of the local tax base has not always varied so widely. One writer describes the typical composition and effects of the tax base before World War II this way:

The important thing to remember is that in the pre-war days the total tax base of the community was there to support the needed services. It allowed a logical concentration of commercial and industrial property. It allowed a section of town to be low-value housing without a diminution of services in that area or a severe tax penalty. The tax base to educate the children of the area was the rich man's home, the poor man's home, the places where they both worked and where they shopped. When land was taken off the tax rolls for parks or for other purposes, everyone was affected.

He goes on to note an important structural change in local government organization since the war, and describes the disparity in

²It should be noted that the loss may be more theoretical than real, as in the case where taxable property provides potential revenue far in excess of the needs of the local jurisdiction. For example, the North Slope Borough proposes to levy a very small tax on the vast property at Prudhoe Bay. Additional revenue raised from a state tax on this property could benefit other rural areas of the state without undue burden on the owners or loss to the North Slope.

wealth and its effects among local areas which have resulted from this change:

The post-war experience has been vastly different. The interdependent neighborhoods of the actual total community have become legally independent municipalities . . .

Suburban communities that happen to have the shopping centers and the commercial property—and if they are lucky, the wealthy homes—can live “high on the hog.” On the other hand, those communities which are carved out of the northern sand plains in our region, flat and relatively uninteresting, may be in trouble.³

The tax-service inequity problem has been challenged in the courts. In *Serrano v. Priest*,⁴ the Supreme Court of California held that the state could not maintain a system of financing public education which made the quality of education largely dependent on the taxable wealth of the local school district. In spite of a certain amount of state aid, it was shown at trial that certain areas with low property valuation could not achieve a level of financing for education, even with a relatively high tax rate, that others could achieve with low tax rates.

The court reached its conclusion by characterizing education as a “fundamental interest” and wealth as a “suspect category”⁵ when dealing with education. In light of these determinations, the court found that the state must show a “compelling state interest”

³Charles R. Weaver, “Urban Fiscal Capacity,” *State Government*, Council of State Governments, Lexington, Kentucky (Spring 1972) p. 100-01.

⁴487 P. 2d 1241 (Cal. 1972).

⁵Ordinarily, in reviewing classifications created by state law, courts accord very wide latitude to legislative discretion. However, where the classification relates to certain specially protected areas, such as free speech or voting, and where the basis of the classification appears invidious on its face, as in the case of distinctions according to race or religion, the presumption of validity is replaced by a burden on the state to show that the classification is necessary.

rather than the usual “rational basis” in order to justify its financing system.

In considering wealth a “suspect category” with respect to education, *Serrano* and related cases have alluded to the special nature of education, distinguishing it from other municipal services. Thus, the *Serrano* line of cases has not yet provided direct support for the view that the level of other local government services, such as water supply and sanitation or police protection, also may not be tied to the local tax base.

Nevertheless, when courts enunciate a principle in a particular context it may subsequently be extended to its logical limit. Note, for example, the extension of the one man, one vote principle from the state level to units of general and specialized local government and the progressive elimination of durational residence requirements. If local wealth is a “suspect category” in determining education services, past experience suggests that it will not long remain a legitimate determinant of the level of other local services.

It has already been held that differences in the level of any public service available in a municipality cannot be based on race. In *Hawkins v. Town of Shaw*,⁶ the court found that the town provided better services of all kinds to white areas than to black, and held that such a pattern denies equal protection of the laws.

As wealth increasingly becomes a category as suspect as race, it is difficult to see how the courts will be able to avoid extending the “compelling state interest” test beyond education to a broader range of public service disparities. It can be argued that hospitals and police, in their spheres, are as important to local well-being as is public education, and that their availability, too, should not depend on how much wealth a particular community happens to have.

⁶437 F. 2d 1286 (5th Cir. 1971).

In any case, it is clear that local government spending is not immune from equitable constraints, at least in the educational field. Regardless of whether judicial activism carries the *Serrano* principle all the way, that principle deserves serious consideration in legislative policy making for state and local government services and taxation.

The Problem in Alaska

The Alaska constitution calls for "maximum local self-government with a minimum of local government units"⁷ and for avoiding "duplication of tax levying jurisdiction."⁸ It also directs that "the entire state shall be divided into boroughs, organized or unorganized"⁹ and that the legislature "shall provide for the performance of services it deems necessary or advisable in unorganized boroughs . . ."¹⁰

There are 11 organized boroughs in Alaska, located, with two exceptions,¹¹ in the more developed areas of the state. A single unorganized borough comprises the rest of the state, an area several times larger than all of the organized boroughs combined (see map on following page).

Organized boroughs levy a property tax inside their boundaries. Cities within the boroughs may also levy taxes, but assessment and collection are exclusively borough responsibilities. Outside organized boroughs, no property tax is levied except within cities that have taxing power.

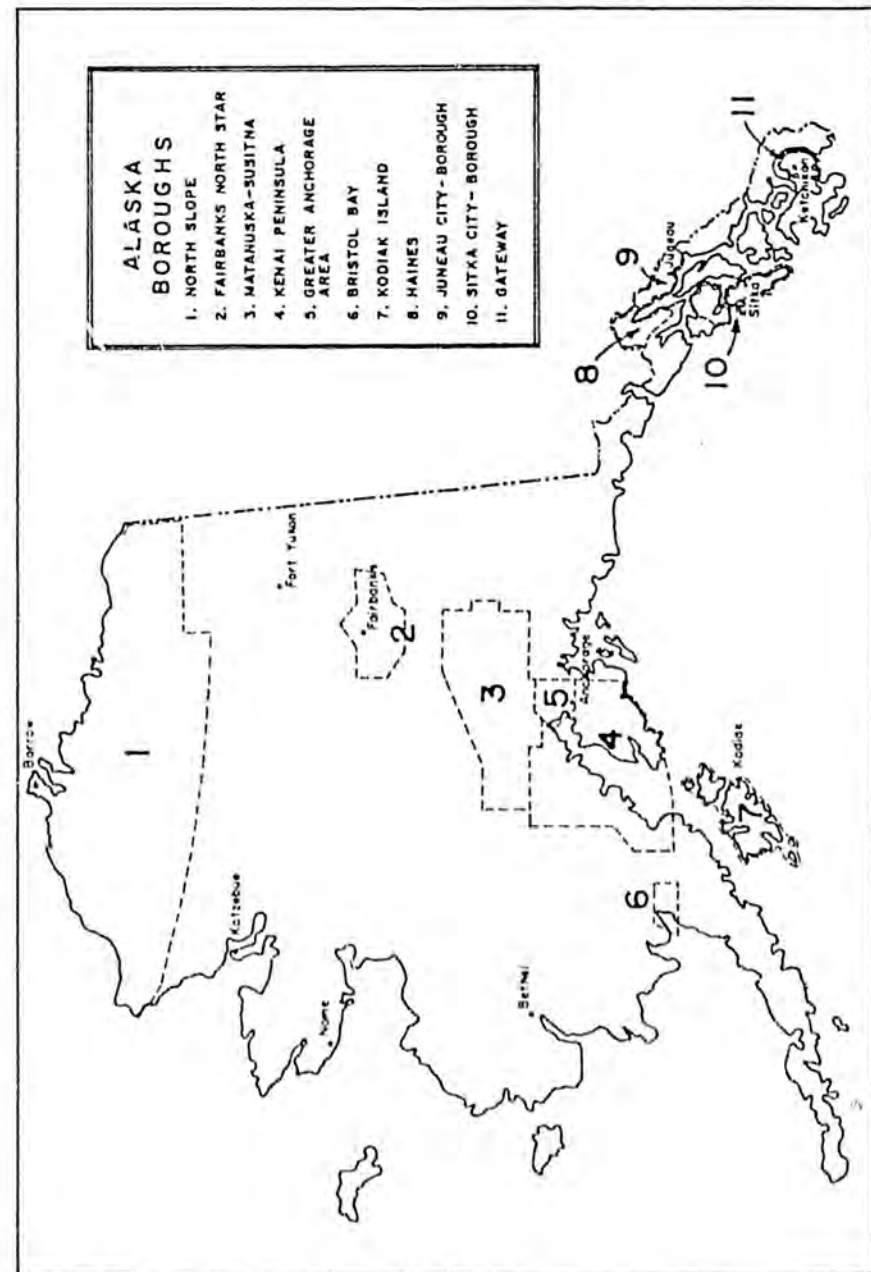
⁷Art. X, Sec. 1, Constitution of Alaska.

⁸*Ibid.*

⁹Art. X, Sec. 3, Constitution of Alaska.

¹⁰Art. X, Sec. 6, Constitution of Alaska.

¹¹The North Slope and Bristol Bay boroughs.



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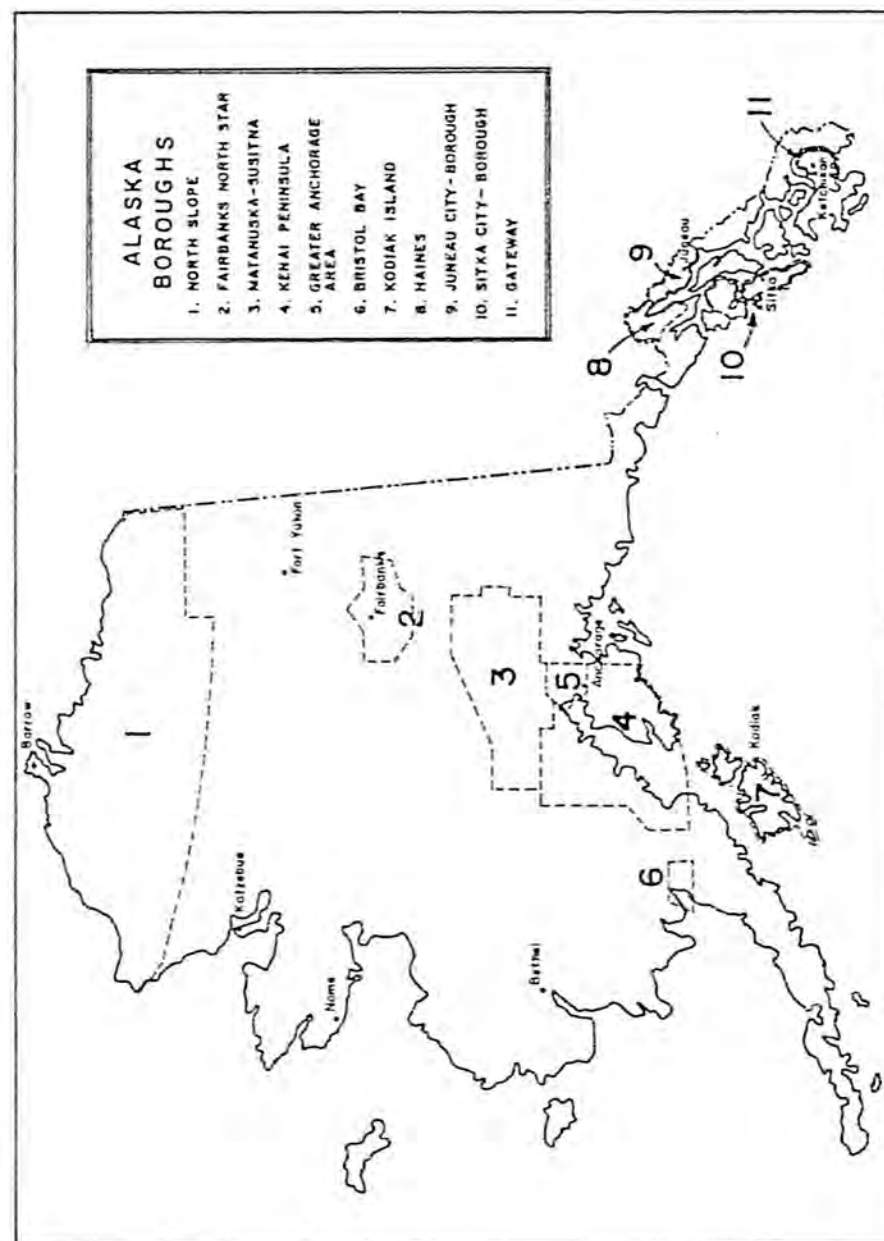
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The boroughs are typically quite large relative to local government units in other states. Generally, boroughs encompass one or more core communities, scattered settlements, and a considerable amount of vacant territory. Responsibility for education and other basic services is borough-wide. Accordingly, the whole borough tax base supports certain services for all borough residents.¹² The problem of tax and service equity is therefore on a different scale in Alaska than in the more developed states.

In Alaska the major disparities are among rather than within regions. Taxable wealth per capita in 1967 varied from \$3,182 in the Bristol Bay Borough to \$16,067 for the Kenai Peninsula Borough.¹³ Although assessment figures for the newly organized North Slope Borough have not yet been established, the concentration of property in the Prudhoe Bay area is conservatively estimated at \$300 million, yielding a North Slope Borough tax base per capita of approximately \$98,000.

