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Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all
correspondence to:
LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

LOCAL GOVERNMENT SYMPOSIUM

PIONEER SCHOOL HOUSE
THIRD AND EAGLE
Anchorage, Alaska

AUGUST 4-5, 1979



Official Business

Alaska State Legislature

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TO: Local Government Symposium Participants

FROM: Senator Arliss Sturgulewski, Co-Chairman
Representative Bill Parker, Co-Chairman

DATE: August 4, 1979

We are pleased that you can take part in this meeting, which we believe will be significant in the development of rural policy for the State of Alaska.

First, a little background on the Local Government Study. This effort was initiated by us in response to recognized problems related to local government in Alaska. The Department of Community and Regional Affairs, as well as the Municipal League, have supported such a study to clarify and resolve questions dealing with municipal relationships and the broader questions related to municipal/State relationships.

The need for the study became evident to the members of our Committees during the First Session of the Eleventh State Legislature with consideration of legislation dealing with revenue sharing, "instant unification," annexation, taxation of the unorganized borough and implementation of coastal zone management in rural Alaska. Additionally, a proposal by the Tanana Chiefs' Conference to create regional and subregional planning commissions raised the question of the adequacy of the State's service delivery mechanisms in the unorganized borough.

The Symposium is the first of a two-step process which is solution oriented. After the work product of the Symposium is refined, the Joint Committee will travel to rural Alaska to broaden public involvement and to solicit comment on the proposals to be considered by the Legislature.

An auxiliary component of the Study will be an identification of municipal concerns by the Alaska Municipal League. Organized municipalities are currently being surveyed with the results of the questionnaire to be reviewed at the League's August meeting in Valdez. Legislative proposals developed in response to the survey will also be reviewed by the Joint Committee.

As participants of the Symposium, you are being asked to provide us with direction in identifying current issues and proposing legislative solutions.

Your packet contains material developed to provide an overview of the unorganized borough as it exists today. This material is seen as a starting point for our inquiry into what can be done to improve the quality of the interaction between government and the people it serves in rural Alaska.

PROPOSED AGENDA
LOCAL GOVERNMENT SYMPOSIUM
AUGUST 4/5, 1979

Pioneer School House
Third and Eagle
Anchorage, Alaska

SATURDAY, August 4

- 8:30 A.M. Sign In/Coffee
- 9:00 A.M. Welcome and Introductions of Committee Members
Senator Arliss Sturgulewski
Representative Bill Parker
- Introduction of Participants
Representative Bill Parker
- Background of Study and Overview of Study Components
Senator Arliss Sturgulewski
- History of Local Government in Alaska
Mr. Vic Fiscner
- 9:45 A.M. Problem and Issue Identification
Participants
- Possible Topics:
1. Rural capacity for self governance
 2. Equitable distribution of revenue from Alaska's resources
 3. Role of non-profit corporations in rural Alaska
 4. Equity in service delivery
 5. Incentives and disincentives to the formation of local and regional government
- NOON Recess. An informal buffet lunch will be served in the Pioneer School House.
- Afternoon Alternative strategies and solutions for addressing problems and issues
Participants

SUNDAY, August 5

9:30 A.M. Continue discussion of legislative and non-legislative solutions
Identify issues in need of further policy study, evaluation and research
Identify legislative priorities
Participants

NOON ch

1:15 P.M. Continue morning discussion
Discuss plan for public hearings
Participants

LOCAL GOVERNMENT SYMPOSIUM - August 4/5, 1979

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PACKET CONTENTS

IVORY	I	CHRONOLOGY OF MAJOR EVENTS RELATED TO REGIONAL GOVERNMENT
TAN	II	STATEMENT OF THE PROBLEM
YELLOW	III	SERVICE DELIVERY IN THE UNORGANIZED BOROUGH
GOLDENROD	IV	IDENTIFICATION OF SERVICES AND PROGRAM PROVIDED BY NON-GOVERNMENTAL AND QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH
SALMON	V	DEVELOPMENT OF TRADITIONAL, NON-TRADITIONAL AND QUASI-GOVERNMENTAL NATIVE METHODS OF ORGANIZATION FOR LOCAL AND REGIONAL SELF GOVERNMENT
PINK	VI	IDENTIFICATION OF REQUESTS RE BOROUGH FORMATION AND BOROUGH INCORPORATION STANDARDS AS INTERPRETED BY LOCAL BOUNDARY COMMISSION
WHITE	VII	ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT IN THE UNORGANIZED BOROUGH
BLUE/WHITE	VIII	OUTLINE OF SIGNIFICANT LEGISLATIVE PROPOSALS RELATED TO ORGANIZATION AND FINANCIAL EQUALIZATION IN THE UNORGANIZED BOROUGH
GREEN	IX	REVIEW OF STATUTORY INDUCEMENTS AND DISINCENTIVES RE MUNICIPAL GOVERNMENT INCORPORATION
BLUE	X	LIST OF DISPLAY MATERIALS AVAILABLE AT SYMPOSIUM

Acknowledgements

I

CHRONOLOGY

MAJOR EVENTS AFFECTING REGIONAL GOVERNMENT

MAJOR EVENTS AFFECTING REGIONAL GOVERNMENT IN ALASKA

- 1912 ORGANIC ACT (CREATION OF THE TERRITORIAL LEGISLATURE)
- 1934 INDIAN REORGANIZATION ACT
- 1935 CREATION OF PUBLIC UTILITY AND INDEPENDENT SCHOOL DISTRICTS
- 1955-1956 STATE CONSTITUTIONAL CONVENTION
- 1958 ALASKA STATEHOOD ACT
- BOROUGH/UNORGANIZED BOROUGH CONCEPT
- LOCAL GOVERNMENT AGENCY
- LOCAL BOUNDARY COMMISSION
- HOME RULE
- 1961 BOROUGH ACT OF 1961
- 1963 MANDATORY BOROUGH ACT (EIGHT BOROUGH ORGANIZED BY 1/68)
- 1967 UNIFICATION AUTHORIZED
- 1967 CREATION OF HAINES 3RD CLASS BOROUGH (EDUCATIONAL DUTIES ONLY)
- 1970 JUNEAU-DOUGLAS UNIFICATION
- 1971 SITKA UNIFICATION
- 1972 ALASKA NATIVE CLAIMS SETTLEMENT ACT (PL 92-203)
CREATION OF THE NORTH SLOPE BOROUGH
COASTAL ZONE MANAGEMENT ACT PASSED
STATE DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS CREATED
- 1975 ANCHORAGE MUNICIPALITY ESTABLISHED (UNIFIED HOME RULE)
INDIAN SELF-DETERMINATION AND EDUCATION ACT (PL 93-638)
- 1976 CREATION OF THE RURAL EDUCATION ATTENDANCE AREAS (REAA's)
- 1979 TANANA CHIEFS' PLANNING PROPOSAL
NANA REGIONAL STRATEGY EVOLVES
YUKON FLATS BOROUGH STUDY
- 1980 U.S. DECENNIAL CENSUS
- 1982 REAPPORTIONMENT OF ELECTION DISTRICT REPRESENTATION GOES INTO EFFECT

II

STATEMENT OF THE PROBLEM

STATEMENT OF THE PROBLEM

The following problem areas have been identified with the existing unorganized borough structure of rural Alaska:

1. Sufficiency of available local government structures to meet the need for local government entities at the community and regional level.
2. Sufficiency of the economic base in the unorganized borough in financing the basic local government functions.
3. An equitable statewide distribution of revenue from Alaska's resources.
4. Continually creating overlapping jurisdictional boundaries within the unorganized borough used for both administrative and service delivery purposes and the inefficiencies resulting from same.
5. The role of the quasi-governmental organizations as service deliverers and the functioning of such organizations as substitutes for local government when often such groups are limited to serving only Alaska Natives.
6. The inequities in a system in which residents are not, generally, afforded the opportunity to participate directly in the decision-making process nor to participate on an equal basis in terms of financing local services.
7. Dissatisfaction in the unorganized borough with existing municipal and state services, or the lack of them, as evidenced through extensive field contact by the Department of Community and Regional Affairs and through legislative proposals advanced in recent years.
8. The question of state vs. municipal responsibility for funding and delivery of public services and the construction, maintenance and operation of public facilities.

III

SERVICE DELIVERY TO THE UNORGANIZED BIRROUGH

SERVICE DELIVERY
TO THE UNORGANIZED BOROUGH

The Alaska State Constitution states:

"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."

Article X, Section 6

There are presently three legislatively-mandated service areas:

1. Aquaculture Service Areas
2. Coastal Resource Service Areas
3. Regional Educational Attendance Areas (REAs)

AQUACULTURE SERVICE AREAS

In 1979, the Legislature amended AS 16, the Aquaculture Program, with FCCS HB 359 (Ch. 59, SLA 1979) granting the Commissioner of Commerce and Economic Development the authority to declare qualified regional associations, incorporated as non-profit corporations, as "service areas" within the unorganized borough for the purpose of providing salmon enhancement services.

Under this provision, a regional aquaculture association, comprised of associations representative of commercial fishermen and other representatives within the region, whose board of directors includes no less than one representative of each member user group, which has incorporated as a nonprofit corporation, becomes a service area within the unorganized borough with the authority to tax designated species of salmon caught commercially within the region and apply the proceeds to salmon enhancement programs.

On July 13, 1979, Judge Allen Compton, Superior Court, declared that the state may not dedicate a tax on the harvest of a natural resource of the state to a specific purpose by the device of declaring the tax for the purpose of providing a service within a so-called service area in the unorganized borough. Further, it was the Court's view that an incorporated nonprofit association may not become a "service area," either by inference or express legislative declaration. (No. 1JU-78-191 Civil Memorandum of Decision and Order - Judge Allen Compton, Superior Court.)

The Southern Southeast Regional Aquaculture Association will appeal Judge Compton's ruling.

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

COASTAL RESOURCE SERVICE AREAS

Coastal Resource Service Areas are authorized by the Alaska Coastal Management Act of 1977 to plan for the coastal areas. Each regional educational attendance area containing a part of the coastal area may be organized for this purpose or two or more REAAs may be consolidated as a single coastal resource service area. Implementation of the plans which are developed is the responsibility of the state.

At the present time, residents of two areas in the unorganized borough have voted to create coastal resource service areas. The Northwest Coastal Resource Service Area, comprising the area covered by REAA 1, has elected its seven-member board and will develop a coastal management plan.

On May 15, 1979, residents of REAA 3 and 4 voted to create the Yukon/Kuskokwim Delta Coastal Resource Service Area and will elect its board members on September 11, 1979. The City of Bethel opted to be excluded from this service area. In the Yukon/Kuskokwim area, the Department of Community and Regional Affairs entered into an agreement with Nunam Kitlutsisti, Inc. (Protectors of the Land,) the environmental planning area of Association of Village Council Presidents (AVCP) to provide a public outreach program presenting organizational options and procedures for coastal management in the area.

There have been expressed concerns related to how the state, through the appropriate state agencies, will actually implement an approved district coastal management program in the unorganized borough. Under AS 38.05.037, the Division of Lands has a general grant of authority to exercise zoning powers within the unorganized borough. Until recently, this has not been a problem because the zoning power was never used. However, where land-use controls are involved in coastal resource service areas, zoning will have to be established and administered by the Division of Lands.

On this subject, Mr. Vic Fischer in a memorandum to Mr. Steve Reeve, DNR, (February 2, 1979) recommends:

"If the state is deemed to have an overriding interest that requires it to exercise zoning authority in the unorganized borough, or at least within its coastal areas, neither ADL (Alaska Division of Lands) or DNR (Department of Natural Resources) appear to be the appropriate agency to manage the zoning program, with its strictly localized zoning, adjustment, appeals, and other aspects of continuing zoning administration. If the state is to engage in zoning, by far the most appropriate agency for the exercise of the function is the Department of Community and Regional Affairs (DCRA did not exist at the time ADL was granted zoning authority many years ago.)

In general, states have played only a minor role in the exercise of zoning authority beyond authorizing its use by local governments. The only exception is Hawaii, where general zoning classification is handled by the state, supplemented by local government; i.e., county, regulations in urban and other development areas. Elsewhere, zoning has been applied as a local government police power.

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

COASTAL RESOURCE SERVICE AREAS (Cont'd)

Except for the special authority given ADL, zoning in Alaska has traditionally been a power of cities and, more recently, of boroughs. Zoning would not have to be exercised by the state at all if provisions were made for (1) reorganization of the unorganized borough into a series of organized boroughs with planning and zoning authority (and this could be done without forcing them to tax or even manage schools) or (2) delegating the planning and zoning power to service areas within the unorganized borough, much as was done by the legislature in the case of coastal management planning."

REGIONAL EDUCATION ATTENDANCE AREAS (REAA's)

REAA's were created in 1975 as the mechanism through which the Legislature delegates to regional school boards the authority to operate the public schools using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Settlement Act or a combination of such boundaries.

Because the REAA's represent a major effort in regionalization, local control and decentralization of service delivery in the unorganized borough, the boundaries of which are also to be used for coastal zone management purposes, an in-depth history and analysis of the REAA's is included for your review.

During the early 1970's, the Center for Northern Educational Research was requested by the Department of Education to initiate a study of the delivery of educational services in the unorganized borough and the Interim Legislative Committee on Pre-Higher Education of the Eighth Legislature identified decentralization of the Alaska State-Operated Schools as the subject it wanted to study. The final report published in 1974, entitled "Pre-Higher Education in the Unorganized Borough: Analysis and Recommendations," included a wide range of recommendations. A primary point was the recognition of the need for local control of education and the relationship of that local control with local government creation.

"In order that any plan be more than temporary, the authority for controlling education should be aligned with the development of local governmental units as envisioned by Alaska's Constitution. If local control can be defined as that measure of control which a state delegates to local units of government, then the issues of local control of education cannot be treated separately from the broad issue of the creation of local units of government. And local government units formed around the delivery of education can provide the vanguard for local control over delivery of other governmental services. Therefore, the structure created to serve educational needs must be formed in anticipation of increases in appetites for control of other governmental functions. To ignore the need for legislative support to move toward creating local government units will only blunt the emerging desire of local citizens to assume the reigns and responsibility for their own destiny." p. 34

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

REGIONAL EDUCATIONAL ATTENDANCE AREAS (REAA's) (Cont'd)

The Center approached this subject with a note of caution; however,

"Local control of education in many regions is the main reason for creating local government units. All such creations, however, must await the readiness and desire of local people to assume control over them...the main sources of constituent resistance to local government stem from 1) lack of self-confidence, understandable, in the light of past history 2) groundless fear that the local tax base must be the primary source of local government, especially school funding, and 3) an acute shortage of trained personnel to handle what must seem like the endless march of administrative details.." p. 35

BOUNDARIES OF THE REGIONAL EDUCATIONAL ATTENDANCE AREAS

AS 14.08.031 (a) provides that REAA boundaries follow regional boundaries set under the Alaska Native Claims Settlement Act unless by referendum a community votes to merge with another community contiguous to it but within the boundaries or sub-boundaries of another regional corporation. The use of regional lines was not intended to be exclusive as shown by AS 14.08.031 (b) prescribing certain characteristics for REAA's.

"As far as practicable, each regional educational attendance area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of the REAA's, consideration shall be given to the transportation and communication between communities that comprise the area. Wherever possible, municipalities, other governmental or regional corporate entities, drainage basins and other identifiable geographic features shall be used in describing the boundaries.."

Taken together, these two sections suggest that REAA boundaries are to follow, rather than cross, regional corporation boundaries where they contact them and conform to natural or other predetermined boundaries. This is how the State Department of Community and Regional Affairs, which was charged with administering the act in consultation with the State Department of Education, interpreted it in a series of informational meetings in rural areas around the state in July and August, 1975. Later they began implementing it similarly when hearings were held in numerous bush locations regarding proposed boundaries. The result of the hearings was a division of the state into some 21 REAA's. Originally 20 REAA's were created by C&RA, but after a meeting of residents of REAA 17 and the Governor, REAA 21 (including Whittier and Tatitlek) was created on September 24, 1975, dividing REAA 14 along the boundary between the Chugach and Ahtna Regional Corporations.

Frequent mention has been made of the fact that the statutory characteristics for boundary selections of the REAA's are similar to the standards for borough incorporation.

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

ADMINISTRATION OF THE REAAs

REAA voters elect a board of from 5-11 members who are voted on "at large." In addition to the elected board for each REAA, every community (or military reservation) with a school has a community school committee. The Statute merely charges them to "review and make recommendations to the board" of the REAA "concerning the curriculum, program and general operation of the local school. They may, however, be delegated other functions by the school board.

Matters of employment, salaries, purchasing, and disbursement of funds are lodged with the REAA boards. Although the power to "adopt regulations governing organization, policies and procedures for the operation of the schools" and to "develop a philosophy of education, principles and goals for the schools" is a board responsibility, the Commissioner of Education is given overriding control of school operations.

FINANCING REAAs

All funds for REAAs are furnished by the State Legislature. They receive "basic need," as used in computing foundation aid to districts, plus an amount equal to the average per pupil local tax contributions in city and borough districts. Thus, they are relieved of local effort requirements, but the amount they can receive from the state over and above basic need is indirectly determined by city and borough decisions regarding their local tax effort. (AS 14.08.12)

Among the local financial concerns of the REAAs, even as they began their first year of operation with full state support, were the following: (See Summary of Findings Alaska School Finance Study Workshops October-November 1976, published February 1977)

1. Public School Foundation Program. While few wished to change the basic funding method, concern was expressed about the ability of the formula to provide sufficient funds to meet operating costs, especially those of small attendance centers. The validity, accuracy and amounts of instructional unit allotments (regional cost differentials) were questioned. The ability of "basic need" dollars to meet the REAAs' "basic program need" was of great concern. (Two important legislative changes made in the Public School Foundation Program in 1977 responded to the financial concern of the REAAs. One recognized the plight of the very small attendance centers and provided for an increased minimum of instructional units. The second change modified the instructional unit allotments (regional cost differentials) to be more in line with the cost of doing business in rural and isolated areas of the state.)

2. School Construction. The amount of funds available for new construction, as well as the manner in which it is provided, received extensive criticism. Even as the FY 1978 building program got underway, REAAs expressed additional concern about the proportion of bond issue building funds being retained by the supervising state agencies for administrative purposes.

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

FINANCING REAAs (Cont'd)

3. Equity. REAAs, with no local source of revenue, have limited ability to operate discretionary programs beyond what is possible with the amount in lieu of local taxes available to each. The possibility that legislation might be enacted to tax property in REAAs was of concern.

4. Operation and Maintenance of School Facilities. Extreme operational costs often result from inheriting substandard or poorly designed facilities. Costs of operating facilities are unpredictable, and in some cases were expected to consume as much as one-third of the operating budget. Inherited utility contracts was singled out as an item of great concern.

5. Other Financial Concerns. State and federal categorical programs were items of much concern, partly because obtaining some of these funds depends upon the grant writing ability of the REAA. High costs of travel and meeting expenses for school boards and superintendents were expected to cause problems. Inadequate funding for school food service programs was also identified as a major concern. The acceptance and operation of former BIA schools was of concern because of the possibility that current funding methods might not be adequate to provide funds necessary to operate the schools. Costs of teacher housing was a problem in some REAAs.

