

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

377 SCOM10: LOCAL GOVERNMENT STUDY 1979

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urban area governments. The state will need to help finance borough functions in rural areas, and urban localities will need to be compensated for revenues lost through elimination of rural hinterlands (e.g., loss of forest receipts and land selection authority). Though substantial funds are not likely to be available for these purposes until 1978, organizational plans and regional structures can be developed in the meantime. Given the time available, the most appropriate legislative action now would be to establish the framework and elements of policy development. We suggest the following.

Statement of Policy

The legislature should provide for an overall review of the local government system rather than merely for reorganization of the existing unorganized borough as proposed under previous bills. It should adopt a policy statement saying that all unorganized areas of the state will be divided into regional boroughs and providing a mandate to eliminate existing incongruities wherever possible, such as the existing Bristol Bay Borough. The statement should also include reference to urban area governmental problems, indicating state support for borough-city unification and recognizing the need for adjustments in existing urban borough boundaries.

Products

The initial phase of the local government review and restructuring process should provide the legislature with an analysis of the current and future local government situation in the state, a plan for dividing the entire state into boroughs (unorganized and organized), recommendations for restructuring existing boroughs and cities, and proposals for changes in legislation. The legislative report should include an analysis and projection of local government fiscal

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requirements and of the local and state resources necessary to implement the suggested system.

Hearings

The 1973 Gardiner bill included provision for hearings, and these should be provided for in any future legislation to assure that the public is fully informed and that local desires are reflected in recommendations for legislative action.

Responsibilities

Previous proposals concerning the unorganized borough placed responsibilities for developing recommendations on the Local Boundary Commission (LBC) and the Department of Community and Regional Affairs (DCRA); school-oriented proposals placed responsibilities in the state Board of Education and Department of Education.

Alternative 1

LBC and DCRA do not now lack the authority to examine the system of local government in Alaska and to recommend revisions to the legislature. Their relative inaction to date is due largely to lack of time and money. If these agencies are to be charged in cooperation with educational interests with developing a revised system for Alaska local government, sufficient funds will need to be appropriated. Finance assistance should also be provided to study groups in the regions themselves; these groups would work with the state agencies.

Alternative 2

A better approach may be a Local Government Commission created for a limited term to make recommendations to the governor and legislature. A commission might be composed of members such as the chairmen of the legislature's local government committees, other legislators, the commissioners of Community and Regional Affairs and Education, the chairman of the Local Boundary Commission, and some citizen members. This would assure exclusive dedication to the review of the local governmental system and would further the official involvement of a range of interests in developing and promoting recommendations to the legislature. A commission would also require adequate funding and staff, and, again funds should also be provided to regional study groups which would work under the commission.

Timing

The tasks suggested above would require more than the 6-7 months allowed in the Governor/Gardiner bills. The work, including extensive hearings, would justify a one- to two-year schedule, with interim progress reports.

Legislative Action

A simple division of the existing unorganized borough could justify following the constitutional process under which local government boundary changes become effective unless disapproved by the legislature. However, if the much broader program suggested above is to be pursued, it would seem more appropriate for recommendations to be placed before the legislature for positive enactment.

VII. CONCLUSIONS

The broad outlines of a regional jurisdictional pattern and, hence, of state policy, already exist. The existence of established units of borough government in several areas, recognized socio-economic and physical regions of the state, and regional corporations under the Native Claims Settlement Act, sets limits on the range of regional government patterns likely to emerge as a result of "natural" forces. For the same reasons, the scope of deliberate policy choices is also limited. The need as well as opportunity now exist for establishing overall policy for development of Alaska's system of borough governments.

A state policy framework for regional government in Alaska should be responsive both to "natural," largely unplanned developments (e.g., regionalism and unification) and to the need to provide state guidance and direction to local initiatives toward regional government organization. We have proposed a model of extensive regional boroughs, within which city and city-borough governments would perform local and urban area functions. The new regional boroughs could initially be unorganized and might consist of little more than boundaries drawn on a map. The people of the borough regions, however, would have the option to establish organized structures.

The presumption here is that we are concerned with a system responsive both to state and local goals, and that democratic participation in policy and decision making are basic considerations in developing Alaska's borough system. Further, the approach taken here assumes the desirability of dividing the entire state into a system of boroughs, organized and unorganized, in order to (1) promote appropriate decentralization of state services and adaptation of state functions to differential regional needs,

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(2) further self-government and participation of the people in the management of their own affairs, (3) provide a vehicle for regionalized taxation to meet regional and local needs, and (4) develop a structure for sharing state wealth and achieving redistribution of income.

The following points summarize the recommended approach:

- All of Alaska's urban areas are now organized either as cities, boroughs, or city-boroughs. There is, therefore, no need to establish additional urban boroughs. All new boroughs, organized and unorganized, should be regional in scope.
- The range of alternative patterns of regional borough boundaries has already been considerably narrowed down due to existing borough jurisdictions and Native regional corporation areas, as well as established trends and a relatively stable geographic pattern of population distribution and economic activity in the state.
- The state needs to develop and adopt a policy and program for regionalization of boroughs. A general scheme of borough regions should be delineated by a special Local Government Commission or the Local Boundary Commission with the support of the Department of Community and Regional Affairs. This should be done in consultation with state planners, Native corporations, local groups, and other interested parties. The scheme would be subject to change as various regional and urban units are organized or reorganized over time.

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- New organized boroughs should not be forced into being by the state during the next few years, nor should they be established earlier than conditions warrant. At the same time, the state should be prepared to respond to local voluntary action to organize boroughs. Such responses should be based on a broad and flexible conception of what the present unorganized borough should "look like" governmentally, say, a decade from now.
- Until the people of a region determine otherwise, borough regions delineated by the state should remain unorganized, serving only as state administrative regions. Home rule should be viewed as the more appropriate method for regional determination of borough organization and functions.
- Restructuring of the borough system should be accompanied by thorough analysis of fiscal capacities and requirements of regional and local governmental units. Reliance will need to be placed on providing positive incentives to obtain local support for state borough policies and assumption of responsibilities for self-government.

While we have not entirely accepted existing patterns and boundaries as insurmountable obstacles to the structuring of a statewide system of boroughs, we have recognized the realities of established systems and interests. We have at the same time taken account of the increasing interest in establishing boroughs and the new opportunities presented by the changing economy of Alaska. With substantial oil revenues, the state will be able to support more effective regional governments.

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There is no urgency to finally "solve" the unorganized borough question, but it is time to begin moving step-by-step toward a more rational system of regional and local governments. The state should now lead the way toward a system under which local initiatives to incorporate boroughs can be accommodated, while later state legislatures and administrations can, in the light of changing conditions and needs, establish future policies affecting the state-regional-local allocation of functions and finances.

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Equalization of
Local Government Revenues in Alaska

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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).

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 inter-dependent 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.*