No comprehensive assessment of the unorganized borough has been made. However, the present per capita tax base in the unorganized borough is well below the average for organized boroughs, partly because much of the real estate in the unorganized area is tax exempt but more so because the area lacks appreciable commercial and industrial development.

In the more developed and populated states, where the bulk of the tax base is residential, commercial, or manufacturing-industrial, there is at least some correlation between the taxable

¹²It is said with some justification that cities may carry more than their share of the revenue burden by taxing themselves to provide nonareawide services, such as police protection and parks and recreation, which noncity residents utilize. Nevertheless, the system of allocating powers between borough and city contains, however imperfectly, the mechanism for equitable distributions of tax burdens and services.

¹³Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, Institute of Social, Economic and Government Research, University of Alaska, ISEGR Report No. 29 (1971) p. 162.

value of the property and the service requirements that arise from the property itself. (However, such correlation, as the *Serrano* case testifies, is not sufficiently close to avoid constitutional difficulty.) By contrast, the major taxable properties in Alaska are and will be related to mineral extraction. Such activity normally emphasizes capital rather than labor, generating less need for public services than does other revenue-producing activity. Accordingly, it may be anticipated that Alaska local government financing as presently organized, will reflect a significant disparity between the taxable wealth available and the level of services required.

North Slope oil development and the trans-Alaska oil pipeline dramatize this point. Taxable value of the pipeline alone will exceed the total assessed value of property in all organized areas of the state.¹⁴ Moreover, neither the pipeline nor oil production facilities will demand heavy public services. Unlike hotels, shopping centers, factories, and homes, the pipeline will need no sewers, no playgrounds, no schools. It is, in this regard, the ideal addition to a local tax base.

The prospective mining operation at Lost River on the Seward Peninsula is another of several developments that will add to the taxable wealth of the state. At around \$50 million, its probable value is small compared to the pipeline, but immeasurably significant relative to the present situation on the peninsula. Comparable mineral development, including oil, may occur in other rural areas of the state as well.

Most of the valuable taxable property that will appear in the unorganized borough will be located in accordance with the distribution of natural resources. Because this distribution bears little relation to the pattern of local jurisdictions and fiscal needs, there will be increasing variation in wealth and services among regions unless an equitable statewide distribution of revenue from Alaska resources can be achieved.

¹⁴Robert Dozier, *Alaska Taxable*, Local Affairs Agency, Juneau, Alaska (1971) p. 36.

Wealth Distribution and New Boroughs

The disparity in wealth among boroughs that follows from the pattern of development described above has several consequences. The likelihood of severe disparity in service levels among regions has been noted. A less obvious consequence stems from the unfinished nature of the Alaska local government system.

The local government article of the state constitution calls for the division of the state into boroughs, organized and unorganized. The language of the article presupposes plural unorganized units. The specific reference in Section 6 to "maximum local participation and responsibility" in unorganized boroughs indicates that manageable units encompassing communities of interest were contemplated for unorganized as well as organized boroughs.¹⁵

It is difficult to believe that the single unorganized borough that now exists complies with the intention expressed in the constitution. All indications are that a division of the state into natural socioeconomic units was contemplated. These units would achieve organized status at varying rates. But from the beginning, the people of rural Alaska were to have a governmental framework under state law for identifying regional problems and participating in their solution. Partly as a result of the absence of state-created units and partly for fiscal and political reasons, to be discussed further, the unorganized areas, with the exception of the North Slope, have so far made only negligible movement toward regional governmental organization.

The Need for Organization

Some form of governmental organization should come to rural Alaska as soon as possible. There are several reasons for

¹⁵See Appendix A for the local government article of the Alaska constitution.

urgency. The first reason is political and social unity. The governmental vacuum in rural Alaska has been occupied in part by the Native corporations established under the Alaska Native Claims Settlement Act. But the claims corporations are private entities outside the framework of state government. If state-ordained forms of local government with appropriate governmental powers remain unavailable to help solve problems in rural Alaska, disenchantment with state government, already evident, may increase and persist to the point of polarization. The potential problem will become more threatening as the contrast continues and increases between regional corporation activity and orthodox local government inactivity.

The terms of the Claims Act certainly are not hostile to the growth of local government. Sec. 2(c) provides that the Act is not intended to diminish the obligation of the state to promote the welfare of Native citizens. In a very real sense, the legacy of local government power is a means by which the state promotes the welfare of its citizens. If services are not provided by local government, the tendency will be to use claims money for this purpose. But this money was intended for payment in settlement of private rights, not in lieu of public services. Also more directly, Sec. 14(c)(3) of the Act provides for transfer to the local (village) municipality of title to the surface estate of land where the municipality is located. Where a municipality has not been formed, the state holds the same land in trust until incorporation.

Another reason for deliberate speed lies in the accelerated pace of economic development anticipated in rural areas, partly as a result of the claims settlement, and partly on the initiative of the private sector. The general welfare in Alaska will be advanced if local government organization precedes rather than follows economic development. New industrial development will create stresses manageable only by application of governmental powers. Planning and zoning will be particularly important in reconciling industrial development with subsistence living, and taxing power will be needed to insure local benefit from development activity. Municipalities which form after major economic interests have become

established may be too late to influence significantly the activities of those interests.¹⁶

On the other hand, it may be futile to extoll the desirability for self-determination to people who presently lack the economic resources necessary to the effective exercise of local government power. In fact, Native leaders wisely may have sensed that organization under such circumstances would only increase frustration as expectations went unsatisfied.

To summarize, a power vacuum presently exists in rural Alaska, where vast resources, actual and anticipated, are unevenly spread across the state, requirements for government services are increasing as the pace of development accelerates, and many areas are financially unable to organize prior to development. In this context, the absence of a mechanism for more efficient and equitable distribution of public revenues is a problem requiring state initiative.

1972 Legislative Program

The Governor introduced to the second session of the Seventh Legislature a series of bills dealing with local government.¹⁷ Five bills were designed to function together as a coherent program to:

- Provide for subdivision of the unorganized borough (HB 596).
- Create a Department of Community and Regional Affairs (HB 552).

¹⁶The canned salmon, copper, and lumber industries have each furnished examples of economic power wielded in Alaska without effective governmental restraint, with resultant hardship for resident Alaskans.

¹⁷These bills resulted from extended problem analysis, drafting, and policy review at several levels of state government.

- Levy a 15 mill tax on property located in unorganized boroughs, with distribution of revenue among unorganized boroughs (HB 597).
- Levy a 20 mill tax on the pipeline, with distribution to local governments, organized and unorganized (HB 598).
- Provide for a general equalization of new taxable property, wherever located (not introduced).¹⁸

The following sections review the bills, discuss their intended operation, and point out the areas of greatest difficulty encountered. The bills are discussed in their final versions, which include committee amendments.

Subdivision of the Unorganized Borough

An essential starting point to organization, HB 596 provided for establishing borough boundaries in the unorganized borough which would conform to statutory and constitutional standards.¹⁹ The unorganized boroughs so formed would serve as units for administering state services and the revenue sharing features of the proposed property and pipeline taxes. The people within each unorganized borough might at their option proceed toward organization either as boroughs of a particular class or as home rule boroughs. This bill was reported favorably by the House Local Government Committee, but died in the House Finance Committee.

¹⁸See Appendix B through Appendix F for copies of these bills.

¹⁹A number of previous bills had attempted a similar division into borough units, but they have not provided for charter organization. The Mandatory Borough Act, 52 SLA 1963, sponsored by Senator John Rader, was the only effective state initiative to actually establish boroughs in the unorganized area of the state.

Department of Community and Regional Affairs

A Department of Community and Regional Affairs, as proposed in HB 552, would increase state capacity to meet local government needs created by the increased number of local government units under HB 596. In particular, the department would serve as the arm of the legislature in providing services to unorganized boroughs and would administer the revenue sharing program under the proposed property tax bills. As originally designed, it would have assisted local government units to solve a wide variety of problems, including those related to economic development. However, the major economic development features were eliminated from the final version that was enacted, leaving that function with the Department of Economic Development.

Property Tax

Designed to redistribute revenue from taxable property among the unorganized boroughs, a third bill, HB 597, provided for a general statewide property tax of 15 mills. The intent was to tax property only in unorganized boroughs, but the Department of Law foresaw that a special tax levied only within the unorganized boroughs could be challenged on constitutional grounds. Therefore, the bill applied statewide, but included a \$50,000 personal exemption, a credit for the amount of tax paid to any organized city or borough, and a local effort exclusion designed to eliminate whole cities and boroughs from the reach of the tax. These exemption, credit, and exclusion features were expected to insure that little, if any, additional tax would fall on an individual resident of any organized city or borough.²⁰

It was suggested during legislative deliberations that the 15 mill rate of the state tax would compel the cities and boroughs to

²⁰Before Statehood, a property tax was levied in the unorganized borough. Its lack of exemptions caused much difficulty in assessment and collection. The tax cost more to administer than it provided in revenue, and was repealed.

raise their tax rates to 15 mills in order to exclude the state tax. However, this view neglected the effect of the \$50,000 exemption. To illustrate, in every case where a taxpayer owned as much as \$100,000 in taxable property, and the jurisdiction where the property was located levied at a rate of 7.5 mills or more, no state tax would be paid on that property. This would follow from the fact that 15 mills on the \$50,000 taxable by the state would be equalled and cancelled out by 7.5 mills levied on the full \$100,000 value.

It would be possible for a taxpayer who owned a great deal of property located in an area where the local tax rate was very low to pay a small amount of state tax. However, the local effort exclusion provided that if the *total* tax revenue from all local tax sources exceeded the state tax, no tax was paid by anyone within that city or borough. Because of the \$50,000 exemption and the exemption of certain whole classes of property, it was almost certain that the established cities and boroughs would be excluded under this provision.²¹

The bill gave the legislature authority to appropriate all net revenue from the tax to benefit the unorganized boroughs. The state constitutional prohibition against earmarking tax revenues dictated the "authorized to appropriate" formula.

The new Department of Community and Regional Affairs would administer the appropriated revenue. The money would be held in separate accounts for each unorganized borough. The share of each unorganized borough would be determined according to a

²¹The North Slope Borough could be a notable exception to the operation of the tax in this regard. The vast amount of taxable property at Prudhoe Bay would make it possible for the borough to raise an adequate amount of revenue with a very low mill levy. The difference between the revenue which would be raised by the 15 mill state property tax alone and the revenue collected by the borough would go to the state for distribution among unorganized boroughs. Similar exceptions theoretically could occur whenever there was an unusually high concentration of valuable property relative to local revenue requirements and tax rates.

formula based on population, present wealth, and the cost of providing services. In other words, if the cost of services were twice as great in one area as in another, the first area would receive twice the revenue per capita in order to insure the same level of service. If the first area also had only half the taxable revenue per capita as the second area, the share of the first area would again double per capita with respect to the second area.

The 15 mill tax was withdrawn by the Governor for further study prior to final action.

Pipeline Tax

Designed to complement the 15 mill general property tax, HB 598 provided for a 20 mill tax on property used in oil and gas transportation. Property subject to this tax was limited to oil and gas pipelines over 21 inches in diameter. The 20 mill rate, which approximates the existing tax level for such property in organized boroughs and cities, was to be in lieu of any other state and local taxes on the same property, including the 15 mill tax under HB 597. However, local governments that already taxed property affected by HB 598 would continue to do so with respect to property taxed as of January 1, 1972 (e.g., oil and gas transportation facilities on the Kenai Peninsula). Property that became taxable under HB 598 after January 1, 1972 (e.g., trans-Alaska oil pipeline) would be subject only to the 20 mill state tax.

The rationale for the state tax as the exclusive tax on the oil pipeline was that such property provides immense taxable value to certain areas without regard to the level of services required in those areas. It was believed that the revenue anticipated from taxation of oil and gas pipelines is properly considered a state resource rather than the exclusive property of the area where the property happens to be located. At the same time, it was also felt that this revenue, like other property tax revenue, should be used for the benefit of local governments. Accordingly, the revenue from the state oil and gas pipeline tax would be distributed to all local government units, including cities, organized boroughs, and

unorganized boroughs, in accordance with a formula similar to that which governed distribution of the general property tax revenue under HB 597.

The pipeline tax bill passed the House but died in the Senate Finance Committee.

Tax Equalization

The tax equalization bill (not introduced) was simple in concept. It provided for a determination of the *annual increase* in assessed valuation of property in all "governmental units," defined to include cities and boroughs, organized and unorganized. Sixty percent of the new revenue from this increased valuation, raised by application of the mill rate of each jurisdiction, including the 15 mill rate applicable to unorganized boroughs under HB 597, would be remitted to the state. The Department of Community and Regional Affairs would administer this revenue pool. The department would distribute the funds directly to organized units of local government, and, as trustee for unorganized units, would expend amounts to be determined by a distribution formula. The formula was similar to the HB 598 formula, except that a "local effort" provision insured that areas which taxed themselves heavily (thus contributing greater proportionate amounts to the pool) would receive a proportionately higher return.