SERVICE DELIVERY TO THE UNORGANIZED BOROUGH (Cont'd)

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

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

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

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

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

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

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

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

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

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

SB 35 AND REGIONAL GOVERNMENT *

Patrick K. Poland

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

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

Regional Identification

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

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

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

Finance

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

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

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

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

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

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

Notes

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

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

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

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

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

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

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

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

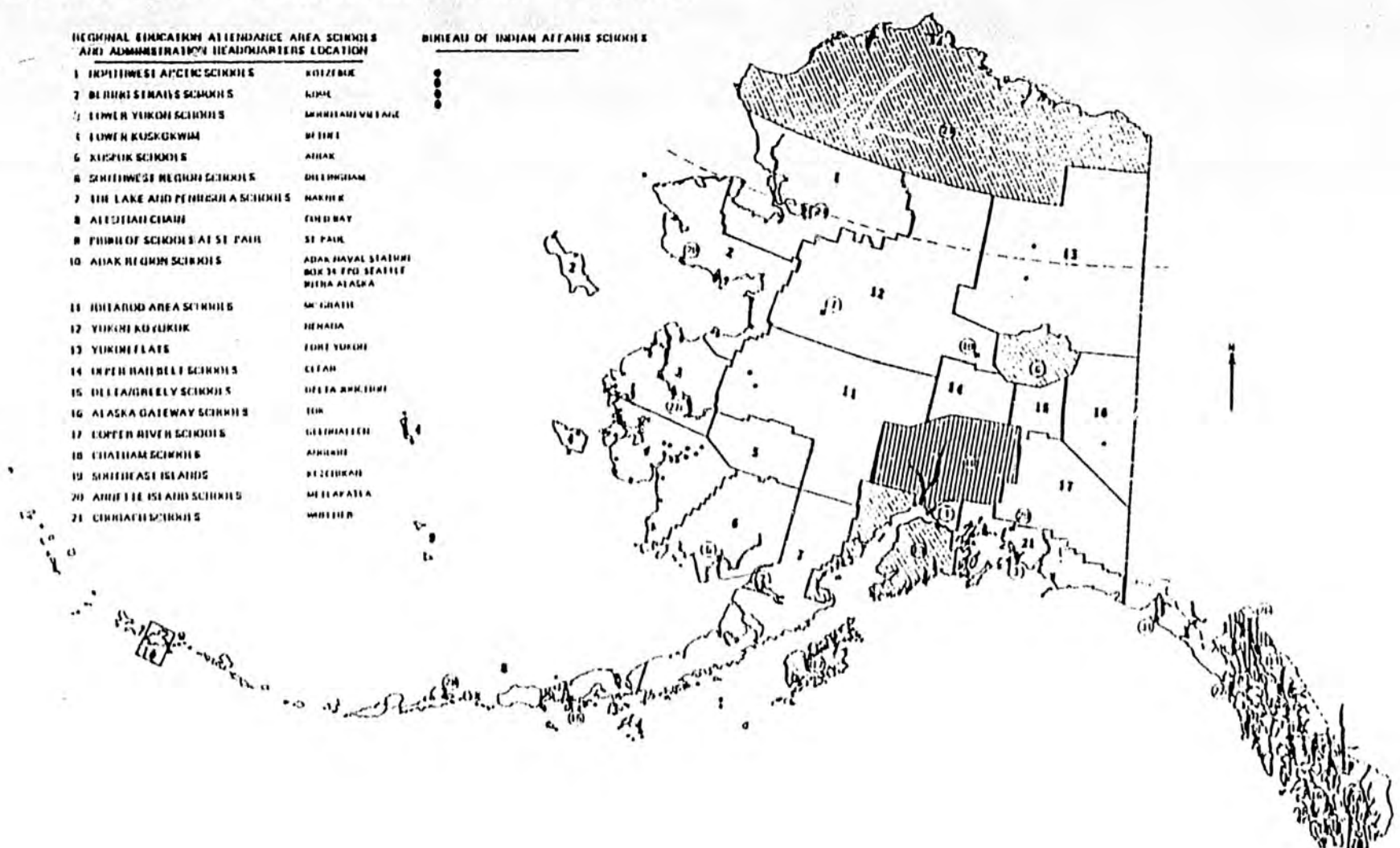
MUNICIPAL AND CITY SCHOOL DISTRICTS

- (1) ANCHORAGE DISTRICT SCHOOLS
- (2) BOULDER PARK DISTRICT SCHOOLS
- (3) CHUGACHA CITY SCHOOLS
- (4) COAL CITY SCHOOLS
- (5) DELTA DISTRICT CITY SCHOOLS
- (6) FAIRBANKS NORTH STAR DISTRICT SCHOOLS
- (7) GADSDEN CITY SCHOOLS
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REGIONAL EDUCATION ATTENDANCE AREA SCHOOLS AND ADMINISTRATION HEADQUARTERS LOCATION

- | | |
|----------------------------------|--|
| 1 NORTHWEST ARCTIC SCHOOLS | KOTZEBE |
| 2 DELTA SCHOOLS | KODIAK |
| 3 LOWER YUKON SCHOOLS | MERRILLVILLE |
| 4 LOWER KUSKOKWIM | WHEAT |
| 5 KUSKOKWIM SCHOOLS | ATIAK |
| 6 SOUTHWEST REGION SCHOOLS | DEERHEAD |
| 7 THE LAKE AND PENINSULA SCHOOLS | HAKIR |
| 8 ALASKA SCHOOLS | CHODAY |
| 9 PRINCE OF SCHOOLS AT ST. PAUL | ST. PAUL |
| 10 ALASKA REGION SCHOOLS | ADAK NAVAL STATION
BOX 34 FPO SEATTLE
WITNA ALASKA |
| 11 HILAROD AREA SCHOOLS | MC GRATH |
| 12 YUKON KODIAK | HENADA |
| 13 YUKON FLATS | FORE YUKON |
| 14 UPPER HAIL BELT SCHOOLS | CLIF |
| 15 DELTA AREA SCHOOLS | DELA WHEAT |
| 16 ALASKA GATEWAY SCHOOLS | TEK |
| 17 UPPER RIVER SCHOOLS | LEWISTON |
| 18 CHATHAM SCHOOLS | AKHON |
| 19 SOUTHEAST ISLANDS | KLEBANK |
| 20 ADRIAN ISLAND SCHOOLS | MELAPATA |
| 21 CERRITOS SCHOOLS | WHEAT |

BUREAU OF INDIAN AFFAIRS SCHOOLS



From
Schools of Alaska
July 1, 1976
U.S. Department of Education, Bureau of Education for the Handicapped
1976

IV

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

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

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

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

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

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

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

TABLE I

Services Provided by Native Regional Nonprofit Corporations

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

Native Regional Corporations	Adult Basic Education	BIA - Agri-Industry	BIA - ANA grant	BIA - Credit	BIA - Tribal Operations	BIA - Employment Services - ASIS/SCANS	BIA - Higher Education	BIA - Housing Improvement	BIA - Realty	BIA - Social Services	Community Planning	Cultural Preservation	Education - JOH	Employment - CETA	Health Service	Housing	Local Government Training	Subsistence Resource Development
Cook Inlet Region	X					X	X			X		X	X	X	X	X		X
Koniag	X										X		X	X	X	X		X
Arctic Slope Region		X	X	X	X				X	X		X			X	X		
Bristol Bay Native Corp.											X		X	X	X	X	X	X
Sealaska				X	X	X		X		X	X	X	X	X	X	X	X	X
Chignach			X									X	X	X	X	X		X
Boyon			X		X	X	X			X	X	X	X	X	X	X	X	X
AIIHA											X	X	X	X	X	X		
Alutian	X										X	X	X	X	X	X		
Callista	X					X	X			X	X	X		X	X	X	X	X
Derling Straits	X											X		X	X	X		
IIAHA			X	X		X	X	X		X	X	X		X	X	X	X	X

TABLE 1. SERVICES PROVIDED BY NATIVE REGIONAL NONPROFIT CORPORATIONS

TABLE II

Funding Sources for Regional Nonprofit Corporations

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

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

Native Regional Corporations	Div. of Indian/ Native Affairs	FY 79	HUD Indian Housing		HUD FY 79 Community Development Block Grant	Federal Revenue Sharing	State Revenue Sharing	State RDA Grants	BIA Contracted Services	BIA JOH	Rural Cap
			FY 79	other on-going projects							
Cook Inlet Region	2,499,950	1,350,077		2,149,925				20,000	1,721,292	413,656	80,000
Koniag	766,384	446,472	816,000	1,839,701	285,000			70,000	250,223	370,287	172,545
Arctic Slope ⁴ Region	1,456,761	446,012							767,107		
Administered by AFH											
Bristol Bay Native Corp.	1,164,157	1,062,219			225,000	137,094	141,124	52,150		386,232	285,545
Sealaska	3,950,241 656,862 586,535	211,705			698,000	505,375	552,139	116,200	4,868,621	224,284	181,180
Chugach	397,862	384,521		1,632,000		353,080	470,539	17,000		160,094	96,000
Dayon	3,954,371	1,776,384		10,357,000	191,000	170,248	360,288	61,850	4,736,696	482,622	237,090
AHHA	190,254	396,617				19,348		40,000		86,784	
Aloulian	583,320	444,000	489,600	6,772,800		80,088	234,508	124,000	136,497	253,023	1168,000
Callista	6,642,150	2,794,568	4,161,600	5,703,600	401,350	479,040	763,205	219,000	1,721,766	284,198	1,165,450
Berling Straits	2,010,085	1,574,705		12,742,003	240,000	212,976	511,232	133,877	308,103	11,951	272,180
HAHA	1,466,867	975,174		2,751,854	230,000	161,020	214,533		246,788		
Total	6,325,807	12,302,954	5,467,200	71,557,953	2,683,550	2,069,020	2,257,868	842,077	14,757,093	3,423,836	7,057,990

TABLE 11 FINANCIAL SERVICES FOR REGIONAL HOPIROD II CORPORATIONS

TABLE III

Governmental and Non-governmental Structures within the Unorganized Borough

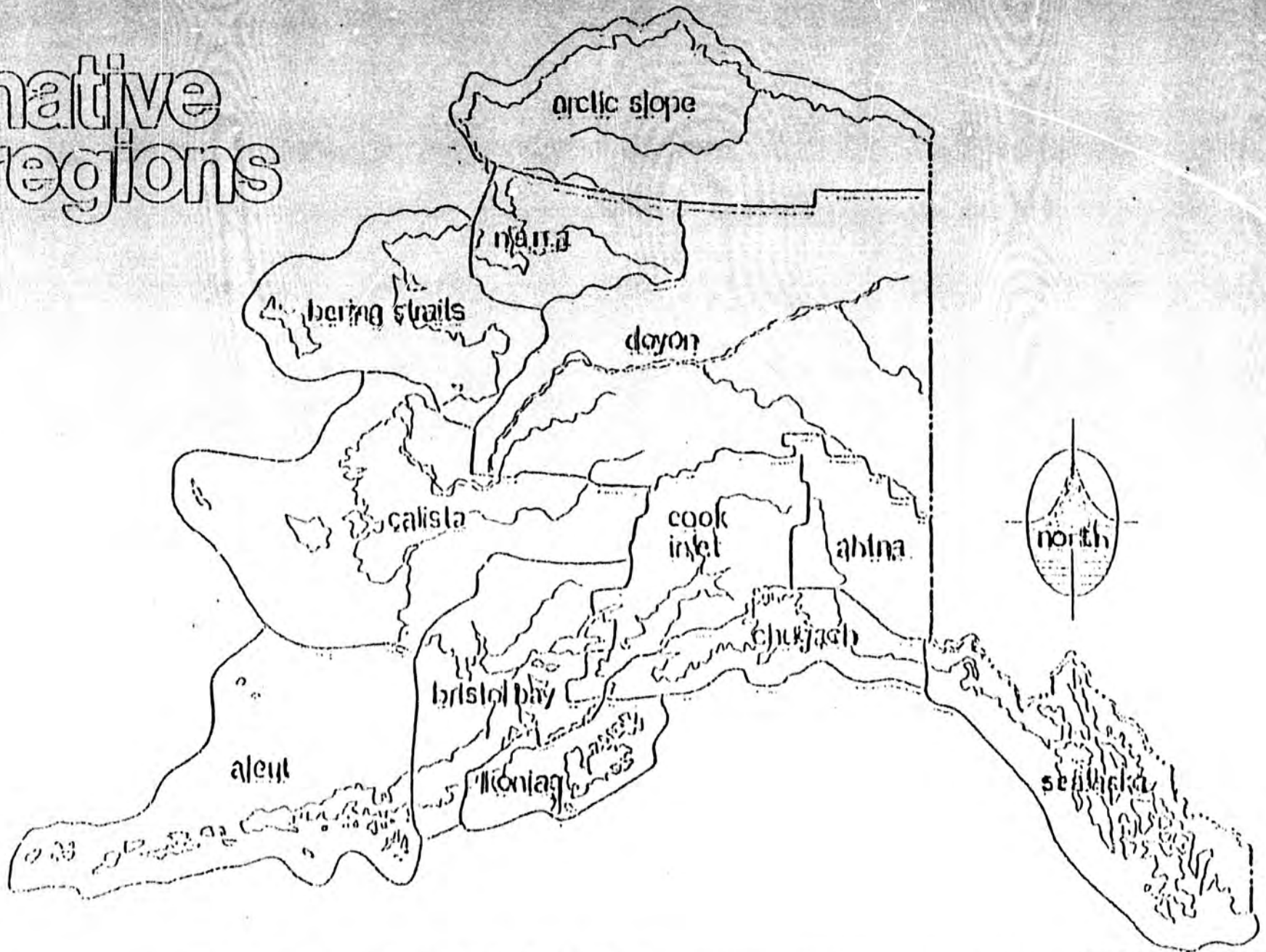
Table III is an attempt to look at the variety and numbers of governmental and non-governmental structures existing within the various regions. Within each region there are the constitutionally recognized forms of local government and public school systems. However, the Indian Reorganization Act (IRA)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

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

TABLE III REGIONAL STRUCTURES

Regional Native Profit Corporations	Organized Boroughs			Incorporated Communities			IRA Councils		Native Profit Corporations	REAA's	Independent School Districts	SIA Schools	Village Corporations	
	Unified Home Rule Municipalities	Home Rule	Second Class	Third Class	Home Rule Cities	First Class Cities								Second Class Cities
Arctic Slope		1				1	3	5		4		1		8
Aleutian						3	1	4		2	1	3		13
AKIJA			1							2	1			8
Bering Strait						1	11	15		4	2	1	10	16
DYJstol Bay			2			1	12	14		3	2	2		25
Cook Inlet	1		2		2	3	3	2		2		3		8
HAHA							11	0		2	1			1
Calista						1	35	10		6	3	1	27	44
Boyon			2		2	2	18	10		5	4	2	5	27
KAHA			1		1		5	1		1		1		14
Chugach			1		3		1	2		2	1	2		5
Sealaska	2		1	1	3	9	7	10		3	3	14		12
Total	3	1	10	1	11	21	107	81		16	10	30	42	181

native regions



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

EARLY POLITICAL FORMATIONS

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

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

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

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

One of the more effective and persistent of early Native groups has been the Tlingit-Haida Central Council. The organization was formed in 1929 as an off-shoot of ANS and ANB primarily to pursue a lawsuit against the U.S. Government for twenty-million acres in Southeast Alaska. The matter was finally settled in 1968 with the Council receiving a 7.5 million dollar judgment award. The group, which includes 27 communities as members, still exists and is recognized as a tribal organization under the Self-Determination Act of 1975.

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

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

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

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

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

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

Current Status

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

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

SECOND CLASS CITIES

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

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

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

Current Status

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

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

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

Borough governments appear to have a second class status in terms of organization and village council status. In course, depending on its size, structure, powers and powers. Currently there exist two distinctly different bush area boroughs which share a number of common characteristics with the unorganized borough. As a method of assessing the impact on future boroughs or local structures, it is necessary to review the past experience of these two governments.

Bristol Bay Borough

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

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

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

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

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

North Slope Borough

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

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

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

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

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

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

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

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

VI

IDENTIFICATION OF REQUESTS RE BOROUGH FORMATION

AND

BOROUGH INCORPORATION STANDARDS AS INTERPRETED BY LOCAL BOUNDARY COMMISSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ALTERATIONS TO REGIONAL GOVERNMENTS

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

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

LOCAL BOUNDARY COMMISSION INTERPRETATION OF BOROUGH INCORPORATION STANDARDS

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

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

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

These standards are further refined in the statutes.

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

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

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

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

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

The Department stated:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY

GENERAL LAW BOROUGH COMPARISON

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

VII

ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT
IN THE UNORGANIZED BOROUGH

PROPOSED ALTERNATIVES TO THE QUESTION OF REGIONAL GOVERNMENT IN UNORGANIZED BOROUGH

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

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

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

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

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

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

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

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

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO:

Bob LeReshe, Director
Division of Planning and Policy
Development

DATE:

July 21, 1976

FILE NO:

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

TELEPHONE NO:

FROM:

Lee McAnerney, Commissioner
Community & Regional Affairs *LM*

SUBJECT:

REGIONAL GOVERNMENT IN THE UNORGANIZED BOROUGH

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

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

STRUCTURE

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

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

In reverse order, the above are discussed.

THE STATUS QUO

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

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

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

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

CONTINUATION OF THE REAA TREND

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

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

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

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

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

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

CREATION OF SERVICE AREAS:

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

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

DIVISION OF THE UNORGANIZED BOROUGH

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

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

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

ESTABLISHMENT OF ORGANIZED BOROUGHES:

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

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

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

FINANCING

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

July 21, 1976

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INTERGOVERNMENTAL RELATIONSHIPS

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

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

municipal services;

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

CONCLUSIONS

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

STRUCTURE

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

Education
Health
Planning
Public Safety (fire and police protection)

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

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

FINANCING

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

INTERGOVERNMENTAL RELATIONS

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

VIII

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

(NONE OF THE BILLS CITED BECAME LAW)

LEGISLATIVE PROPOSALS
UNORGANIZED BOROUGH

SB 101 (1969)

HB 730 (1970)

HB 161 (1971)

HB 122 (1973)

FORM OF
REGIONAL
GOVERNMENT
AUTHORIZED

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

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

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

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

MANNER OF
ORGANIZATION

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

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

Discretionary with the director of the Local Affairs Agency.

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

FISCAL INCENTIVES
AND IMPLICATIONS

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

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

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

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

LEGISLATIVE PROPOSALS
UNORGANIZED BOROUGH

SB 122 (1973)

HB 291 (1973)

HB 202 (1977) HB 9 (1979)

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

FORM OF REGIONAL GOVERNMENT AUTHORIZED	None. This was the predecessor of legislation eventually enacted in 1975 to provide for the decentralization of responsibility for the operation of schools.	Unorganized borough districts. This legislation is quite similar to HB 596 except that the entities are called "unorganized borough districts" and it modified the local hearing requirements with respect to the drawing of the boundaries of these districts and requires affirmative legislative approval of the proposed boundaries.	None.	FORM OF REGIONAL GOV'T. Unorganized borough units each of which would have authority to adopt home rule charters. (HB 596) Boundaries would be recommended by the Boundary Commission. Voters would choose 11 member advisory council in each borough.
MANNER OF ORGANIZATION	Mandatory formation of educational service areas.	(See above and HB 596)	Not applicable.	MANNER OF ORGANIZATION Mandatory formation of unorganized borough units. (HB 596) FISCAL INCENTIVES AND IMPLICATIONS Extension of the property tax levy on a statewide basis (HB 597), with the levy of a premium rate on certain real and personal property of companies engaged in oil and gas activities (HB 598), was, even with the credits & exemptions allowed, expected to be sufficient to meet revenue sharing demands built into the two bills. The sharing of general property tax revenue, involving population and fiscal capacity factors, represented a realistic effort to address economic disparities. Major source of shared revenue was to be 20 mill tax on pipeline property (HB 598) however, sharing scheme was converted in the House to one based on economic impact - real or imagine-non-conductive to providing revenues on a sustained basis to meet the costs of public services at the local level.
FISCAL INCENTIVES AND IMPLICATIONS	Full state funding of the basic costs of educational services to be provided; no authorization to generate and expend revenues from local sources.	(See above and HB 596)	The levy of a millage rate, the proceeds of which are to be deposited in the General Fund to partially off-set state-funded educational costs, would constitute the first general property tax levy in the unorganized borough. The tax would necessarily fall on the improved commercial property as possibility exists 2nd Class cities would establish residential exemptions.	