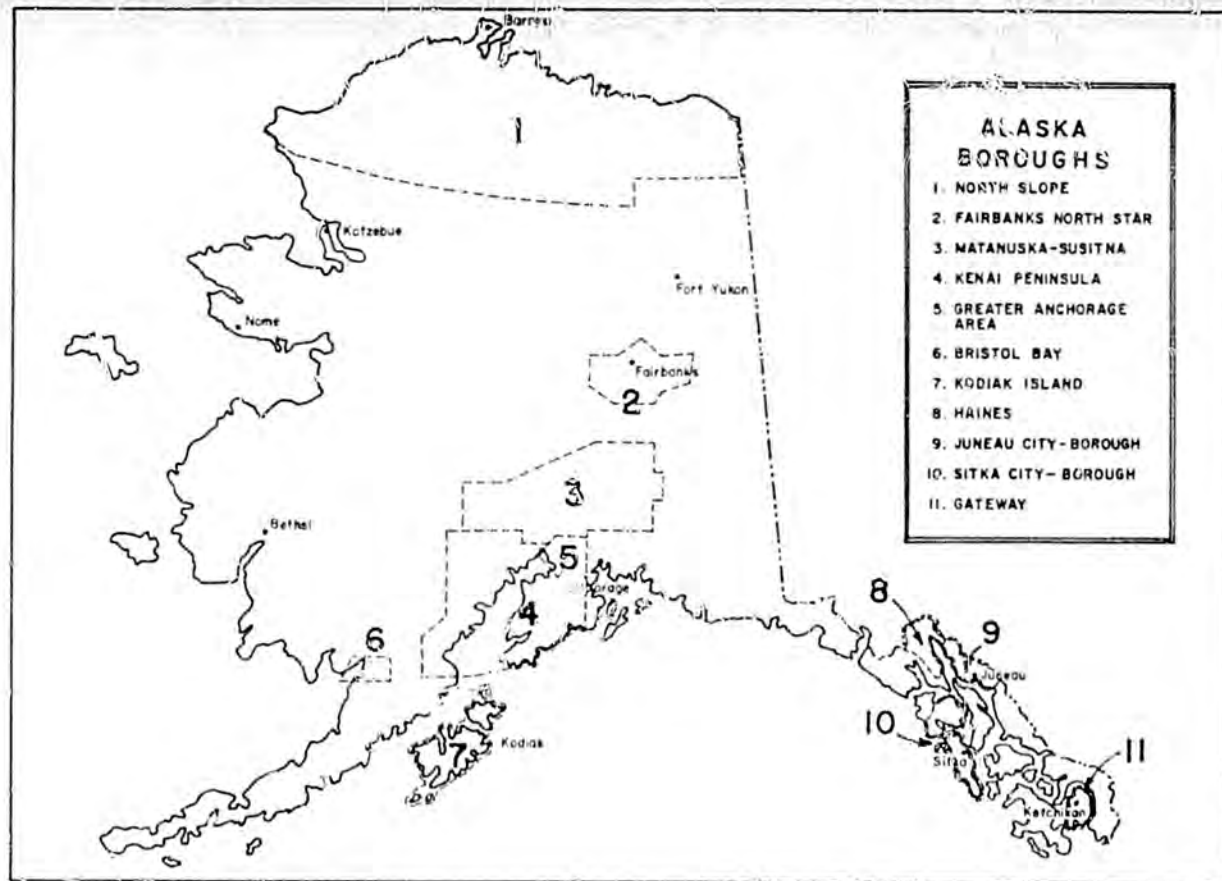
⁹Art. X, Sec. 3, Constitution of Alaska.

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

¹¹The North Slope and Bristol Bay boroughs.

ALASKA BOROUGHES

1. NORTH SLOPE
2. FAIRBANKS NORTH STAR
3. MATANUSKA-SUSITNA
4. KENAI PENINSULA
5. GREATER ANCHORAGE AREA
6. BRISTOL BAY
7. KODIAK ISLAND
8. HAINES
9. JUNEAU CITY-BOROUGH
10. SITKA CITY-BOROUGH
11. GATEWAY



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 nonarea-wide 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.

APPENDIX A

ALASKA STATE CONSTITUTION

Article X

Local Government

Section 1. Purpose and Construction. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Section 2. Local Government Powers. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Section 4. Assembly. The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.

Section 5. Service Areas. Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

Section 6. Unorganized Boroughs. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

Section 7. Cities. Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

Section 8. Council. The governing body of a city shall be the council.

Section 9. Charters. The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

Section 10. Extended Home Rule. The legislature may extend home rule to other boroughs and cities.

Section 11. Home Rule Powers. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

Section 12. Boundaries. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Section 13. Agreements; Transfer of Powers. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Section 14. Local Government Agency. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

Section 15. Special Service Districts. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

APPENDIX B

AN ACT

Creating a Department of Community and Regional Affairs;
and providing for an effective date.

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

*Section 1. AS 44.15.010 is amended by adding a new paragraph to read:

(17) Department of Community and Regional Affairs

*Section 2. AS 44 is amended by adding a new chapter to read:

CHAPTER 47. DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

ARTICLE 1. ORGANIZATION AND PURPOSE.

Sec. 44.47.010. COMMISSIONER OF COMMUNITY AND REGIONAL AFFAIRS. The principal executive officer of the Department of Community and Regional Affairs is the commissioner of community and regional affairs.

Sec. 44.47.020. PURPOSE OF DEPARTMENT. The purpose of the department is to render maximum state assistance to government at the community and regional level.

ARTICLE 2. COMMUNITY AND REGIONAL AFFAIRS.

Sec. 44.47.050. GENERAL POWERS AND DUTIES. The department may

- (1) advise and assist local governments;
- (2) serve as staff for the Local Boundary Commission;
- (3) conduct studies and carry out experimental and pilot projects for the purpose of developing solutions to community and regional problems;
- (4) promote cooperative solutions to problems affecting more than one community or region, including joint service agreements, regional compacts, and other forms of cooperation;
- (5) serve as a clearinghouse for information useful in solution of community and regional problems, and channel to the appropriate authority requests for information and services;
- (6) advise and assist community and regional governments on matters of finance, including but not limited to bond marketing and procurement of federal funds;
- (7) prepare suggested guidelines relating to the content of notice of bond sale advertisements, prospectuses and other bonding matters issued by local governments;
- (8) administer state funds appropriated for the benefit of unorganized regions within the state, allowing for maximum participation by local advisory councils and similar bodies;
- (9) carry out those administrative functions in unorganized boroughs that the legislature may prescribe;
- (10) study existing and proposed laws and state activities that affect community and regional affairs and submit to the governor recommended changes in those laws and activities;

(11) coordinate activities of the state which have impact on community and regional affairs;

(12) assist in the development of new communities and serve as the agent of the state for purposes of participation in federal programs relating to new communities;

(13) supervise planning, management, and other activities required for local eligibility for financial aid under those federal and state programs which provide assistance to community and regional governments;

(14) administer state, and, as appropriate, federal programs for revenue sharing, grants, and other forms of financial assistance to community and regional governments;

(15) provide staff assistance, as requested, to the Rural Affairs Commission;

(16) apply for, receive and use funds from federal and other sources, public or private, for use in carrying out the powers and duties of the department;

(17) request and utilize the resources of other agencies of state government in carrying out the purposes of this chapter to the extent such utilization is more efficient than maintaining departmental staff, reimbursing the other agencies when appropriate;

(18) carry out other functions and duties, consistent with law, necessary or appropriate to accomplish the purpose of this chapter.

ARTICLE 3. PLANNING ASSISTANCE.

Sec. 44.47.080. PLANNING ASSISTANCE TO PLATTING AUTHORITIES. To facilitate urban planning in cities and other political subdivisions, the department may provide planning

assistance, including but not limited to surveys, land-use studies, urban renewal plans, technical services, and other planning work to a city, borough, or other platting authority. In an area under the jurisdiction for planning purposes of a city, borough, or other platting authority, the department may not perform the planning work except at the request or with the consent of the local authority.

Sec. 44.47.090. ASSISTANCE BY CITIES AND PLATTING AUTHORITIES. A city or platting authority may make funds under its control available to the department for the purposes of obtaining planning work or planning assistance, or both, for its area. The department may contract for, accept, and expend the funds for urban planning for the local jurisdiction.

Sec. 44.47.100. PLANNING POWERS OF AUTHORITY. The department may accept and expend grants from the federal government and other public or private sources, may contract with reference thereto, and may enter into contracts and exercise all other powers necessary to carry out secs. 80-100 of this chapter.

ARTICLE 4. RURAL DEVELOPMENT

Sec. 44.47.130. POWERS AND DUTIES. To promote development of rural areas of the state the department is authorized to

- (1) investigate social and economic conditions of rural areas to determine the need to expand economic opportunities and improve living conditions;

- (2) formulate a coordinated program to broaden and diversify the economic base of rural areas;

- (3) coordinate administration of emergency relief, surplus food distribution, or other public assistance programs, except the regular relief and assistance programs of the federal government in rural areas;

(4) formulate and conduct a program of construction of basic facilities to improve health, welfare and economic security and provide employment and income in the rural areas;

(5) promote training and educational programs designed to expand employment opportunities for residents of rural areas.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 44.47.160. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) to carry out the purposes of this chapter.

Sec. 44.47.170. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of community and regional affairs;

(2) "community" means home rule cities and boroughs, cities and boroughs of any class, and unorganized boroughs and villages which are social units;

(3) "department" means the Department of Community and Regional Affairs;

(4) "region" means an area larger than a community, or including all or part of more than one community, but sufficiently integrated that it may be treated as a unit for administration of particular services.