Distribution Formula

A key to any revenue sharing system is the distribution formula. The 1972 legislative proposals based the distribution of revenues on four factors: (1) need for services, (2) ability to raise revenue, or fiscal capacity, (3) relative cost of services, and (4) local tax effort. Each of these elements may be defined and weighted according to desired goals.

"Need for services" may be expressed as a function of total population, school age population, population density, or other

factors. The choice will depend on whether general assistance or special aids for education, housing, or other needs is the aim.

"Fiscal capacity" might be related to assessed value per capita, to average family income, or to number of families below a certain income level. Distribution of the 20 mill tax revenue initially was based on per capita valuation. When the legislature proved reluctant to finance a statewide property assessment, average family income was substituted.

The "cost of services" term created some misunderstanding and was amended to clarify its meaning. Some thought it meant providing an identical level of service for every area; others thought it meant financing only an existing level of service. In fact, it was an abstract measure of how much additional funding might be required to furnish a unit of any given service to Bethel, for example, as compared to Anchorage. It was meant to be a "cost of living" index applied to local government services.

"Local tax effort" had different meanings in different bills. For purposes of the exclusion in HB 597, the property tax bill, it referred to the total amount of tax revenue raised from local sources. It included sales, ad valorem, and any other taxes the municipality might devise. The concern was to avoid any overall increase in the fiscal burden on people living in a tax levying jurisdiction.

The general equalization bill limited "local tax effort" to revenues derived from the property tax as a fraction of total assessed value. The funds to be distributed under this bill all derived from the ad valorem tax. Accordingly, the local effort term in this context was designed simply to assure that return to each jurisdiction was partially commensurate with its contribution.

Legislative Fate

The Department of Community and Regional Affairs bill became law. The general equalization bill was not introduced. The 15 mill property tax bill was withdrawn for further study. The 20 mill pipeline tax bill failed to pass the Senate. Largely because defeat of the 20 mill tax bill left no revenue source for new boroughs, HB 596 providing for subdivision of the unorganized borough also died in the Senate.

Some of the problems with the program were political and some were conceptual. A major objection to the 15 mill property tax, apart from its complexity, was the need for a statewide assessment. Many legislators felt that the estimated return from the tax did not justify the expense of an assessment.

More difficult was a possible contradiction between the operation of the property tax and the goal of early local government organization discussed above. Under HB 597, revenue from the 15 mill property tax went to the unorganized boroughs created by HB 596. Once an area chose to organize and assume its own taxing authority, it would no longer receive revenue under the formula. This result would be a disincentive to organization in areas with low assessed valuations. On the other hand, a high value area would be better off organized, since property within its borders would no longer be a source of revenue for other areas under the terms of HB 597.²² At the same time, this exclusion could encourage other areas to oppose the organization of a wealthier area, such as the North Slope.

However, exclusion from the 15 mill property tax after incorporation was necessary politically to avoid any suggestion of discrimination between new rural boroughs and established boroughs. In addition, the equalization bill reduced the disincentive problem. If enacted, this bill would have permitted a new borough not only to assume taxing powers on equal footing with

²²But see footnote 21 above.

other boroughs, but also to draw on revenues from resources outside its own borders. Finally, the distribution of revenues under HB 598, the 20 mill pipeline tax, also would have provided revenue regardless of whether an area was organized.

The 20 mill tax suffered because the major legislative struggle of the 1972 session centered on a package of legislation designed to protect the state's future oil production revenues. When these bills finally were passed, legislative leadership was in no mood to face what appeared to be still another oil revenue bill.²³

As noted, the borough organization bill failed largely because establishment of new boroughs, in the absence of adequate revenues, might have created expectations which could not be fulfilled. In addition, some Native leaders felt that the state should not be involved in drawing boundaries for rural boroughs, but that people in these areas should determine their own governmental configuration. Especially in rural areas with Native population majorities, Native leaders are most likely to prefer that borough boundaries be coterminous with those of the regional corporations established under the Alaska Native Claims Settlement Act. This is also likely to be the view of state policymakers, unless there are compelling reasons for following a different course. In any case, the Alaska constitution²⁴ and state Supreme Court decisions on the point²⁵ indicate that the state has ultimate responsibility for local government boundaries. As noted by the court in the *Fairview* case:

²³HB 598's relatively simple ad valorem approach to oil revenue (the 20 mill pipeline tax) is likely to command further attention particularly if present measures based on maintenance of wellhead price encounter serious difficulty in court.

²⁴Art. X, Sec. 3 and 12.

²⁵*Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P. 2d. 540, 543 (Alaska 1962).

An examination of the relevant minutes of [the Constitutional Convention's committee on local government] meetings shows clearly the concept that was in mind when the local boundary commission was being considered: that local political decisions do not usually create proper boundaries and that boroughs should be established at the state level.²⁶

Also, the failure of voluntary borough formation in the years since statehood indicates the practical importance of state initiative in this area.

Conclusion

The 1972 legislative program brought before the legislature and the public much useful information and debate. New programs take time to be perfected in detail and to gain public acceptance. The possible approaches to fiscal resource equalization were by no means exhausted by the 1972 legislative proposals. Given the legal and social pressures involved, it is likely that further attempts will be made, based either on refinements of that legislation or on different concepts. It may be useful to suggest certain tentative principles which seem to emerge from the research and experience generated by the 1972 program:

- Revenue equalization is desirable to promote early formation of rural boroughs, and on legal and equitable grounds.
- A prerequisite to equalization is coherent geographic units; the state should have ultimate control over the configuration of new boroughs.
- Revenue distribution should not be dependent on organizational status. That is, an area should not be forced to assume government responsibility prematurely in order to procure adequate services, and a decision to incorporate should carry no fiscal penalty.

²⁶*Ibid.*

- The mechanics of the program should be as simple and orthodox as possible, involving minimum interference with local decision making and minimum disturbance of existing tax bases.

Local government is a volatile policy area, and proposals dealing with local finances can verge on the incendiary. As a result, any legislative decision on new approaches to local government is difficult. But inaction is also a decision, and by now we should know enough about the historical results of inaction in Alaska to prefer innovation, unnerving though it may sometimes be.

A mayor sees a ripoff

By JAY HAMMOND

The governor contends the rewrapped "oil package" now before the Legislature would net greater returns than would those regulatory measures for which so many bled in 1972.

If keyed into his prospectus are revenues from the proposed 20-mil Ad Valorem tax which otherwise could go to municipalities through their own 30-mil property tax, it appears there instead could be a net loss when state and municipal tax potentials are lumped together. Shifting money from local to state coffers does little to fatten us fiscally. Rather like attempting to stave off starvation by cannibalizing one's own hindquarters: temporarily sustained perhaps; but likely to hurt in the end.

FOR YEARS we tried to lure rural Alaskans into borough status. The blessings of self-determination being, obscure to some, we dangled taxing authority, revenue sharing, plus sundry other carrots on a stick as bait. Not sufficient. Now that the alchemy of oil has metamorphosed those few limp lures to a 24-carat cluster Big Brother wants to change the rules of the game.

The North Slope, recognizing gold plated opportunity, acquired tax authority available to all boroughs. No more, no less. This would be new money. The slope's gain was no other area's loss. Appalled that revenues of such size might escape filtration thru its own "bureaucratic" processes, the state moved quickly to correct the oversight. Thus before the poverty stricken North Slope could even acquire a pair of pants, a scheme was hatched to pick their pockets. But with cause. After all, why should borough government be a boon to some and a burden to the rest of us? Pain should be on par.

Yet inequities in per capita property evaluation are nothing new. Curiously, though, no one suggested the state usurp municipal tax authority and redistribute the wealth simply because Dillingham's per capita evaluation was a fraction that of Anchorage's. But now

Alaska Forum

Jay Hammond

Today's Alaska Forum writer is Jay Hammond, mayor of the Bristol Bay Borough. Hammond is a former Republican legislator from the Bristol Bay area. While in the State Senate, he served as president of that body.



a rural area suddenly has a per capita potential many times that of the populous urban. This incurs political pinch which can be eased by scattering rural wealth among urban voters. Such a switch in ground rules is at best amoral; at worst, ballot-box bushwhacking.

AT THE VERY least, should the state deny municipalities traditional tax authority it should trade off some of its own. Local governments have been limited to property and sales taxes. The state has preempted the income tax. Rip off part of our property tax? Then replace with some of your own tax authority.

The best one can strive for in taxes is equity. A matter of lesser evils. Few taxes are more unfair than a property tax which extracts tribute from potential rather than production, penalizes community improvement and relates but remotely to need and ability to pay. These inequities are compounded in rural areas where schools are the major municipal cost.

Ironically, in most rural areas those on steady incomes most capable of contributing have virtually a free ride. Government, or company-housed itinerants all impact municipal services. Yet most pay far less for their support than does the property owner who often is struggling to make a meagre livelihood under rough circum-

stances. In such areas the income tax might be more equitable. But the State has denied municipalities such tax. Perhaps the time has come to reconsider.

CERTAINLY collection and enforcement of an income tax presents problems to small municipalities. Thus they should be allowed, if approved by referendum perhaps, to impose a simple "payroll" tax up to 3 per cent. No deductions. No exemptions. Minimal red tape. Employers would withhold and remand. Property tax credit in an amount equal to payroll tax paid could avoid "double-bartelling" home-owning, wage earners.

The payroll tax would be especially appropriate on the North Slope where a tremendous influx of construction workers is assured.

For usurpation of their property tax municipalities have been offered some sops. They seem inadequate. Limiting local property tax acquisitions to \$1000 per capita fails to consider cost of living differentials and existing service vacuums. There is, for example, no high school on the North Slope. Until this deficiency is met along with the provision of at least minimal service that borough should be allowed full taxing powers.

IF AND WHEN they accumulate sufficient revenues all municipalities should be

required to assume more financial responsibility. The State has ample means to assure this. Adjustments in School Foundation and Revenue Sharing support could be made by which boroughs with comparable mill levies would receive assistance inversely proportionate to capability of meeting continuing needs.

There's no denial that the North Slope Borough could do some remarkable things with their property tax. A 30-mil levy might enable almost all permanent inhabitants to be put on the pay roll. An affront to the rest of the State? By no means. Some of our most impoverished citizens would come off the welfare rolls. State taxpayers would save except for oil which would pick up the tab. That the industry should support the 20-mil Ad Valorem vs. a 30-mil potential local tax is hardly surprising. Again, the lesser of evils.

The oil industry agreed to the new oil package for one reason. It's a better deal for them. In all probability, it follows, it's a worse deal for the state. However, we'll never know. The 1972 regulatory laws should have been run through the courts. If they stood the state might have profited enormously. Had they fallen we would still have recourse to all the means now under discussion. Regardless, neither "package" would have been fully unwrapped for at least three construction years. Ample time for adjudication. Fashionable these days, however, seems to be courtroom by-pass.

BUT WHAT of threats of pipeline delays should agreements secretly negotiated with the industry not be rubber-stamped? Blackmail? Of course. But blackmail for which we willfully set ourselves up. We lost both bargaining time and space when we committed oil bonus monies to feeding the appetite of a bloating bureaucracy. To provide necessary fiscal fodder some feel we must erect sprouts now rather than await full harvest.

THE CHANGING CULTURAL PROFILE OF RURAL ALASKA

Following is an outline of the different kinds and directions of cultural change taking place in rural Alaska as reported by Nancy Yaw Davis in "Steps Toward Understanding Rapid Culture Change in Native Rural Alaska", a paper prepared for the Federal-State Land Use Planning Commission in 1976. These are cited as indicators of cultural change.

1. Change in the general area of complex technology, the most obvious and often erroneously considered the most important, includes marked increase in the items of the modern world. They include store-bought food and clothing, household appliances, tape recorders, radios, new building materials, guns, and a range of new means of transportation: power boats, snowmobiles, motorcycles, and cars. The range of kinds of items bought, or preferred, tells us something about selective use of cash.

2. Closely associated with the items are profound changes in the economic organization of a village. The increased availability of money has led to new kinds of stratification within the community. Money has an unequalizing effect which is hard on values of egalitarian ethic, and often blatantly violates those values.

3. Related to cash are jobs which demand new kinds of skills, motivation, and human relationships. Jobs and their unequal distribution in a community further disassociate and separate people in new ways.

4. Also related to technology and economy is the changing relationship of subsistence to cash. For some families it is first subsistence plus a little cash from trapping, fishing, or a part-time job such as the janitor's job in the school. Later that family may shift to increasing dependence on cash and less and less on subsistence. Still, at the same time in the same village, another family, perhaps even a larger family, maintains a predominately subsistence-dependent life. There, most economic tasks and most capable persons in the family are engaged in traditional activities. I would venture a guess that the shift of the mix of subsistence-plus-cash to cash-plus-subsistence varies greatly throughout village Alaska, and that the mix changes according to the season, number of persons in the family work force, availability of jobs, and availability of subsistence resources. Another point which should be made here is that though a family is predominantly cash dependent, if they live in a village they will continue some subsistence harvest. Indeed, one of the further unequalizing effects of jobs and cash is that a family with a job can afford a snowmobile which allows greater distance and efficiency in resource harvest. Further, values for the taste of subsistence goods continue into the city and the hospital where relatives crave for foods from home and where gifts are often sent which meet real, felt needs for traditional food, and also allow important continuous ties to and from kin in the city and village.