IX

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION

STATUTORY INDUCEMENTS AND DISINCENTIVES RELATED TO BOROUGH
GOVERNMENT INCORPORATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CITY GOVERNMENT

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

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

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

REGIONAL GOVERNMENT

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

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

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

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

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

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

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

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

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

X

LIST OF DISPLAY MATERIAL AVAILABLE AT SYMPOSIUM

DISPLAY MATERIALS
AVAILABLE AT SYMPOSIUM

MAPS/OVERLAYS

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

MATRICES

1. Local Government Structures
2. Land Statistics

VIDEO-TAPE

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

ACKNOWLEDGMENTS

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

- + Jack Chenoweth -"Review and commentary on proposed legislation"
- + Lamar Cotten -"Development of traditional, non-traditional and
- quasi- governmental Native methods of organization"
- + Jim Sanders -"Identification of services and programs provided by the non-governmental and quasi- governmental organizations in the unorganized borough"

The Department of Community and Regional Affairs and in particular;

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- + Pat Poland -"Identification of requests regarding borough formation"
- + Eric Simpson -"Review of statutory inducements and disincentives for municipal government incorporation"

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Jane Angvik, Alaska Public Forum

Murray Walsh, Office of Coastal Management

OVERLAYS

A. LOCAL GOVERNMENT AND SERVICE AREAS

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

B. ADMINISTRATIVE DISTRICTS & REGIONS

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

C. GENERAL

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

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OVERLAYS

A. LOCAL GOVERNMENT AND SERVICE AREAS

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

B. ADMINISTRATIVE DISTRICTS & REGIONS

173 units used by state agencies + federal.

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

C. GENERAL

- (C - 1) ALASKA NATIVE CLAIMS SETTLEMENT ACT REGIONAL CORPORATION BOUNDARIES
- (C - 2) CENSUS AREAS - 1980
- (C - 3) ELECTION DISTRICTS - 1974
- (C - 4) STATE PLANNING REGIONS ✓ several dept have adopted for data collection

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

Vic

6/23/79
Jim SANDERS

MAJOR EVENTS AFFECTING REGIONAL GOVERNMENT IN ALASKA

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

①
6/25/77

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

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

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

②

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

TABLE I

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

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TABLE II

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

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

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Native Regional Corporations

	Adult Basic Education	BIA-Agri-culture	BIA-ANA grant	BIA Credit	BIA triba operations	BIA Employment Assistance	BIA Higher Education	BIA Housing Improve-ment	BIA Realty	BIA-Social Services	Community Planning -EDA-	Cultural Preser-vation.	Education JOM	Employment CETA	Health Service	Housing	Local Government Training	Subsis-tance Resource Advocacy
Cook Inlet Region	X					X	X			X		X	X	X	X	X		X
Koniag	X										X		X	X	X	X		X
Arctic Slope Region		X	X	X	X				X	X		X			X	X		
Bristol Bay Native Corp.											X		X	X	X	X	X	X
Sealaska				X	X	X		X		X	X	X	X	X	X	X	X	X
Chugach			X									X	X	X	X	X		X
Doyon			x		X	X	X			X	X	X	X	X	X	X	X	X
AHTNA											x	X	x	x	x	x		
Aleutian	X										X	X	X	X	X	X		
Calista	x					x	x			x	x	x		x	x	x	x	x
Bering Straits	x											x		x	x	x		
NANA			X	X		X	X	X		X	X	X		X	X	X	X	X

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

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

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AS A UNIT IN THE ORIGINAL DOCUMENT.

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

EARLY POLITICAL FORMATIONS

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

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

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

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

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

7/24/79 (2)

INDIAN REORGANIZATION ACT COUNCILS/TRADITIONAL COUNCILS

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

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

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

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

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

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

Current Status

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1/24/79 (7)

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

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

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

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

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

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

Form of regional government authorized:

First and second class general law boroughs.

Manner of organization:

Optional: upon submission of a petition containing information as to

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

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

Fiscal incentives and implications:

The borough enjoyed authority

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

and

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

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

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

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

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

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

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

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

Became law without signature April 29, 1961

CHAPTER 146

(C.S.H.B. 17)

TABLE OF CONTENTS

Article I. The Unorganized Borough	Sec. 2.13. Integration of Existing Special Districts and Service Areas
Sec. 1.01. Establishment	Sec. 2.14. Transition
Sec. 1.02. Service Areas	Article III. Powers of First and Second Class Boroughs
Sec. 1.03. Transition of Special Service Districts	Part 1. General Powers of First and Second Class Boroughs
Article II. Incorporation of an Organized Borough	Sec. 3.01. Powers of the First and Second Class Boroughs
Sec. 2.01. Incorporation Proposed by Petition	Sec. 3.02. Annexation and Exclusion
Sec. 2.02. Form of Petition	Sec. 3.03. Indebtedness
Sec. 2.03. Standards for Incorporation	Sec. 3.04. Expenditure of Revenues
Sec. 2.04. Standards for Composition and Apportionment	Sec. 3.05. Service Areas
Sec. 2.05. Standards for Assignment of Areawide Powers	Sec. 3.06. Transferred Powers
Sec. 2.06. Review by Local Affairs Agency	Part 2. Areawide Powers of First and Second Class Boroughs
Sec. 2.07. Return of Petition	Sec. 3.31. Scope of Areawide Powers
Sec. 2.08. Investigation	Sec. 3.32. Assessment and Collection
Sec. 2.09. Report to Local Boundary Commission	Sec. 3.33. Education
Sec. 2.10. Hearing by Local Boundary Commission	Sec. 3.34. Planning and Zoning
Sec. 2.11. Determination by Local Boundary Commission	Sec. 3.35. Additional Areawide Powers
Sec. 2.12. Election	Part 3. First and Second Class Boroughs' Powers in the Area Outside Cities Only

- Sec. 3.71. Powers of the First Class Borough
- Sec. 3.72. Powers of the Second Class Borough
- Sec. 3.73. Additional Powers for Second Class Borough
- Sec. 3.74. Form of Petition
- Sec. 3.75. Review by Local Affairs Agency
- Sec. 3.76. Return of Petition
- Sec. 3.77. Investigation
- Sec. 3.78. Report to the Local Boundary Commission
- Sec. 3.79. Hearing by Local Boundary Commission
- Sec. 3.80. Election

Part 4. Transfer of Powers to First and Second Class Boroughs

- Sec. 3.91. Transfer by City

Article IV. Organized Borough Assembly

- Sec. 4.01. General Power and Composition
- Sec. 4.02. Election and Appointment
- Sec. 4.03. Reapportionment
- Sec. 4.04. Term of Office
- Sec. 4.05. Qualification
- Sec. 4.06. Organization
- Sec. 4.07. Procedure
- Sec. 4.08. Acts Required to be by Ordinance
- Sec. 4.09. Form of Ordinances
- Sec. 4.10. Ordinance Procedure
- Sec. 4.11. Emergency Ordinances
- Sec. 4.12. Codes of Technical Regulations
- Sec. 4.13. Budget
- Sec. 4.14. Centralized Purchasing
- Sec. 4.15. Post Audit
- Sec. 4.16. Codification

Article V. Borough Executive

- Sec. 5.01. Executive Power
- Sec. 5.02. Borough Manager
- Sec. 5.03. Powers and Duties of the Borough Chairman
- Sec. 5.04. Functions Under Direction and Supervision of Borough Chairman
- Sec. 5.05. General Provisions
- Sec. 5.06. Bonding of Officers
- Sec. 5.07. Personal Financial Interest
- Sec. 5.08. Right to Participate in Assembly Meetings

- Sec. 5.09. Prohibitions
- Sec. 5.10. Borough Personnel System

Article VI. Elections

- Sec. 6.01. Qualification of Voters
- Sec. 6.02. Regular Election
- Sec. 6.03. Special Election
- Sec. 6.04. Administration of Election
- Sec. 6.05. Nominations
- Sec. 6.06. Creating and Declaring Vacancies in Office
- Sec. 6.07. Filling Vacancies
- Sec. 6.08. Initiative, Referendum, Recall
- Sec. 6.09. Majority Elections
- Sec. 6.10. Borough Sections

Article VII. Classification, Reclassification, Merger, Consolidation, Dissolution

Part 1. Classification and Reclassification

- Sec. 7.01. Classification
- Sec. 7.02. Reclassification

Part 2. Merger and Consolidation

- Sec. 7.11. Who May Petition
- Sec. 7.12. Form of Petition
- Sec. 7.13. Review by Local Affairs Agency
- Sec. 7.14. Return of Petition
- Sec. 7.15. Investigation
- Sec. 7.16. Report to Local Boundary Commission
- Sec. 7.17. Hearing by Local Boundary Commission
- Sec. 7.18. Determination by Local Boundary Commission
- Sec. 7.19. Election
- Sec. 7.20. Assets, Liabilities of Merged or Consolidated Boroughs
- Sec. 7.21. Ordinances

Part 3. Dissolution

- Sec. 7.41. Who May Petition
- Sec. 7.42. Form of Petition
- Sec. 7.43. Standards for Dissolution
- Sec. 7.44. Review by Local Affairs Agency
- Sec. 7.45. Return of Petition
- Sec. 7.45. Investigation

- Sec. 7.47. Report to Local Commission
- Sec. 7.48. Hearing by Local Boundary Commission
- Sec. 7.49. Determination of Boundary
- Sec. 7.50. Election

Relating to organized a

Be it enacted by the State of Alaska:

Article

The Unorganized

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

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

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

Article

Incorporation of an O

Sec. 2.01. Incorporation of a second class organized

Sec. 7.47. Report to Local Boundary Commission
 Sec. 7.48. Hearing by Local Boundary Commission
 Sec. 7.49. Determination by Local Boundary Commission
 Sec. 7.50. Election

Sec. 7.51. Immediate Dissolution
 Sec. 7.52. Succession

Article VIII. Formal Provisions

Sec. 8.01. Adopted Laws
 Sec. 8.02. Effective Date

CHAPTER 146

AN ACT

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

(C.S.H.B. 17)

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

Article I

The Unorganized Borough

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

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

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

Article II

Incorporation of an Organized Borough

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

by filing a petition with the Local Affairs Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2.05. Standards for Assignment of

Area-wide Powers. In a wide powers required area-wide powers which more efficiently and economically on an area-wide basis or through ice areas by the organized borough. No powers shall be assigned to the proposed borough until the proposed borough has determined efficiency of present and anticipated operation, responsiveness, ability to operate over the feasibility of integration. The following factors shall be considered:

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

Sec. 2.07. Return of Petition. If a petition is not substantiated in form or lacks the minimum number of qualified voters signing, the Local Affairs Agency shall not accept the petition and may return it for correction.

Sec. 2.08. Investigation. Upon receipt of a petition which is substantially in compliance with the requirements of this Act and contains the required number of qualified voters' signatures, the Local Affairs Agency shall conduct an investigation to determine whether the proposed incorporation meets the requirements of this Act. (2) if the proposed incorporation meets the requirements of this Act, the agency shall use the services of the United States Bureau of Economic Analysis. However, if these figures are inadequate by the agency, the agency may use any method necessary to determine most accurately the population of the area.

(b) The Local Affairs Agency shall combine petitions for incorporation of the same general area when the same area is included in more than one petition. Petitions shall be investigated and deemed advisable by the Local Affairs Agency, and not necessarily received.

Sec. 2.09. Report to

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

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

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

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

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

Sec. 2.09. Report to Local Boundary

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

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

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

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

notify the secretary of state of its action and shall furnish him with such information on the proposed incorporation as he requires. Within 30 days after the receipt of his notification, the secretary of state shall issue an order that an election be held within the proposed organized borough to determine the question of whether the qualified voters of the proposed organized borough desire to be incorporated; and if so, to elect members of the first assembly of the borough, the borough chairman, and the members of the first school board, and to determine whether the borough shall have an appointed borough manager or an elected borough chairman. The date of the election specified by the secretary of state in the order shall be not less than 30 nor more than 90 days after the date of the order of election. The secretary of state shall also specify in the election order the dates during which petitions for nominations may be filed with him.

b. Qualification of Voters. Any person who is a qualified voter in Alaska and is a resident of the area within the proposed organized borough is qualified to vote in the election.

c. Nominations. Nominations for the borough chairman, for school board members, and for candidates for the first assembly to represent the area outside any first class city may be made by petition. The petition shall be in the form prescribed by the secretary of state and shall include the name and address of the nominee and a statement of the nominee that he is qualified and will serve if elected. Petitions to nominate assemblymen shall include the signatures of at least 50 qualified voters who are residents of the proposed borough in the area outside first class cities. Petitions for the nomination of borough chairman and school board members shall include the signatures of at least 50 qualified voters who are residents of the proposed borough either inside or outside cities. The petitions shall be filed with the secretary of state at the time designated by him in the order of election.

d. Administration of Election. The secretary of state shall supervise the administration of the election in the general manner as prescribed by the Alaska Election Code, including, but not limited to, the establishment of precinct boundaries and polling places, appointment of election offi-

cial, preparation of ballots and other election materials and supplies, the giving of public notice, certifying of election expenses, the count, canvass and certification of returns, and the establishment of procedures for voting absentee, the use of voting machines, and election recounts.

e. Separate Voting. (1) Areawide powers, if any, added to the original petition by the Local Boundary Commission shall be placed separately on the ballot in order that each may be voted on separately. The adoption of an added areawide power requires a favorable majority of the votes cast both in the cities and in the area outside cities.

(2) In an election for the incorporation of a second class borough, each power, if any, to be exercised in the area outside cities only shall be placed separately on the ballot in order that each may be voted on separately. The adoption of a power to be exercised in the area outside cities only requires a favorable majority of the votes cast, and the vote on the question is limited to the qualified voters residing outside cities.

f. Certification. If the majority of votes cast on the question are not for incorporation, the secretary of state shall so certify and the proposal is defeated. If the majority of votes cast on the question are for incorporation, the secretary of state shall so certify and the certification shall specify any powers adopted under the provisions of Subsec. e. of this section, and shall declare that the area in which the election was held is an organized borough and a municipal corporation; that the organized borough possesses all the powers and privileges as prescribed by this Act; and that the boundaries and borough seat are those specified in the petition approved by the qualified voters. If the majority of votes cast on the question are in favor of an appointed borough manager, the secretary of state shall so certify and shall not certify any candidate as borough chairman. If the majority of votes cast on the question are not in favor of a borough manager, the secretary of state shall certify the name of the candidate who received the highest number of votes as borough chairman. The secretary of state shall also certify the names of those candidates who received the highest number of votes for the school board and for the available seats to be elected to the assembly from the area outside first class

cities and shall issue election orders to the elected candidates.

g. First Term of Office. The first assembly of the organized borough chairman and assembly members elected shall meet on the date specified after their certification and shall continue to serve until the next regular assembly. If no cities are appointed from the organized borough councils and shall also be designated for elected members.

h. Costs. The secretary of state shall furnish the organized borough with a statement of the cost incurred by the secretary of state in conducting the election, and the organized borough shall reimburse the secretary of state within three years of the date of the election.

Sec. 2.13. Integration of Special Districts and Service Areas. Upon the incorporation of any service area and special districts and public utilities included within its boundaries, the organized borough shall not be limited to, claims, other contractual obligations for bonded and all other interests shall succeed to all of the interest in the real and personal property held by the service areas. The organized borough assembly may assume the special charges, taxes, or other obligations including interest for the purpose of discharging bonded indebtedness incurred by the service area or for the future indebtedness of the service area.

Sec. 2.14. Transition. Upon the incorporation of any service area and special districts which are not included within the boundaries of an organized borough shall be exercised by them until such time as the organized borough assumes the powers. The powers may not exceed two years from the date of incorporation. Ordinances, regulations, procedures in effect prior to the assumption of powers by the organized borough shall remain in effect until superseded by the organized borough.

cities and shall issue election certificates to the elected candidates.

g. **First Term of Office.** The elected borough chairman and assembly members elected shall meet on the first Monday after their certification and shall continue to serve until the next regular election. Assembly members representing first class cities are appointed from and by their city councils and shall also meet at the time designated for elected members.

h. **Costs.** The secretary of state shall furnish the organized borough a statement of the cost incurred by the state in conducting the election, and the organized borough shall reimburse the state for the cost within three years of the date of incorporation.

Sec. 2.13. **Integration of Existing Special Districts and Service Areas.** Special service districts and service areas in the unorganized borough existing at the time of the incorporation of an organized borough and located within the boundaries of the organized borough shall be integrated into the organized borough within two years after the date of the borough's incorporation. An organized borough shall succeed to all of the rights, powers, and duties of any service area and of any school districts and public utility districts included within its boundaries, including, but not limited to, claims, franchises and other contractual obligations, and liability for bonded and all other indebtedness, and shall succeed to all of the right, title, and interest in the real and personal property held by the service areas or districts. The borough assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the service area or special district, for continuing services in the area, or for the future indebtedness in the area.

Sec. 2.14. **Transition.** a. The powers exercised by cities, service areas, and special districts which are succeeded to by an organized borough shall continue to be exercised by them until such time as the borough assumes the powers, which time may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, regulations, procedures, and orders in effect prior to the assumption of these powers by the organized borough remain in effect until superseded by the action of the organized borough.

b. The borough shall make written notice of its assumption of the powers, duties, and other items enumerated in Sec. 2.13 to the city, service area, or special district concerned prior to the assumption. Borough officials shall consult with the officials of the city, service area, or special district concerned and arrange for an orderly transfer.

c. After the incorporation of an organized borough, no service area or special district within it may assume new bonded indebtedness, make any contract, or transfer any assets without the consent of the borough assembly.

Article III

Powers of First and Second Class Boroughs

Part 1. General Powers of First and Second Class Boroughs

Sec. 3.01. **Powers of the First and Second Class Boroughs.** The first and second class boroughs have the following general powers:

- (1) to establish and prescribe the function of borough departments, offices, or agencies;
- (2) to establish and prescribe salaries for the borough assembly, the borough chairman, and borough officers and employees;
- (3) to make investigations of the affairs of the borough and make inquiries into the conduct of any borough department;
- (4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with any other local government, with the state, or with the United States;
- (5) to require periodic and special reports from any borough departments to be submitted through the chairman;
- (6) to sue and be sued;
- (7) to levy taxes and special assessments, enforce tax liens, and assess and collect penalties in the manner provided for first class cities. It may levy area-wide taxes for area-wide functions and taxes limited to the area outside cities for functions limited to the area outside cities; and
- (8) the state shall share with the organized borough those taxes it shares with

other units of local government to the extent that the taxes are collected in the borough but outside any city which receives a share of the same tax.

Sec. 3.02. Annexation and Exclusion. First and second class boroughs have the same powers of annexation and exclusion as first class cities and shall follow the same procedures for annexation and exclusion as first class cities, except that Article V of the State Constitution governs voting qualifications.

Sec. 3.03. Indebtedness. First and second class boroughs may incur indebtedness in the same manner and to the same extent as first class cities either on an area wide basis for areawide functions, or on a non-city basis for functions performed in the area outside cities only.

Sec. 3.04. Expenditure of Revenues. Tax and other revenue measures levied on an areawide basis may be expended on general administrative costs and on areawide functions only. Tax and other revenue measures levied in the area outside cities only may be expended on functions which render services to the area outside cities only.