*Sec. 3. AS 43.18.010(a)(4)(B)(ii) is amended to read:

(ii) an annual contract with a recognized planning firm to provide land use planning and plan implementation on a consulting basis with a work program outline approved by the Department of Community and Regional Affairs; or

*Sec. 4. AS 43.18.010(a)(4)(B)(iii) is amended to read:

(iii) the state's continuing planning advisory service program through the Department of Community and Regional Affairs;

*Sec. 5. AS 44.19.250 is amended to read:

Sec. 44.19.250. LOCAL BOUNDARY COMMISSION. There is in the Department of Community and Regional Affairs a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four major senatorial election districts and one from the state at large. The member appointed from the state at large is the chairman of the commission.

*Sec. 6. AS 44.19.260(a)(3) is amended to read:

(3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and

*Sec. 7. AS 44.19.270 is amended to read:

Sec. 44.19.270. MEETINGS AND HEARINGS. The chairman of the commission or the commissioner of community and regional affairs with the consent of the chairman may call a meeting or hearing of the local boundary commission. All meetings and hearings shall be public.

*Sec. 8. AS 44.19.880(a)(10) is amended to read:

(10) assist the governor and the Department of Community and Regional Affairs in coordinating the activities of state agencies which have an impact on the solution of local and regional development problems;

*Sec. 9. When the titles "Local Affairs Agency" or "Rural Development Agency" appear in the law of this state, they shall be read as the "Department of Community and Regional Affairs".

*Sec. 10. AS 18.55.970 - 18.55.990; AS 44.19.180 - 44.19.210; 44.19.580 - 44.19.620; 44.19.880(5) are repealed.

*Section 11. All litigation, hearings, investigations and other proceedings pending under a law amended or repealed or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of law amended or repealed by this Act or functions which may be transferred by this Act, remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by a law amended or repealed by this Act or by virtue of functions which may be transferred by this Act, and in effect on the effective date of this Act, remain in effect until revoked, or modified under the provisions of this Act. Appropriations, records, equipment and other property of agencies of the state integrated with the Department of Community and Regional Affairs established under this Act are transferred to the department. Appropriations and other money available and to become available to agencies the functions, powers and duties of which have been transferred to the Department of Community and Regional Affairs established under this Act shall be available for the objects and purposes for which appropriate or otherwise made available, subject to the terms, restrictions, limitations or other requirements imposed under this section or federal law.

*Sec. 12. This Act takes effect July 1, 1972.

Approved by governor: July 7, 1972

Actual effective date: July 1, 1972

APPENDIX C

IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HOUSE BILL NO. 536

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTH LEGISLATURE—SECOND SESSION

A BILL

For an Act entitled: "An Act providing for boroughs in the unorganized borough; and providing for an effective date."

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

*Section 1. AS 07 is amended by adding a new chapter to read:

CHAPTER 04. BOUNDARIES AND ORGANIZATION OF BOROUGHS IN THE UNORGANIZED BOROUGH.

ARTICLE 1. BOUNDARIES, ADMINISTRATION AND INCORPORATION.

Sec. 07.04.010. BOUNDARIES. By the tenth day following the convening of the first session of the Eighth Legislature, the Local Boundary Commission shall propose to the legislature a division of the unorganized area of the state into unorganized boroughs. The Local Boundary Commission may propose adjustments to the boundaries of existing boroughs to the extent necessary to secure conformity with the standards for borough boundaries set forth in the statutes and in the Constitution of the State of Alaska. A proposed adjustment of existing boundaries shall provide for those transitional matters the

commission considers necessary or appropriate. The boundaries proposed by the Local Boundary Commission become effective 45 days after presentation or at the end of the session whichever is earlier, unless disapproved by resolution concurred in by a majority of the members of each house. The proposed division is not subject to modification by the legislature as an alternative to disapproval, and if disapproved by the legislature the proposed division made in accordance with the section is of no effect.

Sec. 07.04.020. ADMINISTRATION. Unorganized boroughs shall be administered by the Department of Community and Regional Development as prescribed by the legislature.

Sec. 07.04.030. ADVISORY COUNCIL. In each unorganized borough the lieutenant governor, within 60 days of the establishment of unorganized borough in the manner provided in sec. 10 of this chapter shall provide for election of an advisory council of 11 members. The council may participate in an advisory capacity in the development and implementation of state programs and projects relating to the borough. Elections of council members shall be held every four years.

Sec. 07.04.035. COUNCIL MEMBERSHIP. At the time of election and during their tenure advisory council members shall be qualified voters of the state and residents of the borough. A vacancy on the advisory council shall be filled by a person qualified for election to the advisory council and selected by majority vote of the remaining members of the council. If a majority of seats on the advisory council are vacant concurrently, the lieutenant governor shall fill the vacancies by appointment of persons qualified for election to the advisory council.

Sec. 07.04.040. INCORPORATION. A percentage, determined in accordance with AS 07.10.020(8), of the qualified voters of an unorganized borough may petition for organization of the borough as a borough of the first, second or third class in the manner provided in AS 07.10 and 07.17, except that the petition need not include matters relating to boundaries.

ARTICLE 2. HOME RULE CHARTERS.

Sec. 07.04.050. ADOPTION OF CHARTER. An unorganized borough established under this chapter may adopt a home rule charter in the manner prescribed by AS 29.40.010 - 29.40.030 and AS 29.85.110(a) - (d), except that the advisory council elected in accordance with sec. 30 of this chapter shall perform the duties assigned to city councils, and except that the charter commission shall consist of 11 members. Vacancies on the charter commission shall be filled in the same manner as vacancies on the advisory council.

Sec. 07.04.060. ORGANIZATION The charter commission shall initiate organization of the borough in accordance with the terms of the charter by submission of the charter to the Department of Community and Regional Development. The charter shall be submitted within one year of the first meeting of the commission. The department shall review the charter in light of the circumstances of the particular borough and, within 120 days from receipt shall transmit the charter, together with its findings and recommendations, to the Local Boundary Commission.

Sec. 07.04.070. HEARING. The Local Boundary Commission shall hold at least one hearing in the area proposed to be organized for the purpose of hearing public comment on the charter.

Sec. 07.04.080. LOCAL BOUNDARY COMMISSION DETERMINATION. The Local Boundary Commission, within 90 days from receipt of the charter and the recommendations and findings of the Department of Community and Regional Development, shall determine whether the charter meets standards for organization established by the laws and the Constitution of the State of Alaska and by regulations adopted by the commission.

Sec. 07.04.090. REJECTION OF CHARTER. If the Local Boundary Commission determines that the charter fails to meet the standards for organization it shall reject the charter stating in writing its reasons for the rejection.

Sec. 07.04.100. AMENDED CHARTER. A charter commission, within 60 days of rejection, may prepare and submit to the Department of Community and Regional Development an amended charter fairly meeting the stated objections to the original charter. The amended charter shall be evaluated in the same manner as the original charter. No more than one original and one amended charter may be submitted within one 12 month period.

Sec. 07.04.110. RATIFICATION OF CHARTER. If the Local Boundary Commission determines that the charter meets the standards for organization it shall notify the lieutenant governor. As soon thereafter as practicable the lieutenant governor shall provide for an election in the borough on the question of whether or not the charter is ratified and for election of the officers provided for in the charter. The election shall be preceded by publication and posting of the proposed charter by the lieutenant governor substantially in the manner provided for other charter elections in AS 29.85.150.

Sec. 07.04.120. CERTIFICATION OF RESULTS. If a majority of the votes cast by the qualified voters of the borough are against ratification the lieutenant governor shall so certify and shall certify that the charter is defeated. If a majority of the votes cast by the qualified voters on the question are in favor of ratification the lieutenant governor shall so certify and declare that the borough in which the election was held is an organized borough and a municipal corporation in accordance with the terms of the charter. The lieutenant governor shall also certify the names of those candidates who received the greatest number of votes for the offices established by the charter.

Sec. 07.04.125. VOTERS, ELECTIONS AND COSTS. (a) A person is qualified to vote in a borough election authorized in this chapter if he is qualified to vote in state elections and if he is a resident of the borough.