5. Another indicator of change in the economic realm is the increasing level of dependency on government services in the form of cash-producing programs, whether job-related or welfare-related. People in need of things are also in need of money. Now it takes considerable cash to even maintain what is considered a minimum "subsistence" level.

of survival. Again, the extent of governmental assistance varies greatly from family-to-family, village-to-village, from season-to-season. The extent of that variation and the ramifications it could have on land planning needs yet to be explored.

In terms of the arrangements of people, the social order is undergoing great changes. Here are a few of them:

6. Increasing heterogeneity of village population is one direction which greatly worries many villagers. More and more non-Natives are coming in and staying with more and more programs and this means potentially less and less local control over village matters. Some of the increasing variety of persons in communities is the result of outsiders coming in, but part of it is also the result of people from many different villages moving to a central place. The consolidation of bands and villages and, further, the development of towns in some locations is a widespread northern phenomena. However, this may not be a one-directional change. Perhaps under the land claims, new options are opened for people to split off from communities which have grown too large and independently form new villages or return to old locations. (This is suggested with the desired return of some people to Chenega, Afognak, and Kaguyak.)

7. Associated with the consolidation of population is the increased separation and stratification of people in new ways. Larger communities require more formal and more specialized relationships reflected in local government, in the range of diversified jobs creating economic stratification, often ranked in terms of prestige, and in special-purpose social groups which intercept only some of the people. Life in a very small village is marked by the enmeshing of most necessary social, economic, and political roles into most all activities. In a town, these dimensions of living become necessarily separate, specialized, and institutionalized. As a result, people become separated along new lines. If new voluntary groups do not form to minimize the fragmentation, a condition found in towns like Bethel, then social disturbances, anomie and other symptoms of depersonalized urban life are likely to occur.

8. Also affiliated with the modernization of small communities are the wider social contacts which are possible. In a village of 400, in contrast to one of 200, the range of potential social contacts are much greater. Also people in small villages now experience leaving their home communities for a wider range of purposes: schooling, hospital care, special training, church meetings, board meetings, and visiting. These excursions not only expand the horizons of village people, they heighten awareness of disparity between village and the town, the town and the city, sometimes negatively and sometimes positively.

9. Closely related to the increased specialization and the wider contacts, comes increased individualization, and the lessening of former family ties. This may be only temporary, however, for when a meandering relative returns to the village, the family expectations must be reestablished and clarified, sometimes a painful and stressful experience.

10. Changes in the moral order inevitably accompany modernization. Somehow the depersonalization process leads to lack of trust, locking of doors, vandalism, and other behavior abhorred by the villages. Former means of informal social controls may cease to be effective and the need for greater formal control in the form of the state trooper becomes an embarrassing necessity. In some areas the state trooper is called for in numerous, minor local disturbances; in other areas, only as a last resort. The frequency of external social control could provide indication of a particular village's current status. Pride in village identity may be at stake.

11. Associated with the changing moral order and the lessening of former constraints are confused reference groups. With which group does a person affiliate? The Native relatives back home, or the Native political leaders of the towns, or the White bosses at work? The range of reference groups increases, as does sometimes the level of potential uncertainty.

12. The necessity of increased political complexity to accommodate the specialization required of modern living in general, and the land claims in particular, places demands on developing new decision-making processes to accommodate the increased range of economic alternatives. For example, the decisions facing a family concerning new alternatives may involve consciously-made political decisions. Who will stay at home to meet all the governmental visitors and maintain political power in the village? Who will take the fire-fighting job which provides needed cash? Who is going to the family fish camp for the traditional food needed to give away at the potlatches in the fall? On another level, who do you vote for--an incompetent relative who expects the vote, the old man who holds traditional power, or the new outsider who has the apparent skills but no kinship? Needless to say, in some villages the political complexity increases at what seems to be an alarming rate.

13. Associated with changing social relationships and the discomfort that creates, is the intensification of indication of nostalgia for the good old days when people willingly helped each other out without pay, people could be trusted, and things were the way they ought to be.

14. Part of the perspective of how things are not the way they ought to be is reflected in awareness of disruption through increased access to and consumption of alcohol in destructive amounts. Part of the rise of interest toward returning to the traditional way of life includes awareness of the disruptive effect of alcohol.

15. Also a part of the modernization process in Alaska are some acute experiences of discrimination in White-Native contacts. These appear to increase as the size of community increases. Open confrontation is more likely to occur in towns and in those villages with an increasing number of permanent White residents. These experiences are devastating to the pride, identity, and dignity of Native peoples and may simultaneously reinforce White assumptions of superiority, setting the scene for further racial conflict. These experiences can also be devastating to

White persons who have for years enjoyed a good working relationship in a village. When they return to find the mood of the village inexplicably turned against them, they may be just as puzzled and hurt as the Native person who has for years enjoyed rapport with White people in the small home village and then is rudely rebuffed when visiting in town.

Many of these indicators of change are the direct result of changing relationships with the world beyond the village and the wider range of ties, obligations, and, for some, opportunities which they represent. Because so many of the changes appear negative, painful, and discomforting, perhaps we can better understand the reluctance of some persons and some whole communities about getting more involved with those changes which result in such negative, destructive processes. Little wonder they wish to slow, control, or even reject further involvement. And little wonder decisions leading to or even suggesting change in their relationship to the land, and implied necessity to "modernize" sometimes meets with verbal and written fear. (See Does One Way of Life Have to Die so Another Can Live? A Report on Subsistence and the Conservation of the Yupik Life-style, Bista Yupikta, 1974.)

SCOMM

#10:52

NORTH SLOPE BOROUGH
REVENUE ESTIMATE DETAILS
PERIOD ENDING JUNE 30, 1980

CODE

GENERAL PROPERTY TAXES

50-101 PROPERTY TAX - CURRENT

TOTAL: \$53,842,400 minus Uncollectible of \$42,000 = \$53,800,400

Operating Budget

AS 29.53.045(b) provides a limitation of \$1,500 per capita. *12,280,500*

AS 29.53.045(c) provides for an alternate formula as follows:

	<u>Prior FY</u>	<u>FY 1979/80</u>
Average Full and True Value State Residents	\$ 40,280	\$ 47,347
Multiply by	225%	225%
Average Full Value	\$ 90,630	\$106,650.75
North Slope Borough Population Jan. 1 per Department of Community and Regional Affairs	9,139	8,187
Equivalent Total Tax Base	\$ 828,627,570	\$ 873,149,690
Maximum Millage Levy per AS 29.53.050(a)	30 Mills	30 Mills
	\$ 24,848,027	\$ 26,194,491
(Rd)	\$ 24,848,000	\$ 26,194,400
North Slope Borough Assessed Value (Est.)	\$4,654,940,140	\$4,800,000,000
Millage Rate:	5.34 Mills	5.46 Mills
Debt Service Not Included in the Above Levy per AS 29.53.055 - Estimated Uncollectible of \$42,000. - FY 1979/80	\$ 9,044,700	\$ 27,648,000
North Slope Borough Assessed Value (Est.)	\$4,654,940,140	\$4,800,000,000
Millage Rate	1.94 Mills	5.76 Mills
Total Combined Millage Rate -- Full Value	7.28 Mills	11.22 Mills
However, the Department of Revenue interprets AS 29.53.045(c) to require a uniform reduction of the actual assessed value as follows:		
The Total Assessed Value is reduced to:	\$ 828,267,570	\$ 873,149,690
The Operating Millage Rate is	30 Mills	30 Mills
The Debt Service Millage Rate is: Debt Service plus Estimated Uncollectibles divided by Equivalent Total Tax Base	10.92 Mills	31.67 Mills
Total Millage Rate on Reduced Value	40.92 Mills	61.67 Mills

NORTH SLOPE BOROUGH
BUDGET SUMMARY

	Actual FY 1977/78	Budget-1/ FY 1978/79	Budget FY 1979/80
<u>REVENUES - GENERAL FUND</u>			
Property Taxes:	\$26,826,023	\$33,891,400	\$53,800,400
AS 29.53.045(c)	18,840,993#	24,752,400#	26,194,400=
AS 29.53.055 (Debt Service)	7,985,030#	9,139,000#	27,606,000=
Sales Taxes:			
Prior Court Case	1,466,557	2,302,000	-
AS 29.53.055 (Debt Service)	-	-	1,500,000
Licenses and Permits	-	200	200
Use of Money and Property	4,575,845	3,224,000	4,800,000
Intergovernmental Revenues	11,403,786	13,072,600	13,703,100
Charges for Services	532,800	889,000	1,561,100
Miscellaneous for Prepaid Taxes	500,000	500,000	-
TOTAL REVENUES-2/	<u>\$45,305,011</u>	<u>\$53,879,200</u>	<u>\$75,364,800</u>
<u>EXPENDITURES - GENERAL FUND</u>			
Operating:			
Education-Mayor's Reduction	\$ -	\$ -	\$ 2,315,100
Education-Mayor's Support Level	12,389,451	12,662,700	14,977,800
Education-Post Secondary	-	-	643,000
Public Safety	1,137,171	1,826,700	3,140,700
Public Works	4,039,545	6,187,300	4,059,700
Public Utilities	-	-	4,116,300
Assembly-Budgetary Reserves	-	392,900	1,498,000
Assembly-Lawsuit-Prepaid Taxes	500,000	500,000	-
General Government	5,076,571	6,885,200	7,535,000
Environmental Protection Office	254,683	372,600	477,300
Health	1,199,766	3,000,600	2,621,700
Housing	231,933	612,200	840,200
TOTAL OPERATING	<u>\$24,829,120</u>	<u>\$32,440,200</u>	<u>\$42,224,800</u>
Capital	3,000,000	10,579,000	3,990,000
Debt Service	7,622,000	10,860,000	29,150,000
TOTAL EXPENDITURES	<u>\$35,451,120</u>	<u>\$53,879,200</u>	<u>\$75,364,800</u>
<u>REVENUES - SERVICE AREA #10</u>			
UTILITY FUND - #31	<u>\$ -</u>	<u>\$ 2,350,200</u>	<u>\$ 4,576,300</u>
<u>EXPENDITURES - SERVICE AREA #10</u>			
UTILITY FUND - #31	<u>\$ -</u>	<u>\$ 2,350,200</u>	<u>\$ 4,576,300</u>
<u>GRAND TOTAL - ORDINANCE 79-3</u>			
REVENUES	<u>\$45,305,011</u>	<u>\$56,229,400</u>	<u>\$79,941,100</u>
EXPENDITURES	<u>\$35,451,120</u>	<u>\$56,229,400</u>	<u>\$79,941,100</u>

- NonAdd - Part of Category

1/ Ordinance 78-3F adopted January 9, 1979.

2/ Accrued Interest of \$2,466,489 - Contrary to budget procedures; transfers to CIP Fund were \$6,720,189 and Debt Service Fund of \$179,172 are not reflected in Total Expenditures.

Source of Total CIP Funds per Ord. 79-10

North Slope Borough

Approved: 4/11/79

<u>ORD. 79-10</u> <u>Sec. No.</u>	<u>General</u> <u>Obligation Bonds</u>	<u>Federal</u> <u>Aid</u>	<u>State</u> <u>Aid</u>	<u>Other</u>	<u>TOTAL</u>
Sec. 6	\$94,365,000		\$3,105,000		\$94,470,000
Sec. 7	35,634,000		1,000,000		36,634,000
Sec. 8	78,379,000				78,379,000
Sec. 9	9,894,000	\$1,500,000	1,184,000		12,578,000
Sec. 10	15,710,000	1,650,000	1,081,000		18,441,000
Sec. 11	4,823,000	9,370,000	470,000		14,663,000
Sec. 12	2,850,000	2,074,000		\$2,800,000	7,724,000
Sec. 13	29,764,000	1,251,000			31,015,000
Sec. 14	3,530,000	75,000			3,605,000
Sec. 15	22,720,000		1,661,000		24,381,000
Sec. 17	1,140,000				1,140,000
Sec. 18		200,000		1,517,000	1,717,000
Sec. 19	4,319,000				4,319,000
Sec. 20	700,000		500,000		1,200,000
	<u>\$303,828,000</u>	<u>\$16,120,000</u>	<u>\$9,001,000</u>	<u>\$4,317,000</u>	<u>\$333,266,000</u>

Bonds Authorized - To Be Authorized per Ord. 79-10

<u>ORD. 79-10</u> <u>Sec. No.</u>	<u>Bonds</u> <u>Authorized</u>	<u>Bonds to be</u> <u>Authorized</u>	<u>Bond Election</u> <u>Date</u>	<u>TOTAL</u>
Sec. 6	\$65,717,000	\$28,648,000	10/2/79	\$94,365,000
Sec. 7	25,386,000	10,248,000	10/2/79	35,634,000
Sec. 8	75,670,000	2,709,000	10/2/79	78,379,000
Sec. 9	7,696,000	2,198,000	10/2/79	9,894,000
Sec. 10	7,277,000	8,433,000	10/2/79	15,710,000
Sec. 11	1,823,000	3,000,000	10/2/79	4,823,000
Sec. 12	2,312,000	538,000	10/2/79	2,850,000
Sec. 13	20,216,000	9,548,000	10/2/79	29,764,000
Sec. 14	2,440,000	1,090,000	10/2/79	3,530,000
Sec. 15	16,031,000	6,689,000	10/2/79	22,720,000
Sec. 17	1,140,000	-0-		1,140,000
Sec. 18	-0-	-0-		-0-
Sec. 19	4,319,000	-0-		4,319,000
Sec. 20	700,000	-0-		700,000
	<u>\$230,727,000</u>	<u>\$73,101,000</u>		<u>\$303,828,000</u>

4400 out side Purchase
4000 + Purchase
87-8800 (+) census.