Sec. 3.05. Service Areas. a. Establishment, Alteration, and Abolishment. Service areas to provide special services within a first or second class borough may be established, operated, altered, or abolished by the assembly by ordinance.

b. Special Taxes, Charges, and Assessments. The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services.

c. Boards. The assembly may provide for appointed or elected boards to supervise the furnishing of special services in service areas.

d. Restrictions. A new service area may not be established if the new service can be provided by an existing service area, or by annexation to a city, or incorporation as a city.

Sec. 3.06. Transferred Powers. First and second class boroughs shall exercise all powers transferred to them by cities under this Article.

Part 2. Areawide Powers of First and Second Class Boroughs

Sec. 3.31. Scope of Areawide Powers. First and second class boroughs shall exercise the powers specified in this part on an areawide basis, both within and outside cities of any class within its boundaries. No city of any class, whether home rule or not, within an organized borough may exercise any areawide power provided in this section or specified in the petition approved by the voters for incorporation once that power is being exercised by an organized borough.

Sec. 3.32. Assessment and Collection. The first and second class boroughs shall assess and collect all property taxes levied within their boundaries in the manner provided for first class cities. Taxes levied by the cities and collected by the borough shall be returned in full to the cities from which collected.

Sec. 3.33. Education. a. The first and second class borough shall establish, maintain, and operate a system of public schools on an areawide basis, and shall do so in the manner provided by law for city school districts, except that the school board shall be apportioned the same as the assembly.

b. The state law relating to teacher salaries and tenure, to financial support, to supervision by the Department of Education, and other general laws relating to schools, govern the exercise of the functions by the borough.

Sec. 3.34. Planning and Zoning. a. The first and second class borough has the responsibility of planning, platting, and zoning on an areawide basis and shall do so in the manner provided for first class cities, except that the planning commission shall also be the zoning commission, and the commission shall be apportioned the same as the assembly. Nothing in this section prevents any city from having a planning and zoning commission in an advisory capacity. Appointment of borough planning and zoning commission members from a first class city shall be made from the city advisory commission membership.

b. City councils continue to function as boards of adjustment within their boundaries. The borough assembly is the board of adjustment for the area outside cities and for cities which do not exercise this power.

Sec. 3.35. Additional Powers of First Class Boroughs. First class boroughs acquire areawide powers by transferring powers to the borough. Second class boroughs acquire areawide powers in the same manner provided by Part 3 of this Article. The acquisition of additional powers provided in the area outside cities shall be subject to the vote on the question.

Part 3. First and Second Class Boroughs' Powers in the Area Outside Cities Only

Sec. 3.71. Powers of the Borough. In addition to other powers granted by this Act, the first class borough may exercise any power granted to a city by general law in the area outside any city in the borough. The powers shall be exercised in the same manner as provided by general law for first class cities as provided otherwise by law. In exercising any of these powers in the area outside cities, the borough shall have transferred from the city the joint exercise with cities which it intends to exercise in the area outside any city.

Sec. 3.72. Powers of the Borough. In addition to the powers granted by this Act, the second class borough may exercise only the powers of a city of the same class either (1) specified in the petition approved by the voters for incorporation or (2) added as provided by law. The powers shall be exercised in the same manner as provided by general law for first class cities except as provided otherwise by this Act. Before exercising any power in the area outside cities, the borough shall first seek to have transferred from the city or propose the joint exercise with cities, those powers which it intends to exercise in the area outside cities.

Sec. 3.73. Additional Powers of Second Class Borough. The second class borough may add to the powers which it exercises in the area outside cities by petitioning the Local Affairs Agency with the Local Affairs Commission.

Sec. 3.74. Form of Petition. The petition shall be in the form prescribed by the Local Affairs Agency and shall contain the following:

(1) the name of the borough

Sec. 3.35. Additional Areawide Powers. First class boroughs acquire additional areawide powers by transfer from a city. Second class boroughs acquire additional areawide powers in the same manner provided by Part 3 of this Article for their acquisition of additional powers to be exercised in the area outside cities only, except that the vote on the question is areawide.

Part 3. First and Second Class Boroughs' Powers in the Area Outside Cities Only

Sec. 3.71. Powers of the First Class Borough. In addition to other powers granted by this Act, the first class borough may exercise any power granted a first class city by general law in the area outside any city in the borough. These powers shall be exercised in the manner provided by general law for first class cities except as provided otherwise by this Act. Before exercising any of these powers in the area outside cities, the borough shall first seek to have transferred from cities, or propose the joint exercise with cities, those powers which it intends to exercise in the area outside any city.

Sec. 3.72. Powers of the Second Class Borough. In addition to other powers granted by this Act, the second class borough may exercise only those powers in the area outside cities which are among the powers of a city of the first class and either (1) specified in the petition and approved by the voters for incorporation or (2) added as provided by this Act. These powers shall be exercised in the manner provided by general law for first class cities except as provided otherwise by this Act. Before exercising any of these powers in the area outside cities, the borough shall first seek to have transferred from cities or propose the joint exercise with cities, those powers which it intends to exercise in the area outside any city.

Sec. 3.73. Additional Powers for Second Class Borough. The second class borough may add to the powers which it may exercise in the area outside cities only by filing a petition with the Local Affairs Agency.

Sec. 3.74. Form of Petition. The petition shall be in the form prescribed by the Local Affairs Agency and shall include the following:

- (1) the name of the borough;

- (2) the proposed additional powers to be exercised by the borough;

- (3) the certification of the borough chairman that the assembly has approved the petition;

- (4) other information which may be required by the Local Affairs Agency.

Sec. 3.75. Review by Local Affairs Agency. Upon receipt of a petition, the Local Affairs Agency shall immediately proceed with a review of it to determine (1) if the petition is substantially in the proper form and (2) if the petition is certified by the borough chairman.

Sec. 3.76. Return of Petition. If the Local Affairs Agency determines that the petition is not substantially in the proper form or lacks the certification by the borough chairman, the agency shall not accept the petition but may return it for correction or completion.

Sec. 3.77. Investigation. If the Local Affairs Agency determines that the petition is substantially in the proper form and is certified by the borough chairman, the agency shall conduct an investigation to determine the feasibility and practicability of the borough's exercising the additional power or powers.

Sec. 3.78. Report to the Local Boundary Commission. The Local Affairs Agency shall report the findings of its investigation to the Local Boundary Commission together with any recommendations it may have regarding the exercise of the additional powers by the borough.

Sec. 3.79. Hearing by Local Boundary Commission. The Local Boundary Commission shall hold at least one hearing in the borough for the purpose of hearing public comment on the proposal for the addition to the borough's powers.

Sec. 3.80. Election. a. **Date of Election.** The Local Affairs Agency shall notify the borough assembly immediately after publication of its findings and those of the Local Boundary Commission to hold an election in the borough on the question of adding to the borough's powers. Within 30 days of the receipt of its notification, the assembly shall call for an election to be held to determine whether the borough shall add to its powers. The date of the election shall be not less than 30 nor more than 90 days after the call for the election.

b. **Qualification of Voters.** Any person who is a qualified voter in Alaska and is a resident of the borough in the area outside cities is qualified to vote on the question.

c. **Separate Voting.** If more than one power is to be added, they shall be placed separately on the ballot in order that each may be voted on separately.

d. **Certification.** If the majority of the votes cast on the question are not for the addition of a power, the borough chairman shall so certify to the Local Affairs Agency and the proposal to add the power is defeated. If the majority of votes cast on the question are for the addition of a power, the borough chairman shall so certify to the Local Affairs Agency and the proposal to add the power is accepted. The added power or powers go into effect on the day following the date of the certification of their approval by the voters.

Part 4. Transfer of Powers to First and Second Class Boroughs

Sec. 3.91. **Transfer by City.** A city may transfer to the first or second class borough in which it is located any of its powers or functions subject to the approval of a two-thirds vote of the borough assembly. A city may not revoke the transfer of any power or function to the borough unless the revocation is approved by a majority of its council.

Article IV

Organized Borough Assembly

Sec. 4.01. **General Power and Composition.** The legislative power of the organized borough is vested in the assembly which consists of 5 to 13 members as determined by the incorporation petition approved by the voters.

✓ Sec. 4.02. **Election and Appointment.** Members of the assembly are appointed or elected according to the apportionment determined by the incorporation petition approved by the voters until the assembly is reapportioned. Members representing first class cities are appointed by and from the city councils, unless provided otherwise by city charter or ordinance. Members representing the area outside first class cities are elected.

Sec. 4.03. **Reapportionment.** The assembly may be reapportioned in the following manner:

(1) The assembly shall reapportion itself whenever the apportionment of the assembly does not meet the standards of apportionment provided by this Act.

(2) Any 50 qualified voters in an organized borough may petition the borough assembly or the Local Affairs Agency to reapportion the assembly of the borough within which they reside. The petition shall include evidence that the apportionment of the assembly does not meet the standards prescribed by this Act.

(3) Upon receipt of a petition, the assembly or Local Affairs Agency shall investigate its allegations and shall determine if the apportionment of the assembly meets the apportionment standards prescribed by this Act. If it is determined that the standards are not met, the assembly or Local Affairs Agency shall reapportion the assembly accordingly. A reapportionment by the Local Affairs Agency prevails over one by an assembly. The reapportionment is effective beginning with the next regular election to the assembly.

Sec. 4.04. **Term of Office.** The term of office of members of the assembly is the same as that of councilmen in the largest first class city within the borough or three years if there is no first class city within the borough. The term of office begins on the same day as that of councilmen in the largest first class city within the borough or on the first Monday following the borough election if there is no first class city within the borough. City councilmen on the assembly may not be replaced by the council unless their terms expire or they cease to be a member of either the assembly or the council. The assembly may provide for different terms by ordinance but no term of office may exceed three years.

Sec. 4.05. **Qualification.** A person is eligible to be a member of the assembly if he is a qualified voter of the borough. If a member ceases to be a qualified voter of the borough, he shall immediately forfeit his office. If a member elected from the area outside first class cities becomes a resident of a first class city, he may continue to serve only until the next regular election.

Sec. 4.06. **Organization.** a. **Officers.** The assembly shall elect from among its members a presiding officer and a deputy

presiding officer, each of whom shall serve at its pleasure. The presiding officer shall preside at assembly meetings and any meeting the presiding officer is present or is unable to act, the deputy presiding officer shall preside.

(b) **Clerk.** The assembly shall elect a clerk or appoint the chairman of the administrative officer to serve as clerk. Under the supervision of the presiding officer, the clerk shall:

(1) Give due notice of the place of assembly meetings to members and to the public;

(2) Keep the journal of the proceedings;

(3) Procure for the assembly the required publication of notices of resolutions, and so forth;

(4) Maintain and make available for public inspection an indexed copy of the borough ordinance, resolution, and code of regulation;

(5) Perform the duties required by any of the provisions of this chapter;

(6) Perform such other duties as the assembly may prescribe.

Sec. 4.07. **Procedure.** a. Meetings of the assembly shall meet regularly once every three months at the places prescribed by the assembly. Meetings may be held on the day of the borough chairman, the presiding officer or one-fourth or more members whenever practicable, upon 24 hours' effective notice to each member.

b. **Order of Business.** The assembly may determine its own rules of business and shall provide for the journal of its proceedings. The journal is a public record.

c. **Voting.** The final vote on any ordinance or resolution shall be taken by a majority of the votes cast and the yeas and nays shall be entered in the journal. A majority of the members of the assembly shall constitute a quorum, but a smaller number may act if the time to time and may compel the attendance of absent members in the assembly subject to the penalties prescribed in the rules of the assembly. No act of the assembly is valid or binding unless

presiding officer, each of whom shall serve at its pleasure. The presiding officer shall preside at assembly meetings. If at any meeting the presiding officer is not present or is unable to act, the deputy presiding officer shall preside.

(b) Clerk. The assembly shall elect a clerk or appoint the chairman or another administrative officer to serve as the clerk. Under the supervision of the assembly, the clerk shall:

(1) Give due notice of the time and place of assembly meetings to assembly members and to the public;

(2) Keep the journal of assembly proceedings;

(3) Procure for the assembly any required publication of notices, ordinances, resolutions, and so forth;

(4) Maintain and make available for public inspection an indexed file containing copies of the borough code, every adopted ordinance, resolution, rule, regulation, and code of regulations;

(5) Perform the duties assigned him by any of the provisions of this Act; and

(6) Perform such other duties as the assembly may prescribe.

Sec. 4.07. Procedure. a. Meetings. The assembly shall meet regularly at least once every three months at the times and places prescribed by the assembly. Special meetings may be held on the call of the borough chairman, the presiding officer, or of one-fourth or more members, and whenever practicable, upon no less than 24 hours' effective notice to each member.

b. Order of Business. The assembly may determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal is a public record.

c. Voting. The final vote on each ordinance or resolution shall be by roll call and the ayes and nays shall be recorded in the journal. A majority of the members of the assembly shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the assembly. No action of the assembly is valid or binding unless adopted

by the affirmative vote of at least a majority of all the members of the assembly.

Sec. 4.08 Acts Required to Be by Ordinance. a. In addition to other actions as this Act or any other provision of law require to be by ordinance, those acts of the assembly shall be by ordinance which:

(1) establish, alter, or abolish any borough department;

(2) fix the compensation of members of the assembly;

(3) provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(4) levy taxes;

(5) make supplemental appropriations or transfer appropriations;

(6) grant, renew, or extend a franchise;

(7) regulate the rate charged for its services by any public utility;

(8) authorize the borrowing of money;

(9) purchase lands or convey or lease any lands of the borough, and the ordinance shall specify the terms of the purchase, conveyance, or lease;

(10) adopt or modify the official map, platting or subdivision controls or regulations, or the zoning plan;

(11) approve the transfer of any power from a city.

b. This section grants no authority or power not otherwise granted by this Act or other law, but rather obliges the assembly to use ordinances in exercising certain of its powers.

Sec. 4.09. Form of Ordinances. Every ordinance shall be introduced in writing and in the form required by the assembly.

Sec. 4.10. Ordinance Procedure. a. Except as otherwise provided in this Act, the following procedure shall govern the enactment of all ordinances: An ordinance may be introduced by any member or committee of the assembly or by the borough chairman at any regular or special meeting of the assembly. Upon introduction of any ordinance, sufficient copies

shall be furnished to the clerk in order for him to immediately distribute at least one copy each to the assembly members and to the chairman. After an ordinance has been introduced, and unless it is rejected at the same meeting by the affirmative votes of not less than a majority of the assembly members, the assembly shall promptly cause the ordinance to be published, together with a notice setting out the time and place for a public hearing on the ordinance, and for its consideration by the assembly. The public hearing on any ordinance not rejected shall follow the required publication by at least one week, and it may be held separately or in connection with a regular or special assembly meeting and may be adjourned from time to time. At the public hearing held in accordance with the notice, copies of the ordinance shall be distributed to all persons present who request them or, in the alternative, the ordinance shall be read in full. All persons interested shall have an opportunity to be heard. After the hearing, the assembly shall consider the ordinance and may adopt it with or without amendment, or reject it. But if upon consideration, the assembly amends the ordinance as to its substance, it may not adopt the amended ordinance until the ordinance or its amended sections have been published and until the ordinance has been subjected to hearing and to all other procedures required in the case of a newly introduced ordinance. The same procedure shall govern if the amended ordinance is again amended as to its substance. As soon as practicable after adoption of any ordinance, the assembly shall cause it to be printed and published.

b. Except as otherwise provided in this Act, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified in the ordinance.

c. As used in this section, the term "published" means that

(1) at least a brief summary of the ordinance or sections concerned, together with any required notice, has been published in one or more newspapers of general circulation in the borough;

(2) copies of the ordinance or sections concerned, together with any required notice, have been mailed to the same newspapers and, in accordance with

assembly regulations, to additional newspapers of general circulation in the borough;

(3) copies of the ordinance or sections concerned, together with any required notice, have been posted conspicuously for public inspection at the borough seat and at other cities in the borough.

Sec. 4.11. Emergency Ordinances. a. To meet a public emergency affecting life, health, welfare, or property, the assembly may adopt emergency ordinances; but emergency ordinances may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by any public utility for its services.

b. Every emergency ordinance shall be plainly designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. Except as thus indicated, it shall be introduced in the form and manner prescribed for ordinances generally. An emergency ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of all assembly members present, or the affirmative vote of three-fourths of those elected, is required for adoption of the ordinance. After adoption of an emergency ordinance, the assembly shall cause it to be printed and published as prescribed for other adopted ordinances. An emergency ordinance is effective upon adoption.

c. Every emergency ordinance, including any amendment made after its adoption, is invalid after the 61st day following the date on which it was adopted.

Sec. 4.12. Codes of Technical Regulations. The assembly may adopt any standard published code of technical regulations in a single ordinance which shall be governed, except as otherwise provided in this section, by the procedure and requirements prescribed for ordinance, generally. Upon introduction of the ordinance, the assembly promptly shall cause at least five copies to be made available for public inspection and shall cause to be published, by the means indicated in Sec. 4.10c., and together with the notice of hearing, a notice setting out the purpose of the ordinance and the time and place at which

it is available for public inspection, if other publication is necessary. Publication, unless after the hearing is amended as to its substance, shall be in the later amendment before amended sections shall be made available for inspection and notice earlier provided, and the amended shall be subjected to all other procedure as introduced. Neither the ordinance nor its amendments shall be read in full at the hearing. Publication after hearing shall be by notice declaring such to be published. The adopted code shall be made available to the public in such form and at a reasonable price as the assembly may determine.

Sec. 4.13. Budget. The assembly shall establish the dates of the introduction and submission of the budget program by the chairman. The assembly shall hold a hearing on the budget and capital program. At the hearing, the assembly may amend the budget without amendment, the amendments proposed by the chairman. The assembly may make supplemental appropriations. No payment shall be authorized or made and no contract entered against the borough or other obligation requiring payment of funds from the appropriation. Nothing contained in this section of this Act is intended to limit the authorizing of payment of contracts for capital improvement financed wholly or partly by the issue of bonds; nor is it intended to limit the making, when permitted by contract or any lease providing for payment of funds at a time and place other than the end of the fiscal year in which the contract or lease is made. But any contract or other obligation requiring payment of funds from the appropriation in any fiscal year or of more than one fiscal year shall be made or approved by the assembly.

Sec. 4.14. Centralized Purchasing. The assembly may provide for centralized purchasing, storage, and distribution of supplies, material, and equipment for the borough and for its departments, however, school boards within the borough may determine their own

it is available for public inspection. No other publication is necessary before adoption, unless after the hearing the ordinance is amended as to its substance. If it is so amended, and also in the event of any later amendment before adoption, the amended sections shall be made available for inspection and notice published as earlier provided, and the ordinance as amended shall be subjected to hearing and to all other procedure as though newly introduced. Neither the ordinance nor any of its amendments need be distributed to the public or read in full at the hearings thereon. Publication after adoption shall be by notice declaring such adoption as published. The adopted code shall be sold to the public in such form and at such reasonable price as the assembly may direct.

Sec. 4.13. **Budget.** The assembly shall establish the dates of the borough fiscal year and the manner for the preparation and submission of the budget and capital program by the chairman. The assembly shall hold a hearing on the proposed budget and capital program. After public hearing, the assembly may adopt, with or without amendment, the annual budget as proposed by the chairman. The assembly may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred against the borough except in accordance with appropriations duly made. Nothing contained in this section or other sections of this Act is intended to prevent the authorizing of payment or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds; nor is it intended to prevent the making, when permitted by law, of any contract or any lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made. But any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance.

Sec. 4.14. **Centralized Purchasing.** The assembly may provide for centralized purchasing, storage, and distribution of any supplies, material, and equipment for the borough and for its departments, provided, however, school boards within the borough may determine their own separate policy

for the purchase of supplies and equipment.