(b) The lieutenant governor shall supervise elections under this chapter as provided for supervision of other borough elections under AS 07.10.120(d).

(c) The state through the office of the lieutenant governor shall assume the costs of elections and charter preparation under this chapter.

*Sec. 2. Nothing in the Act may be construed to affect any organization petition pending on the effective date of this Act. All such petitions shall be acted upon in the manner provided by law in effect prior to the effective date of this Act.

*Sec. 3. AS 07.05.010 and AS 07.05.040 are repealed.

*Sec. 4. This Act takes effect July 1, 1972.

APPENDIX D

IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HOUSE BILL NO. 597

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTH LEGISLATURE—SECOND SESSION

A BILL

For an Act entitled: "An Act providing for assessment, levy, collection and distribution of a property tax; and providing for an effective date."

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

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

CHAPTER 77. PROPERTY TAX

ARTICLE 1. LEVY, ASSESSMENT AND COLLECTION.

Sec. 43.77.010. LEVY OF TAX. An annual tax of 15 mills is levied each tax year, beginning January 1, 1973, on the full and true value of taxable real and personal property located in the state.

Sec. 43.77.020. EXEMPTIONS. The following property is exempt from the tax levied in sec. 10 of this chapter:

(1) an owner-occupied single family dwelling, and the land it stands on, including but not limited to condomini-

niums to the extent of the interest of an owner, and household goods and personal effects, including but not limited to farm equipment, inventory, mechanic's tools and other equipment necessary to the business of the taxpayer and other property of the taxpayer of any description otherwise taxable under this chapter; however, an exemption under this paragraph may not exceed \$50,000;

- (2) property exempt under AS 29.10.336;
- (3) unimproved land;
- (4) aircraft weighing 6,000 pounds or less;
- (5) boats and vessels otherwise taxed by a city or borough.

Sec. 43.77.030. CREDIT. A credit is allowed to an owner on the tax payable with respect to particular property under this chapter equal to the full amount of ad valorem tax levied by a city or borough on the same property for the same tax year and not satisfied by means of a tax credit or by means of a tax incentive.

Sec. 43.77.040. LOCAL EFFORT EXCLUSION. No return need be filed nor tax paid by any person with respect to property located in a city or borough for any tax year as to which the Department of Revenue certifies that the amount of tax which would be levied under this chapter in the city or borough for that year exceeds the amount of revenue raised or anticipated from all local taxes in the city or borough during the tax year next preceding.

Sec. 43.77.050. ASSESSMENT. Assessment of property in unorganized boroughs subject to the tax levied under this chapter shall be carried out by the office of the state assessor in the Department of Community and Regional Development in the manner provided in AS 29.10.378 - 29.10.453 for first class cities, except that the state assessor in the Department of Community and Regional Development shall function in place of the local

assessor and a state assessment review officer shall function in place of the city council sitting as a board of equalization.

Sec. 43.77.060. STATE ASSESSMENT REVIEW OFFICERS. The commissioner of community and regional development shall appoint at least five qualified persons to serve at his pleasure as state assessment review officers. At least one such person shall be appointed from each of the four judicial districts.

Sec. 43.77.070. COMPENSATION, PER DIEM AND EXPENSES. State assessment review officers receive no compensation but are entitled to per diem and expenses authorized by law for boards.

Sec. 43.77.080. POWERS AND DUTIES. Each state assessment review officer has the powers and duties with respect to assessment in unorganized boroughs of a city council sitting as a board of equalization with respect to first class cities.

Sec. 43.77.090. HEARINGS. The commissioner of community and regional development shall assign annually at least one state assessment review officer to hear assessment appeals at appropriate locations in each election district.

Sec. 43.77.100. REAL PROPERTY RECORDING. To assist in assessment of real property subject to tax under this chapter, no recorder may accept for filing any document of transfer unless the document shows on its face a legal description of the property, the names and addresses of the buyer and seller, the date of the sale, and the purchase price, attested to by the transferee, except that, the recorder may accept, in place of this information on the document of transfer, a sworn statement of the transferee containing the same information. The statement shall be held in confidence for use only by the office of the state assessor.

Sec. 43.77.110. COLLECTION AND ENFORCEMENT. The tax levied in this chapter is payable in full to the Department of Revenue on September 30 of the tax year. A penalty of ten per cent shall be added to delinquent taxes and interest at the rate of six per cent a year shall accrue on all unpaid

taxes, excluding penalties, from the due date until paid in full. Collection of the tax levied in this chapter shall be carried out by the Department of Revenue in the manner provided in AS 29.10.456 - 29.10.537 and AS 29.10.348 - 29.10.351 for first class cities.

Sec. 43.77.120. PROCEEDS OF TAX. Money collected under this chapter shall be deposited in the general fund.

Sec. 43.77.130. LIEN FOR TAX. The tax levied under this chapter and interest and penalty set out in sec. 110 of this chapter are liens upon the property assessed and taxed. With respect to property located outside an organized borough and outside of a city, the tax liens provided by this chapter are prior and paramount to all other liens or encumbrances against the property assessed. With respect to property located in cities and boroughs the tax liens provided by this chapter are prior to all liens and encumbrances against the property assessed except liens for taxes levied by the city or borough.

Sec. 43.77.140. FALSE STATEMENT. A person who knowingly makes a false statement in a return required under this chapter as to the amount, location, kind or value of property subject to taxation with intent to evade the taxation is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than five days, or by both, together with the costs of prosecution.

ARTICLE 2. REVENUE SHARING AMONG UNORGANIZED BOROUGHES.

Sec. 43.77.160. DISTRIBUTION OF PROCEEDS. The legislature is authorized to appropriate each year as shared revenue for the benefit of unorganized boroughs an amount equal to the net amount of revenue raised under this chapter in the preceding year on property located in unorganized boroughs. Revenue so appropriated shall be administered by the Department of Community and Regional Development. The department shall hold and

utilize for the benefit of each unorganized borough an amount determined in accordance with secs. 170 - 190 of this chapter.

Sec. 43.77.170. DIRECT RETURN. From the appropriation authorized under sec. 160 of this chapter an amount equal to the net revenue raised by a five mill levy on property taxable under this chapter within each unorganized borough shall be held and used for the benefit of the unorganized borough where the particular property is located.

Sec. 43.77.180. DISTRIBUTION. Revenue appropriated under sec. 130 of this chapter, less revenue allotted in accordance with sec. 170 of this chapter, shall be held and used for the benefit of each unorganized borough in accordance with the ratio of its distribution index to the sum of the distribution indices of all unorganized boroughs.

Sec. 43.77.190. DISTRIBUTION INDEX. The distribution index of each unorganized borough is based upon its wealth, cost of services, population and area and is determined by the following formula:

$$D = \frac{F_a CP}{2F_p}$$

where

D = distribution index

F_a = average fiscal capacity of unorganized boroughs

F_p = fiscal capacity of the particular unorganized borough

C = cost of service which is the cost as determined by the state assessor for each tax year in each particular unorganized borough of providing education, water, sewer, police, fire, administrative and other government services expressed as a percentage of the average cost of such services in all unorganized boroughs.

P = population of the particular unorganized borough as a percentage of total population of unorganized boroughs.

Sec. 43.77.200. DEFINITIONS. In this chapter

(1) "Taxable real and personal property" means property not exempt from taxation under the constitution and laws of the state; particularly the term does not include property exempt under sec. 20 of this chapter, in AS 29.10.342, in AS 29.10.343 and in 29.10.344; the term otherwise includes property exempted from taxation by home rule charter provision and property exempted from execution under AS 09;

(2) "real property" means property defined in AS 29.10.552(1);

(3) "personal property" means property as defined in AS 29.10.552(3) excluding money on deposit;

(4) "unimproved land" means land with respect to which the state assessor in the Department of Community and Regional Development determines that no current physical addition or alteration which enhances the utility, value, or income producing potential exists;

(5) "fiscal capacity" means the total assessed value within an organized borough divided by its population.

Sec. 43.77.210. REGULATIONS. The Department of Community and Regional Development and the Department of Revenue may adopt regulations as appropriate to carry out their respective duties under this chapter.