Limit 3452⁰⁰ per capital
no limit

*File
entire
local Gov study*

THE SUPREME COURT OF THE STATE OF ALASKA

NORTH SLOPE BOROUGH,)
)
Appellant,)
)
v.)
)
SOHIO PETROLEUM CORPORATION,)
ATLANTIC RICHFIELD COMPANY,)
EXXON CORPORATION, ARCO)
PIPELINE COMPANY, SOHIO PIPE-)
LINE COMPANY, EXXON PIPELINE)
COMPANY, AMERADA HESS COR-)
PORATION, MOBIL ALASKA PIPE-)
LINE COMPANY, PHILLIPS)
PETROLEUM COMPANY, UNION)
ALASKA PIPELINE COMPANY,)
BP PIPELINES INC., and)
BP ALASKA EXPLORATION INC.,)
)
Appellees.)

File No. 3460

STATE OF ALASKA,)
)
Appellant,)
)
v.)
)
SOHIO PETROLEUM CORPORATION,)
ATLANTIC RICHFIELD COMPANY,)
EXXON CORPORATION, ARCO)
PIPELINE COMPANY, SOHIO PIPE-)
LINE COMPANY, EXXON PIPELINE)
COMPANY, AMERADA HESS COR-)
PORATION, MOBIL ALASKA PIPE-)
LINE COMPANY, PHILLIPS)
PETROLEUM COMPANY, UNION)
ALASKA PIPELINE COMPANY,)
BP PIPELINES INC., and)
BP EXPLORATION INC.,)
)
Appellees.)

File No. 3513

[No. 1750 - October 20, 1978]

SOHIO PETROLEUM CORPORATION,)
ATLANTIC RICHFIELD COMPANY,)
EXXON CORPORATION, ARCO)
PIPELINE COMPANY, SOHIO PIPE-)
LINE COMPANY, EXXON PIPELINE)
COMPANY, AMERADA HESS COR-)
PORATION, MOBIL ALASKA PIPE-)
LINE COMPANY, PHILLIPS)
PETROLEUM COMPANY, UNION)
ALASKA PIPELINE COMPANY,)
BP PIPELINES INC., and)
BP ALASKA EXPLORATION INC.,)

Cross-Appellants,)

v.)

STATE OF ALASKA and NORTH)
SLOPE BOROUGH,)

Cross-Appellees.)

File No. 3659

Appeals from the Superior Court of the State of Alaska,
Third Judicial District, Anchorage,
Peter J. Kalamarides, Judge.

Appearances: Charles K. Cranston, Gallagher,
Cranston & Snow, Anchorage, for Appellant
and Cross-Appellee, North Slope Borough.
Richard O. Gantz, Carl J. D. Bauman, Hughes,
Thorsness, Gantz, Powell & Brundin, Theodore
E. Fleischer, Paul DeStephano, Ely, Guess &
Rudd, Anchorage, for Appellees and Cross-
Appellants. Joseph K. Donohue, Assistant
Attorney General, Avrum M. Gross, Attorney
General, Juneau, for Appellant and Cross-Appellee,
State of Alaska. Timothy G. Middleton,
Wohlforth & Flint, Anchorage, for Alaska
Municipal Bond Bank Authority, City and
Borough of Juneau and Municipality of
Anchorage, Amici Curiae.

Before: Boochever, Chief Justice, Rabinowitz,
Connor, Burke and Matthews, Justices.

MATTHEWS, Justice.

This is a three-sided property tax case. At issue is whether the appellees should pay \$3,785,050.18 to the North Slope Borough, to the State, or to both of them. The Superior Court held that the money should go to the State. We reverse, and hold that it should be paid to the Borough.

An act passed by the 1973 session of the Alaska Legislature levied a tax of 20 mills on the trans-Alaska pipeline and other property used in the exploration for and production and transportation of oil and gas.¹ Relevant portions of the Act are set forth in the margin.²

1. Ch. 1, FSSLA 1973.

2. *Section 1. AS 43 is amended by adding a new chapter to read:

CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION
AND PIPELINE TRANSPORTATION PROPERTY TAXES.

Sec. 43.56.010. LEVY OF TAX.

(a) An annual tax of 20 mills is levied each tax year beginning January 1, 1974, on the full and true value of taxable property taxable under this chapter.

(b) A municipality may levy and collect a tax under AS 29.53.045 at the rate of taxation that applies to other property taxed by the municipality. A tax collected by a municipality as authorized by AS 20.53.045 shall be credited against the tax levied under (a) of this section and shall be levied at a rate no higher than the rate applicable to other property taxable by the municipality. No municipality may exempt from taxation property

(continued p. 4)

In 1976, the North Slope Borough levied a property tax of 7.68 mills for operating expenses and 2.62 mills for

2. (continued)

authorized to be taxed under this chapter. Exemptions shall be limited to those in AS 29.53.020 and 29.53.025 and sec. 20 of this chapter.

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied.

. . . .

Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes imposed under ch. 55 and ch. 57 of this title, the taxes levied or authorized under sec. 10(b) of this chapter are in place of

(1) all other ad valorem taxes or other taxes imposed by a municipality on property subject to tax under this chapter or exempted from taxation by sec. 20 of this chapter, and

(2) all other taxes imposed by a municipality on or with respect to the property subject to tax under this chapter or exempted from taxation

(continued p. 5)

debt service, payment of principal and interest on general obligation bonds. The portion of the levy for debt service

2. (continued)

by sec. 20 of this chapter, including, but not limited to,

(A) taxes on the retail sale or use of the property except for the retail sales tax on the first \$1,000 of each sale;

(B) taxes on the sale or use of gas or unrefined oil;

(C) taxes on the sale or use of services used in or associated with the property or in its erection, construction, maintenance or operation except for the sales tax on the first \$1,000 of each sale;

(D) taxes on or measured by gross or net income from the property, including income from the exploration for, production of, or pipeline transportation of gas or unrefined oil or property; and

(E) any license, excise, fee, charge or other tax on or pertaining to the property or services.

.

*Sec. 3. AS 29.53 is amended by adding a new section to read:

Sec. 29.53.045. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROPERTY.

(a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the

(continued p.6)

exceeded the maximum per capita revenue limitation expressed

2. (continued)

methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to \$1,000 a year for each person residing within its boundaries. [Changed to \$1,500 in 1976 by §8, Ch. 107, SLA 1976.]

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

. . . .

*Sec. 4. AS 29.53.050 is amended by adding a new subsection to read:

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which will result in tax revenues from all sources exceeding either (1) \$1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the

(continued p.7)

in Section 3 of the Act, AS 29.53.045(b), as amended in

2. (continued)

municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) \$1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data.

*Sec. 5. AS 29.53.055 is amended to read:

Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The limitations provided for in secs. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

1976, which was an amount equal to \$1,500 for each resident of the Borough.

After the Borough levied the tax, the Alaska Department of Revenue adopted an emergency regulation³ which provides that the State will not grant a tax credit for taxes paid to a municipality in excess of the revenue limitations of AS 29.53.045. Within two weeks after the regulation became effective, the Borough brought suit against the State seeking a declaratory judgment that the regulation was illegal and an injunction barring its enforcement. The Borough added a claim against Atlantic Richfield Co. (ARCO), a major owner of taxable property under the Act (AS 43.56 property), seeking a declaration of the legality of the debt service levy. ARCO answered, asking for a

3. The regulation, 15 AAC 05.840(a), became effective June 2, 1976 and provides in relevant part:

The excess of any current property taxes that is collected by one or more municipalities pursuant to AS 29.53.055 beyond the limitations set forth in AS 29.53.045 and 29.53.050(b) will not be allowed as a credit against, or refund of, the tax levied by the state under AS 43.56.010(a).

Credit was given for property taxes paid to municipalities under AS 43.56.010(a) before June 30, 1975.

dismissal of the Borough's complaint, and filed a cross-claim against the State seeking a declaration that the emergency regulation was invalid.

Meanwhile, a separate suit for interpleader was filed by SOHIO Petroleum Corporation, ARCO, Exxon Corporation, ARCO Pipeline Company, SOHIO Pipeline Company, Exxon Pipeline Company, Amerada Hess Corporation, Mobil Alaska Pipeline Company, Phillips Petroleum Company, Union Alaska Pipeline Company, BP Pipelines Inc., and BP Alaska Exploration Inc., (hereafter referred to as the taxpayers) all of which own various amounts of AS 43.56 property. The taxpayers alleged that their AS 43.56 property could not be taxed for more than 20 mills by the Borough and State combined.⁴ They sought an order enjoining the Borough and State from recovering any taxes in excess of 20 mills and an adjudication as to which party should receive the 2.62 mill levy the Borough had imposed for debt service and for which

4. Upon filing the interpleader action, taxpayers paid 9.7 mills (\$14,013,353.71) to the State which constituted the 20 mill state tax, less credit for the 10.3 mills levied by the Borough. After a minor population dispute, taxpayers paid 7.68 mills (\$11,095,108.92) to the Borough which was the maximum rate permissible under the revenue limitation expressed in AS 29.53.045 and represented the Borough's general operating and expense levy. Taxpayers deposited into court 2.62 mills (\$3,785,050.18) which represented the alleged maximum of 20 mills less the 9.7 mills paid the State and the 7.68 mills paid the Borough.

the State, by the emergency regulation, had refused to grant a tax credit. In response to the taxpayers' interpleader complaint, both the Borough and State demanded payment of the 2.62 mill levy. Subsequently, the Borough withdrew its challenge to the State's emergency regulation in the first lawsuit. The remaining claims in that case, Borough v. ARCO and ARCO v. State, were consolidated with the interpleader action.

All parties moved for summary judgment. The superior court published a memorandum decision on April 29, 1977, holding that the Borough's 2.62 mill debt service levy was unlawful. The court's rationale was that the legislature, in passing Sec. 5 of the Act, which amended AS 29.53.055, intended to give municipalities the power to levy taxes for bonded indebtedness in excess of the limitations imposed in AS 29.53.045 and .050 only in cases of default or where default was threatened.

In response to the court's decision, the legislature enacted sections 6 and 7 of chapter 94, SLA 1977. Section 6 amended AS 29.53.055 to overrule the court's interpretation:

No limitation on taxes to pay bonds.
The limitations provided for in Sec. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds.

Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. (New language emphasized.)

Sec. 7 amended AS 29.58.180(a) to read:

Payment. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount to pay or secure the payment of the principal and interest on bonds, regardless of whether the bonds are in default or in danger of default. (New language emphasized.)

Sections 6 and 7 were made retroactive to January 1, 1976, and the entire Act, approved by the governor on June 4, 1977, was to be effective immediately.

The superior court entered a final judgment in accordance with its April 29 decision on May 27, and on June 3, the Borough filed a notice of appeal to this court. On June 9, we entered an order remanding the case for reconsideration in view of ch. 94, SLA 1977, and for a determination of other outstanding issues. In compliance with our order, the superior court entered a decision on August 22, 1977 reaffirming its May 27 judgment. Among the holdings of that decision were:

- (1) Ch. 94 SLA 1977 is invalid in its entirety because it is not confined to a single subject as required by Art. II, § 13 of the Alaska Constitution.

- (2) The retroactivity clause is invalid both as a local or special act in contravention of Art. II, § 19 of the Alaska Constitution and for failure to comply with the constitutional enactment requirements of Art. II, § 18 and AS 01.10.070(f)(3).
- (3) Even assuming general validity of § 8, Ch. 94, SLA 1977, the Borough's 1976 levy was procedurally defective.
- (4) The emergency regulation, 15 AAC 05.840, is invalid and thus a taxpayer would be entitled to a credit from the State for taxes paid to a municipality in excess of the AS 29.53.045 limitations.
- 5) The May 27 final judgment would not be amended.

The Borough and State appeal from this decision.