Sec. 4.15. **Post Audit.** The assembly shall provide for an annual independent audit of the accounts and other evidences of financial transactions of the borough and of every borough department. The audit shall be made by an accountant, designated by the assembly, who has no personal interest, direct or indirect, in the fiscal affairs of the borough or of any of its departments. The designated accountant shall be a certified public accountant.

Sec. 4.16. **Codification.** a. Each ordinance and resolution after adoption shall be given a serial number and, together with the date of adoption and the designation of the adopting authority shall be entered by the clerk of the assembly in a properly indexed book kept for that purpose.

b. Within three years after incorporation under this Act, the chairman, with the advice and assistance of a legal advisor, shall cause to be prepared a general codification of all borough ordinances and resolutions having the force and effect of law. The borough code shall be revised and published at least every five years.

c. The assembly, with the advice and assistance of a legal advisor, shall cause each ordinance and resolution having the force and effect of law to be printed as promptly as possible following its adoption. The printed ordinances and resolutions shall be sold to the public at reasonable prices to be fixed by the assembly.

Article V

Borough Executive

Sec. 5.01. **Executive Power.** The executive power of the organized borough is vested in the borough chairman who is elected at large. He must be a qualified voter of the organized borough. His term of office is the same as that of the mayor in the largest first class city in the borough or three years if there is no first class city in the borough. The term of office begins on the same day as that of the mayor in the largest first class city in the borough or on the first Monday following his election if there is no first class city in the borough. The assembly may provide a different term by ordinance.

Sec. 5.02. **Borough Manager.** In addi-

tion to the adoption of the borough manager plan at the time of incorporation, an organized borough may adopt and abandon a borough manager plan in the same manner as is provided for the first class cities. The borough chairman may not veto an ordinance or resolution calling for an election on the question of adopting a manager plan. The manager serves at the pleasure of the assembly and has all the powers and duties of the borough chairman provided for by this Act except that he may not introduce ordinances and has no veto power. There shall be no elected borough chairman if the borough manager plan is adopted.

Sec. 5.03. Powers and Duties of the Borough Chairman. a. The borough chairman is the chief administrative officer of the borough. He is responsible for the proper administration of all borough affairs placed in his charge under this Act. The chairman shall:

(1) except as otherwise provided by this Act, appoint all borough employees and administrative officers and, when he deems it necessary for the good of the service, suspend or remove any borough employee, subject to review by the borough assembly, and any borough administrative officer, but he may authorize any appointive borough administrative officer to appoint, suspend, or remove subordinates in that officer's department;

(2) see that all ordinances, resolutions, and orders of the assembly and all laws of the state subject to enforcement by him, or by officers who are subject under this Act to his direction and supervision, are faithfully executed;

(3) prepare and submit the annual budget and capital program to the assembly and execute the budget and capital program in accordance with appropriations and ordinances adopted by the assembly;

(4) examine regularly the accounts, records, and operation of every borough department; make regular monthly reports to the assembly on borough affairs; keep the assembly fully advised on the financial condition and future needs of the borough, and make such recommendations on borough affairs as he deems desirable;

(5) submit to the assembly at the end of the fiscal year a complete report on the finances and administrative activities of the borough for the preceding year and

prepare and make available for distribution to the public, within three months after the end of each fiscal year, an annual report on borough affairs during that fiscal year.

(6) if the assembly provides for a personnel system, he shall serve as the personnel officer of the borough and administer the borough personnel system, unless the assembly authorizes him to appoint a personnel officer to administer the system;

(7) carry into execution such other powers or duties as are required by this Act or as may be prescribed by the assembly; and

(8) hire such administrative assistants as he deems necessary to help him in the administration of borough affairs.

b. The assembly presiding officer or his designee from the assembly shall exercise the powers and perform the duties of chairman during the chairman's temporary absence or disability. If a manager plan has been adopted, the assembly shall designate by resolution a qualified borough administrative officer or employee to perform the duties of the manager during his temporary absence or disability or during a vacancy in the office of manager.

Sec. 5.04. Functions Under Direction and Supervision of Borough Chairman. The borough chairman shall direct and supervise the administration of the following functions:

(1) The functions of all borough officers and employees except as provided otherwise under this Act;

(2) The care and custody of all borough buildings and of all real and personal property of the borough;

(3) The construction, maintenance, and operation of borough roads, bridges, drains, buildings, and other public works.

Sec. 5.05. General Provisions. a. The activities under the direction and supervision of the borough chairman shall be distributed among such departments as are provided for by this Act or may be established by ordinance of the assembly.

b. Each department shall be administered by an officer appointed by and subject under this Act to the direction and supervision of the chairman unless pro-

vided otherwise by or. With the consent of the chairman may serve as or more departments; and consent, he may appoint a head of two or more depar

c. Any borough administrator appointed by the chairman may be appointed or removed by the chairman.

Sec. 5.06. Bonding of Borough Chairman and Borough Officers or Employees. Any ordinance which may provide shall give in the amount and with prescribed by the assembly. on such bonds shall be paid

Sec. 5.07. Personal Financial Interest. Any borough officer or employee who has a financial interest, direct or indirect, by reason of ownership of stock in any corporation, in any contract, or in the sale of any supplies or services to the borough, or in the sale of any supplies or services to the borough, shall make known that interest to the assembly. Any officer or employee who violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit his office. Violation of this section with respect to any corporation contracting with or for the borough renders the contract voidable by the assembly.

Sec. 5.08. Right to Participate in Borough Assembly Meetings. The borough chairman shall have the right to participate in the discussion of all matters before the assembly, but may not veto any ordinance or resolution of the assembly, but his veto may be overridden by the vote of two-thirds of the membership.

Sec. 5.09. Prohibitions. No person may be appointed to or removed from any position in any way favored or discriminated against with respect to any borough department or borough administrative officer on the basis of his race or his political opinions or affiliations.

b. No person who seeks promotion with respect to any position or borough administrator may directly or indirectly

vided otherwise by or under this Act. With the consent of the assembly, the chairman may serve as the head of one or more departments; and with assembly consent, he may appoint one person as the head of two or more departments.

c. Any borough administrative officer appointed by the chairman may be suspended or removed by written order of the chairman.

Sec. 5.06. Bonding of Officers. The borough chairman and such other borough officers or employees as the assembly may provide shall give reasonable bond in the amount and with the surety prescribed by the assembly. The premiums on such bonds shall be paid by the borough.

Sec. 5.07. Personal Financial Interest. Any borough officer or employee who has a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the borough or in the sale of any land, material, supplies or services to the borough or to a contractor supplying the borough, shall make known that interest. Any borough officer or employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the borough renders the contract voidable by the assembly.

Sec. 5.08. Right to Participate in Assembly Meetings. The borough chairman shall have the right to take part in the discussion of all matters coming before the assembly, but may not vote. He may veto any ordinance or resolution of the assembly, but his veto may be overridden by the vote of two-thirds of the assembly's membership.

Sec. 5.09. Prohibitions. a. No person may be appointed to or removed from, or in any way favored or discriminated against with respect to any borough position or borough administrative office because of his race or his political or religious opinions or affiliations.

b. No person who seeks appointment or promotion with respect to any borough position or borough administrative office may directly or indirectly give, render,

or pay any money, service, or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion, or proposed promotion.

c. Any person who willfully violates any of the provisions of Subsec. b. is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than one year, or both, and in addition thereto shall be ineligible, for a period of five years thereafter, to hold any borough office or position and, if an officer or employee of the borough, shall immediately forfeit the office or position he holds.

Sec. 5.10. Borough Personnel System. All appointments and promotions of borough officers and employees shall be made on the basis of merit and fitness, and the assembly may provide for a personnel system.

Article VI

Elections

Sec. 6.01. Qualification of Voters. a. Any person who is a qualified voter in Alaska and is a resident of an organized borough is a qualified voter of that organized borough.

b. Only qualified voters whose names appear on the last tax-assessment roll or record of such borough for purposes of borough taxation on real property may vote on a question of incurring bonded indebtedness by a borough. If the debt to be incurred is to be an areawide debt, the vote shall be areawide. If the debt to be incurred is to be limited to the area outside cities only, the vote shall be limited to the qualified voters whose names appear on the last tax assessment roll or record of such borough for purpose of borough taxation on real property located in the area outside cities.

Sec. 6.02. Regular Election. a. Chairman. The date of the regular election for chairman is the same as that for mayor in the largest first class city within the borough or on the first Tuesday of October every three years if there is no first class city within the borough.

b. Assembly. The date of the regular election for the assembly is the same as that for the council in the largest first class city within the borough or on the

first Tuesday of October every three years if there is no first class city within the borough.

c. **School Board.** The date of the regular election for the school board is the same as that for the council in the largest first class city within the borough or annually on the first Tuesday of October if there is no first class city within the borough.

d. **Change in Dates.** The assembly may provide for different dates of election by ordinance.

Sec. 6.03. Special Election. The assembly may call a special election at any time upon 30 days prior notice, which notice shall be made substantially in the manner prescribed by Sec. 3.07 of the Alaska Election Code.

Sec. 6.04. Administration of Election. The assembly shall prescribe the general rules for the conduct of the borough election. All borough elections shall be non-partisan elections.

Sec. 6.05. Nominations. Candidates for assemblymen from outside cities are nominated by petition of 50 qualified voters of the organized borough who are resident outside any city. Candidates for borough chairmen and for the borough school board are nominated by petition of 50 qualified voters of the organized borough.

Sec. 6.06. Creating and Declaring Vacancies in Office. The office of assemblyman and borough chairman is vacated under the following conditions and upon the declaration of vacancy by the assembly. The assembly shall declare an elective office vacant whenever

(1) the person elected to it fails to qualify or fails to take office within 30 days after his selection by a city council or his election;

(2) the officeholder departs from the organized borough with the intent of remaining away for a period of 90 or more days or resides outside the area from which he was elected for a period of 90 or more days, unless excused by the assembly;

(3) the officeholder submits his resignation to the assembly and the assembly accepts it;

(4) the officeholder is physically unable to attend assembly meetings and will continue to be physically unable to attend assembly meetings for a period of 180 or more consecutive days;

(5) the officeholder has been removed from office;

(6) the officeholder misses three or more consecutive regular meetings, unless excused by the assembly.

Sec. 6.07. Filling Vacancies. Vacancies are filled as follows:

(1) A vacancy in the office of chairman shall be filled by and from the assembly which shall elect one of its members to be acting chairman until the next regular election and until a successor is elected and qualified to fill the remainder of the unexpired term. The assemblyman elected to act as chairman shall receive the same salary as that paid to the chairman.

(2) A vacancy in the city council representation on the assembly shall be filled by the city council by selecting one of its members to fill the unexpired term. The councilman selected serves until his successor is selected and qualified. He receives the same salary as the assemblyman he succeeds.

(3) A vacancy in the representation for the area outside a first class city shall be filled by the assembly which shall elect a qualified voter resident within the organized borough outside a first class city to be acting assemblyman until the next regular election and until a successor is elected and qualified to fill the remainder of the unexpired term. The person elected by the assembly receives the same salary as the assemblyman he succeeds.

Sec. 6.08. Initiative, Referendum, Recall. a. The Powers of initiative and referendum reserved by the Constitution of Alaska to the people of the state are also reserved to the people of the organized borough as provided by Ch. 187, SLA 1959.

b. Any elected public official of the organized borough may be recalled as provided by Ch. 121, SLA 1959.

Sec. 6.09. Majority Elections. The assembly may, by ordinance, require a majority vote for election of the chairman

and the assembly. A rule or other means of obtaining a majority shall be used.

Sec. 6.10. Borough Section. A borough assembly may establish the election of assemblymen to provide representation to distinct areas within the borough. If the assembly establishes sections representing the area outside a first class city shall be elected from the area in which they reside. If there is no resident outside first class city, the assembly may provide upon the candidacy of a candidate but candidates from each section against other candidates in each section. The number of assemblymen in each section shall be equal to the number of assemblymen representing the area outside a first class city. No section may be established which is less than one-third of the area of another section.

Article VI

Classification, Reclassification, Consolidation, Division

Part I. Classification and Reclassification

Sec. 7.01. Classification. Boroughs incorporated under either first class or second class law shall be classified as either first class or second class borough. The first class borough shall be a first class borough and the second class borough shall be a second class borough. The classification is determined by the incorporation approved by the assembly. The classification established by this Act is less clearly not applicable to "borough" and "organized borough" used in this Act, mean by either first class or second class organized borough.

Sec. 7.02. Reclassification. A second class borough may adopt a first class rule charter in the manner provided by Ch. 196, SLA 1959, and the powers of the charter committee shall be the same in number and shall be apportioned the same as provided for a first class borough assembly.

b. A second class borough may be reclassified as a first class borough in the same manner provided by this Act. In addition of powers by a second class borough. Instead of specifying powers to be added, the petition shall specify the borough be reclassified

and the assembly. A run-off election or other means of obtaining a majority may be used.

Sec. 6.10. Borough Sections. The borough assembly may establish sections for the election of assemblymen in order to provide representation to separate and distinct areas within the borough. If the assembly establishes sections, members representing the area outside first class cities shall be elected from the sections in which they reside. Qualified voters resident outside first class cities may vote upon the candidacy of all the candidates, but candidates from each section run only against other candidates from the same section. The number of sections shall equal the number of assemblymen representing the area outside the first class city. No section may have a population which is less than one half that of any other section.

Article VII

Classification, Reclassification, Merger, Consolidation, Dissolution

Part I. Classification and Reclassification

Sec. 7.01. Classification. Organized boroughs incorporated under this Act are either first class or second class boroughs. The first class borough is a general law borough and the second class borough is an optional law borough. Original classification is determined by the petition for incorporation approved by the voters for incorporation. The unorganized borough established by this Act is unclassified. Unless clearly not applicable, the terms "borough" and "organized borough," as used in this Act, mean both a first class or second class organized borough.

Sec. 7.02. Reclassification. a. A first class borough may adopt or repeal a home rule charter in the manner prescribed by Ch. 196, SLA 1959, except that members of the charter commission shall be the same in number and the commission shall be apportioned the same as the borough assembly.

b. A second class borough may reclassify as a first class borough in the same manner provided by this Act for the addition of powers by a second class borough. Instead of specifying powers to be added, the petition shall request that the borough be reclassified as a first class

borough. Voting on reclassification as a first class borough is limited to the qualified voters residing outside cities within the boroughs.

Part 2. Merger and Consolidation

Sec. 7.11. Who May Petition. A petition for the merger or consolidation of two or more organized boroughs may be filed with the Local Affairs Agency if signed by qualified voters who are residents of each of the organized boroughs and are equal in number from each borough to at least 25 per cent of the qualified voters who voted in the last regular borough election.

Sec. 7.12. Form of Petition. The petition shall be in the form prescribed by the Local Affairs Agency and shall include, but is not limited to, the following information:

- (1) The name and classification of each borough;
- (2) The name and borough seat of the new borough;
- (3) The proposed apportionment of the assembly;
- (4) The classification of the proposed borough;
- (5) Maps, documents, and other information which will tend to show that the new organized borough to be incorporated as a result of the proposed merger or consolidation meets the standards for incorporation.

Sec. 7.13. Review by Local Affairs Agency. Upon receipt of a petition for the merger or consolidation, the Local Affairs Agency shall immediately proceed with a review of the petition to determine (1) if the petition is substantially in the proper form, (2) if the petition is signed by the required number of qualified voters, (3) if the proposed apportionment meets the standard prescribed by law for the apportionment of the borough assembly, and (4) if the area of the proposed borough meets the standards prescribed by law for the incorporation of organized boroughs.

Sec. 7.14. Return of Petition. If the Local Affairs Agency determines that the petition is not substantially in the proper form or lacks the minimum number of qualified voters signing the petition, the

agency shall return the petition for correction or completion.

Sec. 7.15. Investigation. If the Local Affairs Agency determines that the petition is substantially in the proper form and contains the required number of qualified voters signing the petition, the agency shall conduct an investigation as to whether apportionment of the borough assembly and the proposed organized borough meets the standards prescribed by this Act. In investigating the proposed apportionment of the borough assembly, the agency shall use the latest figures of the United States Bureau of the Census. However, if the latest figures are considered inadequate by the agency because of population changes or limitations in the figures available, the agency may use any method necessary to most accurately determine actual population.

Sec. 7.16. Report to Local Boundary Commission. The Local Affairs Agency shall report the findings of its investigation to the Local Boundary Commission together with any recommendations it may have regarding the apportionment of the assembly and the merger or consolidation of the organized boroughs.

Sec. 7.17. Hearing by Local Boundary Commission. Upon receipt of the report from the Local Affairs Agency, the Local Boundary Commission shall hold a hearing in each organized borough included in the petition for the purpose of hearing public comment on the proposal for the apportionment of the borough assembly and the merger or consolidation of the organized boroughs.

Sec. 7.18. Determination by Local Boundary Commission. After considering the findings of the Local Affairs Agency and the comments at the public hearing, the Local Boundary Commission shall determine if the petition is to be granted. If the commission determines that the proposed merger or consolidation fails to meet the standards prescribed by this Act, the commission shall reject the petition. If the commission determines that the proposed merger or consolidation meets the standards prescribed by this Act, the commission shall accept the petition. If the Local Boundary Commission determines that the proposed merger or consolidation would meet the standards prescribed by this Act if changes were made in the

apportionment of the borough assembly, the commission may change the apportionment of the assembly and accept the petition.

Sec. 7.19. Election. The election on the proposed merger or consolidation shall be held in accordance with the provisions of Subsections a, b, c, d, f, g, and h of Sec. 2.12 of this Act.

Sec. 7.20. Assets, Liabilities of Merged or Consolidated Boroughs. When two or more boroughs merge or consolidate, a newly organized borough is incorporated. The newly organized borough succeeds to the rights, claims, assets, property, liens, debts, franchises and other contractual obligations, and other liabilities including but not limited to bonded and all other indebtedness, of the merged or consolidated boroughs.

Sec. 7.21. Ordinances. The ordinances of the former boroughs remain in force within their respective territories until the governing body of the newly incorporated borough enacts a code of ordinances for the government of the newly incorporated borough. The ordinances by the governing body of the newly organized borough supersede the ordinances of the former boroughs on the subject of the enactments.

Part 3. Dissolution

Sec. 7.41. Who May Petition. A petition for the dissolution of an organized borough may be filed with the Local Affairs Agency if signed by qualified voters who are residents of the organized borough and are equal in number to at least 25 per cent of the number of qualified voters who voted in the last regular borough election.

Sec. 7.42. Form of Petition. The petition shall be in the form prescribed by the Local Affairs Agency and shall include, but is not limited to, the following information:

(1) The name of the borough;

(2) Maps, documents, and other information which will tend to show that the organized borough meets the standards for dissolution prescribed in Sec. 7.43.

Sec. 7.43. Standards for Dissolution. A borough may dissolve when (1) it is free of debt, or if in debt, each of its creditors is satisfied with a method of repayment,

and (2) either it no longer meets the minimum standards prescribed by this Act, or it is so small that each and everyone of its population is no longer willfully neglecting the duties arising out of its incorporation.

Sec. 7.44. Review by Agency. Upon receipt of a petition for dissolution of an organized borough, the Local Affairs Agency shall proceed with a review of the petition to determine (1) if the petition is in the proper form, (2) if it is signed by the required number of qualified voters, and (3) if the proposed borough meets the standards prescribed by law for the dissolution of organized boroughs.

Sec. 7.45. Return of Petition. If the Local Affairs Agency determines that the petition is not substantially in the proper form or lacks the minimum number of qualified voters signing the petition, the agency shall return the petition for correction or completion.

Sec. 7.46. Investigation. If the Local Affairs Agency determines that the petition is substantially in the proper form and contains the required number of qualified voters signing the petition, the agency shall conduct an investigation as to whether the organized borough meets the standards prescribed by law to be dissolved under the standards prescribed by this Act.