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

APPENDIX E

IN THE HOUSE

BY THE LOCAL GOVERNMENT COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 598

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTH LEGISLATURE—SECOND SESSION

A BILL

For an Act entitled: 'An Act providing for a state tax on property used in connection with transportation of unrefined oil and gas; and providing for an effective date.'

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

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

CHAPTER 56. OIL AND GAS TRANSPORTATION PROPERTY TAX.

Sec. 43.56.010. LEVY OF TAX. An annual tax of 20 mills is levied each tax year beginning January 1, 1973, on the full and true value of taxable real and tangible personal property employed in the transportation of unrefined oil and gas. With respect to a facility employed for part of a tax year in such a manner as to render it taxable under this chapter or partly so employed for a full tax year, the value of the facility taxable under this chapter shall be proportionate to the employment. Property taxable under this chapter does not include property employed in the construction of facilities taxable under this chapter as distinct from the facilities themselves. The tax levied under this chapter does not apply to property with respect to which an ad valorem tax is

payable to a city or borough on January 1, 1972 and on January 1 of any succeeding year during which a tax is levied under this chapter.

Sec. 43.56.020. EXEMPTIONS. In addition to property excluded under sec. 150(6) of this chapter, the following property is exempt from the tax levied under this chapter:

- (1) producing oil or gas leases;
- (2) machinery, appliances and equipment used in and around a well producing oil or gas and actually used in the operation of a well;
- (3) oil and gas produced in the state upon which gross production taxes are paid;
- (4) pipelines less than 21 inches in diameter.

Sec. 43.56.030. IN LIEU OF OTHER TAXES. Payment of the tax levied under this chapter is in lieu of all ad valorem taxes on property subject to tax under this chapter now or hereafter imposed by the state, or by a city or a borough.

Sec. 43.56.040. ASSESSMENT. Assessment of property subject to the tax levied under this chapter shall be carried out by the Local Affairs Agency substantially in the manner provided in AS 29.10.378 - 29.10.453 for first class cities, except that the agency shall function in place of the local assessor, and the State Assessment Review Board shall function in the place of the city council sitting as a board of equalization.

Sec. 43.56.050. STATE ASSESSMENT REVIEW BOARD. The director of local affairs shall appoint at least five qualified persons to serve at his pleasure as the State Assessment Review Board. At least one person shall be appointed from each of the four judicial districts.

Sec. 43.56.060. PER DIEM AND EXPENSES. Members of the State Assessment Review Board shall be compensated and are entitled to per diem and expenses authorized by law for boards.

Sec. 43.56.070. POWERS AND DUTIES. The State Assessment Review Board has the powers and duties with respect to assessment of property taxable under this chapter of a city council sitting as a board of equalization with respect to first class cities.

Sec. 43.56.080. COLLECTION AND ENFORCEMENT. The tax levied in this chapter is payable in full to the Department of Revenue on September 30 of the tax year, except that, the Department of Revenue may by regulation provide for prepayment of taxes and payment by installments. A penalty of ten per cent shall be added to delinquent taxes and interest at the rate of eight per cent per annum, or four percentage points above the per annum rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the first day of the month preceding the commencement of that calendar quarter, whichever is greater, shall accrue on all unpaid taxes, excluding penalties, from the due date until paid in full. Collection of the tax levied under this chapter shall be carried out by the Department of Revenue substantially in the manner provided in AS 29.10.456 - 29.10.537 and 29.10.348 - 29.10.351 for first class cities.

Sec. 43.56.090. LIEN FOR TAX. The tax levied under this chapter and interest and penalty set out in sec. 80 of this chapter are liens upon the property subject to tax under this chapter. The liens provided by this section are prior and paramount to all other liens or encumbrances upon the same property.

Sec. 43.56.100. FALSE STATEMENT. A person who knowingly fails to file a return when due or makes a false statement in a return required under this chapter as to the amount, location, kind or value of property subject to taxation with intent to evade the taxation is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both, together with the costs of prosecution.

Sec. 43.56.110. DEPOSIT IN GENERAL FUND. The annual revenue from the tax levied under this chapter shall be deposited in the general fund.

Sec. 43.56.120. AUTHORIZATION OF APPROPRIATION. There is authorized to be appropriated to the Local Affairs Agency each year an amount equal to the sum of the amounts deposited in the general fund under sec. 110 of this chapter, less costs incurred or anticipated in administration of the tax for the year of levy.

Sec. 43.56.130. DISTRIBUTION. As soon as practicable following the annual appropriation provided for in sec. 120 of this chapter, the Local Affairs Agency shall distribute to the treasurer of each taxing unit, and shall segregate and hold for the benefit of each unorganized borough, an amount which bears the same ratio to the total amount of the annual appropriation under sec. 120 of this chapter as the distribution index of the governmental unit bears to the sum of the distribution indices of all governmental units.

Sec. 43.56.140. DISTRIBUTION INDEX. The distribution index of each governmental unit is based on its cost of services, wealth and population and is determined annually in accordance with the following formula:

$$D = \frac{PCF_a}{F_p}$$

where

D = distribution index

P = total population of the governmental unit as a percentage of the statewide total population

C = cost of service index

F_p = fiscal capacity

F_a = statewide fiscal capacity.

Sec. 43.56.150. DEFINITIONS. In this chapter

(1) "cost of service index" means the ratio as determined by the Local Affairs Agency of the average cost of materials and personal services, weighed equally, in a particular governmental unit to the average cost of materials and personal services in the state as a whole for each tax year; in determining the cost of service index the state assessor may utilize such standards of reference as federal cost of living data, state employee regional pay differentials and other measures and standards which in his opinion tend to reflect cost differentials of construction materials, labor, and other components of the overall cost of local government operations;

(2) "fiscal capacity" means the ratio of total taxable assessed value to total population in a governmental unit;

(3) "governmental unit" means an organized borough or a city levying ad valorem taxes whether located inside or outside an organized borough, and an unorganized borough;

(4) "statewide fiscal capacity" means the ratio of total taxable assessed value to total population for the state as a whole;

(5) "taxable real and tangible personal property" means property not exempt from taxation under the constitution and laws of the state or of the United States, but does not include any subsurface estate or property used in a consumer distribution system; the term includes otherwise taxable property exempted from taxation under home rule ordinance or charter;

(6) "taxing unit" means any organized borough or city levying ad valorem taxes whether located inside or outside an organized borough.

Sec. 43.56.160. REGULATIONS. The Local Affairs Agency and the Department of Revenue may adopt regulations as

appropriate to carry out their respective duties under this chapter, including regulations governing determination of the population valuation and cost factors in sec. 140 of this chapter.

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

APPENDIX F

IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTH LEGISLATURE—SECOND SESSION

A BILL

For an Act entitled: "An Act providing for equalization of local tax resources; and providing for an effective date."

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

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

CHAPTER 17. STATEWIDE TAX RESOURCE EQUALIZATION.

Sec. 43.17.010. PURPOSE. The purpose of this chapter is to provide for equitable allocation of tax resources among local government units organized and unorganized, and to insure that no area suffers impoverishment of necessary public services, relative to other areas, because of the chance location of taxable wealth within the state.

Sec. 43.17.020. DETERMINATION OF VALUE INCREASE. As soon as practicable following completion of assessment rolls for the tax year beginning January 1, 1973 and each tax year thereafter, the state assessor shall ascertain and certify for each governmental unit the amount by which the value of taxable property within the governmental unit as of January 1, 1973, and

each year thereafter, exceeds the value of the taxable property within the governmental unit as of January 1 of the preceding year. The amount of such excess is the annual value increase of the governmental unit.

Sec. 43.17.030. RETAINED REVENUE. (a) Forty per cent of the net revenue raised by the annual application of the mill rate levy of each taxing unit to the value increase of the tax base of the taxing unit may be retained and expended by the taxing unit in which the increase occurred.

(b) Forty per cent of the net revenue raised by the annual application of the mill rate levy imposed under AS 43.77 to the value increase of each unorganized borough may be appropriated, held and used for the benefit of unorganized boroughs in the manner provided in AS 43.77.160.

Sec. 43.17.040. EQUALIZATION REVENUE. (a) An amount equal to 60 per cent of the net revenue raised by the annual application of the mill rate levy of each taxing unit to the value increase of the taxing unit shall be remitted to the Department of Revenue for deposit in the general fund of the state not later than December 31, 1973 and each year thereafter.