II

The first question presented is whether the 2.62 mill debt service levy was valid. The Borough and State contend that the plain language of AS 29.53.055 and AS 29.53.180(a) authorizes taxes to pay for municipal bonds, independent of the limitations of AS 29.53.045 or AS 29.53.050, and regardless of whether the bonds are in default or default is pending. The taxpayers contend that

AS 29.53.055 and AS 29.58.180(a)⁵ contain an implied condition that municipalities may exceed the limitations of AS 29.53.045 and .050 only in bonding emergencies. They base this argument primarily on the legislative history of AS 29.53.055.

After its amendment by the 1973 Act, but before the 1977 amendment, AS 29.53.055 read as follows:

No limitation on taxes to pay bonds.
The limitations provided for in secs. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

If we properly comprehend the taxpayers' position, language similar to that which we have placed in brackets should be read into the statute:

No limitation on taxes to pay bonds.
The limitations provided for in secs. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds [in default or pending default]. Taxes to pay or secure the payment of principal and

5. Prior to its amendment in 1977, AS 29.58.180(a) provided:

The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

interest on bonds [in default or pending default] may be levied without limitation as to rate or amount.

We note at the outset that a literal reading of the language of the Act favors the interpretation given by the Borough and State. The limiting language which the taxpayers suggest must be read into AS 29.53.055 is absent. We do not, however, end our inquiry with this literal approach. While a fundamental principle of statutory interpretation is that a statute means what its language reasonably conveys to others,⁶ reference to legislative history may provide an insight which is helpful to making a judgment concerning what a statute means.⁷

6. See *Deputy v. du Pont*, 308 U.S. 488, 493 (1940); *Mercantile Bank & Trust Company v. United States*, 441 F.2d 364, 366 (8th Cir. 1971); 2A J. Sutherland, *Statutes and Statutory Construction* § 45.07 at 20-21 (4th ed. Sands 1974); Holmes, *Collected Legal Papers* at 207 (New York 1920). Cf. *Day v. A & G Construction Co., Inc.*, 528 P.2d 440, 445 (Alaska 1974) (contract terms to be interpreted in "the sense in which the party using the word should reasonably have apprehended that they would be understood by the other party", and the meaning which the recipient of the communication might reasonably have given to it.")

7. See 2A J. Sutherland, *supra* § 45.09 at 29-30. We reject the so-called "plain meaning" rule as a strict exclusionary rule. That rule states that where language of a statute is clear and construction according to its terms does not lead to absurd consequences, the words used are taken as the final expression of the meaning intended and legislative history will not be consulted. See *United States v. Shreveport Grain & Elevator Co.*, 287 U.S. 77, 83 (1932); *United States v. Missouri Pac. Ry.*, 278 U.S. 269,

(continued p. 15)

AS 29.53.055 was passed on April 8, 1960, as Chapter 94, SLA 1960, and provided:

No incorporated town or municipality shall levy any tax for any purpose in excess of 3 per centum of the assessed valuation of property within the town in any one year; but the limitation provided for herein shall not be applicable to taxes levied or pledged to pay or secure the payment of the principal of and interest on any bonds of such incorporated town or municipality, which taxes may be levied without limitation as to rate and amount.

Chapter 94, SLA 1960, had been passed by the Senate in the form which eventually became law. It was then sent to the House where it was initially rejected. In its place, the House passed an amended version of the Senate bill which read in part as follows.

[T]he limitation provided for herein shall not be applicable to taxes levied pursuant to court judgment after a default to pay or secure the payment of

7. (continued)

278 (1929); *Caminetti v. United States*, 242 U.S. 470 (1917). In practice, however, it appears that this rule is often ignored. *Lynch v. Overholzer*, 369 U.S. 705 (1965); *Harrison v. Northern Trust Co.*, 317 U.S. 476 (1943); *United States v. Dickerson*, 310 U.S. 554 (1940). The issue is analagous in many respects to that encountered in cases determining the meaning of a contract where we no longer require a preliminary finding of ambiguity before consulting relevant extrinsic sources. *Stordahl v. Government Employees Insurance Co.*, 564 P.2d 63, 66 (Alaska 1977); *Wessells v. State*, 562 P.2d 1042 (Alaska 1977); *Tsakres v. Owens*, 561 P.2d 1218 (Alaska 1977).

the principal of and interest on any bonds of such incorporated town or municipality, which taxes may be levied without limitation as to rate and amount. (Emphasis added.)

When presented with the House amendment to its bill (SB 196), the Senate unanimously refused to concur and voted to send a request to the House that it recede from its proposed amendment. The House did recede and agreed to the Senate bill. This history is relevant because it shows that when one house of the legislature initially wished to limit the power to exceed the three per cent maximum tax for debt service purposes, it did so expressly. The House's subsequent recession from that limitation, taken together with the Senate's refusal to concur in the amendment, is persuasive evidence that no implied limitation was intended.

The next relevant event in the history of AS 29.53.055 took place with the 1972 recodification of laws relating to municipalities. The unconditional language of Chapter 94, SLA 1960, was then codified as AS 29.53.055:⁸

No Limitation on Taxes to Pay Bonds.
The limitation provided for in sec. 50 of this chapter does not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

8. The three per cent taxing limitation of Ch. 94, SLA 1960, was placed in AS 29.53.050.

The legislature also enacted, as part of the 1972 municipal law revision, AS 29.53.410 which allowed second class cities to exceed established taxing limits for debt service, only where necessary to avoid a default. In relevant part, Section 410 provided:

However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

The contrasting methods used to waive tax limitations were discussed in a committee report.

The code continues provisions of present law imposing a municipal tax limitation on all municipalities of three per cent of the assessed valuation of property within the municipality and excepting taxes for the payment of bond obligations from the limitation (Sec. 29.53.050 and 29.53.055). (As noted above, a more restrictive limitation is imposed as to the newly conferred power of second class cities to levy a property tax upon referendum approval, i.e. a limitation of one-half of one per cent of the assessed valuation of the property taxed. That limit may be exceeded in a second class city which has authorized a property tax by referendum, but only if levy of the tax is necessary

to avoid a default in payment of bond or
other debt obligations (Sec. 29.53.410)
.

The 1972 history serves to reaffirm that the legislature intended no implied limitation as a part of AS 29.53.055. Had it wished to impose such a limitation it would have done so expressly, as it did in Section 410.

We come next to the 1973 special session and the enactment of the property tax on oil and gas related property referred to at the outset in this opinion. Section 3 of that act added AS 29.53.045 which set out the per capita limitation on taxes previously described. Section 4 of the act added the per capita limitation as part (b) of AS 29.53.050, the section which already contained a three per cent municipal taxation limitation. Section 5 of the act amended AS 29.53.055 only by adding reference to the new section 45 and pluralizing certain words.

The bill which became the 1973 Act is designated as the Free Conference Committee Substitute for the Senate Committee Substitute for the Committee Substitute for House Bill No. 1. The senate committee report of November 2, 1973, on the senate committee substitute for the bill was accompanied by a sectional analysis by the Legislative

9. Supplemental Report to Free Conference Committee Report on SCS CSHB 208 am S and CSHB 208 am (Revised Municipal Code), dated June 16, 1972. 1972 House Journal at 1726-27.

Counsel. That analysis specifically refers to the new per capita limit. It states, in relevant part:

However, it is important to note that the limit does not apply to taxes levied or pledged to pay or secure the payment of the principal or interest on bonds. See AS 29.53.055 and 29.58.180. Taxes for that purpose may be levied without regard to any limit imposed by this new subsection.

1973 FSS Senate Journal at 70.

On November 11, 1973, the free conference committee reported on the bill as it was finally passed. Section 13 of that report states as follows:

Sec. 5: Language was added to AS 29.53.055 to make clear that the limitations on municipal taxing authority with respect to oil and gas properties taxable under this chapter do not apply to taxes levied or pledged to pay or secure the payment of principal and interest on bonds.

After the adoption of that report was moved but not voted on, the Senate stood in recess. Upon reconvening the same day, the following letter, signed by all six members of the free conference committee, was read:

You have directed the attention of the members of the Free Conference Committee that considered Free Conference Committee Substitute for Senate Committee Substitute for Committee Substitute for House Bill No. 1 (ad valorem tax on oil and gas exploration, production and pipeline transportation property) to Section 5 of the bill.

Section 5 of the bill amends AS 29.53.055 to provide that the limitations on municipal taxation proposed in Section 45 as well as those existing limitations in Section 50 of AS 29.53 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonded indebtedness.

The language of Section 55 originally was adopted to avoid general obligation bonds being denominated as limited tax bonds which would result in higher interest costs. It is the intent of the Committee that Section 5 of the bill is not intended to expand local governments' right to tax facilities covered by this act but only to give local governments the right in case of default or pending default on bonds to exceed the limits in Sec. 45 and 50 of AS 29.53. (Emphasis added.)

The Senate then adopted the free conference committee report, as supplemented, which under existing senate rules passed the bill.¹⁰

In the House, also on November 11, 1973, the free conference committee report was adopted and the bill was passed before the supplemental letter was appended to the report. After the House had adopted the bill, the speaker stated, without objection, that the reading of the supplemental letter would be waived and it would appear in the House Journal.

The legislative history of AS 29.53.055 is therefore in conflict. The 1970 and 1972 history clearly indicates

10. 1973 FSS Senate Journal at 126-128.

that section 55 was meant to contain no default or pending default limitation. Likewise, the structurally minor amendment to that section in 1973, as it passed through the legislative processes of the special session, was accompanied by an analysis reflecting this understanding. The supplemental free conference committee report indicated a contrary intent. However, that report did not purport to amend the language of section 55 in any way.¹¹

Since the 1973 committee reports are in conflict, they can hardly be regarded as valuable aids in determining

11. Our constitution imposes certain requirements of formality on legislative action. Article II, § 14 provides that no bill may become law until it has passed three readings in each house on three separate days, no bill may become law without an affirmative vote of a majority of the membership of each house, and the yeas and nays on final passage shall be entered in the journal. One purpose of these requirements is to ensure that the legislature knows what it is passing. Any passed bill is subject to veto by the governor. Article II, § 15 Alaska Constitution. Only bills are approved or vetoed, not the contents of the house and senate journals, or the tape recordings of committee and floor debates. The legislature enacts laws by the passage of bills meeting the foregoing formalities. It may not enact a law or change one by committee report. Such a report may be useful in interpreting an enacted statute, but it is not itself the statute.

meaning.¹² The 1970 and 1972 legislative history, however, is consistent with and distinctly supportive of a literal interpretation of section 55. We adopt such an interpretation.

The trial court concluded that the taxing limitations of AS 29.53.045 and .050 would serve no useful function if AS 29.53.055 did not contain an implied

12. The difficulty in drawing reliable conclusions from legislative history has often been noted as one reason why legislative history should be used with caution. Donahue, Limitations on Judicial Review: A Semiotic Interpretation of Statutes, 7 UCLA, Alaska L. Rev. 204 (1978); Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527 (1947); Jones, Statutory Doubts and Legislative Intention, 40 Colum L. Rev. 957 (1940); Jackson, The Meaning of Statutes: What Congress Says or What the Court Says, 34 A.B.A.J. 535 (1948); Horack, Cooperative Action for Improved Statutory Interpretation, 3 Vand. L. Rev. 382 (1950); MacCallum, Legislative Intent, 75 Yale L. J. 754 (1966); Nunez, The Nature of Legislative Intent and the Use of Legislative Documents as Extrinsic Aids to Statutory Interpretation: A Re-Examination, 9 Cal. W. L. Rev. 128 (1972). One writer has observed:

Bills are approved by legislators who don't have time to read them much less evaluate their merits. In the end, when tempers are short and sessions are long, it's easy for multi-million dollar mistakes to be made just because nobody can keep up with all the changes in all the bills.

. . . .

Whoever came up with the line, "Two things you should never watch being made are laws and sausage," sure knew what he was talking about.

Nussbaum, Enduring Deals, Anchorage Daily News, June 19, 1978, at 2, Col. 1-2.

limitation under which property tax limits could be exceeded only where a bond default was threatened. Relying on the rule of statutory construction that a statute should be construed so that each section has meaning,¹³ the court reasoned that section 55 must contain an implied limitation. However, section 55, literally read, does not render sections 45 and 50 meaningless. Section 55 applies only to debt financing.¹⁴ The limitations of sections 45 and 50 apply to operating revenues. Merely because they do not also curb taxes to pay for bonds does not render them nullities.

III

The next issue is whether the emergency regulation, 15 AAC 05.840,¹⁵ is valid. This regulation denies a credit for property taxes collected by municipalities in excess of the limitations set forth in AS 29.53.045 and 29.53.050(b). In questions of this nature, we will review the regulation first to ensure that it is "consistent with and reasonably necessary to carry out the purposes of the

13. See Isakson v. Rickey, 550 P.2d 359, 364 (Alaska 1976).

14. A municipality is free to incur bonded indebtedness only for capital improvements, and only with voter approval. Alaska Constitution, Article IX, § 9.