Sec. 7.47. Report to Local Boundary Commission. The Local Affairs Agency shall report the findings of its investigation to the Local Boundary Commission together with any recommendations it may have regarding the dissolution of the organized borough.

Sec. 7.48. Hearing by Local Boundary Commission. Upon receipt of the report from the Local Affairs Agency, the Local Boundary Commission shall hold a hearing in each organized borough included in the petition for the purpose of hearing public comment on the proposal for the dissolution of the organized borough.

Sec. 7.49. Determination by Local Boundary Commission. After considering the findings of the Local Affairs Agency and the comments at the public hearing, the Local Boundary Commission shall determine if the petition is to be granted. If the commission determines that the proposed merger or consolidation would meet the standards prescribed by this Act if changes were made in the

and (2) either it no longer meets the minimum standards prescribed for incorporation by this Act, or it ceases to use each and everyone of its powers, or its population is no longer willing to assume the duties arising out of incorporation.

Sec. 7.44. Review by Local Affairs Agency. Upon receipt of a petition for the dissolution of an organized borough, the Local Affairs Agency shall immediately proceed with a review of the petition to determine (1) if the petition is substantially in the proper form, (2) if the petition is signed by the required number of qualified voters, and (3) if the area of the proposed borough meets the standards prescribed by law for the dissolution of organized boroughs.

Sec. 7.45. Return of Petition. If the Local Affairs Agency determines that the petition is not substantially in the proper form or lacks the minimum number of qualified voters signing the petition, the agency shall return the petition for correction or completion.

Sec. 7.46. Investigation. If the Local Affairs Agency determines that the petition is substantially in the proper form and contains the required number of qualified voters signing the petition, the agency shall conduct an investigation as to whether the organized borough may dissolve under the standards prescribed by this Act.

Sec. 7.47. Report to Local Boundary Commission. The Local Affairs Agency shall report the findings of its investigation to the Local Boundary Commission, together with any recommendations it may have regarding the dissolution of the organized borough.

Sec. 7.48. Hearing by Local Boundary Commission. Upon receipt of the report from the Local Affairs Agency, the Local Boundary Commission shall hold a hearing in the organized borough for the purpose of hearing public comment on the proposal for the dissolution of the organized borough.

Sec. 7.49. Determination by Local Boundary Commission. After considering the findings of the Local Affairs Agency and the comments at the public hearing, the Local Boundary Commission shall determine if the petition is to be granted. If the commission determines that the

organized borough fails to meet the standards for dissolution prescribed by this Act, the commission shall refuse the petition. If the commission determines that the organized borough meets the standards prescribed by this Act, the commission shall accept the petition.

Sec. 7.50. Election. a. **Date of Election.** If the Local Boundary Commission accepts the petition, it shall immediately notify the secretary of state of its action and shall furnish him with such information on the dissolution as he requires. Within 30 days of the receipt of his notification, the secretary of state shall issue an order that an election be held within the organized borough to determine the question of whether the people of the proposed organized borough desire to dissolve. The date of the election specified by the secretary of state in the order shall be not less than 30 nor more than 90 days after the date of the order of election.

b. **Qualification of Voters.** Any person who is a qualified voter in Alaska and is a resident in the organized borough is qualified to vote in the election.

c. **Administration of Election.** The secretary of state shall supervise the administration of the election in the general manner as prescribed by the Alaska Election Code including, but not limited to, the establishment of precinct boundaries and polling places, appointment of election officials, preparation of ballots and other election materials and supplies, the giving of public notice, certifying of election expenses, the count, canvass and certification of returns, and the establishment of procedures for voting absentee, the use of voting machines, and election recounts.

d. **Certification.** If the majority of votes cast on the question are not for dissolution, the secretary of state shall so certify and the proposal defeated. If the majority of votes cast on the question are for dissolution, the secretary of state shall so certify and the certification shall declare that the area in which the election was held is dissolved as an organized borough and municipal corporation.

Sec. 7.51. Immediate Dissolution. A borough is dissolved whenever its entire territory becomes included within a city or cities.

Sec. 7.52. Succession. Upon dissolution, all property and debts owing to the bor-

ough becomes the property of the govern-
ments succeeding it.

Article VIII

Formal Provisions

Sec. 8.01. Adopted Laws. Statutes and

general laws adopted by reference by this
Act are adopted as they now exist and as
they may be amended hereafter.

Sec. 8.02. Effective Date. This Act
takes effect October 1, 1961.

Approved May 1, 1961

CHAPTER 147

AN ACT

Appropriating from the general fund, from special accounts in the general fund, from federal transitional grants in the general fund, from the water and harbor facilities fund and from certain other special funds of the state for operating and capital expenses beginning July 1, 1961; and providing for an effective date.

(C.S.H.B. 42)

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

Section 1. The sum of \$55,734,040 is

appropriated from the following state funds
for the period beginning July 1, 1961, to
be apportioned according to the schedules
in Secs. 2 and 3 of this Act:

General Fund	\$41,751,639
Federal Transitional Grants	6,612,285
Highway Fuel Tax Account	3,283,434
Equipment Working Capital Fund	1,744,900
Aviation Fuel Tax Account	746,067
Fish and Game Fund	572,751
Water and Harbor Facilities Fund	543,000
Cigarette Tax Fund	195,000
World War II Veterans Revolving Fund	112,566
Public Employees' Retirement Fund	39,710
Teachers' Retirement Fund	29,300
Oil and Gas Conservation Fund	25,000
Radio-Telephone Fund	20,673
Agricultural Revolving Loan Fund	17,220
Social Security Administration Fund	11,995
Sick and Disabled Fishermen's Fund	7,000
Boiler Fund	6,500
Second Injury Fund	15,000

Sec. 2. The following appropriations are
made for operating expenditures for the

fiscal year beginning July 1, 1961, and end-
ing June 30, 1962:

Office of the Governor

General Administration	\$ 158,374
Governor's Mansion	31,833
Division of State Planning	35,000
Arthur B. Little Company	20,000
State Development Bank; to be reimbursed to the general fund at such time as the surplus of the bank makes reimbursement feasible.	25,000
Western Interstate Commission for Higher Education	39,200
Council of State Governments	2,500
Reapportionment Board	10,000

Contingency Fund
Secretary of State
General Administration
Administrative Process

Total, Secretary of State

Local Affairs Agency
Local Government (3
17)
Boundary Commission

Total, Local Affairs Agency

Rural Development, D
Projects

Pioneers' Home
General Administration
Maintenance and Op

Total, Pioneers' Home
Total, Office of the Govern

Departmental Operation

Personal Services
Travel
Contractual Services
Commodities
Equipment

Total, Departmental Oper

Personnel Board
FICA Administration (St
Retired Employees' Bene
Terminal Leave

Total, Department of Adm

Public Employees' Retir

Retirement Board
Personal Services
Travel
Contractual Services
Commodities
Equipment

Total, Public Employees
Public Employees' Ret

Teachers' Retirement Ad

Personal Services
Travel
Contractual Services
Commodities
Equipment

Total, Teachers' Retirem
Retirement Fund

Social Security Administ
Personal Services

MANDATORY BOROUGH ACT (Chapter 52, SLA 1963) (CSHB 90)

This bill provided for the establishment of first or second class boroughs in the more populous election districts of the state as they then existed:

Ketchikan (except Annette Island Reservation), Sitka, Juneau, Anchorage, Fairbanks, Palmer-Wasilla-Talkeetna (Matanuska-Susitna), Kenai-Cook Inlet and Seward (Kenai Peninsula), Kodiak.

These were to be exclusive of certain designated military reservations from the boroughs to be formed until the designated military areas lost their reservation character. The legislation further provided that, if an area designated failed to incorporate as a borough government by local option before January 1, 1964, on that date a borough government (first or second class, at municipal option) would be incorporated. Codified sections of the legislation provided for the integration into the boroughs established the then-existing special service districts, and amended statutes relating to the adjustment of borough boundaries.

Form of regional government authorized:

First and second class general law boroughs.

Manner of organization:

Mandatory incorporation (unless area residents earlier exercised optional incorporation authority).

Fiscal incentives and implications:

Transitional assistance in the nature of land grants (ten per cent of the vacant, unappropriated, unreserved state land) and organizational grants (ten dollars for every qualified voter within the borough who voted in the last general election, with a minimum of \$25,000, "for the purpose of defraying the cost of transition to borough government and in order to provide for development and interim governmental operation.")

SENATE BILL 101 (1969) "...establishing more than one unorganized borough and providing for their administration."

Offered by Governor Keith Miller, this bill was meant to establish a framework to local participation by establishing six unorganized boroughs: Northwestern; Western; Interior; Southwestern; Southcentral; Southeastern. Residents of each unorganized borough were to be represented on elected five member advisory boards "to give advice and counsel to the executive and legislative branches," with the board given the following additional powers:

- (1) make recommendations regarding exercise of local planning and proposal for projects;
- (2) make studies and recommendations regarding the establishment of unorganized borough service areas;
- (3) make recommendations concerning necessary legislation;
- (4) study transportation, housing, public services, "and any other matters which are relevant to planning within the unorganized borough;" and
- (5) prepare and submit suggested budgets for service areas.

In the exercise of these responsibilities, a board could receive and expend funds, but the levy of taxes "necessary to finance services" was left to the legislature. The local affairs agency was specifically designated the executive for these unorganized boroughs and, in that respect, enjoyed authority to aid the unorganized borough boards, administer state laws enacted by the legislature for the benefit of the unorganized borough, supervise the levy and collection of taxes imposed by the legislature, and recommend legislative establishment of one or more service areas within each unorganized borough.

Form of regional government authorized:

None; unorganized boroughs, and service area within unorganized boroughs, were authorized.

Manner of organization:

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

Fiscal incentives and implications:

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

HOUSE BILL 738 (1970)

The bill, as introduced, provided for the establishment of a Department of Regional and Community Affairs. In addition, it would have required that department to "draw tentative boundaries dividing all areas of the state which are not within the boundaries of an organized borough into proposed regional unorganized boroughs." The boundaries proposed would become effective unless challenged by the petition of 25% of the registered voters within a tentative regional unorganized borough. A regional-borough would be proposed to the voters at the first statewide election following final determination of boundaries; a proposed regional borough might be rejected, but could be proposed again at a later date upon presentation of a subsequent petition signed by ten per cent of the number of those who voted in the last election on the question. A regional borough, once established, would be supervised by an elected regional council, whose members would be required to

- (1) prepare and submit or review and approve a budget for the regional borough;
- (2) "review and approved all state agency plans which effect the development and welfare of the borough;"
- (3) coordinate state and federal activities with regional and local programs; and
- (4) prioritize the needs of borough residents.

A Regional and Community Affairs Fund was established, to which was to be appropriated 40% of revenues derived from the sale, lease or disposition of a "natural resource or assets." The fund was to serve as the basis of shared revenue distributions to then existing organized boroughs, to regional boroughs authorized under the bill, and to regional unorganized boroughs.

The bill authorized regional councils supervising regional unorganized boroughs to provide for service areas for the

administration of all functions except the power to assess, levy, or collect taxes.

Form of regional government authorized:

Regional unorganized boroughs, as a prerequisite to so called regional boroughs; service areas authorized within regional unorganized boroughs.

Manner of organization:

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

Fiscal incentives and implications:

A Regional and Community Affairs Fund was established as a source of shared revenues for borough governments and for regional unorganized boroughs (with a ten per cent reserve for cities of the unorganized borough), to be distributed on the basis of population ratio and income deficiency. No fiscal estimate was provided.

Regional unorganized boroughs might exercise land selection rights (ten per cent of vacant, unappropriated, unreserved land) in the manner provided for organized boroughs.

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Manner of organization:

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Fiscal incentives and implications:

A Regional and Community Affairs Fund was established as a source of shared revenues for borough governments and for regional unorganized boroughs (with a ten per cent reserve for cities of the unorganized borough), to be distributed on the basis of population ratio and income deficiency. No fiscal estimate was provided.

Regional unorganized boroughs might exercise land selection rights (ten per cent of vacant, unappropriated, unreserved land) in the manner provided for organized boroughs.

HOUSE BILL 161 (1971)

Offered at the request of Governor William A. Egan, this bill would have established service areas in the unorganized borough, prescribing their structure and describing their functions. Authority was given to the director of the local affairs agency to establish, alter and abolish unorganized borough service areas in accordance with standards which he developed. Once established, the service areas would be controlled and directed by Regional Service Area Commissions, appointed or elected. The principal responsibilities of the Regional Service Area Commissions were to be advisory, but authority was given for the commissions to receive and expend financial assistance, to undertake sponsorship of economic and social projects, to participate with other entities in activities in support of the economic or social development of the region, and to "develop and implement plans under which the regional service area may assume the status of an organized borough when deemed appropriate by the inhabitants of the area."

Form of regional government authorized:

None; service areas of the unorganized borough were authorized.

Manner of organization:

Discretionary with the director of the local affairs agency.

Fiscal incentives and implications:

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

HOUSE BILL 202 (1977) and HOUSE BILL 9 (1979)

These are a pair of bills, substantially similar, intended to levy a tax on developed lands within the state's unorganized borough. The tax, to be levied on the "full and true value" of taxable real property located in the unorganized borough, would not affect:

- (1) property within home rule and first class cities of the unorganized borough;
- (2) unimproved lands;
- (3) real property which is exempt by state law from taxation under AS 29;
- (4) real property for which a city may grant an exemption; and
- (5) real property covered by the oil and gas property tax and real property covered by the oil and gas reserves ad valorem tax.

Under each bill, the mill rate would be set on an annual basis, to be levied as an amount which is equal to the mill rates levied by the state's organized boroughs on the preceding January 1st for the support of their respective school district functions.

The remaining provisions -- generally sections 130-190 -- describe the means of assessment, equalization, collection and enforcement, dividing the responsibility for these functions between the Departments of Community and Regional Affairs and Revenue. In order to isolate the costs associated with the unorganized borough property tax levy, and in order to assure the gathering of accurate information about program receipts, specific provision is made for separate budgets for this program and for separate annual reports. Finally, by section 220, as an incentive to unorganized borough incorporation, there is to be granted to an area incorporating as a municipality all of the tax proceeds collected by this act during the year of incorporation.

Form of regional government authorized:

None.

Manner of organization:

Not applicable.

Fiscal incentives and implications:

The levy of a millage rate, the proceeds of which are to be deposited into the state's General Fund for partially off-set of state funded educational costs, would constitute the first general property tax levy in the unorganized borough. The tax would necessarily fall on improved commercial property, for there is not a doubt in my mind that within the first fiscal year second class cities would take advantage of the optional tax exemptions to establish residential exemptions.

There is a very good likelihood that enactment of the legislation in substantially the form that its been offered would generate litigation regarding the extent of the exemption allowed native restricted deed property in the unorganized borough. This is a subject that should be looked at with some care, perhaps reviewing the matter with officials of the North Slope Borough to determine whether levy and collection of that borough's property tax against restricted deed properties resulted in litigation or other problems.

HOUSE BILLS 596, 597 AND 598 (1972)

Companion bills were introduced by Governor William A. Egan, and were intended to provide comprehensive legislation addressing the organizational and financial aspects of local self government.

House Bill 596 directed the Local Boundary Commission to divide the state into unorganized boroughs, the boundaries suggested by the commission to become effective unless the legislature disapproved them. Specifically withheld from the legislature was the right to alter the boundaries recommended by the Boundary Commission. Thereafter, the voters within each unit established as an unorganized borough would choose an eleven member council to "participate in an advisory capacity in the development and implementation of state programs and projects relating to that borough." An unorganized borough could, with Local Boundary Commission concurrence, adopt a home rule charter to govern the affairs of the unit.

House Bill 597 proposed a levy and collection of a fifteen mill tax on real and personal property on a statewide basis. Exempted from the tax were, among other items, real and personal property in the nature of a residential exemption of a value of fifty thousand dollars, and all unimproved property, while a credit was given to property tax payers for the taxes which they paid to a city or borough. A local effort exclusion eliminated the need for a taxpayer to file a municipal return if local tax revenues exceeded revenues which would be raised by the tax proposed in the house bill. While assessment and collection followed then applicable provisions of law for the collection of taxes within the cities, property assessment in the unorganized borough for purposes of the tax was made the responsibility of the state assessor, and provision was made for a statewide assessment review board to handle appeals. Tax proceeds, collected by the Department of Revenue, were to be deposited into the General Fund, but provision was made for the return of revenues to unorganized borough units for operations on a direct basis and, for "essential services," on an alternate basis using an index which combined unorganized borough unit fiscal capacity and population ratios.

As offered, House Bill 598 levied a twenty mill property tax on the full and true value on all taxable real and personal property employed "in the exploration for and transportation of unrefined oil and gas" except property which was actually subject to a borough or city levy. Additional tax exemptions authorized included

- (1) producing oil and gas leases;
- (2) machinery, appliances and equipment "actually used in the operation of a well;" and
- (3) oil and gas for which a gross production (i.e., severance) tax was paid.

The entire proceeds of the tax, deposited into the General Fund, were to be available for distribution to municipalities and unorganized borough units under a distribution index which took into account the unit's

- (1) population;
- (2) cost of service index; and
- (3) fiscal capacity.

The comments of a principal draftsman of House Bill 598 are appropriate:

"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 governs distribution of the general property tax revenue under House Bill 597."

Form of regional government authorized:

Unorganized borough units each of which would have authority to adopt home rule charters. (House Bill 596)

Manner of organization:

Mandatory formation of unorganized borough units. (House Bill 596)

Fiscal incentives and implications:

Extension of the property tax levy on a statewide basis (House Bill 597), with the levy of a premium rate on certain real and personal property of companies engaged in oil and gas activities (House Bill 598), was, even with the credits and exemptions allowed, expected to be sufficient to meet revenue sharing demands built into the two bills. The sharing of general property tax revenue, involving as it did the population and fiscal capacity factors, represented the first realistic effort by an administration to propose to the legislature tentative solutions addressing the real disparities in the abilities of local government units and erstwhile local government units to generate revenues for local services from community and regional sources, traditionally the focus of property taxation efforts. The major source of shared revenue under the governor's legislative package was, of course, to be the twenty mill tax on pipeline property; by the time that legislation escaped the House, however, the sharing scheme had been converted into one based on economic impact - real or imagined - utterly non-conducive to providing revenues on a sustained basis to meet the costs of public services at the local level. The legislation died, unmourned, in the Senate Finance Committee, and in its absence, there was no interest expressed in the enactment of any other legislation of the administration's package.*

* The record shows that only House Bill 598 received extended legislative consideration:

CSHB 598 (Local Government Committee): Clarified the applicability of the tax on property which was employed in the construction of a taxable facility.

CSHB 598 (Fin) (Finance Committee): Authorized local governments to levy up to twenty mills on not more than ten percent of property subject to the state property tax, and altered the revenue sharing scheme to one of "impact distribution."

SCS CSHB 598 (Local Government Committee): Exempted from the state property tax pipelines of less than 21 inches diameter.

HOUSE BILL 122 (1973)

The bill, if enacted, would have required the Department of Community and Regional Affairs to provide boundary descriptions corresponding to the boundaries of the twelve geographic areas described by the Alaska Native Claims Settlement Act. Thereafter, if, before January 1, 1977, no borough had been formed within each of the districts described by the department, on that date a second class borough would have been incorporated. The bill made provision for elections to determine the initial powers which the second class boroughs would enjoy and for the choice of the initial borough officers.

Form of regional government authorized:

Second class boroughs

Manner of organization:

Mandatory, in accordance with the provisions of the legislation and in accordance with provisions of then applicable general law.