(b) An amount equal to 60 per cent of the net revenue raised by the application of the mill rate levy imposed under AS 43.77 to the value increase of each unorganized borough shall be collected by the Department of Revenue for deposit in the general fund of the state not later than December 31, 1973 and each year thereafter.

Sec. 43.17.050. STATEWIDE TAX EQUALIZATION FUND. There is authorized to be appropriated each year an amount equal to the sum of the amounts deposited in the general fund under sec. 140 of this chapter. The amount appropriated under authority of this section is the statewide tax equalization fund which shall be administered by the Department of Community and Regional Development.

Sec. 43.17.060. DISTRIBUTION. As soon as practicable following appropriation of the statewide tax equalization fund provided for in sec. 50 of this chapter, the Department of Community and Regional Development shall distribute to the treasurer of each taxing unit, and shall segregate and hold for the benefit of each unorganized borough an amount which bears the same ratio to the total amount of the statewide tax equalization fund as the distribution index of each governmental unit bears to the sum of the distribution indices of all governmental units.

Sec. 43.17.070. DISTRIBUTION FORMULA. The distribution index of each governmental unit is based on its cost of services, wealth, population and local tax effort and is determined in accordance with the following formula

$$D = \frac{PCLF_a}{F_p}$$

where

D = distribution index

P = civilian population of the governmental unit as a percentage of the statewide civilian population

C = cost of service index

L = local tax effort

F_p = fiscal capacity

F_a = statewide fiscal capacity.

Sec. 43.17.080. DEFINITIONS. In this chapter

(1) "taxing unit" means any organized borough or city levying ad valorem taxes whether located within or outside an organized borough;

(2) "governmental unit" means an organized borough or a city levying ad valorem taxes whether located within or outside an organized borough, and an unorganized borough;

(3) "fiscal capacity" means the ratio of total taxable assessed value to total population within a governmental unit;

(4) "statewide fiscal capacity" means the ratio of total taxable assessed value to total population for the state as a whole;

(5) "local tax effort" means the ratio of total revenue raised from ad valorem taxes within each governmental unit, including, as applicable, the tax levied under AS 43.77, to the total assessed value of taxable property within the governmental unit;

(6) "cost of services index" means the cost as determined by the state assessor in the Department of Community and Regional Development for each tax year in each particular governmental unit of education, sewer, water, police and fire protection, road construction and other governmental services expressed as a percentage of the average cost of those services in the state as a whole.

Sec. 43.17.090. REGULATIONS. The Department of Community and Regional Development may adopt regulations necessary or appropriate to carry out the purpose of this chapter.

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

SCOMM

#10:59

AN INVENTORY OF EXISTING LAND MANAGEMENT TOOLS IN ALASKA

Part II

(Matrices)



ALASKA
COASTAL MANAGEMENT PROGRAM

produced through

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I. The Alaska Constitution

1	2	Description and Status of Program					Institutional Characteristics			
		3	4	5	6	7	8	9	10	11
Statute Name & Citation	Primary Purpose	Land Area Involved	Impact Upon Coastal Area	Management Tools Employed	Existing Regs/ Guide- lines	Existing Judicial Interpretation	Responsible Agency	Level of Govt'l Coord.	Funding Mechanism	Public Partic- ipation Require
Alaska Const. Art. I, §1 Inherent Rights	To give all persons certain inherent rights, including a natural right to life and liberty	Entire State	Direct	Civil Right Natural Right	N/A	486 P2nd 925 (1971) 501 P2nd 159 (1972)	Judiciary	N/A	N/A	N/A
Alaska Const. Art. I, §2 Source of Government	To provide that all political power is inherent in the people and that all government originates with the people, is founded on their will only, and is instituted for the good of the people as a whole	Entire State	Potential	Civil Right	N/A	1963 Op Atty G. #30 495 P2nd 77 (1972)	Judiciary State Legislature State Executive	N/A	N/A	N/A
Alaska Const. Art. I, §7 Due Process	To prohibit the deprivation of property without due process of law	Entire State	Direct	Civil Right Due Process	N/A	355 P2nd 564 (1960) 457 P2nd 638 (1969) 516 P2nd 1215 (1973)	Judiciary Any State Action	N/A	N/A	Due Process Require- ments
Alaska Const. Art. I, §15 Prohibited State Action	To prohibit laws making irrevocable grants of special privileges or immunities	Entire State	Unclear	Civil Right Prohibition on the granting of special privileges and immunities	N/A	1961 Op Atty G. #12	Judiciary State Legislature	N/A	N/A	N/A

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. I, §1 Inherent Rights		X	X	X		X	
Alaska Const. Art. I, §2 Source of Government	X	X	X	X	X	X	X
Alaska Const. Art. I, §7 Due Process		X		X			
Alaska Const. Art. I, §15 Prohibited State Action		X					

1	2	Description and Status of Program					Institutional Characteristics			
		3	4	5	6	7	8	9	10	11
Statute Name & Citation	Primary Purpose	Land Area Involved	Impact Upon Coastal Area	Management Tools Employed	Existing Regs/ Guidelines	Existing Judicial Interpretation	Responsible Agency	Level of Govt'l Coord.	Funding Mechanism	Public Participation Required
Alaska Const. Art. I, §18 Eminent Domain	To provide for just compensation for private property which is taken or damaged for public use	Private Property	Direct	Civil Right Just compensation required for "taking" and "damaging"	N/A	1967 Op Atty Gen #2 491 P2nd 1069 (1971) 459 P2nd 480 (1969) 524 P2nd 1242 (1974)	Judiciary Any State Action	N/A	N/A	N/A
Alaska Const. Art. I, §22 Right of Privacy	To recognize the right of the people to privacy	Entire State	Unclear	Civil Right Right of Privacy	N/A	1972 Op Atty Gen. (# not available)	Judiciary State Legislature	N/A	N/A	N/A
Alaska Const. Art. II, §19 Local or Special Acts	To prohibit the passing of a local or special act by legislation if general act can be made applicable	Entire State	Potential	Prohibition against "Special" Legislation	N/A	1964 Op Atty Gen #3	Judiciary State Legislature	N/A	N/A	N/A

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. I, §18 Eminent Domain		X	X	X	X	X	
Alaska Const. Art. I, §22 Right of Privacy		X					
Alaska Const. Art. II, §19 Local or Special Acts	X		X				X

1	2	Description and Status of Program					Institutional Characteristics			
		3	4	5	6	7	8	9	10	11
Statute Name & Citation	Primary Purpose	Land Area Involved	Impact Upon Coastal Area	Management Tools Employed	Existing Regs/ Guidelines	Existing Judicial Interpretation	Responsible Agency	Level of Govt'l Coord.	Funding Mechanism	Public Participation Require
Alaska Const. Art. III, §16 Governor: Authority	To authorize the Governor to enforce compliance with any constitutional or legislative mandate	N/A	Unclear	Enforcement Powers	N/A	None	Governor	N/A	N/A	N/A
Alaska Const. Art. III §22 Executive Branch	To insure that all executive and administrative functions take place in not more than 20 principal departments	N/A	Unclear	Limitation on "principal" state departments (Regulatory, quasi-judicial and temporary agencies may be established by law and need not be allocated within a principal department)	N/A	349 P2nd 585 (1960)	N/A	N/A	N/A	N/A
Alaska Const. Art. III §23 Executive Reorganization	To permit the Governor to reorganize the Executive Branch for efficiency purposes	N/A	Unclear	Executive Orders	N/A	None selected	Governor	State Legislature (may veto Executive Orders)	N/A	N/A
Alaska Const. Art. VII §4 Public Health	To provide for the promotion and protection of public health	Entire State	Potential	"To Provide For"	N/A	None selected	State Legislature	N/A	N/A	N/A

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. III, §16 Governor: Authority			X	X		X	X
Alaska Const. Art. III, §22 Executive Branch							
Alaska Const. Art. III, §23 Executive Reorganization							
Alaska Const. Art. VII, §4 Public Health	X	X	X	X	X	X	

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VII §5 Public Welfare	X	X	X	X	X	X	X
Alaska Const. Art. VIII §1 Statement of Natural Re- sources Policy	X	X	X	X	X	X	X
Alaska Const. Art. VIII §2 General Authority	X	X	X	X	X	X	X