15. See footnote 3.

statutory provisions conferring rule-making authority on the agency," and second to ascertain whether the regulation is "reasonable and not arbitrary." Jager v. State, 537 P.2d 1100, 1107 n. 23 (Alaska 1975); Kingery v. Chapple, 504 P.2d 831, 835 (Alaska 1972); Kelly v. Zamarello, 486 P.2d 906, 911 (Alaska 1971). The superior court held the emergency regulation to be invalid because it conflicts with the act which it purports to interpret. We agree.

Subsection (d) of AS 43.56.010 provides that "[a] tax paid to a municipality under AS 29.53.045 . . . shall be credited against" the 20 mill tax levied by the State under subsection (a). The question is whether taxes collected on AS 43.56 property which exceed the limitations expressed in AS 29.53.045 and 29.53.050(b) are nevertheless taxes "paid to a municipality under AS 29.53.045." If they are, then a tax credit is mandatory.

AS 43.56.030 provides that AS 43.56 property can be taxed by a municipality only under a levy authorized by AS 43.56.010(b). That subsection, in turn, authorizes the taxation of such property only under AS 29.53.045. Thus if AS 43.56.030 is to be interpreted as meaning what it says, municipal taxation of AS 43.56 property may only occur as authorized under AS 29.53.045 and all of it is entitled to a state tax credit.

The first sentence of AS 29.53.055 acts to suspend the limitations imposed by AS 29.53.045 but not the language which authorizes taxation of AS 43.56 property. The second sentence of AS 29.53.055 does contain independent authorizing language, "[t]axes . . . may be levied," but may not be construed as a grant to tax AS 43.56 property independent of the authority of AS 29.53.045(a) (as distinct from its limitations) because AS 43.56.030 and AS 43.56.010(b) provide that municipalities may tax AS 43.56 property only under AS 29.53.045. Since AS 43.56.010(d) mandates that all taxes paid under AS 29.53.045 are to be credited against the 20 mill state tax levy of AS 43.56.010(a), the emergency regulation which denies the tax credit is invalid.¹⁶

The state argues that the emergency regulation must be sustained because to do otherwise is to open the possibility of "total erosion of the State tax base and complete diversion of revenue from a state resource to a single privileged borough." That result is theoretically possible under our interpretation. If the North Slope Borough levy for debt service was 12.42 mills rather than 2.62 mills, the state would receive no revenue from AS 43.56

16. In the process of reaching this conclusion we have examined the various items of legislative history presented by the parties. The materials do not address the specific question presented and are not helpful.

property in the Borough. However, that theoretical possibility does not render our interpretation invalid because the legislature itself expressly adverted to the same possibility. The last sentence of AS 43.56.010(d) provides:

The credit or refund of taxes paid to a municipality may not exceed the total amount of tax levied by the Department upon the taxpayer for the tax year, under (a) of this section.

Therefore, the legislature contemplated the possibility that a municipality might collect a tax of more than 20 mills on AS 43.56 property; if so, the taxpayer would receive a credit of 20 mills against state taxes, leaving the state with nothing.

IV

We now turn to Chapter 94, SLA 1977. We must determine whether that statute violates Article II, Section 13 of the Alaska Constitution¹⁷ which requires every bill to

17. Alaska Constitution, Article II, §13 provides:

Form of Bills. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

be confined to one subject.¹⁸

Chapter 94, SLA 1977, is entitled "An Act Relating to Taxation; And Providing for an Effective Date." It has eight sections.¹⁹ Sections one, three and four pertain to tax credits against the Alaska net income tax under AS 43.20 for residential fuel expenses and the cost of residential improvements which result in fuel conservation. Section five amends the state excise tax on cigarettes, AS 43.50.090, excluding from taxation cigarettes sold through United States military outlets. Sections six and seven amend AS 29.53.055 and AS 29.58.180 as discussed in part II of this opinion. Section eight makes sections six and seven retroactive to January 1, 1976 and section nine provides for an effective date.

18. Since Chapter 94, SLA 1977, made explicit the interpretation we have given to AS 29.53.055 and AS 29.58.180(a) in part II of this opinion, questions concerning its effective date and retroactivity are moot.

19. Although the statute's sections are numbered through nine, there is no section two.

The superior court held that because matters of both state taxation and local taxation were dealt with by the act the one subject rule expressed in our Constitution was violated. The court stated:

I do not wish to imply that the Legislature cannot validly provide for or deal with a number of different taxes in the same act, but I do find that a bill's validity is not insured merely because all of the provisions of an act relate to taxation and the act is so labeled. The fatal flaw is ch. 94 SLA 1977 in that it attempts to combine sections relating to taxation by municipal corporations under Title 29 Had the act limited itself to various state tax matters under Title 43, or limited itself to various municipal corporation tax matters under Title 29, no violation of the single subject rule would have resulted.

In determining whether a bill is confined to one subject,

[a]ll that is necessary is that the act should embrace some one general subject; and by this is meant, merely, that all matters treated should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

Gellert v. State, 522 P.2d 1120, 1123 (Alaska 1974) quoting Johnson v. Harrison, 50 N.W. 923, 924 (Minn. 1891). Further, what constitutes one subject for the purposes of Article II, Section 13, is to be broadly construed. Gellert v. State, supra. No act will be set aside for failing to comply with this provision except where the violation is both substantial

We are willing to adopt the definite position that further provision for or an amendment of the state's revenue in its various aspects, whether to provide for it or to regulate matters pertaining to it, or to amend it generally, is one subject and may be so expressed in the title of an act.

Harris v. State, 151 So. 858, 861 (Ala. 1934). In this case, since all of the provisions of the act relate directly to state taxation we find no violation of the one subject rule.

V

The next question is whether the taxpayers are liable to the Borough and the State for penalty and interest on the money deposited in court when the interpleader action was brought. The money was deposited prior to the time the taxpayers would have been in default. Based on its inherent equitable power, the superior court refused to require taxpayers to pay a late payment penalty or interest.

We agree that the superior court was justified in not requiring the taxpayers to pay a late payment penalty. The purposes of penalty provisions for late payment of taxes are to encourage the timely payment of taxes and to punish those who do not pay on time. Those purposes are not contravened here. Taxpayers were confronted with a situation where two government entities were competing for the same tax dollars. Before taxes were in default to either entity, and in an understandable desire to avoid paying double taxes, taxpayers utilized an interpleader action under Civil

and plain. Suber v. Alaska State Bond Committee, 414 P.2d 546, 557 (Alaska 1966).

Using these standards, we find no violation of the one subject requirement here. Municipal taxation and state taxation are often inextricably intertwined. This case is vivid testament to that fact. The act around which the central issues in this case revolve, chapter 1, FSSLA 1973, imposed a state property tax which required several amendments to municipal taxation statutes. The interpretation which we place on AS 29.53.055 and AS 29.58.180(a), before they were amended by chapter 94, SLA 1977, is the same interpretation placed on those acts by the legislature in the 1977 enactment. The net result of that interpretation has a direct impact on state tax revenues.

State taxation is not an unduly broad category under the one subject rule. Just as taxation has been held to be the single subject of a statute imposing different kinds of taxes upon different things,²⁰ it is also the subject of a statute granting various tax credits and exemptions and clarifying the circumstances under which taxes may be levied. As the Supreme Court of Alabama has stated:

20. Gibson County v. Pullman South. Car. Co., 42 F. 572 (W.D. Tenn. 1890); C. Thomas Stores Sales System v. Spaeth, 297 N.W. 9, 13 (Minn. 1941); City of Beaumont v. Gulf States Utilities Co., 163 S.W.2d 426, 430-431 (Tex. Civ. App. 1942).

Rule 22 and made their payment into the registry of the clerk of court. In similar situations courts have been held to have inherent power to waive statutory penalties.

General Petroleum Corporation v. Smith, 157 P.2d 356, 360 (Ariz. 1945); Swartz v. Atkins, 315 S.W.2d 393, 394 (Tenn. 1958); See Meyers v. Arcadia Realty Foundation, Inc., 367 S.W.2d 836, 838 (Ky. App. 1963).

We do not agree, however, with the superior court's conclusion that interest should be waived. The assessment of interest for late payment has no punitive element. While it is logical to relieve a taxpayer of paying a penalty, where under circumstances such as this he has been guilty of no misconduct, interest stands on a different footing. It is non-perjorative. When a taxpayer overpays his taxes, the state is responsible not only to refund the overpayment, it also refunds the overpayment with 8% interest. AS 43.05.280. Similarly, if a taxpayer for any reason underpays his taxes, interest will also be due. Any perceived injustice in this rule can be mitigated by placing interpleaded funds in an interest bearing account, as was done here, or in interest bearing securities.

VI

The State and the Borough also appeal an award of costs and attorneys' fees against them. Since we have

reversed the judgment on which the award was based, all matters concerning costs and attorneys' fees must be re-determined by the trial court.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED.

NORTH SLOPE BOROUGH
REVENUE ESTIMATE DETAILS
PERIOD ENDING JUNE 30, 1980

② Credit of State

CODE

GENERAL PROPERTY TAXES

50-101 PROPERTY TAX - CURRENT

TOTAL: \$53,842,400 minus Uncollectible of \$42,000 = \$53,800,400

Operating Budget

AS 29.53.045(b) provides a limitation of \$1,500 per capita. 12,180⁵⁰⁰

AS 29.53.045(c) provides for an alternate formula as follows:

	Prior FY	FY 1979/80
Average Full and True Value State Residents	\$ 40,290	\$ 47,347
Multiply by	225%	225%
Average Full Value	\$ 90,630	\$106,650.75
North Slope Borough Population Jan. 1 per Department of Community and Regional Affairs	9,139	8,187
Equivalent Total Tax Base	\$ 828,627,570	\$ 873,149,690
Maximum Millage Levy per AS 29.53.050(a)	30 Mills	30 Mills
	\$ 24,848,027	\$ 26,194,491
(Rd)	\$ 24,848,000	\$ 26,194,400
North Slope Borough Assessed Value (Est.)	\$4,654,940,140	\$4,800,000,000
Millage Rate:	5.34 Mills	5.46 Mills
Debt Service Not Included in the Above Levy per AS 29.53.055 - Estimated Uncollectible of \$42,000. - FY 1979/80	\$ 9,044,700	\$ 27,648,000
North Slope Borough Assessed Value (Est.)	\$4,654,940,140	\$4,800,000,000
Millage Rate	1.94 Mills	5.76 Mills
Total Combined Millage Rate -- Full Value	7.28 Mills	11.22 Mills
However, the Department of Revenue interprets AS 29.53.045(c) to require a uniform reduction of the actual assessed value as follows:		
The Total Assessed Value is reduced to:	\$ 828,267,570	\$ 873,149,690
The Operating Millage Rate is	30 Mills	30 Mills
The Debt Service Millage Rate is: Debt Service plus Estimated Uncollectibles divided by Equivalent Total Tax Base	10.92 Mills	31.67 Mills
Total Millage Rate on Reduced Value	40.92 Mills	61.67 Mills

Source of Total CIP Funds per Ord. 79-10

North Slope Borough

Approved: 4/11/79

<u>ORD. 79-10</u> <u>Sec. No.</u>	<u>General</u> <u>Obligation Bonds</u>	<u>Federal</u> <u>Aid</u>	<u>State</u> <u>Aid</u>	<u>Other</u>	<u>TOTAL</u>
Sec. 6	\$94,365,000		\$3,105,000		\$94,470,000
Sec. 7	35,634,000		1,000,000		36,634,000
Sec. 8	78,379,000				78,379,000
Sec. 9	9,894,000	\$1,500,000	1,184,000		12,578,000
Sec. 10	15,710,000	1,650,000	1,081,000		18,441,000
Sec. 11	4,823,000	9,370,000	470,000		14,663,000
Sec. 12	2,850,000	2,074,000		\$2,800,000	7,724,000
Sec. 13	29,764,000	1,251,000			31,015,000
Sec. 14	3,530,000	75,000			3,605,000
Sec. 15	22,720,000		1,661,000		24,381,000
Sec. 17	1,140,000				1,140,000
Sec. 18		200,000		1,517,000	1,717,000
Sec. 19	4,319,000				4,319,000
Sec. 20	700,000		500,000		1,200,000
	<u>\$303,828,000</u>	<u>\$16,120,000</u>	<u>\$9,001,000</u>	<u>\$4,317,000</u>	<u>\$333,266,000</u>

Bonds Authorized - To Be Authorized per Ord. 79-10

<u>ORD. 79-10</u> <u>Sec. No.</u>	<u>Bonds</u> <u>Authorized</u>	<u>Bonds to be</u> <u>Authorized</u>	<u>Bond Election</u> <u>Date</u>	<u>TOTAL</u>
Sec. 6	\$65,717,000	\$28,648,000	10/2/79	\$94,365,000
Sec. 7	25,386,000	10,248,000	10/2/79	35,634,000
Sec. 8	75,670,000	2,709,000	10/2/79	78,379,000
Sec. 9	7,696,000	2,198,000	10/2/79	9,894,000
Sec. 10	7,277,000	8,433,000	10/2/79	15,710,000
Sec. 11	1,823,000	3,000,000	10/2/79	4,823,000
Sec. 12	2,312,000	538,000	10/2/79	2,850,000
Sec. 13	20,216,000	9,548,000	10/2/79	29,764,000
Sec. 14	2,440,000	1,090,000	10/2/79	3,530,000
Sec. 15	16,031,000	6,689,000	10/2/79	22,720,000
Sec. 17	1,140,000	-0-		1,140,000
Sec. 18	-0-	-0-		-0-
Sec. 19	4,319,000	-0-		4,319,000
Sec. 20	700,000	-0-		700,000
	<u>\$230,727,000</u>	<u>\$73,101,000</u>		<u>\$303,828,000</u>

4400 out side Prudhoe
4000 + Prudhoe.
87-8800(+) census.