Fiscal incentives and implications:

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

SENATE BILL 122 (1973)

The predecessor of legislation eventually enacted in 1975 to provide for the decentralization of responsibility for the operation of public schools, this bill provided for the establishment of educational service areas in the unorganized borough. The initial division of the unorganized borough into educational service areas was made the responsibility of the state Board of Education, acting on the recommendation of the State Department of Education. Provision was also made for the election of school boards for each of the service areas to be established, each school board to have substantially the powers and duties of city and borough school district boards. Correlative amendments to numbers of sections in Title 14 in order to recognize the educational services which were proposed.*

Form of local government authorized:

None

Manner of organization:

Mandatory formation of educational service areas.

Fiscal incentives and implications:

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

* The bill was revised substantially by several legislative committees and eventually emerged as a House-amended House Committee Substitute by authority of which schools on military reservations might be operated by an adjacent city or borough school district under contract with the Department of Education. See Ch. 72, SLA 1974.

HOUSE BILL 291 (1973)

This legislation is quite similar to Governor Egan's 1972 bill, but names the entities to be established "unorganized borough districts," modifies the local hearing requirements with respect to the drawing of the boundaries of these districts, and requires affirmative legislative approval of the proposed boundaries rather than mere "non-disapproval" as Governor Egan's bill proposed.

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

PROBLEMS/ISSUES A-1

THE LACK OF OFFICIALLY RECOGNIZED REGIONAL BOUNDARIES IN THE UNORGANIZED BOROUGH HAS CREATED A SITUATION ^{in which} WHEREBY ANY FORM OF LOCAL OR REGIONAL GOVERNANCE CANNOT FULLY SERVE ITS INTENDED PURPOSE. IN REACTION TO THIS VOID, NUMEROUS ENTITIES AT THE REGIONAL AND LOCAL LEVEL HAVE BEEN CREATED TO DELIVER SERVICES AND PROVIDE LOCAL CONTROL. (WITH THIS PROLIFERATION OF LOCAL AND REGIONAL ORGANIZATIONS NOT RELATED IN ANY LOGICAL MANNER, CONFUSION AND FRUSTRATION HAS RESULTED IN DEALING WITH THE MYRID OF FEDERAL AND STATE PROGRAMS AND SERVICES. ^{WELL DEFINED SYSTEM,} LOCAL VILLAGES AND SMALL COMMUNITIES ARE OVERWHELMED BY STATE AND FEDERAL PROGRAM ^{governmental} AND SERVICES DELIVERERS ^{by} PROVIDING UNCOORDINATED AND UNPLANNED SOLUTIONS TO LOCAL PROBLEMS AND NEEDS. CONVERSLY STATE AND FEDERAL AGENCIES FIND IT DIFFICULT TO ^{identify} FIND A FOCAL POINT TO RELATE IN THE PLANNING AND DELIVERY OF SERVICES. LOCAL AND REGIONAL ENTITIES IN THE UNORGANIZED WANT TO HAVE LOCAL ^{control} CONTROL AND BE RECOGNIZED (OFFICIALLY) BUT ^{hard} THE STATE HAS NOT ADDRESSED THESE ^{efficient recognition} IMPORTANT ISSUES.

- * Lack of officially recognized regional boundaries as an instrument through which people can provide for themselves a measure of local control.
- * Need for comprehensive planning in rural Alaska--the type of planning which would be long-term rather than provided on a confrontation basis. Planning was seen as a total process including the identification of social, economic, physical needs and the development of solutions for dealing with these needs.
- * Service area approach to planning was discussed. Reference was made to the Third Class Borough amendments of 1977 which provide that planning, platting, and zoning can be provided on a service area basis. There was a concern expressed that fragmentation would result from this approach.
- * Need for a coordinated approach to service delivery. There is an array of programs presently administered in an uncoordinated manner. The multitudinous/separate efforts contribute to the inability of the villages to digest all the "bits and pieces". What system can be developed to make sense out of all the services being funded by the State and Federal governments as well as the non-profit associations?
- * Rural Alaska is not underorganized but rather overorganized. There must be recognition of the different systems which are already in place there.
- * There is no vehicle in place for communicating with the State. Villagers don't know who to go to. People don't know what is available. Whatever structure is developed must serve the general public, that is, all the people.
Urban solutions don't always work. The solution processes (urban/rural) are different.
- * Cost effectiveness should be considered in the consideration in the creation of a vehicle.
- * Southeastern Alaska has to be dealt with differently. The large ~~number of~~ multitudinous governmental units were mentioned along with the concomitant "turf problems" created by these coexisting units.

A-2



PROBLEM...ISSUES →

HOME RULE CONCEPT

No adequate articulation in relationship of cities and boroughs.

Urban solutions don't always work. The solution processes (urban/rural) are different.

A-3

a. problems...issues -----FINANCING AND SERVICE

PROBLEMS RELATED TO FINANCING AND SERVICE DELIVERY

- * There is no concensus on "financial equity" as it relates to the redistribution of revenue from Alaska's resources.
- * Individual as well as village survival is an issue in rural Alaska.
- * Organized municipalities are often resistant to the idea of serving as program deliverers.
- * There is a lack of training in the basic skills necessary to operate government on a local level and insufficient funding to provide the needed training. It is the policy of the Dept. of Community and Regional Affairs to provide assistance upon request.
- * Rural areas often lack even the minimum amount of money needed for local match of state and federal dollars related to program and service delivery.

There is a critical situation in the rural areas ~~concerning~~ related to the energy situation. Water availability and quality is an issue. The ability of small communities to support and maintain the operation of ~~electrical~~ facilities and waste treatment plants is ~~also~~ becoming questionable. Unemployment is a major and ongoing problem in rural Alaska.

The vast economic potential of the state relates to the existence of natural resources which are unevenly located throughout the state. The development of regional government is most likely to take place in an area which can capitalize on the existence of such natural resources. However, economic development doesn't always bring benefits to the people who live where the resources are. People are often not aware of the potential which exists.

The question of regional government must be viewed in relation to the whole issue of funding for such government and the role of

The location of natural resources is a key in the viability of local government

A-4

PROBLEMS...ISSUES

OTHER

- ✦ The state should recognize the power of the Indian Reorganization Act Councils to deal with their own problems. The general resurgence of the IRAs was noted.
- ✦ The community land entitlement provided for in the provisions of the Alaska Native Claims Settlement Act (14 (c) (3)) provides that the Village Corporations convey to a municipality, or to the State in trust for a municipality, title to no less than 1,280 acres. This is seen as a problem when no recognized municipalities exist in many areas.
- ✦ The Local Government Study project is limited by time and money. The whole effort wh should be put in proper perspective in terms of time.
- ✦ What is the stat's definition of self determination?
- ✦ Regional Corporations are not recognized by the State. The State and the Natives need to get together.
- ✦ Racial backlash is a problem.
- ✦ The relationship between cities and boroughs is a problem if considering the creation of subdistricts. A new definition is needed for "class of city"--this could be a subregional district.

B-1

DIRECTIONS...IDEAS

CREATION OF UNORGANIZED BOROUGHS

- * Establish unorganized boroughs. Mandate a division. SB 35 could be used as a model of boundary selection process.
- * Use REAA boundaries for discussion purposes and then remove, rather than add to these lines. There was a concern that the REAA boundaries might be too small. Regional Corporation boundaries were also considered.
- * In the discussion of boundary selection, some problems were identified with existing borough boundaries and the point was made that perhaps one should begin with a clean slate in proposing boundaries. There were expressed concerns that altering the existing borough boundaries would be politically unworkable.
- * A role for the Local Boundary Commission was seen in the creation of boundaries and in the process for determining suitable boundaries for unorganized boroughs.
- * Data base is necessary if you want to organize areas.
- * There should be a distinction between delivery and financing of services. Is new unit just a funnel? REAAs are deliverers which don't "provide". Make this distinction between "deliverers" and "providers".
- * Examine decentralization of state government and services. REAAs are example of this. Functional decentralization possible. There must be public services coordination. Local government could scoop up state powers re service delivery.
- * "Platting and zoning" should be eliminated from the definition of planning. Planning could be a single service entity like education.
- * Suggestion was made to use the boundaries proposed by the Tanana Chiefs Conference for planning purposes in the Doyon Region. There was a concern with a lack of coordination unless this type of effort was incorporated into an ongoing effort. A concept for unified service delivery is necessary.
- * *Dec. suggested*
Proposed format for proceeding:
 1. Petition for self government from designated area
 2. CRA would provide technical assistance during second phase (Identify resources, develop data base, etc.)
 3. Maximization of self-government statement
 4. Socio-economic impact statement (would take into consideration existing units, people, ..respond to impact)
 5. Proposal for self government

B-2

~~W~~

DIRECTIONS... IDEAS

HOME RULE CONCEPT

* There is a need for flexibility in the powers exercised by any unit formed in the unorganized borough. Home rule can be used to develop a charter which is more restrictive as well as more powerful than general law.

* A "mini Constitutional Convention" could be held for each area at which a home rule charter, keyed to the needs of each region, could be developed.

* A basic statement of purpose related to the home rule concept should be developed.

*Traditional councils have representation method which takes into account each village. Village recognition should be given in voting method. Perhaps this could be done in the development of a home rule charter. ("weighted vote" eliminated with passage of SB 137 (1979))

B-3

DIRECTIONS... IDEAS

FINANCING AND SERVICE DELIVERY

*When considering fiscal equity, "Molly Hootch" could be related to "whole state" responsibilities. Questions to be considered:

1. What are essential state services?
2. Should any local effort be required in the provision of essential services?
3. What standards of democratic access to policy control should be operative?

*Identification of the services for which a basic minimum level of service should be available to all residents of the state include:

1. Education
2. Public Safety (fire, police, justice)
3. Public Assistance
4. Health / Sanitation
(Plummers)

*(a level
imposed
statewide)*

* A Foundation approach to funding the four basic identified services was discussed.

* Does the notion of a local match, even "in kind" contributions, have to be considered a basic element in the development of a fiscal program?

*In reference to revenue sharing, the following points were made:

1. Revenue sharing should redistribute the profits of locally raised revenues
2. A need/income formula could be worked out.
3. A need assessment rather than per capita basis for sharing should be developed.
4. Existing law contemplates sharing money. It is earmarking that is the problem.
5. Everyone doesn't participate in revenue sharing.
6. Residents of impoverished areas will resist sharing the benefits of locally-derived resource revenues.
7. The state could allocate money by regions if they were established statewide.

* Look to the reallocation of "old money". Take on the bureaucracy. There are dollars which have been appropriated for service functions. The unification and efforts and decentralization of existing funds is the key. Provide for the utilization of these existing dollars in the local rather than state delivery system. It will be difficult to have "new money" appropriated for service delivery.

* Consider the impact of CETA which functions like local government as an employer in rural Alaska. The reduction of federal funding for CETA programs is a possibility which & even elimination of raises very serious problems.

* Avenues other than property taxation should be explored in relation to the financing of local government. Business or resource taxation might justify assessment in the unorganized borough. The economic infrastructure of villages needs to be looked at. Money is not all that is included in this. Any assessment and collection of data must be done carefully. But, don't start out with assessing on your mind. It is politically unworkable.

B-3

*A more economical and efficient method of providing services might be effected through intergovernmental contracting. More local control could be guaranteed through a contracting approach. Presently, there is a lack of standards and procedures for contracting. Also, the concept is often politically difficult to advance with resistance coming from the legislature (which wants to "bring home the bacon") and from the executive branch where the bureaucracy feels a threat to the existing manner of operating.

*Delivery of services should be racially neutral.

B-4

~~PRINCIPLES~~... DIRECTIONS... IDEAS

~~W~~
OTHER

Legislature is constitutional empowered to serve as the Assembly for the Unorganized borough and hasn't really acting in this capacity. Identify what the legislature can do in this role.

What does self determination mean? Explore the concepts embodied in the Indian Self Determination Act as an approach. Perhaps an Alaskan Community and Regional Self Determination Act could be developed. Review the concept of Indian Self Determination to see if it is applicable.

What will happen to the consideration of local government problems when the Local Government Study is completed.? There should be provision for the ongoing consideration of local government problems.

Perhaps there should be an advisory committee to the C_{RA} Committees on..

A resolution should be passed which makes it public policy that it is in the interest of the State of Alaska that villages exist.

Villages should be recognized by the state. Is there a legal problem with recognition of villages? What are the issues related to "recognition"? It would mean different things in different regions. One of the main problems is that the ANILCA ANSCA provides that the municipal land entitlement be conveyed through recognized municipalities (14 (C) (3) Could non-profit corporations act as trustees for the land entitlement? There is really no difficulty with technical recognition of "villages?". You could call third class cities "villages" rather "villages" third class cities. and then use this as the mechanism to convey land.

Look at the IRA s for positive and negative impacts. If state can't perform services, or receive money for a particular purpose, IRA councils should be able to do so. The Monitoring function of the IRA Councils should be recognized by the state.

8/8/79

RECOMMENDATIONS FOR ACTION PROGRAM

1. ESTABLISHMENT OF UNORGANIZED BOROUGHS
 - A. BOUNDARIES
 1. DELINEATION
 2. FORMALIZATION (ESTABLISHMENT)
 3. FOLLOW-UP ADJUSTMENT BY LOCAL BOUNDARY COMMISSION
 - B. COUNCILS (ADVISORY)
 1. APPORTIONMENT
 2. ELECTION
 - C. FUNCTIONS AND AUTHORITY
 1. PLANNING
 2. COORDINATION AND REVIEW
 3. RELATIONSHIP TO REA's & COASTAL RESOURCE SERVICE AREAS
 - D. STEPS TOWARDS ORGANIZED STATUS
2. HOME RULE/ORGANIZED BOROUGHS
 - A. EXTENDED HOME RULE
(provision to move directly from unorganized status)
 1. PROVISION FOR CHARTER PROCESS
 - B. ELIMINATION OF DISINCENTIVES TO ORGANIZATION
 1. PROPERTY TAX, ZONING LAND SELECTION, ETC.
 - C. EXTENSION OF HOME RULE CONCEPT TO EXISTING GOVERNMENTS
3. LOCAL GOVERNMENT FINANCING AND SERVICE
 - A. REVENUE SHARING
 - B. FOUNDATION PLAN FOR HEALTH, PUBLIC ASSISTANCE, PUBLIC SAFETY, EDUCATION
 - C. INTERGOVERNMENTAL CONTRACTING
 - D. FINANCIAL NEEDS (CETA)
 - E. TRAINING AND TECHNICAL ASSISTANCE
 - F. FINANCING OF EDUCATION
4. OTHER
 - A. MUNICIPAL TRUST LANDS 14(C) 3
 - B. RECOGNITION OF VILLAGES
 1. THIRD CLASS CITIES

PROBLEMS OF RURAL ORGANIZATION AND SERVICE DELIVERYExisting Unorganized Borough Is Inadequate

amorphous
Most of rural Alaska is characterized by lack of adequate governmental services and by absence of appropriate vehicles for meeting local and regional needs. The existing single unorganized borough consists of those parts of the state left over after other areas became organized. It is not a region, it is but an "amorphous mass". As a result, the present unorganized borough does not provide any basis for the delivery of state services or for fostering of local self-determination.

Constitution Provides For Regional Unorganized Boroughs

Alaska's constitution contemplates establishment of separate unorganized boroughs that relate to local realities and give the people a chance to participate--at the very least on an advisory basis--in the decision making process. This requires delineation of regions that make geographic sense and to which the people in various parts of the state can relate.

Existing Organizations Are Not Adequate For Provision Of Public Services

Lack of officially recognized regional boundaries has created a situation in which numerous entities (such as Native corporations and regional non-profit organizations) having no official links to state government, are called upon and attempt to deliver services and provide local and regional control. Confusion and frustration have resulted from the proliferation of these entities. Villages and small communities are overwhelmed by state, federal, and quasi-governmental programs and service deliverers, providing uncoordinated and unplanned solutions to local problems and needs. There is no coordinated approach to service delivery. Instead there is an array of programs administered in an uncoordinated manner. These multitudinous separate efforts contribute to the inability of villages to digest all the "bits and pieces". Villagers do not know who to go to and do not know what is available in terms of services and programs.

A-1 (continued)

Decentralization Of BIA Service Delivery

The special relationship between the Alaska Natives and the federal government is a factor with widespread implications. The decision by Bureau of Indian Affairs to decentralize service delivery by utilizing the Native non-profit associations as the vehicles for such service delivery has contributed to the proliferation of service deliverers but has also allowed for more "regional control" of the programs being offered.

IRA Councils

There has been a general resurgence in the creation of Indian Reorganization Act Councils in some areas. These federally recognized and sponsored structures (IRA) play an active role in the economic activities of the villages and often decide who will provide the contracted services for their community.

Absence Of Regional Vehicles To Serve General Public

While the Native non-profit associations often contract with the federal government to provide services for Alaska Natives, there is an absence of regional instrumentalities for serving the needs of the general public and for providing for local control by the general public. Second class cities have met this need on a local level in the small populated areas and often co-exist with IRA Councils as well as traditional tribal councils, but there are no regional general government instrumentalities. The only public regional entities are those legislatively mandated as service areas for specific purposes: Regional Educational Attendance Areas (REAA's) created in 1975 as the mechanism through which the Legislature delegates to regional school boards the authority to operate the public schools, and Coastal Resource Service Areas authorized by the Alaska Coastal Management Act of 1977 to plan for coastal areas.

Village Land Reconveyance Under ANCSA

The fact that villages are not recognized as "municipalities" for the land entitlement provided by the Alaska Native Claims Settlement Act (ANCSA) is seen as a problem. ANCSA Section 14(c)(3) provides that the village corporations

A-1 (continued)

convey to any municipality in the native village, or to the state in trust for any municipality established in a Native village in the future, title to no less than 1,280 acres for community expansion, appropriate rights-of-way for public use and other community needs. It has been suggested that a "village" be constituted as a third class city to deal with this specific problem.

Difficulties Of Regional Planning In Rural Regions

A major problem resulting from the lack of officially recognized regional boundaries has been the inability of the state to provide for comprehensive planning in rural Alaska-- the type of planning which would be both long-range and short-term, providing an alternative to dealing with each problem on a confrontation basis. This planning should be a total process, including the identification of social, economic and physical needs, and the development of solutions, for dealing with these needs. A service area approach to planning would encourage fragmentation and still not adequately meet the planning needs of rural Alaska. Planning should be a general government function.

Lack Of Regional Coordination By State

Fragmentation of service delivery also results from the proliferation of district boundaries used by governmental agencies for both administrative and service delivery functions. In a study prepared by the state Division of Policy Development Planning (Dec. 1976), these overlapping jurisdictional boundaries were depicted as confusing road-blocks to the efficient delivery of services to citizens.

Specific recommendations for the creation of into the study. } ?

However, the study recommendations were never implemented.

IDEAS FOR REGIONALIZING GOVERNMENT AND COORDINATING SERVICES

A Series Of Regional Boroughs Should Be Established

Unorganized boroughs should be established with REAA boundaries serving as a basis for borough boundaries--that is, they could function as building blocks for the unorganized boroughs which might consist of two or more REAAs. Insofar as possible, unorganized borough boundaries should conform to those of Native regional corporations established under ANCSA.

Process Should Involve People In Regions

Determinations as to boundaries and combining REAAs could be made by the Department of Community and Regional Affairs using standards now applicable to boroughs and REAAs. The process should be akin to that followed in establishment of REAAs and Coastal Resource Service Areas. Basic information on and a thorough understanding of what exists in rural Alaska is necessary for the creation of regional unorganized boroughs. People in the regions should be involved in boundary decisions.

Existing Borough Boundaries To Remain

The initial drawing of unorganized borough boundaries should not involve changing boundaries of existing boroughs. That may, however, result in some boundary and jurisdictional problems. After unorganized boroughs are delineated and established, the Local Boundary Commission might undertake a review of all boundaries and use conventional procedures to initiate any needed changes.