1	2	Description and Status of Program					Institutional Characteristics			
		3	4	5	6	7	8	9	10	11
Statute Name & Citation	Primary Purpose	Land Area Involved	Impact Upon Coastal Area	Management Tools Employed	Existing Regs/ Guidelines	Existing Judicial Interpretation	Responsible Agency	Level of Govt'l Coord.	Funding Mechanism	Public Participation Request
Alaska Const. Art. VIII §3 Common Use	To reserve fish, wildlife, and waters to the people for common use wherever occurring in their natural state	Fish, wildlife, and waters in their natural state	Direct	"Common Use" (may be the equivalent of the "Public Trust Doctrine")	N/A	1959 Op. Atty G No.28 See (519 P. 2d 801 (1973) in Art. VIII, s.1	All State Agencies and Gov'ts.	N/A	N/A	N/A
Alaska Const. Art. VIII §4 Sustained Yield	To insure that fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State, are utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.	State owned replenishable resources e.g. forests, grasslands, fish and wildlife	Direct	"Sustained Yield, subject to preferences among beneficial uses"	N/A	See (1959 Op. Atty G No.28 in Art. VIII, s.1)	All State Agencies	N/A	N/A	N/A
Alaska Const. Art. VIII §5 Facilities and Improvements	To provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife and waters	Fisheries, Wildlife, and Waters	Direct	"To provide for"	N/A	See (519 P.2d 801 (1973) in Art. VIII, s.1	State Legislature	N/A	N/A	N/A

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §3 Common Use	X	X	X	X	X	X	X
Alaska Const. Art. VIII §4 Sustained Yield	X	X	X	X	X	X	X
Alaska Const. Art. VIII §5 Facilities and Improvements		X	X	X	X	X	

[illegible]

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §6 State Public Domain	X	X	X	X	X	X	X
Alaska Const. Art. VIII §7 Special Purpose Sites	X	X	X	X	X	X	X

Primary Purpose

Impact
Upon
Coastal
Area

Management
Tools
Employed

Existing Regs/ Guide- lines	Comments

Existing
Judicial
Interpretation

Responsible Agency	
--------------------	--

Level of
Govt'l
Coord.

Funding Mechanism

Public
Partici-
pation
Require

To provide leases or permits for the exploration of any part of the public domain or interests therein, subject to reasonable concurrent uses.

State
Public
Domain
Lands

Direct

Permits, leasing
(subject to
reasonable con-
current uses and
subject to con-
ditions)

N/A

None

State
Legislature

N/A

N/A

Public
notice
(see Art
VIII,
§. 10)

To provide for the sale or grant of state lands or interest therein, reserving resources required by Congress or the State and providing for access to these resources

State
Public
Domain
Lands

Direct

Sale or grant with reservations
("Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.")

N/A

None

State
Legislature

[illegible]

N/A

Public
notice
(see Art
VIII,
§. 10)

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §8 Leases		X	X	X	X	X	X
Alaska Const. Art. VIII §9 Sales & Grants		X	X	X	X	X	X

[illegible]

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §10 Public Notice		X		X			
Alaska Const. Art. VIII §11 Mineral Rights		X	X	X	X		X
Alaska Const. Art. VIII §12 Mineral Leases and Permits		X	X	X	X		

Description and Status of Program

Institutional Characteristics

1 Statute Name & Citation	2 Primary Purpose	3 Land Area Involved	4 Impact Upon Coastal Area	5 Management Tools Employed	6 Existing Regs/ Guide- lines	7 Existing Judicial Interpretation	8 Responsible Agency	9 Level of Govt'l Coord.	10 Funding Mechanism	11 Public Partici- pation Require
Alaska Const. Art. VIII §13 Water Rights	To establish a water appropriation system for the State	All surface and subsur- face waters reserved to the people for common use (except mineral and medicinal waters)	Direct	Prior appropriation gives prior rights Appropriations limited to State purposes (except public water supply, subject to pre- ferences among beneficial uses, and to the general reservation of fish and wildlife	N/A	See 519 P. 2d 801 (1973) in Art. VIII, s.1	All state agencies (primarily DNR)	N/A	N/A	N/A
Alaska Const. Art. VIII, §14 Access to Navigable Waters	To guarantee free access to navigable or public waters of the State	Navigable or public waters of the State	Direct	Legislature defines public waters Legislature may regulate or limit access for other beneficial uses or public purposes	N/A	113 F Supp 700 (1953) 1959 Op Atty G. No. 1 See 519 P. 2d 801 (1973) in Art. VIII, s.1	State Legislature	N/A	N/A	N/A

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §13 Water Rights		X		X			X
Alaska Const. Art. VIII, §14 Access to Navigable Waters	X	X	X	X			X

[illegible]

Possible Application to Section 303 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §15 No Exclusive Right of Fishery		X	X	X	X	X	X
Alaska Const. Art. VIII §16 Protection of Rights		X		X			X

Possible Application to Section 306 Requirements

Statute Name & Citation	Boundary Delineation (S.923.11)	Identification of Permissible Uses (S.923.12)	Identification of Areas of Particular Concern (S.923.13)	Priorities for Land and Water Uses (S.923.14)	National Interest in Facilities Siting (S.923.15)	Areas of Preservation and Restoration (S.923.16)	Assurance that Local Regulations Do Not Restrict Uses of Regional Benefit (S.923.17)
Alaska Const. Art. VIII §12 Uniform Application		X		X			
Alaska Const. Art. VIII §18 Private Ways of Necessity		X		X			
Alaska Const. Art. IX §3 Assessment Standards				X			
Alaska Const. Art. IX §4 Exemptions				X			