~~Limit~~ 3452⁰⁰ per capital
no limit

NORTH SLOPE BOROUGH
BUDGET SUMMARY

	Actual FY 1977/78	Budget ^{1/} FY 1978/79	Budget FY 1979/80
<u>REVENUES - GENERAL FUND</u>			
Property Taxes:	\$26,826,023	\$33,891,400	\$53,800,400✓
AS 29.53.045(c)	18,840,993#	24,752,400#	26,194,400#
AS 29.53.055 (Debt Service)	7,985,030#	9,139,000#	27,606,000#
Sales Taxes:			
Prior Court Case	1,466,557	2,302,000	-
AS 29.53.055 (Debt Service)	-	-	1,500,000
Licenses and Permits	-	200	200
Use of Money and Property	4,575,845	3,224,000	4,800,000
Intergovernmental Revenues	11,403,786	13,072,600	13,703,100
Charges for Services	532,800	889,000	1,561,100
Miscellaneous for Prepaid Taxes	500,000	500,000	-
<u>TOTAL REVENUES^{2/}</u>	<u>\$45,305,011</u>	<u>\$53,879,200</u>	<u>\$75,364,800</u>
<u>EXPENDITURES - GENERAL FUND</u>			
Operating:			
Education-Mayor's Reduction	\$ -	\$ -	\$ 2,315,100
Education-Mayor's Support Level	12,389,451	12,662,700	14,977,800
Education-Post Secondary	-	-	643,000
Public Safety	1,137,171	1,826,700	3,140,700
Public Works	4,039,545	6,187,300	4,059,700
Public Utilities	-	-	4,116,300
Assembly-Budgetary Reserves	-	392,900	1,498,000
Assembly-Lawsuit-Prepaid Taxes	500,000	500,000	-
General Government	5,076,571	6,885,000	7,535,000
Environmental Protection Office	254,683	372,000	477,300
Health	1,199,766	3,000,600	2,621,700
Housing	231,933	612,200	840,200
<u>TOTAL OPERATING</u>	<u>\$24,829,120</u>	<u>\$32,440,200</u>	<u>\$42,224,800</u>
Capital	3,000,000	10,579,000	3,990,000
Debt Service	7,622,000	10,860,000	29,150,000
<u>TOTAL EXPENDITURES</u>	<u>\$35,451,120</u>	<u>\$53,879,200</u>	<u>\$75,364,800</u>
<u>REVENUES - SERVICE AREA #10</u>			
<u>UTILITY FUND - #31</u>	<u>\$ -</u>	<u>\$ 2,350,200</u>	<u>\$ 4,576,300</u>
<u>EXPENDITURES - SERVICE AREA #10</u>			
<u>UTILITY FUND - #31</u>	<u>\$ -</u>	<u>\$ 2,350,200</u>	<u>\$ 4,576,300</u>
<u>GRAND TOTAL - ORDINANCE 79-3</u>			
<u>REVENUES</u>	<u>\$45,305,011</u>	<u>\$56,229,400</u>	<u>\$79,941,100</u>
<u>EXPENDITURES</u>	<u>\$35,451,120</u>	<u>\$56,229,400</u>	<u>\$79,941,100</u>

- NonAdd - Part of Category

1/ Ordinance 78-3F adopted January 9, 1979.

2/ Accrued Interest of \$2,466,489 - Contrary to budget procedures; transfers to CIP Fund were \$6,720,189 and Debt Service Fund of \$179,172 are not reflected in Total Expenditures.

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WESTERN DIVISION

W. MONTE TAYLOR
OPERATIONS MANAGER

Call Margo Waring

109
per margo attended
12/4/79

November 19, 1979

The Honorable Arliss Sturgulewski
2957 Sheldon Jackson Street
Anchorage, AK 99504

Dear Senator Sturgulewski:

The expansion of oil and gas exploration and development into offshore areas around Alaska has stimulated much debate and legislation. One complex but important topic has been the establishment of procedures for the preparation and approval of local government plans for Alaska's coastal areas. The legislation which created this management system was the Federal Coastal Zone Management Act of 1972 and the Alaska Coastal Zone Management Act of 1977. One of the local programs produced by this process is nearing completion and may be before you next session. This program is being prepared by the North Slope Borough and will cover the Beaufort Sea lease sale area.

On December 4, 1979, Exxon will conduct a tour for the House and Senate Community and Regional Affairs and Resources Committee members of our Duck Island exploratory drilling location in the Beaufort Sea. You are cordially invited to attend.

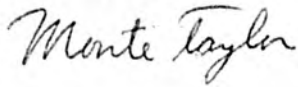
During the tour, you will be given a briefing on issues central to the North Slope Borough's Mid-Beaufort Sea District Program such as oil spill prevention, bowhead whale concerns, arctic drilling procedures, and ice movement management. You will also be taken to our Duck Island well where you can see first hand how we are operating in the Beaufort Sea. We will also have several Canadian representatives who will describe their experiences. A complete agenda is attached.

Page 2
November 19, 1979

Your travel expenses, meals and lodging will be paid by Exxon. Please contact Bob Walker at 263-3780 or Steve Kettelkamp at 263-3778, who will make the necessary arrangements if you can attend. We have a chartered plane to fly the group from Anchorage to Prudhoe Bay with an intermediate stop in Fairbanks.

We believe this tour will be very interesting and of assistance as you consider the issues involved in the North Slope Borough Coastal Zone Management Program.

Sincerely,

A handwritten signature in cursive script that reads "Monte Taylor".

W. M. Taylor

WMT:raw
Attachment

AGENDA - EXXON DUCK ISLAND TOUR

7:30 AM Depart Anchorage via Reeve Airline Charter.
Breakfast served on board.

8:30 AM Arrive Fairbanks.

8:45 AM Depart Fairbanks.

10:00 AM Arrive Prudhoe Bay at ARCO Airstrip.
Walk or bus to ARCO base camp.

10:30 AM Bob Bright, Exxon Alaska Drilling Manager
Presentation on arctic drilling principles
and oil spill prevention.

11:00 AM Stan McKay, Esso Resources, Canada, Ltd.
Frontier Operations Planning Manager
Canadian operations in the Beaufort Sea.

11:30 AM Bob Bright, Exxon Alaska Drilling Manager
Tour of Duck Island well for one half of
group. Transportation to Island via
helicopter or bus depending on weather
conditions.

12:30 PM Bob Bright, Exxon Alaska Drilling Manager
Tour of Duck Island well for second half
of group.

1:30 PM Andy Strilchuck, Esso Resources, Canada, Ltd.
Ice monitoring and control technology.

2:00 PM Mark Fraker, LGL, Ltd., Biologist
Bowhead whale monitoring and findings.

2:30 PM Coffee Break.

3:00 PM Mel Ehrlich, Exxon Alaska Attorney
Beaufort Sea Coastal Zone Management Program.

4:00 PM Depart ARCO Airstrip via Reeve Charter.

4:50 PM Arrive Fairbanks.

5:00 PM Depart for Anchorage.

5:50 PM Arrive Anchorage.

SCOMM

#10:52A

7/13/79
high
and
green

7/8/79

Dear Arliss -

This article illustrates the problem that you and I were talking about.

The lawyer quoted here does not understand that although a unique trust relationship exists in law between Alaska

Natives (and other American Indians) and the federal government, the same type of relationship does not exist between Natives and the state.

Nor should it, in my view -

Best -

Lisa

Interior villages sue over land disposal

by Molly McCammon
for the TUNDRA TIMES

Three Native villages in the Interior have charged the State of Alaska with unlawfully proposing certain lands adjacent to them be included in the state's open-to-entry land disposal program.

The village councils of Minto, Tetlin, and Tanacross, and William Burke, a trapper from Nenana, filed suit in Fairbanks Superior Court June 18 against Commissioner of Natural Resources Bob LeResche and

the State of Alaska.

The suit asks for a permanent injunction against the land disposal scheduled for the Tok Hills, Dugan Hills, and Cathedral Bluffs areas. A total of 2,210 one-to-five acre sites were made available in those three areas. According to Public Information Officer Pete Buist, the State Division of Lands North-central Office accepted about 350 applications for those sites between May 15 and June 15. The land (See VILLAGES, Page Five)

● Interior villages sue over land disposal

(Continued from Page One)

is scheduled to be awarded on June 30.

The plaintiffs' basic claims, said Mike Walleri, an attorney working as a village government specialist for the Tanana Chiefs' Conference in Fairbanks, is that the state failed to allow maximum public participation when first making the decision on which lands to make available.

"The law provides that local residents be provided meaningful participation," Walleri said. "Every single person who testified at a hearing in Manley was opposed to the disposal, and no favorable comments were received at the hearing in Tok. You can hardly call that meaningful participation when the state holds hearings but ignores everything that was said."

Walleri said hearings should also have been held

in Tetlin and Tanacross, and in fact Dot Lake had requested but was denied such a hearing.

Burke a resident of Nenana who traps and owns land in Dugan Hills, claims that he and other adjacent landowners were never consulted about the state's plans.

The suit also contends that the land disposals in dispute are not consistent with the intent of the Alaska Land Disposal Act. That act basically called for land to be made available for homesites near communities with existing services and for scattered recreational sites. Maintained Walleri, "Instead, the state is essentially taking these areas and creating new communities where there were none before."

The suit also claims that

the Alaska Lands Act (AS 38.05), which was passed by the State Legislature in 1976, is racially discriminatory against Native Alaskans. The law requires that state chartered municipal corporations, such as boroughs and cities, be given notice and provided the opportunity for meaningful participation in proposed land disposal.

None of the three villages are organized as cities. The village councils of Minto and Tetlin are organized under the Indian Reorganization Act of 1934, (IRA), and Tanacross has a traditional Native village council. All three councils are recognized by the federal government as the governing bodies for those communities, but none are recognized as such by the State.

"This situation tends to

be racially discriminating," said Walleri, "since most non-Native communities organize as cities, whereas Native communities have a choice of either becoming a city and/or having an IRA or traditional council."

"As originally written the Alaska Lands Act required that notice of all land disposals be given to all organized communities and

adjacent land owners," Walleri said. "Then the Aleut corporation filed suit against some disposals and in 1976 the State Legislature changed the wording of the act so that only municipalities were required to be notified. By doing this, the state has essentially attempted to disenfranchise the entire Native Population."

** Only under federal law!*

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

RECOGNITION OF "VILLAGES"

PROBLEM:

Villages have expressed a desire for recognition by the State of Alaska--that is for a certain legal status. This has been seen as a way of expediting the disposition of the land entitlements designated "for community expansion and appropriate rights-of-way for public use, and other foreseeable community needs" under the Alaska Native Claims Settlement Act (Section 14 (c) (3)).

POSSIBLE COURSES OF ACTION:

1. Do nothing and allow the Municipal Lands Trustee Program to function as trustee until such time as the villages incorporate as municipalities. (See attached copy of the functioning of the program)
2. The State could formally recognize the problem and could initiate action to have the Federal Government recognize second class cities for purposes of BIA funding, Indian Self-Determination Act funds, or special HUD Block Grants for Indian Tribes and Alaska Natives.
3. Legislation could be developed which would classify "villages" as third class cities which would have minimal organizational requirements but which would be legally recognized entities for purposes of revenue sharing and land entitlements under 14 (c) (3). (See Pat Poland's bill attached for the basic concept of the 3rd class city)

MUNICIPAL LANDS TRUSTEE PROGRAM

INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA) mandated that the approximately 200 Alaska Native Villages will obtain nearly 22 million acres of the 40 million acres received from the settlement with the federal government. Village selections range from 69,120 to 161,280 acres, with exception of those in Southeast which are 23,040 acres. According to Section 14(3)(c) of ANSCA, each village, through it's corporation, must convey at least 1,280 acres (two square miles) of "The remaining surface estate of the improved land on which the native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs to the municipal corporation or in trust (to the state)".¹

TRUSTEE ROLE OF THE STATE

Currently, about (100) of the ANSCA recognized villages are also municipal incorporated entities or are located within one (the overwhelming majority of them being second class cities). For the remaining 100 unincorporated communities, the state has accepted (AS 44.47.150) the responsibility as

1. Section 14(c)(3) of the Alaska Native Claims Settlement Act.