Decentralization And Coordination Of State Programs

The creation of unorganized boroughs can provide a framework for the decentralization and regionalization of state government services in addition to education. Such functional decentralization would assist in coordination of programs and bring about greater efficiency. As appropriate, regional and local governments could assist in planning, coordinating, and implementing state programs.

DELINEATION OF REGIONS AND ESTABLISHMENT OF UNORGANIZED BOROUGHES

Regional Boundaries

The existing unorganized borough will be divided into regions suitable for governmental and program coordination purposes. Insofar as possible, each region will include one or more REAAs and will conform to boundaries of Native regional corporations. Boundaries will be delineated by the Department of Community and Regional Affairs in cooperation with people in the regions and with other state agencies.

Creating Unorganized Boroughs

Each region will be established as an unorganized borough. It will have such powers and perform such functions as may be authorized by the legislature. The Department of Community and Regional Affairs will function as the state agency responsible for unorganized boroughs.

Elected Assemblies

Each unorganized borough will have an opportunity to elect an assembly to provide a means for participating in state decisions for the region and to oversee what regional functions might be carried out. Every effort will be made to assure representation of all communities in the borough. The state, through the Department of Community and Regional Affairs, will cover the expense of elections and of other organizing activities and operating costs.

Unorganized Borough Functions

Principal unorganized borough functions will be regional planning and advice on the exercise of state responsibilities within the region. The planning process will be directed toward coordinating state, federal, and local activities. The borough will not control state activities; rather, it will review state proposals and provide comments from the region's viewpoint, similar to the A-95 process operating at the state level with respect to federal projects.

C-1 (continued)

Relationship To Existing Governmental Units

Authorities of REAAs, coastal service districts, and incorporated municipalities will not be diminished by establishment of unorganized boroughs. They will all, however, be expected to cooperate in the regional planning and coordination efforts of the borough; as appropriate, individual planning programs could be merged.

Boundary Review

After regional boundaries have been delineated and unorganized boroughs established, the Local Boundary Commission will review all borough boundaries in the state to assure that both state and regional needs and interests are adequately accommodated. This review will take place in cooperation with the boroughs, both organized and unorganized.

ADAPTING GOVERNMENT STRUCTURES TO RURAL CONDITIONS

No Self-government Or Participation In Rural Regions

Alaska's constitution calls for maximum local self-government. It requires that the legislature provide for performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. But rural people have virtually no say on what happens in their regions.

Borough System Not Adapted To Rural Regions

Title 29 is urban oriented. There is a need to adapt governmental structures and processes to rural regional needs and conditions. Urban solutions do not always work for rural areas--the solution processes are different. Existing classes of boroughs and state rules governing their operations may not be suitable to rural regions.

Regional Differences Require Application Of Home Rule Concept

Recognition must be made of the vast differences between regions in rural Alaska. What works for one area will not necessarily work for another. The concept of "home rule" might be a tool with which to approach and deal with these differences.

Existing Organizations Need To Be Accommodated

There are already a variety of organizational structures in place and there is a need to accommodate them. In fact, rural Alaska is not underorganized but rather overorganized. There must be recognition of this and of the "turf problems" created by these coexisting units. Any regional structure would need to acknowledge the existence of the traditional forms of governance which presently exist.

What Is State Approach To Self-determination?

While the federal government has dealt with the notion of Indian self-determination, it is not clear what constitutes the state concept of self-determination.

APPLYING THE HOME RULE CONCEPT TO RURAL BOROUGHES

Home Rule Authority Is Very Broad

The "home rule" concept needs to be explored in its possible application in meeting the needs of rural Alaska. Under Alaska's constitution, home rule local governments have all legislative powers not denied by law or charter. That means, in effect, that the people of a home rule government can do most anything they wish to do. Under home rule a government can mold its governing structure, functions, and procedures to its own needs and desires, subject to limits and requirements set by the legislature. A home rule charter also provides a means for restricting the scope and operation of the local government.

Need For Flexibility

There is need for flexibility in the powers exercised by any unit formed in the unorganized borough. Home rule can be used to develop a charter adapted to the needs of each individual region. Such a charter can be more restrictive as well as more powerful than general law.

Extending Home Rule To Unorganized Boroughs

The purpose of extending home rule to unorganized boroughs wishing to advance to organized status is to permit them to draft a charter without having to first become a first class borough as now required by state law. Going directly to home rule would permit a region that has no familiarity with borough government to proceed at its own pace and to create a structure and processes that fit that particular region's needs.

Drafting Own Home Rule Charter

In effect, a mini-constitutional convention could be held in the region to draft a home rule charter keyed to the needs of the particular region. Delegates or charter commission members would come from all over the region, examine their special needs and problems, and decide how they might deal with them. Governmental forms could be adapted to the region so that the structure would fit the area and the people.

Provision For Village Representation

Presently, many regional organization have representation methods which take into account each village. Perhaps some manner of districting and apportioning could be developed under a home rule charter which would meet the "one man-one vote" rule and still provide for representation of each village on the borough assembly.

The Process To Home Rule Status

The process of moving toward home rule would commence only after regional unorganized boroughs have established. If an area decides to draft a charter, the process might include the following:

1. Petition for home rule.
2. Referendum on home rule and election of charter commission members.
3. Drafting of charter with technical assistance from the Department of Community and Regional Affairs.
4. Review of charter by Department of Community and Regional Affairs for conformance with state law.
5. Vote on approval of charter and establishment of home rule borough.

State Policy On Local Self-determination

The federal Indian Self-Determination Act approach could be used as a model for state/local/regional relations. The concept of an "Alaska community and regional self-determination act" might be explored.

ACHIEVING ORGANIZED STATUS AND HOME RULE

Advancing To Organized Borough Status

D/L
could

Regional unorganized boroughs will be able to become organized boroughs in accordance with existing laws. They can then function as "general law boroughs" with all the authorities and obligations of existing organized boroughs.

Extending Home Rule To Unorganized Boroughs

? /

Unorganized boroughs will be authorized to adopt, amend, and repeal home rule charters. Under current law, only first class boroughs and cities may do so, but the constitution permits the legislature to extend home rule to other classes of boroughs and cities. Unorganized boroughs will thus be able to move directly toward an organized status and governance form suited to the region's needs and conditions.

?

Guidelines And Technical Assistance

The state has the authority to establish requirements and limits for home rule governments. The Department of Community and Regional Affairs will assure that such state guidelines are met in the drafting of charters and will provide needed technical and funding assistance to unorganized boroughs in their charter drafting process.

Provision For Both Regional And Local Planning

First and second class cities will not be deprived of their planning powers upon borough organization. Instead, boroughs will have regional planning authority, while cities retain jurisdiction over local planning. Provision will be made for the separate allocation of zoning and platting powers. Planning would thus no longer be an exclusive areawide power, and zoning and platting will be treated as separate, though obviously related functions.

Elimination Of Disincentives To Organized Borough Status

Existing laws and programs that provide disincentives to moving from unorganized to organized borough status should

C-2 (continued)

be eliminated. Such disincentives to greater self-government include discriminatory funding and revenue sharing provisions, penalization through reduced eligibility for land selection, and others. A thorough review of disincentives will provide the basis for appropriate legislative action.

PROBLEMS OF INADEQUATE FINANCES AND SERVICES

Issues Of Fiscal Equity

The question of regional government must be viewed in relation to the whole issue of providing services in Alaska and state financial support for rural boroughs. There is currently no consensus on "fiscal equity". How can an "equal" and "equitable" distribution of wealth, especially in view of the uneven distribution of natural resources and the population, be assured? While regional government is more likely to take place in an area which can capitalize on the existence of natural resource wealth, economic development does not always bring benefits to the people who reside where the resources exist.

Lack Of Tax Base

The lack of a tax base outside of areas traversed by the pipeline is chronic and an obvious problem. This lack can be seen in the inability of rural areas to raise even the minimum amount of money needed for local match of state and federal dollars related to program and service delivery.

Survival Of Rural Villages And Individuals

More basic, and an issue in rural Alaska today, is the question of individual as well as village survival. The critical situation of financing energy and other local facilities and services calls into question the viability of many small villages. Small communities are having difficulty supporting and maintaining the operation of power generating facilities as well as waste treatment plants. Water availability and quality is also an issue. Unemployment is a major and ongoing problem in rural Alaska.

Lack Of Skills And Support For Local Government Operations

There is a lack of training in the basic skills necessary to operate government on a local level and insufficient funding for the state to provide this administrative assistance to the extent it is needed. Many government positions in rural

Alaska are funded by CETA. The reduction and even elimination of funding for these programs is a possibility which raises very serious problems over which the rural recipients have little, if any, control.

Equity In State Support Of Functions In Unorganized And Organized Boroughs

*Continue?
What about
Boroughs*

The present system of funding education could act as a major disincentive to the formation of regional governments, since part of the educational costs must now be borne by organized local governments. However, 100 percent state financing of the REAAs, including equivalent of average local effort, establishes a basis for possible continued total support of education in rural boroughs that might organize. The same concept could apply to state financing of other basic services.

— ?

Problems Of Racial Divisiveness

The issue of racial backlash has risen in recent years and has often been associated with the financial inequities seen in the provision of educational services to areas of rural Alaska. Creating a tie with state government by the establishment of a general public governmental unit might help to mitigate the divisions which seems to be developing as a result of programs and organizations providing benefits only to specified ethnic groups.

— ?

NEW APPROACHES TO FINANCING AND SERVICE DELIVERY

Basic Services For All Alaskans

There are four basic services for which a basic minimum level of service, mandated statewide, should be available to all residents of the state: education, public safety (search and rescue, fire, police, justice), public assistance, and health and sanitation.

Foundation Plan For Basic Services

A state foundation plan using an approach similar to the support of education should be used to fund these basic services. This approach has great potential and needs to be explored in relation to service delivery in general. Any formula developed for state support should reflect "local wealth and local need".

Need For Comprehensive Regional Planning

The need for comprehensive planning (i.e., establishment of goals, assessment of needs, analysis of alternative ways of meeting the needs, etc.) should be recognized and met on a regional basis. The lack of this local/regional planning capability leads to a lack of local control and coordination of state and federal programs in rural Alaska.

Alternatives To Property Taxation

Avenues other than property taxation should be explored in relation to the financing of local government. Local financing needs could be met through non-property-tax sources such as natural resource taxes, sales taxes, bingo, etc. [It is not essential that there be a local property tax.]

Revenue And Wealth Sharing

The state could support basic needs through wealth/revenue sharing, with 100 percent support of foundation programs. There could be a redistribution method similar to that developed in the Alaska Native Claims Settlement Act (Sec. 7(i), in which a percentage of all revenues raised by the state would be divided among regions. (The 1972 "Governor's package" introduced legislation proposing this concept).

Decentralization And Transfer Of Services

An "Alaska community and regional self-determination act" could be considered as the basis for transfer of some service delivery functions from the state to regional and local governments. This could permit coordinated joint provision of state and federal services, as the latter are increasingly performed on a regional basis. The approach could provide for the utilization of existing dollars in the local rather than state delivery system. Unification of effort and decentralization of existing funds could be the key. [It might be necessary to look to the reallocation of "old money" rather than having additional funds appropriated for service delivery.]

Intergovernmental Contracting

In line with this "decentralization" of service delivery, intergovernmental contracting should be explored. More local control would be possible through a contractual approach, and it might prove to be a more economical and efficient method of providing services. There would be need for standards and procedures for contracting. Also, the concept is often politically difficult to advance with resistance coming from the legislature (which wants to "bring home the bacon"); from the executive branch where the bureaucracy feels a threat to the existing manner of operating; and from organized municipalities which are often resistant to the idea of serving as program deliverers.

Need For Neutral Provision Of Services

In dealing with contracting for delivery of services, there must be one assurance that the delivery of services will be racially neutral. Because of federal stipulations, Native non-profit associations often function as service deliverers for programs which may be available only to Alaska Natives. The role of such non-governmental organizations as service deliverers for the general public needs to be clearly delineated when they function in this capacity.

Issues In Revenue Sharing

In discussion of state revenue sharing, a traditional

method of redistributing wealth, the following points were also mentioned:

1. Not all areas of the state participate in revenue sharing, only organized municipalities.
2. The state could allocate money by regions if they were established statewide. If organized as a borough, the region could receive and spend its own funds. If it is an unorganized borough, the state (through the Department of Community and Regional Affairs) could expend such funds in behalf of the region.
3. A need/income formula, rather than per capita distribution, should be the basis for state revenue sharing.
4. Residents of impoverished areas may resist sharing the benefits of locally-derived resource revenues.
5. Earmarking of state revenues for specific purposes can create constitutional problems. The legislature can, however, share revenues with local government for general or specific purposes.

PROVIDING FINANCIAL SUPPORT FOR LOCAL SERVICES

Basic Services For All Alaskans

The State of Alaska will establish a basic level of service delivery for all residents of Alaska. In addition to education, which is already covered, the basic services will be:

1. Health and sanitation
2. Public safety
3. General assistance
4. Regional planning

Foundation Approach

A foundation approach, similar to that used in education, will be established to support the delivery of these services. To insure an equitable disbursement of foundation funds, a distribution formula reflecting population, local wealth, and need will be established. The foundation programs will be available only to organized boroughs, except that regional planning funds will be available to both organized and unorganized areas. Federal program funds going to Alaska Natives will not reduce foundation funds available to boroughs. Regional non-profit corporations would be allowed to sub-contract from boroughs for the provision of foundation services. The foundation plans would not discriminate against organized boroughs in the provision of state financial support.

Revenue Sharing

The Department of Community and Regional Affairs will undertake a thorough study of revenue sharing and will report to the legislature on alternatives for sharing revenues and wealth between the state and local governments.



Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all
correspondence to:
LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator Arliss Sturgulewski
FROM: Marjorie Gorsuch *mg*
Gene Walsh
DATE: 8/27/79
RE: Symposium Report/ Misc.

Here are two more sections of the Report. I'll send up the "Other (1V)" one tomorrow.

Do you want the "Recommended Action Program" redone to reflect the three major areas you are now thinking of having legislation developed in? Or shall we leave it the way it is?

Don Neilson, of the Bristol Bay Native Ass'n. recommended that we go to Port Heiden out of Dillingham rather than to Alegnegik as the former is "isolated, has poor communications, you can fly Reeve from Port Heiden back to Anch.". Any thoughts as that as a substitute or shall we stick with Alegnegik? Bill has been to Alegnegik so it might help to ask him (Lamar or Jim could call) what he thinks.

Will talk with you Tuesday A.M. We are to see Jan Erickson this week. Hope Valdez went well.

PROBLEMS...ISSUES



FINANCING AND SERVICES

The question of regional government must be viewed in relation to the whole ~~issue~~ of funding for such government and there is currently no consensus on "fiscal equity" in Alaska. How can an "equal" and "equitable" distribution of wealth, especially in view of the uneven distribution of ~~the~~ natural resources and ^{of} the population, be assured? While regional government is more likely to take place in an area which can capitalize on the existence of natural resource wealth, economic development doesn't always bring benefits to the people who reside where the resources exist.

The lack of a tax base in the unorganized borough is chronic and an obvious problem. This lack ^{can be} seen in the inability of rural areas to raise even the minimum amount of money needed for local match of state and federal dollars related to program and service delivery.

~~More~~ ^More basic, and an issue in rural Alaska today, is the question of individual as well as village survival. The critical situation which exists relates to the energy problem with the cost and availability of energy sources calling into question the viability of many small villages. Small communities are having difficulty ^{supporting and} maintaining the operation of power generating facilities ^{as well as} waste treatment plants. Water availability and quality is also an issue. Unemployment is a major and ongoing problem in rural Alaska.

There is a lack of training in the basic skills necessary to operate government on a local level and insufficient funding for the state to provide this administrative assistance to the extent it is needed.

The present system of funding education acts as a ^{great} disincentive to the formation of regional governments since under existing law, part of

the educational costs must be borne by organized local government. This 100% financing of the REAAs, plus the equivalent of average local effort, establishes a precedent for future support of education in organized rural boroughs for state financing of other basic services.

DIRECTIONS...IDEAS

FINANCING AND SERVICE DELIVERY

IMPLICATIONS OF THE CASE DECISION

When considering fiscal equity, "Molly Hootch" could be related to responsibilities of the state for services in addition to education. There are four basic services for which a basic minimum level of service, mandated statewide, should be available to all residents of the state: Education, Public Safety (fire, police, justice), Public Assistance, Health and Sanitation.

In addition, the need for comprehensive planning (i.e., establishment of goals, assessment of needs, analysis of alternative ways of meeting the needs, etc.) should be recognized and met on a regional basis.

The lack of this local/regional planning capabilities leads to a lack of control and coordination of state/federal programs in rural Alaska.

(An example of the impacts of this situation can be seen when considering the functioning of the Comprehensive Employment Training Act (CETA) which provides a support system for local governments by providing numerous local government positions. The reduction and even elimination of funding for CETA programs is a possibility which raises very serious problems and over which the recipients have little control.)

A "Foundation" approach, using a formula similar to that used to fund the education function, would be a workable way to fund these basic services. This approach has great potential and needs to be explored in relation to service delivery in general.

In regard to State revenue sharing, the traditional method of redistributing wealth, the following points need to be considered:

- ? 1. Existing law contemplates sharing money. (It is earmarking (it for specific uses which creates a constitutional problem.?)

2. All areas of the state do not participate in revenue sharing, only organized municipalities.
3. The state could allocate money by regions if they were established statewide.
4. Revenue sharing should redistribute the profits of locally raised revenues.
5. Residents of impoverished areas will resist sharing the benefits of locally-derived resource revenues.
6. A need assessment, based on a need/income formula, rather than per capita basis for sharing should be developed.

Avenues other than property taxation should be explored in relation to the financing of local government. It is not essential that there be a local property tax. The state could support basic needs through wealth/revenue sharing with 100% support of Foundation Programs, and local financing needs could be met through non-property tax sources such as natural resource taxes, sales taxes, bingo, etc. There could be a redistribution method similar to that developed in the Alaska Claims Settlement Act (Sec. 7 (i)) in which a percentage of all revenues raised by the State would be divided among regions. (The 1972 "Governor's Package" introduced legislation which dealt with this concept).

An Alaskan Community and Regional Self-Determination Act (patterned after the Indian Self-Determination Act) could be considered ~~for laying as~~ as the basis for a transfer of service delivery functions from the state to regional and local governments for implementation. With appropriate findings, this could permit coordinated and joint provision of state and federal services. This approach ~~could~~ provide for the utilization of

of existing dollars in the local rather than state delivery system. Unification of effort and decentralization of existing funds could be the key. It might be necessary to look to the reallocation of "old money" rather than having additional funds appropriated for service delivery.

In line with this "decentralization" of service delivery, inter-governmental contracting should be explored. More local control ~~would~~ be possible through a contractual approach and it might prove to be a more economical and efficient method of providing services. Presently, there is a lack of standards and procedures for contracting. Also, the concept is often politically difficult to advance with resistance coming from the legislature (which wants to "bring home the bacon"), and the executive branch where the bureaucracy feels a threat to the existing manner of operating; and from the organized municipalities which are often resistant to the idea of serving as program deliverers.

In dealing with contracting of ^{+ delivery} services, there must be ~~total~~ assurance that the delivery of services will be racially neutral. Often, Native Non-Profit Associations function as service deliverers and ^{for} ~~while~~ ^{which} certain programs may be available only to Native Alaskans (because of federal stipulations), ^{the} role of such quasi-governmental organizations as service deliverers for the general public would ^{needs} have to be clearly delineated ^{when} ~~if~~ they were to function in this ^{this} capacity, of a ~~"service deliverer"~~ of governmental services to be provided for the ~~general public~~.