Primary Purpose

Land Area
Involved

Impact
Upon
Coastal
Area

Management
Tools
Employed

Existing Regs/ Guide- lines	Comments
1. <u>1990</u> <u>1991</u> <u>1992</u> <u>1993</u> <u>1994</u> <u>1995</u> <u>1996</u> <u>1997</u> <u>1998</u> <u>1999</u> <u>2000</u> <u>2001</u> <u>2002</u> <u>2003</u> <u>2004</u> <u>2005</u> <u>2006</u> <u>2007</u> <u>2008</u> <u>2009</u> <u>2010</u> <u>2011</u> <u>2012</u> <u>2013</u> <u>2014</u> <u>2015</u> <u>2016</u> <u>2017</u> <u>2018</u> <u>2019</u> <u>2020</u> <u>2021</u> <u>2022</u> <u>2023</u> <u>2024</u> <u>2025</u> <u>2026</u> <u>2027</u> <u>2028</u> <u>2029</u> <u>2030</u> <u>2031</u> <u>2032</u> <u>2033</u> <u>2034</u> <u>2035</u> <u>2036</u> <u>2037</u> <u>2038</u> <u>2039</u> <u>2040</u> <u>2041</u> <u>2042</u> <u>2043</u> <u>2044</u> <u>2045</u> <u>2046</u> <u>2047</u> <u>2048</u> <u>2049</u> <u>2050</u> <u>2051</u> <u>2052</u> <u>2053</u> <u>2054</u> <u>2055</u> <u>2056</u> <u>2057</u> <u>2058</u> <u>2059</u> <u>2060</u> <u>2061</u> <u>2062</u> <u>2063</u> <u>2064</u> <u>2065</u> <u>2066</u> <u>2067</u> <u>2068</u> <u>2069</u> <u>2070</u> <u>2071</u> <u>2072</u> <u>2073</u> <u>2074</u> <u>2075</u> <u>2076</u> <u>2077</u> <u>2078</u> <u>2079</u> <u>2080</u> <u>2081</u> <u>2082</u> <u>2083</u> <u>2084</u> <u>2085</u> <u>2086</u> <u>2087</u> <u>2088</u> <u>2089</u> <u>2090</u> <u>2091</u> <u>2092</u> <u>2093</u> <u>2094</u> <u>2095</u> <u>2096</u> <u>2097</u> <u>2098</u> <u>2099</u> <u>2100</u> <u>2101</u> <u>2102</u> <u>2103</u> <u>2104</u> <u>2105</u> <u>2106</u> <u>2107</u> <u>2108</u> <u>2109</u> <u>2110</u> <u>2111</u> <u>2112</u> <u>2113</u> <u>2114</u> <u>2115</u> <u>2116</u> <u>2117</u> <u>2118</u> <u>2119</u> <u>2120</u> <u>2121</u> <u>2122</u> <u>2123</u> <u>2124</u> <u>2125</u> <u>2126</u> <u>2127</u> <u>2128</u> <u>2129</u> <u>2130</u> <u>2131</u> <u>2132</u> <u>2133</u> <u>2134</u> <u>2135</u> <u>2136</u> <u>2137</u> <u>2138</u> <u>2139</u> <u>2140</u> <u>2141</u> <u>2142</u> <u>2143</u> <u>2144</u> <u>2145</u> <u>2146</u> <u>2147</u> <u>2148</u> <u>2149</u> <u>2150</u> <u>2151</u> <u>2152</u> <u>2153</u> <u>2154</u> <u>2155</u> <u>2156</u> <u>2157</u> <u>2158</u> <u>2159</u> <u>2160</u> <u>2161</u> <u>2162</u> <u>2163</u> <u>2164</u> <u>2165</u> <u>2166</u> <u>2167</u> <u>2168</u> <u>2169</u> <u>2170</u> <u>2171</u> <u>2172</u> <u>2173</u> <u>2174</u> <u>2175</u> <u>2176</u> <u>2177</u> <u>2178</u> <u>2179</u> <u>2180</u> <u>2181</u> <u>2182</u> <u>2183</u> <u>2184</u> <u>2185</u> <u>2186</u> <u>2187</u> <u>2188</u> <u>2189</u> <u>2190</u> <u>2191</u> <u>2192</u> <u>2193</u> <u>2194</u> <u>2195</u> <u>2196</u> <u>2197</u> <u>2198</u> <u>2199</u> <u>2200</u> <u>2201</u> <u>2202</u> <u>2203</u> <u>2204</u> <u>2205</u> <u>2206</u> <u>2207</u> <u>2208</u> <u>2209</u> <u>2210</u> <u>2211</u> <u>2212</u> <u>2213</u> <u>2214</u> <u>2215</u> <u>2216</u> <u>2217</u> <u>2218</u> <u>2219</u> <u>2220</u> <u>2221</u> <u>2222</u> <u>2223</u> <u>2224</u> <u>2225</u> <u>2226</u> <u>2227</u> <u>2228</u> <u>2229</u> <u>2230</u> <u>2231</u> <u>2232</u> <u>2233</u> <u>2234</u> <u>2235</u> <u>2236</u> <u>2237</u> <u>2238</u> <u>2239</u> <u>2240</u> <u>2241</u> <u>2242</u> <u>2243</u> <u>2244</u> <u>2245</u> <u>2246</u> <u>2247</u> <u>2248</u> <u>2249</u> <u>2250</u> <u>2251</u> <u>2252</u> <u>2253</u> <u>2254</u> <u>2255</u> <u>2256</u> <u>2257</u> <u>2258</u> <u>2259</u> <u>2260</u> <u>2261</u> <u>2262</u> <u>2263</u> <u>2264</u> <u>2265</u> <u>2266</u> <u>2267</u> <u>2268</u> <u>2269</u> <u>2270</u> <u>2271</u> <u>2272</u> <u>2273</u> <u>2274</u> <u>2275</u> <u>2276</u> <u>2277</u> <u>2278</u> <u>2279</u> <u>2280</u> <u>2281</u> <u>2282</u> <u>2283</u> <u>2284</u> <u>2285</u> <u>2286</u> <u>2287</u> <u>2288</u> <u>2289</u> <u>2290</u> <u>2291</u> <u>2292</u> <u>2293</u> <u>2294</u> <u>2295</u> <u>2296</u> <u>2297</u> <u>2298</u> <u>2299</u> <u>2300</u> <u>2301</u> <u>2302</u> <u>2303</u> <u>2304</u> <u>2305</u> <u>2306</u> <u>2307</u> <u>2308</u> <u>2309</u> <u>2310</u> <u>2311</u> <u>2312</u> <u>2313</u> <u>2314</u> <u>2315</u> <u>2316</u> <u>2317</u> <u>2318</u> <u>2319</u> <u>2320</u> <u>2321</u> <u>2322</u> <u>2323</u> <u>2324</u> <u>2325</u> <u>2326</u> <u>2327</u> <u>2328</u> <u>2329</u> <u>2330</u> <u>2331</u> <u>2332</u> <u>2333</u> <u>2334</u> <u>2335</u> <u>2336</u> <u>2337</u> <u>2338</u> <u>2339</u> <u>2340</u> <u>2341</u> <u>2342</u> <u>2343</u> <u>2344</u> <u>2345</u> <u>2346</u> <u>2347</u> <u>2348</u> <u>2349</u> <u>2350</u> <u>2351</u> <u>2352</u> <u>2353</u> <u>2354</u> <u>2355</u> <u>2356</u> <u>2357</u> <u>2358</u> <u>2359</u> <u>2360</u> <u>2361</u> <u>2362</u> <u>2363</u> <u>2364</u> <u>2365</u> <u>2366</u> <u>2367</u> <u>2368</u> <u>2369</u> <u>2370</u> <u>2371</u> <u>2372</u> <u>2373</u> <u>2374</u> <u>2375</u> <u>2376</u> <u>2377</u> <u>2378</u> <u>2379</u> <u>2380</u> <u>2381</u> <u>2382</u> <u>2383</u> <u>2384</u> <u>2385</u> <u>2386</u> <u>2387</u> <u>2388</u> <u>2389</u> <u>2390</u> <u>2391</u> <u>2392</u> <u>2393</u>	

Existing
Judicial
Interpretation

Responsible Agency	
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Level of
Govt'l
Coop'd.

Funding Mechanism

Public
Partic
pation
Aggrin

To exempt from the restrictions on local and state debts revenue bonds by public corporations, indebtedness to be paid from special assessments on the benefited property and refunding indebtedness of the State or its political subdivisions

Entire State

Unclear

Exemptions on
debt restrictions

N/A

None

State
Legislature
Government
of
Political
Subdivis-
ions

N/A

N/A

N/A

To provide for maximum local self-government with a minimum of local government units, to prevent duplication of tax-levying jurisdictions, and to provide for a liberal construction of the powers given to local government units

Local
Government
Units

Unclear

"Liberal Construction" of Local Government Powers

N/A

518 P2nd 92 (1974)

Local
Governments.

N/A

N/A

N/A

Possible Application to Section 306 Requirements

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Alaska Const. Art. IX, §11 Exemptions							
Alaska Const. Art. X, §1 Purpose and Construction (of Art. X on Local Government)	X						

Possible Application to Section 306 Requirements

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Alaska Const. Art. X, §2 Local Government Powers	X	X	X	X	X	X	
Alaska Const. Art. X, §3 Boroughs	X	X	X	X	X	X	
Alaska Const. Art. X, §4 Assembly	X	X	X	X	X	X	

Description and Status of Program

Institutional Characteristics

1 Statute Name & Citation	2 Primary Purpose	Description and Status of Program					Institutional Characteristics			
		3 Land Area Involved	4 Impact Upon Coastal Area	5 Management Tools Employed	6 Existing Regs/ Guide- lines	7 Existing Judicial Interpretation	8 Responsible Agency	9 Level of Govt'l Coord.	10 Funding Mechanism	11 Public Partici- pation Require-
Alaska Const. Art. X, §5 Service Areas	To permit the borough assemblies to establish, alter or abolish service areas to provide special services and to allow the levying of taxes, charges or assessments to finance the special services	Organized Boroughs	Potential	Special Service Areas Taxes, Charges and Assessments	N/A	None	Borough Assemblies	N/A	N/A	N/A
Alaska Const. Art. X, §6 Unorganized Boroughs	To authorize the legislature to provide for services in unorganized boroughs and to permit the legislature to exercise all powers in the unorganized boroughs that the borough assemblies may exercise in organized boroughs	Unorganized Boroughs	Potential	State Legislature to act as borough assembly in ur- organized boroughs	N/A	None	State Legislature	N/A	N/A	"Maximum local partici- pation and responsi- bility"

